



MINUTES OF ORDINARY MEETING OF COUNCIL

Held on

Wednesday 13 December 2023

Commenced at 5:00pm

Shire of Donnybrook Balingup Council Chamber, Donnybrook

A handwritten signature in black ink, appearing to read "Garry Hunt".

Garry Hunt
Temporary Chief Executive Officer

21 December 2023

Disclaimer

Please note the items and recommendations in this document are not final and are subject to change or withdrawal.

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SHIRE OF DONNYBROOK BALINGUP
MINUTES OF ORDINARY COUNCIL MEETING

Held at the Council Chambers
Wednesday, 13 December 2023 at 5:00pm

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Shire President – Acknowledgment of Country

The Shire President acknowledged the traditional custodians of the land, the Wardandi People of the Noongar Nation, paying respects to Elders, past, present, and emerging.

The Shire President declared the meeting open at 5:02pm and welcomed the public gallery.

The Shire President advised that the meeting is being live streamed and recorded in accordance with Council Policy EM/CP-2. The President further stated the following:

“This meeting is being livestreamed and digitally recorded in accordance with Council Policy.”

“Members of the public are reminded that no other visual or audio recording of this meeting by any other means is allowed without the permission of the chairperson.”

“Whilst every endeavour has been made to only record those who are actively participating in the meeting, loud comments or noises from the gallery may be picked up on the recording.”

2 ATTENDANCE

MEMBERS PRESENT

COUNCILLORS	STAFF
Cr Vivienne MacCarthy (President)	Garry Hunt – Chief Executive Officer (Temporary)
Cr Lisa Glover (Deputy President)	Kim Dolzadelli – Director Finance and Corporate
Cr John Bailey	Ross Marshall – Director Operations
Cr Peter Gubler	Loren Clifford – Manager Corporate Services
Cr Anita Lindemann	Samantha Farquhar – Administration Officer Corporate Services
Cr Anne Mitchell	
Cr Grant Patrick	

PUBLIC GALLERY

9 members of the public were in attendance.

2.1 APOLOGIES

Nil.

2.2 APPROVED LEAVE OF ABSENCE

Cr Alexis Davy was granted a leave of absence at the Ordinary Council Meeting held on the 22 November 2023 for the Ordinary Council Meeting on 13 December 2023. Resolution number 128/23.

Cr Deanna Shand was granted a leave of absence at the Ordinary Council Meeting held on the 22 November 2023 for the Ordinary Council Meeting on 13 December 2023. Resolution number 129/23.

2.3 APPLICATION FOR A LEAVE OF ABSENCE

Nil.

3 ANNOUNCEMENTS FROM PRESIDING MEMBER

We have been successful in attracting grant funding of \$409,656 to help eradicate blackberries throughout the 3 Shires including the Shire of Donnybrook Balingup, Collie, and Dardanup. There have been blackberries identified as a biosecurity hazard and this project aims to provide support to landowners to control blackberries and revegetate the areas previously inundated and conserve and protect biodiversity of the vegetation along waterways. They will do that through fencing of livestock. Without funding, a large proportion of landowners will continue to struggle to control the blackberries.

The second announcement is that I had the privilege to present the end of year awards to the primary and secondary schools of Donnybrook High School. I was totally impressed by the staff and the children of the school who clearly reflected the school's values of Consider, Aspire, respect, engage and care. I was totally looked after the whole time I was there and the school captains who presided over both graduation ceremonies were outstanding.

The Shire Presented the Frank Arbuthnott Award for the 65th time since its inception in 1958. Frank Arbuthnott was a music teacher active in the Donnybrook and Balingup social club as well as doing his teaching from 1946 until 1947. When he passed away his loss was felt deeply by the community, and they pulled together to create this award for year 10 students. Like Frank, the award goes to students who are passionate about the art and Chloe Watson was the recipient of the award.

4 DECLARATION OF INTEREST

Mr Garry Hunt – Chief Executive Officer (Temporary) declared an impartiality interest regarding report 9.1.9 as the applicant is known to him.

Mr Garry Hunt – Chief Executive Officer (Temporary) declared a financial interest regarding report 9.3.1 as he holds the Chief Executive Officer position (Temporary).

5 PUBLIC QUESTION TIME

5.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Question: Victoria Buckley

Regarding a property (vacant land) opposite 10A Palmer Street. The property currently is a fire hazard and I ask the Council to review the situation and have action taken to reduce the fire risk.

Response: Manager Works and Services

The property mentioned during public question time on the 22 November 2023 is (lot 9) 5 Palmer Street, Donnybrook **A740** and is zoned residential. Rangers have this property listed for an inspection on 1 December 2023.

The property must comply with the Shires annual Fire Break Order as of the 1 of December 2023.

The Shires current procedure is to inspect properties during the compliance period and should they be found to not comply an infringement may be issued along with a Notice instructing the owner to make the property compliant within 14 days.

Should the property remain non-compliant after the 14 days the Shire may issue a second infringement and engage a contractor to carry out the works, invoicing the owner accordingly.

An exemption to this is where a landowner has made an attempt to comply and it would be more appropriate to issue only a Work Order in place of an infringement giving the property owner 14 days to make the property compliant.

Should after the 14 day period the property again be found to be non-complaint the Shire may then issue an infringement and engage a contractor to carry out the works, invoicing the owner accordingly.

Unpaid costs associated with these works are recorded as a debt against the property and recoverable in the same means as unpaid rates.

Question: Colin Sharp

What plans does the shire have in place to protect the town? Fuel reduction seems to have been overlooked for many years and fire burning periods (when permits are needed.... not in the middle of winter when burning is impossible) are becoming smaller and smaller windows for this to happen.

Response: Director Operations

The Shire of Donnybrook Balingup has participated in the Mitigation Activity Fund since 2018/19 financial year. This funding is intended to support mitigation works at eligible locations throughout the Shire.

During the 2022/23 round of funding, the following mitigation treatments were completed:

Completed Treatments		
Treatment Address	Treatment Type	Status
Campbell St, Balingup	Chemical Works	Complete
Tassone Road, Upper Capel	Chemical Works	Complete
Kelly Street, Donnybrook	Chemical Works	Complete
Allnutt St (Tuia Lodge), Donnybrook	Chemical Works	Complete
Bentley St (St Mary's), Donnybrook	Chemical Works	Complete
Grimwade Rd, Balingup	Chemical Works	Complete
Jenkins St, Balingup	Chemical Works	Complete
Macquarie St, Noggerup	Planned Burn	Complete
Wade Rd, Brookhampton	Mechanical Works	Complete
Mead St, Donnybrook	Planned Burn	Complete
Bakewell St, Donnybrook	Planned Burn	Complete
Macquarie St, Noggerup	Mechanical Works	Complete
Goodwood Rd, Upper Capel	Chemical Works	Complete
Vernon Rd, Upper Capel	Chemical Works	Complete
Russells Rd, Balingup	Chemical Works	Complete
South Western Highway, Mullalyup	Planned Burn	Complete
Incomplete Treatments		
Treatment Address	Treatment Type	Status
Russells Rd, Balingup	Planned Burn	Deferred
Cemetery Road, Donnybrook	Planned Burn	Deferred
Cemetery Road, Donnybrook	Planned Burn	Deferred
Cemetery Road, Donnybrook	Planned Burn	Deferred
Hetherington Rd, Argyle	Fire Access Track	Deferred

Several planned burns have been deferred predominantly due to unfavourable weather conditions or unsuitable resource availability. It is anticipated that the Shire of Donnybrook Balingup will perform these works in the 2024 calendar year.

It should also be noted that the Department of Biodiversity, Conservation and Attractions and the Department of Fire and Emergency Services are also responsible for reserves abutting the Donnybrook Townsite. The Shire understands that plans for prescribed burning activities are in place for a large majority of these reserves, however, due to drier than expected conditions, these burns did not eventuate as they could not be conducted safely. The Shire of Donnybrook Balingup has been liaising with each of these agencies and has offered support by means of resourcing.

On 22/11/2023, the Shire of Donnybrook Balingup was advised that it has been awarded a further \$315,180 to treat identified areas of high to extreme risk throughout the Shire of Donnybrook Balingup:

Treatment Address	Treatment Type	Treatment Objective
Hetherington Rd, Argyle	Fire Access Track	Construct fire access track for emergency vehicles, divide reserve into smaller sections
Campbell St, Balingup	Mechanical Works	Maintain asset protection zone for dwellings and agricultural assets
Bovell St, Balingup	Mechanical Works	Maintain asset protection zone for dwellings and agricultural assets
Grimwade Rd, Balingup	Mechanical Works	Maintain asset protection zone for dwellings and agricultural assets
Langridge Rd, Brookhampton	Mechanical Works	Create asset protection zone for dwellings and agricultural assets
Noggerup Townsite	Mechanical Works	Reduce fuel loads on Shire-managed reserved to less than 8 tonnes per hectare, buffer zone creation
Wade Rd, Brookhampton	Chemical Works	Follow up treatment to target non-native species that may contribute to spread of fire
Wade Rd, Brookhampton	Mechanical Works	Create asset protection zone for dwellings
Airstrip Rd, Balingup	Fire Access Track	Upgrade access and create buffer zone for dwellings. Bridge asset protection zone creation.
Mullalyup Townsite	Mechanical Works	Create asset protection zone for dwellings and critical infrastructure (fire station). Fire break upgrades/maintenance
Castle St, Kirup	Mechanical Works	Create Hazard separation and buffer zone for assets
South Western Highway, Newlands	Mechanical Works	Maintain asset protection zone near infrastructure (Newlands Hall)
Cherrydale Way, Beelerup	Fire Access Track	Maintain/create fire access tracks for emergency vehicles, divide reserve into smaller sections in preparation for future prescribed burning
Cherrydale Way, Beelerup	Planned Burning	Reduce fuel loads in Shire-managed reserves adjacent to commercial businesses, asset protection
Wattle Court, Donnybrook	Planned Burning	Reduce fuel loads in Shire-managed reserve (old trotting track), asset protection for dwellings and critical infrastructure (SES Building)
Balingup Transfer Station	Mechanical Works	Create buffer zone for critical infrastructure – Transfer Station, Highway & Cemetery
Balingup Transfer Station	Planned Burning	Reduce fuel loads to protect critical infrastructure – Transfer Station, Highway & Cemetery
Lowden Fire Station	Mechanical Works	Create asset protection zone for critical infrastructure (Lowden Fire Station, Donnybrook Boyup Brook Road)
Russells Rd, Balingup	Planned Burning	Reduce fuel loads in shire-managed reserves to protect dwellings and critical infrastructure (Highway)

The Shire intends to conduct further community consultation in relation to these proposed works, following the conclusion of the 2023/24 Bushfire Season, due to staff availability.

Question: Kev Johns

There was a skip bin over there at some point, I don't know if it was JP Metals or Hastie Waste but having a quick look through the video and the photographs, all of it isn't there. There's stuff like bolts missing, bits of steel. Where has it all gone?

Response: Director Operations

Shire Officers have reviewed accounting records and contract information but couldn't find any specific information to answer your question.

5.2 PUBLIC QUESTION TIME

Question: Siân Blackledge

Can the attachments, which as one document and download are too large, be divided into categories? For example, the minutes and documents for previous meeting as one, the attachments and minutes for other committees (e.g. the very important fire and emergency paperwork) as a separate category, expenditure and financials in a standalone category and the attachments required for upcoming meetings as another. In this way the attachments will be easier to read and worked through.

Response: Manager Corporate Services

Dividing the attachments into categories would require substantial restructuring and be quite labour-intensive. Careful considering will be given to this matter during the next review of the Agenda and Minutes structure. Thanks for your input.

Question: Siân Blackledge

In regard to item 9.1.9 on the agenda: due to some previous development applications and subsequent issues/changes where no site visits have been conducted can the Shire President please organise a site visit prior to approval?

Response: Director Operations

A site visit was carried out 12 December 2023, this included a number of Councillors and Shire Officers.

Question: Julieanne Hilbers

How will Council assess the cumulative effect on neighbours and the community of the multiple activities being undertaken and planned for Preston Vale Estate: Major extractive industry operating Monday to Friday from one (potentially 2 sites) and event venue operating potentially 7 days a week 24 hours a day. Of particular concern is impact of noise given this property is located in a valley where noise is funnelled up an along the valley.

Response: Director Operations

Proposed conditions of this development application require an Acoustic Report to consider the cumulative effects of operations occurring on site; as well as any noise attenuation measures that may need to be built into the new building or noise management measures that may need to be implemented to ensure compliance with the State noise legislation.

Question: Julieanne Hilbers

If and when the approved/proposed activities at Preston Vale Estate are in place there will be increased traffic, equipment and people on the property. Given the Preston River Valley is supported by volunteer fire fighters what contribution is Preston Vale Estate required to make towards actively supporting the community in responding to bushfires?

Response: Director Operations

Planning legislation requires consideration of bushfire risks where developments are proposed within a designated bushfire prone area. This development is located outside of a designated bushfire prone area. The provisions of the Shire's existing Fire Break Order would therefore apply. Although the applicant has indicated at the site visit that the water in their dam is used for firefighting on land in the locality this is a separate matter that does not form part of the planning considerations for this application.

Question: Jay McCormack

How will the noise assessment that is being proposed to assess the event venue account for the lived experiences of residents living along Preston River Valley and actual typography of the landscape (mindful that ground truthing over different time periods, days of the week, times of the year does not always match computer based modelling)?

Response: Director Operations

As mentioned before a condition is proposed that require an Acoustic Report. The outcome of the modelling and the details of the Acoustic Report will further inform any noise attenuation measures that may need to be built into the new building or noise management measures that may need to be implemented to ensure compliance with the State noise legislation.

Question: Jay McCormack

What compliance monitoring activities will be undertaken by the Shire in relation to meeting any specified conditions such as limits on patron numbers, noise, access to the extraction site(s) by patrons, environmental impacts on local wetlands and river?

Response: Director Operations

Compliance with conditions is a routine function of our Planning department on an as needs basis. Conditions where patron numbers are limited or where there are environmental concerns are routinely underpinned by additional/supporting approvals

such as liquor licensing, onsite effluent disposal system location and design and public building legislation.

Question: Shane Sercombe

Did the significant donors of the original Apple Fun Park equipment ever place a caveat or claim ownership of the equipment?

Response: Director Operations

There is no record on file.

Question: Shane Sercombe

Generally, local governments receive their Annual Audited Financials by December, has SoDB received its Auditors Report and when is the Audit Exit Meeting expected to occur?

Response: Director Finance and Corporate

The audit has been completed and the Audit Exit Meeting was held on Friday the 8 of December.

Question: Angelo Loguidice

My question is about the Meliora festival in Newlands. When will the landowners surrounding this festival be notified with 15 days to the festival.

Response: Director Operations

We have been advised by the event holders that they have sent out letters to all landowners within the 10km radius.

Question: Angelo Loguidice

Have there been conditions put on the event regarding compliance. My concern is fire. Are there enough firefighting appliances on the property to mitigate any fire risks.

Response: Director Operations

Part of the application includes a number of plans and we have asked for local fires to be strictly forbidden, so no gas bottles, no fireworks or open fires. They are out of the bush fire prone zone, and they moved the event for that reason. There is a risk management plan as part of that assessment and as far as having firefighting equipment on site, there is nothing in my documents to say they have or haven't.

Question: Julieanne Hilbers

My question is regarding item 9.1.9. the applicant nominates up to 20 events, but the shire planner has advised he has asked for a no limit to the number of events. He has also nominated 100 to 200 patrons maximum but has asked for no limit on that as well. So that could mean events 24/7 at least with a minimum of up to 200 people at a time.

How will the number and types of events and number of patrons be determined as appropriate should this application be considered appropriate.

Response: Director Operations

The Officers have reviewed the application and are quite happy to approve and limit it to 150 patrons.

Question: Julieanne Hilbers

How are you determining what is the appropriate number of events.

Response: Director Operations

There is no limit so as far as approval goes under the planning guidelines.

Question: Siân Blackledge

Regarding 9.1.9, different figures have been brought up. The traffic assessment was done on 100 guests and the proposal is 150. The traffic assessment was done on weekends only whilst page 471 of the attachment's states both weekend and weekday events. They were also talking about 4 events per week not just on the weekend. Is there a reason for all that discrepancy and information.

Response: Director Operations

We acknowledge that there is some conflicting information, so the Officers have assessed the overall application and conditioned it accordingly.

Question: Angelo Loguidice

Regarding item 9.1.9, I would just like to know who is monitoring the event and have the conditions been met.

Response: Director Operations

From a compliance point of view, the Shire will be. The Environmental Health Officer and I will be attending site of the 28 of December to carry out inspections and compliance checks. No, the conditions have not been met at this stage.

Question: Angelo Loguidice

If these conditions haven't been met, what is the status of the approval.

Response:

There is no approval until the conditions have been met.

Question: Angelo Loguidice

In regard to making sure that it is compliant, when would the land holders know?

Response: Director Operations

I don't think there is any obligation to advise the landowners, but it is something we can take on notice and consider.

6 PRESENTATIONS

6.1 PETITIONS

Nil.

6.2 PRESENTATIONS

Nil.

6.3 DEPUTATIONS

Nil.

7 CONFIRMATION OF MINUTES

7.1 ORDINARY MEETING OF COUNCIL – 22 NOVEMBER 2023

Minutes of the Ordinary Meeting of Council held 22 November 2023 are attached (Attachment 7.1(1)).

EXECUTIVE RECOMMENDATION

That the Minutes from the Ordinary Meeting of Council held 22 November 2023 be confirmed as a true and accurate record.

COUNCIL RESOLUTION 144/23

MOVED: Cr Mitchell

SECONDED: Cr Lindemann

That the Minutes from the Ordinary Meeting of Council held 22 November 2023 be confirmed as a true and accurate record.

CARRIED: 7/0

For: Cr Bailey, Cr Glover, Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick.

Against: Nil.

7.2 BUSH FIRE ADVISORY COMMITTEE MEETING 26 OCTOBER 2023

Minutes of the Bush Fire Advisory Committee Meeting held on 26 October 2023 are attached in Attachment 7.2.(1).

EXECUTIVE RECOMMENDATION

That Council receive the minutes of the Bush Fire Advisory Committee as attached in Attachment 7.2.(1).

COUNCIL RESOLUTION 145/23

MOVED: Cr Patrick

SECONDED: Cr Gubler

That Council receive the minutes of the Bush Fire Advisory Committee as attached in Attachment 7.2.(1).

CARRIED:7/0

For: Cr Bailey, Cr Glover, Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick.

Against: Nil.

7.3 LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING

Minutes of the Local Emergency Management Committee Meeting held on 21 November 2023 are attached in Attachment 7.3.(1).

EXECUTIVE RECOMMENDATION

That Council receive the minutes of the Local Emergency Management Committee as attached in Attachment 7.3.(1)

COUNCIL RESOLUTION 146/23

MOVED: Cr Bailey

SECONDED: Cr Mitchell

That Council receive the minutes of the Local Emergency Management Committee as attached in Attachment 7.3.(1).

CARRIED: 7/0

For: Cr Bailey, Cr Glover, Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick.

Against: Nil.

8 REPORTS OF COMMITTEES

Nil.

9 REPORTS OF OFFICERS

9.1 DIRECTOR OPERATIONS

9.1.1 REQUEST FOR 2022/23 BUSH FIRE SEASON DEBRIEF

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	FRC 01
Author	Jess Cooper, Community Emergency Services Manager
Responsible Manager	Ross Marshall, Director Operations
Attachments	9.1.1(1) Shire of Donnybrook Balingup Debrief Information 2022/23 Bushfire Season
Voting Requirements	Simple Majority

COMMITTEE RECOMMENDATION

That Council:

1. **Instruct the Chief Executive Officer to table the debrief information captured by Shire of Donnybrook Balingup at the next Local Emergency Management Committee Meeting.**
2. **Accept the debrief information and suggested action items collated by the Shire of Donnybrook Balingup.**
3. **Instruct the Chief Executive Officer to facilitate a debrief for any significant event (Level 2, Level 3 or Critical) attended by Shire of Donnybrook Balingup Bush Fire Brigades in the Shire of Donnybrook Balingup within one month of the conclusion of event.**

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

- | | | |
|-----------|-----|--|
| Outcome | 3. | The natural environment is well managed for the benefit of current and future generations. |
| Objective | 3.2 | Develop community readiness to cope with natural disasters and emergencies. |

EXECUTIVE SUMMARY

The Bush Fire Advisory Committee (BFAC) considered this report at its meeting held 26 October 2023; this item is now presented to Council for consideration of the Committees recommendation.

BACKGROUND

Following the 2022/23 Bushfire season, it has been requested that the Shire of Donnybrook Balingup facilitate a forum-style interagency debrief.

The Shire has provided numerous opportunities for brigades to provide feedback, which has been collated and distributed to relevant and appropriate stakeholders.

Given the resources that would be required to facilitate such a request, it is requested that the BFAC provide guidance as to whether such a forum would be beneficial.

On Tuesday 3 October 2023, the Shire received an email from Mr G Hatch, Captain Mumballup/Noggerup Bush Fire Brigade:

“Feedback to the Brigades on what are the learnings from all the post-fire reviews carried out Brigades, at the request of Acting CESM Linden, following the Burra Buroo and Mumballup-Yabberup fires, last summer.

Our Brigade formally requests an opportunity for all Brigades to meet in a forum-style meeting with representatives from the Shire and other Government agencies who were involved, to discuss what could have been done better and reflect on what was done well. We believe that it is only by confronting and discussing the issues that were raised in the post-fire reviews, that we are able to avoid repeating the same errors and can capitalise on the positive aspects of how these 2 large fires were managed.”

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Nil.

CONSULTATION

Shire of Donnybrook Balingup Bush Fire Brigades.

Shire of Donnybrook Balingup Bush Fire Advisory Committee.

OFFICER COMMENT

As per a request in May's BFAC Meeting, Brigade leaders were approached for further feedback via email in August 2023, with most brigades providing a response. This information was collated and distributed to the Shire of Donnybrook Bush Fire Brigades along with suggested solutions to improve the issues raised. This information can be found in Attachment 9.1.1(1) which was also distributed to representatives of the Department of Fire and Emergency Services and the Department of Biodiversity, Conservation and Attractions.

It is unlikely that the facilitation of an event of this scale prior to the upcoming High Threat Period (1 December 2023 – 31 March 2023) would be successful and would put significant strain on Shire resources. It is also unlikely that key agencies would be able to contribute to this event on short notice due to pre-fire season commitments such as training facilitation and spring burning activities.

It is suggested that the collated information be tabled at the Shire of Donnybrook Balingup Local Emergency Management Committee meeting, as representatives from key stakeholders form this committee.

The Shire of Donnybrook Balingup Bush Fire Advisory Committee has considered the merits in holding a further debrief regarding the 2022/23 Bush Fire Season and has provided a recommendation to Council as a separate report contained within the agenda.

COUNCIL RESOLUTION 147/23

MOVED: Cr Glover

SECONDED: Cr Lindemann

That Council:

- 1. Instruct the Chief Executive Officer to table the debrief information captured by Shire of Donnybrook Balingup at the next Local Emergency Management Committee Meeting.**
- 2. Accept the debrief information and suggested action items collated by the Shire of Donnybrook Balingup.**
- 3. Instruct the Chief Executive Officer to facilitate a debrief for any significant event (Level 2, Level 3 or Critical) attended by Shire of Donnybrook Balingup Bush Fire Brigades in the Shire of Donnybrook Balingup within one month of the conclusion of event.**

CARRIED:7/0

For: Cr Bailey, Cr Glover, Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick.

Against: Nil.

9.1.2 REVIEW OF COUNCIL POLICY EMERG/CP-2 PERMITS FOR ROAD VERGE BURNING

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	FRC 01
Author	Jess Cooper, Community Emergency Services Manager
Responsible Manager	Ross Marshall, Director Operations
Attachments	9.1.2(1) Council Policy EMERG/CP-2 Permits for Road Verge burning
Voting Requirements	Simple Majority

COMMITTEE RECOMMENDATION
That Council endorse the unchanged policy EMERG/CP-2 Permits for Road verge Burning.

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

- | | | |
|-----------|-----|--|
| Outcome | 3. | The natural environment is well managed for the benefit of current and future generations. |
| Objective | 3.2 | Develop community readiness to cope with natural disasters and emergencies. |

EXECUTIVE SUMMARY

The Bush Fire Advisory Committee considered this report at its meeting held 26 October 2023; this item is now presented to Council for consideration of the Committees recommendation.

BACKGROUND

Council Policy EMERG/CP-2 Permits for Road Verge Burning has been identified as requiring a periodic review in December 2023.

Council Policy EMERG/CP-2 was last reviewed by the Shire of Donnybrook Balingup in 2021. Several changes were implemented following this process, which were endorsed by Bush Fire Advisory Committee (BFAC) and adopted by Council.

Council Policy EMERG/CP-2 was previously named “*Fire Control Policy 8.3 – Road Verge Burning of Shire Controlled Roads*”. The name and document formatting were updated to better align with updated document control protocols within the Shire.

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Council Policy EMERG/CP-2 Permits for Road Verge Burning.
Council Policy EXE/CP-8 – Policy Framework.

STATUTORY COMPLIANCE

Nil.

CONSULTATION

Nil.

OFFICER COMMENT

Since 2021, there have been no reported issues or concerns relating to this policy.
Council Policy EMERG/CP-2 is attached for consideration.

COUNCIL RESOLUTION 148/23

MOVED: Cr Mitchell

SECONDED: Cr Patrick

That Council endorse the unchanged policy EMERG/CP-2 Permits for Road verge Burning.

CARRIED:7/0

For: Cr Bailey, Cr Glover, Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick.

Against: Nil.

9.1.3 DEVELOPMENT OF OPERATIONAL GUIDELINES - CHAINSAWS

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	FRC 01
Author	Jess Cooper, Community Emergency Services Manager
Responsible Manager	Ross Marshall, Director Operations
Attachments	9.1.3(1) LGGs ineligible expenditure
Voting Requirements	Simple Majority

COMMITTEE RECOMMENDATION	
<p>That Council:</p> <ol style="list-style-type: none"> 1. Instruct the Chief Executive Officer to hold a consultation session with Shire of Donnybrook Balingup Bush Fire Brigade leaders to develop Operational Guidelines relating to the use of chainsaws by volunteers. 2. Instruct the Chief Executive Officer to Prepare draft operational guidelines regarding the use of chainsaws for consideration at the next BFAC meeting. 	

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

- | | | |
|-----------|-----|--|
| Outcome | 3. | The natural environment is well managed for the benefit of current and future generations. |
| Objective | 3.2 | Develop community readiness to cope with natural disasters and emergencies. |

EXECUTIVE SUMMARY

The Bush Fire Advisory Committee considered this report at its meeting held 26 October 2023; this item is now presented to Council for consideration of the Committees recommendation.

BACKGROUND

The Shire of Donnybrook Balingup has been made aware that several Bush Fire Brigades possess chainsaws for use whilst performing operational duties.

Given the high risk of injury that exists through their use, Chainsaws are not to be used by Bush Fire Service Volunteers until endorsed operational procedures are implemented and appropriate training provided.

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Nil.

CONSULTATION

Shire of Donnybrook Balingup Bush Fire Brigades
Department of Fire and Emergency Services

OFFICER COMMENT

Chainsaws are not a recognised piece of equipment for the Shire of Donnybrook Balingup Bush Fire Service Volunteers, with no training program, maintenance schedule or operational procedures currently in place.

Funding for all other approved operational equipment is provided by the Department of Fire and Emergency Services (DFES), through the Local Government Grant Scheme (LGGS). As Chainsaws are not approved for the use of Bush Fire Services Volunteers, costs associated with them are ineligible through the LGGS and training is not provided. Refer Attachment 9.1.3(1)

Should the use of chainsaws by bushfire service volunteers be recommended by BFAC to Council, all costs relating to them will need to be borne by sources other than the LGGS, such as Shire Annual Budget, external grant funding or Shire of Donnybrook Balingup Bush Fire Brigades.

It is recommended that, in consultation with Shire of Donnybrook Balingup Bush Fire Brigades, operational procedures for the use of chainsaws be developed to provide operational guidance around their appropriate use, maintenance and training standards.

COUNCIL RESOLUTION 149/23

MOVED: Cr Bailey

SECONDED: Cr Lindemann

That Council:

- 1. Instruct the Chief Executive Officer to hold a consultation session with Shire of Donnybrook Balingup Bush Fire Brigade leaders to develop Operational Guidelines relating to the use of chainsaws by volunteers.**
- 2. Instruct the Chief Executive Officer to Prepare draft operational guidelines regarding the use of chainsaws for consideration at the next BFAC meeting.**

CARRIED:7/0

For: Cr Bailey, Cr Glover, Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick

Against: Nil.

9.1.4 ESTABLISHMENT OF DEFAULT UHF SECTOR CHANNELS

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	FRC 01
Author	Jess Cooper, Community Emergency Services Manager
Responsible Manager	Ross Marshall, Director Operations
Attachments	9.1.4(1) Shire of Donnybrook Balingup Preformed Communications Plan
Voting Requirements	Simple Majority

COMMITTEE RECOMMENDATION	
<p>That Council instruct the Chief Executive Officer to update the existing Shire of Donnybrook Balingup Preformed Bushfire Communications Plan to incorporate UHF channels 50-53 and 54-60 as required.</p>	

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

- | | | |
|-----------|-----|--|
| Outcome | 3. | The natural environment is well managed for the benefit of current and future generations. |
| Objective | 3.2 | Develop community readiness to cope with natural disasters and emergencies. |

EXECUTIVE SUMMARY

The Bush Fire Advisory Committee (BFAC) considered this report at its meeting held 26 October 2023; this item is now presented to Council for consideration of the Committees recommendation.

BACKGROUND

It was encouraged that the Shire of Donnybrook Balingup BFAC consider the information provided and incorporate predetermined UHF radio channels to the Shire of Donnybrook Balingup Preformed Communications Plan.

Following numerous unsuccessful attempts to procure additional VHF handheld radios from the Department of Fire and Emergency Services, it was determined that CB radios should be purchased to ensure effective communication is maintained at incidents within the Shire of Donnybrook Balingup.

In June 2023, the Shire was successful in obtaining \$9,300 of Grant Funding for UHF (CB) radios through Forest Products Commission's Community Fire Protection Grants program.

Through this grant funding, 16 5-Watt UHF CB twin pack radios were purchased for distribution to Shire of Donnybrook Balingup Bush Fire Brigade's. It is recognised that some brigades have already purchased or do not wish to carry UHF radios.

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Nil.

CONSULTATION

Shire of Donnybrook Balingup Bush Fire Brigades.
Department of Fire and Emergency Services.

OFFICER COMMENT

Following several informal discussions with brigade leaders throughout the Shire, it has been suggested that the BFAC consider incorporating predetermined UHF channels for inclusion on the Preformed Bushfire Communications Plan (Attachment 9.1.4(1)) Currently, the document states that CB1 – 80 can be considered.

Earth 2 Ocean have been approached for advice regarding this matter and have provided the following information:

UHF CB Channels	Usage
5 and 35	Emergency use only
40	Road safety, trucks
11, 22, 23, 61, 62, 63	Reserved for specific purposes
1 to 8 and 41 to 48 31 to 38 and 71 to 78	Repeater channel pairs - only use if there is no CB repeater on that channel in your area
10 and 18	4WD and caravan club use
All other channels	General chat

COUNCIL RESOLUTION 150/23

MOVED: Cr Glover

SECONDED: Cr Gubler

That Council instruct the Chief Executive Officer to update the existing Shire of Donnybrook Balingup Preformed Bushfire Communications Plan to incorporate UHF channels 50-53 and 54-60 as required.

CARRIED:7/0

For: Cr Bailey, Cr Glover, Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick

Against: Nil.

9.1.5 DEVELOPMENT OF FATIGUE MANAGEMENT GUIDELINES

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	FRC 01
Author	Jess Cooper, Community Emergency Services Manager
Responsible Manager	Ross Marshall, Director Operations
Attachments	Nil.
Voting Requirements	Simple Majority

COMMITTEE RECOMMENDATION	
<p>That Council instruct the Chief Executive Officer to develop draft Fatigue Management Guidelines for consideration at the next BFAC meeting.</p>	

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

- | | | |
|-----------|-----|--|
| Outcome | 3. | The natural environment is well managed for the benefit of current and future generations. |
| Objective | 3.2 | Develop community readiness to cope with natural disasters and emergencies. |

EXECUTIVE SUMMARY

The Bush Fire Advisory Committee (BFAC) considered this report at its meeting held 26 October 2023; this item is now presented to Council for consideration of the Committees recommendation.

BACKGROUND

Following several investigations into incident reports received during the 2022/23 Bush Fire Season, it has been recommended that the Shire of Donnybrook Balingup should develop Fatigue Management Guidelines for its Bushfire Service Volunteers.

The implementation of Fatigue Management Guidelines will enable better compliance with the *Work Health and Safety Act 2022* by addressing the Duty of Care that the Shire of Donnybrook Balingup has to its workforce, including Bush Fire Service Volunteers.

During the 2022/23 Bushfire season, the Shire of Donnybrook Balingup received reports of several incidents where, following internal investigations, it was determined that fatigue was likely to have been a major contributing factor. It was determined that the Shire

should consider implementing of Fatigue Management Guidelines for Bush Fire Service Volunteers.

It is acknowledged that some brigades within the Shire have also developed their own internal fatigue management processes, which should be considered if Fatigue Management Guidelines are developed across all brigades.

It is also anticipated that other Local Governments within the Department of Fire and Emergency Services Lower South West Region will also endorse policies, procedures or guidelines relating to fatigue management applicable to Bush Fire Service volunteers.

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Work Health and Safety Act 2020 – S19 (g).

CONSULTATION

Shire of Donnybrook Balingup Bush Fire Brigades.

OFFICER COMMENT

It is recommended that the Shire of Donnybrook Balingup Bush Fire Advisory Committee request that the Shire of Donnybrook Balingup develop a Fatigue Management Guidelines for consideration at the next BFAC meeting.

COUNCIL RESOLUTION 151/23

MOVED: Cr Patrick

SECONDED: Cr Mitchell

That Council instruct the Chief Executive Officer to develop draft Fatigue Management Guidelines for consideration at the next BFAC meeting.

CARRIED:7/0

For: Cr Bailey, Cr Glover, Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick

Against: Nil.

9.1.6 REVIEW OF BFAC TERMS OF REFERENCE

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	FRC 01
Author	Jess Cooper, Community Emergency Services Manager
Responsible Manager	Ross Marshall, Director Operations
Attachments	9.1.6(1) Reformatted BFAC Terms of Reference
Voting Requirements	Simple Majority

COMMITTEE RECOMMENDATION	
<p>That Council endorse the updated Shire of Donnybrook Balingup Bush Fire Advisory Committee Terms of Reference.</p>	

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

- | | | |
|-----------|-----|--|
| Outcome | 3. | The natural environment is well managed for the benefit of current and future generations. |
| Objective | 3.2 | Develop community readiness to cope with natural disasters and emergencies. |

EXECUTIVE SUMMARY

The Bush Fire Advisory Committee considered this report at its meeting held 26 October 2023; this item is now presented to Council for consideration of the Committees recommendation.

BACKGROUND

The Shire of Donnybrook Balingup Bush Fire Advisory Committee (BFAC) Terms of Reference has been identified as requiring review, having last been completed in 2021.

The Shire of Donnybrook Balingup Bush Fire Advisory Committee Terms of Reference was initially endorsed by BFAC and adopted by Council in October 2016. This Document was last reviewed at the April 2021 BFAC Annual General Meeting, where several changes were made.

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Nil.

CONSULTATION

Nil.

OFFICER COMMENT

The Shire has recently updated its Document Style Guide, and the BFAC Terms of Reference has been updated to reflect this. No other changes to the content of the document have been made.

The draft updated Shire of Donnybrook Balingup Bushfire Advisory Committee Terms of Reference is attached. It is recommended that BFAC endorse these changes for Council adoption.

COUNCIL RESOLUTION 152/23

MOVED: Cr Mitchell

SECONDED: Cr Patrick

That Council endorse the updated Shire of Donnybrook Balingup Bush Fire Advisory Committee Terms of Reference.

CARRIED:7/0

For: Cr Bailey, Cr Glover, Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick.

Against: Nil.

Director Corporate and finance left the room at 5:38pm and re entered the room at 5:41pm.

9.1.7 RAIL CORRIDOOR MAINTENANCE

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	FRC 01
Author	Jess Cooper, Community Emergency Services Manager
Responsible Manager	Ross Marshall, Director Operations
Attachments	Nil.
Voting Requirements	Simple Majority

COMMITTEE RECOMMENDATION
<p>That Council:</p> <ol style="list-style-type: none"> 1. Instruct the Chief Executive Officer to request a schedule of proposed mitigation works within rail corridors in the Shire of Donnybrook Balingup from Arc Infrastructure for distribution to BFAC. 2. Instruct the Chief Executive Officer to provide a written response to Mumballup/Noggerup Bush Fire Brigade that outlines the Shire’s Firebreak inspection process.

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

- | | | |
|-----------|-----|--|
| Outcome | 3. | The natural environment is well managed for the benefit of current and future generations. |
| Objective | 3.2 | Develop community readiness to cope with natural disasters and emergencies. |

EXECUTIVE SUMMARY

The Bush Fire Advisory Committee (BFAC) considered this report at its meeting held 26 October 2023; this item is now presented to Council for consideration of the Committees recommendation.

BACKGROUND

The Shire has been made aware of concerns within the community regarding the lack of bushfire mitigation and firebreak order compliance inside rail corridors.

ARC infrastructure Pty Ltd has informally been approached regarding these concerns following receipt of a written complaint from the Mumballup/Noggerup Bush Fire Brigade.

The Shire of Donnybrook Balingup has received a written complaint from the Mumballup/Noggerup Bush Fire Brigade, relating to the fire risk that exists within the rail the corridor adjacent to the Donnybrook Boyup Brook Road:

“our Brigade is concerned that no work has been done for many years to manage the rail reserve and reduce the fire hazard, particularly from the Mumby pub through to Noggerup townsite and along the fire access track that runs along parallel to the creek on McQuarie St. Our concern is that local landowners are bound by Shire regulations with regard to having to do firebreaks to help manage fire risk and provide safe access for fire fighters in the event of a fire, yet it appears that Arc Infrastructure can operate with impunity with regards to their fire mitigation responsibilities.

The Brigade would like feedback from the Shire on what action they intend to take on this matter. Perhaps it could be suggested to Arc that they provide some funding to the local Brigade who would be only too happy to assist in some hazard reduction burning, if they are unwilling to, or are unable to, meet their obligations.”

It is understood that the rail corridor mentioned in this correspondence has been a concern within the community for several years, based on informal discussions and feedback from community groups and residents following the significant fires experienced in the area during the 2022/23 Bushfire Season.

As a result of these informal discussions, the Shire’s Community Emergency Services Manager approached ARC Infrastructure via email requesting information relating to rail corridor maintenance plans:

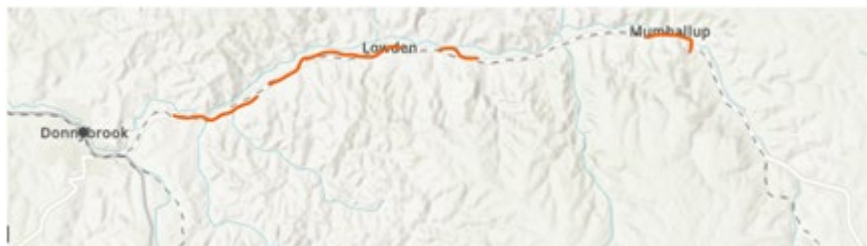
“Can you please advise whether there are any plans to maintain the rail corridor that passes through the Shire of Donnybrook Balingup, specifically the line that runs parallel with the Donnybrook-Boyup Brook Road through the localities of Lowden, Mumballup and Noggerup?”

This line has not been used for many years and local residents are now raising concerns with the Local Government surrounding fire risk. Local Bush Fire Brigades have also shown interest in providing assistance, particularly following the busy fire season experienced last Summer.”

ARC infrastructure provided the following response, advising that plans are in place, with a focus on more populated areas:

“After speaking with our regional lead, I can confirm sections of the line you’ve referred to are part of our annual program for bushfire mitigation and firebreak management, mainly around the more populated areas. The sections of line which have been

maintained within the last six months are approximately indicated in orange on the map below.



Arc has a risk framework which is used to identify areas on our network which require bushfire mitigation as part of our annual program of maintenance.

Our regional lead has flagged there can be areas with neighboring vegetation, such as in road reserves (outside rail corridor), not getting the same level of attention giving the impression we're not managing the vegetation appropriately."

This correspondence was also forwarded to the Shire of Donnybrook Balingup BFAC Committee for comment via email in July 2023. Nil responses were received.

The written complaint from Mumballup/Noggerup Bush Fire Brigade has also been forwarded to the Shire's Ranger Services for consideration during the Firebreak Compliance Period (1 December – 31 March annually).

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Section 33, Bush Fires Act 1956.

Shire of Donnybrook Balingup Fire Break Order.

CONSULTATION

ARC Infrastructure,
Shire of Donnybrook Balingup Bush Fire Advisory Committee, and
Shire of Donnybrook Balingup Ranger Services.

OFFICER COMMENT

It is acknowledged that there are concerns within the community pertaining to perceived fire risk within rail corridors in the Shire. Written complaints have been forwarded to Ranger Services for their attention during the Firebreak Compliance period.

ARC infrastructure has also been made aware of these complaints and have advised the Shire of Donnybrook Balingup that it intends to develop a detailed mitigation plan to better manage fire risk within its land tenure.

EXECUTIVE RECOMMENDATION

MOVED: Cr Lindemann

SECONDED: Cr Patrick

That Council:

- 1. Instruct the Chief Executive Officer to request a schedule of proposed mitigation works within rail corridors in the Shire of Donnybrook Balingup from Arc Infrastructure for distribution to BFAC.**
- 2. Instruct the Chief Executive Officer to provide a written response to Mumballup/Noggerup Bush Fire Brigade that outlines the Shire's Firebreak inspection process.**

AMENDMENT: CR BAILEY

COUNCIL RESOLUTION 153/23

MOVED: Cr Bailey

SECONDED: Cr Glover

That Council:

- 1. Instruct the Chief Executive Officer to request a schedule of proposed mitigation works within rail corridors in the Shire of Donnybrook Balingup from Arc Infrastructure for distribution to BFAC.**
- 2. Instruct the Chief Executive Officer to provide a written response to Mumballup/Noggerup Bush Fire Brigade that outlines the Shire's Firebreak inspection process.**
- 3. Request the Chief Executive Officer to invite ARC Infrastructure to attend a Council meeting with Councillors, Shire Officers including CESM, CFCO and Mumballup/Noggerup VBFB Representatives for the purpose of informing the Shire of Donnybrook Balingup of ARC's proposed mitigation strategies and responsibilities within rail corridors.**

CARRIED:7/0

For: Cr Bailey, Cr Glover, Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick

Against: Nil.

9.1.8 REVIEW OF SHIRE OF DONNYBROOK BALINGUP LOCAL EMERGENCY MANAGEMENT ARRANGEMENTS

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	CSV 23
Author	Jess Cooper, Community Emergency Services Manager
Responsible Manager	Ross Marshall, Director Operations
Attachments	9.1.8(1) Draft Local Emergency Management Arrangements 9.1.8(2) Annexure 1 – LEMC Terms of Reference 9.1.8(3) Annexure 2 – LEMC Emergency Risk Management 9.1.8(4) Annexure 3 – LEMC Hazard Plans
Voting Requirements	Simple Majority

COMMITTEE RECOMMENDATION	
That Council:	
1.	Adopt the endorsed and updated Shire of Donnybrook Balingup Local Emergency Management Arrangements 2023 included in Attachments 9.1.8(1) – 9.1.8(4).
2.	Instruct the Chief Executive Officer to facilitate the completion of signing the endorsed Shire of Donnybrook Balingup Recovery Plan 2021.
3.	Instruct the Chief Executive Officer to provide a copy of the adopted Local Emergency Management Arrangements to the District Emergency Management Committee for noting.

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

Outcome	3.	The natural environment is well managed for the benefit of current and future generations.
Objective	3.2	Develop community readiness to cope with natural disasters and emergencies.

EXECUTIVE SUMMARY

The Shire of Donnybrook Balingup Local Emergency Management Arrangements (LEMA) were last reviewed and updated in 2017. It has been identified that these arrangements required a comprehensive review that incorporated opportunities for stakeholder feedback and contribution.

On 21 November 2023, The Shire of Donnybrook Balingup Local Emergency Management Committee endorsed the updated arrangements and made recommendation that they be adopted by Council.

BACKGROUND

The LEMA is a suite of documents that are required to be produced by the Local Government pursuant to sections 36 and 41 of the *Emergency Management Act 2005*.

These arrangements are utilised for planning, responding to, and supporting communities impacted by emergencies relevant to the local area.

In 2022, it was identified that the Shire's LEMA was due for review but was unable to facilitate a comprehensive review internally. The Shire of Donnybrook Balingup successfully made a joint application with the Shire of Bridgetown-Greenbushes for funding from the State Emergency Management Committee's. All West Australians Reducing Emergencies (AWARE) program for an external party to facilitate this review.

The Shire utilised these funds to engage Plan-it Consulting WA to perform the review, which commenced in January 2023. This review included several community workshops, and surveys.

In October 2023, the final draft LEMA was provided to the Local Emergency Management Committee, for an out of session review, feedback, and endorsement.

Following endorsement from the Shire of Donnybrook Balingup Council, the updated LEMA is to be provided to the District Emergency Management Committee for noting at their December meeting.

FINANCIAL IMPLICATIONS

AWARE Grant Funding.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Sections 36 and 41 of the *Emergency Management Act 2005*.

CONSULTATION

In May 2023, a community survey was prepared and advertised locally within the Preston Press. The survey was also made available via:

- The Shire's website,
- The Shire's social media pages,
- Balingup Public Library,
- Donnybrook Community Library,
- Donnybrook Community Resource Centre,
- Balingup Post Office, and
- The Shire Administration Office.

Community workshops were advertised locally and facilitated in both Balingup (1) and Donnybrook (2). The workshops that were held in Donnybrook were also livestreamed to encourage greater participation in these sessions.

Feedback from the community was forwarded to Plan-it Consulting, who utilised this data to ensure that the risks and measures identified in the LEMA were still relevant to the local community.

Draft copies of the LEMA were provided to the LEMC via email, which enabled the document to be periodically reviewed and updated to capture current practices and terminology.

OFFICER COMMENT

The draft updated Shire of Donnybrook Balingup Local Emergency Management Arrangements is attached. It is recommended that council adopt these arrangements and forward to the District Emergency Management Committee (DEMC) to noting.

COUNCIL RESOLUTION 154/23

MOVED: Cr Bailey

SECONDED: Cr Patrick

That Council:

- 1. Adopt the endorsed and updated Shire of Donnybrook Balingup Local Emergency Management Arrangements 2023 included in Attachments 9.1.8(1) – 9.1.8(4).**
- 2. Instruct the Chief Executive Officer to facilitate the completion of signing the endorsed Shire of Donnybrook Balingup Recovery Plan 2021.**

- 3. Instruct the Chief Executive Officer to provide a copy of the adopted Local Emergency Management Arrangements to the District Emergency Management Committee for noting.**

CARRIED:7/0

For: Cr Bailey, Cr Glover, Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick.

Against: Nil.

9.1.9 DEVELOPMENT APPLICATION P23013: RECEPTION CENTRE AND CAMPING AREA – LOT 3245 DONNYBROOK – BOYUP BROOK ROAD, YABBERUP

Location	Lot 3245 Donnybrook – Boyup Brook Road, Yabberup
Applicant	E Stroud on behalf of Old Valley Pty Ltd
File Reference	A4781 (P23013)
Author	Cecilia Muller, Principal Planner
Responsible Manager	Ross Marshall, Director Operations
Attachments	9.1.9(1) Original Development Application and Plans 9.1.9(2) Development Plans - September 2023 9.1.9(3) Traffic Impact Assessment Report 2023 9.1.9(4) Noise Management Plan 9.1.9(5) Site and Soil Evaluation 9.1.9(6) Safety Management Plan 9.1.9(7) Bushfire Prone Area map 9.1.9(8) Public Submissions 9.1.9(9) Agency Comments 9.1.9(10) Assessment under Clause 67
Voting Requirements	Simple Majority

EXECUTIVE RECOMMENDATION

That Council:

Pursuant to Schedule 2, Part 9, Clause 68(2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the Shire of Donnybrook Balingup Local Planning Scheme No. 7 (LPS7), approves the Development Application P23013 for a Reception Centre and a Camping Area on Lot 3245 Donnybrook – Boyup Brook Road, Yabberup subject to the following conditions:

1. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plans, including any notations, and must not be altered or modified without the further written consent of the Shire.

Approved plans:

- Site Plan, received September 2023
- Site Access, received September 2023
- Function Centre Floor Plan A-04P dated Jan 2023
- Function Centre Elevations Plan A-04E1 dated Jan 2023
- Function Centre Elevations Plan A-04E2 dated Jan 2023

2. The total number of guests on site shall not exceed 150 patrons accommodated in the reception centre and incidental camping area. Any increase in this number of patrons would require a further development approval from the Shire.

- 3. Use of the Camping Area is only permitted in conjunction with functions associated with the Reception Centre and not independently, unless otherwise approved by the Shire.**
- 4. Prior to the lodgement of a building permit, the landowner is to demonstrate that the development will be provided with a suitable potable water supply to the satisfaction of the Shire. Thereafter, the potable water supply is to be installed to the satisfaction of the Shire.**
- 5. Prior to the lodgement of a building permit, details are to be submitted regarding the provision for onsite storage and collection of waste. A waste storage and collection area must be graded, drained and screened from public view, and the waste collected regularly, to the satisfaction of the Shire of Donnybrook Balingup.**
- 6. Any dust associated with the construction of the development and associated works is to be managed appropriately in accordance with the Shire of Donnybrook-Balingup *Animals, Environment and Nuisance Local Law 2017*.**
- 7. Prior to the lodgement of a building permit, an Acoustic Report that has been prepared by a suitably qualified acoustic consultant must be submitted to and approved by the Shire, that includes the following:**
 - 7.1. demonstrates that noise from the reception centre will comply with the Environmental Protection (Noise) Regulations 1997 at nearby sensitive receptors.**
 - 7.2. demonstrate that impacts of accumulative noise impacts from other activities in the vicinity such as the approved extractive industry at Lot 10 have also been considered.**
 - 7.3. demonstrate that consideration has been given to the location of the reception centre on top of a hill and how this location would impact on noise measurements.**
 - 7.4. details the noise mitigation and management measures that will be implemented to make the noise comply with the Environmental Protection (Noise) Regulations 1997**

Once approved the plan will form part of this approval and must be complied with at all times.
- 8. Prior to the commencement of the use, the road intersection with Donnybrook-Boyup Brook Road is to be designed, constructed, drained, and sealed for the first 20m of the road to the satisfaction of the Shire of Donnybrook Balingup in consultation with Main Roads WA and the Public Transport Authority.**
- 9. Prior to the commencement of the use, all internal driveways gained through Lot 3245, 10, 2061, 2064, 3671 and 3728 that provides access to the reception centre and camping area are to be constructed to a gravel standard to the satisfaction of the Shire and thereafter maintained.**
- 10. Prior to the commencement of the use, a minimum of 38 car parking bays, and manoeuvring areas, generally in the locations identified on the**

approved plans, are to be constructed to a gravel standard, drained and clearly designated to the satisfaction of the Shire and thereafter maintained.

11. All stormwater from the proposed development including buildings, camping area, driveway, parking area and hardstand area(s) shall be managed by the landowner in perpetuity, in accordance with the Shire's stormwater management standards and the Animals, Environment and Nuisance Local Law 2017 to the satisfaction of the Shire.
12. Any erosion and/or sedimentation issues that occur due to insufficient drainage and/or stormwater management from the proposed development, including any driveway or accessway, is to be rectified, so as not to impact any surrounding properties, including any infrastructure, or watercourses or dam to the satisfaction of the Shire.
13. A Manager must always be on-site while functions are undertaken, including overnight where the Camping Area is utilised.
14. As per Clause 4.34 of the Shire of Donnybrook-Balingup Local Planning Scheme No. 7, it is acknowledged that legal access for Lot 3245 is currently gained through Lot 10, 2061, 2064, 3671 and 3728 as it is currently in the same ownership. If either of the properties change ownership, it is the landowner's responsibility to ensure development is continued to be provided with legal, constructed access in perpetuity, which may require an easement on the Titles.

Advice

- a. Advertising signage does not form part of this approval. Any advertising signage is subject to a separate assessment and may require prior development approval from the Shire. It is recommended that you contact the Shire prior to the placement of any advertising signage onsite.
- b. With regards to condition 13, "Manager" means a landowner, or a person duly appointed by the landowner, to have management and care of the site and approved uses.
- c. The Shire Environmental Health Services advises that:
 - i. An approved on-site effluent disposal system adequate to the proposed use of the premises will be required to fully comply with the 'Government Sewerage Policy 2019'. Please note that the prescribed 'Application to construct or install an Apparatus for the Treatment of Sewerage' and fee is to accompany the building licence application for assessment by the Shire.
 - ii. A grease trap is required to be installed to remove fats and grease prior to the wastewater entering the effluent disposal system.

- iii. **Food handling, preparation and storage areas to be designed and constructed in accordance with Food Act 2008, Food Regulations 2009 and the Food Standards Code requirements.**
 - iv. **Compliance with the *Caravan Parks and Camping Grounds Act 1995* is required for the Camping Areas. An application for a camping ground licence under Part 2, Division 1, Section 6 of the Act must be submitted to, and approved by the Shire.**
 - v. **In regard to Condition 4, an adequate potable water supply to be provided in accordance with Australian Drinking Water Guidelines. Water supply to be provided with an appropriate filtration and disinfection equipment. (For example, water filter with UV Treatment)**
- d. **The reception centre and camping area is within proximity to an established commercial timber plantation and may experience increased impacts including but not limited to noise and dust emissions during plantation management and/or any other associated impact. The reception centre and camping area are not to impact negatively on the plantation operations.**
- e. **Department of Water and Environmental Regulation advises that:**
- i. **There may be seasonal freshwater mosquito breeding habitat within proximity to the subject land. Additionally, there is the potential for mosquitoes to breed in on site infrastructure and constructed water bodies if they are poorly designed or not maintained. It is best practice for the applicant to ensure that onsite works activities and water holding infrastructure including constructed wetlands and stormwater drainage do not contribute to or support mosquito breeding onsite.**
 - ii. **The applicant is to email the Department's water licensing officer (kym.pennefather@dwer.wa.gov.au), providing details on how water will be used to support the additional activity. This will enable assessment of the applicant's surface water license SWL66218(4).**
 - iii. **The applicant is to apply for a 'bed and banks' permit from the Department if any waterway crossing is proposed.**
- f. **The Public Transport Authority advises that:**
- i. **Should the railway reserve be activated, upgrades to the rail level crossing will be required subject to the recommendations of an ALCAM assessment for the level crossing prior to the opening of rail line.**
 - ii. **Any future development of this subject land must ensure it is not land locked.**

- g. The applicant is advised to investigate whether approval is required pursuant to the Aboriginal Heritage Act 1972. The applicant should conduct a search of the Register of Aboriginal Sites to determine if any aboriginal sites have been recorded in the vicinity of their application, and this heritage information should be submitted to the Department of Planning Lands and Heritage (Indigenous Affairs) with a request for advice.**
- h. Compliance with the Building Code of Australia is required. A Building Permit Application must be submitted to, and approved by, the Shire prior to the commencement of any development. The Building Permit plans must reflect the relevant conditions and approved plans of this Development Approval.**
- i. If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.**
- j. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought or obtained.**
- k. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the Planning and Development Act 2005. An application must be made within 28 days of the determination.**

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

Outcome	6	The built environment is responsibly planned and well maintained.
Objective	6.1	Ensure sufficient land is available for residential, industrial and commercial uses.

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider an application for development approval for a reception centre and camping area on Lot 3245 Donnybrook – Boyup Brook Road, Yabberup.

Officers do not have delegation to determine applications for development approval where objections are received. Officers consider that the proposal is consistent with the planning framework and should be granted approval subject to conditions.

BACKGROUND

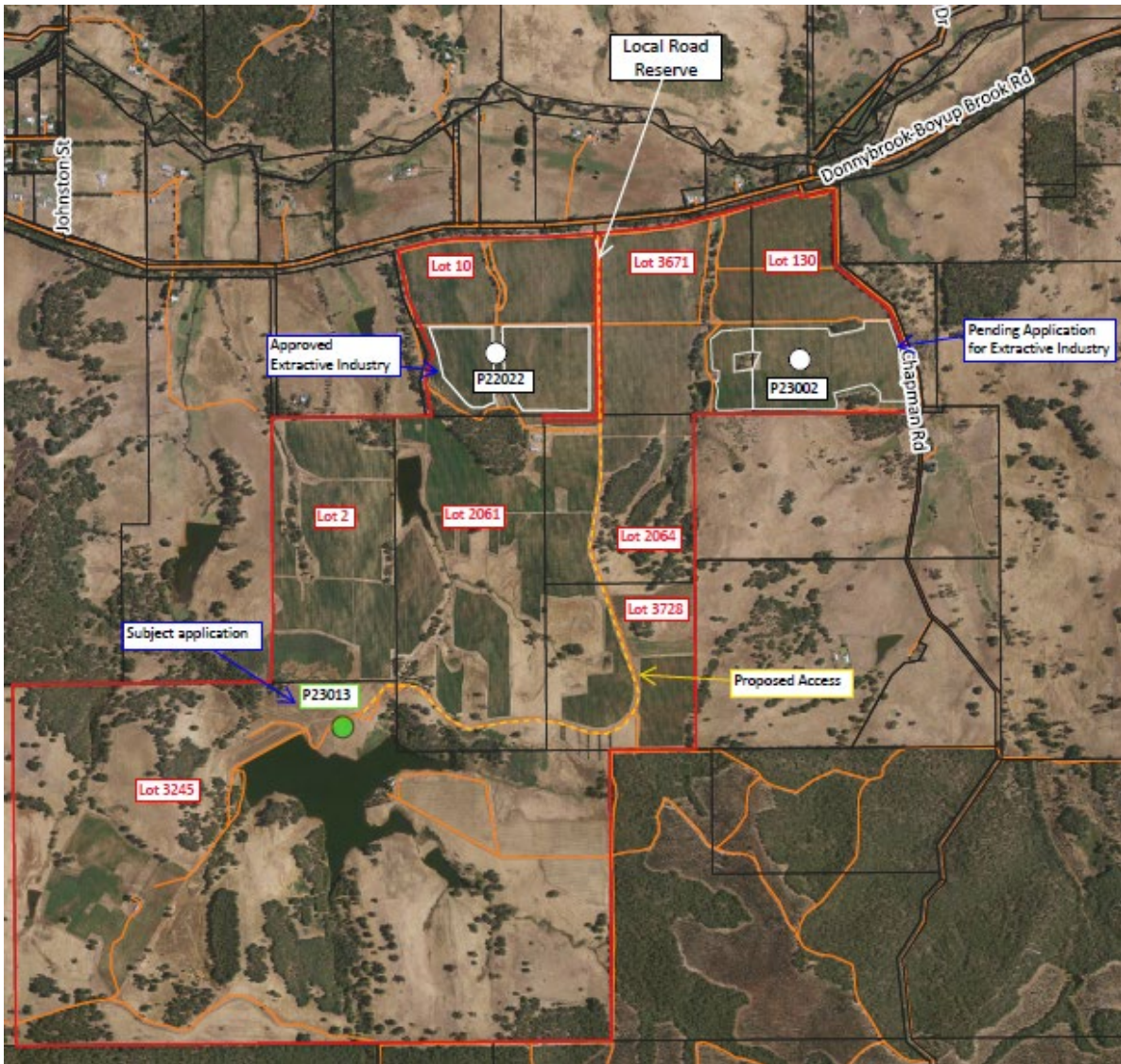
On 3 March 2023 the Shire received a development application for a reception centre and camping area on Lot 3245 (2038) Donnybrook - Boyup Brook Road, Yabberup. Initially the proposal was to construct the development to the south of the existing dam on Lot 3245, but the proposal was amended in September and the development was moved to an area north of the existing dam. The original development application and plans are contained in Attachment 9.1.9(1). The amended site plan and site access plan is contained in Attachment 9.1.9(2).

Lot 3245 is 259.6394ha in size, and it is one of eight lots belonging to the same landowner being Old Valley Pty Ltd. Lot 3245 forms part of a farm known as Preston Vale Estate. It is located approximately 20km east of the Donnybrook townsite. Information provided by the applicant indicates that Lot 3245 has largely been developed with vineyards. The proposed reception centre and camping area sits on a hill overlooking a large dam with views of the Wilga State Forrest which is located to the south of the application lot. Beyond the immediate site the landscape consists of predominantly rural farmland.

The landowner of Lot 3245 also has approval for an extractive industry on Lot 10 further to the north of the proposed development (application reference number P22022); and an application pending consideration for an extractive industry on Lots 130 and 3671 to the northeast of the proposed development (application reference number P23002).

Location Plan

Land forming part of Preston Vale Estate and under ownership of Old Valley Pty Ltd are identified on the map below:



Proposal

On 11 September the applicant lodged an amended application with the Shire for the development of the reception centre and camping area on Lot 3245 Donnybrook - Boyup Brook Road, Yabberup. The amended site plan and site access plan is contained in Attachment 9.1.9(2).

The applicant provided the following information (some information received in September contained in the Traffic Impact Assessment, Noise Management Plan and Safety Management Plan is different from the information contained in the original application):

- The project manager is Westwall Holdings.
- The applicant is seeking approval for a tourism-based land use consisting of an all-inclusive eco-based venue for events such as weddings, school groups and corporate functions.
- The proposal includes construction of a reception centre building consisting of a 160m² function area, with a kitchen and bar facility of 75.2m², a storeroom of 124.8m², a cool room, and ablutions.

- Up to 20 events will be hosted annually.
- Events will be hosted on weekends as stated in the Events Safety Management Plan
- Originally it was proposed that each event will cater for up to 150 people.
- No plant, machinery or other heavy equipment will be used during events.
- A wastewater treatment system will be installed.
- The projected number of employees working per major event (weekends) will be approx. 10 (including catering, cooking, cleaning, service, etc.).
- Parking area will be allocated at the site.

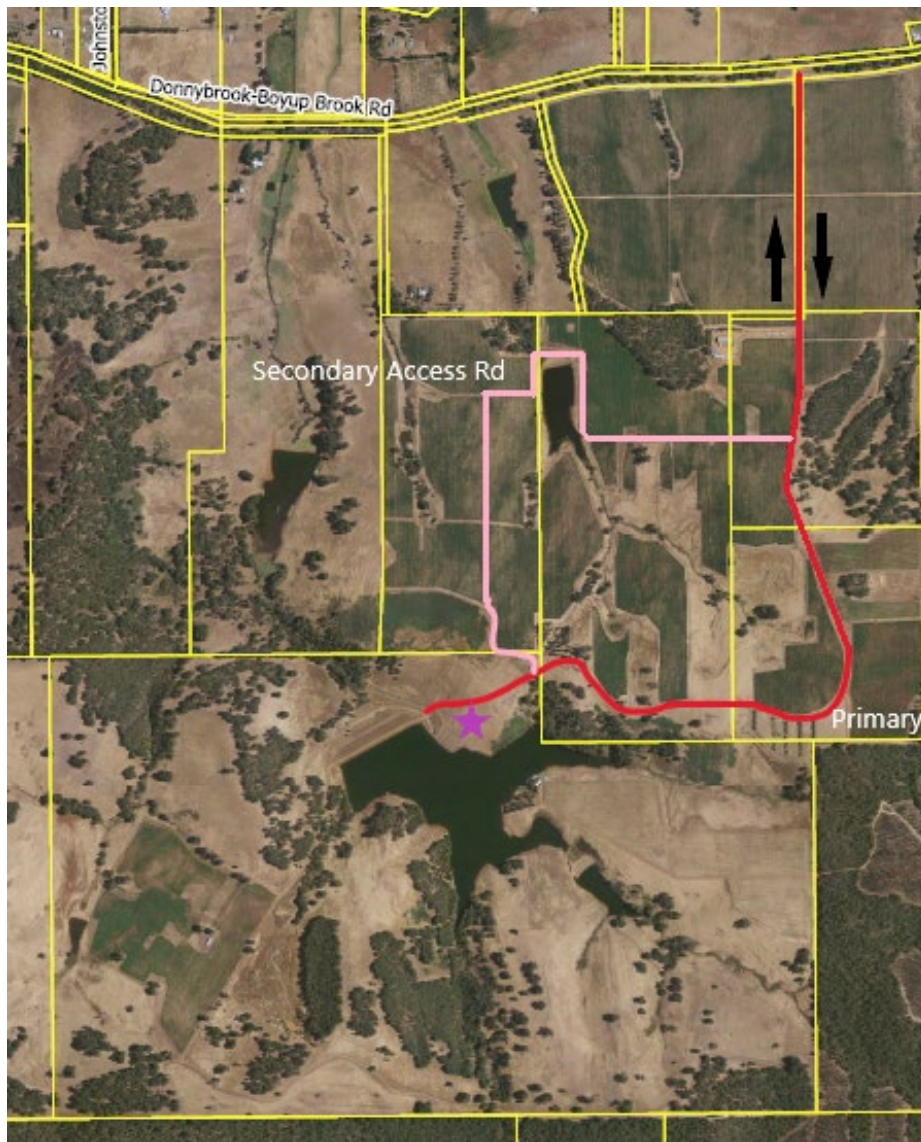
In support of the amended proposal the applicant provided the following additional information:

- Site and Soil Evaluation;
- Traffic Impact Assessment;
- Amended site plan;
- Amended access plan;
- Noise Management Plan;
- Safety Management Plan; and
- Map of bushfire prone area (location of development outside of it).

The applicant provided the following reasons for the relocation of the development to the northern side of the existing dam:

- access becomes safer;
- sewage treatment is safer and further away from the development; and
- development is not in the bushfire prone area.

Amended site access plan



FINANCIAL IMPLICATIONS

All relevant application fees have been paid by the applicant.

If the application is refused by Council the applicant may exercise the right to have the decision reviewed by the State Administrative Tribunal, if that is the case then it may be likely that there will be additional resourcing required (staff time and/or the cost of appointing a consultant to represent the Shire).

POLICY COMPLIANCE

State Planning Policy 2.5 – Rural Planning (SPP 2.5)

Clause 5.5 (C) of SPP 2.5 states that WAPC policy is to “*support small scale tourism opportunities, such as bed and breakfast, holiday house, chalet, art gallery, micro-brewery and land uses associated with primary production, within the rural zone;*”.

The proposal is consistent with this policy direction.

State Planning Policy 3.7: Planning in Bushfire Prone Areas

The development footprint is wholly outside the Bushfire Prone Area. The policy does not apply.

STATUTORY COMPLIANCE

The application has been assessed against the relevant and applicable statutory provisions as follows.

Shire of Donnybrook Balingup Local Planning Scheme No.7

Part 3 – Zones and the Use of Land

Lot 3245 is zoned 'General Agriculture' under the Shire of Donnybrook Balingup Local Planning Scheme No. 7 (LPS7) and the purpose and objectives of the zone are:

3.5.1 Purpose

The purpose of the General Agriculture zone is to provide for the sustainable use of rural land which primarily accommodates a broad range of rural pursuits and complementary non-agricultural uses that are compatible with the capability of the land, and which retain the rural character and amenity of the locality.

3.5.2 Objectives

The local government's objectives in managing and guiding land use, development and subdivision within the General Agriculture zone are –

- (v) *recognise the aesthetic and tourism importance of the scenic landscape, realise the need to retain the rural scenic character of a site and of the district by ensuring through siting and landscaping provision that any development does not detrimentally change the scenic rural character.*
- (vii) *support non-rural uses where they are compatible with adjacent and nearby rural and other uses, and where environmental, landscape and servicing considerations are appropriately addressed.*

The proposed development of a reception centre and camping area complies with the purpose of the zone and the objective to support non-rural uses where they are compatible with rural uses and where it will have no adverse impacts on the landscape.

The proposed development is considered consistent with the definition of: -

'Reception centre' within LPS7 which means '*premises used for functions on formal or ceremonial occasions but not for un-hosted use for general entertainment purposes.*

‘Camping area’ within LPS7 which means ‘land set aside for the erection of tents and other similar structure for temporary accommodation, and ‘camping’ has a compatible meaning’.

Under LPS7, both land uses are ‘A’ uses in the General Agriculture zone which means that *‘the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the deemed provisions’.* The proposal was advertised, and submissions were received from nearby landowners and various agencies and departments. These are considered under the ‘Consultation’ section of this report.

Part 4 – General Development Requirements

The relevant general development requirements of LPS7 have been assessed as summarised below:

Clause 4.17 General Appearance of Buildings and Preservation of Amenity

Relevant provisions

- (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*

The proposal is for a single storey reception centre building to be constructed. The plans demonstrate that the building will be clad with metal sheeting with some large glass sliding doors that will open onto a covered deck overlooking the dam. No colour scheme or schedule of finishes has been provided with the application. The building size and appearance is not dissimilar from any proposed dwelling/farm building. The building is of a contemporary design and is unlikely to have any negative visual impacts.

Impacts from ‘site works may involve recontouring to create flat terraced areas for camping. If recontouring is to occur, stormwater runoff is to be responsibly managed by the applicant who is also to ensure that no erosion and/or sedimentation occur. Conditions are recommended for the applicant to consider management measures so that there is no impact on the environment.

Clause 4.27 Car Parking and Vehicle Access Requirements

The amended site plan dated September 2023 proposes parking bays to the north of the driveway and a parking area closer to the reception centre. There is no parking requirement under LPS7 for a reception centre. The closest match under LPS7 would be the requirement for a restaurant which is one bay per 4 patrons. As the proposal is to be capped at 150 patrons this development would potentially require 38 bays plus an additional 10 bays for staff. As the camping area is to be incidental to the reception centre use no additional parking is required for the proposed camping area use. Officers consider that the lot is a large rural lot with sufficient space available for a parking area accommodating a minimum of 48 parking bays. Any overflow would also be easily accommodated without impacting adjoining landowners. A condition is recommended for a parking area to be constructed to a gravel standard.

Clause 4.54 General Agriculture Zone

The relevant development requirements for the General Agriculture Zone under LPS7 have been assessed as summarised below:

Clause 4.54.8 – Development standards

- (i) *Minimum front setback – 30m*
- (ii) *Minimum side setback – 20m*
- (iii) *Minimum rear setback – 20m*
- (iv) *Where the land adjoins State Forest, National Park, Conservation Reserve or other timbered Crown or local government controlled land, in the opinion of the local government the setback from the common boundary shall be 100m.*

The development is a minimum of 145m setback from all boundaries. The intent of the setback provisions is to minimise land use conflict to ensure the continued operation of the existing agriculture activities on the application lot and on surrounding rural properties. Officers consider that the introduction of the proposed uses of reception centre and camping area will not impact negatively on any agriculture activities.

Clause 4.54.8.8 – In assessing applications for development approval, the local government will consider the following:

- (i) *the availability of services required to support the proposed development and the economic impact of the provision of, extension or upgrading of those services that may be required*

The applicant would need to provide suitable potable water to the satisfaction of the Shire and a condition is recommended to this effect. The development would need to be connected to an onsite effluent disposal system complying with the 'Government Sewerage Policy 2019'. The applicant is aware of this, and an advice note is recommended with further information regarding the application process.

Local Planning Strategy

Lot 3245 is identified as General Agriculture under the Shire of Donnybrook Balingup Local Planning Strategy. The proposal is consistent with the future intention of the area.

CONSULTATION

Public consultation

The application was advertised in accordance with Schedule 2, Part 8, Clause 64(1)(b)(i) of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* relating to development that is a class A use in relation to the zone in which the development is located.

The advertising period was for 15 days (concluding on 30 March 2023) and involved a written notice to adjoining landowners within approximately 1km of the subject site.

In response to the advertising, a total of six submissions were received, of which three were objections to the proposal. The public submissions are contained in Attachment 9.1.9(8). The amended proposal was also referred back to the submitters with no changes to the outcome as objections were retained.

The key issues raised in the submissions are summarised below along with Officer comments in response and further details are also provided in the ‘Officer Comment’ section of this report:

Issue Raised	Officer Comment
<i>Object as not on shire website and neighbouring properties were not informed.</i>	If an application is not a complex application and relates to a class ‘A’ use such as this proposal, then it is not mandatory for the shire to publish a notice on the shire website. A written notice was sent to adjoining landowners within approximately 1km of the subject site. Officers consider the consultation was appropriate for this level of proposal where it was also referred to several external agencies and departments.
<i>Significant commercial timber plantation operating adjacent and plantation management are carried out periodically that may create noise and dust that could impact the users of the development. Plantation operations are not to be impacted negatively by the proposed development.</i>	The proposal does not encroach onto the plantation lot and the amended access location has increased the separation for the plantation. An advice note is recommended to inform the applicant of the nearby plantation management activities and potential impacts on the development.
<i>Support only if this is a genuine business pursuit that will bring tourism into the Preston Valley and all mining / extraction applications needs to be withdrawn.</i>	Each application relates to a specific use class and needs to be considered on its own merits.
<i>Morrissey Road is already poorly maintained without increased traffic, any increase in traffic would make Morrissey Road dangerous.</i>	<p>The proposal does not obtain access via Morrissey Road. The amended access proposal includes use of a local road reserve to access Donnybrook-Boyup Brook Road. The local road reserve is not maintained by the Shire and has informally been managed by the applicant. A condition is recommended to ensure that the road intersection is to the Shire satisfaction in consultation with Main Roads and the PTA.</p> <p>Information contained in the TIA is based on the number of patrons being capped at 100 per function. Notwithstanding this, the applicant</p>

Issue Raised	Officer Comment
	<p>has indicated that the application is for 150 patrons per function not 100. Officers consider that although this will add to the traffic generation the condition for the upgrading of the crossover is sufficient to ensure safe access onto Donnybrook Boyup - Brook Road.</p>
<p><i>Concerned about environmental matters that include noise, and dust and increased light in the context of other proposals associated with this landowner relating to extractive industries. Request better understanding of how noise move through the valley.</i></p>	<p>Noise: Each application is considered on its merits; and must demonstrate compliance with the <i>Environmental Protection (Noise) Regulations 1997</i>. The applicant did not provide an acoustic assessment with the application. This is also a concern raised by Department of Water and Environmental Regulation and a condition is recommended that require an acoustic assessment.</p> <p>This matter is also further considered under the ‘Officer Comment’ section of this report.</p> <p>Dust: There may be some dust nuisance during the construction of the camping area, reception centre and associated carparking area and driveways.</p> <p>An advice note is recommended to inform the applicant that any dust associated with the construction of the development and associated works is to be managed appropriately in accordance with the <i>Shire of Donnybrook-Balingup Animals, Environment and Nuisance Local Law 2017</i>.</p> <p>Increased light: Due to the setbacks of the development to boundaries it is unlikely that there will be any light spill onto adjoining properties.</p>

Consultation with Government/Service Agencies

The application was referred to the following agencies in accordance with the Schedule 2, Part 9, Clause 66 of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*:

- Main Roads WA;
- Public Transport Authority;
- Department of Health;
- Department of Water and Environmental Regulation;
- Department of Primary Industries and Regional Development; and
- Department of Biodiversity, Conservation and Attractions.

The period for comment was 42 days (concluding on Tuesday 25 April 2023). In response comments were received from six agencies. The agency comments are contained in Attachment 9.1.9(9). The amended proposal was referred to relevant agencies with further comment received as summarized in the table below:

Issue Raised	Officer Comment
<p>Public Transport Authority (PTA)</p> <p>No objection subject to the following conditions and advice:</p>	<p>Noted.</p>
<p><i>No part of the development is to encroach into the railway reserve.</i></p>	<p>Lot 3245 does not abut the railway reserve. Access to Lot 3245 is obtained via an existing local road reserve. A condition is recommended to ensure that the road intersection is to the Shire satisfaction in consultation with Main Roads and the PTA.</p>
<p><i>No construction works, vehicles or materials are permitted within the rail corridor at any time.</i></p>	<p>Noted.</p>
<p><i>Drainage must not be discharged into the railway reserve.</i></p>	<p>Noted.</p>
<p><i>No clearing of Native vegetation is permitted in the railway reserve.</i></p>	<p>Noted.</p>
<p><i>Effective hygiene and biosecurity management must be in place to ensure there is no spread of weeds or diseases into rail corridor land to the satisfaction of the Public Transport Authority (PTA).</i></p>	<p>Noted.</p>
<p><i>All bushfire management must be achieved within the boundaries of Lot 3245.</i></p>	<p>Noted.</p>

Issue Raised	Officer Comment
<p><i>Advice:</i></p> <p>a. <i>Should the railway reserve be activated, upgrades to the rail level crossing will be required subject to the recommendations of an ALCAM assessment for the level crossing prior to the opening of rail line.</i></p> <p>b. <i>Any future development of this subject land must ensure it is not land locked.</i></p>	<p>Advice notes are recommended to inform the applicant of the PTA’s access requirements if the railway reserve is activated in future.</p>
<p>Main Roads WA</p> <p>No objection, subject to the following comments and conditions.</p>	<p>Noted.</p>
<p><i>The applicant will need to prepare a Traffic Impact Assessment Report for the proposed development to determine requirements for any turning treatments for the driveway intersection to the satisfaction of Main Roads.</i></p>	<p>The applicant provided a Traffic Impact Assessment Report. On 11 October 2023 Main Roads WA confirmed that the Traffic Impact Assessment is considered adequate and supported the proposal subject to conditions.</p>
<p><i>Main Roads has previously requested a condition for upgrading the driveway / crossover from the property to Donnybrook - Boyup Brook Road for a proposed extractive industry on this property.</i></p> <p><i>On 11 October 2023 Main Roads WA confirmed that the following condition is required for the proposed development.</i></p> <p><i>“The access driveway intersection with Donnybrook - Boyup Brook Road to be upgraded including bitumen sealing of the first 20 metres to the specifications and satisfaction of Main Roads.”</i></p>	<p>A condition is recommended to ensure that the road intersection is to the satisfaction of the Shire in consultation with Main Roads and the PTA.</p>
<p>Department of Primary Industries and Regional Development (DPIRD)</p> <p>No objection.</p>	<p>Noted.</p>
<p>Department of Health</p> <p>Not supported.</p>	<p>Noted.</p>
<p><i>Wastewater Disposal</i></p>	<p>To support the amended proposal the applicant provided a Site and Soil Evaluation.</p>

Issue Raised	Officer Comment
<p><i>On 11 October 2023 the DoH considered the amended location of the proposal and provided the following, the department is unable to support the development until it can demonstrate the following:</i></p> <p><i>The Site and Soil Evaluation (SSE) report indicates that a primary treatment system is suitable for this site and proposes the installation of an additional holding tank to allow for dosing of the effluent. DoH requires further information regarding the capacity of the tanks, water balance calculations, the number of required leach drains, and the length of the leach drains.</i></p> <p><i>The report indicates that a slope of more than 10% is present at the site. However, the SSE report does not explain how the leach drains are going to be installed on the site.</i></p> <p><i>The site plan only shows two leach drains without any further details. DoH is concerned that this may not be adequate for disposing of wastewater generated on the site.</i></p> <p><i>The leach drains area indicated on the site plan may be subject to surface inundation.</i></p> <p><i>A separation distance of 30 meters from the dam to the dispersal area should be maintained in accordance with the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations of 1974.</i></p>	<p>The Site and Soil Evaluation investigates the existing environment and the suitability of the subject site for onsite effluent disposal and the appropriate location for onsite effluent disposal in accordance with the relevant regulations and guidelines.</p> <p>The use of onsite effluent disposal within the subject site is considered suitable provided the following measures are implemented:</p> <ul style="list-style-type: none"> • Install additional holding tank to allow for dosing of the effluent to occur. • Reduce flow of wastewater using water-saving devices. • Minimise discharge of sodium salts to application area; and • The removal of boulders within the LAA, where encountered. <p>Approval of a septic system follows a separate process like the building permit process. The matters of concern listed by DoH would need to be considered and appropriately addressed by the applicant prior approval granted for the system. An advice note is recommended informing the applicant of the process.</p>
<p>Food Act Requirements</p> <p><i>All food related areas (kitchen, preparation areas, etc.) to comply with the provisions of the Food Act 2008 and related code, regulations and guidelines.</i></p>	<p>An advice note is recommended to inform the applicant of the requirements under the Food Act.</p>
<p>Medical Entomology</p> <p><i>There may be seasonal freshwater mosquito breeding habitat within proximity to the subject land. Additionally, there is the potential for mosquitoes to</i></p>	<p>An advice note is recommended to inform the applicant of best practice management measures to ensure that mosquito breeding do not occur onsite.</p>

Issue Raised	Officer Comment
<p><i>breed in on site infrastructure and constructed water bodies if they are poorly designed or not maintained. It is best practice for the applicant to ensure that onsite works activities and water holding infrastructure including constructed wetlands and stormwater drainage do not contribute to or support mosquito breeding onsite.</i></p>	
<p>Drinking water</p> <p>All drinking water provided on site must meet the health-related requirements and risk management framework set out in version 3.7 of the Australian Drinking Water Quality Guidelines 2011. Any non-drinking water (i.e., water that is not intended or suitable for drinking) must be managed to ensure it cannot be confused with or contaminate the drinking water supply. This requires satisfactory labelling of non-drinking water taps and, depending on system configuration, suitable backflow prevention arrangements</p>	<p>The applicant would need to provide suitable potable water to the satisfaction of the Shire and a condition is recommended to this effect.</p>
<p>Department of Biodiversity, Conservation and Attractions’ (DBCA) Parks, and Parks and Wildlife Service’s South West Region</p> <p>No objection.</p>	
<p><i>The Shire of Donnybrook Balingup’s (Shire) email dated 14 March 2023 refers to access for the development possibly being within the State Forest. The western portion of the Lot 3245 southern boundary is adjacent to the Wilga State Forest, which is managed by DBCA.</i></p> <p><i>The Lot 3245 northern, western and eastern boundaries are adjacent to private land. The Lot 3245 existing and proposed access ways (Figure 1) do not appear to traverse through the western portion of the southern boundary, into the adjoining State Forest.</i></p>	<p>Since the original proposal the applicant has amended the location of the reception centre on Lot 3245 and the access driveway has also been relocated. The driveway is not impacting any land other than land owned by the same landowner.</p>
<p><i>DBCA recommends that the Lot 3245 internal access way (pink line, Figure 1) is aligned to avoid native vegetation clearing where possible.</i></p>	<p>Noted.</p>
<p><i>Lot 3245 contains several water courses. The proposed internal access road linking to Morrissey Road (pink line) appears to cross several streamlines. Consideration should be given to the protection of stream water quality and the</i></p>	<p>This is no longer relevant due to the access driveway being relocated.</p>

Issue Raised	Officer Comment
<i>installation of suitable bridge/crossing structures to avoid impacts to the watercourse.</i>	
<i>DBCA recommends that the applicant seek advice from the Department of Water and Environmental Regulation (DWER) in relation to potential surface water/stream impacts.</i>	DWER comment has been obtained.
The Department of Water and Environmental Regulation (DWER) recommends that due to the absence of information with regards to on-site sewage disposal (wastewater) this proposal is not supported in its current form.	Noted.
<p><i>Wastewater disposal</i></p> <p><i>Prior to any approval, the applicant should be required to demonstrate that the proposal can meet best practice approach to the provision of on-site sewage treatment and disposal, in accordance with the principals of the ‘Government Sewerage Policy 2019’ (GSP) and Australian/New Zealand Standard 1547 ‘On-site domestic wastewater management’.</i></p>	The applicant provided a Site and Soil Evaluation that demonstrated the use of onsite effluent disposal within the subject site is considered suitable provided some measures are implemented. An advice note is recommended.
<p><i>Water supply and waterway crossing</i></p> <p><i>The applicant is to email the Department’s water licensing officer (kym.pennefather@dwer.wa.gov.au), providing details on how water will be used to support the additional activity. This will enable assessment of the applicant’s surface water license SWL66218(4).</i></p> <p><i>The applicant is to apply for a ‘bed and banks’ permit from the Department regarding the waterway crossing.</i></p>	An advice note is recommended to ensure the applicant complies with DWER requirements regarding water supply and waterway crossing.
<p><i>Native vegetation</i></p> <p><i>In the event the clearing of native vegetation is proposed, the following is advised:</i></p> <ul style="list-style-type: none"> • <i>Clearing for the building/structures: The applicant is to obtain Developmental Approval prior to clearing to ensure the clearing is exempt under the ‘Environmental Protection Act 1986’ (EP Act) and clearing to be in accordance with the Shire’s Firebreak and Fuel Hazard Reduction notice.</i> 	Noted, however, the proposal does not involve the clearing of vegetation.

Issue Raised	Officer Comment
<ul style="list-style-type: none"> • <i>Clearing for the access track outside the riparian zone: this is likely to be exempt from the requirement for a clearing permit under Regulation 5, Item 12 of the Clearing Regulations.</i> • <i>Clearing over the waterway (riparian zone): A permit to clear native vegetation under the EP Act would be required. Additional information on how to apply for a clearing permit is available from Clearing permit forms Western Australian Government (www.wa.gov.au), and the Department can be contacted for clarification at admin.nvp@dwer.wa.gov.au</i> 	
<p><i>Noise</i></p> <p><i>It would be beneficial to request an assessment of noise emissions from pre-recorded or live music occurring on site. Modelling and noise assessment to focus on ‘typical’ event(s) e.g., wedding DJ and other event(s) with music.</i></p> <p><i>Noise emissions associated with mechanical plant and the small camp site are not likely significant to warrant a noise assessment.</i></p>	<p>Similar concerns were raised by adjoining landowners during the consultation period. A condition is recommended for an Acoustic Report and Noise Management Plan to be prepared by a suitably qualified acoustic consultant. This matter is further considered under the ‘Officer Comment’ section of this report.</p>

OFFICER COMMENT

The proposal has been assessed in accordance with Schedule 2, Part 9, Clause 67 (2) of the deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015. A full assessment is contained in Attachment 9.1.9(10). Key considerations identified as zoning, land use class permissibility, consultation which identified several amenity concerns and traffic impacts issues.

Zoning and Land Use Class Permissibility

Under LPS7, both land uses of reception centre and camping area are ‘A’ uses in the General Agriculture zone which means that the uses are not permitted unless the local government has exercised its discretion by granting development approval after giving special notice of the proposal. The proposal complies with the purpose and objectives of the zone.

Noise

A reception centre may potentially create some noise impacts. Nearby residents and the Department of Water and Environmental Regulation have raised concerns during the

advertising period. The applicant did not provide an acoustic assessment and the noise management plan does not demonstrate that noise was modelled considering potential noise received at nearby sensitive receptors. It is therefore recommended that an acoustic assessment be completed and submitted to the Shire for consideration prior to the lodgement of a building permit. This is to ensure that recommendations from the acoustic report are implemented during construction of the reception centre. The acoustic report may also need to include some noise management measures to ensure ongoing compliance with the *Environmental Protection (Noise) Regulations 1997*.

In terms of the impacts of accumulative noise impacts from other activities in the vicinity such as the approved extractive industry at Lot 10, these are unlikely to occur as the reception centre will operate during a different timeframe and mostly over weekends. Notwithstanding, accumulative noise impacts are a matter to be considered. It would also be needed to consider the lay of the land and how far noise will travel with the reception centre to be constructed on top of a hill. A condition is recommended requesting an acoustic assessment by a suitably qualified consultant prior to the lodgement of the building permit application.

Dust

There is likely to be some dust emissions during construction. An advice note is recommended to inform the applicant that any dust associated with the construction of the development and associated works is to be managed appropriately in accordance with the *Shire of Donnybrook-Balingup Animals, Environment and Nuisance Local Law 2017*.

Increased light

The reception centre will be constructed on top of the hill. The reception centre is a single storey building with a covered deck facing the dam with the camping area sitting lower and closer to the dam. Due to the setbacks of the development to boundaries it is unlikely that there will be any impact from light spill onto adjoining properties.

Traffic Impacts

During the consultation period concerns were raised with Morrissey Road not being suitable. The amended access proposal does not involve the use of Morrissey Road as access is obtained via a local road reserve. The local road reserve is not maintained by the Shire and has informally been managed by the applicant.

To support the amended proposal the applicant provided a Traffic Impact Assessment that indicates:

- Donnybrook - Boyup Brook Road has low traffic volumes (1200 vehicles per day) and is suitable for the proposed use.
- the proposed reception centre will add some additional traffic on weekends and public holidays but not impact adversely.
- access from Donnybrook - Boyup Brook Road crossover should be sealed to Main Roads standards.

The Traffic Impact Assessment contains an assessment of safety issues under Part 4.8 on page 10. The current access is a gravel access which can form potholes under wetter conditions. The proposal is to seal the access to Main Roads WA standards. The access crossover has also been flagged by Main Roads WA as a concern.

MRWA have noted that the existing intersection between this local road reserve would be inadequate for the proposal. They have requested that the intersection and the first 20m of the road reserve be upgraded to a bitumen sealed standard. A condition is recommended to ensure that the road intersection is to the Shire satisfaction in consultation with Main Roads and the PTA.

What is to be noted is that the information contained in the Traffic Impact Assessment is based on the number of patrons being capped at 100 per function. Notwithstanding this, the applicant has indicated that the application is for 150 patrons per function not 100. Officers consider that although the Traffic Impact Assessment does not reflect the correct number of patrons the upgrading of the intersection onto Donnybrook - Boyup Brook Road to a bitumen sealed standard would ensure safe access.

As is evident from the amended access plan the access driveway crosses several lot boundaries. This is not an issue while the lots are in the same ownership. However, an access easement would need to be registered if any of these lots are sold in future. A condition to this effect is recommended.

Conclusion

The proposed reception centre and camping area is compatible with the surrounding development context and character of the area. Matters raised during the advertising period regarding amenity and traffic can be appropriately managed by conditions. Officers consider that the application complies with the requirement of orderly and proper planning and are therefore recommending conditional approval of the application.

EXECUTIVE RECOMMENDATION

MOVED: Cr Lindemann

SECONDED: Cr Patrick

That Council:

A. Pursuant to Schedule 2, Part 9, Clause 68(2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the Shire of Donnybrook Balingup Local Planning Scheme No. 7 (LPS7), approves the Development Application P23013 for a Reception Centre and a Camping Area on Lot 3245 Donnybrook – Boyup Brook Road, Yabberup subject to the following conditions:

- 1. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plans, including any notations, and must not be altered or modified without the further written consent of the Shire.**

Approved plans:

- **Site Plan, received September 2023**
- **Site Access, received September 2023**
- **Function Centre Floor Plan A-04P dated Jan 2023**
- **Function Centre Elevations Plan A-04E1 dated Jan 2023**
- **Function Centre Elevations Plan A-04E2 dated Jan 2023**
- **Function Centre Site Plan A-04S dated Jan 2023**

2. **The total number of guests on site shall not exceed 150 patrons accommodated in the reception centre and incidental camping area. Any increase in this number of patrons would require a further development approval from the Shire.**

3. **Use of the Camping Area is only permitted in conjunction with functions associated with the Reception Centre and not independently, unless otherwise approved by the Shire.**

4. **Prior to the lodgement of a building permit, the landowner is to demonstrate that the development will be provided with a suitable potable water supply to the satisfaction of the Shire. Thereafter, the potable water supply is to be installed to the satisfaction of the Shire.**

5. **Prior to the lodgement of a building permit, details are to be submitted regarding the provision for onsite storage and collection of waste. A waste storage and collection area must be graded, drained and screened from public view, and the waste collected regularly, to the satisfaction of the Shire of Donnybrook Balingup.**

6. **Any dust associated with the construction of the development and associated works is to be managed appropriately in accordance with the Shire of Donnybrook-Balingup *Animals, Environment and Nuisance Local Law 2017*.**

7. **Prior to the lodgement of a building permit, an Acoustic Report that has been prepared by a suitably qualified acoustic consultant must be submitted to and approved by the Shire, that includes the following:**
 - 7.1. **demonstrates that noise from the reception centre will comply with the Environmental Protection (Noise) Regulations 1997 at nearby sensitive receptors.**
 - 7.2. **demonstrate that impacts of accumulative noise impacts from other activities in the vicinity such as the approved extractive industry at Lot 10 have also been considered.**
 - 7.3. **demonstrate that consideration has been given to the location of the reception centre on top of a hill and how this location would impact on noise measurements.**
 - 7.4. **details the noise mitigation and management measures that will be implemented to make the noise comply with the Environmental Protection (Noise) Regulations 1997**

Once approved the plan will form part of this approval and must be complied with at all times.

- 8. Prior to the commencement of the use, the road intersection with Donnybrook-Boyup Brook Road is to be designed, constructed, drained, and sealed for the first 20m of the road to the satisfaction of the Shire of Donnybrook Balingup in consultation with Main Roads WA and the Public Transport Authority.**
- 9. Prior to the commencement of the use, all internal driveways gained through Lot 3245, 10, 2061, 2064, 3671 and 3728 that provides access to the reception centre and camping area are to be constructed to a gravel standard to the satisfaction of the Shire and thereafter maintained.**
- 10. Prior to the commencement of the use, a minimum of 38 car parking bays, and manoeuvring areas, generally in the locations identified on the approved plans, are to be constructed to a gravel standard, drained and clearly designated to the satisfaction of the Shire and thereafter maintained.**
- 11. All stormwater from the proposed development including buildings, camping area, driveway, parking area and hardstand area(s) shall be managed by the landowner in perpetuity, in accordance with the Shire's stormwater management standards and the Animals, Environment and Nuisance Local Law 2017 to the satisfaction of the Shire.**
- 12. Any erosion and/or sedimentation issues that occur due to insufficient drainage and/or stormwater management from the proposed development, including any driveway or accessway, is to be rectified, so as not to impact any surrounding properties, including any infrastructure, or watercourses or dam to the satisfaction of the Shire.**
- 13. A Manager must always be on-site while functions are undertaken, including overnight where the Camping Area is utilised.**
- 14. As per Clause 4.34 of the Shire of Donnybrook-Balingup Local Planning Scheme No. 7, it is acknowledged that legal access for Lot 3245 is currently gained through Lot 10, 2061, 2064, 3671 and 3728 as it is currently in the same ownership. If either of the properties change ownership, it is the landowner's responsibility to ensure development is continued to be provided with legal, constructed access in perpetuity, which may require an easement on the Titles.**

Advice

- a. Advertising signage does not form part of this approval. Any advertising signage is subject to a separate assessment and may require prior development approval from the Shire. It is recommended that you contact the Shire prior to the placement of any advertising signage onsite.**
- b. With regards to condition 13, "Manager" means a landowner, or a person duly appointed by the landowner, to have management and care of the site and approved uses.**

c. The Shire Environmental Health Services advises that:

- i. An approved on-site effluent disposal system adequate to the proposed use of the premises will be required to fully comply with the 'Government Sewerage Policy 2019'. Please note that the prescribed 'Application to construct or install an Apparatus for the Treatment of Sewerage' and fee is to accompany the building licence application for assessment by the Shire.**
- ii. A grease trap is required to be installed to remove fats and grease prior to the wastewater entering the effluent disposal system.**
- iii. Food handling, preparation and storage areas to be designed and constructed in accordance with Food Act 2008, Food Regulations 2009 and the Food Standards Code requirements.**
- iv. Compliance with the *Caravan Parks and Camping Grounds Act 1995* is required for the Camping Areas. An application for a camping ground licence under Part 2, Division 1, Section 6 of the Act must be submitted to, and approved by the Shire.**
- v. In regard to Condition 4, an adequate potable water supply to be provided in accordance with Australian Drinking Water Guidelines. Water supply to be provided with an appropriate filtration and disinfection equipment. (For example, water filter with UV Treatment)**

d. The reception centre and camping area is within proximity to an established commercial timber plantation and may experience increased impacts including but not limited to noise and dust emissions during plantation management and/or any other associated impact. The reception centre and camping area are not to impact negatively on the plantation operations.

e. Department of Water and Environmental Regulation advises that:

- i. There may be seasonal freshwater mosquito breeding habitat within proximity to the subject land. Additionally, there is the potential for mosquitoes to breed in on site infrastructure and constructed water bodies if they are poorly designed or not maintained. It is best practice for the applicant to ensure that onsite works activities and water holding infrastructure including constructed wetlands and stormwater drainage do not contribute to or support mosquito breeding onsite.**
- ii. The applicant is to email the Department's water licensing officer (kym.pennefather@dwer.wa.gov.au), providing details on how water will be used to support the additional activity. This will enable assessment of the applicant's surface water license SWL66218(4).**

- iii. **The applicant is to apply for a ‘bed and banks’ permit from the Department if any waterway crossing is proposed.**
- f. **The Public Transport Authority advises that:**
 - i. **Should the railway reserve be activated, upgrades to the rail level crossing will be required subject to the recommendations of an ALCAM assessment for the level crossing prior to the opening of rail line.**
 - ii. **Any future development of this subject land must ensure it is not land locked.**
- g. **The applicant is advised to investigate whether approval is required pursuant to the Aboriginal Heritage Act 1972. The applicant should conduct a search of the Register of Aboriginal Sites to determine if any aboriginal sites have been recorded in the vicinity of their application, and this heritage information should be submitted to the Department of Planning Lands and Heritage (Indigenous Affairs) with a request for advice.**
- h. **Compliance with the Building Code of Australia is required. A Building Permit Application must be submitted to, and approved by, the Shire prior to the commencement of any development. The Building Permit plans must reflect the relevant conditions and approved plans of this Development Approval.**
- i. **If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.**
- j. **Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought or obtained.**
- k. **If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the Planning and Development Act 2005. An application must be made within 28 days of the determination.**

AMENDMENT TO DEFER: CR GLOVER

MOVED: Cr Glover

SECONDED: Cr Bailey

That Council:

Defer Application P23013 for a period of up to 8 weeks for further advice to be provided to the Shire of Donnybrook Balingup, concerning the following matters:

- 1. Further community consultation.**
- 2. Clarity around the scope for the camping grounds.**
- 3. Acoustic Noise assessment**

LOST: 2/5

For: Cr Bailey, Cr Glover.

Against: Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick.

AMENDMENT: CR BAILEY

MOVED: Cr Bailey

SECONDED: Cr Gubler

- B. Council continues to inform the community of the updates on the conditions of the application that has been approved including a meeting be held at Yabberup Hall to update the community on the project.**

CARRIED:6/1

For: Cr MacCarthy, Cr Glover, Cr Bailey, Cr Gubler, Cr Lindemann, Cr Patrick.

Against: Cr Mitchell

SUBSTANTIVE MOTION

COUNCIL RESOLUTION 155/23

MOVED: Cr Bailey

SECONDED: Cr Gubler

That Council:

- A. Pursuant to Schedule 2, Part 9, Clause 68(2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the Shire of Donnybrook Balingup Local Planning Scheme No. 7 (LPS7), approves the Development Application P23013 for a Reception Centre and a Camping Area on Lot 3245 Donnybrook – Boyup Brook Road,**
-

Yabberup subject to the following conditions:

- 1. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plans, including any notations, and must not be altered or modified without the further written consent of the Shire.**

Approved plans:

- **Site Plan, received September 2023**
- **Site Access, received September 2023**
- **Function Centre Floor Plan A-04P dated Jan 2023**
- **Function Centre Elevations Plan A-04E1 dated Jan 2023**
- **Function Centre Elevations Plan A-04E2 dated Jan 2023**
- **Function Centre Site Plan A-04S dated Jan 2023**

- 2. The total number of guests on site shall not exceed 150 patrons accommodated in the reception centre and incidental camping area. Any increase in this number of patrons would require a further development approval from the Shire.**
- 3. Use of the Camping Area is only permitted in conjunction with functions associated with the Reception Centre and not independently, unless otherwise approved by the Shire.**
- 4. Prior to the lodgement of a building permit, the landowner is to demonstrate that the development will be provided with a suitable potable water supply to the satisfaction of the Shire. Thereafter, the potable water supply is to be installed to the satisfaction of the Shire.**
- 5. Prior to the lodgement of a building permit, details are to be submitted regarding the provision for onsite storage and collection of waste. A waste storage and collection area must be graded, drained and screened from public view, and the waste collected regularly, to the satisfaction of the Shire of Donnybrook Balingup.**
- 6. Any dust associated with the construction of the development and associated works is to be managed appropriately in accordance with the Shire of Donnybrook-Balingup *Animals, Environment and Nuisance Local Law 2017*.**
- 7. Prior to the lodgement of a building permit, an Acoustic Report that has been prepared by a suitably qualified acoustic consultant must be submitted to and approved by the Shire, that includes the following:**
 - 7.1. demonstrates that noise from the reception centre will comply with the Environmental Protection (Noise) Regulations 1997 at nearby sensitive receptors.**
 - 7.2. demonstrate that impacts of accumulative noise impacts from other activities in the vicinity such as the approved extractive industry at Lot 10 have also been considered.**

7.3. demonstrate that consideration has been given to the location of the reception centre on top of a hill and how this location would impact on noise measurements.

7.4. details the noise mitigation and management measures that will be implemented to make the noise comply with the Environmental Protection (Noise) Regulations 1997

Once approved the plan will form part of this approval and must be complied with at all times.

- 8. Prior to the commencement of the use, the road intersection with Donnybrook-Boyup Brook Road is to be designed, constructed, drained, and sealed for the first 20m of the road to the satisfaction of the Shire of Donnybrook Balingup in consultation with Main Roads WA and the Public Transport Authority.**
- 9. Prior to the commencement of the use, all internal driveways gained through Lot 3245, 10, 2061, 2064, 3671 and 3728 that provides access to the reception centre and camping area are to be constructed to a gravel standard to the satisfaction of the Shire and thereafter maintained.**
- 10. Prior to the commencement of the use, a minimum of 38 car parking bays, and manoeuvring areas, generally in the locations identified on the approved plans, are to be constructed to a gravel standard, drained and clearly designated to the satisfaction of the Shire and thereafter maintained.**
- 11. All stormwater from the proposed development including buildings, camping area, driveway, parking area and hardstand area(s) shall be managed by the landowner in perpetuity, in accordance with the Shire's stormwater management standards and the Animals, Environment and Nuisance Local Law 2017 to the satisfaction of the Shire.**
- 12. Any erosion and/or sedimentation issues that occur due to insufficient drainage and/or stormwater management from the proposed development, including any driveway or accessway, is to be rectified, so as not to impact any surrounding properties, including any infrastructure, or watercourses or dam to the satisfaction of the Shire.**
- 13. A Manager must always be on-site while functions are undertaken, including overnight where the Camping Area is utilised.**
- 14. As per Clause 4.34 of the Shire of Donnybrook-Balingup Local Planning Scheme No. 7, it is acknowledged that legal access for Lot 3245 is currently gained through Lot 10, 2061, 2064, 3671 and 3728 as it is currently in the same ownership. If either of the properties change ownership, it is the landowner's responsibility to ensure development is continued to be provided with legal, constructed access in perpetuity, which may require an easement on the Titles.**

Advice

- a. **Advertising signage does not form part of this approval. Any advertising signage is subject to a separate assessment and may require prior development approval from the Shire. It is recommended that you contact the Shire prior to the placement of any advertising signage onsite.**
- b. **With regards to condition 13, “Manager” means a landowner, or a person duly appointed by the landowner, to have management and care of the site and approved uses.**
- c. **The Shire Environmental Health Services advises that:**
 - i. **An approved on-site effluent disposal system adequate to the proposed use of the premises will be required to fully comply with the ‘Government Sewerage Policy 2019’. Please note that the prescribed ‘Application to construct or install an Apparatus for the Treatment of Sewerage’ and fee is to accompany the building licence application for assessment by the Shire.**
 - ii. **A grease trap is required to be installed to remove fats and grease prior to the wastewater entering the effluent disposal system.**
 - iii. **Food handling, preparation and storage areas to be designed and constructed in accordance with Food Act 2008, Food Regulations 2009 and the Food Standards Code requirements.**
 - iv. **Compliance with the *Caravan Parks and Camping Grounds Act 1995* is required for the Camping Areas. An application for a camping ground licence under Part 2, Division 1, Section 6 of the Act must be submitted to, and approved by the Shire.**
 - v. **In regard to Condition 4, an adequate potable water supply to be provided in accordance with Australian Drinking Water Guidelines. Water supply to be provided with an appropriate filtration and disinfection equipment. (For example, water filter with UV Treatment)**
- d. **The reception centre and camping area is within proximity to an established commercial timber plantation and may experience increased impacts including but not limited to noise and dust emissions during plantation management and/or any other associated impact. The reception centre and camping area are not to impact negatively on the plantation operations.**
- e. **Department of Water and Environmental Regulation advises that:**
 - i. **There may be seasonal freshwater mosquito breeding habitat within proximity to the subject land. Additionally, there is the potential for**

mosquitoes to breed in on site infrastructure and constructed water bodies if they are poorly designed or not maintained. It is best practice for the applicant to ensure that onsite works activities and water holding infrastructure including constructed wetlands and stormwater drainage do not contribute to or support mosquito breeding onsite.

- ii. The applicant is to email the Department's water licensing officer (kym.pennefather@dwer.wa.gov.au), providing details on how water will be used to support the additional activity. This will enable assessment of the applicant's surface water license SWL66218(4).
- iii. The applicant is to apply for a 'bed and banks' permit from the Department if any waterway crossing is proposed.
- f. The Public Transport Authority advises that:
 - i. Should the railway reserve be activated, upgrades to the rail level crossing will be required subject to the recommendations of an ALCAM assessment for the level crossing prior to the opening of rail line.
 - ii. Any future development of this subject land must ensure it is not land locked.
- g. The applicant is advised to investigate whether approval is required pursuant to the Aboriginal Heritage Act 1972. The applicant should conduct a search of the Register of Aboriginal Sites to determine if any aboriginal sites have been recorded in the vicinity of their application, and this heritage information should be submitted to the Department of Planning Lands and Heritage (Indigenous Affairs) with a request for advice.
- h. Compliance with the Building Code of Australia is required. A Building Permit Application must be submitted to, and approved by, the Shire prior to the commencement of any development. The Building Permit plans must reflect the relevant conditions and approved plans of this Development Approval.
- i. If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
- j. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought or obtained.
- k. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the Planning and Development Act 2005. An application must be made within 28 days of the determination.

B. Council continues to inform the community of the updates on the conditions of the application that has been approved including a meeting be held at Yabberup Hall to update the community on the project.

CARRIED:7/0

For: Cr MacCarthy, Cr Mitchell, Cr Glover, Cr Bailey, Cr Gubler, Cr Lindemann, Cr Patrick.

Against: Nil.

9.1.10 CHANGE OF USE – HOLIDAY HOUSE – LOT 502 (1016) CHARLEY CREEK ROAD, THOMSON BROOK

Location	Lot 502 (1016) Charley Creek Road, Thomson Brook
Applicant	Paul Lewkowski
File Reference	A4213
Author	Cecilia Muller, Principal Planner
Responsible Manager	Ross Marshall, Director Operations
Attachments	9.1.10(1) – Location Plan 9.1.10(2) – Locality Plan 9.1.10(3) – Site Plan 9.1.10(4) – Floor Plan 9.1.10(5) – Full copy of Initial Public Submissions 9.1.10(6) – Final correspondence from initial objectors
Voting Requirements	Simple Majority

EXECUTIVE RECOMMENDATION

That Council:

1. Pursuant to Schedule 2, Part 9, Clause 68 (2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, grants Development Approval P23024 for a change of use – Holiday House at Lot 501 (1016) Charley Creek Road, Thomson Brook, subject to the following conditions:
2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plans, including any notations, and must not be altered or modified without the further written consent of the Shire.

Approved plans:

- Site plan
- Floor plan

3. A manager is to be designated for the Holiday House and the details of the manager are to be provided to the Shire. Should the dedicated manager change, details of the new manager must be provided to the Shire prior to the next use of the Holiday House.
4. The maximum number of guests using the Holiday House shall not exceed eight (8) adults and four (4) children.
5. A minimum number of five (5) parking spaces must be provided on the lot to the satisfaction of the Shire.
6. No more than a total of two dogs may be brought on to the lot by guests and must be appropriately secured within the premises.

- 7. The applicant is to demonstrate that the Holiday House is provided with a suitable potable water supply, to the satisfaction of the Shire.**
- 8. A management plan is to be prepared for the Holiday House and must be submitted to and approved by the Shire, that includes the following:**
 - 8.1 Mitigation plan**
 - 8.2 Complaints management procedure**
 - 8.3 Guest check-in and check-out procedures**
 - 8.4 Emergency Evacuation Plan**

Once approved the plan will form part of this approval and must be always complied with.

Advice Notes

- a. Compliance with the Building Code of Australia is required. A Building Permit Application must be submitted to, and approved by, the Shire prior to the commencement of any development. The Building Permit plans must reflect the relevant conditions and approved plans of this Development Approval. Any subsequent revisions to the plans may require prior development approval.**
- b. With regards to Condition 2, a “manager” means a person duly appointed by the landowner to have management and care of the Holiday House. The manager is the contact person responsible for the day-to-day compliance of the Holiday House operations as per the conditions of this approval. The manager may be a landowner or caretaker of the site. Details provided are to include a full name and appropriate contact details.**
- c. The dedicated manager as per Condition 2, is responsible for the implementation of the management plan and the following management conditions for the use of the Holiday House:**
 - i. Surrounding landowners are to be provided with the contact details of the manager prior to the commencement of the use;**
 - ii. Prior to each guest stay, the guest (s) are to be provided with the contact details of the manager;**
 - iii. The manager must be contactable at all times while the Holiday House is in use;**
 - iv. It is the manager’s responsibility to ensure that all guests behave appropriately and do not unreasonably disturb surrounding premises.**
 - v. Prior to each guest stay, the guest (s) are to be notified that ‘Charley Creek Road is an unsealed road which experiences periodic maintenance grading. The condition of unsealed roads can be subject to sudden change with major contributing factors being weather conditions, traffic type, traffic volume and traffic speed. Unlike sealed roads,**

permanent speed limit signs are not used on unsealed roads because the condition of such roads cannot be assured, and vehicles must always be driven to suit the conditions.

- d. The word “guest” refers to any user of the Holiday House that has either paid to utilise the facility or is accompanying a person who has paid to use the facility.**
- e. With regards to Condition 4, the current on-site sewer system *may* not be sufficient to accommodate 12 persons on site. The applicant/landowner is advised that the lot must have sufficient effluent disposal capacity to accommodate the maximum guest numbers in accordance with the *Health (Miscellaneous Provisions) Act 1911* and *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*. It is recommended to contact the Shire’s Environmental Health Services for further advice.**
- f. The development the subject of this development approval must comply with the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997* in relation to noise emissions. Further information can be obtained from the Shire’s Environmental Health Services on (08) 9780 4200.**
- g. *Advertising signage does not form part of this approval. Any advertising signage is subject to a separate assessment and may require prior development approval from the Shire. It is recommended that you contact the Shire prior to the placement of any advertising signage on-site.***
- h. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. An application must be made within 28 days of the determination.**
- i. penalty fee applies to an application seeking subsequent approval. Within 30days of this approval the applicant is to pay a penalty fee of \$590 to the Shire of Donnybrook Balingup.**

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

Outcome	6	The built environment is responsibly planned and well maintained
Objective	6.1	Ensure sufficient land is available for residential, industrial and commercial uses.

EXECUTIVE SUMMARY

An application for development approval was received by the Shire on 31 May 2023 for a change of use from a dwelling to a Holiday House at Lot 501 (1016) Charley Creek Road, Thomson Brook.

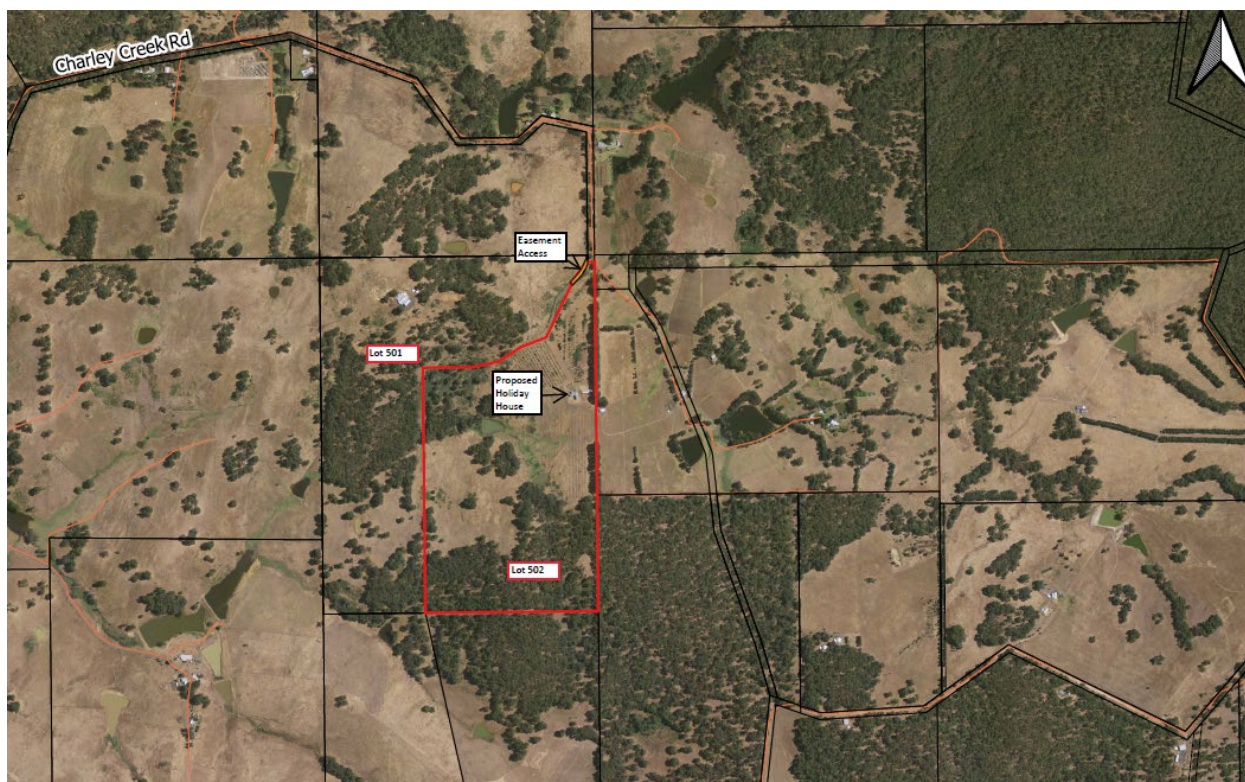
Officers do not have delegation to determine applications for development approval where objections are received. Officers consider that the proposal is consistent with the planning framework and should be granted approval subject to conditions.

BACKGROUND

On 31 May 2023 the Shire received an application for development approval for a change of use from a dwelling to a Holiday House at Lot 501 (1016) Charley Creek Road, Thomson Brook. The subject lot is 40.5945 hectares and is zoned 'General Agriculture' under the Shire of Donnybrook Balingup *Local Planning Scheme No. 7* (LPS7).

The lot has an easement benefit over Lot 501 (1014) Charley Creek Road to Charley Creek Road. The lot is bounded by private rural land which is predominantly used for extensive agricultural activities. The lot is within designated bushfire prone area, but the development footprint is wholly outside of this area. A Location Plan is provided in Attachment 9.1.10(1) and a Locality Plan illustrating the surrounding area in further detail is provided in Attachment 9.1.10(2).

Location Plan



Proposal

On 31 May 2023 the Shire received an application for development approval for a change of use from a dwelling to a Holiday House at Lot 501 (1016) Charley Creek Road, Thomson Brook.

The applicant provided the following information with the proposal:

- The applicants have owned the property on Charley Creek Road, Thomson Brook for the last 15 years.
- The applicants developed the property with a five-bedroom house.
- The property is used for sheep farming.
- The applicants have moved to Perth where their children are now in school.
- The property is leased to the neighbours and continue to be used for sheep farming.
- The applicant is seeking a change of use to be able to use the property for short stay holiday accommodation in addition to farming use.
- The applicants consider the property suitable for hosting up to 2 family's which will contribute to the town's tourism.
- The neighbour at 1014 Charley Creek Road who is leasing the land for sheep farming is also amenable to the proposal of short stay accommodation. They will be providing the managerial and servicing/cleaning requirements for the property while being able to manage any immediate attention that may be required.
- Water supply for the property is via three potable quality polyethylene water tanks where rainwater is harvested via the shed roof. The tanks are sealed from vermin and mosquitos and has a two Stage Davey Aquasafe Centurion water filter with ultraviolet sterilization.

FINANCIAL IMPLICATIONS

All relevant application fee of \$295 has been paid by the applicant.

A penalty fee applies to an application seeking subsequent approval, and it is recommended that Council resolve to request the applicant to pay a penalty fee of \$590 to the Shire of Donnybrook Balingup.

POLICY COMPLIANCE

State Planning Policy 2.5 – Rural Planning (SPP 2.5)

Notably, Clause 5.5 (C) of SPP 2.5 states that WAPC policy is to “*support small scale tourism opportunities, such as bed and breakfast, holiday house, chalet, art gallery, micro-brewery and land uses associated with primary production, within the rural zone*”.

The proposal is consistent with this policy direction.

State Planning Policy 3.7: Planning in Bushfire Prone Areas

The development footprint is wholly outside the Bushfire Prone Area. The relevant policy does not apply where the development footprint is wholly outside this area. As such, information has not been provided addressing the policy. Notwithstanding, officers are recommending that the Management Plan include and Emergency Evacuation Plan to assist guest to safely evacuate the premises during a bushfire.

Planning for Tourism and Short-term Rental Accommodation Guidelines

The *Planning for Tourism and Short-Term Rental Accommodation Position Statement* and associated Guidelines (Position Statement & Guidelines) were recently endorsed by the Western Australian Planning Commission (WAPC). This is one of the documents that recommend changes to planning schemes to ensure a more consistent approach to Short-term Rental Accommodation across the State. It also includes strategic principles and considerations for local government to consider when planning for tourism land uses.

The position statement under clause 4.4.2 state that where appropriate, local government may require the applicant to prepare a management plan to address potential amenity impacts arising from short-term rental accommodation and necessary emergency protocols. A management plan could form a condition of development approval and might include, but not be limited to the following:

- Mitigation plan
- Complaints management procedure
- Guest check-in and check-out procedures
- Health and safety protocols
- Management and provision of car parking
- Waste management

Officers consider it would be appropriate to recommend a condition requesting the applicant to prepare a management plan for the development to address the matters of

concern raised by the nearby landowners during the consultation period. This matter is further considered under the ‘Officer Comment’ section of this report.

STATUTORY COMPLIANCE

The application has been assessed against the relevant and applicable statutory provisions as follows.

Shire of Donnybrook Balingup Local Planning Scheme No.7

Part 3 – Zones and the Use of Land

Lot 502 is zoned ‘General Agriculture’ under the Shire of Donnybrook Balingup Local Planning Scheme No. 7 (LPS7). Clause 3.5 of LPS7 state the purpose and objectives of the General Agriculture zone. The purpose of the zone, objective (v) and objective (vii) are particularly relevant.

3.5.1 Purpose

The purpose of the General Agriculture zone is to provide for the sustainable use of rural land which primarily accommodates a broad range of rural pursuits and complementary non-agricultural uses that are compatible with the capability of the land, and which retain the rural character and amenity of the locality.

3.5.2 Objectives

- (v) recognise the aesthetic and tourism importance of the scenic landscape, realise the need to retain the rural scenic character of a site and of the district by ensuring through siting and landscaping provision that any development does not detrimentally change the scenic rural character.*
- (vii) with adjacent and nearby rural and other uses, and where environmental, landscape and servicing considerations are appropriately addressed.*

Based on the context of the site and the scale of the development, the proposal is generally consistent with the above objectives of the General Agriculture zone. In addition, the proposal does not jeopardise the intent of the General Agriculture zone and will not adversely or unreasonably impact the surrounding area and future ability of the land for agricultural purposes.

The proposed development is considered consistent with the definition of: -
‘Holiday House’ within LPS7 which means “a dwelling together with its associated outbuildings –

- (a) designed primarily as a dwelling for permanent residential purposes whether or not occupied periodically as such; and*
- (b) used, whether or not for commercial gain or reward, from time to time for unsupervised, short-stay tourist accommodation purposes excluding people that are*

members of the owner's family but including all people where the owner is a company; but does not include a "bed and breakfast" facility."

Under LPS7, a 'Holiday House' is an 'A' use in the General Agriculture zone which means that "the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the deemed provisions". In this regard, all applications for a Holiday House in the General Agriculture zone require prior approval from the Shire. The proposal was advertised, and submissions were received from nearby landowners. These are considered under the 'Consultation' section of this report.

Part 4 – General Development Requirements

The relevant and applicable general development requirements of LPS7 have been assessed and summarised below:

4.27 Car Parking and Vehicle Access Requirements

There is no parking requirement under LPS7 for a Holiday House. The closest match under LPS7 would be the requirement for a guesthouse which is one bay per bedroom and 1 space for each staff member. As the house has five bedrooms officers consider that as a minimum at least five parking bays are to be marked out on site. Given the size of the lots there is adequate space for parking of any vehicles associated with the development. Any overflow would also be easily accommodated without impacting adjoining landowners. A condition is recommended for a parking area to be constructed to a gravel standard.

4.32 Vehicle Crossovers/Entrances

Proposed access is from existing crossover that services Lot 501 (1014) Charley Creek Road over an existing easement that benefit Lot 502. Access appears to be appropriately constructed for the development.

4.35 Holiday Accommodation Uses – Short Stay Restrictions

Clause 4.35.1 requires that no person shall occupy any holiday accommodation use, as specified in the Zoning Table for more than a total of 3 months in any 12-month period unless approved by the local government for management purposes and staff accommodation. Ongoing compliance with this scheme provision is to be managed by the applicant.

4.37 Services to All Development

The local government shall not grant development approval to the carrying out of any development on any land unless –

(i) a water supply and facilities for the removal or disposal of sewerage and drainage are available to that land (unless the applicant can demonstrate that the use does not require these services to the satisfaction of the local government);

The Dwelling has existing water supply from water tanks and existing approved effluent disposal system. The effluent system may require some upgrading and advice will be

provided to the applicant to ensure compliance with the 'Government Sewerage Policy 2019'.

Clause 4.42 Bush Fire Hazard and Fire Management Plans

Development footprint is located outside of designated bushfire prone area and the development is exempt from the requirements of SPP 3.7.

4.45 Advertisements

No advertising signage proposed. An advice note is to be provided informing the applicant that advertising signage is subject to separate approval.

Clause 4.54 General Agriculture Zone

The relevant development requirements for the General Agriculture Zone under LPS7 have been assessed as summarised below:

Clause 4.54.8 – Development standards

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

- (i) Minimum front setback – 30m
- (ii) Minimum side setback – 20m
- (iii) Minimum rear setback – 20m
- (iv) Where the land adjoins State Forest, National Park, Conservation Reserve or other timbered Crown or local government-controlled land, in the opinion of the local government the setback from the common boundary shall be 100m.

The structure exists and does not vary any development setbacks. The intent of the setback provisions is to minimise land use conflict to ensure the continued operation of the existing activities on the application lot and on surrounding rural properties. Officers consider that the introduction of the proposed use of Holiday House will not impact negatively on any agriculture activities.

Clause 4.54.8.3 - With the exception of a single dwelling, where the proposed development is for a non-agricultural purpose, the local government shall require a minimum setback of 100 metres from existing intensive agricultural activities on any adjacent lot, whether owned by the applicant or a third party.

The development is similar to a single dwelling and not to be occupied on a permanent basis. The dwelling is existing and does not meet the 100-meter setback. A review of aerial imagery and a site inspection confirmed that there are no current intensive-agricultural operations within 100m of the development. The intent of the setback provisions is to minimise land use conflict to ensure the continued operation of the existing agriculture activities on the application lot and on surrounding rural properties. Officers consider that the introduction of the proposed holiday accommodation will not impact negatively on any agriculture activities.

Clause 4.54.8.8 – In assessing applications for development approval, the local government will consider the following:

- (i) the availability of services required to support the proposed development and the economic impact of the provision of, extension or upgrading of those services that may be required;
- (ii) the adequacy of the roads, existing or proposed in the area which may be needed to support the amount of road traffic expected to be generated by the development; and
- (iii) the need to enforce such conditions as the local government deems appropriate, in order to minimise any adverse effect, the development may have on the general environment of the area.

The applicant would need to provide suitable potable water to the satisfaction of the Shire and a condition is recommended to this effect. The development would need to be connected to an onsite effluent disposal system complying with the 'Government Sewerage Policy 2019'. The applicant is aware of this, and an advice note is recommended with further information regarding the application process.

The proposed road access is from Charley Creek Road. Proposed traffic related to the development is a maximum of 5 cars, one per bedroom. Charley Creek Road is a lower order gravel road which experiences intermittent maintenance through grading. The impact of this proposal to the long-term condition of the road is unlikely to be significant, particularly when compared to current use and surrounding agricultural activities.

Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2, Part 9, Clause 67 (2) outlines the matters to be considered by a local government when assessing an Application for Development Approval. The relevant matters relating to this proposal have already been addressed with the above noted policies and scheme provision consideration.

CONSULTATION

Neighbour Notification

Schedule 2, Part 9, Clause 64 (1) (b) (i) of the *Planning and Development (Local Planning Scheme) Regulations 2015*, specifies that the Shire is to undertake advertising when considering an application for development approval for an 'A' use.

The advertising period was for 14 days (concluding on 27 June 2023) and involved a written notices to adjoining landowners.

A total of five submissions were received with three in support, and two objecting. The issues noted in these submissions have been summarised below. A full copy of all submissions is attached (Attachments 9.1.10(5) and 9.1.10(6)).

Following the receipt of the submissions, Shire officers consulted with those objecting to identify reasonable conditions that would address their concerns. Following this consultation, one objection was removed.

Issue Raised in Submission	Officer Comment
<p>That the applicant had operated the use prior to applying for approval from the Shire.</p>	<p>In applying for the application, the applicant had not specified that they had been operating prior to making application to the Shire.</p> <p>The <i>Planning and Development (Local Planning Scheme) Regulations 2015</i>, under Clause 65 makes provision for Subsequent approval of development.</p> <p>The Shire may consider requesting a penalty fee where development has occurred prior to approval being sought.</p>
<p>That during the above unauthorised use, that antisocial behaviour occurred included trespassing on adjacent properties, loud events, and excess traffic.</p>	<p>Antisocial behaviour is a matter for the police. Notwithstanding, the development would need to comply with the <i>Environmental Protection (Noise) Regulations 1997</i>. Officers consider that these matters can be addressed by requiring a manager to be designated for the site and the details of the manager to be provided to the Shire. A condition is also recommended for a management plan to be prepared to address the relevant potential amenity impacts.</p>
<p>Ongoing advertising of the accommodation for thirteen persons.</p>	<p>The Shire’s health and building departments reviewed the proposal in terms of their compliance with the relevant legislation.</p> <p>Under the Shire’s Health Local Laws 1999, bedrooms are required to have:</p> <ul style="list-style-type: none"> • for every person over the age of 10 years using the room at least 14 cubic metres of air space per person; and • for every person between the ages of 1 and 10 years at least 8 cubic metres of air space per person

Issue Raised in Submission	Officer Comment
	<p>For a standard bedroom, this calculates to two persons per bedroom (if over the age of 10) and four persons per bedroom (if under the age of 10).</p> <p>Given the proposal includes 5 bedrooms, this would allow for 12 persons total (assuming one bedroom is used for minors).</p> <p>The Building Code of Australia (BCA) has similar requirements. This includes the requirement to reclassify the building to a Class 1b building.</p> <p>As per the Health comments noted above the building can only accommodate 12 persons (where 4 persons are under the age of 10). The number of guests can be appropriately conditioned; and advice provided to inform the applicant of his responsibility to comply with building legislation for the reclassification of the building.</p>
<p>The inadequacy of the existing road condition of Charley Creek Road and the impact to that road condition.</p>	<p>The Shire’s works and services department have reviewed the road condition and are satisfied that it is sufficient to cater for the development.</p> <p>In addition, the proposed impact of the development is quite minor when compared to a standard rural dwelling and surrounding agricultural activities.</p>

OFFICER COMMENT

The proposal has been assessed in accordance with the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Key considerations identified that the use is generally consistent with the objectives of the General Agriculture zone. In addition, the proposal does not jeopardise the intent of the General Agriculture zone and will not adversely or unreasonably impact the surrounding area and future ability of the land for agricultural purposes.

Under LPS7, a ‘Holiday House’ is an ‘A’ use in the General Agriculture zone which means that “the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice.

The proposal was advertised, and submissions received from nearby landowners. Key considerations identified includes traffic/road condition, occupancy numbers, noise, the adequacy of services for the proposal and previous operation of the proposal.

Traffic/road condition

The existing road condition is that of a lower order gravel road. In noting this, the development itself is minor in nature like a single dwelling and is unlikely to significantly impact the condition of this road, the road is considered fit for purpose.

Occupancy Numbers

The existing number of bedrooms is only capable of being occupied by a maximum of 12 persons (where one bedroom is used for persons under the age of 10 years old). As such a restriction on numbers of people should be conditioned and would address any potential issues.

Noise

While noise has been noted as a potential issue, the development is a small-scale development with significant setbacks from nearby sensitive receptors. The development would be required to comply with the *Environmental Protection (Noise) Regulations 1997*.

Servicing

Given the proposal may have 12 persons on site, it would need to be provided with appropriate servicing of water and effluent disposal provision. The existing infrastructure may need to be upgraded to cater for this. This can be conditioned or advise provided to the applicant.

Previous operation of the proposal

The Holiday House has operated prior to applying to the Shire for approval. This was not communicated to Shire officers when the application was lodged. The *Planning and Development (Local Planning Scheme) Regulations 2015*, under Clause 65 makes provision for Subsequent approval of development. The usual procedures relating to applications for development approval apply, with any modifications necessary to an application for development approval for development already commenced or carried out. A penalty fee would apply to an application seeking subsequent approval, Council may want to resolve to direct the applicant to pay the penalty fee. The penalty fee is \$590 in addition to the application fee of \$295 which has already been paid by the applicant. To comply with the *Planning and Development (Local Planning Scheme) Regulations 2015* due process is to be followed, instead of operators seeking retrospective approval.

Management plan

The *Planning for Tourism and Short-Term Rental Accommodation Position Statement* and associated Guidelines (Position Statement & Guidelines) were recently endorsed by the Western Australian Planning Commission (WAPC). The position statement under clause 4.4.2 state that where appropriate, local government may require the applicant to prepare a management plan to address potential amenity impacts arising from short-term rental accommodation and necessary emergency protocols.

The management plan is to include the following:

- Mitigation plan - A mitigation plan is required to ensure that anti-social behaviour, noise, and any other potential conflicts are dealt with appropriately. Anti-social behaviour should be dealt with by the police in the same manner as a property being used as a residential dwelling.
- Complaints management procedure - The manager must be contactable if a complaint is made. The guest should have 24-hour access to the manager via phone, email, or an online app. The operator is also to provide a record of complaints made against the short-term rental if requested to do so. This should be included in the complaints management procedure.
- Guest check-in and check-out procedures - Clear check-in and check-out procedures should be outlined in the management plan.
- Emergency Evacuation Plan - *Guests should be advised upon arrival of the plan in case of a bushfire event.*

Officers consider it would be appropriate to recommend a condition requesting the applicant to prepare a management plan for the development to address the matters of concern raised by the nearby landowners during the consultation period.

Conclusion

Officers consider that concerns raised by the two objectors during the advertising period regarding amenity and traffic can be appropriately managed by conditions. Following the assessment of the proposal officers consider that the application complies with the requirement of orderly and proper planning and recommend conditional approval of the application.

EXECUTIVE RECOMMENDATION

MOVED: Cr Patrick

SECONDED: Cr Bailey

That Council:

- 1. Pursuant to Schedule 2, Part 9, Clause 68 (2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, grants Development Approval P23024 for a change of use – Holiday House at Lot 501 (1016) Charley Creek Road, Thomson Brook, subject to the following conditions:**
- 2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plans, including any notations, and must not be altered or modified without the further written consent of the Shire.**

Approved plans:

- **Site plan**

- **Floor plan**
- 3. **A manager is to be designated for the Holiday House and the details of the manager are to be provided to the Shire. Should the dedicated manager change, details of the new manager must be provided to the Shire prior to the next use of the Holiday House.**
- 4. **The maximum number of guests using the Holiday House shall not exceed eight (8) adults and four (4) children.**
- 5. **A minimum number of five (5) parking spaces must be provided on the lot to the satisfaction of the Shire.**
- 6. **No more than a total of two dogs may be brought on to the lot by guests and must be appropriately secured within the premises.**
- 7. **The applicant is to demonstrate that the Holiday House is provided with a suitable potable water supply, to the satisfaction of the Shire.**
- 8. **A management plan is to be prepared for the Holiday House and must be submitted to and approved by the Shire, that includes the following:**
 - 8.1 **Mitigation plan**
 - 8.2 **Complaints management procedure**
 - 8.3 **Guest check-in and check-out procedures**
 - 8.4 **Emergency Evacuation Plan**

Once approved the plan will form part of this approval and must be always complied with.

Advice Notes

- a. **Compliance with the Building Code of Australia is required. A Building Permit Application must be submitted to, and approved by, the Shire prior to the commencement of any development. The Building Permit plans must reflect the relevant conditions and approved plans of this Development Approval. Any subsequent revisions to the plans may require prior development approval.**
- b. **With regards to Condition 2, a “manager” means a person duly appointed by the landowner to have management and care of the Holiday House. The manager is the contact person responsible for the day-to-day compliance of the Holiday House operations as per the conditions of this approval. The manager may be a landowner or caretaker of the site. Details provided are to include a full name and appropriate contact details.**
- c. **The dedicated manager as per Condition 2, is responsible for the implementation of the management plan and the following management conditions for the use of the Holiday House:**
 - i. **Surrounding landowners are to be provided with the contact details of the manager prior to the commencement of the use;**

- ii. **Prior to each guest stay, the guest (s) are to be provided with the contact details of the manager;**
 - iii. **The manager must be contactable at all times while the Holiday House is in use;**
 - iv. **It is the manager’s responsibility to ensure that all guests behave appropriately and do not unreasonably disturb surrounding premises.**
 - v. **Prior to each guest stay, the guest (s) are to be notified that ‘Charley Creek Road is an unsealed road which experiences periodic maintenance grading. The condition of unsealed roads can be subject to sudden change with major contributing factors being weather conditions, traffic type, traffic volume and traffic speed. Unlike sealed roads, permanent speed limit signs are not used on unsealed roads because the condition of such roads cannot be assured, and vehicles must always be driven to suit the conditions.**
- d. **The word “guest” refers to any user of the Holiday House that has either paid to utilise the facility or is accompanying a person who has paid to use the facility.**
- e. **With regards to Condition 4, the current on-site sewer system *may* not be sufficient to accommodate 12 persons on site. The applicant/landowner is advised that the lot must have sufficient effluent disposal capacity to accommodate the maximum guest numbers in accordance with the *Health (Miscellaneous Provisions) Act 1911* and *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*. It is recommended to contact the Shire’s Environmental Health Services for further advice.**
- f. **The development the subject of this development approval must comply with the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997* in relation to noise emissions. Further information can be obtained from the Shire’s Environmental Health Services on (08) 9780 4200.**
- g. ***Advertising signage does not form part of this approval. Any advertising signage is subject to a separate assessment and may require prior development approval from the Shire. It is recommended that you contact the Shire prior to the placement of any advertising signage on-site.***
- h. **If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. An application must be made within 28 days of the determination.**

- i. **penalty fee applies to an application seeking subsequent approval. Within 30days of this approval the applicant is to pay a penalty fee of \$590 to the Shire of Donnybrook Balingup.**
-

AMENDMENT: CR GLOVER

MOVED: Cr Glover

SECONDED: Cr Bailey

- A. **Instruct the CEO to advise the requirement for all applications for short term holiday homes to approved by the shire of Donnybrook Balingup, fail to comply may result in a penalty.**

LOST:6/1

For: Cr Glover

Against: Cr Bailey. Cr MacCarthy, Cr Gubler, Cr Lindemann, Cr Mitchell, Cr Patrick.

SUBSTANTIVE MOTION

COUNCIL RESOLUTION 156/23

MOVED: Cr Patrick

SECONDED: Cr Bailey

That Council:

1. **Pursuant to Schedule 2, Part 9, Clause 68 (2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, grants Development Approval P23024 for a change of use – Holiday House at Lot 501 (1016) Charley Creek Road, Thomson Brook, subject to the following conditions:**
2. **The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plans, including any notations, and must not be altered or modified without the further written consent of the Shire.**

Approved plans:

- **Site plan**
- **Floor plan**

3. **A manager is to be designated for the Holiday House and the details of the manager are to be provided to the Shire. Should the dedicated manager change, details of the new manager must be provided to the Shire prior to the next use of the Holiday House.**

4. The maximum number of guests using the Holiday House shall not exceed eight (8) adults and four (4) children.
5. A minimum number of five (5) parking spaces must be provided on the lot to the satisfaction of the Shire.
6. No more than a total of two dogs may be brought on to the lot by guests and must be appropriately secured within the premises.
7. The applicant is to demonstrate that the Holiday House is provided with a suitable potable water supply, to the satisfaction of the Shire.
8. A management plan is to be prepared for the Holiday House and must be submitted to and approved by the Shire, that includes the following:
 - 8.1 Mitigation plan
 - 8.2 Complaints management procedure
 - 8.3 Guest check-in and check-out procedures
 - 8.4 Emergency Evacuation Plan

Once approved the plan will form part of this approval and must be always complied with.

Advice Notes

- d. Compliance with the Building Code of Australia is required. A Building Permit Application must be submitted to, and approved by, the Shire prior to the commencement of any development. The Building Permit plans must reflect the relevant conditions and approved plans of this Development Approval. Any subsequent revisions to the plans may require prior development approval.
- e. With regards to Condition 2, a “manager” means a person duly appointed by the landowner to have management and care of the Holiday House. The manager is the contact person responsible for the day-to-day compliance of the Holiday House operations as per the conditions of this approval. The manager may be a landowner or caretaker of the site. Details provided are to include a full name and appropriate contact details.
- f. The dedicated manager as per Condition 2, is responsible for the implementation of the management plan and the following management conditions for the use of the Holiday House:
 - i. Surrounding landowners are to be provided with the contact details of the manager prior to the commencement of the use;
 - ii. Prior to each guest stay, the guest (s) are to be provided with the contact details of the manager;
 - iii. The manager must be contactable at all times while the Holiday House is in use;
 - iv. It is the manager’s responsibility to ensure that all guests behave appropriately and do not unreasonably disturb surrounding

premises.

- v. Prior to each guest stay, the guest (s) are to be notified that ‘Charley Creek Road is an unsealed road which experiences periodic maintenance grading. The condition of unsealed roads can be subject to sudden change with major contributing factors being weather conditions, traffic type, traffic volume and traffic speed. Unlike sealed roads, permanent speed limit signs are not used on unsealed roads because the condition of such roads cannot be assured, and vehicles must always be driven to suit the conditions.**

- j. The word “guest” refers to any user of the Holiday House that has either paid to utilise the facility or is accompanying a person who has paid to use the facility.**

- k. With regards to Condition 4, the current on-site sewer system *may* not be sufficient to accommodate 12 persons on site. The applicant/landowner is advised that the lot must have sufficient effluent disposal capacity to accommodate the maximum guest numbers in accordance with the *Health (Miscellaneous Provisions) Act 1911* and *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*. It is recommended to contact the Shire’s Environmental Health Services for further advice.**

- l. The development the subject of this development approval must comply with the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997* in relation to noise emissions. Further information can be obtained from the Shire’s Environmental Health Services on (08) 9780 4200.**

- m. *Advertising signage does not form part of this approval. Any advertising signage is subject to a separate assessment and may require prior development approval from the Shire. It is recommended that you contact the Shire prior to the placement of any advertising signage on-site.***

- n. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. An application must be made within 28 days of the determination.**

- o. penalty fee applies to an application seeking subsequent approval. Within 30days of this approval the applicant is to pay a penalty fee of \$590 to the Shire of Donnybrook Balingup.**

CARRIED:6/1

For: Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick, Cr Glover.

Against: Cr Bailey.

9.2 DIRECTOR FINANCE AND CORPORATE

9.2.1 ACCOUNTS FOR PAYMENT – NOVEMBER 2023

The Schedule of Accounts Paid under Delegation (No. 1.2.23) is presented for public information (Attachment 9.2.1(1)).

EXECUTIVE RECOMMENDATION

That the accounts for payment report for the period ended November 2023 be received.

COUNCIL RESOLUTION 157/23

MOVED: Cr Gubler

SECONDED: Cr Bailey

That the accounts for payment report for the period ended November 2023 be received.

CARRIED:7/0

For: Cr Bailey, Cr Glover, Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick

Against: Nil.

9.2.2 MONTHLY FINANCIAL REPORT – OCTOBER 2023 AND NOVEMBER 2023

The Monthly Financial Report for October 2023 and November 2023 is attached (Attachment 9.2.2(1)).

EXECUTIVE RECOMMENDATION

That the monthly financial report for the period ended October 2023 and November 2023 be received.

COUNCIL RESOLUTION 158/23

MOVED: Cr Patrick

SECONDED: Cr Mitchell

That the monthly financial report for the period ended October 2023 and November 2023 be received.

CARRIED:7/0

For: Cr Bailey, Cr Glover, Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick

Against: Nil.

Director Operations and Director Finance and Corporate left the room at 6:36pm.

9.3 CHIEF EXECUTIVE OFFICER

9.3.1 ESTABLISHMENT CHIEF EXECUTIVE OFFICER RECRUITMENT AND PERFORMANCE REVIEW COMMITTEE

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	PSN 24/23
Author	Loren Clifford, Manager Corporate Services
Responsible Manager	Dr Garry Hunt PSM, Chief Executive Officer (Temporary)
Attachments	9.3.1(1) Chief Executive Officer Recruitment and Performance Review Committee - Terms of Reference 9.3.1(2) Standards for CEO Recruitment Performance and Termination
Voting Requirements	Absolute Majority

EXECUTIVE RECOMMENDATION
<p>That Council:</p> <ol style="list-style-type: none"> 1. Pursuant to Section 5.8 of the <i>Local Government Act 1995</i> establish the Chief Executive Officer Recruitment and Performance Review Committee; and 2. Adopt the Terms of Reference as per Attachment .3.1(1); and 3. Appoint all Elected Members onto Chief Executive Officer Recruitment and Performance Review Committee.

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

Outcome	12	A well respected, professionally organisation.
Objective	12.1	Deliver effective and efficient operations and service provision.
Objective	12.2	Continuously improve workplace culture.

EXECUTIVE SUMMARY

It's recommended that Council, in accordance with section 5.8 of the *Local Government Act 1995*, establishes the Chief Executive Officer Recruitment and Performance Review

Committee. The Attachment 9.3.1(1) outlines the Committee's Terms of Reference. The Council is encouraged to appoint all Elected Members to the committee.

BACKGROUND

At its Ordinary Council Meeting (Commissioner), 19 October 2023 appointed a Temporary Chief Executive Officer for a period of up to six (6) months.

COUNCIL DECISION 126/23

Moved: Commissioner McGowan

That Council (the Commissioner):

- 1. Notes Council Policy HR/CP-4-Temporary Employment or Appointment of Chief Executive Officer (Attachment 12.1.1(1)) and Council Policy EM/CP-6-Caretaker (Attachment 12.1.1(2)).*
- 2. Authorises the Commissioner to execute the Draft Contract of Employment (Attachment 12.1.1(3)) to appoint Mr Garry George Hunt to the position of Temporary Chief Executive Officer for a period of up to 6 months.*

*3. Thanks, Mr Kim Dolzadelli for performing the role of
Carried: Commissioner McGowan*

The Temporary Chief Executive Officer assumes the responsibility of overseeing and facilitating the entire CEO recruitment process.

During the Concept Forum held on December 6, 2023, the Chief Executive Officer (Temporary) delivered a presentation to the Council regarding the intricacies of the CEO Recruitment process including the adopted standards. The forum served as a platform for Councillors to engage in discussions and provide input towards the establishment of a new Committee of Council

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Section 5.8 *Local Government Act 1995*.

CONSULTATION

During the Concept Forum held on December 6, 2023, the Chief Executive Officer (Temporary) delivered a presentation to the Council regarding the intricacies of the CEO Recruitment process including the adopted standards. The forum served as a platform for Councillors to engage in discussions and provide input towards the establishment of a new Committee of Council

OFFICER COMMENT

The draft Terms of Reference recommends that Council shall appoint all Elected Members to the Committee and refers to the adopted Standards for CEO Recruitment Performance and Termination at Attachment 9.3.1(2).

COUNCIL RESOLUTION 159/23

MOVED: Cr Bailey

SECONDED: Cr Glover

That Council:

- 1. Pursuant to Section 5.8 of the *Local Government Act 1995* establish the Chief Executive Officer Recruitment and Performance Review Committee; and**
- 2. Adopt the Terms of Reference as per Attachment 9.3.1(1); and**
- 3. Appoint all Elected Members onto Chief Executive Officer Recruitment and Performance Review Committee.**

CARRIED:7/0

For: Cr Bailey, Cr Glover, Cr Gubler, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick

Against: Nil.

Director Operations and Director Finance and Corporate re entered the room at 6:38pm.

10 ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

11 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

Nil.

12 MEETINGS CLOSED TO THE PUBLIC

12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil.

12.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

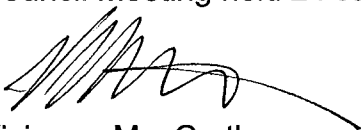
Nil.

13 CLOSURE

The Shire President to advise that the next Agenda Briefing will be held on 21 February 2024 commencing at 5:00pm in the Shire of Donnybrook Balingup Council Chamber.

The Shire President declared the meeting closed at 6:39pm.

These Minutes were confirmed by the Council as a true and accurate record at the Special Council Meeting held 24 January 2024.



Vivienne MacCarthy
PRESIDENT – SHIRE OF DONNYBROOK BALINGUP