



## **NOTICE OF ORDINARY COUNCIL MEETING 28 APRIL 2021**

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To be held on

**Wednesday 28 April 2021**

Commencing at 5.00pm

Shire of Donnybrook Balingup Council Chambers, Donnybrook

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A handwritten signature in black ink, appearing to read "Ben Rose".

**Ben Rose**  
Chief Executive Officer

**23 April 2021**

### **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**  
**NOTICE OF ORDINARY COUNCIL MEETING**

To be held at the Council Chambers  
Wednesday 28 April 2021 at 5.00pm

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## **1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

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### **Shire President – Acknowledgment of Country**

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

The Shire President to declare the meeting open and welcome the public gallery.

### **Shire President - Public Notification of Recording of Meetings**

The Shire President advised that the meeting is being digitally recorded to assist with minute taking in accordance with Council Policy 1.25. The Shire President further stated the following:

*If you do not give permission for your participation to be recorded, please indicate this at the meeting. Members are reminded that no other visual or audio recording of this meeting by any other means is allowed without the permission of the Chairperson.*

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## **2 ATTENDANCE**

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### **MEMBERS PRESENT**

<b>COUNCILLORS</b>	<b>STAFF</b>
Cr Brian Piesse (President)	Ben Rose – Chief Executive Officer
Cr Jackie Massey (Deputy President)	Steve Potter – Executive Manager Operations
Cr Shane Atherton	Paul Breman – Executive Manager Corporate and Community
Cr Anita Lindemann	Jaimee Earl – Minute Taker
Cr Anne Mitchell	
Cr Chaz Newman	
Cr Leanne Wringe	
*One Councillor Position Vacant	

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### **PUBLIC GALLERY**

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#### **2.1 APOLOGIES**

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#### **2.2 APPROVED LEAVE OF ABSENCE**

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Nil.

**2.3 APPLICATION FOR A LEAVE OF ABSENCE**

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Cr Smith is on an approved leave of absence from the Ordinary Council Meeting to be held Wednesday 28 April 2021.

### **3 ANNOUNCEMENTS FROM PRESIDING MEMBER**

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### **4 DECLARATION OF INTEREST**

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

### **5 PUBLIC QUESTION TIME**

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#### ***5.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE***

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Nil.

#### ***5.2 PUBLIC QUESTION TIME***

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### **6 PRESENTATIONS**

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#### ***6.1 PETITIONS***

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A Petition for the sealing of Farley Road was received at the March Ordinary Meeting of Council. An officer report will be prepared for Council's consideration at the May 2021 Ordinary Meeting.

#### ***6.2 PRESENTATIONS***

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#### ***6.3 DEPUTATIONS***

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## **7 CONFIRMATION OF MINUTES**

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### **7.1 ORDINARY MEETING OF COUNCIL – 24 MARCH 2021**

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Minutes of the Ordinary Meeting of Council held 24 March 2021 are attached (*attachment 7.1(1)*).

#### **EXECUTIVE RECOMMENDATION**

**That the Minutes from the Ordinary Meeting of Council held 24 March 2021 be confirmed as a true and accurate record.**

### **7.2 LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING – 23 MARCH 2021**

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Minutes of the Local Emergency Management Committee Meeting held 23 March 2021 are attached (*attachment 7.2(1)*).

#### **EXECUTIVE RECOMMENDATION**

**That the Minutes from the Local Emergency Management Committee Meeting held 23 March 2021 be received.**

### **7.3 AUDIT AND RISK MANAGEMENT COMMITTEE MEETING – 15 APRIL 2021**

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Minutes of the Audit and Risk Management Committee Meeting held 15 April 2021 are attached (*attachment 7.3(1)*).

#### **EXECUTIVE RECOMMENDATION**

**That the Minutes from the Audit and Risk Management Committee Meeting held 15 April 2021 be received.**

## 8 REPORTS OF COMMITTEES

### 8.1 SHIRE OF DONNYBROOK BALINGUP LOCAL RECOVERY PLAN

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	CSV23
<b>Author</b>	James Jarvis, Manager Community Development
<b>Responsible Manager</b>	Steve Potter, Executive Manager Operations
<b>Attachments</b>	8.1(1): Draft Local Recovery Plan 2021 – with LEMC Feedback 8.1(2): Local Recovery Plan 2021 – Comparison of Changes – LEMC Feedback
<b>Voting Requirements</b>	Simple Majority

Recommendation
<p><b>That Council:</b></p> <ol style="list-style-type: none"> <li><b>1. Adopts the Shire of Donnybrook Balingup Local Recovery Plan 2021 as provided in Attachment 8.1(1).</b></li> <li><b>2. Instructs the Chief Executive Officer to table the Shire of Donnybrook Balingup Local Recovery Plan 2021 with the District Emergency Management Committee (DEMC) for review.</b></li> </ol>

### STRATEGIC ALIGNMENT

The following outcomes from the Corporate Business Plan relate to this proposal:

Outcome	3.3	A safe and healthy community environment for all ages
Strategy	3.3.3	Support a safe, healthy and active community
Action	3.3.3.3	Support local State Emergency Services and facilitate Local Emergency Management Committee

### EXECUTIVE SUMMARY

The draft Local Recovery Plan (LRP) is a comprehensive document that has involved the review and update of relevant new Local Emergency Management Arrangements, including most recently, detailed inclusion of how to respond effectively to the declaration of a State Emergency due to a pandemic.

The Draft LRP has been circulated, feedback collated, and incorporated into an updated document. The Local Emergency Management Committee (LEMC) endorsed the draft LRP at its meeting held 23 March 2021 as follows:



## COMMITTEE RESOLUTION

*That the Local Emergency Management Committee:*

- 1. Endorses the draft Shire of Donnybrook Balingup Local Recovery Plan 2021 as provided in Attachment 7.1(1);*
- 2. Requests the LRP to be presented to the Shire of Donnybrook Balingup Council for final adoption; and*
- 3. Tables the draft Shire of Donnybrook Balingup Local Recovery Plan 2021 with the District Emergency Management Committee (DEMC) for review.*

CARRIED 17/0

## BACKGROUND

In July 2019, the Shire of Donnybrook Balingup received funding from AWARE (All West Australian's Reducing Emergencies). Grant funding of \$7,500 was received to undertake an update of the Local Emergency Management Arrangements 2017 Local Recovery Plan (LRP) and a Project Officer was engaged to undertake this work on behalf of the Shire. The delivery of the updated LRP was delayed by COVID-19, however the process is nearing completion.

The draft LRP was presented to the LEMC meeting held on 24 November 2020 and was subsequently referred to LEMC members for more detailed review and feedback.

Four LEMC members provided feedback that has been incorporated into a summary table (Attachment 8.1(2)) and incorporated into an updated Draft LRP (Attachment 8.1(1)).

## FINANCIAL IMPLICATIONS

The AWARE grant is being acquitted within financial parameters.

## POLICY COMPLIANCE

Not applicable.

## STATUTORY COMPLIANCE

### Emergency Management Act 2005

Part 3, Div. 3, s.41(4) requires that the local emergency management arrangements include the creation and adoption of a Local Recovery Plan.

## CONSULTATION

The Project Officer has undertaken consultation with various parties during the preparation of the draft LRP as identified in the project management plan.

The LEMC review cycle just completed has added to the breadth of consultation with several amendments made to the final document.

**OFFICER COMMENT/CONCLUSION**

The final Draft LRP 2021 is attached for Council's adoption.

## 8.2 COMPLIANCE AUDIT RETURN – STATUS UPDATE REPORT

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	N/A
<b>Author</b>	Paul Breman, Executive Manager Corporate and Community
<b>Responsible Manager</b>	Paul Breman, Executive Manager Corporate and Community
<b>Attachments</b>	8.2(1): 2020 CAR Update Report
<b>Voting Requirements</b>	Simple Majority

Committee Recommendation
<p><b>That Council:</b></p> <p><b>Receive the Compliance Audit Return (CAR) Report at <i>Attachment 8.2(1)</i> as a status update of the actions taken to date to achieve compliance with regard to selected items identified as non-compliant within the 2020 Compliance Audit Return.</b></p>

### STRATEGIC ALIGNMENT

The following outcomes from the Corporate Business Plan relate to this proposal:

Outcome	4.2	A respected, professional and trusted organisation
Strategy	4.2.1	Effective and efficient operations and service provision
Action	4.2.1.2	Seek a high level of legislative compliance and effective internal controls.

### EXECUTIVE SUMMARY

At the February 2021 Ordinary Council Meeting the Council passed the following resolution:

*That Council:*

1. *Adopt the 2020 Compliance Audit Return as presented at attachment 8.4(1) for the Shire of Donnybrook Balingup for the period 1 January 2020 to 31 December 2020; and*
2. *Instruct the CEO prepare a report identifying the actions to be taken to achieve compliance with the items identified within the 2020 Compliance Audit Return to be presented to the next Audit and Risk Management Committee Meeting.*

The above resolution contains an instruction to the Chief Executive Officer to report on the actions to be achieved toward compliance for those items reported as non-compliant in the 2020 Compliance Audit Return. This item serves to action that instruction by presenting a status update report to the Committee.

## BACKGROUND

A Local Government Compliance Audit Return (CAR) is required to be undertaken in accordance with the *Local Government (Audit) Regulations 1996* Reg. 14(1).

The Audit was conducted by staff for the period 1<sup>st</sup> January to 31<sup>st</sup> December 2020, within the scope and in the format required by the Department of Local Government, Sport and Cultural Industries.

After conducting the checking process, the 2020 CAR contained a compliance item for as set out below:

<b>Topic</b>	<b>Item Number</b>	<b>Matter</b>
Optional Questions	5	Did the local government prepare and adopt by absolute majority a policy dealing with the attendance of council members and the CEO at events?
Optional Questions	6	Did the CEO publish an up-to-date version of the attendance at events policy on the local government's official website?
Optional Questions	1	Did the CEO review the appropriateness and effectiveness of the local government's financial management systems and procedures in accordance with Financial Management Reg 5(2)(c) within the three years prior to 31 December 2020? If yes, please provide the date of council's resolution to accept the report
Tenders for Providing Goods and Services	8	Did the information recorded in the local government's tender register comply with the requirements of F&G Reg 17 and did the CEO make the tenders register available for public inspection and publish it on the local government's official website?

These compliance items have been noted by Staff and are not expected to occur again in future compliance audit returns..

The Department of Local Government, Sport and Cultural Industries (DLGSCI) requires local governments to conduct an annual assessment of their compliance with key components of the *Local Government Act 1995* (the Act) and associated Regulations. The 2020 CAR must be adopted and provided to the DLGSCI by 31 March 2021.

## **FINANCIAL IMPLICATIONS**

Nil.

## **POLICY COMPLIANCE**

Not Applicable.

## **STATUTORY COMPLIANCE**

Under *Regulation 14 of the Local Government (Audit) Regulations 1996* the 2020 CAR is to be reviewed by Council's Audit Committee and then the results reported to Council for adoption.

Following presentation to Council at the February ordinary meeting of the Council, a certified copy of the 2020 CAR, along with an extract of the minutes of the meeting at which the CAR was adopted by Council, was submitted to the DLGSCI on 17 March 2021, well within the 31 March 2021 deadline.

No feedback has been received to date from the DLGSCI on the contents of the 2020 CAR.

## **CONSULTATION**

Not Applicable.

## **OFFICER COMMENT/CONCLUSION**

The attached CAR - Status Update Report, will be presented to successive meetings of the Audit and Risk Management Committee until all items raised in the report are completed.

### 8.3 LOCAL GOVERNMENT (AUDIT) REGULATIONS 17 – STATUS UPDATE

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	N/A
<b>Author</b>	Paul Breman, Executive Manager Corporate and Community
<b>Responsible Manager</b>	Paul Breman, Executive Manager Corporate and Community
<b>Attachments</b>	8.3(1): LG (Audit) Regulation 17 - Status Update
<b>Voting Requirements</b>	Simple Majority

Committee Recommendation
<p><b>That Council:</b></p> <p><b>Receive the LG (Audit) Regulation 17 Status Update Report as attached at <u>Attachment 8.3(1)</u> in relation to the progress of items identified on the current Audit Regulation 17 Report.</b></p>

#### STRATEGIC ALIGNMENT

The following outcomes from the Corporate Business Plan relate to this proposal:

Outcome	4.2	A respected, professional and trusted organisation
Strategy	4.2.1	Effective and efficient operations and service provision
Action	4.2.1.3	Monitor and measure organisational performance

#### EXECUTIVE SUMMARY

The attached LG (Audit) Regulation 17 Status Update Report is presented to the Audit and Risk Management committee for their information and to monitor progress toward actioning items identified in the most recent Audit Regulation 17 report.

#### BACKGROUND

A status report on the identified actions from the Review and their status of resolution is attached at Attachment 8.3(1).

#### FINANCIAL IMPLICATIONS

Nil.

#### POLICY COMPLIANCE

Not Applicable.

## **STATUTORY COMPLIANCE**

Reg. 7 of the Local Government (Audit) Regulations 1996 requires the CEO to review the appropriateness and effectiveness of a local government's systems and procedures not less than once in every 3 financial years in relation to:

- risk management; and
- internal control; and
- legislative compliance.

The CEO is to report to the Audit and Risk Management Committee the results of that review.

## **CONSULTATION**

Not Applicable.

## **OFFICER COMMENT/CONCLUSION**

The Audit and Risk Management Committee considered a report from the Executive Manager Corporate and Community Services in January 2021, presenting the finding of a review of risk management, internal controls and legislative compliance as required by the Local Government (Audit) Regulation (Reg 17).

The next Audit Regulation 17 Review is due to be conducted by December 2021.

The attached status update report, will be presented to successive meetings of the Audit and Risk Management Committee until all items raised in the report are completed.

## 8.4 OFFICE OF THE AUDITOR GENERAL FINDINGS – STATUS UPDATE REPORT

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	N/A
<b>Author</b>	Paul Breman, Executive Manager Corporate and Community
<b>Responsible Manager</b>	Paul Breman, Executive Manager Corporate and Community
<b>Attachments</b>	8.4(1): OAG Report Findings – Status Update Report
<b>Voting Requirements</b>	Simple Majority

Committee Recommendation
<p><b>That Council:</b></p> <ol style="list-style-type: none"> <li><b>Receive the Status Update Report on the progress of aligning the findings of the individual Office of the Auditor General performance audit reports with Shire processes and systems as attached at <u>Attachment 8.4(1)</u>.</b></li> <li><b>Notes the priorities attached to each item in <u>Attachment 8.4(1)</u> and the associated resource requirements, and the Audit and Risk Management Committee will work towards prioritisation of these items for Council’s future consideration.</b></li> </ol>

### STRATEGIC ALIGNMENT

The following outcomes from the Corporate Business Plan relate to this proposal:

Outcome	4.2	A respected, professional and trusted organisation
Strategy	4.2.1	Effective and efficient operations and service provision
Action	4.2.1.3	Monitor and measure organisational performance

### EXECUTIVE SUMMARY

Staff intend to keep the Committee and the Council updated on status of these matters and work on strategies to progress the Office of the Auditor General (OAG) findings and recommendations in the context of their impact on risk and resources.

### BACKGROUND

At the 12 November 2020, Audit and Risk Management Committee meeting, the Committee received the recommendations and findings from the Industry-based OAG Performance Audits Reports and recommended to the Council that the Chief Executive Officer prepare a matrix with Shire responses to each of the findings.

The matrix of OAG Performance Audits Reports was presented to the January 2021, meeting of the Audit and Risk Management Committee and then to the February 2021 meeting of the Council, at which the Council adopted the following resolution:



*That Council:*

- 1. Receive the matrix of Shire responses to each of the findings in the Auditor General's General Performance Audit Reports as attached 8.2(1); and*
- 2. Acknowledge the work to be undertaken to align the findings of the individual Office of the Auditor General's reports with Shire processes and systems; and*
- 3. Consider the risk management implications associated with the findings and recommendations of the Office of the Auditor General Performance Audits and the Shire Executive's Comments in the attachment.*

**FINANCIAL IMPLICATIONS**

Nil.

**POLICY COMPLIANCE**

Not Applicable.

**STATUTORY COMPLIANCE**

Not Applicable.

**CONSULTATION**

Not Applicable.

**OFFICER COMMENT/CONCLUSION**

The attached OAG General Findings - Status Update Report (*Attachment 8.4(1)*), will be presented to successive meetings of the Audit and Risk Management Committee to monitor the progress made toward aligning these industry-based findings and recommendations to the Shire's internal processes and systems.

## 8.5 FINANCIAL MANAGEMENT SYSTEMS REVIEW

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	N/A
<b>Author</b>	Paul Breman, Executive Manager Corporate and Community
<b>Responsible Manager</b>	Paul Breman, Executive Manager Corporate and Community
<b>Attachments</b>	8.5(1): Financial Management Systems Review – AMD 8.5(2): Financial Management Systems Review Status Report
<b>Voting Requirements</b>	Simple Majority

<b>Committee Recommendation</b>	
<p><b>That Council:</b></p> <p><b>Receive from the Chief Executive Officer the Financial Management Systems Review report dated 12 February 2019, undertaken in accordance with Regulation 5(2)(c) of the Local Government (Financial Management) Regulations 1996, including the accompanying status update report (Attachment 8.5(1) and 8.5(2)).</b></p>	

### STRATEGIC ALIGNMENT

The following outcomes from the Corporate Business Plan relate to this proposal:

Outcome	4.2	A respected, professional and trusted organisation
Strategy	4.2.1	Effective and efficient operations and service provision
Action	4.2.1.2	Seek a high level of legislative compliance and effective internal controls.

### EXECUTIVE SUMMARY

Regulations 5(2)(c) of the Local Government (Financial Management) Regulations 1996, requires the Chief Executive Officer to undertake a review of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every four financial years) and report to the local government the results of than Review.

### BACKGROUND

To comply with the requirements of the Regulations, AMD Accountants were engaged by the Chief Executive Officer to undertake an independent review and report on Council’s financial management systems and procedures. The review was undertaken by AMD in late 2018 and received in February 2019.

This item was not presented to the Audit and Risk Committee or to the Council after receipt. The timing of this oversight does correspond with some staff changes at the time.

As part of preparing the 2020 Compliance Audit return, this oversight was recognised and planning commenced to present this report to the Audit and Risk Management Committee for review.

### **FINANCIAL IMPLICATIONS**

Nil.

### **POLICY COMPLIANCE**

Not Applicable.

### **STATUTORY COMPLIANCE**

Local Government (Financial Management) Regulations 1996 The financial management responsibilities of the Chief Executive Officer are established under Regulation 5 of the Local Government (Financial Management) Regulations 1996:

“(1) Efficient systems and procedures are to be established by the CEO of a local government:

- (a) for the proper collection of all money owing to the local government;
- (b) for the safe custody and security of all money collected or held by the local government;
- (c) for the proper maintenance and security of the financial records of the local government (whether maintained in written form or by electronic or other means or process);
- (d) to ensure proper accounting for municipal or trust:
  - (i) revenue received or receivable;
  - (ii) expenses paid or payable; and
  - (iii) assets and liabilities;
- (e) to ensure proper authorisation for the incurring of liabilities and the making of payments;
- (f) for the maintenance of payroll, stock control and costing records; and
- (g) to assist in the preparation of budgets, budget reviews, accounts and reports Required by the Act or these Regulations.”

In addition, the Chief Executive Officer is to:

- “(2) (a) ensure that the resources of the local government are effectively and efficiently managed;
- (b) assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and
  - (c) undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and no less than once in every 3 financial years) and report to the local government the results of those reviews.”

### **CONSULTATION**

Not Applicable.

## **OFFICER COMMENT/CONCLUSION**

Although the report was not presented to the Council in a timely manner, it can be seen from the accompanying status update report, that the recommendations and matters raised in the Audit Regulation 17 report have been substantially actioned over the intervening period.

A status update report will be presented to the Audit and Risk Management Committee at each subsequent meeting to monitor progress until all actions have been completed.

The timing for the next financial management review is during the 2021-22 financial year. In addition, the timing for the next Audit reg 17 (Risk Management, Internal controls and Legislative Compliance) review is before December 2021.

It would seem efficient to have the reviews combined into one exercise and potentially procure the services of an independent and experienced provider to undertake this role and provide the reports to the Chief Executive Officer.

## 9 REPORTS OF OFFICERS

### 9.1 EXECUTIVE MANAGER OPERATIONS

#### 9.1.1 SOUTH WEST NATIVE TITLE SETTLEMENT – REQUEST FOR CROWN LAND ALLOCATION

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Department of Planning, Lands & Heritage
<b>File Reference</b>	DEP 61C
<b>Author</b>	Kira Strange, Principal Planner
<b>Responsible Officer</b>	Steve Potter, Executive Manager Operations
<b>Attachments</b>	9.1.1(1): DPLH Crown Land List 1244 - High Priority
<b>Voting Requirements</b>	Simple majority

Recommendation
<p><b>That Council:</b></p> <ol style="list-style-type: none"> <li><b>1. Acknowledges and supports the formal commencement of the South West Native Title Settlement including the transfer of land deemed appropriate by the DPLH and as agreed by the Noongar People.</b></li> <li><b>2. Advises the DPLH that the Shire has no comment to make on private land tenure matters between the Crown and the Noongar People as part of the South West Native Title Settlement, however recommends that the Department of Planning, Lands and Heritage ensure any arrangements and/or agreements are consistent with the parameters of the local Statutory and Strategic frameworks.</b></li> <li><b>3. Provides responses as per Attachment 9.1.1(1) in response to the queries presented by the Department of Planning, Lands and Heritage.</b></li> <li><b>4. Advises the Department of Planning, Lands and Heritage that the Shire may review the Local Planning Strategy and/or Local Planning Scheme in the near future which may or may not impact the Strategic and/or Statutory frameworks of the subject land parcels.</b></li> </ol>

### STRATEGIC ALIGNMENT

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

- Outcome: Effective leadership and civic responsibility
- Strategy: A strategically focused, open and accountable local government
- Action: Provide accountable and strategic leadership.

## EXECUTIVE SUMMARY

Council has received correspondence from the Department of Planning, Lands and Heritage (DPLH) seeking information and comment on the potential allocation of four parcels of Crown land located within the Shire of Donnybrook-Balingup to the Noongar People as part of the South West Native Title Settlement (SWNTS). The proposed parcels may form part of the Noongar Land Estate (NLE), held by the Noongar Boodja Trust (NBT), as part of the South West Native Title Settlement.

The matter was presented to Council for consideration at the March Ordinary Council Meeting, however was deferred. It is therefore re-presented, with some minor amendments, including the removal of a previously recommended resolution to provide the Chief Executive Officer with delegation to respond directly to any further queries of this nature without the need for Council's consideration.

It is recommended that Council advises the DPLH that it has no comment with regard to the proposed private transfer of land, however instructs appropriate Officers to provide information regarding the Strategic and Statutory framework applicable to the lots.

## BACKGROUND

The SWNTS is the largest and most comprehensive agreement to settle Aboriginal interests over land in Australia. The SWNTS area, involving six Noongar Native Title Agreement Groups, is illustrated below.



**Figure 1 - Map of the South West Native Title Settlement Area and the six Noongar Native Title Agreement Groups that form the six Indigenous Land Use Agreements (ILUAs).**

The State of Western Australia has committed to allocating up to 300,000 hectares of land allocated as reserve or leasehold and 20,000 hectares of land allocated as freehold for cultural or economic development use within the SWNTS area.

The land will form part of the Noongar Land Estate (NLE) which will be held by the Noongar Boodja Trust (NBT). The Trustee must manage the land in accordance with the Trust Deed of each of the six Indigenous Land Use Agreements (ILUAs) which were registered at the Native Title Tribunal on 17 October 2018. The legal processes surrounding this registration of the ILUAs have now concluded. As a result, conclusive registration of the ILUAs occurred on 27 January 2021 and the SWNTS formally commenced on 25 February 2021.

As part of the SWNTS process, the DPLH are responsible for undertaking the identification and assessment process for land parcels within the boundaries of the SWNTS area. Part of the assessment process includes referral of land parcels to the relevant agencies, including Local Government, for comment.

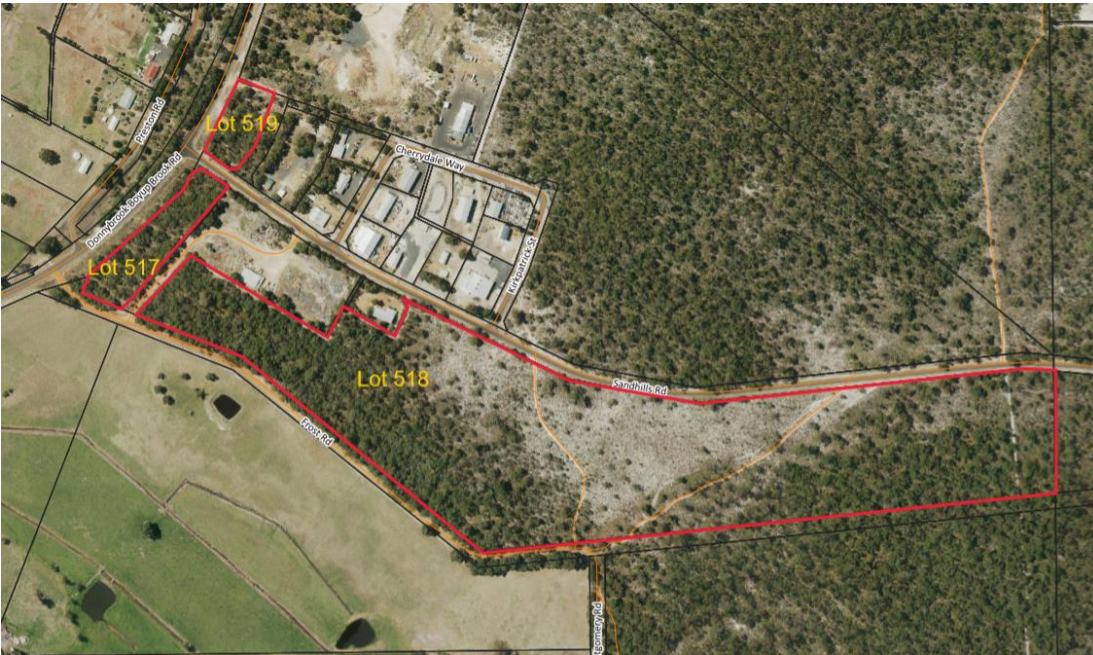
Council at the Ordinary Meeting held 22 July 2020, considered a similar request and resolved:  
*That Council:*

- 1. Advises the Department of Planning, Lands and Heritage that the Shire of Donnybrook, Balingup has no objections to the State of Western Australia allocating Crown land identified as Lot 516; Reserve 2052; PIN 1039142; DP 215417; CLT LR3128/829, to the Noongar People in accordance with the South West Native Title Settlement.*
- 2. Requests the Department of Planning, Lands and Heritage place a Section 70A Notification on the certificate of title under the Transfer of Land Act 1893 containing the following wording:*  
  
*“The land is in close proximity to land zoned ‘General Industry’ under the Shire of Donnybrook Balingup Local Planning Scheme No. 7 which may result in offsite impacts including noise, dust, vibrations and other emissions to users of the land.”*
- 3. Requests the DPLH include an additional term of allocation maintaining public access to the land after transfer to the Noongar People.*
- 4. Provides responses as per Attachment 9.1.3(1) in response to the queries presented by the Department of Planning, Lands and Heritage.*
- 5. Request the State Government that, prior to resolving a decision on this matter, consultation with neighbouring and nearby landowners on the proposal is undertaken.*

The DPLH have now identified four additional parcels of land as ‘high priority’ for transfer early in the Settlement proceedings:

1. Lot 517 Sandhills Road, Brookhampton (Figure 2);
2. Lot 518 Sandhills Road, Brookhampton (Figure 2);
3. Lot 519 Sandhills Road, Beelerup (Figure 2); and
4. Lot 500 Steere Street, Donnybrook (Figure 3).





**Figure 2 - Lot 517 and 518 Sandhills Road, Brookhampton, and Lot 519 Sandhills Road, Beelerup.**



**Figure 3 - Lot 500 Steere Street, Donnybrook.**

The DPLH have presented a series of questions relating to each parcel of land. The proposed tenure arrangement for all four lots is “Reserve with Power to Lease”. The associated Management Order would be for “Noongar social, cultural or economic benefit”.

A full review of the subject parcels and responses to questions has been completed within Attachment 9.1.1(1) however a summary of each land parcel is as follows:

**1. Lot 517 Sandhills Road, Brookhampton (Figure 2)**

The subject property is 1.1104 hectares, zoned ‘General Industry’ under the Shire of Donnybrook-Balingup Local Planning Scheme No. 7 (LPS7) and is wholly located within a



designated bushfire prone area. The property is also identified as Reserve 2052. In addition, the lot is located within;

- Special Control Area 7 – Road Protection Area (SCA7) due to the proximity to Donnybrook – Boyup Brook Road being a Main Roads Western Australia (MRWA) controlled road;
- Special Control Area 6 – Plantation Exclusion Area (SCA6); and
- Development Investigation Area 10 (DIA10) for possible future ‘General Industry’ development.

The lot is densely vegetated and the ground slopes downward from approximately 85 AHD in north-east corner to 70 AHD in the south-west corner.

### **2. Lot 518 Sandhills Road, Brookhampton (Figure 2)**

The subject lot is 20.1839 hectares, zoned ‘General Industry’ under LPS7 and is wholly located within a designated bushfire prone area. The property is also identified as Reserve 2052. In addition, the lot is located within SCA6 and DIA10.

The lot is densely vegetated and the ground undulates from approximately 120 AHD on the east side to 80 AHD on the west side.

### **3. Lot 519 Sandhills Road, Beelerup (Figure 2)**

The subject lot is 5,762m<sup>2</sup>, zoned ‘General Industry’ under LPS7 and is wholly located within a designated bushfire prone area. In addition, the lot is located within SCA6 and SCA7.

The lot is densely vegetated and the ground slopes downward from approximately 85 AHD on the east side to 80 AHD on the west side.

### **4. Lot 500 Steere Street, Donnybrook (Figure 3)**

The subject lot is 42.7764 hectares, zoned ‘Residential R20’ under LPS7 and is wholly located within a designated bushfire prone area. In addition, the lot is located within SCA6 as well as;

- Special Control Area 2 – Public Drinking Water Source Protection Area (SCA2); and
- Special Control Area 8 – Structure Plan Area (SCA8), identified as Structure Plan Area 5 (SPA5) for possible Residential development at the R20 coding.

The lot is densely vegetated and undulates from approximately 90 AHD on the north side to the centre of the lot at a peak of approximately 141 AHD.

## **FINANCIAL IMPLICATIONS**

Nil.

## **POLICY COMPLIANCE**

Nil.

## **STATUTORY COMPLIANCE**

Nil.

## **CONSULTATION**

Part of the DPLH assessment process includes referral of land parcels to the relevant agencies, including Local Government, for comment. Further consultation by the local government is not required.

## **OFFICER COMMENT**

The DPLH have requested advice on the four properties which can be categorised in two parts:

1. Factual based site context regarding land use and development potential (local Statutory and Strategic frameworks, land interests, possible site constraints, future development, changes in zoning, bushfire status, etc.); and
2. Whether the Shire supports the proposed transfer of land (land tenure) as part of the South West Native Title Settlement.

Council is responsible for the local Statutory and Strategic frameworks which control and guide the way in which land parcels are used and developed within the Shire (i.e. point 1 above). Land ownership, management and/or leasing arrangements (i.e. land tenure as per point 2) holds minimal bearing on the way in which the land is permitted or not permitted to be used or developed under the local Statutory and Strategic framework. All land use and development within the Shire is subject to the same Statutory and Strategic framework, regardless of the party (private or public) who is responsible for and/or in ownership of the land (i.e. land tenure).

Officers therefore consider that proposed transfer of land is considered a private land tenure matter between the owner (the Crown) and the beneficiary (Noongar People). In saying this, it is recommended that the DPLH consider whether proposed land tenure arrangements and/or agreements will be consistent with the local Statutory and Strategic framework as provided to avoid any future potential land use and/or development conflict. For example, Lot 500 Steere Street, Donnybrook, is identified as a Reserve however the Local Planning Scheme currently identifies it for Residential development.

The following summary is provided:

### **Lot 517 and 518 Sandhills Road, Brookhampton, and 519 Sandhills Road, Beelerup (Figure 2)**

The three subject lots are all located in an area that has been identified for General Industrial land. However, the area presents significant physical constraints and challenges (i.e. topography, vegetation, soil classification, water and/or sewer provision, etc.) that may make development of this land either financially unviable or physically challenging.

It should be noted that there is a relatively short supply of industrial zoned land within the Shire and therefore general development of industrial land is supported subject to the requirements of LPS7. However, at this stage the Shire is unable to provide comment on whether this would actually be possible as the following concerns regarding these three parcels of land are required to be addressed:

- Clearing of native and non-native vegetation;
- Significant changes to the natural ground level (i.e. site works);
- Physical provision of on-site sewer management and water supply;
- Bushfire management;
- Appropriate interface with surrounding land uses; and
- Stormwater management.

The Shire’s expectation that suitable on-site assessments and reports would be prepared to address the above pursuant to DIA10 within LPS7. Lot 517 and Lot 518 are within DIA 10, however Lot 519 is not. However, all three lots may present similar challenges.

<b>Area No.</b>	<b>Description of Land Area</b>	<b>Land Use Expectation</b>	<b>Matters to be Addressed in Structure Plan (In Addition to Clause 6.10)</b>
DIA10	Lot 499 515, 520 and 525 Sandhills Road, Lot 398 Cherrydale Way, Lot 74, 297 and 447 Boyup Brook Road, Beelerup	General Industry	<p>Following gaining necessary approvals, support sand extraction prior to possible industrial development.</p> <p>Investigate the site’s environmental assets, land suitability and land capability for General Industry including —</p> <ul style="list-style-type: none"> <li>• whether all or portion of the site should be included in a conservation reserve, or whether there is the potential for general industry subdivision and development;</li> <li>• interface with potential development to the south;</li> <li>• effluent disposal and servicing;</li> <li>• indigenous heritage;</li> <li>• vehicular access to existing industrial area and major arterial roads;</li> <li>• vegetation plan;</li> <li>• drainage management; and</li> <li>• buffer to land managed by the Department of Parks and Wildlife.</li> </ul> <p>The protection of native vegetation that has been identified as worthy of protection by the Department of Parks and Wildlife and the local government. Undertake a spring flora and vegetation survey. Appropriate fire management measures.</p>

**Lot 500 Steere Street, Donnybrook (Figure 3)**

This lot has significant physical constraints and challenges that may render Residential development at the R20 scale either financially unviable or physically challenging. However, the proposed land tenure may be inconsistent with the zoning.

It should be noted that the Shire is expecting to commence a review of the Local Planning Strategy and Scheme which may result in zoning changes to land within the Shire.

The zoning of this parcel of land is an example of land likely to be reviewed due to the anticipated constraints including:

- Clearing of native and non-native vegetation;
- Significant changes to the natural ground level (i.e. site works);
- Physical provision of on-site sewer management and water supply;
- Bushfire management; and
- Stormwater management.

Whilst the Shire would generally support the development of Residential land, it would need to be consistent with the provisions of SPA5 within LPS7.

<b>Area No. (SPA)</b>	<b>Description of Land Area</b>	<b>Land Use Expectation</b>	<b>Matters to be Addressed in Structure Plan (In Addition to Clause 6.10)</b>	<b>Associated Provisions</b>
SPA5	Lot 300, 301 Elliott Street, Donnybrook and adjoining land bounded by Marmion Street to the north, State Forest to the south and west and Goldfields Road to the east.	Residential R20	<p>Vegetation assessment to be prepared.</p> <p>Visual impact assessment and landscape analysis where appropriate.</p> <p>Development contributions.</p> <p>Appropriate access from the existing road network.</p> <p>The interface between the proposed development and existing townsite including pedestrian access.</p>	All lots must be connected to the reticulated water system, while all lots below 2000m2 and grouped dwelling lots are required to be connected to the reticulated sewerage system.

## CONCLUSION

It is recommended that Council endorse the officer’s recommendation and the attached documentation, to be provided to the Department of Planning, Lands and Heritage.

### 9.1.2 REVIEW OF LOCAL PLANNING SCHEME AND LOCAL PLANNING STRATEGY

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	TP 14
<b>Author</b>	Steve Potter, Executive Manager Operations
<b>Responsible Officer</b>	Steve Potter, Executive Manager Operations
<b>Attachments</b>	9.1.2(1): WAPC Correspondence
<b>Voting Requirements</b>	Simple majority

Recommendation
<p><b>That Council:</b></p> <ol style="list-style-type: none"> <li><b>1. Receives the formal advice from the Western Australian Planning Commission (WAPC), dated 20 October 2020 as contained in Attachment 9.1.2(1);</b></li> <li><b>2. Resolves to prepare a new Local Planning Scheme pursuant to Part 4, Division 1, Regulation 19 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>;</b></li> <li><b>3. Authorises the Chief Executive Officer to undertake the necessary notifications of Council’s decision to prepare a new Local Planning Scheme pursuant to Part 4, Division 1, Regulation 20 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>;</b></li> <li><b>4. Instructs the Chief Executive Officer to consider resourcing requirements in the preparation of the 2021/22 draft Annual Budget;</b></li> <li><b>5. Subject to funding under Point 4 being approved in the 2021/22 Annual Budget, instructs the Chief Executive Officer to prepare and present a Project Plan to Councillors for the Scheme / Strategy Review in a Concept Forum.</b></li> </ol>

### STRATEGIC ALIGNMENT

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

Outcome: Effective leadership and civic responsibility  
 Strategy: A strategically focused, open and accountable local government  
 Action: Provide accountable and strategic leadership.

### EXECUTIVE SUMMARY

Under the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations), the local government is required to internally review its Local Planning Scheme at five year intervals and a report to this effect was considered by Council in December 2019,

with Council's recommendations subsequently being communicated to the Western Australian Planning Commission (WAPC).

In October 2020, the Shire received a copy of the WAPC's response to Council's recommendations.

In light of the WAPC's decisions and advice, the Shire will need to determine how to proceed, with specific regard as to how any review of the Shire's planning instruments will be resourced.

In addition, there are statutory requirements that the Shire is required to comply with when preparing a new Local Planning Scheme and this also forms part of the recommended resolution presented.

## **BACKGROUND**

At the December 2019 Ordinary Council Meeting, Council resolved the following:

*"That Council:*

- 1. Pursuant to Part 6, Division 1, Sections 66(1)(b) and (c) of the Planning and Development (Local Planning Schemes) Regulations 2015 approves the "Report of Review" (Attachment 9.1.3(1)) and provides a copy to the Western Australian Planning Commission;*
- 2. Pursuant to Part 6, Division 1, Section 66(3)(a) of the Planning and Development (Local Planning Schemes) Regulations recommends to the Western Australian Planning Commission that Local Planning Scheme 7 be amended;*
- 3. Pursuant to Part 6, Division 1, Section 66(3)(b) of the Planning and Development (Local Planning Schemes) Regulations recommends to the Western Australian Planning Commission that the Local Planning Strategy be reviewed."*

In October 2020, the WAPC provided a formal response to the Shire's 'Report of Review' which in summary contained the following statements:

- The WAPC is supportive of the Shire of Donnybrook Balingup's 'Report of Review' to amend its Local Planning Strategy;
- The WAPC is not supportive of the Shire's proposed amendment of the existing Local Planning Scheme No. 1 and requires the Shire to prepare a new Local Planning Scheme to ensure the Shire has a contemporary scheme, which is consistent with the form and content of the 'model provisions for local planning schemes' in the Planning and Development (Local Planning Schemes) Regulations 2015;
- The WAPC advises the Shire that:
  - the proposed review of industrial land is supported;

- whilst the Donnybrook Stone Special Control Area (SCA) does not impact the future expansion of the Donnybrook townsite, a review of this SCA in consultation with DMIRS can be considered;
- a comprehensive review and consolidation of residential and low-density residential growth areas is recommended given the current significant oversupply; and
- the Department is available to provide further assistance and guidance regarding other planning matters that should be addressed as part of the preparation of the new Local Planning Scheme and amendment to the Local Planning Strategy.

A full copy of the WAPC's correspondence is provided in Attachment 9.1.2(1).

### **OFFICER COMMENT**

The review of the Scheme / Strategy (Review) represents an important and significant project for the future growth and development of the Shire, however prior to commencing the process Council will first need to determine how this project will be resourced.

Currently, the Shire has a single staff member (Principal Planner) who is responsible for all Shire related planning related matters including the following:

- Processing all development applications, subdivisions, scheme amendments and structure plans submitted by local residents and land developers;
- Liaising with government agencies on land use planning matters (DPLH / DWER/ MRWA / DFES etc).
- Preparing approval documents including notices and plans;
- Completing all orders and requisitions for private land transfers;
- Responding to all planning related enquiries (phone, email, front desk);
- Planning related compliance matters;
- Writing Council reports;
- Dealing with Native title matters;
- Processing road closures and other amendments to encumbrances on land titles;
- Providing advice and coordinating approvals on Shire projects.

What is evident when reviewing the list of tasks currently performed by the Shire's existing staff member is that they are mainly 'statutory' based. Further, due to a combination of a growing Shire population and additional State legislation (e.g. bushfire planning) impacting on statutory land use planning, it is becoming increasingly challenging for the existing staff member to comply with statutory deadlines whilst meeting customer expectations in terms of application processing timeframes, dealing with compliance matters and responding to enquiries. It is noted that the Shire's population has grown 29% since 2001, however the Shire resource allocated to land use planning has not increased in that time.

It is noted that 'Planning' as a discipline entails two separate streams; these being 'statutory planning' and 'strategic planning' which, in brief, are defined as follows:

*Statutory Planning:* concerns the day-to-day decision making by the various responsible authorities on planning schemes, subdivision and development proposals.

*Strategic Planning*: focuses on the big picture and setting a framework for future development of towns and regions, to effectively guide land supply, land use, and urban and regional development.

In considering the above, it is evident that the ability of the Shire to undertake a significant 'strategic' project such as a Scheme / Strategy review is limited with the current resource. It is noted that many local governments have separate sections (and specialist staff) for Statutory and Strategic Planning. Whilst this may not be possible for a small local government such as the SoDB, it is evident that if the review of the Scheme / Strategy is to proceed the Shire will need to factor in the allocation of additional Planning resources for this to occur.

In this regard, the Shire is considered to have three options which are:

1. Employ an additional Planning staff member (either on a permanent or fixed-term basis);
2. Engage a consultant to undertake the Review on the Shire's behalf;
3. Determine not to commence the Review process.

In considering these options, Staff consider it is in the public interest to commence the Review with the preference being to undertake the works 'in-house' by employing an additional Planning staff member, consistent with option 1 above, for the following reasons:

- It is more cost effective with the per hour cost of employing a staff member significantly less than employing an external consultant at higher rates;
- Internal Shire staff have a greater understanding of local issues and have more 'buy-in' with the process and eventual outcomes;
- The Shire currently has the expertise 'in-house', however does not have the capacity. The additional employee would likely be a sub-ordinate position that would enable the Principal Planner to be freed up to undertake the Review.

## **FINANCIAL IMPLICATIONS**

The cost of a full-time Planning Officer would equate to approximately \$80,000 per annum.

There is currently \$40,000 in the Strategic Planning Reserve which could be allocated to partly off-set this cost.

## **CONCLUSION**

There are a range of inconsistencies and inefficiencies that result from the Shire's existing planning instruments that could be addressed through a comprehensive review of the Scheme and Strategy. Further, a renewed Scheme and Strategy have the capacity to encourage appropriate local growth and investment through the removal of 'red-tape' in certain circumstances.



However, as highlighted in this report, there is insufficient capacity for the Shire to currently undertake this process with existing resources. As such, Council will need to determine the importance it places on this project when compared to other organisational objectives and whether it is willing to allocate the resources necessary for the process to commence.

It is recommended that Council resolve in accordance with the Officer's recommended resolution at the beginning of the report. Alternatively, if Council determines not to proceed with the Review in 2021/22, it is suggested that this be formally communicated to the DPLH/WAPC, through the adoption of the following alternative resolution:

*That Council:*

- 1. Receives the formal advice from the Western Australian Planning Commission (WAPC), dated 20 October 2020 as contained in Attachment 9.1.1(1);*
- 2. Instructs the Chief Executive Officer to advise the Western Australian Planning Commission that due to resource constraints, the Shire of Donnybrook Balingup will not commence the process of amending its Local Planning Strategy or preparing a new Local Planning Scheme in the 2021/22 financial year.*

**9.1.3 PROPOSED TUNNEL GREENHOUSE (INTENSIVE AGRICULTURE) – LOT 103 (107) IRISHTOWN ROAD, DONNYBROOK**

<b>Location</b>	Lot 103 (107) Irishtown Road, Donnybrook WA 6239
<b>Applicant</b>	S. Russo
<b>File Reference</b>	P21020 / A4904
<b>Author</b>	Kira Strange, Principal Planner
<b>Responsible Officer</b>	Steve Potter, Executive Manager Operations
<b>Attachments</b>	9.1.3(1): Location Plan 9.1.3(2): Site Plan 9.1.3(3): Elevation and Floor Plan 9.1.3(4): Full Copy of Submission 9.1.3(5): Deposited Plan 411036
<b>Voting Requirements</b>	Simple Majority

<b>Recommendation</b>
<p><b>That Council:</b></p> <ol style="list-style-type: none"> <li><b>Pursuant to Schedule 2, Part 9, Clause 68 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> approve the development of a tunnel greenhouse at Lot 103 (107) Irishtown Road, Donnybrook, subject to the following:</b></li> </ol> <p><b><u>Conditions:</u></b></p> <ol style="list-style-type: none"> <li><b>The approved development must accord with the endorsed plan(s), including any notations, and must not be altered or modified, without prior approval from the Shire.</b></li> <li><b>The approved tunnel greenhouse shall only be used for purposes associated with the residential or agricultural use of the property and is not to be used for habitable, commercial or industrial purposes without prior approval from the Shire.</b></li> <li><b>All stormwater from the proposed development including building(s) and hardstand area(s) shall be managed by the landowner in accordance with the <i>Shire of Donnybrook Balingup’s Policy 4.27 – Stormwater Management Private Land</i>.</b></li> <li><b>Any damage to the structure’s covering material is to be rectified within 7 days to the satisfaction of the Chief Executive Officer to avoid unwanted noise.</b></li> </ol>

**Advice Notes:**

- a. With regards to Condition (c), written approval must first be obtained from the Shire if a landowner proposes to direct discharge of stormwater into the Shire's open or piped drainage infrastructure.
- b. It is the responsibility of the landowner to ensure that the structure is wholly outside of the Easement as illustrated on Deposited Plan 411036 (attached).
- c. All noise emitted from the property is required to comply with the *Environmental Protection (Noise) Regulations 1997*.
- d. Construction work is to be appropriately managed to ensure compliance with the *Environmental Protection (Noise) Regulations 1997*. In accordance with the Regulations, construction work is not permitted:
  - outside of the hours of 7:00am to 7:00pm;
  - on a Sunday;
  - or on a Public Holiday.
- e. 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 amendments to the plans may require additional development approval.
- f. If the development the subject of this approval is not substantially commenced within a period of two years, the approval will lapse and be of no further effect.
- g. 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.
- 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.

## STRATEGIC ALIGNMENT

The following outcomes from the *Community Strategic Plan 2017* and *Corporate Business Plan 2017 – 2021* relate to this proposal:

Outcome 2	Respect for our heritage, natural and built environment
Strategy 2.1	An attractive and maintained built environment
Action 2.1.2	Provide efficient and effective building services.

## EXECUTIVE SUMMARY

An application for development approval was received by the Shire on 19 February 2021 for a tunnel greenhouse with an 11 metre setback in lieu of the required 20 metre requirement under the Shire's Local Planning Scheme No. 7 (LPS7).

The tunnel greenhouse has five internal 'tunnels' and has overall dimensions of 70 metres (length) by 51 metres (width) (3,570m<sup>2</sup>). The proposed wall height is 3 metres with an overall ridge height of 5.9 metres.

Pursuant to clause 4.5.2 of LPS7, the application was advertised to surrounding landowners with one objection received. The key planning concerns raised related to visual impact, privacy, noise and use of the structure.

It is recommended that Council approves the proposed development subject to the conditions contained in the officer recommendation.

## BACKGROUND

An application for development approval was received by the Shire on 19 February 2021 for a tunnel greenhouse with an 11 metre setback in lieu of the required 20 metre requirement under the Shire's Local Planning Scheme No. 7 (LPS7).

The subject property is 21.2 hectares and zoned 'Priority Agriculture' under LPS7. The site adjoins Irishtown Road to the east and is bound by private 'Rural Residential' land to the west and private 'Priority Agriculture' land on the north and south. The site is partially located within a designated bushfire prone area however the development footprint of the proposal is wholly outside of this area. A Location Plan is provided in *Attachment 9.1.3(1)* illustrating the local area.

The subject site contains two large existing sheds and two other tunnel greenhouses as illustrated on the site plan provided in *Attachment 9.1.3(2)*. The site is currently used for Intensive Agriculture purposes – the growing of fruit and vegetables – which is a permitted use within the 'Priority Agriculture' zone. The proposed tunnel greenhouse is to be used in conjunction with the existing operations.

The tunnel greenhouse has five internal 'tunnels' and has overall dimensions of 70 metres (length) by 51 metres (width) (3,570m<sup>2</sup>). The proposed wall height is 3 metres with an overall

ridge height of 5.9 metres. Elevations and floor plans for the proposal are provided in *Attachment 9.1.3(3)*.

The applicant has provided the following justification for the proposed location of the tunnel greenhouse, including the reduced setback:

- To provide uniformity with the existing tunnel greenhouse immediately adjacent to this proposed location;
- Due to the intensive nature of the farming operation, every square metre of land is required to make the business sustainable;
- No site works are required; and
- No vegetation has to be removed (other than existing crops).

In addition, the landowner has advised Shire Officers that water collected off the structure will be piped to an existing soak on the property.

In accordance with the provisions of the Scheme, the proposal was referred to the landowner on the southern side of the subject site as indicated in **Attachment 2**, with one objection received. The comments provided by the neighbor have been summarised in the following Schedule of Submissions:

<b>Submitter Comment</b>	<b>Officer Comment</b>
Devalues property	Property values are not a material planning consideration.
Existing horses may be spooked by people/machinery coming and going from the shelter.	<p>The property is surrounded by a number of farms and agricultural land which typically has machinery, animals, people and general vehicles.</p> <p>Whilst potential land use conflicts are to be expected in a rural area, it is reasonable to restrict machinery access to the structure on this side of the property boundary to assist in reducing the potential impact to surrounding animals.</p> <p>Notwithstanding this, people may access the tunnel greenhouse on this side.</p>
Plenty of alternative places on the site.	It is acknowledged that the site may be large enough to consider alternative locations however officers consider the

	<p>applicant has provided reasonable justification for the specified location and consider the issues raised may not be alleviated if moved to a compliant location.</p>
<p>Intention to subdivide the land in the future which will result in lost profit.</p>	<p>The subject lot is zoned Priority Agriculture under LPS7 which currently does not have subdivision potential. The Local Planning Strategy also identifies this land for agriculture.</p> <p>Financial profit is not a material planning consideration.</p>
<p>Visual impact.</p>	<p>It is noted that the existing structure are visible from the surrounding area, particularly as viewed from Hamilton Street across the paddock.</p> <p>However, if the proposed development was moved to comply with the 20m requirement, it would still be visible from the surrounding area.</p> <p>Officers have considered the visual impact as viewed from the existing dwelling. It is considered that based on the location, topography and existing development, the proposed tunnel greenhouse will have minimal visual impact as viewed from this dwelling.</p> <p>Notwithstanding this, the addition of landscaping may assist in mitigating the visual impact to the surrounding area.</p>
<p>Privacy.</p>	<p>It is considered that the existing dwelling is located a significant distance from the proposed tunnel greenhouse and will have minimal impact to the privacy of the adjoining property</p>
<p>Previously agreed to the other shelter however didn't realise the visual impact and noise it makes in the wind.</p>	<p>The Shire acknowledges that the neighbor has modified their previously stated position with regards to the proposed reduced setback.</p>
<p>Noise impact.</p>	<p>Due to the material of the tunnel greenhouse, the wind can cause the external surface to shift/move in the wind. The Shire acknowledges that this can</p>

	<p>cause a noise however it is considered minimal, particularly when considering the standard noise generated through the permitted farming operations.</p> <p>In addition, the nearest dwelling is approximately 200m away, therefore the impact would likely be minimal.</p> <p>Notwithstanding this, noise is regulated by the <i>Environmental Protection (Noise) Regulations 1997</i> and is required to comply with relevant provisions within this legislation.</p>
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A full copy of the submission received is provided in Attachment 9.1.3(4).

Consultation was undertaken with the submitter to determine whether any conditions of approval and/or amendments could be made to appease their concerns however other than full compliance with the setback their concerns remained.

In accordance with delegation *9.2.1 Local Planning Scheme No. 7 – Development Applications*, officers are required to bring contentious matters to Council, hence the reason for it being presented to Council for determination.

### **FINANCIAL IMPLICATIONS**

The relevant application fee has been paid by the applicant.

### **POLICY COMPLIANCE**

The proposed development has been assessed against the relevant provisions of the *Shire of Donnybrook-Balingup Local Planning Scheme No. 7* and *Policy 9.4 Outbuilding Control*.

Under the policy, outbuildings in the ‘Priority Agriculture’ zone do not have size restrictions and therefore the proposed tunnel greenhouse is compliant in this regard.

### **STATUTORY COMPLIANCE**

The proposed development has been assessed against all relevant statutory requirements as follows:

#### Local Planning Scheme No. 7

- Part 3 – Zones and the Use of Land

The property is zoned ‘Priority Agriculture’ under LPS7. In accordance with clause 3.6.2 of LPS7, the objectives of the zone are as follows:

- (i) *require the protection of the rural infrastructure and agricultural land resources;*

- (ii) *require planning to avoid the introduction of land uses and subdivision not related to agriculture including rural residential proposals;*
- (iii) *support the improvement of resource and investment security for agricultural and allied industry production;*
- (iv) *require protection and enhancement of biodiversity;*
- (v) *encourage value-adding opportunities to agricultural products at source;*
- (vi) *support a wide variety of productive agricultural and rural activities;*
- (vii) *support subdivision; where it provides for boundary adjustments, realignments, farm restructuring and new lot creation which promotes effective land management practices, environmental and landscape enhancement and infrastructure provision;*
- (viii) *support sensible use and management of resources, and the proper direction and control of development;*
- (ix) *promote the existing intensive agricultural land use; and*
- (x) *encourage other similar or complementary activities.*

- Part 4 – General Development Requirements

The relevant general development requirements of LPS7 have been assessed accordingly and summarised in the below table.

<b>LPS7 Requirement</b>	<b>Proposal</b>	<b>Officer Comment</b>
CI 4.17 General appearance of buildings and preservation of amenity	White	The proposed development is consistent with the existing tunnel greenhouse which are commonly used in intensive agriculture farming.
CI 4.18 Height and appearance of buildings – Maximum 12m	3.0m wall height, 5.9m roof height, 3,570m <sup>2</sup>	Complies.
CI 4.23 Outbuildings – setbacks as per development standards in the zone (20m to side)	11m	Acceptable.  The proposed variation to the setback requirement is assessed against clause 4.54.8.1 (ii) below.
CI 4.25 Landscaping – as required by a condition of approval is to be carried out at the time of the development and permanently maintained to the satisfaction of the local government		A condition of approval for landscaping should be required within 12 months of the development being placed on the site and thereafter maintained.
CI 4.55 Priority Agriculture Zone – development standards to be the same as provisions for the General Agriculture zone within clause 4.54.	Property is within the Priority Agriculture zone	The development has been assessed against the relevant standards below.



LPS7 Requirement	Proposal	Officer Comment
<p>CI 4.54.8 – Development standards</p>		
<p>4.54.8.1 Setbacks:</p>		
<p>(i) Minimum front setback – 30m</p>	<p>~230m</p>	<p>Complies.</p>
<p>(ii) Minimum side setback – 20m</p>	<p>11m (southern side)</p>	<p>An 9m variation is proposed. It is considered that the development will have minimal impact to the surrounding amenity in relation to existing land use. In addition, the impact of the development at a reduced setback has been considered comparatively against the likely impact of the development if it were to be placed in the compliant location i.e. 20m.</p>
		<p>The proposed development will be visible from the adjoining property however the nearest dwelling is approximately 200m away.</p>
		<p>It is considered that the existing development, particularly the compliant large agricultural sheds may have more of a visual impact than the proposed tunnel greenhouse when viewed from the dwelling.</p>
		<p>Notwithstanding this, the addition of landscaping may assist in mitigating the visual impact from the paddocks and from Hamilton Road.</p>
	<p>~150m (northern side)</p>	<p>Complies.</p>
<p>(iii) Minimum rear setback – 20m</p>	<p>~340m</p>	<p>Complies.</p>
		<p>It is noted that there is an easement directly to the west of the proposed location. It is the responsibility of the applicant to ensure the proposal is wholly outside of the easement.</p>

<b>LPS7 Requirement</b>	<b>Proposal</b>	<b>Officer Comment</b>
(iv) Setback to State Forest Boundary – Minimum 100m	N/A	N/A
<p>CI 4.54.8.2 – In determining proposed setback reductions, the local government will consider:</p> <p>(i) any alternative development sites on the property</p> <p>(ii) possible bush fire hazards</p> <p>(iii) environmental impacts</p> <p>(iv) effluent disposal</p> <p>(v) visual impact</p> <p>(vi) servicing/infrastructure implications</p>		<p>The property is over 21 hectares in area. Whilst the Shire acknowledges that the site is significant in size and alternative locations may be available, the applicant has expressed their preference for this location largely due to the location of the existing development and the importance of the remaining available land for the farming operations.</p> <p>The footprint of the proposed development is located wholly outside of a designated bushfire prone area. The proposed development is for non-habitable development and would unlikely change the existing bushfire status of the site.</p> <p>The proposed development will have minimal impact on the existing natural environment.</p> <p>The proposed development is for non-habitable purposes and therefore effluent disposal is not applicable to this proposal.</p> <p>The proposed development may have a visual impact insofar as it will be visible from the adjoining property when standing in the paddock. The nearest dwelling is approximately 200m away, therefore the visual impact will be minimal. Notwithstanding this, landscaping may mitigate visual impact.</p> <p>The proposed development is for non-habitable purposes and therefore servicing/infrastructure is not applicable to this proposal.</p>

- Clause 4.54.10 – Reasons for Refusal

In accordance with clause 4.54.10, the local government shall refuse an application for development approval where in its opinion the proposed development will:

- (i) *adversely affect the rural landscape;*
- (ii) *adversely impact upon the agricultural use of the land and adjacent/nearby areas;*
- (iii) *cause detrimental environmental impacts;*
- (iv) *result in unacceptable fire management risk;*
- (v) *place unacceptable servicing requirements which have not been appropriately addressed by the applicant;*
- (vi) *result in the impacts of the proposed use/development not being adequately contained on the application site;*
- (vii) *in the opinion of the local government, result in an undesirable planning outcome.*

- Clause 4.5 – Variations to site and development standards and requirements

Clause 4.5 is relevant and states:

4.5.1 *Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for development approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.*

4.5.2 *In considering an application for development approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjacent to the site which is the subject of consideration for the variation, the local government is to –*

- (i) *consult the affected parties by following one or more of the provisions for advertising under clause 64 of the deemed provisions; and*
- (ii) *have regard to any expressed views prior to making its determination to grant the variation.*

4.5.3 *The power conferred by this clause may only be exercised if the local government is satisfied that –*

- (i) *approval of the proposed development would be appropriate having regard to the matters to be considered set out in clause 67 of the deemed provisions; and*
- (ii) *the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.*

Officers acknowledge that adjoining landowners use the land for livestock and the keeping of animals which may have been impacted by vehicular access encroaching within the development setback area. However, the applicant has reiterated that the only use of machinery in this location is within the tunnel greenhouse and is a small tractor for spraying

purposes. The use of this machinery is on a minimal basis and is not uncommon in the surrounding area. It is therefore considered that the impact is likely to be minimal and will not adversely impact the agricultural use of neighbouring land.

Notwithstanding this, machinery access to the tunnel greenhouse can be restricted on this side.

## **CONSULTATION**

In accordance with clause 4.5 of LPS7 as outlined above, in considering an application for development approval that proposes a variation to a Scheme requirement, the local government is to form an opinion on whether the variation is likely to affect any owners or occupiers in the general locality or adjoining the site. In the case where it is considered that owners or properties may be affected, the local government must consult those parties and have regard to any expressed views prior to making its determination.

It was the opinion of officers that the proposed variation to the setback requirement warranted advertising to the adjoining landowners.

## **OFFICER COMMENT/CONCLUSION**

In reviewing the application for the tunnel greenhouse, it was noted that the current submitter previously agreed to, and endorsed, the existing tunnel greenhouse that is located 11m from the boundary. However, they have since modified their previously stated position and have advised they were not fully aware of the visual impact, nor the noise the plastic cladding can make in the wind.

The objections raised during the advertising period were thoroughly considered based on the context of the site including:

- The existing development on the site and the surrounding area;
- The use of the proposed tunnel greenhouse for intensive agriculture purposes which is permitted in the Priority Agriculture zone;
- Potential common land use conflicts, particularly between animals, residential use and farming activities;
- The location of the nearest existing dwelling in relation to the tunnel greenhouse and subject property boundary;
- The objectives of the Priority Agriculture zone;
- The likely impacts should the applicant move the development to the compliant setback;
- Whether potential impacts can be ameliorated through conditions of approval.

Whilst there may be a visual impact to the rural landscape, insofar as the development will be visible from the adjoining property paddocks and Hamilton Road (to the south), compliance with the setback requirement would not necessarily result in an improved visual outcome. It is considered that the visual impact will be minimal as the nearest dwelling on the adjacent

property being approximately 200m away. Notwithstanding this, the introduction of landscaping adjacent to the development will mitigate visual impact and is a common condition imposed for this purpose.

The proposed development is considered consistent with the existing development on the site and the Priority Agriculture zone, particularly for intensive agricultural use which is common in the area.

It is considered that the proposed variation to the required setback will not jeopardise the objectives of the Priority Agriculture zone and will have minimal impact on the function and use of the adjoining property. It is therefore recommended that Council resolves to approve the application for development approval, subject to the conditions contained in the officer recommendation.

**9.1.4 COMMUNITY TOWNSCAPE ACTIVITIES – DRAFT COUNCIL POLICY AND OPERATIONAL PROCEDURE**

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	FNC08/6
<b>Author</b>	Steve Potter, Executive Manager Operations
<b>Responsible Officer</b>	Steve Potter, Executive Manager Operations
<b>Attachments</b>	9.1.4(1): Draft Council Policy – Community Townscape Activities 9.1.4(2): Draft Operational Procedure – Townscape Funds and Activities
<b>Voting Requirements</b>	Simple majority

<b>Recommendation</b>
<p><b>That Council:</b></p> <ol style="list-style-type: none"> <li><b>1. Pursuant to Section 2.7(2)(b) of the <i>Local Government Act 1995</i>, formally adopts <i>Council Policy – Townscape Activities</i> as provided in Attachment 9.1.4(1);</b></li> <li><b>2. Expresses its gratitude to the Balingup Townscape Committee and Kirup Progress Association for their contribution and the collaborative approach demonstrated during the preparation of the Policy and Operational Procedure.</b></li> </ol>

**STRATEGIC ALIGNMENT**

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

- Outcome: Effective leadership and civic responsibility
- Strategy: A strategically focused, open and accountable local government
- Action: Provide accountable and strategic leadership.

**EXECUTIVE SUMMARY**

A new Council Policy (*Council Policy – Townscape Activities*) is presented to Council for consideration.

It is recommended that Council adopts the new policy.

## BACKGROUND

At the Ordinary Council Meeting in November 2020, Council resolved the following:

*“That Council:*

- 1. Acknowledges the correspondence received from the Balingup Townscape Committee and expresses the Shire’s gratitude for the ongoing contribution of its members in improving the Balingup townsite;*
- 2. Advises the Balingup Townscape Committee that no additional funds are available in the 2020/21 financial year for BTC activities;*
- 3. Advises the Balingup Townscape Committee that no additional funds are available in the 2020/21 financial year to undertake works to raise and/or restore the Rothery Walk Bridge;*
- 4. Advises the Balingup Townscape Committee that it is the intention of Council to coordinate any future works associated with the Rothery Walk Bridge due to compliance and safety considerations;*
- 5. Confirms it is the position of Council that the role of the Balingup Townscape Committee is to undertake low risk beautification activities and to provide recommendations to Council on larger infrastructure projects;*
- 6. Instructs the Chief Executive Officer to develop a draft Council Policy in collaboration with the Balingup Townscape Committee to provide guidance to Council, Staff and the Balingup Townscape Committee on the application of Shire funds and administration of projects which is to include the following:*
  - 6.1 Calculation of annual Shire funds allocated to BTC;*
  - 6.2 Eligible activities for BTC volunteers;*
  - 6.3 Activities that will remain the responsibility of the Shire;*
  - 6.4 BTC annual application process for Shire funds;*
  - 6.5 Shire assessment of BTC applications and proposed projects;*
  - 6.6 Project oversight by Shire of BTC activities;*
  - 6.7 Fund acquittal process.*
- 7. Instructs the Chief Executive Officer to provide a copy of the draft Policy to the Balingup Townscape Committee for review and comment by 28 February 2021.*
- 8. Instructs the Chief Executive Officer to bring a further report back to Council for further consideration at the April 2021 Ordinary Council Meeting, subject to comments being provided by the Balingup Townscape Committee by 31 March 2021.”*

Subsequent to Council’s decision, Staff commenced the process of drafting documentation, where it became apparent that any policy/operational procedure of this nature should apply to all community delivered townscape activities, rather than being specific only to the Balingup Townscape Committee. This resulted in the development of two documents as follows:

- *Council Policy – Townscape Activities*

- *Operational Procedure – Townscape Funds and Activities - Administration*

The draft documentation was provided to relevant community groups, specifically the Balingup Townscape Committee (BTC) and the Kirup Progress Association (KPA), which resulted in both groups providing feedback and further amendments made. The amended draft documentation presented to Council has been endorsed by both the BTC and KPA.

## **FINANCIAL IMPLICATIONS**

Council will need to determine the extent it wishes to deliver townscape projects through its Annual Budget. It is anticipated that a further report will be presented, possibly in May, with the BTC's and KPA's proposed projects for consideration in the 2021/22 Annual Budget.

## **POLICY COMPLIANCE**

This Policy represents a new policy of Council.

## **STATUTORY COMPLIANCE**

Council is to determine a local government's policies as per section 2.7 (2)(b) of the Local Government Act 1995.

## **CONSULTATION**

Consultation has been undertaken with both the BTC and the KPA who have both indicated their support for the proposed Policy and Operational Procedure.

## **OFFICER COMMENT / CONCLUSION**

It was evident that there was a greater need for guidance for all parties in the allocation of Shire funds for community driven townscape activities. The proposed Policy and Operational Procedure are considered to clarify a range of aspects and will ensure that a clear process is established and followed in the future. This will enable appropriate allocation of funds and a suitable level of oversight for community projects undertaken on Shire managed land, whilst achieving governance objectives.



## **9.2 EXECUTIVE MANAGER CORPORATE AND COMMUNITY**

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### **9.2.1 ACCOUNTS FOR PAYMENT**

The Schedule of Accounts Paid (to be provided) under Delegation (No 3.1) is presented to Council for information (Attachment 9.2.1(1))

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### **9.2.2 MONTHLY FINANCIAL REPORT – MARCH 2021**

The Monthly Financial Report for March 2021 will be provided to Councillors prior to the Ordinary Council Meeting (Attachment 9.2.2(1)).

### **EXECUTIVE RECOMMENDATION**

**That the monthly financial report for the period ended 31 March 2021 be received.**

**9.2.3 FEES AND CHARGES – SPORTING AND COMMUNITY GROUPS 2020-21 BUDGET**

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	
<b>Author</b>	Paul Breman – Executive Manager Corporate and Community Services
<b>Responsible Manager</b>	Paul Breman – Executive Manager Corporate and Community Services
<b>Attachments</b>	9.2.3(1): COVID-19 Recovery Plan Community Leases
<b>Voting Requirements</b>	Absolute Majority

Recommendation
<p><b>That Council</b></p> <ol style="list-style-type: none"> <li><b>1. Provides a 50% waiver to selected local sporting and community groups for the fees and charges applied in the 2020-21 budget in accordance with Attachment 9.2.3(1) in response to the influences of the continuing COVID 19 Pandemic; and</b></li> <li><b>2. Amend the 2020-21 Budget to transfer an amount of \$4,384 from the COVID 19 Reserve to compensate for the reduced revenue associated with the provision of a 50% waiver on fees and charges to local sporting and community groups for the 2020-21 year.</b></li> </ol> <p><b>ABSOLUTE MAJORITY VOTE REQUIRED</b></p>

**STRATEGIC ALIGNMENT**

The following outcomes from the Corporate Business Plan relate to this proposal:

Outcome	3.2	Well supported community groups and facilities
Strategy	3.2.2	Encourage and support volunteers and community organisations
Action	3.2.2.2	Provide support for community organisations

**EXECUTIVE SUMMARY**

This item seeks to gain approval to apply a 50% waiver of fees and charges in relation to use of Shire facilities and grounds for local community and sporting clubs in recognition of the impact of the global COVID-19 pandemic on clubs capacity to operate under normal conditions.

The financial impact of applying this 50% waiver for the 2020-21 financial year is \$4,384 and this may be sourced from the existing COVID 19 Reserve which currently has a balance of \$102,532.

## **BACKGROUND**

The Shire established a COVID 19 Response Plan (adopted by Council at a Special Council Meeting held 6 April 2020) in reaction to the worldwide Pandemic and the potential for the Virus to have impacts on the economic and social wellbeing of the community.

Contained in the plan was a recognition of the potential widespread restriction of movement would have on the finances and viability of local sporting and community groups. The Plan contained provision for fees and charges relief for local sporting and community groups in regard to those levied annually by the Shire for use of facilities and sporting grounds.

The assistance provided to local sporting and community groups during the previous 2019-20 year is contained in a column on the attached schedule of information at Attachment 9.2.3(1).

The 2021-21 budget was prepared at a time when the impacts and longevity of the pandemic was still very uncertain. As such no definitive treatment was contained in the budget in relation to fees and charges for sporting and community groups in the 2020-21 financial year.

## **FINANCIAL IMPLICATIONS**

The COVID 19 reserve currently has a balance of \$102,532 at the time of preparing this report and an estimated balance of \$99,442 as at 30 June 2021. This reserve was established at the time of establishing the Shire's overall response to the COVID 19 Pandemic in April 2020.

The financial impact of applying the 50% waiver is \$4,384 which may be sourced via utilisation of funds in the COVID19 Cash Reserve.

## **POLICY COMPLIANCE**

Not applicable

## **STATUTORY COMPLIANCE**

The Local Government Act 1995, contains a provision that permits the Council, by absolute majority, to waive fees and charges (or a portion thereof) at its discretion as follows:

### **6.12. Power to defer, grant discounts, waive or write off debts**

- (1) Subject to subsection (2) and any other written law, a local government may —
  - (a) when adopting the annual budget, grant\* a discount or other incentive for the early payment of any amount of money; or
  - (b) waive or grant concessions in relation to any amount of money; or
  - (c) write off any amount of money,which is owed to the local government.

\* Absolute majority required.

## **CONSULTATION**

No consultation has occurred, as It is assumed that local sporting clubs and sporting groups would not have any objection to a waiver being applied in their favour.

## **OFFICER COMMENT/CONCLUSION**

Although Western Australia, unlike some other States, has been fortunate in avoiding prolonged community shutdowns due to the application of hard borders, the State Government, in early February 2021, did instigate a 5-day lockdown in response to a potential outbreak and community transmission. The potential for this to occur again is still present and uncertain.

COVID response plans, social distancing, sanitizing, visitor registers and the uncertainty of future lockdowns has the potential to impact on sporting and community group participation levels and their capacity for fundraising as well as adding to their overall administration costs.

It is recommended that the Shire recognise the impact of these uncertain times by approving a 50% waiver on the standard fees and charges for 2020-21 year in accordance with the schedule attached at 9.2.3(1).

### 9.2.4 TUIA LODGE QUARTERLY REPORT – QUARTER THREE (2020/21)

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	CSV 01/2
<b>Author</b>	Bob Lowther, Manager Aged Care
<b>Responsible Officer</b>	Bob Lowther, Manager Aged Care
<b>Manager</b>	Paul Breman, Executive Manager Corporate and Community
<b>Attachments</b>	9.2.4(1) – Tuia Lodge Quarter Three Report
<b>Voting Requirements</b>	Simple Majority

<b>Recommendation</b>
<b>That Council receive the Tuia Lodge Quarterly Report for Quarter Three 2020/21 (January - March).</b>

### STRATEGIC ALIGNMENT

Outcome:	4.2	A respected professional and trusted organisation
Strategy:	4.2.1	Effective and efficient operation and service provision
Action:	4.2.1.4	Demonstrate sound financial planning and management, including revenue / expenditure review and revenue diversification strategies and long term financial planning

### EXECUTIVE SUMMARY

This report covers quarter three (3) of the 2020/21 financial year. Comprehensive details including an Executive Summary, Residential Data, Employee Statistics, Occupational Safety and Health, Maintenance and Finance, are provided for Council’s information.

### BACKGROUND

At its Ordinary Meeting on 23 August 2017 Council resolved to:

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

The above resolution has been implemented and it is recommended the reports continue to be presented to Council on a quarterly basis.

**CONSULTATION**

Not applicable.

**FINANCIAL IMPLICATIONS**

In accordance with 2020/21 Budget allocations.

**POLICY COMPLIANCE**

Not applicable

**STATUTORY COMPLIANCE**

*Aged Care Act 1997.*

**OFFICER COMMENT / CONCLUSION**

It is recommended that the Tuia Lodge Quarterly Report for Quarter Three 2020/21 be received by Council.

### 9.3 CHIEF EXECUTIVE OFFICER

#### 9.3.1 NEW MODEL CODE OF CONDUCT FOR COUNCIL MEMBERS AND MODEL STANDARDS FOR CEO RECRUITMENT, PERFORMANCE AND TERMINATION

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	NA
<b>Author</b>	Maureen Keegan, Manager Executive Services
<b>Responsible Manager</b>	Ben Rose, Chief Executive Officer
<b>Attachments</b>	9.3.1(1): Code of Conduct for Council Members, Committee Members and Candidates 9.3.1(2): Model Standards CEO Recruitment, Performance and Termination
<b>Voting Requirements</b>	Absolute Majority

Recommendation
<p><b>That Council, pursuant to the new Local Government (Model Code of Conduct) Regulations 2021 and the amended (Local Government Administration Amendment Regulations 2021:</b></p> <ol style="list-style-type: none"> <li><b>1. Adopt the Model Code of Conduct for Council Members, Committee Members and Candidates (Model Code) as attached at Attachment 9.3.1(1).</b></li> <li><b>2. Adopt the Model Standards for CEO Recruitment, Performance and Termination (Model Standards) as attached at Attachment 9.3.1(2).</b></li> </ol> <p><b>ABSOLUTE MAJORITY VOTE REQUIRED</b></p>

#### STRATEGIC ALIGNMENT

The following outcomes from the Corporate Business Plan relate to this proposal:

Outcome	4.1	A strategically focussed, open and accountable local government
Strategy	4.1.1	Provide Accountable and strategic leadership

#### EXECUTIVE SUMMARY

Council is requested to adopt the New Model Code of Conduct for Council Members, Committee Members and Candidates’ and the ‘Model Standards for CEO Recruitment, Performance and Termination as per the new *Local Government (Model Code of Conduct) Regulations 2021* and the Amendment (*Local Government (Administration) Amendment Regulations 2021*) introduced by the Department Local Government Sporting and Cultural Industries (DLGSCI) 3 February 2021.

## **BACKGROUND**

On 3 February 2021 new regulations came into effect, prescribing a “Model Code of Conduct for Council Members, Committee Members and Candidates and “Model Standards for the Recruitment, Performance and Termination of Local Government CEOs’.

Both Models must be adopted by 3 May 2021. The Model Code and Model Standards apply as from 3 February 2021, regardless of whether a local government has adopted them. However, it is a statutory requirement to adopt them within three months of the regulations coming into effect, 3 May 2021.

Council, at its February 2021 OCM adopted the complaints form and appointed the CEO as the Shire Complaints Officer which are detailed in the Model Code of Conduct.

## **FINANCIAL IMPLICATIONS**

Nil.

## **POLICY COMPLIANCE**

Nil

## **STATUTORY COMPLIANCE**

Voting requirements are by Absolute Majority - *Local Government Act 1995 section 5.104 (Model Code) and section 5.39B (Model Standards)*.

## **CONSULTATION**

WALGA are preparing a detailed framework around the Model Code of Conduct but this is yet to be received.

## **OFFICER COMMENT/CONCLUSION**

Due to the tight timeframe imposed by the Department of Local Government, it is proposed to adopt the Model Code and Model Standards as they have been legislated, upon receipt of WALGA framework the two documents can be re-considered by Council.



### 9.3.2 CUSTOMER RELATIONSHIP MANAGEMENT SYSTEM REVIEW

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	NA
<b>Author</b>	Maureen Keegan, Manager Executive Services
<b>Responsible Manager</b>	Ben Rose, Chief Executive Officer
<b>Attachments</b>	9.3.2(1): CRM Business Case
<b>Voting Requirements</b>	Simple Majority

<b>Recommendation</b>
<b>That Council receive the Business Case for a Customer Relationship Management System and acknowledge the recommendations contained within.</b>

### STRATEGIC ALIGNMENT

The following outcomes from the Corporate Business Plan relate to this proposal:

Outcome	4.1	A strategically focused, open and accountable local government
Strategy	4.1.1	Provide accountable and strategic leadership
Action	4.1.1.1	Review service delivery methodologies for Shire services and implement improvements where appropriate.

### EXECUTIVE SUMMARY

Council is requested to receive the Business Case for a Customer Relationship Management System (CRMS) and acknowledge the recommendations contained within.

### BACKGROUND

Council instructed the Chief Executive Officer to develop a business case for a customer relationship management system, with costs for consideration in the 2021/22 Budget.

### FINANCIAL IMPLICATIONS

Councils' decision will determine the budget amount to allocated in the 2021-2022 budget. Work / research to date has been undertaken by staff.

### POLICY COMPLIANCE

Nil

### STATUTORY COMPLIANCE

Nil

## **CONSULTATION**

Three businesses were consulted for product and cost information. Internal (staff) consultation was also undertaken with the Executive.

## **OFFICER COMMENT/CONCLUSION**

Whilst researching and collecting information from CRM providers it became evident the Shires current IT infrastructure could not support a new program.

It is recommended that Council consider including a provision in the 2021-2022 budget to engage a consultant to provide a comprehensive review of the current IT infrastructure and provide Council with a Strategic Information Management Plan that incorporates Records Management.

### 9.3.3 WARREN BLACKWOOD ALLIANCE OF COUNCILS MEMBERSHIP

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	CNL 16
<b>Author</b>	Ben Rose, Chief Executive Officer
<b>Responsible Manager</b>	Ben Rose, Chief Executive Officer
<b>Attachments</b>	Nil
<b>Voting Requirements</b>	Simple Majority

<b>Recommendation</b>
<p><b>That Council agree to continue membership on the Warren Blackwood Alliance of Councils and instruct the Chief Executive Officer to include the membership fee of \$14,103.41 in the Draft 2021/22 Budget.</b></p>

#### STRATEGIC ALIGNMENT

The following outcomes from the Corporate Business Plan relate to this proposal:

Outcome	1.1	A diverse, prosperous economy, supporting local business and population growth
Strategy	1.1.1	Promote, maintain and diversify investment in the district
Action	1.1.1.2	Represent the district’s interests with key stakeholders

#### EXECUTIVE SUMMARY

At its Ordinary Council Meeting of 22 May 2019, Council agreed to join the Warren Blackwood Alliance of Councils (WBAC) for a two year trial period at a discounted rate of 50%. It is recommended Council continue membership on the WBAC and include the membership fee in budget deliberations for the 2021/22 financial year.

#### BACKGROUND

At its Ordinary Council Meeting of 22 May 2019, Council resolved to become a member of the WBAC and nominate the Shire President and Chief Executive Officer as the Shire of Donnybrook Balingup representatives. At its Ordinary Council Meeting of 26 June 2019, Council resolved to nominate Councillor Wringe as the second Shire representative, with Councillor Atherton as proxy for both Councillor Wringe and the Shire President.

The WBAC is a voluntary regional organisation which highlights and progresses key issues impacting the region, leading the way in partnership development, relationship building and project progression. WBAC has represented the Shire of Bridgetown-Greenbushes, Shire of Manjimup and Shire of Nannup for 19 years and have developed an excellent working partnership and undertaken many regional collaborative projects such as:

- The design and production of a regional map that promotes scenic routes between our towns
- Development of the Southern Forests Visitor Guide – a regional tourism guide
- Development of a Regional Trails Strategy and website
- Management and building of the Warren Blackwood Regional Stock Route
- Progressed the 'Warren Blackwood Sub Regional Growth Plan'

According to the WBAC, they have become a 'go to' for government departments when dealing with regional issues in the Warren Blackwood region. The WBAC is an incorporated association, with a part-time Executive Officer, and meets bi-monthly. Presidents, Chief Executive Officers and one Councillor from each Shire are invited to attend the meetings which are rotated around the Shires. Each Shire has two voting rights which are generally used by the Shire President and Councillor, and the Chairperson rotates between the Shires annually. The WBAC has a very close partnership with the South West Development Commission (SWDC) with senior and regional staff attending meetings, along with guest speakers on occasion.

With regionally significant growth and economic development arising from mining in Greenbushes (Talison), as well as coordinated sub regional growth planning (via SWDC) presently underway, maintaining 'proximity and influence' to key stakeholders and decision makers in the region (SWDC, other local governments, Talison etc) WBAC provides an effective advocacy instrument for the Shire. On this basis, it is recommended that the Shire continue its membership with membership fees for 2021/22 to be reviewed as part of budget deliberations.

Presently, the Shire is also a member of the Bunbury Geographe Economic Alliance (BGEA). The BGEA is a membership-based economic development advocacy association, with mixed membership between the private sector, State Government, local governments and other not-for-profit associations (e.g. Regional Chamber of Commerce). The majority of membership of the BGEA is from the private sector, and the majority of outcomes sought relate directly to improvement (diversity, resilience) of economic conditions within the Bunbury Geographe district.

Unlike the structure and objectives of the BGEA, the WBAC is a local government only entity (Shires of Bridgetown-Greenbushes, Nannup, Manjimup, Boyup Brook and Donnybrook Balingup), with terms of reference to address key issues affecting the region – economic, environmental, social or other.

## **FINANCIAL IMPLICATIONS**

The WBAC offered the Shire a 50% discount in membership fees for the first two years (2019-2021).

The table below outlines each Shire’s contribution for 2021/22:

	<b>WBAC Project</b>	<b>Total Trails</b>	<b>Total contribution</b>
<b>Bridgetown-Greenbushes</b>	\$12,127.00	\$999.41	<b>\$13,126.41</b>
<b>Manjimup</b>	\$17,010.00	\$999.41	<b>\$18,009.41</b>
<b>Nannup</b>	\$8,465.00	\$999.41	<b>\$9,464.41</b>
<b>Donnybrook Balingup</b>	\$13,104.00	\$999.41	<b>\$14,103.41</b>
<b>Boyup Brook</b>	\$4,196.00	\$999.41	<b>\$5,195.41</b>
<b>SWDC</b>	\$5,000.00	\$ -	<b>\$5,000.00</b>
			<b>\$64,899.05</b>

The Shire of Donnybrook Balingup contribution for 2021/22 would be \$14,103.41.

**POLICY COMPLIANCE**

Not applicable.

**STATUTORY COMPLIANCE**

Not applicable.

**CONSULTATION**

Not applicable.

**OFFICER COMMENT/CONCLUSION**

The WBAC works on highlighting and progressing key issues impacting the region, and it would be beneficial for the Shire of Donnybrook Balingup to continue its involvement from a regional economic development and a strategic planning perspective.

## **10 ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

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### **10.1 COUNCILLOR**

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Nil.

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

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## **12 MEETINGS CLOSED TO THE PUBLIC**

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### **12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

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The following confidential reports and recommendations have been distributed separately and are not for circulation:

#### **12.1.1 CONFIDENTIAL – DONNYBROOK WASTE MANAGEMENT FACILITY – FUTURE OPTIONS ASSESSMENT**

This report is confidential in accordance with Section 5.23(c) of the *Local Government Act 1995*, which permits the meeting to be closed to the public.

(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting

#### **12.1.2 CONFIDENTIAL – CHIEF EXECUTIVE OFFICER ANNUAL PERFORMANCE APPRAISAL – SELECTION OF CONSULTANT**

This report is confidential in accordance with Section 5.23(c) of the *Local Government Act 1995*, which permits the meeting to be closed to the public.

(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting

## **RECOMMENDATION**

**That the meeting be closed in accordance with section 5.23(2) of the *Local Government Act 1995* to discuss the following confidential items:**

#### **12.1.1 CONFIDENTIAL – DONNYBROOK WASTE MANAGEMENT FACILITY – FUTURE OPTIONS ASSESSMENT**

#### **12.1.2 CONFIDENTIAL – CHIEF EXECUTIVE OFFICER ANNUAL PERFORMANCE APPRAISAL – SELECTION OF CONSULTANT**

**12.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC**

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**13 CLOSURE**

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The Shire President to advise that the next Ordinary Council Meeting will be held on 26 May 2021 commencing at 5.00pm in the Shire of Donnybrook Balingup Council Chamber.