



NOTICE OF ORDINARY MEETING OF COUNCIL

To be held on

Wednesday 27 April 2022

Commencing at 5.00pm

Shire of Donnybrook Balingup Council Chamber, Donnybrook

Steve Potter
Acting Chief Executive Officer

22 April 2022

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, 20 April 2022 at 2.00pm

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

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, present and emerging.

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

The Shire President to advise that the meeting is being digitally recorded in accordance with Council Policy EM/CP-2. The Shire President to further state the following:

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

2 ATTENDANCE

MEMBERS PRESENT

COUNCILLORS	STAFF
Cr Leanne Wringe (President)	Ben Rose – Chief Executive Officer
Cr Lisa Glover (Deputy President)	Steve Potter – Director Operations
Cr Shane Atherton	Kim Dolzadelli – Director Corporate and Community
Cr Peter Gubler	Archana Arun – Admin Officer Executive Services
Cr Phil Jones	
Cr Jackie Massey	
Cr Fred Mills	
Cr Chaz Newman	
Cr Chris Smith	

PUBLIC GALLERY

2.1 APOLOGIES

2.2 APPROVED LEAVE OF ABSENCE

2.3 APPLICATION FOR A LEAVE OF ABSENCE

3 ANNOUNCEMENTS FROM PRESIDING MEMBER

30 March 2022 Phone meeting with Jodie Hanns, MLA
30 March 2022 Phone meeting with CEO
04 April 2022 Interim audit entrance meeting
04 April 2022 Community Events meeting – J. Jarvis
05 April 2022 Meeting with J. Bailey
05 April 2022 Meeting - Shire of Boyup Brook
05 April 2022 Warren Blackwood Alliance of Councils meeting
06 April 2022 Meeting with DFC
06 April 2022 Meeting with CEO
06 April 2022 Meeting Kirup P & C Assoc.
06 April 2022 Meeting with Promote Preston group
06 April 2022 AGM for Electors
08 April 2022 Aboriginal Cultural Heritage Exhibition
12 April 2022 Meeting – Deputy Shire President
12 April 2022 DFC Committee Meeting
13 April 2022 Meeting – City of Bunbury
13 April 2022 Meeting with CEO
14 April 2022 Pump Track Official Opening – Nola Marino
20 April 2022 Presentation – Water Fluoridation
20 April 2022 Agenda Briefing
20 April 2022 Presentation – Leschenault Biosecurity Group
21 April 2022 Meeting with Senator Bridget McKenzie
21 April 2022 Argyle VBFB – AGM
22 April 2022 SW Zone meeting
27 April 2022 Meeting with CEO
27 April 2022 Concept Forum
27 April 2022 April 2022 Ordinary Council Meeting.

4 DECLARATION OF INTEREST

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

Cr Massey has declared an Impartiality interest in Item 8.1 Local Emergency Management Committee - Balingup Progress Association Requests as she is a member of the Balingup Progress Association.

Cr Wringe has declared an Impartiality interest in Item 9.1.1 Kirup Mill Park Master Plan as she is the President of the Kirup Progress Association.

Cr Wringe has declared an Impartiality interest in Item 9.1.2 Kirup Mill Park Land Administration as she is the President of the Kirup Progress Association.

Cr Glover has declared a Proximity interest in Item 9.3.2 2022 Annual General Meeting of Electors – Minutes and Consideration of Motions as she is a part owner of a property adjoining the site (Emerald Street).

Cr Glover has declared a Financial interest in Item 9.3.2 2022 Annual General Meeting of Electors – Minutes and Consideration of Motions as the above mentioned property is an investment property.

Cr Glover has declared an Indirect Financial interest in Item 9.3.2 2022 Annual General Meeting of Electors – Minutes and Consideration of Motions as her partner is a joint owner of the above-mentioned property.

Cr Glover has declared an Impartiality interest in Item 9.3.2 2022 Annual General Meeting of Electors – Minutes and Consideration of Motions as she is a Member of the Tennis Club.

Cr Glover has declared an Impartiality interest in Item 9.3.2 2022 Annual General Meeting of Electors – Minutes and Consideration of Motions as family members are members of the Donnybrook Tennis Club.

Cr Glover has declared an Impartiality interest in Item 9.3.2 2022 Annual General Meeting of Electors – Minutes and Consideration of Motions as she is a Member of the Ladies Hockey Club.

Cr Glover has declared an Impartiality interest in Item 9.3.2 2022 Annual General Meeting of Electors – Minutes and Consideration of Motions as a family member is a member of the Preston Thunder Football Club.

Cr Glover has declared an Impartiality interest in Item 9.3.2 2022 Annual General Meeting of Electors – Minutes and Consideration of Motions as she is a Volunteer (processing Kidsport Application) for Donnybrook Football Club.

Cr Glover has declared an Impartiality interest in Item 9.3.2 2022 Annual General Meeting of Electors – Minutes and Consideration of Motions as a family member is a member of the Donnybrook Netball Association.

Cr Glover has declared an Impartiality interest in Item 9.3.2 2022 Annual General Meeting of Electors – Minutes and Consideration of Motions as she is a Volunteer (scoring and time keeping) for Donnybrook Netball Association.

Cr Glover has declared an Impartiality interest in Item 9.3.2 2022 Annual General Meeting of Electors – Minutes and Consideration of Motions as a family member is a member of the Donnybrook Basketball Club.

Cr Glover has declared an Impartiality interest in Item 9.3.2 2022 Annual General Meeting of Electors – Minutes and Consideration of Motions as she is a volunteer (scoring) for the Donnybrook Basketball Association.

5 PUBLIC QUESTION TIME

5.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Karyn Connor

Can you please explain why the full \$250,000 allocation has already been spent on Architects drawings, scope and design and is ready to go to Tender for the 2 storey option with function Centre, before this final option has even been voted on to proceed by Council?

Response

The State Government's pre-funding allocation to the Shire has been directed towards development of detailed due diligence documentation for the project, in order to progress the project to the tendering stage. Whilst architectural fees are one due diligence component, there are numerous others such as – surveying, civil engineering, electrical engineering, hydraulic engineering, project management, cost estimators and others. The Council supported the two storey design scenario at its May 2020 Ordinary Meeting and again at its 12 July Special Meeting, requesting the CEO to proceed on this basis.

Sandra Hough

Will the Shire as a matter of urgency now expedite video live streaming to put us online prior to the next Shire Meeting?

Response

The State Government's recent local government reform agenda has identified that band 3 local governments (i.e. this Shire) should, in the future, be audio recording Council Meetings and making that audio recording available via its website. This Shire has already implemented this practice, ahead of any legislative requirement to do so. As to video live streaming for Council Meetings – funding and implications for this initiative will be investigated through development of the 2022-23 Budget.

Leith Crowley

With regards to previous confidential items, will the Minutes be corrected to make public the resolutions made by Council behind closed doors as per the Local Government (Administration) Regulations? If Council deem that I am incorrect, would they please seek clarification from the Department of Local Government?

Response

The Shire has researched the question from the March OCM and also taken advice from WALGA. Under the *Local Government (Administration) Regulations 1996*, regulation 11 and 13 certainly relate to Minutes and Unconfirmed Minutes, however, these regulations need to be read in concert with regulation 29A and sections 5.23, 5.94 and 5.95 of the *Local Government Act 1995*. Read together, these pieces of local government legislation require that; for the resolution of a confidential agenda item to

be made 'un-confidential', the Council must specifically make a resolution to do so. Therefore, with reference to your question and the example of minutes from the 25 August 2021 Council Meeting and specifically confidential agenda items 12.1.1 and 12.1.2, the confirmed/published minutes are correct.

5.2 PUBLIC QUESTION TIME

6 PRESENTATIONS

6.1 PETITIONS

6.2 PRESENTATIONS

6.3 DEPUTATIONS

Kirup Progress Association will present on the Kirup Mill Park Master Plan.

Kane Glover – Deputation in relation to live streaming.

Rod Atherton – Deputation in relation to V C Mitchell sporting precinct project.

7 CONFIRMATION OF MINUTES

7.1 ORDINARY MEETING OF COUNCIL – 23 MARCH 2022

Minutes of the Ordinary Meeting of Council held 23 March 2022 are attached (attachment 7.1(1)).

EXECUTIVE RECOMMENDATION

That the Minutes from the Ordinary Meeting of Council held 23 March 2022 be confirmed as a true and accurate record.

7.2 LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING – 30 MARCH 2022

Minutes of the Local Emergency Management Committee Meeting held 30 March 2022 are attached (attachment 7.2(1)).

EXECUTIVE RECOMMENDATION

That the Minutes from the Local Emergency Management Committee Meeting held 30 March 2022 be received.

8 REPORTS OF COMMITTEES

8.1 LOCAL EMERGENCY MANAGEMENT COMMITTEE - BALINGUP PROGRESS ASSOCIATION REQUESTS

Location	Balingup Town and Surrounds
Applicant	Balingup Progress Association (BPA)
File Reference	CSV23
Author	Steve Potter, Director Operations
Responsible Manager	Steve Potter, Director Operations
Attachments	8.1 (1) Submission – Balingup Progress Association
Voting Requirements	Simple Majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> Acknowledges the written correspondence submitted by the Balingup Progress Association (BPA) dated 15 March 2022; Notes that it is the BPA's intention to make an application under the Shire's 2022-23 Community Grants Program for the purchase of a 6.8kVA generator for use at the Balingup Recreation Centre in the event of a power outage; Acknowledges the BPA's request for the Shire to submit a formal request to Telstra to increase the battery capacity at key mobile phone tower sites at Balingup and Kirup to provide a minimum of 12 hours battery reserve; Acknowledges the BPA's intent to establish a 'Community Information and Social Centre' at the Balingup Recreation Centre; Acknowledges the BPA's express wish to be able to utilise the 'Sky Muster' facility at the Balingup Recreation Centre at times when the facility is being used as a 'Community Information and Social Centre' rather than only when the place is activated as an 'Evacuation Centre' during a declared emergency; Instructs the Chief Executive Officer to: <ol style="list-style-type: none"> Prepare written correspondence to Telstra to request that battery capacity be increased at key mobile phone tower sites at Balingup and Kirup (and any other applicable sites within the Shire) to provide a minimum of 12 hours battery reserve;

6.2 Prepare written correspondence to NBN Co. indicating the Shire's support for the BPA's request to utilise the 'Sky Muster' facility at the Balingup Recreation Centre at times when the facility is being used as a 'Community Information and Social Centre' rather than only when the place is activated as an 'Evacuation Centre' during a declared emergency;

6.3 Supports the BPA's proposed use of the Balingup Recreation Centre for the purpose of a 'Community Information and Social Centre', subject to agreement being established between the BPA, the Balingup and Districts Sporting Association (BADSA), the Shire and the Department of Communities to ensure there is no confusion with the facility's potential use as a dedicated Evacuation Centre during a declared emergency;

7. Subject to Council approval for the purchase of a generator under Point 2 above, supports the servicing of the generator once per annum, to be funded by the Shire.

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 Shire has received formal correspondence from the Balingup Progress Association (BPA) outlining concerns and initiatives to better prepare the local community in the event of an emergency and/or loss of power / mobile telecommunications.

The Local Emergency Management Committee (LEMC) considered the correspondence at its meeting held 30 March 2022, and resolved to recommend that Council support the BPA's proposals.

The matter is now referred to Council for consideration and it is recommended Council support the recommendations of the LEMC and authorise specific actions in this regard.

BACKGROUND

The Shire has received formal correspondence from the Balingup Progress Association (BPA) which in summary outlines the following:

- Concerns with power outages affecting Balingup and the consequent loss of mobile telecommunications (may or may not be related to an emergency situation);
- Concerns with the lack of a dedicated generator at the Balingup Recreation Centre and challenges associated with transporting the emergency generator located in Donnybrook to Balingup during an emergency;
- The BPA is proposing the establishment of a 'Community Information and Social Centre' at the Balingup Recreation Centre to provide air conditioning, telecommunications and mutual support in the event there are lengthy power outages;
- The BPA has expressed a desire to be able to activate the installed 'Sky Muster' facility at the Balingup Recreation Centre when the facility is being used as a 'Community Information and Social Centre', rather than only when it is being used as an Evacuation Centre.

A full copy of the correspondence is provided at (Attachment 8.1(1)).

The matter was considered at the Local Emergency Management Committee on 30 March 2022, where the following was resolved:

"That the Local Emergency Management Committee:

- 1. Acknowledges the written correspondence submitted by the Balingup Progress Association (BPA) dated 15 March 2022;*
- 2. Notes that it is the BPA's intention to make an application under the Shire's 2022-23 Community Grants Program for the purchase of a 6.8 kVA generator for use at the Balingup Recreation Centre in the event of a power outage;*
- 3. Acknowledges the BPA's request for the Shire to submit a formal request to Telstra to increase the battery capacity at key mobile phone tower sites at Balingup and Kirup to provide a minimum of 12 hours battery reserve;*
- 4. Acknowledges the BPA's intent to establish a 'Community Information and Social Centre' at the Balingup Recreation Centre;*
- 5. Acknowledges the BPA's express wish to be able to utilise the 'Sky Muster' facility at the Balingup Recreation Centre at times when the facility is being used as a 'Community Information and Social Centre' rather than only when the place is activated as an 'Evacuation Centre' during a declared emergency;*
- 6. Recommends that Council:*

6.1 Instructs the Chief Executive Officer to:

- 6.1.1 Prepare written correspondence to Telstra to request that battery capacity be increased at key mobile phone tower sites at Balingup and Kirup (and any other applicable sites within the Shire) to provide a minimum of 12 hours battery reserve;*
 - 6.1.2 Prepare written correspondence to NBN Co. indicating the Shire's support for the BPA's request to utilise the 'Sky Muster' facility at the Balingup Recreation Centre at times when the facility is being used as a 'Community Information and Social Centre' rather than only when the place is activated as an 'Evacuation Centre' during a declared emergency;*
 - 6.1.3 Supports the BPA's proposed use of the Balingup Recreation Centre for the purpose of a 'Community Information and Social Centre', subject to agreement being established between the BPA, the Balingup and Districts Sporting Association (BADSA), the Shire and the Department of Communities to ensure there is no confusion with the facility's potential use as a dedicated Evacuation Centre during a declared emergency;*
- 6.2 Subject to Council approval for the purchase of a generator under Point 2 above, supports the servicing of the generator once per annum, to be funded by the Shire."*

FINANCIAL IMPLICATIONS

- Funding is provided each year for community groups under the Shire's Community Grants Program. The BPA has indicated it intends to make a submission in the 2022-23 round for the purchase of a generator.
- There will be costs involved with servicing the generator on an annual basis, however this would be minimal.

POLICY COMPLIANCE

Not applicable.

STATUTORY COMPLIANCE

Nil.

CONSULTATION

Several meetings and discussions have been held between the BPA, the Shire and Department of Communities, particularly regarding the proposed 'Community Information and Social Centre.'

Further negotiations are likely to be required with Telstra and/or NBN Co. with regard to the requests to provide additional battery capacity at key telecommunication facilities and the proposed use of the 'Sky Muster' facility.

OFFICER COMMENT / CONCLUSION

The BPA should be commended for taking on a leadership role on behalf of the Balingup community and in doing so have identified some key emergency-related issues and opportunities as outlined in their submission.

Shire staff consider such actions as proposed and reflected in the recommended resolution will enhance the local community's capacity to respond in adverse situations and build local resilience and are therefore considered worthy of both the LEMC's and Council's support.

9 REPORTS OF OFFICERS

9.1 DIRECTOR OPERATIONS

9.1.1 KIRUP MILL PARK MASTER PLAN

Location	Kirup Mill Park - Kirup
Applicant	Kirup Progress Association
File Reference	RES 03/1
Author	Steve Potter, Director Operations
Responsible Officer	Steve Potter, Director Operations
Attachments	9.1.1(1) - KPA Strategic Plan 9.1.1(2) - KPA Strategic Plan Addendum – Mill Park Development 9.1.1(3) - KPA Covering Letter 9.1.1(4) - Kirup Mill Park Master Plan 9.1.1(5) - Estimated Costs – Mill Park Development
Voting Requirements	Simple majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Acknowledges the valued contribution of the Kirup Progress Association in producing the Kirup Mill Park Master Plan. 2. Endorses the Kirup Mill Park Master Plan and notes the associated cost estimates to guide the future development of Mill Park and support future applications for grant funding. 3. Requests the Chief Executive Officer to continue to provide in-kind assistance to the Kirup Progress Association to prepare applications for external funding that may become available, for future improvements consistent with the endorsed Kirup Mill Park Master Plan.

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	3.2.2.1	Continue to support, encourage and recognize community volunteers.

EXECUTIVE SUMMARY

Over an extended period the Kirup Progress Association (KPA) and Shire staff have been working collaboratively to prepare a long-term spatial plan for the future development of Mill Park to produce the Kirup Mill Park Master Plan (KMPMP) which is presented to Council for consideration.

Council's endorsement of the KMPMP will provide Council and the KPA with clear guidance for the future development of the locality, whilst providing supporting information to strengthen any future applications for external funding that may become available.

BACKGROUND

Kirup Mill Park (KMP) is an area of mostly vacant parkland of approximately 4.3 hectares in size which is located in the centre of the Kirup townsite on the eastern side of South Western Highway. KMP consists of four separate land parcels comprised of Recreation Reserve, Railway Reserve, Road Reserve and Landscape Protection and Conservation Reserve as per the below plan and table:



Ref.	Lot	Plan	Reserve	Purpose	Size	Management Order
1	8001	P60328	50313	Recreation	1,305m ²	Shire of DB
2	8002	P60328	50314	Railway	7,268m ²	PTA
3	N/A	N/A	Road	Road	15,275m ² (total)	Shire of DB
4	153	P195161	46896	Landscape Protection and Conservation	19,267m ²	Shire of DB

Over recent years, the KPA has been exploring options to improve Mill Park to create an enticing precinct that encourages visitors to break their journey and support local businesses whilst also providing a central meeting place for holding local community events and the like.

The importance of the future development of Mill Park is reflected in the KPA's Strategic Plan which identifies the development of Mill Park as a priority in accordance with the following strategic actions:

Outcome	Objective	Strategies	Suggested Actions
1. An attractive visitor and tourism destination	1.1 Create a reason to make visitors stop and experience what Kirup has to offer.	1.1.1 Develop Kirup Mill Park into a unique and attractive visitor's rest stop.	1.1.1.1 Liaison with Shire and other authorities to arrange land survey and other requirements. 1.1.1.2 Revise and finalise Concept Plan following community's feedback (as per Addendum). 1.1.1.3 Identify funding requirements and work with all stakeholders and community members to deliver a staged project.

A full copy of the KPA's Strategic Plan is provided in Attachment 9.1.1(1).

The development of Mill Park is further addressed in the 'Addendum' to the KPA's Strategic Plan which outlines desired outcomes to enhance the precinct which is provided in Attachment 9.1.1(2).

It is noted that approximately \$80,000 was recently allocated to improvements at Mill Park under the federal Drought Communities Program (DCP) funding, which, in combination with the Shire's townscape funds (\$5,750), have enabled improvements to be made to Mill Park during this financial year including connecting asphalt footpaths, a drink fountain, landscaping and an improved exposed aggregate picnic hardstand area. Provision has also been made for additional vegetation planting during the pending cooler months.

The process of undertaking these works has coincided with the development of the Kirup Mill Park Master Plan which is the result of a collaborative effort between the KPA and Shire staff.

Copies of a covering letter submitted by the KPA and the proposed Kirup Mill Park Master Plan (KMPMP) are provided at Attachments 9.1.1(3) and 9.1.1(4). The KPA, with Shire assistance, has also compiled indicative costs for the proposed works which are reflected in the cost estimates provided in Attachment 9.1.1(5).

FINANCIAL IMPLICATIONS

Council generally makes provision in its Annual Budget for townscape activities in Kirup in accordance with Council Policy COMD/CP-4 (Community Townscape Activities). Under the Policy, the annual allocation to Kirup townscape activities equates to 50% of the Shire contribution made to Balingup and Donnybrook townsites. In the 2021/22 year, the allocated amount was \$5,750.

Identified works as outlined in the KMPMP are estimated at approximately \$352,000 (not including contingency) with the most significant items being the future provision of a toilet block (\$126,500) and adventure playground (\$165,000).

It is noted that whilst the annual allocations from the Shire may enable some of the smaller outcomes to be achieved, for the KMPMP to be fully realised, it will largely depend on the success of securing external funding through the State / Federal Governments and/or other funding bodies such as Lotterywest.

POLICY COMPLIANCE

Council Policy COMD/CP-4 (Community Townscape Activities)

STATUTORY COMPLIANCE

Nil.

CONSULTATION

The development of the KMPMP has involved ongoing collaboration between the KPA and the Shire.

OFFICER COMMENT/CONCLUSION

The creation of the KMPMP has been the culmination of cooperation between the KPA and Shire staff to establish a long-term plan for Mill Park that is in alignment with the KPA's endorsed Strategic Plan.

The KPA have demonstrated through the creation of the KPA Strategic Plan and the subsequent KMPMP that they are well-organised, strategically focused and committed to improving Kirup, and should be commended for taking on a proactive leadership role in this regard.

It is acknowledged that there are both up-front capital and ongoing maintenance considerations for developments of this type, however investment in public infrastructure as identified in the KMPMP will support the ongoing viability of Kirup as a town, potentially attract new residents, and encourage visitors to stop and support local businesses. Establishing Kirup as a vibrant and attractive town site on the South Western Highway will further enhance the reputations of both the town and the Shire as a whole.

Whilst only limited funds may be available from the Shire, the KMPMP and associated documentation is likely to provide a solid foundation for future applications for external funding and therefore is recommended for Council's endorsement.

9.1.2 KIRUP MILL PARK – LAND ADMINISTRATION

Location	Landgate Land ID 3443897 (Mill Park, Kirup)
Applicant	Kirup Progress Association / Shire of Donnybrook Balingup
File Reference	A3617
Author	Kira Strange, Principal Planner
Responsible Manager	Steve Potter, Director Operations
Attachments	9.1.2(1) – Lot Plan 9.1.2(2) – Proposed Road Closure 9.1.2(3) – Lease Request to PTA/Arc Infrastructure 9.1.2(4) – Crown Land Enquiry for Reserves
Voting Requirements	Simple Majority

Recommendation	
<p>That Council:</p> <ol style="list-style-type: none"> 1. Pursuant to Section 58 of the <i>Land Administration Act 1997</i>: <ol style="list-style-type: none"> a. Advertises the proposed closure of a portion of the unconstructed road identified as Landgate Land ID 3443897 between Brookhampton Road and South Western Highway, Kirup, as depicted in Attachment 9.1.2(2); b. Authorises the Chief Executive Officer to request the Minister for Lands to close the road subject to: <ol style="list-style-type: none"> i. No objections being received by the general public, surrounding landowners and/or relevant external agencies; and ii. All associated costs with the request being borne by the Shire. 2. Pursuant to Section 51 of the <i>Land Administration Act 1997</i>, requests the Minister to: <ol style="list-style-type: none"> a. Cancel Reserve 50313 (applicable to Lot 8001); b. Incorporate Lot 8001 and the land the subject of the road reserve (portion of Landgate Land ID 3443897) into Reserve 46896 (presently applicable to Lot 153 only) to create a consolidated Reserve; c. Change the purpose of the newly consolidated Reserve (Lots 8001 & 153 and the subject portion of Landgate Land ID 3443897) to ‘Public Recreation, Community and Parkland’ (or similar as advised by the Department of Planning, Lands and Heritage); and d. Amend the Shire’s Management Order over the newly consolidated Reserve (Lots 8001 & 153 and the subject portion of Landgate Land ID 3443897) to include the power to lease and/or licence. 	

STRATEGIC ALIGNMENT

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

Outcome	2.1.	An attractive and maintained built environment
Strategy	2.1.2.	Provide effective and efficient regulatory services
Action	2.1.2.2	Provide efficient and effective building services

EXECUTIVE SUMMARY

The Kirup Progress Association (KPA) are working towards re-developing Kirup Mill Park in the townsite of Kirup. Currently, the park area comprises of a number of separate land parcels including, road, rail, recreation and landscape reserves. In order to consolidate and formalise the use of this public park for recreation and community purposes, the Shire will need to undertake a number of land administration processes as outlined in this report.

Land administration tasks are generally administered by the Local Government in accordance with the *Land Administration Act 1997* (LAA) and *Land Administration Regulations 1998* (LAR).

It is recommended that Council supports the required land administration tasks to be undertaken by staff and forwarded to the Minister for Lands for approval subject to no issues and/or objections being identified.

BACKGROUND

Mill Park, Kirup, is comprised of four different land parcels as outlined in Attachment 9.1.1(1) and the image / table below:

Ref.	Lot	Plan	Reserve	Purpose	Size	Management Order
1	8001	P60328	50313	Recreation	1,305m ²	Shire of DB
2	8002	P60328	50314	Railway	7,268m ²	PTA
3	N/A	N/A	Road	Road	15,275m ² (total)	Shire of DB
4	153	P195161	46896	Landscape Protection and Conservation	19,267m ²	Shire of DB



Figure 1 - Extract of Attachment 1: Kirup Mill Park

In addition, the Shire currently holds a lease from Arc Infrastructure on behalf of PTA for a portion of the western side of the rail reserve (Ref. 2) as indicated in Attachment 9.1.2(3) and the below image.



Figure 2 - Extract of Attachment 3 - Lease Area

In order to consolidate the existing land tenure to formalise Kirup Mill Park, the following tasks will need to be undertaken to ensure they are consistent with the use and intended development of the area:

- A. Request an additional lease from PTA to formalise the use of the eastern portion of the railway reserve (50314) and inclusion into Mill Park as depicted in Attachment 9.1.2(3); and
- B. Cancellation of Reserve 50313 for the inclusion of Lot 8001 into Reserve 46896;
- C. Formally closing a portion of the unconstructed road reserve that traverses the park for inclusion into the consolidated Reserve 46896;
- D. Change the purpose of the consolidated Reserve 46896 to 'Public Recreation, Community and Parkland' or similar as advised by the Department of Planning Lands and Heritage (DPLH); and
- E. Amend the Shire's Management Order over Reserve 46896 to including the power to lease or licence.

With reference to Point A, a request has been forwarded to PTA with regards to a lease (Attachment 9.1.2(3)). In addition, a preliminary Crown Land Enquiry has been submitted to the DPLH regarding Points B, D and E above (Attachment 9.1.2(4)).

The purpose of this report is to formally proceed with the above land administration tasks including formally closing a portion of the subject road as per Point E and as indicated in Attachment 9.1.2(2).

FINANCIAL IMPLICATIONS

Generally, all costs associated with road closure requests are the responsibility of the applicant as required by the Local Government and/or the DPLH.

However, the Shire is assisting the KPA to progress the project and therefore Council will need to consider the costs associated with the road closure including but not limited to:

- Advertising costs;
- Surveying; and
- Plan/document preparation.

This project is not specifically budgeted however there is a 'Land Administration' account (G/L 175620) relevant to matters such as this. It is estimated that costs to undertake the identified administrative tasks would be in the vicinity of \$3000-5000, which would be incurred subsequent to the advertising process and would likely fall within the 2022/23 financial year.

POLICY COMPLIANCE

Local Planning Policy 9.9 Road Closure (LPP 9.9) outlines the following parameters relevant to a request of this nature:

- 1. Council will not support the closure of any gazetted public road which has any possibility whatsoever of being utilised. There is a general presumption against the closing of roads.*
- 2. Council will however consider the closure of a gazetted road where it will have no impact upon legal practical access to any property and will result primarily in the rationalisation of land and roads within the Shire.*
- 3. In the event that Council supports the closure of a road the proponent will be liable for all costs involved with the road closure.*

In this case, the proponent is the Shire in consultation with the KPA and therefore Council will need to agree to the associated costs as per clause 3 above.

In this regard, a preliminary review of the proposal confirms that the proposed closure meets the requirements of LPP 9.9 and can be considered by Council.

STATUTORY COMPLIANCE

A request to the Minister to cancel, change or amend reserves is to be made in accordance with Section 51 of the LAA.

A request to the Minister for Lands to formally close a road reserve is to be made in accordance with Section 58 of the LAA including the requirement to advertise the closure for a period of no less than 35 days.

For the purposes of preparing a request under the LAA, the Local Government must also adhere to the requirements of Regulation 9 of the LAR.

In summary, the request to the Minister must be accompanied by:

- A written, in-principle agreement from the landowner/applicant to purchase the land identified for closure;
- Plans of the location of the road and portion to be closed;
- A copy of the Council Resolution(s) to initiate and support the proposed closure;
- A copy of the public advertisement/notification (required for a period of no less than 35 days);
- Copies of any submission(s) received during the public/advertisement period;
- The Local Government's assessment of the comments received; and
- Any other relevant information.

With regards to the first point, the Shire is requesting the closed road reserve be amalgamated with the adjoining Crown reserve with management order given to the Shire. Therefore, the Shire is not agreeing to purchase the reserve as it will remain in ownership of the Crown with care and control to be the responsibility of the Shire.

CONSULTATION

In accordance with the LAA, the proposed right of way / road closure will be advertised to the general public in a newspaper circulating the district with comments invited for a period of no less than 35 days. In addition, letter notifications are provided to surrounding landowners inviting direct comment on the proposed closure.

In this case, the surrounding parcels are Crown land with one parcel under the management of the Public Transport Authority (PTA). There is also a significant industry (packing shed) on land in close proximity to the proposal. As a result, both the PTA and the owners of the packing shed will be directly contacted for comment.

During a preliminary review, a Dial Before You Dig enquiry resulted in four responses from agencies identifying assets within the area: Water Corporation, Western Power, PTA and Telstra.

In this regard, the proposed road closure will be referred to relevant external agencies including but not limited to:

- Western Power;
- Telstra;
- Water Corporation;
- Main Roads Western Australia;
- Department of Planning Lands and Heritage including the Western Australian Planning Commission;
- Department of Mines, Industry Regulation and Safety;
- Department of Biodiversity, Conservation and Attractions;
- Department of Water and Environmental Regulation; and
- Department of Fire and Emergency Services.

OFFICER COMMENT/CONCLUSION

Reserves are allocated Crown Land generally with a management order allocated to an authority with a specific purpose. Similarly, road reserves are generally under the care and control of the local government (except for main roads under the care and control of Main Roads WA). Reserves with specific management orders or purposes (i.e. road, conservation, railway) are set aside specifically and therefore cannot theoretically be used for any other purposes, such as a public park.

In order to rectify this and consolidate and formalise the use of Kirup Mill Park, the Shire will need to proceed with the relevant land administration tasks, most notably, the formal closure and amalgamation of the road reserve with the adjoining reserve.

A preliminary assessment of the proposed road closure indicates the following:

- The subject road reserve is unconstructed;
- The Shire's Works and Services team have advised that there are no current or future plans for the construction of a road within this road reserve;
- The road reserve adjoins South Western Highway which is a Main Roads WA controlled road; and
- No surrounding parcels of land require access from this reserve.

It is highly unlikely that this road reserve will be utilised in the future, nor will it impact current legal access provisions to surrounding parcels. The proposed road closure complies with LPP 9.9 and can be supported by Council subject to no objections being received by external agencies and/or the general public.

The KPA has consulted with the Shire regarding their overall plan for Mill Park, as presented to Council. To facilitate their formal use of this land, the management order should be for the appropriate purpose as well as grant the Shire the power to formally allow the KPA to use the land via a licence.

It is therefore recommended that Council resolve in accordance with the Officer's recommendation.

9.1.3 ROAD SEALING REQUEST INVOLVING PRIVATE CONTRIBUTION - YABBERUP ROAD, YABBERUP

Location	Yabberup Road - Yabberup
Applicant	John and Dale Jansen
File Reference	A2240
Author	Damien Morgan - Manager Works and Services Steve Potter – Director Operations
Responsible Manager	Steve Potter – Director Operations
Attachments	9.1.3(1) - Extent of Requested Yabberup Road Upgrade 9.1.3(2) – SoDB Unsealed Roads Upgrade Plan 9.1.3(3) – Email Correspondence – Lot 1451 Owners
Voting Requirements	Simple majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Instructs the Chief Executive Officer to allocate \$120,000 (ex GST) when preparing the 2022/23 Shire of Donnybrook Balingup draft Annual Budget, for the purpose of upgrading 550m of Yabberup Road to a sealed standard (commencing from the end of the existing sealed section), subject to the following cost apportionment: <ol style="list-style-type: none"> a. \$35,000 - Shire funding; and b. \$85,000 - External private contributions 2. Subject to Council's support for Point 1, instructs the Chief Executive Officer to formally communicate to Mr and Mrs Jansen that: <ol style="list-style-type: none"> a. The final 2022/23 Annual Budget approved by Council may or may not include the allocation identified in Point 1, depending on the capacity of the Budget to accommodate the Shire's contribution; b. If the project is approved under the adopted 2022/23 Annual Budget, the private contribution of \$85,000 will be required to be received prior to any works being commenced; c. In the event that the private \$85,000 contribution is not received within the 2022/23 financial year, the project will not be automatically 'rolled over' into 2023/24 and will require re-consideration by Council; d. The applicant is advised that in the event that the \$85,000 private contribution is not forthcoming at all, the Shire is unlikely to seal the relevant portion of Yabberup Road in the future, due it being a low priority road. e. The timing of works (if funding is approved) will be at the discretion of the Shire.

3. Subject to the project being included in the adopted 2022/23 Annual Budget, instructs the Chief Executive Officer to include \$15,000 in the 2023/24 draft Annual Budget for the second coat seal.

STRATEGIC ALIGNMENT

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

Outcome	2.1	An attractive and maintained built environment
Strategy	2.1.1	Maintain, renew and improve infrastructure within allocated resources
Action	2.1.1.3	Develop and implement capital works plan
Outcome	4.2	A respected, professional and trusted organisation
Strategy	4.2.1	Effective and efficient operations and service provision
Action	4.2.1.1	Maintain effective and efficient policies, planning, operating procedures and practices

EXECUTIVE SUMMARY

The owners of Lot 1451 Yabberup Road have made a request to Council to upgrade the gravel section of Yabberup Road to a sealed standard from the end of the existing sealed section, for a distance of 550m. The request has been made based on the owners contributing \$85,000 towards the cost of the works.

BACKGROUND

Yabberup Road is located within the locality of Yabberup and provides access to several rural properties in the area. The first 1.1km of the road is sealed and the remainder is unsealed. The sealing of this section of road will improve access for six properties.

Yabberup Road ends at the Wellington Forest boundary, where it connects with Austin Road, which is under the responsibility of the Department of Biodiversity, Conservation and Attractions (DBCA).

The owners of Lot 1451 Yabberup Road - Yabberup approached the Shire in January 2022 to request the extension of the seal on Yabberup Road from its current end point to their crossover, approximately 550m (Attachment 9.1.3(1)).

Requests of this nature are assessed by officers in accordance with the Shire of Donnybrook Balingup *Unsealed Roads Upgrade Plan* (Plan, Attachment 9.1.3(2), to determine the priority of the requested works.

This plan determines the priority for requests to seal gravel roads based on several factors including:

- road usage
- strategic significance,
- crash history,
- network connectivity
- Tourism.

When assessed by officers in accordance with the Plan, the priority for the Shire to seal the remaining gravel section of Yabberup Road was determined to be low.

Historically, the Shire has still considered the sealing of low priority gravel roads when property owner/s contribute towards the cost of the works. Council has typically only considered these requests when the following criteria are met;

- Property owner/s are proposing to contribute at least 50% of the cost of the upgrades.
- The standard of the works is to the Shire's satisfaction.
- Works are completed by the Shire, or a contractor approved by the Shire.
- Council's contribution towards the works being typically limited to maximum amount of \$50,000.

Historically this approach has largely been applied to land owners seeking to reduce dust from gravel roads adjacent to a residential dwelling.

Subsequent to being provided with this information and obtaining an estimated cost for the works, the applicants have confirmed (Attachment 9.1.3(3)) that in-principle, they support the works being undertaken in accordance with the below:

- The minimum required standard for the upgrade of this section of road to a sealed standard, would be to achieve a 6m wide seal (2 coats), with suitable gravel shoulders.
- The estimated cost for the Shire to undertake this work for the requested 550m is \$135,000 (ex GST), which makes allowance for
 - Preliminaries, pre-planning, and site establishment;
 - Traffic management;
 - Supply and delivery of suitable gravel road base;
 - plant and labour costs for the upgrade works;
 - A first coat seal: and
 - A second coat seal, to be installed 12 months after the first coat is applied.
- The applicant's contribution to the works would be \$85,000 (ex GST).

- The Shire contribution for the financial year that the upgrade works are to be undertaken is \$35,000 (ex GST)
- The Shire would also then be responsible to allocate a further \$15,000 (ex GST) in the following financial year for second coat seal, taking the Shire total contribution to \$50,000 (ex GST) over two financial years.

FINANCIAL IMPLICATIONS

The total estimated cost for the sealing of Yabberup Road for 550m is \$135,000. If the project is ultimately adopted by Council in the 2022/23 Annual Budget, the Shire would be responsible for the following funding amounts:

- \$35,000 (2022/23)
- \$15,000 (2023/24) (second coat seal)

The applicants would be responsible for funding \$85,000, which would be required to be received prior to the works being undertaken.

POLICY COMPLIANCE

Up until the Special Council Meeting held on 21 December 2021, Council Engineering Policy 4.28 “*Request for Upgrades or Expansions of Council Assets*” was in effect and was the basis for how requests of this nature were considered.

The policy was rescinded as a Council policy at the meeting, as its content was determined to be of an operational nature and going forward, is to be classified and implemented as an “Operational Policy” in accordance with Council’s Policy Framework.

It is noted that this is still a work in progress, however in the interim, officers have applied principles of the former policy to achieve a level of consistency in terms of how these types of requests are handled.

STATUTORY COMPLIANCE

Nil

CONSULTATION

Officers have undertaken regular consultation with the applicants in relation to the request.

OFFICER COMMENT/CONCLUSION

The upgrading of the outlined section of Yabberup Road is a low priority when assessed against the Shire of Donnybrook Balingup *Unsealed Roads Upgrade Plan*. However, the

owners are proposing to fund almost 63% of the works, which may warrant further consideration of the proposal.

The sealing of this section of road will have benefits to the Shire's gravel road maintenance requirements in the Yabberup area, along with the benefits that it provides to the six properties who regularly use this section of road.

It is considered that the proposed works warrant further consideration through the draft budget process, however given budgetary constraints, Council will need to determine at the appropriate time whether the adopted 2022/23 Annual Budget is ultimately able to accommodate the request.

9.1.4 DONNYBROOK HISTORICAL GOLD MINE SHAFTS

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	DEP 56
Author	Steve Potter, Director Operations
Responsible Officer	Steve Potter, Director Operations
Attachments	9.1.4(1) - Location Plan 9.1.4(2) - DPLH Heritage Assessment 9.1.4(3) - Shire Letter to Minister (1) 9.1.4(4) - Minister Response (1) 9.1.4(5) - Shire Letter to Minister (2) 9.1.4(6) - Minister Response (2)
Voting Requirements	Simple majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Acknowledge the safety concerns of the Department of Biodiversity, Conservation and Attractions (DBCA) and the Department of Mines, Industry Regulation and Safety (DMIRS) with regard to historical gold mines located in State Forest 27 (Upper Capel). 2. Acknowledge the position of the Donnybrook Historical Society (DHS) that the historical mine shafts hold significant heritage value to the local community. 3. Acknowledges that safety measures need to be put into place, however supports an approach that seeks to identify an alternative solution than backfilling to protect the historical integrity of the mine shafts. 4. Instructs the Chief Executive Officer to: <ol style="list-style-type: none"> 4.1 Advocate for a solution that achieves a public safety outcome, whilst protecting the historical integrity of the historical mine shafts, through liaising with relevant authorities, agencies and elected members and which may include the creation of a Memorandum of Understanding between key stakeholders for sharing responsibilities; and 4.2 Forward a letter correspondence to DBCA and DMIRS to request support (financial and in-kind) to develop a web-based 'historic, interactive virtual tour' of the Donnybrook goldmines. 5. Instructs the Chief Executive Officer to include the Donnybrook Historical Gold Mines in the next iteration of the Shire's Local Heritage Survey (or equivalent) for possible inclusion on the Shire's future Heritage List to be adopted under the Local Planning Scheme (subject to assessment).

STRATEGIC ALIGNMENT

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

Outcome	2.2	Respected heritage assets
Strategy	2.2.1	Maintain Shire heritage assets within available resources
Action	2.2.1.4	Collaborate with relevant organisations to maintain heritage assets

EXECUTIVE SUMMARY

Over the past 12-18 months Councillors have received two presentations and Staff have had ongoing liaison with representatives of the Department of Mines, Industry Regulation and Safety (DMIRS) and the Department of Biodiversity, Conservation and Attractions (DBCA) regarding abandoned historical mine shafts located in State forest in proximity to the Donnybrook town site.

It is the view of DBCA and DMIRS that the abandoned mineshafts pose a public safety risk and have identified specific shafts deemed to pose the most significant risk which they consider should be backfilled. Whilst it is acknowledged that in the earlier stages of discussions with DMIRS / DBCA, the Shire may not have indicated an objection to proposed backfilling, as further information has come to light, particularly through discussions with the Donnybrook Historical Society (DHS), staff have formed the view that the mine shafts hold significant local heritage value and therefore, if possible, should be preserved, whilst being made safe in an alternative manner. Further, it is suggested that more could be done to recognise and interpret the historical significance of gold mining to Donnybrook.

It is recommended that Council support this position and request the CEO to advocate for an alternative approach to achieving public safety that maintains the heritage fabric of the mine shafts. In addition, it is recommended that the CEO be requested to liaise with relevant agencies to request financial and other support to interpret and officially recognise the historical significance of the site, which should also be captured in future reviews of the Shire's Local Heritage Survey (or equivalent) for potential inclusion in a future Shire Heritage List.

BACKGROUND

The abandoned Donnybrook mine shafts are located within a small area of State Forest approximately 2km south of Donnybrook between Goodwood Road and Upper Capel Road. The area was mined for gold between 1897 and 1903 and a number of the historical mine workings remain in the locality.

This area is managed by the Department of Biodiversity, Conservation and Attractions (DBCA) and is bordered by rural residential properties to the north. A plan demonstrating the location of the site and a survey of abandoned mine shafts is provide in Attachment 9.1.4(1).

In May 2018, DBCA reported the presence of the subject historical mine shafts to the Department of Mines, Industry Regulation and Safety (DMIRS) Abandoned Mines Program (AMP).

In November 2019 a presentation was made by DMIRS staff to Council outlining the AMP program and options for risk mitigation. The Shire understands this consultation was part of broader consultation by DMIRS staff which included neighbouring landowners, the South West Aboriginal Land and Sea Council (SWALSC) and the Donnybrook Historical Society (DHS).

In 2020 the matter was also referred to the Department of Planning, Lands, and Heritage (DPLH), under the provisions of the Government Heritage Property Disposal Process (GHPDP), which assessed the site for heritage value and formed the following conclusion:

“...while P26383 Donnybrook Goldfield [incl. P26360 Donnybrook Gold Mining Area, West of Upper Capel Rd, Argyle Forest Block / Boyanup State Forest] may have some cultural heritage value, it is unlikely to have the cultural heritage significance required to meet the condition for entry in the State Register under section 38 of the Heritage Act 2018, and therefore does not warrant a full assessment.”

A full copy of DPLH's correspondence and heritage assessment is provided in Attachment 9.1.4(2).

After a period of relative slow progress, in July 2021, the profile of the abandoned mine shafts increased when a local pet dog fell down one of the shafts and required rescuing by emergency services staff and volunteers. This resulted in the former Shire President being required to address the media and as a result, the Shire sought a further update from DMIRS at this time as to the status of the abandoned mines project.

As the matter further progressed, the Shire became aware of the DHS's concerns with DMIRS/DBCA's preference for addressing the safety risk by backfilling the shafts, which the DHS considered would result in the permanent loss of what was viewed as an important historical asset. The Shire and the DHS subsequently forwarded letter correspondence, co-signed by both parties, to the Minister for Mines and Petroleum in December 2021 which in summary:

- expressed concerns with the consultation process undertaken;
- reaffirmed a commitment to making the shafts safe, however expressed opposition to backfilling which was seen as destructive;
- expressed concerns with the geotechnical investigation undertaken of the locality;
- indicated support for fencing off the shafts as opposed to backfilling, which could potentially include a MOU being established for ongoing inspection / maintenance.

The correspondence went on to request the Minister:

1. Immediately suspend the procurement process to backfill the shafts, until the Shire and DHS had an opportunity to discuss alternative remediation solutions;
2. Provide key stakeholders, interested parties and the general public the opportunity to make submissions regarding the reports and plans for remediation (backfilling).

A full copy of the correspondence is provided in Attachment 9.1.4(3).

In response, the Shire received correspondence in January 2022 from the Acting Minister for Mines and Petroleum which contained the following points:

1. *The heritage assessment undertaken followed due process and took the added precautionary approach by engaging with both the Shire of Donnybrook Balingup and the Donnybrook Historical Society before any works were scoped to ensure that any additional concerns could be taken into consideration as part of the project planning phase.*
2. *The stakeholder engagement records indicate:*
 - a. *Stakeholder engagement associated with the Donnybrook Shafts project was initiated in 2019 and has been ongoing since this time with the objective to ensure all interested parties were aware of the proposed work and technical recommendations ensuing from each stage of the works program.*
 - b. *Engagement with the Shire of Donnybrook Balingup commenced in April 2019 with meetings conducted with Shire representatives in September 2019, November 2019, September 2020 and October 2021. Endorsement for the project from the Shire was received in January 2020 following the November 2019 presentation which included a number of possible remediation options (including backfilling).*
 - c. *Communication and engagement with neighbouring properties began in November 2019 and has been on an ongoing basis since this time.*
 - d. *The AMP initiated stakeholder engagement with the Donnybrook Historical Society in November 2019 following referral by the Shire. The AMP documented 22 separate meetings, phone calls and email communications with the Historical Society.*
 - e. *COVID-19 restrictions delayed some of the field investigations and shifted some stakeholder engagement to emails and phone calls over the preferred face-to-face meetings.*
 - f. *The AMP has communicated to each stakeholder throughout the project that geotechnical engineers would be engaged to determine the optimal remediation option based on the geotechnical investigations.*
 - g. *The AMP is open to direct feedback on published reports and ongoing projects at any time and stakeholder concerns can be raised directly through contact details available on the DMIRS web page Abandoned Mines Program (dmp.wa.gov.au) or via email AbandonedMines@dmirs.wa.gov.au*

3. *In relation to the specifics of the geotechnical survey:*

- a. *The geotechnical survey was undertaken by qualified and industry recognised geotechnical engineers.*
 - b. *DMIRS Inspectors of Mines - Geotechnical from the Mines Safety Directorate reviewed and provided input to*
 - (i) *The scope of works prior to the engagement of the geotechnical engineering firm*
 - (ii) *The geotechnical investigation report*
 - (iii) *The remediation report*
 - c. *The recommended backfilling procedure is industry standard to backfill mineshafts in Australia and other countries. Backfill can be seen to preserve features, preventing further ground collapse due to weathering and enabling surface features such as waste spoil collars to remain visible and intact.*
 - d. *The Remediation solution considerations were not preferentially ranked, the matrix summarised each options suitability against the relevant remedial considerations. The recommendation provided (backfilling with soil) is specific to this project in relation to the risk profile of the site.*
 - e. *The remediation program is only targeted at the 10 high priority shafts, not all known shafts within the forest block.*
4. *In relation to the procurement process to undertake remediation earthworks in the forest block, this work cannot proceed without works approvals yet to be authorised by DBCA and as such was placed on hold on 7 December 2021, pending that approval. As the project area is located within DBCA managed lands, all approvals for access or to undertake any works are required to be authorised by DBCA.*

The correspondence goes on further to state:

“Given the significant level of concern from the Donnybrook community following the rescue of the dog Sage from an old shaft in July 2021 and calls to have all shafts backfilled due to safety concerns, upon consideration it would appear that the current approach to addressing the safety issues through the risk based approach which has been adopted by the AMP will potentially achieve two outcomes:

- *Address the immediate risks to areas which are readily accessible by bushwalkers and forestry workers by backfilling the 10 high priority features (shafts) identified; and*

- *Highlight the mining history of the area and the risks associated with such areas through the key messaging of Stay out, stay safe and report abandoned mine features.*

The AMP is also supportive of a formal agreement being reached between DBCA and the Shire (should the Shire be considering this option), where the long-term management of the shafts would address the known risks associated with the project area. As such, I would strongly encourage you to engage directly with the AMP to work towards a solution that manages the risks and meets the requirements of the Shire.”

A full copy of this correspondence is provided at Attachment 9.1.4(4).

In December 2021, the Shire / DHS forwarded further correspondence to the Minister for Heritage with regard to the DPLH’s heritage assessment of the site (as per Attachment 9.1.4(2)). In summary the correspondence contends that the heritage assessment was inherently flawed and ignored vital evidence that may have drawn a different conclusion.

A full copy of this correspondence is provided at Attachment 9.1.4(5).

In February 2021, the Shire received a response from the Minister which in summary advises:

- The Minister will advise the Department of Planning, Lands and Heritage of the request and forward the material provided. The Department will consider whether the additional information warrants review by the Heritage Council;
- A determination of the Heritage Council as to State heritage significance does not affect the significance of the place at the local level or its recognition as such. Places of local heritage significance should be recognised by inclusion in the Shire’s Local Heritage Survey (formerly Municipal Heritage Inventory) and/or protected by inclusion on the Shire’s Heritage List established under the Shire’s Local Planning Scheme;
- The Minister has been advised that backfilling the mine shafts is necessary due to the safety risk they pose and that the proposed methodology aims to have as little impact on the extant historical fabric as possible.

A full copy of this correspondence is provided at Attachment 9.1.4(6).

A further face to face meeting was held in February 2022, which was attended by DMIRS, DBCA, Shire Staff, the Shire President and the DHS. Whilst no specific agreements were reached, DBCA and DMIRS staff further reiterated it was their preference to address the matter via the backfilling option. Further they advised that tenders had been sought for the works, however had been put on hold pending further statutory approvals and resolution of concerns raised by the Shire and the DHS.

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Nil.

CONSULTATION

There has been ongoing liaison between the various stakeholders over the past 18 months including two separate presentations to the Shire Councillors by DMIRS staff.

OFFICER COMMENT/CONCLUSION

It is evident that this is a complex matter involving a range of stakeholders and perspectives. Whilst generally, there is agreement from all parties that something needs to be done from a public safety perspective, there are differing views on what this should entail.

It is acknowledged that in early discussions with DMIRS the absence of any objection from the Shire may have been interpreted as support for the backfilling of the shafts, and there may even be correspondence at an officer level that infers some level of support. However, it is fair to say that at that time Shire staff knew very little about the historical significance of the mine shafts which have been in a relatively unknown location for over 120 years.

As part of the consultation process Shire staff have visited the sites with the DHS, which has revealed that there are a significant amount of the original timber structures remaining that would potentially be buried if the backfilling option were to proceed.

As goldmining is pivotal to the very existence of Donnybrook, and the mineshafts are the last remaining physical evidence of this history, staff and the DHS have formed the opinion that there is a strong argument for exploring alternative options for achieving a public safety outcome, without backfilling and thereby destroying the physical fabric. To this effect, the Shire and DHS have suggested that fencing may be a viable alternative option, noting that this may require an ongoing inspection / maintenance regime. It has been suggested by the Shire / DHS that this could be addressed via a Memorandum of Understanding or similar with the DBCA to address this aspect.

The raising of the profile of the historical mineshafts has also in the view of Shire staff and DHS potentially provided an opportunity for improved recognition and interpretation of this important part of Donnybrook's history. It is understood that DMIRS have undertaken LIDAR imaging of the shafts and this and other information garnered through the assessment process could be used to establish a web-based virtual tour celebrating the goldmining history of the locality and providing an educational package for school children, locals and visitors. To this effect, it is recommended that the Shire further liaise with the DBCA / DMIRS to seek financial and in-kind support to develop such a package.

Finally, it is noted that the historical mineshafts, presumably because little was known about them, have not previously found their way into the Shire's Municipal Heritage Inventory (MHI) which was last updated in 2013. The Shire currently has a grant application pending to review its MHI, however, regardless of the outcome of the grant application, will need to review the document in the near future as it is required to be reviewed every five years. It is recommended that any future iteration of the MHI / Local Heritage Survey, include the Donnybrook Historical Goldmines, which subject to assessment, may result in them being identified as being suitable for inclusion in any future version of a Shire Heritage List.

9.2 DIRECTOR CORPORATE AND COMMUNITY

9.2.1 ACCOUNTS FOR PAYMENT

The Schedule of Accounts Paid under Delegation (No 3.1) is presented for public information (attachment 9.2.1(1)).

9.2.2 MONTHLY FINANCIAL REPORT – MARCH 2022

The Monthly Financial Report for March 2022 is attached (*attachment 9.2.2(1)*).

EXECUTIVE RECOMMENDATION

That the monthly financial report for the period ended March 2022 be received.

9.3 CHIEF EXECUTIVE OFFICER

9.3.1 ANNUAL REVIEW OF DELEGATIONS REGISTER 2021/2022

Location	Donnybrook Balingup
Applicant	Not applicable
File Reference	Not applicable
Author	Loren Clifford – Corporate Planning and Governance Officer
Responsible Officer	Loren Clifford – Corporate Planning and Governance Officer
Manager	Maureen Keegan – Manager Executive Services
Attachments	9.3.1(1) - Delegations Register 9.3.1(2) - Amended Delegations
Voting Requirements	Absolute majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> Notes completion by Council as the Delegator, of the 2021/2022 annual statutory review of the Delegations Register. Approves, by ABSOLUTE MAJORITY the delegations, inclusive of amendments as detailed in Attachment 9.3.1(1) – Delegations Register.

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

The purpose of this report is for Council to receive the annual statutory review of the Delegations Register, in accordance with s.5.18 and 5.46(2) of the *Local Government Act 1995*, s.47(2) of the *Cat Act 2011* and s.10AB (2) of the *Dog Act 1976*.

BACKGROUND

Council last reviewed its delegations register on 23 June 2021, this review provided a comprehensive overview and understanding of the legislative framework that informs the mandatory and discretionary decision-making roles undertaken by local government.

FINANCIAL IMPLICATIONS

Not applicable

POLICY COMPLIANCE

Not applicable

STATUTORY COMPLIANCE

- section 5.42(1) of the *Local Government Act 1995*;
- section 45 of the *Cat Act 2011*;
- section 10AA of the *Dog Act 1976*;
- section 16 of the *Graffiti Vandalism Act 2016*;
- section 127 (1) and (3) of the *Building Act 2011*;
- section 48 and 59(3) of the *Bush Fires Act 1954*;
- section 118 of the *Food Act 2008*;
- section 26 of the *Health (Miscellaneous Provisions) Act 1911*;
- section 21 of the *Public Health Act 2016*; and
- regulation 15D(7) of the *Health (Asbestos Regulations 1992)*

CONSULTATION

Not applicable.

OFFICER COMMENT/CONCLUSION

An analysis of the legislation and local laws listed below has been undertaken to identify and determine opportunities for delegations from Council to Committees, Council to Chief Executive Officer (CEO).

- *Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law*;
- *Animals, Environment and Nuisance Local Law 2017*;
- *Building Act 2011*;
- *Building Regulations 2012*;
- *Bush Fires Act 1954*;
- *Bushfire Brigades Local Law 2017*;
- *Cat Act 2011*;

- *Cat Local Law 2017;*
- *Cemeteries Local Law 2008;*
- *Dog Act 1976;*
- *Dogs Local Law 2017;*
- *Extractive Industries Local Law 2017;*
- *Fencing Local Law 2016;*
- *Food Act 2008;*
- *Graffiti Vandalism Act 2016;*
- *Health (Asbestos) Regulations 1992;*
- *Health (Miscellaneous Provisions) Act 1911;*
- *Health Local Laws 1999;*
- *Local Government Act 1995;*
- *Local Government Property Local Law 2015; and*
- *Meeting Procedures Local Law 2017;*
- *Outdoor Eating Areas Local Law 2013;*
- *Parking and Parking Facilities Local Law 2017;*
- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- *Planning and Development Act 2005;*
- *Public Health Act 2016;*
- *Waste Local Law 2017*

This year's review has considered changes to legislation, responsibilities, continuity of service, and the risks and sensitivities of the decisions and the Shire's operational requirements.

Changes were made to 15 delegations requiring Council endorsement. Modifications have been made with tracked changes and are available to view in Attachment 9.3.1(2). Reasons for these changes have been outlined below.

The following delegations were reworded to align with policy changes made at the Special Council Meeting 21 December 2021:

- **1.2.12 Crossing – Construction, Repair and Removal**
- **1.2.19 Application of Regional Price Preference Policy**
- **1.2.27 Recovery of Rates or Service Charges**
- **1.2.28 Recovery of Rates Debts – Require Lessee to Pay Rent**

Changes to align the delegation contract thresholds with the *Local Government (Functions and General) Regulations 1996* were made to:

- **1.2.15 Tenders for Goods and Services – Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options**
- **1.2.16 Tenders for Goods and Services - Exempt Procurement**

The Environmental Health Officer was added to the list of Delegated officers to ensure coverage for employees and the continuity of service to the community:

- **6.1.2 Prohibition Orders**
- **6.1.3 Food Business Registrations**
- **6.1.5 Debt Recovery and Prosecutions**

- **6.1.6 Abattoir Inspections and Fees**
- **6.1.7 Food Businesses List – Public Access**
- **8.1.2 Enforcement Agency Reports to the Chief Health Officer**
- **8.1.3 Designate Authorised Officers**
- **8.1.4 Determine Compensation for Seized Items**
- **8.1.5 Commence Proceedings**

9.3.2 2022 ANNUAL GENERAL MEETING OF ELECTORS – MINUTES AND CONSIDERATION OF MOTIONS

Location	Shire of Donnybrook Balingup
Applicant	Electors of the Shire of Donnybrook Balingup
File Reference	N/A
Author	Ben Rose, Chief Executive Officer
Responsible Manager	Ben Rose, Chief Executive Officer
Attachments	9.3.2(1) - Annual General Meeting of Electors 2022 – Minutes
Voting Requirements	Simple Majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Receives the Minutes of the 6 April 2022 Annual General Meeting of Electors, as attached. 2. Receives the following motion from the 6 April 2022 Annual General Meeting of Electors: <p><u>Motion 1:</u> That Council consider establishing an independent coordinating committee as recommended by the Department of Local Government, Sports and Cultural Industries to deal with the VC Mitchell Park project.</p> 3. Acknowledges that it has considered <u>Motion 1</u> from the 2022 Annual General Meeting of Electors and resolves not to establish an independent coordinating committee to deal with the VC Mitchell Park project. <p><u>Reason:</u> The Shire has already followed the guidance of the Department of Local Government, Sport and Cultural Industries in developing the project Master Plan (a feasibility study).</p> 4. Receives the following motion from the 6 April 2022 Annual General Meeting of Electors: <p><u>Motion 2:</u> That the \$6 million COVID recovery grant for the Shire be allocated to the sporting precinct development at VC Mitchell as was originally intended. That any additional funds that are requested for the development above the \$6 million already allocated, be put to a referendum of rate payers for approval.</p> 5. Acknowledges that it has considered <u>Motion 2</u> from the 2022 Annual General Meeting of Electors and resolves not to proceed with a loan referendum for the Donnybrook Community, Sporting and Recreation Precinct (VC Mitchell Park) Project. <p><u>Reason:</u> The Council-approved project co-contribution is within the Shire's funding capacity and is recognised in the Shire's Long Term</p>

Financial Plan, 2021-22 Shire Budget and Strategic Community Plan. The State Government has advised the Shire on numerous occasions that it is obligated to co-contribute funding of at least \$3m to the project and the Council has already made numerous decisions to enable co-contribution funding to the project, including through the Long Term Financial Plan, the 2021-22 Budget and through at least three separate OCM decisions on the project. With rapid cost escalations in the building industry presently, delaying the project further to conduct a referendum will add significant additional cost pressure to the project.

- 6. Receives the following motion from the 6 April 2022 Annual General Meeting of Electors:**

Motion 3: That Council initiate live streaming by July 2022 OCM.

- 7. Acknowledges that it has considered Motion 3 from the 2022 Annual General Meeting of Electors and give consideration as part of the 2022-23 Budget deliberations to a specific budget allocation for investigating video livestreaming.**

Reason: Establishment of video livestreaming requires organisation-wide consideration and planning prior to commencement.

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	4.1.2	Continue to enhance communications and transparency
Action	4.1.2.1	Ongoing meaningful communication and engagement with residents, ratepayers and stakeholders.

EXECUTIVE SUMMARY

The Shire's Annual General Meeting of Electors (AGM) was held on 6 April 2022, where three motions were carried. Section 5.33 of the Local Government Act requires the Council to consider these motions. Minutes of the AGM are appended to this report.

BACKGROUND

The following three motions were carried at the 2022 AGM:

- 1. That Council consider establishing an independent coordinating committee as recommended by the Department of Local Government, Sports and Cultural Industries to deal with the VC Mitchell Park project.*

2. *That the \$6 million COVID recovery grant for the Shire be allocated to the sporting precinct development at VC Mitchell as was originally intended. That any additional funds that are requested for the development above the \$6 million already allocated, be put to a referendum of rate payers for approval.*
3. *That Council initiate live streaming by July 2022 OCM.*

FINANCIAL IMPLICATIONS

Nil implications associated with officer recommendation.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Section 5.33 of the Local Government Act 1995, relating to electors' meetings, sets out the following requirements:

5.33. Decisions made at electors' meetings

- (1) *All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable —*
 - (a) *at the first ordinary council meeting after that meeting; or*
 - (b) *at a special meeting called for that purpose, whichever happens first.*
- (2) *If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.*

CONSULTATION

Not applicable.

OFFICER COMMENT

Motion 1: That Council consider establishing an independent coordinating committee as recommended by the Department of Local Government, Sports and Cultural Industries to deal with the VC Mitchell Park project.

The Department of Sport and Recreation (now Department of Local Government, Sport and Cultural Industries) 'Feasibility Study Guide for Sport and Recreation Facilities 2007' (the Guide) provides advice and guidance for sport and recreation facility owners and managers (i.e. mostly Local Governments, but not exclusively), particularly for facility planning purposes (new, upgrades, extensions, replacements etc). The Guide, an advisory document which holds no legislative/regulatory authority, seeks to provide

advice to facility managers on considerations for the early planning and due diligence for major capital works.

The Guide (page 5) identifies that:

A number of different approaches can be used to undertake a feasibility study:

- *Internal approach - the study is undertaken by members of the client organisation*
- *External approach - the study is undertaken by a private consultant giving independence*
- *Combined approach - the study is undertaken by a mix of internal and external personnel*

In 2019, the Shire determined that a ‘combined approach’ would be most productive and inclusive, with co-funding secured by the Shire for the feasibility study (MasterPlan) via the State Government’s Community Sporting and Recreation Facilities Fund.

Again on page 5 of the Guide, it is advised that:

A combined approach requires the client to appoint a coordinating committee to manage and control the feasibility study process. This coordinating committee should comprise of:

- *A project co-ordinator (the in-house officer responsible for the study)*
- *Other relevant members of the client agency*
- *Community/business sector representatives*
- *Representatives of proposed user groups/tenants*
- *An experienced facility manager*
- *Department of Sport and Recreation personnel*

At its 24 April 2019 Ordinary Meeting, Council resolved to establish a Working Group, generally aligned to the above Guide, to assist the feasibility (MasterPlanning) process. Membership of the Working Group comprised:

A project co-ordinator (the in-house officer responsible for the study)	<ul style="list-style-type: none">• Staff member.
Other relevant members of the client agency	<ul style="list-style-type: none">• Two Councillors, Chief Executive Officer.
Community/business sector representatives	<ul style="list-style-type: none">• Two community representatives joined part-way through the process.
Representatives of proposed user groups/tenants	<ul style="list-style-type: none">• Donnybrook Tennis Club• Donnybrook Ladies Hockey Club.• Donnybrook Men’s Hockey Club (occasional attendance)

	<ul style="list-style-type: none"> • Donnybrook Football and Sporting Club • Donnybrook Juniors Netball Club • Donnybrook Amateur Basketball Association • Donnybrook Cricket Club (occasional attendance)
An experienced facility manager	<ul style="list-style-type: none"> • Staff member / consultant (occasional attendance)
Department of Sport and Recreation personnel	<ul style="list-style-type: none"> • Regional Manager (occasional attendance)

Although the Guide is only an advisory document, the Shire followed the advice set out within it.

The establishment of a Working Group, rather than a Committee of Council, was opted for as:

- Committees are a very formal governance structure, bound by the Meeting Procedures Local Law (and conflicts of interest legislation), and are mostly used for governance / risk / financial and other recurrent administrative considerations, rather than a one-off capital works project.
- The operation of Committees are administrative resource-intensive.
- A Council review of Shire committees in the previous year resolved that Working Groups would be used in lieu of Committees for all circumstances except for the Council's Audit and Risk Management Committee.
- The Working Group structure is more nimble, less resource intensive, less formal and more conducive to community/stakeholder engagement than a formally constituted committee of the Council.

Recommendation: That the Council acknowledge that it has considered Motion 1 from the 2022 Annual General Meeting of Electors and resolve not to establish an independent coordinating committee to deal with the VC Mitchell Park project.

Reason: The Shire has already followed the guidance of the Department of Local Government, Sport and Cultural Industries in developing the project MasterPlan (a feasibility study).

Motion 2: That the \$6 million COVID recovery grant for the Shire be allocated to the sporting precinct development at VC Mitchell as was originally intended. That any additional funds that are requested for the development above the \$6 million already allocated, be put to a referendum of rate payers for approval.

The Project MasterPlan (May 2020) is a key strategic document which is informing progress and decision-making for the project. The original intent of the MasterPlan was to rationalise multiple sports facilities/assets into one, larger multi-use facility to be co-habitated by several sporting clubs, as well as being available for broader community use.

The clear feedback from most (not all) sporting clubs has been that a co-habitated (and co-governed) model is not supported. In this regard, allocating the State Government's \$6m contribution to the 'VC Mitchell Park project as originally intended' is likely to meet with significant resistance from most (not all) sporting groups involved in the project.

Section 4.99 of the Local Government Act 1995 enables the conduct of referendums by local governments, however, requires the referendum to be run in the manner of a local government election. The cost for the 2021 election for the Shire of Donnybrook Balingup Councillor vacancies was \$32,499.15; a similar amount would be required for a referendum (regardless of the topic). The preceding Local Government Act 1960 did include specific provision for loan polls (i.e. a referendum on loans) and this provision was utilised for a loan associated with development of the Donnybrook Recreation Centre in the late 1980's / early 1990's.

Recommendation: That the Council acknowledge that it has considered Motion 2 from the 2022 Annual General Meeting of Electors and resolve not to proceed with a loan referendum for the Donnybrook Community, Sporting and Recreation Precinct (VC Mitchell Park) Project.

Reason: The Council-approved project co-contribution is within the Shire's funding capacity and is recognised in the Shire's Long Term Financial Plan, 2021-22 Shire Budget and Strategic Community Plan. The State Government has advised the Shire on numerous occasions that it is obligated to co-contribute funding of at least \$3m to the project and the Council has already made numerous decisions to enable co-contribution funding to the project, including through the Long Term Financial Plan, the 2021-22 Budget and through at least three separate OCM decisions on the project. With rapid cost escalations in the building industry presently, delaying the project further to conduct a referendum will add significant additional cost pressure to the project.

Motion 3: That Council initiate live streaming by July 2022 OCM.

Presently, there is no legislation which requires local governments to audio or video record Council and Committee Meetings, for either live or delayed streaming/display. Under a suite of State Government proposed reforms to the Local Government Act 1995, the State is considering the following; "*Large local governments [Bands 1 and 2] will be required to livestream meetings, and post recordings online. Smaller local governments [Band 3 and 4] will be required to record and publish audio recordings.*". Although not required to do so, the Shire of Donnybrook Balingup resolved to commence audio recording of Council Meetings from late 2021, with the audio recording available online via the Shire's website.

In addition to legislative considerations, the Council/Shire will also need to consider the following matters as part of boarder consideration of video livestreaming of Council Meetings; software requirements, hardware requirements, Council Chamber lay-out, record keeping processes, legal implications, public confidentiality implications (e.g. if a member of the public does not want to be recorded), data storage and staff training on new systems. Whilst none of these considerations present an insurmountable barrier, the proposed initiative requires organisation-wide consideration and planning. In this regard, it is recommended that Council give consideration as part of the 2022-23 Budget deliberations to a specific budget allocation for investigating video livestreaming.

Recommendation: That Council acknowledge that it has considered Motion 3 from the 2022 Annual General Meeting of Electors and give consideration as part of the 2022-23 Budget deliberations to a specific budget allocation for investigating video livestreaming.

Reason: Establishment of video livestreaming requires organisation-wide consideration and planning prior to commencement.

10 ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

12 MEETINGS CLOSED TO THE PUBLIC

12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

12.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

13 CLOSURE

The Shire President to advise that the next Ordinary Council Meeting will be held on 25 May 2022 commencing at 5.00pm in the Shire of Donnybrook Balingup Council Chamber.