



Ordinary Council Meeting Minutes

Held on

25 October 2017

Commencing at 5.00pm

In the Balingup Recreation Centre
South Western Highway, Balingup

Ben Rose
Chief Executive Officer

25 October 2017

Disclaimer

The advice and information contained herein is given by and to the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.



ORDINARY COUNCIL MEETING MINUTES

25 October 2017

TABLE OF CONTENTS

1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	4
2	ATTENDANCE	4
2.1	APOLOGIES	4
2.2	APPROVED LEAVE OF ABSENCE	5
3	ANNOUNCEMENTS FROM THE PRESIDING MEMBER	5
4	DECLARATIONS OF INTEREST	5
5	PUBLIC QUESTION TIME	5
5.1	RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	5
5.2	PUBLIC QUESTION TIME	8
6	PRESENTATIONS	10
6.1	PETITIONS	10
6.2	PRESENTATIONS	10
6.3	DEPUTATIONS	10
6.4	DELEGATES' REPORTS	10
7	CONFIRMATION OF MINUTES	11
7.1	ORDINARY MEETING OF COUNCIL	11
7.2	SPECIAL MEETING OF COUNCIL	11
7.3	SPECIAL MEETING OF ELECTORS	11
7.4	COMMITTEE MINUTES	12
8	REPORTS OF COMMITTEES	13
8.1	PRESTON VILLAGE PROJECT MANAGEMENT TEAM	13
8.2	BUSHFIRE ADVISORY COMMITTEE	16

9	REPORTS OF OFFICERS	18
9.1	MANAGER FINANCE AND ADMINISTRATION	18
9.1.1	ACCOUNTS FOR PAYMENT	18
9.1.2	MONTHLY FINANCIAL PAYMENT	18
9.2	MANAGER WORKS AND SERVICES	18
9.3	MANAGER DEVELOPMENT AND ENVIRONMENTAL SERVICES.....	19
9.3.1	DONNYBROOK WASTE MANAGEMENT FACILITY - APPLICATION FOR LEASE OF LAND.....	19
9.4	PRINCIPAL PLANNER	21
9.4.1	APPLICATION FOR MODULAR TRANSPORTABLE BUILDING AT LOT 27 (8) SOUTH WESTERN HIGHWAY, DONNYBROOK.....	21
9.4.2	SALE OF LOT 71 MEAD STREET, DONNYBROOK.....	28
9.4.3	PLANNING APPLICATION FOR HOUSE AND OVERSIZED SHED AT LOT 3325 SCAFFIDI PLACE, DONNYBROOK	30
9.4.4	DEVELOPMENT ASSESSMENT PANELS – LOCAL GOVERNMENT NOMINATIONS	32
9.5	CHIEF EXECUTIVE OFFICER	35
9.5.1	LICENCE TO USE AND OCCUPY RAILWAY CORRIDOR LAND AT BALINGUP	35
9.5.2	TUIA LODGE QUARTERLY UPDATE	39
10	ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .	44
10.1	CR KING	44
10.1.1	SHIRE ADMINISTRATION BUILDING WORKSHOP, TO REVIEW OPTIONS TO RESUME THE ORDERLY DEVELOPMENT OF A SHIRE ADMINISTRATION BUILDING.....	44
11	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	48
12	MEETING CLOSED TO PUBLIC.....	48
12.1	MATTERS FOR WHICH THE MEETING MAY BE CLOSED	48
12.2	PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC	48
13	CLOSURE	48

SHIRE OF DONNYBROOK BALINGUP

ORDINARY COUNCIL MEETING MINUTES

Held at the Balingup Recreation Centre
on Wednesday, 25 October 2017 at 5.00pm

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President declared the meeting open at 5.07pm, welcomed the public gallery and advised them of the meeting procedures.

2 ATTENDANCE

MEMBERS PRESENT

COUNCILLORS

Cr Piesse (Chair)
Cr Atherton
Cr Lindemann
Cr King
Cr Mills
Cr Mitchell
Cr Tan
Cr Van Der Heide
Cr Wringe

STAFF

Ben Rose – Chief Executive Officer
Greg Harris – Manager Finance and Administration
Damien Morgan – Manager Works and Services
Leigh Guthridge – Manager Development and Environmental Services
Bob Wallin – Principal Planner
Kate O’Keeffe – Executive Assistant

PUBLIC GALLERY

Douglas Gordon
Simone Payne
Mary Hockley
Darrell Ramponi
Elsie Woodley
Rod Atherton
Peter Gubler
Brian De Garis
Margery Iseppi
Danica Blackledge
Ian Molyneux

Wendy Trow
Wendy Ayers
Marsha Wachala
Marie Woodley
Noelene King
Joe Taylor
Helen Christensen
Peta Townsing
Lynn Ramponi
Jeff Somes
Trevor Payne

2.1 APOLOGIES

Nil

2.2 APPROVED LEAVE OF ABSENCE

Cr Wringe has requested a leave of absence from the Council meeting scheduled for 22 November 2017.

COUNCIL DECISION

Moved: Cr King

Seconded: Cr Tan

That Cr Wringe be granted a leave of absence from the Council meeting scheduled for 22 November 2017.

Carried 9/0

3 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Cr Piesse welcomed everyone to the first Ordinary meeting of the newly appointed Council in Balingup, introduced the Council members spoke of a positive future for the Council.

Cr Piesse mentioned the high voter turnout of 55.24 at the recent election which was above the Shire's average participation rate of 43 per cent, indicating a keen community interest in local government.

4 DECLARATIONS 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 Leanne Wringe declared an Interest Affecting Impartiality for item 8.2.1 - Shire of Donnybrook Balingup Bushfire Response Plan as she is an officer bearer of the Kirup Volunteer Bushfire Brigade.

Cr Atherton declared an Interest Affecting Impartiality for item 9.4.2 – Sale of Lot 71 Mead Street, Donnybrook as he is a real estate agent.

5 PUBLIC QUESTION TIME

5.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

5.1.1 PUBLIC QUESTIONS TAKEN ON NOTICE AT THE SPECIAL MEETING OF COUNCIL ON 14 SEPTEMBER 2017

Leith Crowley

Please explain the urgency for this special council meeting?

Chief Executive Officer

The meeting was called in accordance with S5.4 of the *Local Government Act 1995*. I was obliged to convene the meeting as requested. As to the question of the urgency of the meeting – that question would need to be answered by the requesters of the meeting.

Leith Crowley

On legal advice received I ask the following: Could the Council alert the Crime and Corruption Commission (CCC) on their failure to follow (procedural fairness) in relation to:

- *Owners of, and I quote 'owners of Dawson owned building' not given notice of councils actions here today.*
- *Former board members and board chair not given notice of Council's actions here today.*
- *Adjoining landowners to and I quote 'Short Street drainage issue' not given notice of Council's actions here today.*

Chief Executive Officer

The request, calling for the Special Council Meeting to be held the following day, was received at 4.00pm on 13 September 2017. As the meeting was called in accordance with S5.4 of the *Local Government Act 1995* there was no reason to alert the CCC. Due to the limited timeframe between the calling and holding of the meeting the abovementioned parties were not advised.

Leith Crowley

Was legal comment sought before the release of parts of the Inspire Report mentioned in Cr Bailey's comment?

Chief Executive Officer

Council has previously received legal advice on the public release of Inspire Report and was advised against this action. Council has not publicly released any part of this report.

5.1.2 PUBLIC QUESTIONS TAKEN ON NOTICE AT THE SEPTEMBER ORDINARY MEETING OF COUNCIL

Anne Margetts

My question refers to the rates for the ten blocks in Victoria Parade purchased by two current Councillors. I know Council can't comment because the issue is under investigation by the CCC, however given that these blocks were offered to the Shire as a community asset free of charge and then purchased by these Councillors, surely Council would agree to remove the rates concession from these blocks. Applying the rates concession would provide further gain to these Councillors, and a further loss to the community who have already lost the asset. Any right minded person would agree that this does not pass the pub test. Will council please consider not granting them the concession and charge them full rates as a form of reimbursement to the community?

Chief Executive Officer

Council has adopted its 2017/18 Budget which provides for rates concessions to be granted throughout the Shire, including various locations in Victoria Parade, Donnybrook. Rates concessions are reviewed annually by Council during budget deliberations.

June Scott

The agenda states there is bushland however this is not so. I would like for Council to defer the agenda item so that I may have the opportunity to meet with the Shire on this item.

Chief Executive Officer

Requests to defer an item may be raised by members of Council during the meeting.

Brian Piesse

Given the scathing, maybe even scandalous aspersions and claims made by Councillor Bailey in his authorised election flyer distributed during the week ending 24 September 2017 relating to the financial accountability and transparency of the current Council and by default the Executive Management Team (“In my 8 years on Council, its Council that been the problem” and “We allocate money but never scrutinise to ensure you’re getting the best value. In eight years of budgets we have never, not once, looked at how we stop the waste of ratepayer’s money”);

Please provide the names of the Councillors who make up the Audit and Risk Management Committee or such an equivalent, and who is the Chair?

Chief Executive Officer

The committee is comprised of the whole of Council and is chaired by the Shire President.

Brian Piesse

Does the Shire President and/or the Chair of the Audit and Risk Management Committee agree with the advice from Councillor Bailey and would they please advise the meeting as to what they have done to deal with Councillor’s Baileys comments and concerns as circulated to electors, if in fact they represent reality in terms of the conduct of our elected representatives over the past 8 years?

Chief Executive Officer

The information allegedly circulated by Cr Bailey would represent his own personal views and has not been endorsed or sanctioned by Council. Should campaign material breach Council’s Code of Conduct, electoral regulations or local government regulations it would be dealt with in the appropriate manner and referred to the relevant authorities.

Brian Piesse

Given it’s clear that “more of the same is not an option going forward” and given the pending Council election, if Councillor Bailey’s aspersions are a figment of his imagination, then what will the Shire President and the current Council do to put the record straight, so electors can cast/direct their vote towards those who are committed to becoming part of the solution to what appears to be a dysfunctional Council at this time?

Chief Executive Officer

The comments expressed by Cr Bailey are his own personal views and do not necessarily reflect the views of the whole Council.

Simon Kapel

What would have been the result of Tuia Lodge if Council had not taken action with the Tuia Lodge Board?

Chief Executive Officer

Considerable advice was obtained from the Department of Health with regards to how Council should manage Tuia Lodge into the future. The decision was made by Council after careful consideration and in the best interests of Tuia Lodge and the community.

5.2 PUBLIC QUESTION TIME

Steve Dilley

The 2017/18 Annual Budget adopted by Council on 31 August 2017 included a new \$250,000 line item to pay for new additional management positions. This new quarter of a million dollar cost will be ongoing into the future and yet was not included in Council's Ten-Year Long Term Financial Plan, or Ten-Year Workforce Plan.

Further, the previous Council was never presented with an agenda item to fully consider the Policy, Statutory, Financial and Strategic implications of the proposed organisational restructure and the ongoing additional cost burden that will ultimately be borne by ratepayers.

Will you as Chief Executive Officer, halt the process to appoint new managers and give the newly elected Council the opportunity to review the proposed organisational restructure and the \$250,000 recurrent expenditure associated with it?

Chief Executive Officer

Yes, I am happy to do that.

Angelo Logiudice

On the night of 25 September 2017 at the Special meeting of Electors you questioned me about the 11 blocks that were offered to the Council but purchased by two then Councillors, of which one Councillor is still on Council. The question came in the way of: What have you done about this matter? How come it hasn't been dealt with? Also, why hasn't the Audit Committee taken any action? You then indicated that you are an expert in Audit Committee's and that you would have already dealt with the matter. At the time it was not appropriate to discuss any information with you as you were not a Councillor. Because of the loss of opportunity to the whole community, with your experience, what action have you already taken or what action are you intending to take to address this matter with the urgency that you indicated?

Shire President

I have since taken advice on the matter and accept the response you gave at the Special meeting of Electors.

Angelo Logiudice

So, you are saying there will be no further action?

Shire President

The matter is being dealt with appropriately.

Brian De Garis

Could Council please place a printed copy of the Ordinary Council meeting Agendas and Minutes at the Balingup Post Office and Balingup Library?

Shire President

Yes, there is no reason why not.

Brian De Garis

I live on a road with overhanging trees and despite the efforts of Council with regards to tree lopping we inevitably experience limbs and trees falling across roadways. Local residents assist as best they can. Main Roads WA has a 24hour emergency hotline to respond to fallen trees on main roads. Is the Shire able to provide the same sort of emergency assistance?

Manager Works and Services

We will arrange for the shire website to be updated with an after-hours contact number.

Helen Christensen

Having watched the 7.30 report on the ABC I. like many in the community was shocked to see Tuia Lodge mentioned as being presented with a bogus award. This award, having been achieved dishonestly with a payment made to a known convicted rogue trader.

I am presuming the award was proudly displayed at the Lodge. I knew we saw it bandied about at a couple of public meetings.

My question to Council is: are you going to enquire into whom on the Tuia Lodge Board authorised this bribe? Where the money came from? And who on the board and the Shire knew about the circumstances under which this award was given?

If Councillors and members of staff knew, how can they justify the way it was swept under the carpet, once again keeping rate payers in the dark?

Chief Executive Officer

The award was on display on the wall at Tuia Lodge but has since been taken down. An investigation on this matter has been initiated.

Peter Townsing

There are six properties, zoned Rural Residential, immediately downstream from the site of a proposed marron farm at 155 Grimwade Road, Balingup. I am one of the six residents who, to varying levels, have concerns. There are a number of unknowns that could affect our properties including flooding, problems with the dam walls, polluted stream flows. We are worried that the amenity of our properties could be compromised by this development with a resultant dramatic fall in value. We ask for the shire to assess the situation – what can the Shire do about the marron farm?

Chief Executive Officer

I am not aware of a planning application for a marron farm on Grimwade Road and call on the Principal Planner to respond.

Principal Planner

I will take your question on notice and respond in writing.

** 5.24pm – Public Question Time completed.

6 PRESENTATIONS

6.1 PETITIONS

Nil

6.2 PRESENTATIONS

Nil

6.3 DEPUTATIONS

Garry Fitzgerald, Director from Tecon Australian PTY LTD (Town Planning and Building Surveying Consultants) will speak to Council on Agenda Item 9.4.1 – Application for Modular Transportable Building at Lot 27 (8) South Western Highway, Donnybrook. The deputation commenced 5.24pm and concluded at 5.34pm.

6.4 DELEGATES' REPORTS

Nil

7 CONFIRMATION OF MINUTES

7.1 ORDINARY MEETING OF COUNCIL

COUNCIL DECISION

Moved: Cr Mills

Seconded: Cr Mitchell

That the Minutes from the Ordinary Meeting of Council held on 27 September 2017 be confirmed as a true and accurate record.

Carried 9/0

7.2 SPECIAL MEETING OF COUNCIL

COUNCIL DECISION

Moved: Cr Atherton

Seconded: Cr Lindemann

That the Minutes from the Special Meeting of Council held on 23 October 2017 be confirmed as a true and accurate record.

Carried 9/0

7.3 SPECIAL MEETING OF ELECTORS

COUNCIL DECISION

Moved: Cr Tan

Seconded: Cr Van Der Heide

That the Minutes from the Special meeting of Electors held on 25 September 2017 be confirmed as a true and accurate record subject to the inclusion of the following reason for Council's decision:

- To respect the wishes and motions carried by electors at the 25 September 2017 Special Meeting of Electors.**

Carried 9/0

7.4 COMMITTEE MINUTES

COUNCIL DECISION

Moved: Cr Wringe

Seconded: Cr King

That the following Committee Minutes be received:

- **Preston Village Project Management Team – 10 October 2017**
- **Bushfire Advisory Committee – 19 October 2017**

Carried 9/0

8 REPORTS OF COMMITTEES

8.1 PRESTON VILLAGE PROJECT MANAGEMENT TEAM

8.1.1 UNIT 8 PRESTON RETIREMENT VILLAGE

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	PRO 1/31 8
Author	Ben Rose – Chief Executive Officer (Kate O’Keeffe - Executive Officer)
Attachments	8.1.1 - Property Valuation Report
Voting Requirements	Simple Majority
Executive Summary	The report seeks to establish a market value for the purpose of advertising Unit 8 Preston Retirement Village for lease.

STRATEGIC ALIGNMENT

The proposal aligns with the following objective within the Corporate Business Plan:

Strategy 3.3.1.1 Enable a diversity of aged care services and facilities within the district

BACKGROUND

Unit 8 Preston Retirement Village has recently become vacant and is ready for marketing. The unit was built in 2008 and comprises a two bedroom, one bathroom, brick and colorbond retirement villa with a single car garage located in the Preston Retirement Village.

DETAILS

Historically, Council have focussed on seeking a lease price that is both competitive with the market and a reflection or increase of previous unit leases to ensure the units maintain a good financial position. Below is a list of recent unit lease amounts at Preston Village:

- Unit 4 (built 2008) - \$310,000 – Settled 29 August 2017
- Unit 8 (built 2008) - \$308,000 – Settled 31 March 2017
- Unit 13 (built 2015) - \$312,000 – Settled 29 September 2016
- Unit 12 (built 2015) - \$315,000 - Settled 3 December 2015
- Unit 8 (built 2008) - \$305,000 - Settled 28 November 2014
- Unit 2 (built 2008) - \$285,000 - Settled 13 December 2013
- Unit 9 (built 2008) - \$285,000 - Settled 26 September 2013
- Unit 7 (built 2008) - \$285,000 - Settled 12 March 2013

The most recent leases within Preston Village have varied between \$308,000 and \$315,000. All units within the complex are of a similar size, layout and quality.

A property valuation for Unit 8 Preston Retirement Village was recently conducted by LMW South West. The Property Valuer considers the unit has a value range of \$305,000 to

\$315,000 and has recommended the property be marketed at the mid-point value range of \$310,000. Mr Box's family agree with this recommendation.

Mr Box leased the unit in 2017 for \$308,000. This is comprised of a "fixed loan" amount of \$305,000 and a "value growth" sum of \$3,000. Should the unit be leased for a figure less than Mr Boxes lease then \$305,000 represents the figure that is owed by the Council to the outgoing lessee, less accrued expenses relating to Amenities Fees, Reserve contributions and any outstanding operating costs.

Under the terms and conditions of the lease contract, Council has a period of up to three years, from the date that the lease ceased, to refund the amount owed to the outgoing lessee (i.e. the \$308,000 less accrued fees). However, once the property is re-leased, the proceeds from the lease, less fees accrued, will pass to the previous lessee. In the event that Council is unable to secure a new lessee at or above \$308,000 then the following options are available:

- 1) Market the property until an offer of at least \$308,000 is received.
- 2) If an offer is received at less than \$308,000 Council may negotiate with the outgoing lessee's Executors to obtain a loan forgiveness of the shortfall between the offer and the original lease of \$308,000.
- 3) Council could chose to accept a loss in order to ensure that the property continues to be occupied.

Given that the property valuation indicates that the property value is in the order of \$310,000 and that recent leases have been executed at a very similar figure, it is recommended that the unit be marketed at a minimum of \$310,000 and that Council remain firm on its price in order to maintain the value of the units within the complex. It is suggested that a starting price of \$315,000 would be appropriate. This will also ensure that Mr Box receives a fair return on the property.

Any agents fees incurred in the marketing of the property are payable by the outgoing lessee and the Shire has the option to market or not to market the property. Specific conditions apply within the contract in regard to these options.

CONSULTATION

LMW South West has provided a market valuation for the Project Team's and Council's consideration.

FINANCIAL IMPLICATIONS

Re-leasing of the property will enable accrued Amenities Fees and Reserve contributions to be realised in cash. These funds are usually transferred to Council's Aged Housing Reserve.

POLICY COMPLIANCE

N/A

STATUTORY COMPLIANCE

Retirement Villages Code Regulations 2015

CONCLUSION

Marketing of the property with a firm price of at least \$310,000 and up to \$315,000 will ensure that neither Mr Box nor the Shire will forego any funds as a result of the re-lease of the property.

COUNCIL DECISION

Moved: Cr Tan

Seconded: Cr Wringe

The Preston Village Project Management Team recommends to Council that Unit 8 Preston Retirement Village be marketed for lease with an asking price of \$315,000.

Carried 9/0

8.2 BUSHFIRE ADVISORY COMMITTEE

Cr Leanne Wringe declared an Interest Affecting Impartiality for item 8.2.1 - Shire of Donnybrook Balingup Bushfire Response Plan as she is an officer bearer of the Kirup Volunteer Bushfire Brigade.

8.2.1 SHIRE OF DONNYBROOK-BALINGUP BUSHFIRE RESPONSE PLAN

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	FRC 01
Author	Leigh Guthridge, Manager Development and Environmental Services (<i>Paul Robins, Senior Ranger</i>)
Attachments	8.2.1 - Bush Fire Response Plan
Voting Requirements	Simple Majority
Executive Summary	The report seeks to adopt proposed modifications to the Shire of Donnybrook-Balingup Bush Fire Response Plan

STRATEGIC ALIGNMENT

The proposal aligns with the following objective within the Corporate Business Plan:

Strategy 2.3.3 - Partner with key stakeholders for effective environmental management

BACKGROUND

Shire staff has undertaken the annual review of the Shire of Donnybrook Balingup Bushfire Response Plan (the Response Plan).

This year a comprehensive analysis of the document was undertaken by the Manager Development and Environmental Services and Ranger staff.

DETAILS

There are several modifications proposed to the Response Plan as part of the review as follows:

1. Reflect changes of government agency names, brigade membership call signs and personnel contact details;
2. Updates to:
 - a) The training status for each brigade;
 - b) The schedule of existing equipment;
 - c) The ten-year vehicle replacement program. Only two vehicles are due for replacement in coming years;
 - d) The register of capital building improvements;
 - e) The Regional Communications Plan;
 - f) The network channel list;
 - g) The Traffic Management Arrangements; and
3. Insert the amended *Shire of Donnybrook Balingup Bushfire Brigades Local Law*;
4. Include the Incident Management Teams schedule.

Members can review the modified Bush Fire Response Plan provided under separate cover via email.

CONSULTATION

Staff have undertaken the review. The members of the Bush Fire Advisory Committee have the opportunity to make comment and incorporate any further modifications into the Bush Fire Response Plan by adding items to the recommendation for this report.

FINANCIAL IMPLICATIONS

Changes to the ten-year replacement program in the Shire's Bushfire Response Plan will need to be budgeted for accordingly. This includes securing funding from the Local Government Grant Scheme in accordance with the application requirements of the Department of Fire and Emergency Services.

POLICY COMPLIANCE

N/A

STATUTORY COMPLIANCE

Bush Fires Act 1954.

Emergency Management Act 2005

CONCLUSION

Following a comprehensive review undertaken by staff the Bushfire Advisory Committee is advised to endorse the recommendation to make modifications to the Shire of Donnybrook Balingup Bushfire Response Plan.

COUNCIL DECISION

Moved: Cr Tan

Seconded: Cr Atherton

The Bushfire Advisory Committee recommends Council endorse the Shire of Donnybrook Balingup Bushfire Response Plan 2017 with the proposed modifications:

- 1) Reflect changes of government agency names, brigade membership call signs and personnel contact details;**
- 2) Updates to:**
 - a) The training status for each brigade;**
 - b) The schedule of existing equipment;**
 - c) The ten-year vehicle replacement program. Only two vehicles are due for replacement in coming years;**
 - d) The register of capital building improvements;**
 - e) The Regional Communications Plan;**
 - f) The network channel list;**
 - g) The Traffic Management Arrangements;**
- 3) Insert the amended *Shire of Donnybrook Balingup Bushfire Brigades Local Law*; and**
- 4) Include the Incident Management Teams schedule.**

Carried 9/0

9 REPORTS OF OFFICERS

9.1 MANAGER FINANCE AND ADMINISTRATION

9.1.1 ACCOUNTS FOR PAYMENT

For information: The following accounts have been authorised and paid under Delegation 3.2 by the Chief Executive Officer represented by cheques CCP3257-CCP3262, EFT12490–EFT124621, 52736 – 52754, DD22299, DD22328.1-DD22328.10, Trust 3532 - 3537, EFT12549a, totalling \$862,588.82.

9.1.2 MONTHLY FINANCIAL PAYMENT

COUNCIL DECISION

Moved : Cr Tan

Seconded: Cr Wringe

That the monthly report for the period ended 31 August 2017 be received.

Carried 9/0

9.2 MANAGER WORKS AND SERVICES

Nil

9.3 MANAGER DEVELOPMENT AND ENVIRONMENTAL SERVICES

9.3.1 DONNYBROOK WASTE MANAGEMENT FACILITY - APPLICATION FOR LEASE OF LAND

Location	Donnybrook Waste Management Facility State Forest 27 Goodwood Road, Paynedale
Applicant	Shire of Donnybrook-Balingup
File Reference	HLT 08/1
Author	Leigh Guthridge – Manager Development and Environmental Services (<i>Jeff Somes - Principal Environmental Health Officer</i>)
Attachments	9.3.1 - Site Map
Voting Requirements	Simple Majority
Executive Summary	Recommend entering into a new lease agreement: To facilitate the future development of the Donnybrook Waste Management Facility incorporating landfilling activities, material recovery, and transfer facility infrastructure, soil extraction and stock piling and rehabilitation.

STRATEGIC ALIGNMENT

The Shire of Donnybrook-Balingup Community Strategic Plan states:

Outcome 2.4 Efficient and effective waste management

BACKGROUND

The Shire of Donnybrook-Balingup has an Interim Tenancy Agreement (No. 911/97) with the Department of Biodiversity, Conservation and Attractions (DBCA) for the parcel of land within state forest on which the Donnybrook Waste Management Facility (DWMF) operates.

Council at its meeting of the 24 May 2017 resolved to adopt the *Economic Review – Waste Facility Future Options* that recommends that the Shire continue to landfill at the DWMF inclusive of the existing hard stand area and informal drop off area until capacity is reached (estimated to be 8-9 years) and then the Shire develop a transfer station to handle waste before it is transferred to an alternative waste management facility.

The transfer station activities will need to be relocated to the former gravel extraction portion of the site (refer to attached map) subject to the approvals from the Department of Water and the DBDA.

The existing lease with DBDA was a *Conservation and Land Management Act 1984* (CALM Act) lease dating back to 1964. When the CALM Act was amended in 2000, it restricted the granting of leases for various types of purposes, including rubbish disposal/landfill sites and so the lease could no longer be renewed formally. This amendment to the legislation resulted in an Interim Tenancy Agreement being granted to the Shire to recognise the Shire's on-going use and need for the site.

More recently, the CALM Regulations were amended to cater for the leasing of State forest for purposes that serve public benefit, which provides an avenue for the Shire to be granted

another lease over the site which can secure its long-term tenure of the site under appropriate conditions.

The DBDA has advised that the Shire is required to apply for a new lease (to replace the existing Interim Tenancy Agreement) with a purpose that not only allows for the existing rubbish disposal/landfill site, but also the addition of the new transfer station and the extraction and stock piling of soil from the site for use in the rehabilitation of the existing landfill site.

DETAILS

Council resolution is required to authorise the CEO to enter into a new lease agreement between the Shire of Donnybrook Balingup and the Department of Biodiversity, Conservation and Attractions to permit new waste management related uses on the subject land.

CONSULTATION

The Department of Biodiversity, Conservation and Attractions being the owner of the land were consulted to determine their requirements in terms of a lease agreement in order to permit the Shire to utilise the former gravel extraction site for transfer station purposes.

FINANCIAL IMPLICATIONS

Nil

POLICY COMPLIANCE

Nil

STATUTORY COMPLIANCE

Environmental Protection Act 1986

Conservation and Land Management Act 1984

CONCLUSION

This proposal will formalise land tenure approvals with DBCA to enable the Shire to transition from landfilling operations to transfer station activities on the subject land in line with the Shire's strategic planning for the site and waste management generally.

COUNCIL DECISION

Moved: Cr Atherton

Seconded: Cr Lindemann

That Council authorise the Chief Executive Officer to enter into a new lease agreement between the Shire of Donnybrook Balingup and the Department of Biodiversity, Conservation and Attractions to facilitate the future development of the Donnybrook Waste Management Facility incorporating landfilling activities, material recovery and transfer facility infrastructure, soil extraction and stock piling and rehabilitation.

Carried 9/0

** 5.40pm – Jeff Somes left the meeting.

9.4 PRINCIPAL PLANNER

9.4.1 APPLICATION FOR MODULAR TRANSPORTABLE BUILDING AT LOT 27 (8) SOUTH WESTERN HIGHWAY, DONNYBROOK

Location	LOT 27 South Western Highway, Donnybrook
Applicant	Tecon
File Reference	A233
Author	Bob Wallin (Principal Planner)
Attachments	9.4.1(1) – Location and Layout Plan 9.4.1(2) – Elevation Image 9.4.1(3) – Context Analysis
Voting Requirements	Simple Majority
Executive Summary	<p>Recommend refusal:</p> <ul style="list-style-type: none"> • The proposal is for a relocated structure to be used as a convenience store • The “use” is permitted as a right • The design of the building is out of character with the established built form in terms of bulk, scale, height and architectural design.

STRATEGIC ALIGNMENT

The proposal aligns with the following objective within the Corporate Business Plan:

2.1.1.4 Maintain attractive town sites within resource capacity

BACKGROUND

This item was considered at Council’s Ordinary Meeting in September. At this meeting Council resolved to let the item lay on the table due to the provision of additional information including the re-orientation of the structure.

The proposal is for a modular “transportable” building with an intended use as a “convenience store” offering pre-prepared foods, coffee, drinks and snacks at Lot 27 (No.8) South Western Highway, Donnybrook.

There are two parts to this proposal:

- a) Land use: and
- b) Building design.

The proposed use as a “convenience store” is listed as “P”. The “P” means that the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme.

In the case of this proposal, no potential objections are raised concerning the proposed land use. The issues of contention focus around the building design.

The building is 10m long and 4.9m wide with an internal floor area of approximately 44m². The building also includes a 1.8m wide verandah along the northern elevation.

Two applications for transportable structures have been refused by Council at this site. One decision was tested at the State Administrative Tribunal (SAT). SAT dismissed the review.

This proposal is similar to the previous applications in terms of:

- a) Size;
- b) Orientation;
- c) Range of materials;
- d) Low roof profile; and
- e) Design theme.

Local Planning Scheme No.7 (LPS7) and the established planning framework contain a number of provisions relevant to this proposal. It is necessary to test this proposal against these provisions to ensure that the intent of LPS7 and planning framework is satisfied. The key clauses are as follows:

“4.17 General appearance of buildings and preservation of amenity

*Where, in the opinion of the local government, any proposed building or the erection of structures or carrying out of site works is out of harmony with existing buildings or the landscape of the locality **by virtue of the design and appearance** of the development, the colour or type of materials to be used on exposed surfaces, the **height, bulk and massing of any building**, the local government may refuse the application for planning approval. The refusal can be made notwithstanding that the application may otherwise comply with the provisions of the Scheme. The local government may place conditions on any planning approval granted for the proposed development to ensure that it will not have an adverse impact on the character of the area or the amenity and landscape quality of the locality.*

In exercising its discretion under this clause, the local government shall have regard to the following when assessing any application for planning approval:

- (i) the external appearance of the building and any associated structures and landscaping;*
- (ii) the dimensions and proportions of the building or structure;*
- (iii) the materials used in the construction of the building taking into consideration texture, scale, shape and colour;*
- (iv) the effect of the building or works on nearby properties, and on the occupants of those buildings;*

- (v) *the effect on the landscape and environment generally; and*
- (vi) *any other matter which in the opinion of the local government is relevant to the amenity of the locality.”*

Clause 4.56.4 relates to development standards in the Commercial zone. This clause outlines that the Shire shall:

- “(i) encourage a high standard of development in the Commercial zone;*
- (ii) promote areas for warehouses/showrooms, shops, offices and other commercial businesses which are safe, convenient and attractive for people and traders alike; and*
- (iii) encourage the use of building materials and architectural styles which harmonise visually with nearby buildings.”*

It is noted that clause 4.56.4 is aspirational in nature as indicated by the use of the terms “promote” and “encourage”. This makes it problematic for relying on this clause in defending a decision.

Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* outlines matters that a local government can consider when making a decision. Of relevance to this proposal is:

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

Local Planning Policy 9.17 provides some guidelines for Industrial and Commercial development with clause 6.1 stating:

- “ ... for development within the Commercial zone, the following requirements shall apply:
- *a minimum enclosed floor area of 40m² for the primary building on the site;*
 - ***transportable or “donger” style structures will only be supported where they are ancillary to an established main building and where they are not visible or have very limited visibility from a public road or public place.”***

Local Planning Policy 9.16 provides direction on transportable structures. Table 1 of the policy states that transportable structures will not be supported in the Commercial zone where it is the only building proposed for the site.

DETAILS

There are two main parts to consider when reviewing the acceptableness of the proposal. One relates to terminology – when is a structure considered to be a transportable structure and the other relates to design considerations.

Clarification of Definitions

The purpose of clarifying the definition is to establish if the policy position of not supporting transportable structures within the Commercial zone applies.

It is the applicant's contention that this proposal is for a "modular" constructed building as opposed to more traditional and utilitarian "transportable" structure, colloquially described as "dongers".

There are no specific definitions in LPS7 for distinguishing between the two building forms. However, a wider search has uncovered the following definitions:

A portable, demountable or transportable building, is a building designed and built to be movable rather than permanently located. A common modern design is sometimes called a modular building, but portable buildings can be different in that they are more often used temporarily and taken away later.

Modular buildings are sectional prefabricated buildings, or houses, that consist of multiple sections called modules. "Modular" is a method of construction differing from other methods of building.

In summary, both forms are transported to a site however modular buildings are constructed in multiple sections for future assembly.

In this case, the structure could be moved as one piece with no intent or need to add further modules. The structure is self-contained and finished to be a stand-alone building. However, what is clear from the elevation image provided (Attachment 9.4.1(2)) is that the structure is of a higher standard than normally associated with a standard transportable structure or donger. Its design and presentation is of a standard that addresses some of the underlying concerns of the policy about transportable structures.

On this basis, it is not viewed as a sustainable justification for relying on the policy's blanket opposition to transportable structures. What is necessary in this case is looking further at context and specific design.

Context and Design

The acceptableness or otherwise of this proposal hangs on the words "design and appearance", "height", "bulk" and "massing".

In making a decision on these points, Council should be mindful of the following factors:

Streetscape in the Immediate Locality

In the immediate locality, there is a predominance of mid to late 20th century dwellings, which in some instances, have been repurposed for commercial activity. The exception to this

there is a purpose built colour bond clad building opposite the site that forms part of a wider commercial complex that is screened from the street.

While these buildings contain a wide range of qualities, they have as a rule, features and a scale or presence that will not be evident within the proposal. Attachment 9.4.1(3) provides some building context based on the immediate locality.

The combined outcome of the design, height, bulk and massing of the building has potential to adversely impact on local amenity. In determining *Tempora Pty Ltd v Shire of Kalamunda* (1994), the Tribunal referred to a three part test for assessing the impact on amenity as follows:

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

It is possible to view the proposal as representing a substantially different standard of building than the surrounding, in terms of scale, bulk and limited architectural features.

The proposal presents itself as a relocated sales office and if approved would signal to other landowners that this new lower standard of development is now acceptable.

Evolution of Town Planning Framework

The planning framework has been evolving and applied consistently as new development occurs. It is noted that a number of historic commercial developments are evident within the town and that these developments were not assessed under the current policy and scheme requirements, and importantly, would unlikely be supported if assessed under the current town planning framework.

Where these older developments have arrived at the end of their economic and practical life, any redevelopment of these sites will need to comply with standards that apply at the time.

Council's LPS7 represents the latest evolution in the planning framework for the shire and firmly stamps its mark on what development design standards are to apply.

Design and Appearance

To assess the appropriateness of the design and appearance of the building, it is necessary to look at the architectural features common to existing buildings in the immediate locality. Existing buildings include elevations with vertical and horizontal stepping, variety of materials and complex roof forms (Attachment 9.4.1(3)).

These characteristics are mainly absent in the proposed design. The proposed building is effectively a rectangular box with a verandah with an angled skillion roof profile. Some additional landscaping features, including screening walls are proposed to add scale and interest.

This roof form does not provide the variety of complex planes, angles, pitches, elevations and features evident in all surrounding roof forms in the immediate locality.

While the structure does include some architectural features, it still leaves elements regarding height, bulk and massing unresolved.

Height, Bulk and Massing

The proposed building is diminutive when compared to existing buildings. The proposed building is substantially smaller than anything in the immediate locality. The next smallest building is at least twice the size of the proposed and buildings immediately abutting are closer to four times the size.

The bulk and massing of the building is also hampered by the roof form which creates a building that is substantially lower than all surrounding existing buildings.

CONSULTATION

Main Roads Western Australia does not support the proposed access arrangements, however advises that it is possible to reconfigure the access arrangements to their satisfaction. This will include limiting access to one point and including car parking in the front setback area. The intent is to add further control and legibility for car movements and provide improved scope for cars to queue on site.

FINANCIAL IMPLICATIONS

N/A

POLICY COMPLIANCE

Local Planning Policy 9.17 Industrial and Commercial Development Control provide guidelines and standards that development is required to satisfy.

Local Planning Policy 9.16 Transportable Structures outlines that transportable structures are not acceptable in the Commercial zone where they are the only building on the site.

STATUTORY COMPLIANCE

LPS7 includes planning controls and standards applicable to Commercial zoned land.

CONCLUSION

The revised proposal, including a re-orientation of the building as well as additional landscape/architectural treatments is an improvement on the previous applications assessed for the site. However, the proposed structure is still out of character with the established streetscape in terms of bulk, height and massing and architectural style.

COUNCIL DECISION

Moved: Cr King

Seconded: Cr Tan

That Council:

- 1) Refuse to grant planning approval for the construction of a transportable structure at Lot 27 (No.8) South Western Highway, Donnybrook on the grounds that:
 - a) The proposed building is contrary to clause 4.17 of Local Planning Scheme 7 as it is out of harmony with existing buildings in the locality by virtue of the design and appearance, height, bulk and massing.**
 - b) The proposed building is contrary to the intent of Local Planning Policy No. 9.17 which does not support “transportable” buildings in the Commercial zone which are visible from the public realm.**
 - c) The proposal is contrary to Local Planning Policy No. 16 Transportable Structures as it will impact on the amenity of the locality.**
 - d) Approval will create an undesirable precedent for similar standards of development to occur in the Donnybrook townsite to the detriment of the local character and streetscapes.****

- 2) Advise the applicant that there is a right of review under the provisions of Part 14 of the Planning and Development Act 2005 and that a review must be lodged with the State Administrative Tribunal, and must be lodged within 28 days of the decision being made by the local government.**

Carried 7/2

Cr Atherton declared an Interest Affecting Impartiality for item 9.4.2 – Sale of Lot 71 Mead Street, Donnybrook as he is a real estate sales representative.

** 5.40pm - Cr Atherton left the room.

9.4.2 SALE OF LOT 71 MEAD STREET, DONNYBROOK

Location	Lot 72 Mead Street, Donnybrook
Applicant	N/A
File Reference	PWF 14K
Author	Bob Wallin (Principal Planner)
Attachments	9.4.2 - Location Plan
Voting Requirements	Simple Majority
Executive Summary	<p>Recommend acceptance of offer:</p> <ul style="list-style-type: none"> • A party has expressed an interest to purchase Lot 72 Mead Street, Donnybrook • The proposed purchase price is \$120 000 • A property valuation has been undertaken and matches the proposed sales price • Sale of land by Council requires compliance with Section 3.58 of the Local Government Act.

STRATEGIC ALIGNMENT

The proposal aligns with the following objective within the Corporate Business Plan:

4.2.1.2 Seek a high level of legislative compliance and effective internal controls.

BACKGROUND

Council subdivided Lot 500 Mead Street to create 6 lots. Lot 500 was formally a public open space reserve which had limited value for recreational purposes. The land has been subdivided and funds raised will be set aside in a trust for future spending on open space improvements.

The Shire has previously sold one lot (Lot 71) in April 2016. The Shire has now received an offer to purchase Lot 72.

The Local Government Act requires a number of steps to be followed when disposing of property. Section 3.58 sets out the details. This includes:

- a) Giving public notice (14 days);
- b) Establishing market value; and
- c) Requires Council's decision to be recorded in the minutes of the meeting (if a submission was received).

This item is brought before Council for a decision as the Chief Executive Officer does not have delegation to dispose of land.

An independent market evaluation has been undertaken by LMW Hegney (2 October 2017). This confirms a value of \$120,000.00 for Lot 72.

The proposal has been advertised in the South West Times. No submissions have been received.

DETAILS

The proposed sale price of \$120,000.00 is consistent with the market evaluation provided.

CONSULTATION

The proposal has been advertised in accordance with Section 3.58 of the Local Government Act 1985.

FINANCIAL IMPLICATIONS

The property will be sold for the value of \$120,000.00. Money received (minus expenses) will be set aside in a separate trust fund for the purpose of public open space improvements – consistent with Section 154 Planning and Development Act and Section 6.9 of the Local Government Act.

POLICY COMPLIANCE

N/A

STATUTORY COMPLIANCE

Section 3.58 of the Local Government Act. This sets out the process for the disposal of land by a local government.

CONCLUSION

The proposed sale price is consistent with the established market value. The process for disposing of land, including advertising has been undertaken in accordance with Section 3.58 of the Local Government Act.

COUNCIL DECISION

Moved: Cr Mills

Seconded: Cr King

That Council:

- 1) Approve the disposal of Lot 72 Mead Street, Donnybrook for the value of \$120,000.00 and set aside funds for future public open space improvements; and**
- 2) Delegate authority to the Chief Executive Officer to implement point 1) above.**

Carried 8/0

** 5.42 Cr Atherton returned

9.4.3 PLANNING APPLICATION FOR HOUSE AND OVERSIZED SHED AT LOT 3325 SCAFFIDI PLACE, DONNYBROOK

Location	Lot 3325 Scaffidi Place, Donnybrook
Applicant	Mr Matt Ramponi
File Reference	A4882
Author	Bob Wallin (Principal Planner)
Attachments	9.4.3(1) – Previous Council item 9.4.3(2) – Proposed Changes to Building Envelope 9.4.3(3) – Schedule of Submissions
Voting Requirements	Simple Majority
Executive Summary	<p>Recommend approval:</p> <ul style="list-style-type: none"> • The proposal is for an oversized shed at Lot 3325 Scaffidi Place, Donnybrook • The item was considered at Council’s OCM in September 2017. • Due to an administrative error, the proposal was not advertised. • Advertising has now been undertaken and one submission of objection received. • The submission does not raise any significantly different points or material facts that were not already considered when Council considered the item in September.

STRATEGIC ALIGNMENT

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

Outcome 2.1 An attractive and maintained built environment
 Strategy 2.1.2.2 Provide efficient and effective building services

BACKGROUND

This proposal was considered at Council’s September meeting (see Attachment 9.4.3(1)). This item is being presented to Council again at address a procedural error. The proposal required a public advertising period of 14 days to provide opportunity for comment.

The land owner has agreed to allow the proposal to be advertised. It is noted that they have purchased the shed following the September meeting.

The proposal has now been advertised and one submission of objection has been received. This item is presented to Council again as there is no officer delegation to consider the submission.

DETAILS

The background to the shed proposal and the matters previously considered are detailed in Attachment 9.4.3(1). Attachment 9.4.3(2) provides an illustration of the changes proposed to the building envelope for comparison purposes. It is noted that the proposed changes to the

building envelope provide improved outcomes from the public realm by enabling the dwelling and shed to be setback further from the street.

CONSULTATION

The proposal has been advertised to address a procedural error. One submission has been received. Attachment 9.4.3(3) provides a summary of the issues raised and suggested responses.

FINANCIAL IMPLICATIONS

N/A

POLICY COMPLIANCE

Policy 9.4 – Outbuilding Control. This proposal requires Council to make a decision as it requires a departure from the stated standards. Please note that this policy is in the process of being reviewed and suggested changes advertised. This policy will be presented to the November Council meeting and will include suggested changes to addressing shed size requirements.

Policy 9.22 – Advertising of Planning Proposals

The proposal requires advertising for a period of 14 days.

STATUTORY COMPLIANCE

Clause 3.3 outlines the purpose of the Rural Residential zone is to provide for low density residential development in a rural setting, which provides for an alternative residential lifestyle, which is consistent and compatible with adjacent land use activity, landscape and environmental attributes of the land.

Clause 4.17 provides guidance on development standards and the need to have regard to impacts on the established streetscape in terms of building size, bulk and style.

CONCLUSION

This item is presented to Council to rectify a procedural error. It is recommended that the points raised in the submission do not raise any new material evidence or points to warrant a change in Council decision.

COUNCIL DECISION

Moved: Cr Tan

Seconded: Cr Van Der Heide

That Council determines the submission received in accordance with the suggested responses contained in Attachment 9.4.3(3).

Carried 8/1

9.4.4 DEVELOPMENT ASSESSMENT PANELS – LOCAL GOVERNMENT NOMINATIONS

Location	Southern Zone Panel
Applicant	N/A
File Reference	TP 03
Author	Bob Wallin (Principal Planner)
Attachments	Nil
Voting Requirements	Simple Majority
Executive Summary	The purpose for this report is to appoint elected members to the Southern Joint Development Assessment Panel.

STRATEGIC ALIGNMENT

The proposal aligns with the following objective within the Corporate Business Plan:

Strategy 4.1.1 Provide accountable and strategic leadership

BACKGROUND

Development Assessment Panels (DAP) were originally established by the Minister for Planning on 1 July 2011 to determine development applications that meet a certain threshold value. Each DAP comprises of five members, three specialist members and two local government members. All current local government DAP members were appointed on 26 July 2017 for the term ending 26 July 2018.

Council at its Ordinary Council Meeting 8 February 2017 nominated:

- Cr Dilley, and Cr Bailey as Southern Joint Development Assessment Panel Local Members; and
- Cr Mills and Cr Tan as Southern Joint Development Assessment Panel Alternative Members.

The election 21 October 2017 will result in a change of elected members as Cr Dilley did not stand for re-election. On this basis, it will be necessary to nominate replacement members for appointment by the Minister for Planning.

Regulation 24 of the *Planning and Development (Development Assessment Panels) Regulations 2011* requires Council to nominate, as soon as possible following the elections, four elected Council members to sit as DAP members.

All local government councils are requested to provide nominations for local government members by Friday 10 November 2017.

DETAILS

Since the inception of the DAP the Shire has not received any applications that have required referral/determination by a DAP.

There are two situations when an application is referred to a DAP. These are:

- A mandatory application. This is a planning application that has an estimated value of \$10 million or more;
- An optional application. This is a planning application that has an estimated value of \$2 million or more and the applicant has elected for the application to be referred to the DAP.

Since the inception of the DAP in 2011, the Shire has not received any applications that have required referral/determination by a DAP.

CONSULTATION

No external consultation is required.

FINANCIAL IMPLICATIONS

Nil

POLICY COMPLIANCE

N/A

STATUTORY COMPLIANCE

Regulation 26 of *the Planning and Development (Development Assessment Panels) Regulations 2011* applies.

CONCLUSION

Under Regulation 24 of *the Planning and Development (Development Assessment Panels) Regulations 2011* Council is required to nominate, as soon as possible following the elections, four elected Council members to sit as DAP members.

All local government councils are requested to provide nominations by Friday 10 November 2017.

Notice of Motion

Moved: Cr Tan Seconded: Cr King

That Standing Orders be suspended.

Carried 9/0

Discussion took place on the membership and training requirements for the development assessment panels.

Notice of Motion

Moved: Cr Tan Seconded: Cr King

That Standing Orders be reinstated.

Carried 9/0

COUNCIL DECISION

Moved: Cr Tan

Seconded: Cr King

That Council:

- 1) Nominate the following two elected members as Southern Joint Development Assessment Panel Local Members;**
 - **Cr Tan**
 - **Cr Wringe**

- 2) Nominate the following two elected members as Southern Joint Development Assessment Panel Alternate Members:**
 - **Cr Lindemann**
 - **Cr Mills**

Carried 9/0

9.5 CHIEF EXECUTIVE OFFICER

9.5.1 LICENCE TO USE AND OCCUPY RAILWAY CORRIDOR LAND AT BALINGUP

Location	Balingup
Applicant	Shire of Donnybrook-Balingup
File Reference	RES 02/4, RES 02/6
Author	Ben Rose, Chief Executive Officer (<i>Lucy Bourne – Governance Officer</i>)
Attachments	9.5.1 - Licensed Agreement
Voting Requirements	Simple Majority
Executive Summary	<p>Recommend Option 3 be implemented:</p> <ul style="list-style-type: none"> • Arc Infrastructure are seeking \$1,000 for administration of the agreement and \$1,000 per annum user fee. • These fees were not a part of the previous agreement and have not been included in the 2017/18 budget. • The use of the corridor land is extensive and is intrinsic to the Balingup community.

STRATEGIC ALIGNMENT

The proposal aligns with the following objectives within the Corporate Business Plan:

Strategy	3.1.1.2	Continue to encourage and support community-led events.
Strategy	3.2.1.2	Maintain community facilities within resource capacity.
Strategy	3.3.2.2	Continue to provide and develop sport and recreational facilities that appeal to youth and families.

BACKGROUND

Railway corridor land in Balingup is licensed to the Shire, and used for a number of civic purposes, including:

- Skate Park
- Village Green Park and Children’s Playground
- Public Toilets (x2)
- Balingup Volunteer Bushfire Brigade Building
- Balingup Community Garden
- Balingup Community Centre
- Community Workshop
- Medieval Carnival Grounds (with associated infrastructure)

The Shire’s 10-year licence to use this corridor land was initially provided by Westnet Rail Pty Ltd, and subsequently by Brookfield Rail Pty Ltd. This Licence expired in July 2017.

Shire staff began corresponding with Brookfield Rail in March 2017 about renewing the licence. At the time, Brookfield Rail was undergoing a change of structure and name – to Arc Infrastructure Pty Ltd, and did not respond on the topic of the new licence until 28 July 2017.

Since then, Shire staff have been liaising with Arc Infrastructure over the development of a new licence, which is now attached for Council's consideration.

Arc Infrastructure is also taking over licences from the Public Transport Authority of WA, which include railway land at Mullalyup and Kirup.

DETAILS

The terms and conditions of the licence to use corridor land are similar to those of the previous licence, with the exception of cost. Under the previous licence agreement, there was a user fee of \$1 per year, and each party paid its own costs and expenses in relation to the preparation, negotiation and signing of the agreement.

Arc Infrastructure have advised that

- the licensee (the Shire) will be required to pay Arc's costs incurred in the preparation, negotiation and signing of the Agreement (limited to \$1,000), and
- there will be a user fee of \$1,000 per annum.

Arc also advised that the set-up costs and ongoing user fees would be applied to the three railway corridor licences in Mullalyup and Kirup.

Shire staff objected to the costs and increases, pointing out that in the case of Mullalyup and Kirup, the Shire has not specific use for the land, but maintains it to assist in reducing bushfire risk, significantly reducing Arc's maintenance responsibility. Arc agreed that for Mullalyup and Kirup they would agree to issue a separate licence free of charge. (This licence has not yet been drawn up and will be the subject of a future report.) The intention to charge costs and a user fee for the land in Balingup remains.

Council has the option of

1. Refusing to pay the costs and user fee;
2. Recouping the ongoing user fee from the groups
3. Covering both the set-up cost and user fee on behalf the community

Option 1

It appears unlikely that the costs and ongoing user fee would be waived. Refusing to pay would delay the signing of the agreement and possibly result in uncertainty for those organisations that use the land. On the other hand, the costs have not been included in the 2017/18 Budget.

Option 2

The main users of the area are

- The Shire (park, playground, toilets, events on the Village Green etc).
- The Balingup Progress Association,
- The Medieval Carnival
- The Balingup Community Garden and
- The Balingup Volunteer Bushfire Brigade
- Plus a number of other community organisations that come under the umbrella of the Balingup Progress Association.

Council may consider signing the agreement as is and recouping the cost from these organisations. Determining each group's level of contribution could be difficult in that each group's ability to pay varies considerably (Medieval Carnival v. Community Garden, for example), as does how they use the land, how often and how much of it they use.

Option 3

It could be considered that the use of this large area of corridor land is so extensive that a user cost of \$1000 per year is not unreasonable. The land in question has become so intrinsic to Balingup that Council may consider covering the cost in line with the strategic objectives listed above and signing the agreement as is.

Additional details:

- The Community Centre and Workshop buildings are owned and maintained by the BPA.
- The Medieval Carnival infrastructure is owned and maintained by the BPA (of which the Carnival Committee is a sub-group).
- The BVFBF building is owned and maintained by the Shire
- The public toilets (both sets) are owned and maintained by the Shire
- The Skateboard, Village Green and Children's playground are owned and maintained by the Shire.

CONSULTATION

Discussion has taken place between the Shire and Arc Infrastructure.

FINANCIAL IMPLICATIONS

\$1,000 one-off cost, plus \$1,000 user fee annually for the next 10 years. These additional costs will be reflected in the mid-year budget review.

POLICY COMPLIANCE

N/A

STATUTORY COMPLIANCE

N/A

CONCLUSION

The railway corridor serves a variety of purposes that are well supported by local community organisations and in line with Council's Strategic Community Plan. Refusing to enter into the agreement will potentially make the corridor, currently enjoyed by visitors and the local community, unavailable for public use.

**6.00pm – Cr Van Der Heide left the meeting and returned.

COUNCIL DECISION

Moved: Cr Tan

Seconded: Cr Wringe

That Council:

- 1) Acknowledge the importance of the railway corridor to the Balingup community and the local organisation that make use of the land.**
- 2) Agree to the terms and conditions set out in the proposed Licence Agreement and instruct the Chief Executive Officer to execute the agreement.**
- 3) Allocate \$2,000 from the 2017/18 Budget (GL Code: 127120 – Balingup Parks and Reserves) towards the costs associated with the Licence Agreement.**
- 4) That the allocation of \$2,000 be subject to the CEO seeking opportunity to recover the costs associated.**

Cr Mills' Foreshadowed Motion

That Council:

- 1) Acknowledge the importance of the railway corridor to the Balingup community and the local organisation that make use of the land.**
- 2) Instruct the CEO to advise Arc Infrastructure that Council does not agree to the financial aspect of the proposed Licence Agreement**

Cr Mitchell's Procedural Motion

Moved: Cr Mitchell

Seconded Cr King

That the meeting proceed to the next item of business.

Carried 7/2

9.5.2 TUIA LODGE QUARTERLY UPDATE

Location	Shire of Donnybrook Balingup
Applicant	N/A
File Reference	CSV 01/2
Author	Ben Rose, Chief Executive Officer (<i>Ann Clifford – A/ Facility Manager – Tuia Lodge</i>)
Attachments	9.5.2 - Quarterly Financial Statement
Voting Requirements	Simple Majority
Executive Summary	To provide an update to Council, as the Approved Provider, on key areas of responsibility.

STRATEGIC ALIGNMENT

The proposal aligns with the following objective within the Corporate Business Plan:

Strategy 4.2.1 Effective and efficient operation and service provision

BACKGROUND

At the 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:*

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

DETAILS

A quarterly report for the period from 1 July 2017 to 30 September 2017 is provided below:

Accreditation

The Australian Aged Care Quality Agency made an unannounced visit to Tuia Lodge on Wednesday, 20 September 2017. The Accreditation Audit focused on the following outcomes:

Standard 1.4 - Comments and Complaints

The home has a complaints procedure in place that is accessible to care recipients/representatives and other interested parties.

Standard 2.4 - Clinical Care

Management demonstrated that care recipients receive the care which is appropriate to their needs and preferences.

Standard 2.13 - Behavioural Management

Management demonstrated its approach to behavioural management is effective in meeting care recipient needs.

The Facility Manager and Registered Nurse were the key points of contact in responding to questions and providing documentation to support the facilities ability to meet each of these outcomes during the audit process.

During the visit the auditor conducted a review of Tuia Lodge's Quality program, including the implementation of continuous improvements. Management were able to provide examples of substantial improvements in all four standards, including Palliative Care Management, Occupational Health and Safety Training as well as Staff Training.

Continuous Improvement

All Aged Care Providers must have a written plan for continuous improvement that explains how the facility will meet obligations in relation to service and standards and reflects the strategic and innovative direction of the organisation. Continuous improvement is a key focus of daily activities at Tuia Lodge and forms part of the agenda at clinical meetings, resident meetings, staff and occupational health and safety meetings. There are mechanisms in place to capture improvement opportunities such as, but not limited to:

- Complaints
- Hazard reports
- Incident reports
- Survey results
- Minutes of meetings
- Training sessions

Improvements are monitored, evaluated and presented to the monthly Quality Improvement meeting. The current Continuous Improvement Plan provides a focus on:

- Occupational Health and Safety;
- Fire and Emergency Management procedures;
- Review and update of the Resident Handbook; and
- Review of Medication Management.
- Family conferences: 15 family conferences were completed this quarter; we received excellent feedback from the families and residents involved.
- A full review of the gardens and surrounds was undertaken with the assistance of the Shire Handyman/Gardener. A new gardening maintenance plan has been developed utilising Jim, our Handyman/Gardener, reducing the hours paid to VIP Gardening Services.

Management issues/ Initiatives

A full review of the operational needs with regard to moving from a 26 bed to 40 bed facility has been undertaken and modifications to the existing organisational structure have been identified for implementation. In summary, the leadership team at Tuia Lodge will be comprised of a Manager Clinical Care and Coordinator Aged Care Support, both reporting to the Manager Aged Care Services. The proposed framework establishes a clear separation of clinical, administrative, hospitality and support services. The organisational change process will commence in October 2017.

The previous position of Clinical Care Coordinator (resigned in August 2017) is no longer required and is replaced by the new structure.

Aged Care Act Amendment Bill

On 6 September 2017, the Aged Care Amendment (Ratio of Skilled Staff to Care Recipients) Bill was introduced and received its first reading in the Senate. The outline of this Bill is as follows:

“The Aged Care Act 1997 fails to prescribe a minimum staffing standard for Australian Government funded aged care residential facilities, and does not specify what constitutes ‘appropriately skilled and qualified staff’ for the purpose of providing care.

International research suggests that higher Registered Nurse staffing levels, higher total staffing levels and a high skills mix (ratio of Registered Nurses to other nursing staff) are associated with better quality care. This amendment will enhance the level of care provided by aged care facilities nationwide. The majority of aged care staff in Australia are personal care attendants (PCAs) or community care workers (CCWs), with a declining share of registered nurses (RNs) over the last decade or more. In 2016 the average total care hours worked per resident per day were 2.9 hours.”

The Bill was introduced by Senator Derryn Hinch. The Bill was received positively by Senators from all parties, although some of the more considered responses suggested limiting the Bill to creating a mandatory requirement for every residential care facility to have a registered nurse available at all times. Further reading and debate on this proposed Bill is now likely to be deferred until 2018.

Occupational Health and Safety

The Occupational Health and Safety program for Tuia Lodge is overseen by the Shire OSH Coordinator. The Committee meets monthly to discuss OSH audits and review accident/incident reports. A report from this committee is tabled at the Tuia Lodge Quality meeting.

Hazard reporting is encouraged, should staff see any risks to residents or themselves. A recent example of this involves the brick paving outside the facility which is uneven in many areas from tree roots lifting up the bricks. An employee tripped and fell as a result of this; fortunately no serious injury was sustained. The paving is being fixed by the Handyman/Gardener.

All clinical and care staff complete a three hour manual handling training on an annual basis, in an effort to prevent injuries in the workplace, especially back injuries.

The Fire Safety Program is currently under review as some policies need further development to support the extension to the building. Additional training for staff is being organised.

Statistics

Description	Average for 1 st Quarter
Occupancy Rating	95%
Number of Residents	38
ACFI per care recipient per day	\$160.02
ACFI Payment Received per Month	\$168,439.36

Financial Update

The financial quarterly report for the period ending 30 September 2017 shows a cash operating surplus of \$119,103. This includes the internal reallocation of Shire Administration costs (Activity Based Costing) of \$42,868 plus Fixed Asset Depreciation of \$52,432. With the exclusion of depreciation the cash surplus result is \$171,534.

The right-hand most column details the variance between the year-to-date budget and the year-to-date actual result.

Income is currently tracking at \$27K above the year to date budget which is a positive result. This result should be viewed with some caution as the income from Daily Accommodation Payment (i.e. interest charged on bond amounts not paid) is approximately \$130K under the budget. Likewise, income from the Basic Daily Fee is \$41K under the YTD budget estimate. These results are however offset by income from subsidy payments which is currently tracking at some \$173K above the YTD budget.

Depending upon the mix of clients that will pay bonds and those that elect not to pay the full bond, income projections from the daily accommodation payments may have to be adjusted downwards. Depending upon other results it may be necessary to reassess the final year end estimated result, this will be further reviewed during the Shire’s mid-year budget review.

Expenditure is currently \$57K less than the YTD budget estimate which indicates that costs are being managed appropriately.

Employee costs are currently 67.58% of total expenditure with the budget target being set at 60%.

CONSULTATION

N/A

FINANCIAL IMPLICATIONS

N/A

POLICY COMPLIANCE

Tuia Lodge’s policies underpin the Continuous Improvement Plan.

STATUTORY COMPLIANCE

Aged Care Act 1997

CONCLUSION

The quarterly report has been prepared for information purposes.

COUNCIL DECISION

Moved: Cr King

Seconded: Cr Tan

That the Tuia Lodge Quarterly Report for the period from 1 July 2017 to 30 September 2017 be received.

Carried 9/0

10 ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 CR KING

10.1.1 SHIRE ADMINISTRATION BUILDING WORKSHOP, TO REVIEW OPTIONS TO RESUME THE ORDERLY DEVELOPMENT OF A SHIRE ADMINISTRATION BUILDING

Location	Area bounded by Collins St and Victory Lane - Shire of Donnybrook-Balingup or the Civic Centre area
Applicant	N/A
File Reference	CNL 34H
Author	Cr King
Attachments	<p>10.1.1(1) - The Minutes of the Special Electors meeting 16th September, 2015.</p> <p>10.1.1(2) - An Extract from the Ordinary Council meeting on 23 September 2015 Item 10.5.1</p> <p>10.1.1(3) - Notes from the Administration Building Working Group Workshops dated 22 February, 14 March, 4 April and 16 May, 2016.</p> <p>10.1.1(4) - Elected Member item 8.1.1 proposed by Cr Dilley at the August, 2016 Ordinary Council meeting, reference reworking the Apple Discovery Centre to include the Administration Centre and Museum – Later called the Civic Centre Proposal.</p> <p>10.1.1(5) - A Summary of the Civic Centre Proposal and Cost estimate (currently Confidential and in draft form).</p>
Voting Requirements	Simple Majority
Executive Summary	Elected Member Notice of Motion

Cr King HAS proposed the following Notice of Motion:

- 1) That Council Instruct Shire Administration hold a Workshop to review the progress over many years towards the development of Concept Plans for a stand-alone Shire Administration Centre (perhaps utilising some of the existing Facilities) either at the proposed Civic Centre site or on the site between the existing Shire Admin Offices and Church currently being renovated, and Victory Lane, as outlined in item 10.5.1 of the Ordinary meeting of Council on 23 September, 2015.

- 2) That at the workshop Council consider the steps required to advance this project, including whether professional assistance should be engaged to progress this work in consultation with the Working Committee already established (as outlined in the Scope of Works in the Extract - Item 2 of the attachments above).

Cr King's Comment

Previous Councils have recognised the present Shire Administration centre, which has been extended and modified over many years, as being unsuitable for further upgrading, and an inefficient design for today's administration requirements.

At an Special Electors meeting held on the 16th of September 2015 to discuss the Shire's proposed renovations and modifications to the existing Shire Administration offices, a motion was passed and submitted to Council to halt further expenditure on the proposed Administration Building renovations (the "dog box" design), and develop a Conceptual Design for a modern standalone Shire Administration Centre, behind the existing Shire offices towards Victory Lane, which was then to be costed and presented for public comment.

A working committee comprising Elected Members, the CEO and Members of the Public (three of these being architects) was established and met on four occasions in early 2016. To ensure the Shire had selected the best location, alternative locations for the Administration Centre were re-examined (see Notes from the Working Group dated 16th of May, 2016), and the Victory Lane site was by consensus confirmed as the selected/preferred site.

In early 2016 the CEO presented Council with a proposal to restore the Old Church Building for use as a temporary Council Chambers at a cost estimated to be \$40,000, thus releasing the existing Council Chamber area to house the Administration staff. This was not intended as a long term Council Chambers solution, but was to be a temporary Council Chambers, allowing an extended period to allow an orderly concept development for the Standalone Administration Building, and later design and construction of the project.

While this restoration has progressed Council has operated from temporary locations at the Seniors' Room in the Public Library, and the Recreation Centre Function Room. These have been inefficient in that both require setup and dismantling for each meeting by Shire staff, and do not allow good acoustics or hearing by Council or within the gallery area. This has always been considered a temporary situation.

Then at the August 2016 OCM, Cr Dilley presented an Elected Members Motion 8.1.1.calling for:-

1. A halt to any further work on the Concept Development, he supported an alternate site.
2. That the Shire reworks the Apple Discovery Centre proposal on the Railway Heritage precinct, to include the Shire Administration requirements, an historical museum, and community radio facilities.
3. Council and the Shire seek commitment to Grants to fund this Civic Centre Project.

When this was presented and discussed at the Council OCM, Cr Dilley withdrew Item 1 – hence the concept development should have continued as instructed in September 2015, and he added a further requirement that Shire develop a business case to fund the Civic Centre Proposal.

Cr Dilley's Item 2 – The Civic Centre Proposal was progressed to the point where Concept Plans were completed and a cost estimate was completed. At almost \$15Million the cost of this project was considered prohibitive, and all further work was halted, with the Civic Centre Proposal still in Draft format and yet to be presented to Council (if at all).

Having examined the Civic Centre Proposal, with the present Administration Building still an outdated, impractical and inefficient facility, and further pressure to provide an adequate building for staff to work in, it is now appropriate to return to the original orderly development of the Standalone Administration Building as proposed and supported by the electors meeting in September 2015, and instructed by Council at the OCM on 23rd of September 2015.

The purpose of the workshop should be to allow incoming Councillors an opportunity to review and come up to speed on the development proposals in recent years, and the opportunity to input to the way forward for this project. Much work has been completed by previous Councils and Council committees, and there is little to be gained from reworking these decisions.

While the working committee has been beneficial in reviewing the site and establishing the options for development, without a resourced design office progress has been time consuming, and perhaps it is time to engage contracted assistance to progress this work (albeit in consultation with the Working Committee already established) to the point of Conceptual Plans, and an estimated cost and business plan. This would allow community consultation before proceeding to major expenditure on a detailed design phase.

Chief Executive Officer's Comment

Previous Shire of Donnybrook Balingup Councils have had extensive debate on how to progress the development of a new or upgraded Shire Administration and Civic Building.

Unfortunately to date the debates and workshops have not established a clear long term strategy for the provision of an appropriate Civic and Administration building.

Current Administration facilities are well below other surrounding Shire's and industry standards, plus the use of temporary civic areas has had significant issues, and is not considered a good presentation of our Shire when hosting external parties or dignitaries.

As per Council's endorsement, works are currently progressing to refurbish the Old Church Building at the rear of the existing administration building. Once complete the building will be utilised to accommodate Council meetings along with other typical administration and civic functions of the Shire.

This refurbished building will have ongoing benefits for the community however it is utilised, but is not considered (in its final refurbished format) a long term solution to the needs of the administration or Council.

The Shire's Executive consider it appropriate that new elected members be given time to consider the history of this issue prior to making a resolution on the matter. This could best be achieved by utilising a concept forum meeting to outline previous designs and debates on the matter, plus develop a terms of reference for any working groups going forward.

CR KING'S NOTICE OF MOTION

Moved: Cr

Seconded: Cr

- 1) **That Council instruct Shire Administration hold a Workshop to review the progress over many years towards the development of Concept Plans for a stand-alone Shire Administration Centre (perhaps utilising some of the existing Facilities) either at the proposed Civic Centre site or on the site between the existing Shire Admin Offices and Church currently being renovated, and Victory Lane, as outlined in item 10.5.1 of the OCM on the 23rd of September, 2015.**

- 2) **That at the workshop Council consider the steps required to advance this project, including whether professional assistance should be engaged to progress this work in consultation with the Working Committee already established (as outlined in the Scope of Works in the Extract - Item 2 of the attachments above).**

COUNCIL DECISION

Moved: Cr King

Seconded: Cr Tan

That the matter lay on the table, and for the Chief Executive Officer to provide an update on the matter to the new Council at the November Concept Forum.

Carried 9/0

**** 6.06pm – Helen Christensen left the meeting.**

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

Nil

12 MEETING CLOSED TO PUBLIC

12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil

12.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

Nil

13 CLOSURE

The Shire President advised that the next Ordinary Council Meeting will be held on 22 November 2017, commencing at 5.00pm in the Seniors' Room, Donnybrook Community Library.

The Shire President thanked everyone for their attendance, thanked the Council and staff for their contributions tonight, and declared the meeting closed at 6.06pm.

These Minutes were confirmed by the Council as a true and accurate record at the Ordinary Council Meeting held on 22 November 2017.		
Shire President		Presiding Member