



## ORDINARY MEETING OF COUNCIL AGENDA

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To

**ALL COUNCILLORS**

To be held on

**26 September 2018**

Commencing at 2.00pm

Shire of Donnybrook Balingup Council Chambers, Donnybrook.

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**Ben Rose**  
**Chief Executive Officer**

**21 September 2018**

### **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.

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ORDINARY MEETING OF COUNCIL AGENDA

26 September 2018

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**SHIRE OF DONNYBROOK BALINGUP**  
**NOTICE OF ORDINARY MEETING OF COUNCIL**

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**To be held at the Council Chambers**  
**Wednesday, 26 September 2018 at 5.00pm**

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

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**Shire President – Acknowledgment of Country**

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

The Shire Present to declare the meeting open and welcome the public gallery

**Shire President – Public Notification of Recording of Meetings**

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

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

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**2 ATTENDANCE**

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**MEMBERS PRESENT**

<b>COUNCILLORS</b>	<b>STAFF</b>
Cr Piesse (President)	Ben Rose – Chief Executive Officer
Cr Atherton	Greg Harris – Manager Finance and Administration
Cr King	Damien Morgan – Manager Works and Services
Cr Lindemann	Leigh Guthridge – Manager Development and
Cr Mills	Environmental Services
Cr Mitchell	Bob Wallin – Principal Planner
Cr Tan	Kate O’Keeffe – Executive Assistant
Cr Van Der Heide	

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**PUBLIC GALLERY**

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**2.1 APOLOGIES**

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**2.2 APPROVED LEAVE OF ABSENCE**

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Cr Wringe has been granted a leave of absence from the Council meeting scheduled for 26 September 2018.

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**2.3 APPLICATION FOR A LEAVE OF ABSENCE**

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**3 ANNOUNCEMENTS FROM PRESIDING MEMBER**

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**3.1 PRESIDENTS COMMUNICATION**

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The Shire President will table his communication report at the meeting.

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**4 DECLARATION OF INTEREST**

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

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**5 PUBLIC QUESTION TIME**

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

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**Question: Mrs Susan Learmonth**

What have been the costs to the Shire, to date, in seeking to acquire Lot 177 Trevena Road?

**Response**

The costs, to date, include:

- \$2,200 for Landgate valuations of three (3) properties (includes Lot 177 Trevena Road, at approximately one-third of this total cost for valuation services);
- \$1,738 in surveying costs to produce a Deposited Plan; and
- \$3,400 to install a new fence along a boundary of an adjoining property, which includes a section abutting Lot 177 Trevena Road.

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**5.2 PUBLIC QUESTION TIME**

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**6 PRESENTATIONS**

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**6.1 PETITIONS**

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Nil.

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**6.2 PRESENTATIONS**

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Nil.

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**6.3 DEPUTATIONS**

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Wendy Trow will deliver a deputation to Council regarding the City Power Partnership.

Basil Carter will deliver a deputation to Council regarding agenda item 9.4.2 – Saw Mill at Lot 1 Charley Creek Road.

Pam Foster will deliver a deputation to Council regarding agenda item 9.4.2 – Saw Mill at Lot 1 Charley Creek Road.

Derek Doak will deliver a deputation to Council regarding agenda item 9.4.2 – Saw Mill at Lot 1 Charley Creek Road

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**6.4 DELEGATES REPORTS**

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**7 CONFIRMATION OF MINUTES**

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**7.1 ORDINARY MEETING OF COUNCIL – 22 AUGUST 2018**

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**EXECUTIVE RECOMMENDATION**

**Moved:** **Seconded:**

**That the Minutes from the Ordinary Meeting of Council held on 22 August 2018 be confirmed as a true and accurate record.**

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**7.2 SPECIAL MEETING OF COUNCIL – 30 AUGUST 2018**

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**EXECUTIVE RECOMMENDATION**

**Moved:** **Seconded:**

**That the Minutes from the Special Meeting of Council held on 30 August 2018 be confirmed as a true and accurate record.**

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**7.3 SPECIAL MEETING OF COUNCIL – 12 SEPTEMBER 2018**

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**EXECUTIVE RECOMMENDATION**

**Moved:** **Seconded:**

**That the Minutes from the Special Meeting of Council held on 12 September 2018 be confirmed as a true and accurate record.**

**8 REPORTS OF COMMITTEES**

Nil

**9 REPORTS OF OFFICERS**

**9.1 MANAGER FINANCE AND ADMINISTRATION**

**9.1.1 ACCOUNTS FOR PAYMENT**

Presented for Council information:

The following accounts have been authorised and paid under Delegation (No 3.1) covering cheques numbered from CCP3319-CCP3325, EFT14596a-EFT14755b, 53604 – 53085, DD23284.1-DD23284.11, DD23317.1-DD23317.13, Trust 3653 – 3662, EFT14755a totalling \$1,387,102.21 is herewith presented to Council.

**9.1.2 MONTHLY FINANCIAL REPORT**

**EXECUTIVE RECOMMENDATION**

Moved:

Seconded:

**That the monthly financial report for the period ended 31 July 2018 will be presented to the October 2018 Ordinary Meeting.**

**9.1.3 AUDIT COMMITTEE – MEMBERSHIP AND TERMS OF REFERENCE**

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	
<b>Author</b>	Greg Harris, Manager Finance and Administration
<b>Attachments</b>	9.1.3(1) - Local Government Operational Guideline 09. 9.1.3(2) Draft Amended Terms of Reference for the Audit Committee.
<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	Decisions are required from Council in respect to the future membership and Terms of Reference of the Audit Committee

**STRATEGIC ALIGNMENT**

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

<b>Outcome</b>	<b>Strategy</b>	<b>Action</b>
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4.1 – A strategically focussed, open and accountable local government	4.1.1 – Provide Accountable and Strategic Leadership	4.1.1.2 – Review Council, Committee and Working Group governance structures and meeting programs
4.1 – A strategically focussed, open and accountable local government	4.1.2 – Continue to enhance communication and transparency	4.1.2.1 – Ongoing meaningful communication and engagement with residents, ratepayers and stakeholders

**BACKGROUND**

On 28 October 2017, the *Local Government Amendment (Auditing) Act 2017* was proclaimed, giving the Auditor General the mandate to audit Western Australia’s 139 local government and 9 regional councils.

The Auditor General will now take on responsibility for the annual financial audits of local governments as their existing audit contracts expire. The Act allows the Auditor General to also conduct performance audits of local government. By the financial year 2020-21 all local governments will be audited by the Auditor General.

Given the recent amendments to the *Local Government Act 1995*, the *Local Government (Audit) Regulations 1996* and the *Local Government (Financial Management) Regulations 1996*, which, amongst other things removed the power from local governments to appoint their own Auditors, it is considered an appropriate time to review the Terms of Reference and Membership of Council’s Audit Committee.

**DETAILS**

The Audit Committee plays a key role in assisting a local government to fulfill its governance and oversight responsibilities in relation to financial reporting, internal control, risk management systems, legislative compliance, ethical accountability and internal and external audit functions.

Part 7 of the *Local Government Act 1995* (the Act) and the *Local Government (Audit) Regulations 1996* (the Regulations) address the situation of audit. In relation to the duties of local government with respect to audits:

- (a) The local government is to do everything in its power to:
  - (i) assist the auditor to conduct an audit and carry out his or her other duties under the Act; and
  - (ii) Ensure that audits are conducted successfully and expeditiously;
- (b) A local government is to meet with its auditor at least once in every year;
- (c) A local government is to examine the report of the auditor and is to:
  - (i) Determine if any matters raised require action to be taken by the local government; and
  - (ii) Ensure that appropriate action is taken in respect to these matters;



(d) A local government is to:

- (i) Prepare a report on any actions taken in respect of any matters raised in the report of the auditor; and
- (ii) Forward a copy of that report to the Minister by the end of the next financial year, or six months after the last report prepared by the auditor is received by the local government, whichever is the latest in time.

### Establishment of the Audit Committee

The Act and Regulations provide that:

In relation to the establishment of an Audit Committee:

- (a) Each local government is to establish an Audit Committee consisting of three or more persons to exercise the powers and discharge the duties conferred on it;
- (b) Members of the Committee are to be appointed by an absolute majority decision of Council. At least three of the members are to be elected members;
- (c) The CEO is not to be a member of the committee and may not nominate a person to be a member of the committee or have a person to represent him or her as a member of the committee;
- (d) An employee is not to be a member of the committee;
- (e) The only powers and duties that can be delegated to a committee are any of the powers and duties of the local government under Part 7 of the Act; that is, those relating to audit. The Committee cannot on-delegate the powers and duties delegated to it;
- (f) An Audit Committee with a member who is a person who is not an Elected Members can be delegated powers and referred to in (e); and
- (g) A decision of the Committee is to be made by simple majority.

### Audit Committee Functions

An Audit Committee has the following functions:

- (a) to guide and assist the local government in carrying out:
  - (i) its functions under Part 6 of the Act; and
  - (ii) its functions relating to other audits and other matters related to financial management;
- (b) to guide and assist the local government in carrying out the local government's functions in relation to audits conducted under Part 7 of the Act;
- (c) to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is to —
  - (i) report to the council the results of that review; and
  - (ii) give a copy of the CEO's report to the Council;

- (d) to monitor and advise the CEO when the CEO is carrying out functions in relation to a review under —
  - (i) regulation 17(1); and
  - (ii) the *Local Government (Financial Management) Regulations 1996* regulation 5(2)(c);
- (e) to support the auditor of the local government to conduct an audit and carry out the auditor's other duties under the Act in respect of the local government;
- (f) to oversee the implementation of any action that the local government:
  - (i) is required to take by section 7.12A(3); and
  - (ii) has stated it has taken or intends to take in a report prepared under section 7.12A(4)(a); and
  - (iii) has accepted should be taken following receipt of a report of a review conducted under regulation 17(1); and
  - (iv) has accepted should be taken following receipt of a report of a review conducted under the *Local Government (Financial Management) Regulations 1996* regulation 5(2)(c); (g) to perform any other function conferred on the audit committee by these regulations or another written law.

#### Committee Membership

Following the Council elections in October 2017 the Audit Committee was re-appointed with all Elected Members being members of the Committee. This has been the case since the original establishment of the Audit Committee.

As indicated above the Audit Committee must consist of at least three elected members and a majority of the Committee must be elected members. It has been suggested that in the interests of openness and transparency it may be appropriate for Council to consider appointing persons, with suitable expertise, that are not elected members to the Committee. Council may wish to advertise for expression of interest for persons to nominate to be members of the Audit Committee.

#### Committee Terms of Reference

Terms of Reference for the Audit Committee were established when the first Audit Committee was formed and should now be amended to reflect changes to legislation, including the following;

Some of the recent amendments to the *Local Government (Financial Management) Regulations 1996* include:

#### *Timeframe for review of financial management systems*

Regulation 5 regarding the CEO's duties as to financial management has been amended to require the CEO to undertake a review of the appropriateness and effectiveness of the financial management systems and procedures from no less than once in every four years to no less than three financial years.

#### *Assets Valued under \$5,000*

Amendments to Regulations 17A will exclude assets in a local government annual financial report valued under \$5,000. In order to ensure the effective asset management of low value

assets that are susceptible to theft or loss, local governments will be required to maintain a property register of portable and attractive items.

Timeframe for local government to revalue assets

Regulation 17A (4) (b) has been amended to set the timeframe for local governments to revalue their assets to between three and five years, which is consistent with Australian Accounting Standards Board Standard 116: Property, Plant and Equipment.

The following amendments to the *Local Government (Audit) Regulations 1996* have also been made:

Role of the Audit Committee

The role of the Audit Committee has been amended to provide greater involvement in assisting the CEO to carry out the review under Regulation 17 of the Audit Regulations for systems and procedures concerning risk management, internal control and legislative compliance.

The aim is to assist the CEO to formulate recommendations to Council to address issues identified in the reviews. The Audit Committee will also support the auditor as required and have functions to oversee:

- the implementation of audit recommendations made by the auditor, which have been accepted by Council; and
- accept recommendations arising from reviews of local government systems and procedures.

Role of Council assisting the Auditor

Local governments will be required to provide the auditor with a copy of their Strategic Community Plan and Corporate Business Plan together with other Integrated Planning informing documents.

Timeframe for reviewing audit systems and procedures

An amendment to regulations 17(2) will require the CEO to undertake a review of audit systems and procedures no less than once in every three years (currently every two years).

In light of these recommendations it is recommended that the Terms of Reference of the Audit Committee be amended. Please refer to Attachment 9.1.3(2) which shows recommended revisions to the current Terms of Reference of the Audit Committee.

## **CONSULTATION**

In the event that Council wishes to appoint persons other than Elected Members to the Audit Committee, Expressions of Interest will be called seeking nominations together with a resume of experience.

## **FINANCIAL IMPLICATIONS**

The Audit Committee has a key role to play in regard to the financial management, risk management and governance of the Shire. Direct costs relating to the operation of the Audit Committee will be minimal as only expenses incurred by members of the Committee can be reimbursed. There are no additional sitting fees applicable to membership of the Audit Committee.

## **POLICY COMPLIANCE**

Nil

## **STATUTORY COMPLIANCE**

Part 7 of the *Local Government Act 1995* (the Act) and the *Local Government (Audit) Regulations 1996* (the Regulations) address the situation of audit. Please refer to the details section of this report.

## **CONCLUSION**

Decisions are required from Council in respect to the future membership and Terms of Reference of the Audit Committee, specifically:

- Does Council wish to remain with all current Elected Members appointed to the Audit Committee or does it wish to reduce the number of Elected Members?
- Does Council wish to seek expressions of interest from suitably qualified persons, who are not Elected Members, to be appointed to the Shire's Audit Committee?
- Is Council satisfied with the proposed Terms of Reference of the Audit Committee, subject to resolution of the above two matters?

## **EXECUTIVE RECOMMENDATION**

**Moved:**

**Seconded:**

**That Council:**

- 1) **Advertise to seek expressions of interest from suitably qualified persons to be appointed as members of the Shire of Donnybrook Balingup's Audit Committee, with a view to appointing up to two (2) persons to the Audit Committee who are not currently Elected Members of the Council.**
- 2) **Following the conclusion of the advertising period, that Council consider the selection of interested persons to the Audit Committee.**
- 3) **Depending upon the satisfactory selection of up to two persons, not being Elected Members of the Council, that Council consider reducing the size of the Audit Committee to a total of five (5) persons consisting of;**
  - **Deputy Shire President**
  - **Two other Elected Members**
  - **Two community representatives, not being Elected Members of the Council.**

**9.2 MANAGER WORKS AND SERVICES**

**9.2.1 ENDORSEMENT OF MELDENE ESTATE PATHWAY LINK ALIGNMENT AND APPLICATION FOR FUTURE GRANT FUNDING**

<b>Location</b>	Donnybrook
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	PWF 18H
<b>Author</b>	Damien Morgan, Manager Works and Services
<b>Attachments</b>	9.2.1(1) – Map of the Proposed Meldene Estate Pathway Link 9.2.1(2) - Community and Stakeholder Comments
<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	The report seeks Council endorsement: <ul style="list-style-type: none"> <li>• for the alignment of the Meldene Estate Link Pathway.</li> <li>• to submit a grant application to the Department of Transport Western Australian Bicycle Network (WABN)</li> <li>• to commit approximately \$192,500 over a 2-year period to construct the project</li> </ul>

**STRATEGIC ALIGNMENT**

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

<b>Outcome</b>	<b>Strategy</b>	<b>Action</b>
1.1 - A diverse, prosperous economy, supporting local business and population growth	1.1.2 - Provide appropriate infrastructure to support and enhance business	1.1.2.2 - Provide appropriate local transport infrastructure 1.1.2.3 - Lobby State Government to upgrade and improve key/regional transport infrastructure
1.3 - An attractive visitor and tourist destination	1.3.1 - Actively promote the district as an attractive destination 1.3.2 - Provide, develop and maintain visitor infrastructure	1.3.1.4 - Support and promote local tourism events and attractions 1.3.2.1 - Develop visitor and tourism infrastructure in line with the local tourism and visitors development and promotion strategy, within allocated resources 1.3.2.2 - Continue to seek funding to develop tourism infrastructure
2.1 - An attractive and maintained built environment	2.1.1 - Maintain, renew and improve infrastructure within allocated resources	2.1.1.2 - Seek funding for development and renewal of infrastructure 2.1.1.4 - Maintain attractive town sites within resource capacity

3.2 - Well supported community groups and facilities	3.2.1 - Provide and maintain appropriate community facilities	3.2.1.1 - Implement the Disability Access and Inclusion Plan 3.2.1.3 - Seek funding to maintain and develop community facilities
3.3 - A safe and healthy community environment for all ages	3.3.1 - Promote 'aging in place'  3.3.2 - Promote retention of youth and families within the district  3.3.3 - Support a safe, healthy and active community	3.3.1.1 - Enable a diversity of aged care services and facilities within the district. 3.3.2.2 - Continue to provide and develop community facilities and services that appeal to youth and families. 3.3.3.1 - Within resource capacity, maintain and develop sport and recreation facilities in line with sport and recreation masterplans

## BACKGROUND

The Shire of Donnybrook Balingup (Shire) was successful in securing a 2018/19 Western Australian Bicycle Network (WABN) Grant for \$12,500 from the Department of Transport. The grant was used to develop the Feasibility/Concept Design and Detailed Design for a proposed dual use path link from Donnybrook CBD to Meldene Estate in Donnybrook. Specific outcomes were considered to meet the guidelines, eligibility and merit criteria set by WABN, including:

- The proposed dual use path will provide Meldene Estate residents; including children and those with special needs, a safe link to the Donnybrook CBD, medical, education, sporting, and recreation and tourism facilities.
- The proposed dual use path will provide a safe and scenic bicycle loop for the greater community and recreational bicycle riders, connecting (current and future) outer and inner residential areas, offering a pathway instead of using busy roads, particularly South Western Highway. It will also provide a link to the Munda Biddi Bike Trail spur route for recreational riders and hikers.
- The proposed project aligns to the Shire of Donnybrook Balingup Pathways and Trails Expansion Strategy and is currently ranked in the top five path projects, in our future pathway program. The dual use path was initially identified through several customer requests and community feedback. The proposed project also meets some of the outcomes identified in the Council's Disability Access and Inclusion Plan and also aligns to the Bunbury-Wellington 2050 Cycling Strategy (Draft).

## DETAILS

The Detailed Design for the path will incorporate feedback and suggestions from the key stakeholders and the community consultation.

A map outlining the proposed path (as provided for consultation) to be delivered in two stages is provided in attachment 9.2.1(1).

**Stage 1:** will see the completion of a 2.5m wide black asphalt path linking the Donnybrook CBD to Meldene Estate. The path currently stops at the Country Club intersection. It is proposed to continue this path along the non-operational rail reserve out to Marginata Drive (Meldene Estate). The Shire has met with ARC Infrastructure about locating the path within the non-operational rail reserve, offset to the existing rail line, and has received positive feedback outlining that this may be feasible (with conditions) provided a 'Sponsorship Agreement' is entered into, similar to the one recently established for the Balingup Village Green area.

**Stage 2:** will continue on from Stage 1 (Meldene Estate), extending the path along the golf course boundary to Bentley Road, which is also part of the Munda Bidli Bike Trail. An additional spur path along a non-constructed section of Ecclestone Street road reserve is also included in Stage 2, providing connection to the Country Club Housing Estate.

The 2019-20/2020-21 WABN Grants Expression of Interest (EOI) recently opened. The Shire of Donnybrook Balingup has submitted an EOI to apply for a grant to fund the construction of the proposed path in two stages over two financial years.

If the EOI is successful, and subject to the project being endorsed by Council, the Shire's intention is to submit a proposal for the full construction of the proposed path over the two financial years

## **CONSULTATION**

During August 2018, extensive consultation was undertaken with key stakeholders and the wider community regarding the proposed dual use path alignment.

Individual letters seeking comment were sent to the 24 property owners that abut the Donnybrook Golf Course, the Donnybrook Country Club, nearby Property Developers, Schools, Western Power, Water Corporation, Donnybrook Visitors Centre and the Donnybrook Chamber of Commerce.

A Public Notice was also placed in the local newspaper and on the Shire's website seeking comment from the wider community.

In principle support has been received from the majority of key stakeholders and service providers, with some including recommendations.

The Shire received eight responses from the community including the Donnybrook Visitors Centre and Donnybrook Chamber of Commerce who expressed their full support for the entire project. The Donnybrook Country Club and four property owners which back onto the proposed path submitted their in-principle support for Stage 1 of the path, however, outlined some concerns and suggestions for Stage 2. One response received from a property owner with property that backs onto the proposed path, objected to Stage 2 of the path.

Attachment 9.2.1(2) outlines the community and stakeholder feedback received and provides the Shire's proposed response to concerns or suggestions.

A request to use the non-operational rail corridor access was also lodged with Arc Infrastructure and consultation is continuing.

### **FINANCIAL IMPLICATIONS**

The estimated cost to construct the entire dual use path, in two stages, is \$385,000; however, the Shire will have more accurate costings once all designs are completed.

If the Shire is successful in obtaining a grant for the construction of the dual use path, the grant will cover 50%, approximately \$192,500, of the total costs. The remaining 50% (\$192,500) would be required to be funded by the Shire over two budgets (2019-20 and 2020-21).

### **POLICY COMPLIANCE**

N/A

### **STATUTORY COMPLIANCE**

N/A

### **CONCLUSION**

The construction of the path has received community and key stakeholder support, and is recognised as a high priority project based on the Shire of Donnybrook-Balingup Pathways and Trails Expansion Strategy. The project also satisfies a range of outcomes from the Shire's Corporate Business Plan.

### **EXECUTIVE RECOMMENDATION**

**Moved:**

**Seconded:**

**That Council:**

- 1) Endorse the proposed alignment of the Meldene Estate Link Pathway, as attached;**
- 2) Instruct the Chief Executive Officer to apply for funding from the Department of Transport, Western Australian Bicycle Network 2019/20 - 2020/21 Grant Program, to construct the path in two stages over the next two financial years; and**
- 3) Allocate \$192,500 (as Shire co-contribution funding) over the 2019/20 and 2020/21 future draft budgets for the construction of the path in two stages.**



**9.2.2 MAIN ROADS WA – LAND ACQUISITION LOTS 71, 94, 105, 30 AND 55 SOUTH WESTERN HIGHWAY, BALINGUP**

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	WRK 12
<b>Author</b>	Damien Morgan, Manager Works and Services
<b>Attachments</b>	9.2.2(1) - MRWA Correspondence (ICOR65894) 9.2.2(2) - Drawings 201702-0379-3, 201702-0381, 201702-728
<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	It is recommended Council endorse the future dedication of land for the purpose of widening the road-seal.

**STRATEGIC ALIGNMENT**

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

<b>Outcome</b>	<b>Strategy</b>	<b>Action</b>
1.1 – A diverse, prosperous economy, supporting local business and population growth	1.1.2 - Provide appropriate infrastructure to support and enhance business	1.1.2.2 Provide appropriate local transport infrastructure
2.1 – An attractive and maintained built environment	2.1.1 – Maintain, renew and improve infrastructure within allocated resources	2.1.1.2 Seek funding for development and renewal of infrastructure

**BACKGROUND**

Main Roads WA (MRWA) has initiated action to acquire land from Lots 71, 94, 105, 30 and 55 South Western Highway, Balingup to dedicate for the purpose of widening the road-seal.

**DETAILS**

As part of MRWA's initiation to acquire land for this purpose, they are required to obtain the Shire's support for the future dedication of the land as Road Reserve.

MRWA is currently in negotiations with affected owners. Council's support for the dedication is required to allow formalities to proceed. A copy of the Council's resolution with direct reference to Section 56 of the *Land Administration Act 1997* is required by MRWA to proceed with this process.

**CONSULTATION**

MRWA are in negotiation with the impacted landowners for the acquisition of land.

## FINANCIAL IMPLICATIONS

Nil

## POLICY COMPLIANCE

Nil

## STATUTORY COMPLIANCE

Section 56 of the *Land Administration Act 1997*.

## CONCLUSION

It's recommended Council support the acquisition of Lots 71, 94, 105, 30 and 55 South Western Highway, Balingup for the proposed road-seal widening.

## EXECUTIVE RECOMMENDATION

**Moved:**

**Seconded:**

**That Council, in accordance with Section 56 of the Land Administration Act 1997, endorse the future dedication of the land being acquired for road purposes as shown on Main Roads Western Australia plans 201702-0379-3, 201702-0381 and 201702-728.**

### 9.2.3 TREVENA ROAD BRIDGE REPLACEMENT

<b>Location</b>	Trevena Road, Queenwood
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	PWF 16B
<b>Author</b>	
<b>Attachments</b>	<p>9.2.3(1) - Detailed Design – Trevena Road, Bridge Approaches (DB230-D01-D05)</p> <p>9.2.3(2) –Main Roads Western Australia 2010/11 Bridge Program – Funding for Pre-Construction Activities</p> <p>9.2.3(3) - Extract – March 2015 Ordinary Council Meeting Agenda Item</p> <p>9.2.3(4) - Trevena Road Bridge Replacement Alignment Options</p> <p>9.2.3(5) - Department of Planning, Lands and Heritage Notice of Entry</p> <p>9.2.3(6) - Minister of Environment Appeal Determination</p> <p>9.2.3(7) - Main Road Western Australia Detailed Inspection Report – Bridge 3643</p>
<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	The report seeks to reaffirm Council's approval to proceed with the construction of a replacement Trevena Road bridge as currently designed and within the 2018/19 financial year.

## STRATEGIC ALIGNMENT

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

Outcome	Strategy	Action
2.1 – An attractive and maintained built environment	2.1.1 - Maintain, renew and improve infrastructure within allocated resources	2.1.1.1 - Develop and implement asset management plans

## BACKGROUND

Planning for the construction of a replacement Trevena Road Bridge has been in process since 2010. A bridge alignment was determined in October 2012 by Shire staff, in consultation with Main Roads Western Australia (MRWA) and detailed drawings produced based on this alignment (Attachment 9.2.3(1)).

All approvals were granted based on this alignment. Construction, based on this alignment, is planned to commence in October 2018 however, a recent deputation from a local land owner at Council's Ordinary Meeting on 22 August 2018, advocated for a change to the alignment through the relocation of the bridge approximately 10m to the west.

## DETAILS

Main Roads Western Australia (MRWA) advised the Shire in 2009 (Attachment 9.2.3(2)) that funding of \$150,000 was approved for pre-construction activities (i.e. design works) in the 2010/11 Bridge Program of Works. The \$150,000 comprised of:

- \$100,000 from the West Australian Local Government Grants Commission (WALGGC); and
- \$50,000 from Main Roads WA.

There were some delays in completing the pre-construction activities and the WALGGC funds of \$100,000 were held in reserve until these activities were finalised in late 2014. The pre-construction activities were completed below estimate and the unspent funds (\$5,435) from the WALGCC grant were reallocated to bridge maintenance. An agenda item was presented to Council in March 2015 (Attachment 9.2.3(3)) regarding the reallocation of the grant funds.

As part of the pre-construction activities, AECOM consultants, in association MRWA Waterways Section, prepared a Waterways Report '*RN 773 - Bridge 3643 Trevena Road over Preston River*'. A Senior Waterways Engineer from MRWA endorsed the Waterways Report. This Waterways Report investigates the hydrological analysis of the catchment and a hydraulic analysis of the existing and proposed bridge structure.

Four bridge alignments scenarios were developed (Attachment 9.2.3(4)) and in consultation with MRWA, a preferred bridge alignment (Option 1) was selected in October 2012 by Shire staff.

When determining the preferred bridge alignment (in 2012), the following criteria were considered:

- The current alignment of the bridge and approaches are sub-standard. The new bridge alignment would ideally be to the west of the existing bridge to improve sight distances.
- Minimal land resumptions.
- The ability for the existing bridge to remain open during construction to minimise the impact on traffic during construction of the new bridge.

In 2015, based on the pre-construction activities, a funding application was lodged with the Federal Government's Bridge Renewal Program Round Two, for 50% funding of the Trevena Road Bridge replacement. The Shire was advised in January 2016 that the application was successful, and as a result, MRWA confirmed they would provide the required matching funding of \$750,000.

Council approved the budgeted bridge replacement costs within the 2016/17 Annual Budget and officers commenced the process of delivering the project, including land acquisitions of portions of Lots 6, 32 (voluntary acquisitions) and 177 (compulsory acquisition), Trevena Road.

Negotiations to acquire (voluntary) a portion of Lot 177 were unsuccessful. Council, at the Ordinary Meeting held on 24 August 2016, endorsed a compulsory acquisition process for portion of Lot 177. In November 2017, the Minister for Lands granted a notice of entry (Attachment 9.2.3(5)) to the Shire to:

- "do anything necessary as preliminary or ancillary to the construction of the road including, without limitation, undertaking investigations with repost to statutory approvals and clearing the land; and
- carry out the construction of the road."

At the 27 June 2018 Ordinary Meeting, Council resolved to dedicate the compulsorily acquired portion of Lot 177 as road reserve.

In December 2016, the Shire submitted an Application for a Clearing Permit with the Department of Water and Environment Regulation (DWER). After a lengthy process and some 12 months later, DWER issued the Shire with a clearing permit. An appeal against the DWER clearing permit was lodged, on the grounds of a number of matters, including the bridge alignment. The Minister for Environment, on 14 June 2018, after considering the appeal, resolved to issue the clearing permit with minor amendments which did not result in any changes to the clearing area (Attachment 9.2.3(6)).

Although the Shire has encountered a number of delays, Council has continued to support the delivery of the project by including, and carrying over, project budget in the 2017/18 and 2018/19 Annual Budgets.

A recent deputation from a local landowner (Mr David Mazza) at Council's Ordinary Meeting on 22 August 2018 outlined a preference for the bridge to be constructed on an alternative alignment, approximately 10m to the west of the proposed alignment. Shire staff previously considered the alternative alignment presented in the deputation in 2012 however, limited further detailed investigation has occurred since. The deputation indicated possible cost savings and safety improvements, which Shire staff, in consultation with MRWA, have investigated to determine the merits of this alternative alignment.

It is important to note that if the current process is discontinued and a new alignment is selected, this could result in a reputational risk to the Shire and a risk of forfeiting funding. Informal enquiries with MRWA have indicated that if the current timeframes are not met, the MRWA funding may be reallocated to other bridge priorities within the State.

Shire staff have examined the alternative bridge alignment proposition (raised via the Deputation at the August 2018 Council Meeting) which indicated cost savings on the basis that the existing bridge remains in place after the new bridge is constructed (i.e. savings from not having to de-construct the old bridge). From an asset risk management perspective, keeping the existing bridge (upstream from the proposed new bridge) is not recommended.

The Shire has investigated options to retain the local feature referred to as the "waterfall". Advice received from the bridge design consultant indicates that the "waterfall" would still be impacted if the bridge was relocated to the alternative alignment. The Shire will work with MRWA to determine if a rock pitched spillway can be constructed to replace the "waterfall", adjacent to the bridge abutment.

MRWA has advised that no trees should remain within a zone that poses any risk to the bridge (i.e. falling trees, fire hazards, root damages), which negates the savings proposed via the Deputation.

Shire staff, MRWA and the design consultants investigated opportunities, within the available budget, to improve the geometric alignment of the curve to the north of the bridge. Unfortunately, relocating the bridge to the alternative alignment (10m to the west) does not significantly improve sight distances for the three driveways and advice from MRWA actually indicates it would decrease the sight distances for two of these three driveways. Shire staff and MRWA consider the treatments proposed in the detailed design improve safety as far practicable and any further road safety improvements (particularly at the 'right angle bend') would need to be considered as a separately designed and funded project.

Shire staff met with both MRWA and the bridge design consultant on site this month who verbally confirmed the suitability of the current alignment.

The Shire would also like to install a commemorative plaque (or similar) at the site of the existing bridge, utilising materials from either the existing bridge or trees cleared for the new structure. The Shire will also be planting new native trees in the road reserve on both sides of the bridge, outside of any required clear zones.

## **CONSULTATION**

The Shire has been in regular consultation with Main Roads Western Australia, Department of Planning, Lands and Heritage and Department of Water and Environmental Regulation. The Shire also provides regular updates to landowners in the area.

## **FINANCIAL IMPLICATIONS**

Construction of the replacement Trevena Road Bridge and approaches have been included in the 2018/19 Annual Budget.

It should be noted that unless the Shire proceeds with the current option, external funding is likely to be forfeited.

If the existing bridge is retained, it will require significant ongoing maintenance as the bridge is deteriorating. The business case for the new bridge is based on the premise that the existing bridge is reaching the end of its useful life.

## **POLICY COMPLIANCE**

N/A

## **STATUTORY COMPLIANCE**

- Section 56 of the *Land Administration Act (1997)*
- *Environmental Protection Act 1986*
- *Aboriginal Heritage Act 1972*

## **CONCLUSION**

The Executive Management Team consider the replacement of Trevena Road Bridge should proceed as currently planned and designed, based on the significant risk of the Shire relinquishing the funding for the project if the project is not completed within the timeframes of the funding agreements.

## **EXECUTIVE RECOMMENDATION**

**Moved:**

**Seconded:**

**That Council authorise the Chief Executive Officer to:**

- 1) Proceed with the construction of the replacement Trevena Road Bridge as shown on design drawings DB230-D01-D05 (Attachment 9.2.3(1));**
- 2) Proceed with the decommissioning of the existing Trevena Road Bridge (Bridge Asset Reference 3643);**
- 3) Install a commemorative plaque, or similar, at the site of the existing Trevena Road Bridge (Bridge Asset Reference 3643), utilising materials from the existing bridge or vegetation cleared for the purpose of the bridge construction;**
- 4) Negotiate the transfer (on a voluntary receipt basis) of any redundant timber from the existing bridge to adjoining and/or nearby landowners;**
- 5) Plant native trees within the road reserve, outside of any clear zones, on the alignment of the existing approaches; and**
- 6) Negotiate with Main Roads Western Australia to construct a rock pitched spillway to replace the existing 'waterfall' feature.**

**9.3 MANAGER DEVELOPMENT AND ENVIRONMENTAL SERVICES**

Nil

**9.4 PRINCIPAL PLANNER**

**9.4.1 REQUEST TO AMEND LOT 108 KELLY ROAD, DONNYBROOK STRUCTURE PLAN**

<b>Location</b>	Lot 9504 Kelly Street, Donnybrook
<b>Applicant</b>	Allerding Associates
<b>File Reference</b>	A3887
<b>Author</b>	Bob Wallin (Principal Planner)
<b>Attachments</b>	9.4.1(1) – Approved Structure Plan 9.4.1(2) – Proposed Amendment 1 to Structure Plan 9.4.1(3) – Schedule of Submissions
<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	It is recommended Council advise the Western Australian Planning Commission that the amendment be finalised. <ul style="list-style-type: none"> <li>• The proposal is to enable the expansion of the proposed Lifestyle Village at Lot 9504 for a Lifestyle Village.</li> <li>• The changes will result in the removal of 4 residential lots and public open space.</li> <li>• The proposal requires Council to make a recommendation to the Western Australian Planning Commission having regard to comments received during the public advertising process.</li> </ul>

**STRATEGIC ALIGNMENT**

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

<b>Outcome</b>	<b>Strategy</b>	<b>Action</b>
1.1 A diverse, prosperous economy, supporting local business and population growth	1.1.1 - Promote, maintain and diversify investment in the district	1.1.1.4 - Actively partner in regional Growth Planning partnerships and projects.

**BACKGROUND**

Council at its Ordinary Council Meeting on 27 July 2018 resolved to advertise a proposal to amend the structure plan for Kelly Road, Donnybrook Structure Plan (Structure Plan). The Structure Plan was originally approved as part of amendment 94 to Town Planning Scheme No.4 - gazetted in July 2013 (Attachment 9.4.1(1)).

Lot 9504 Kelly Street, Donnybrook forms part of the Structure Plan area and was created as part of a super lot subdivision. The super lot subdivision divided up the original structure plan area into 5 lots with boundaries generally reflecting road alignments of the structure plan.

This amendment seeks to amend the plan by expanding the “Lifestyle” option originally identified to replace four residential lots and a portion of Public Open Space (POS) (Attachment 9.4.1(2)).

The proposal is now presented to Council to make a recommendation to the Western Australian Planning Commission. The options available to Council are to recommend:

- Support for final approval;
- Support for final approval subject to modifications; and
- Not support the amendment.

## **DETAILS**

The changes to the Structure Plan focus on the expansion of the “Lifestyle Village” component.

The changes do not result in any change to the overall road network, drainage functioning or servicing infrastructure requirements.

The reduced POS has a potential impact on the distribution of open space. The site to be removed is centrally located and accessible to its surrounding residential catchment. However, this change may be viewed as reasonable when considering the following points:

- a) The Structure Plan does not link POS provision to individual landowner obligations/contribution commitments;
- b) The overall POS provision for the estate complies with Liveable Neighbourhood (LN) requirements. LN requires 10% of land to be set aside for POS. Further, only 20% of this requirement can be satisfied by constrained land that serves other functions such as drainage or preservation of environmental features. In this instance, the 10% POS requirement equals 2.6151ha (3.0796ha provided. Further, only 0.3866ha of the POS provided is restricted.
- c) The Lifestyle Village will provide a range of recreational facilities and spaces to service its site, making it self-sufficient for its open space needs. While this open space is not publically available, the site is not generating any POS needs generally. Added to this, the open space provided on the site will be maintained by the landowner and not adding responsibilities to the Shire/ratepayers.

## **CONSULTATION**

Consultation was undertaken in accordance with deemed provisions. This included a letter drop in the locality, newspaper advertisement, website and referral to government agencies.

A total of 5 submissions were received during the advertising period. One submission was from local residents objecting and 4 from government agencies raising no objections.

Attachment 3 provides a summary of submissions received and suggested recommendations.



## **FINANCIAL IMPLICATIONS**

Nil. All expenses incurred for the processing and advertising is covered by the assessment fee.

## **POLICY COMPLIANCE**

N/A

## **STATUTORY COMPLIANCE**

The processes for assessing structure plans is detailed in the *Planning and Development (Local Planning Schemes) Regulations 2015* (deemed provisions). Clause 29 of Schedule 2 details the requirements for an amendment.

## **CONCLUSION**

The proposed amendment to the Structure Plan is reasonable. It is recommended to advise the Western Australian Planning Commission that the amendment be finalised.

## **EXECUTIVE RECOMMENDATION**

**Moved:**

**Seconded:**

**That Council:**

- 1) **Advise the Western Australian Planning Commission that it recommends Amendment 1 to Lot 108 Kelly Road Donnybrook Structure Plan be finalised;**
- 2) **Determine the submissions in accordance with recommendations contained in Attachment 9.4.1(3) – Schedule of Submissions; and**
- 3) **Require the Chief Executive Officer to undertake such tasks necessary to implement items 1 and 2 above.**

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### **9.4.2 SAW MILL AT LOT 1 (NO 104) CHARLEY CREEK ROAD, CHARLEY CREEK**

<b>Location</b>	Lot 1 Charley Creek Road, Charley Creek
<b>Applicant</b>	Mr Derek Doak
<b>File Reference</b>	A4048
<b>Author</b>	Bob Wallin - Principal Planner
<b>Attachments</b>	9.4.2(1) – Location Plan 9.4.2(2) – Application Details 9.4.2(3) - Schedule of Submissions 9.4.2(4) – Photo's from the Site

<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	<p>It is recommended Council approve the application:</p> <ul style="list-style-type: none"> <li>• The proposal is to establish a saw mill at Lot 1 Charley Creek Road, Charley Creek;</li> <li>• The saw mill is intended to process 1000 tonnes of timber per year;</li> <li>• The saw mill will be housed within a shed and a 30m x 15m shed with a 7.5m lean to will be used for storage of dried timber.</li> <li>• A site specific acoustic report has been prepared for the site demonstrating compliance with noise regulations.</li> <li>• A number of submission have been received raising objections.</li> </ul>

## STRATEGIC ALIGNMENT

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

<b>Outcome</b>	<b>Strategy</b>	<b>Action</b>
4.2 A respected, professional and trusted organisation	4.2.1 - Effective and efficient operations and service provision	4.2.1..2 - Seek a high level of legislative compliance and effective internal controls

## BACKGROUND

The Shire has received a proposal for the establishment of a “saw mill” at Lot 1 Charley Creek Road, Charley Creek (Attachment 9.4.2(1)).

The Shire’s Local Planning Scheme No.7 (LPS7) defines a “sawmill” as *“a mill or premises where logs or large pieces of timber are awn but does not include a joinery works unless logs or large pieces of timber are sawn therein”*.

LPS7 lists a saw mill as an “A” use (discretionary and requiring advertising) within the General Agriculture zone.

This means that the use cannot be considered unless the local government exercises its discretion following an advertising process.

The proposal includes the following elements:

- a) Erection of a storage shed (30m x 15m) with a 7.5m lean to. This has a total floor area of 600m<sup>2</sup>. This shed is intended to be insulated for the storage of dried and milled timber. The lean to element is to contain the saw.
- b) The saw mill will be a Cooks AC-36 and will operate approximately 250 hours a year to process 1000 tonnes of timber. Operating hours will be restricted to week day standard office hours 9 to 5. This averages at 4.8hours per week.

- c) A wood fired kiln with dimensions of 9m x 4m (36m<sup>2</sup>) and a wall height of 3.6m. The timber is mainly sourced from salvage operations with some being purchased from private plantations and public government auctions in Harvey.
- d) The mill will be operated by the applicant (single person operation) and is intended to produce timber for furniture.

The saw mill operation will include the following elements/activities:

- a) Timber is delivered to the site using a delivery truck (rigid vehicle) that can carry 11 tonnes of wood. This delivery on average will occur 2 times a week.
- b) Delivered logs (up to 30 maximum) will be laid out on site. The logs will be kept wet via a sprinkler system during summer to ensure that it does not crack and dry out. The logs will be stored generally in groups under trees to protect from direct sun light and will take an area of about 10m x 30m. Storage will not be visible from the road.
- c) This timber is then milled through the saw.
- d) The milled timber is then dried in a kiln. The kiln will be gas powered. The kiln will operate continuously over a 6 week period at a temperature of 40 degrees. This may occur every 3 months.
- e) The dried timber is then stored in the insulated shed to ensure appropriate moisture levels within the timber. The timber is kept separated to ensure air flow;
- f) The timber is transported for sale and distribution to the businesses Naval Base site.

Waste materials will be limited. Saw dust is bagged and sold to plant nurseries (garden centres). Wood off cuts and other scraps will be used as fire wood supplies on site or donated. Please note it is not intended to run a firewood business. There is no use of chemical treatments.

Attachment 9.4.2(2) provides further details supplied by the applicant. Please note that this shows a picture of truck used to transport wood and the saw. It also provides background regarding the existing business site that is located at Naval Base. It is noted that the entire existing operation is presently contained on a lot that is less than 2,000m<sup>2</sup> in area.

## **DETAILS**

In assessing a planning application, Council is bound by a number of matters which it is required to consider. These matters are described in section 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

In this specific case, the relevant matters to consider are summarised as:

- (a) aims and provisions of LPS7;
- (n) the amenity of the locality including:
  - i) environmental impacts;
  - ii) character of locality;
  - iii) social impacts.
- (o) likely effect on the natural environment or water resources
- (p) adequate provision of landscaping
- (r) suitability of the land taking account of possible risk to human health or safety;

- (x) the impact of the development on the community as a whole;
- (y) any submission received.

The aims of LPS7 for the General Agriculture zone are detailed as follows:

The purpose of the General Agriculture zone is stated to:

*“provide for the sustainable use of rural land which primarily accommodates a broad range of rural pursuits and complementary non-agricultural uses that are compatible with the capability of the land and which retain the rural character and amenity of the locality.”*

The objectives of the zone include:

*“(iii) seek to protect the economic viability of the area;*

*(v) recognise the aesthetic and tourism importance of the scenic landscape, realise the need to retain the rural scenic character of a site and of the district by ensuring through siting and landscaping provision that any development does not detrimentally change the scenic rural character.*

*(vii) support non-rural uses where they are compatible with adjacent and nearby rural and other uses and where environmental, landscape and servicing considerations are appropriately addressed.”*

Clause 4.54.1(i) relating to policy states: “encourage a diversity of well managed and sustainable rural and agricultural activities where landowners and operators contain impacts on their own properties and where they adopt ‘good neighbour’ practices”

The key planning issues related to this proposal have been broken down into the following components.

### **Noise**

The proposal is supported by a site specific noise assessment prepared by a suitably qualified and experienced professional. This report demonstrates that the proposal will comply with the requirements of the *Environmental Protection (Noise) Regulations 1997*.

The nearest sensitive land uses are four dwellings. The nearest is 440m from the noise source. The other dwellings are setback over 500m.

### **Traffic**

The traffic generated (2 truck trips a week) will have no material impacts on the local road network.

### **Landscape**

The proposed shed and activities will not be clearly visible (if at all) from the road due to distance and topography. The activity will be located behind a ridge line and a stand of trees that blocks visibility from the road. Visibility will also be very limited from adjoining neighbouring dwellings.

## **Scale**

The proposed activity is of a limited scale in terms of area occupied, traffic generated and hours of operation. The activity is of a scale that while it could be accommodated on a 2000m<sup>2</sup> block in the “Sandhills” industrial estate, it would also not be out of character in a rural setting. The scale and nature of the activity would be similar to many other “rural” enterprises in terms of noise, traffic generation and infrastructure (sheds/machinery).

## **CONSULTATION**

The proposal has been advertised with a letter drop to properties in the locality. Two submissions of objections have been received. One of the submissions have been received. These consist of petitions, one of 14 signatures and one of 4 signatures from nearby residents. Attachment 9.4.2(3) provides a summary of the issues raised and suggested responses.

The key points of concern described as follows:

- a) noise;
- b) potential for expansion;
- c) erosion of landscape/amenity; and
- d) precedent – the slippery slope.

In response to these points, the following is provided.

### Noise

Concerns regarding noise (especially at night) are valid and it is necessary for an acoustic engineer to establish the ability of the activity to comply with relevant requirements. In this instance, business activity will be limited to standard office hours (not at night) and compliance with the *Environmental Protection (Noise) Regulations 1997* during day light hours has been proven by a site specific noise assessment.

### Potential for expansion

The potential for expansion is not something that can be directly considered as part of this particular planning assessment. The proposal currently presented is what Council is required to consider. Future expansion options can be considered if and when they are proposed. However, it is possible for Council to signal how it would likely view expansion and at what point it would be considered unacceptable. It is also possible to impose conditions on this approval that limit activity to a certain level or threshold.

### Erosion of landscape/amenity

One of the key issues raised relates to concern about the erosion of existing landscape values. In this instance, it is unlikely that the proposal will have any direct impact on the landscape appeal of the locality. In particular, the development will not be visible or have very limited visibility from the street. The only potential visual indication may be a limited view of the top of the shed roof. It is worth noting that there is no limit to shed sizes within the zone and that the shed will be setback approximately 560m from the road (30m required).

Attachment 4 shows potential views from the saw mill site as well as views from the road. It is also worth noting that the new shed and activity will not be visible from the dwelling on the adjoining property to the north (located 500m from the site) and limited impact on the adjoining property to the southeast (located 420m from the site).

### Undesirable Precedent

Undesirable precedent relates to concern that approving this specific proposal will “open the flood gates” to other similar proposals to the locality. The cumulative impact of this will result in a significant change for the worse to the local character and amenity.

In this instance, the proposal is for a small scale operation that will have limited potential for visual intrusion on the established landscape character or amenity impacts due to noise, dust, vibration or smoke.

On this basis, approval would unlikely create a precedent for further more extreme and potential industrial scale developments in the locality. Any future expansion or new proposal would need to be considered on its specific individual merits, independent on the outcome of this decision.

### **FINANCIAL IMPLICATIONS**

Nil.

### **POLICY COMPLIANCE**

Nil

### **STATUTORY COMPLIANCE**

Regulations clause 67 and *Local Planning Scheme 7*

These documents set out the rules and considerations that can be taken into account when making a planning decision.

Clause 67 details matters that are required to be considered. This includes impacts on the environment, public safety, public health and amenity. These considerations need to be assessed through the confined scope of the elements of the plan subject to assessment.

### **CONCLUSION**

The proposal is for a saw mill. The saw mill is of a scale that can be considered reasonable in a rural setting. The siting of the operation will have limited impact on the existing rural landscape and any potential disturbances can be adequately controlled through imposition of planning conditions.

Approval is recommended.

### **EXECUTIVE RECOMMENDATION**

**Moved:**

**Seconded:**

**That Council resolve to approve the establishment of a saw mill at Lot 1 (No. 104) Charley Creek Road, Charley Creek subject to the following conditions:**

- 1) The development hereby permitted must be substantially commenced within two (2) years from the date of this decision letter.
- 2) The approved plans form part of this approval and the development hereby approved must at all times be consistent with the approved plans.
- 3) Working hours within the pit area and transportation of materials shall be restricted to the hours between 8.00am and 5.00pm Monday to Friday only, and excluding public holidays and may be further restricted in specific cases as determined appropriate by the Shire of Donnybrook-Balingup
- 4) No major repairs or maintenance of equipment to take place on-site.
- 5) Outside Storage of logs to be screened from the public receptor points to the satisfaction of the Shire of Donnybrook-Balingup.
- 6) The use of the land shall not cause or permit to cause the escape of noise, offensive matter or foul odours in such quantity or of such nature as to unreasonably impact on the amenity of the locality.
- 7) The saw mill being restricted to processing 1000 tonnes of raw material per year.
- 8) Direct sales from the property being restricted to the satisfaction of the Shire of Donnybrook-Balingup.
- 9) The access leg being maintained in a suitable condition that does not generate erosion or drainage issues for adjoining land holdings or nuisance or safety concerns for the safe and convenient functioning of the immediate road network.

**9.4.3 HOME BUSINESS (FIRE WOOD DISTRIBUTION) AT NO.30 (LOT 8) BLACKWOOD RIVER DRIVE, BALINGUP**

<b>Location</b>	Lot 8 Blackwood River Drive, Balingup
<b>Applicant</b>	Ms Grace Bramwell
<b>File Reference</b>	A533
<b>Author</b>	Bob Wallin - Principal Planner
<b>Attachments</b>	9.4.3(1) – Location Plan 9.4.3(2) - Schedule of Submissions
<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	Refusal is recommended: <ul style="list-style-type: none"> <li>• The proposal is for a home business to distribute firewood from a residential property (Lot 8 Blackwood River Drive, Balingup).</li> <li>• A number of submissions have been received objecting to the proposal;</li> <li>• The proposal raises a number of local amenity issues.</li> </ul>

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**STRATEGIC ALIGNMENT**

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

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

**BACKGROUND**

An application has been received to establish a home business at Lot 8 Blackwood River Drive, Balingup (Attachment 9.4.3(1)).

The land is zoned “Residential” under *Local Planning Scheme No.7* (LPS7).

The proposal is to have a stock pile of pre-split wood with a maximum footprint of 20m located behind the dwelling. Delivery to individual purchasers will then be carted to customers in the locality. The stock pile will be delivered by a six wheel tipper truck once a week. Individual deliveries to customers using a rubber lined trailer/ute with no more than 8 customer deliveries a day.

Activities are to be between the hours of 8am and 6pm with business to occur on 8 days out of a fortnight.

The proposal falls generally under the use class of “Home Business” which is listed as an “A” discretionary use. This means the use is not permitted unless the Local Government exercises its discretion following public consultation.

The use “Home Business” is defined as follows:

*“a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –*

- a) Does not employ any person not a member of the occupier’s household;*
- b) Will not cause injury to or adversely affect the amenity of the neighbourhood;*
- c) Does not occupy an area greater than 50 square metres;*
- d) Does not display a sign exceeding 0.2 square metres;*
- e) Does not involve the retail sale, display or hire of goods of any nature;*
- f) In relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and*
- g) Does not involve the use of an essential service of greater capacity than normally required in the zone.”*

The proposal may technically meet the requirements of the definition. However, there is potential to pick up on points “b)”, “e)” and “f)” for further analysis.



The activity has some potential to adversely impact the amenity of the neighbourhood and has potential to include a “retail sale” element. The business involves the sale and delivery of firewood directly to customers. Further, the proposal will involve increased vehicle movement and noise associated with the loading or firewood then would normally be associated with a traditional residential use. Lastly, the six wheel delivery vehicle is likely to have a weight greater than 3.5 tonnes tare weight. It is noted that the Shire has a number of six wheel tipper trucks which have a tare weight closer to 10 tonnes.

## DETAILS

In assessing a planning application, Council is bound by a number of matters which it is required to consider. These matters are described in section 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

In this specific case, the relevant matters to consider are summarised as:

- (b) aims and provisions of LPS7;
- (n) the amenity of the locality including:
  - i) environmental impacts;
  - ii) character of locality;
  - iii) social impacts
- (r) suitability of the land taking account of possible risk to human health or safety;
- (s) the adequacy of –
  - (i) the proposed means of access to and egress from the site; and
  - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles.
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.
- (x) the impact of the development on the community as a whole;
- (y) any submission received.

In interpreting the degree of impact on the above factors, it is important to frame considerations within the context of the Residential zone’s purpose and objectives.

Clause 3.2.1 of LPS7 describes the purpose of the Residential Zone is:

*“to cater for the adequate provision of suitably located land in a varied urban residential environment to meet the needs of the community and to promote the amenity of residential areas. In particular to provide for residential development at a range of densities with a variety of housing to meet the needs of different household types through the application of the Residential Design Codes.”*

Clause 3.2.2 provides some amplification of this purpose by listing objectives. In this case, the key relevant objectives are:

- “(a) provide for a range of housing choice with a high level of amenity in residential areas and which reflect the area’s rural character;...*
- (v) promote and safeguard the health, safety, convenience, general welfare and the amenity of residents and the residential area...”*

Based on the above, it is reasonable to conclude that the primary objective and purpose of the residential zone is to focus on amenity of local residents and ensure that the general welfare and amenity of residents is given priority. The designation of “home business” as a discretionary use within this zone illustrates a clear line that this activity should only be considered where there is no potential to adversely impact on local residential amenity and the ability of residents to enjoy and live in their residential dwelling.

In this instance, there is a reasonable prospect that this business will have potential to impact on local amenity by:

- a) introducing additional vehicular movement; and
- b) generating noise and dust associated with the unloading and loading of firewood.

In terms of vehicle movements, there are three elements to consider. These are:

- a) The capacity of the road network to accommodate the additional movements. The road network has the capacity to accommodate the additional traffic;
- b) The method of entering/exiting the property. It is necessary to enter and exit the property in a forward gear. It is not possible to confirm that this will be possible given the constraints to the property in terms of size, location of buildings and landscaping features;
- c) The number and type of vehicle movements that should reasonably be expected from a residential dwelling. In this instance, the number of vehicle trips associated with the business would be above what would reasonably be expected from a residential use. Added to this, the types of vehicles making the movements need to be considered (ute with trailer and six wheel truck).

## **CONSULTATION**

The proposal has been advertised with a letter drop to properties in the locality. Three submission have been received, consisting of two objections and one letter of support. Attachment 9.4.3(2) provides a summary of issues raised and suggested responses.

## **FINANCIAL IMPLICATIONS**

Nil.

## **POLICY COMPLIANCE**

Nil

## **STATUTORY COMPLIANCE**

*Planning and Development Act 2005, clause 67 from the Planning and Development (Local Planning Schemes) Regulations 2015 and Local Planning Scheme 7*

These documents set out the rules and considerations that can be taken into account when making a planning decision.

Clause 67 details matters that are required to be considered. This includes impacts on the environment, public safety, public health and amenity. These considerations need to be assessed through the confined scope of the elements of the plan subject to assessment.

## CONCLUSION

The proposal has potential to create a number of safety and adverse impacts on local residential amenity. On this basis, it recommended that the proposal be refused.

## EXECUTIVE RECOMMENDATION

**Moved:**

**Seconded:**

**That Council refuse the application to establish a home business (for firewood distribution) at Lot 8 Blackwood River Drive, Balingup on the grounds that:**

- 1) The proposed use will adversely impact the local residential character and amenity in terms of noise, safety and dust contrary to the intent clause 3.2 of the Residential zone of Local Planning Scheme 7;**
- 2) Approval will create an undesirable precedent for similar land uses to occur within the Residential zone to the detriment of residential amenity.**
- 3) 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.**

### **9.4.4 AMENDMENT 8 TO LOCAL PLANNING SCHEME NO.7 - LOTS 424 AND 425 BAKEWELL STREET, DONNYBROOK**

<b>Location</b>	Lots 424 and 425 Bakewell Street, Donnybrook
<b>Applicant</b>	Landcorp
<b>File Reference</b>	TP17 AMD 08
<b>Author</b>	Bob Wallin (Principal Planner)
<b>Attachments</b>	9.4.4(1) – Extract of Rezoning 9.4.4(2) – Proposed Structure Plan Map 9.4.4(3) - Extract "Growth Plan" 9.4.4(4) – Schedule of Modifications 9.4.4(5) – Schedule of Submissions
<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	Final approval is recommended: <ul style="list-style-type: none"> <li>• The proposal is to zone Lots 424 and 425 Bakewell Street, Donnybrook from "Parks and Recreation" to "Residential" with structure plan provisions.</li> </ul>

	<ul style="list-style-type: none"> <li>• The land was identified as part of a LandCorp funded initiative to assist the Shire in supplying residential land.</li> <li>• The proposal represents a complex amendment as the proposal does not match the Local Planning Strategy.</li> <li>• The Western Australian Planning Commission granted consent to advertise.</li> </ul>
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## STRATEGIC ALIGNMENT

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

Outcome	Strategy	Action
1.1 - A diverse, prosperous economy, supporting local business and population	1.1.1 - Promote, maintain and diversify investment in the district	1.1.1.4 - Actively partner in regional growth planning partnerships and projects
1.2 - Available land for residential, industrial and commercial development	1.2.1 - Support and promote appropriate development of land within the district	1.2.1.1 - Attract, promote and facilitate land development within the district
	1.2.2 - Seek opportunities for land development by the Shire	1.2.2.2 - Advocate for service and infrastructure provision to facilitate land development

## BACKGROUND

LandCorp has a Regional Development Assistance Program (RDAP) that can assist in supplying new residential land to market. RDAP was established to address prohibited costs sometimes associated with developments in regional Western Australia which can make them unviable.

The release of new fully serviced residential land within the Donnybrook townsite is constrained due to servicing costs. The primary constraint is the cost of extending the reticulated sewerage system.

Council at its meeting 12 February 2014 resolved to:

- 1) Invite LandCorp to progress a residential land development project within the Donnybrook Townsite.
- 2) Delegate responsibility to Chief Executive Officer to prepare a Regional Development Assessment Program application.
- 3) Require Council staff to report updates on any milestones in the RDAP process for direction, comment and information.

Council was successful in becoming part of the RDAP program. A preferred site was selected by LandCorp for detailed investigation. This site required a number of technical studies to be

completed and processes to be completed. One of the processes relates to preparing a rezoning amendment to *Local Planning Scheme No.7 (LPS7)* and structure plan. Attachments 9.4.4(1) and 9.4.4(2) show extracts from the rezoning amendment and subdivision concept.

Council at its meeting 20 December 2017 resolved to request the Western Australian Planning Commission's (WAPC) consent to advertise. This request was based on the amendment being considered as a "complex amendment" under the Planning and *Development (Local Planning Schemes) Regulations 2015* (Regulations). This is on the basis that the amendment is not consistent with the Shire's *Local Planning Strategy (Strategy)*(Regulation 34). The Strategy identifies the site as "conservation/recreation".

The process for complex amendments is broadly summarised in the following steps:

- Step 1) Council resolve to initiate the amendment;
- Step 2) Council resolve to advertise the amendment
- Step 3) Council refers resolution and documents to Western Australian Planning Commission for decision (WAPC).
- Step 4) If WAPC agrees with proposal, refer to EPA for environmental assessment;
- Step 5) Advertise amendment;
- Step 6) Council to consider submissions and make a recommendation for final approval;
- Step 7) The WAPC makes a recommendation to Minister for Planning;
- Step 8) Minister for Planning grants final approval; and
- Step 6) Amendment gazetted and becomes law.

This proposal is now presented to Council for a decision on Step 6.

The underlying objective of this project was to address a shortage of serviced residential land within the Donnybrook Townsite. This proposal will have the potential to add 19 residential lots (including a grouped housing site).

## **DETAILS**

The key issue for this amendment is its relationship to the established planning framework – in this case the Strategy. This proposal was not foreseen when the Strategy was prepared and therefore is technically inconsistent.

The proposal has been identified in the Shire's Growth Plan (Attachment 9.4.4(3)). While the Growth Plan is not a formally recognised plan it does provide a snap shot into the Shire's vision for future residential growth.

While the proposal is not identified in the Strategy, the important thing to consider is to what the departure will mean. Is it a fundamental departure or is it a reasonable adaptation that keeps in tune with the overall principles and outcomes envisaged by the Strategy. Just because a proposal is inconsistent with the Strategy, this fact by itself does not provide sufficient reason or logic to automatically object or refuse a proposal.

Decisions need to be anchored in town planning outcomes and defined by the strength or steel that underpins its logic and views. In this case, the proposal can be considered to be a minor logical inclusion as it will link already identified urban expansion areas to the west. Further, the proposal is of a limited scale and will assist with extending servicing infrastructure to the west to better enable future development to occur.

The proposal has a number of unique points that prevents it being used as a precedent for supported future wholesale departures from the Strategy. For instance:

- a) It is identified in the Shire's Growth Plan which provides a long term strategic vision for how the Shire will develop;
- b) The proposal connects existing residential zoned land;
- c) The proposal will enable infrastructure development to occur and be funded through RDAP.

The Regulations provide a legitimate process to consider departures from Strategies (Complex Amendments). It is assumed that this stream of (complex) amendment was introduced to formally allow amendments to be supported on their merits – not solely on how they fit within a plan or strategy. The complex amendment process allows proposals (if proven good in themselves) to have a fair hearing. It should always be kept in mind that the ultimate goal is to achieve good planning outcomes for the community. In this case, the proposal is considered reasonable – notwithstanding the colour presently shown on the Strategy map.

The purpose of the amendment document is to identify the future potential use of the site. In this case, it intends to change the map colour from green to brown (Recreation to Residential). It also seeks to set up the framework necessary to ensure that all environmental, design and servicing issues are addressed at the appropriate stages.

A number of modifications are suggested to address technical/administrative points. There were presented previously to the WAPC (see Attachment 9.4.4(4)). It is necessary for these changes to be included prior to finalization of the amendment.

## **CONSULTATION**

The WAPC granted consent to advertise. Prior to public advertising starting, the EPA is required to provide an environmental assessment. The EPA resolved that the amendment did not trigger the need to provide any advice or recommendations.

The amendment has been advertised which included, a notice in the paper, letter drop to nearby landowners and notice on the Shire's website and referral to relevant government agencies.

Four submissions were received. These consist of three from government agencies raising no objections and one submission (petition from 10 abutting landowners) raising objections. Attachment 5 provides a summary of submissions received and suggested recommended responses.

The petition raises a number of points that require further elaboration. The petition outlines that this parcel of land has always been identified for "recreation" purposes and has never been identified for residential development. This is true and cannot be disputed. It is also true that there will be a loss of natural habitat and bushland views. Landowners have purchased blocks basing their decisions (possibly in part) due to reasonable expectation that the other side of the road would remain bushland and not be subject to further residential expansion. However, in making a decision, the wider interests of the town need to be added to the equation. In this instance, the following points should be taken into account:

- a) the proposal will enable the creation of additional fully serviced residential lots where there is currently a conic shortage that is limiting the towns ability to thrive and grow. Historically, Donnybrook has experienced year on year townsite development of 40 dwellings. This number has significantly declined in recent years. This decline can be part attributed to the local economy, but also to the lack of unconstrained and serviced residential lots on the market. At present there are less than 20 fully serviced vacant residential lots and 36 unconstrained unsewered lots. Please note that specific number of unconstrained unsewered lots will vary slightly depending on definitions; and
- b) The proposal will enable the extension of essential services to allow future expansion of existing planned residential areas to the west;
- c) The site has been subject to significant environmental assessment and determined that the site does not possess any specific qualities that preclude it from consideration for development.

In summary, the acceptableness or otherwise of this proposal depends on how the trade-off is calculated between site specific local loss verses potential wider public gain. In this instance, the proposal will have the potential to allow for the growth of the town and its longer term economic survival. It may assist to also take account that local amenity could be addressed to some extent through the structure planning process by requiring specific landscaping and street tree requirements. This may include the need to limit or prohibit the use of grassed areas in the front setback area and require planting of endemic native species/shrubs/trees that can reduce the bulk and dominance of built form on the local streetscape.

## **FINANCIAL IMPLICATIONS**

Publication in the Government Gazette will likely cost approximately \$250.

## **POLICY COMPLIANCE**

9.10 - Road Closure. This policy outlines that the Shire will not support road closures unless it is demonstrated that it will have no impact on legal practical access. In this instance, the proposal will require a part road closure. It will not restrict access. It will reduce an existing 40m road reserve to approximately 20m. A 20m wide road reserve complies with Liveable Neighbourhoods standards.

It is not necessary to consider the road closure at the scheme amendment stage. It can be addressed prior to or at the subdivision stage.

## **STATUTORY COMPLIANCE**

Part 5 of the *Planning and Development Act* outlines the processes and requirements for amendment local planning schemes. This includes Section 81 that details the need for an Environmental Decision by the EPA prior to formal public advertising starting. *Planning Regulations 2015* Part 5 Amending local planning scheme Division 2 details processing and advertising requirements for Complex Amendments.

## **CONCLUSION**

The shire presently has a limited stock of vacant residential lots in the Donnybrook townsite. There are presently less than 100 are available on the market. Historically, 40 dwellings a year are constructed within the townsite and this has been reduced significantly in the last few years.

This RDAP initiative by LandCorp will assist in providing service extensions and approximately 20 fully serviced residential lots on the market to assist the growth of the townsite.

The proposal requires a rezoning/amendment to LPS7 and a structure plan. The rezoning document is generally satisfactory. A number of minor modifications are suggested.

It is requested that Council resolve to recommend support for final approval.

## **EXECUTIVE RECOMMENDATION**

**Moved:**

**Seconded:**

**That Council:**

- 1) **Recommend final approval be granted to Amendment 8 to Local Planning Scheme 7 subject to modifications being undertaken in accordance with the attached schedule of modifications (Attachment 4);**
- 2) **Determine the submissions received in accordance with Attachment 5 Schedule of Submissions;**
- 3) **Forward 2 copies of the amendment document to the Western Australian Planning Commission for approval;**
- 4) **Require the Chief Executive Officer to undertake such tasks necessary to implement items 1 to 3 above.**

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### **9.5 MANAGER AGED CARE SERVICES**

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Nil

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### **9.6 CHIEF EXECUTIVE OFFICER**

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#### **9.6.1 LEASE INCENTIVE REVIEW**

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Administration
<b>File Reference</b>	ADM 11/3
<b>Author</b>	Ben Rose – Chief Executive Officer ( <i>Trish McCourt – Corporate Planning and Governance Officer</i> )
<b>Attachments</b>	Nil
<b>Voting Requirements</b>	Simple Majority



<b>Executive Summary</b>	<p>In line with the Corporate Business Plan, a review of direct and indirect Shire subsidy provisions is scheduled for 2018/19.</p> <p>The review is likely to attract a high amount of community interest, and well-thought out, robust and open approach is proposed.</p> <p>It is recommended that Council resolve to:</p> <ol style="list-style-type: none"> <li>1) Initiate discussions with 'appropriate persons', including those from other Local Governments, in regards to the process and implications to reviewing lease and subsidy arrangements</li> <li>2) Establish a working group made up of Councillors, Shire Officers and 'appropriate persons', to determine further direction</li> <li>3) Report findings to Council at a future Agenda Briefing and Concept forum</li> </ol>
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## STRATEGIC ALIGNMENT

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

<b>Outcome</b>	<b>Strategy</b>	<b>Action</b>
3.2 Well supported community groups and facilities	3.2.1 - Provide and maintain appropriate community facilities	3.2.1.2 - Maintain community facilities within resource capacity
3.3 A safe and healthy community environment for all ages	3.3.3 - Support a safe, healthy and active community	3.3.3.5 - Retain and support local doctors and ancillary service provision
4.1 A strategically focused, open and accountable Local Government	4.1.2 - Continue to enhance communications and transparency	4.2.1.1 - Ongoing meaningful communications and engagement with residents ratepayers and stakeholders
4.2 A respected, professional and trusted organisation	4.2.1 - Effective and efficient operations and service provision	4.2.1.5 - Review direct and indirect Shire subsidy provisions

## BACKGROUND

The Shire of Donnybrook Balingup (Council) is the lessor of twenty-eight (28) community facility leases. Thirteen (13) of these groups pay an annual lease rental fee of between \$55 and \$3000, ten (10) pay \$1 per year for peppercorn leases, and five (5) pay \$1 per year for

peppercorn memorandums of understanding or agreements. In addition, the Council is the lessor of four (4) 'commercial' building leases (*not including those connected with delivering direct Shire Services*). The four (4) lessees pay an annual fee of between \$27,000 and \$38,000 each.

There are vast inconsistencies between the fees charged for these commercial and community leases, with little or no rationale as to how or why the fees were calculated as such. Council does not have a formal policy, procedure or any other guideline to help its approach to determining direct and indirect subsidy provisions. There is no established formula, no commercial versus community approach and no set discount considerations. Essentially, the lease fees have historically been set by Council on a case by case basis.

*Note: The term 'commercial' (regardless of good service provided to the community) is generally considered a profit making business e.g. pharmacist, dentist, supermarket, newsagent, as opposed to a not for profit 'community' concern e.g. football club, playgroup, Scouts, RSL Club, community hall committee.*

## DETAILS

The Shire of Donnybrook Balingup's 2017 – 2021 Corporate Business Plan, calls for a 2018/19 review of Councils direct and indirect subsidy provisions.

At the 15 August 2018 Council Agenda Briefing and Concept forum, Council were presented with an outline of its leasing arrangements, and considerations towards setting rental values, defining the criteria for determining the level of subsidy, considering existing arrangements and determining new applications for leases in the future.

Also included in the presentation, was a snapshot of three (3) other local government's leasing arrangements. The intention was to elicit discussion on possible direction and approach, to reviewing and setting rental fees for Council leases going forward.

In summary, the key components attributed to the other three (3) local government's leasing arrangements are:

<b>Community Group/Not for Profit facility Leases</b>	<b>Commercial facility leases</b>
All three (3) LG's have formal lease policy and guideline arrangements	All LG's have formal lease policy and guideline arrangements
All three (3) LG's use a subsidy matrix, albeit at varying levels, to determine rental fee. Examples: <ul style="list-style-type: none"> <li>• Strategic link</li> <li>• Social, Economic and environmental return</li> <li>• Maintenance contribution</li> <li>• Potential for income – kiosk/bar</li> <li>• Practices – no smoking, healthy food</li> <li>• Building condition</li> <li>• Community built building on Shire land</li> </ul>	All three (3) LG's set fee directly based on market value.  Two (2) LG's rely on an independent valuer to determine market value.  One (1) LG relies on the Valuer General to determine market value.

Community Group/Not for Profit facility Leases	Commercial facility leases
<ul style="list-style-type: none"> <li>Sq metre and hours of use</li> </ul>	
<p>One LG does not encourage peppercorn arrangements</p>	<p>One LG has a stringent <i>Commercialisation Policy</i> that concentrates on increasing non-rate revenue, to enable an offset of costs towards asset replacement, repayment of loans and reduce annual rate increase.</p>
<p>One LG sets its fee on 2% of replacement value of facility minus discount (if any) based on subsidy matrix</p>	<p>None of the three (3) LG's use a subsidy matrix or provide independent exemptions or discounts.</p>

## CONSULTATION

Consultation has not commenced.

## FINANCIAL IMPLICATIONS

Considering the complexity to reviewing the Shires Leases and Subsidies, it may be necessary to engage an experienced consultant to undertake the review. The 2018/19 budget provides an amount of \$10,000 for consultant fees (Sundry Other Governance).

## POLICY COMPLIANCE

Nil

## STATUTORY COMPLIANCE

Nil

## CONCLUSION

The Shire of Donnybrook Balingup is the lessor of thirty two (32) leases (not connected to the delivery of direct Shire services). There are vast inconsistencies between the fees charged for these leases, with little or no rationale as to how or why the fees were determined. In this regard, Council does not have any formal process for determining its leasing fees. Shire offices researched leasing arrangements of three (3) other local governments. This revealed that all three (3) had formal policies and procedures to help guide the calculation of leasing fees.

## EXECUTIVE RECOMMENDATION

Moved:

Seconded:

That Council:

- 1) Initiate discussions with 'appropriate persons', including those from other Local Governments, in regards to the process and implications to reviewing lease and subsidy arrangements;

- 2) Establish a working group made up of Councillors, Shire Officers and ‘appropriate persons’, to determine further direction;
- 3) Report findings to Council at a future Agenda Briefing and Concept forum;
- 4) Instruct the Chief Executive Officer to undertake necessary actions to implement the above.

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

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Nil

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**11 QUESTIONS FROM MEMBERS**

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

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Nil

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**13 MEETINGS CLOSED TO THE PUBLIC**

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**COUNCIL DECISION**

**Moved:**

**Seconded:**

That the Meeting be closed to the public under the *Local Government Act 1995* for item 13.1.1 Tuia Lodge Charitable Trust – Payment of Legal Fees under Section 5.23 (2) (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.

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**13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

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**13.1.1 TUIA LODGE CHARITABLE TRUST – PAYMENT OF LEGAL FEES**

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	CSV 01/2
<b>Author</b>	Greg Harris, Manager Finance and Administration
<b>Attachments</b>	Nil
<b>Voting Requirements</b>	Simple Majority

**COUNCIL DECISION**

**Moved:**

**Seconded:**

**That:**

- 1) In accordance with Section 5.23 (2) and Admin Regulations 4A, agenda item 13.1.1 remains confidential as sensitive information is detailed in the reports.
- 2) When the information in the reports is not sensitive the items will be included in the next occurring council agenda.

**COUNCIL DECISION**

**Moved:**

**Seconded:**

**That the meeting be reopened to the public.**

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

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**14 CLOSURE**

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The Shire President to advise that the next Ordinary Council Meeting will be held on 24 October 2018, commencing at 5.00pm at the Balingup Recreation Centre, Balingup.

The Shire President to declare the meeting closed at      pm.

