



## **NOTICE OF ORDINARY COUNCIL MEETING 23 SEPTEMBER 2020**

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To be held on

**Wednesday 23 September 2020**

Commencing at 5.00pm

Shire of Donnybrook Balingup Council Chambers, Donnybrook

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**Ben Rose**  
Chief Executive Officer

**18 September 2020**

### **Disclaimer**

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

## TABLE OF CONTENTS

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1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS.....	4
2	ATTENDANCE .....	4
2.1	<i>APOLOGIES</i> .....	4
2.2	<i>APPROVED LEAVE OF ABSENCE</i> .....	4
2.3	<i>APPLICATION FOR A LEAVE OF ABSENCE</i> .....	4
3	ANNOUNCEMENTS FROM PRESIDING MEMBER.....	5
4	DECLARATION OF INTEREST .....	6
5	PUBLIC QUESTION TIME .....	6
5.1	<i>RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE</i> .....	6
5.2	<i>PUBLIC QUESTION TIME</i> .....	6
6	PRESENTATIONS .....	6
6.1	<i>PETITIONS</i> .....	6
6.2	<i>PRESENTATIONS</i> .....	6
6.3	<i>DEPUTATIONS</i> .....	6
7	CONFIRMATION OF MINUTES.....	7
7.1	<i>ORDINARY MEETING OF COUNCIL – 26 AUGUST 2020</i> .....	7
8	REPORTS OF COMMITTEES .....	7
9	REPORTS OF OFFICERS .....	8
9.1	<i>EXECUTIVE MANAGER OPERATIONS</i> .....	8
9.1.1	PROPOSED OUTBUILDING – LOT 9 GOODWOOD ROAD, PAYNE DALE .....	8
9.1.2	NAMING OF PARK – DONNYBROOK TOWN CENTRE REVITALISATION PROJECT .....	20
9.2	<i>EXECUTIVE MANAGER CORPORATE AND COMMUNITY</i> .....	22
9.2.1	ACCOUNTS FOR PAYMENT .....	22
9.2.2	MONTHLY FINANCIAL REPORT – JULY 2020.....	22
9.2.3	2020/21 COMMUNITY GRANTS FUNDING SCHEME – REQUEST FOR VARIATION TO REQUESTED FUNDING FOR KIRUP PROGRESS ASSOCIATION.....	23
9.2.4	2020/21 FEES AND CHARGES AMENDMENT – STANDPIPE WATER.	25
9.3	<i>CHIEF EXECUTIVE OFFICER</i> .....	27

9.3.1	DONNYBROOK AND DISTRICTS SPORTING, RECREATION AND ENTERTAINMENT PRECINCT (VC MITCHELL PARK MASTER PLAN)	27
10	ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	. 32
10.1	COUNCILLOR.....	32
11	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING .....	32
12	MEETINGS CLOSED TO THE PUBLIC .....	33
12.1	MATTERS FOR WHICH THE MEETING MAY BE CLOSED.....	33
12.1.1	CONFIDENTIAL – REQUEST TO SUB-LEASE PORTION OF 70 SOUTH WESTERN HIGHWAY, DONNYBROOK .....	33
12.1.2	CONFIDENTIAL – RECALL CONFIDENTIAL RESOLUTIONS 2019-2020	
	33	
12.2	PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC .....	33
13	CLOSURE .....	33

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

To be held at the Council Chambers  
Wednesday 23 September at 5.00pm

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

**Shire President – Acknowledgment of Country**

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

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

**2 ATTENDANCE**

**MEMBERS PRESENT**

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

**PUBLIC GALLERY**

**2.1 APOLOGIES**

Nil.

**2.2 APPROVED LEAVE OF ABSENCE**

Nil.

**2.3 APPLICATION FOR A LEAVE OF ABSENCE**

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

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#### Shire President Diary

03/07-SWDC Launch of Bunbury Geographe Advance Technology Hub Feasibility Study by Hon Alannah McTiernan (Bunbury)

04/07 Meeting with Cr Sercombe (Donnybrook Council Chamber)\*

15/07-Hon Steve Thomas MLC (Donnybrook)\*

16/07-James Jarvis - Community Committees (Rec Centre Donnybrook)

29/07-Meeting with Brad Hammersley- BGEA (Zoom)

30/07–Bunbury Budget Presentation (Bunbury)\*

30/07–BGEA Board Meeting (Harvey)

01/08–Opening DBCR (Balingup)

04/08–State Government Announcement of State Government COVID Recovery Grants (Bunbury)\*

04/08–Warren Blackwood Alliance of Councils (Nannup)\*

27/08-Countryman Interview Re Drought Community Program (Donnybrook)\*

28/08-WALGA SW Zone (Bridgetown)\*

28/08-Hon Mick Murray & Jodie Hanns – Sundowner (Donnybrook Football Club)\*

01/09- IGA Opening (Donnybrook)\*

01/09-Meeting with Minister Stephen Dawson (DBCA), Minister Dave Kelly (DWER) and Don Punch MLA (Bunbury)

02/09-Hon Mick Murray (Collie)\*

02/09-Meeting with Hon Stephen Dawson (DBCA) and Jodie Hanns ALP candidate for Collie-Preston. (Donnybrook Chamber)\*

04/09 Chamber of Commerce Sundowner (Donnybrook)\*

\*denotes in the company of CEO.

## **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.

Cr Wringe declared an impartiality interest in item 9.2.3 as she is a member of the Kirup Progress Association. Cr Wringe will remain in the Chamber for the discussion and vote.

Cr Atherton declared an impartiality interest in item 9.3.1 as he is a member of the Donnybrook Football Club. Cr Atherton will remain in the Chamber for the discussion and vote.

The Chief Executive Officer declares an impartiality interest in item 12.1.1 as his wife is Chairman of the Bendigo Bank Board.

Cr Piesse declared an impartiality interest in item 12.1.1 as he is a member of the Bendigo Bank Board. Cr Piesse will remain in the Chamber for the discussion and vote.

Cr Wringe declared an impartiality interest in item 12.1.1 as she is a committee member of the Donnybrook Chamber of Commerce. Cr Wringe will remain in the Chamber for the discussion and vote.

Cr Lindemann declared an impartiality interest in item 12.1.1 as she is a committee member of the Donnybrook Chamber of Commerce. Cr Lindemann will remain in the Chamber for the discussion and vote.

## **5 PUBLIC QUESTION TIME**

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

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Nil.

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

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## **6 PRESENTATIONS**

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### ***6.1 PETITIONS***

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### ***6.2 PRESENTATIONS***

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### ***6.3 DEPUTATIONS***

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## **7 CONFIRMATION OF MINUTES**

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### **7.1 ORDINARY MEETING OF COUNCIL – 26 AUGUST 2020**

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Minutes of the Ordinary Meeting of Council held 26 August 2020 are attached (*attachment 7.1(1)*).

#### **EXECUTIVE RECOMMENDATION**

**That the Minutes from the Ordinary Meeting of Council held 26 August 2020 be confirmed as a true and accurate record.**

## **8 REPORTS OF COMMITTEES**

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Nil.

## 9 REPORTS OF OFFICERS

### 9.1 EXECUTIVE MANAGER OPERATIONS

#### 9.1.1 PROPOSED OUTBUILDING – LOT 9 GOODWOOD ROAD, PAYNE DALE

<b>Location</b>	Lot 9 Goodwood Road, Paynedale
<b>Applicant</b>	N Gleeson and A Byrne
<b>File Reference</b>	P20043 / A4456
<b>Author</b>	Kira Strange, Principal Planner
<b>Responsible Officer</b>	Kira Strange, Principal Planner
<b>Attachments</b>	9.1.1(1) – Location Plan 9.1.1(2) – Locality Plan 9.1.1(3) – Site Plan 9.1.1(4) - Elevation and Floor Plan 9.1.1(5) – Full Copy of Submission
<b>Voting Requirements</b>	Simple Majority

Recommendation
<p><b>That Council:</b></p> <p>Pursuant to Schedule 2, Part 9, Clause 68 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> approves the development of an outbuilding at Lot 9 Goodwood Road, Paynedale, subject to the following:</p> <p><b><u>Conditions:</u></b></p> <ol style="list-style-type: none"> <li>1. The approved development must accord with the endorsed plan(s), including any notations, and must not be altered or modified, without prior approval from the Shire.</li> <li>2. The approved outbuilding shall only be used for purposes incidental to the residential or agricultural use of the property and is not to be used for habitable, commercial or industrial purposes without prior approval from the Shire.</li> <li>3. All stormwater from the proposed development including building(s) and hardstand area(s) shall be managed by the landowner in accordance with the <i>Shire of Donnybrook Balingup’s Policy 4.27 – Stormwater Management Private Land</i>.</li> <li>4. Prior to the commencement of the development, a landscaping plan is to be submitted and approved by the Executive Manager Operations to achieve screening of the outbuilding from the adjoining property which shall include:</li> </ol>



**4.1 The location, species, number and expected size at maturity of proposed screening vegetation; and**

**4.2 Methods of reticulation of landscaped areas including the source of water supply.**

**5. All landscaping shall be installed as per the approved landscaping plan within 12 months of this approval and maintained thereafter to the satisfaction of the Executive Manager Operations.**

**Advice Notes:**

- 1. With regards to Condition (3), written approval must first be obtained from the Shire if a landowner proposes to direct discharge of stormwater into the Shire's open or piped drainage infrastructure.**
- 2. All noise emitted from the property is required to comply with the *Environmental Protection (Noise) Regulations 1997*.**
- 3. This approval is not to be misconstrued as approval for any existing unauthorised development or use of the land not subject to the 'Description of Proposed Development' within this approval. It is recommended the applicant liaise with the Shire to ensure all relevant approvals are obtained.**
- 4. Compliance with the Building Code of Australia is required. A Building Permit Application must be submitted to, and approved by, the Shire prior to the commencement of any development. The Building Permit plans must reflect the relevant conditions and approved plans of this Development Approval. Any subsequent amendments to the plans may require additional development approval.**
- 5. Construction work is to be appropriately managed to ensure compliance with the *Environmental Protection (Noise) Regulations 1997*. In accordance with the Regulations, construction work is not permitted:**
  - outside of the hours of 7:00am to 7:00pm;**
  - on a Sunday;**
  - or on a Public Holiday.**
- 6. If the development the subject of this approval is not substantially commenced within a period of two years, the approval will lapse and be of no further effect.**
- 7. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought or obtained.**
- 8. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. An application must be made within 28 days of the determination.**

## STRATEGIC ALIGNMENT

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

Outcome	2.1	An attractive and maintained built environment
Strategy	2.1.2	Provide effective and efficient regulatory services
Action	2.1.2.2	Provide efficient and effective building services
Outcome	2.3	A natural environment for the benefit of current and future generations
Strategy	2.3.2	Effective planning and management policies for land use
Action	2.3.2.1	Review local planning policies

## EXECUTIVE SUMMARY

- An application for development approval was received by the Shire on 16 June 2020 for an outbuilding with a 12.8 metre setback in lieu of the 20 metre requirement under the Shire's Local Planning Scheme No. 7 (LPS7).
- The outbuilding is 8 metres by 9.84 metres with a total floor area of 78.72m<sup>2</sup>. The proposed wall height is 3 metres with a gabled roof height of 3.7 metres.
- Pursuant to clause 4.5.2 of LPS7, the application was advertised to surrounding landowners with one objection received.
- Upon being advised of the objection, the applicant has made an amendment to the proposed outbuilding by removing two roller doors on the western side to mitigate potential impacts associated with the proposed setback variation.
- It is recommended that Council approves the proposed development subject to the conditions contained in the officer recommendation.

## BACKGROUND

On 16 June 2020, the Shire received an application for development approval for an outbuilding with a setback of 12.8m in lieu of the 20m requirement under the Shire of Donnybrook Balingup Local Planning Scheme No. 7 (LPS7).

The subject property, Lot 9 Goodwood Road, Paynedale, is approximately 23.8 hectares and zoned 'Priority Agriculture' under LPS7. The site adjoins Goodwood Road on the north-west and is bound by private rural land on the east and west. The southern boundary is unconstructed road reserve. The site is partially located within a bushfire prone area. A Location Plan is provided in [Attachment 9.1.1\(1\)](#) and a Locality Plan illustrating the local area in further detail is provided in [Attachment 9.1.1\(2\)](#).

The subject site contains an existing dwelling and machinery shed with an enclosed backyard area. A Site Plan illustrating existing development on the property is provided in [Attachment 9.1.1\(3\)](#).

The proposed outbuilding has dimensions of 8 metres by 9.84 metres with a total floor area of 78.72m<sup>2</sup>, a wall height of 3 metres and a gable roof height of 3.7 metres. Elevations and floor plans for the proposed outbuilding are provided in Attachment 9.1.1(4).

The applicant has indicated that the proposed outbuilding is intended to be used for the storage of privately owned vehicles and general household items, and will be fully insulated to minimise noise impacts.

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

- It will provide privacy for the existing dwelling;
- It will act as a bushfire buffer for the existing dwelling;
- The location is the most practical in relation to the existing dwelling; and
- There are no other suitable locations as the leach drains are in front of the existing dwelling, a large machinery shed has been constructed to the south-east side and building in front to the north-east of this area would impact on the views of the occupants.

In accordance with the provisions of the Scheme, the proposal was referred to the landowner on the western side of the subject site as indicated in Attachment 9.1.1(2), with one objection received. The comments provided by the neighbor have been summarised in the following Schedule of Submissions:

<b>Submitter Comment</b>	<b>Officer Comment</b>
Has no general objection to a large outbuilding being constructed on the property.	Noted.  Construction of outbuildings and sheds on agricultural land is common within the Shire.
Considers the additional structure is too close to the common boundary and the 20m setback requirement should apply.	Noted.  The existing dwelling is located 15m from the boundary which in itself is a minor variation to the 20m requirement.  It has also been noted that the existing retaining wall and fence are located within the setback area and technically require an application for development approval. The applicant has been made aware and will be required to submit a separate application for assessment.  Notwithstanding this, each application for development approval is to be considered on its merits in relation to the context of the site and surrounding area.

<p>Considers the new outbuilding will be potentially used as an additional living area.</p>	<p>Noted.</p> <p>The proposed development is for non-habitable purposes which is included as a standard condition of approval on outbuildings and sheds. Use of non-habitable structures for habitable purposes is not permitted.</p>
<p>Considers there are other suitable locations available for the outbuilding on the property.</p>	<p>Noted.</p> <p>It is acknowledged that the site is large enough to consider alternative locations however officers consider the applicant has provided reasonable justification for the specified location with regard to the existing dwelling. It is noted the existing dwelling was constructed prior to the current applicants purchasing the property.</p>
<p>Considers the garage doors facing west towards the boundary will create land use conflict with livestock</p>	<p>Noted.</p> <p>The applicant has removed the two garage roller doors on the western side from the application to avoid use of vehicles within the setback area.</p>
<p>Noise Impact</p>	<p>The outbuilding will be insulated and is intended to be used for private use including general storage and vehicle parking.</p> <p>Use of the outbuilding for habitable or commercial/industrial purposes is not permitted.</p> <p>In addition, the nearest dwelling is approximately 200m away, therefore any impact would likely be minimal. Notwithstanding this, noise is regulated by the <i>Environmental Protection (Noise) Regulations 1997</i> and is required to comply with relevant provisions within this legislation.</p>

A full copy of the submission received is provided in [Attachment 9.1.1\(5\)](#).

Initially, the proposed outbuilding had three roller doors (two on the western side and one on the eastern side) and one standard access door on the northern side. In response to concerns raised within the objection received, the applicant has amended the application by removing

the two roller doors on the western side facing the adjoining property. The proposed outbuilding as illustrated in Attachment 9.1.1(4) is the proposal now being considered.

Subject to the proposal being amended, further consultation was undertaken with the objecting neighbor to determine if they may be willing to consider withdrawing their objection, however they indicated that they were unwilling to do so and their original concerns were reiterated. In accordance with delegation 9.2.1 *Local Planning Scheme No. 7 – Development Applications*, officers are required to bring contentious matters to Council, hence the reason for it being presented to Council for determination.

### **FINANCIAL IMPLICATIONS**

The relevant application fee has been paid by the applicant.

### **POLICY COMPLIANCE**

The proposed development has been assessed against the relevant provisions of *Local Planning Policy 9.4 Outbuilding Control*.

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

### **STATUTORY COMPLIANCE**

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

#### Local Planning Scheme No. 7

- Part 3 – Zones and the Use of Land

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

- (i) require the protection of the rural infrastructure and agricultural land resources;
- (ii) require planning to avoid the introduction of land uses and subdivision not related to agriculture including rural residential proposals;
- (iii) support the improvement of resource and investment security for agricultural and allied industry production;
- (iv) require protection and enhancement of biodiversity;
- (v) encourage value-adding opportunities to agricultural products at source;
- (vi) support a wide variety of productive agricultural and rural activities;
- (vii) support subdivision; where it provides for boundary adjustments, realignments, farm restructuring and new lot creation which promotes effective land management practices, environmental and landscape enhancement and infrastructure provision;

- (viii) support sensible use and management of resources, and the proper direction and control of development;
- (ix) promote the existing intensive agricultural land use; and
- (x) encourage other similar or complementary activities.

- Part 4 – General Development Requirements

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

<b>LPS7 Requirement</b>	<b>Proposal</b>	<b>Officer Comment</b>
CI 4.17 General appearance of buildings and preservation of amenity	Colorbond outbuilding in cream colour.	The proposed development is consistent with the existing dwelling.
CI 4.18 Height and appearance of buildings – Maximum 12m	3.0m wall height, 3.7m roof height, 78.72m <sup>2</sup>	Complies.
CI 4.23 Outbuildings – setbacks as per development standards in the zone (20m to side)	12.8m	Acceptable.  The proposed variation to the setback requirement is assessed against clause 4.54.8.1 (ii) below.
CI 4.25 Landscaping – as required by a condition of approval is to be carried out at the time of the development and permanently maintained to the satisfaction of the local government		A condition of approval for landscaping should be required within 12 months of approval and thereafter maintained.
CI 4.55 Priority Agriculture Zone – development standards to be the same as provisions for the General Agriculture zone within clause 4.54.	Property is within the Priority Agriculture zone	The development has been assessed against the relevant standards below.
CI 4.54.8 – Development standards  4.54.8.1 Setbacks: (i) Minimum front setback – 30m	83m	Complies.

<b>LPS7 Requirement</b>	<b>Proposal</b>	<b>Officer Comment</b>
(ii) Minimum side setback – 20m	12.8m (western side)	A 7.2m variation is proposed. It is considered that the development will have minimal impact to the surrounding amenity in relation to existing land use. The proposed development will be visible from the adjoining property however the nearest dwelling is approximately 200m away. It is considered that the visual impact can be mitigated through the introduction of landscaping.
	374m (eastern side)	Complies.
(iii) Minimum rear setback – 20m	490m	Complies
(iv) Setback to State Forest Boundary – Minimum 100m	105m	Complies. The property is separated from the State Forest to the south by road reserve.
<p>CI 4.54.8.2 – In determining proposed setback reductions, the local government will consider:</p> <p>(i) any alternative development sites on the property</p>		<p>The property is over 23 hectares in area. Whilst the Shire acknowledges that the site is significant in size and alternative locations may be available, the applicant has expressed their preference for this location due to the location of the existing development, privacy concerns and practicality of vehicular storage adjacent to the dwelling.</p>

<b>LPS7 Requirement</b>	<b>Proposal</b>	<b>Officer Comment</b>
<p>(ii) possible bush fire hazards</p> <p>(iii) environmental impacts</p> <p>(iv) effluent disposal</p> <p>(v) visual impact</p> <p>(vi) servicing/infrastructure implications</p>		<p>The subject area of the proposed development is located within a bushfire prone area. The proposed development is for non-habitable development and would unlikely change the existing bushfire status of the site.</p> <p>The proposed development will have minimal impact on the existing natural environment in relation to vegetation.</p> <p>The proposed development is for non-habitable purposes and therefore effluent disposal is not applicable to this proposal.</p> <p>The proposed development may have a visual impact in so far as it will be visible from the adjoining property. The nearest dwelling is 200m away, therefore visual impact will be minimal. Notwithstanding this, landscaping will mitigate visual impact.</p> <p>The proposed development is for non-habitable purposes and therefore servicing/infrastructure is not applicable to this proposal.</p>
<p>CI 4.54.8.3 – with the exception of a single dwelling, where proposal is for non-agricultural purposes, minimum setback to existing intensive agricultural activities on any adjacent lots is to be 100m</p>	<p>Setback 12.8m</p>	<p>Not applicable.</p> <p>Development is for an outbuilding which is incidental to a single dwelling which is not subject to this setback.</p> <p>Notwithstanding this, the adjacent land is used for livestock and raising of stock which is more consistent with extensive agriculture, rather than intensive agriculture (i.e. production of fruits, vegetables, fodder, etc.). Additional impacts to the existing adjacent land use will be minimal.</p>



LPS7 Requirement	Proposal	Officer Comment
CI 4.54.8.4 – local government may consider a lesser setback where applicant can demonstrate land use conflicts may be ameliorated by appropriate management design or buffer planting	Setback 12.8m	Acceptable.  Possible land use conflicts have been ameliorated by the removal of two garage doors from the western side. In addition, landscaping/buffer planting can be considered as a condition of approval to further mitigate concerns.

- Clause 4.54.10 – Reasons for Refusal

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

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

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

Clause 4.5 is relevant and states:

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

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

- (i) consult the affected parties by following one or more of the provisions for advertising under clause 64 of the deemed provisions; and

- (ii) have regard to any expressed views prior to making its determination to grant the variation.

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

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

Officers acknowledge that adjoining landowners use the land for livestock and keeping of animals which may have been impacted by vehicular access encroaching within the development setback area. However, the applicant has modified the proposal to remove the roller doors from the western side which will result in no vehicular access on this side, therefore officers consider the proposal as amended will not adversely impact the agricultural use of neighbouring land.

## **CONSULTATION**

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

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

## **OFFICER COMMENT/CONCLUSION**

In reviewing the application for the outbuilding, it was identified by officers that existing incidental development on the subject property including some minor site works, retaining walls and a Colorbond fence within the setback area do not have the relevant development or building approvals from the Shire. The applicant has been notified of this and is currently working to submit a separate retrospective application for development approval. It was suggested to the applicant that the proposal for the outbuilding be put on hold in order for all development to be considered under a single application, however they advised that they do not wish to delay the determination on the outbuilding and will continue to concurrently work on rectifying the compliance issues.

The objections raised during the advertising period were thoroughly considered and the applicant has amended the proposal in an effort to address these. By removing the two roller doors from the western side of the development, the potential impact of land use conflict with the adjoining land is significantly reduced.

Whilst there may be a visual impact to the rural landscape, insofar as the development will be visible from the adjoining property, compliance with the setback requirement would not necessarily result in an improved visual outcome. It is considered that the visual impact will be minimal as the nearest dwelling (being an ancillary dwelling) on the adjacent property is approximately 200m away, whilst the main dwelling is approximately 350m away. Notwithstanding this, the introduction of landscaping adjacent to the development will mitigate any visual impact.

The proposed development is considered minor and incidental to an existing dwelling. It is considered that the proposed minor variation to the required setback will not jeopardise the objectives of the Priority Agriculture zone and will have minimal impact on the functioning of the neighbouring property. It is therefore recommended that Council resolves to approve the application for development approval, subject to the conditions contained in the officer recommendation.

### **9.1.2 NAMING OF PARK – DONNYBROOK TOWN CENTRE REVITALISATION PROJECT**

<b>Location</b>	Shire of Donnybrook-Balingup
<b>Applicant</b>	Shire of Donnybrook-Balingup
<b>File Reference</b>	PWF18V
<b>Author</b>	Steve Potter, Executive Manager Operations
<b>Responsible Officer</b>	Steve Potter, Executive Manager Operations
<b>Attachments</b>	Nil
<b>Voting Requirements</b>	Simple Majority

<b>Recommendation</b>
<p><b>That Council:</b></p> <ol style="list-style-type: none"> <li><b>1. Endorses the proposal to conduct a public competition for the naming of the park the subject of the Donnybrook Town Centre Revitalisation Project;</b></li> <li><b>2. Authorises the Chief Executive Officer to undertake public advertising of the competition;</b></li> <li><b>3. At the conclusion of the advertising period, instructs the Chief Executive Officer to liaise with Landgate to determine the eligibility of nominated names and bring a further report back to Council with a list of all compliant names and a recommended name for Council’s further consideration.</b></li> </ol>

### **STRATEGIC ALIGNMENT**

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

Outcome:	2.1	An attractive and maintained built environment.
Strategy:	2.1.1	Maintain, renew and improve infrastructure within allocated resources
Action:	2.1.1.2	Seek funding for the development and renewal of infrastructure.

### **EXECUTIVE SUMMARY**

Works are currently underway on the Donnybrook Town Centre Revitalisation Project which is expected to be complete by March 2021. As part of the project, it has been identified that an appropriate new name for the park precinct be identified.

The project has attracted widespread community interest and in order to capture some of this community spirit, it is proposed that a public naming competition be held, inviting the community to put forward names for consideration.

It is recommended that Council endorse the approach as outlined in this report to enable the process to commence.

## **BACKGROUND**

The naming of roads, parks and other public places is governed by Geographic Names (Landgate) which has the delegated authority from the Minister for Lands to administer naming actions as per the Land Administration Act.

The Geographic Names Team administer all naming actions as per the Policies and Standards for Geographical Naming in Western Australia.

Shire staff have made contact with Landgate outlining the proposed approach to identifying a new name for the park which has received in-principle support.

In accordance with Landgate requirements, proposed names will need to fall under one of the following categories:

- named after an adjoining road name (e.g. Collins Park);
- names from Aboriginal languages formerly identified with the general area;
- names of pioneers who were relevant to the area;
- names of persons who died during war service;
- names associated with historical events connected with the immediate area.

## **FINANCIAL IMPLICATIONS**

Nil

## **POLICY COMPLIANCE**

Nil

## **STATUTORY COMPLIANCE**

Proposed names will need to comply with relevant requirements as outlined in the document *Policies and Standards for Geographical Naming in Western Australia*.

## **CONSULTATION**

Subject to Council support, the competition will be advertised widely through both print and digital media.

## **OFFICER COMMENT/CONCLUSION**

The DTCRP is an exciting project and the naming of the new park represents an opportunity for the community to become involved and generate local interest. As such, it is recommended that Council support the proposal.

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

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### **9.2.1 ACCOUNTS FOR PAYMENT**

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

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### **9.2.2 MONTHLY FINANCIAL REPORT – JULY 2020**

The Monthly Financial Report for July 2020 is attached (Attachment 9.2.2(1)).

### **EXECUTIVE RECOMMENDATION**

**That the monthly financial report for the period ended July 2020 be received.**

**9.2.3 2020/21 COMMUNITY GRANTS FUNDING SCHEME – REQUEST FOR VARIATION TO REQUESTED FUNDING FOR KIRUP PROGRESS ASSOCIATION**

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Kirup Progress Association Inc
<b>File Reference</b>	FNC 08/6
<b>Author</b>	James Jarvis, Manager Community Development
<b>Responsible Manager</b>	James Jarvis, Manager Community Development
<b>Attachments</b>	9.2.3(1) - Community Grant Funding Guidelines 2019-20 9.2.3(2) - Application for the Kirup Community Garden 9.2.3(3) - Application to vary to the purpose of the approved grant
<b>Voting Requirements</b>	Simple Majority

<b>Recommendation</b>
<p><b>That Council approve the variation in purpose in the Kirup Progress Association’s previously approved 2019/20 allocation of \$1,500 in the Community Grant Funding Scheme for the purpose of the development of the Kirup Community Garden to a new proposed purpose of the installation of a water tank, reticulation and the planting of native tress as the Kirup Mill Park project site on South Western Highway in Kirup.</b></p>

**STRATEGIC ALIGNMENT**

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

Outcome	3.1	An engaged, supportive, and inclusive community
Strategy	3.1.1	Facilitate, encourage, and support a diverse range of festivals, community events, arts and cultural activities.
Action	3.1.1.2	Continue to encourage and support community-led events

**EXECUTIVE SUMMARY**

The Kirup Progress Association (KPA) applied for Major Community Grant Funding of \$2,000 in the 2019-20 budget to support the commencement works of the Kirup Community Garden. The application was successful with \$1,500 being awarded.

The proposed site for the Community Garden was the corner of South West Highway and Station Street in Kirup, adjacent to the Kirup Primary School. The land was part of the school grounds and owned by the Education Department. Negotiations between the KPA and the Education Department for the use of the land have been unsuccessful. While negotiations were taking place, the \$1500 community grant was carried forward into the 2020-21 budget.

The KPA are developing the Kirup Mill Park project in the town centre of Kirup on South Western Highway. Part of the overall project is developing a sustainable water supply, reticulation, and native tree planting.

The KPA are requesting that the funding of \$1,500 previously allocated to the Kirup Community Garden project to be re allocated to the purchase and installation of a water tank, reticulation and planting of native trees at the Kirup Mill Park project site in Kirup.

## **BACKGROUND**

The Shire's Community Grants Funding Scheme (Scheme) was adopted by Council on 1 March 2016. The purpose of the Scheme is to provide funding to individuals, community groups, not-for-profit and commercial organisations seeking financial support to allow them to deliver projects and activities that address identified community needs.

Full details of the Scheme are outlined in the community Grants Funding Scheme Guidelines (*Attachment 9.2.3(1)*). This document includes details of eligibility, ineligibility, how to apply and the assessment criteria.

## **FINANCIAL IMPLICATIONS**

No change to current CGFS amounts allocated in the 2020/21 budget.

## **POLICY COMPLIANCE**

Administration Policy 2.47 – Community Grant Funding Scheme.

## **STATUTORY COMPLIANCE**

Not applicable.

## **CONSULTATION**

No external consultation is required for the Community Grants Funding Scheme.

## **OFFICER COMMENT/CONCLUSION**

The assessment of the variation application rated the re-purposed concept highly and noted the request was consistent with the original proposal. The variation was discussed at length by the Kirup Progress Association Committee and unanimous support was achieved to seek the variation.



## 9.2.4 2020/21 FEES AND CHARGES AMENDMENT – STANDPIPE WATER

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	FNC 04/1
<b>Author</b>	Paul Breman, Executive Manager Corporate and Community
<b>Responsible Manager</b>	Paul Breman, Executive Manager Corporate and Community
<b>Attachments</b>	
<b>Voting Requirements</b>	Absolute Majority

<b>Recommendation</b>	
<p><b>That Council adopt the following amended fees and charges for the sale of water from standpipes:</b></p>	
<b><u>Sale of Standpipe Water</u></b>	<b><u>2020-21 (inc GST)</u></b>
Up to 1,000 litres	<b>\$7.80</b>
Up to 5,000 litres (or part thereof)	<b>\$28.08</b>
Up to 10,000 litres (or part thereof)	<b>\$56.94</b>

### STRATEGIC ALIGNMENT

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

Outcome	4.2	A respected, professional, and trusted organisation
Strategy	4.2.1	Effective and efficient operations and service provision
Action	4.2.1.1	Maintain effective and efficient policies, planning, operating procedures and practices

### EXECUTIVE SUMMARY

Seeking an amendment to the 2020-21 Fees and Charges manual to correct an error in the level of fees and charges applied as part of the 2020-21 budget in relation to sale of water from standpipes.

The charges in relation to the sale of water from standpipes are as follows:

<u>Sale of Standpipe Water</u>	Adopted 2019-20 Inc GST	Adopted 2020-21 Inc GST	2020-21 Corrected Inc GST
Up to 1,000 litres	\$7.80	\$4.00	\$7.80
Up to 5,000 litres (or part thereof)	\$28.08	\$14.40	\$28.08
Up to 10,000 litres (or part thereof)	\$56.94	\$29.20	\$56.94

The error occurred in the setting of level of charges for three items under the heading of Sale of standpipe water item number 5.1 on the schedules of fees and charges adopted by the Council at its Ordinary Meeting held on 26 August 2020. The intention was for the levels to remain unchanged from the 2019-20 level which this correct seeks to apply.

## **BACKGROUND**

Not applicable.

## **FINANCIAL IMPLICATIONS**

No sale of water has occurred under the incorrect levels since adoption of the fees and charges on 26 August 2020, resulting in no loss of revenue from this circumstance.

## **POLICY COMPLIANCE**

Not applicable.

## **STATUTORY COMPLIANCE**

Local Government Act 1995 Part 6 – Financial management Division 5 – Financing local government activities Subdivision 2 – Fees and charges

The Local Government Act 1995 (the Act) provides local governments with the power to impose and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed. Fees and charges are to be imposed when adopting the annual budget but may also be imposed during a financial year or amended from time to time during a financial year.

## **CONSULTATION**

If a new fee or charge is imposed during a financial year, then local public notice is required however public notice is not required for amendments to existing fees and charges.

## **OFFICER COMMENT/CONCLUSION**

The error is regrettable, but it is fortunate this has been identified swiftly and able to be corrected.

**9.3 CHIEF EXECUTIVE OFFICER**

**9.3.1 DONNYBROOK AND DISTRICTS SPORTING, RECREATION AND ENTERTAINMENT PRECINCT (VC MITCHELL PARK MASTER PLAN)**

<b>Location</b>	Steere Street, Donnybrook
<b>Applicant</b>	Shire of Donnybrook
<b>File Reference</b>	PWT 18T
<b>Author</b>	Ben Rose, Chief Executive Officer
<b>Responsible Manager</b>	Ben Rose, Chief Executive Officer
<b>Attachments</b>	9.3.1 - Correspondence from DLGSCI
<b>Voting Requirements</b>	Simple Majority

Recommendation
<p><b>That Council:</b></p> <ol style="list-style-type: none"> <li>1. <b>Authorise the Chief Executive Officer to execute a grant agreement with the State Government for the early release of up to \$250,000 of State project funds for planning and delivery of the Donnybrook and Districts Sporting, Recreation and Entertainment Precinct Project, acknowledging advice from the Department of Local Government, Sport and Cultural Industries that there is no funding co-contribution requirement from the Shire for this early release of funding.</b></li> <li>2. <b>Acknowledges its previous in-principle \$3m (capped) project funding decision (based on details from the Ordinary Meetings of 18 December 2019 and May 2020) and instructs the Chief Executive Officer to review the Shire’s Long Term Financial Plan, by no later than the November 2020 Ordinary Meeting of Council, with scenario modelling for provision of borrowings of up to \$3m towards the Donnybrook and Districts Sporting, Recreation and Entertainment Precinct Project.</b></li> <li>3. <b>Authorise the Chief Executive Officer to execute a State Financial Assistance Agreement (for \$6m minus any early release grant funds), subject to:</b> <ol style="list-style-type: none"> <li>a. <b>Council approving, via resolution, a financial co-contribution (of up to \$3m) to the project.</b></li> <li>b. <b>WA Treasury Corporation approving a loan facility for the Shire’s financial co-contribution (of up to \$3 million) to the project.</b></li> <li>c. <b>Council approving a more detailed Concept Plan (derived from the Council-supported Master Plan), which includes project staging recommendations and stakeholder consultation and input.</b></li> <li>d. <b>The Chief Executive Officer lodging a Project Business Case (in the required State Government format) with the Department of Local Government, Sport and Cultural Industries, if required by that Department.</b></li> </ol> </li> </ol>

- 4. Acknowledges initial community response in relation to the discussion (not decision) of relocating Vin Farley Rotary Playground to within the Donnybrook and Districts Sporting, Recreation and Entertainment Precinct and instructs the Chief Executive Officer to exclude planning for the playground relocation from any project plans until, or unless, directed otherwise by the Council.**

## **STRATEGIC ALIGNMENT**

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

Outcome:	3.3	A safe and healthy community
Strategy:	3.3.2	Support a safe, healthy and active community
Action:	3.3.3.2	Review and implement the VC Mitchell Park and Balingup Recreation Centre Masterplans

## **EXECUTIVE SUMMARY**

On 31 August, the Shire received formal correspondence from the Minister for Seniors and Ageing; Volunteering; Sport and Recreation (Hon. Mick Murray MLA) confirming that the Shire will receive \$6m for the Donnybrook and Districts Sporting, Recreation and Entertainment Precinct Project (the Project) as part of the State's WA COVID Recovery Plan and that grant administration will be coordinated by the Department of Local Government, Sport and Cultural Industries (DLGSCI).

This report to Council seeks to expedite planning and delivery for the Project, specifically by addressing:

- The opportunity for the Shire to access early-release partial State project funding;
- Long term financial planning associated with borrowings to support the project; and
- Authorisation for the Chief Executive Officer to execute State funding agreements, with pre-requisite conditions of Council.

## **BACKGROUND**

At its May 2020 Ordinary Meeting, Council resolved:

*“That Council:*

- 1. Thank the members of the Working Group for their genuine and robust input to the Master Plan development.*
- 2. Support the Donnybrook and Districts Sports, Recreation and Events Precinct Master Plan in principle, allowing for negotiation and changes to be made that best suit all end user sporting and community groups prior to*

*Request for Tender, including that Scenario B of the Master Plan be the preferred option for funding consideration;*

3. *Instruct the Chief Executive Officer to seek project funding (for Stages 1 and 2) from:*
  - 3.1 *The State Government;*
  - 3.2 *Additional funding sources.*
4. *Instruct the Chief Executive Officer that, in relation to the project, any further precinct design development, grant funding contracts or requests for tender requires the pre-approval of Council.”*

At its December 2019 Ordinary Meeting, Council resolved:

*That Council:*

1. *Approve, in principle, loan funding towards the Donnybrook and Districts Sports, Recreation and Events Precinct Project on the basis of:*
  - 1.1 *One-third funding from the Shire of Donnybrook Balingup;*
  - 1.2 *Two-thirds funding from the State Government; and*
  - 1.3 *The Shire of Donnybrook Balingup capital contribution via loan being capped at a maximum of \$3,000,000.*
2. *Instruct the Chief Executive Officer to seek project funding from the State Government as per resolution 1, above.*
3. *Approve the addition of the in principle loan funding amount to the Shire’s Borrowings Plan 2019/20 – 2033/34 (as attached).*

## **DETAILS**

Early project/grant communication with senior officers of the DLGSCI has identified the opportunity for early release of a portion of the \$6m State grant funding, to support project planning and delivery with the following types of activities:

- Feature/site survey (by licensed surveying company);
- Preliminaries (detailed investigation and planning for reticulated services such as power, water, sewer, telecoms);
- Legal/contract advice (for Request for Tender document development);
- Architectural services (to develop Master Plan into more detailed Concept Plan to support the Request for Tender);
- Project Management services (to supplement Shire’s resourcing on this project only).

Consultation between senior officers of DLGSCI and the Shire identify that an early release payment of up to \$250k can be provided by the State to the Shire for the abovementioned project activities. Further, written advice from a senior officer of the DLGSCI advises that:

- the Shire is not required to provide any financial co-contribution to an early release funding payment;
- in accepting the early release funding payment, the Shire is not contractually obliged to continue with the project, including a Financial Assistance Agreement for the \$6m (or residual there-of, assuming an early release draw down is undertaken);
- in accepting an early release funding payment, the Shire will have no contractual obligation for repayment of the funding if it (via OCM resolution) resolves not to proceed with the project.

## **FINANCIAL IMPLICATIONS**

The commitment to establish a loan for \$3m is a significant decision for the Shire, and Council specifically. Whilst the Shire's present borrowings are very low (\$347,135 as at 30 June 2021, which excludes financial liabilities for Preston Retirement Village and Tuia Lodge RADs), the enterprise-wide, long term implications of these borrowings require a considered approach.

Detail in relation to the Shire's loan borrowing capacity was presented to Council as part of the December 2019 Ordinary Meeting agenda. Detail in relation to Forecast Net Additional Annual Expenditure (based on a 20-year loan scenario and a 30-year loan scenario) associated with the project was presented to Council as part of the May 2020 Ordinary Meeting agenda (albeit based on \$7.8m project expenditure, rather than \$9m).

Prior to the Council deliberating on the establishment of a loan facility to support the Project (a loan which would not need to be activated until 2021-22), it is recommended that a Long Term Financial Plan is presented to Council which includes scenario analysis with/without the Project loan funding. In the interim (before 1 July 2021), and on the assumption the Council resolves to progress the Project, any project expenditure will be drawn down from the State's grant funding.

## **POLICY COMPLIANCE**

Nil.

## **STATUTORY COMPLIANCE**

Nil.

## **CONSULTATION**

Further to the consultation undertaken in development of the Project MasterPlan, additional detailed level consultation is presently underway via the Stakeholder Reference Group (who have met twice since the State's funding announcement in early August 2020).

## **OFFICER CONCLUSION**

Access to an early release tranche of State project funding will enable the Shire to expedite project planning and delivery, with no risk to the Shire for grant funds repayment or 'locking the Shire in' to proceeding with the project.

Prior to considering / resolving a position in relation to the establishment of a loan to support the Project, the Executive recommends modelling the financial impacts into a Long Term Financial Plan in order that the Council make a fully informed decision.

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

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***10.1 COUNCILLOR***

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Nil.

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

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

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

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

#### **12.1.1 CONFIDENTIAL – REQUEST TO SUB-LEASE PORTION OF 70 SOUTH WESTERN HIGHWAY, DONNYBROOK**

This report is confidential in accordance with Section 5.23(2) of the *Local Government Act 1995*, which permits the meeting to be closed to the public for business relating to the following:

- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.*
- (e) *a matter that if disclosed, would reveal — (i) a trade secret; or (ii) information that has a commercial value to a person; or (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; and*

#### **12.1.2 CONFIDENTIAL – RECALL CONFIDENTIAL RESOLUTIONS 2019-2020**

This report is confidential in accordance with Section 5.23(2) of the *Local Government Act 1995*, which permits the meeting to be closed to the public.

### **EXECUTIVE RECOMMENDATION**

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

- 12.1.1 **CONFIDENTIAL – REQUEST TO SUB-LEASE PORTION OF 70 SOUTH WESTERN HIGHWAY, DONNYBROOK**
- 12.1.2 **CONFIDENTIAL – RECALL CONFIDENTIAL RESOLUTIONS 2019-2020**

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

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## **13 CLOSURE**

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The Shire President to advise that the next Ordinary Council Meeting will be held on 28 October 2020 commencing at 5.00pm in the Balingup Hall.