



MINUTES OF ORDINARY MEETING OF COUNCIL (COMMISSIONER)

To be held on

Wednesday 23 August 2023

Commencing at 5.00pm

Shire of Donnybrook Balingup Council Chamber, Donnybrook

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

**Ben Rose
Chief Executive Officer**

29 August 2023

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SHIRE OF DONNYBROOK BALINGUP
NOTICE OF ORDINARY COUNCIL (COMMISSIONER) MEETING

Held at the Council Chamber
Wednesday, 23 August 2023 at 5.00pm

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Commissioner – Acknowledgment of Country

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

The Commissioner declared the meeting open at 5.00pm and welcomed the public gallery.

The Commissioner advised that the meeting is being live streamed and recorded in accordance with Council Policy EM/CP-2. The Commissioner to further stated the following:

“This meeting is being livestreamed and digitally recorded in accordance with Council Policy.”

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

“Whilst every endeavour has been made to only record those who are actively participating in the meeting, loud comments or noises from the gallery may be picked up on the recording.”

2 ATTENDANCES

MEMBERS PRESENT

MEMBERS	STAFF
Gail McGowan - Commissioner	Kim Dolzadelli – Director Corporate and Community
	Ross Marshall – Director Operations
	Belinda Richards – Manager Finance and Corporate
	Loren Clifford – Acting Manager Executive Services
	Samantha Farquhar – Administration Officer Executive Services

PUBLIC GALLERY

28 Members of the public in attendance.

2.1 APOLOGIES

Ben Rose – Chief Executive Officer (out of District for work).

2.2 APPROVED LEAVE OF ABSENCE

Nil.

2.3 APPLICATION FOR A LEAVE OF ABSENCE

Nil.

3 ANNOUNCEMENTS FROM PRESIDING MEMBER

Good evening. It is hard to know where to start tonight as so much has been happening.

Firstly, I would like to sincerely apologise for not dealing with the budget and the VC Mitchell Park Project at tonight's meeting. It has been a little like fitting the final pieces in a complex jigsaw, however, I hope that the reasons I outline tonight will give context as to why the additional time was necessary. It will also provide me with the opportunity to outline some of the considerations that will be before next week's Special Council Meeting.

Some of you will be aware of the announcement today by Talison of a \$3m contribution toward the VC Mitchell Park development. Discussions have been ongoing for a number of weeks, and I pay tribute to CEO Ben Rose and Rosco Marshall in particular for the work they have done to bring the concept to fruition. The generous donation by Talison marks what I anticipate will be a long and valuable partnership where support is provided for social and community infrastructure across the Shire. The specified purpose of the grant is to assist the Shire of Donnybrook Balingup with the VC Mitchell Park Project works, supplementary works, and supporting infrastructure - so in answer to the obvious question - it cannot be utilised to offset the loan.

While an indicative list of projects or initiatives has been provided, the intention is that Rosco Marshall will work with the Project Consultation Group to refine and prioritise the list.

We are proud to partner with Talison as the path to net zero emissions will require a substantial commitment to developing the resources that enable the transition. While that will at times make for uncomfortable conversations, it is a reality.

Discussion is also continuing with the State Government on the potential for 'top up' funding to recognise the increase in construction costs. Over the past couple of weeks, I have spent time speaking with the Director General of the Department of Local Government, Sport and Cultural Industries as well as briefing the new Minister for Local Government. Next week I am scheduled to meet with the Minister for Sport and Recreation and I intend to focus on the potential for further State Government funding.

While the Shire has formally approached State Government for almost \$3m, I am not confident that amount will be forthcoming, given the Talison contribution which was not envisaged when we first approached the State Government. Notwithstanding this, I believe we have a strong case for some additional support. I have indicated that any additional contribution will be directly offset against the amount to be borrowed by the Council. I am hopeful of gaining State Government support for this.

I genuinely believe the overall development represents an unprecedented opportunity for the community the size of Donnybrook Balingup and I hope once developed it will be a source of much pride. In my time in Government I cannot recall anything of this magnitude given the relative size and scale of the grants. At this stage I have no indication as to when we might expect a response from Government.

That takes me to the Budget setting scheduled for next week. Given the uncertainty of when and if we were likely to receive industry and/or further government support, I intend to support the recommendation to set rates in line with the projection in the Long Term Financial Plan – that is a 6.5% increase. It is important to remind people that individual rates are not a simple calculation of 6.5% for everyone, and each property is different. The Long Term Financial Plan available on the Shire website has further information on how rates are calculated.

I have been very conscious of the cost of living pressures being faced, however, believe it would not be responsible governance to reduce rates. That said I have been clear in my discussion with State Government representatives that if the Government were to approve 'top up' funding, that would position an incoming Council very favourably in terms of not only having the latitude to deal flexibly with genuine hardship cases but also to provide more leeway in next year's budget.

As I have indicated in previous meetings, there will continue to be pressure in areas such as asset maintenance, insurance premiums and waste management, so I would expect this to figure in future budget setting exercises.

The agenda and papers for next week's Special Meeting are available online and provide the full context of the Budget.

Other than the setting of rates, I would advise that the draft budget does contain provision for things such as a Service Level Agreement for the Balingup Arts and Cultural Hub, the CCTV cameras for the Pump Track, a continuation of the Small Business Grants program and an increased level of support for the Preston Press. In terms of the CCTV cameras, these were ordered a few weeks ago and I expect they will be in place very soon. I thank those who have advocated for these to be provided.

I will also flag that along with the Budget and the likely progression of the VC Mitchell Park project there will be consideration of an Extractive Industries licence. The proponent will be making a deputation this evening and I understand we have three further deputation requests for the meeting this week.

Another substantive matter to be dealt with this evening is the proposed adoption of the Property Management Framework. Currently there is not guidance around the Shire's lease management which has led to disparity in occupancy agreements resulting in a lack of clarity on the terms, conditions, rent, nature of activity or value to the community. A

set of guiding principles has been developed. The Framework will take some time to implement and will need to take into account individual circumstances. However, it is an important step to achieving much needed transparency and consistency.

Tonight, I will also consider the future of Historical Bridge 5224. This has been a longstanding issue that needs to be brought to conclusion. One of the property owners involved will be making a deputation via electronic means.

I would like to congratulate Kim Dolzadelli, Belinda Richards and the Finance team at the Shire. Today we received advice from the Auditor General, Caroline Spencer, that the Shire has been recognised in her report to State Parliament as one of the 2021-22 inaugural best practice entities for the timeliness and quality of financial reporting and controls. She says the achievement acknowledges the Shire's performance across a number of criteria including the timely preparation for audit, high quality financial and maintenance of good financial management controls. This is a great recognition of the small, hardworking and dedicated staff. I also thank the independent members of the Audit and Risk Management Committee who provide invaluable guidance.

Finally, I would remind people that there are only a couple of days left in which to make sure those eligible to vote in the local government elections are validly registered on the electoral roll. In addition, nominations for a position on the newly elected Council will open on the 31st August. Please play your part in the democratic process.

4 DECLARATIONS OF INTEREST

Nil.

5 PUBLIC QUESTION TIME

5.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Question: Lisa Glover

My questions are around a decision recently made in regard to awarding money to businesses in the pilot grant scheme funding program. As the scheme funding is at the discretion of the CEO, what checks are in place?

Response:

The following checks, or controls, are in place:

- Separation of duties - the CEO is not involved in the application development process, the application assessment process, or in the development of recommendations for grant funding.
- Internal financial control - separate staff are involved in reviewing, approving and actioning payments, with separation of duties within this financial environment.
- As per the June 2023 recommendation to Council (Commissioner), a report on the review of the pilot program is presented to the August 2023 Council Meeting.
- Shire payment details are publicly available for review each month.
- The Shire is audited (twice per year) via a robust and legislative program of audit developed and implemented by the State Government Office of the Auditor General.

Question: Lisa Glover

Is it possible that the list of applicants is made public in conjunction with a list of those businesses which have received grants?

Response:

The Attachment at Agenda Item 9.3.2 provides detail in relation to this question.

Question: Lisa Glover

How were the businesses identified by the administration and how was the approach made to offer money?

Response:

The Attachment at Agenda Item 9.3.2 provides detail in relation to this question.

Question: Lisa Glover

How will any perceived conflict of interest be addressed, as the money will be awarded at the discretion of the CEO?

Response:

The following checks, or controls, are in place:

- Separation of duties - the CEO is not involved in the application development process, the application assessment process, or in the development of recommendations for grant funding.
- Internal financial control - separate staff are involved in reviewing, approving and actioning financial payments, with separation of duties within this financial environment.
- As per the June 2023 recommendation to Council (Commissioner), a report on the review of the pilot program is presented to the August 2023 Council Meeting.
- Shire payment details are publicly available for review.
- The Shire is audited (twice per year) via a robust and legislative program of audit developed and implemented by the State Government Office of the Auditor General.

In addition, staff conflicts of interest are addressed in the Shire's Code of Conduct for Employees, Contractors and Volunteers.

Question: Lisa Glover

Will there be an overarching policy or criteria?

Response:

As per the attachment to Agenda Item 9.3.2, the Executive Recommendation includes the establishment of formal governance structures / arrangements, prior to commencing the next round of grant funding (if grant funding is approved as part of the 2023-24 Shire Budget).

Question: Lisa Glover

Section 6.11 of the Local Government Act 1995 requires that where a local government wishes to set aside money for use for a purpose in a future financial year, it is to establish and maintain a reserve account for each such purpose. The suite of asset management plans recommended for adoption in this report requires budgetary allocations to meet the anticipated expenditure requirements. The mechanism for meeting own source funded expenditure identified in the plans is from reserve funds. Therefore, the annual budget aims to fulfill the function of delivering sustainable levels of annual funding into reserves that is calculated to meet the planned expenditure.

Has the money allocated for transfer to the reserves in the budgets for the last five years been transferred in full?

Response:

This information is publicly available in the published Audited Annual Financial Statements for the Shire of Donnybrook Balingup contained within the Annual Report which can be accessed (downloaded) from the Shire's website.

Question: Lisa Glover

How much money has been transferred into the reserves in each of the last five years and does it match the amount allocated in the budgets and asset management plans for those five years?

Response:

This information is publicly available in the published Audited Annual Financial Statements for the Shire of Donnybrook Balingup contained within the Annual Report which can be accessed (downloaded) from the Shire's website.

Question: Lisa Glover

In five years' time, according to the borrowing liability in the asset management plan, the projected loan amount ie, the amount borrowed will be \$5,727,969. Could you inform the ratepayers of the amount in interest and principal that they will have to pay in this year using current interest rates?

Response:

The amount of principal and interest included in the adopted Asset Management Plan in the year referred to is \$425,621. As interest rates are fixed at the time of borrowing, it is not relevant to utilise current day interest rates for future year borrowings.

Question: Lisa Glover

In the asset management plan there appears to have been adjustments to the \$190,000 of backlogs in maintenance, with regard to halls. Have the boards at the Brookhampton Hall now been oiled as this was in the \$22,000 of backlog of maintenance for this heritage listed building and the backlog does not exist in this updated plan.

Response:

The 2022/23 Asset Management Plan – Buildings, outlined backlog maintenance of \$22,000 for Brookhampton Hall. These works were budgeted for in the 2022/23 Annual Budget, thereby clearing it from the Asset Management Plan – Buildings. The maintenance works (e.g. oiling of weatherboards) was not undertaken during the year. A capital budget line item (Brookhampton Hall Maintenance) for \$50,000 remains unspent and has been carried forward into the Draft 2023/2024 budget totalling \$78,350.

Question: Shane Sercombe:

Could you please give an explanation of page six of the monthly financials attachment. Being the end of June, this is unaudited financials for the year, so it gives us an indication of where we are at for the financial year. The budget was for a net result of 6.3 million and the actual was a 2.4 million dollar loss. There is an 8.7 million dollar difference there.

Response:

Page 2 and 3 of the Interim Statement of Financial Activity 30/06/2023 contains a detailed breakdown of the material variance.

Question: Shane Sercombe:

If we could have an explanation of page 37 of those financials. We have the loss on sale of assets at a million dollars and then the net profit on sale of assets at a million dollars.

Response:

Page 37 of the Statements incorrectly shows the text “Net Profit on Sale of Assets” this text should read “Net Loss on Sale of Assets”. The Net Loss is reflected correctly in the Statement of Comprehensive Income located on page 5.

5.2 PUBLIC QUESTION TIME

Question: Kevin Johns

I have a question around the Noise Management Plan. This plan was written on 1 August but wasn't actually delivered to our doorstep until 17 August. Following that it wasn't printed in the Preston Press until after 21 August. What's the normal process of contacting people who are affected (in terms of time).

Response: Commissioner McGowan

Ordinarily, people would be contacted if they are in the affected area. Although, when something like this goes out for public comment, there is no formal requirement to notify individual landowners. It is a draft Noise Management Plan. There is a proposal open for public comment that is suggesting that there may be an exception to the 7am to 7pm operation for some activities such as street cleaning, rubbish collection etc which may need to occur in that central business area and the boundaries in that draft plan. The draft Noise Management Plan outlines those circumstances.

Question: Bev Giudici

My question is regarding the Property Management Framework. Four of the Committee attended meetings held in October 2022, about the Shire property leases. We provided our contact details so why were we not directly contacted prior to the commentary period in July, on the draft leases.

Response: Manager Executive Services

The consultation that commenced in July (2023) was for broader community feedback. We did one-on-one sessions (October 2022) with the tenants the Shire currently has and any proposed tenants that we knew of - that's what we did with the first round of consultation. The second lot of consultation was to get feedback from the broader community, who aren't necessarily tenants with the Shire.

Question: Sherry Thomas

Other than the lease fee, which may be offset up to 95% depending on if we pass the Shire's test, the draft lease document currently has no costings for maintenance and other charges like pest inspections that will be on-charged to us by the Shire. We are advised we will no longer receive the annual maintenance funding from the Shire, which is currently \$1,530 per annum, which has covered our insurance and materials for repairs and maintenance which our volunteers cover out on busy bee's a few times a year. What total outlay per year will be charged to us by the Shire under the new lease agreement.

Response: Manager Executive Services

Depending on what category the lease was to fall in to - I have outlined all the fees and expenses that would be incurred by your group in the fee structure for each different category. You'll be able to see, in one sheet, what fees you will be charged and then the description of the building maintenance for each group. It has been quite clearly labelled as to see who will be responsible for what costs. At the moment, we don't have those

costs, however what we are trying to do is to get some bulk pricing on maintenance for all buildings within the Shire and then we are hoping to be able to pass that on to the tenants. It'll be an option that they can pick up if they want because there is all sorts of work health and safety requirements and compliance maintenance that all buildings need to have completed. So, what we are trying to do is to get that all done by a contractor that can give us a bulk price and then we can hand on those prices to the groups if they wish to take up that option.

Question: Sherry Thomas

Why do the community groups have to pay that and not the Shire. Why are you on-charging us.

Response: Commissioner McGowan

We are trying to get consistency and transparency; it will take some time to implement. Certain allowances are given to some of the halls. That was always intended to pay for some maintenance and other costs. It appears the Shire is picking up all the maintenance costs without the acquittal of some of those expenses.

Question: Bev Giudici

When will the leases the Shire holds with the State for properties on Crown Reserves be updated to include the ability for the Shire to lease the properties to the third party. When do you expect to implement the new leases?

Response: Manager Executive Services

At the moment we have about 22 leases that are going to need to be renewed and about 9 of those will need to have the power to lease approved from the Minister of Lands. That can be from a 6 month to a 12 month process and that's why we are engaging with groups earlier to find out their reserved purposes and what changes they might want to make so we can start that process.

Question: Sherry Thomas

While we have good attendance at community events, we struggle to get volunteers on the Hall Management Committee, so it's unlikely that another group would take over. If the Yabberup Community Association decide the lease is too onerous and hands the lease back over to the Shire, how will that work?

Response: Commissioner McGowan

The Shire would have some decisions to make on the future of the hall. But I cannot imagine that there would be anything other than a desire to keep the hall.

Question: Sian Blackledge

Back in 2022 the Shire President gave out reasons for the 8.5% rate rise and it was about asset management. The base part of that was basically the priority was asset management. The rate rise wasn't to cover things like new builds or new projects. Which

of the 140 building assets has had the maintenance spent on them and how much has been spent to date?

Response: Director Corporate and Community

The monthly financial reports in the capital expenditure area is where you could find that information. That report details all the works that are being undertaken and it does also split those works into renewal, upgrade and new works. The draft budget document to be considered for next week has the 2022/23 financial year information as well. Most of the capital that comes into the capital expense program through the year, or for a particular budget, I look at the management plan and that's what gets in first.

Question: Sian Blackledge

I also wondered about the Brookhampton Hall which stated that it hadn't been used. Is that because the maintenance hadn't been carried out or the money hadn't been given out to the hall for the maintenance.

Response: Director Operations

The amount that was in last year's budget wasn't enough to do the works. We have requested an increase to that budget and that was after getting a couple of quotes from the market. So, pending budget approval, we should have enough to do those works now.

Question: Sian Blackledge

Talking about business entities once again with these plans. One of them has a ten year lease. Will all businesses including private, community groups, sports and non-government organisations be offered the same type of lease?

Response: Manager Executive Services

Each of the categories in the Property Management Framework sets out a standard template, guided by the information that is within the Framework. We have tried to break it down with the smaller community groups not having to take on as much as the bigger community groups or commercial entities. The commercial leases won't be coming across in the new Property Framework until such time as their leases have expired, due to the arrangements being too difficult to change part way through. However, we will encourage all the other tenants on the community side to take it up. They will all be a very similar document. That is the reason why it is very difficult for staff to manage the leases at the moment, because everyone has very different arrangements, so we are hoping to bring them all in to line and have some parity with all the groups.

Question: Sian Blackledge

This question is about business grants. I'd like to know what the criteria was to grant those because one was for going online. Doesn't mean that resident will stay a resident and we are paying for an online business. I just wanted to know if there was a written criteria.

Response: Commissioner McGowan

There is some information in tonight's budget around continuation. It sets out the criteria. There would be some things you can't determine, but businesses take many forms and we have to be adaptable. We will be prioritising local businesses, I think it's a really good initiative. The initial evaluation is good but having a policy and a framework around it, will be something for an incoming Council to contemplate.

6 PRESENTATIONS

6.1 PETITIONS

A petition regarding Jayes Road (request to re-establish shoulders and widen seal) has been received by the Shire and signed by 108 individuals. Whilst the petition does not meet the requirements of the Shire of Donnybrook Balingup *Meeting Procedures Local Law 2017*, as set out in clause 6.10(1)(a), (c) or (d), the petition matter is to be addressed at the next Ordinary Council Meeting, being held on 27 September 2023.

6.2 PRESENTATIONS

Nil.

6.3 DEPUTATIONS

Mr Michael Sheehan, via phone, regarding Agenda Item 9.1.2.

7 CONFIRMATIONS OF MINUTES

7.1 ORDINARY MEETING OF COUNCIL (COMMISSIONER) –26 JULY 2023

Minutes of the Ordinary Meeting of Council (Commissioner) held 26 July 2023 are attached (Attachment 7.1(1)).

EXECUTIVE RECOMMENDATION

That the Minutes from the Ordinary Meeting of Council (Commissioner) held 26 July 2023 be confirmed as a true and accurate record.

COUNCIL RESOLUTION 98/23

MOVED: Commissioner McGowan

That the Minutes from the Ordinary Meeting of Council (Commissioner) held 26 July 2023 be confirmed as a true and accurate record.

CARRIED: Commissioner McGowan

7.2 AUDIT AND RISK MANAGEMENT COMMITTEE MEETING - 15 AUGUST 2023

Minutes of the Audit and Risk Management Committee Meeting held 15 August 2023 are attached (Attachment 7.2(1)).

EXECUTIVE RECOMMENDATION

That the Minutes from the Audit and Risk Management Committee Meeting held 15 August 2023 be received.

COUNCIL RESOLUTION 99/23

MOVED: Commissioner McGowan

That the Minutes from the Audit and Risk Management Committee Meeting held 15 August 2023 be received.

CARRIED: Commissioner McGowan

8 *REPORTS OF COMMITTEES*

Nil.

9 REPORTS OF OFFICERS

9.1 DIRECTOR OPERATIONS

9.1.1 SOUTH WESTERN HIGHWAY AND FOAN ROAD - PROCLAMATION AND DE-PROCLAMATION

Location	Donnybrook – South Western Highway and Foan Road
Applicant	Shire of Donnybrook Balingup
File Reference	WRK 06/3
Author	Damien Morgan – Manager Works and Services
Responsible Manager	Ross Marshall – Director Operations
Attachments	9.1.1(1) Letter from MRWA and Drawings
Voting Requirements	Simple Majority

EXECUTIVE RECOMMENDATION

That the Council (Commissioner):

1. Endorses the proclamation of the recently completed realignment of South Western Highway (H009) between Brookhampton Road and Tassone Road, as shown on drawings 202321-000022-00 and 202321-000023-00 in accordance with Section 13 of the Main Roads Act 1930.
2. Endorses the de-proclamation of a section of South Western Highway (H009) between Brookhampton Road and Tassone Road, as shown on drawings 202321-000022-00 and 202321-000023-00, in accordance with Section 13 of the Main Roads Act 1930.
3. Instruct the Chief Executive Officer to sign and document this resolution on drawings 202321-000022-00 and 202321-000023-00 to satisfy requirements under section 13 of the Main Roads Act 1930. Once this is complete, the original drawings are to be returned to Main Roads for their further process in accordance with the Act.
4. Instructs the Chief Executive Officer to update the Shire of Donnybrook Balingup asset databases, to recognise the extended section of Foan Road as a Shire asset.

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

Outcome	8	Safe and convenient movement of people in and around the
Objective	8.1	Improve road safety, connectivity, and traffic flow for all users

EXECUTIVE SUMMARY

Following the completion of works to a portion of South Western Highway (H009) between Brookhampton Road and Tassone Roads, Main Roads WA (MRWA) is required to proclaim the changes in the highway road alignment, in accordance with Section 13 of the Main Roads Act 1930.

For this to be undertaken, the Commissioner of Main Roads requires endorsement of drawings 202321-000022-00 and 202321-000023-00, by the Shire of Donnybrook Balingup, before making this recommendation to the Honorable Minister for Transport.

BACKGROUND

In July 2022, realignment of South Western Highway between Brookhampton Road and Tassone Road was completed. The realignment aimed to improve the safety along this stretch of highway by addressing the limited passing opportunities for motorists and substandard geometry.

As part of these works, a new intersection to Foan Road was constructed on the new alignment. This included a 520m portion of the old South Western Highway which was used to connect the former and new Foan Road intersections.

This portion of the old highway is no longer required by Main Roads WA and will be de-proclaimed as ‘Highway’ and reverted to a local road. As a result of the change in classification, it will fall under the care, control and management of the Shire of Donnybrook Balingup.

To facilitate the proclamation and de-proclamation of the realigned sections of highway, MRWA provided drawings 202321-000022-00 and 202321-000023-00, which detail the proposed road management responsibilities for both Main Roads WA and the Shire of Donnybrook Balingup. Refer to attachment 9.1.1(1) for copies of MRWA letter requesting these actions and the provided drawings.

FINANCIAL IMPLICATIONS

The de-proclamation from ‘Highway’ to local road of a 520m section of the old South Western Highway, will result in this section of road becoming the full responsibility of the Shire going forward.

Any maintenance, renewal or upgrade costs for this section of road, once it is de-proclaimed, will be the responsibility by the Shire, which is typical for all local roads within the Shire.

As the road is built to a highway standard, and had renewal works undertaken prior to its proposed handover, it is not considered that the Shire will have any significant cost implications for this section within the next 15 years.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

The proclamation and de-proclamation of highways is to be undertaken in accordance with the Main Roads Act 1930.

CONSULTATION

Main Roads WA has consulted with the Shire of Donnybrook Balingup as part of the administrative process for the proclamation and de-proclamation of the applicable sections of highway.

OFFICER COMMENT

The upgrading of South Western Highway aligns with outcomes identified in the Council Plan. These works resulted in a 520m section of existing highway no longer being required for highway vehicle movements, however, is still required to facilitate local access vehicle movements.

Based on this, it is a fair and reasonable outcome that this section of road becomes the ongoing responsibility of the Shire of Donnybrook Balingup going forward. As part of the handover process, MRWA have undertaken recent renewal work to this section of road to ensure the asset is transferred in an appropriate condition.

It is also recommended that the proclamation of the new section of highway be supported by the Shire, due to the benefits that this upgraded section of highway will deliver to all users, plus it clearly demarcates that the road is the responsibility of MRWA.

COUNCIL RESOLUTION 100/23

MOVED: Commissioner McGowan

That the Council (Commissioner):

- 1. Endorses the proclamation of the recently completed realignment of South Western Highway (H009) between Brookhampton Road and Tassone Road, as shown on drawings 202321-000022-00 and 202321-000023-00 in accordance with Section 13 of the Main Roads Act 1930.**
- 2. Endorses the de-proclamation of a section of South Western Highway (H009) between Brookhampton Road and Tassone Road, as shown on drawings 202321-000022-00 and 202321-000023-00, in accordance with Section 13 of the Main Roads Act 1930.**
- 3. Instruct the Chief Executive Officer to sign and document this resolution on drawings 202321-000022-00 and 202321-000023-00 to satisfy requirements under section 13 of the Main Roads Act 1930. Once this is complete, the original drawings are to be returned to Main Roads for their further process in accordance with the Act.**
- 4. Instructs the Chief Executive Officer to update the Shire of Donnybrook Balingup asset databases, to recognise the extended section of Foan Road as a Shire asset.**

CARRIED: Commissioner McGowan

9.1.2 HISTORICAL BRIDGE 5224 – PROGRESS OF ACTIONS

Location	Preston River, Queenwood
Applicant	NA
File Reference	BR 5224
Author	Damien Morgan, Manager Works and Services
Responsible Manager	Ross Marshall, Director Operations
Attachments	Nil
Voting Requirements	Simple Majority

EXECUTIVE RECOMMENDATION	
That Council (the Commissioner):	
1.	Note that the actions undertaken by staff in accordance with Council’s resolution of 23 November 2022, Ordinary Council Meeting, agenda item 12.1.2, have not resulted in the matter being resolved.
2.	Acknowledge that there remain differences of opinion amongst the parties in terms of Bridge 5224 ownership and actions to be taken to resolve the matter.
3.	Instruct the Chief Executive Officer to forward further correspondence, on the basis of it being ‘without prejudice’, to affected landowners for consideration as per the following terms:
3.1	That the Council’s offer as resolved at the 23 November 2022 Ordinary Council Meeting, Item 12.1.2, remains available to all applicable parties to accept up until 31 January 2024 only.
3.2	Any terms or conditions placed on landowner in-principle written support of Council’s offer, considered unreasonable by the Chief Executive Officer, will result in the Shire deeming that in-principle support has not been achieved.
3.3	Advise all landowners that Shire staff will not undertake any further consideration, discussion, or negotiations on other potential options for the resolution of this matter, unless a detailed written submission is provided and determined to have merit for further consideration by the Shire and MRWA, in the opinion of the Chief Executive Officer.
4.	In the event that this matter has not progressed towards an outcome as outlined under motions 3.1 or 3.3 (above), to the satisfaction of the Chief Executive Officer, authorise the Chief Executive Officer to seek further legal advice on the appropriate course of action to close and remove Bridge 5224.
5.	Once the above has been determined to the satisfaction of the Chief Executive Officer, authorise the Chief Executive Officer to implement the permanent closure and removal of Bridge 5224.

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

Outcome	11	Strong, visionary leadership.
Objective	11.1	Provide strategically focused, open, and accountable governance.

EXECUTIVE SUMMARY

At its Ordinary Council Meeting held on 23 November 2022, Council passed a resolution providing instructions to the Chief Executive Officer in an attempt to resolve a matter involving a dilapidated bridge structure (Bridge 5224) which has been identified as being unsafe by MRWA.

Staff enacted the measures outlined in the resolution and further liaised with the affected landowners; however, the matter remains unresolved.

In line with Council's instructions, staff provide this further report to the Commissioner to seek additional direction, as no permanent solution has been agreed to by all the parties.

BACKGROUND

An historical timber bridge, identified as Bridge 5224, is located on Crown land over the Preston River between the cadastral boundaries of Lot 5 and Lot 3195 Donnybrook-Boyup Brook Road, Queenwood.

Access to Bridge 5224 is via a private Right of Way through Lot 5 Donnybrook-Boyup Brook Road. The private Right of Way is only to the benefit of Lots 3195, 486 and 4223, and has no connections to any Shire managed roads.

This matter has been the subject of three previous Council agenda items, being:

- Item 9.1.1 – Closure of Historical Bridge 5224 Due to Safety Concerns – OCM 28 July 2021.
- Confidential Item 12.1.1 – Historical Bridge 5224 – Progress of Actions – OCM 23 March 2022.
- Confidential Item 12.1.2 – Historical Bridge 5224 – Progress of Actions – OCM 23 November 2022.

The Commissioner has been provided with a full copy of each of these minutes and attachments. These reports detail the history of Bridge 5224, the Shire's position that it is not a Shire asset, legal opinion and a summary of the negotiations and discussions that have occurred throughout this timeframe.

In accordance with the resolution of item 12.1.2 of the 23 November 2022 OCM, email correspondence was forwarded to all landowners, outlining Council's revised offer. The

offer, as presented, was supported by two of three landowners, however, the third landowner (Lot 3195) advised that their support was conditional on several factors.

Further discussion and negotiations followed, primarily between Shire staff and the owner's representative of Lot 3195, seeking further clarification of each party's position. This resulted in a meeting being arranged between the Shire, MRWA and the owners and representatives of lot 3195 and Lot 486, at the Shire's administration building on 19 April 2023.

The meeting was not successful in identifying a clear pathway forward to achieve an outcome generally consistent with Council's offer, plus it was noted that the owner's representatives of Lot 3195 remain of the opinion that the Shire is fully responsible for resolving the issue and was continuing to seek an alternate outcome to the resolution of this matter, than that presented by Council.

FINANCIAL IMPLICATIONS

The Bridge repairs, as defined in the MRWA detailed design drawings, plus the cost of implementing and maintaining the emergency propping, were originally estimated at \$190,000 (December 2021). However, it is noted that construction costs have likely increased since this time and therefore the price in the current market would be expected to be higher than originally quoted.

MRWA have indicated that they are willing to consider contributing 2/3 of the cost, subject to its outlined criteria being satisfied, one of which is that ongoing responsibility for the bridge is resolved to its satisfaction.

If an escalation rate of 30% was to be applied to the previous figure, the cost of the emergency repairs may be in the region of \$240,000 - \$270,000. Based on a 1/3 (Shire), (2/3) MRWA contribution, the Shire's cost may be in the region of \$80,000 - \$90,000.

The Shire has also had costs to prop and re-deck part of the bridge since MRWA required Bridge 5224 to be closed in June 2021, unless emergency works were undertaken. These costs now exceed \$30,000 and potentially could exceed \$50,000, dependent on the length of time the Shire continues to provide and maintain the propping. 2/3 of these costs can only be claimed back from MRWA if an outcome to their satisfaction is achieved. If this is not achieved, the Shire will remain responsible for these costs.

In the event that an outcome is achieved that satisfies all parties, Shire staff will need to prepare a further report to seek an allocation of funding for the identified emergency works, as no allocation for these works has currently been included in the 2023/24 draft budget.

It should also be noted that a representative of the owners of Lot 3195 has identified several other works or issues they would like to see included in the identified 'emergency works' scope. MRWA would need to consider and approve these prior to the works being incorporated into the scope, however, MRWA has also noted that the available funds are purely only for required 'emergency works'. If the works are not deemed to meet these criteria by MRWA, they will not be eligible for 2/3 funding.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

The relevant section of the *Local Government Act 1995* is section 3.53 as follows:

3.53 Control of certain unvested facilities

(1) *In this section —*

former section 300 means section 300 of the *Local Government Act 1960* as in force before the commencement of this Act;

otherwise unvested facility means a thoroughfare, bridge, jetty, drain, or watercourse belonging to the Crown, the responsibility for controlling or managing which is not vested in any person other than under this section.

(2) *A local government is responsible for controlling and managing every otherwise unvested facility within its district unless subsection (5) states that this section does not apply.*

(3) *If the facility is partially within each of 2 or more districts, it is to be controlled and managed as the local governments for the districts concerned agree or, if they do not agree, as the Minister directs.*

(4) *An agreement or direction under subsection (3) has effect according to its terms.*

(5) *This section does not apply if any person was, immediately before the commencement of this Act, responsible for controlling or managing then facility unless:*

(a) *the responsibility arose under the former section 300; or*

(b) *the Governor, by order, declares that the facility is to be controlled and managed under this section.*

The Council's position in relation to the above has been outlined in previous Council minutes.

CONSULTATION

Shire staff have liaised with affected landowners and MRWA throughout the process in accordance with Council's instructions, since MRWA identified the required 'emergency works' in June 2021.

OFFICER COMMENT

Shire Officer's understand that, in principle, two of the three landowners are satisfied that Council's presented offer is fair and reasonable, based on the known history of Bridge 5224.

The representatives and owners of lot 3195, to Shire officer understanding, consider that the Shire is fully responsible for Bridge 5224 and continue to seek an outcome that is equivalent to a public road bridge standard, fully funded by others.

A summary of other options that have been requested to be explored by the Shire are outlined below, along with Shire officer comment:

Option 1

Construction of an access road to the west that requires no bridge structures, making Bridge 5224 no longer required for access.

Shire Officer comment

- This requires agreement from additional landowners, with some previously outlining that they do not support permanent access being constructed across their land.
- Both the Shire and MRWA have previously outlined, without prejudice, that the Council endorsed and MRWA funds for the emergency repairs of Bridge 5224 could potentially be used to secure legal access rights and the cost of constructing an access road to the west, subject to details and legal agreements.
- Shire officers do not support any compulsory acquisition of land to achieve this but has no objection to impacted landowners having further negotiations with the additional parties to see if this option can be progressed.
- Relevant landowners would be responsible for progressing this option to the point where they have in-principle support from other impacted landowners, plus a concept plan and estimated costing for how this option would be achieved, that could be presented to the Shire and MRWA for further consideration.

Option 2

Construction of an access road to the east that requires no bridge structures, making Bridge 5224 no longer required for access.

Shire Officer comment

- This can be achieved without requiring any further parties to reach legal agreement, however, it is understood that this option is considered unviable by some parties.
- Both the Shire and MRWA have outlined that the Council endorsed and MRWA funds for the emergency repairs of Bridge 5224 could potentially be used to secure legal access rights and the cost of constructing an access road to the east, subject to details and legal agreements.
- Shire officers do not support any compulsory acquisition of land to achieve this but has no objection to impacted landowners having further negotiations between themselves to deem if the option is viable.
- Relevant landowners would be responsible for progressing this option to the point where they have in-principle support amongst each other, plus a concept and

estimated costing for how this option would be achieved, that could be presented to the Shire and MRWA for further consideration.

Option 3

Installation of a second-hand 'uni-bridge', to replace the existing Bridge 5224.

Shire Officer comment

- As MRWA outlined, they would supply the second-hand 'uni bridge' at no cost, however, the cost of designs, approvals, removing of existing Bridge 5224 and the cost of installation, would have to be borne by other parties.
- A very broad estimate from MRWA was that this could cost in the vicinity of \$800,000, based on current market trends.
- As there are no current funding offers on the table anywhere near this amount, the Shire will not explore this option further unless an appropriate funding source is identified and secured.

Option 4

Construction of a second-hand 'uni-bridge', to replace the existing Bridge 5224, at the end of Charlton Road reserve.

Shire Officer comment

- This is again based on MRWA supplying the second-hand 'uni bridge' at no cost, however, the cost of designs, approvals, removing of existing Bridge 5224, installation of second-hand 'uni bridge' and cost to construct new access roads on both sides, would have to be borne by other parties.
- No cost estimates have been undertaken; however, this would be significantly higher than Option 3.
- There are no current funding offers on the table anywhere near this amount. The Shire will not explore this option further unless an appropriate funding source is identified and secured.

Whilst it is acknowledged that the above options can potentially achieve better long-term outcomes for access to land on the northern side of the Preston River, the issue of lots landlocked, or with no constructed road access, is quite common within the Shire, and the Shire's consistent position with these types of issues/lots, is that it is the landowner's responsibility to resolve and provide appropriate legal and constructed access.

For lots 3195, 486 and 4223, the Shire understands that legal access was provided by a previous owner of all lots, via the creation of a private right of carriageway, that required use of Bridge 5224 to achieve access.

This creation of the private right of carriageway did not require Shire approval, plus there is documentation within Shire records which outlines that Bridge 5224 was privately built. Bridge 5224 collapsed in the early 2000's and was rebuilt by private parties.

Prospective purchasers of lots that utilise Bridge 5224 have consistently been informed in writing by the Shire that Bridge 5224 is not a Shire asset and that the landowner/s who use Bridge 5224 are responsible for it.

As negotiations, to date, have failed to reach an agreement that satisfies all parties, the Shire needs to determine if it is going to continue to facilitate maintaining access to these properties, via Bridge 5224, using temporary propping.

As detailed in previous agenda items for Bridge 5224, staff have attempted to negotiate an outcome with previous landowners, that legally identifies Bridge 5224 as their responsibility.

Unfortunately, these negotiations have failed on several occasions, including the current negotiations, which has resulted in the Shire having to continue to bear the costs for Bridge 5224, when issues arose following MRWA's five-yearly inspections.

The ongoing risk and resource/cost implications for continuing to maintain access via Bridge 5224, whilst the matter remains unresolved, is not sustainable based on the condition of Bridge 5224, its history and the Shire's position that Bridge 5224 is not a Shire asset.

Whilst the Shire acknowledges the impact that closure of Bridge 5224 would have on users of Bridge 5224, it is considered that the matter must be brought to a conclusion.

COUNCIL RESOLUTION 101/23

MOVED: Commissioner McGowan

That Council (the Commissioner):

- 1. Note that the actions undertaken by staff in accordance with Council's resolution of 23 November 2022, Ordinary Council Meeting, agenda item 12.1.2, have not resulted in the matter being resolved.**
- 2. Acknowledge that there remain differences of opinion amongst the parties in terms of Bridge 5224 ownership and actions to be taken to resolve the matter.**
- 3. Instruct the Chief Executive Officer to forward further correspondence, on the basis of it being 'without prejudice', to affected landowners for consideration as per the following terms:**
 - 3.1 That the Council's offer as resolved at the 23 November 2022 Ordinary Council Meeting, Item 12.1.2, remains available to all applicable parties to accept up until 31 January 2024 only.**
 - 3.2 Any terms or conditions placed on landowner in-principle written support of Council's offer, considered unreasonable by the Chief Executive Officer, will result in the Shire deeming that in-principle support has not been achieved.**
 - 3.3 Advise all landowners that Shire staff will not undertake any further consideration, discussion, or negotiations on other potential options for the resolution of this matter, unless a detailed written submission is provided and determined to have merit for further consideration by the Shire and MRWA, in the opinion of the Chief Executive Officer.**
- 4. Prior to determining that a detailed written submission or alternative proposal is unreasonable, the CEO is to consult with the Council.**
- 5. In the event that this matter has not progressed towards an outcome as outlined under motions 3.1 or 3.3 (above), to the satisfaction of the Chief Executive Officer, authorise the Chief Executive Officer to seek further legal advice on the appropriate course of action to close and remove Bridge 5224.**
- 6. Once the above has been determined to the satisfaction of the Chief Executive Officer, having consulted with council, authorise the Chief Executive Officer to implement the permanent closure and removal of Bridge 5224.**

CARRIED: Commissioner McGowan

9.2 DIRECTOR CORPORATE AND COMMUNITY

9.2.1 ACCOUNTS FOR PAYMENT – JULY 2023

The Schedule of Accounts Paid under Delegation (No. 1.2.23) is presented for public information (Attachment 9.2.1(1)).

9.2.2 ANNUAL CONCESSION ON SPLIT LOCAL GOVERNMENT BOUNDARIES

Location	Shire of Donnybrook Balingup
Applicant	Not applicable
File Reference	A1394
Author	Vicki Raynsford, Rates Officer
Responsible Officer	Kim Dolzadelli, Director Corporate and Community
Attachments	Nil
Voting Requirements	Absolute Majority

EXECUTIVE RECOMMENDATION

That Council (the Commissioner) grant a concession of 58% on the 2023/2024 Rates charged against Lot 8314 Greenbushes-Grimwade Road, North Greenbushes (A1394), effective 1 July 2023.

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

Outcome	11	Strong, visionary leadership.
Objective	11.1	Provide strategically focused, open, and accountable governance.
Outcome	12	A well respected, professionally run organisation.
Objective	12.1	Deliver effective and efficient operations and service provision.

EXECUTIVE SUMMARY

The purpose of this report is for Council (the Commissioner) to consider granting a concession, pursuant to Section 6.47 of the *Local Government Act 1995*, on rates for Lot 8314 Greenbushes-Grimwade Road, North Greenbushes (A1394). The property dissected by the boundary of Shire of Donnybrook Balingup and Shire of Bridgetown Greenbushes.

BACKGROUND

Council has previously considered application for concession on rates for assessments that are dissected by the boundary of the Shire of Donnybrook Balingup, Shire of Boyup Brook and the Shire of Bridgetown Greenbushes.

At the Ordinary Meeting on 23 September 2022, Council resolved:

COUNCIL RESOLUTION 129/22

1. *Grant concession of 41% on Rates on A2491, Lot 4522, 3853 Donnybrook-Boyup Brook Road, Noggerup due to:*
 - 1.1. *The land parcel being dissected by the Shire of Donnybrook Balingup and Shire of Boyup Brook boundary.*
 - 1.2. *41% of the land parcel is located in the Shire of Boyup Brook.*
2. *Grant concession of 53% on Rates on A4390, Lot 11859, Walker Road, Wilga West due to:*
 - 2.1. *The land parcel being dissected by the Shire of Donnybrook Balingup and Shire of Boyup Brook boundary.*
 - 2.2. *53% of the land parcel is located in the Shire of Boyup Brook.*
3. *Grant an annual concession of 79% on Rates on A2671, Lot 3804, 3905 Donnybrook-Boyup Brook Road, McAlinden due to:*
 - 3.1. *The land parcel being dissected by the Shire of Donnybrook Balingup and Shire of Boyup Brook boundary.*
 - 3.2. *79% of the land parcel is located in the Shire of Boyup Brook.*
4. *Grant an annual concession of 58% on Rates on A1394, Lot 8314 Greenbushes Grimwade Road, North Greenbushes due to:*
 - 4.1. *The land parcel being dissected by the Shire of Donnybrook Balingup and Shire of Bridgetown Greenbushes boundary.*
 - 4.2. *58% of the land parcel is located in the Shire of Boyup Brook.*
5. *Apply an effective commencement date of 1 July 2022 for all concessions approved within resolutions 1 – 4, above.*

Note: resolution 4.2, above, should reference Shire of Bridgetown Greenbushes, not Shire of Boyup Brook.

A local government boundary change has been completed for all properties split between Donnybrook Balingup and Boyup Brook, and those lots are now wholly rated within one Shire or the other. The properties previously affected by boundary dissection are not required to be considered in this application. Landgate provided new valuations effective 1 February 2023.

The assessment to be considered in this application for concession on rates for 2023/2024 financial year is:

Assessment	A1394
Address	Lot 8314, Greenbushes-Grimwade Road, North Greenbushes
Lot and Plan	8314 P157884

The Valuer General has provided both Shires with a pro-rata property valuation equivalent to the apportioning land parcel within each Shire's boundary.

Assessment	Lot	Area (ha)			Valuation 2023/2024		
		Donnybrook Balingup	Other Shire	Total Area (ha)	Donnybrook Balingup	Other Shire	Total Valuation
A1394	8314	48.5	67.9	116.4	195,000	307,000	502,000

Both the Shire of Donnybrook Balingup and the Shire of Bridgetown Greenbushes will raise rates and charges on the portion of land within their respective boundaries, as outlined in the table above. The property is essentially treated as two separate smaller lots of land for rating purposes rather than a single large lot.

The Shire rates the properties in accordance with s6.28(4) of the *Local Government Act 1995* (the Act), where it is required to apply the valuations supplied by the Valuer General.

The Act also provides the authority for Council to grant discounts or concessions to rates and other amounts owing.

FINANCIAL IMPLICATIONS

The 2023/2024 Draft Budget makes provision for concessions relating to this property. If Council (the Commissioner) grants the concession, there would be a reduction in revenue of \$878.70.

	Based on 2023/24 Draft Figures		Reduction in Revenue (Proposed Concession)	
	Valuation	Rates Levied	Rates Concession %	Rates Concession \$
A1394	\$195,000	\$1,515	58%	\$878.70

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

S6.28 of the *Local Government Act 1995* (the Act) requires a local government to rate in accordance with the valuation provided by the Valuer General.

6.28. Basis of rates

(1) *The Minister is to —*

- (a) *determine the method of valuation of land to be used by a local government as the basis for a rate; and*
- (b) *publish a notice of the determination in the Government Gazette.*

- (2) *In determining the method of valuation of land to be used by a local government the Minister is to have regard to the general principle that the basis for a rate on any land is to be —*
 - (a) *where the land is used predominantly for rural purposes, the unimproved value of the land; and*
 - (b) *where the land is used predominantly for non-rural purposes, the gross rental value of the land.*
- (3) *The unimproved value or gross rental value, as the case requires, of rateable land in the district of a local government is to be recorded in the rate record of that local government.*
- (4) *Subject to subsection (5), for the purposes of this section the valuation to be used by a local government is to be the valuation in force under the Valuation of Land Act 1978 as at 1 July in each financial year.*
- (5) *Where during a financial year —*
 - (a) *an interim valuation is made under the Valuation of Land Act 1978; or*
 - (b) *a valuation comes into force under the Valuation of Land Act 1978 as a result of the amendment of a valuation under that Act; or*
 - (c) *a new valuation is made under the Valuation of Land Act 1978 in the course of completing a general valuation that has previously come into force, the interim valuation, amended valuation or new valuation, as the case requires, is to be used by a local government for the purposes of this section.*

Valuations as supplied by Landgate (the Valuer General) are required to be applied to a property by the local government, without amendment.

Council has the authority to resolve to grant discounts and concessions per s6.47 with respect to the Act.

6.47. Concessions

Subject to the Rates and Charges (Rebates and Deferments) Act 1992, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.*

** Absolute majority required.*

CONSULTATION

Nil.

OFFICER COMMENT

It is recommended that Council (the Commissioner) grants the rates concession pursuant to Section 6.47 of the *Local Government Act 1995*, on rates for Lot 8314 Greenbushes Grimwade Road, North Greenbushes (A1394) as the property is dissected by the boundary of Shire of Donnybrook Balingup and Shire of Bridgetown Greenbushes.

COUNCIL RESOLUTION 102/23

MOVED: Commissioner McGowan

That Council (the Commissioner) grant a concession of 58% on the 2023/2024 Rates charged against Lot 8314 Greenbushes-Grimwade Road, North Greenbushes (A1394), effective 1 July 2023.

CARRIED: Commissioner McGowan

9.3 CHIEF EXECUTIVE OFFICER

9.3.1 PROPERTY MANAGEMENT FRAMEWORK - CONSULTATION FEEDBACK

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	PWF 23L
Author	Loren Clifford – Acting Manager Executive Services
Responsible Manager	Ben Rose – Chief Executive Officer
Attachments	9.3.1 (1) Consultation feedback 9.3.1 (2) Property Management Framework 9.3.1 (3) DRAFT Council Policy, EXE/CP-11-Property Management 9.3.1 (4) DRAFT Council Policy, EXE/CP-1-Commercial Lease 9.3.1 (5) Delegation 1.2.21 Disposing of Property 9.3.1 (6) Delegation 1.2.21 Disposing of Property (tracked changes) 9.3.1 (7) Infographic and tenant invitation – Property Management Framework – The Breakdown
Voting Requirements	Simple Majority

EXECUTIVE RECOMMENDATION	
<p>That Council (the Commissioner):</p> <ol style="list-style-type: none"> 1. Notes the submissions received during the Property Management Framework public consultation period, as per Attachment 9.3.1(1). 2. Approve the Property Management Framework, as per Attachment 9.3.1(2). 3. Adopt the: <ol style="list-style-type: none"> 3.1. New Council Policy, EXE/CP-11-Property Management, as per Attachment 9.3.1 (3); 3.2. Amended Council Policy, EXE/CP-1-Commercial Lease, as per Attachment 9.3.1(4); and 3.3. Amended Delegation 1.2.21 Disposing of Property, as per Attachment 9.3.1(5). 4. Instructs the Chief Executive Officer to publish the Infographic and Tenant Invitation on the Shire’s website, as per Attachment 9.3.1(7). 	

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

Outcome	13	Increased community capacity.
Objective	13.1	Enable community organisations and community champions to deliver services and projects to meet local needs.
Priority Project	13.1.1	Fund community organisations through the Community Grants Funding Scheme.

EXECUTIVE SUMMARY

Council (Commissioner) approval is recommended for the Property Management Framework, (Attachment 9.3.1(2)), the overarching Council Policy EXE/CP-11- Property Management (Attachment 9.3.1(3)), the amended Council Policy EXE/CP-1-Commercial Lease (Attachment 9.3.1(4)), and the amended delegation 1.2.21 Disposing of Property, (Attachment 9.3.1(5)).

BACKGROUND

The Shire currently has lease arrangements with a range of community organisations, sport and recreation clubs, government agencies and commercial entities. Commercial arrangements are dealt with under the Shire's existing Policy EXE/CP-1-Commercial Leases.

There is presently no policy in place to provide guidance on the Shire's approach to lease arrangements with not-for-profit community organisations, sport and recreation clubs, government agencies and other 'non-commercial' entities.

The Shire has experienced historical issues in managing its leases as there is no clarity/consistency on the terms of the lease arrangement, and potential variations of those terms based on the type of organisation, type of activity, or value to the community. This has led to historically inconsistent outcomes across the lease portfolio, resulting in an internal review of the management of the Shire's occupancy arrangements.

Outlined below are the Guiding Principles for the review, and the outcomes surrounding those principles.

Guiding Principle 1

Consistency – establishing a common form of lease document (they are all very different presently).

Review Outcome

The framework achieves this by setting standard rental fees and expenses, a summary of essential conditions, the occupancy agreement term, and a schedule of maintenance.

Guiding Principle 2

Equity – establishing common sets of responsibilities and costs with parity between leases/lessees.

Review Outcome

Under the Framework, tenants will be classified into one of four categories: Community Groups, Organisations, Sporting Clubs, Commercial entities, and Government Agencies. The classification provides parity amongst the Shire's different type of tenants.

Guiding Principle 3

Simplicity – keep it as simple as possible, whilst achieving the review outcomes.

Review Outcome

The intent of the Framework is to simplify things for both the tenant and the Shire. The feedback from the first round of consultation, with existing tenants, was that the information contained within a 70+ page lease document was too complicated to understand. Essentially, to build the Framework, the information contained within the 70-page lease has been pulled out and broken down into 15 pages, for each of the four different categories.

Mixed feedback shows that although the Framework is lengthy and detailed, it is clear and easily understandable.

Guiding Principle 4

Clarity – particularly in regard to maintenance obligations.

Review Outcome

An extensive, but clear, set of responsibilities are broken down and set out in the Framework for each of the four different categories.

Guiding Principle 5

Capacity and capability – ensure the lease policy / standard lease document does not unnecessarily prohibit innovation or tenant revenue opportunities, and is realistically manageable from a governance and administration perspective for both the lessee and the lessor (the Shire).

Review Outcome

Neither the Policy or the Framework has been designed to unnecessarily prohibit innovation or revenue opportunities giving all tenants the same opportunities. Tenants in classification one and two are even offered a subsidy. Subsidies will be awarded to groups who seek opportunities that can benefit the whole community. (e.g. facility sharing, community contribution, good group governance).

The Framework also outlines the process involved, and how the Shire intends on classifying the groups, and calculating group subsidies, aiming to be as transparent as possible as well as informing shire procedures.

After the internal review of the management of the Shire's lease arrangements, four community consultation sessions were held with current (and known, potential) tenants to help guide the development of a revised and structured leasing and licensing framework (Framework). The Framework was presented to Council (the Commissioner) for consideration at the March Ordinary Council Meeting.

Council (the Commissioner), at the Ordinary Meeting held 22 March 2023, resolved to:

- 1. Endorse the Draft Property Management Framework and Attachments for the purpose of further community consultation.*
- 2. Note that the Shire Administration will undertake further community consultation on the Draft Property Management Framework.*
- 3. Instruct the Chief Executive Officer to consider feedback from consultation and report recommended changes to Council (Commissioner) for consideration.*

FINANCIAL IMPLICATIONS

Currently, 2022/2023 lease rents range from \$0.10 pa to \$3,529.90 pa (excludes commercial leases). Current commercial lease rental will not be affected.

Based on the 2022/2023 minimum GRV being \$1,421, rents will range from \$71.05pa (including the maximum 95% subsidy) up to \$1,421.00pa. These amounts are variable based on each group's annual subsidy awarded. The information has been calculated on the 2022/2023 minimum as the budget has not yet been adopted for 2023/2024.

Council's 2023/2024 budget includes an annual hall maintenance allowance of \$1,574.37 to the following community groups:

- Brookhampton Hall Association; and
- Kirup Hall Association; and
- Newlands Social Club; and
- Noggerup Hall Association; and
- Yabberup Community Association.

This hall maintenance allowance will no longer be given to these groups under the new Framework.

An indicative quote for the professional fees to draft the standard lease templates is a one-off payment of \$4,000.

POLICY COMPLIANCE

- Draft EXE/CP-11-Property Management Framework
- EXE/CP-1-Commercial Lease
- EXE/CP-8-Policy Framework

STATUTORY COMPLIANCE

Land Administration Act 1997

The Shire is responsible for the care, control and management of certain property within the Shire's boundaries which have been reserved by the Minister for Lands under the *Land Administration Act 1997*.

The Shire manages this land in accordance with a Management Order (historically known as a Vesting Order) made under section 46 of the Act which may include a power to lease or licence the whole or a part of the land. Any proposal to lease or licence land may not proceed without prior written approval from the Minister.

Local Government Act 1995

The Shire is bound by specific conditions under the *Local Government Act 1995* regarding the disposal of property. Section 3.58 of the Act provides that a local government can only dispose of property by public auction, public tender or by undertaking the local public notice procedure set out in section 3.58(3). In this context, disposing of property means to 'sell, lease or otherwise dispose of, whether absolutely or not' (does not include licensing).

However, there are a number of exemptions to these requirements set out in regulation 30 of the *Local Government (Functions & General) Regulations 1996*. These include:

- where property is to be disposed to not-for-profit charitable, benevolent, religious, cultural, educational, recreational, or sporting organisations; and
- if the property is to be leased for a period of less than two years and the lease does not give exclusive possession of the property.

Section 3.59 of the *Local Government Act 1995* outlines the procedure for acquiring and disposing of property greater than one million dollars in value, including the preparation of a Business Plan, issuing of a Public Notice and a period of consultation. In addition to acquisition and disposal, under Part 6 of the *Local Government Act 1995*, the Shire is able to charge a fee for the hiring of property. Fees and charges set by Council under the Act are adopted annually as part of the Annual Budget process.

Section 2. 7(2)(b) of the *Local Government Act 1995* provides Council with the power to determine policies.

Section 5.42 of the *Local Government Act 1995* provides that a local government may delegate powers and duties to the Chief Executive Officer.

Section 3.58 of the *Local Government Act 1995* provides the power to dispose (lease) of property.

Local Government and Property Local Law 2015

The Shire's *Local Government and Public Property Local Law 2015* was enacted under the *Local Government Act 1995*. This Local Law provides for the regulation, control and management of activities and facilities on Shire owned and managed property. The Local Law also describes the conditions which relate to public usage of Shire property, including prohibitions on smoking, alcohol consumption, anti-social behaviour, refuse and firearms etc.

CONSULTATION

To guide development of the draft Property Management Framework, four community consultation sessions were held, as detailed below:

Date	Location	Attendees
Monday, 10 October 2022, 9am-12pm	Donnybrook Recreation Centre, Function Room	14
Tuesday, 11 October 2022, 9am-12pm	The Olde Shed Café, Balingup	4
Monday, 17 October 2022, 5pm-7pm	Council Chamber, Donnybrook	13
Tuesday, 18 October 2022, 5pm-7pm	Balingup Town Hall, Balingup	7

The 38 attendees were from 31 different community groups. Feedback from these groups has been reviewed and considered and (where appropriate) incorporated into the draft Framework.

Noting the considerable amount of detailed information surrounding the Framework, a self-paced website-based method was selected for the second round of community consultation. The Framework was broken-down into three sections of information, guided by easy-to-follow info graphs, whilst still providing links to the more detailed information. This website-based method allowed interested persons to submit instant questions and feedback whilst reading through the Framework at a time that suited them.

This consultation period ran from 7 July 2023 until 21 July 2023. The Shire received seven responses as per Attachment 9.3.1(1). The various feedback received was around the availability of vacant Shire buildings, questions around, who does the Framework affect? and what best suits an individual groups situation? as well as comments stating that the Framework was overcomplicated and, and another stating that the Framework, while lengthy and relatively detailed, looks clear and easily understandable.

OFFICER COMMENT

Feedback from the second-round of community consultation held in July 2023, (outlined in Attachment 9.3.1(1)) has been considered and in response staff have developed an infographic to summarise the intent of the Framework, to be published on the Shire's website along with an invitation to hold one on one discussion with group/s who would like a more targeted information session.

IMPLEMENTATION

A number of existing and newly identified leases are on land not owned, but managed by the Shire, such as Reserves and Rail Corridor. Administrative changes /approvals /licences are required prior to the Shire approving and executing any occupancy agreements. Due to the nature of these changes, the time it will take before these leases/licences can be approved is unknown (although estimated to be between 3-12 months).

22 new occupancy arrangements will need to be implemented by staff, however, 9 require approval from the Minister of Lands to allow the Shire the power to lease the reserve to a third party and 3 require approval from Arc Infrastructure Pty Ltd to licence the land to a third party. While not ideal these delays allow the implementation of the new occupancy arrangements to be staggered, ensuring staff resources.

The commercial leases as listed below will remain outside the Framework until the last further term has expired, in accordance with Council Policy EXE/CP-1-Commercial Lease.

Lessee	Property Address	Expiry of last Further Term
Dental Corporation Pty Ltd (BUPA)	Portion of Lot 20, 116A South Western Highway, Donnybrook WA 6239	31 May 2026
Donnybrook & Capel Districts Community Financial Services Limited	70 (Lot 58) South Western Highway, Donnybrook	30 June 2023
Donnybrook Medical Centre	41 Bentley Street, Donnybrook WA - Lot 501 on Deposited Plan 72099 being the whole of the land comprised in Crown Title LR3025 Folio 517, being Reserve 52021	30 June 2026
Great Southern Care Company Pty Ltd (Hall & Prior)	Lot 502 on Deposited Plan 72099, being the whole of the land in Certificate of Crown Land Title Volume LR3025 Folio 518 and known as 30 Allnutt Street, Donnybrook WA	27 June 2042
Ruso Pty Ltd	Reserve 37474 known as Lot 5343 on Deposited Plan 184608 Title LR3080 Folio 495	12 August 2024
Sonic Healthcare Limited	Lot 501 on Deposited Plan 72099 being the whole of the land comprised in Crown Land Title LR3025 Folio 517, being Reserve 52021	30 September 2024
Windy Arbor Pty Ltd	Lot 597 Collins Street, Donnybrook (Reserve 47814)	7 June 2031

The Shire intends on taking a pragmatic approach when implementing the Framework to ensure that each tenant's transition to the new Framework is not unnecessarily restrictive or problematic. A collaborative effort by all parties will bring everyone on the journey together to ensure the best results for the community.

It's requested that Council (the Commissioner) approve the Property Management Framework, (Attachment 9.3.1(2)), the overarching Council Policy EXE/CP-11- Property Management (Attachment 9.3.1(3)), the amended Council Policy EXE/CP-1-Commercial Lease (Attachment 9.3.1(4)), and the amended delegation 1.2.21 Disposing of Property, (Attachment 9.3.1(5)).

COUNCIL RESOLUTION 103/23

That Council (the Commissioner): Commissioner McGowan

- 1. Notes the submissions received during the Property Management Framework public consultation period, as per Attachment 9.3.1(1).**
- 2. Approve the Property Management Framework, as per Attachment 9.3.1(2).**
- 3. Adopt the:**
 - 3.1. New Council Policy, EXE/CP-11-Property Management, as per Attachment 9.3.1 (3);**
 - 3.2. Amended Council Policy, EXE/CP-1-Commercial Lease, as per Attachment 9.3.1(4); and**
 - 3.3. Amended Delegation 1.2.21 Disposing of Property, as per Attachment 9.3.1(5).**
- 4. Instructs the Chief Executive Officer to publish the Infographic and Tenant Invitation on the Shire's website, as per Attachment 9.3.1(7).**

CARRIED: Commissioner McGowan

9.3.2 REVIEW OF SMALL LOCAL BUSINESS GRANTS PROGRAM PILOT

Location	Shire of Donnybrook Balingup
Applicant	Not applicable
File Reference	PWF 23H
Author	Anna Oades – Acting Principal Officer Economic Development
Responsible Manager	Ben Rose – Chief Executive Officer
Attachments	9.3.2(1) Program Review Report
Voting Requirements	Simple Majority

EXECUTIVE RECOMMENDATION	
<p>That Council (the Commissioner):</p> <ol style="list-style-type: none"> 1. Note and endorses the ‘Review of Small Business Grants Program Pilot: 2022-23’ report at Attachment 9.3.2(1). 2. Consider an allocation of \$30,000 towards the Local Small Business Grants Program as part of the 2023-24 Shire Budget. 3. Direct the Chief Executive Officer, prior to commencing the grant program for 2023-24, to first develop formalised governance arrangements for the grant program, including (but not limited to): <ol style="list-style-type: none"> 3.1 Council Policy; 3.2 Guidelines Document; 3.3 Template application form/s. 3.4 Assessment criteria / form. 4. Determine that a two-tier funding structure be applied to this grant program in the future, being: <ol style="list-style-type: none"> 4.1 Grants under \$1,000. 4.2 Grants between \$1,000 and \$5,000 (maximum). 	

STRATEGIC ALIGNMENT

The following outcome from the Council Plan relates to this proposal:

Outcome	9	A thriving economy
Objective	9.2	Attract and retain a diverse mix of businesses and investment opportunities.

EXECUTIVE SUMMARY

At the Ordinary Meeting of Council in June 2023, the Council (Commissioner) requested a review of the Small Business Grants Program pilot, to be presented to a future meeting of Council. This included funding consideration during 2023-24 and onwards. A trial of the program was established in April 2023. This attached report provides a review of the pilot program and recommendations for the future of the grant program.

BACKGROUND

Many local businesses are being faced with a variety of external pressures on top of their day-to-day issues, which can restrict their growth and development. These include recruitment and retention problems, insecure or costly tenancies, low foot traffic, customers' changing needs and aspirations, and on-line shopping for goods and services.

In March 2023, Council (the Commissioner) identified \$30,000 through the Annual Budget Review, for economic development activities. A pilot scheme was then designed which focused on small grants to provide a value-add for existing and new businesses in the district.

This pilot scheme was launched on 15 May 2023, with over a dozen businesses contacting the Shire about the possibility of a grant. Six applications were submitted.

FINANCIAL IMPLICATIONS

The Principal Officer Economic Development assessed each application against the criteria and made recommendation/s to the Chief Executive Officer. All applicants were recommended for funding (in part, or full). The Chief Executive Officer approved the following grants, all being under \$5,000:

- Donnybooks - \$4,170 – purchase of equipment for bookbinding and embossing.
- The Hygge Farm - \$3,445.40 – training and equipment to enable neuro-diverse participants on farm activities.
- Silhouette Hair Design - \$4,087.32 – funds to bring new products, currently at the design stage, to market and for set-up of a private treatment room.
- Shag Brewing Company - \$4,401.75 - assistance towards a de-stoner to turn unwanted fruit produce into a value-added product.
- Balingup Veterinary Services - \$5,000 – contribution towards purchase of a portable X-Ray machine which costs \$14,846.70 in total.
- Nourish Me Up - \$4,257.50 – funds to shift business model from 'shop front' to 'online', includes website reconfiguration for online sales and for product delivery.

A total of \$25,361.97 was funded by the Shire, with a residual of \$4,638.03 being unallocated/unspent.

POLICY COMPLIANCE

The Review recommends that formal governance arrangements are established to underpin further funding rounds, prior to commencement of any further funding rounds.

At the June Ordinary Meeting of Council, the Council (Commissioner) resolved:

“That Council (the Commissioner):

- 1. Note that the Chief Executive Officer will make a determination on grant approvals for the Small Business Grant Program Pilot where the value of the grant is \$5,000, or less.*
- 2. Note that the Chief Executive Officer will present a report and recommendation to the Council on grant applications for the Small Business Grant Program Pilot where the value of the grant is more than \$5,000.*
- 3. Note that the Chief Executive Officer will present a review of the Small Business Grants Program Pilot to Council, which may include continued funding consideration during 2023-24 and onwards.”*

STATUTORY COMPLIANCE

Local Government Act 1995.

CONSULTATION

The Principal Officer Economic Development consulted with other local governments in designing the pilot scheme.

OFFICER COMMENT

Positive comment was received by most small businesses who met with the (then) Principal Officer Economic Development to discuss their business proposals. Although the grants were a tool to add-value to businesses, it was also a means to establish an ongoing relationship with the small business community.

The Shire worked with each business to ensure their grant proposals were tailored to their specific needs and could have maximum impact on the business and wider community. Where it was clear that the business could benefit from business advisory services, the Shire connected these services to that business.

Given that the funds have only recently been approved (March 2023), input will be sought from the business community, particularly the grant recipients, to further improve the grants process.

COUNCIL RESOLUTION 104/23

MOVED: Commissioner McGowan

That Council (the Commissioner):

- 1. Note and endorses the ‘Review of Small Business Grants Program Pilot: 2022-23’ report at Attachment 9.3.2(1).**
- 2. Consider an allocation of \$30,000 towards the Local Small Business Grants Program as part of the 2023-24 Shire Budget.**
- 3. Direct the Chief Executive Officer, prior to commencing the grant program for 2023-24, to first develop formalised governance arrangements for the grant program, including (but not limited to):**
 - 3.1 Council Policy;**
 - 3.2 Guidelines Document;**
 - 3.3 Template application form/s.**
 - 3.4 Assessment criteria / form.**
- 4. Determine that a two-tier funding structure be applied to this grant program in the future, being:**
 - 4.1 Grants under \$1,000.**
 - 4.2 Grants between \$1,000 and \$5,000 (maximum).**

CARRIED: Commissioner McGowan

10 ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Nil.

12 MEETINGS CLOSED TO THE PUBLIC

12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

12.1.1 REQUEST FOR TENDER 05-2223 -TREE PRUNING SERVICES

RECOMMENDATION

That the meeting be closed in accordance with section 5.23(2) of the Local Government Act 1995 to discuss agenda item 12.1.1 Request For Tender 05-2223 – Tree Pruning Services.

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

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

COUNCIL RESOLUTION 105/23

MOVED: Commissioner Gail McGowan

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

CARRIED: Commissioner McGowan

The meeting was closed to the public at 6.21pm

RECOMMENDATION

That the meeting be opened to the public.

COUNCIL RESOLUTION 107/23

MOVED: Commissioner McGowan

That the meeting be re-opened to the public.

CARRIED: Commissioner McGowan

The meeting was opened to the public at 6.26pm

12.1.1 REQUEST FOR TENDER 05-2223 - TREE PRUNING SERVICES

MOVED: Commissioner McGowan

That Council (the Commissioner):

- 1. Award the contract for RFT 05-2223 – Tree Pruning Services, to BDA Tree Lopping for a period of three (3) years, in accordance with the submitted offer.**
- 2. Release this resolution in the meeting Minutes.**

CARRIED: Commissioner McGowan

12.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

Nil.

13 CLOSURE

The Commissioner to advise that there will be a Special Council Meeting which will be held on 30 August 2023 commencing at 5.00pm in the Shire of Donnybrook Balingup Council Chamber.

The Commissioner declared the meeting closed at 6.26pm.

These Minutes were confirmed by the Council (the Commissioner) as a true and accurate record at the Ordinary Council Meeting held 23 August 2023.



Gail McGowan

COMMISSIONER – SHIRE OF DONNYBROOK BALINGUP