



NOTICE OF ORDINARY COUNCIL MEETING 24 FEBRUARY 2021

Held on

Wednesday 24 February 2021

Commencing at 5.00pm

Shire of Donnybrook Balingup Council Chambers, Donnybrook

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

Ben Rose
Chief Executive Officer

25 February 2021

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SHIRE OF DONNYBROOK BALINGUP
MINUTES OF ORDINARY COUNCIL MEETING

Held at the Council Chambers
Wednesday, 24 February 2021 at 5.00pm

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Shire President – Acknowledgment of Country

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

The Shire President declared the meeting open at 5.01pm and welcomed the public gallery.

Shire President - Public Notification of Recording of Meetings

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

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

2 ATTENDANCE

MEMBERS PRESENT

COUNCILLORS	STAFF
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 – Administration Officer (Minutes)
Cr Anne Mitchell	
Cr Chaz Newman	
Cr Chris Smith	
Cr Leanne Wringe	
*One Councillor Position Vacant	

PUBLIC GALLERY

1 member of the public

2.1 APOLOGIES

Nil.

2.2 APPROVED LEAVE OF ABSENCE

Nil.

2.3 APPLICATION FOR A LEAVE OF ABSENCE

Nil.

3 ANNOUNCEMENTS FROM PRESIDING MEMBER

President's Diary (January – February 2021)

19/01	Meeting with Hon Mick Murray MLA – Collie
21/01	Donnybrook CCI Meeting with National Party
26/01	Donnybrook Balingup Australia Day Celebrations - Donnybrook
27/01	Bunbury Geochem CCI/BGEA – Sub Regional Planning Strategy – Bunbury
02/02	Warren Blackwood Alliance of Council – Manjimup
08/02	Bunbury Geographe Group of Councils Meeting - Bunbury
15/02	WBAC Climate Impact Reference Group Meeting – Manjimup (attended with Crs Massey and Lindemann)
18/02	Donnybrook Community Sporting/Recreation/Entertainment Project Reference Group Meeting
19/02	South West Region WALGA Meeting – Bunbury
19/02	Jodie Hanns ALP candidate for Collie - Preston Meeting Donnybrook
21/02	Local Government Elected Members Assoc (LGEMA) Meeting – Perth

4 DECLARATION OF INTEREST

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

Nil.

5 PUBLIC QUESTION TIME

5.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

5.2 PUBLIC QUESTION TIME

Nil.

6 PRESENTATIONS

6.1 PETITIONS

Nil.

6.2 PRESENTATIONS

Nil.

6.3 DEPUTATIONS

Nil.

ADOPTION BY EXCEPTION

COUNCIL RESOLUTION 7/21

Moved Cr Mitchell Seconded Cr Massey

That the following items be adopted ‘en bloc’:

- 7.1 Ordinary Meeting of Council – 16 December 2020**
- 7.2 Special Meeting of Council – 22 December 2020**
- 7.3 Special Meeting of Council – 20 January 2021**
- 7.4 Annual General Meeting of Electors – 20 January 2021**
- 7.5 Special Meeting of Council – 27 January 2021**
- 7.6 Audit and Risk Management Committee – 28 January 2021**
- 8.1 Local Government Act Review and Shire Comment**
- 8.2 Office of the Auditor General Industry Performance Audit Reports**
- 8.3 Internal Audit Function**
- 8.4 Compliance Audit Return 2020**
- 9.1.1 Shire Submission to Draft Bunbury-Geographe Sub-Regional Strategy**
- 9.2.2 Monthly Financial Report – December 2020**
- 9.2.3 Monthly Financial Report – January 2021**
- 9.2.4 Establishment of new Reserve Accounts – Payment in Lieu of Public Open Space**
- 9.2.5 Tuia Lodge Quarterly Report – Quarter Two (2020/21)**
- 9.3.1 Councillor Vacancy**
- 9.3.2 Local Government Ordinary Election – October 2021**
- 9.3.3 Amendment to Commercial Lease Policy**
- 9.3.5 Authorised Person and Form Approval Under the Local Government (Model Code of Conduct) Regulations 2021**

CARRIED 8/0

7 CONFIRMATION OF MINUTES

7.1 ORDINARY MEETING OF COUNCIL – 16 DECEMBER 2020

Minutes of the Ordinary Meeting of Council held 16 December 2020 are attached (*attachment 7.1*).

EXECUTIVE RECOMMENDATION

That the Minutes from the Ordinary Meeting of Council held 16 December 2020 be confirmed as a true and accurate record.

COUNCIL RESOLUTION 8/21

Moved Cr Mitchell Seconded Cr Massey

That the Minutes from the Ordinary Meeting of Council held 16 December 2020 be confirmed as a true and accurate record.

CARRIED 8/0 by En Bloc Resolution

7.2 SPECIAL MEETING OF COUNCIL – 22 DECEMBER 2020

Minutes of the Special Meeting of Council held 22 December 2020 are attached (*attachment 7.2*).

EXECUTIVE RECOMMENDATION

That the Minutes from the Special Meeting of Council held 22 December 2020 be confirmed as a true and accurate record.

COUNCIL RESOLUTION 9/21

Moved Cr Mitchell Seconded Cr Massey

That the Minutes from the Special Meeting of Council held 22 December 2020 be confirmed as a true and accurate record.

CARRIED 8/0 by En Bloc Resolution

7.3 SPECIAL MEETING OF COUNCIL – 20 JANUARY 2021

Minutes of the Special Meeting of Council held 20 January 2021 are attached (*attachment 7.3*).

EXECUTIVE RECOMMENDATION

That the Minutes from the Special Meeting of Council held 20 January 2021 be confirmed as a true and accurate record.

COUNCIL RESOLUTION 10/21

Moved Cr Mitchell Secoded Cr Massey

That the Minutes from the Special Meeting of Council held 20 January 2021 be confirmed as a true and accurate record.

CARRIED 8/0 by En Bloc Resolution

7.4 ANNUAL GENERAL MEETING OF ELECTORS – 20 JANUARY 2021

Minutes of the Annual General Meeting of Electors held 20 January 2021 are attached (*attachment 7.4*).

EXECUTIVE RECOMMENDATION

That the Minutes from the Annual General Meeting of Electors held 20 January 2021 be received, with the following Electors Motion acknowledged and supported by the Council:

‘That the Shire Staff and Executive be congratulated on their presentation and performance at the meeting this afternoon’.

COUNCIL RESOLUTION 11/21

Moved Cr Mitchell Secoded Cr Massey

That the Minutes from the Annual General Meeting of Electors held 20 January 2021 be received, with the following Electors Motion acknowledged and supported by the Council:

‘That the Shire Staff and Executive be congratulated on their presentation and performance at the meeting this afternoon’.

CARRIED 8/0 by En Bloc Resolution

7.5 SPECIAL MEETING OF COUNCIL – 27 JANUARY 2021

Minutes of the Special Meeting of Council held 27 January 2021 are attached (*attachment 7.5*).

EXECUTIVE RECOMMENDATION

That the Minutes from the Special Meeting of Council held 27 January 2021 be confirmed as a true and accurate record.

COUNCIL RESOLUTION 12/21

Moved Cr Mitchell Seconded Cr Massey

That the Minutes from the Special Meeting of Council held 27 January 2021 be confirmed as a true and accurate record.

CARRIED 8/0 by En Bloc Resolution

7.6 AUDIT AND RISK MANAGEMENT COMMITTEE 28 JANUARY 2021

Minutes of the Audit and Risk Management Committee 28 January 2021 are attached (*attachment 7.6*).

EXECUTIVE RECOMMENDATION

That the Minutes of the Audit and Risk Management Committee 28 January 2021 be received.

COUNCIL RESOLUTION 13/21

Moved Cr Mitchell Seconded Cr Massey

That the Minutes of the Audit and Risk Management Committee 28 January 2021 be received.

CARRIED 8/0 by En Bloc Resolution

8 REPORTS OF COMMITTEES

8.1 LOCAL GOVERNMENT ACT REVIEW AND SHIRE COMMENT

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	N/A
Author	Maureen Keegan, Manager Executive Services
Responsible Manager	Paul Breman, Executive Manager Corporate and Community
Attachments	8.1 (1) – LG Review Recommendations and Shire Comment
Voting Requirements	Simple Majority

Committee Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Receive the information provided in the Local Government Act Review document as attached in 8.1(1); and 2. Recognise the potential impacts to the Shire and the Audit and Risk Management Committee if mandated as legislation; and 3. Instruct the CEO to review the LG Act Review recommendations to identify any initiatives that the Council may be able to implement within existing resource capacity; and 4. Be kept updated as to the progress of the LG Act review and any legislative changes.

STRATEGIC ALIGNMENT

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

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

EXECUTIVE SUMMARY

The Committee is requested to receive the LG ACT Review Recommendations and Shire comments as attached (8.1(1)).

The information is provided to the Committee to enable members to keep informed of current events in the Industry and consider the potential impacts of the proposed changes. Some of the recommended changes relate directly to the potential future role and function of the Audit and Risk Management Committee. No action by the Committee is expected in the initial

instance as it is uncertain as to what extent these recommendations will be taken up by the State Government.

BACKGROUND

In 2017 the McGowan Government announced a review of the Local Government Act 1995 with the objective to have a new, modern Act that is Agile, Smart and Inclusive, to be undertaken by the Department Local Government, Sport and Cultural Industries.

The review was conducted in 2 stages:

Stage one – priority reforms – those issues that were identified as requiring immediate attention.

Stage two – wide ranging reforms

Community consultation was undertaken on stage two of the review between 2018-2019 and the final report was released in May 2020.

A matrix of the 65 findings in the Final Report was developed by staff and where appropriate, brief commentary was added on the potential impact to the Shire of Donnybrook Balingup in regard to both the organisation and the Audit and Risk Management Committee.

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Not Applicable.

STATUTORY COMPLIANCE

Not Applicable

CONSULTATION

Not Applicable.

OFFICER COMMENT/CONCLUSION

As information becomes available in the future concerning the actions of the State Government, the Audit and Risk Management Committee and the Council will be updated.

COUNCIL RESOLUTION 14/21

Moved Cr Mitchell

Seconded Cr Massey

That Council:

- 1. Receive the information provided in the Local Government Act Review document as attached in 8.1(1); and**

- 2. Recognise the potential impacts to the Shire and the Audit and Risk Management Committee if mandated as legislation; and**
- 3. Instruct the CEO to review the LG Act Review recommendations to identify any initiatives that the Council may be able to implement within existing resource capacity; and**
- 4. Be kept updated as to the progress of the LG Act review and any legislative changes.**

CARRIED 8/0 by En Bloc Resolution

8.2 OFFICE OF THE AUDITOR GENERAL INDUSTRY PERFORMANCE AUDIT REPORTS

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	N/A
Author	Maureen Keegan, Manager Executive Services
Responsible Manager	Paul Breman, Executive Manager Corporate and Community
Attachments	8.2 (1) – OAG Report Findings and Shire Comment
Voting Requirements	Simple Majority

Committee Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Receive the matrix of Shire responses to each of the findings in the Auditor General’s General Performance Audit Reports as attached 8.2(1); and 2. Acknowledge the work to be undertaken to align the findings of the individual Office of the Auditor General’s reports with Shire processes and systems; and 3. Consider the risk management implications associated with the findings and recommendations of the Office of the Auditor General Performance Audits and the Shire Executive’s Comments in the attachment.

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	4.2.1.3	Monitor and measure organisational performance

EXECUTIVE SUMMARY

The Committee was provided with a the matrix of Shire responses to each of the findings in the Auditor General Industry Performance Audit Reports (OAG) and acknowledge the work to be undertaken to align the findings with Shire processes and systems.

BACKGROUND

At the 12 November 2020 ARMC meeting, the Committee received the Recommendations and Findings from the Office of the Auditor General Performance Audits Reports and recommended to Council that the Chief Executive Officer prepare a matrix with Shire responses to each of the findings.

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Not Applicable.

STATUTORY COMPLIANCE

Not Applicable.

CONSULTATION

Not Applicable.

OFFICER COMMENT/CONCLUSION

The attached consolidated matrix of findings and recommendations published by the Office of Auditor General from their program of performance audits across the Industry and the status, priority and progress toward achieving these outcomes demonstrates the increased external expectation applied to the development of local government systems and controls.

There is a steady and continual increase in the external review of local government systems and controls that places considerable pressure on the future level of resource required to meet these expectations.

COUNCIL RESOLUTION 15/21

Moved Cr Mitchell

Seconded Cr Massey

That Council:

- 1. Receive the matrix of Shire responses to each of the findings in the Auditor General's General Performance Audit Reports as attached 8.2(1); and**
- 2. Acknowledge the work to be undertaken to align the findings of the individual Office of the Auditor General's reports with Shire processes and systems; and**
- 3. Consider the risk management implications associated with the findings and recommendations of the Office of the Auditor General Performance Audits and the Shire Executive's Comments in the attachment.**

CARRIED 8/0 by En Bloc Resolution

8.3 INTERNAL AUDIT FUNCTION

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	N/A
Author	Maureen Keegan, Manager Executive Services
Responsible Manager	Paul Breman, Executive Manager Corporate and Community
Attachments	8.3 (1) – Interim Audit Findings update
Voting Requirements	Simple Majority

Committee Recommendation

That Council instruct the Chief Executive Officer to include for consideration in the 2021-2022 Shire of Donnybrook Balingup Draft Budget an amount of up to \$45,000 toward the establishment of an internal audit function.

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	4.2.1.3	Monitor and measure organisational performance

EXECUTIVE SUMMARY

The Committee recommend to the Council that the Chief Executive Officer prepare a report on the resourcing implications of establishing an internal audit function for presentation to the Committee.

There is no allocation in the Shire's current 2020-21 Budget for a dedicated internal audit function and the recommendation is for the Council to consider such an allocation in the 2021-2022 Draft Budget.

BACKGROUND

Council at the 25 November 2020 ordinary meeting resolved (Resolution 166/20):

- Request the Chief Executive Officer to prepare an item for consideration by the Audit and Risk Management Committee prior to the February 2021 Ordinary Council Meeting, to engage a suitably qualified person/organisation to undertake an Internal Audit function for the Shire of Donnybrook Balingup. The item is to identify an estimate of the employment/contract term and the indicative costs to allow Council to consider options for funding this function.***

The Audit and Risk Management Committee Charter includes provision of the Shire undertaking internal audit functions which support the Committee objectives:

1. Accept responsibility for the annual external audit and liaise with the Shire's auditor so that Council can be satisfied with the performance of the Shire in managing its financial affairs, and
2. Oversee the development, implementation and review of the Shire's risk management framework and monitor ongoing risk management practices across the organisation including the consideration of identified significant risks and the associated risk mitigation measures.

The Department of Local Government Sporting and Cultural Industries (DLGCSI) refer to internal auditing as an "independent, objective assurance and consulting activity designed to add value and improve an organisation's operations by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

There are two resourcing options for the establishment of a dedicated internal audit function being:

1. Resource the role through the recruitment of a skilled person (reporting directly to the Chief Executive Officer) who can undertake the function; or
2. Engage a qualified and experienced Internal Audit company to conduct an audit program approved by the ARMC.

The internal audit function could include:

- a) Conduct a review of the internal control structure, monitoring the operations of the information systems and internal controls and providing recommendations for improvements;
- b) Risk management and review the Shire Risk Management Framework;
- c) Examination of financial operating information that includes detailed testing of transactions, balances, and procedures;
- d) Review the efficiency and effectiveness of operations and services including non-financial controls of a local government;
- e) Review of compliance with management policies and directives and any other internal requirements;
- f) Review of the annual Compliance Audit Return;
- g) Assist in the CEO's review of the appropriateness and effectiveness of the local government's systems and procedures in regard to risk management, internal control and legislative compliance; and
- h) Specific tasks on request

The internal auditor cannot be the same as the appointed external auditor (or any company contracted to undertake the role) but will provide information to the external auditors.

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Not Applicable.

STATUTORY COMPLIANCE

Not Applicable.

CONSULTATION

Not Applicable.

OFFICER COMMENT/CONCLUSION

Incorporating an internal audit component will contribute to good governance and has the capacity to add to improved compliance, productivity and efficiency over the longer term.

In relation to the resourcing options available to the Shire to establish an internal audit function, it may recruit for an internal position or procure the services of an experienced and qualified provider.

Successfully recruiting an internal audit position will depend on the availability of a local resource with the experience, qualification and independence necessary to undertake the role. The cost of maintaining such a position would depend on the position description, and the scope of the duties, however an indicative resource allocation would be between 1 to 2 days a week. The upper resources requirement of 2 days a week would include a degree of duties around the risk management function. The cost range of 1 to 2 days per week is in the order of \$24,000 to \$48,000 per annum.

To successfully procure an internal audit function from an experienced and qualified provider would be in the order of \$30,000 to \$40,000 which would secure approximately 120 to 165 hours of service at this stage of consideration. This external cost has been estimated by the Executive Manager of Corporate and Community based on experience.

COUNCIL RESOLUTION 16/21

Moved Cr Mitchell

Seconded Cr Massey

That Council instruct the Chief Executive Officer to include for consideration in the 2021-2022 Shire of Donnybrook Balingup Draft Budget an amount of up to \$45,000 toward the establishment of an internal audit function.

CARRIED 8/0 by En Bloc Resolution

8.4 COMPLIANCE AUDIT RETURN 2020

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	N/A
Author	Maureen Keegan, Manager Executive Services
Responsible Manager	Paul Breman, Executive Manager Corporate and Community
Attachments	8.4 (1) 2020 Compliance Audit Return
Voting Requirements	Simple Majority

Committee Recommendation

That Council:

- 1. Adopt the 2020 Compliance Audit Return as presented at attachment 8.4(1) for the Shire of Donnybrook Balingup for the period 1 January 2020 to 31 December 2020; and**
- 2. Instruct the CEO prepare a report identifying the actions to be taken to achieve compliance with the items identified within the 2020 Compliance Audit Return to be presented to the next Audit and Risk Management Committee Meeting.**

STRATEGIC ALIGNMENT

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

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

EXECUTIVE SUMMARY

A Local Government Compliance Audit Return (CAR) is required to be undertaken in accordance with the *Local Government (Audit) Regulations 1996* Reg. 14(1).

The Audit was conducted by staff for the period 1st January to 31st December 2020, within the scope and in the format required by the Department of Local Government, Sport and Cultural Industries.

After conducting the checking process, the 2020 CAR contains a positive compliance response (or not applicable) for 96% of the 99 compliance items with a non-compliance response for 1 item as set out below:

Topic	Item Number	Matter
Optional Questions	5	Did the local government prepare and adopt by absolute majority a policy dealing with the

		attendance of council members and the CEO at events?
Optional Questions	6	Did the CEO publish an up-to-date version of the attendance at events policy on the local government's official website?
Optional Questions	1	Did the CEO review the appropriateness and effectiveness of the local government's financial management systems and procedures in accordance with Financial Management Reg 5(2)(c) within the three years prior to 31 December 2020? If yes, please provide the date of council's resolution to accept the report
Tenders for Providing Goods and Services	8	Did the information recorded in the local government's tender register comply with the requirements of F&G Reg 17 and did the CEO make the tenders register available for public inspection and publish it on the local government's official website?

These non-compliance items have been noted by Staff and are not expected to occur again in the future.

BACKGROUND

The Department of Local Government, Sport and Cultural Industries (DLGSCI) requires local governments to conduct an annual assessment of their compliance with key components of the *Local Government Act 1995* (the Act) and associated Regulations. The 2020 CAR is to be provided to the DLGSCI by 31 March 2021.

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Not Applicable.

STATUTORY COMPLIANCE

Under *Regulation 14 of the Local Government (Audit) Regulations 1996* the 2020 CAR is to be reviewed by Council's Audit Committee and then report the results of that review to Council for adoption.

A printed copy of the CAR and a copy of minute of the Audit Committee is to be presented to the Council at the next Ordinary Council Meeting for consideration. The minute and recommendation from the Audit and Risk Management Committee to the Council is considered to constitute the report referred to in the legislation.

Following presentation to Council, a certified copy of the 2020 CAR, along with an extract of the minutes of the meeting at which the CAR was adopted by Council, and any additional information, is to be submitted on-line to the Department of Local Government, Sport and Cultural Industries by 31 March 2021.

CONSULTATION

Not Applicable.

OFFICER COMMENT/CONCLUSION

The 2020 CAR contains 99 questions grouped in relation to various compliance areas. The result of the 2020 CAR was a positive compliance response or not applicable response to 95 (96%) of those requirements and three negative responses as set out below:

- **Did the local government prepare and adopt by absolute majority a policy dealing with the attendance of council members and the CEO at events?**

A full policy review was scheduled for March 2020 but due to the COVID Pandemic this was delayed and will be presented to Council in March 2021.

- **Did the CEO publish an up-to-date version of the attendance at events policy on the local government's official website?**

As above

- **Did the CEO review the appropriateness and effectiveness of the local government's financial management systems and procedures in accordance with Financial Management Reg 5(2)(c) within the three years prior to 31 December 2020?**

If yes, please provide the date of council's resolution to accept the report

A Financial Management System reviews was conducted by AMD Chartered Accountants in December 2018. The report will be presented to the Council at the next opportunity.

- **Did the information recorded in the local government's tender register comply with the requirements of F&G Reg 17 and did the CEO make the tenders register available for public inspection and publish it on the local government's official website?** Tender information was recorded in the Register however it was not published on the Shire's website. This item was originally recorded as a "Yes" in the report to the Audit and Risk Management Committee however in the time between the Committee's meeting and the Council meeting it has been established the Register is not published on the website. The website has a link to current tenders and the tender-link portal which was mistaken for compliance by the Officer checking. Members of the Audit and Risk Management Committee have been advised of this development in relation to the CAR.

The above compliance items are recognised by staff as requiring attention and resources have been applied to clear these items as soon as possible.

COUNCIL RESOLUTION 17/21

Moved Cr Mitchell Seconded Cr Massey

That Council:

- 1. Adopt the 2020 Compliance Audit Return as presented at attachment 8.4(1) for the Shire of Donnybrook Balingup for the period 1 January 2020 to 31 December 2020; and**
- 2. Instruct the CEO prepare a report identifying the actions to be taken to achieve compliance with the items identified within the 2020 Compliance Audit Return to be presented to the next Audit and Risk Management Committee Meeting.**

CARRIED 8/0 by En Bloc Resolution

9 REPORTS OF OFFICERS

9.1 EXECUTIVE MANAGER OPERATIONS

9.1.1 SHIRE SUBMISSION TO DRAFT BUNBURY-GEOGRAPHE SUB-REGIONAL STRATEGY

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	TRS 09
Author	Kira Strange, Principal Planner Steve Potter, Executive Manager Operations
Responsible Manager	Steve Potter, Executive Manager Operations
Attachments	9.1.1 (1) - Schedule of Shire Comments
Voting Requirements	Simple Majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Acknowledges the draft Bunbury–Geographe Sub-regional Strategy as advertised by the Western Australian Planning Commission; and 2. Endorses Attachment 9.1.1 (1) (Schedule of Comments) as representing the formal views of the Shire of Donnybrook Balingup in response to the draft document and instructs the Chief Executive Officer to forward the Shire’s comments to the Department of Planning, Lands and Heritage; and 3. Authorises the Chief Executive Officer to liaise further with the Department of Planning, Lands and Heritage to advocate on behalf of the Shire consistent with the views contained in Attachment 9.1.1 (1).

STRATEGIC ALIGNMENT

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

Objective	1.0	A strong, diverse and resilient economy
Outcome	1.2	Available land for residential, industrial and commercial development
Strategy	1.2.1	Support and promote appropriate development of land within the district

EXECUTIVE SUMMARY

In November 2020, the Department of Planning, Lands and Heritage (DPLH) released the draft Bunbury-Geographe Sub-Regional Strategy (BGSRS) for public comment. The draft BGSRS sets broad, high level planning objectives for the future growth of the Bunbury-Geographe (BG) sub-region over a planning horizon of 10-15 years.

The Shire of Donnybrook Balingup is contained within the BG sub-region, and therefore it is important for Council to consider the objectives of the document and how they may impact the future growth of the Shire. Specifically, any future review of the Shire's Local Planning Strategy (Strategy) and Local Planning Scheme (Scheme) will need to give due regard to the BGSRS (once adopted) and therefore the current advertising period represents an opportunity for the Shire to provide feedback on pertinent matters that will facilitate the future growth of the Shire.

The document has been thoroughly reviewed by the Shire's Planning staff and several key components have been identified for Council's consideration. This has culminated in the creation of a Schedule of Comments (Attachment 9.1.1 (1)) and Council is requested to endorse the attachment for formal submission to the Department of Planning, Lands and Heritage (DPLH).

BACKGROUND

The BGSRS document incorporates all land contained within the City of Bunbury and the Shires of Harvey, Dardanup, Capel, Donnybrook-Balingup and Collie.

The draft BGSRS was prepared by the WAPC/DPLH over a period of 12-18 months and involved extensive consultation led by a Steering Group which was informed by a number of technical Working Groups covering the aspects of urban settlement, economy, environment, transport and utilities/services. The Shire was represented by Cr. Wringe on the Steering Group with appropriate staff sitting on each of the Working Groups.

At the conclusion of the consultation period, the WAPC issued instructions to the DPLH to prepare a draft document in line with the following instructions:

- 1. Adopt a planning horizon of 2050.*
- 2. Incorporate the draft vision, purpose and principles developed by the Steering Group, subject to editing as required.*
- 3. Promote Bunbury as Western Australia's Second City. In this context, Bunbury is to be understood as a single settlement that includes contiguous urban areas in the Shires of Capel, Dardanup and Harvey.*
- 4. Adopt a target population of 200,000. This is to be the population figure that State agencies/authorities can use as a reference point when considering the delivery of infrastructure and services. Specific land use strategic directions should be based on this target population.*

5. *Adopt an aspirational population of 300,000. This is to be woven throughout the document as a broad statement of confidence and intent. Specific land-use strategic directions should not be based on this population figure.*
6. *Designate East Treendale as an ‘urban expansion area’. East Treendale is defined as the land that is bound by Forrest Highway, Raymond Road and the alignment of the Bunbury Outer Ring Road.*
7. *Promote consolidation of the existing urban areas of Bunbury.*
8. *Identify new special residential and/or rural living areas contiguous or proximate to hinterland towns.*
9. *Apply relevant policy measures from the Western Australian Planning Commission’s State Planning Framework.*

The draft document was finalised and released for comment in late 2020 and consists of three main components:

1. Introduction: includes scope, context and analysis.
2. Part A: Strategy: includes vision, principles, strategic directions, further work, settlement hierarchy, urban expansion (East Treendale), Strategy Map, implementation, monitoring and review.
3. Part B: Profile: includes people/culture, population, urban settlement, environment, economy, transport and utilities/services.

BGSRS Vision

The draft BGSRS sets an aspirational vision for the sub-region as follows:

“In 2050 Bunbury-Geographe is a diverse, dynamic, creative, vibrant and connected region, that is recognised for its quality of life, environmental values and sustainability. The sub-region has a robust and diverse economy that is adaptive and offers enviable liveability.”

To achieve this vision, Part A of the BGSRS sets out seven overarching ‘themes’ as follows:

1. Intervention;
2. Urban Settlement;
3. Economy;
4. Environment;
5. Transport;
6. Utilities and Services; and
7. Lifestyle.

These overarching themes are divided into 11 ‘strategic principles’ and refined further into 56 individual ‘strategic directions’ (SDs), representing specific actions required to achieve the vision. Whilst the ‘Introduction’ and ‘Part B’ sections provide a range of supporting information, it is essentially *Part A: Strategy* and in particular the 56 SDs that will guide future planning in the sub-region and therefore will be the focus of staff’s response.

In considering the review of the draft BGSRS, it is noted that in October 2020 the Western Australian Planning Commission (WAPC) formally determined that a review of the Shire of Donnybrook-Balingup Local Planning Strategy and subsequent preparation of a new Local Planning Scheme is required. It is therefore important to consider the strategic direction of the BGSRS and any associated implications for the Shire in this light.

Land Supply

The BGSRS has been prepared concurrently and been directly informed by the *Bunbury/Geographe Land Supply Assessment (RLSA)*. This assessment was produced by the DPLH to assess land availability in the sub-region for future residential, industrial and commercial uses.

In this respect, the BGSRS focuses on the larger townships in the sub-region (rather than entire LGAs) which includes the township of Donnybrook. Based on the 2016 Census, Donnybrook township had 1094 dwellings with relevant identified or zoned land under the Shire’s endorsed Scheme / Strategy catering for a further 1640 dwellings. If the average household size of 2.5 occupants is adopted, this equates to an additional 4,100 residents. Based on historical growth rates, it would take decades to utilise all identified land, however, there are a number of challenges in this regard which are addressed in this report and will be further considered in detail as part of the Shire’s future Strategy / Scheme review.

Settlement Hierarchy

Section 8 of Part A (Settlement Hierarchy) categorises settlements within the BG Region into a hierarchy based on their population, location and function. The following table taken from the BGSRS (p. 21) demonstrates where the Shire’s settlements fit into the regional context in this regard:

Settlement type	Settlement
Regional City	Bunbury
Sub-regional Centre	Collie
Major Towns	Capel, Donnybrook , Harvey
Towns	Balingup , Boyanup, Brunswick Junction, Dardanup
Villages	Allanson, Binningup, Burekup, Cookernup, Kirup , Mullalyup , Myalup, Peppermint Grove Beach, Roelands, Wokalup, Yarloop

It is noted that the above table does not include Yabberup, which officers consider should be included as a 'Village'. This is addressed further in the report.

FINANCIAL IMPLICATIONS

The BGSRS will inform the future review of the Shire's Strategy and Scheme which represents a significant project that will require adequate resourcing.

LOCAL POLICY COMPLIANCE

Not applicable.

STATUTORY COMPLIANCE

State Planning Policy 1 State Planning Framework (SPP1) establishes that sub-regional strategies guide change and are a basis for cooperative action to be taken by State and local government on land use and development.

CONSULTATION

The draft BGSRS was advertised for public comment from 9 November 2020 with submissions due 12 February 2021. However, due to the nature of monthly Council Meetings, the DPLH granted an extension for local governments to make submissions up to 12 March 2021.

OFFICER COMMENT/CONCLUSION

In providing Shire comment to the draft BGSRS, it is important to note that it is a high level planning instrument that seeks to provide a strategic overview for the entire BG sub-region. It is largely an informing document that provides strategic guidance for more granular level planning such as local planning schemes and strategies and as a result, does not contain the level of detail that would normally be found in these other documents. In light of this, it is recommended that any responses the Shire provides should also be made at a suitably high level, rather than focusing on localised issues that are more appropriate to be addressed through the review of the Strategy / Scheme in the future.

The approach that staff have undertaken in collating a series of succinct responses to the document is to identify the main planning issues / constraints based on local knowledge and professional experience that affect the Shire and review the strategic directions (SDs) contained in Part A of the document through this lens.

In addition to the above, Part B has also been reviewed, with particular emphasis on accuracy of information and ensuring there have been no errors or omissions.

All suggested comments have been compiled into a single document (Attachment 9.1.2 (1)), Schedule of Comments) which is proposed to form the basis of the Shire's formal response as per Point 2 of the Resolution.

Part A: Strategy

In undertaking this exercise, the following have been identified as being the most pertinent local issues:

1. Provision of critical infrastructure to facilitate urban expansion
2. Ensuring available land product meets market demand (including rural residential and low density residential)
3. Provision of suitable 'economic land' to generate local employment and economic diversification.
4. Ageing population
5. Bushfire planning requirements
6. Development adjacent to Main Roads WA controlled roads
7. Uncertainty surrounding the disused Greenbushes – Picton rail line
8. Impact of industrial buffers (Donnybrook stone quarries) on surrounding land
9. Heritage considerations

Each of these will be addressed individually in the following manner:

1. Issue to be briefly explained;
2. Identification of relevant 'strategic directions' (SDs) in Part A of BGSRS; and
3. Officer comment and proposed Shire response(s).

It is important to note that planning is often complex and in addressing the identified issues, there are many inter-relationships and crossovers between them.

Issue 1: Provision of critical infrastructure to facilitate urban expansion.

Issue:

Lack of critical infrastructure, particularly in the form of reticulated sewer in the Shire's main townsites of Donnybrook and Balingup limits the development of appropriately zoned land to achieve its full potential.

The comparatively low value of land, coupled with the high costs of infrastructure provision results in a situation in which it is often financially unviable from a developer perspective to pre-fund the necessary infrastructure and this has implications for the growth of residential, commercial and industrial development. The limited reticulated sewer also eliminates the opportunity for further low-scale residential infill, particularly in the Donnybrook townsite.

The BGSRS document recognises this challenge and states:

"The feasibility of urban land development has been inhibited by low demand and high costs, relative to land values, of providing utility services and fill, especially in hinterland towns."

BGSRS: Strategic Directions

Strategic Directions	
Number	Direction
8	Support the growth of Major Towns and Towns to reinforce their ongoing role in the settlement network.
15	Encourage local governments to prepare townsite strategies for hinterland towns to review supply of residential, industrial and commercial land and to identify and respond to opportunities and constraints.
45	Direct future urban growth to locations that are well serviced by existing infrastructure networks.
46	Support the provision of sufficient utility, transport, health, education and community infrastructure / services to cater for a growing population and economy across the sub-region.
47	Support the provision of catalyst infrastructure to stimulate economic investment and service the needs of Bunbury Geographe communities.
52	Collaborate with infrastructure providers to audit current capacity of electricity, water and sewer infrastructure to help quantify existing growth capacity and thresholds for upgrades.

Officer Comment and Proposed Shire response:

It is considered that there are a combination of approaches that could be adopted to support the growth of the hinterland towns where infrastructure provision by the private sector is deemed unviable and the following comments are proposed:

1. Include an additional ‘Strategic Direction’ as follows:

Theme: Urban Settlement

Principle: Promote a diverse urban form to cater for a range of lifestyle options and affordable housing choices

Proposed New Strategic Direction:

Support low-density residential development permitting on-site sewer provision on the peripheries of Collie, Major Towns, Towns and Villages where it is financially unviable to extend and/or install reticulated sewer.

2. Include an additional 'Strategic Direction' as follows:

Theme: Utilities and Services

Principle: Ensure sustainable regional outcomes by coordinating the provision of infrastructure to support growth.

Proposed New Strategic Direction:

State Government to provide increased support to the growth of hinterland towns by:

- a. reinvesting in the Infill Sewerage Program to expand existing sewer networks,*
- b. establishing and implementing a cost sharing arrangement with the private sector for pre-funding critical infrastructure to support residential, commercial and industrial growth in hinterland towns.*

Issue 2: Ensuring available land product meets market demand (including rural residential and low density residential)

Issue:

Many people choose to live in hinterland towns for lifestyle and there needs to be a range of choice available to potential residents, catering for a variety of financial circumstances and changing life-stages. This needs to include first homebuyers, 'tree-changers', those looking to upgrade (second or third homebuyers) and those looking to downsize, including the ageing population.

Under the current planning framework, the WAPC is generally supportive of standard residential type development in accordance with State policies, particularly Liveable Neighbourhoods and the Residential Design Codes (R-Codes).

However, it is considered that a significant proportion of potential residents are seeking a country lifestyle that does not involve being on a standard residential sized property within a townsite. Further consideration therefore needs to be given to support the creation of low-density residential and rural residential land product that many potential residents seek in moving to a country town to provide them and their families with the lifestyle they desire.

Whilst it is acknowledged that it is important to retain and protect priority agricultural land, there is rural land in proximity to townsites that has limited productive capability due to a range of

factors including soil type and steep terrain. Officers consider such land should be able to be utilised for alternative purposes, including low density residential and rural residential, subject to any proposals complying with appropriate criteria.

In terms of the Shire, there are existing low-density residential and rural residential developments in proximity to each of the Shire’s main towns which are largely complete. However, there is a limited amount of identified land for further low-density / rural residential type developments into the future.

In recent years, the WAPC has generally opposed new rural residential type development for a range of reasons including:

- it is considered to be an inefficient use of land;
- it results in the fragmentation of viable agricultural land, resulting in smaller unproductive lots; and/or
- it has the potential to create land use conflicts between agricultural and residential users.

BGSRS: Strategic Directions

Strategic Direction	
Number	Direction
14	Support the identification of new Rural Living areas contiguous or proximate to Collie, Major Towns, and Towns, subject to the criteria contained in <i>State Planning Policy 2.5: Rural Planning</i> . New Rural Living areas are to be identified by local governments in local planning strategies and/or townsite strategies.
18	Encourage proponents of urban land developments to investigate alternative models of utility service delivery that provide a standard of service appropriate for the intended use, and that are capable of regulation by the Economic Regulatory Authority.
27	Protect priority agricultural land from incompatible land uses.
53	Embrace the Bunbury-Geographe lifestyle as a key attraction for new residents and visitors to the sub-region.
54	Recognise and value the sub-region’s unique and connected communities.

Officer Comment and Proposed Shire response:

Shire staff acknowledge that SD14 above appears to support the creation of rural living areas for hinterland towns, however staff have some concerns with regards as to how this will be implemented.

Furthermore, it is considered that SD14 should be extended to include ‘Villages’ – in the Shire context, this would include Kirup, Mullalyup and Yabberup. Many of these smaller settlements have minimal opportunity for growth and the creation of appropriate low density and rural residential type areas in these locations, will support the growth of these smaller settlements.

In terms of a response to the BGSRS, the following comments are suggested:

1. The Shire is supportive of SD14, which acknowledges the importance of Rural Living options for the growth of hinterland towns. The Shire holds concerns with regard to the implementation of this strategic direction and considers a sub-regional policy will need to be established to provide sufficient guidance.
2. SD14 should be amended to include ‘Villages’, in addition to Collie, Major Towns and Towns.
3. With regard to SD18, the Shire supports the use of appropriate innovative approaches to utility provision including solar energy generation and use of ATUs for wastewater disposal. It is recommended that the BGSRS provide LGAs with discretion to support developments and individual landowners to implement technological solutions to utility service delivery to be supported through local planning schemes. This will support the implementation of any technological advances that may be introduced during the life of the document.
4. With regards to SD53, the Shire considers that providing an alternative land product (low density residential / rural residential) is a key component to attracting new residents to hinterland towns.

Issue 3: Provision of suitable ‘economic land’

Issue:

The availability of suitable ‘economic land’ to create local business opportunities and employment is critical to the long-term health of the Shire. Much of the Shire’s population travels outside of the Shire to undertake employment and the provision of increased local opportunities has the potential to encourage local investment and appeal to working aged people / families to re-locate to the Shire.

The BGSRS (Cl. 3.3.2, p. 12) identifies the complex task of planning to generate employment and states:

“Planning for employment land is a complex process that takes place within a highly dynamic market. Economic conditions and population growth interact to drive demand for industrial and commercial growth.”

BGSRS: Strategic Directions

Strategic Directions	
Number	Direction
3	Provide for the growth of the sub-region’s population to 200,000 by identifying sufficient residential and employment land to cater for this target population.
8	Support the growth of Major Towns and Towns to reinforce their ongoing roles in the settlement network.
15	Encourage local governments to prepare townsite strategies for hinterland towns to review supply of residential, industrial and commercial land and to identify and respond to opportunities and constraints.
21	Ensure an adequate supply of industrial and commercial land across the sub-region to facilitate local employment.
24	Facilitate the expansion and diversification of the tourism industry.
26	Retain identified light and general industrial areas for industrial use and protect from the encroachment of sensitive land uses.
42	Promote the sub-region’s tourist routes in planning instruments.
46	Support the provision of sufficient utility, transport, health, education and community infrastructure / services to cater for a growing population and economy across the sub-region.

Officer Comment and Proposed Shire response:

Officers consider the Shire has a range of strategic benefits that would support its growth from a commercial / industrial perspective. In particular, Donnybrook is located at the junction of two significant vehicle routes (SW Highway and Donnybrook – Kojonup Rd) which encounters a

high level of use from a range of industries including agriculture, forestry and mining. As such, there is an opportunity for the Shire of Donnybrook Balingup to become a hub for some of these operators, subject to suitable land being available. An example of where this has recently occurred within our Shire is the expansion of the fruit packing facility in Kirup, which has seen significant investment to increase its capacity.

In considering the type of land required, it is considered that the Shire needs to cater for a range of potential users, including ‘start-ups’, commercial users that require minimal space (retail), service commercial, light industrial and general industrial. Consideration needs to be given to identifying and providing opportunities for businesses to grow and re-locate locally if necessary, rather than being inhibited from expansion due to the unavailability of suitable land or alternatively, requiring them to re-locate to a more suitable location outside of the Shire.

The Shire’s Strategy and Scheme identify land for future commercial and industrial growth (light and general industry), however it is considered that much of the identified land is highly constrained which makes it difficult and/or unviable to develop. For example, the Shire’s Strategy identifies a significant area of land in the vicinity of Sandhills Road for industrial expansion, however the land is owned by the Crown, is almost entirely covered with native vegetation and has undulating topography which makes development both difficult and expensive.

In addition to the above, the infrastructure constraints as per Issue 1 also apply with the development of commercial / industrial land and therefore officers are recommending similar responses in this regard.

Finally, officers consider it important that a flexible approach be undertaken to facilitate appropriate commercial use of ‘non-commercial’ zoned land. By way of some examples, home based businesses have increased exponentially in recent years with the growth of the internet and rural property owners are often seeking to diversify through introducing tourist type uses such as chalets to support their agricultural pursuits. Land use permissibility is largely facilitated through the local planning scheme and will be addressed at the appropriate time.

Through the Shire’s review of its Strategy / Scheme, significant thought will need to be given as to how opportunity can be provided to support local business and encourage additional investment. In reviewing the BGSRS, the following comments are recommended:

1. The Shire acknowledges that SD3 recognises that provision of suitable economic land is required to support the sub-region’s growth.
2. The Shire welcomes that SD21 recognises the importance of providing adequate industrial and commercial land across the sub-region, including hinterland towns, to provide for local employment.
3. Include an additional ‘Strategic Direction’ as follows:

Theme: Economy

Principle: Strengthen and diversify our economy

Proposed New Strategic Direction:

Support commercial / light industrial developments in or proximate to hinterland towns proposing on-site sewer where it is financially unviable to extend and/or install reticulated sewer.

4. With regards to SD24 and SD42, the Shire is supportive of the expansion and diversification of the tourism industry and considers that rural based tourism is a key component in this regard. Flexibility will need to be demonstrated to facilitate a range of tourism based land uses in local planning schemes.

Issue 4: Ageing population

Issue:

The Shire has a median age of 47 years which is 10 years above the State average. This is identified in the BGSRS which states:

“The Shire has a relatively elderly population with a median population at the 2016 Census of 47 years, the highest of the six local governments in the sub-region. 46.3 per cent of the Shire’s population is aged 50 years and above, compared with 32 per cent for the State. Below 50 years the only age cohort above the State average is 10-14 years.”

BGSRS: Strategic Directions

Strategic Direction	
Number	Direction
46	Support the provision of sufficient utility, transport, health, education and community infrastructure / services to cater for a growing population and economy across the sub-region.
53	Embrace the Bunbury-Geographe lifestyle as a key attraction for new residents and visitors to the sub-region.
54	Recognise and value the sub-region’s unique and connected communities.

Officer Comment and Proposed Shire response:

The Shire would ideally like to attract younger individuals and families and it is considered that this is inextricably linked to a range of factors including access to appropriate and affordable housing; local employment; and services such as recreation, health and education.

Whilst the BGSRS operates at a sub-regional level, this issue is largely a local one that will need to be addressed when reviewing the Scheme / Strategy. To achieve this, the Shire will need to determine what it needs to do to attract younger people and families, possibly informed through undertaking market research.

It needs to be noted that at one level, all LGAs are in competition to attract new residents and therefore the SoDB will need to identify its comparative advantages as well as any gaps in its offering that may prevent younger people from choosing to live in the Shire.

Whilst not exhaustive, it is considered the following may be contributing factors:

- Lack of appropriate land for first home buyers (sub \$150k);
- Lack of rental properties;
- Proximity to employment opportunities;
- No senior high school (DHS only);
- Lack of other young families; and/or
- Perception of the Shire as being for more 'mature' people.

In light of the above, officers recommend the following in terms of responses:

1. The Shire is supportive of SD46 which identifies the importance of providing essential community infrastructure / services to cater for a growing population across the sub-region.
2. The Shire considers that there is a need in the short-medium term to expand Donnybrook District High School into a Senior High School to cater for the Shire's growing population. Donnybrook is a Major Town and the provision of a Senior High School will enable local children to be educated locally and encourage further young families to move to the district. To this effect, the following additional 'Strategic Direction' is recommended:

Theme: Utilities and Services

Principle: Ensure sustainable regional outcomes by coordinating the provision of infrastructure to support growth.

Proposed New Strategic Direction:

Department of Education and Training to establish clear 'triggers' for the expansion of Donnybrook DHS to Senior High School status.

3. Include an additional 'Strategic Direction' as follows:

Theme: Lifestyle

Principle: Retain, protect and leverage our regional character and the Bunbury-Geographe lifestyle.

Proposed New Strategic Direction:

Acknowledges that strong representation of people across all ages is critical for the health of local communities and supports appropriate measures to rectify imbalances.

Issue 5: Bushfire Planning

Issue:

In 2015 State Planning Policy (SPP 3.7 – *Planning in Bushfire Prone Areas*) and associated Guidelines came into effect which has had a profound impact on development in rural LGAs, particularly those which contain a significant amount of native vegetation (including the SoDB).

BGSRS: Strategic Directions

Strategic Direction	
Number	Direction
37	Support intensification of land use only where bushfire risk can be understood to be low and/or capable of being appropriately mitigated.

Officer Comment and Proposed Shire response:

The planning framework as it relates to bushfire has resulted in at least one Scheme amendment for rural residential development proposal in the SoDB being refused by the WAPC due to it not addressing bushfire planning requirements. The Shire will need to carefully consider the implications of managing bushfire risk in the preparation of its revised Strategy / Scheme.

Further, it is noted that the bushfire planning requirements have resulted in a significant increase in workload for the Shire's Planning and Building Services staff, who are required to assess and implement the additional requirements. There has been limited resourcing and/or support from a State level in this regard which means that both the additional workload and risk associated with assessing and approving relevant bushfire management plans etc. falls onto the local government.

Bushfire planning requirements have added a level of complexity to the planning process and represent an additional regulatory hurdle for landowners / developers to overcome. However, the recent events in the Perth Hills demonstrate the importance of integrating bushfire mitigation with the planning process and whilst there are issues associated with bushfire planning as outlined above, officers are generally supportive of the intent of SD37 and this is reflected in the comment provided. However, it is considered that more can be done to support local government staff and achieve a consistent approach across the sub-region which is needed to provide certainty to developers, landowners and relevant agency staff. As such, the following comment is proposed:

- The Shire is supportive of the established planning framework as it relates to bushfire management however considers that an increased level of support is needed for local governments in administering the requirements. To this effect, the following additional ‘Strategic Direction’ is recommended:

Theme: Environment

Principle: Protect people and property from natural hazards

Proposed New Strategic Direction:

Supports the development of a regional approach to bushfire policy to find an appropriate and safe balance that provides a level of consistency across the sub-region whilst facilitating continued development and economic growth.

Issue 6: Development adjacent to Main Roads WA controlled roads

Issue:

The Shire contains a significant number of properties adjacent to roads managed and administered by Main Roads WA (MRWA). Many of these are also on the Shire’s main tourist routes including the SW Highway and Donnybrook-Kojonup Road.

It is commonplace for the Shire to receive development proposals from the owners of such landholdings, which due to the access / egress onto a MRWA managed road is referred to that agency for comment, prior to determination. As a result of this referral process, it is not unusual for proposals to be recommended for refusal by MRWA, or alternatively conditions are recommended requiring significant works be undertaken by the applicant to construct slip lanes and the like which often make the proposal unviable.

BGSRS: Strategic Directions

Strategic Direction	
Number	Direction
24	Facilitate the expansion and diversification of the tourism industry.
38	Support initiatives to connect and link Bunbury to the hinterland towns to create an integrated network, including public transport and regional bike network.
42	Promote the sub-region’s tourist routes in planning instruments

Officer Comment and Proposed Shire response:

Whilst officers appreciate that the intent of MRWA's stance is to ensure the safety of road users, many proposals on adjacent land are of a minor nature that do not warrant the proposal being refused and/or the extent of works required.

As per the SDs contained in the above table, if the intent is to provide opportunities for economic diversification and the growth of the tourism industry in rural localities, it needs to follow that such uses are supported without having significant imposts, particularly when proposed uses are ancillary in nature.

In light of the above, it is recommended the following comments be provided:

1. With regard to SD24 and SD42, the Shire considers that the growth of the local tourism industry and the ability for rural landowners to diversify through low-level tourism initiatives is being curtailed by the requirements of MRWA. To this effect the following additional 'Strategic Direction' is recommended:

Theme: Economy

Principle: Strengthen and diversify our economy

Proposed New Strategic Direction:

Support low impact uses on land adjacent to MRWA controlled roads without the need for prior referral to MRWA, to be addressed in local planning schemes.

Issue 7: Uncertainty surrounding the disused Greenbushes – Picton rail line

Issue:

The currently defunct Greenbushes to Picton rail line runs through the Shire of Donnybrook Balingup's main towns including Donnybrook, Kirup, Mullalyup and Balingup. Despite the fact that it has not operated for over 20 years, the railway line's existence (and uncertainty about its future), results in it acting as a constraint to the efficient planning of the Shire's town centres.

The railway acts as a significant divider in many cases and any proposals are subject to approval by the leaseholder of the railway reserves (Arc Infrastructure). If approvals are granted to undertake certain activities, they are usually subject to conditions that any structures are removable should the railway open again in the future, which has implications for design and choice of materials. It also has the capacity to result in significant future costs if installations are later required to be removed and the rail reinstated.

The BGSRS notes that the Department of Transport's draft *South West Supply Chain Strategy (2020)* identifies the Greenbushes to Picton rail line as a potential supply chain to support the Talison Lithium Mine.

BGSRS: Strategic Directions

Strategic Direction	
Number	Direction
41	Support increasing the capacity of the existing freight rail network and future strategic rail network.

Officer Comment and Proposed Shire response:

Without indicating its support for one option or the other (re-opening versus not re-opening the railway) the SoDB Council passed a motion in 2019 urging the State Government to make a firm decision on the future of the railway in a timely manner due to the impacts of indecision on the Shire. It is understood further work is occurring within State Government in this regard, however officers are unaware of any progress.

Consistent with Council’s previous position on the matter, staff suggest the following comment:

1. The Shire considers a firm decision needs to be made on the future of the Greenbushes to Picton rail line in the short term, to enable affected local governments to suitably plan for the future of their townsites.

Issue 8: Impact of industrial buffers (Donnybrook stone quarries) on surrounding land

Issue:

The Shire’s Scheme identifies Special Control Area 4 (SCA4) related to established Donnybrook Stone quarries. The purpose of SCA4 as provided in the Scheme is as follows:

“The purpose of the Established Donnybrook Stone Special Control Area is to ensure that land use and development within the Special Control Area is compatible with the protection and long-term management of established Donnybrook Stone.”

In effect, this seeks to protect the resource from being restricted by limiting ‘sensitive land uses’ within the identified buffer areas. This includes the construction of residential dwellings and has implications for the potential identification of any future rural residential type development in the affected areas.

BGSRS: Strategic Directions

Strategic Direction	
Number	Direction
26	Retain identified light and general industrial areas for industrial use and protect from the encroachment of sensitive land uses.

Officer Comment and Proposed Shire response:

Officers are aware that the existence of SCA4 has been a point of discussion for a number of years and there have been several approaches to the Shire to have this aspect of the Scheme reviewed.

This issue is considered a local one that will need to be reviewed in consultation with the DPLH and Department of Mines, Industry Regulation and Safety (DMIRS) at the appropriate time.

The intent of SD26 is to protect appropriately industrial zoned land from sensitive uses that can result in significant land use conflict. This is a significant issue for some of the neighbouring local governments, however the SoDB is generally well positioned from this perspective. As a result, the recommended response is that the Shire is supportive of the general principle. Such a response does not preclude the Shire from exploring options around SCA4 as part of the local Scheme / Strategy review.

Issue 9: Heritage considerations

Issue:

Local governments within the sub-region are home to a high number and variety of heritage places that make a significant contribution to a sense of place and the local community. They also act as an attractor for visitors and tourists. As such, it is important that they are offered a level of protection under the planning framework and this is provided for through the *Planning and Development (Local Planning Schemes) Regulations 2015*.

BGSRS: Strategic Directions

Strategic Direction	
Number	Direction
52	Collaborate with local governments to undertake/review local heritage surveys, and designate heritage lists and/or areas.

Officer Comment and Proposed Shire response:

The main issue involving protection of heritage places is the significant reduced level of support provided to local governments in this regard. Whereas in recent years, the State Government funded heritage advisors and provided assistance to support local governments, this has largely disappeared, leaving local governments to shoulder the burden in this regard.

As such, the following response is recommended:

1. With regard to SD52, the Shire recommends this be re-worded as follows:

Support local governments to undertake/review local heritage surveys, and designate heritage lists and/or areas by providing financial and professional assistance.

Additional Comment – Part A

Section 11 of Part A (Implementation) outlines how the ‘vision’ for Bunbury-Geographe will be achieved. In summary, it suggests that the principles and strategic directions in the BGSRS will be implemented by the WAPC in performing its functions under the *Planning and Development Act 2005* including:

- Administering the Greater Bunbury Region Scheme (not relevant to SoDB);
- Ensuring local planning strategies and schemes are consistent with the BGSRS, and advising the Minister on such instruments;
- Monitoring and forecasting land supply for the timely supply of affordable residential land;
- Making statutory decisions on a range of planning application types, such as structure plans and subdivisions.

Staff consider the above are general in nature and possibly fail to take into account the complexities of the range of strategic directions that are contained within the BGSRS from an implementation perspective. As a result, it is considered likely that many of the SDs may be difficult to achieve given existing constraints.

Section 7 of Part A (Further work) outlines additional work required to support the BGSRS and staff consider this should include a detailed Implementation Plan that identifies policy or other potential barriers that exist and determines what interventions or policy changes may be required from a State government perspective to achieve the outcomes identified. A suggested comment to this effect is included in Attachment 9.1.1 (1).

Part B: Profile

Part B of the BGSRS provides a summary profile and maps for each Shire within the strategy area. The profile is broken into seven key sections:

1. Section 13 – People and Culture;
2. Section 14 – Population;
3. Section 15 – Urban Settlement;
4. Section 16 – Environment;
5. Section 17 – Economy;
6. Section 18 – Transport; and
7. Section 19 – Utilities and Services.

Staff have reviewed Part B of the document and make the following comments which are reflected in Attachment A.

General Comments

- Part B could be more succinct and avoid repeating information contained elsewhere in the document by focusing on key facts and statistics (rather than commentary) and make greater use of visual aids such as graphs, charts etc.
- The Shire of Donnybrook-Balingup contains the following river catchments:
 - Preston Valley
 - Capel River (Busselton Coast)
 - Blackwood River (Lower and Middle)
- There is no mention of the Bibbulmun Track which traverses through Balingup and Collie and is considered a key tourist attraction to the sub-region.
- Yabberup should be identified within this document as a ‘Village’ with statistical details included below.

Section 13 – People and Culture

- The number of State Heritage Places within the Shire is 12, not 11 (clause 13.5 Historic Heritage).

Section 14 – Population

- Staff are not supportive of the use of the term ‘relatively elderly population’ in relation to the SoDB and consider an alternative wording or preferably, use of a graph display be used (Clause 14.6: Shire of Donnybrook-Balingup).

Section 15 – Urban Settlement

- Balingup is located in the Blackwood River precinct, not the Preston River precinct (clause 15.10 Balingup).
- Kirup is located in the Capel River precinct (clause 15.15 Kirup).
- Mullalyup is located in the Blackwood River precinct (clause 15.16 Mullalyup).
- Yabberup should be identified within this section as a Village with the following wording attached:

“Yabberup is a village within the Shire of Donnybrook-Balingup, situated 18 kilometres east of Donnybrook within the Preston Valley precinct. In the wider locality, there was a population of 160 residents in 66 dwellings at the 2016 Census, with a median age of 45 years.”

Section 17 – Economy

- The Basic Raw Materials Demand Study for the Bunbury and Busselton Region referenced in clause 17.6 (Basic Raw Materials) did not include the Shire of Donnybrook-Balingup. The Shire contains a number of significant established quarries, some of which hold State Heritage status and should be identified.
- Similarly, these should be identified on Map 10: Basic Raw Materials.

Officer Conclusion

As evidenced from the content of this report and the BGSRS document, there are many aspects to consider when planning at a sub-regional level. In preparing a response to the draft BGSRS, Staff have focused attention on the issues that are considered to have the greatest impact on the future growth of the Shire. It is hoped that by putting forward the Shire's position on these key aspects, the DPLH / WAPC will consider making the necessary amendments to the final document that will further support the future development of the Shire's revised Scheme and Strategy. Whilst it may be unrealistic to hope that all suggestions will be supported by the DPLH, it is considered important for the Shire to put its best foot forward and make the most of the opportunity presented in making a formal submission. As such, it is recommended that Council support the proposed resolution and associated attachment.

COUNCIL RESOLUTION 18/21

Moved Cr Mitchell

Seconded Cr Massey

That Council:

- 1. Acknowledges the draft Bunbury–Geographe Sub-regional Strategy as advertised by the Western Australian Planning Commission; and**
- 2. Endorses Attachment 9.1.1 (1) (Schedule of Comments) as representing the formal views of the Shire of Donnybrook Balingup in response to the draft document and instructs the Chief Executive Officer to forward the Shire's comments to the Department of Planning, Lands and Heritage; and**
- 3. Authorises the Chief Executive Officer to liaise further with the Department of Planning, Lands and Heritage to advocate on behalf of the Shire consistent with the views contained in Attachment 9.1.1 (1).**

CARRIED 8/0 by En Bloc Resolution

9.2 EXECUTIVE MANAGER CORPORATE AND COMMUNITY

9.2.1 ACCOUNTS FOR PAYMENT

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

9.2.2 MONTHLY FINANCIAL REPORT – DECEMBER 2020

The Monthly Financial Report for 31 December 2020 is attached (9.2.2 (1)).

EXECUTIVE RECOMMENDATION

That the monthly financial report for the period ended 31 December 2020 be received.

COUNCIL RESOLUTION 19/21

Moved Cr Mitchell Seconded Cr Massey

That the monthly financial report for the period ended 31 December 2020 be received.

CARRIED 8/0 by En Bloc Resolution

9.2.3 MONTHLY FINANCIAL REPORT – JANUARY 2021

The Monthly Financial Report for January 2021 is attached (9.2.3(1)).

EXECUTIVE RECOMMENDATION

That the monthly financial report for the period ended 31 January 2021 be received.

COUNCIL RESOLUTION 20/21

Moved Cr Mitchell Seconded Cr Massey

That the monthly financial report for the period ended 31 January 2021 be received.

CARRIED 8/0 by En Bloc Resolution

9.2.4 ESTABLISHMENT OF NEW RESERVE ACCOUNTS – PAYMENT IN LIEU OF PUBLIC OPEN SPACE

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	NA
Author	Stuart Eaton - Finance Projects
Responsible Manager	Paul Breman – Executive Manager Corporate and Community Services
Attachments	Nil
Voting Requirements	Simple Majority

Recommendation
<p>That Council establishes the following Reserve Accounts in accordance with s6.11 of the Local Government Act 1995 and s154(1) of the Planning and Development Act 2005:</p> <ol style="list-style-type: none"> <p>1. Public Open Space – Donnybrook Townsite</p> <p>Purpose: To hold payments in lieu of public open space for the general locality of the Donnybrook townsite in accordance with the Planning and Development Act 2005.</p> <p>2. Public Open Space – Balingup Townsite</p> <p>Purpose: To hold payments in lieu of public open space for the general locality of Balingup townsite in accordance with the Planning and Development Act 2005.</p> <p>3. Public Open Space – Kirup Townsite</p> <p>Purpose: To hold payments in lieu of public open space for the general locality of the Kirup townsite in accordance with the Planning and Development Act 2005.</p>

STRATEGIC ALIGNMENT

Not Applicable

EXECUTIVE SUMMARY

As a result of recent amendments to s154(1) of the Planning and Development Act 2005, payments received in lieu of public open space contributions are now to be held in a cash reserve account within the Municipal Fund.

Prior to this amendment which occurred in June 2020, the Planning and Development Act 2005 stipulated ant such amounts were to be held in Shire’s Trust Fund.

BACKGROUND

Section 153 of the Planning and Development Act 2005, permits the Commission to impose a requirement on a developer to make payment in lieu of a contribution to a local government of land for a public open space.

Setting aside land for open space or payment in lieu

(1) The Commission may under section 143(1)(c) impose either of the following conditions on the approval of a plan of subdivision of land —

(a) a requirement that a specified portion of the land be set aside and vested in the Crown for parks, recreation grounds or open spaces generally;

(b) a requirement that the owner of the land make a payment to the local government in whose district the land is situated of a sum that represents the value of a specified portion of the land in lieu of a requirement to set aside and vest in the Crown that portion of the land for parks, recreation grounds or open spaces generally.

Section 154(1) of the Planning and Development Act 2005, was recently amended requiring payments in lieu of public open space must now be held in a reserve account in the Municipal fund rather than the Trust fund).

FINANCIAL IMPLICATIONS

As of drafting this report, the following amounts are held in the Trust fund in relation to payment in Lieu of Public Opens Space land contributions.

Public Open Space - Donnybrook	\$208,771.10
Public Open Space - Balingup	\$56,966.79
Public Open Space - Kirup	Nil

Monies held in Trust are separate from the Shire's every day Municipal fund. As such they were recognised as operating revenue in the Municipal fund when they were transferred.

In accordance with the current Australian Accounting Standards, and to comply with the recently amended Planning and Development Act 2005, the Shire now needs to transfer from the Trust fund all public open space contributions to the Municipal fund. The cash will be held in the Municipal Fund with a corresponding liability (current and non-current portion as relevant).

Although the cash sits in the Municipal fund bank account it will only be recognised as operating revenue in the year that the public opens space contribution is utilised.

POLICY COMPLIANCE

Not applicable

STATUTORY COMPLIANCE

This report is essentially a housekeeping matter to meet compliance requirements of the following legislation.

Local Government Act 1995

6.11. Reserve accounts

- (1) *Subject to subsection (5), 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.*

Planning and Development Act 2005

154. Money paid in lieu of open space, application of

- (1) *All money received by a local government under section 153 is to be paid into a separate reserve account established and maintained under the Local Government Act 1995 section 6.11 for the purposes set out in subsection (2)(a) to (d).*
- (2) *The money is to be applied —*
 - (a) *for the purchase of land by the local government for parks, recreation grounds or open spaces generally, in the locality in which the land included in the plan of subdivision referred to in section 153 is situated; or*
 - (b) *in repaying any loans raised by the local government for the purchase of any such land; or*
 - (c) *with the approval of the Minister, for the improvement or development as parks, recreation grounds or open spaces generally of any land in that locality vested in or administered by the local government for any of those purposes; or*
 - (d) *with the approval of the Commission, in reimbursing an owner (the first owner) of land included in a joint subdivision agreement for land that has been set aside and vested for parks, recreation grounds or open space where —*
 - (i) *the first owner set aside a greater proportion of land than another owner (the second owner); and*
 - (ii) *as a consequence, the local government and the Commission approved of the second owner paying to the local government a sum in lieu of land being set aside for that purpose and that sum, or the relevant proportion of that sum, being reimbursed to the first owner for the excess proportion of land set aside by the first owner.*
- (3) *If interest is earned from the investment of moneys held under subsection (1), that money is to be applied for a purpose set out in subsection (2).*

CONSULTATION

Not Applicable as required by Legislation without discretion.

OFFICER COMMENT/CONCLUSION

In accordance with s154(2) of the Planning and Development Act 2005, these monies are to be applied generally, in the locality in which the land included in the plan of subdivision is situated. Therefore, separate reserve accounts for each major locality is proposed to be established.

COUNCIL RESOLUTION 21/21

Moved Cr Mitchell Seconded Cr Massey

That Council establishes the following Reserve Accounts in accordance with s6.11 of the Local Government Act 1995 and s154(1) of the Planning and Development Act 2005:

1. Public Open Space – Donnybrook Townsite

Purpose: To hold payments in lieu of public open space for the general locality of the Donnybrook townsite in accordance with the Planning and Development Act 2005.

2. Public Open Space – Balingup Townsite

Purpose: To hold payments in lieu of public open space for the general locality of Balingup townsite in accordance with the Planning and Development Act 2005.

3. Public Open Space – Kirup Townsite

Purpose: To hold payments in lieu of public open space for the general locality of the Kirup townsite in accordance with the Planning and Development Act 2005.

CARRIED 8/0 by En Bloc Resolution

9.2.5 TUIA LODGE QUARTERLY REPORT – QUARTER TWO (2020/21)

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	CSV 01/2
Author	Bob Lowther, Manager Aged Care
Responsible Officer	Bob Lowther, Manager Aged Care
Manager	Paul Breman, Executive Manager Corporate and Community
Attachments	9.2.5(1) – Tuia Lodge Quarter Two Report (Public) 9.2.5(2) – Tuia Lodge Quarter Two Report (Confidential)
Voting Requirements	Simple Majority

Recommendation
That Council receive the Tuia Lodge Quarterly Report for Quarter Two 2020/21 (October - December).

STRATEGIC ALIGNMENT

Outcome:	4.2	A respected professional and trusted organisation
Strategy:	4.2.1	Effective and efficient operation and service provision
Action:	4.2.1.4	Demonstrate sound financial planning and management, including revenue / expenditure review and revenue diversification strategies and long term financial planning

EXECUTIVE SUMMARY

This report covers quarter two (2) of the 2020/21 financial year. Comprehensive details including an Executive Summary, Residential Data, Employee Statistics, Occupational Safety and Health, Maintenance and Finance, are provided for Council’s information.

BACKGROUND

At its Ordinary Meeting on 23 August 2017 Council resolved to:

- 1) *Direct the Chief Executive Officer to prepare a quarterly report on an ongoing basis, regarding the management and operations of the Tuia Lodge Aged Care facility, with sufficient detail to ensure Elected Members can fulfil their individual obligations associated with the Shire of Donnybrook Balingup being the ‘Approved Provider’ for the facility.*

- 2) *That the report for each quarter, be presented at the next Ordinary Council meeting:*

The above resolution has been implemented and it is recommended the reports continue to be presented to Council on a quarterly basis.

CONSULTATION

Not applicable.

FINANCIAL IMPLICATIONS

In accordance with 2020/21 Budget allocations.

POLICY COMPLIANCE

Not applicable

STATUTORY COMPLIANCE

Aged Care Act 1997.

OFFICER COMMENT / CONCLUSION

It is recommended that the Tuia Lodge Quarterly Report for Quarter Two 2020/21 be received by Council.

COUNCIL RESOLUTION 22/21

Moved Cr Mitchell

Seconded Cr Massey

That Council receive the Tuia Lodge Quarterly Report for Quarter Two 2020/21 (October - December).

CARRIED 8/0 by En Bloc Resolution

9.3 CHIEF EXECUTIVE OFFICER

9.3.1 COUNCILLOR VACANCY

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	CNL09/1
Author	Jaimee Earl – Administration Officer Executive Services
Responsible Manager	Ben Rose, Chief Executive Officer
Attachments	Nil
Voting Requirements	Simple Majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Pursuant to section 4.17(2) of the <i>Local Government Act 1995</i>, request the WA Electoral Commissioner to approve the vacancy created by the resignation of Councillor Shane Sercombe to remain unfilled until the next ordinary election in October 2021. 2. Instruct the Chief Executive Officer to make a formal written request of the WA Electoral Commissioner, as per resolution 1, above. 3. Instruct the Chief Executive Officer to advise Councillors of the outcome of the request to the WA Electoral Commissioner, as per resolution 2, above.

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, operating procedures and practices.

EXECUTIVE SUMMARY

Cr Shane Sercombe provided written notice of his resignation as a Shire of Donnybrook Balingup Councillor to the Chief Executive Officer, and Councillors, on 27 January 2021.

Sections 4.16, 4.17 and 4.18 of the *Local Government Act 1995 (the Act)* require the Council to determine whether an extraordinary election is to be held to replace the vacant Council position, or whether the vacant position shall remain unfilled until the next ordinary election (October 2021).

BACKGROUND

In accordance with the Act, the Council has two options for consideration, detailed as follows.

Option One (Executive Recommendation)

The recommendation is to defer filling the vacancy until the next ordinary election in October 2021.

Section 4.17(2) of the *Local Government Act 1995* gives Council the option of holding a Councillor vacancy, with the approval of the WA Electoral Commissioner, where the vacancy is created between the third Saturday in January and the third Saturday in July of an ordinary election year (Cr Sercombe's resignation fits within these dates).

The resignation leaves Council with eight (8) elected members (88.8% of positions filled) until the October 2021 ordinary election, with five positions to become vacant. If this position is to remain unfilled until the election, there would be an additional vacancy to be filled for a two year term, until October 2023 – ending on the day on which the term would have ended if the vacancy had not occurred.

Option Two

Should Council prefer an extraordinary election (postal, or in person) to fill the vacancy caused by Cr Sercombe's resignation, the Act requires that a date for the election is set for within four months of the resignation, unless otherwise approved by the Electoral Commissioner. In the first instance (section 4.9(1)(a) of the Act), the Shire President is to determine the polling day, however, the Shire President may defer the decision to Council to make the determination, instead.

Postal voting is more user-friendly than in-person elections, where electors receive their ballot papers in advance of the Election day and can return them via post. Postal voting also ensures improved impartiality in the process, with the Shire of Donnybrook Balingup staff having a limited role and not handling ballot papers, with the WA Electoral Commission appointing a Returning Officer and managing the election.

The Shire of Donnybrook Balingup held an extraordinary election for three positions in 2009 with a turnout rate of 44.58% (1,619 votes).

FINANCIAL IMPLICATIONS

There is no cost implication to leave the vacancy unfilled, other than a saving in the budget of \$7,850 in Councillor allowances (28 January to 16 October 2021).

A cost estimate for holding an extraordinary postal election is being sought from the WAEC, however, no figure/advice is available presently from that agency. The Shire's 2019 ordinary election, held via postal vote, cost approximately \$29K. There is no provision within the 2020-21 budget to hold an extraordinary election in this financial year.

POLICY COMPLIANCE

Not applicable.

STATUTORY COMPLIANCE

Division 4 of Part 4 of the *Act* deals with extraordinary elections, and specifically, section 4.17 of the *Act* details criteria for cases in which vacant offices can remain unfilled.

In summary:

LG Act Reference	Description of statutory effect	CEO Comments
Section 4.17(1)	If the vacancy occurs after the third Saturday in July of an ordinary election year, the position must be kept vacant until the ordinary election in October that year.	This section does not apply. Cr Sercombe's resignation was 27 January 2021.
Section 4.17(2)	If the vacancy occurs between the third Saturday in January and the third Saturday in July of an ordinary election year, the Council has the options of leaving the position vacant, or filling it via an extraordinary election. Note, State Electoral Commissioner approval required after Council decision to leave the position vacant.	This is the operative section of the regulations that applies to this situation. It is the Executive's recommendation that the Council request the WA Electoral Commissioner to permit the vacancy to remain unfilled until the ordinary election in October 2021.
Section 4.17(3)	If the vacancy occurs before the first Saturday in January of an ordinary election year and the LG district has no wards, and the vacancy would mean not less than 80% of the Council positions are filled, then the Council may make a decision, by Absolute Majority, to leave the vacancy unfilled.	This section does not apply. Cr Sercombe's resignation was 27 January 2021.

CONSULTATION

The Chief Executive Officer has consulted with the Shire President, particularly in relation to the operative provision of section 4.9 of the *Act* which relates to the Shire President determining a polling day, if an extraordinary election is to take place.

OFFICER COMMENT/CONCLUSION

It is recommended that Council defer filling the vacancy until the next ordinary election to be held in October 2021.

COUNCIL RESOLUTION 23/21

Moved Cr Mitchell Seconded Cr Massey

That Council:

- 1. Pursuant to section 4.17(2) of the *Local Government Act 1995*, request the WA Electoral Commissioner to approve the vacancy created by the resignation of Councillor Shane Sercombe to remain unfilled until the next ordinary election in October 2021.**

- 2. Instruct the Chief Executive Officer to make a formal written request of the WA Electoral Commissioner, as per resolution 1, above.**

- 3. Instruct the Chief Executive Officer to advise Councillors of the outcome of the request to the WA Electoral Commissioner, as per resolution 2, above.**

CARRIED 8/0 by En Bloc Resolution

9.3.2 LOCAL GOVERNMENT ORDINARY ELECTION – OCTOBER 2021

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	CNL 09/1
Author	Maureen Keegan, Manager Executive Services
Responsible Manager	Ben Rose, Chief Executive Officer
Attachments	9.3.2 (1) – Correspondence WAEC
Voting Requirements	Absolute Majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Declare, in accordance with section 4.20(4) of the <i>Local Government Act 1995</i>, the Electoral Commissioner to be responsible for the conduct of the 2021 ordinary elections together with any other elections or polls which may be required; and 2. Determine, in accordance with section 4.61(2) of the <i>Local Government Act 1995</i>, that the method of conducting the election will be as a postal election; and 3. Instruct the Chief Executive Officer to allocate \$35,000 within the 2021/22 Draft Budget to cover the cost of the local government ordinary election.

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, operating procedures and practices.

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider appointing the Western Australian Electoral Commission (WAEC) to be responsible for conducting the 2021 Shire of Donnybrook Balingup ordinary election by postal ballot.

BACKGROUND

The Shire received correspondence (attachment 9.3.2(1)) from the Western Australian Electoral Commission (WAEC) seeking a Council decision regarding conducting the 2021 local government ordinary election as a postal ballot.

The WAEC has advised the estimated cost for the 2021 ordinary election will be \$31,000 which is based on the following assumptions:

- 4450 electors
- Response rate of approximately 60%
- 5 vacancies
- Count to be conducted at the offices of the Shire of Donnybrook Balingup
- Appointment of a Returning Officer
- Regular Australia Post delivery service to apply for the lodgement of the election packages

FINANCIAL IMPLICATIONS

The estimated costs for the 2021 election if conducted by a postal ballot is \$31,000 to be allocated to account 101120.

An additional amount of \$890 will be incurred if Council decides to opt for the Australia Post Priority Service for the lodgement of election packages. The WAEC is of the view that the regular service is adequate for outgoing mail for most local governments.

Costs not incorporated in this estimate include:

- Any legal expenses other than those that are determined to be borne by the WAEC in a Court of Disputed Returns
- One local government staff member to work in the polling place on election day
- Any additional postage rate increase by Australia Post
- Any unanticipated costs arising from public health requirements for the COVID-19 pandemic.

The WA Electoral Commissioner is required by the Local Government Act 1995 to conduct local government elections on a full cost recovery basis and it should be noted that this is an estimate only and may vary depending on a range of factors including the cost of materials or number of replies received. The basis for charges is all materials at cost and a margin on staff time only. Should a significant change in this figure become evident prior to or during the election, Council will be advised as early as possible.

POLICY COMPLIANCE

Not applicable.

STATUTORY COMPLIANCE

Section 4.20(4) and 4.61(2) of the *Local Government Act 1995* apply.

The decision to appoint the WAEC to conduct the election must be by an absolute majority.

CONSULTATION

Not applicable

OFFICER COMMENT/CONCLUSION

The Electoral Commissioner has conducted postal elections for the Shire since 1999. The postal voting system is an efficient and cost effective system, voter participation rate in 2019 was 35.21%. The Shire will promote the ordinary elections through social media, website, and print.

COUNCIL RESOLUTION 24/21

Moved Cr Mitchell Seconded Cr Massey

That Council:

- 1. Declare, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2021 ordinary elections together with any other elections or polls which may be required; and**
- 2. Determine, in accordance with section 4.61(2) of the *Local Government Act 1995*, that the method of conducting the election will be as a postal election; and**
- 3. Instruct the Chief Executive Officer to allocate \$35,000 within the 2021/22 Draft Budget to cover the cost of the local government ordinary election.**

**CARRIED 8/0 by En Bloc Resolution
ABSOLUTE MAJORITY VOTE ATTAINED**

9.3.3 AMENDMENT TO COMMERCIAL LEASE POLICY

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	ADM 11/4
Author	Loren Clifford, Corporate Planning and Governance Officer
Responsible Manager	Ben Rose, Chief Executive Officer
Attachments	9.3.3 (1) - Draft Amended Commercial Lease Policy
Voting Requirements	Simple Majority

Recommendation
That Council adopt the amended Commercial Lease Policy EX-CP-1, as attached.

STRATEGIC ALIGNMENT

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

Outcome	4.2	A respected, professional and trusted organisation
Strategy	4.2.1	Effective and efficient operations and service provision
Action	4.2.1.2	Maintain effective and efficient policies, planning, operating procedures and practices

EXECUTIVE SUMMARY

This report requests Council to review the Commercial Lease Policy, previously presented to the November 2020 Ordinary Meeting of Council.

At the November 2020 Ordinary Meeting of Council, a relatively minor amendment to the Policy was recommended, ‘from the floor’, and approved by Council. Unfortunately, the amendment had the effect of substantively changing the intent of the Policy, which was identified by Staff following the Council Meeting.

BACKGROUND

At its November 2020 Ordinary Meeting, Council resolved:

COUNCIL RESOLUTION 176/20

“That Council adopt the Commercial Lease Policy as per Attachment 9.3.6(1), subject to the following amendments to the Policy:

- *Points 1.1.1 and 1.1.2 – inclusion of the words ‘up to’ before ‘10% above the current rent amount’.*”

DETAILS

The Executive's understanding of the intent of the amendment, 'from the floor', was to improve the grammar and syntax of sections 1.1.1 and 1.1.2 of the Policy, ensuring improved legibility and clarity. However, the effect of the approved amendment has reversed the intent of the Policy.

Original Drafting

1.1. Phasing in

1.1.1. Existing lessee, new lease, MV 10% above current rent amount

Where:

- There is an existing lessee at the premises; and
- a new lease is being prepared; and
- the current MV is 10% above the current rent amount

Rent shall increase in equal increments over a three-year period to bring it up to the current MV. After the third year the rent will be reviewed annually in accordance with Consumer Price Index adjustments as stated in the Standard Commercial Lease.

1.1.2. Existing lessee, new lease, MV 10% below current rent amount

Where:

- There is an existing lessee at the premises; and
- a new lease is being prepared; and
- the current rent amount is 10% below the current MV

Rent shall increase to the current MV for the first year and will be reviewed annually in accordance with the Perth Consumer Price Index adjustments as stated in the Standard Commercial Lease.

Drafting as per Council Amendment (November 2020)

1.1. Phasing in

1.1.1. Existing lessee, new lease, MV up to 10% above current rent amount

Where:

- There is an existing lessee at the premises; and

- a new lease is being prepared; and
- the current MV is **up to** 10% above the current rent amount

Rent shall increase in equal increments over a three-year period to bring it up to the current MV. After the third year the rent will be reviewed annually in accordance with Consumer Price Index adjustments as stated in the Standard Commercial Lease.

1.1.2. Existing lessee, new lease, MV **up to 10% below current rent amount**

Where:

- There is an existing lessee at the premises; and
- a new lease is being prepared; and
- the current rent amount is **up to** 10% below the current MV

Rent shall increase to the current MV for the first year and will be reviewed annually in accordance with the Perth Consumer Price Index adjustments as stated in the Standard Commercial Lease.

Revised Recommended Drafting (February 2021)

1.2. Phasing in

1.2.1. Existing lessee, new lease, MV **at least 10% above current rent amount**

Where:

- There is an existing lessee at the premises; and
- a new lease is being prepared; and
- the current MV is **at least** 10% above the current rent amount

Rent shall increase in equal increments over a three-year period to bring it up to the current MV. After the third year the rent will be reviewed annually in accordance with Consumer Price Index adjustments as stated in the Standard Commercial Lease.

1.1.2. Existing lessee, new lease, MV **less than 10% below current rent amount**

Where:

- There is an existing lessee at the premises; and
- a new lease is being prepared; and

- the current rent amount is **less than** 10% below the current MV

Rent shall increase to the current MV for the first year and will be reviewed annually in accordance with the Perth Consumer Price Index adjustments as stated in the Standard Commercial Lease.

In addition to rectifying the amendment, two additional typographical errors were identified in the Policy. In clause 4 of the Policy, reference is incorrectly made (twice) to a 'Standard Community Lease'; the reference should be to a 'Standard Commercial Lease'.

FINANCIAL IMPLICATIONS

Nil new implications.

POLICY COMPLIANCE

Nil

STATUTORY COMPLIANCE

- *Local Government Act 1995*
- *Commercial Tenancy (Retail Shops) Act 1985*
- *Land Administration Act 1997*

CONSULTATION

Nil.

OFFICER COMMENT

Whilst the intent of the amendment to the Policy at the November 2020 Ordinary Meeting of Council was understood to be improved grammar and syntax, the effect was substantive. To rectify this unintended impact, it is recommended that Council endorse the Executive recommendation. In addition, the incorrect reference to a 'Standard Community Lease' is recommended to be corrected to a 'Standard Commercial Lease'.

COUNCIL RESOLUTION 25/21

Moved Cr Mitchell Seconded Cr Massey

That Council adopt the amended Commercial Lease Policy EX-CP-1, as attached.

CARRIED 8/0 by En Bloc Resolution

9.3.4 PROPOSED AVENUE OF HONOUR AND RECREATION AREA - ‘OLD DONNYBROOK CARAVAN PARK’ – LOTS 461 AND 467 SOUTH WESTERN HIGHWAY, DONNYBROOK

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	N/A
Author	Ben Rose, Chief Executive Officer
Responsible Manager	Ben Rose, Chief Executive Officer
Attachments	9.3.4(1) – Correspondence received November 2020 9.3.4(2) – Response provided November 2020 9.3.4(3) – Further correspondence from RSL
Voting Requirements	Simple Majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Acknowledges the request by the Returned and Services League (Donnybrook Sub-Branch) and commends the group on its proposal to commemorate past service personnel through the creation of an Avenue of Trees and Recreation Area at the ‘old caravan park site’ at Lots 461 and 467 South Western Highway, Donnybrook. 2. Advises the RSL that it respectfully declines the proposal, due to the following reasons: <ol style="list-style-type: none"> a. The subject site has strategic importance to cater for future growth of the Donnybrook townsite and is suitably located to accommodate additional businesses in the future. b. The Shire is currently investing in creating a high quality public realm in the Donnybrook Town Centre and is not supportive of creating an additional public space that will require both up-front capital and ongoing operating expenditure to improve and maintain it to a suitable standard.

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	2.1.1.4	Maintain attractive town sites within resource capacity.

EXECUTIVE SUMMARY

Council has been approached by the Returned and Services League of Australia (Donnybrook Sub-Branch) (RSL) with a proposal to utilise the 'old caravan park site' located at Lots 461 and 467 South Western Highway, Donnybrook. The proposal is to create an 'Avenue of Honour' to commemorate past personnel and improve the streetscape on the entry into the Donnybrook townsite, through the planting of trees and possibly an information board highlighting places of interest for visitors.

It is recommended that Council respectfully declines the proposal, due to the reasons outlined in this report.

BACKGROUND

According to the RSL, discussions on this concept originally commenced in 1999, however a final decision has apparently never been made.

The two lots in question cumulatively make up Reserve 9791 (R9791) for which the Shire has a management order from the State Government for the purpose of 'caravan park'. Reserve 9791 is approximately 9,394m² in area and the land is zoned 'Caravan Park' under Local Planning Scheme 7 (LPS7). R9791 abuts SW Highway to the north, the rail reserve to the south and 'Light Industry' zoned properties to the east and west as per the below location plan.



In November 2020, the Shire received correspondence from the RSL with a proposal to create an 'Avenue of Honour' and beautify the disused site through the planting of trees and possibly the construction of an information board to highlight local attractions to visitors (9.3.4 (1)).

This resulted in the Chief Executive Officer responding, indicating it was his position the site held long-term strategic value for the Shire and community and, whilst he supported the concept of an Avenue of Honour, he did not consider this the highest and best use for this strategic site, however invited the RSL to formally request that Council consider the request (9.3.4 (2)) This RSL subsequently made a further submission to this effect (Attachment 9.3.4 (3)).

It is noted for Council's information that a separate proposal involving this land was presented to the Shire in 2016 via the Department of Lands (DoL) who had been approached by a potential developer to purchase the land from the State. The Shire's Principal Planner at the time responded on behalf of the Shire advising the following:

"The site is well located and is an untapped asset that should be retained for future community benefit. The privatisation of the land will be to the detriment of the community and a lost opportunity.

It should also be noted that LPS7 identifies significant areas of "Commercial", "Light Industrial" and "General Industrial" land to accommodate commercial activity and enterprise. There are presently a number of nearby lots on the market that can be used for business activity. These sites should be considered before seeking to exploit reserved land."

Whilst this suggests a position that the Shire is supportive of the land being retained for public purposes, this was not tested through Council at the time and therefore should be taken as reflecting the views of the officer only.

FINANCIAL IMPLICATIONS

The future direction Council chooses to take with the properties will determine the financial implications for the Shire.

On the one hand, if the State were willing to sell the land to the Shire and Council was supportive of investing the necessary capital to develop and subdivide the land, there could be a potential opportunity to raise funds that could be used in public facilities elsewhere in Donnybrook.

On the other hand, if Council wishes to retain the land as public land and improve it as suggested by the RSL (or in similar fashion), there will be both up-front capital costs as well as ongoing maintenance costs that need to be considered.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

The current management order is for the land use of 'caravan park' and therefore any alternative use is likely to require the management order to be amended accordingly.

CONSULTATION

Nil.

OFFICER COMMENT/CONCLUSION

It is apparent that since R9171 ceased operating as a caravan park a number of years ago, the Shire has possibly been unclear as to its preferred future purpose.

On the one hand, there is the option (and potentially community support) for it being retained as a public space, to possibly be utilised consistent with the proposal put forward by the RSL (or some other appropriate public use).

On the other hand, the land has high exposure to the SW Highway with commercial enterprises on either side. As such, a strong argument could be presented that it represents a strategic commercial site that will provide opportunity for business growth in Donnybrook as the town expands and that this represents its highest and best use into the long-term.

Whilst officers can certainly see merit in the RSL's proposal, staff are of the opinion that the second approach is the most appropriate for the following reasons:

- The subject site has strategic importance to cater for future growth of the Donnybrook townsite and is suitably located to accommodate additional businesses in the future.
- The Shire is currently investing in creating a high quality public realm in the Donnybrook Town Centre and is not supportive of creating an additional public space that will require both capital and operating expenditure to improve and maintain it to a suitable standard.

Notwithstanding the request at hand, the Shire does provide support to the RSL in other ways including maintaining the RSL Memorial Hall and supporting events such as ANZAC Day and Remembrance Day.

It is also noted that the Shire has an existing 'Avenue of Honour' in Balingup. Whilst not precluding another park performing a similar function in Donnybrook, the Shire would need to give careful consideration to upfront and ongoing costs associated with any proposal.

In light of the above, it is recommended that Council make a firm decision on the matter to enable it to be finally resolved. In terms of determining Council's preference for the long-term use of the 'old caravan park' site, it is suggested that this be further considered when the Shire's Strategy / Scheme are reviewed.

COUNCIL RESOLUTION 26/21

Moved Cr Wringe

Seconded Cr Atherton

That Council:

- 1. Acknowledges the request by the Returned and Services League (Donnybrook Sub-Branch) and commends the group on its proposal to commemorate past service personnel through the creation of an Avenue of Trees and Recreation Area at the 'old caravan park site' at Lots 461 and 467 South Western Highway, Donnybrook.**
- 2. Advises the RSL that it respectfully declines the proposal, due to the following reasons:**

- c. The subject site has strategic importance to cater for future growth of the Donnybrook townsite and is suitably located to accommodate additional businesses in the future.**
- d. The Shire is currently investing in creating a high quality public realm in the Donnybrook Town Centre and is not supportive of creating an additional public space that will require both up-front capital and ongoing operating expenditure to improve and maintain it to a suitable standard.**

CARRIED 8/0

9.3.5 AUTHORISED PERSON AND FORM APPROVAL UNDER THE LOCAL GOVERNMENT (MODEL CODE OF CONDUCT) REGULATIONS 2021

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	NA
Author	Loren Clifford, Corporate Planning and Governance Officer
Responsible Officer	Maureen Keegan, Manager Executive Services
Attachments	9.3.5 (1) – Draft Complaint Form - Code of Conduct Breach of Council Members, Committee Members, and Candidates
Voting Requirements	Simple Majority
Conflicts of Interest	N/A

Recommendation
<p>That Council;</p> <ol style="list-style-type: none"> 1. Appoints the Chief Executive Officer as an Authorised Person, for the purposes of receiving complaints and complaint withdrawals in accordance with cl.11(3) of the <i>Local Government (Model Code of Conduct) Regulations 2021</i>. 2. Approves the Complaint form as presented at Attachment 9.3.5 (1) Complaint Form - Code of Conduct Breach of Council Members Committee Members and Candidates in accordance with cl.11(2)(a) of the <i>Local Government (Model Code of Conduct) Regulations 2021</i>.

STRATEGIC ALIGNMENT

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

Outcome	4.2	A respected, professional and trusted organisation
Strategy	4.2.1	Effective and efficient operations and service provision
Action	4.2.1.2	Maintain effective and efficient policies, planning, operating procedures and practices

EXECUTIVE SUMMARY

Council is requested to appoint the Chief Executive Officer (CEO) as an ‘Authorised Person’, for the purposes of receiving complaints and complaint withdrawals and to approve the Complaint Form - Code of Conduct Breach of Council Members, Committee Members, and Candidates in accordance the new *Local Government (Model Code of Conduct) Regulations 2021*.

BACKGROUND

On 27 June 2019, the *Local Government Legislation Amendment Act 2019* was passed by Parliament.

On Tuesday, 2 February 2021 the *Local Government (Model Code of Conduct) Regulations 2021* were gazetted to take effect on Wednesday, 3 February 2021.

Local governments are required to authorise an officer for the purposes of receiving complaints and complaint withdrawals and to approve a complaint form in accordance with the new regulation within three weeks of the regulations taking effect being 24 February 2021.

The Department of Local Government Sporting and Cultural Industries (DLGSC) has provided a three-month timeframe for local governments to implement the Code of Conduct being 3 May 2021.

FINANCIAL IMPLICATIONS

Nil

POLICY COMPLIANCE

A new complaint handling policy will be drafted for council's consideration.

STATUTORY COMPLIANCE

Local Government Act 1995

Local Government (Model Code of Conduct) Regulations 2021

CONSULTATION

Nil

OFFICER COMMENT/CONCLUSION

The CEO is the designated complaints officer for the shire in accordance with sec 5.120 of the *Local Government Act 1995*, to keep in line with this it is recommend appointing the CEO as the authorised person under the *Local Government (Model Code of Conduct) Regulations 2021*.

The draft complaint form has been based on the template provided by the DLGSC along with the guidelines on the Model Code of Conduct for Council Members, Committee Members and Candidates.

COUNCIL RESOLUTION 27/21

Moved Cr Mitchell

Seconded Cr Massey

That Council;

- 1. Appoints the Chief Executive Officer as an Authorised Person, for the purposes of receiving complaints and complaint withdrawals in accordance with cl.11(3) of the *Local Government (Model Code of Conduct) Regulations 2021*.**
- 2. Approves the Complaint form as presented at Attachment 9.3.5 (1) Complaint Form - Code of Conduct Breach of Council Members Committee Members and Candidates in accordance with cl.11(2)(a) of the *Local Government (Model Code of Conduct) Regulations 2021*.**

CARRIED 8/0 by En Bloc Resolution

10 ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 COUNCILLOR

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

Nil.

12.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC


Nil.

13 CLOSURE

The Shire President advised that the next Ordinary Council Meeting will be held on 24 March 2021 commencing at 5.00pm in the Shire of Donnybrook Balingup Council Chamber.

The Shire President declared the meeting closed at 5.10pm.

These Minutes were confirmed by the Council as a true and accurate record at the Ordinary Council Meeting held 24 March 2021.


Cr Brian Plesse
SHIRE PRESIDENT