



MINUTES OF ORDINARY MEETING OF COUNCIL

held on

Wednesday 28 September 2022

Commencing at 5.00pm

Shire of Donnybrook Balingup Council Chamber, Donnybrook

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

Ben Rose
Chief Executive Officer

11 October 2022

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SHIRE OF DONNYBROOK BALINGUP
MINUTES OF ORDINARY COUNCIL MEETING

Held at the Council Chambers
Wednesday, 28 September 2022 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, present and emerging.

The Shire President declared the meeting open at 5:00 pm and welcomed the public gallery.

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

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

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

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

2 ATTENDANCE

MEMBERS PRESENT

COUNCILLORS	STAFF
Cr Leanne Wringe (President)	Ben Rose – Chief Executive Officer
Cr Lisa Glover (Deputy President)	Kim Dolzadelli – Director Corporate and Community
Cr Shane Atherton	Archana Arun – Admin Officer Executive Services
Cr Peter Gubler	Kira Strange – Principal Planner
Cr Phil Jones	
Cr Fred Mills	
Cr Chris Smith	

PUBLIC GALLERY

Eight members of the public were in attendance.

2.1 APOLOGIES

Cr Newman

2.2 APPROVED LEAVE OF ABSENCE

Cr Massey for the September 2022 Ordinary Council Meeting.

2.3 APPLICATION FOR A LEAVE OF ABSENCE

Nil.

3 ANNOUNCEMENTS FROM PRESIDING MEMBER

26 August 2022	Meeting with Mal Osborne, City of Bunbury
26 August 2022	SW Zone meeting
31 August 2022	Training – Mentornet Program
07 September 2022	Meeting with A. Loguidice & C. Flynn
07 September 2022	Meeting with Cr Glover
08 September 2022	Meeting with Mills Recruitment
10 September 2022	IGA – Town Teams community consultation
14 September 2022	DBK Town Teams meeting
15 September 2022	Councillor networking event, Shire of Dardanup
20 September 2022	Shire of Kojonup meeting – Aged Care
21 September 2022	Agenda Briefing @ Yabberup Hall
23 September 2022	Attended DBK Colour Exhibition opening
28 September 2022	Meeting with CEO, Ben Rose
28 September 2022	Meeting with D. Zampatti
28 September 2022	Citizenship Ceremony
28 September 2022	Ordinary Council Meeting

Shire President Wringe commented on a report which the Office of the Auditor General had released regarding the Local Government sector financial audit results for the 2020 – 21 audit cycle.

The Shire President also addressed Council and community with regards to objectionable social media activity.

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.

Cr Smith has declared a Financial Interest in item 9.2.4 Annual Concessions on Split Local Government Boundaries as his business does work for the owners of 118 Walter Road, Wilga West.

Cr Smith has declared a Financial Interest in item 9.2.5 Minister for Local Government Approval of Joint District Boundary Change as his business does work for the owners of 118 Walter Road, Wilga West.

Cr Atherton has declared a Financial Interest in item 9.3.1 Offer to Purchase Shire Property – Lot 3 and 4 Bridge Street, Donnybrook as he has a reasonable expectation of acting as a land sales agent in the foreseeable future for the Kelly Road development.

5 PUBLIC QUESTION TIME

5.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Question: Sian Blackledge

I have a general query with the cheque run. From what I can see there were two different invoices for the same items as far as it looks. \$204 from Bunnings (EFT 24397) and \$16.80 (EFT 24419) from the local hardware store. Why is there a discrepancy with the costing?

Director Corporate and Community Response

Bunnings (EFT 24397) contained 13 items and Donnybrook Hardware and Garden contained only 1 item.

Question: Mr Simon McInnes

In the long term financial plan, you state that over the first six years of the plan, the average expenditure reductions of 5.24% or \$299,000 per annum have been applied to the forecasted capital renewal works in order for the Shire to progress towards being more financially sustainable. Could you give the ratepayers a specific amount for this coming financial year instead of the average amount over six years?

Director Corporate and Community Response

The reduction in Capital works for the 2022/2023 Financial year contained within the adopted Long Term Financial plan is \$225,821 being 1.54%.

Question: Mr Simon McInnes

Saving \$299,000 comes close to matching the principal and interest payments for the Shire loan. How will the Shire be more financially sustainable if the reduction in maintaining assets is spent on the Shire loan, because they're about the same amount?

Director Corporate and Community Response

The LTFP contains annual Loan repayments of \$219,334 for the \$3,000,000 Loan. In the outer years of the plan less renewal work will be required than when compared to the current assets in place that the project will deliver. Asset sustainability is impacted on many factors. The introduction of a Service Level Hierarchy, to be introduced in 2022/23, will also assist in progressing toward longer term sustainability.

Question: Mr Simon McInnes

The Shire currently uses RAMS to help assess the road conditions. Could you explain why the state of the roads has to be kept secret from the ratepayers?

Director Operations Response

The Shire will undertake a condition assessment of its roads later this year using a consultant which it is required to do every few years and will need to determine whether it is appropriate to make such information public. This is currently under consideration and a further update will be provided in the near future.

5.2 PUBLIC QUESTION TIME

Question: Simon McInnes

Does the CEO have the contact details of all the individuals who downloaded the EOI as required by policy FINCP-4-PURCHASING?

CEO Response

Question taken on notice.

Question: Simon McInnes

How were any non-compliant tenders for the VC Mitchell Park Project recorded and are they available for public viewing?

CEO Response

Question taken on notice.

Question: Simon McInnes

Could you please clarify what date tenders were received for the VC Mitchell Park project and also clarify the time the expression of interest was received?

CEO Response

Question taken on notice.

Question: Simon McInnes

Is the VC Mitchell Park project EOI bound by Shire Policy FINCP-4-PURCHASING?

CEO Response

Question taken on notice.

Question: Simon McInnes

Please list all the current project team members for the VC Mitchell Park project and their role on the project team?

CEO Response

Question taken on notice.

Question: Simon McInnes

Could you please explain the processes for consultation and due diligence regarding the proposed contract with Perkins Builders for the VC Mitchell Park project. How will the Shire and Perkins avoid a conflict of interest? What checks and balances are in place? Will the minutes of all meetings between the Shire and Perkins be available on the web site?

CEO Response

Question taken on notice.

Question: Simon McInnes

Why is the condition of the roads is being kept secret from the rate payers?

Shire President Response

Question taken on notice.

Question: Simon McInnes

When will the results of the internal audit be published and will it be available to the public?

CEO Response

This will be a matter for the Audit and Risk Management Committee to provide a recommendation to the Council.

Question: Simon McInnes

The reduction of capital works is \$225,821. This is a very specific amount. Where will these cuts to the maintenance be made on top of the \$500,000 that already hasn't been spent in his from last year?

Shire President Response

Question taken on notice.

6 PRESENTATIONS

6.1 PETITIONS

6.2 PRESENTATIONS

6.3 DEPUTATIONS

Donnybrook Town Team with regards to its team, plans for a significant Community Activation Event and longer-term plans for follow-up community activations.

ADOPTION BY EXCEPTION

COUNCIL RESOLUTION 122/22

Moved: Cr Jones

Seconded: Cr Smith

That the following items be adopted ‘en bloc’:

7.1 Ordinary Meeting of Council – 24 August 2022

CARRIED 7/0

For: Cr Wringe, Cr Glover, Cr Atherton, Cr Gubler, Cr Jones, Cr Mills and Cr Smith

Against: Nil

7 CONFIRMATION OF MINUTES

7.1 ORDINARY MEETING OF COUNCIL – 24 AUGUST 2022

Minutes of the Ordinary Meeting of Council held 24 August 2022 are attached (attachment 7.1(1)).

EXECUTIVE RECOMMENDATION

That the Minutes from the Ordinary Meeting of Council held 24 August 2022 be confirmed as a true and accurate record.

COUNCIL RESOLUTION 123/22

Moved: Cr Jones

Seconded: Cr Smith

That the Minutes from the Ordinary Meeting of Council held 24 August 2022 be confirmed as a true and accurate record.

CARRIED 7/0 by En Bloc Resolution

For: Cr Wringe, Cr Glover, Cr Atherton, Cr Gubler, Cr Jones, Cr Mills and Cr Smith

Against: Nil

8 REPORTS OF COMMITTEES

Nil.

9 REPORTS OF OFFICERS

9.1 DIRECTOR OPERATIONS

9.1.1 WARREN BLACKWOOD ALLIANCE OF COUNCILS – CLIMATE CHANGE POLICY STATEMENT AND ACTION PLAN

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	ADM 10/A
Author	Steve Potter, Director Operations
Responsible Officer	Steve Potter, Director Operations
Attachments	9.1.1(1) WBAC Climate Change Policy Statement 9.1.1(2) WBAC Climate Change Action Plan 9.1.1(3) WBAC Implementation Reference Group Terms of Reference
Voting Requirements	Simple majority

Recommendation

That Council:

1. **Receives the Warren Blackwood Alliance of Council’s Climate Change Policy and Action Plan;**
2. **Acknowledges that certain actions outlined in the Action Plan can be accommodated within existing Shire resources as part of a ‘business as usual’ approach whilst others will require additional dedicated resources and/or external funding;**
3. **Requests the Chief Executive Officer implement measures contained within the Action Plan that can reasonably be achieved within existing Shire resources;**
4. **Requests the Chief Executive Officer consider the inclusion of measures contained within the Action Plan that have a significant resourcing and/or funding implication in future reviews of the Council Plan for Council’s further consideration;**
5. **Endorses the Shire’s participation in the proposed creation of the ‘Warren Blackwood Alliance of Councils Climate Change Action Plan Implementation Reference Group’ in accordance with the WBAC’s draft Terms of Reference;**
6. **Nominates the following two Councillors to represent the Shire on the Implementation Reference Group:**

6.1 Cr. _____ ;

6.2 Cr. _____ ;

7. Requests the WBAC to direct the Implementation Reference Group to undertake a comprehensive review of the Action Plan to identify resourcing requirements to achieve identified outcomes, inclusive of opportunities for collaborative / resource sharing approaches and potential external funding sources.

STRATEGIC ALIGNMENT

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

Outcome	4	Shared responsibility for sustainability
Objective	4.1	Encourage the adoption of sustainable practices
Priority Project	4.1.1	Participate in the Warren Blackwood Alliance of Councils Climate Change Impact Reference Group to establish a sub-regional climate change policy.

EXECUTIVE SUMMARY

The Warren Blackwood Alliance of Councils recently adopted and launched the WBAC Climate Change Policy Statement (Attachment 9.1.1(1)) and Action Plan (Attachment 9.1.1(2)) which are presented to Council for receiving.

The WBAC has also endorsed the formation of an Implementation Reference Group to work towards the objectives of the Action Plan and is seeking elected member representatives from each of the participating local governments to contribute to this group in accordance with the WBAC endorsed Terms of Reference.

Staff consider an important step in taking this initiative forward is to understand the resourcing implications of the identified actions and have therefore included a recommendation for Council to request the WBAC to direct the Implementation Reference Group to review and determine the resourcing requirements for the actions identified. This will enable participating local governments to plan, allocate appropriate resources to preferred actions and identify where external funding may be available.

BACKGROUND

Staff and elected members of WBAC member Councils have been collaborating over the past 12-18 months to develop a Climate Change Policy Statement and Action Plan, both of which were recently completed and presented to the WBAC for consideration.

At its meeting held 7 June 2022 the WBAC:

- Endorsed the Policy Statement and Action Plan;

- Determined to continue the role of the WBAC Climate Change Impact Reference Group (CCIRG), with a change of emphasis from Action Plan development to implementation.
- Endorsed the retention of the Executive Officer supporting the CCIRG for a further period of 12 months.

Council is now being requested to nominate two elected member representatives to sit on the Implementation Reference Group in accordance with the WBAC endorsed Terms of Reference (Attachment 9.1.1(3)) which identifies the group's functions as follows:

1. Under the direction of the WBAC, implement the sub-regional Climate Change Policy and Action Plan of the WBAC;
2. To provide progress reports to the WBAC and its member Shires on the progress of implementation of the sub-regional Climate Change Action Plan;
3. To work with the WBAC and member Shires on relevant Climate Change Action Plan recommendations for incorporation into the strategic and operational planning processes of the member Shires;
4. To work with key stakeholders, as required, to assist in the delivery of the WBAC and member Shire climate change ambitions.
5. Any other function as endorsed by the WBAC.

As the WBAC endorsed Policy Statement and Action Plan are non-binding the Shire will also need to determine how to proceed in terms of implementation at the local level. In order to inform this process, the Shire needs to understand the resourcing implications (and possible funding opportunities) of each of the identified actions.

FINANCIAL IMPLICATIONS

The Shire's ongoing participation in this process via the Implementation Reference Group will require appropriate human resources to be allocated, with the Shire's Environmental Officer likely to support nominated elected members in representing the Shire. As the EO is employed on a part-time basis, this may affect the officer's availability to undertake other environmental related tasks.

It is likely that the implementation of actions contained in the Action Plan will have a financial impact, however the extent of this is unknown. This is the basis of Point 7 of the recommended resolution for the Implementation Reference Group to gain a greater understanding of this aspect and report back to the WBAC and participating Councils.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Nil.

CONSULTATION

The documents produced thus far have not been the subject of community consultation.

The Council Plan process is subject to community consultation and is considered the appropriate mechanism for introducing any actions contained in the Action Plan that are likely to have a significant community impact and/or financial/resourcing implications.

OFFICER COMMENT/CONCLUSION

The Shire has been involved in the Climate Change Impact Reference Group (CCIRG) since its inception which has involved considerable input from both staff and representative elected members from each of the participating Councils. The resulting documents represent the culmination of this work, with the emphasis of the CCIRG being to identify outcomes that were practical, noting that the participating local governments are all quite constrained from a resourcing perspective.

As the WBAC endorsed Policy Statement and Action Plan are non-binding the Shire will need to determine how to proceed in terms of implementation at the local level. In order to inform this process, the Shire needs to understand the resourcing implications (and possible funding opportunities) for each of the identified actions. It is therefore recommended that Council requests the WBAC instruct the Implementation Reference Group, as an early step, to undertake a comprehensive assessment of the recommended actions from a resourcing perspective inclusive of opportunities for collaborative / resource sharing approaches and potential funding sources.

Staff consider the Shire's ongoing participation in the WBAC Implementation Reference Group demonstrates the Shire's ongoing commitment to addressing the impacts of climate change on the local community. In addition, the collective approach being undertaken with other local government authorities may result in increased opportunities for attracting external funding in the future and therefore it is considered to be in the Shire's best interests to provide continued representation and support to this group.

PROCEDURAL MOTION

That Meeting Procedures Clause 10.6 be suspended.

COUNCIL RESOLUTION 124/22

Moved Cr Mills

Seconded Cr Glover

That Meeting Procedures Clause 10.6 be suspended.

CARRIED 7/0

For: Cr Wringe, Cr Glover, Cr Atherton, Cr Gubler, Cr Jones, Cr Mills and Cr Smith

Against: Nil

PROCEDURAL MOTION

That Meeting Procedures Clause 10.6 be resumed.

COUNCIL RESOLUTION 125/22

Moved Cr Jones

Seconded Cr Gubler

That Meeting Procedures Clause 10.6 be resumed.

CARRIED 7/0

For: Cr Wringe, Cr Glover, Cr Atherton, Cr Gubler, Cr Jones, Cr Mills and Cr Smith

Against: Nil

COUNCIL RESOLUTION 126/22

Moved: Cr Jones

Seconded: Cr Smith

That Council:

- 1. Receives the Warren Blackwood Alliance of Council's Climate Change Policy and Action Plan;**
- 2. Acknowledges that certain actions outlined in the Action Plan can be accommodated within existing Shire resources as part of a 'business as usual' approach whilst others will require additional dedicated resources and/or external funding;**

- 3. Requests the Chief Executive Officer implement measures contained within the Action Plan that can reasonably be achieved within existing Shire resources;**
- 4. Requests the Chief Executive Officer consider the inclusion of measures contained within the Action Plan that have a significant resourcing and/or funding implication in future reviews of the Council Plan for Council's further consideration;**
- 5. Endorses the Shire's participation in the proposed creation of the 'Warren Blackwood Alliance of Councils Climate Change Action Plan Implementation Reference Group' in accordance with the WBAC's draft Terms of Reference;**
- 6. Nominates the following two Councillors to represent the Shire on the Implementation Reference Group:**
 - 6.1 Cr Massey;**
 - 6.2 Cr Glover;**
- 7. Requests the WBAC to direct the Implementation Reference Group to undertake a comprehensive review of the Action Plan to identify resourcing requirements to achieve identified outcomes, inclusive of opportunities for collaborative / resource sharing approaches and potential external funding sources.**

CARRIED 6/1

For: Cr Wringe, Cr Glover, Cr Gubler, Cr Jones, Cr Mills and Cr Smith

Against: Cr Atherton

9.2 DIRECTOR CORPORATE AND COMMUNITY

9.2.1 ACCOUNTS FOR PAYMENT

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

9.2.2 MONTHLY FINANCIAL REPORT – JULY 2022

The Monthly Financial Report for July 2022 is attached (*attachment 9.2.2(1)*).

EXECUTIVE RECOMMENDATION

That the monthly financial report for the period ended July 2022 be received.

COUNCIL RESOLUTION 127/22

Moved: Cr Atherton

Seconded: Cr Glover

That the monthly financial report for the period ended July 2022 be received.

CARRIED 7/0

For: Cr Wringe, Cr Glover, Cr Atherton, Cr Gubler, Cr Jones, Cr Mills and Cr Smith

Against: Nil

9.2.3 MONTHLY FINANCIAL REPORT – AUGUST 2022

The Monthly Financial Report for August 2022 will be prepared and presented to the Ordinary Council Meeting in October 2022.

EXECUTIVE RECOMMENDATION

That the monthly financial report for the period ended August 2022 will be presented to the October 2022 Ordinary Council Meeting for compliance purposes.

COUNCIL RESOLUTION 128/22

Moved: Cr Smith

Seconded: Cr Atherton

That the monthly financial report for the period ended August 2022 will be presented to the October 2022 Ordinary Council Meeting for compliance purposes.

CARRIED 7/0

For: Cr Wringe, Cr Glover, Cr Atherton, Cr Gubler, Cr Jones, Cr Mills and Cr Smith

Against: Nil

9.2.4 ANNUAL CONCESSIONS ON SPLIT LOCAL GOVERNMENT BOUNDARIES

Location	Shire of Donnybrook Balingup
Applicant	Not applicable
File Reference	A2491, A4390, A2671, A1394
Author	Naomi Newport, Rates Officer
Responsible Officer	Kim Dolzadelli, Director Corporate and Community
Attachments	Nil
Voting Requirements	Absolute Majority

Cr Smith left the chamber at 6:14 pm

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Grant concession of 41% on Rates on A2491, Lot 4522, 3853 Donnybrook-Boyup Brook Road, Noggerup due to: <ol style="list-style-type: none"> 1.1 The land parcel being dissected by the Shire of Donnybrook Balingup and Shire of Boyup Brook boundary. 1.2 41% of the land parcel is located in the Shire of Boyup Brook. 2. Grant concession of 53% on Rates on A4390, Lot 11859, Walker Road, Wilga West due to: <ol style="list-style-type: none"> 2.1 The land parcel being dissected by the Shire of Donnybrook Balingup and Shire of Boyup Brook boundary. 2.2 53% of the land parcel is located in the Shire of Boyup Brook. 3. Grant an annual concession of 79% on Rates on A2671, Lot 3804, 3905 Donnybrook-Boyup Brook Road, McAlinden due to: <ol style="list-style-type: none"> 3.1 The land parcel being dissected by the Shire of Donnybrook Balingup and Shire of Boyup Brook boundary. 3.2 79% of the land parcel is located in the Shire of Boyup Brook. 4. Grant an annual concession of 58% on Rates on A1394, Lot 8314 Greenbushes Grimwade Road, North Greenbushes due to: <ol style="list-style-type: none"> 4.1 The land parcel being dissected by the Shire of Donnybrook Balingup and Shire of Bridgetown Greenbushes boundary. 4.2 58% of the land parcel is located in the Shire of Boyup Brook. 5. Apply an effective commencement date of 1 July 2022 for all concessions approved within resolutions 1 – 4, above. <p style="text-align: right;">ABSOLUTE MAJORITY VOTE REQUIRED</p>

STRATEGIC ALIGNMENT

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

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

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider concession on rates for properties dissected by the boundary of Shire of Donnybrook Balingup and Shire of Boyup Brook or Shire of Bridgetown Greenbushes.

Council has approved an application for the Local Government Boundary adjustment involving the subject properties however these will not be in place for the 2022/2023 rating year.

BACKGROUND

Council has previously considered application for concession on Rates and Waste Management Levy for Assessments that are dissected by the boundary of the Shire of Donnybrook Balingup and the Shire of Boyup Brook.

At the Ordinary Meeting on 24 April 2013, Council considered an approach from the Shire of Boyup Brook to initiate a Shire boundary adjustment to resolve the issue. Council considered the application and resolved the following;

*Council Decision
(Officer's Recommended Resolution)*

Moved: Cr Dawson

Seconded: Cr Logiudice

That the CEO write to the Shire of Boyup Brook advising that it would not be in favour of a Shire boundary adjustment but would be prepared to offer a 50% rating concession and a 50% concession on any waste management charges currently levied on the affected properties, specifically crown grants 11859 (A4390), 12087 (A4389) and 4522 (A2491). The provision of these concessions is subject to the Shire of Boyup Brook providing a 50% concession to the affected landowners for land situated within the Boyup Brook Shire.

A 50% concession on Rates was applied to Assessments A4389, A2491 and A4390 for the 2013/14 – 2017/18 financial years.

At the April 2018 Ordinary Meeting, Council reviewed and adopted a new Rating Strategy, and the concession was discontinued effective 1 July 2018.

During 2019/2020, representation was made to Council on behalf of affected landowners for reintroducing concessional treatment for those properties previously receiving a concession.

At the Ordinary Meeting on 25 September 2019, Council resolved:

COUNCIL DECISION 137/19 (Executive Recommendation)

Moved: Cr Tan Seconded: Cr Lindemann

That Council:

1. *Grant an annual concession of 41% on Rates on A2491, Lot 4522, 3853 Donnybrook-Boyup Brook Road, Noggerup due to:*
 - a. *The land parcel being dissected by the Shire of Donnybrook Balingup and Shire of Boyup Brook boundary.*
 - b. *41% of the land parcel is located in the Shire of Boyup Brook.*

**Absolute Majority Vote Required*

2. *Grant an annual concession of 53% on Rates on A4390, Lot 11859 Walker Road, Wilga West due to:*
 - a. *The land parcel being dissected by the Shire of Donnybrook Balingup and Shire of Boyup Brook boundary.*
 - b. *53% of the land parcel is located in the Shire of Boyup Brook.*

**Absolute Majority Vote Required*

3. *Not grant a rates concession on A4389, Lot 12087, 199 Walker Road, Wilga where the land parcel is dissected by the Shire of Donnybrook Balingup and Shire of Boyup Brook boundary, as a significant percentage of land mass and built structures reside in the Shire of Donnybrook Balingup.*
4. *Not grant a rates concession on A1393, 118 Walker Road, Wilga West, where the land parcel is dissected by the Shire of Donnybrook Balingup and Shire of Boyup Brook boundary due to:*
 - a. *The assessment comprises three contiguous lots.*
 - b. *One lot (Lot 8578) is situated entirely in the Shire of Donnybrook Balingup.*
 - c. *The assessment is group valued and Lot 8578 would ordinarily be subject to the minimum rate in its own right.*
 - d. *No rating concession was previously granted.*
5. *Apply applications for Waste Management Levy concessions on properties where the Shire Boundary dissects a land parcel in accordance with Policy 6.5 Waste Management Levy Exemption.*

6. *All concessions approved within resolutions 1 – 5, above, have an effective commencement date of 1 July 2019.*
7. *Instruct the Chief Executive Officer to undertake preliminary consultation with the Shire of Boyup Brook (by no later than December 2019) regarding boundary adjustment on properties where the Shire Boundary dissects a land parcel, in preparation for a future report to Council for its consideration.*

Carried by Absolute Majority 9/0

At the Ordinary Meeting 26 August 2020, Council resolved:

COUNCIL RESOLUTION 121/20

Moved Cr Lindemann

Seconded Cr Massey

That Council:

1. *Grant concession of 41% on Rates on A2491, Lot 4522, 3853 Donnybrook-Boyup Brook Road, Noggerup due to:*
 - 1.1 *The land parcel being dissected by the Shire of Donnybrook Balingup and Shire of Boyup Brook boundary.*
 - 1.2 *41% of the land parcel is located in the Shire of Boyup Brook.*
2. *Grant concession of 53% on Rates on A4390, Lot 11859, Walker Road, Wilga West due to:*
 - 2.1 *The land parcel being dissected by the Shire of Donnybrook Balingup and Shire of Boyup Brook boundary.*
 - 2.2 *53% of the land parcel is located in the Shire of Boyup Brook.*
3. *Grant an annual concession of 79% on Rates on A2671, Lot 3804, 3905 Donnybrook-Boyup Brook Road, McAlinden due to:*
 - 3.1 *The land parcel being dissected by the Shire of Donnybrook Balingup and Shire of Boyup Brook boundary.*
 - 3.2 *79% of the land parcel is located in the Shire of Boyup Brook.*
4. *Grant an annual concession of 58% on Rates on A1394, Lot 8314 Greenbushes Grimwade Road, North Greenbushes due to:*
 - 4.1 *The land parcel being dissected by the Shire of Donnybrook Balingup and Shire of Bridgetown Greenbushes boundary.*
 - 4.2 *58% of the land parcel is located in the Shire of Boyup Brook.*
5. *Apply Waste Management Levy Exemptions for properties approved within resolutions 1 – 4, above.*
6. *Apply an effective commencement date of 1 July 2020 for all concessions approved within resolutions 1 – 5, above.*

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

In March 2021, joint correspondence from Shires of Donnybrook Balingup and Boyup Brook was sent to affected property owners to advise of a joint intent to permanently resolve the boundary issue.

At the Ordinary Meeting on 22 September 2021, Council resolved:

That Council:

1. *Endorse support for a joint submission to the Local Government Advisory Board with the Shire of Boyup Brook for a district boundary adjustment on the following properties where the Shire of Donnybrook-Balingup / Shire of Boyup Brook boundary dissects the individual lot.*

Land ID	VEN	Assess No	Cert of Title	Lot	Address
4522P162073/2	1076360	A2491	2215/767	Lot 4522	3853 Donnybrook-Boyup Brook Road, Noggerup
11P20750/1	1075849	A1732	2048/547	Lot 11	3851 Boyup Brook Road Noggerup
3804P153547/2	1076419	A2671	1897/282	Lot 3804	3905 Donnybrook-Boyup Brook Road, Noggerup
11859P157909/2	1630596	A4390	1245/290	Lot 11859	Lot 11859 Walker Road, Wilga West
12087P163478/2	1630597	A4389	1328/357	Lot 12087	199 Walker Road, Wilga West
10833P140931/2	1076069	A1393	1039/55	Lot 10833	118 Walker Road, Wilga West
11287P159733/2	1076069	A1393	1175/249	Lot 11287	118 Walker Road, Wilga West

2. *Subject to the Council of the Shire of Boyup Brook resolving to support a joint submission in accordance with resolution 1, endorse the Chief Executive Officer to undertake consultation with landowners resolved in Resolution 1 to determine the preferred district for each affected lot.*
3. *That the Chief Executive Officer reports back to Council following the completion of landowner consultation undertaken in accordance with Resolution 2.*

CARRIED 8/0 by En bloc Resolution

DETAILS

Assessments to be considered in this application for concession on Rates for 2022-2023 financial year are:

A2491	LOT 4522 (3853) BOYUP BROOK RD	NOGGERUP WA 6225
A4390	LOT 11859 WALKER RD	WILGA WEST WA 6243
A2671	LOT 3804 (3905) BOYUP BROOK RD	NOGGERUP WA 6225
A1394	LOT 8314 GREENBUSHES GRIMWADE RD	BALINGUP WA 6253

The Valuer General has recognised the problem of the shire boundary dissecting a land parcel by apportioning the total property valuation pro rata, based on the portion of land area in each respective Shire.

Assessment	Lot	Area (ha)			Valuation 2021/2022		
		Donnybrook Balingup	Other Shire	Total Area (ha)	Donnybrook Balingup	Other Shire	Total Valuation
A2491	4522	8.1	5.6	13.7	57,000	49,000	106,000
A4390	11859	30.8	34.4	65.2	63,000	75,500	138,500
A2671	3804	12.1	44.8	56.9	47,000	135,000	182,000
A1394	8314	48.5	67.9	116.4	137,000	217,000	354,000

Therefore, each Shire raises rates and charges only on the portion of land (and portion of the valuation) that is applicable in each respective Shire. The property is essentially treated as two separate smaller lots of land for rating purposes rather than a single large lot.

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

6.28. Basis of rates

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

[Section 6.28 amended: No. 1 of 1998 s. 20.]

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

6.47. Concessions

Subject to the *Rates and Charges (Rebates and Deferments) Act 1992*, a local government may at the time of imposing a rate or service charge or at a later date

resolve to waive* a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.

* *Absolute majority required.*

FINANCIAL IMPLICATIONS

The 2022/2023 Draft Budget has made provision for the concessions relating to these 4 properties.

POLICY COMPLIANCE

Not applicable.

STATUTORY COMPLIANCE

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

6.28. Basis of rates

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

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

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

6.47. Concessions

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

* *Absolute majority required.*

CONSULTATION

Not applicable.

OFFICER COMMENT/CONCLUSION

In light of the above, it is recommended that Council supports the officer recommendation

COUNCIL RESOLUTION 129/22

Moved: Cr Mills

Seconded: Cr Jones

That Council:

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

- 5. Apply an effective commencement date of 1 July 2022 for all concessions approved within resolutions 1 – 4, above.**

CARRIED 6/0

For: Cr Wringe, Cr Glover, Cr Atherton, Cr Gubler, Cr Jones and Cr Mills

Against: Nil

9.2.5 MINISTER FOR LOCAL GOVERNMENT APPROVAL OF JOINT DISTRICT BOUNDARY CHANGE

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	A2491, A1732, A2671, A4390, A4389, A1393
Author	Stuart Eaton – Finance Projects
Responsible Manager	Kim Dolzadelli – Director Corporate and Community
Attachments	9.2.5(1) - Correspondence from Department of Local Government, Sport and Cultural Industries
Voting Requirements	Simple Majority

Recommendation
<p>That Council notes that the Minister for Local Government has approved the change to the district boundary in accordance with the joint proposal to the Local Government Advisory Board by the Shire of Donnybrook Balingup and Shire of Boyup Brook.</p>

STRATEGIC ALIGNMENT

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

- Outcome 12 A well respected, professionally run organisation
- Objective 12.1 Deliver effective and efficient operations and service provision

EXECUTIVE SUMMARY

The purpose of this report is to advise Council that the Minister for Local Government has approved the recommendation of the Local Government Advisory Board (LGAB) to amend the boundary of the Shires of Donnybrook Balingup and Boyup Brook, which will see three lots of subject land transferred wholly to the Shire of Donnybrook Balingup, and four lots of subject land transferred wholly to the Shire of Boyup Brook.

BACKGROUND

Seven individual lots have been identified as having the shared boundary bisected by the Shire of Donnybrook Balingup / Shire of Boyup Brook boundary.

Land ID	VEN	Assess No	Cert of Title	Lot	Address
4522P162073/2	1076360	A2491	2215/767	Lot 4522	3853 Donnybrook-Boyup Brook Road, Noggerup
11P20750/1	1075849	A1732	2048/547	Lot 11	3851 Boyup Brook Road Noggerup
3804P153547/2	1076419	A2671	1897/282	Lot 3804	3905 Donnybrook-Boyup Brook Road, Noggerup

11859P157909/2	1630596	A4390	1245/290	Lot 11859	Lot 11859 Walker Road, Wilga West
12087P163478/2	1630597	A4389	1328/357	Lot 12087	199 Walker Road, Wilga West
10833P140931/2	1076069	A1393	1039/55	Lot 10833	118 Walker Road, Wilga West
11287P159733/2	1076069	A1393	1175/249	Lot 11287	118 Walker Road, Wilga West

At its 22 June 2022 Ordinary Meeting, Council of the Shire of Donnybrook Balingup resolved unanimously to endorse the submission to the LGAB.

COUNCIL RESOLUTION 80/22

Moved: Cr Atherton

Seconded: Cr Jones

That Council:

1. **Endorse the attached document “*Submission to the Local Government Advisory Board – Joint proposal by the Shire of Donnybrook Balingup and Shire of Boyup Brook to change the district boundary*” with the following additions:**
 - a) **Signatures of the Shire Presidents and Chief Executive Officers (page 3); and**
 - b) **Copy of this resolution from both Councils (Appendix 2 – Council Resolutions).**
2. **Subject to the Council of the Shire of Boyup Brook resolving to endorse resolution 1 above, authorise the Chief Executive Officer to lodge the submission with the Local Government Advisory Board.**

CARRIED 8/0

At its 30 June 2022 Ordinary Meeting, the Council of the Shire of Boyup Brook resolved unanimously to endorse the submission to the LGAB.

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 10.4.2

MOVED: Cr Darren King

SECONDED:

Cr Charles Caldwell That Council

- 1. Endorse the document “Submission to the Local Government Advisory Board – Joint proposal by the Shire of Donnybrook Balingup and Shire of Boyup Brook to change the district boundary” with the following additions**
 - a) Signatures of the Shire Presidents and Chief Executive officers (page 3)**
 - b) Copy of this resolution from both Councils (Appendix 2 – Council Resolutions)**
- 2. Subject to the Council of the Shire of Boyup Brook resolving to endorse resolution 1 above, authorise the Chief Executive Officer to lodge the submission with the Local Government Advisory Board.**

CARRIED 8/0

Res 22/6/78

Figure 1

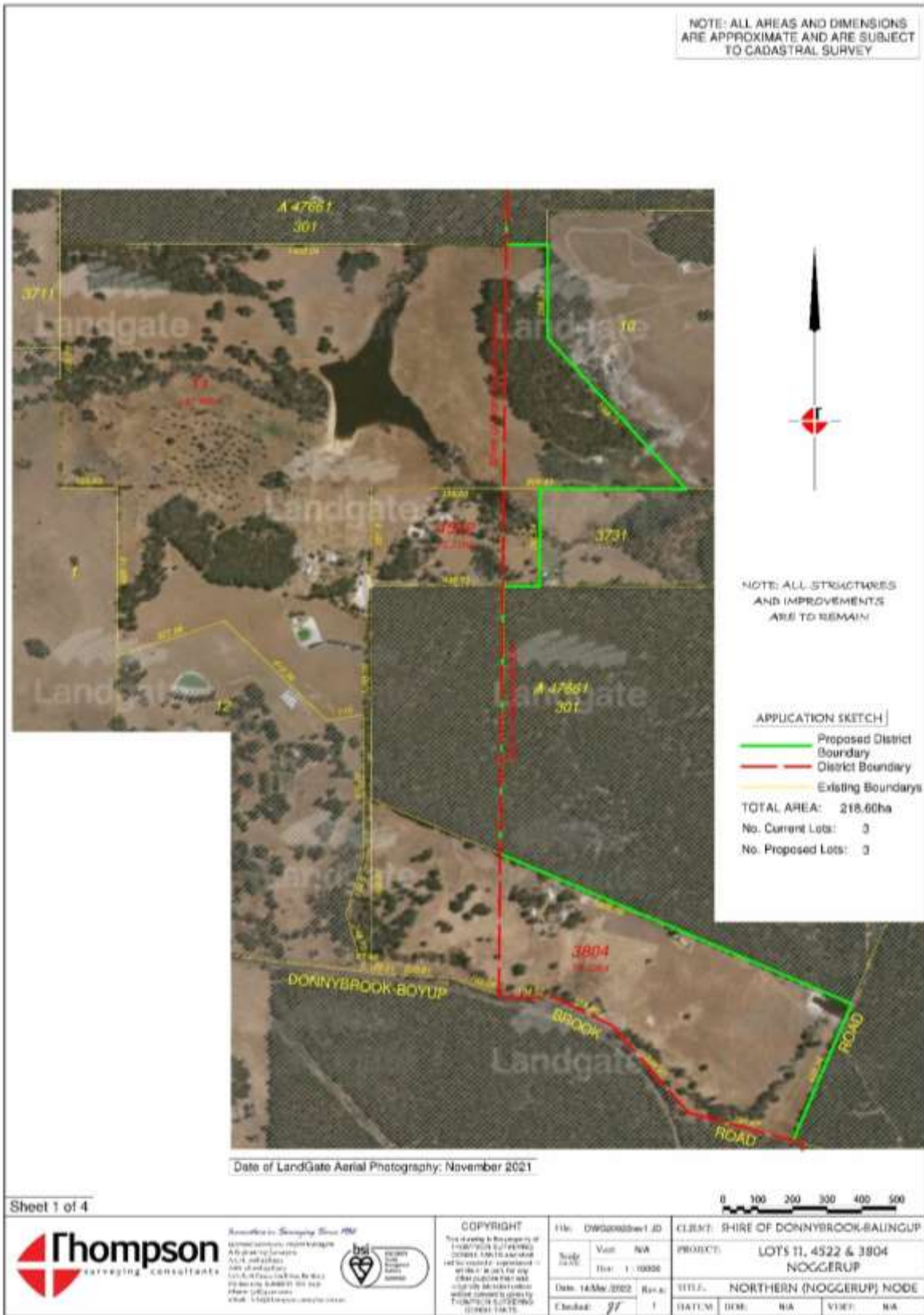
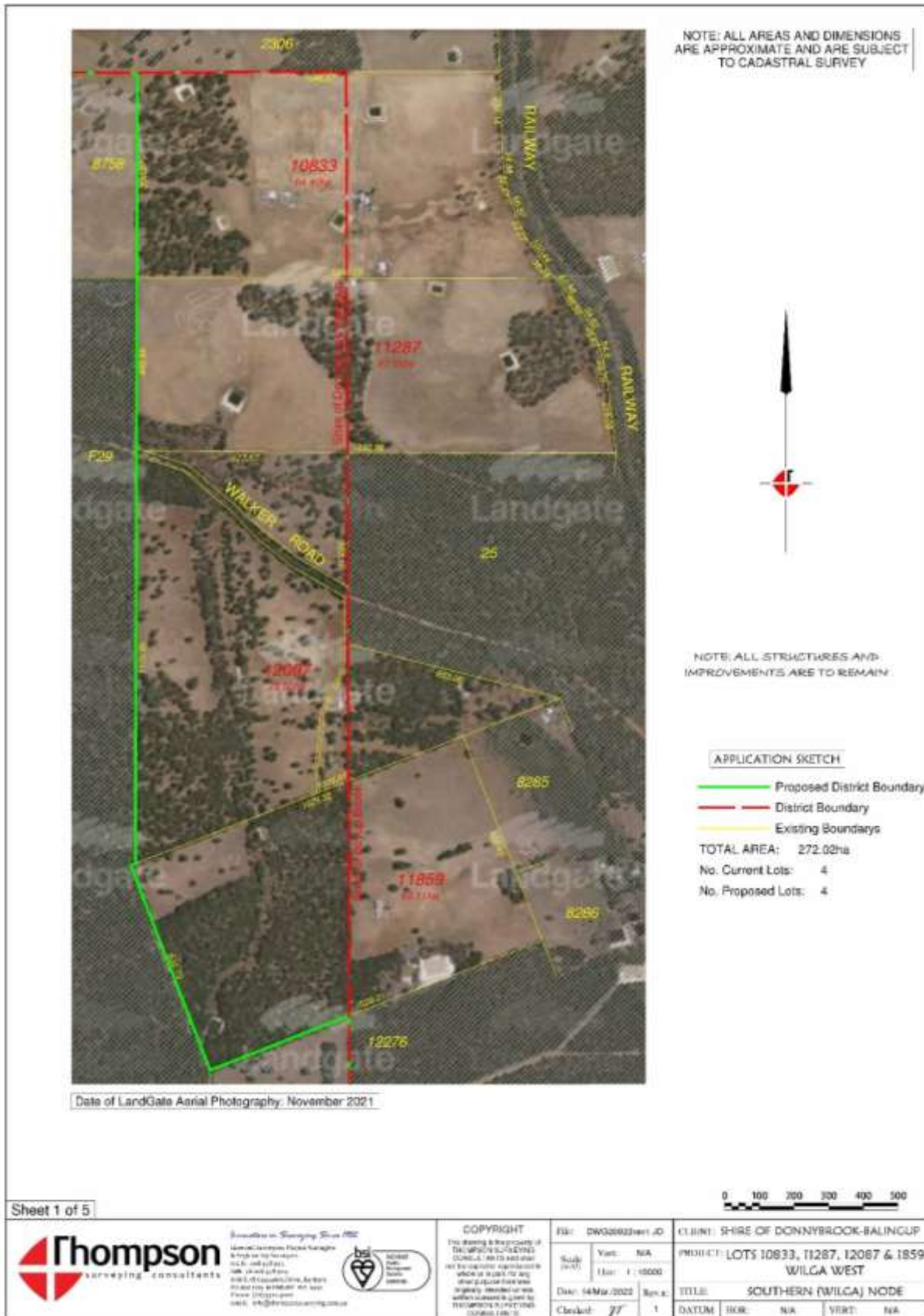


Figure 2



CONSULTATION

Affected landowners will be notified of the Minister's decision.

OFFICER COMMENT/CONCLUSION

The LGAB has advised that it will now commence a series of administrative and statutory processes, including the drawing of deposited plans via Landgate, and the drafting of Orders via the Parliamentary Counsel's office, to ultimately obtain the Governor's approval and publish the changes in the Government Gazette.

There is no specific role for the Shires during this time, however, the LGAB will again notify both Councils when gazettal has taken place.

COUNCIL RESOLUTION 130/22

Moved: Cr Mills

Seconded: Cr Jones

That Council notes that the Minister for Local Government has approved the change to the district boundary in accordance with the joint proposal to the Local Government Advisory Board by the Shire of Donnybrook Balingup and Shire of Boyup Brook.

CARRIED 6/0

For: Cr Wringe, Cr Glover, Cr Atherton, Cr Gubler, Cr Jones and Cr Mills

Against: Nil

Cr Smith re-entered the Chamber at 6:16 pm

9.3 CHIEF EXECUTIVE OFFICER

9.3.1 OFFER TO PURCHASE SHIRE PROPERTY – LOTS 3 AND 4 BRIDGE ST, DONNYBROOK

Location	Lots 3 and 4 Bridge Street, Donnybrook
Applicant	Shire of Donnybrook Balingup
File Reference	A1043 and A1079
Author	Loren Clifford, Corporate Planning and Governance Officer
Responsible Officer	Maureen Keegan, Manager Executive Services
Attachments	9.3.1(1) – Letter of Offer 9.3.1(2) – Acumentis Valuation 9.3.1(3) – OPTEON Valuation 9.3.1(4) – Shire Letter to surrounding landowners 9.3.1(5) – Water Corporation correspondence to landowners 9.3.1(6) – Letter from Residents and Ratepayers of Kelly St, Donnybrook
Voting Requirements	Simple Majority

Cr Atherton left the Chamber at 6:16 pm

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Accepts the Water Corporation’s offer to purchase Lots 3 and 4 Bridge Street, Donnybrook for a combined total of \$100,000. 2. Authorises the Chief Executive Officer to undertake all actions to enact the sale of the properties in accordance with Point 1, subject to the sale price being not less than \$100,000. 3. Allocates all proceeds from the sale of Lots 3 and 4 Bridge Street to the VC Mitchell Park Project, and reduce the budgeted loan by the corresponding value. 4. Requests the Chief Executive Officer prepare a budget amendment report for Council to recognise the proceeds of the sale and the corresponding reduction of the loan amount associated with the VC Mitchell Park Project.

STRATEGIC ALIGNMENT

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

Outcome 6 The built environment is responsibly planned and well maintained.

- Objective 6.1 Ensure sufficient land is available for residential, industrial and commercial uses.
- Priority Project 6.1.4 Advocate for provision of relevant services and infrastructure to facilitate appropriate land development.

EXECUTIVE SUMMARY

A formal letter of offer has been received from the Water Corporation to purchase Lots 3 and 4 Bridge Street, Donnybrook for a combined total of \$100,000 (Attachment 9.3.1(1)).

Water Corporation has advised that it wishes to acquire the land to construct a new wastewater pump station as well as install new pipework to connect to the existing network on Bridge Street. This will enable the expansion of the reticulated sewer infrastructure to the eastern side of the Preston River including development proposed and approved along Kelly Road.

Water Corporation has obtained two licensed valuations from Acumentis and OPTEON for the properties. The submitted offer to purchase the properties for \$100,000 is \$5,000 less than the combined valuation of \$105,000 received from OPTEON, and \$5,000 more than the combined valuation received from Acumentis (Attachments 9.3.1(2) and 9.3.1(3)).

It is recommended that Council approves the sale of the subject properties.

BACKGROUND

Lots 3 and 4 on Plan 2170 are zoned “Residential R20” under Local Planning Scheme 7 (LPS7) and are owned freehold by the Shire. Lot 3 is 549m² and Lot 4 is 613m².



Figure 3 - Lots 3 & 4 on Plan 2170 Bridge Street, Donnybrook

Both lots are currently vacant and cleared of vegetation apart from a small group of trees located on the south-eastern corner of Lot 4. The land slopes towards the river and falls away reasonably steeply from Bridge Street. Whilst the land is zoned 'Residential' it is considered to have limited development potential, due to its low-lying nature and proximity to the Preston River.

An adjoining unconstructed "right of way" separates the lots from the residential lots to the east. Land on the southern side of Bridge Street is zoned "Tourism" and contains a backpackers accommodation business. The land to the north consists of two vacant lots, zoned 'Residential R20' which are also owned freehold by the Shire. The land on the western boundary is reserved for "Parks and Recreation" and forms part of the Preston River water course.

At the Council meeting on 24 November 2019 Council considered a similar request from a private entity (Cardno (WA) Pty Ltd) for the acquisition of Lot 4 for the same purpose. However, at that time the request was for the Shire to 'gift' the land, rather than sell it.

In considering the matter, Council resolved the following [187/19]:

"That Council:

1. *Advise Cardno (WA) Pty Ltd that it declines the request to 'gift' Lot 4 Bridge Street, Donnybrook for the following reasons:*
 - 1.1 *The subject land is a community owned asset and Council has a responsibility to seek appropriate compensation when disposing of such assets;*
 - 1.2 *The subject land is required to support private development for commercial gain and it is considered the land purchase price should be factored into the developer's costs;*

- 1.3 *The valuation amount is considered reasonable in the context of the overall development.*
2. *Advise Cardno (WA) Pty Ltd that it agrees 'in-principle' to sell Lot 4 Bridge Street, Donnybrook for the price of \$40,000 (ex GST) subject to first complying with the provisions of s.3.58 of the Local Government Act 1995 and the applicant being responsible for all conveyancing and associated land transfer costs;*
3. *Pursuant to section 3.58(3)(b) of the Local Government Act 1995 provides the following reasons for its decision to dispose of the asset:*
 - 3.1 *The land is not developable for residential purposes due to its low lying topography and proximity to the Preston River;*
 - 3.2 *The installation of a pump station is required for the approved development on Lot 108 Kelly Road, Donnybrook;*
 - 3.3 *The installation of a pump station has the capacity to increase land development opportunities on the eastern side of Preston River.*
4. *Authorises the Chief Executive Officer to undertake public notification in accordance with s.3.58 of the Local Government Act 1995;*
5. *Subject to no submissions being received during the public notification period, authorises the Chief Executive Officer and Shire President to undertake the necessary measures to dispose of the land in accordance with this resolution.*
6. *Should any submissions be received during the public notification period, instructs the Chief Executive Officer to bring a report back to Council for further consideration."*

It is noted that the offer to sell Lot 4 Bridge Street, Donnybrook to Cardno (WA) Pty Ltd. did not eventuate.

Water Corporation have advised that they wish to acquire the land to facilitate the development of a pump station which will enable the expansion of the reticulated sewer infrastructure to the eastern side of the river. More specifically, as identified within Structure Plan for the Kelly Road area approved by the WAPC on 7 March 2013, sewer reticulation would need to be installed in accordance with the Water Corporation requirements. Development proposed along Kelly Road reflects this requirement with a condition of each of the following approvals including the requirement to connect to the reticulated sewer service:

- Condition 20 of WAPC subdivision approval 158988 (Lot 9501 Kelly Road, Donnybrook)
- Condition 22 of WAPC subdivision approval 158993 (Lot 9500 Kelly Road, Donnybrook)
- Condition 13 of development approval P18057 (Lot 100 Kelly Road, Donnybrook)

FINANCIAL IMPLICATIONS

The recommendation is to sell the lots which have limited development potential and allocate the funds towards the VC Mitchell Park project. If Council is supportive of this approach, it will reduce the required loan and in turn, the principal, interest and guarantee fee applicable to the loan.

In addition to the sale price, the Water Corporation has also offered to contribute \$1,000 towards legal and conveyancing costs.

There will also be a minor reduction in operational costs associated with the maintenance of the subject land which is currently the Shire's responsibility.

POLICY COMPLIANCE

As per Council Policy *EXE/CP-2 Document Execution and Application of the Common Seal* the CEO is authorised to execute the documents relating to this sale.

STATUTORY COMPLIANCE

Section 3.58 of the LG Act 1995 is relevant to the disposal of local government property as per the following:

Local Government Act 1995

3.58 Disposing of Property

- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
 - (a) *it gives local public notice of the proposed disposition —*
 - (i) *describing the property concerned; and*
 - (ii) *giving details of the proposed disposition; and*
 - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and*
 - (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*

Notwithstanding the above, Regulation 30(2)(c)(ii) of the *Local Government (Functions and General) Regulations 1996*, identifies certain transactions as being 'exempt dispositions' which is applicable in this case, due to the land being sold to the Water Corporation which is considered a 'department, agency or instrumentality of the Crown in right of the State or the Commonwealth'. The relevant section is as follows:

Local Government (Functions and General) Regulations 1996

30. Dispositions of property excluded from Act s. 3.58

...

(2) *A disposition of land is an exempt disposition if –*

...

(c) the land is disposed of to —

(i) the Crown in right of the State or the Commonwealth; or

(ii) a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or

(iii) another local government or a regional local government;

In effect, this means that the sale of the subject land to the Water Corporation is exempt from the requirements of Section 3.58(3) of the *Local Government Act 1995*, including the need to give local public notice or invite submissions.

CONSULTATION

Although the sale is exempt from local public notice under Regulation 30 of the *Local Government (Functions and General) Regulations 1996* as outlined above, the Shire has forwarded letter correspondence to the owners of Lot 5 through to Lot 9 Kelly Road and Lot 35 Bridge Street to advise of the proposed sale and that the matter is being presented to Council for a decision (Attachment 9.3.1(4)).

A letter was received on 16 September 2022 from residents and ratepayers of Kelly Street, Donnybrook, in response to the Shire's letter advising them of the proposed sale. (Attachment 9.3.1(5))

Independently, the Water Corporation has recently forwarded its own correspondence to residents notifying of the proposed new wastewater pump station (Attachment 9.3.1(5)).

OFFICER COMMENT

The extension of the sewer network will assist in improving the viability of residential expansion east of the Preston River and therefore has significant benefits to the growth of the Donnybrook townsite. The subject land, whilst being zoned 'Residential' has limited capacity to be utilised for this purpose due to it being located within the river's floodway and therefore the proposed use is considered to represent an appropriate use.

Based on the constraints relevant to the land parcels, the valuations provided are considered reasonable and the sale provides an opportunity to direct funds to the VC Mitchell Park Project, thereby reducing the loan amount required.

In light of the above, it is recommended that Council supports the officer recommendation.

EXECUTIVE RECOMMENDATION

Moved: Cr Smith

Seconded: Cr Jones

That Council:

- 1. Accepts the Water Corporation's offer to purchase Lots 3 and 4 Bridge Street, Donnybrook for a combined total of \$100,000.**
- 2. Authorises the Chief Executive Officer to undertake all actions to enact the sale of the properties in accordance with Point 1, subject to the sale price being not less than \$100,000.**
- 3. Allocates all proceeds from the sale of Lots 3 and 4 Bridge Street to the VC Mitchell Park Project, and reduce the budgeted loan by the corresponding value.**
- 4. Requests the Chief Executive Officer prepare a budget amendment report for Council to recognise the proceeds of the sale and the corresponding reduction of the loan amount associated with the VC Mitchell Park Project.**

Foreshadowed / Alternate motion : Cr Wringe

Moved : Cr Wringe

Seconded Cr Smith

That Council:

- 1. Accepts the Water Corporation's offer to purchase Lots 3 and 4 Bridge Street, Donnybrook for a combined total of \$100,000.**
- 2. Authorises the Chief Executive Officer to undertake all actions to enact the sale of the properties in accordance with Point 1, subject to the sale price being not less than \$100,000.**
- 3. Allocates all proceeds from the sale of Lots 3 and 4 Bridge Street to the VC Mitchell Park Project, and reduce the budgeted loan by the corresponding value.**
- 4. Requests the Chief Executive Officer to prepare a budget amendment report for Council to recognise the proceeds of the sale and the corresponding reduction of the loan amount associated with the VC Mitchell Park Project.**

5. **Acknowledges receipt of the letter from residents of Kelly Street opposing the sale to Water Corporation because of the proposed development.**
6. **Acknowledges reticulated sewer is a requirement for current and future urban land development.**
7. **Acknowledges Water Corporation have considered various locations in this process.**
8. **Instruct the Chief Executive Officer to request Water Corporation to consider reducing visual, noise and other impacts to neighbouring and nearby residents.**

CARRIED 6/0

For: Cr Wringe, Cr Glover, Cr Gubler, Cr Jones, Cr Mills and Cr Smith

Against: Nil

COUNCIL RESOLUTION 131/22

Moved Cr Smith

Seconded Cr Jones

That Council:

1. **Accepts the Water Corporation's offer to purchase Lots 3 and 4 Bridge Street, Donnybrook for a combined total of \$100,000.**
2. **Authorises the Chief Executive Officer to undertake all actions to enact the sale of the properties in accordance with Point 1, subject to the sale price being not less than \$100,000.**
3. **Allocates all proceeds from the sale of Lots 3 and 4 Bridge Street to the VC Mitchell Park Project, and reduce the budgeted loan by the corresponding value.**
4. **Requests the Chief Executive Officer to prepare a budget amendment report for Council to recognise the proceeds of the sale and the corresponding reduction of the loan amount associated with the VC Mitchell Park Project.**
5. **Acknowledges receipt of the letter from residents of Kelly Street opposing the sale to Water Corporation because of the proposed development.**
6. **Acknowledges reticulated sewer is a requirement for current and future urban land development.**
7. **Acknowledges Water Corporation have considered various locations in this process.**

- 8. Instruct the Chief Executive Officer to request Water Corporation to consider reducing visual, noise and other impacts to neighbouring and nearby residents.**

CARRIED 6/0

For: Cr Wringe, Cr Glover, Cr Gubler, Cr Jones, Cr Mills and Cr Smith

Against: Nil

Cr Atherton re-entered the Chamber at 6:22 pm

10 ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

12 MEETINGS CLOSED TO THE PUBLIC

12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

12.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

13 CLOSURE

The Shire President to advise that the next Ordinary Council Meeting will be held on 26 October 2022 commencing at 5.00pm in the Shire of Donnybrook Balingup Council Chamber.

The Shire President declared the meeting closed at 6:22 pm.

These Minutes were confirmed by the Council as a true and accurate record at the Ordinary Council Meeting held 26 October 2022.



Cr Leanne Wringe
SHIRE PRESIDENT