



Shire of
Donnybrook Balingup

MINUTES OF ORDINARY MEETING OF COUNCIL

Held on

Wednesday 28 February 2024

Commenced at 5:00pm

Shire of Donnybrook Balingup Council Chamber, Donnybrook

A handwritten signature in black ink, appearing to read 'Garry Hunt', is positioned above the printed name.

Garry Hunt
Temporary Chief Executive Officer

7 March 2024

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SHIRE OF DONNYBROOK BALINGUP
MINUTES OF ORDINARY COUNCIL MEETING

Held at the Council Chambers
 Wednesday, 28 February 2024 at 5:00pm

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Shire President – Acknowledgment of Country

The President acknowledged the continuing connection of Aboriginal people to Country, culture and community, including traditional custodians of this land, the Wardandi and Kaneang People of the Noongar Nation, paying respects to Elders, past and present.

The Shire President declared the meeting open at 5:03pm 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 President further stated the following:

“This Briefing session 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 Vivienne MacCarthy (President)	Garry Hunt – Chief Executive Officer (Temporary)
Cr Lisa Glover (Deputy President)	Kim Dolzadelli – Director Finance and Corporate
Cr Alexis Davy	Ross Marshall – Director Operations
Cr Peter Gubler	Loren Clifford – Manager Corporate Services
Cr Anita Lindemann	Samantha Farquhar – Administration Officer Corporate Services
Cr Anne Mitchell	
Cr Grant Patrick	
Cr Deanna Shand	

PUBLIC GALLERY

29 members of the public were in attendance.

2.1 APOLOGIES

Cr John Bailey.

2.2 APPROVED LEAVE OF ABSENCE

Nil.

2.3 APPLICATION FOR A LEAVE OF ABSENCE

Nil.

3 ANNOUNCEMENTS FROM PRESIDING MEMBER

4 DECLARATION OF INTEREST

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

Mrs Michelle Dennis - Manager Development Services, declared an impartiality interest regarding item 9.1.3 as she is related to one of the members of the Historical Society.

Mrs Loren Clifford - Manager Corporate Services, declared an impartiality interest regarding item 9.3.1, as she has visited the pathology in the past 12 months and immediate family members have attended the Donnybrook Medical Centre in the past 12 months.

Miss Samantha Farquhar - Administration Officer Corporate Services, declared an impartiality interest regarding item 9.3.1, as she has visited the Donnybrook Medical Centre within the last 12 months.

Mr Ross Marshall - Director Operations, declared an impartiality interest regarding item 12.1.2, as in his previous career he experienced direct and indirect commercial interactions with contractors including Scope Electrical Contracting, Southwest Electrical and Communications, and Warren Electrical.

Mr Kim Dolzadelli – Director Finance and Corporate declared an impartiality interest regarding item 9.3.1, as he attends the Donnybrook Medical Centre as a member of the public as well as pathology at times.

Deputy President Lisa Glover declared a financial, proximity, indirect financial and an impartiality interest regarding item 12.1.2, as herself and partner are a co-owner of a property on the boundary of VCMP. Lisa is also a member of various sporting clubs, and her property is tenanted.

President MacCarthy declared an impartiality interest regarding item 9.3.1, as she is a patient at the surgery.

Cr Anita Lindemann declared an impartiality interest regarding item 9.3.1, in the context of friendship.

5 PUBLIC QUESTION TIME

5.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Question: Shane Sercombe

With the Shire's net result being 9 million dollars less than budget and capital expenses also 14 million dollars less than budgeted, can the Council and community have faith in the budget processes.

Response: Director Finance and Corporate

The Question relates to the Statement of Comprehensive Income.

My last answer would contribute a lot to what you are talking about. I also think in the presentation of the Financial Statement, where I broke down the income statement and we took away capital grants because that's not for operations and depreciation is for fixed assets which is what you are talking about.

In private enterprise when you are running a business and you're going to sell assets, and they have a saleable value, that's meaningful. Quite frankly in Local Government it's not. You can't sell a road and if we wanted to close a road, the land would revert to the Crown, It doesn't even become ours. In an accounting world, it's an asset, whereas often I refer a Road as a Liability because all they do is consume money. Just remember the rate of depreciation and we talk about dwindling asset base. The fact is our asset base isn't dwindling.

The main cause of the increased depreciation is an asset revaluation. Which is saying these assets are now worth "X" and in 5 years time it'll happen again. Each time "X" gets bigger, the amount of the depreciation increases. It doesn't mean we are going broke, and it doesn't mean we are not sustainable. A lot of the funding of the \$3.2 million in Road's renewal expenditure came from government agencies such as the Roads to Recovery Federal Road Program. They have now realised after a damming report that

the budget they have and allocate through all the States is so underdone that they have doubled it.

For our Shire next year, if we get double the allocation we did this year, that will be another \$400,000 in agency funding. I also believe that there will be a push through State Government agencies as well in terms of their funding levels to Local Government. We have the Regional Road Group (RRG) funding, and that allocation pool has not increased since COVID came in and we all know that COVID and associated pressures has put prices through the roof. We need to be careful where we spend our money and focus on renewal.

Question: Victoria Buckley

The owners of the property, that is for sale, next to Farm Co, have closed off the walk path along the river from their boundary near the weir to the Farm Co boundary, heading towards Beelerup. I am among the many people who use that path and have done so for the past 17 years. Long time Donnybrook residents tell me they have used that path 30/40 years, I haven't spoken to anyone who has not had access to that walk along the river.

My understanding is the owners have closed it off because of undesirable activity at the 'hideaway/cubby house' tree. I am asking the Council if they could investigate this with the possibility of re-opening the path and finding a solution to curb the activity that caused the owners to take this action. Maybe policing by the Police and or the Ranger.

My understanding of property boundaries is: - the original title for the properties backing on to the river went to the middle of the river. If that property is sold or subdivided, then the boundary moves 100 metres? or so from the middle of the river, returning the river frontage to Crown Land. If that is so then the river boundary of that land being sold should not be showing on signs or advertising that it encompasses the river.

Response: Manager Works and Services

The Shire is aware that access along the foreshore "path" has been blocked. The path is located on private property (19 Carey Street) and the boundary stretches to the river. The owners are within their rights to block the path on their private property.

Question: Victoria Buckley

The path from the Ampitheater carpark heading towards the swinging bridge does not have a 'Dogs on Leash' signage. From the swinging bridge to the Ampitheatre there is a "Dogs on Leash" signage. This has caused some conflict with dog owners and non-dog owners using that path. Some people walk that side of the river because it is an on-leash area, dog owner or not. Most locals would be aware it is considered an on-leash area, however visitors to Donnybrook accessing the path from the car park would be unaware. Either way it needs to be made clear if it is an, on or off leash area.

Response:

Please see relevant sections of the Dog Act 1976 S 31. Control of dogs in certain public places

*(1) A dog shall not be in a public place unless it is —
(a) held by a person who is capable of controlling the dog; or
(b) securely tethered for a temporary purpose,
by means of a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length.*

(Unless otherwise indicated dog owners must keep their dogs on a leash while in public places)

(3A) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a dog exercise area.

(Dog exercise areas were established by council resolution at the Ordinary Council meeting held 23rd July 2014, these areas are sign posted and listed on our website).

There are four (4) dog on leash signs along the western side of the Preston River near the amphitheatre and we will arrange to have one of the existing signs relocated.

5.2 PUBLIC QUESTION TIME

Question: Harry Ortheil

1. *Who ultimately approved the festival?*
2. *What noise studies were conducted to ascertain which ratepayers would be affected by the noise?*
3. *How were community members notified of the event and consulted in relation to it, and how did the shire ensure those ratepayers who would be affected were communicated with?*
4. *Why was the event allowed to be exempt from normal requirements to not make unreasonable noise past a certain hour in close proximity to residential areas?*
5. *What fire management plan was in place and was this event approved by the department of fire and emergency services?*
6. *Was the property where the event was held zoned to host a large commercial event and did the property owner make a profit from the event?*
7. *What fees did the organisers pay to the shire?*
8. *What insurance did the organisers and shire have in case the event caused a bush fire?*
9. *Will the shire commit to a public meeting to discuss the event and if it should be allowed to happen again?*
10. *Which conditions were placed on the organisers and how did the Shire ensure the conditions were complied with?*

11. *What costs did the Shire incur (clean-up etc.)?*

Response: Director Operations

Shire Officers have prepared a draft report for the Meliora New Years Arts and Music Festival for Council to review. The report includes information and answers to frequently asked questions as raised by a number of respondents.

The report also includes...

- A site map for the location of the registered complaints, and
- A copy of the minutes from the event debrief carried out with the proponents, Police, Chief Fire Control Officer, Community Emergency Manager, land owner, and shire Officers.

A copy of the respondent's correspondence is included in the report however personal information has been redacted. The information in the report will help establish a meaningful, factual, and efficient discussion. The report will be presented to Council on Wednesday 27 March 2024.

Question: Edward Rees

Did the following people (Mrs Loren Clifford, Miss Samantha Farquhar, and President MacCarthy) declare an impartiality interest in this matter to avoid being questioned on the matter? If being a patient at the surgery or the blood test centre qualifies as an interest in the purchase of the property then half of the population of Donnybrook would be in the same boat.

Response: Temporary Chief Executive Officer

The Legislation prescribes that if there is an impartiality or financial interest, then the individuals must declare that. In the case of an impartiality interest, it doesn't stop those individuals being part of the meeting, although you don't get to ask questions of individuals in the Council meeting, you get to ask the questions of the Council.

Question: Kay Butler

Why do we not have an organic bin service on my street. It had been in place previously and I would like it to be re installed.

Response: Director Operations

Question taken on notice.

Question: Wietske van der Velden Schuijling

What are the rules and regulations around Council Members ability to engage in dialogue with people like myself to facilitate informed decision making? It seems essential for Council Members to have the opportunity to ask clarifying questions and gather information directly from myself to better understand my requests. Could you provide insights into how much interactions are managed within Council.

Response: Temporary Chief Executive Officer

There are a number of mechanisms that are available for an individual to make their point to Council. One is to ask for a deputation, in which case you can address the Council in relation to your issue. The opportunity is also available to ask questions at public question time. The other alternative is to seek to meet with representatives in relation to a particular issue. All of which are capable of being undertaken if the application is made. Once the application is lodged, there are limitations of elected members participating in conversations on an individual basis with the applicants.

Question: Wietske van der Velden Schuijling

In the minutes concerning my request, there's a reference to 'thorough market research'. Could you please provide clarification on what this entails specifically, I'm interested in knowing which market segments were researched. Did the research encompass other medical facilities in towns of similar size, or did you compare me to general commercial enterprises?

Response: Temporary Chief Executive Officer

I take it that you are referring to the valuation of the property. The valuation requirements of the property are in relation to the land and the buildings on the land but not the business that might be conducted on the land. It's purely the value of that particular property. The valuation individuals were aware how the property was held, they are also aware of how the property would need to be changed in terms of it's the holdings if the Council or someone else was to acquire the site. It doesn't take in to account the particular Medical Centre business, it only takes to account the value of that property and the various buildings on it.

Question: Michelle Padman

What is the validity of the valuation that was performed prior to Donnybrook Medical Services new lease drawn up and the relevancy of the comment that there is a shortfall of rental income of 38.78% below market rent if Donnybrook Medical pay the rent that was recommended from the valuation and their lease? How does the Shire come up with this statement?

Response: Temporary Chief Executive

The valuation that was performed is the value of the property as of now, with various restrictions and encumbrances on it. The comment the short fall of rentals is a comparison of what the rental might be today in comparison to what's currently being paid. The lease that is currently in existence continues. That was the designated value that was assigned at the time and the agreement between the lessee and the Council of the day. I don't know what proportion of the original rent was applied to the property at that time.

6 PRESENTATIONS

6.1 PETITIONS

Nil.

6.2 PRESENTATIONS

Nil

6.3 DEPUTATIONS

Nil.

7 CONFIRMATION OF MINUTES

7.1 SPECIAL MEETING OF COUNCIL – 24 JANUARY 2024

Minutes of the Special Meeting of Council held 24 January 2024 are attached (Attachment 7.1(1)).

EXECUTIVE RECOMMENDATION

That the Minutes from the Special Meeting of Council held 24 January 2024 be confirmed as a true and accurate record.

COUNCIL RESOLUTION 11/24

MOVED: Cr MacCarthy

SECONDED: Cr Mitchell

That the Minutes from the Special Meeting of Council held 24 January 2024 be confirmed as a true and accurate record.

CARRIED 8/0

For: Cr Glover, Cr Gubler, Cr Davy, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick, Cr Shand

Against: Nil.

7.2 WARREN BLACKWOOD ALLIANCE OF COUNCILS – 5 DECEMBER 2023

Minutes of the Warren Blackwood Alliance of Councils held 5 December 2023 are attached (Attachment 7.2(1)).

EXECUTIVE RECOMMENDATION

That the Minutes from the Warren Blackwood Alliance of Councils held 5 December 2023 be received.

COUNCIL RESOLUTION 12/24

MOVED: Cr MacCarthy

SECONDED: Cr Davy

That the Minutes from the Warren Blackwood Alliance of Councils held 5 December 2023 be received.

CARRIED 8/0

For: Cr Glover, Cr Gubler, Cr Davy, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick, Cr Shand

Against: Nil.

8 REPORTS OF COMMITTEES

Nil.

9 REPORTS OF OFFICERS

9.1 DIRECTOR OPERATIONS

9.1.1 ROAD SEALING REQUEST INVOLVING PRIVATE CONTRIBUTION – JOHNSTON STREET, YABBERUP

Location	Johnston Street, Yabberup
Applicant	John and Nell Blencowe (Owners of Lot 73 Johnston Street, Yabberup)
File Reference	A5111
Author	Damien Morgan, Manager Works and Services
Responsible Manager	Ross Marshall, Director Operations
Attachments	9.1.1(1) – Sit Plan - Johnston Street Sealing Extent 9.1.1(2) – 29 March 2018 - OCM Minutes - Item 10.2.1 9.1.1(3) – Email Correspondence – Lot 73 Owners
Voting Requirements	Simple majority

EXECUTIVE RECOMMENDATION

That Council:

1. Authorise the Chief Executive Officer to give due consideration to allocating \$83,500 (Inc GST) when preparing the 2024/2025 Shire's Draft Annual Budget, for the purpose of upgrading 370m of Johnston Street Yabberup to a sealed standard, subject to the following contributions:
 - 1.1. \$33,500 (Inc GST) - Shire funding; and
 - 1.2. \$50,000 (Inc GST) - External private contributions.
2. Request the Chief Executive Officer to formally communicate to the owners of lot 73 Johnston Street that:
 - 2.1. In the event that the \$50,000 (Inc GST) private contribution is not forthcoming at all, the Shire is unlikely to seal the relevant portion of Johnston Street, Yabberup in the future, due to it being a low priority road; and
 - 2.2. The timing of all works will be at the sole discretion of the Shire.
3. Subject to the project being included in the adopted 2024/2025 Annual Budget, and the outlined works being undertaken, authorise the Chief Executive Officer to include \$16,500 (Inc GST) in the 2025/2026 Annual Budget, for the second coat seal of Johnston Street.

STRATEGIC ALIGNMENT

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

Outcome	8.	Safe and convenient movement of people in and around the district.
Objective	8.1	Improve road safety, connectivity, and traffic flow for all users.
Objective	11.1	Provide strategically focused, open, and accountable governance.

EXECUTIVE SUMMARY

The owners of Lot 73 (16) Johnston Street, Yabberup, have made a request to upgrade the remaining gravel section of Johnston Street to a sealed standard, for a distance of 370 meters, adjacent to their property. The request has been made based on the owners contributing \$50,000 (Inc GST) towards the cost of the upgrade works.

BACKGROUND

Johnston Street is located within the locality of Yabberup, providing access to several rural properties in the area. Johnston Street is a gravel road for its full constructed length (370m) and intersect with Donnybrook-Boyup Brook Road and Fowler Street (both sealed roads), at each end (Refer to Attachment 9.1.1(1)).

The owners of Lot 73 Johnston Street, Yabberup, approached the Shire to discuss the process for having Johnston Street sealed, so as to reduce the dust created from vehicles travelling on Johnston Street, past their house. The owners were advised that requests of this nature are assessed by officers in accordance with the Shire of Donnybrook Balingup *Unsealed Roads Upgrade Plan* (Plan), to determine the priority of the requested works.

The Plan determines the priority for requests to seal gravel roads based on several factors including:

- road usage;
- strategic significance;
- crash history;
- network connectivity; and
- tourism.

When assessed by officers in accordance with the Plan, the priority for the Shire to seal Johnston Street was not deemed to be of a level that warranted it to be sealed in front of other identified projects.

This is consistent with the assessment undertaken by Shire staff in 2018, when a petition was presented to Council at its Ordinary Council Meeting (OCM) held on the 29 March 2018.

The resolution of Council for the agenda item (10.2.1) was:

That Council:

1. *Receive the petition for the sealing of Johnston Street and Fowler Road, Yabberup;*
2. *Instruct the Chief Executive Officer to advise the applicants:*
 - a. *To submit an application to seal Johnston Street and Fowler Road, Yabberup consistent with Shire Engineering Policy 4.4 “Bituminising Roads on a Joint Basis with Adjoining Land Owners”;*
 - b) *If no application is received in accordance with Shire Engineering Policy 4.4, the requested works will be considered along with other priorities in Council’s Annual Works Program.*

Carried by En Bloc Resolution No. 1

A copy of the minutes for agenda item 10.2.1 of the 29 March 2018 OCM are provided in Attachment 9.1.1(2)

As per the above resolution, the Council has historically considered the sealing of low priority gravel roads when owner/s or other parties contribute towards the cost of the works. Council has typically only considered these requests when the following criteria are met:

- Property owner/s or other parties are proposing to contribute at least 50% of the cost of the upgrades; and
- The standard of the works is to the Shire’s satisfaction; and
- Works are completed by the Shire, or a contractor approved by the Shire; and
- Council’s contribution towards the works being typically limited to maximum amount of \$50,000 (ex GST).

This approach has largely been applied to landowners seeking to reduce dust from gravel roads adjacent to a residential dwelling, or to have sealed access to their crossover.

Following being provided with this information, the owners requested a cost estimate for the sealing of Johnston Street be provided. Initial calculations by the Shire’s Manager Works and Services, was for their contribution to be based on paying 50% of the cost to seal a 200m section.

Further discussions and negotiations resulted in the owners confirming with the Shire that they would agree to contribute \$50,000 (Inc GST) towards the total cost of sealing the full length (370m) of Johnston Street, which was calculated at \$100,000 (Inc GST). (Refer to Attachment 9.1.1(3)).

FINANCIAL IMPLICATIONS

The Shire has estimated the cost for the upgrading and sealing of Johnston Street, Yabberup for 370m, to be \$100,000 (Inc GST). This is based on the following:

4. Achieving a 6m wide seal road, with suitable gravel shoulders, incorporating:

- 1.1. Pre-planning, and site establishment,
- 1.2. Traffic management (including on the Donnybrook-Boyup Brook Road),
- 1.3. Supply, delivery and formation of suitable gravel road base,
- 1.4. Plant and labour costs, and
- 1.5. a 2-coat seal, with the second coat to be applied 12-months after the first coat.

If the project is adopted by Council for construction in the Annual Budget, the Shire would be responsible for the following funding amounts:

1. \$33,500 (Inc GST) in 2024/2025 for construction up to a single coat sealed standard; and
2. \$16,500 (Inc GST) in 2025/2026, for the application of a 2nd coat seal.

The applicants would be responsible for funding \$50,000 (Inc GST), which would be required to be received by the Shire prior to the 2024/2025 works being undertaken.

POLICY COMPLIANCE

Up until the Special Council Meeting held on 21 December 2021, *Council Engineering Policy 4.28 Request for Upgrades or Expansions of Council Assets* was in effect and was the basis for how requests of this nature were considered.

The policy was rescinded as a Council Policy at the meeting, as the content was determined to be of an operational nature and was to be re-classified and implemented as an “Operational Policy” in accordance with Council’s Policy Framework.

It is noted that this is still a work in progress, however in the interim, officers have applied principles of the former policy 4.28, in order to achieve a level of consistency in terms of how these types of requests are handled.

STATUTORY COMPLIANCE

Nil.

CONSULTATION

Officers have undertaken regular consultation with the applicants in relation to the request.

OFFICER COMMENT

The upgrading of Johnston Street Yabberup is a low priority for the Shire when assessed against the Shire of Donnybrook Balingup *Unsealed Roads Upgrade Plan*. However, the owners are proposing to fund 50% of the works, which warrants further consideration of the request.

The sealing of Johnston Street will have benefits to the Shire's gravel road maintenance requirements in the Yabberup area, especially in relation to risk associated with undertaking these works at an intersection with a highway. Sealing will also benefit other users of the road, including landowners who signed the petition requesting the road to be sealed in 2018.

Based on the above, Officers consider that the proposed works warrant further consideration through the 2024/2025 Annual Budget process, as there are benefits for the Shire as well as the owners of Lot 73 in undertaking these sealing works, subject to the Chief Executive Officer being granted discretion to determine if the draft Annual Budget is able to accommodate the request, before it is presented to Council for their deliberation.

COUNCIL RESOLUTION 13/24

MOVED: Cr Lindemann

SECONDED: Cr Shand

That Council:

- 1. Authorise the Chief Executive Officer to give due consideration to allocating \$83,500 (Inc GST) when preparing the 2024/2025 Shire's Draft Annual Budget, for the purpose of upgrading 370m of Johnston Street Yabberup to a sealed standard, subject to the following contributions:
 - 1.1 \$33,500 (Inc GST) - Shire funding; and**
 - 1.2 \$50,000 (Inc GST) - External private contributions.****

- 2. Request the Chief Executive Officer to formally communicate to the owners of lot 73 Johnston Street that:
 - 2.1 In the event that the \$50,000 (Inc GST) private contribution is not forthcoming at all, the Shire is unlikely to seal the relevant portion of Johnston Street, Yabberup in the future, due to it being a low priority road; and**
 - 2.2 The timing of all works will be at the sole discretion of the Shire.****

- 3 Subject to the project being included in the adopted 2024/2025 Annual Budget, and the outlined works being undertaken, authorise the Chief Executive Officer to include \$16,500 (Inc GST) in the 2025/2026 Annual Budget, for the second coat seal of Johnston Street.**

CARRIED 8/0

For: Cr Glover, Cr Gubler, Cr Davy, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick, Cr Shand

Against: Nil.

9.1.2 DISPOSAL OF APPLE FUN PARK IDLE ASSETS

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	PWF 18AB
Author	Ross Marshall, Director Operations
Responsible Manager	Ross Marshall, Director Operations
Attachments	9.1.2(1) Apple Fun Park Idle Assets Register 9.1.2(2) Apple Fun Park Idle Assets Tender Summary
Voting Requirements	Simple Majority

EXECUTIVE RECOMMENDATION

That Council:

- 1. Authorise the Chief Executive Officer to dispose of Apple Fun Park idle assets as per the following table.**

Tenderer – Person or Entity	Ian Venables	Donnybrook Playgroup	Michael Drake	Stephanie Rahn
Assets	Tube Slides \$1,000	Rocking Ship (boat) Wooden Bench Seats 2 x Shade Sails	Slide (single) x 1	Boat (Rocking Ship) Taxi wobbler \$50 Surf board wobbler \$50 Single slides x 2 \$100 Rope climbing set up \$300 See saw double or quad \$100 Smaller spinning merry go round \$100 Rock wall climbing set \$100 2 x small bench seats \$10ea Hippo tunnel \$50
Consideration	\$1000.00	Nil	Nil	\$870.00

- 2. Authorise the Chief Executive Officer to dispose of the balance of assets using the following means.**
 - 2.1. By way of public interest received in writing before or after the tender deadline, prioritising disposal opportunities within the Shire of Donnybrook Balingup.**
 - 2.2. By any other means to avoid landfill, and disposal costs including but not limited to recycling.**
- 3. Authorise the Chief Executive Officer to allocate all disposal funds received and costs incurred to the Parks and Reserves Reserve.**

STRATEGIC ALIGNMENT

Outcome 11 Strong visionary leadership.

EXECUTIVE SUMMARY

The original Apple Fun Park was created in 2008 and was renewed in 2021. The redundant equipment has been stored at the Shire's town depot since that time. This equipment was donated by the Fry Family and remains on the Shire's registers as idle assets. This report looks to dispose of the assets in accordance with the Local Government Act and with respect to the Fry Family and community sentiment.

BACKGROUND

The Apple Fun Park was first developed in 2008 and remains the biggest free entry playground in Australia. The initial development was community driven and underwritten by generous donation from the Fry Family. The Fry Family donated equipment, provided project management, organized, and paid for local subcontractors, and coordinated contributions for work in kind.

Typically, standard playground equipment would require renewal or updating within 8-10 years after its original installation date - depending on warranty, frequency of use, maintenance, and safety inspections.

In 2019, the Shire of Donnybrook Balingup secured \$1.5 million under Round 3 of the Federal Government's Building Better Regions Fund to revitalise Donnybrook's iconic playground. The revitalised Donnybrook Apple Fun Park was officially open on Friday 8 October 2021.

After the renewal project was completed, the redundant equipment has been stored at the Shire's town depot since that time. This equipment was donated by the Fry Family and remains on the Shire's registers as idle assets.

Whilst the equipment maintains a written down value of \$126,829.04, refer to attachment 9.1.2(1) Apple Fun Park Idle Assets Register, the practical value of the assets is significantly less when considering the cost to rejuvenate, repair, relocate, install, and carry out safety inspection. As the manufacturer's warranty for the equipment has lapsed, re-use on Crown or Shire land is not recommended. Considering this impost, the equipment has no value to the Shire, and in fact is a disposal and land fill liability.

FINANCIAL IMPLICATIONS

Currently the written down value of the equipment in the Shire's Asset Register is \$126,829.04. Refer to Attachment 9.1.2(1), Apple Fun Park Idle Asset Register. The written down value is the value of an asset after accounting for depreciation. As the items listed in the Idle Asset Register have not been fully depreciated due to the items being decommissioned, the final disposal cost that will impact the statement of comprehensive income will be the written down value.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Local Government Act 1995

Section 3.58(3)(a) sets the requirements for disposal of property.

3.58. *Disposing of property*

(1) *In this section —*

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

property includes the whole or any part of the interest of a local government in property, but does not include money.

(2) *Except as stated in this section, a local government can only dispose of property to —*

(a) *the highest bidder at public auction; or*

(b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*

The disposal process was carried out in compliance with Section 3.58(2)(b) of *the Local Government Act 1995*, ensuring transparency and fairness through public tender.

CONSULTATION

Out of respect of the Family's donation, pre-tender external consultation was undertaken with Mr Neville Fry to confirm disposal of the Apple Fun Park equipment is supported. Mr Fry provided support, ideally with Council considering the following.

1. Disposal of the equipment locally, items remaining within the Shire of Donnybrook Balingup location; and
2. Ideally the successful tender submission will include coordination, if practicable rejuvenation, and disbursement to ensure the recipients are bonafide locals with needs or those who might not have the same advantages as others, and likely to be supported by the greater community.

The Tender was advertised by local public notice as follows.

- Shire Website (mandatory).
- Public noticeboards located at both libraries and the Main Administration.
- Shared via the CRC for them to advertise via their own external mediums and socials.
- Shared via Shire social media.
- Shared via the Shire’s E-Connect

Inspection was invited via the local public notice on Friday 15 December 2023 between 9:00am and 10:00am at the Shire’s Town Depot located at the end of Victory Lane, Donnybrook WA 6239.

Acknowledging the need for careful consideration of community sentiment and respect for the Fry Family’s contributions. During the tender period Neville Fry was consulted. Mr Fry provided valuable advice that led to issue of the following Addendum.

“ADDENDUM (issued Friday 8 December 2023)

All prospective tenders are advised that not all items are complete. Some items cannot be reassembled or may not be fit for repurpose. Although not mandatory, the Shire strongly recommend a site inspection and highlight to all prospective tenderers that items subject to this notice are disposed of on a where is, ‘as is’ basis with no warranties.”

OFFICER COMMENT

It’s recommended that the disposal of the outdated playground equipment from the Apple Fun Park in accordance with the Attached 9.1.2(2), Apple Fun Park Idle Assets Tender Summary.

COUNCIL RESOLUTION 14/24

MOVED: Cr Patrick

SECONDED: Cr Lindemann

That Council:

- 1. Authorise the Chief Executive Officer to dispose of Apple Fun Park idle assets as per the following table.**

Tenderer – Person or Entity	Ian Venables	Donnybrook Playgroup	Michael Drake	Stephanie Rahn
Assets	Tube Slides \$1,000	Rocking Ship (boat) Wooden Bench Seats 2 x Shade Sails	Slide (single) x 1	Boat (Rocking Ship) Taxi wobbler \$50 Surf board wobbler \$50 Single slides x 2 \$100 Rope climbing set up \$300 See saw double or quad \$100 Smaller spinning merry go round \$100 Rock wall climbing set \$100 2 x small bench seats \$10ea Hippo tunnel \$50
Consideration	\$1000.00	Nil	Nil	\$870.00

- 2. Authorise the Chief Executive Officer to dispose of the balance of assets using the following means.**
 - 2.1. By way of public interest received in writing before or after the tender deadline, prioritising disposal opportunities within the Shire of Donnybrook Balingup.**
 - 2.2. By any other means to avoid landfill, and disposal costs including but not limited to recycling.**
- 3. Authorise the Chief Executive Officer to allocate all disposal funds received and costs incurred to the Parks and Reserves Reserve.**

CARRIED 8/0

For: Cr Glover, Cr Gubler, Cr Davy, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick, Cr Shand

Against: Nil.

9.1.3 REQUEST FOR HALL HIRE FEE WAIVER – DONNYBROOK HISTORICAL SOCIETY APPLE FESTIVAL BALL

Location	Donnybrook Soldiers Memorial Hall
Applicant	Donnybrook Historical Society
File Reference	NAS11547
Author	Karen Martella, Community Development Officer
Responsible Manager	Michelle Dennis, Manager Development Services
Attachments	9.1.3(1) Request for fee waiver
Voting Requirements	Absolute Majority

EXECUTIVE RECOMMENDATION	
<p>That Council by Absolute Majority:</p> <ol style="list-style-type: none"> Waive the hire fee of the Donnybrook Soldiers Memorial Hall, totaling \$1,834 (equivalent to 3.5 days hire), by the Donnybrook Historical Society for the 2024 Apple Festival Ball. Encourage the Donnybrook Historical Society to consider applying through Council’s Annual Community Grants Funding Scheme for any future events. 	

STRATEGIC ALIGNMENT

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

Outcome	2	A safe and healthy community
Objective	2.2	Facilitate, encourage and support a diverse range of festivals, community events, arts and cultural activities.
Outcome	13	Increased community capacity
Objective	13.1	Enable community organisations and community champions to deliver services and projects to meet local needs.

EXECUTIVE SUMMARY

This year marks the 70th anniversary of the iconic Donnybrook Apple Festival. This year’s program proposes to include a ball to be held at the Donnybrook Soldiers Memorial Hall, hosted by the Donnybrook Historical Society. The Donnybrook Historical Society have requested that the hall hire fees be waived to enable ticket prices to be kept to a minimum.

BACKGROUND

The first Apple Festival was held in Donnybrook in 1954 with the event including a formal gala to announce the ambassadors/queen and princess. The ball element of the Apple Festival ended when the last ambassadors were crowned in the year 2000.

The Donnybrook Historical Society would like to create a connection with the past history of the event and reestablish a community ball as part of this year's festival program. As a not-for-profit group, the Society has requested a waive of the hall hire fees so as to keep ticket pricing as affordable as possible (refer Attachment).

FINANCIAL IMPLICATIONS

The income associated with the hiring of the Donnybrook Soldiers Memorial Hall for the proposed hire period is \$1,834; equivalent to 3.5 days hire.

POLICY COMPLIANCE

Council Policy COMD/CP-1 Community Grants Funding Scheme

4.1.7 Non-cash Donations/Waiver of Fees.

Community groups are ordinarily able to apply for a minor community grant that waives fees for Shire facility hire but this is limited to \$500. The major grant application period is between July and August each year and cannot be applied retrospectively.

STATUTORY COMPLIANCE

Local Government Act 1995

Section 6.12(1)(b) of the *Local Government Act 1995* enables a local government to consider fee waivers such as this. While Council delegation 1.2.24 "Defer, Grant Discounts, Waive or Write Off Debts" delegates this function to the Chief Executive Officer, the value is limited to \$1,000. Values exceeding this delegation require referral to Council for determination.

CONSULTATION

Nil.

OFFICER COMMENT

It is considered that the ball will add a significant element of engagement for the local community to celebrate the Apple Festival. This year is planned as a trial event to see if a ball is a sustainable event to add to the Apple Festival's regular program. As such the organisers are unsure of the number of tickets that will be sold. Supporting this fee waiver means that the event organisers can be more confident that ticket sales will cover the costs of organising the ball. Support is therefore recommended.

COUNCIL RESOLUTION 15/24

MOVED: Cr Lindemann

SECONDED: Cr Glover

That Council by Absolute Majority:

- 1. Waive the hire fee of the Donnybrook Soldiers Memorial Hall, totaling \$1,834 (equivalent to 3.5 days hire), by the Donnybrook Historical Society for the 2024 Apple Festival Ball.**
- 2. Encourage the Donnybrook Historical Society to consider applying through Council's Annual Community Grants Funding Scheme for any future events.**

CARRIED 8/0

For: Cr Glover, Cr Gubler, Cr Davy, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick, Cr Shand

Against: Nil.

9.2 DIRECTOR FINANCE AND CORPORATE

9.2.1 ACCOUNTS FOR PAYMENT – JANUARY 2024

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

EXECUTIVE RECOMMENDATION

That the Accounts for Payment Report for the period ended January 2024 be received.

COUNCIL RESOLUTION 16/24

MOVED: Cr Mitchell

SECONDED: Cr Gubler

That the Accounts for Payment Report for the period ended January 2024 be received.

CARRIED 8/0

For: Cr Glover, Cr Gubler, Cr Davy, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick, Cr Shand

Against: Nil.

9.2.2 MONTHLY FINANCIAL REPORT – JANUARY 2024

The Monthly Financial Report for January 2024 is attached (Attachment 9.2.2(1)).

EXECUTIVE RECOMMENDATION

That the Monthly Financial Report for the period ended January 2024 be received.

COUNCIL RESOLUTION 17/24

MOVED: Cr Davy

SECONDED: Cr Lindemann

That the Monthly Financial Report for the period ended January 2024 be received.

CARRIED 8/0

For: Cr Glover, Cr Gubler, Cr Davy, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick, Cr Shand

Against: Nil.

9.3 CHIEF EXECUTIVE OFFICER

9.3.1 PROPOSAL TO PURCHASE LOT 501 DP72099 BENTLEY STREET, DONNYBROOK

Location	Lot 501, DP072099 (41) Bentley Street, Donnybrook
Applicant	Confidential
File Reference	A5047, L006
Author	Loren Clifford, Manager Corporate Services
Responsible Manager	Dr Garry Hunt PSM, Temporary Chief Executive Officer
Attachments	9.3.1(1) Proposal to purchase - Confidential 9.3.1(2) Market Valuation Report - Confidential
Voting Requirements	Absolute Majority

EXECUTIVE RECOMMENDATION

That Council:

- 1. Does not accept the offer to purchase Lot 501 on DP 72099 Bentley Street Donnybrook as the offer is materially below the market value; and**
- 2. Initiates the process to acquire Reserve 52021 from the Crown.**

STRATEGIC ALIGNMENT

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

EXECUTIVE SUMMARY

The Shire has received a proposal to purchase the land and buildings at Lot 501 on DP 72099 Bentley Street, Donnybrook, as per Confidential Attachment 9.3.1(1). The property has a purpose-built medical center and pathology centre and is subject to Reserve 52021 management order (O556467) for the purpose of Medical Centre and Allied Health purposes.

The proposed purchase price is significantly below market value as per Confidential Attachment 9.3.1(2).

BACKGROUND

The subject property, comprising Lot 501 on Deposited Plan 072099 Bentley Street, Donnybrook, is a 7,374m² parcel with a purpose-built medical centre and pathology centre. The property is a Crown Reserve, necessitating acquisition from the Crown before any sale can proceed.

The property is subject to Reserve 52021 management order, and any future sale would require acquisition of freehold title from the Crown. The medical center is currently leased to Donnybrook Medical Centre Pty Ltd until June 2026, and the pathology center is leased to Sonic Healthcare Ltd until September 2026.

FINANCIAL IMPLICATIONS

Income Potential

The valuation report details that the property has the potential of generating a larger net income per annum than it's currently deriving from the two tenants, currently occupying the premises, the shortfall is due to the passing rental income from the medical centre being approximately 38.78% below market rent as detailed in the report (the next market review date is 1 July 2026). This income stream is a significant factor contributing to the property's overall value.

Future Potential

The valuation report highlights that the property includes surplus land (3,700m²) with potential for further development. This additional land adds value to the property beyond its current use as a medical center and pathology. An estimate of the value of the surplus land is noted on page 4 in Confidential Attachment 9.3.1(2).

The offer to purchase as per Confidential Attachment 9.3.1(1) is significantly below the market valuation as per Confidential Attachment 9.3.1(2). Additional costs for acquiring the property from the Crown are unknown.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Sections 5.38 and 5.39 of the *Local Government Act 1995* apply.

CONSULTATION

An independent commercial market valuation was conducted by Acumentis on 31 January 2024 as per Confidential Attachment 9.3.1(2).

OFFICER COMMENT

The valuation report provides detailed explanations for the chosen valuation methodologies, including the capitalisation rate and direct comparison rate. These methodologies are based on thorough market research, analysis of sales evidence, and consideration of the property's specific characteristics.

Risk Assessment

The risk assessment section of the report indicates favorable conditions for the property, including low vacancy levels, fair demand to lease medical centers in the regional location, and low supply of similar properties. These factors suggest that the property is in a stable and desirable market, reducing the risk associated with ownership.

Based on the comprehensive valuation analysis provided in Confidential Attachment 9.3.1(2), it is evident that the offer outlined in Confidential Attachment 9.3.1(1) significantly undervalues Lot 501 on Deposited Plan 072099 Bentley Street, Donnybrook compared to its assessed market value. Accepting such a low offer would not align with the best interests of the Shire, as it would result in a substantial loss of potential value.

Therefore, it is recommended that the Shire reject the offer detailed in Confidential Attachment 9.3.1(1) for Lot 501 on Deposited Plan 072099 Bentley Street, Donnybrook. Instead, officers recommend initiating the process to acquire Reserve 52021 from the Crown, acknowledging that:

1. There will be additional costs associated with the acquisition; and
2. That upon acquiring the freehold title a restrictive covenant should be placed on the title restricting future use of the land for medical services, in alignment with the Health Precinct Partnership Memorandum of Understanding (MOU).

This approach will ensure that the Shire maximizes the value of its assets while also adhering to strategic objectives outlined in the MOU and Council Plan.

COUNCIL RESOLUTION

MOVED: Cr Mitchell

SECONDED: Cr Lindemann

That Council:

- 1. Does not accept the offer to purchase Lot 501 on DP 72099 Bentley Street Donnybrook as the offer is materially below the market value; and**
- 2. Initiates the process to acquire Reserve 52021 from the Crown.**

An Alternate Motion was put by Cr Patrick.

COUNCIL RESOLUTION 18/24

- 1. The Council acknowledges the request to purchase however given the inability for the property to be sold due to the property being on Crown land that Council defers this matter.**
- 2. Requests the CEO to Initiate the process to acquire Reserve 52021 from the Crown.**

MOVED: Cr Patrick

SECONDED: Cr Lindemann

For: Cr Glover, Cr Gubler, Cr Davy, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick, Cr Shand

Against: Nil.

CARRIED 8/0

10 ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Cr John Bailey was not present at the meeting, therefore this motion has lapsed.

The following notices of motions have been submitted by the author, listed above each notice of motion and have been provided exactly as submitted.

10.1.1 PROJECT MANAGEMENT PLAN TO CREATE A NEW CODE OF CONDUCT FOR COUNCILLORS AND THE CHIEF EXECUTIVE OFFICER

Location	Shire of Donnybrook Balingup
Applicant	Cr John Bailey
File Reference	N/A
Author	Cr John Bailey
Responsible Manager	N/A
Attachments	Nil.
Voting Requirements	Simple Majority

ELECTED MEMBER NOTICE OF MOTION

Motion for the February meeting.

Motion, The Council form a committee of Council to workshop with community and develop a project management plan to create a new code of conduct for Councillors and the CEO of the Shire. This document will provide clear instructions to the Council and the CEO on how they are to interact with the community and carry out their responsibilities to achieve a better out come for all.

Community First!

For the benefit of all this Council can Unite Community ,Council and Staff, and adopt a HOW CAN WE HELP ATTITUDE right across the organisation of our Shire.
End of Motion.

Rational;

The community are the majority and the share holders of the Shire. Community employs and pays for the Councillors, the Councillors employ the CEO (the employee) and community pay for the CEO. Unfortunately community don't get a chance to direct the Shire you elect.

Councillors need your help. You have a solid, varied council with many talents, however decisions Council make, will be easier with your input.

Suggested inclusions for the Code of conduct, however the final draft will be determined by committed community members.

a, Loans over a certain amount must be approved by the community.

- b, Major spends other than roads, bridges and the like must be approved by the community.
- c The community must be fully informed at all times.
- d, community must be fully informed on projects that will change the social fabric of our Shire.

In the history of the Earth there has never been better an easier time to communicate inexpensively with each other. We can and must keep the community fully informed. This motion will transform the way we do business.

The Local Government ACT, 2.10. Role of councillors A councillor — (a) represents the interests of electors, ratepayers and residents of the district; and (b) provides leadership and guidance to the community in the district; and (c) facilitates communication between the community and the council.

This Council can achieve the above but only with community support.

ADMINISTRATION COMMENTS

Council adopted its Code of Conduct for Council Members Committee Members and Candidates in accordance with Section 5.104 of the *Local Government Act 1995* and the *Local Government (Model Code of Conduct) Regulations 2021*, at the Ordinary Council Meeting 28 April 2021. Detailed within it are the following headings.

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Defined terms	11

Council Policy COMD/CP - Community Engagement Framework was adopted by Council at the Ordinary Council Meeting 24 March 2021 and is due for review, however included in tranche 1 of the Local Government reforms is the need for local governments to establish a community engagement charter which sets out how it will engage with ratepayers and the community about the local government's proposed policies, initiatives, and projects. The Shire intends to review its existing policy alongside the proposed charter. Also noting that Council have recently identified the community engagement framework as an important action topic to be workshopped soon.

To establish a committee, the council necessitates a decision by the Council, as well as the adoption of terms of reference and the appointment of members in accordance with section 5.8 of the *Local Government Act 1995*. This involves initiating the committee via a council resolution, adopting its terms of reference, and appointing members.

Should the council wish to proceed with this motion, the Chief Executive Officer is tasked with submitting a report to the Council for consideration.

Cr John Bailey was not present at the meeting, therefore this motion has lapsed.

10.1.2 COMPUTER SYSTEM OPTIONS FOR THE SHIRE OF DONNYBROOK BALINGUP

Location	Shire of Donnybrook Balingup
Applicant	Cr John Bailey
File Reference	N/A
Author	Cr John Bailey
Responsible Manager	N/A
Attachments	Nil.
Voting Requirements	Simple Majority

ELECTED MEMBER NOTICE OF MOTION

Motion. Council Authorise the CEO to research computer system options for the SoDB.

Recommended systems and funding options will be provided to Council for the March OCM.

Rational

2.7 (b) of the LGA 1995, Council is responsible for the performance of the local government’s functions.

At the meeting of the 31st Jan 2024, the CEO and two members of the executive team made it clear that they are unable to meet high service expectations due to our out dated computer system.

Further in late Nov 2023. VP Lisa Glover, posed a question to Staff.

Q2. In relation to monies received – can the SoDB provide a similar (accounts payable) breakdown of monies received and receipted. For example, the SoDB pays accounts related to water, power, etc the money is then reimbursed back to the SoDB. Can a report be tabled monthly to show reimbursements received? Is it possible, as currently we see how money is paid out, however we do not see exactly how it is reimbursed?

Response: *There is no system report that would allow the production of such a report, whilst this could be prepared manually it would place an additional burden on administrative staff.*

Due to the burden on staff time the VP's question was not answered and was also a waist of the VP's time.

Councillors we all know the benefits of having a good computer system, we can't expect staff to perform at their best if they don't have the tools to do the job. Our system is out of date, I urge you to support this motion.,

ADMINISTRATION COMMENTS

It has been recognised that a comprehensive review and enhancement of the Shire's Information and Communication Technology (ICT) systems are imperative. The generation of ad-hoc reports presents considerable challenges and resource burdens. The necessity for the replacement and modernisation of the Shire's ICT infrastructure was underscored during the strategic review session held in February involving the Leadership team. However, it is unfeasible to deliver a meticulously researched and substantiated report to the Council by March 2024.

In accordance with standard procedures, it is customary to conduct a thorough analysis of business requirements prior to commencing the procurement process for ICT solutions. Council would need to take into account the costs associated with this.

Cr John Bailey was not present at the meeting, therefore this motion has lapsed.

10.1.3 OAG/AUDITOR TO CLARIFY AUDIT EXIT MEETING REPORT ACCESS

Location	Shire of Donnybrook Balingup
Applicant	Cr John Bailey
File Reference	N/A
Author	Cr John Bailey
Responsible Manager	N/A
Attachments	Nil.
Voting Requirements	Simple Majority

ELECTED MEMBER NOTICE OF MOTION

Motion for the February OCM.

Council request the Minister for Local Government Ms Hannah Beasley to assist in restoring confidence and trust into the Local government system. We request the minister to compel the OAG/Auditor to clarify what action, if any was taken to restrict access to Council for the audit Exit meeting and the Audit report.

On the 15/12/23 Councillors received a copy of the following email;

From: Cr Vivienne MacCarthy [REDACTED]
Sent: Friday, 15 December 2023 1:19 PM
To: [REDACTED] >
Cc: [REDACTED]
[REDACTED] >
Subject: RE: OCM Questions

Good afternoon [REDACTED], (private citizen)

Thank you for your question.

An Audit Exit meeting is held to provide the auditors with an opportunity to highlight key audit issues in a structured environment. Attendees include a representative of the Office of the Auditor General, the appointed Auditors.

An Auditor may request confidentiality and may also stipulate the required attendees. For this meeting, the Chief Executive Officer and Shire President were requested to attend along with the Director Finance & Corporate and Manager of Financial Services. Reasons for the Auditors to request an Exit meeting to be held in confidence may be to ensure that the audit findings are not disclosed prematurely and/or to protect the identity of the auditors performing the audit.

Shire President Vivienne MacCarthy' email confirms;

1,The Audit Exit meeting included a representative from the Office of the Auditor General , and the appointed Auditor.

2,An Auditor may request confidentiality and may also stipulate the required attendees.

a, **Question**, What section of any Act allowed the OAG/Auditor to take such action.

3, For this meeting, the Chief Executive Officer and Shire President were requested to attend along with the Director Finance & Corporate and Manager of Financial Services.

4, States that the Auditor requested the exit meeting to be held in confidence, it follows that the representative from the OAG did not oppose the Auditors decision.

On the 15th of Jan 2024 Mr Sercombe sent an email to the *Assistant Auditor General* of the OAG.

Sent: Monday, 15 January 2024 3:33 PM

Questions from Mr Sercombe are in black with the answers from the *Assistant Auditor General* in RED below.

From: [REDACTED]@audit.wa.gov.au>

Sent: Monday, January 15, 2024 4:27 pm

To: Shane Sercombe [REDACTED]>

Cc: Office of the Auditor [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Subject: RE: Attn [REDACTED] Assistant Auditor General Financial Audit

Refer my comments in red below.

[REDACTED]
Assistant Auditor General | Financial Audit

Office of the Auditor General for Western Australia

[REDACTED] | W: audit.wa.gov.au

Key conclusions from your response are:

- OAG is the shire's ultimate 'Auditor'. **Your statement implies there is more than one auditor for the Shire - as per my earlier email – there is only one auditor for the Shire and that is the Auditor General.**

- As the Auditor, OAG has not refused council or the Audit Committee access to the Audit Concluding Report, nor would it. **Not to the best of my knowledge and belief.**

- OAG did not refuse councillors or Audit Committee access to the Audit Exit Meeting, nor would it. **Not to the best of my knowledge and belief.**

- Releasing the Audit Concluding Report from confidential is ultimately a Council decision. **The release of any documentation within the Shire's possession to any party and for any reason is for the Shire Executive/Council to determine.**

- Could you please confirm if these conclusions are correct?

I trust the OAG will review this current misunderstanding and be able to correct it, while also addressing the system deficiencies to hopefully prevent a repeat. **There is nothing for the OAG to review and there is no misunderstanding for us to correct nor any system deficiencies to address in our processes. Our protocols remain as they have always been.**

I appreciate your efforts and clarity.

Thanks,

Shane

Clearly the email from the OAG is in conflict with claims from Staff, the CEO and The Shire president. Hence the request for the Ministers assistance. I believe that the staff, CEO and President V MacCarthy have and are telling the truth.

Sections of the Local Government Act 195;

The role of the council 2.7.

(1) The council — (a) directs and controls the local government's affairs; and (b) is responsible for the performance of the local government's functions.

(2) Without limiting subsection (1), the council is to — (a) oversee the allocation of the local government's finances and resources; and (b) determine the local government'

Councillors the finances of the Shire or our responsibility. Probably the most important function of Council.

We have a fiduciary duty to the community to seek clarification.

ADMINISTRATION COMMENTS

Details of the process relating to the Exit Meeting of the 2022/2023 financial year audit have been previously circulated to all Elected Members.

Cr John Bailey was not present at the meeting, therefore this motion has lapsed.

10.1.4 POLICY FOR DEVELOPMENT APPLICATIONS

Location	Shire of Donnybrook Balingup
Applicant	Cr John Bailey
File Reference	N/A
Author	Cr John Bailey
Responsible Manager	N/A
Attachments	Nil.
Voting Requirements	Simple Majority

ELECTED MEMBER NOTICE OF MOTION

Policy for Development Applications.

Motion;

a, Within two business days of the SoDB receiving a development application, a copy of the application and all associated documentation will be forwarded to all Councillors.

b, Within ten business days of the lodgement of a development application the CEO, staff and Councillors will provide written advice to Council of any interest in the application along with a comprehensive explanation of that interest.

c, The full Council will receive regular written/verbal updates on applications.

Rational;

Council will have the time to fully inform the community

Council needs to be fully informed before making any decision.

Council should not be forced to make a rushed decision due to time constraints.

Early interest declarations will give Council time to seek independent system/legal advice on the veracity and extent of any declared interest.

The Council must be fully informed to protect the interests of the people because the people are the only group that will be held accountable, as they pay.

The CEO and staff make recommendations, however once passed by Council it becomes a Council decision and follows that the CEO and Staff bare no responsibility for their recommendations. Some Councillors take little or no responsibility for their decisions. The only action available to community is not to vote them in at the next election, too late the damage may have been done. The community is the only group that are accountable for a Council decision.

End of motion

ADMINISTRATION COMMENTS

At a workshop held on February 14th, Councillors were presented with a detailed overview of the process for handling Development Applications (DA), the presentation was accompanied by visual aids included below.

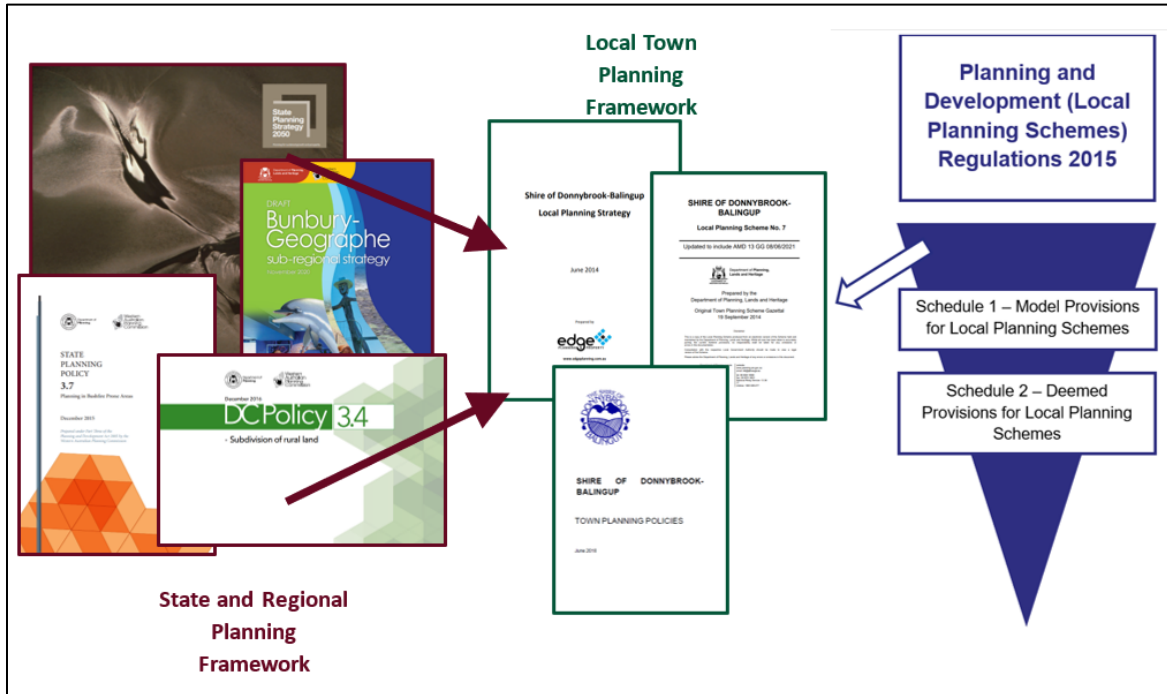


Figure 1 - Local within the State/Regional context

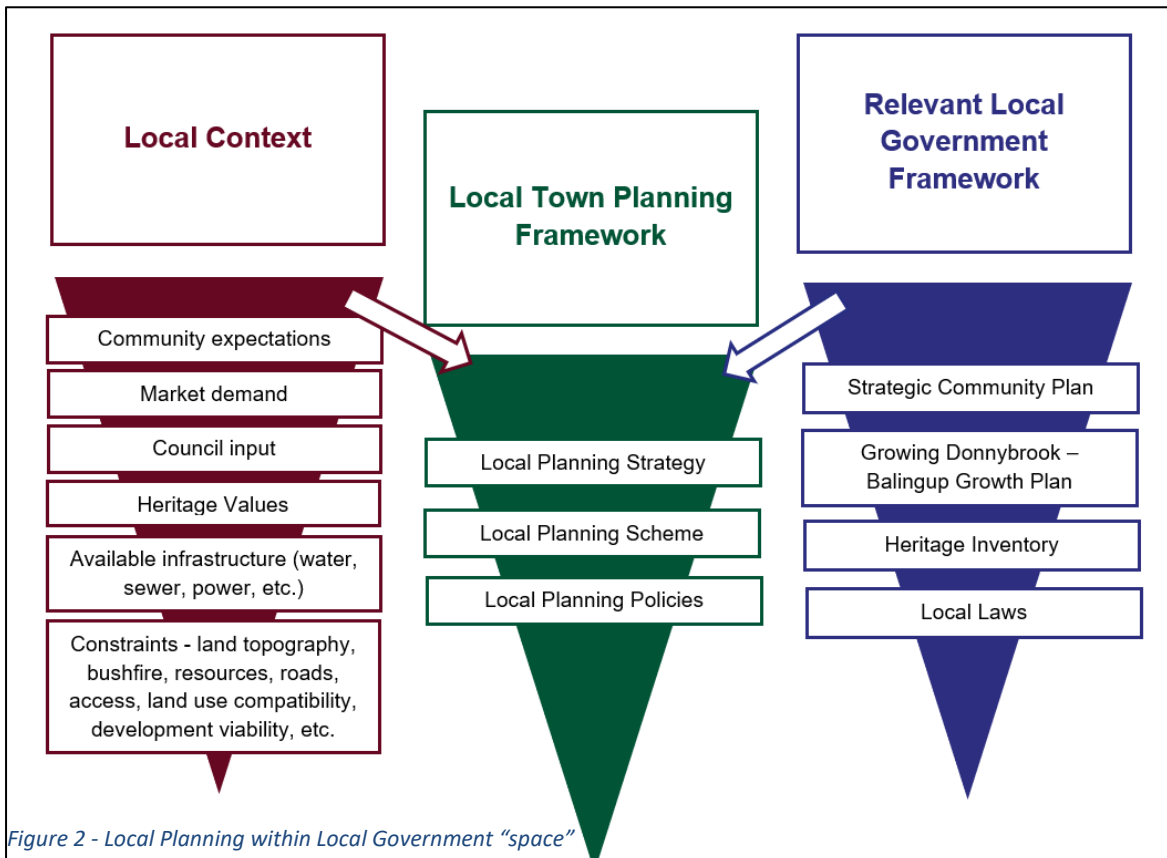


Figure 2 - Local Planning within Local Government "space"

The proposed motion carries significant implications for staffing resources and requires strict adherence to legislation and regulations. Upon receipt, the shire has a seven-day window to assess the application and determine its potential for progression. In many instances, the council plays a limited role in the progression of the DA decision process, and it is important to note that only a limited number of DAs are mandated to be forwarded to the Council for a decision.

Councillors have been briefed on a proposal to establish a regularly updated listing of DAs, providing detailed information by using the existing updates provided via the weekly “From the Desk of the CEO”.

Cr John Bailey was not present at the meeting, therefore this motion has lapsed.

10.1.5 HOUSING POLICY – IMPROVING TO SERVE THE COMMUNITY

Location	Shire of Donnybrook Balingup
Applicant	Cr John Bailey
File Reference	N/A
Author	Cr John Bailey
Responsible Manager	N/A
Attachments	Nil.
Voting Requirements	Simple Majority

ELECTED MEMBER NOTICE OF MOTION

Motion for the February Council meeting.

Improving serve to the community.

Housing policy.

Council form a committee of councillors to review the Shires building regulations with the aim of allowing for alternative types of accommodation. The committee of Councillors will consult with staff and community via meetings and email submissions to achieve the best outcome for all.

Staff are responsible for administering the rules and regulations put in place by previous Councils. The committee will review all rules and regulations to ascertain if they are relevant in 2024, and if they are achieving the best outcome for the people of the Shire?

Rational.

Community Consultation;

There is a housing shortage crisis right across our Shire and Australia. Australian Councils are looking at alternative housing options, templates have been developed. Broad consultation with the community will ensure that Council and Staff are developing regulations that best meet the needs of the community.

The fastest way to provide accommodation is for government to develop the appropriate regulations, allowing the private sector to operate with ease.

ADMINISTRATION COMMENTS

The Shire employ's a Registered Building Surveyor, who administers the *State Building Act 2011* and its associated Regulations. These regulations delineate applicable building standards across various scenarios and encompass the Building Code of Australia. It is important to emphasise that the Shire does not possess discretion to modify these standards.

Presently, the Shire has multiple Local Planning Policies pertinent to accommodation, encompassing matters such as the relocation and utilisation of second-hand dwellings, transportable structures, ancillary accommodation in agricultural and rural zones, and specific character areas like the Balingup Village Centre. While areas for enhancement within the current local planning policy manual have been identified, any proposed alterations will also be contingent upon the outcome of the Local Planning Strategy review.

In order to expedite the facilitation of alternative accommodation types, it is advisable to pursue a regional or state-level approach, such as engaging with WALGA Zones or lobbying local members. These avenues can effectively address statewide issues in the short term, while concurrent efforts to advance these initiatives within the Shire remain underway.

To establish a committee, the council necessitates a decision by the Council, as well as the adoption of terms of reference and the appointment of members in accordance with section 5.8 of the *Local Government Act 1995*. This involves initiating the committee via a council resolution, adopting its terms of reference, and appointing members.

Should the council wish to proceed with this motion, the Chief Executive Officer is tasked with submitting a report to the Council for consideration.

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

Nil.

12 MEETINGS CLOSED TO THE PUBLIC

12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

12.1.1 (CONFIDENTIAL) RFQ 317 – SUPPLY OF TRI AXLE TRAILER, 2023-24

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

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

12.1.2 VC MITCHELL PARK OVAL LIGHTING DELEGATION OF TENDER AWARD

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

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

COUNCIL RESOLUTION 19/24

MOVED: Cr MacCarthy

SECONDED: Cr Lindemann

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

12.1.1 RFQ 317 – Supply of Tri Axle Trailer, 2023-24

12.1.2 VC Mitchell Park Oval Lighting Delegation of Tender Award

CARRIED 8/0

For: Cr Glover, Cr Gubler, Cr Davy, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick, Cr Shand

Against: Nil.

Cr Glover left the room at 5:55pm

The meeting was closed to the public at 5:55pm.

Cr Glover entered the room at 6:04pm

COUNCIL RESOLUTION 22/24

MOVED: Cr MacCarthy

SECONDED: Cr Patrick

That the meeting be re-opened to the public.

CARRIED 8/0

For: Cr Glover, Cr Gubler, Cr Davy, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick, Cr Shand

Against: Nil.

The meeting was re-opened to the public at 6.05pm.

12.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

12.1.1 RFQ 317 – SUPPLY OF TRI AXLE TRAILER, 2023-24

That Council by Absolute Majority:

- 1. Adopt the Tender and authorise the Chief Executive Officer to award the contract for RFQ 317 – Tri Axle Trailer, to Howard Porter, in accordance with their submitted offer.**
- 2. Authorise the Chief Executive Officer to increase the 2023/24 allocation for the purchase of a Tipping Trailer in accordance with the below.**

Plant	Description	Purchase Price (ex GST)	Trade / Auction Price (ex GST)	Net Changeover (ex GST)
DB18069 - P18069	Tipping Trailer	\$136,290	\$5,500 (est)	\$130,790

CARRIED: 8/0

For: Cr Glover, Cr Gubler, Cr Davy, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick, Cr Shand

Against: Nil.

12.1.2 VC MITCHELL PARK OVAL LIGHTING DELEGATION OF TENDER AWARD

That Council authorise the Chief Executive Officer to:

- 1. Award the Tender on the merit of the Tender Evaluation Report content and recommendation to Southwest Electrical & Communication.**
- 2. Provide an update for the community and stakeholders of the successful award via all the usual media and correspondence outlets.**

CARRIED 4/3

For: Cr Lindemann, Cr Mitchell, Cr Patrick, Cr MacCarthy

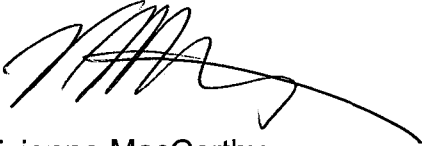
Against: Cr Gubler, Cr Davy, Cr Shand

13 CLOSURE

The Shire President advised that the next Agenda Briefing Session will be held on 20 March 2024 commencing at 5:00pm in the Shire of Donnybrook Balingup Council Chamber.

The President declared the meeting closed at 6:10pm.

These Minutes were confirmed as a true and accurate record at the Ordinary Council Meeting held 27 March 2024.



Vivienne MacCarthy
PRESIDENT – SHIRE OF DONNYBROOK BALINGUP