

**PROPOSED ROAD ACQUISITION PLAN**

PT CLOSED ROAD AND LOT 9504 KELLY ROAD  
DONNYBROOK  
SHIRE OF DONNYBROOK - BALINGUP

**LEGEND:**  
 SUBJECT LAND

SCALE: 1:1500  
ORIGINAL PLAN SIZE: A3

JOB CODE:  
RID KEL GE

DATE:  
07.02.2018

**Allerding & Associates**  
Town Planners, Advocates  
and Subdivision Designers

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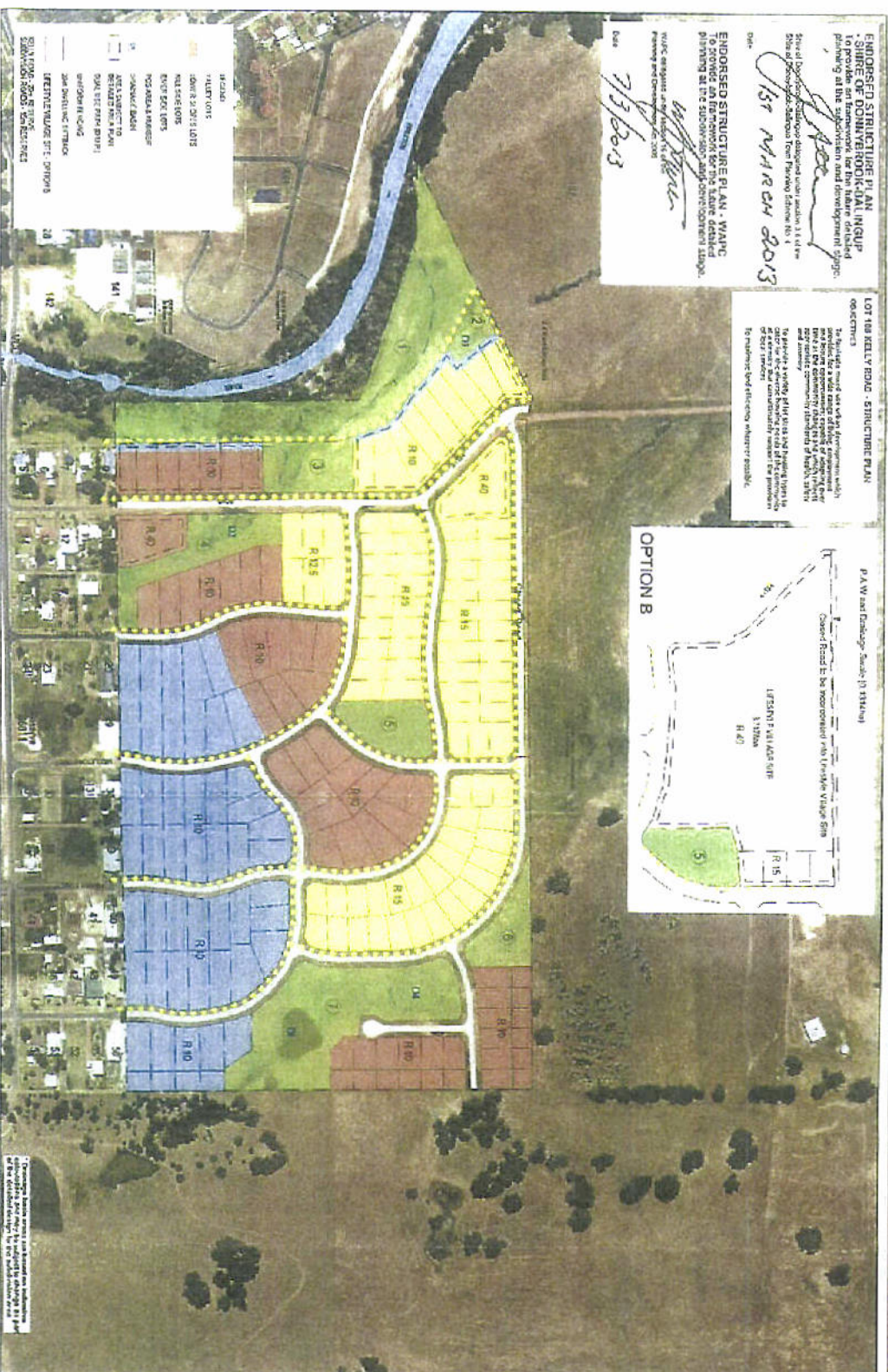


ENDORSED STRUCTURE PLAN  
 - SHIRE OF DONNYBROOK LOCAL GOV  
 TO provide an framework for the future detailed  
 planning at the subdivision and development stage.  
 Date: 1st MARCH 2013

ENDORSED STRUCTURE PLAN - WAJIC  
 TO provide an framework for the future detailed  
 planning at the subdivision and development stage.  
 Date: 7/3/2013

**LOT 108 KELLY ROAD - STRUCTURE PLAN**

OBJECTIVES  
 The Structure Plan is prepared to provide a framework for the future detailed planning at the subdivision and development stage. The Structure Plan is prepared to provide a framework for the future detailed planning at the subdivision and development stage. The Structure Plan is prepared to provide a framework for the future detailed planning at the subdivision and development stage.



**LOT 108 KELLY ROAD - OPTION A**

Item	Area (sq.m)	Weighted Area
Total Lot	21,555	0.973
Area of Road Reserve	2,900	0.125
Area of Structure Footprint	28,515	1.248
Area of Structure Footprint (Total)	28,515	1.248
Area of Structure Footprint (Total) (net of Road Reserve)	28,515	1.248
Area of Structure Footprint (Total) (net of Road Reserve and Structure Footprint)	28,515	1.248
Total (net of Road Reserve and Structure Footprint)	28,515	1.248

**OPTION B**

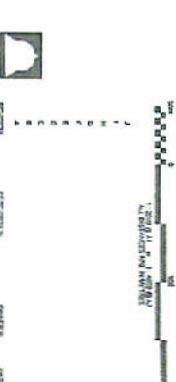
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Area of Structure Footprint (Total) (net of Road Reserve)	28,515	1.248
Area of Structure Footprint (Total) (net of Road Reserve and Structure Footprint)	28,515	1.248
Total (net of Road Reserve and Structure Footprint)	28,515	1.248

**OPTION C**

Item	Area (sq.m)	Weighted Area
Total Lot	21,555	0.973
Area of Road Reserve	2,900	0.125
Area of Structure Footprint	28,515	1.248
Area of Structure Footprint (Total)	28,515	1.248
Area of Structure Footprint (Total) (net of Road Reserve)	28,515	1.248
Area of Structure Footprint (Total) (net of Road Reserve and Structure Footprint)	28,515	1.248
Total (net of Road Reserve and Structure Footprint)	28,515	1.248

**STRUCTURE PLAN MAP - SHEET 1 OF 2**  
 LIFESTYLE VILLAGE SITE-OPTION B  
 LOT 108 KELLY ROAD  
 DONNYBROOK

SHIRE OF LAND  
 EXISTING CONTAMINATED  
 PROPOSED CONTAMINATED  
 CONTAINS



**06035P-SP-02**

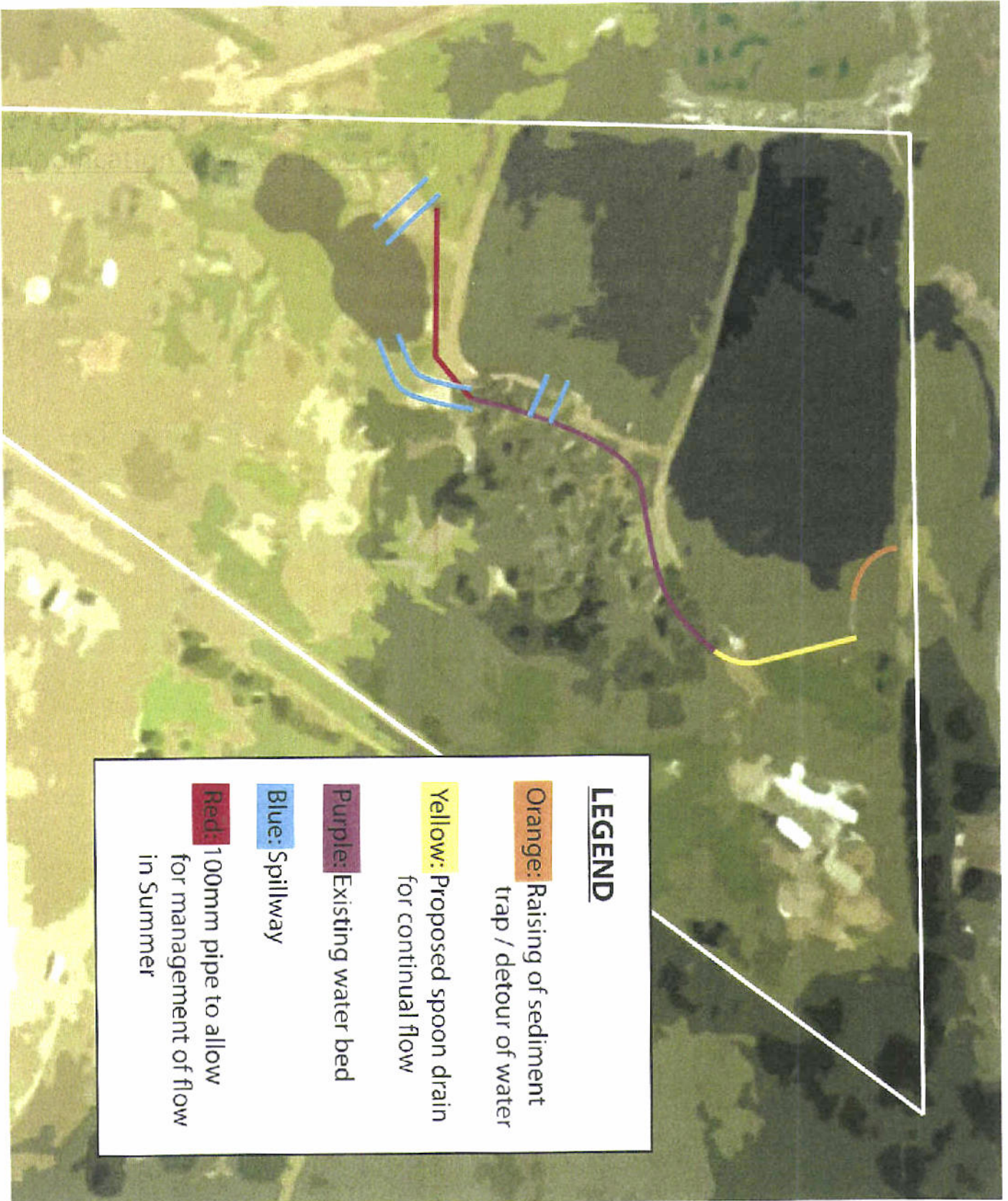


Thompson MacRobert Esplanade Group Pty Ltd (08) 9797 4471 www.thompsonmac.com.au



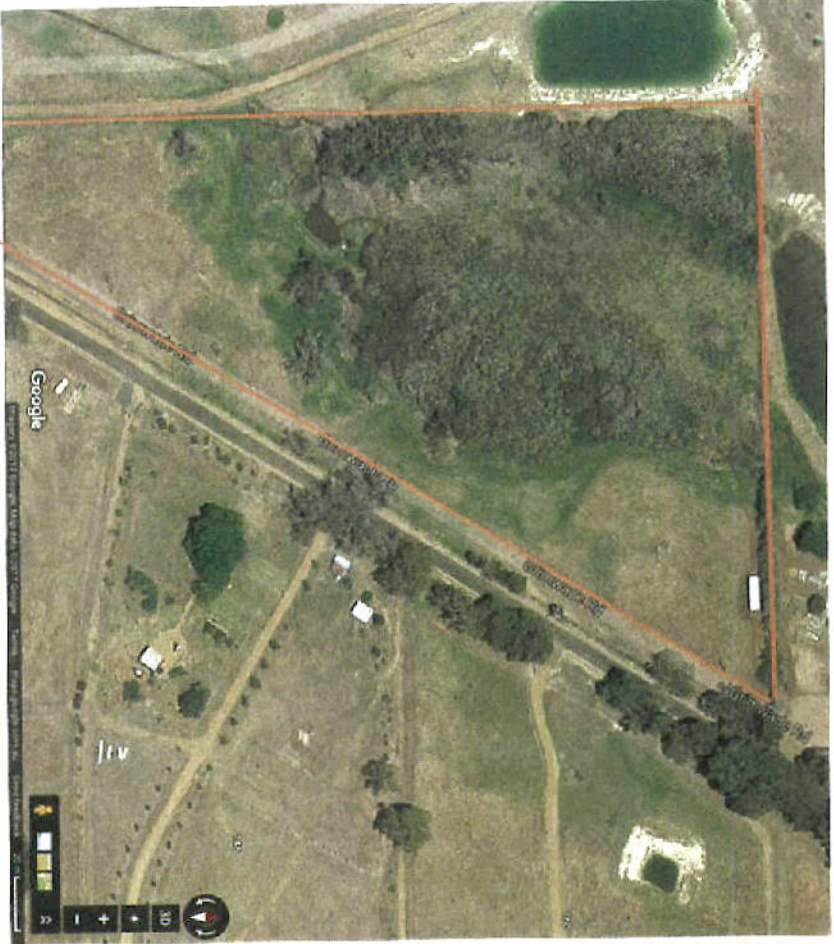
# Proposed works to 155 Grimwade Road, Balingup

Modification of water flow through property





Appendix A  
The images below show the extent of the works (boundaries drawn in orange):



*Image 1: BEFORE - Google Earth Image prior to 2017*



*Image 2 – AFTER - Photo taken from a plane (hired by a concerned resident) on November 25, 2017*

**Schedule of Submissions – Retrospective application for dam with reduced setback at Lot 11 Grimwade Road, Balingup**

No.	Name & Address	Description of affected property	Summary of Submission	Comments	Council's recommendation
1	Government Agency Department of Primary Industries and Regional Development	Responses (original proposal) n/a	<p>Advises that the Department does not normally comment on the construction of dams, however, the Commissioner of Soil and Land Conservation received a complaint and this was investigated.</p> <p>The investigating officer raised issues relating to the construction of the dams in relation to:</p> <ul style="list-style-type: none"> <li>• Type of material used;</li> <li>• inadequate freeboard;</li> <li>• lack of adequate spillways to accommodate inflow during heavy runoff events.</li> </ul> <p>The material used to construct the dams may not contain enough clay to stabilise the walls and the freeboard on both dams was 10cm or less in a number of locations. The vertical risers appeared to be partially blocked causing a lift in the water level of the dams. These factors may lead to dam failure during heavy or prolonged runoff events.</p> <p>DPIRD recommends that the Shire inspect the dams and verify that these dams are built to the correct (and safe) specifications</p>	Noted.	Noted
				Noted	Noted
				Noted	Noted
				Agree in part.	Agree in part

			and the services of an appropriately qualified engineer may be required for this verification.			
2	Department of Biodiversity, Conservation and Attractions	n/a	No comments	Noted	Noted	Noted
3	Department of Health	n/a	No objections to the proposal	Noted	Noted	Noted
4	Department of Water	n/a	<p>Advises that:</p> <p>the tributary is not proclaimed. Under the current legislation Rights in Water and Irrigation Act 1914, this means that the property is exempt from licensing and there is no approval required to interfere with the watercourse or to take water from it.</p> <p>Notwithstanding the above, it is requested that the developer consider actions to:</p> <ul style="list-style-type: none"> <li>ensure that works will not sensibly diminish downstream flows;</li> <li>Keeping erosion to the banks and sedimentation discharge into downstream waters to a minimum;</li> <li>Ensure any captured or stored water remains wholly within property boundaries</li> </ul>	Noted	Noted	Noted
Government Agency Submissions – Revised proposal						
5	Department of Primary Industries and Regional	n/a	Advises that does not provide an advisory service on rural dams	Noted	Noted	Noted

6	Department of Water and Environmental Regulation	n/a	The Department raises no objection to the revised proposal. However, previous advice remains where appropriate	Noted	Noted
General Public Submissions – original proposal					
7	Trish and Ross Tunstall	Neighbouring resident	No issue regarding the boundary distance.  Concern over water levels which cause the creek to rise which may create a backlog and flood our property.  Preference for a 1 metre of freeboard on the dam wall.  Most certainly do not support the construction of dams with a reduced boundary setback.	Noted  Agree. The water levels should not create a backlog and flood the adjoining property to the north. The revised proposal can address this concern.  Agree in part. This addressed in part through the revised proposal.	Noted  Agree  Agree in part
8	Peter Hicks	Nearby resident	When making a decision on this application the Shire needs to consider <i>Planning and Development Regulations 2015</i> (Schedule 2, Clause 67, particularly: (n) impacts on amenity, environment, character and social impacts (o) likely effect on the natural environment or water resources and means to protect or mitigate impacts (q) suitability of the land for the development taking into account risk of flooding, tidal inundation, subsidence, landslip, soil erosion, land degradation or any other risk; (r) suitability of the land taking into account	Noted  Agree. The Council is required to take these matters into account when making a decision. When considering these points, Council is required to assess the degree to which the proposal is creating potential impacts and the context and limits to what contributes towards conditions being reasonable.	Noted  Agree

			<p>possible risk to human health and safety.</p> <p>The environment, water resources and amenity of the area has been negatively impacted. It is also affecting agricultural pursuits and the dams are a safety issue.</p> <p><b>Amendment 75 (subdivision that created Lot 1)</b></p> <p>Believe that the approval by the Minister for Planning and Infrastructure in February 2008 protected the wetland as outlined in the Guide Plan that was part of the approval.</p> <p>Section 2.3 of the report states that no land or environmental degradation will occur as a result of the Scheme Amendment, subsequent development or subdivision.</p> <p>The report goes on to say that it is not intended to rezone the land north of Grimwade Road (No 155). However, the guide plan will include this land.</p> <p>The development issues identified in the guide plan include:</p> <ul style="list-style-type: none"> <li>• Location of buildings;</li> <li>• Setbacks;</li> <li>• Protection of vegetation;</li> <li>• Fire control;</li> <li>• Design, materials and colour of buildings;</li> </ul>	<p>Agree in part. The revised proposal makes attempts to address concerns.</p> <p>Agree in part. Lot 11 was not rezoned as part of amendment 75. The provisions supporting the guide plan relate only to the land rezoned "Rural Residential". This is reflected by the amendment resolution that inserts the provisions into the scheme text itself. Agree. Lot 155 was not rezoned and activity on this lot was not changed as a result of Amendment 75.</p> <p>Noted. Lot 11 was a balance lot left over from the rezoning. It was included on the guide plan on this basis.</p> <p>Noted. These matters are addressed as provisions inserted into Schedule 3 of TPS4 relating to Rural Residential zoned land. This schedule does not impose requirements on "Agricultural" zoned land. Requirements and land use controls applying to Lot 11 are contained in LPS7 and relate to the Agricultural zone.</p>	<p>Agree in part</p> <p>Agree in part</p> <p>Agree</p> <p>Noted.</p> <p>noted</p>
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<p>This implies that no clearing should take place. This is not what has occurred. It is clear that the amendment was to protect the amenity of the area and the environment. This should apply to the whole of the land.</p>	<p><b>Background</b> In March 2017 the owners of Lot 11 began clearing to install dams. This property had a stream running through the wetland which was of good quality and perennial.</p> <p>Many landowners on this stream rely on this water for their domestic and agricultural purposes. It is a rare asset and the reason for purchasing the property.</p> <p><b>Dam Safety</b> These dams are totally out of scale for the parcel of land.</p> <ul style="list-style-type: none"> <li>• The walls have been constructed of earth with very little clay.</li> <li>• Have very little coring</li> <li>• have water to the top of the walls and</li> <li>• inadequate spillways.</li> </ul> <p>The catchment for this watercourse is 10km<sup>2</sup> so when it rains heavily, the response is swift.</p>	<p>Disagree. See above.</p>	<p>Disagree</p>
<p><b>Background</b> In March 2017 the owners of Lot 11 began clearing to install dams. This property had a stream running through the wetland which was of good quality and perennial.</p>	<p>Noted</p>	<p>Noted</p>	<p>Noted</p>
<p>Many landowners on this stream rely on this water for their domestic and agricultural purposes. It is a rare asset and the reason for purchasing the property.</p>	<p>Noted.</p>	<p>Noted.</p>	<p>Noted</p>
<p><b>Dam Safety</b> These dams are totally out of scale for the parcel of land.</p>	<p>Disagree. There are numerous dams in the locality. There are examples of similar sized dams along the highway (northern entrance to town).</p>	<p>Disagree.</p>	<p>Disagree</p>
<p>• The walls have been constructed of earth with very little clay. • Have very little coring • have water to the top of the walls and • inadequate spillways.</p>	<p>Noted. It is not possible to confirm or deny the extent of materials. Noted. See above. Noted.</p>	<p>Noted.</p>	<p>Noted</p>
<p>The catchment for this watercourse is 10km<sup>2</sup> so when it rains heavily, the response is swift.</p>	<p>Agree. This is addressed in the revised proposal.</p>	<p>Agree.</p>	<p>Agree.</p>
<p></p>	<p>Noted</p>	<p>Noted</p>	<p>Noted</p>

	<p>There are also no baffles on the culvert.</p> <p>It is considered unsafe with the potential for a dam wall to burst resulting in the water and mud going downstream and impacting on houses and sheds.</p> <p>In August 2017, there was a considerable amount of rain that saw water breaching the wall of one of the dams.</p> <p>Since this time, the owner has emptied water from the dams which sent a considerable flush of muddy water high up the banks downstream. Downstream users were not notified</p> <p><i>Impact on neighbours and downstream users</i></p> <p>There is considerable dissatisfaction with the way in which the owners of Lot 155 have not considered anyone or the environment in their quest to create a marron farm. All neighbours are unhappy with their activity which they failed to discuss with anyone affected.</p> <p>The water no longer crosses at a culvert point on an adjoining property. This is resulting in the erosion of an access leg making access to their property difficult due to flooding.</p> <p>The upstream property is impacted by the height of the dam which keeps the culvert</p>	<p>Noted. This can be added to slow flow.</p> <p>Noted. The revised proposal seeks to address safety concerns by introducing spillways and diverting the water course around the dams.</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Agree. This issue has been addressed by the neighbour undertaking earthworks to redirect the flow of water.</p> <p>Agree. The revised plan seeks to address this issue by diverting the</p>	<p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Agree</p> <p>Agree</p>
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		<p>half full of water.</p> <p>The water quality is appalling due to the dumping of muddy water. The colour and odour of the water is extremely undesirable for domestic purposes.</p> <p>There is potential risk to cattle and certified organic fruit growing as the owner of Lot 155 has sprayed blackberries in the water.</p> <p><i>Clearing</i> The clearing has been referred to the Department of Environmental Regulation who deemed it exempt for the purposes of constructing a fence and that some of the clearing was weed species such as blackberry, kikuyu and alien Typha.</p> <p>It was advised by the Department that some unauthorised clearing had occurred and was dealt with by notifying the landowner on the need to comply with provisions of the Environmental Protection Act 1986 when considering clearing.</p> <p>This is an example of how owners breach laws and get away with it.</p> <p><b>Recommendations for the Shire</b> The retrospective planning application provides the Shire with a mechanism to protect the rate payers downstream and</p>	<p>water course flow.</p> <p>Noted. The condition of the water will change over time. A sample inspection taken 20 February 2018 did not show any increase in sedimentation between the northern end of the property or southern end.</p> <p>Noted. This relates to the management practices of the landowner. This is separate to the application being considered.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p> <p>Agree in part. The retrospective approval process allows Council to consider the merits of a proposal and impose reasonable conditions.</p>	<p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Agree in part</p>
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9	Pela Townsing	Nearby resident	<p>As a downstream resident, objects to the proposal as it is fraught with numerous problems, both as to the security of the watercourse that we have benefited from for years as well as safety issues that could conceivably bring life threatening floods to downstream residents</p> <p>Concerns are as follows:</p> <p><i>Amenity</i> The section of Grimwade Road has a distinctive character in that there are green areas of grass either mown or grazed, fruit trees and other deciduous trees such as oaks and poplars. Several properties have bamboo groves lining the stream. The perennial freshwater stream makes all this possible.</p> <p>It has had a reputation for at least the last 20 years as being the "best stream in Balingup".</p> <p>We have already experienced very low flow rates due to recent activity at Lot 155 and hence the character of our properties has been threatened.</p> <p><i>Impact on natural environment or water course</i> We bought our property in 2006 and the stream has not stopped flowing until now.</p>	Noted	Noted
				Noted	Noted
				Noted	Noted
				Noted	Noted
				Noted. The revised proposal seeks to address natural water flow.	Noted
				Noted. Advice from the Department of Water advises that this section of the	Noted

		<p>The watercourse has been "sensibly diminished" contrary to the Rights in Water and Irrigation Act 1914.</p> <p>We do have riparian rights (Section 20 of the Act), even though the area is not proclaimed.</p> <p>The dams are large for the area and have potential for significant evaporation (potentially up to 25000l a day). With a 20m setback, the dams would be smaller.</p> <p>It would be better if the dams were changed to allow the water course to flow to the side of the dams so that the flow is not sensibly diminished.</p> <p>We used to get periodic flushing after heavy rain. This is no longer the case.</p> <p>Recommend that a hydrology study is undertaken</p> <p>This area has fragile water supplies because it is on the Yilgarn Shield, ancient rocks, where water may be in small pockets or along fault lines.</p> <p>The quality of the water has deteriorated. There was a sudden release of water in 14 January 2018 without notice. The water was full of sediment and a yellow brown colour as in the lower dam. The stream at my property still has a high turbidity and the increased sediment often blocks my</p>	<p>Act does not apply.</p> <p>Noted. See above. The revised proposal seeks to address this point.</p> <p>Noted.</p> <p>Agree. The revised proposal seeks to allow the water course to flow to the side of the dams.</p> <p>Noted. The revised proposal seeks to address this issue.</p> <p>Disagree. It is unclear how the dams will impact the hydrology on any significant scale when there are already numerous dams in the locality that play a significant part in creating the local hydrology system.</p> <p>Noted. The water will change colour and include various levels of sediment at different times (high flow times v low flow). A sample taken on 20 February does not show any marked deterioration in water colour or sedimentation densities.</p>	<p>Noted</p> <p>Noted</p> <p>Agree</p> <p>Noted</p> <p>Disagree</p> <p>Noted</p>
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		<p>drippers and my extensive reticulation system.</p> <p>It is highly likely that wild life in the stream is being adversely affected.</p> <p>Recommend that water flow is not sensibly diminished.</p> <p><i>Suitability of land for the development taking place taking account of possible risk to human health or safety.</i></p> <p>Several times last year we experienced flooding downstream. In one case this was due to one of the dams starting to erode.</p> <p>The recommended gap between the level of water in a dam and the crest of the dam (known as freeboard) is meant to be about 1 metre. 600mm might be all right in some circumstances. Most of the time, the dams have a freeboard of less than 300mm.</p> <p>A heavy sharp shower can bring the level up by a metre in the stream. For the dams, they could be in danger of breaching and sending tons of water and sludge downstream.</p> <p>Recommends that an engineering assessment be undertaken before any more work is completed.</p> <p>Conclusion This project has not started well and shows</p>	<p>Noted. The revised proposal seeks to reinstate historical water flow through the property.</p> <p>Noted.</p> <p>Noted. The revised proposal seeks to ensure that the water course is diverted around the dams.</p> <p>Noted. This is a generally accepted arrangement. The revised proposal seeks to address this point.</p> <p>Noted. The revised proposal seeks to address this issue by diverting the water course around to the side of the dams.</p> <p>Agree</p> <p>Noted.</p>	<p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Agree</p> <p>Noted</p>
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10	Alain and Jean Stasse	Nearby resident	<p>no signs of improving.</p> <p>We are directly affected by these developments which apart from threatening our lifestyle, will decrease our property value by hundreds of thousands of dollars.</p> <p>Recommend that the development not be approved.</p>	<p>Noted.</p> <p>Noted.</p>	<p>Noted</p> <p>Noted</p>
			<p>We are situated immediately beside the creek and have concerns that our lives and our house is in peril.</p> <p>When a small portion of one of the dams was released, the water levels rose to winter levels. In the event of one of the dam walls failing (which seems inevitable if nothing is done) the amount of water will be of a devastating proportion.</p> <p>Our home and bridges over the creek are around 500m downstream and would quite likely be destroyed.</p> <p>We ask how the Shire deems the dams to be safe?</p> <p>Given the application was lodged after the event, we would ask that an independent engineering company be employed to assess this at the applicant's expense.</p>	<p>Noted.</p> <p>Noted. The revised proposal seeks to address some of the safety issues as well as ensuring the continued flow of the water course.</p> <p>Noted.</p> <p>Noted. Council is required to assess this factor when making a decision.</p> <p>Agree in part. The order in which events have occurred does not generate the need for an engineer. However, the design concerns require engineering input.</p>	<p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Agree in part</p>

		<p>Who is going to underwrite the damage after the dams break?</p> <p>Why is this application being made retrospectively?</p> <p>We do not need any justification for someone totally ignoring the regulations for no apparent reason, especially when the result is posing a serious risk to us.</p> <p>Would like to see a 20m boundary honoured and the stream reinstated</p> <p>The level in the dams needs to come down much lower so that the earthworks get a chance to settle before there is a lot of water held in them.</p> <p>Proper spill ways need to be constructed, and if marron are farmed, then further works need to be done to ensure we are not receiving the waste.</p>	<p>Noted. This is not a point that Council cannot comment on.</p> <p>Noted. Retrospective applications exist to enable existing developments to be made compliant (if possible). It acknowledges that sometimes mistakes are made and provides a legal avenue to fix issues if possible.</p> <p>Noted.</p> <p>Noted. The 20m boundary setback requirement is a trigger for requiring a planning application. It is not rule that requires compliance in itself. The requirement allows more consideration of proposals where there is increased potential for land use impacts.</p> <p>Noted.</p> <p>Noted. It is normal for dams to include spill ways.</p>	<p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p>
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11	Obern and M Morgan	Nearby resident	<p>Objects to the proposal on the grounds that:</p> <p>Process has not been followed. Why have rules in place if they are not adhered too?</p> <p>Nothing about the dam construction has been done properly or with any approvals including:</p> <ul style="list-style-type: none"> <li>• no shire permission</li> <li>• no engineers certificate</li> <li>• no clay content in dam wall construction</li> <li>• no consultation with adjoining owners</li> <li>• no silt trap</li> <li>• no management of overflow</li> </ul> <p>Concerns about the walls that have little clay content.</p>	<p>Noted. Retrospective approval processes exist to address mistakes if a proposal has a reasonable prospect of being made compliant.</p> <p>Noted.</p> <p>Agreed. This proposal seeks to address this omission.</p> <p>Noted. It is not a standard practice to require an engineer report for a farm dam.</p> <p>Disagree in part. There is a clay content. The degree to which this is sufficient has not been determined.</p> <p>Noted. This is being addressed through the retrospective planning process.</p> <p>Noted. This can be addressed by conditions.</p> <p>Noted. The revised proposal seeks to address this point.</p> <p>Noted. The revised proposal seeks to address pressures on the dam wall by including spillways and diverting the water course around the dam. This removes potential for impacts on the wall resulting from high winter flows.</p>	<p>Noted</p> <p>Noted</p> <p>Agreed</p> <p>Noted</p> <p>Disagree in part</p> <p>noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p>
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			<p>One of the main reasons we purchased the property was because of the water flow. My partner is a professional photographer and we were going to promote weddings, outdoor function, long table dinners etc in our landscaped gardens alongside the clear water.</p> <p>One person's selfish actions have affected other landholders along the Grimwade Road.</p> <p>We are very disappointed with the Shire's reaction (lack of action) in regards to this issue so far.</p> <p>Do not agree to any retrospective approval whatsoever.</p>	<p>In addition, it is evident that most of the dam is at depths of approximately 1m. This limits water volume and forces exerted on the wall.</p> <p>Noted</p>	Noted
			<p>Noted.</p>	Noted.	Noted
			<p>Noted. The Shire is required to follow process and make decisions in accordance and within the confines of its legal powers.</p> <p>Noted.</p>	Noted.	Noted
			<p>Noted.</p>	Noted.	Noted
			<p>Noted. This relates to a procedural matter and does not add any grounds for not supporting the proposal. The retrospective process is a legal process that gives opportunity to rectify mistakes.</p> <p>Noted.</p>	Noted.	Noted
<b>General Public Submissions – revised proposal</b>					
12	Peter Hicks	Nearby resident	<p>Advises that totally objects to the revised proposal.</p> <p>The owner's work on the theory that they will simply go ahead without approvals and hope the authorities will be sympathetic when they catch up with them.</p> <p>The latest proposal is not a permanent and</p>	Noted.	Noted

		<p>safe solution to the many issues already raised with the Shire. To take them point by point:</p> <p>Diverting the incoming water from the northern end of the boundary to bypass two dams is totally inadequate because it would not cope with significant rain events and it would necessitate further clearing of the remaining tea tree.</p> <p>There are already been a breach of the clearing regulations so it would be irresponsible for the Shire to approve this proposal.</p> <p>Raising the middle embankment 300mm will cause further flooding back in to the Tunstalls upstream.</p> <p>Putting more dirt on the top of unstable dirt is no solution to these unsafe dams.</p> <p>Spillways should provide at least 1m freeboard and be on both dams.</p> <p>Constructing spillways is a very good idea but need to provide 1 m freeboard, be wide enough to cope with a significant rain event and be constructed of stable material. The current proposal has no spillway on the top dam.</p>	<p>Disagree. The water course may require the removal of some vegetation. Approval will be required by DER for clearing. This process is separate from the retrospective planning process.</p> <p>Disagree. These are two separate matters. One does not logically follow the other. The Council is required to make a decision based on the merits of the proposal.</p> <p>Disagree. The height of the spill way to dictate the water level. In addition, the water course will be diverted so that the dam will not back up as a result of higher flow rates during winter.</p> <p>Noted. Any additional works should be constructed to a suitable standard using appropriate materials.</p> <p>Agree in part. Spillways are proposed for all dams.</p> <p>Agree in part. Spillways can be constructed of suitable material and be of suitable size to allow water flow to be controlled. Freeboard can be increased.</p>	<p>Disagree</p> <p>Disagree</p> <p>Disagree</p> <p>Noted</p> <p>Agree in part</p> <p>Agree in part</p>
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<p>Providing a 100mm pipe to provide summer flow is totally inadequate in size.</p>	<p>Noted. There is opportunity to review the need and size of the pipe.</p>	<p>Noted</p>
<p>Going on how the dams were initially constructed shows complete incompetence. Implementing further work designed by this person with no technical input gives no solution.</p>	<p>Noted.</p>	<p>Noted</p>
<p>This is a budget fix and an engineer should be engaged to sign off on any works on this site.</p>	<p>Noted.</p>	<p>Noted</p>
<p>The dams have been built up. All other residents along the perennial water course have built them down. Building down is far more stable and will enable them to handle high rainfall events.</p>	<p>Noted. However, the new proposal is to divert the water course flows around the dams. This removes/reduces potential impacts from storm events on the structural integrity of the dam walls.</p>	<p>Noted</p>
<p>To make the dams safer, it would be necessary to divert the stream flow around the dams, maintain 1 metre freeboard and install large spillways. In addition, the materials used are unstable and have potential to fail.</p>	<p>Agree in part. The revised proposal seeks to divert the water course flows around the dam structures. The method of dam construction cannot be condemned out of hand without technical input.</p>	<p>Agree in part</p>
<p>Access is needed along the boundaries where there is currently none.</p>	<p>Agreed. Access to the boundaries is required to ensure that works can be undertaken when necessary for dam maintenance.</p>	<p>Agree</p>
<p>All the comments made in the original submission remain relevant and need to be included.</p>	<p>Noted.</p>	<p>Noted</p>

			<p>The quality of the water coming downstream this summer is appalling thanks to this illegal development and the instability of the dams is still very real.</p> <p>Trusts the Shire will make a sensible decision that supports the downstream users and their concerns.</p>	<p>Disagree in part. The water quality will vary from time to time. A sample taken 20 February 2018 showed no clear evidence of reduced water quality in terms of increased discolouration or sediment content.</p> <p>Noted. Council is required to make decisions within the confines of the legislation.</p>	Disagree in part
13	Peta Townsing	Nearby resident	<p>Advises that cannot support the revised proposal as there are too many unknowns with respect to water flows, salinity build up and dam safety.</p> <p>Previous submission recommends that expert advice be taken from both a hydrological point of view and an engineering perspective. Recommends that this is needed before any decision is made or work undertaken.</p> <p><b>Personal comment</b> We have been told we can make comments on this later proposal.</p> <p>The current and recent situation is not acceptable.</p> <p>There needs to be studies. Otherwise it is not clear that the new proposal will create a positive change and may even make the existing situation worse.</p>	<p>Noted.</p> <p>Agree in part. Council needs to be clear that conditions have to reasonably relate to the proposal and be necessary.</p> <p>Noted.</p> <p>Noted</p> <p>Noted. Studies can only be required if they are clearly needed or generated by the proposal.</p>	<p>Noted</p> <p>Agree in part</p> <p>Noted</p> <p>Noted</p> <p>Noted</p>



		<p>Our once delightful stream that ran through my property was the centrepiece of my garden. I hate what I am seeing.</p> <p>The stream with its ponds has scum on the surface, there are bubbles on both the main ponds showing eutrophication is occurring. It is barely flowing. In the 12 years of observing the watercourse, I have not seen it as bad as this until this summer (now autumn).</p> <p>The dams have managed to turn what was once a jewel on my property into a polluted, barely moving, sluggish watercourse that is a shadow of its former self.</p> <p>I am angry and frustrated at what is happening that others seem unable to remedy.</p> <p>There are now:</p> <ul style="list-style-type: none"> <li>• mosquitoes because of stagnating water that did not exist before.</li> <li>• The drippers and sprinklers of my extensive reticulation system become blocked due to increased sediment in the water.</li> </ul> <p>Have no confidence that what is proposed is going to work to give back what was in the past.</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p>	<p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p>
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			<p>No evidence has been produced to show that this will work. Believe it will be a disaster for the watercourse and for Balingup. A scenic part of the Balingup "brand" is the appearance along Grimwade Road will be spoilt, gardens ruined, and water supply polluted even more.</p> <p>The unnamed freshwater stream that flows through our valley is as rare as hen's teeth in the central south west and someone with no demonstrated expertise is ruining it.</p>	<p>Noted</p> <p>Noted</p>	<p>Noted</p> <p>Noted</p>
14	Marita Mason Morgan	Nearby resident	<p>Completely reject this revised planning proposal on the basis that:</p> <ul style="list-style-type: none"> <li>• All other ratepayers are governed by the laws that the Shire have put in place for all concerned</li> <li>• As a new ratepayer to this community could you please explain the confusion that I have in regard to all aspects of the illegal dams.</li> <li>• I agree with all the correspondence provided by other ratepayers</li> <li>• This whole business has caused considerable anxiety, stress and ongoing concern as the water course was one of the main positive features that motivated the purchase of our property</li> <li>• By not fixing this immediately, this situation can devalue our property for which we paid a considerable price.</li> </ul>	<p>Noted. This landowner is also required to comply with relevant legislation.</p> <p>Agree. Principal Planner has discussed and can discuss process.</p> <p>Noted</p> <p>Noted.</p> <p>Noted.</p>	<p>Noted</p> <p>Noted</p> <p>Noted</p>

15	R G Morton	Neighbouring resident	<p>The revised plan is still unacceptable. It is just a band aid job.</p> <p>There should be no need for pipe work as it's a natural water course.</p> <p>The water flowed fine before the dams were constructed</p> <p>The creek line should flow around the outside of the dams, not into them.</p> <p>If the creek flowed outside the dams, you do not need massive spillways as the winter water flows around the outside of them hence eliminating the massive amounts of water flowing over the dam walls causing erosion then breaking the wall.</p> <p>I do not see that raising the wall 300mm will not create the water to backup. The water is already up at the neighbours property.</p>	<p>Noted</p> <p>Noted. There is opportunity to address this point through conditions is approved or considered necessary.</p> <p>Noted. The revised proposal seeks to improve water flows</p> <p>Noted. The revised proposal seeks to address this point.</p> <p>Noted. The revised proposal seeks to divert the water course to reduce stress and pressures on the dam walls.</p> <p>Disagree. The revised plan seeks to divert the water course. The water level will be set by the height of the spill way. The extra freeboard will provide temporary relief during any extreme event while the spillway drains any excessive water.</p>	<p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Disagree</p>
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## WESTERN AUSTRALIA

## Local Government Act 1995

Shire of Donnybrook-Balingup  
Meeting Procedures Local Law 2017

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LOCAL GOVERNMENT ACT 1995

Shire of Donnybrook-Balingup

**Meeting Procedures Local Law 2017**

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Shire of Donnybrook-Balingup resolved on 23 August 2017 to make the following Local Law.

**Part 1 - Preliminary**

**1.1 Citation**

This local law may be cited as the *Shire of Donnybrook-Balingup Meeting Procedures Local Law 2017*.

**1.2 Commencement**

By virtue of section 3.14 of the Act, this local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

**1.3 Application and intent**

- (1) This local law provides rules and guidelines which apply to the conduct of meetings of the Council and its committees and to meetings of electors.
- (2) All meetings are to be conducted in accordance with the Act, the Regulations and this local law.
- (3) This local law is intended to result in:
  - (a) better decision-making by the Council and committees;
  - (b) the orderly conduct of meetings dealing with Council business;
  - (c) better understanding of the process of conducting meetings; and
  - (d) the more efficient and effective use of time at meetings.

**1.4 Interpretation**

- (1) In this local law unless the context otherwise requires:

**absolute majority** has the meaning given to it in the Act;

**75% majority** has the meaning given to it in the Act;

**Act** means the *Local Government Act 1995*;

**CEO** means the Chief Executive Officer of the local government;

**committee** means a committee of the Council established under section 5.8 of the Act;

**committee meeting** means a meeting of a committee;

**Council** means the Council of the Shire of Donnybrook-Balingup;

**Criminal Code** means the *Criminal Code Act Compilation Act 1913*;

**local government** means the Shire of Donnybrook-Balingup;

**district** means the district of the local government;

**meeting** means a meeting of the Council or a committee, as the context requires;

**Member** has the meaning given to it in the Act;

**Officer** is an employed member of the staff of the local government;

**President** means the President of the local government or other Presiding Member at a Council meeting under section 5.6 of the Act;

**Presiding Member** means:

- (a) in respect of the Council, the person presiding under section 5.6 of the Act; and
- (b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the Act;

**Regulations** means the *Local Government (Administration) Regulations 1996*;

**simple majority** means more than 50% of the members present and voting; and

**substantive motion** means an original motion or an original motion as amended, but does not include an amendment or a procedural motion.

- (2) Unless otherwise defined in this local law, the terms and expressions used in this local law are to have the meaning given to them in the Act and Regulations.

## 1.5 Repeal

- (1) The *Shire of Donnybrook-Balingup Local Law No. 1 Standing Orders* as published in the *Government Gazette* on 7 July 1997 and as amended on 31 August 1999 is repealed.

## Part 2 – Establishment and membership of committees

### 2.1 Establishment of committees

- (1) The establishment of committees is dealt with in the Act.
- (2) A Council resolution to establish a committee under section 5.8 of the Act is to include:
  - (a) the terms of reference of the committee;
  - (b) the number of council members, officers and other persons to be appointed to the committee;
  - (c) the names or titles of the council members and officers to be appointed to the committee;
  - (d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and
  - (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

- (3) This local law is to apply to the conduct of committee meetings:
  - (a) where the committee has been delegated a specific power, or powers, under the Act; or
  - (b) where the Council, by resolution, requires the application of this local law to that committee.

**2.2 Types of committees**

The types of committees are dealt with in the Act.

**2.3 Delegation of some powers and duties to certain committees**

The delegation of some powers and duties to certain committees is dealt with in the Act.

**2.4 Limits on delegation of powers and duties to certain committees**

The limits on the delegation of powers and duties to certain committees are dealt with in the Act.

**2.5 Appointment of committee members**

The appointment of committee members is dealt with in the Act.

**2.6 Tenure of committee membership**

Tenure of committee membership is dealt with in the Act.

**2.7 Resignation of committee members**

The resignation of committee members is dealt with in the Regulations.

**2.8 Register of delegations to committees**

The register of delegations to committees is dealt with in the Act.

**2.9 Committees to report**

A committee:

- (a) is answerable to the Council; and
- (b) is to report on its activities when, and to the extent, required by the Council.

**Part 3 – Calling and convening meetings**

**3.1 Ordinary and special Council meetings**

- (1) Ordinary and special Council meetings are dealt with in the Act.
- (2) An ordinary Council meeting, held on a monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.
- (3) A special Council meeting is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

**3.2 Calling Council meetings**

The calling of Council meetings is dealt with in the Act.



**3.3 Convening Council meetings**

- (1) The convening of a Council meeting is dealt with in the Act.
- (2) Subject to subclause (3), the CEO is to give at least 72 hours' notice, for the purposes of section 5.5, in convening a special meeting of the Council.
- (3) Where, in the opinion of the President or at least one-third of the Members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

**3.4 Calling committee meetings**

The CEO is to call a meeting of any committee when requested by the President, the Presiding Member of a committee or any two members of that committee.

**3.5 Public notice of meetings**

Public notice of meetings is dealt with in the Regulations.

**Part 4 – Presiding Member and quorum**

*Division 1: Who presides*

**4.1 Who presides**

Who presides at a Council meeting is dealt with in the Act.

**4.2 When the Deputy President can act**

When the Deputy President can act is dealt with in the Act.

**4.3 Who acts if no President**

Who acts if there is no President is dealt with in the Act.

**4.4 Election of Presiding Members of committees**

The election of Presiding Members of committees and their deputies is dealt with in the Act.

**4.5 Election of Deputy Presiding Members of committees**

The election of Deputy Presiding Members of committees is dealt with in the Act.

**4.6 Functions of Deputy Presiding Members**

The functions of Deputy Presiding Members are dealt with in the Act.

**4.7 Who acts if no Presiding Member**

Who acts if no Presiding Member is dealt with in the Act.

*Division 2 – Quorum*

**4.8 Quorum for meetings**

The quorum for meetings is dealt with in the Act.

**4.9 Reduction of quorum for Council meetings**

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in the Act.

**4.10 Reduction of quorum for committee meetings**

The reduction of a quorum for committee meetings is dealt with in the Act.

**4.11 Procedure where no quorum to begin a meeting**

The procedure where there is no quorum to begin a meeting is dealt with in the Regulations.

**4.12 Procedure where quorum not present during a meeting**

If at any time during a meeting a quorum is not present, the Presiding Member is:

- (a) immediately to suspend the proceedings of the meeting for a period of up to 15 minutes; and
- (b) if a quorum is not present at the expiry of that period, the Presiding Member is to adjourn the meeting to some future time or date.

**4.13 Names to be recorded**

At any meeting:

- (a) at which there is not a quorum present; or
  - (b) which is adjourned for want of a quorum,
- the names of the Members then present are to be recorded in the minutes.

**Part 5 - Business of a meeting**

**5.1 Business to be specified**

- (1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the Presiding Member or the Council.
- (2) No business is to be transacted at a special Council meeting other than that given in the notice as the purpose of the meeting.
- (3) Subject to subclause (4), no business is to be transacted at an adjourned meeting of the Council other than that:
  - (a) specified in the notice of the meeting which had been adjourned; and
  - (b) which remains unresolved.
- (4) Where a meeting is adjourned to the next ordinary Council meeting then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering Reports of Committees at that ordinary Council meeting.

**5.2 Order of business**

- (1) Unless otherwise decided by the Council, the order of business at any ordinary Council meeting is to be as follows:
  - 1 Declaration of Opening / Announcement of Visitors
  - 2 Attendance
    - 2.1 Apologies
    - 2.2 Approved leave of absence

- 2.3 Application for leave of absence
- 3 Announcements from the Presiding Member
- 4 Declarations of Interest
- 5 Public Question Time
  - 5.1 Response to previous public questions taken on notice
  - 5.2 Public question time
- 6 Presentations
  - 6.1 Petitions
  - 6.2 Presentations
  - 6.3 Deputations
  - 6.4 Delegates' reports
- 7 Confirmation of Minutes
- 8 Reports of Committees
- 9 Reports of Officers
- 10 Elected Member Motions of which previous notice has been given
- 11 Questions from Member
- 14 New Business of an urgent nature introduced by decision of the meeting
- 123 Meeting closed to public
  - 12.1 Matters for which the meeting may be closed
  - 12.2 Public reading of resolutions that may be made public
- 124 Closure

Commented [TM1]: Added to cater for Clause 7(1)(b)

- (2) Unless otherwise decided by the Council, the order of business at any special meeting of the Council is to be the order in which that business stands in the agenda of the meeting.
- (3) In determining the order of business for any meeting of the Council, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

### 5.3 Motions of which previous notice has been given

- (1) Unless the Act, Regulations or this local law otherwise provides, a Member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.
- (2) A notice of motion under subclause (1) is to be given at least 14 clear working days before the meeting at which the motion is moved.
- (3) A notice of motion is to be accompanied by supporting reasons and must relate to the good governance of the district.
- (4) The CEO:
  - (a) may, following consultation with the President, exclude from the agenda any notice of motion deemed to be, or likely to involve, a breach of this local law or any other written law;
  - (b) will inform Members on each occasion that a notice has been excluded and the reasons for that exclusion;

- (c) may, after consultation with the Member where this is practicable, make such amendments to the form but not the substance as will bring the notice of motion into due form; and
  - (d) may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) A motion of which notice has been given is to lapse unless:
- (a) the Member who gave notice of it, or some other Member authorised by the originating Member in writing, moves the motion when called on; or
  - (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.
- (6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.

#### **5.4 New business of an urgent nature**

- (1) In cases of extreme urgency or other special circumstances, matters may, on a motion by the Presiding Member that is carried by the meeting, be raised without notice and decided by the meeting.
- (2) In subclause (1), "cases of extreme urgency or other special circumstances" means matters that have arisen after the preparation of the agenda that are considered by the Presiding Member to be of such importance and urgency that they are unable to be dealt with administratively by the local government and must be considered and dealt with by the Council before the next meeting.

#### **5.5 Adoption by exception resolution**

- (1) In this clause "adoption by exception resolution" means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the committee or officer recommendation as the Council resolution.
- (2) Subject to subclause (3), the local government may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter:
- (a) that requires a 75% majority or a special majority;
  - (b) in which an interest has been disclosed;
  - (c) that is a matter on which a Member wishes to ask a question;
  - (d) that is a matter on which a Member wishes to make a statement; or
  - (e) that is a matter on which a Member wishes to move a motion that is different to the recommendation.
- (4) Subject to subclause (5), a Member is to identify an item for exclusion from the adoption by exception resolution and the reason for the exclusion by the provision of written notification to the CEO, including the motion that is

different to the recommendation if applicable, by 3pm on the day before the meeting.

- (5) A Member can seek the permission of the Presiding Member at the meeting to be allowed to move a motion of which notice has not been given in accordance with subclause (4), however, any motion of which notice has been given in accordance with subclause (4) will take priority.
- (6) Where a matter is excluded from the adoption by exception resolution in accordance with subclause 3(e) or subclause (5) and it contains a recommendation from a committee, members shall first be given the option to debate the committee recommendation.

## **Part 6 - Public participation**

### **6.1 Meetings generally open to the public**

Meetings being generally open to the public is dealt with in the Act.

### **6.2 Meetings not open to the public**

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried:
  - (a) the Presiding Member is to direct everyone to leave the meeting except:
    - (i) the Members;
    - (ii) the CEO, or the CEO's delegate; and
    - (iii) any Officer specified by the Presiding Member; and
  - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the Presiding Member, be removed from the meeting.
- (5) While the resolution under subclause (2) remains in force, the operation of clause 8.10 is to be suspended until the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice.
- (7) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the Presiding Member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including a vote of a Member to be included in the minutes.

**6.3 Question time for the public**

Question time for the public is dealt with in the Act.

**6.4 Question time for the public at certain meetings**

Question time for the public at certain meetings is dealt with in the Regulations.

**6.5 Minimum question time for the public**

Minimum question time for the public is dealt with in the Regulations.

**6.6 Procedures for question time for the public**

Procedures for question time for the public are dealt with in the Regulations.

**6.7 Other procedures for question time for the public**

- (1) A member of the public who raises a question during question time, is to state his or her name and address.
- (2) A question may be taken on notice by the Council for later response.
- (3) When a question is taken on notice the CEO is to ensure that:
  - (a) a response is given to the member of the public in writing; and
  - (b) a summary of the response is included in the agenda of the next meeting of the Council.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to:
  - (a) declare that he or she has an interest in the matter; and
  - (b) allow another person to respond to the question.
- (5) Each member of the public with a question is entitled to ask up to 2 questions before other members of the public will be invited to ask their questions.
- (6) Where a member of the public provides written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
- (7) The Presiding Member may decide that a public question shall not be responded to where:
  - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided; or
  - (b) the member of the public uses public question time to make a statement, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or
  - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.

- (8) A member of the public shall have two minutes to submit a question.
- (9) The Council, by resolution, may agree to extend public question time.
- (10) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.

**6.8 Distinguished visitors**

If a distinguished visitor is present at a meeting of the Council, the Presiding Member may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting, and the presence of that visitor shall be recorded in the minutes.

**6.9 Deputations**

- (1) Any person or group wishing to be received as a deputation by the Council is to either:
  - (a) apply, before the meeting, to the CEO for approval; or
  - (b) with the approval of the Presiding Member, at the meeting, address the Council.
- (2) The CEO may either:
  - (a) approve the request and invite the deputation to attend a meeting of the Council; or
  - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
- (3) Unless the Council resolves otherwise, a deputation invited to attend a Council meeting:
  - (a) is not to exceed 5 persons, only 2 of whom may address the Council, although others may respond to specific questions from Members;
  - (b) is not to address the Council for a period exceeding 10 minutes without the agreement of the Council; and
  - (c) additional members of the deputation may be allowed to speak with the leave of the Presiding Member.
- (4) Any matter which is the subject of a deputation to the Council is not to be decided by the Council until the deputation has completed its presentation.

**6.10 Petitions**

- (1) A petition is to:
  - (a) be addressed to the President;
  - (b) be made by electors of the district;
  - (c) state the request on each page of the petition;
  - (d) contain the name, address and signature of each elector making the request, and the date each elector signed;
  - (e) contain a summary of the reasons for the request; and
  - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given.

- (2) Upon receiving a petition, the local government is to submit the petition to the relevant officer to be included in his or her deliberations and report on the matter that is the subject of the petition, subject to subclause (3).
- (3) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented to that meeting, unless:
  - (a) the matter is the subject of a report included in the agenda; and
  - (b) the Council has considered the issues raised in the petition.

#### **6.11 Presentations**

- (1) In this clause, a "presentation" means the acceptance of a gift or an award by the Council on behalf of the local government or the community.
- (2) A presentation may be made to the Council at a meeting only with the prior approval of the CEO.

#### **6.12 Participation at committee meetings**

- (1) In this clause a reference to a person is to a person who:
  - (a) is entitled to attend a committee meeting;
  - (b) attends a committee meeting; and
  - (c) is not a member of that committee.
- (2) Without the consent of the Presiding Member, no person is to address a committee meeting.
- (3) The Presiding Member of a committee may allow a person to make an oral submission to the committee for up to 3 minutes.
- (4) A person addressing the committee with the consent of the Presiding Member is to cease that address immediately after being directed to do so by the Presiding Member.
- (5) A person who fails to comply with a direction of the Presiding Member under subclause (4) may, by order of the Presiding Member, be removed from the committee room.
- (6) The Council may make a policy dealing with the circumstances in which a person may be given consent to address a committee meeting.

#### **6.13 Council may meet to hear public submissions**

- (1) Where an item on the agenda at a Council meeting is contentious and is likely be the subject of a number of deputations, the Council may resolve to meet at another time to provide a greater opportunity to be heard.
- (2) The CEO and the President shall set the time and date of the meeting to provide the opportunity to be heard.
- (3) Where the Council resolves to meet to provide the opportunity to be heard under subclause (1), the Presiding Member shall:



- (a) instruct the CEO to provide local public notice of the time and date when the Council will meet to provide an opportunity to be heard;
  - (b) provide a written invitation to attend the meeting to provide the opportunity to be heard to all members of the public who have applied under clause 6.9 to make a deputation on the issue; and
  - (c) cause minutes to be kept of the meeting to provide the opportunity to be heard.
- (4) A meeting held under subclause (1) shall be conducted only to hear submissions and the council shall not make resolutions.
  - (5) At a meeting held under subclause (1), each person making a submission shall be provided with the opportunity to fully state his or her case.
  - (6) A member of the public shall be limited to 10 minutes in making an oral submission, but this period may be extended at the discretion of the Presiding Member.
  - (7) Once every member of the public has had the opportunity to make a submission the Presiding Member is to close the meeting.
  - (8) The CEO is to ensure that a report is included on the agenda of the next Council meeting summarising each submission made at the meeting.
  - (9) The Council must not resolve on the matter that is the subject of a meeting to provide the opportunity to be heard until it has received the CEO's report under subclause (8).

**6.14 Public inspection of agenda materials**

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations may be exercised at the Shire of Donnybrook-Balingup Administration Centre and on the local government's website.

**6.15 Confidentiality of information withheld**

- (1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be:
  - (a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed";
  - (b) marked "*Confidential*" in the agenda; and
  - (c) kept confidential by Officers and Members until the Council resolves otherwise.
- (2) A Member or an Officer in receipt of confidential information under subclause (1) or information that is provided or disclosed during a meeting or part of a meeting that is closed to the public is not to disclose any of that information to any person other than another Member or an Officer to the extent necessary for the purpose of carrying out his or her duties.

- (3) Subclause (2) does not apply where a Member or Officer discloses the information to his or her lawyer or government officer for the purpose of seeking advice in order to lawfully fulfil his or her role and responsibilities.

#### **6.16 Recording of proceedings**

- (1) A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member.
- (2) If a person is permitted to record proceedings under this clause, the Presiding Member is to advise the meeting, immediately before the recording is commenced, that the recording is permitted and the extent of that permission.

#### **6.17 Prevention of disturbance**

- (1) A reference in this clause to a person is to a person other than a Member or Officer.
- (2) A person addressing the Council shall extend due courtesy and respect to the Council and the processes under which it operates and shall comply with any direction by the Presiding Member.
- (3) A person observing a meeting shall not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person shall ensure that his or her mobile telephone, audible pager or other electronic communications device is not switched on or used during any meeting of the Council, unless required for emergency use and permission has been granted by the Presiding Member prior to the start of the meeting.
- (5) A person shall not behave in a manner that is contrary to section 75 of the Criminal Code.

### **Part 7 - Questions by Members**

#### **7 Questions without notice**

- (1) Subject to clause 10.17(4), Members may ask questions without notice:
  - (a) in relation to an item on the agenda during discussion or debate on the matter; or
  - (b) in relation to the good government of persons in the district during the agenda item questions from Members.
- (2) A Member asking a question at a meeting may ask that question without notice and, with the consent of the Presiding Member, may ask one or more further questions.

- (3) Where possible the respondent is to endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the respondent may ask that:
  - (a) the question is taken on notice; and
  - (b) the answer to the question be given to the Members as soon as practicable.
- (4) Every question and answer:
  - (a) is to be brief and concise; and
  - (b) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.
- (5) In answering any question, a respondent may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting, correct, add to or otherwise amend the original answer.

## **Part 8 – Conduct of Members**

### **8.1 Members to be in their proper places**

- (1) At the first meeting held after each election day, the CEO is to allot, alphabetically, a position at the Council table to each Member.
- (2) Each Member is to occupy his or her allotted position at each Council meeting.

### **8.2 Members to rise**

Any Member wishing to speak shall indicate by show of hand or other method agreed upon by the Council. When invited by the Presiding Member to speak, the Member shall rise and address the Council through the Presiding Member, provided that any Member unable conveniently to stand by reason of sickness or disability shall be permitted to sit while speaking.

### **8.3 Respect to the Presiding Member**

After the business of a Council has been commenced, a Member is not to enter or leave the meeting without first paying due respect to the Presiding Member, unless for an emergency situation.

### **8.4 Titles to be used**

A speaker, when referring to the President, Deputy President or Presiding Member, or a Member or Officer, is to use the title of that person's office.

### **8.5 Advice of entry or departure**

During the course of a meeting of the Council, a Member is not to enter or leave the meeting without first advising the Presiding Member, in order to facilitate the recording in the minutes of the time of entry or departure.

**8.6 ~~Members to indicate their intention to speak~~**

~~A Member of the Council who wishes to speak is to indicate his or her intention to speak by raising his or her hand or by another method agreed by the Council.~~

Commented [TM2]: Covered for in 8.2

**8.76 Priority of speaking**

- (1) Where two or more Members indicate, at the same time, their intention to speak, the Presiding Member is to decide which Member is entitled to be heard first.
- (2) A decision of the Presiding Member under subclause (1) is not open to discussion or dissent.
- (3) A Member is to cease speaking immediately after being asked to do so by the Presiding Member.

**8.87 Presiding Member may take part in debates**

The Presiding Member may take part in a discussion of any matter before the Council, subject to compliance with this local law.

**8.98 Relevance**

- (1) A Member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.
- (2) The Presiding Member, at any time, may:
  - (a) call the attention of the meeting to any irrelevant, repetitious, offensive or insulting language by a Member; and
  - (b) direct that Member, if speaking, to discontinue his or her speech.
- (3) A Member is to comply with the direction of the Presiding Member under subclause (2) by immediately ceasing to speak.

**8.109 Speaking twice**

- (1) A Member is not to address the Council more than once on any motion or amendment except:
  - (a) as the mover of a substantive motion, to exercise a right of reply;
  - (b) to raise a point of order; or
  - (c) to make a personal explanation.

**8.104 Duration of speeches**

- (1) A Member is not to speak on any matter for more than 5 minutes without the consent of the Council which, if given, is to be given without debate.
- (2) An extension under this clause cannot be given to allow a Member's total speaking time to exceed 10 minutes.

**8.121 No speaking after conclusion of debate**

- (1) A Member is not to speak on any motion or amendment:
  - (a) after the mover has replied; or
  - (b) after the question has been put.

**8.132 No interruption**

- (1) A Member is not to interrupt another Member who is speaking unless:
  - (a) to raise a point of order;
  - (b) to call attention to the absence of a quorum;
  - (c) to make a personal explanation under clause 8.14; or
  - (d) to move a procedural motion that the Member be no longer heard.

**8.143 Personal explanations**

- (1) A Member who wishes to make a personal explanation relating to a matter referred to by another Member who is then speaking is to indicate to the Presiding Member his or her intention to make a personal explanation.
- (2) The Presiding Member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other Member.
- (3) A Member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

**8.154 No reopening of discussion**

A Member is not to reopen discussion on any Council decision, except to move that the decision be revoked or changed.

**8.165 Adverse reflection**

- (1) A Member is not to reflect adversely on a decision of the Council except on a motion that the decision be revoked or changed.
- (2) A Member is not:
  - (a) to reflect adversely on the character or actions of another Member or Officer; or
  - (b) to impute any motive to a Member or Officer, unless the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.
- (3) A Member is not to use offensive or insulting expressions in reference to any Member, Officer or other person.
- (4) If a Member specifically requests, immediately after their use, that any particular words used by a Member be recorded in the minutes:
  - (a) the Presiding Member is to cause the words used to be taken down and read to the meeting for verification; and
  - (b) the Council may, by resolution, decide to record those words in the minutes.

**8.176 Withdrawal of offensive language**

- (1) A Member who, in the opinion of the Presiding Member, uses an expression which:
  - (a) in the absence of a resolution under clause 8.16:

- (i) reflects adversely on the character or actions of another Member or Officer; or
    - (ii) imputes any motive to a Member or Officer; or
  - (b) is offensive or insulting, must, when directed by the Presiding Member, withdraw the expression and make a satisfactory apology.
- (2) If a Member fails to comply with a direction of the Presiding Member under subclause (1), the Presiding Member may refuse to hear the Member further on the matter then under discussion and call on the next speaker.

## **Part 9 - Preserving order**

### **9.1 Presiding Member to preserve order**

- (1) The Presiding Member is to preserve order, and, whenever he or she considers necessary, may call any Member to order.
- (2) When the Presiding Member speaks during a debate, any Member then speaking, or indicating that he or she wishes to speak, is immediately to sit down and every Member present is to preserve strict silence so that the Presiding Member may be heard without interruption.
- (3) Subclause (2) is not to be used by the Presiding Member to exercise the right provided in clause 8.8, but to preserve order.

### **9.2 Point of order**

- (1) A Member may object, by way of a point of order, only to a breach of:
  - (a) this local law; or
  - (b) any other written law.
- (2) Despite anything in this local law to the contrary, a point of order:
  - (a) takes precedence over any discussion; and
  - (b) until determined, suspends the consideration or discussion of any other matter.

### **9.3 Procedures on a point of order**

- (1) A Member who is addressing the Presiding Member is not to be interrupted except on a point of order.
- (2) A Member interrupted on a point of order is to resume his or her seat until:
  - (a) the Member raising the point of order has been heard; and
  - (b) the Presiding Member has ruled on the point of order, and, if permitted, the Member who has been interrupted may then proceed.

### **9.4 Calling attention to breach**

A Member may, at any time, draw the attention of the Presiding Member to any breach of this local law.

### **9.5 Ruling by the Presiding Member**

- (1) The Presiding Member is to rule on any point of order which is raised by either upholding or rejecting the point of order.
- (2) A ruling by the Presiding Member on a point of order is to be final unless the majority of Members then present and voting, on a motion moved immediately after the ruling, dissent from the ruling.
- (3) Subject to a motion of dissent being carried under subclause (2), if the Presiding Member rules that:
  - (a) any motion, amendment or other matter before the meeting is out of order, it is not to be considered further; and
  - (b) a statement made or act done by a Member is out of order, the Presiding Member may require the Member to make an explanation, retraction or apology.

#### **9.6 Continued breach of order**

If a Member:

- (a) persists in any conduct that the Presiding Member had ruled is out of order; or
  - (b) refuses to make an explanation, retraction or apology required by the Presiding Member under clause 9.5(3),
- the Presiding Member may direct the Member to refrain from taking any further part in the matter under discussion, other than by voting, and the Member is to comply with that direction.

#### **9.7 Right of Presiding Member to adjourn**

- (1) For the purpose of preserving or regaining order, the Presiding Member may adjourn the meeting for a period of up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the Presiding Member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

### **Part 10 - Debate of substantive motions**

#### **10.1 Motions to be stated and in writing**

Any Member who wishes to move a substantive motion or an amendment to a substantive motion:

- (a) is to state the substance of the motion before speaking to it; and
- (b) if required by the Presiding Member, is to put the motion or amendment in writing.

#### **10.2 Motions to be supported**

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a Council meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations.

#### **10.3 Unopposed business**

- (1) Immediately after a substantive motion has been moved and seconded, the Presiding Member may ask the meeting if any Member opposes it.
- (2) If no Member opposes the motion, the Presiding Member may declare it carried without debate and without taking a vote.
- (3) A motion declared carried under this clause is to be recorded in the minutes as a unanimous decision of the Council.
- (4) If a Member opposes a motion, the motion is to be dealt with under this Part.
- (5) This clause does not apply to a motion to revoke or change a decision which has been made at a Council meeting.

#### **10.4 Only one substantive motion at a time**

When a substantive motion is under debate at a meeting of the Council, no further substantive motion is to be accepted. The Council is not to consider more than one substantive motion at any time.

#### **10.5 Complex motions**

The Presiding Member may require that a complex substantive motion is to be broken down and put in the form of more than one motion, each of which is to be put in sequence.

#### **10.6 Order of call in debate**

The Presiding Member is to call speakers to a substantive motion in the following order:

- (a) the mover to state the motion;
- (b) a seconder to the motion;
- (c) the mover to speak to the motion;
- (d) the seconder to speak to the motion;
- (e) a speaker against the motion;
- (f) a speaker for the motion;
- (g) other speakers against and for the motion, alternating where possible; and
- (h) mover takes right of reply which closes debate.



**10.7 Limit of debate**

The Presiding Member may offer the right of reply and put a substantive motion to the vote if he or she believes that sufficient discussion has taken place even though all Members may not have spoken.

**10.8 Member may require question to be read**

A Member may require the question or matter under discussion to be read at any time during a debate, but not so as to interrupt any other Member who is speaking.

**10.9 Consent of seconder required for alteration**

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

**10.10 Order of amendments**

Any number of amendments may be proposed to a substantive motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn, carried or lost.

**10.11 Form of an amendment**

An amendment must add, delete, or substitute words to the substantive motion.

**10.12 Amendment must not negate original motion**

An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.

**10.13 Relevance of amendments**

Each amendment is to be relevant to the motion in respect of which it is moved.

**10.14 Mover of motion may speak on amendment**

Any Member may speak during debate on an amendment.

**10.15 Effect of an amendment**

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any Member may speak and any further amendment may be moved.

**10.16 Withdrawal of motion or amendment**

- (1) Subject to subclause (2), the Council may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.
- (2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of Members present, until the amendment proposed has been withdrawn or lost.

**10.17 Right of reply**

- (1) The mover of a substantive motion has the right of reply.

- (2) The mover of any amendment to a substantive motion has a right of reply.
- (3) The right of the reply may only be exercised:
  - (a) where no amendment is moved to the substantive motion – at the conclusion of the discussion on the motion; or
  - (b) where one or more amendments have been moved to the substantive motion – at the conclusion of the discussion on the substantive motion and any amendments.
- (4) After the mover of the substantive motion has commenced the reply:
  - (a) no other Member is to speak on the motion;
  - (b) there is to be no further discussion on, or any further amendment to the motion.
- (5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.
- (6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

#### **10.18 Foreshadowing alternative motions**

- (1) If a member wishes to negate a substantive motion and have the Council consider a new substantive motion on the matter with different intent, the member must foreshadow the new substantive motion prior to the right of reply.
- (2) If a substantive motion is lost, the Presiding Member must call on the Member who foreshadowed the new substantive motion to move the proposed motion.
- (3) Once moved and seconded, the foreshadowed motion becomes the substantive motion and the same procedures and rules of debate apply to this motion as any other motion.
- (4) If more than one foreshadowed motion is proposed for any item before the Council, the Presiding Member must deal with them in the order in which they were presented.

### **Part 11 - Procedural motions**

#### **11.1 Permissible procedural motions**

In addition to the right to move an amendment to a substantive motion, a Member may move the following procedural motions:

- (a) that the meeting proceed to the next item of business;
- (b) that the debate be adjourned;
- (c) that the meeting now adjourn;
- (d) that the question be now put;
- (e) that the Member be no longer heard;

- (f) that the ruling of the Presiding Member be disagreed with; or
- (g) that the meeting be closed to the public.

**11.2 No debate**

- (1) The mover of a motion specified in paragraph (a), (b), (c), (f) or (g) of clause 11.1 may speak to the motion for not more than five minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.
- (2) The mover of a motion specified in paragraph (d) or (e) of clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

**11.3 Who may move**

No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

**11.4 Procedural motions - right of reply on substantive motion**

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

**11.5 Meeting to proceed to the next business**

The motion "that the meeting proceed to the next item of business", if carried, has the effect that:

- (a) the debate on the substantive motion or amendment ceases immediately;
- (b) no decision is made on the substantive motion;
- (c) the Council moves to the next item of business; and
- (d) there is no requirement for the matter to be raised again for consideration.

**11.6 Debate to be adjourned**

A motion "that the debate be adjourned":

- (a) is to state the time to which the debate is to be adjourned; and
- (b) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but continues at the time stated in the motion.

**11.7 Meeting now adjourn**

- (1) A Member is not to move or second more than one motion of adjournment during the same sitting of the Council.
- (2) Before putting the motion for the adjournment of a meeting of the Council, the Presiding Member may seek leave of the Council to deal first with matters that may be the subject of an adoption by exception resolution.

- (3) A motion "that the meeting now adjourn":
  - (a) is to state the time and date to which the meeting is to be adjourned; and
  - (b) if carried, has the effect that the meeting is adjourned to the time and date specified in the motion.
- (4) A meeting adjourned under subclause (3) is to continue from the point at which it was adjourned, unless the Presiding Member or the Council determines otherwise.

#### **11.8 Question to be put**

- (1) If the motion "that the question be now put", is carried during debate on a substantive motion without amendment, the Presiding Member is to offer the right of reply and then put the motion to the vote without further debate.
- (2) If the motion "that the question be now put" is carried during discussion of an amendment, the Presiding Member is to put the amendment to the vote without further debate.
- (3) This motion, if lost, causes debate to continue.

#### **11.9 Member to be no longer heard**

If the motion "that the member be no longer heard", is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the substantive motion.

#### **11.10 Ruling of the Presiding Member to be disagreed with**

If the motion "that the ruling of the Presiding Member be disagreed with", is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

### **Part 12 - Disclosure of interests**

#### **12.1 Disclosure of Interests**

Disclosure of interests is dealt with in the Act.

### **Part 13 - Voting**

#### **13.1 Question - when put**

- (1) Immediately after the debate on any question is concluded and the right of reply has been exercised, the Presiding Member:
  - (a) is to put the question to the Council; and
  - (b) if requested by any Member, is to again state the terms of the question.
- (2) A Member is not to leave the meeting when the Presiding Member is putting any question.

### **13.2 Voting**

Voting is dealt with in the Act and the Regulations.

### **13.3 Majorities required for decisions**

The majorities required for decisions of the Council and committees are dealt with in the Act.

### **13.4 Method of taking vote**

- (1) In taking the vote on any motion or amendment the Presiding Member:
  - (a) is to put the question, first in the affirmative, and then in the negative;
  - (b) may put the question in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
  - (c) may accept a vote on the voices or may require a show of hands; and
  - (d) is, subject to this clause, to declare the result.
- (2) If a Member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.
- (3) If a member of Council or a committee specifically requests that there be recorded:
  - (a) his or her vote; or
  - (b) the vote of all members present,on a matter voted on at a meeting of the Council or committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.

## **Part 14 – Minutes of meetings**

### **14.1 Keeping of minutes**

The keeping and confirmation of minutes are dealt with in the Act.

### **14.2 Content of minutes**

- (1) The content of minutes is dealt with in the Regulations.
- (2) In addition to the matters required by regulation 11 of the Regulations, the minutes of a Council meeting is to include, where an application for approval is refused or the authorisation of a licence, permit or certificate is withheld or cancelled, the reasons for the decision.

### **14.3 Public inspection of unconfirmed minutes**

The public inspection of unconfirmed minutes is dealt with in the Regulations.

### **14.4 Confirmation of minutes**

- (1) When minutes of an ordinary Council meeting are distributed for consideration prior to their confirmation at the next meeting, if a Member is dissatisfied with the accuracy of the minutes, the Member may provide the

local government with a written copy of the alternative wording to amend the minutes no later than 7 clear working days before the next ordinary Council meeting.

- (2) At the next ordinary Council meeting, the Member who provided the alternative wording shall, at the time for confirmation of minutes:
  - (a) state the item or items with which he or she is dissatisfied; and
  - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

### **Part 15 - Adjournment of meeting**

#### **15.1 Meeting may be adjourned**

The Council may adjourn any meeting:

- (a) to a later time on the same day; or
- (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.

#### **15.2 Effect of adjournment**

Where any matter, motion, debate or meeting is adjourned under this local law:

- (a) the names of Members who have spoken on the matter prior to the adjournment are to be recorded in the minutes;
- (b) debate is to be resumed at the next meeting at the point where it was interrupted; and
- (c) the provisions of clause 8.9 apply when the debate is resumed.

### **Part 16 – Revoking or changing decisions**

#### **16.1 Requirements to revoke or change decisions**

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Regulations.

#### **16.2 Limitations on powers to revoke or change decisions**

- (1) Subject to subclause (2), the Council or a committee is not to consider a motion to revoke or change a decision:
  - (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 16.3 to implement the decision; or
  - (b) where the decision is procedural in its form or effect.
- (2) The Council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1)(a) if the motion is accompanied by a written statement of the legal and financial consequences of carrying the motion.

### **16.3 Implementing a decision**

- (1) In this clause:
  - (a) "authorisation" means a licence, permit, approval or other means of authorising a person to do anything;
  - (b) "implement", in relation to a decision, includes:
    - (i) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
    - (ii) take any other action to give effect to the decision; and
  - (c) "valid notice of revocation motion" means a notice of motion to revoke or change a decision that complies with the requirements of the Act, Regulations and the local law and may be considered, but has not yet been considered, by the Council or a committee as the case may be.
- (2) Subject to subclause (4), and unless a resolution is made under subclause (3), a decision made at a meeting is not to be implemented by the CEO or any other person until the afternoon of the first business day after the commencement of the meeting at which the decision was made.
- (3) The Council or a committee may, by resolution carried at the same meeting at which a decision was made, direct the CEO or another person to take immediate action to implement the decision.
- (4) A decision made at a meeting is not to be implemented by the CEO or any other person:
  - (a) if, before commencing any implementation action, the CEO or that person is given a valid notice of revocation motion; and
  - (b) unless and until the valid notice of revocation motion has been determined by the Council or the committee as the case may be.
- (5) The CEO is to ensure that members of the public attending the meeting are informed by an appropriate notice that a decision to grant an authorisation:
  - (a) is to take effect only in accordance with this clause; and
  - (b) cannot be acted upon by the person who has been granted the authorisation unless and until the decision has been implemented in accordance with this clause.

## **Part 17 - Suspension of local law**

### **17.1 Suspension of local law**

- (1) A Member may at any time move that the operation of one or more of the provisions of this local law be suspended.
- (2) A Member moving a motion under subclause (1) is to state the reasons for the motion but no other discussion is to take place.

- (3) A motion under subclause (1) which is:
- (a) *seconded; and*
  - (b) *carried by an absolute majority,*
- is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

**17.2 Where the local law does not apply**

- (1) In situations where:
- (a) one or more provisions of this local law have been suspended; or
  - (b) a matter is not regulated by the Act, the Regulations or these Meeting Procedures,
- the Presiding Member is to decide questions relating to the conduct of the meeting.
- (2) The decision of the Presiding Member under subclause (1) is final, except where a motion is moved and carried under clause 11.10.

**17.3 Cases not provided for in local laws**

The Presiding Member is to decide questions of order, procedure, debate, or otherwise in cases where this local law, the Act or the Regulations are silent. The decision of the Presiding Member in these cases is final, except where a motion is moved and carried under clause 11.10.

## **Part 18 - Meetings of electors**

**18.1 Electors' general meetings**

Electors' general meetings are dealt with in the Act.

**18.2 Matters for discussion at electors' general meetings**

The matters to be discussed at electors' general meetings are dealt with in the Regulations.

**18.3 Electors' special meetings**

Electors' special meetings are dealt with in the Act.

**18.4 Requests for electors' special meetings**

Requests for electors' special meetings are dealt with in the Regulations.

**18.5 Convening electors' meetings**

Convening electors' meetings is dealt with in the Act.

**18.6 Who presides at electors' meetings**

Who presides at electors' meetings is dealt with in the Act.

**18.7 Procedure for electors' meetings**

- (1) The procedure for electors' meetings is dealt with in the Act and the Regulations.



- (2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the Presiding Member is to have regard to this local law.

**18.8 Participation of non-electors**

A person who is not an elector of the local government shall not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

**18.9 Voting at electors' meetings**

Voting at electors' meetings is dealt with in the Regulations.

**18.10 Minutes of electors' meetings**

Minutes of electors' meetings are dealt with in the Act.

**18.11 Decisions made at electors' meetings**

Decisions made at electors' meetings are dealt with in the Act.

## Part 19 - Enforcement

**19.1 ~~Penalty for breach~~**

~~A person who commits an offence under this local law is liable to a penalty of \$1000 and where the offence is of a continuing nature, to a daily penalty of \$100 in respect of each day or part of day during which the offence has continued.~~

**Commented [TMS]:** Rely upon Regulation 4 of the Local Government (Rules of Conduct) regulations

**19.21 Who can prosecute**

Who can prosecute is dealt with in the Act.

Dated: 29 March 2018

The Common Seal of the Shire of Donnybrook-Balingup was affixed by authority of a resolution of the Council in the presence of -

B. PIESSE, Shire President.  
B. G. ROSE, Chief Executive Officer.