



MINUTES OF ORDINARY COUNCIL MEETING 27 MAY 2020

Held on

Wednesday 27 May 2020

Commencing at 5.00pm

Shire of Donnybrook Balingup Council Chamber, Donnybrook

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

**Ben Rose
Chief Executive Officer**

28 May 2020

COVID-19 Council Meeting Guidelines for the Public

Due to recent advice from the WA Government on easing restrictions and allowing 20 person gatherings (subject to social distancing requirements), the Shire of Donnybrook Balingup will resume in-person Council Meetings in the Council Chamber.

Public Attendance

Social distancing requirements currently allow for no more than 20 persons to be present in the Council Chamber. Nine Elected Members, plus four staff members allows for a maximum of seven members of the public to attend the meetings in-person. As the *Local Government Act 995* entitles the public to observe meetings, the Shire will be making a video link available on its website to enable members of the public not present to view the meeting from an alternative location. Members of the public will be permitted to enter the Chamber on a first come basis until the maximum limit of 20 persons is reached.

The existing schedule of Agenda Briefing Meetings and Council Meetings will continue, with limits being placed on the number of members of public able to attend in-person. A video link will be available on the Shire's website for members of the public wishing to view the meetings.

Public Question Time

Members of the public are requested to submit any questions in writing to the Chief Executive Officer via email shire@donnybrook.wa.gov.au by 3pm on the day of the Council Meeting. If the question is unable to be answered at the meeting, it may be taken on notice by the Council for a later response. Questions and answers will be printed in the Minutes.

Deputations

Members of the public are requested to submit a request for deputation in relation to an item on the agenda to the Chief Executive Officer via email shire@donnybrook.wa.gov.au by 12pm on the day of the Council Meeting. A staff member will contact you to confirm the process for you to attend the meeting and deliver your deputation.

Confidential Items

For any confidential items that require the meeting to be closed to the public, members of the public attending in-person will be asked to leave the Chamber, and members of the public viewing the meeting via video link will be disconnected. Following the re-opening of the meeting, the video link will be re-connected and members of the public will be permitted to return to the Chamber.

Minutes

In accordance with Regulation 14E(b), of the *Local Government (Administration) Regulations*, the unconfirmed minutes of Council Meetings will be available for public inspection on the Shire's website following the meeting.

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SHIRE OF DONNYBROOK BALINGUP
MINUTES OF ORDINARY COUNCIL MEETING

Held at the Shire of Donnybrook Balingup Council Chamber
Wednesday 27 May 2020 at 5.00pm

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Shire President – Acknowledgment of Country

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

The Shire Present declared the meeting open at 5.05pm and welcomed the public gallery, including members of the public watching via online streaming.

2 ATTENDANCE

MEMBERS PRESENT

COUNCILLORS	STAFF
Cr Brian Piesse (President)	Ben Rose – Chief Executive Officer
Cr Jackie Massey (Deputy President)	Steve Potter – Executive Manager Operations
Cr Shane Atherton	Paul Breman – Executive Manager Corporate and Community
Cr Anita Lindemann	Leigh Guthridge – Strategic Built Projects and Assets
Cr Anne Mitchell	Jaimee Earl – Minute Taker
Cr Chaz Newman	
Cr Shane Sercombe	
Cr Chris Smith	
Cr Leanne Wringe	

PUBLIC GALLERY

7 members of the public in the gallery and 11 members of the public viewing via online streaming.

2.1 APOLOGIES

Nil.

2.2 APPROVED LEAVE OF ABSENCE

Nil.

2.3 APPLICATION FOR A LEAVE OF ABSENCE

Nil.

3 ANNOUNCEMENTS FROM PRESIDING MEMBER

Nil.

4 DECLARATION OF INTEREST

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

Cr Atherton declared an impartiality interest in item 9.3.2 'VC Mitchell Park Master Plan Donnybrook and Districts Sport, Recreation and Events Precinct' as he is a Donnybrook Football Club Committee member and Life member.

Cr Smith declared an impartiality interest in item 9.3.2 'VC Mitchell Park Master Plan Donnybrook and Districts Sport, Recreation and Events Precinct' as he is a juniors coach for the Donnybrook Football Club.

5 PUBLIC QUESTION TIME

5.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

5.2 PUBLIC QUESTION TIME

QUESTIONS ON NOTICE

Simon McInnes

With the development of Mitchel Park there will be some ongoing costs involved. The depreciation of the 13-million-dollar project over 30 years will cost a substantial amount of money. The indication is that this cost will be passed to the lease holders. Using your figures, I believe when both stage 1 and 2 are completed it will cost \$452,162.00 in depreciation annually. If this cost alone is spread evenly over the 5 clubs using the facility i.e., Football, tennis, netball, hockey, and basketball, it will amount to \$90,432.00 annually for each club. This does not include maintenance, mowing, watering, and charges etc. which would also have to be covered by the clubs. If one or more clubs fold or decline to use this area the costs could rise to \$150,720.00 for 3 clubs and \$226,081.00 for 2 clubs which is a lot of wood raffles every year. There is also the ongoing cost for the \$3,000,000.00 loan which amounts to \$125,847.00 annually. If the clubs cannot or will not pay the ongoing costs who will pick up the tab which is the equivalent of an annual rate rise of 11.5% for 30 years?

Chief Executive Officer Response:

There is no proposal to pass on to users the depreciation cost of any future development at the Donnybrook and Districts Sporting, Recreation and Events Precinct (VC Mitchell Park).

Sporting clubs negotiate leases with the Shire as part of their use of the facilities and make payments agreed under these leases.

The Shire will need to fund the repayment of interest and principal on any borrowings in relation to the project. The source of the funds to make these repayments would be part of planning and development of future long-term financial plans and also relevant annual budget decisions, should the development proceed.

Simon McInnes

Using your figure of a loss of \$900,000 from Tuia Lodge this year and dividing it by 12 months it appears that Tuia Lodge is losing \$75,000 per month and has been for a long time. I understand that the elected members of this council come from all walks of life and they may not have the knowledge to understand complex accounting documents, however, if they were confused or lost they have at their disposal a highly paid and professional administration staff.

This raises the question;

1 Why hasn't the upper management of the Shire raised the issue of the loss of \$75,000 per month at every agenda meeting, budget meetings, the monthly general meeting of Council, and the Audit and Risk Management meetings? There can only be two reasons

1. The adverse financial position of Tuia Lodge was deliberately being concealed from the council. If this is the case, then the CEO and the Shire president should resign, and the employment of the top management should be reviewed.

or

2. The adverse financial position of Tuia Lodge was unknown and the discovery that the shires finances were going backwards to the tune of \$75,000 per month for an extended period of time and continues to do so, indicates that there is no oversight over the Shires accounts by the management or council. This is financial mismanagement to the tune of \$900,000 in one year.

or

The Council were well informed but failed to act.

Chief Executive Officer Response:

The Shire is required to undertake a detailed Budget Review process at least once in every financial year. This review was commenced in February 2020 and concluded on 31 March 2020, with the result of the review presented to the Council at a Special Meeting on 6 April 2020.

At the Special Council Meeting, Councillors were informed about the potential impact of budget variations across many items including COVID 19 and Tuia Lodge. The predicted deficit in the Budget Review relevant to the operation of Tuia Lodge was approximately \$800,000. This deficit does not present as an even loss per month as suggested in the question but has occurred with a changeover of residents primarily over the first half of the financial year.

As new residents come into the facility, they are assessed for the ACFI subsidy payment and these subsidy changes can have a negative impact on the level of revenue received by the Shire. The changes present as a negative impact accumulated over the financial year.

During the preparation of the Budget Review, it was identified that the loss of ACFI subsidy had the potential to impact significantly during the last half of the 2019-20 financial year. Management confirmed the potential impact of Tuia Lodge during March 2020, along with the many other Shire activities and COVID 19. Councillors were informed of the outcome of the Budget Review at a Special Council Meeting on 6 April 2020.

The purpose of a Budget Review is to project and predict financial results in order to take the appropriate action before the end of the financial year. The appropriate action is being taken by the Council and management to, where possible, reduce the potential adverse financial impact of Tuia Lodge operations and the impact of COVID19. Council passed the following resolution (44/20) at the Special Council Meeting on 6 April 2020.

“That Council:

- 1. Adopt the 2019-20 budget review statement with amendments to the 2019-20 budget line items as detailed in the attached Note 2 to the Statement, items (B) and (C).*
- 2. Instructs the Chief Executive Officer to take action to reduce the potential for a budget deficit as much as possible leading up to the 30 June 2020 within the confines of maintaining core operations, major projects and service delivery.*
- 3. Instructs the Chief Executive Officer to identify the opportunity for any potential deficit as at 30 June 2020 to be funded from Cash Reserves.”*

Revenue outcomes change regularly at Tuia Lodge as the cohort changes. Recent indications are revenue from the ACFI subsidy is increasing to the degree that the predicted outcome is likely to be better than expected in the Budget Review, however, the precise result will not be known until the end of the 2019-20 financial year.

The Shire is working through a long-standing and well publicised review process in relation to its operational involvement with aged care services, and particularly Tuia Lodge, and has commenced developing an EOI to investigate the potential to outsource the operation (whilst still maintaining the land/building asset).

A copy of the Budget Review has been forwarded to the Department of Local Government, Sport and Cultural Industries as required by legislation. As with all local governments in the State, the Shire is audited by the Office of the Auditor General and all disclosure of the circumstances relevant to the Budget Review will occur as part of the 2019-20 audit.

Simon McInnes

Will the Shire president suspend the council immediately and ask the Minister for Local Government to do a thorough audit of the Shires finances, an audit of the governance of the Shire with regards to the exchange of information between the Administration the Council and the Public and an investigation into the current culture of secrecy and concealment of information within the Shire?

Will the Shire President stop all major decision making by the Council until this is completed as there is no guarantee that the Administration or the Council have complete information to make an informed decision?

I demand that you and the CEO give a complete and comprehensive explanations of the decisions you make at this meeting regarding this question and it be recorded in these minutes.

Shire President Response

Street talk suggests myself, the CEO and Mr Paul Breman met with the Department of Local Government on 22 January regarding the forecasted financial position, and also claims that we failed to inform Council of an amended forecast. As previously advised, I became aware of the amended forecast 24 hours before Councillors were advised.

The basis of information from the Department of Local Government received in writing on 19 May confirms the identification of this shortfall was, indeed, NOT mentioned at the 22 January meeting. Now they [Department of Local Government, Sport and Cultural Industries] have corrected their information provided to people in this room and the public. The fabrications are false and I am taking advice as to the steps regarding potential defamation.

As for your final question, advice from the very well-respected Mr Paul Breman has been put on the record regarding the issue in clarity of Council's financial position. Statements have been made on several occasions that there is no evidence to suggest fraudulent activity in what Paul has seen so far in his role as Executive Manager Corporate and Community.

I am not going to suspend the Council – in any case I have no authority to do such. The Minister does not even have that unilateral right. As to stopping major decisions, that is for Councillors to take into consideration in their own voting tonight.

Council also needs to not only consider balances but increase in asset value to the Shire and overall impact to the balance sheet.

Melanie McAndrew

Can the Shire please provide details of how the money received from the federal governments 2019 Drought Community programme has or will be spent?

Chief Executive Officer Response

At the March 2020 Ordinary Council Meeting, Council approved a list of 12 projects which have formed the Shire's application for the Drought Communities Funding. Whilst it may not be possible to achieve all of the listed projects within the \$1 million funding available, the Shire will be seeking to deliver as many as possible. Details of the projects can be found in the Council Minutes from the March 2020 Ordinary Council Meeting.

Mike King

IPRF Building Asset Maintenance Plan - Ongoing Operational and Maintenance Costs
As outlined in OCM 22nd May 2019 Item 9.5.8, and OCM 23rd of October 2019, the Shire already has 140 existing buildings which it has to maintain at an estimated cost of \$420,000 each year (this is 9% of the annual Shire rates).

In May 2019, Council Resolution 59/19 directed the CEO to develop a project planning framework to identify buildings which were uneconomical to maintain, duplicated other services, or were underutilised or redundant.

At the October 2019 the Shire Administration had not completed this action, and the development of the IPRF Building Asset Management Plan remains stalled. It was to have been further developed and presented at the April OCM, but this has not occurred. Thus it is not available for Council to see the effects of adding three new and major assets to the list.

This becomes more critical as Council is being asked to approve VC Mitchell Park Stage 1(\$7.76M), Donnybrook Towncentre development (\$1.8M), and the redeveloped Apple Fun Park(about \$1.5M), which will add additional operating and maintenance costs to the Shire Buildings maintenance budget.

It appears from the costings for VC Mitchell Park Plan (b) Stage 1 will add a minimum of \$289,000 annually to the operating and maintenance costs (the total loan repayments and annual bills for building maintenance will increase by 5% of Annual Shire Rates even allowing some costs are picked up by the clubs), with similar additional costs for stage 2.

When will the Shire Administration complete the IPRF Building Asset Management Plan to allow the Council to better understand the longer term consequences of approving capital grant expenditure.

Chief Executive Officer Response

The Shire's Building Asset Management Plan was completed, for the first time ever in April 2019 (while Mr King was a Councillor). Council's resolution from its October 2019 Ordinary Meeting was to develop a Policy to guide decision-making in relation to the review and potential rationalisation of Shire owned buildings, including a risk management framework and a framework to consider both quantitative and qualitative elements.

QUESTIONS AT THE MEETING

Steve Dilley (read by Angelo Logiudice)

Today's agenda item number 9.3.2 VC Mitchell Park Master Plan is asking that Council endorse the plan and instruct the CEO to seek funding to progress the project. Implicit in the resolution, though not specified, is the raising of a 2.5 – 3 million dollar loan to fund Council's one third contribution.

Local Government regulation will require advertising of any proposed loan, however:

Given that you have recently announced the expected biggest financial loss in the Shire Council's history, and the ongoing financial uncertainty created by COVID-19, will you as leader of this Council move to amend today's resolution by adding that Council commit to undertaking a poll of ratepayers prior to committing to any loan, in the same way that the Council of the day did prior to the development of the Donnybrook Recreation Centre?

Shire President Response

I cannot make that decision as only one of nine voting members on the Council, but that doesn't stop an item coming forward to Council in the future or an amendment from a Councillor in relation to the agenda item this evening.

6 PRESENTATIONS

Nil.

6.1 PETITIONS

Nil.

6.2 PRESENTATIONS

Nil.

6.3 DEPUTATIONS

Mr Peter Hearman, President Donnybrook and Districts Football and Sporting Club (Inc) made a deputation relating to item 9.3.2 'VC Mitchell Park Master Plan (Donnybrook and Districts Sport, Recreation and Events Precinct)'.

ADOPTION BY EXCEPTION

COUNCIL RESOLUTION 65/20

Moved: Cr Atherton

Seconded: Cr Massey

That the following items be carried 'en bloc':

- 7.1 Confirmation of Minutes – Ordinary Council Meeting 22 April 2020**
- 7.2 Confirmation of Minutes – Audit and Risk Management Committee 17 April 2020**
- 7.3 Confirmation of Minutes – Special Council Meeting 15 May 2020**
- 9.2.2 Monthly Financial Report – April 2020**
- 9.2.4 Request from Donnybrook Balingup Community Radio for a change of purpose to approved 2019/20 Community Grant Funding**
- 9.2.6 National Redress Scheme**
- 9.3.1 Authorised Persons – Caravan Parks and Camping Grounds Act 1995**

CARRIED 9/0

7 CONFIRMATION OF MINUTES

7.1 ORDINARY MEETING OF COUNCIL – 22 APRIL 2020

Minutes of the Ordinary Meeting of Council held 22 April 2020 are attached (*attachment 7.1(1)*).

EXECUTIVE RECOMMENDATION

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

COUNCIL RESOLUTION 66/20

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

CARRIED 9/0 by En Bloc Resolution

7.2 AUDIT AND RISK MANAGEMENT COMMITTEE – 17 APRIL 2020

Minutes of the Audit and Risk Management Committee meeting held 17 April 2020 are attached (*attachment 7.2(1)*).

EXECUTIVE RECOMMENDATION

That the Minutes from the Audit and Risk Management Committee held 17 April 2020 be received.

COUNCIL RESOLUTION 67/20

That the Minutes from the Audit and Risk Management Committee held 17 April 2020 be received.

CARRIED 9/0 by En Bloc Resolution

7.3 SPECIAL COUNCIL MEETING – 15 MAY 2020

Minutes of the Special Council Meeting held 15 May 2020 *(to be provided)*.

EXECUTIVE RECOMMENDATION

That the Minutes from the Special Council Meeting held 15 May 2020 be confirmed as a true and accurate record.

COUNCIL RESOLUTION 68/20

That the Minutes from the Special Council Meeting held 15 May 2020 be confirmed as a true and accurate record.

CARRIED 9/0 by En Bloc Resolution

8 REPORTS OF COMMITTEES

8.1 REVIEW OF DELEGATIONS REGISTER 2019/20

Location	Donnybrook Balingup
Applicant	Not applicable
File Reference	Not applicable
Author	Loren Clifford – Corporate Planning and Governance Officer
Responsible Officer	Loren Clifford – Corporate Planning and Governance Officer
Manager	Maureen Keegan – Manager Executive Services
Attachments	Attachment 8.1(1) - Delegations Register Attachment 8.1(2) - Delegations to be rescinded
Voting Requirements	Absolute Majority

Recommendation
<p>That Council;</p> <ol style="list-style-type: none"> 1. NOTES completion by Council as the Delegator, of the 2019/20 annual statutory review of the Delegations Register, in accordance with s.5.18 and 5.46 of the <i>Local Government Act 1995</i>, s.47(2) of the <i>Cat Act 2011</i> and s.10AB of the <i>Dog Act 1976</i>. 2. RESCINDS, the following listed delegations as detailed in Attachment 8.1(2), under the Local Government Act 1995. <ul style="list-style-type: none"> • 4.13 Appointment of Staff 3. RESCINDS, the following listed delegations as detailed in Attachment 8.1(2), because there is no head of power to delegate the power/duty in legislation. <ul style="list-style-type: none"> • 7.12 Certificate of Local Planning Authority • 8.4 Certificate of Local Health Authority 4. RESCINDS, the following listed delegations as detailed in Attachment 8.1(2), because it is not a power or duty that can be delegated. <ul style="list-style-type: none"> • 1.1 Council Spokesperson • 1.2 Council Representatives • 1.3 Expenses – Approval and Payment of Expenses and Reimbursements • 2.3 Camping Reserves • 2.4 Arbitration and Industrial Dispute • 2.5 Swimming Pool Hours • 2.6 CEO - Acting Chief Executive Officer • 2.7 Staff Appointments

- 2.8 Vehicles - Use of Vehicles
- 2.9 Walkathons, Car Rallies, Bicycle Rides and Processions
- 2.14 Study Leave - Payment of Study Leave
- 2.15 Community Bus - Hiring Council Community Bus
- 2.19 Council Orders - Signing of Council Orders
- 2.20 Volunteers - Engagement of Volunteers
- 2.21 Event Applications by Donnybrook Recreation Centre
- 2.22 Community Grants Program Funding Scheme
- 2.25 Long Service Leave - The Taking of Long Service Leave
- 2.27 Camping Sites – Balingup Oval and Transit Park (Special Events)
- 2.29 Common Seal - Authority to Affix Common Seal
- 2.31 Waste Management Exemption
- 3.4 Donations
- 3.6 Insurance – Public Liability Claims
- 4.1 Council Plant - Use of Council Plant
- 4.2 Roadside Clearing
- 4.4 School Bus Signs
- 4.5 Timber Royalties
- 4.6 Trees Fallen on Roads
- 4.7 School Aid by Council Works Department
- 4.8 Sand Removal
- 4.9 Extra Mass Vehicle Permits
- 5.3 Building - Site Levels / Foundation Requirements
- 6.1 Expenses - Incur Expenses on Behalf of Council
- 6.5 Burning on Road Verges
- 7.1 Legal Advice
- 7.9 Road Closure and Road Dedication
- 7.10 Department of Land Administration Leases
- 7.11 Department of Land Administration Licenses to Occupy
- 9.1 Tuia Lodge Administration
- 9.3 Tuia Lodge Refundable Accommodation Deposits

5. **APPROVE** the following listed delegations, inclusive of amendments and as detailed in Attachment 8.1(1) -Delegation Register, in accordance with s.5.17 and 5.42 of the *Local Government Act 1995*, s.44 of the *Cat Act 2011*, s.10AA of the *Dog Act 1976* and s.16 of the *Graffiti Vandalism Act 2016*, s.127 of the *Building Act 2011*, s.48 of the *Bush Fires Act 1954*, s.118 of the *Food Act 2008*, s.21 of the *Public Health Act 2016* and s.16(3)(e), s. 82(1), s.83(1) of the *Planning and Development Act 2005*:

- 1.1.1 Audit and Risk Management Committee
- 1.2.1 Appoint Authorised Persons
- 1.2.2 Performing Functions Outside the District
- 1.2.3 Compensation for Damage Incurred when Performing Executive Functions
- 1.2.4 Powers of Entry
- 1.2.5 Declare Vehicle is Abandoned Vehicle Wreck

- **1.2.6 Confiscated or Uncollected Goods**
- **1.2.7 Disposal of Sick or Injured Animals**
- **1.2.8 Close Thoroughfares to Vehicles**
- **1.2.9 Control Reserves and Certain Unvested Facilities**
- **1.2.10 Obstruction of Footpaths and Thoroughfares**
- **1.2.11 Gates Across Public Thoroughfares**
- **1.2.12 Public Thoroughfare – Dangerous Excavations**
- **1.2.13 Crossing – Construction, Repair and Removal**
- **1.2.14 Private Works on, over or under Public Places**
- **1.2.15 Expressions of Interest for Goods and Services**
- **1.2.16 Tenders for Goods and Services**
- **1.2.17 Panels of Pre-Qualified Suppliers for Goods and Services**
- **1.2.18 Application of Regional Price Preference Policy**
- **1.2.19 Disposing of Property**
- **1.2.20 Payments from the Municipal or Trust Funds**
- **1.2.21 Defer, Grant Discounts, Waive or Write Off Debts**
- **1.2.22 Power to Invest and Manage Investments**
- **1.2.23 Rate Record Amendment**
- **1.2.24 Agreement as to Payment of Rates and Service Charges**
- **1.2.25 Determine Due Date for Rates or Service Charges**
- **1.2.26 Recovery of Rates or Service Charges**
- **1.2.27 Recovery of Rates Debts – Require Lessee to Pay Rent**
- **1.2.28 Recovery of Rates Debts - Actions to Take Possession of the Land**
- **1.2.29 Rate Record – Objections**
- **1.2.30 Notices to Owners**
- **1.4.1 Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law**
- **1.4.2 Animals, Environment and Nuisance Local Law 2017**
- **1.4.3 Bushfire Brigades Local Law (Consolidated 2017)**
- **1.4.4 Cat Local Law (Consolidated to include 2017 amendment)**
- **1.4.5 Cemeteries Local Law 2008**
- **1.4.6 Dogs Local Law (Consolidated 2017)**
- **1.4.7 Extractive Industries Local Law (Consolidated 2016)**
- **1.4.8 Fencing Local Law (Consolidated 2016)**
- **1.4.9 Health Local Laws 1999**
- **1.4.10 Meeting Procedures Local Law 2017**
- **1.4.11 Outdoor Eating Areas Local Law 2013**
- **1.4.12 Parking and Parking Facilities Local Law 2017**
- **1.4.13 Local Government Property Local Law 2015**
- **1.4.14 Waste Local Law 2017**
- **2.1.1 Grant a Building Permit**
- **2.1.2 Demolition Permits**
- **2.1.3 Occupancy Permits or Building Approval Certificates**
- **2.1.4 Designate Employees as Authorised Persons**
- **2.1.5 Building Orders**
- **2.1.6 Inspection and Copies of Building Records**
- **2.1.7 Referrals and Issuing Certificates**
- **2.1.8 Private Pool Barrier – Alternative and Performance Solutions**

- **2.1.9 Smoke Alarms – Alternative Solutions**
- **3.1.1 Make Request to FES Commissioner – Control of Fire**
- **3.1.2 Prohibited Burning Times – Vary**
- **3.1.3 Prohibited Burning Times – Control Activities**
- **3.1.4 Restricted Burning Times – Vary and Control Activities**
- **3.1.5 Control of Operations Likely to Create Bush Fire Danger**
- **3.1.6 Burning Garden Refuse / Open Air Fires**
- **3.1.7 Firebreaks**
- **3.1.8 Appoint Bush Fire Control Officer/s and Fire Weather Officer**
- **3.1.9 Control and Extinguishment of Bush Fires**
- **3.1.10 Apply for Declaration as an Approved Area**
- **3.1.11 Recovery of Expenses Incurred through Contraventions of this Act**
- **3.1.12 Prosecution of Offences**
- **4.1.1 Cat Registrations**
- **4.1.2 Cat Control Notices**
- **4.1.3 Approval to Breed Cats**
- **4.1.4 Appoint Authorised Persons**
- **4.1.5 Recovery of Costs – Destruction of Cats**
- **4.1.6 Applications to Keep Additional Cats**
- **4.1.7 Reduce or Waiver Registration Fee**
- **5.1.1 Part Payment of Sterilisation Costs / Directions to Veterinary Surgeons**
- **5.1.2 Refuse or Cancel Registration**
- **5.1.3 Kennel Establishments**
- **5.1.4 Appoint Authorised Persons**
- **5.1.5 Recovery of Moneys Due Under this Act**
- **5.1.6 Dispose of or Sell Dogs Liable to be Destroyed**
- **5.1.7 Declare Dangerous Dog**
- **5.1.8 Dangerous Dog Declared or Seized – Deal with Objections and Determine when to Revoke**
- **5.1.9 Deal with Objection to Notice to Revoke Dangerous Dog Declaration or Destruction Notice**
- **5.1.10 Determine Recoverable Expenses for Dangerous Dog Declaration**
- **6.1.1 Determine Compensation**
- **6.1.2 Prohibition Orders**
- **6.1.3 Food Business Registrations**
- **6.1.4 Appoint Authorised Officers and Designated Officers**
- **6.1.5 Debt Recovery and Prosecutions**
- **6.1.6 Abattoir Inspections and Fees**
- **6.1.7 Food Businesses List – Public Access**

- 7.1.1 Give Notice Requiring Obliteration of Graffiti
- 7.1.2 Notices – Deal with Objections and Give Effect to Notices
- 7.1.3 Obliterate Graffiti on Private Property
- 7.1.4 Powers of Entry
- 8.1.1 Appoint Authorised Officer or Approved Officer (Asbestos Regs.)
- 8.1.2 Authorised Officer – *Health (Miscellaneous Provisions) Act 1911*
- 8.1.3 Enforcement Agency Reports to the Chief Health Officer
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- 8.1.6 Commence Proceedings
- 9.1.1 Illegal Development
- 9.2.1 Local Planning Scheme No. 7- Development Applications
- 9.2.2 Planning and Development (Local Planning Schemes) Regulations 2015 - Strata Applications

6. APPROVE the following listed delegations, recently added to Attachment 8.1(1) - Delegation Register, in accordance with s.5.17 and 5.42 of the *Local Government Act 1995* due to changes to the *Local Government (Functions and General) Regulations 1996*:

- 1.2.31 Renewal or Extension of Contracts during a State of Emergency
- 1.2.32 Procurement of Goods or Services required to address a State of Emergency

ABSOLUTE MAJORITY VOTE REQUIRED

STRATEGIC ALIGNMENT

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

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

EXECUTIVE SUMMARY

The purpose of this report is for Council to receive the statutory review of the Delegations Register, in accordance with s.5.18 and 5.46 of the *Local Government Act 1995*, s.47(2) of the *Cat Act 2011* and s.10AB of the *Dog Act 1976* including recommended changes by the Audit and Risk Management Committee (ARMC) at their meeting on 17 April 2020.

Please note that two new delegations (1.2.31 Renewal or Extension of Contracts during a State of Emergency and 1.2.32 Procurement of Goods or Services required to address a State of Emergency) have been added and not reviewed by the Audit and Risk Management Committee since changes have been made to the *Local Government (Functions and General) Regulations 1996* due to the COVID-19 pandemic. These changes were introduced by the State Government after the ARMC meeting in April 2020.

BACKGROUND

Council last reviewed its delegations register on 26 April 2017, this was a desktop review which was undertaken with the only changes being minor typographical errors, editing policy numbering and increasing the rates book write off minor balances from \$500 – \$1,000.

FINANCIAL IMPLICATIONS

Not applicable.

POLICY COMPLIANCE

Not applicable.

STATUTORY COMPLIANCE

- section 5.42(1) of the *Local Government Act 1995*;
- section 45 of the *Cat Act 2011*;
- section 10AA of the *Dog Act 1976*;
- section 16 of the *Graffiti Vandalism Act 2016*;
- section 127 (1) and (3) of the *Building Act 2011*;
- section 48 and 59(3) of the *Bush Fires Act 1954*;
- section 118 of the *Food Act 2008*;
- section 26 of the *Health (Miscellaneous Provisions) Act 1911*;
- schedule 2, Clause 82 of the *Planning and Development (Local Planning Schemes) Regulations 2015*;
- section 21 of the *Public Health Act 2016*; and
- regulation 15D(7) of the *Health (Asbestos Regulations 1992)*

CONSULTATION

No statutory external consultation is required.

OFFICER COMMENT/CONCLUSION

In July 2017 WALGA released a Decision Making in Practice Toolkit. The kit was developed as a best practice manual in consultation with WA local governments', and provides a comprehensive overview and understanding of the legislative framework that informs the mandatory and discretionary decision making roles undertaken by local government, including how legislation assigns decision making to local governments and statutory offices and provides statutory processes that enable local governments to pass on decision making powers and duties to others.

Using this manual, an analysis of the legislation and local laws listed below was undertaken to identify and determine opportunities for delegations from Council to Committees, Council to CEO, and delegations or sub-delegation from the CEO to employee.

- *Local Government Act 1995;*
- *Building Act 2011;*
- *Building Regulations 2012;*
- *Bush Fires Act 1954;*
- *Cat Act 2011;*
- *Dog Act 1976;*
- *Food Act 2008;*
- *Graffiti Vandalism Act 2016;*
- *Planning and Development Act 2005;*
- *Public Health Act 2016;*
- *Health (Miscellaneous Provisions) Act 1911;*
- *Health (Asbestos) Regulations 1992;*
- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- *Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law;*
- *Animals, Environment and Nuisance Local Law 2017;*
- *Bushfire Brigades Local Law 2017;*
- *Cat Local Law 2017;*
- *Cemeteries Local Law 2008;*
- *Dogs Local Law 2017;*
- *Extractive Industries Local Law 2017;*
- *Fencing Local Law 2016;*
- *Health Local Laws 1999;*
- *Meeting Procedures Local Law 2017;*
- *Outdoor Eating Areas Local Law 2013;*
- *Parking and Parking Facilities Local Law 2017;*
- *Local Government Property Local Law 2015; and*
- *Waste Local Law 2017.*

The analysis considered changes to legislation, the organisational structure, individual position roles and responsibilities, continuity of service, the risks and sensitivities of the decisions and the Shire's operational requirements.

Delegation of power from the Council to the CEO is multifaceted, and there has historically been little consistency between local governments as to what powers may be, or should be, delegated. There has also been little consistency as to how these powers are articulated within an instrument of delegation (Delegation Register), and specifically whether a "broad" power should be delegated that incorporates many sections/subsections of the relevant Act/Regulations, or whether each power should be identified and referenced independently.

There have also been many instances where delegations have been provided but are not required (can be dealt with via authorisation), or on the contrary where it was believed that a delegation was not required to undertake a task but has now been identified as being necessary.

The validity of a Delegation and the legal standing of decisions made under it are reliant on the Delegation being accurate. The new layout of the Delegation Register clearly fulfils council's statutory obligation for delegations to be in writing, and it is also a useful management and communication tool for Elected Members to better understand the power or duty they are delegating, for staff it's a ready reference to the extent of delegated authority assigned to them, and it informs the community as to who makes decisions in what circumstances.

OUTCOME OF MEETING

The Executive Recommendation (as printed) was moved Cr Lindemann, seconded Cr Smith.

AMENDMENT

Moved Cr Wringe

Seconded Cr Newman

That Council;

- 1. NOTES completion by Council as the Delegator, of the 2019/20 annual statutory review of the Delegations Register, in accordance with s.5.18 and 5.46 of the *Local Government Act 1995*, s.47(2) of the *Cat Act 2011* and s.10AB of the *Dog Act 1976*.**
- 2. RESCINDS, the following listed delegations as detailed in Attachment 8.1(2), under the Local Government Act 1995.**
 - 4.13 Appointment of Staff**
- 3. RESCINDS, the following listed delegations as detailed in Attachment 8.1(2), because there is no head of power to delegate the power/duty in legislation.**
 - 7.12 Certificate of Local Planning Authority**
 - 8.4 Certificate of Local Health Authority**
- 4. RESCINDS, the following listed delegations as detailed in Attachment 8.1(2), because it is not a power or duty that can be delegated.**
 - 1.1 Council Spokesperson**
 - 1.2 Council Representatives**
 - 1.3 Expenses – Approval and Payment of Expenses and Reimbursements**
 - 2.3 Camping Reserves**
 - 2.4 Arbitration and Industrial Dispute**
 - 2.5 Swimming Pool Hours**
 - 2.6 CEO - Acting Chief Executive Officer**
 - 2.7 Staff Appointments**
 - 2.8 Vehicles - Use of Vehicles**
 - 2.9 Walkathons, Car Rallies, Bicycle Rides and Processions**

- 2.14 Study Leave - Payment of Study Leave
 - 2.15 Community Bus - Hiring Council Community Bus
 - 2.19 Council Orders - Signing of Council Orders
 - 2.20 Volunteers - Engagement of Volunteers
 - 2.21 Event Applications by Donnybrook Recreation Centre
 - 2.22 Community Grants Program Funding Scheme
 - 2.25 Long Service Leave - The Taking of Long Service Leave
 - 2.27 Camping Sites – Balingup Oval and Transit Park (Special Events)
 - 2.29 Common Seal - Authority to Affix Common Seal
 - 2.31 Waste Management Exemption
 - 3.4 Donations
 - 3.6 Insurance – Public Liability Claims
 - 4.1 Council Plant - Use of Council Plant
 - 4.2 Roadside Clearing
 - 4.4 School Bus Signs
 - 4.5 Timber Royalties
 - 4.6 Trees Fallen on Roads
 - 4.7 School Aid by Council Works Department
 - 4.8 Sand Removal
 - 4.9 Extra Mass Vehicle Permits
 - 5.3 Building - Site Levels / Foundation Requirements
 - 6.1 Expenses - Incur Expenses on Behalf of Council
 - 6.5 Burning on Road Verges
 - 7.1 Legal Advice
 - 7.9 Road Closure and Road Dedication
 - 7.10 Department of Land Administration Leases
 - 7.11 Department of Land Administration Licenses to Occupy
 - 9.1 Tuia Lodge Administration
 - 9.3 Tuia Lodge Refundable Accommodation Deposits
5. APPROVE the following listed delegations, inclusive of amendments and as detailed in Attachment 8.1(1) -Delegation Register, in accordance with s.5.17 and 5.42 of the *Local Government Act 1995*, s.44 of the *Cat Act 2011*, s.10AA of the *Dog Act 1976* and s.16 of the *Graffiti Vandalism Act 2016*, s.127 of the *Building Act 2011*, s.48 of the *Bush Fires Act 1954*, s.118 of the *Food Act 2008*, s.21 of the *Public Health Act 2016* and s.16(3)(e), s. 82(1), s.83(1) of the *Planning and Development Act 2005*:
- 1.1.1 Audit and Risk Management Committee
 - 1.2.1 Appoint Authorised Persons
 - 1.2.2 Performing Functions Outside the District
 - 1.2.3 Compensation for Damage Incurred when Performing Executive Functions
 - 1.2.4 Powers of Entry
 - 1.2.5 Declare Vehicle is Abandoned Vehicle Wreck
 - 1.2.6 Confiscated or Uncollected Goods
 - 1.2.7 Disposal of Sick or Injured Animals
 - 1.2.8 Close Thoroughfares to Vehicles
 - 1.2.9 Control Reserves and Certain Unvested Facilities

- 1.2.10 Obstruction of Footpaths and Thoroughfares
- 1.2.11 Gates Across Public Thoroughfares
- 1.2.12 Public Thoroughfare – Dangerous Excavations
- 1.2.13 Crossing – Construction, Repair and Removal
- 1.2.14 Private Works on, over or under Public Places
- 1.2.15 Expressions of Interest for Goods and Services
- 1.2.16 Tenders for Goods and Services
- 1.2.17 Panels of Pre-Qualified Suppliers for Goods and Services
- 1.2.18 Application of Regional Price Preference Policy
- 1.2.19 Disposing of Property
- 1.2.20 Payments from the Municipal or Trust Funds
- ~~1.2.21 Defer, Grant Discounts, Waive or Write Off Debts~~
- 1.2.22 Power to Invest and Manage Investments
- 1.2.23 Rate Record Amendment
- 1.2.24 Agreement as to Payment of Rates and Service Charges
- 1.2.25 Determine Due Date for Rates or Service Charges
- 1.2.26 Recovery of Rates or Service Charges
- 1.2.27 Recovery of Rates Debts – Require Lessee to Pay Rent
- 1.2.28 Recovery of Rates Debts - Actions to Take Possession of the Land
- 1.2.29 Rate Record – Objections
- 1.2.30 Notices to Owners
- 1.4.1 Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law
- 1.4.2 Animals, Environment and Nuisance Local Law 2017
- 1.4.3 Bushfire Brigades Local Law (Consolidated 2017)
- 1.4.4 Cat Local Law (Consolidated to include 2017 amendment)
- 1.4.5 Cemeteries Local Law 2008
- 1.4.6 Dogs Local Law (Consolidated 2017)
- 1.4.7 Extractive Industries Local Law (Consolidated 2016)
- 1.4.8 Fencing Local Law (Consolidated 2016)
- 1.4.9 Health Local Laws 1999
- 1.4.10 Meeting Procedures Local Law 2017
- 1.4.11 Outdoor Eating Areas Local Law 2013
- 1.4.12 Parking and Parking Facilities Local Law 2017
- 1.4.13 Local Government Property Local Law 2015
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- 2.1.1 Grant a Building Permit
- 2.1.2 Demolition Permits
- 2.1.3 Occupancy Permits or Building Approval Certificates
- 2.1.4 Designate Employees as Authorised Persons
- 2.1.5 Building Orders
- 2.1.6 Inspection and Copies of Building Records
- 2.1.7 Referrals and Issuing Certificates
- 2.1.8 Private Pool Barrier – Alternative and Performance Solutions
- 2.1.9 Smoke Alarms – Alternative Solutions
- 3.1.1 Make Request to FES Commissioner – Control of Fire
- 3.1.2 Prohibited Burning Times – Vary
- 3.1.3 Prohibited Burning Times – Control Activities
- 3.1.4 Restricted Burning Times – Vary and Control Activities

- **3.1.5 Control of Operations Likely to Create Bush Fire Danger**
- **3.1.6 Burning Garden Refuse / Open Air Fires**
- **3.1.7 Firebreaks**
- **3.1.8 Appoint Bush Fire Control Officer/s and Fire Weather Officer**
- **3.1.9 Control and Extinguishment of Bush Fires**
- **3.1.10 Apply for Declaration as an Approved Area**
- **3.1.11 Recovery of Expenses Incurred through Contraventions of this Act**
- **3.1.12 Prosecution of Offences**
- **4.1.1 Cat Registrations**
- **4.1.2 Cat Control Notices**
- **4.1.3 Approval to Breed Cats**
- **4.1.4 Appoint Authorised Persons**
- **4.1.5 Recovery of Costs – Destruction of Cats**
- **4.1.6 Applications to Keep Additional Cats**
- **4.1.7 Reduce or Waiver Registration Fee**
- **5.1.1 Part Payment of Sterilisation Costs / Directions to Veterinary Surgeons**
- **5.1.2 Refuse or Cancel Registration**
- **5.1.3 Kennel Establishments**
- **5.1.4 Appoint Authorised Persons**
- **5.1.5 Recovery of Moneys Due Under this Act**
- **5.1.6 Dispose of or Sell Dogs Liable to be Destroyed**
- **5.1.7 Declare Dangerous Dog**
- **5.1.8 Dangerous Dog Declared or Seized – Deal with Objections and Determine when to Revoke**
- **5.1.9 Deal with Objection to Notice to Revoke Dangerous Dog Declaration or Destruction Notice**
- **5.1.10 Determine Recoverable Expenses for Dangerous Dog Declaration**
- **6.1.1 Determine Compensation**
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- **6.1.6 Abattoir Inspections and Fees**
- **6.1.7 Food Businesses List – Public Access**
- **7.1.1 Give Notice Requiring Obliteration of Graffiti**
- **7.1.2 Notices – Deal with Objections and Give Effect to Notices**
- **7.1.3 Obliterate Graffiti on Private Property**
- **7.1.4 Powers of Entry**
- **8.1.1 Appoint Authorised Officer or Approved Officer (Asbestos Regs.)**
- **8.1.2 Authorised Officer – *Health (Miscellaneous Provisions) Act 1911***
- **8.1.3 Enforcement Agency Reports to the Chief Health Officer**

- 8.1.4 Designate Authorised Officers
 - 8.1.5 Determine Compensation for Seized Items
 - 8.1.6 Commence Proceedings
 - 9.1.1 Illegal Development
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- 1.2.31 Renewal or Extension of Contracts during a State of Emergency
 - 1.2.32 Procurement of Goods or Services required to address a State of Emergency

7. APPROVE 1.2.21 in accordance with S5.1 and s5.42 of the Local Government Act 1995 subject to the following amendment:

Council Conditions on this Delegation:

7.1 This delegation is to be used in accordance with all Council policies

7.2 This delegation does not apply to debts, which are prescribed as debts that are taken to be a rate or service charge

7.3 A debt may only be waived or written off where:

a. All the necessary measures have been taken to locate / contact the debt and where costs associated continued action to recover the debt outweigh the net value of the debt if recovered by the Shire of Donnybrook Balingup; and

b. The debt remains unpaid for a minimum period of 90 days after its due date for payment or the debt was raised in error; and

c. A limit of \$1,000 with respect to individual debt or cumulative debts of a debtor valued below \$500. Write off debts greater than these values must be referred for Council decision

7.4 A list of all Defer, Grant Discounts, Waive or Write Off Debts executed under this delegation will be presented to Council monthly

CARRIED 9/0

AMENDMENT

Moved Cr Sercombe

Seconded Cr Atherton

That Council;

- 1. NOTES completion by Council as the Delegator, of the 2019/20 annual statutory review of the Delegations Register, in accordance with s.5.18 and 5.46 of the *Local Government Act 1995*, s.47(2) of the *Cat Act 2011* and s.10AB of the *Dog Act 1976*.**
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- **4.1.3 Approval to Breed Cats**

- 4.1.4 Appoint Authorised Persons
- 4.1.5 Recovery of Costs – Destruction of Cats
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- 5.1.3 Kennel Establishments
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- 8.1.6 Commence Proceedings
- 9.1.1 Illegal Development
- 9.2.1 Local Planning Scheme No. 7- Development Applications
- 9.2.2 Planning and Development (Local Planning Schemes) Regulations 2015 - Strata Applications

~~6. APPROVE the following listed delegations, recently added to Attachment 8.1(1) - Delegation Register, in accordance with s.5.17 and 5.42 of the Local Government Act 1995 due to changes to the Local Government (Functions and General) Regulations 1996:~~

- ~~1.2.31 Renewal or Extension of Contracts during a State of Emergency~~

• **1.2.32 Procurement of Goods or Services required to address a State of Emergency**

7. APPROVE 1.2.21 in accordance with S5.1 and s5.42 of the Local Government Act 1995 subject to the following amendment:

Council Conditions on this Delegation:

- 7.1 This delegation is to be used in accordance with all Council policies
- 7.2 This delegation does not apply to debts, which are prescribed as debts that are taken to be a rate or service charge
- 7.3 A debt may only be waived or written off where;
- a. All the necessary measures have been taken to locate / contact the debt and where costs associated continued action to recover the debt outweigh the net value of the debt if recovered by the Shire of Donnybrook Balingup; and
 - b. The debt remains unpaid for a minimum period of 90 days after its due date for payment or the debt was raised in error; and
 - c. A limit of \$1,000 with respect to individual debt or cumulative debts of a debtor valued below \$500. Write off debts greater than these values must be referred for Council decision
- 7.4 A list of all Defer, Grant Discounts, Waive or Write Off Debts executed under this delegation will be presented to Council monthly

LOST 2/7

COUNCIL RESOLUTION 69/20

Moved Cr Lindemann

Seconded Cr Smith

That Council;

1. NOTES completion by Council as the Delegator, of the 2019/20 annual statutory review of the Delegations Register, in accordance with s.5.18 and 5.46 of the *Local Government Act 1995*, s.47(2) of the *Cat Act 2011* and s.10AB of the *Dog Act 1976*.
2. RESCINDS, the following listed delegations as detailed in Attachment 8.1(2), under the Local Government Act 1995.
 - 4.13 Appointment of Staff
3. RESCINDS, the following listed delegations as detailed in Attachment 8.1(2), because there is no head of power to delegate the power/duty in legislation.
 - 7.12 Certificate of Local Planning Authority
 - 8.4 Certificate of Local Health Authority

4. RESCINDS, the following listed delegations as detailed in Attachment 8.1(2), because it is not a power or duty that can be delegated.

- **1.1 Council Spokesperson**
- **1.2 Council Representatives**
- **1.3 Expenses – Approval and Payment of Expenses and Reimbursements**
- **2.3 Camping Reserves**
- **2.4 Arbitration and Industrial Dispute**
- **2.5 Swimming Pool Hours**
- **2.6 CEO - Acting Chief Executive Officer**
- **2.7 Staff Appointments**
- **2.8 Vehicles - Use of Vehicles**
- **2.9 Walkathons, Car Rallies, Bicycle Rides and Processions**
- **2.14 Study Leave - Payment of Study Leave**
- **2.15 Community Bus - Hiring Council Community Bus**
- **2.19 Council Orders - Signing of Council Orders**
- **2.20 Volunteers - Engagement of Volunteers**
- **2.21 Event Applications by Donnybrook Recreation Centre**
- **2.22 Community Grants Program Funding Scheme**
- **2.25 Long Service Leave - The Taking of Long Service Leave**
- **2.27 Camping Sites – Balingup Oval and Transit Park (Special Events)**
- **2.29 Common Seal - Authority to Affix Common Seal**
- **2.31 Waste Management Exemption**
- **3.4 Donations**
- **3.6 Insurance – Public Liability Claims**
- **4.1 Council Plant - Use of Council Plant**
- **4.2 Roadside Clearing**
- **4.4 School Bus Signs**
- **4.5 Timber Royalties**
- **4.6 Trees Fallen on Roads**
- **4.7 School Aid by Council Works Department**
- **4.8 Sand Removal**
- **4.9 Extra Mass Vehicle Permits**
- **5.3 Building - Site Levels / Foundation Requirements**
- **6.1 Expenses - Incur Expenses on Behalf of Council**
- **6.5 Burning on Road Verges**
- **7.1 Legal Advice**
- **7.9 Road Closure and Road Dedication**
- **7.10 Department of Land Administration Leases**
- **7.11 Department of Land Administration Licenses to Occupy**
- **9.1 Tuia Lodge Administration**
- **9.3 Tuia Lodge Refundable Accommodation Deposits**

5. **APPROVE** the following listed delegations, inclusive of amendments and as detailed in Attachment 8.1(1) -Delegation Register, in accordance with s.5.17 and 5.42 of the *Local Government Act 1995*, s.44 of the *Cat Act 2011*, s.10AA of the *Dog Act 1976* and s.16 of the *Graffiti Vandalism Act 2016*, s.127 of the *Building Act 2011*, s.48 of the *Bush Fires Act 1954*, s.118 of the *Food Act 2008*, s.21 of the *Public Health Act 2016* and s.16(3)(e), s. 82(1), s.83(1) of the *Planning and Development Act 2005*:

- 1.1.1 Audit and Risk Management Committee
- 1.2.1 Appoint Authorised Persons
- 1.2.2 Performing Functions Outside the District
- 1.2.3 Compensation for Damage Incurred when Performing Executive Functions
- 1.2.4 Powers of Entry
- 1.2.5 Declare Vehicle is Abandoned Vehicle Wreck
- 1.2.6 Confiscated or Uncollected Goods
- 1.2.7 Disposal of Sick or Injured Animals
- 1.2.8 Close Thoroughfares to Vehicles
- 1.2.9 Control Reserves and Certain Unvested Facilities
- 1.2.10 Obstruction of Footpaths and Thoroughfares
- 1.2.11 Gates Across Public Thoroughfares
- 1.2.12 Public Thoroughfare – Dangerous Excavations
- 1.2.13 Crossing – Construction, Repair and Removal
- 1.2.14 Private Works on, over or under Public Places
- 1.2.15 Expressions of Interest for Goods and Services
- 1.2.16 Tenders for Goods and Services
- 1.2.17 Panels of Pre-Qualified Suppliers for Goods and Services
- 1.2.18 Application of Regional Price Preference Policy
- 1.2.19 Disposing of Property
- 1.2.20 Payments from the Municipal or Trust Funds
- 1.2.22 Power to Invest and Manage Investments
- 1.2.23 Rate Record Amendment
- 1.2.24 Agreement as to Payment of Rates and Service Charges
- 1.2.25 Determine Due Date for Rates or Service Charges
- 1.2.26 Recovery of Rates or Service Charges
- 1.2.27 Recovery of Rates Debts – Require Lessee to Pay Rent
- 1.2.28 Recovery of Rates Debts - Actions to Take Possession of the Land
- 1.2.29 Rate Record – Objections
- 1.2.30 Notices to Owners
- 1.4.1 Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law
- 1.4.2 Animals, Environment and Nuisance Local Law 2017
- 1.4.3 Bushfire Brigades Local Law (Consolidated 2017)
- 1.4.4 Cat Local Law (Consolidated to include 2017 amendment)
- 1.4.5 Cemeteries Local Law 2008
- 1.4.6 Dogs Local Law (Consolidated 2017)
- 1.4.7 Extractive Industries Local Law (Consolidated 2016)
- 1.4.8 Fencing Local Law (Consolidated 2016)
- 1.4.9 Health Local Laws 1999
- 1.4.10 Meeting Procedures Local Law 2017

- **1.4.11 Outdoor Eating Areas Local Law 2013**
- **1.4.12 Parking and Parking Facilities Local Law 2017**
- **1.4.13 Local Government Property Local Law 2015**
- **1.4.14 Waste Local Law 2017**
- **2.1.1 Grant a Building Permit**
- **2.1.2 Demolition Permits**
- **2.1.3 Occupancy Permits or Building Approval Certificates**
- **2.1.4 Designate Employees as Authorised Persons**
- **2.1.5 Building Orders**
- **2.1.6 Inspection and Copies of Building Records**
- **2.1.7 Referrals and Issuing Certificates**
- **2.1.8 Private Pool Barrier – Alternative and Performance Solutions**
- **2.1.9 Smoke Alarms – Alternative Solutions**
- **3.1.1 Make Request to FES Commissioner – Control of Fire**
- **3.1.2 Prohibited Burning Times – Vary**
- **3.1.3 Prohibited Burning Times – Control Activities**
- **3.1.4 Restricted Burning Times – Vary and Control Activities**
- **3.1.5 Control of Operations Likely to Create Bush Fire Danger**
- **3.1.6 Burning Garden Refuse / Open Air Fires**
- **3.1.7 Firebreaks**
- **3.1.8 Appoint Bush Fire Control Officer/s and Fire Weather Officer**
- **3.1.9 Control and Extinguishment of Bush Fires**
- **3.1.10 Apply for Declaration as an Approved Area**
- **3.1.11 Recovery of Expenses Incurred through Contraventions of this Act**
- **3.1.12 Prosecution of Offences**
- **4.1.1 Cat Registrations**
- **4.1.2 Cat Control Notices**
- **4.1.3 Approval to Breed Cats**
- **4.1.4 Appoint Authorised Persons**
- **4.1.5 Recovery of Costs – Destruction of Cats**
- **4.1.6 Applications to Keep Additional Cats**
- **4.1.7 Reduce or Waiver Registration Fee**
- **5.1.1 Part Payment of Sterilisation Costs / Directions to Veterinary Surgeons**
- **5.1.2 Refuse or Cancel Registration**
- **5.1.3 Kennel Establishments**
- **5.1.4 Appoint Authorised Persons**
- **5.1.5 Recovery of Moneys Due Under this Act**
- **5.1.6 Dispose of or Sell Dogs Liable to be Destroyed**
- **5.1.7 Declare Dangerous Dog**
- **5.1.8 Dangerous Dog Declared or Seized – Deal with Objections and Determine when to Revoke**

- 5.1.9 Deal with Objection to Notice to Revoke Dangerous Dog Declaration or Destruction Notice
 - 5.1.10 Determine Recoverable Expenses for Dangerous Dog Declaration
 - 6.1.1 Determine Compensation
 - 6.1.2 Prohibition Orders
 - 6.1.3 Food Business Registrations
 - 6.1.4 Appoint Authorised Officers and Designated Officers
 - 6.1.5 Debt Recovery and Prosecutions
 - 6.1.6 Abattoir Inspections and Fees
 - 6.1.7 Food Businesses List – Public Access
 - 7.1.1 Give Notice Requiring Obliteration of Graffiti
 - 7.1.2 Notices – Deal with Objections and Give Effect to Notices
 - 7.1.3 Obliterate Graffiti on Private Property
 - 7.1.4 Powers of Entry
 - 8.1.1 Appoint Authorised Officer or Approved Officer (Asbestos Regs.)
 - 8.1.2 Authorised Officer – *Health (Miscellaneous Provisions) Act 1911*
 - 8.1.3 Enforcement Agency Reports to the Chief Health Officer
 - 8.1.4 Designate Authorised Officers
 - 8.1.5 Determine Compensation for Seized Items
 - 8.1.6 Commence Proceedings
 - 9.1.1 Illegal Development
 - 9.2.1 Local Planning Scheme No. 7- Development Applications
 - 9.2.2 Planning and Development (Local Planning Schemes) Regulations 2015 - Strata Applications
6. APPROVE the following listed delegations, recently added to Attachment 8.1(1) - Delegation Register, in accordance with s.5.17 and 5.42 of the *Local Government Act 1995* due to changes to the *Local Government (Functions and General) Regulations 1996*:
- 1.2.31 Renewal or Extension of Contracts during a State of Emergency
 - 1.2.32 Procurement of Goods or Services required to address a State of Emergency
7. APPROVE 1.2.21 in accordance with S5.1 and s5.42 of the *Local Government Act 1995* subject to the following amendment:
- Council Conditions on this Delegation:**
- 7.1 This delegation is to be used in accordance with all Council policies
- 7.2 This delegation does not apply to debts, which are prescribed as debts that are taken to be a rate or service charge
- 7.3 A debt may only be waived or written off where;
- a. All the necessary measures have been taken to locate / contact the debt and where costs associated continued action to recover the debt outweigh the net value of the debt if recovered by the Shire of Donnybrook Balingup; and

- b. The debt remains unpaid for a minimum period of 90 days after its due date for payment or the debt was raised in error; and**
 - c. A limit of \$1,000 with respect to individual debt or cumulative debts of a debtor valued below \$500. Write off debts greater than these values must be referred for Council decision**
- 7.4 A list of all Defer, Grant Discounts, Waive or Write Off Debts executed under this delegation will be presented to Council monthly**

**CARRIED 8/1
ABSOLUTE MAJORITY VOTE ATTAINED**

9 REPORTS OF OFFICERS

9.1 EXECUTIVE MANAGER OPERATIONS

Nil.

9.2 EXECUTIVE MANAGER CORPORATE AND COMMUNITY

9.2.1 ACCOUNTS FOR PAYMENT

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

9.2.2 MONTHLY FINANCIAL REPORT – APRIL 2020

The Monthly Financial Report for April 2020 is attached (*Attachment 9.2.2(1)*).

EXECUTIVE RECOMMENDATION

That the monthly financial report for the period ended 30 April 2020 be received.

COUNCIL RESOLUTION 70/20

That the monthly financial report for the period ended 30 April 2020 be received.

CARRIED 9/0 by En Bloc Resolution

9.2.3 ELECTOR’S MOTION - SUSTAINABILITY ADVISORY COMMITTEE

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup Electors
File Reference	WRK 15
Author	James Jarvis, Manager Community Development
Responsible Officer	James Jarvis, Manager Community Development
Manager	James Jarvis, Manager Community Development
Attachments	Nil
Voting Requirements	Simple Majority

Recommendation	
That Council:	
1.	Instructs the Chief Executive Officer to raise an agenda item at the next practicable meeting of the Warren-Blackwood Alliance of Councils that seeks approval to create a Sub-Regional Working Group, or similar governance model, with responsibility for establishing a Warren-Blackwood adaptation plan to mitigate the challenges of drought, water security and bush fire risk, while reducing dependence on non-renewable energy sources through, although not limited to, optimising waste to energy efficiencies.
2.	Are to be presented with the outcome of the Warren-Blackwook adaptation plan, as per Recommendation 1 above, once completed by the Warren-Blackwood Alliance of Councils.

STRATEGIC ALIGNMENT

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

Outcome:	2.3	A natural environment for the benefit of current and future generations
Strategy:	2.3.1	Efficient use of resources to minimise environmental impacts
Action:	2.3.1.1	Review the sustainability strategy

EXECUTIVE SUMMARY

At the Annual General Meeting of Electors 2020, held on Monday, 16 March, 2020 the following Elector’s Decision was carried 22/11:

“That the Shire of Donnybrook Balingup form an all-embracing Sustainability Advisory Committee, similar to the one operating within the Shire of Bridgetown Greenbushes, utilising the skills of the community and working with the Shire to develop an adaptation plan to mitigate the challenges of drought, water security and bush fire risk we face as a community, while reducing our dependence on non-renewable energy sources through, although not limited to optimising waste to energy efficiencies.”

The Decision was moved by Mrs. Anataglia Mannello and seconded by Mrs. Janine Milton.

BACKGROUND

The Elector's Motion requests the Shire enter a partnership with residents to develop an adaptation plan that addresses significant sustainability issues.

A number of Local Governments have formed Sustainability Advisory Committee's (SAC), including: Shire of Bridgetown-Greenbushes, City of Albany, City of Canning, City of Subiaco, City of Vincent, and the City of Wanneroo whose SAC's Terms of Reference have been reviewed in developing this Agenda item.

The desire of the Elector's to enter into an all-embracing SAC raises the question of what the Shire of Donnybrook-Balingup can effect in isolation from neighbouring Shire's who are all tackling similar sustainability issues that do not follow Shire boundaries. A sub-regional approach will have a more all-embracing impact than the Shire acting alone.

The action responses to each of the sustainability issues identified in the Elector's Motion, including drought, water security, and bush fire risk are common to all South West Local Governments, including our neighbouring Shires in the Warren-Blackwood Alliance of Councils (WBAC). The action responses to create the reduction of dependence on non-renewable energy sources, are usually large-scale projects beyond the capacity and capability of a small Shire to implement on its own.

A more comprehensive Sub-Regional sustainability response could be developed if the Elector's Motion was championed by the Shire at the next WBAC meeting with the goal of creating a Regional Advisory Committee, or similar governance model. A WBAC Sustainability Framework will enable four sub-regional councils to concentrate their shared environmental responsibilities embedded in each organisation's Strategic Community Plans in a partnership with the community to ensure our iconic landscapes, waterways and agricultural land are protected for current and future generations.

FINANCIAL IMPLICATIONS

- A Shire of Donnybrook-Balingup Sustainability Advisory Committee creates an obligation on Council to implement a governance structure that must be supported by Council staff and reported formally at Ordinary Council Meetings, which will have a financial impact through staff time.
- A Sub-Regional Sustainability Response auspiced by the WBAC would require a nominal financial contribution from the Shire of Donnybrook-Balingup and involvement in actions that follow, which would have financial impacts as decided by the Council
- A collaborative Sub-Regional Sustainability Framework will enable local governments within the Warren Blackwood Alliance to be competitive for common grant and future grant opportunities that the Shire of Donnybrook-Balingup alone may be less competitive. The response can be tailored by the four participating Councils to meet their specific commitments while retaining a shared sustainability vision and action orientated response.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Nil.

CONSULTATION

Mr. Dion Steven, Environmental Officer, at the Shire of Bridgetown-Greenbushes.

Focused consultation with Mr. Middle in his professional capacity as Acting Manager Environmental Policy at WALGA.

Various attempts have been made to contact Mrs. Mannello directly and indirectly, including two phone calls, one indirect contact through another community member, followed by an email on 30 April, 2020 with a response received on 5 May 2020 indicating that Mrs. Mannello was not sure that she could respond to queries at that time.

OFFICER COMMENT/CONCLUSION

There is sufficient momentum within the Local Government industry for the Shire of Donnybrook-Balingup to escalate the Elector's Motion to a sub-regional-level response auspiced by the WBAC, which includes the Shire's of Bridgetown-Greenbushes, Nannup and Manjimup. A Warren-Blackwood Alliance - Sustainability Framework will be able to address more effectively the key sustainability issues of drought, water security, bush fire risk, and reducing dependence on non-renewable energy sources. A collaborative action framework will be cost effective and efficient and more realistically address issues that affect all residents across the four Local Government areas.

OUTCOME OF MEETING

Cr Mitchell left the Chamber at 6.38pm and returned at 6.40pm.

The Executive Recommendation (as printed) was moved Cr Piesse, seconded Cr Atherton.

AMENDMENT

Moved Cr Piesse

Seconded Cr Atherton

Given the economic importance of maintaining sustainable agriculture, forestry and fishing industries amounting to c\$92 million or 34 per cent of the Shire of Donnybrook Balingup gross domestic product, Council:

1. Instructs the Chief Executive Officer to raise an agenda item at the next practicable meeting of the Warren-Blackwood Alliance of Councils that seeks approval to create a Sub-Regional Working Group, or similar governance model, with responsibility for establishing a Warren-Blackwood adaptation plan **(embracing the Shires of Donnybrook Balingup, Nannup, Bridgetown-Greenbushes, Manjimup and possibly Boyup Brook)** to mitigate the challenges of

drought, water security and bush fire risk, while reducing dependence on non-renewable energy sources through, although not limited to, optimising waste to energy efficiencies.

2. Are to be presented with the outcome of the Warren-Blackwook adaptation plan, as per Recommendation 1 above, once completed by the Warren-Blackwood Alliance of Councils.

CARRIED 9/0

AMENDMENT

Moved Cr Sercombe

Seconded Cr Lindemann

Given the economic importance of maintaining sustainable agriculture, forestry and fishing industries amounting to c\$92 million or 34 per cent of the Shire of Donnybrook Balingup gross domestic product, Council:

1. Instructs the Chief Executive Officer to raise an agenda item at the next practicable meeting of the Warren-Blackwood Alliance of Councils that seeks approval to create a Sub-Regional Working Group, or similar governance model, with responsibility for establishing a Warren-Blackwood adaptation plan (embracing the Shires of Donnybrook Balingup, Nannup, Bridgetown-Greenbushes, Manjimup and possibly Boyup Brook) to mitigate the challenges of drought, water security and bush fire risk, while reducing dependence on non-renewable energy sources through, although not limited to, optimising waste to energy efficiencies.
2. Are to be presented with the outcome of the Warren-Blackwook adaptation plan, as per Recommendation 1 above, once completed by the Warren-Blackwood Alliance of Councils.
3. *That the item be brought back to Council in November 2020 if the Warren-Blackwood Alliance of Councils does not support the proposition.*

CARRIED 5/4

COUNCIL RESOLUTION 71/20

Moved Cr Piesse

Seconded Cr Atherton

Given the economic importance of maintaining sustainable agriculture, forestry and fishing industries amounting to c\$92 million or 34 per cent of the Shire of Donnybrook Balingup gross domestic product, Council:

That Council:

- 1. Instructs the Chief Executive Officer to raise an agenda item at the next practicable meeting of the Warren-Blackwood Alliance of Councils that seeks approval to create a Sub-Regional Working Group, or similar governance model, with responsibility for establishing a Warren-Blackwood adaptation plan (embracing the Shires of Donnybrook Balingup, Nannup, Bridgetown-Greenbushes, Manjimup and possibly Boyup Brook) to mitigate the challenges of drought, water security and bush fire risk, while reducing dependence on non-renewable energy sources through, although not limited to, optimising waste to energy efficiencies.**
- 2. Are to be presented with the outcome of the Warren-Blackwook adaptation plan, as per Recommendation 1 above, once completed by the Warren-Blackwood Alliance of Councils.**
- 3. That the item be brought back to Council in November 2020 if the Warren-Blackwood Alliance of Councils does not support the proposition.**

CARRIED 8/1

9.2.4 REQUEST FROM DONNYBROOK BALINGUP COMMUNITY RADIO FOR A CHANGE OF PURPOSE TO APPROVED 2019/2020 COMMUNITY GRANT FUNDING

Location	Shire of Donnybrook Balingup
Applicant	Donnybrook Balingup Community Radio
File Reference	FNC 08/6
Author	Bronwyn Hodgson, Community Development Administration Officer
Responsible Officer	Bronwyn Hodgson, Community Development Administration Officer
Manager	James Jarvis, Manager Community Development
Attachments	9.2.4(1) – Community Grant Funding Scheme Guidelines 2019/20 9.2.4(2) – Original application for funding Donnybrook Balingup Community Radio 9.2.4(3) – Application for change of use of approved community grant funding
Voting Requirements	Simple Majority

Recommendation	
That Council:	
1.	Approve the change of use of Major Community Grant funding that was approved for the Donnybrook Balingup Community Radio in the 2019/20 funding round.
2.	Thank the Donnybrook Balingup Community Radio for their efforts, particularly during the COVID-19 Pandemic.

STRATEGIC ALIGNMENT

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

Outcome:	3.1	An engaged, supportive and inclusive community
Strategy:	3.1.1	Facilitate, encourage and support a diverse range of festivals, community events, arts and cultural activities
Action:	3.1.1.2	Continue to encourage and support community led events

EXECUTIVE SUMMARY

Recommend Council endorse the requested change of use of approved community grant funding.

BACKGROUND

The Community Grants Funding Scheme welcomes submissions from individuals, community groups, not-for-profit and commercial organisations that are seeking support for projects, activities and events that address identified community needs. Full details of the Community Grants Funding Scheme are outlined in the Community Grant Funding Scheme Guidelines (Attachment 1). This document includes details of eligibility, ineligibility, how to apply and the assessment criteria.

Requests for funding for Major Community Grants and Major Event Sponsorship Funding required applicants to apply as part of an annual funding round. The 2019/2020 funding round opened in early March 2019 and closed on 1 May 2019.

Applications received were assessed in May 2019, presented to Council at the May 2019 OCM and then as approved by Council submitted to the 2019/2020 budget planning process and became formalised with the endorsement of the 2019/2020 budget in August 2019.

Projects and events take place within the 2019/2020 year with the grants being acquitted once the project or event has taken place.

DETAILS

The Donnybrook Balingup Community Radio (DBCR) were awarded \$2,000 in the Major Grant Funding round of 2019/2020 to assist with the purchase and installation of battery and solar powered back-up power facilities at the Donnybrook site.

This project has not commenced as at May 2020.

The COVID-19 pandemic and the subsequent restrictions, through March, April and May 2020, required to stop the spread of COVID-19 resulted in many local business closing which then affected the sponsorship and advertising income for DBCR.

The DBCR has been integral in assisting the community with updated health, business and Shire messages to listeners.

The DBCR have requested a change of purpose to the awarded grant. To assist the DBCR through this current economic crisis they wish to use the funds to support the ongoing operational costs of the station. The funds would be utilised for costs such as license renewals, repairs to equipment and the purchase of new equipment if required.

It is recommended that this change of purpose be approved to further support this local community service.

CONSULTATION

No external consultation is required for the Community Grant Funding Scheme.

FINANCIAL IMPLICATIONS

There are no additional financial implications as the grant has previously been approved and is part of the 2019/2020 budget.

POLICY COMPLIANCE

Administration Policy 2.47 – Community Grant Funding Scheme

STATUTORY COMPLIANCE

Not applicable.

COUNCIL RESOLUTION 72/20

That Council:

- 1. Approve the change of use of Major Community Grant funding that was approved for the Donnybrook Balingup Community Radio in the 2019/20 funding round.**
- 2. Thank the Donnybrook Balingup Community Radio for their efforts, particularly during the COVID-19 Pandemic.**

CARRIED 9/0 by En Bloc Resolution

9.2.5 TUIA LODGE QUARTERLY REPORT - QUARTER TWO AND THREE (2019/20)

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	CSV 01/2
Author	Bob Lowther, Manager Aged Care Services
Responsible Officer	Bob Lowther, Manager Aged Care Services
Manager	Paul Breman, Executive Manager Corporate and Community
Attachments	9.2.5(1) – Tuia Lodge Quarter Two Report 2019/20 – Public 9.2.5(2) – Tuia Lodge Quarter Two Report 2019/20 – Confidential 9.2.5(3) – Tuia Lodge Quarter Three Report 2019/20 – Public 9.2.5(4) – Tuia Lodge Quarter Three Report 2019/20 – Confidential
Voting Requirements	Simple Majority

Recommendation
<p>That Council receive the Tuia Lodge Quarterly Reports for Quarter Two (October – December 2019) and Quarter Three (January – March 2020) 2019/20.</p>

STRATEGIC ALIGNMENT

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

EXECUTIVE SUMMARY

This report covers quarter two (2) and quarter three (3) of the 2019/20 financial year. Comprehensive details including an Executive Summary, Residential Data, Employee Statistics, Occupational Safety and Health, Maintenance and Finance, are provided for Council's information.

BACKGROUND

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

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

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

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

CONSULTATION

Not applicable.

FINANCIAL IMPLICATIONS

In accordance with 2019/20 Budget allocations.

POLICY COMPLIANCE

Not applicable

STATUTORY COMPLIANCE

Aged Care Act 1997.

OFFICER COMMENT / CONCLUSION

It is recommended that the Tuia Lodge Quarterly Report for Quarter Two and Three 2019/20 be received by Council.

OUTCOME OF MEETING

The Executive Recommendation (as printed) was moved Cr Atherton, seconded Cr Wringe.

AMENDMENT

Moved Cr Sercombe Seconded Cr Atherton

1. That Council receive the Tuia Lodge Quarterly Reports for Quarter Two (October – December 2019) and Quarter Three (January – March 2020) 2019/20.

2. *That Council meet quarterly on receipt of the reports.*

LOST 1/8

AMENDMENT

Moved Cr Sercombe

Seconded Cr Mitchell

1. That Council receive the Tuia Lodge Quarterly Reports for Quarter Two (October – December 2019) and Quarter Three (January – March 2020) 2019/20.
2. *That elected members of the Shire of Donnybrook Balingup convene with the Chief Executive Officer quarterly on receipt of the Tuia Lodge Quarterly Reports.*

LOST 3/6

COUNCIL RESOLUTION 73/20

Moved Cr Atherton

Seconded Cr Wringe

That Council receive the Tuia Lodge Quarterly Reports for Quarter Two (October – December 2019) and Quarter Three (January – March 2020) 2019/20.

CARRIED 9/0

9.2.6 NATIONAL REDRESS SCHEME

Location	Shire of Donnybrook Balingup
Applicant	Department of Local Government, Sport and Cultural Industries
File Reference	DEP 62A
Author	James Jarvis, Manager Community Development
Responsible Manager	Paul Breman, Executive Manager Corporate and Community
Attachments	9.2.6(1) - DLGSCI: National Redress Scheme for Institutional Child Sexual Abuse – Local Government Information Paper (December 2019)
Voting Requirements	Simple Majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Notes the consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries in regarding the National Redress Scheme and the participation of WA local governments. 2. Notes that the Shire of Donnybrook Balingup will not be included in the WA Government’s amended participation declaration (and afforded the associated financial and administrative coverage), unless the Shire makes a specific and formal decision to be included. 3. Endorses participation of the Shire of Donnybrook Balingup in the National Redress Scheme as a State Government institution and inclusion as part of the State Government’s declaration. 4. Grants authority to the Chief Executive Officer to execute a service agreement with the State, if a Redress application is received. 5. Notes that a confidential report to Council will be provided if a Redress application is received by the Shire of Donnybrook Balingup.

STRATEGIC ALIGNMENT

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

Outcome:	4.2	A respected, professional, and trusted organisation.
Strategy:	4.2.1	Effective and efficient operations and service provision.
Action:	4.2.1.1	Maintain effective and efficient policies, planning, operating procedures, and practices.

EXECUTIVE SUMMARY

Consideration of formally endorsing the Shire's participation as part of the Western Australian (WA) State Government's (the State) declaration in the National Redress Scheme and to grant authority to the Chief Executive Officer (CEO) to execute a service agreement with the State, if a Redress application is received.

The salient points for Shire of Donnybrook-Balingup (Shire) Council arising from WA Local Government Authority's (WALGA) Memorandum of Understanding with the State are that:

1. The State will financially support the Shire's participation in the National Redress Scheme (the Scheme), with the Shire's contribution limited to in-kind support and a nominal financial contributions, set out in Financial Implications below, if an apology is requested.
2. The State will lead the Scheme through a Department of Justice, Redress Coordination Unit.
3. The Shire is not liable, nor will fault be attributed, for any historical incident of institutional child sexual abuse.
4. While the likelihood of an applicant seeking a response from the Shire is very low, it is important that the Shire participate in the Scheme.

BACKGROUND

The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) was established in 2013 to investigate failures of public and private institutions to protect children from sexual abuse. The Royal Commission released three reports throughout the inquiry:

- Working with Children Checks (August 2015);
- Redress and Civil Litigation (September 2015); and
- Criminal Justice (August 2017).

The Royal Commission's Final Report (15 December 2017) incorporated findings and recommendations of the three previous reports and contained a total of 409 recommendations, of which 310 are applicable to the State and the broader WA community.

The main implication of the Royal Commission's recommendations is institutional accountability for historical breaches in their duty of care that occurred before 1 July 2018.

National Redress Scheme

The Royal Commission's Redress and Civil Litigation (September 2015) Report recommended the establishment of a single Scheme to recognise the harm suffered by survivors of institutional child sexual abuse.

The Scheme acknowledges that children were sexually abused, recognises the suffering endured, holds institutions accountable and helps those who have been abused access counselling, psychological services, an apology, and a Redress payment.

The Scheme commenced on 1 July 2018, will run for 10 years, and offers eligible applicants three elements of Redress:

- A direct personal response (DPR), an apology, from the responsible institution, if requested;
- Funds to access counselling and psychological care; and
- A monetary payment of up to \$150,000.

All State and Territory Governments and many major non-government organisations and church groups have joined the Scheme.

The State has passed the legislation for Government and WA based non-government organisations to participate in the Scheme and started participating in the Scheme from 1 January 2019.

Under the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth), local governments may be considered a State institution.

A decision was made at the time of joining the Scheme to exclude WA local governments from the State's participation declaration. This was to allow consultation to occur with the sector about the Scheme, and for a broader consideration of how the WA local government sector could best participate.

The State's financial support for local government participation in the Scheme will ensure that Redress is available to as many WA survivors of institutional child sexual abuse as possible.

Individual local governments (as a State institution) who participate in the Scheme with the State will be responsible for:

- Providing the State with the necessary (facilities and services) information to participate in the Scheme;
- Resources and costs associated with gathering their own (internal) information and providing that information (Request for Information) to the State (if they receive a Redress application); and
- Costs associated with the delivery of a DPR, if requested (based on a standard service fee, plus travel and accommodation depending on the survivor's circumstance). The State's decision includes that all requested DPR's will be coordinated and facilitated by the Redress Coordination Unit on every occasion.

The WALGA State Council meeting of 4 March 2020:

1. Acknowledged the State's decision to include the participation of local governments in the Scheme as part of the State's declaration;
5. Endorsed the negotiation of a Memorandum of Understanding (MOU) and Template Service Agreement with the State, and
2. Endorsed by Flying Minute the MOU prior to execution, to uphold requirements to respond within legislative timeframes.

The State and WALGA will sign a MOU to reflect the principles of WA local governments participating in the Scheme as State institutions and being part of the State's declaration.

State agencies (led by DLGSCI), WALGA and Local Government Professionals WA will support all local governments to prepare to participate in the Scheme from 1 July 2020 (or earlier, subject to completing the necessary arrangements).

As an independent entity and for absolute clarity, it is essential that the Shire formally indicates via a decision of Council, the intention to be considered a State institution (for the purposes on the Scheme) and be included in the State's amended participation declaration.

The Shire will not be included in the State's amended declaration unless it formally decides to be included.

The financial and administrative coverage offered by the State will only be afforded to WA local governments that join the Scheme as a State institution, as part of the State's amended declaration.

The option also exists for the Shire to formally decide not to participate in the Scheme (either individually or as part of the State's declaration).

Should the Shire formally decide (via a resolution of Council) not to participate with the State, or in the Scheme altogether, considerations for the Shire include:

- Divergence from the Commonwealth, State, WALGA and the broader local government sector's position on the Scheme (noting the Commonwealth's preparedness to name-and-shame non-participating organisations).
- Potential reputational damage at a State, sector, and community level.
- Complete removal of the State's coverage of costs and administrative support, with the Shire having full responsibility and liability for any potential claim.
- Acknowledgement that the only remaining method of redress for a victim and survivor would be through civil litigation, with no upper limit, posing a significant financial risk to the Shire.

1. Executing a Service Agreement

All Royal Commission information is confidential, and it is not known if the Shire will receive a Redress application. A Service Agreement will only be executed if the Shire receives a Redress application.

The Shire needs to give authority to an appropriate position / officer to execute a service agreement with the State if a Redress application is received. Timeframes for responding to a Request for Information are three weeks for priority applications and seven weeks for non-priority applications. A priority application timeframe (three weeks) will be outside most Council meeting cycles and therefore it is necessary to provide the authorisation to execute an agreement in advance.

2. Reporting to Council if / when an application is received

Council will receive a confidential report, notifying when a Redress application has been received. All information in the report will be de-identified but will make Council aware that an application has been received.

3. Application Processing / Staffing and Confidentiality

The Shire's CEO will be responsible for receiving applications and responding to Requests for Information.

4. Record Keeping

The State Records Office advised (April 2019) all relevant agencies, including local governments, of a 'disposal freeze' initiated under the State Records Act 2000 (the Act) to protect past and current records that may be relevant to actual and alleged incidents of

child sexual abuse. The Shire's record keeping practices as a result, have been modified to ensure the secure protection and retention of relevant records. These records (or part thereof) may be required to be provided to the State's Redress Coordination Unit in relation to a Redress application.

The Redress Coordination Unit is the state record holder for Redress and will keep copies of all documentation and RFI responses. Local Governments will be required to keep their own records regarding a Redress application in a confidential and secure manner, and in line with all requirements in The Act.

5. Redress Decisions

Decisions regarding Redress applicant eligibility and the responsible institution(s), are made by Independent Decision Makers, based on the information received by the applicant and any RFI responses. The State and the Shire do not have any influence on the decision made and there is no right of appeal.

FINANCIAL IMPLICATIONS

The State's decision will cover the following financial costs for local governments:

- Redress monetary payment provided to the survivor;
- Costs in relation to counselling, legal and administration (including the coordination or requests for information and record keeping); and
- Trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below).

The only financial cost the Shire may incur will be the payment of the DPR's, which is on an 'as requested' basis by the survivor. This will be based on the standard service fee of \$3,000 plus travel and accommodation depending on the survivor's circumstances. All requested DPR's will be coordinated and facilitated by the Redress Coordination Unit.

The State's decision also mitigates a significant financial risk to the Shire in terms of waiving rights to future claims. Accepting an offer of Redress has the effect of releasing the responsible participating organisation and their officials (other than the abuser/s) from civil liability for instances of sexual abuse and related non-sexual abuse of the person that is within the scope of the Scheme. This means that the person who receives Redress through the Scheme, agrees to not bring or continue any civil claims against the responsible participating organisation in relation to any abuse within the scope of the Scheme.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

The Shire, in agreeing to join the Scheme, must adhere to legislative requirements set out in the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth).

Authorisation of an appropriately appointed person to execute a service agreement with the State, if a Redress application is received, will be in accordance with s.9.49A(4) of the *Local Government Act 1995*.

CONSULTATION

The State, through the DLGSCI, consulted with the WA local government sector and other key stakeholders on the Royal Commission into Institutional Responses to Child Sexual Abuse (in 2018) and the National Redress Scheme (in 2019).

The consultation throughout 2019 has focused on the Scheme with the aim of:

- raising awareness;
- identifying whether WA local governments were considering participating;
- identifying how participation may be facilitated; and
- enabling advice to be provided to the State on the longer-term participation of WA local governments.

Consultation analysis determined that local governments were most concerned about the:

- potential cost of Redress payments;
- availability of historical information;
- capacity of local governments to provide a Direct Personal Response (apology) if requested by Redress recipients;
- process and obligations relating to maintaining confidentiality if Redress applications are received, particularly in small local governments; and
- lack of insurance coverage of Redress payments by LGIS, meaning local governments would need to self-fund participation and Redress payments.

The WALGA State Council meeting on 3 July 2019 recommended that:

1. *WA local government participation in the State's National Redress Scheme declaration with full financial coverage by the State Government, be endorsed in principle, noting that further engagement with the sector will occur in the second half of 2019.*
2. *WALGA continue to promote awareness of the National Redress Scheme and note that local governments may wish to join the Scheme in the future to demonstrate a commitment to the victims of institutional child sexual abuse.*

The State's decision, to cover the costs / payments to the survivor, has considered the feedback provided by local governments during the consultation detailed above.

OFFICER COMMENT/CONCLUSION

The significance of the Scheme for survivors of historical institutional child sexual abuse is paramount. The Australian public and media interest in the Royal Commission has been compelling and enduring since its commencement.

Given the historical nature of institutional child sexual abuse, it is difficult to determine the quantum of requests for information that may be received by the Shire, if there are any at all.

The State offer to treat local governments as State institutions for the purposes of the Scheme is an effective and efficient way to ensure local governments are insulated from the financial impacts of the Scheme, but also provides survivors the dignity and opportunity to find a form of closure to the terrible circumstances they have experienced.

COUNCIL RESOLUTION 74/20

That Council:

- 1. Notes the consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries in regarding the National Redress Scheme and the participation of WA local governments.**
- 2. Notes that the Shire of Donnybrook Balingup will not be included in the WA Government’s amended participation declaration (and afforded the associated financial and administrative coverage), unless the Shire makes a specific and formal decision to be included.**
- 3. Endorses participation of the Shire of Donnybrook Balingup in the National Redress Scheme as a State Government institution and inclusion as part of the State Government’s declaration.**
- 4. Grants authority to the Chief Executive Officer to execute a service agreement with the State, if a Redress application is received.**
- 5. Notes that a confidential report to Council will be provided if a Redress application is received by the Shire of Donnybrook Balingup.**

CARRIED 9/0 by En Bloc Resolution

9.3 CHIEF EXECUTIVE OFFICER

9.3.1 AUTHORISED PERSONS – CARAVAN PARKS AND CAMPING GROUNDS ACT 1995

Location	Shire of Donnybrook Balingup
Applicant	Not applicable
File Reference	Not applicable
Author	Loren Clifford – Corporate Planning and Governance Officer
Responsible Officer	Loren Clifford – Corporate Planning and Governance Officer
Manager	Maureen Keegan – Manager Executive Services
Attachments	Nil
Voting Requirements	Simple Majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Appoints Mr Ewerhardus Johannes van Zyl, the Principal Environmental Health Officer, as an Authorised Persons, for the purpose of enforcing the provisions of the <i>Caravan Parks and Camping Grounds Act 1995</i> and <i>Caravan Parks and Camping Grounds Regulations 1997</i>. 2. Appoints Mr Steve Potter, Executive Manager Operations as an Authorised Persons, for the purpose of extending the 28-day period within which the modified penalty may be paid and withdrawing an infringement notice pursuant to S. 23(5) and S. 23(7) of the <i>Caravan Parks and Camping Grounds Act 1995</i> and <i>Caravan Parks and Camping Grounds Regulations 1997</i>. 3. Directs the Chief Executive Officer to appoint Mr Ewerhardus Johannes van Zyl and Mr Steve Potter in writing [s.23(11)] by a certificate [s.23(12)] and issue them with an Identity Card [s.17(1)(b)].

STRATEGIC ALIGNMENT

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

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

EXECUTIVE SUMMARY

Council is requested to authorise Ewerhardus Johannes van Zyl, the Principal Environmental Health Officer and Steve Potter, Executive Manager Operations as ‘Authorised Persons’ under the *Caravan Parks and Camping Grounds Act 1995* and *Caravan Parks and Camping Grounds Regulations 1997*.

It is recommended that Council supports the proposal.

BACKGROUND

The *Caravan Parks and Camping Grounds Act 1995* and *Caravan Parks and Camping Grounds Regulations 1997* enable each local government Council to appoint Authorised Persons to effect the provisions of the Act and Regulations within their district.

Authorisation is necessary to enable appointed Shire Officer’s to:

1. Inspect a licensed caravan park or camping facility, and if necessary, issue work specification notices.
2. Enter caravans or camps not located within licensed facilities, and if necessary, issue infringement notices for offences committed under the Act.
3. Receive modified penalty payments from infringement notices served, to extend the twenty-eight (28) day payment period for the payment of modified penalties, and / or to withdraw infringement notices – (Proposed to be Steve Potter only).
4. Exercise the powers conferred on a local government as per section 6 of the *Caravan Parks and Camping Grounds Regulations 1997*.

Separation of Duties

Section 23 of the Act requires separation of specific duties and responsibilities for Authorised Persons appointed under that section of the Act. Therefore, to maintain continuity for those specific functions it recommended that Council only appoints Steve Potter as an Authorised Persons for the purposes of extending the 28-day period within which the modified penalty may be paid and withdrawing an infringement notice pursuant to S. 23(5) and S. 23(7) of the Act. The Act specifically prohibits a person authorised to issue infringements notices from being authorised to cancel infringement notices.

Certificate and Identity Card Requirements

Pursuant to [s.23(11)] of the Act Officer appointment must be in writing by a Certificate [s.23(12)] and the local government must issue each person appointed with an identity card, in the prescribed form, certifying that the person is an authorised person under this Act [s.17(1)(b)].

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Council's appointment of officers for the purposes of enforcement of the *Caravan Parks and Camping Grounds Act 1995* and *Caravan Parks and Camping Grounds Regulations 1997* is to be consistent with the requirements of that Act and Regulations.

CONSULTATION

Nil.

OFFICER COMMENT/CONCLUSION

The authorisation of officers is necessary for the routine and effective enforcement and compliance of the provisions and requirements of the *Caravan Parks and Camping Grounds Act* and *Regulations*.

COUNCIL RESOLUTION 75/20

That Council:

- 1. Appoints Mr Ewerhardus Johannes van Zyl, the Principal Environmental Health Officer, as an Authorised Persons, for the purpose of enforcing the provisions of the *Caravan Parks and Camping Grounds Act 1995* and *Caravan Parks and Camping Grounds Regulations 1997*.**
- 2. Appoints Mr Steve Potter, Executive Manager Operations as an Authorised Persons, for the purpose of extending the 28-day period within which the modified penalty may be paid and withdrawing an infringement notice pursuant to S. 23(5) and S. 23(7) of the *Caravan Parks and Camping Grounds Act 1995* and *Caravan Parks and Camping Grounds Regulations 1997*.**
- 3. Directs the Chief Executive Officer to appoint Mr Ewerhardus Johannes van Zyl and Mr Steve Potter in writing [s.23(11)] by a certificate [s.23(12)] and issue them with an Identity Card [s.17(1)(b)].**

CARRIED 9/0 by En Bloc Resolution

9.3.2 VC MITCHELL PARK MASTER PLAN (DONNYBROOK AND DISTRICTS SPORT, RECREATION AND EVENTS PRECINCT)

Location	Steere Street, Donnybrook
Applicant	Shire of Donnybrook
File Reference	PWT 18T
Author	James Jarvis, Manager Community Development
Responsible Manager	Ben Rose, Chief Executive Officer
Attachments	9.3.2(1) Donnybrook and Districts Sporting, Recreation and Events Precinct (VC Mitchell Park) Master Plan 9.3.2(2) Stakeholder feedback
Voting Requirements	Simple Majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Thank the members of the Working Group for their genuine and robust input to the Master Plan development. 2. Endorse the Donnybrook and Districts Sports, Recreation and Events Precinct Master Plan, including that Scenario B of the Master Plan be the preferred option for funding consideration; 3. Instruct the Chief Executive Officer to seek project funding (for Stages 1 and 2) from: <ol style="list-style-type: none"> 3.1 The State Government; 3.2 Additional funding sources. 4. Instruct the Chief Executive Officer that, in relation to the project, any further precinct design development, grant funding contracts or requests for tender requires the pre-approval of Council.

STRATEGIC ALIGNMENT

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

Outcome:	3.3	A safe and healthy community
Strategy:	3.3.2	Support a safe, healthy and active community
Action:	3.3.3.2	Review and implement the VC Mitchell Park and Balingup Recreation Centre Masterplans

EXECUTIVE SUMMARY

Since 2009, the upgrade of VC Mitchell Park has been the subject of significant deliberation and discussion in the community and within the Shire. The result has been two significant and detailed Master Planning projects separated by 10 years. The sporting and utilities infrastructure at VC Mitchell Park is ageing and subject to increasing maintenance costs and the existing sporting clubrooms are not fit for purpose. Completion of the Donnybrook and Districts Sporting, Recreation and Events Precinct Master Plan presents an opportunity for the Shire to strongly invest in, and shape, the future of sports, recreation and events delivery in the district.

BACKGROUND

In 2009, the Shire commissioned Jill Powell and Associates to develop a *Mitchell Park and Balingup Sports Master Plan*. The following recommendations were made:

1. *That the Shire of Donnybrook Balingup acknowledges that the existing sporting facilities are ageing and poorly located.*
2. *That the redevelopment of the sporting facilities to include the following functional components be approved in principle and be listed in the Forward Plan:*
 - *Redevelopment of VC Mitchell Park*
 - *Redevelopment of Balingup Oval*
 - *Relocate the Skate Park to Egan Park*
 - *Consider the utilisation of Kirup Oval by AFL and Cricket*
3. *That application be made for a Community Sporting and Recreation Facilities Fund Grant within the 2009/10-2011/12 Triennium, application for which close in September 2009.*
4. *That, as outlined in Section 9.2 – Management, two Committees of Management be formed with the responsibility to manage the facility for an initial 3-year period.*
5. *That this report be made available for public comments.*

The Shire's Corporate Business Plan advocates that the Shire, within the 2017-2020 budget years:

“Review and implement the VC Mitchell Park and Balingup Recreation Centre Masterplans”.

In mid-2018, the Shire commenced a process to review the master plan and secured funding from the now Department of Local Government, Sport, and Cultural Industries (DLGSCI) to actively involve community and sporting stakeholders in that review.

On 8 January 2019, DLGSCI and the Shire entered into a \$12,000 grant agreement with funding from the Community Sporting and Recreation Facilities Fund (CSRFF) to produce the Masterplan. Overall cost of the Master Plan project was estimated at \$37,000 and, after a Request for Quotation process, A Balanced View (ABV) Leisure Consultancy Services were the successful proponent.

Key project milestones have included:

- In April 2019, the formation of the Donnybrook and Districts Sporting and Recreation Precinct Working Group with approved Terms of Reference.
- In May 2019, the initiation and completion of community survey, which included 'open door' sessions for community to participate in face-to-face consultations.
- In July 2019, available Shire Councillors and key Shire staff completed a bus tour of Pingelly, Narrogin and Katanning.
- The Working Group presented their preferred VC Mitchell design layout based on consensus and agreement across sporting codes.
- ABV present the Master Plan with two costed scenarios representing the Working Group's preferred design (Scenario A) and the Shire's modification of that preferred design (Scenario B).
- Four formal meetings of the Working Group.

DETAILS

The principal aim of the Master Plan is to identify the future facility and service requirements of VC Mitchell Park site through an assessment of need and detailing the concept and business case for development options.

The Master Plan provides a roadmap that highlights how the precinct is an important community, sporting and recreation asset that meets the needs of multiple stakeholders, including sporting, recreation and event management and capability into the future, through a sustainable development approach.

Master Plan Methodology and Objectives

The methodology through the Master Plan project has followed three distinct phases, including:

1. Site analysis and consultation,
2. Needs analysis and Master Plan options analysis, and
3. Master Plan Concepts and implementation.

The key objectives of the Master Plan project were tightly focused on:

- To fully use the advantages and benefits of co-locating a variety of sport and recreation activities within a single, integrated precinct.
- To identify functional shortcomings with the existing ageing amenity and capacity and to resolve existing technical faults in the precinct.
- To develop facilities that would be operationally sustainable through co-location, multiuse and multipurpose.
- A community facility that would comply with the principles of universal design by facilitating access to and use of the facility and its spaces by all individuals and groups.

Master Plan Scenarios

Two Master Plan scenarios were presented by ABV Leisure Consultancy Services as a result of extensive consultation, as follows:

1. Scenario A: was developed by members of the Precinct Working Group with the aim to prioritise flexibility in the accommodation of the stated needs and considers the inputs of the working group members, key stakeholders of the precinct, and includes potential future stakeholders. Total estimated cost is \$13,675,030.
2. Scenario B: was produced as an alternative scenario with a similar aim to Scenario A, but to explore an efficient and effective way of accommodating the stated needs in a staged approach with different design implications. Total cost estimate is \$12,754,562.

While there are design adjustments between each scenario, Scenario B presents a moderately reduced cost option to Scenario A.

Staging Options

ABV Leisure Consultancy Services have recommended a staged approach based on Scenario B which meets the aspirational needs of the stakeholders at a lower cost. The approach is presented in three stages that addresses the high pressure points on existing facilities and the availability of funding, as follows:

1. Stage 1: Total estimated cost is \$7,766,815 to include:
 - a. Demolition of existing football and tennis club rooms and build new Sports Club
 - b. Oval lighting upgraded
 - c. Terraced seating near the oval and a reconfigured car park north of the tennis club, and a raised car park off Steere street.
 - d. New playground and BBQ area
 - e. A new main entrance, ticket booth, slipway, fence and ramp to the oval
 - f. New path network between main entrance and recreation centre
 - g. A tennis maintenance shed
 - h. A new rectangular playing field
 - i. Site levelling and clearance, and
 - j. Allowance for services upgrade and preliminaries.
2. Stage 2: Total estimated cost is \$4,987,747 to include:
 - a. Outdoor netball courts
 - b. Remainder of the pathway network
 - c. New small playground
 - d. New pavilion/Club Room
 - e. New indoor multipurpose court as part of the Recreation Centre expansion
 - f. Recreation Centre car park upgrade
 - g. Overflow car park
 - h. Refurbishment to the Recreation Centre
 - i. Lighting to rectangular field to 50 lux, and
 - j. Preliminaries.
3. Stage 3: Not costed and no design work completed. Stage 3 relates to any future development to the western end of the precinct for further recreation and community use.

Governance Model

A critical element of any future multipurpose sports facility is determining the management options. The governance model may be implemented when the facility which the Precinct Working Group have reviewed in detail. The options reviewed include:

- Management by the Shire of Donnybrook-Balingup
- Sports Management Association (Incorporated Association)
- Management by a key user group, and
- A combination of all three items above.

Extensive review of the pros, cons and potential issues has identified the Sports Management Association (Incorporated Association) as the preferred governance model that includes a management committee with representatives of the associated sporting groups and the Shire managing the maintenance and bookings of the sports infrastructure, either through lease arrangements with the clubs, or direct booking systems.

Funding Model

The proposed funding model for the VC Mitchell Park project was considered in Council Resolution 216/19 on 18 December 2019. Council approved, in principle, loan funding to the precinct project on the basis of:

1. One-third funding from the Shire of Donnybrook-Balingup,
2. Two-thirds funding from the State Government, and
3. The Shire of Donnybrook-Balingup capital contribution via loan being capped at a maximum of \$3,000,000.

Prior to seeking project funding from the State Government, as per Council Resolution 216/19, the Master Plan is presented for consideration in the context of the impacts of COVID-19 on the Shire's budget. ABV Leisure Consultancy Services have presented a variety of other potential funding options including LotteryWest, Building Better Regions Fund, and from Donnybrook sporting clubs with capacity to contribute, if possible.

A further contributory funding source is possible through the sale of Shire owned land at the eastern side of the precinct, which is the location of the existing playground that could be moved into a more central location as part of both Scenario A and B.

FINANCIAL IMPLICATIONS

Based on the Stage 1 cost estimate of \$7,766,815 and the Shire's one-third funding model, the Shire's capital contribution to Stage 1 of the project is \$2,588,938. In addition to the capital contribution, the Shire will have recurrent costs to consider also. The following table overviews the recurrent costs to the Shire if the project proceeds (with examples of different loan term periods for comparison).

VC Mitchell Park Development - Stage 1

\$7,766,815

Forecast Net Additional Annual Expenditure

		Forecast Annual Expenditure	Current Annual Expenditure	Net Additional Annual Expenditure
20 Year Borrowings				
Borrowing Repayments	See Borrowings Option Table	158,820	0	158,820
Loan Guarantee Fee	WA Treasury Corporation	17,453	0	17,453
Insurance - Property		9,056	3,361	5,695
Provision for Asset Renewal	0.50% pa of constructed asset value (provisional)	28,542	9,786	18,756
Building Maintenance Budget Provision	Structural maintenance / repairs only	5,000	0	5,000
<i>Sub Total</i>		<i>218,872</i>	<i>13,147</i>	<i>205,724</i>
<i>Non Cash</i>				
Depreciation		138,977	54,832	84,145
<i>Sub Total</i>		<i>138,977</i>	<i>54,832</i>	<i>84,145</i>
Total		357,848	67,979	289,869
30 Year Borrowings				
Borrowing Repayments	See Borrowings Option Table	125,847	0	125,847
Loan Guarantee Fee	WA Treasury Corporation	17,453	0	17,453
Insurance - Property		9,056	3,361	5,695
Provision for Asset Renewal	0.50% pa of constructed asset value (provisional)	28,542	9,786	18,756
Building Maintenance Budget Provision	Structural maintenance / repairs only	5,000	0	5,000
<i>Sub Total</i>		<i>185,899</i>	<i>13,147</i>	<i>172,751</i>
<i>Non Cash</i>				
Depreciation		138,977	54,832	84,145
<i>Sub Total</i>		<i>138,977</i>	<i>54,832</i>	<i>84,145</i>
Total		324,875	67,979	256,896

Comments

Non-Structural Building Maintenance	Assumption: Responsibility of lessee. No cost to Council
Ground Maintenance	Assumption: No material change from current service level
Utilities - Buildings	Assumption: Responsibility of lessee. No cost to Council
Utilities - Grounds	Assumption: No material change from current service level
Provision for Asset Renewal	Detailed assessment of asset renewal requirements to be undertaken upon completion of construction

Borrowing Options					
	Annual Repayments	Total Interest Payable	Total Principal Payable	Total Guarantee Fee Payable	Total Payable
15 years @ 1.67%pa	196,668	350,015	2,600,000	133,044	3,083,059
20 years @ 2.03%pa	158,820	576,411	2,600,000	185,089	3,361,500
25 years @ 2.33%pa *	137,802	845,052	2,600,000	230,936	3,675,988
30 years @ 2.63%pa *	125,847	1,132,191	2,600,000	299,166	4,031,357

* Estimated Interest Rate.

All interest rates and terms are subject to formal quotations.

In addition to a loan facility to fund the Shire's project financial contribution, there is an additional opportunity for Shire funding by developing the present 'Vin Farley' park for residential housing by relocating the existing park several hundred metres to within the VC Mitchell Park precinct. Within the Scenario B Concept Plan, this opportunity is recognised as 'New Blocks 1 – 3'. This land development opportunity is not an immediate / short term option and requires further investigation, as follows:

- The land tenure is Crown land, under Management Order to the Shire.
- The Shire would need to seek approval from the State Government to purchase the land (typically 5% of market value). Under this arrangement, the Shire is contractually obligated to re-invest any revenue from the sale of the land into Public Open Space in the locality (this would be in to the VC Mitchel Park precinct).
- The land would need to be rezoned under the Shire's Local Planning Scheme from 'Parks and Recreation' to 'Residential' – this requires State approval via the WA Planning Commission.
- There is a significant piped drain that transects the site, which would require re-alignment if the site was developed for housing.

With these site constraints (tenure, zoning, drainage), it is estimated that relevant approvals (via State Government) would take in the order of two-three years to achieve and the financial viability of the exercise will need closer examination.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Nil.

CONSULTATION

- Donnybrook and Districts Sporting and Recreation Precinct Working Group formed and assisted in the delivery of the Master Plan.
- ABV Leisure Consultancy Services
 - Community Survey (12 April – 13 May 2020) with 32 responses received,
 - A community open door session on 30 April, 2020, and
 - A user group/club direct survey with follow-up meetings and/or discussions.
- Shire Councillors and key staff bus tour to visit Pingelly, Narrogin and Katanning Recreation facilities.
- Four formal Working Group Meetings.

OFFICER COMMENT/CONCLUSION

The presentation of the Master Plan for Council approval represents a significant milestone in the potential redevelopment of VC Mitchell Park. The Master Plan is a comprehensive blueprint for sporting groups, recreational users and events management in the future and will create a strong community hub and asset for all Shire residents. An approved Donnybrook and Districts Sports, Recreation and Events Precinct Master Plan can be used to leverage the additional funding required to complete the project in two main stages.

OUTCOME OF MEETING

Cr Atherton declared an impartiality interest in item 9.3.2 'VC Mitchell Park Master Plan Donnybrook and Districts Sport, Recreation and Events Precinct' as he is a Donnybrook Football Club Committee member and Life member.

Cr Smith declared an impartiality interest in item 9.3.2 'VC Mitchell Park Master Plan Donnybrook and Districts Sport, Recreation and Events Precinct' as he is a juniors coach for the Donnybrook Football Club.

Mr Peter Hearman, President Donnybrook and Districts Football and Sporting Club (Inc) made a deputation relating to item 9.3.2 'VC Mitchell Park Master Plan (Donnybrook and Districts Sport, Recreation and Events Precinct)'.

The Chief Executive Officer left the Chamber at 7.20pm and returned at 7.21pm.

The Executive Recommendation (as printed) was moved Cr Piesse, seconded Cr Atherton.

AMENDMENT

Moved Cr Lindemann

Seconded Cr Wringe

That Council:

1. Thank the members of the Working Group for their genuine and robust input to the Master Plan development.
2. **Support** the Donnybrook and Districts Sports, Recreation and Events Precinct Master Plan **in principle, allowing for negotiation and changes to be made that best suit all end user sporting and community groups prior to Request for Tender**, including that Scenario B of the Master Plan be the preferred option for funding consideration;
3. Instruct the Chief Executive Officer to seek project funding (for Stages 1 and 2) from:
 - 3.1 The State Government;
 - 3.2 Additional funding sources.
4. Instruct the Chief Executive Officer that, in relation to the project, any further precinct design development, grant funding contracts or requests for tender requires the pre-approval of Council.

CARRIED 9/0

COUNCIL RESOLUTION 76/20

That Council:

1. Thank the members of the Working Group for their genuine and robust input to the Master Plan development.
2. Support the Donnybrook and Districts Sports, Recreation and Events Precinct Master Plan in principle, allowing for negotiation and changes to be made that best suit all end user sporting and community groups prior to Request for Tender, including that Scenario B of the Master Plan be the preferred option for funding consideration;
3. Instruct the Chief Executive Officer to seek project funding (for Stages 1 and 2) from:
 - 3.1 The State Government;
 - 3.2 Additional funding sources.

- 4. Instruct the Chief Executive Officer that, in relation to the project, any further precinct design development, grant funding contracts or requests for tender requires the pre-approval of Council.**

CARRIED 8/1

9.3.3 APPLE FUN PARK PROJECT – MARKET RESEARCH, TENDER METHODOLOGY AND FUNDING MODEL

Location	Shire of Donnybrook Balingup
Applicant	Not applicable
File Reference	PWF 18AB
Author	Ben Rose – Chief Executive Officer
Responsible Officer	Ben Rose – Chief Executive Officer
Manager	Ben Rose – Chief Executive Officer
Attachments	9.3.3(1) - Apple Fun Park Market Research and Community Consultation 2020 Results
Voting Requirements	Simple Majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Receive the Apple Fun Park Market Research and Community Consultation 2020 Results, as attached. 2. Instruct the Chief Executive Officer to publish the results of the Apple Fun Park Market Research and Community Consultation 2020 on the Shire website. 3. Instruct the Chief Executive Officer to release the Apple Fun Park Revitalisation Request for Tender as a ‘Design and Construct’ tender methodology, with the following evaluation criteria: <ul style="list-style-type: none"> • Design – 45% • Relevance Experience, expertise and project team – 25% • Methodology – 20% • Past performance – 10% 4. Subject to pre-approval of the Commonwealth Government, authorise the Chief Executive Officer to execute a variation to the Commonwealth Grant Agreement for revitalisation of the Apple Fun Park by removing the Shire financial co-contribution (\$500k) to the project and any consequential amendments there-to. 5. Acknowledges that a further decision of the Council would be required to allocate Shire Reserve funds to any unplanned or contingency expenditure on the project beyond the Commonwealth Government’s grant contribution of \$1,505,009.

STRATEGIC ALIGNMENT

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

Outcome:	1.3	An attractive visitor and tourist destination
Strategy:	1.3.2	Provide, develop and maintain visitor infrastructure
Action:	1.3.2.2	Continue to seek funding to develop tourism infrastructure

EXECUTIVE SUMMARY

Market research and community consultation on the Federally funded proposition to revitalise the Apple Fun Park was undertaken earlier in 2020; the results of which are appended to this report.

The next project milestone is to release a Request for Tender. A 'design and construct' tender approach is recommended, with a weighted focus on the design element.

Advice received by the Chief Executive Officer from the funding agency (Commonwealth Department of Industry, Science, Energy and Resources – Building Better Regions Fund (BBRF) program) is that the Shire's project funding co-contribution of \$500k can be waived, on application by the Shire. This presents a significant cost saving (or funding re-direction) opportunity to the Shire.

BACKGROUND

At its 25 September 2019 Ordinary Meeting, Council endorsed the Project Management Plan for revitalisation of the Apple Fun Park. The project budget for revitalisation of the Apple Fun Park is comprised of:

- \$1,505,009 – Commonwealth grant funding via the BBRF program.
- \$100,000 – Shire contribution via Reserve Account
- \$400,000 – Shire contribution via loan facility
- TOTAL - \$2,005,009

Substantial market research and community consultation was undertaken on the project by Shire staff during January-February 2020, including overlap between school holiday and school term. The results of the market research and community consultation are appended to this report.

FINANCIAL IMPLICATIONS

Advice received from Mr Steve Williams of the Commonwealth Department of Industry, Science, Energy and Resources by the Chief Executive Officer on 11 May 2020 is that a waiver of the Shire's financial contribution to the project would be considered favourably by the Commonwealth, on the grounds of rationalisation by the Shire as follows:

- Evidence of the Shire's COVID pandemic response and recovery measures:

- There is detailed information in the Shire’s COVID Recovery Plan (approved by Council) to address this point.
- By removing Shire co-contribution funding to the project, what opportunities are created for other Shire activities that generate economic benefit:
 - Without nominating or committing to specific projects, overarching advice will be provided that identifies the value of funding that can be re-directed into other Shire activities (i.e. servicing a loan facility of \$400k and accessing \$100k of reserve funding).
- The willingness of the Shire to maintain a project contingency allowance beyond the Commonwealth grant amount of \$1,505,009 (only in the event it is required):
 - This can be accommodated within the Shire’s existing reserve accounts (requires Council decision to allocate), however, is not expected to be required.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Nil.

CONSULTATION

Public consultation was undertaken via surveys being distributed at the Apple Fun Park, Schools, and various playgrounds in the South West – Bunbury, Manjimup, Busselton. The survey link was also distributed via social media and the Preston Press.

A presentation on the survey results and recommended tender methodology was provided to Councillors on 15 May 2020.

OFFICER COMMENT/CONCLUSION

With 578 individual inputs into the market research and community consultation undertaken earlier in 2020, the Shire has a robust and reliable platform to develop the scope of works for the project tender. With a recommended significant evaluation weighting on the design element of the tender (45%), a ‘Design and Construct’ tender methodology is recommended.

The opportunity to waive funding co-contribution of \$500k to the Apple Fun Park revitalisation project presents a significant opportunity to the Shire, without materially compromising the outcomes of the project. As the ‘Design and Construct’ tender methodology will include a mandatory capped budget requirement, the risk to the Shire in requiring significant contingency will be minimal. Any contingency or unplanned expenditure, if indeed the need arises, can be managed via the Shire’s existing reserve accounts or the recently announced Commonwealth stimulus funding for local governments (both requiring a resolution of the Council first).

OUTCOME OF MEETING

Cr Massey left the Chamber at 8.21pm and returned at 8.23pm.

Cr Lindemann left the Chamber at 8.21pm and returned at 8.25pm.

The Executive Recommendation (as printed) was moved Cr Atherton, seconded Cr Newman.

AMENDMENT

Moved Cr Sercombe

Seconded Cr Smith

That Council:

- 1. Receive the Apple Fun Park Market Research and Community Consultation 2020 Results, as attached.**
- 2. Instruct the Chief Executive Officer to publish the results of the Apple Fun Park Market Research and Community Consultation 2020 on the Shire website.**
- 3. Instruct the Chief Executive Officer to bring the Apple Fun Park Revitalisation Request for Tender as a ‘Design and Construct’ tender methodology to Council, with the following evaluation criteria:
 - Design – 45%
 - Relevance Experience, expertise and project team – 25%
 - Methodology – 20%
 - Past performance – 10%**
- 4. Subject to pre-approval of the Commonwealth Government, authorise the Chief Executive Officer to execute a variation to the Commonwealth Grant Agreement for revitalisation of the Apple Fun Park by removing the Shire financial co-contribution (\$500k) to the project and any consequential amendments there-to.**
- 5. Acknowledges that a further decision of the Council would be required to allocate Shire Reserve funds to any unplanned or contingency expenditure on the project beyond the Commonwealth Government’s grant contribution of \$1,505,009.**

LOST 1/8

AMENDMENT

Moved Cr Sercombe

Seconded Cr Atherton

That Council:

1. Receive the Apple Fun Park Market Research and Community Consultation 2020 Results, as attached.
2. Instruct the Chief Executive Officer to publish the results of the Apple Fun Park Market Research and Community Consultation 2020 on the Shire website.
3. Instruct the Chief Executive Officer to release the Apple Fun Park Revitalisation Request for Tender as a 'Design and Construct' tender methodology, with the following evaluation criteria:
 - Design – 45%
 - Relevance Experience, expertise and project team – 25%
 - Methodology – 20%
 - Past performance – 10%
4. Subject to pre-approval of the Commonwealth Government, authorise the Chief Executive Officer to execute a variation to the Commonwealth Grant Agreement for revitalisation of the Apple Fun Park by removing the Shire financial co-contribution (\$500k) to the project and any consequential amendments there-to.
5. Acknowledges that a further decision of the Council would be required to allocate Shire Reserve funds to any unplanned or contingency expenditure on the project beyond the Commonwealth Government's grant contribution of \$1,505,009.
6. *That the equipment previously donated is returned to the community.*

LOST 1/8

COUNCIL RESOLUTION 77/20

Moved Cr Atherton

Seconded Cr Newman

That Council:

- 1. Receive the Apple Fun Park Market Research and Community Consultation 2020 Results, as attached.**
- 2. Instruct the Chief Executive Officer to publish the results of the Apple Fun Park Market Research and Community Consultation 2020 on the Shire website.**
- 3. Instruct the Chief Executive Officer to release the Apple Fun Park Revitalisation Request for Tender as a ‘Design and Construct’ tender methodology, with the following evaluation criteria:**
 - Design – 45%**
 - Relevance Experience, expertise and project team – 25%**
 - Methodology – 20%**
 - Past performance – 10%**
- 4. Subject to pre-approval of the Commonwealth Government, authorise the Chief Executive Officer to execute a variation to the Commonwealth Grant Agreement for revitalisation of the Apple Fun Park by removing the Shire financial co-contribution (\$500k) to the project and any consequential amendments there-to.**
- 5. Acknowledges that a further decision of the Council would be required to allocate Shire Reserve funds to any unplanned or contingency expenditure on the project beyond the Commonwealth Government’s grant contribution of \$1,505,009.**

CARRIED 8/1

10 ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 COUNCILLOR

Nil.

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

Nil.

12 MEETINGS CLOSED TO THE PUBLIC

12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

The following confidential reports and recommendations have been distributed separately and are not for circulation:

12.1.1 CONFIDENTIAL – REQUEST FOR VARIATION TO CONTRACT RATES FOR PROCESSING OF RECYCLABLE MATERIALS

This report is confidential in accordance with Section 5.23 of the *Local Government Act 1995*, which permits the meeting to be closed to the public for business relating to the following:

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

12.1.2 CONFIDENTIAL – RFT 03/1920 DONNYBROOK TOWN CENTRE REVITALISATION PROJECT

This report is confidential in accordance with Section 5.23 of the *Local Government Act 1995*, which permits the meeting to be closed to the public for business relating to the following:

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

EXECUTIVE RECOMMENDATION

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

- 12.1.1 CONFIDENTIAL – REQUEST FOR VARIATION TO CONTRACT RATES FOR PROCESSING OF RECYLCLABLE MATERIALS**
- 12.1.2 CONFIDENTIAL – RFT 03/1920 DONNYBROOK TOWN CENTRE REVITALISATION PROJECT**

COUNCIL RESOLUTION 78/20

Moved Cr Mitchell

Seconded Cr Newman

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

- 12.1.1 CONFIDENTIAL – REQUEST FOR VARIATION TO CONTRACT RATES FOR PROCESSING OF RECYLCLABLE MATERIALS**
- 12.1.2 CONFIDENTIAL – RFT 03/1920 DONNYBROOK TOWN CENTRE REVITALISATION PROJECT**

CARRIED 9/0

The Shire President thanked members of the public for their attendance and the meeting was closed to public including the live stream to consider confidential items at 8.48pm.

12.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

13 CLOSURE

The Shire President advised that the next Ordinary Council Meeting will be held on 24 June 2020 commencing at 5.00pm in the Shire of Donnybrook Balingup Council Chamber.

The Shire President declared the meeting closed at 9.24pm.

These Minutes were confirmed by the Council as a true and accurate record at the Ordinary Council Meeting held 24 June 2020.



Cr Brian Pjesse
SHIRE PRESIDENT