



— Shire of —
Donnybrook Balingup

MINUTES OF ORDINARY COUNCIL MEETING

Held on

Wednesday 22 May 2024

Commenced at 5:00pm

Shire of Donnybrook Balingup Council Chamber, Donnybrook

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

Garry Hunt
Chief Executive Officer (Temporary)

27 May 2024

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Shire President – Acknowledgment of Country

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

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

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

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

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

2 ATTENDANCE

MEMBERS PRESENT

COUNCILLORS	STAFF
Cr Vivienne MacCarthy (President)	Garry Hunt – Chief Executive Officer (Temporary)
Cr John Bailey	Tim Clynch – Acting Director Finance and Corporate
Cr Alexis Davy	Damien Morgan – Acting Director Operations
Cr Peter Gubler (arrived 5:03pm)	Loren Clifford – Manager Corporate Services
Cr Anita Lindemann	Belinda Richards – Manager Financial Services
Cr Anne Mitchell	Cecilia Muller – Principal Planner
Cr Grant Patrick	Samantha Farquhar – Administration Officer Corporate Services
Cr Deanna Shand	

PUBLIC GALLERY

5 members of the public were in attendance.

2.1 APOLOGIES

Ross Marshall – Director Operations

2.2 APPROVED LEAVE OF ABSENCE

Cr Lisa Glover (Deputy President)

2.3 APPLICATION FOR A LEAVE OF ABSENCE

Nil.

3 ANNOUNCEMENTS FROM PRESIDING MEMBER

Item 9.1.4, Council will be asked to endorse the nominated fire control officers. I would like to formally recognise the work of our bush fire volunteers and in particular the designated fire control officers and the office bearers of the Bush Fire Advisory Committee. Within this endorsement, an event will be recommended to recognise their contribution.

4 DECLARATION OF INTEREST

Cr Alexis Davy declared an impartiality interest regarding item 9.1.6 as she is an owner of a short stay accommodation business in the Shire.

Cr Anne Mitchell declared an impartiality interest regarding item 9.1.6 as her daughter has applied to Heyscape on her property in an adjoining shire, lives 5.5ks from the site of the proposed cabins, and declares she has spoken to the neighbours of 308 Ryalls Road, in response to an email received from them.

5 PUBLIC QUESTION TIME

5.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Question: Karyn Connor

My question is relating to the Draft Local Planning Strategy for 2024 which relates to the proposed zoning changes for Balingup. 92 residential and 32 rural residential totalling 124 lots, all next to the Golden Valley Tree Park. I'd like to know the date it went to the Shire, when the decision was made, and who proposed the development as the landowner knows nothing about this proposal.

Response: Manager Development Services

The inclusion of Lot 10 Old Padbury Road within proposed planning area M was included in the preliminary version of the draft Local Strategy which was endorsed by Council (Commissioner) at the Ordinary Council Meeting of 22 March 2023

Based on planning principles the site is considered to logically flow from the townsite area and provide opportunities for larger residential blocks as a transition from the townsite into the rural area.

Since the adoption of Local Planning Scheme No. 7, further works have occurred in relation to Development Investigation Area 14, located to the west of the Balingup townsite, demonstrating that the land is not suitable for development.

As Local Planning Strategies aim to identify potential development areas, where some land is removed due to more recent works, it is important to consider where this development opportunity may be accommodated.

Notwithstanding this, it is noted that many objections were received during the submissions period and further consideration of this matter will be included in the report to Council prior to submitting the Local Planning strategy to the Commission for consideration.

Subsequent Question: Karyn Connor

Can you please confirm address of "Development Area 14"? And ensure that the question and response is included in the Agenda for clarification for others.

Response: Manager Development Services

The properties identified in current DIA 14 are Lots 8117, 8143 and 11263 Brockman Street, Balingup. The specific scheme provisions for this area are:

DIA 14	Lot 8117, 8143 and 11263 Brockman Street, Balingup	Residential (R2.5—R5)	Investigate land capability and suitability for residential development/subdivision including — <ul style="list-style-type: none"> - provision of on-site buffer to adjoining agricultural land; - interface with the Balingup Brook; - lot sizes that support community interaction; - pedestrian and vehicular movement systems that facilitate accessibility and integrate with the Balingup townsite; - public open space provision; - landscaping and vegetation plan; - visual impact assessment; - urban water management; - fire management measures; and - development contributions.
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A map illustrating this area is available from: [Map8 Donnybrook-Balingup TPS7NEW Balingup-Townsite.pdf \(www.wa.gov.au\)](http://www.wa.gov.au/Map8_Donnybrook-Balingup_TPS7NEW_Balingup-Townsite.pdf).

5.2 PUBLIC QUESTION TIME

Question: Wendy Brown

Will Council support the establishment of a secure dog park off Marmion Street in Donnybrook?

Currently the Shire of Donnybrook-Balingup has no place where dogs can be exercised off-leash in a secure area. It has several off-leash zones but none are fenced.

Secure areas:

- *support the socialisation of dogs who otherwise get little or no opportunity to indulge in natural play, leading to better*
- *behaved animals.*
- *allow dog-owners the opportunity to meet and have social contact with other dog-owners while their dogs are*
- *playing, facilitating connection with like-minded people living in their community, and reducing social isolation.*

The existing off-leash dog exercise area in Marmion Street:

- *is owned by the Shire of Donnybrook-Balingup.*
- *is of adequate area, which would allow for separate areas for small and large dogs, if desired.*
- *has an existing path delineating the area.*
- *was used in the past for a BMX track, and the features of that track could largely be retained to allow an interesting*
- *environment for dog explorations.*
- *is lightly wooded providing shade within the area.*
- *has vehicle access off Marmion Street and easy off-street parking in the unwooded area.*
- *has access to water from the stand-pipe connection on Marmion Street.*
- *is accessed from an existing footpath network.*
- *is not adjacent to residential buildings.*
- *is close to major sporting and recreational venues, bringing it visibility in the community and the likelihood of being*
- *well talked about and used.*
- *is very close to a veterinary practice should an untoward accident occur.*

Creating a fenced dog park specifically complies with Council's Strategic Community Plan 2032, Outcome Number 2 "A Safe and Healthy Community," as it would:

2.1 improve access to facilities and services to support community health and wellbeing.

2.4 encourage responsible animal management.

Response: Manager Works and Services

Staff have not identified any previous Council decisions in relation to a fenced dog exercise area within the Shire of Donnybrook Balingup.

As per the information within the question, it is agreed that a fenced dog exercise area does have some alignment with the Strategic Community Plan 2032, however no specific project is referenced, of this nature.

Ranger Services concur that a fenced dog exercise area has merit, but no specific site has been determined. It is also considered that a project of this nature would only likely be viable if the project was significantly funded by an external source.

If an appropriate funding source is identified in the future, the project would need to be considered by Council against all its other project priorities.

6 PRESENTATIONS

6.1 PETITIONS

Nil.

6.2 PRESENTATIONS

Nil.

6.3 DEPUTATIONS

Woodside Energy regarding item 9.1.7, Development Application P23067: Carbon Farming “Plantation” – Lots 1, 15, 485 & 836 (No. 749) Greenbushes-Grimwade Road Balingup.

7 CONFIRMATION OF MINUTES

7.1 ORDINARY MEETING OF COUNCIL – 24 APRIL 2024

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

EXECUTIVE RECOMMENDATION

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

COUNCIL RESOLUTION 56/24

MOVED: Cr Patrick

SECONDED: Cr Lindemann

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

CARRIED 8/0

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

Against: Nil.

7.2 SPECIAL MEETING OF COUNCIL – 24 APRIL 2024

Minutes of the Special Meeting of Council held 24 April 2024 are attached (Attachment 7.2(1)).

EXECUTIVE RECOMMENDATION

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

COUNCIL RESOLUTION 57/24

MOVED: Cr Shand

SECONDED: Cr Gubler

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

CARRIED 8/0

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

Against: Nil.

8 REPORTS OF COMMITTEES

8.1 BUSHFIRE ADVISORY COMMITTEE ANNUAL GENERAL MEETING MINUTES – 18 APRIL 2024

Minutes of the Bush Fire Advisory Committee Annual General Meeting held 18 April 2024 are attached (Attachment 8.1(1)).

EXECUTIVE RECOMMENDATION

That the Minutes from the Bush Fire Advisory Committee Annual General Meeting held 18 April 2024 be received.

COUNCIL RESOLUTION 58/24

MOVED: Cr Patrick

SECONDED: Cr Mitchell

That the Minutes from the Bush Fire Advisory Committee Annual General Meeting held 18 April 2024 be received.

CARRIED 8/0

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

Against: Nil.

9 REPORTS OF OFFICERS

9.1 DIRECTOR OPERATIONS

9.1.1 ANNUAL REVIEW OF THE SHIRE OF DONNYBROOK BALINGUP FIRE PREVENTION ORDER - 2024/2025 FINANCIAL YEAR

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	FRC 01, FRC 04
Author	Conor McGregor - Senior Ranger
Responsible Manager	Damien Morgan - Manger Works & Services
Attachments	9.1.1(1) Draft 2024/2025 Fire Prevention Order
Voting Requirements	Simple Majority

COMMITTEE RECOMMENDATION

That Bush Fire Advisory Committee recommends Council:

1. Endorse the Draft 2024/2025 Shire of Donnybrook Balingup Firebreak Order as per Attachment 9.1.1(1).
2. Requests that the Chief Executive Officer implement the production and distribution of the 2024/2025 Shire of Donnybrook Balingup Firebreak Order in accordance with Section 33 of the *Bush Fires Act 1954*.

EXECUTIVE RECOMMENDATION

That Council:

1. Endorse the Draft 2024/2025 Shire of Donnybrook Balingup Fire Prevention Order as per Attachment 9.1.1(1).
2. Requests that the Chief Executive Officer implement the production and distribution of the 2024/2025 Shire of Donnybrook Balingup Fire Prevention Order in accordance with Section 33 of the *Bush Fires Act 1954*.

STRATEGIC ALIGNMENT

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

Objective	3.2	Develop community readiness to cope with natural disasters and emergencies.
Priority Project	3.2.4.	Provide support for emergency services volunteers.

EXECUTIVE SUMMARY

The Shire of Donnybrook Balingup Firebreak/Fire Prevention Order (Order) is a notice that is produced and distributed in accordance with Section 33 of the *Bush Fires Act 1954 (the Act)* and is presented to Council for endorsement annually, following a review by Bush Fire Advisory Committee (BFAC).

BACKGROUND

The Order determines the fire prevention requirements for properties within the Shire. These requirements then must be undertaken and maintained by the property owner/occupier throughout the prescribed period, such as the installation of firebreaks or the removal of flammable materials that may contribute to the spread of fire.

The Order is included with the annual rates notice, which is distributed via post to all ratepayers within the Shire. The Order is also available to all residents via advertising in the Preston Press and is published on the Shire website.

Changes to the Order have been incorporated into the draft Order (Attachment 9.1.1(1)) for BFAC consideration based on a review conducted by Ranger Services.

The draft Order was presented to BFAC on 18th April 2024 for consideration.

FINANCIAL IMPLICATIONS

The total cost of the production and distribution for the 2023/2024 Order was \$2,675.00. The 2024/2025 costs for the production and distribution of these Orders are anticipated to remain in line with the 2023/2024 costs.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Section 33 of the *Bush Fires Act 1954* sets out the requirements in relation to the Fire Break Order.

CONSULTATION

During the 2023/2024 compliance period, Ranger Services received feedback outlining that the language used in the current Order is difficult to interpret and some definitions are unclear. This feedback prompted Ranger Services to perform a detailed review of the Order, including clearer definitions.

Each year, the Shire's BFAC is provided an opportunity to review the requirements contained within the Order. As such proposed changes were presented to BFAC on 18th April 2024 for consideration. Refer BFAC minutes (Attachment 8.1(1)) for their recommended changes to the Order.

Other updates such as dates and contact names are performed by the Shire's Community Emergency Services Manager (CESM) and Senior Ranger.

OFFICER COMMENT

Following the draft Order being reviewed, Shire Officers recommend the following changes to the Order:

- a. Change title from: *Firebreak Order* to *Fire Prevention Order*; and
- b. Include wording: *First and Final Notice*; and
- c. Include definition of a Firebreak:
 - a. *A firebreak is a traversable strip of land cleared of all trees, shrubs, grass and other combustible material. Firebreaks are intended to allow access for firefighting vehicles during bushfire suppression operations and act as a fuel-free area from which planned burns can be undertaken. All firebreaks must be a minimum of 2 metres wide.; and*
- d. Amendment of Section 1. Rural Land part (c):
 - a. *A firebreak two metres wide shall be provided within twenty metres of the perimeter of all buildings, hay sheds and fuel storage areas situated on the land.; and*
- e. Amendment of Section 3. Townsite Land to include: *a Height limit of 100mm to grasses; and*
- f. Include reminder for variation requests; *and*
- g. Review and Update Fire Control Officer contact details as required.

The above changes are fully supported by BFAC, CESM and Senior Ranger.

It is noted that BFAC recommended an extension of one (1) month to the compliance period. However, following a further internal review this is not supported by relevant Shire officers due to the following:

- a. Generally, by the end of the current compliance period (31st March) most properties are in compliance with the order.
- b. Where risk remains, there are provisions within the Act to extend the Prohibited/Restricted Periods.
- c. There is an increase in administrative costs.

It's recommended that the draft 2024/2025 Fire Prevention Order Attachment 9.1.1(1) is endorsed by Council.

COUNCIL RESOLUTION 59/24

MOVED: Cr Davy

SECONDED: Cr Patrick

That Council:

- 1. Endorse the Draft 2024/2025 Shire of Donnybrook Balingup Fire Prevention Order as per Attachment 9.1.1(1).**
- 2. Requests that the Chief Executive Officer implement the production and distribution of the 2024/2025 Shire of Donnybrook Balingup Fire Prevention Order in accordance with Section 33 of the *Bush Fires Act 1954*.**

CARRIED 8/0

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

Against: Nil.

9.1.2 BUSH FIRE BRIGADE

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	FRC 01, FRC 04, FRC 10G
Author	Jess Cooper - Community Emergency Services Manager
Responsible Manager	Damien Morgan - Acting Director Operations
Attachments	9.1.2(1) Lowden AGM Minutes 9.1.2(2) Written request, 11.3 Brigade Area Maps
Voting Requirements	Simple Majority

COMMITTEE RECOMMENDATION	
<p>That Bush Fire Advisory Committee recommends Council:</p> <p>1. Request that the Chief Executive Officer facilitate the authorisation of two Fire Control Officers for the Lowden Bush Fire Brigade.</p>	

STRATEGIC ALIGNMENT

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

Objective	3.2	Develop community readiness to cope with natural disasters.
Priority Project	3.2.4	Provide support for emergency services volunteers.

EXECUTIVE SUMMARY

The Shire has received a request to authorise two Fire Control Officers (FCOs) for the Lowden Bush Fire Brigade area for the purposes of succession planning and improving authorised officer coverage of the Lowden Bush Fire Brigade area.

This proposal has been endorsed by the Shire’s Bush Fire Advisory Committee (BFAC) at their meeting held on 18 April 2024.

That BFAC recommends Council:

- Request that the Chief Executive Officer facilitate the authorisation of two Fire Control Officers for the Lowden Bush Fire Brigade.*

Moved: I Ralph

Seconded: T McNab

BACKGROUND

A Fire Control Officer is authorised by the Local Government (the Shire) to perform any function relating to the prevention and control of bush fires, including the protection of life and property. Fire Control Officers are also responsible for the issuing of Permits to Burn within their respective brigade areas.

Pursuant to Section 38 of the *Bush Fires Act 1954*, (The Act) a Local Government may appoint “*such persons as it deems necessary to be its bush fire control officers*”. The Act does not provide determination as to how many persons may be appointed per Local Government or brigade area.

The Shire generally authorises one FCO in a voluntary capacity per brigade area, with Shire staff such as Rangers and the Community Emergency Services Manager (CESM) also authorised for the entire Shire area. Shire Staff can assist FCO’s by responding to incidents, issuing permits during periods of leave and providing general assistance and support.

At the Lowden Bush Fire Brigade 2024 Annual General Meeting (AGM) the brigade voted in favour of nominating two persons for the position of Fire Control Officer in a shared capacity, subject to Bush Fire Advisory Committee (BFAC) endorsement and Council approval.

The nominees for this proposal are:

- a. Michael Anderson, proposed callsign Lowden FCO Michael; and
- b. Andrew Rohrbach, proposed callsign Lowden FCO Andrew.

Both nominees hold the relevant experience and qualifications for the proposed joint FCO position as outlined in section 4.2.3 of the Shire’s Volunteer Bush Fire Brigade Operational Procedures.

Following the brigade’s motion at the AGM, The Shire received further correspondence to provide rationale and support this proposal, being:

1. Succession Planning; this proposal has enabled the 1st Lieutenant to be promoted to the captain position.
2. Assist incumbent FCO; this proposal could provide more capacity within the Lowden Bush Fire Brigade area whilst enabling both proposed FCO’s an opportunity to achieve a more sustainable work/life balance that appropriately utilising their respective skillsets and experience.

Lowden Bush Fire Brigade has also acknowledged that the proposed authorisation will not alter their current BFAC voting rights of 1 vote, as per the BFAC Terms of Reference.

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Bush Fires Act 1954

Pursuant to Section 38, a Local Government may appoint “*such persons as it deems necessary to be its bush fire control officers*”.

CONSULTATION

- Lowden Bush Fire Brigade
- Shire of Donnybrook Balingup Bush Fire Advisory Committee

OFFICER COMMENT

It is recommended that Council support the BFAC’s recommendation and endorse the authorisation of two (2) FCOs for the Lowden Bush Fire Brigade area, taking into consideration:

- The Shire is not required to authorise a predetermined number of Fire Control Officers for a brigade area; and
- This proposal aligns with Council Plan Project 3.2.4 – *Provide Support for Emergency Services Volunteers*; and
- This proposal has the potential to build capacity within the Lowden Bush Fire Brigade by utilising existing experiences and skillsets within its existing members; and
- Should this proposal be successful, The Shire maintains the right to revoke an officer’s authorisation at any time; and
- Should two Fire Control Officers be authorised for the Lowden area, both are of equal rank, neither is more senior than the other in this capacity.

COUNCIL RESOLUTION 60/24

MOVED: Cr Shand

SECONDED: Cr Bailey

That Bush Fire Advisory Committee recommends Council:

- 1. Request that the Chief Executive Officer facilitate the authorisation of two Fire Control Officers for the Lowden Bush Fire Brigade.**

CARRIED 8/0

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

Against: Nil.

9.1.3 ENDORSEMENT OF NOMINATED FIRE CONTROL OFFICERS

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	FRC 01, FRC 10A-FRC10L
Author	Jess Cooper - Community Emergency Services Manager
Responsible Manager	Damien Morgan- Acting Director Operations
Attachments	Nil.
Voting Requirements	Simple Majority

COMMITTEE RECOMMENDATION

That Bush Fire Advisory Committee recommends Council:

1. Endorse the following persons as Fire Control Officers for the period 30/06/2024 until 01/07/2025 pursuant to section 38 of the *Bush Fires Act 1954*, and the persons to be advertised in accordance with the *Bush Fires Act 1954* subject to the following:
 - 1.1 Each endorsed Fire Control Officer having completed the Department Fire Emergency Services, Fire Control Officers training prior to the October BFAC Meeting; and
 - 1.2 In the event that a Fire Control Officer has not completed the training by the October BFAC Meeting, the Brigade shall be requested to nominate an alternative member who has completed the Fire Control Officers training for the remainder of the applicable period; and
2. Request that the Chief Executive Officer authorise the following persons as Fire Control Officers for their respective brigade areas under Section 38 of The *Bush Fires Act 1956* delegation 3.1.8 Appoint Bush Fire Control Officer/s and Fire Weather Officer.

Brigade Area	Officer
Argyle Irishtown	Mr Jayden Hitchcock
Balingup Town	Mr Paul Davis
Beelerup	Mr Stuart Simmonds
Donnybrook Town	Mr David Tooke
Ferndale/Stirling Park	Mr Jamie Thomson (Ferndale) Mr Max Walker (Stirling Park)
Kirup	Mr Chris Wringe
Lowden	Mr Michael Anderson Mr Andrew Rohrbach
Mullalyup	Mr William (Andrew) Scott
Mumballup Noggerup	Mr Brad Kettle
Thomson Brook	Mr Graham Foan (Thomson Brook) Mr Tim McNab (Brookhampton)
Munro	Mr Tas Thamo
Upper Capel	Mr Bevan Dix

STRATEGIC ALIGNMENT

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

Objective	3.2	Develop community readiness to cope with natural disasters.
Priority Project	3.2.4	Provide support for emergency services volunteers.

EXECUTIVE SUMMARY

Council is requested to endorse the Fire Control Officers as per the BFAC's Committee Resolution.

BACKGROUND

In Accordance with Sections 3.6 and 3.7 of the *Shire of Donnybrook Balingup Bushfire Brigades Local Law*, Shire of Donnybrook Balingup Bush Fire Brigades are to hold an Annual General Meeting (AGM) during the month of March, where a person is to be nominated to the Bush Fire Advisory Committee (BFAC) for the position of Fire Control Officer (FCO) until the next AGM.

Endorsed nominations for FCO by the BFAC are then submitted to Council for consideration and further endorsement. Upon endorsement from Council, the Chief Executive Officer is then requested to authorise the nominee for FCO under delegation 3.1.8 *Appoint Bush Fire Control Officer/s and Fire Weather Officer* and Section 3.11 of the *Shire of Donnybrook Balingup Bushfire Brigades Local Law*.

That BFAC recommends Council:

1. *Endorse the following persons as Fire Control Officers for the period 30/06/2024 until 01/07/2025 pursuant to section 38 of the Bush Fires Act 1954, and the persons to be advertised in accordance with the Bush Fires Act 1954 subject to the following:*
 - 1.1 *Each endorsed FCO having completed the DFES FCO training prior to the October BFAC Meeting;*
 - 1.2 *In the event that an FCO has not completed the training by the October BFAC Meeting the Brigade shall be requested to nominate an alternative member who has completed the FCO training for the remainder of the applicable period.*
2. *Request that the Chief Executive Officer authorise the following persons as Fire Control Officers for their respective brigade areas under Section 38 of The Bush Fires Act 1956 delegation 3.1.8 Appoint Bush Fire Control Officer/s and Fire Weather Officer.*

<i>Brigade Area</i>	<i>Officer</i>
<i>Argyle Irishtown</i>	<i>Mr Jayden Hitchcock</i>
<i>Balingup Town</i>	<i>Mr Paul Davis</i>
<i>Beelerup</i>	<i>Mr Stuart Simmonds</i>
<i>Donnybrook Town</i>	<i>Mr David Tooke</i>
<i>Ferndale/Stirling Park</i>	<i>Mr Jamie Thomson (Ferndale)</i> <i>Mr Max Walker (Stirling Park)</i>
<i>Kirup</i>	<i>Mr Chris Wringe</i>
<i>Lowden</i>	<i>Mr Michael Anderson</i> <i>Mr Andrew Rohrbach</i>
<i>Mullalyup</i>	<i>Mr William (Andrew) Scott</i>
<i>Mumballup Noggerup</i>	<i>Mr Brad Kettle</i>
<i>Thomson Brook</i>	<i>Mr Graham Foan (Thomson Brook)</i> <i>Mr Tim McNab (Brookhampton)</i>
<i>Munro</i>	<i>Mr Tas Thamo</i>
<i>Upper Capel</i>	<i>Mr Bevan Dix</i>

Moved: B Dix

Seconded: D Tooke

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

- Section 38, *Bush Fires Act 1954*; and
- Section 3.6, *Shire of Donnybrook Balingup Bushfire Brigades Local Law*
- Section 3.7, *Shire of Donnybrook Balingup Bushfire Brigades Local Law*
- Section 3.11, *Shire of Donnybrook Balingup Bushfire Brigades Local Law*

CONSULTATION

- Shire of Donnybrook Balingup Bush Fire Advisory Committee
- Shire of Donnybrook Balingup Bush Fire Brigades

OFFICER COMMENT

It is recommended that Council endorse the nominations for the positions of FCO for each Bush Fire Brigade within the Shire and request that the Chief Executive Officer facilitate relevant authorisations in accordance with the *Bush Fires Act 1954*.

COUNCIL RESOLUTION 61/24

MOVED: Cr Bailey

SECONDED: Cr Shand

That Bush Fire Advisory Committee recommends Council:

- 1. Endorse the following persons as Fire Control Officers for the period 30/06/2024 until 01/07/2025 pursuant to section 38 of the *Bush Fires Act 1954*, and the persons to be advertised in accordance with the *Bush Fires Act 1954* subject to the following:

 - 1.1 Each endorsed Fire Control Officer having completed the Department Fire Emergency Services, Fire Control Officers training prior to the October BFAC Meeting; and**
 - 1.2 In the event that a Fire Control Officer has not completed the training by the October BFAC Meeting, the Brigade shall be requested to nominate an alternative member who has completed the Fire Control Officers training for the remainder of the applicable period; and****
- 2. Request that the Chief Executive Officer authorise the following persons as Fire Control Officers for their respective brigade areas under Section 38 of The *Bush Fires Act 1956* delegation 3.1.8 Appoint Bush Fire Control Officer/s and Fire Weather Officer.**

Brigade Area	Officer
Argyle Irishtown	Mr Jayden Hitchcock
Balingup Town	Mr Paul Davis
Beelerup	Mr Stuart Simmonds
Donnybrook Town	Mr David Tooke
Ferndale/Stirling Park	Mr Jamie Thomson (Ferndale) Mr Max Walker (Stirling Park)
Kirup	Mr Chris Wringe
Lowden	Mr Michael Anderson Mr Andrew Rohrbach
Mullalyup	Mr William (Andrew) Scott
Mumballup Noggerup	Mr Brad Kettle
Thomson Brook	Mr Graham Foan (Thomson Brook) Mr Tim McNab (Brookhampton)
Munro	Mr Tas Thamo
Upper Capel	Mr Bevan Dix

CARRIED 8/0

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

Against: Nil.

9.1.4 ELECTION OF BFAC OFFICE BEARERS

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	FRC 01
Author	Jess Cooper - Community Emergency Services Manager
Responsible Manager	Damien Morgan - Acting Director Operations
Attachments	Nil
Voting Requirements	Simple Majority

COMMITTEE RECOMMENDATION
<p>That Bush Fire Advisory Committee recommends Council:</p> <ol style="list-style-type: none"> 1. Endorse the recommended office bearers of the Bush Fire Advisory Committee: <ol style="list-style-type: none"> 1.1. Chief Bush Fire Control Officer: Mr Max Walker; 1.2. 1st Deputy Chief Bush Fire Control Officer: Mr Ian Ralph; 1.3. 2nd Deputy Chief Bush Fire Control Officer: Mr Bevan Dix; 1.4. Communications Officer: Mr Murray Webb; and 1.5. Fire Weather Officer: Mr Murray Webb. 2. Request that the Chief Executive Officer facilitate authorisation of the endorsed Bush Fire Advisory Committee Office Bearers.

STRATEGIC ALIGNMENT

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

Objective	3.2	Develop community readiness to cope with natural disasters.
Priority Project	3.2.4	Provide support for emergency services volunteers.

EXECUTIVE SUMMARY

The election of Bush Fire Advisory Committee Office Bearers is a process that is undertaken annually.

The Shire of Donnybrook Balingup Bush Fire Advisory Committee (BFAC) has considered and endorsed appropriately qualified and experienced officers for the positions of Chief Bush Fire Control Officer, 1st Deputy Chief Bush Fire Control Officer, 2nd Deputy Chief Bush Fire Control Officer, Communications Officer, and Fire Weather Officer.

BACKGROUND

Pursuant to section 38 of the *Bush Fires Act 1954*, a Local Government is required to appoint a Chief Bush Fire Control Officer and a Deputy Chief Bush Fire Control Officer.

In addition to this, the Shire generally nominates a second Deputy Chief Bush Fire Control Officer, a Communications Officer and a Fire Weather Officer, to enable the delegation of responsibilities and succession planning to take place.

Each April, at The Shire's BFAC Annual General Meeting, nominees for these positions are considered for endorsement to Council.

That BFAC recommends Council:

1. *Endorse the recommended office bearers of the Bush Fire Advisory Committee:*

Chief Bush Fire Control Officer: Mr Max Walker

1st Deputy Chief Bush Fire Control Officer: Mr Ian Ralph

2nd Deputy Chief Bush Fire Control Officer: Mr Bevan Dix

Communications Officer: Mr Murray Webb

Fire Weather Officer: Mr Murray Webb

2. *Request that the CEO facilitate authorisation of the endorsed Bush Fire Advisory Committee Office Bearers.*

Moved: T McNab

Seconded: T Thamo

Each nominee possesses the appropriate experience and qualifications to perform their respective nominated position.

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

- Section 38 (1) *Bush Fires Act 1954*
- Section 67 *Bush Fires Act 1954*

CONSULTATION

Shire's Balingup Bush Fire Advisory Committee.

OFFICER COMMENT

It is recommended that Council endorse the Bush Fire Advisory Committee Office Bearers as per BFAC's recommendation.

EXECUTIVE RECOMMENDATION

MOVED: Cr Bailey

SECONDED: Cr Gubler

That Bush Fire Advisory Committee recommends Council:

- 1. Endorse the recommended office bearers of the Bush Fire Advisory Committee:**
 - 1.1. Chief Bush Fire Control Officer: Mr Max Walker;**
 - 1.2. 1st Deputy Chief Bush Fire Control Officer: Mr Ian Ralph;**
 - 1.3. 2nd Deputy Chief Bush Fire Control Officer: Mr Bevan Dix;**
 - 1.4. Communications Officer: Mr Murray Webb; and**
 - 1.5. Fire Weather Officer: Mr Murray Webb.**

- 2. Request that the Chief Executive Officer facilitate authorisation of the endorsed Bush Fire Advisory Committee Office Bearers.**

AMENDMENT: Cr Mitchell moved the following amendment.

COUNCIL RESOLUTION

MOVED: Cr Mitchell

SECONDED: Cr Lindemann

- 3. That the Council thank all the bush fire volunteers for their significant and ongoing contributions to protect our community from bush fires and formally recognise the efforts of the Bush Fire Advisory Committee Office Bearers.**

CARRIED 8/0

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

Against: Nil.

SUBSTANTIVE MOTION AS AMENDED:

COUNCIL RESOLUTION 62/24

MOVED: Cr Bailey

SECONDED: Cr Gubler

That Bush Fire Advisory Committee recommends Council:

- 1. Endorse the recommended office bearers of the Bush Fire Advisory Committee:**
 - 1.1. Chief Bush Fire Control Officer: Mr Max Walker;**
 - 1.2. 1st Deputy Chief Bush Fire Control Officer: Mr Ian Ralph;**
 - 1.3. 2nd Deputy Chief Bush Fire Control Officer: Mr Bevan Dix;**
 - 1.4. Communications Officer: Mr Murray Webb; and**
 - 1.5. Fire Weather Officer: Mr Murray Webb.**
- 2. Request that the Chief Executive Officer facilitate authorisation of the endorsed Bush Fire Advisory Committee Office Bearers.**
- 3. That the Council thank all the bush fire volunteers for their significant and ongoing contributions to protect our community from bush fires and formally recognise the efforts of the Bush Fire Advisory Committee Office Bearers.**

CARRIED 8/0

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

Against: Nil.

9.1.5 DEVELOPMENT APPLICATION P24001: NEW DWELLING AND SHED – No. 47 SCAFFIDI PLACE, DONNYBROOK

Location	Lot 4009 (No. 47) Scaffidi Place, Donnybrook
Applicant	Norman Brooks Architectural Drafting and Design
File Reference	A5327 (P24001)
Author	Cecilia Muller - Principal Planner Phil Shephard - Planning Officer
Responsible Manager	Michelle Dennis - Manager Development Services
Attachments	9.1.5(1) Development Application Plans 9.1.5(2) Amended Plans received 28 March 2024 9.1.5(3) Submissions 9.1.5(4) Assessment under Clause 67
Voting Requirements	Simple Majority

EXECUTIVE RECOMMENDATION

That Council:

Pursuant to Schedule 2, Part 9, Clause 68(2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the Shire of Donnybrook Balingup Local Planning Scheme No. 7 (LPS7), approves the Development Application P24001 for a Single Dwelling and Shed on Lot 4009 (No. 47) Scaffidi Place, Donnybrook subject to the following conditions and advice:

1. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the approved plans, including any notations, and must not be altered or modified without the further written consent of the Shire.

Approved plans:

- 1.1. Site Plan dated 28/03/2024 (dwg 1 of 4);
 - 1.2. Floor Plan and Elevation Plan dated 28/03/2024 (dwg 3 of 4);
 - 1.3. Elevation Plan and Sections dated 28/03/2024 (dwg 4 of 4); and
 - 1.4. Shed Plan Drawing # WSS221150-3 (Print Date: 29/04/22).
2. The dwelling is to be constructed in-accordance with Australian Standard 3959 – Construction of Buildings in Bush Fire Prone Areas (or superseding standard) and the relevant Bushfire Management Plan.
 3. Prior to the occupation of the dwelling, a landscaping plan is to be submitted to, and approved by the Shire. The landscaping shall include trees and shrubs to achieve screening of the dwelling, shed and water tank from the adjoining properties as follows:
 - 3.1. 5m-wide by 20m long area on the north side of the dwelling;

3.2. 5m-wide by 30m long area on the eastern side of the dwelling, shed and water tank; and

3.3. 5m-wide by 5m long area in front of the shed facing Scaffidi Place.

The landscaping is to be installed within 12 months of the occupation of the development and maintained thereafter to the satisfaction of the Shire.

- 4. The approved shed shall only be used for purposes incidental to the residential use of the property and is not to be used for habitable, commercial, or industrial purposes without prior approval from the Shire.**
- 5. Prior to the occupation of the dwelling, in addition to the relevant provision of water for fire-fighting purposes, the dwelling will be provided with a suitable potable water supply of at least 120,000 litres as per clause 4.41 of the Shire of Donnybrook-Balingup Local Planning Scheme No. 7, to the satisfaction of the Shire.**
- 6. Prior to the commencement of the development, an application for a vehicular crossover is to be submitted to and approved by the Shire in accordance with the Shire's crossovers standards. Prior to the occupation of the development, the crossover is to be installed in accordance with the crossover approval and maintained thereafter to the satisfaction of the Shire.**
- 7. Prior to the commencement of the development, a stormwater management plan is to be submitted to, and approved by, the Shire demonstrating compliance with the Shire's stormwater management standards and the *Animals, Environment and Nuisance Local Law 2017*. Stormwater is to be managed thereafter by the landowner in accordance with the approved Stormwater Management Plan to the satisfaction of the Shire.**
- 8. All construction materials, including any associated waste/rubbish, is to be contained on-site at all times. Prior to the occupation of the development, all waste/rubbish is to be removed from the subject site and left in a tidy state to the satisfaction of the Shire.**
- 9. Prior to the occupation of the dwelling, the dwelling is to be connected to an approved effluent disposal system to the satisfaction of the Shire.**

Advice

- a. The Shire Environmental Health Services advises that:
 - i. An approved on-site effluent disposal system adequate to the proposed use of the premises is required to fully comply with the 'Government Sewerage Policy 2019' and *Health (Miscellaneous Provisions) Act 1911* and *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*.****

ii. An ‘Application to Construct or Install an Apparatus for the Treatment of Sewage’ is required at Building Application stage to be approved by the Shire’s Environmental Health Services.

- b. Compliance with the Building Code of Australia is required. A Building Permit Application must be submitted to and approved by the Shire prior to the commencement of any development. The Building Permit plans must reflect the relevant conditions and approved plans of this Development Approval. Any subsequent revisions to the plans may require prior Development Approval.**
- c. If the development the subject of this approval is not substantially commenced within a period of two years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.**
- d. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought or obtained.**
- e. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the Planning and Development Act 2005. An application must be made within 28 days of the determination.**

STRATEGIC ALIGNMENT

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

Outcome	6	The built environment is responsibly planned and well maintained.
Objective	6.1	Ensure sufficient land is available for residential, industrial, and commercial uses.

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider an application for development approval for a single dwelling, shed and water tank on Lot 4009 (No. 27) Scaffidi Place, Donnybrook.

Officers do not have delegation to determine applications for development approval where objections are received.

Officers note the visual amenity concerns in the submissions have been adequately addressed by revised plans submitted by the applicant and consider that the proposal is consistent with the planning framework and should be granted approval subject to conditions.

BACKGROUND

The Shire received a development application for a single dwelling, shed and water tank on Lot 4009 (No. 27) Scaffidi Place, Donnybrook. The original development application plans are contained in Attachment 9.1.5(1) and the amended application plans received on 28 March 2024 are contained in Attachment 9.1.5(2).

The property is 7530m² in area and cleared land as shown in the image below.



Lot 4009 (47) is within the Rural Residential zone under LPS7. The proposal is a 'P' permitted use in the Rural Residential zone. Notwithstanding this, a development application is triggered under Schedule A(1)(a)(i) for the works to be assessed under Local Planning Scheme No.7. A development application is also required for the consideration of the outbuilding with a wall height of 4m in lieu of the 3.5m allowed under LPS7.

The proposal was referred to adjoining neighbours for comment and two submissions objecting and expressing concerns with the proposed development were received. One submission in support of the proposal was also received.

Location Plan

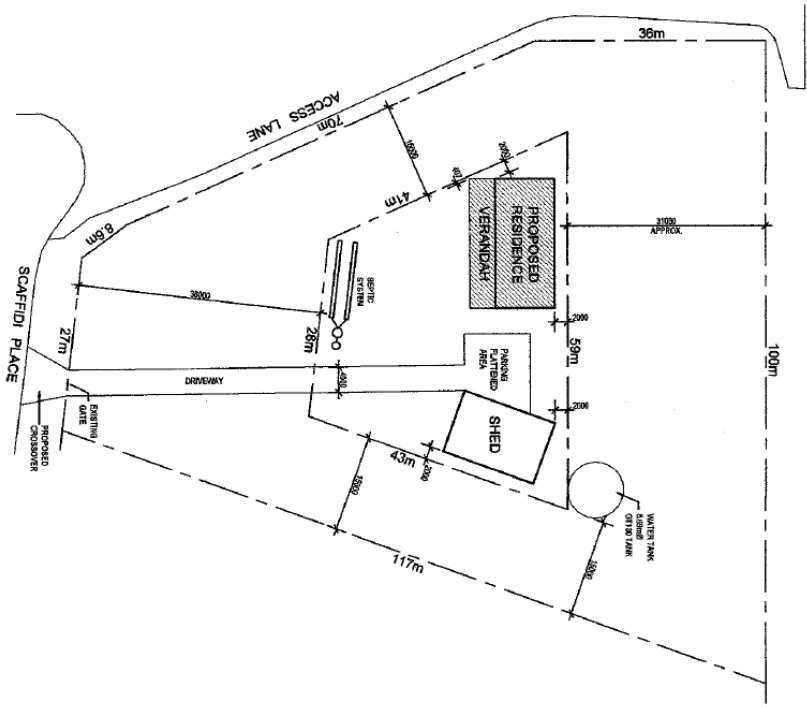
Lot 4009 (No. 27) Scaffidi Place, Donnybrook is located within the large rural residential area north-west of Donnybrook townsite.

The surrounding land is occupied by rural residential uses (mainly single dwellings and sheds/water tanks) as shown in the image below:



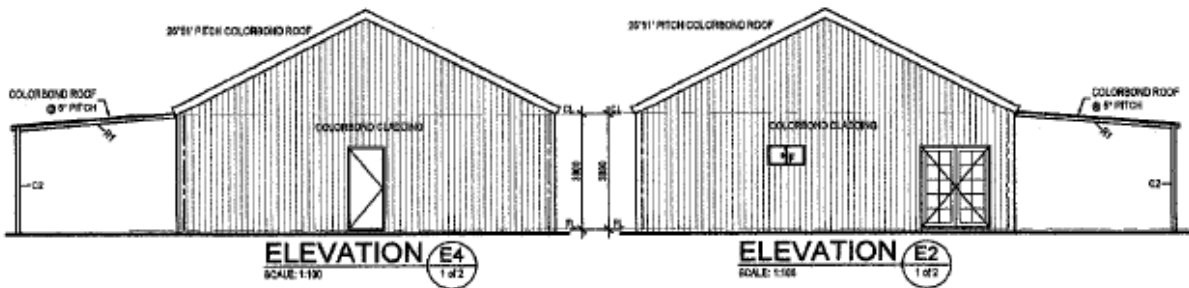
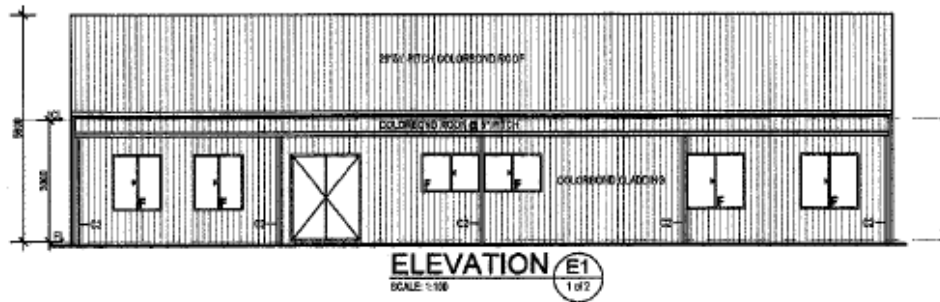
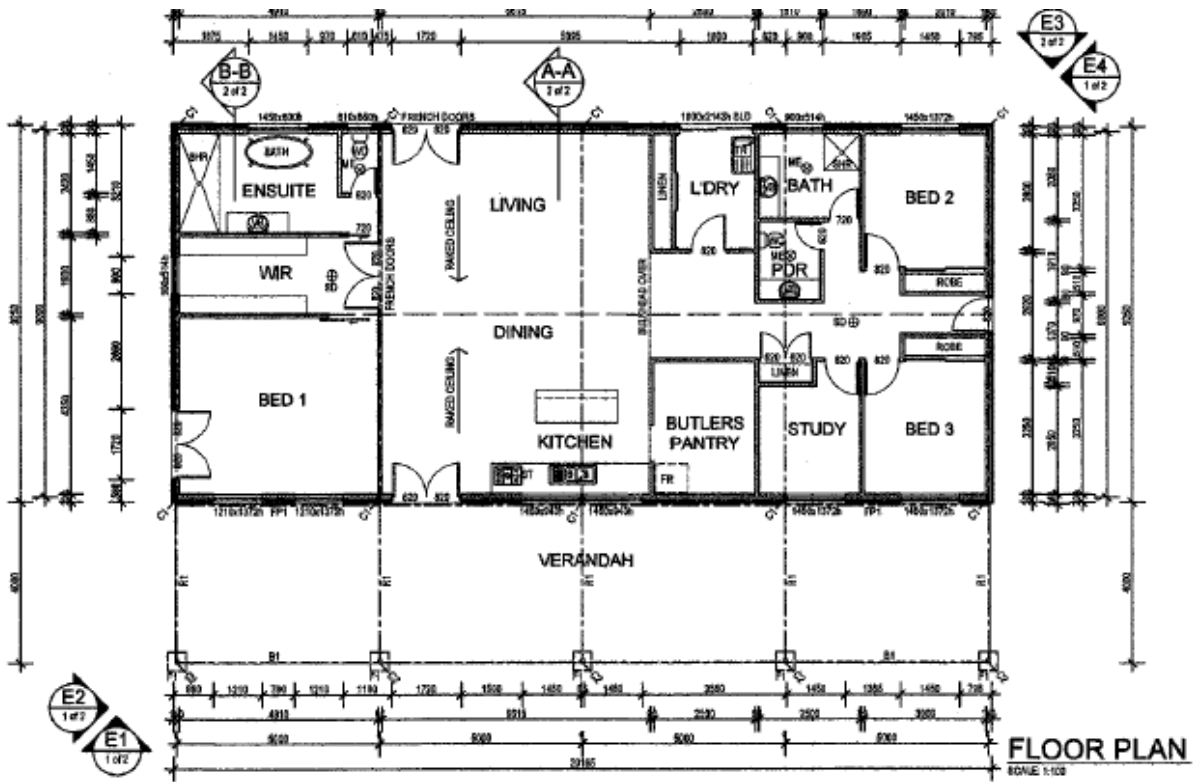
Proposal

The proposal involves the construction of a new dwelling, shed and water tank on the property. Below is an excerpt of the site plan received on 28 March 2024.



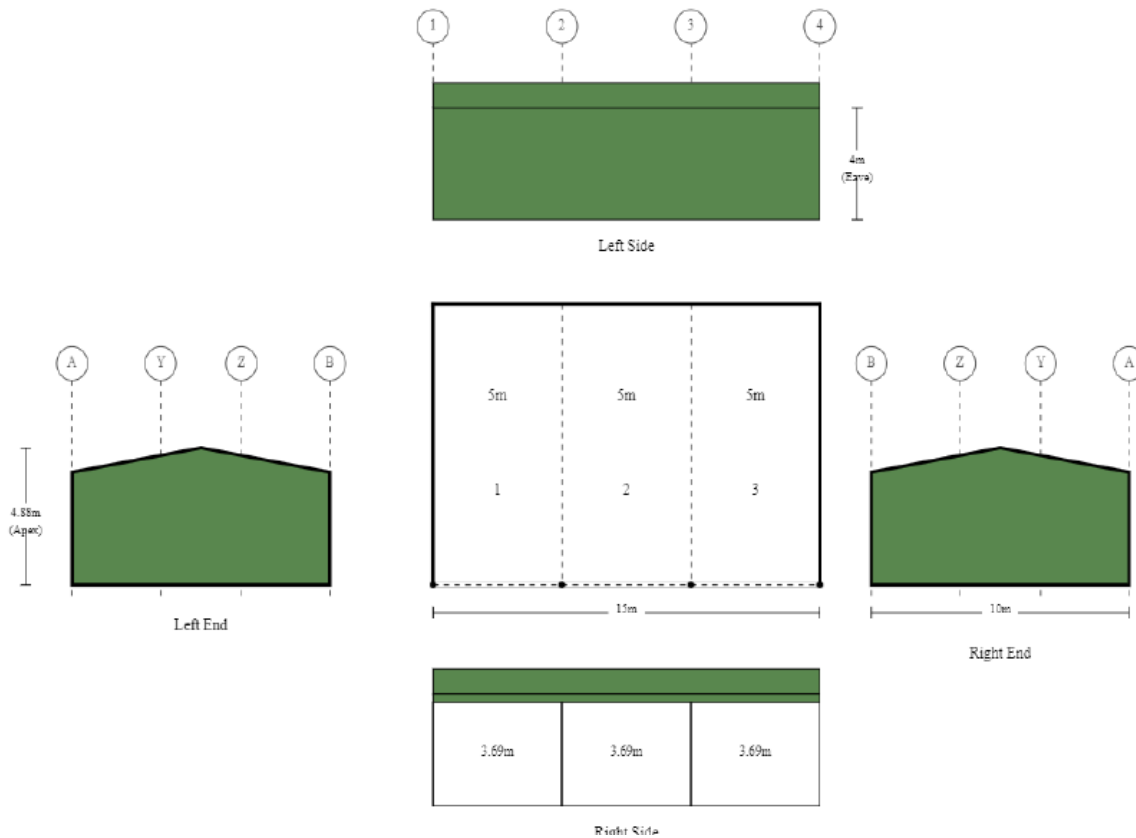
The dwelling is approx. 185m² in floor area (9.2m x 20.1m) with 3m wall height and 5.6m ridge height with a gable roof design with a 4m-wide veranda along the western (front) side of the dwelling facing Scaffidi Place. The building will be constructed with steel frames and clad in unspecified coloured colorbond metal sheeting.

Below is an excerpt of the house floor plan and elevations.



The shed is 150m² in floor area (15m x 10m) with 4m wall height and 4.88m ridge height with open front. The building will be constructed with steel frames and clad in ‘Monument’ (dark grey coloured) colorbond metal sheeting.

Below is an excerpt of the shed plan.



The 130,000L water tank will be 8.69m in diameter and 2.18m in height and be constructed in steel and clad in unspecified coloured colorbond metal sheeting.

On-site parking for vehicles is shown within an area in front of the shed with a connecting driveway and new crossover onto Scaffidi Place.

FINANCIAL IMPLICATIONS

All relevant application fees have been paid by the applicant.

If the application is refused by Council the applicant may exercise the right to have the decision reviewed by the State Administrative Tribunal, if that is the case then it may be likely that there will be additional resourcing required (staff time and the cost of appointing a consultant to represent the Shire).

POLICY COMPLIANCE

Town Planning Policy 9.4 Outbuilding Control, the Policy sets the requirements for outbuildings (sheds) in the Rural Residential zone. Refer to the “Officer Comment” section of this report for consideration of the proposal under this policy.

STATUTORY COMPLIANCE

The application has been assessed against the relevant and applicable statutory provisions as follows.

Shire of Donnybrook Balingup Local Planning Scheme No.7

Part 3 – Zones and the Use of Land

Lot 4009 is zoned 'Rural Residential' under the Shire of Donnybrook Balingup Local Planning Scheme No. 7 (LPS7).

The lot is also within the Plantation Exclusion Area (SCA6) under LPS7. The proposal is not affected by the SCA6 provisions.

The purpose and objectives of the zone are:

3.3.1 Purpose

The purpose of the Rural Residential zone is to provide for low density residential development in a rural setting, which provides for an alternative residential lifestyle, which is consistent and compatible with adjacent land use activity, landscape, and environmental attributes of the land.

3.7.2 Objectives

The local government's objectives in managing and guiding land use, development and subdivision within the Rural Residential zone are to -

- (i) Provide the opportunity for subdivision where identified in an endorsed Local Planning Strategy, in order to provide for a more efficient use of existing rural-residential areas in close proximity to existing townsites (where essential services are available and where the existing landscape and conservation values of the locality will not be compromised);*
- (ii) Direct and control the form that rural residential subdivision takes to prevent a demand for the unreasonable and uneconomic provision or extension of services and facilities;*
- (iii) Discourage ribbon development so as to maintain the rural ambience of major roads;*
- (iv) Maintain the rural character of the locality, maintain a high level of residential amenity, and minimise disturbance to the landscape through appropriate construction of buildings and structures, clearing, earthworks and access roads;*
- (v) Encourage a variety of lot sizes and appropriate designs which accommodate environmental opportunities and constraints and landscape protection requirements;*
- (vi) Encourage opportunities for innovative design and clustering of houses and other structures to minimise the impact on adjacent land uses, protect landscape and remnant vegetation and to more efficiently use services;*
- (vii) Discourage development on hilltop ridges and skylines;*
- (viii) Facilitate the conservation of native vegetation, water courses and water bodies and other environmental features and, where appropriate, to provide for environmental enhancement;*

- (ix) *Encourage and promote appropriate bush fire risk management;*
- (x) *Provide for a range of land uses compatible with the residential occupation of the land while providing for agricultural production on smaller lots where such production does not interfere with the amenity or rural residential character of the area; and*
- (xi) *Discourage or prohibit development not compatible with the predominantly rural nature and residential amenity of the zone.*

The proposed development of the dwelling, shed and water tank complies with the purpose of the zone and the objectives to maintain the rural character of the locality, support *clustering of houses and other structures to minimise the impact on adjacent land uses and will be compatible with the rural nature and residential amenity in the zone.*

The proposed development is consistent with the 'Dwelling' land use class in LPS7 which is defined in the R-Codes as *'A building or portion of a building being used, adapted, or designed or intended to be used for the purpose of human habitation on a permanent basis by a single person, a single family, or no more than six persons who do not comprise a single family.'*

Under LPS7, this land use is a 'P' use in the Rural Residential zone which means that *'means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme'*. A development application is triggered under Schedule A(1)(a)(i) for the works to be assessed under Local Planning Scheme No.7.

Part 4 – General Development Requirements

The proposal has been assessed against the relevant general development requirements of LPS7 as summarised below:

4.8 Clearing Native Vegetation

The Scheme requires native vegetation be preserved on lots within the Rural Residential zoned areas.

The proposal does not require any clearing.

4.10 Preservation of Trees and Landscape Enhancement - Rural Residential and Rural Smallholdings Zones

The Scheme allows the Shire to require the planting of additional trees in the Rural Residential zone as a condition of development approval if it is considered the development would result in loss of landscape values.

It is recommended that the Shire require landscaping along the northern and eastern sides of the development to soften the appearance of the buildings from the adjoining properties where the submitters are located as part of the conditions of approval, if granted.

4.17 General Appearance of Buildings and Preservation of Amenity

The Scheme requires that the development be in harmony with surrounding developments and allows the Shire to place conditions on approvals to ensure that the development will not have an adverse impact on the character of the area or the amenity and landscape quality of the locality.

The original proposal for the dwelling did not include a veranda and this resulted in objections from the neighbours due to the building's appearance which they felt would detract from the appeal and rural amenity in the area. The revised proposal with the veranda on the front of the dwelling combined with some landscaping will address the concerns expressed in the submissions and achieve the requirements of the Scheme.

The completed development will not have an adverse impact on the rural character, amenity, or landscape of the rural residential locality.

4.27 Car Parking and Vehicle Access Requirements

The Scheme requires on-site car parking for the proposal to satisfy the R-Codes standard of two car parking bays per single house. The proposal includes a sufficient parking area adjoining the shed to achieve the parking requirement.

4.32 Vehicle Crossovers/Entrances

The proposal includes a new single crossover onto Scaffidi Place.

The construction of the new crossover and internal access driveway being constructed to a sealed standard is recommended to form part of the conditions of approval, if granted.

4.40 Development Without Reticulated Sewerage

The property does not have access to deep sewer.

The proposal will utilise an on-site effluent disposal system for the dwelling to be approved by the Shire through Environmental Health Services.

4.41 Dwellings Without Reticulated Mains Water Supply

The dwelling does not have access to reticulated water supply.

The Scheme requires that where any dwelling is proposed to be constructed on a lot which cannot be connected to a reticulated mains water supply, that dwelling shall be provided with sufficient roof catchment or other methods acceptable and the provision of a rain water tank with a minimum capacity of 120,000 litres prior to occupation.

The proposal includes a 130,000L roof catchment water tank (allowing for the 10,000L bush fire water supply) to achieve this requirement to be approved by the Shire through Environmental Health Services.

4.42 Bush Fire Hazard and Fire Management Plans

The Scheme requires that development comply with any relevant State and local government policy on bushfire protection and any endorsed fire management plan.

The property is identified as bushfire prone by Department of Fire and Emergency Services mapping and the proposed dwelling must comply with the requirements of SPP3.7.

The applicant has submitted a BAL assessment rating the development as BAL-19. The dwelling will need to comply with the construction requirements under the Building Code for BAL-19 developments through the Building Permit process.

Regarding the recommendation for a landscaping plan, it is to be noted that there are some exclusions under Part 2.2.3.2 of AS3959:2018 relating to low threat vegetation and non – vegetated areas. A well-maintained garden for instance may be excluded when considering vegetation exclusions for the assessment of the Bushfire Attack Level (BAL), and strips of vegetation less than 20m in width regardless of the length and not within 20m of other vegetation may also be excluded when the BAL is assessed. Therefore, the landscaping condition proposed to address the objections received, would not add to the BAL for this development.

4.52 Rural Residential Zone

The Shire’s policies in controlling development within the Rural Residential zone include:

- (i) Consider approving low-key development where the applicant suitably demonstrates the development/use is consistent with the objectives for the zone; and*
- (ii) Ensure that subdivision and development comply with an endorsed Structure Plan, the Local Planning Strategy and the principles of any relevant Local Planning Policy adopted by the local government;’*

The revised proposal achieves the policy requirements for development within the zone and complies with all relevant provisions of the Scheme.

The Scheme sets the following minimum building setbacks within the Rural Residential zone:

Setback required	Proposal
<i>(i) 15 metres from a road boundary;</i>	Setback achieved. The dwelling, shed and water tank will be over 50m from the boundary to Scaffidi Place.
<i>(ii) 10 metres from other boundaries;</i>	Setback achieved. The dwelling will be over 15m to the northern side boundary, over 31m to the eastern rear boundary and 40m to the southern side boundary. The shed will be over 40m to the northern side boundary, approx. 33m to the eastern rear boundary and 17m to the southern side boundary. The water tank will be over 60m to the northern side boundary, over 22m to the eastern rear boundary and 15m to the southern side boundary.
<i>(iii) 100 metres from a boundary with State Forest, National</i>	Not applicable.

Setback required	Proposal
<p><i>Park, Nature Reserve, Reserve for Conservation, or local government managed land; and</i></p>	
<p><i>(iv) All development shall be contained within a maximum 50 metre by 50 metre square building envelope. Notwithstanding the building setbacks above, the local government may prescribe the location of the building envelope having regard to the requirements specified in clause 4.50.1.</i></p>	<p>Achieved. The dwelling and shed are located within an irregular shaped building envelope that mirrors the lot shape and exceeds the minimum building setbacks required under LPS7.</p> <p>The building envelope achieves the 2,500m² (50m x 50m) dimensions.</p> <p>The water tank is located outside of the building envelope area which can be approved under consideration of Cl.4.52.6.6.</p>

The Scheme requires that no building, outbuilding, water tank or fence shall be constructed of materials and be of a colour which in the opinion of the local government is detrimental to the character or natural landscape of the locality.

The landowner has confirmed that all materials to be used are new. The landowner also stated that the build will be done professionally and finished with high quality materials and workmanship and that the exterior colour for the house and the shed will be “monument”.

Officers consider that the proposed dwelling, shed and water tank will all be constructed using materials and colours that have been used in other developments within the zone and they will not be detrimental to the rural character or landscape in the area.

The proposal is considered consistent with the LPS7 provisions for the Rural Residential zone.

Local Planning Strategy

Lot 4009 is identified as Rural Residential and within the Tree Plantation Exclusion Area under the Shire of Donnybrook-Balingup Local Planning Strategy. The proposal is considered consistent with the intention for the area.

The property is identified as ‘Existing rural living footprint’ and within the Plantation Exclusion Area in the draft Shire of Donnybrook-Balingup Local Planning Strategy. The proposal is consistent with these future intentions.

CONSULTATION

Public consultation

The application was referred to adjoining landowners for comment for a period of 15 days (concluding on 29 February 2024) and involved a written notice.

In response to the advertising, a total of three submissions were received. Two submissions objected and had concerns with the proposal, one submission supported the proposal. The submissions are contained in Attachment 9.1.6(3).

The key issues raised in the submission are summarised below along with Officer comments in response.

Issue Raised	Officer Comment
<i>Proposal does not meet restrictive covenant for estate.</i>	The restrictive covenant applies to the landowner as the purchaser of land with an encumbrance. It does not affect the Shire's decision-making powers under LPS7.
<i>Buildings do not have visual appeal.</i>	The original proposal was not supported by two of the neighbours who commented on the bland look of the buildings resembling two sheds – one with windows and the lack of street appeal. In response, the applicant submitted a revised plan for the dwelling which included a 4m-wide veranda along the front of the building facing Scaffidi Place. This addition combined with some landscaping will address the concerns expressed in the submissions and achieve the requirements of the Scheme.
<i>Shed will have open front.</i>	Whilst the comments are noted, the Scheme does not prescribe that sheds must be totally enclosed.
<i>Water tank outside of building envelope.</i>	The 130,000L water tank will be 8.69m in diameter and 2.18m in height and be clad in unspecified coloured colorbond metal sheeting. The water tank whilst outside the building envelope exceeds all required setbacks and can be approved under Cl.4.52.6.6 of LPS7.

Consultation with Government/Service Agencies

Nil required.

OFFICER COMMENT

The proposal has been assessed in accordance with Schedule 2, Part 9, Clause 67 (2) of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. A full assessment is contained in Attachment 9.1.6(4).

Key considerations identified are zoning/land use class permissibility, consultation which identified minor potential amenity concerns and compliance with Local Planning Policy requirements.

- Zoning and Land Use Class Permissibility

Under LPS7, the land is zoned Rural Residential, and a dwelling is a ‘P’ use in the zone which means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme.

The use cannot be refused. The Shire may place conditions on the works approval, if granted, to address the matters raised in the submissions and to ensure the proposal complies with the requirements of LPS7.

- Visual Amenity

The revised proposal, including the recommended landscaping addresses the concerns raised in the submissions objecting to the proposal and will achieve the requirements of LPS7 and should proceed.

- Local Planning Policy 9.4 – Outbuilding Control

The Policy sets the following requirements for outbuildings (sheds) in the Rural Residential zone:

Policy requirement	Proposal
a) <i>Max. Outbuilding Area 180m² Maximum Wall Height 3.5m</i>	Achieved. The shed is 150m ² in area. Not achieved. The shed walls will be 4m in height.
b) <i>Any proposed outbuilding shall not be located forward of a building line of a dwelling on a primary street frontage.</i>	Achieved. The shed and dwelling have the same front setback to Scaffidi Place.
c) <i>The Shire may consider an increase in wall height of up to 4m in the Rural Residential zone to the application satisfying the following criteria: For outbuildings with wall heights up to 4m:</i> <ul style="list-style-type: none"> • <i>The lot being greater than 1.5ha;</i> • <i>At least 50% of the structure being screened from the</i> 	Partly achieved. The lot is 7530m ² thus less than 1.5 hectares in area. To achieve the 50% screening requirement would necessitate some landscaping between the shed and Scaffidi Place. The shed is in line with, not behind the dwelling. The shed elevation facing Scaffidi Place is the narrowest elevation. Whilst the lot is smaller than 1.5 hectares, given the position of the shed is at the side of the lot and exceeds all the minimum

Policy requirement	Proposal
<p><i>primary street frontage;</i></p> <ul style="list-style-type: none"> • <i>Being located behind the dwelling;</i> • <i>The elevation facing the street frontage is the narrowest elevation.</i> 	<p>setbacks required combined with recommended landscaping along the eastern rear boundary, the 4m wall height is supported. The required screening in front of the shed is recommended to be placed as a condition of approval, if granted.</p>
<p><i>Rural Residential Zones</i> <i>No outbuildings shall be approved unless:</i></p> <ol style="list-style-type: none"> 1. <i>There is an existing dwelling constructed; or</i> 2. <i>A building licence has been issued for a dwelling.</i> 	<p>The proposal will require a Building Permit to be issued for the dwelling and shed.</p>

The proposed shed generally complies with the Policy requirements and the addition of the required landscaping/screening will assist to reduce the visual impacts of the 4m-high walls.

Conclusion

The proposed dwelling, shed and water tank development is compatible with the objectives and complies generally with the provisions for the Rural Residential zone. It is compatible with the surrounding developments and character of the area.

Matters raised during the advertising period regarding visual amenity have been appropriately addressed.

Officers consider that the application complies with the requirement of orderly and proper planning and are therefore recommend conditional approval of the application.

COUNCIL RESOLUTION 63/24

MOVED: Cr Lindemann

SECONDED: Cr Mitchell

That Council:

Pursuant to Schedule 2, Part 9, Clause 68(2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the Shire of Donnybrook Balingup Local Planning Scheme No. 7 (LPS7), approves the Development Application P24001 for a Single Dwelling and Shed on Lot 4009 (No. 47) Scaffidi Place, Donnybrook subject to the following conditions and advice:

- 1. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the approved plans, including any notations, and must not be altered or modified without the further written consent of the Shire.**

Approved plans:

- 1.1. Site Plan dated 28/03/2024 (dwg 1 of 4);**
 - 1.2. Floor Plan and Elevation Plan dated 28/03/2024 (dwg 3 of 4);**
 - 1.3. Elevation Plan and Sections dated 28/03/2024 (dwg 4 of 4); and**
 - 1.4. Shed Plan Drawing # WSS221150-3 (Print Date: 29/04/22).**
- 2. The dwelling is to be constructed in-accordance with Australian Standard 3959 – Construction of Buildings in Bush Fire Prone Areas (or superseding standard) and the relevant Bushfire Management Plan.**
- 3. Prior to the occupation of the dwelling, a landscaping plan is to be submitted to, and approved by the Shire. The landscaping shall include trees and shrubs to achieve screening of the dwelling, shed and water tank from the adjoining properties as follows:**
 - 3.1. 5m-wide by 20m long area on the north side of the dwelling;**
 - 3.2. 5m-wide by 30m long area on the eastern side of the dwelling, shed and water tank; and**
 - 3.3. 5m-wide by 5m long area in front of the shed facing Scaffidi Place.**

The landscaping is to be installed within 12 months of the occupation of the development and maintained thereafter to the satisfaction of the Shire.
- 4. The approved shed shall only be used for purposes incidental to the residential use of the property and is not to be used for habitable, commercial, or industrial purposes without prior approval from the Shire.**
- 5. Prior to the occupation of the dwelling, in addition to the relevant provision of water for fire-fighting purposes, the dwelling will be provided with a suitable potable water supply of at least 120,000 litres as per clause 4.41 of the Shire of Donnybrook-Balingup Local Planning Scheme No. 7, to the satisfaction of the Shire.**
- 6. Prior to the commencement of the development, an application for a vehicular crossover is to be submitted to and approved by the Shire in accordance with the Shire’s crossovers standards. Prior to the occupation of the development, the crossover is to be installed in accordance with the crossover approval and maintained thereafter to the satisfaction of the Shire.**
- 7. Prior to the commencement of the development, a stormwater management plan is to be submitted to, and approved by, the Shire demonstrating compliance with the Shire’s stormwater management standards and the *Animals, Environment and Nuisance Local Law 2017*. Stormwater is to be**

managed thereafter by the landowner in accordance with the approved Stormwater Management Plan to the satisfaction of the Shire.

8. All construction materials, including any associated waste/rubbish, is to be contained on-site at all times. Prior to the occupation of the development, all waste/rubbish is to be removed from the subject site and left in a tidy state to the satisfaction of the Shire.
9. Prior to the occupation of the dwelling, the dwelling is to be connected to an approved effluent disposal system to the satisfaction of the Shire.

Advice

- a. The Shire Environmental Health Services advises that:
 - iii. An approved on-site effluent disposal system adequate to the proposed use of the premises is required to fully comply with the 'Government Sewerage Policy 2019' and *Health (Miscellaneous Provisions) Act 1911* and *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*.
 - iv. An 'Application to Construct or Install an Apparatus for the Treatment of Sewage' is required at Building Application stage to be approved by the Shire's Environmental Health Services.
- b. Compliance with the Building Code of Australia is required. A Building Permit Application must be submitted to and approved by the Shire prior to the commencement of any development. The Building Permit plans must reflect the relevant conditions and approved plans of this Development Approval. Any subsequent revisions to the plans may require prior Development Approval.
- c. If the development the subject of this approval is not substantially commenced within a period of two years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
- d. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought or obtained.
- e. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the Planning and Development Act 2005. An application must be made within 28 days of the determination.

CARRIED 6/2

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

Against: Cr Bailey, Cr Shand

9.1.6 DEVELOPMENT APPLICATION P23041: FIVE HOLIDAY ACCOMMODATION CABINS – No. 308 RYALL ROAD, BRAZIER

Location	Lot 1 (308) Ryall Road, Brazier
Applicant	Heyscape Pty Ltd on behalf of MHM Van Zeeland, J Coufreur, E Fouche and CH Fouche
File Reference	A3727
Author	Cecilia Muller - Principal Planner
Responsible Manager	Michelle Dennis - Manager Development Services
Attachments	9.1.6(1) - Application 9.1.6(2) - Operational Management Plan 9.1.6(3) - Development Plans 9.1.6(4) - Objection 9.1.6(5) - Submissions from agencies 9.1.6(6) - Assessment under Clause 67
Voting Requirements	Simple Majority

EXECUTIVE RECOMMENDATION

That Council:

- A. Pursuant to Schedule 2, Part 9, Clause 68 (2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, grants Development Approval P23041 for five (5) holiday accommodation cabins at Lot 1 (308) Ryall Road, Brazier, subject to the following conditions and advice:**

Conditions:

- 1. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the approved plans, including any notations, and must not be altered or modified without the further written consent of the Shire.**

Approved plans:

- 1.1 Floor plan Delu E Cabin.**
- 1.2 Decking Elevations Delu E Cabin.**
- 1.3 Floor plan Family Cabin.**
- 1.4 Decking Elevations Family Cabin.**

- 2. Prior to the endorsement of any plans and lodgement of the building permit plans, amended plans to the satisfaction of the Shire must be submitted to and approved by the Shire. When approved the plans will form part of this approval. The plans must be amended to show the following:**

Amended Site plan:

- a. the location of each cabin generally in accordance with the site plan lodged with the application.
- b. that cabins No. 1 and 3 closest to the western boundary of the lot be limited to 2 person cabins.
- c. the orientation of cabins facing away from any houses on adjoining land.
- d. the location of the water tanks near the cabins, and water tanks to meet the setback requirements of the zone.
- e. The location of the cabin that is to be fully accessible for use by people with a disability.

Amended floor plans for the cabin that is to be accessible:

- a. The floor plans of one cabin is required to demonstrate that it is fully accessible for use by people with a disability.
3. No person shall occupy any cabin for more than a total of three (3) months in any twelve (12) month period unless given prior approval by the Shire for management purposes and staff accommodation.
 4. Prior to the commencement of use, one parking bay per cabin is to be provided to the satisfaction of the Shire.
 5. Prior to the commencement of works, an application for any new vehicular crossover is to be submitted to and approved by the Shire in accordance with the Shire's crossovers standards. Prior to the commencement of use, the crossover is to be installed in accordance with the crossover approval and continuously maintained thereafter to the satisfaction of the Shire.
 6. Prior to the commencement of use, cabins must be provided with a suitable potable water supply to the satisfaction of the Shire.
 7. All stormwater from the proposed development including building(s) and hardstand area(s) shall be managed onsite by the landowner in perpetuity, in accordance with the Shire's stormwater management standards and the *Animals, Environment and Nuisance Local Law 2017* to the satisfaction of the Shire.
 8. Any erosion and/or sedimentation issues that occur due to insufficient drainage and/or stormwater management from the proposed development, including any driveway or accessway, is to be rectified, so as not to impact any surrounding properties, including any infrastructure, to the satisfaction of the Shire.
 9. Prior to the commencement of the use, information is to be provided demonstrating that the measures contained in Section 6, Table 6.1 and 6.2 of the Bushfire Management Plan (Ref No. 230100 V1.1) prepared by Bushfire Prone Planning have been implemented. This information should include a completed 'Certification by Bushfire Consultant' from the Bushfire Management Plan.

10. The Bushfire Management Plan, shall be implemented and thereafter appropriately managed in perpetuity by the landowner, including the establishment and maintenance of an Asset Protection Zone and provision of water for firefighting purposes.

11. Operation of the holiday accommodation cabins is to be in accordance with the Bushfire Emergency Plan prepared by Bushfire Pone Planning including the requirement to close the facility during days with a forecast Fire Danger Rating of Extreme and Catastrophic.

12. A copy of the Bushfire Emergency Plan, is to be made permanently available to occupants and/or guests of the property with a copy of the Bushfire Emergency Information Poster and Instructions always placed on display. Guests are to be advised of the recommendations of the Plan in case of a bushfire event.

13. Prior to the commencement of use, a manager is to be designated for the holiday accommodation development and the details of the manager are to be provided to the Shire. Should the dedicated manager change, details of the new manager must be provided to the Shire prior to the next use of the holiday accommodation.

14. The applicant's operational management plan is to be amended to the satisfaction of the Shire, to include the following:

- a. Mitigation plan;**
- b. Complaints management procedure;**
- c. Guest check-in and check-out procedures;**
- d. Bushfire Management Plan ongoing compliance and Bushfire Emergency Plan;**
- e. Pet management; and**
- f. Road use.**

Once approved the plan will form part of this approval and must be always complied with.

15. Prior to commencement of use, cabins must be connected to an approved effluent disposal system.

Advice:

- a. The Shire Environmental Health Services advises that:**
 - (i) The development is to be connected to an approved effluent disposal system in accordance with the *Health (Treatment of Sewage and Disposal of Liquid Waste) Regulations 1974*. An "Application to Construct or Install an apparatus for the treatment of sewage" is required at Building Application stage.**
 - (ii) The Department of Health has identified that the Site and Soil Evaluation was conducted at the wrong time of the year and a detailed Site and Soil assessment in accordance with of AS 1457: 2012 is to be lodged at building application stage to determine the suitability of the site and soil to accommodate your proposed**

onsite wastewater treatment and disposal systems. Such a report must be compiled by a suitably qualified service provider. Further information can be obtained from the Department of Health on [https://ww2.health.wa.gov.au/Articles/S T/Site-and-soil-evaluation-for-onsite-wastewater-management](https://ww2.health.wa.gov.au/Articles/S_T/Site-and-soil-evaluation-for-onsite-wastewater-management).

b. The Department of Health advises that:

- (i) Given the historical use as an orchard, there is some potential for residual pesticides and/or herbicide contamination of soils. Therefore, the applicant is to consider restricting children and pets so that they will not have access to soils. If playground facilities are proposed, then the potential for exposure for contamination is to be managed.**
- (ii) Any non-drinking water must be managed to ensure it cannot be confused with or contaminate the drinking water supply. This requires satisfactory labelling of non-drinking water taps, and depending on the system configuration, suitable backflow prevention arrangements.**

c. Compliance with the Building Code of Australia is required. A Building Permit Application must be submitted to, and approved by, the Shire prior to the commencement of any development. The Building Permit plans must reflect the relevant conditions and approved plans of this Development Approval. Any subsequent revisions to the plans may require prior development approval.

Under the building code (BCA) where 4 to 10 buildings are proposed at least one cabin is required to be fully accessible for use by people with a disability. All cabins will require a smoke alarm that is hard wired with a battery backup.

d. A “manager” means a person duly appointed by the landowner to have management and care of the holiday accommodation. The manager is the contact person responsible for the day-to-day compliance of the holiday accommodation operations as per the conditions of this approval. The manager may be a landowner or caretaker of the site. Details provided are to include a full name and appropriate contact details.

e. Regarding Condition 14, the operational management plan is to include the managers responsibility for the implementation of the plan, and regarding complaints management the following management conditions for the use of the holiday accommodation:

- (i) Surrounding landowners are to be provided with the contact details of the manager prior to the commencement of the use;**
- (ii) Prior to each guest stay, the guests are to be provided with the contact details of the manager;**
- (iii) The manager must be always contactable while the holiday**

accommodation is in use;

- (iv) It is the manager’s responsibility to ensure that all guests behave appropriately and do not unreasonably disturb surrounding premises.**
- f. Regarding Condition 14, regarding pet management, if pets are allowed in the accommodation, it is to be ensured that pets are properly managed and not allowed to interact with livestock or enter the neighbouring properties. In accordance with the Shire of Donnybrook Balingup Dogs Local Law, no more than two dogs may be brought to the property by guests and must be appropriately secured within the premises.**
- g. Regarding Condition 14, regarding road use, it is to be noted that unsealed roads experience periodic maintenance grading. The condition of unsealed roads can be subject to sudden change with major contributing factors being weather conditions, traffic type, traffic volume and traffic speed. Unlike sealed roads, permanent speed limit signs are not used on unsealed roads because the condition of such roads cannot be assured, and vehicles must always be driven to suit the conditions.**
- h. The word “guest” refers to any user of the holiday accommodation that has either paid to utilise the facility or is accompanying a person who has paid to use the facility.**
- i. The development the subject of this development approval must comply with the *Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997* in relation to noise emissions. Further information can be obtained from the Shire’s Environmental Health Services.**
- j. *Advertising signage does not form part of this approval. Any advertising signage is subject to a separate assessment and may require prior development approval from the Shire. It is recommended that you contact the Shire prior to the placement of any advertising signage onsite.***
- k. If the development the subject of this approval is not substantially commenced within a period of two years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.**
- l. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought or obtained.**
- m. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. An application must be made within 28 days of the determination.**

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan 2022 – 2032 relate to this proposal:

Outcome	6	The built environment is responsibly planned and well maintained
Objective	6.1	Ensure sufficient land is available for residential, industrial, and commercial uses.

EXECUTIVE SUMMARY

An application for development approval was received by the Shire on 2 October 2023 for five cabins at Lot 1 (308) Ryall Road, Brazier.

Officers do not have delegation to determine applications for development approval where an objection was received. Officers note the concerns raised in the submission and consider that these can be addressed through the imposition of conditions. The proposal is consistent with the planning framework and should be granted approval subject to conditions.

Regarding the timeframe for this proposal, it is to be noted that the application was placed on hold under mutual agreement for the applicant to consider the agency submissions and objection received during the consultation period.

BACKGROUND

The Shire received a development application for five cabins at Lot 1 (308) Ryall Road, Brazier. The subject lot is 58.9167 hectares in size and is zoned 'General Agriculture' under the Shire of Donnybrook Balingup Local Planning Scheme No. 7 (LPS7). The lot is predominantly used for extensive agricultural activities and the surrounding agricultural land is used for similar purposes. The development application is contained in Attachment 9.1.6(1).

Under LPS7, the proposed development is not permitted unless the local government has exercised its discretion by granting development approval after giving notice of the proposal. The proposal was referred to the owners of adjoining properties for comment and one objection was received.

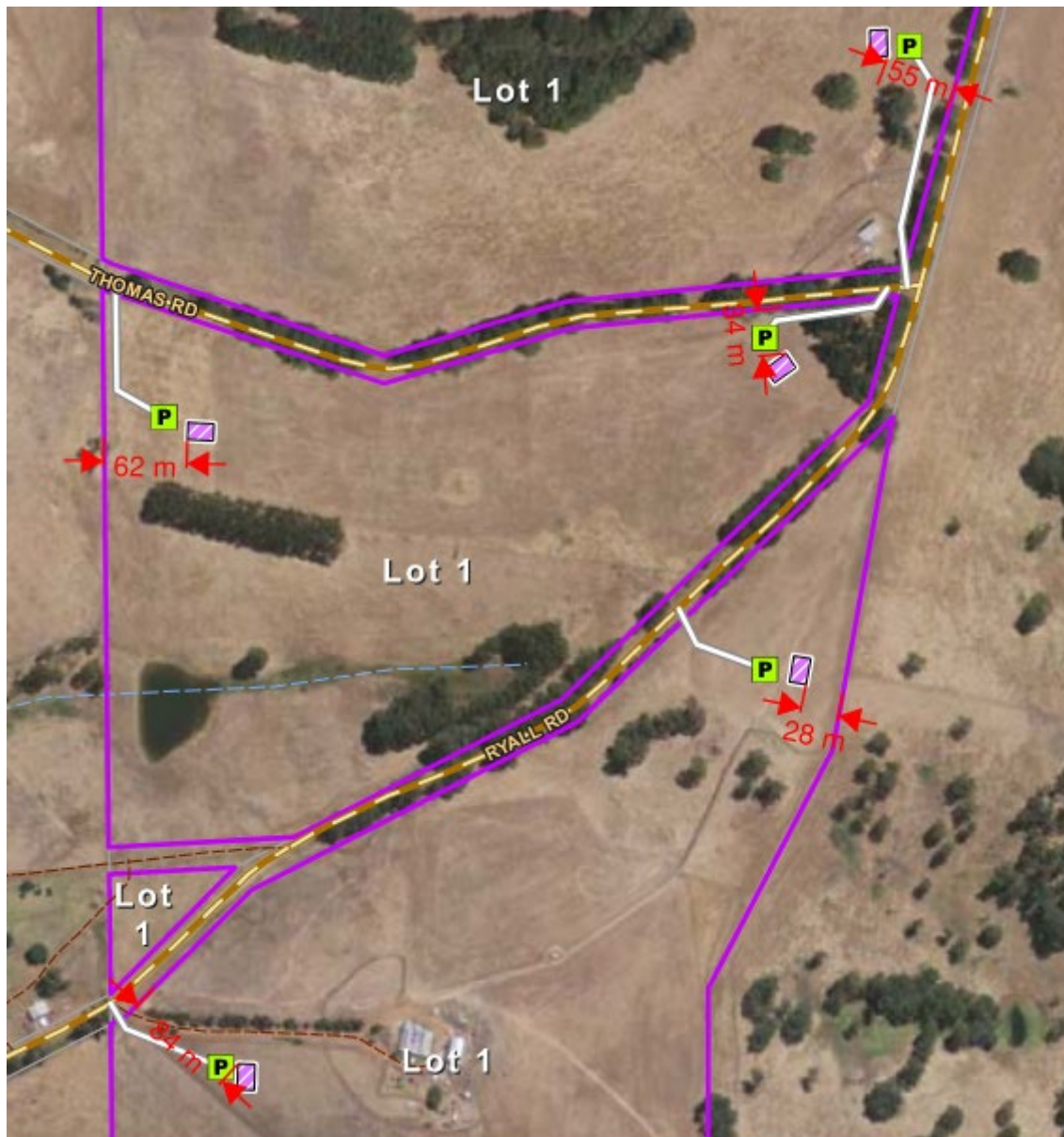
Location Plan

The following plan illustrates Lot 1 in relation to adjoining properties, noting that Lot 1 traverses two existing road reserves being Thomas and Ryall Roads.



Proposal

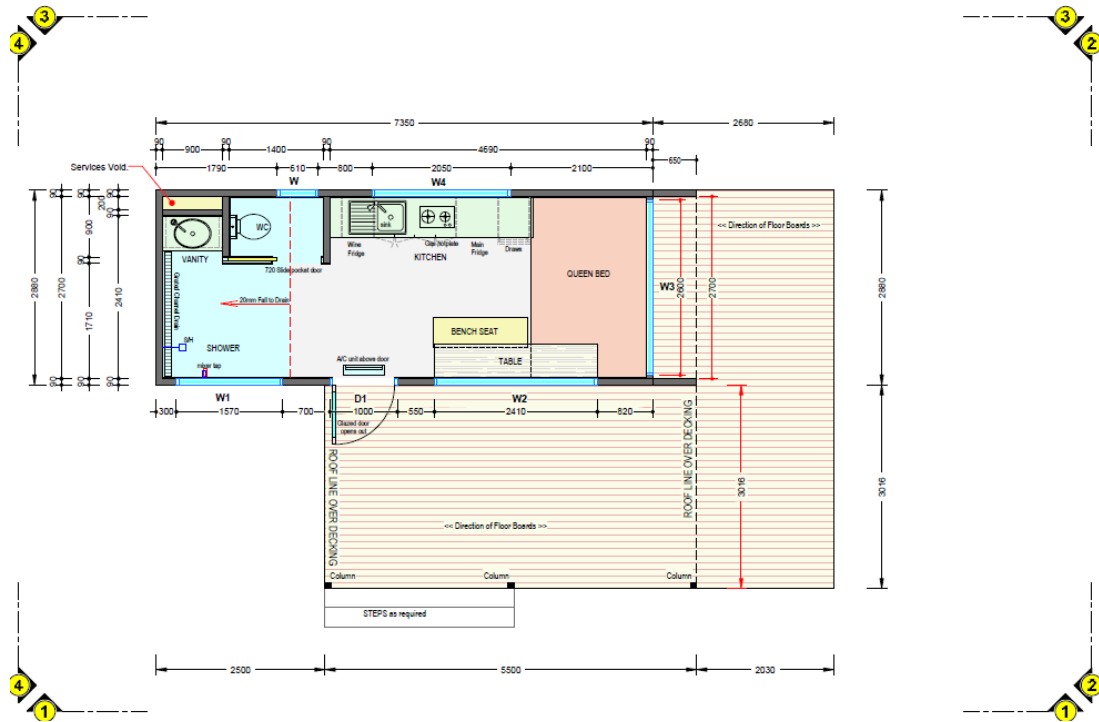
The excerpt of the development plan below demonstrates the location of the five cabins and access driveways within the lot. Approximate setbacks to nearest boundaries are also included.



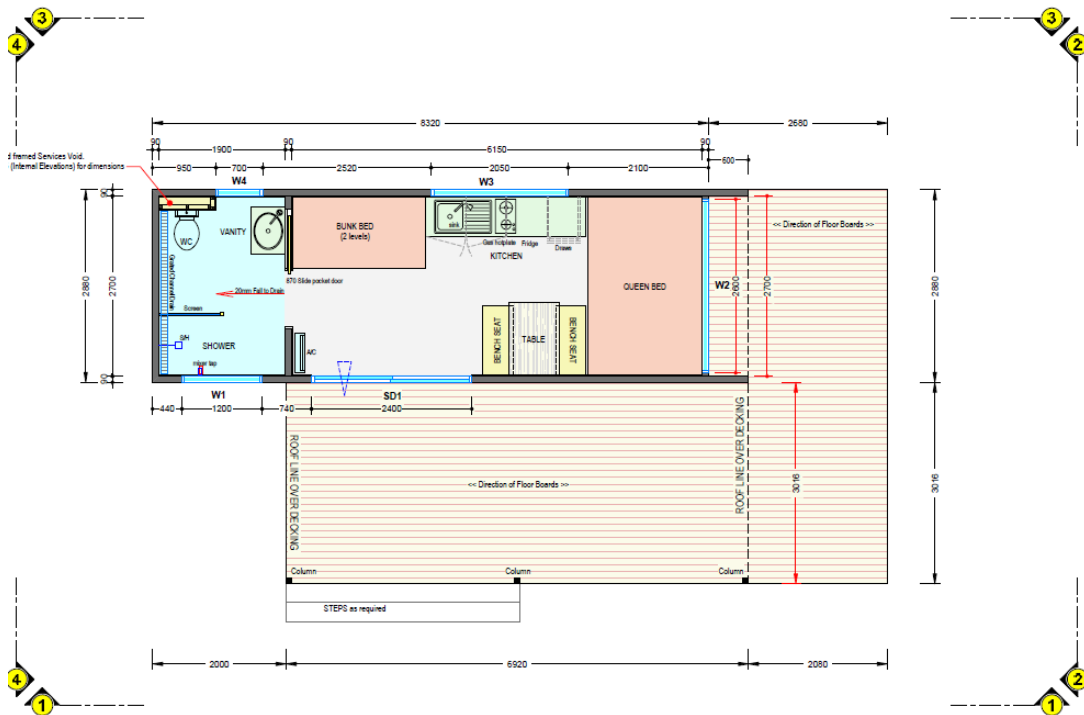
The applicant provided the following information about the proposal:

- The lot is approximately 19.8km south of the Donnybrook Town Centre.
- Access to cabins 1, 2 and 5 is from Ryall Road.
- Access to cabins 3 and 4 is from Thomas Road.
- There are two styles of cabins, and they can be fitted out as either a family style cabin (two adults and two children) or a Premium two-person cabin. They include a bathroom, open plan living area and kitchen adjacent to the sleeping area. Cabins will also have a small deck area to enjoy outdoor dining equipped with an enclosed gas barbecue.

Excerpt of “Delu E Cabin” i.e. premium two-person cabin plan below:



Excerpt of “Family Cabin” plan below:



- There will be informal parking at cabins or within very close proximity.
- No clearing of vegetation is required.
- Staffing will consist of the landowner and a local cleaner.
- The cabins are not connected to mains water or power. Solar power will charge the batteries during the day and water is potable tank water that will be delivered by a local supplier as required.

- The cabins will be equipped with a waterless toilet; and a greywater system for showers and sinks.
- Vehicle movements to and from the site will be minimal and consistent with the rural amenity of the area. Vehicle movement is less than ten trips in peak hour and considered a 'low impact'.
- Lot 1 is partially identified as Bushfire Prone, and a Bushfire Management Plan and Bushfire Emergency Plan was lodged with the proposal.
- The applicant's Operational Management Plan is contained in Attachment 9.1.6(2).

The applicant provided the following photo as an example of what the cabin would look like after construction:



Family Cabin ASHLEIGH in Nunile - Toodyay

FINANCIAL IMPLICATIONS

All relevant application fees have been paid by the applicant.

If the application is refused by Council the applicant may exercise the right to have the decision reviewed by the State Administrative Tribunal, if that is the case then it may be likely that there will be additional resourcing required (staff time and the cost of appointing a consultant to represent the Shire).

POLICY COMPLIANCE

State Planning Policy 2.5 – Rural Planning (SPP 2.5)

Notably, Clause 5.5 (C) of SPP 2.5 states that WAPC policy is to “*support small scale tourism opportunities, such as bed and breakfast, holiday house, chalet, art gallery, micro-brewery and land uses associated with primary production, within the rural zone;*”.

The proposal is consistent with this policy direction.

State Planning Policy 3.7: Planning in Bushfire Prone Areas

Short stay accommodation development such as proposed are considered a vulnerable land uses as prescribed under section 5.5 of the guidelines.

The property is partially identified as bushfire prone by Department of Fire and Emergency Services (DFES) mapping and the proposed development must comply with the requirements of SPP3.7.

The applicant has submitted a Bushfire Management Plan (BMP) that demonstrate all cabins to have a BAL-29. The applicant has also lodged a Bushfire Emergency Plan (BEP). These plans were referred to DFES for consideration.

DFES informed the Shire that the development application and the BMP have adequately identified issues arising from the bushfire risk assessment and considered how compliance with the bushfire protection criteria can be achieved. DFES recommended that modifications to the BMP are necessary to ensure it accurately identifies the bushfire risk and necessary mitigation measures. The applicant has amended the BMP and BEP accordingly.

Planning for Tourism and Short-term Rental Accommodation Guidelines

The *Planning for Tourism and Short-Term Rental Accommodation Position Statement* and associated Guidelines (Position Statement & Guidelines) were recently endorsed by the Western Australian Planning Commission (WAPC). This is one of the documents that recommend changes to planning schemes to ensure a more consistent approach to Short-term Rental Accommodation across the State. It also includes strategic principles and considerations for local government to consider when planning for tourism land uses.

The position statement under clause 4.4.2 state that where appropriate, local government may require the applicant to prepare a management plan to address potential amenity impacts arising from short-term rental accommodation and necessary emergency protocols. A management plan could form a condition of development approval and might include, but not be limited to the following:

- Mitigation plan,
- Complaints management procedure,
- Guest check-in and check-out procedures,
- Health and safety protocols,
- Management and provision of car parking, and

- Waste management.

Officers consider it would be appropriate to recommend a condition requesting the applicant to amend the Operational Management Plan to include all the matters listed above as this may also satisfy various other matters of concern raised during the consultation period. This matter is further considered under the 'Officer Comment' section of this report.

STATUTORY COMPLIANCE

The application has been assessed against the relevant and applicable statutory provisions as follows.

Shire of Donnybrook Balingup Local Planning Scheme No.7

Part 3 – Zones and the Use of Land

Lot 1 is zoned 'General Agriculture' under the Shire of Donnybrook Balingup Local Planning Scheme No. 7 (LPS7). Clause 3.5 of LPS7 state the purpose and objectives of the General Agriculture zone. The purpose of the zone, objective (v) and objective (vii) are particularly relevant.

3.5.1 Purpose

The purpose of the General Agriculture zone is to provide for the sustainable use of rural land which primarily accommodates a broad range of rural pursuits and complementary non-agricultural uses that are compatible with the capability of the land, and which retain the rural character and amenity of the locality.

3.5.2 Objectives

- (v) *recognise the aesthetic and tourism importance of the scenic landscape, realise the need to retain the rural scenic character of a site and of the district by ensuring through siting and landscaping provision that any development does not detrimentally change the scenic rural character.*
- (vii) *with adjacent and nearby rural and other uses, and where environmental, landscape and servicing considerations are appropriately addressed.*

Based on the context of the site and the scale of the development, the proposal is generally consistent with the above objectives of the General Agriculture zone. In addition, the proposal does not jeopardise the intent of the General Agriculture zone and will not adversely or unreasonably impact the surrounding area and future ability of the land for agricultural purposes.

The proposed development is considered consistent with the definition of: -
'Cabin' within LPS7 which means *"an individual self-contained unit like chalet but may lack ensuite facilities and may comprise only one room and is designed for short stay guests, forming part of a tourism facility.*

Under LPS7, a 'Cabin' is an 'A' use in the General Agriculture zone which means that "the use is not permitted unless the local government has exercised its discretion by

granting development approval after giving special notice in accordance with clause 64 of the deemed provisions”. In this regard, all applications for “Cabins” in the General Agriculture zone require approval from the Shire. The proposal was advertised, and one objection was received from nearby landowners. This is considered under the ‘Consultation” section of this report.

Part 4 – General Development Requirements

The relevant and applicable general development requirements of LPS7 have been assessed and summarised below:

4.27 Car Parking and Vehicle Access Requirements

The parking requirement under LPS7 for a Cabin is one parking space per cabin and one parking space for each staff member. There is adequate space available for parking. A condition is recommended for one parking bay to be provided for each cabin.

Access to the five cabins is via gravel roads and the Shire has no current plans to upgrade the roads to a sealed standard. Potential visitors are to be informed that access is via gravel roads and that the conditions of these roads are subject to change and that they need to “Drive to Conditions”. It is recommended that this information is included in the operational management plan if approval is granted.

4.32 Vehicle Crossovers/Entrances

It should also be noted that the proposed access points to cabins at the intersection of Thomas and Ryall Road are to be via existing crossovers and that the Shire would not support new crossovers at this location. Crossovers would need to be constructed to the Shire standard prior to the use commencing. A crossover application must be submitted for consideration and approval by the Shire Works and Services Department prior to the construction of any new crossover if approval is granted.

4.35 Holiday Accommodation Uses – Short Stay Restrictions

Under 4.35.1 no person shall occupy any holiday accommodation use, as specified in the Zoning Table for more than a total of three months in any 12-month period unless approved by the local government for management purposes and staff accommodation. Ongoing compliance with this scheme provision is to be managed by the applicant if approval is granted.

4.37 Services to all development

The local government shall not grant development approval to the carrying out of any development on any land unless –

(i) a water supply and facilities for the removal or disposal of sewerage and drainage are available to that land (unless the proponent can demonstrate that the use does not require these services to the satisfaction of the local government);

Each cabin will have a water supply from a water tank, and the applicant is proposing composting toilets and grey water systems for other water waste from showers and sinks.

Under the building code (BCA) where 4 to 10 buildings are proposed at least one cabin is required to be fully accessible for use by people with a disability. All cabins will require a smoke alarm that is hard wired with a battery backup.

4.45 Advertisements

An advice note is to be provided informing the applicant that advertising signage is subject to separate approval.

4.54 General Agriculture Zone

The relevant development requirements for the General Agriculture Zone under LPS7 have been assessed as summarised below:

4.54.8 Development standards

4.54.8.1 Development in the General Agriculture zone shall conform to the following standards-

- (i) Minimum front setback – 30m
- (ii) Minimum side setback – 20m
- (iii) Minimum rear setback – 20m
- (iv) Where the land adjoins State Forest, National Park, Conservation Reserve or other timbered Crown or local government-controlled land, in the opinion of the local government the setback from the common boundary shall be 100m.

All cabins meet the setback requirements and Lot 1 does not abut State Forest, National Park, Conservation Reserve or other timbered Crown or local government-controlled land.

4.54.8.3 With the exception of a single dwelling, where the proposed development is for a non-agricultural purpose, the local government shall require a minimum setback of 100 metres from existing intensive agricultural activities on any adjacent lot, whether owned by the applicant or a third party.

A review of aerial imagery and a site inspection confirmed that there are no current intensive-agricultural operations within 100m of the development. The intent of the setback provisions is to minimise land use conflict to ensure the continued operation of the existing agriculture activities on the application lot and on surrounding rural properties. Officers consider that the introduction of the proposed holiday accommodation will not impact negatively on any agriculture activities.

Local Planning Strategy

Lot 1 is identified as General agriculture under the Shire of Donnybrook Balingup Local Planning Strategy; and Rural under the draft Shire of Donnybrook Balingup Local Planning Strategy 2024. The proposal is consistent with these future intentions.

CONSULTATION

Neighbour Notification

Schedule 2, Part 9, Clause 64 (1) (b) (i) of the *Planning and Development (Local Planning Scheme) Regulations 2015*, specifies that the Shire is to undertake advertising when considering an application for development approval for an ‘A’ use.

The advertising period was 14 days (concluding on 30 October 2023) and involved a written notices to the owners of six adjoining properties. One objection was received. The issues noted in the objection have been summarised below. A full copy of the objection is attached Attachment 9.1.6(4).

Issues raised	Officer Comment
<p><i>The proposal is a significant over-development not in keeping with existing rural land use and the surrounding landscape.</i></p> <p><i>The number of proposed units near to each other and to surrounding rural properties is not ‘low-key’ tourist use.</i></p>	<p>The Shire of Donnybrook Balingup Local Planning Scheme No.7 (LPS7) under clause 4.36(iii) permits six (6) cabins on lots having a size greater than 20 hectares. Lot 1 is 58.9167 hectares in size and the proposed five (5) cabins complies with the scheme provision.</p>
<p><i>Concerned about the fire risk from an excessive number of tourists in a working rural environment. There are significant stands of trees in front of two of the cabins.</i></p>	<p>The applicant has submitted a Bushfire Management Plan (BMP) that demonstrate all cabins to have a BAL-29. The applicant has also lodged a Bushfire Emergency Plan (BEP). These plans were referred to DFES for consideration.</p> <p>DFES informed the Shire that the development application and the BMP have adequately identified issues arising from the bushfire risk assessment and considered how compliance with the bushfire protection criteria can be achieved. DFES recommended that modifications to the BMP are necessary to ensure it accurately identifies the bushfire risk and necessary mitigation measures. The applicant has amended the BMP and BEP accordingly.</p>
<p><i>Concerned about the significant increase in traffic that will create dust that will cover their house and pollute their water tanks.</i></p> <p><i>Increased traffic will lead to further road degradation of Ryall Road that is already in poor condition.</i></p>	<p>Access to the cabins is via Ryall Road and Thomas Road. The applicant’s operational management plan regarding traffic management states that “Guests are to drive on designated tracks only and to keep speed to under 20km/h.”</p>

Issues raised	Officer Comment
	<p>Notwithstanding, the proposed impact of the development on the road is considered quite minor when compared to some agricultural activities that uses larger farming equipment/vehicles.</p> <p>Officers recommend that the applicant’s operational management plan be amended to advise guests that access to the accommodation is via gravel roads and that guests would need to drive to the conditions of the roads.</p>
<p><i>Concerned about the impact on the environment and ground water from disposal of waste.</i></p>	<p>The applicant is proposing composting toilets and grey water systems for other water waste from the shower and sinks. This proposal would need to comply with the requirements of the <i>Health (treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974</i> which means that the onsite wastewater system would need to be approved by the Department of Health (DOH). The matters of concern listed by DOH under the “Consultation with Government/Service Agencies” section of this report would need to be considered and appropriately addressed by the applicant prior to approval being granted for the system. An advice note is recommended informing the applicant of the process.</p>
<p><i>Concerned that the applicant may be planning to pump further water from the underground water supply that provides their only supply of drinking water.</i></p>	<p>The applicant has indicated that the cabins are to be connected to potable tank water that will be delivered by a local supplier as required.</p>
<p><i>Concerned about the risk of gates being left open by tourists and stock escaping onto roads.</i></p>	<p>The applicant’s operational management plan includes a gate rule which reads as follows: <i>If guests pass through a gate that is open, leave it open. If driving through a gate that is closed, ensure they close it behind you.</i></p> <p>Officers consider this sufficient to address the concern raised by the objector.</p>
<p><i>Visual amenity will be significantly impacted, 2 of the cabins have direct line of sight into our house.</i></p>	<p>The cabin located in the southwestern section of Lot 1 is approximately 200m from the objector’s dwelling. The other cabin being referred to by the objector is</p>

Issues raised	Officer Comment
	<p>approximately 470m to the northeast of the objectors dwelling.</p> <p>The applicant provided information stating that none of the proposed cabins will be facing towards any houses and that <i>“Heyscape’s goal is to provide guests with a feeling of solitude and privacy whilst also taking into consideration the landowners and neighbouring properties”</i>.</p> <p>The proposal by the applicant not to face any cabins towards any houses is recommended to form part of the conditions of approval, if granted.</p>
<p><i>The proposal is incompatible with the rural character of the locality and clearly not a rural pursuit within an agricultural zone.</i></p> <p><i>It will impact upon the viability of existing agricultural pursuits and should be directed away from what is productive agricultural land.</i></p> <p><i>It is not complementary with the purpose and intent of rural zoning.</i></p> <p><i>The proposal will not contribute to sustainable agricultural production.</i></p>	<p>The proposal was referred to Department of Primary Industries and Regional Development (DPIRD) for comment and the department did not object to the proposed development. DPIRD mapping indicates the lot has a maximum of class 4 quality for perennial horticulture. In addition, the placing of the cabins is not expected to reduce other forms of agriculture on the lot/adjacent lots. The proposed development is incidental to the principal use of the land for agricultural purposes and conditional approval is recommended.</p>
<p><i>The proposal appears inconsistent with the general principles of the Shire’s local planning strategy</i></p>	<p>The proposal is in line with the following aims of the Local Planning Strategy 2014 under 3.2:</p> <ul style="list-style-type: none"> • provide for tourism activity in rural areas and establish the conditions under which such uses may be developed and maintained. • assist employment and economic growth by providing suitable land for retail, commercial, industrial and tourism developments, as well as opportunities for home-based employment.

Consultation with Government/Service Agencies

The application was referred to the following departments for comment:

- Department of Health.
- Department of Primary Industries and Regional Development.

- Department of Fire and Emergency Services.

Their responses are summarised below along with Officer comments in response. The agency comments are contained in Attachment 9.1.6(5).

Department of Health (DOH)

A greywater system is required, and details need to be provided to Shire. The Site and Soil Evaluation (SSE) was undertaken at the wrong time of year and would need to be reviewed at approval assessment stage.

Detailed plans would need to be provided with an “application for approval to construct or install an apparatus for the treatment of sewage” for each wastewater system including grey water treatment systems. As this proposal is a commercial development that exceeds the single dwelling status the applications are required to be forwarded to DOH for assessment and approval.

Drinking water must meet the health-related requirements and risk management framework set out in version 3.7 of the *Australian Drinking Water Quality Guidelines 2011*. Given the historical use as an orchard, there is some potential for residual pesticides and/or herbicide contamination of soils. Therefore, the applicant is to consider restricting children and pets so that they will not have access to soils. If playground facilities are proposed, then the potential for exposure for contamination is to be managed.

Response

Approval of a wastewater system follows a separate process like the building permit process. The matters of concern listed by DOH would need to be considered and appropriately addressed by the applicant prior to approval being granted by the DOH for the system. An advice note is recommended informing the applicant of the process. A condition is recommended for each cabin to be connected to an approved effluent disposal system prior to the use of the cabin.

The applicant would need to provide suitable potable water to the satisfaction of the Shire and a condition is recommended to this effect.

Advice notes are recommended informing the applicant of all other matters raised by DOH.

Department of Primary Industries and Regional Development (DPIRD)

DPIRD request that a pet management plan be required if pets are allowed in the accommodation to ensure that pets are properly managed and not allowed to interact with livestock or enter the neighbouring property.

Response

Officers recommend that the applicant’s operational management plan be amended to include information relating to pet management.

Department of Fire and Emergency Services (DFES)

DFES advises that the development application and the BMP have adequately identified issues arising from the bushfire risk assessment and considered how compliance with the bushfire protection criteria can be achieved. However, modifications to the BMP were necessary to ensure it accurately identifies the bushfire risk and necessary mitigation measures. As these modifications will not affect the development design, these modifications can be undertaken without further referral to DFES.

Response

The applicant has amended the BMP and BEP in accordance with DFES comments. Conditions are recommended for the applicant to ensure ongoing compliance with the Bushfire Management Plan and the Bushfire Emergency Plan.

OFFICER COMMENT

The proposal has been assessed in accordance with Schedule 2, Part 9, Clause 67 (2) of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. A full assessment is contained in Attachment 9.1.6(6).

Key considerations identified during the assessment and matters raised by the objector includes over development, impact on existing agricultural activities, fire risk, visual amenity, environmental matters, and road condition:

Over development and impact on existing agricultural activities

The Shire of Donnybrook Balingup Local Planning Scheme No.7 (LPS7) under clause 4.36(iii) permits six cabins on lots having a size greater than 20 hectares. The development complies with this scheme standard as Lot 1 is 58.9167ha and only five cabins are proposed. The cabins are not being clustered in one location and is spread out to different locations on Lot 1 which minimise the potential for conflict with activities on adjoining land. It is recommended that cabins No. 1 and 3 are limited to 2 persons each to reduce any perceived potential impact on the adjoining neighbouring properties. In addition, Department of Primary Industries and Regional Development (DPIRD) advises that its mapping indicates the lot has a maximum of class 4 quality for perennial horticulture. In addition, the placing of the cabins is not expected to reduce other forms of agriculture on the lot/adjacent lots. The proposed development is incidental to the principal use of the land for agricultural purposes.

Fire risk.

The fire risk has been considered by the applicant and a BMP and BEP has been prepared meeting the requirements of SPP3.7 and the Department of Fire and Emergency Services. Operation of the holiday accommodation cabins is to be in accordance with the Shire Restricted and Prohibited Fire Periods and the facility if approved is to be conditioned to be closed during days with a forecast Fire Danger Rating of Extreme and Catastrophic.

Visual amenity

There is a potential for cabin No. 1 and 3 to impact the visual amenity for the objector and the applicant has agreed to face the orientation of all cabins away from houses, This

together with the small scale of the development, low number of visitors attending at any time and contemporary design will ensure that the impact, if any is of a very small scale.

Servicing

Each cabin will be connected to a water tank and approved effluent disposal system for grey water. This has been conditioned to ensure that there will be no environmental impacts.

Operational management plan

The *Planning for Tourism and Short-Term Rental Accommodation Position Statement* and associated Guidelines (Position Statement & Guidelines) were recently endorsed by the Western Australian Planning Commission (WAPC). The position statement under clause 4.4.2 state that where appropriate, local government may require the applicant to prepare a management plan to address potential amenity impacts arising from short-term rental accommodation and necessary emergency protocols. Officers consider that the operational management plan for this holiday accommodation development once amended to include matters relating to in mitigation, complaints, pet management and road conditions will be sufficient to ensure that this development would be appropriately managed.

Conclusion

Officers consider that the proposal to construct five holiday accommodation cabins on Lot 1 (308) Ryall Road, Brazier is generally consistent with the objectives of the General Agriculture zone and that the concerns raised in the objection during the advertising period can be adequately addressed by the imposition of conditions. Following the assessment of the proposal officers consider that the application complies with the requirement of orderly and proper planning and recommend conditional approval of the application.

EXECUTIVE RECOMMENDATION

MOVED: Cr Bailey

SECONDED: Cr Lindemann

That Council:

- A. Pursuant to Schedule 2, Part 9, Clause 68 (2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, grants Development Approval P23041 for five (5) holiday accommodation cabins at Lot 1 (308) Ryall Road, Brazier, subject to the following conditions and advice:**

Conditions:

- 1. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the approved plans, including any notations, and must not be altered or modified without the further written consent of the Shire.**

Approved plans:

- 1.1 Floor plan Delu E Cabin.**
- 1.2 Decking Elevations Delu E Cabin.**
- 1.3 Floor plan Family Cabin.**
- 1.4 Decking Elevations Family Cabin.**

- 2. Prior to the endorsement of any plans and lodgement of the building permit plans, amended plans to the satisfaction of the Shire must be submitted to and approved by the Shire. When approved the plans will form part of this approval. The plans must be amended to show the following:**

Amended Site plan:

- a. the location of each cabin generally in accordance with the site plan lodged with the application.**
- b. that cabins No. 1 and 3 closest to the western boundary of the lot be limited to 2 person cabins.**
- c. the orientation of cabins facing away from any houses on adjoining land.**
- d. the location of the water tanks near the cabins, and water tanks to meet the setback requirements of the zone.**
- e. The location of the cabin that is to be fully accessible for use by people with a disability.**

Amended floor plans for the cabin that is to be accessible:

- a. The floor plans of one cabin is required to demonstrate that it is fully accessible for use by people with a disability.**

- 3. No person shall occupy any cabin for more than a total of three (3) months in any twelve (12) month period unless given prior approval by the Shire for management purposes and staff accommodation.**
- 4. Prior to the commencement of use, one parking bay per cabin is to be provided to the satisfaction of the Shire.**
- 5. Prior to the commencement of works, an application for any new vehicular crossover is to be submitted to and approved by the Shire in accordance with the Shire's crossovers standards. Prior to the commencement of use, the crossover is to be installed in accordance with the crossover approval and continuously maintained thereafter to the satisfaction of the Shire.**
- 6. Prior to the commencement of use, cabins must be provided with a suitable potable water supply to the satisfaction of the Shire.**
- 7. All stormwater from the proposed development including building(s) and hardstand area(s) shall be managed onsite by the landowner in perpetuity, in accordance with the Shire's stormwater management standards and the *Animals, Environment and Nuisance Local Law 2017* to the satisfaction of the Shire.**

- 8. Any erosion and/or sedimentation issues that occur due to insufficient drainage and/or stormwater management from the proposed development, including any driveway or accessway, is to be rectified, so as not to impact any surrounding properties, including any infrastructure, to the satisfaction of the Shire.**
- 9. Prior to the commencement of the use, information is to be provided demonstrating that the measures contained in Section 6, Table 6.1 and 6.2 of the Bushfire Management Plan (Ref No. 230100 V1.1) prepared by Bushfire Prone Planning have been implemented. This information should include a completed 'Certification by Bushfire Consultant' from the Bushfire Management Plan.**
- 10. The Bushfire Management Plan, shall be implemented and thereafter appropriately managed in perpetuity by the landowner, including the establishment and maintenance of an Asset Protection Zone and provision of water for firefighting purposes.**
- 11. Operation of the holiday accommodation cabins is to be in accordance with the Bushfire Emergency Plan prepared by Bushfire Prone Planning including the requirement to close the facility during days with a forecast Fire Danger Rating of Extreme and Catastrophic.**
- 12. A copy of the Bushfire Emergency Plan, is to be made permanently available to occupants and/or guests of the property with a copy of the Bushfire Emergency Information Poster and Instructions always placed on display. Guests are to be advised of the recommendations of the Plan in case of a bushfire event.**
- 13. Prior to the commencement of use, a manager is to be designated for the holiday accommodation development and the details of the manager are to be provided to the Shire. Should the dedicated manager change, details of the new manager must be provided to the Shire prior to the next use of the holiday accommodation.**
- 14. The applicant's operational management plan is to be amended to the satisfaction of the Shire, to include the following:**
 - a. Mitigation plan;**
 - b. Complaints management procedure;**
 - c. Guest check-in and check-out procedures;**
 - d. Bushfire Management Plan ongoing compliance and Bushfire Emergency Plan;**
 - e. Pet management; and**
 - f. Road use.**

Once approved the plan will form part of this approval and must be always complied with.
- 15. Prior to commencement of use, cabins must be connected to an approved effluent disposal system.**

Advice:

- a. **The Shire Environmental Health Services advises that:**
- (i) **The development is to be connected to an approved effluent disposal system in accordance with the *Health (Treatment of Sewage and Disposal of Liquid Waste) Regulations 1974*. An “Application to Construct or Install an apparatus for the treatment of sewage” is required at Building Application stage.**
 - (ii) **The Department of Health has identified that the Site and Soil Evaluation was conducted at the wrong time of the year and a detailed Site and Soil assessment in accordance with of AS 1457: 2012 is to be lodged at building application stage to determine the suitability of the site and soil to accommodate your proposed onsite wastewater treatment and disposal systems. Such a report must be compiled by a suitably qualified service provider. Further information can be obtained from the Department of Health on [https://ww2.health.wa.gov.au/Articles/S T/Site-and-soil-evaluation-for-onsite-wastewater-management](https://ww2.health.wa.gov.au/Articles/S_T/Site-and-soil-evaluation-for-onsite-wastewater-management).**
- b. **The Department of Health advises that:**
- (i) **Given the historical use as an orchard, there is some potential for residual pesticides and/or herbicide contamination of soils. Therefore, the applicant is to consider restricting children and pets so that they will not have access to soils. If playground facilities are proposed, then the potential for exposure for contamination is to be managed.**
 - (ii) **Any non-drinking water must be managed to ensure it cannot be confused with or contaminate the drinking water supply. This requires satisfactory labelling of non-drinking water taps, and depending on the system configuration, suitable backflow prevention arrangements.**
- c. **Compliance with the Building Code of Australia is required. A Building Permit Application must be submitted to, and approved by, the Shire prior to the commencement of any development. The Building Permit plans must reflect the relevant conditions and approved plans of this Development Approval. Any subsequent revisions to the plans may require prior development approval.**
- Under the building code (BCA) where 4 to 10 buildings are proposed at least one cabin is required to be fully accessible for use by people with a disability. All cabins will require a smoke alarm that is hard wired with a battery backup.**
- d. **A “manager” means a person duly appointed by the landowner to have management and care of the holiday accommodation. The manager is the contact person responsible for the day-to-day compliance of the holiday accommodation operations as per the conditions of this approval. The manager may be a landowner or caretaker of the site. Details provided are to include a full name and appropriate contact details.**

- e. **Regarding Condition 14, the operational management plan is to include the managers responsibility for the implementation of the plan, and regarding complaints management the following management conditions for the use of the holiday accommodation:**
- (i) **Surrounding landowners are to be provided with the contact details of the manager prior to the commencement of the use;**
 - (ii) **Prior to each guest stay, the guests are to be provided with the contact details of the manager;**
 - (iii) **The manager must be always contactable while the holiday accommodation is in use;**
 - (iv) **It is the manager’s responsibility to ensure that all guests behave appropriately and do not unreasonably disturb surrounding premises.**
- f. **Regarding Condition 14, regarding pet management, if pets are allowed in the accommodation, it is to be ensured that pets are properly managed and not allowed to interact with livestock or enter the neighbouring properties. In accordance with the Shire of Donnybrook-Balingup Dogs Local Law, no more than two dogs may be brought to the property by guests and must be appropriately secured within the premises.**
- g. **Regarding Condition 14, regarding road use, it is to be noted that unsealed roads experience periodic maintenance grading. The condition of unsealed roads can be subject to sudden change with major contributing factors being weather conditions, traffic type, traffic volume and traffic speed. Unlike sealed roads, permanent speed limit signs are not used on unsealed roads because the condition of such roads cannot be assured, and vehicles must always be driven to suit the conditions.**
- h. **The word “guest” refers to any user of the holiday accommodation that has either paid to utilise the facility or is accompanying a person who has paid to use the facility.**
- i. **The development the subject of this development approval must comply with the *Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997* in relation to noise emissions. Further information can be obtained from the Shire’s Environmental Health Services.**
- j. ***Advertising signage does not form part of this approval. Any advertising signage is subject to a separate assessment and may require prior development approval from the Shire. It is recommended that you contact the Shire prior to the placement of any advertising signage onsite.***
- k. **If the development the subject of this approval is not substantially commenced within a period of two years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.**

- i. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought or obtained.**

- m. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. An application must be made within 28 days of the determination.**

CARRIED/LOST

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

Against: Cr Bailey, Cr Glover, Cr Gubler, Cr Davy, Cr Lindemann, Cr MacCarthy, Cr Mitchell, Cr Patrick, Cr Shand

COUNCIL RESOLUTION 64/24

MOVED: Cr Bailey

SECONDED: Cr Lindemann

To suspend a standing order 8.10 to allow Councillors to speak more than once.

CARRIED 7/1

For: Cr Bailey, Cr Gubler, Cr Davy, Cr Lindemann, Cr MacCarthy, Cr Patrick, Cr Shand

Against: Cr Mitchell

COUNCIL RESOLUTION 65/24

MOVED: Cr MacCarthy

SECONDED: Cr Bailey

To reinstate standing order 8.10.

CARRIED 8/0

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

Against: Nil.

AMENDMENT: Cr Bailey moved the following amendment

COUNCIL RESOLUTION

MOVED: Cr Bailey

SECONDED: Davy

14.The applicant's operational management plan is to be amended to the satisfaction of the Shire, to include the following:

- a. Mitigation plan;
- b. Complaints management procedure;
- c. Guest check-in and check-out procedures;
- d. Bushfire Management Plan ongoing compliance and Bushfire Emergency Plan;
- e. Pet management; and
- f. Road use.
- g. Information regarding preservation of existing farming activities, guests are to be advised that the development is located on an operating farm and adjoin other farms that has the potential for guests to be affected by noise and dust and other impacts associated with the continued operation of a farm.

Once approved the plan will form part of this approval and must be always complied with.

CARRIED 8/0

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

Against: Nil.

SUBSTANTIVE MOTION AS AMENDED:

COUNCIL RESOLUTION 66/24

MOVED: Cr Bailey

SECONDED: Cr Lindemann

That Council:

- A.** Pursuant to Schedule 2, Part 9, Clause 68 (2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, grants Development Approval P23041 for five (5) holiday accommodation cabins at Lot 1 (308) Ryall Road, Brazier, subject to the following conditions and advice:

Conditions:

- 1.** The layout of the site and the size, design and location of the buildings and works permitted must always accord with the approved plans, including any notations, and must not be altered or modified without the further written consent of the Shire.

Approved plans:

- 1.1 Floor plan Delu E Cabin.**
- 1.2 Decking Elevations Delu E Cabin.**
- 1.3 Floor plan Family Cabin.**
- 1.4 Decking Elevations Family Cabin.**

- 2. Prior to the endorsement of any plans and lodgement of the building permit plans, amended plans to the satisfaction of the Shire must be submitted to and approved by the Shire. When approved the plans will form part of this approval. The plans must be amended to show the following:**

Amended Site plan:

- a. The location of each cabin generally in accordance with the site plan lodged with the application.**
- b. that cabins No. 1 and 3 closest to the western boundary of the lot be limited to 2 person cabins.**
- c. the orientation of cabins facing away from any houses on adjoining land.**
- d. the location of the water tanks near the cabins, and water tanks to meet the setback requirements of the zone.**
- e. The location of the cabin that is to be fully accessible for use by people with a disability.**

Amended floor plans for the cabin that is to be accessible:

- a. The floor plans of one cabin is required to demonstrate that it is fully accessible for use by people with a disability.**

- 3. No person shall occupy any cabin for more than a total of three (3) months in any twelve (12) month period unless given prior approval by the Shire for management purposes and staff accommodation.**
- 4. Prior to the commencement of use, one parking bay per cabin is to be provided to the satisfaction of the Shire.**
- 5. Prior to the commencement of works, an application for any new vehicular crossover is to be submitted to and approved by the Shire in accordance with the Shire's crossovers standards. Prior to the commencement of use, the crossover is to be installed in accordance with the crossover approval and continuously maintained thereafter to the satisfaction of the Shire.**
- 6. Prior to the commencement of use, cabins must be provided with a suitable potable water supply to the satisfaction of the Shire.**
- 7. All stormwater from the proposed development including building(s) and hardstand area(s) shall be managed onsite by the landowner in perpetuity, in accordance with the Shire's stormwater management standards and the *Animals, Environment and Nuisance Local Law 2017* to the satisfaction of the Shire.**

- 8. Any erosion and/or sedimentation issues that occur due to insufficient drainage and/or stormwater management from the proposed development, including any driveway or accessway, is to be rectified, so as not to impact any surrounding properties, including any infrastructure, to the satisfaction of the Shire.**
- 9. Prior to the commencement of the use, information is to be provided demonstrating that the measures contained in Section 6, Table 6.1 and 6.2 of the Bushfire Management Plan (Ref No. 230100 V1.1) prepared by Bushfire Prone Planning have been implemented. This information should include a completed 'Certification by Bushfire Consultant' from the Bushfire Management Plan.**
- 10. The Bushfire Management Plan, shall be implemented and thereafter appropriately managed in perpetuity by the landowner, including the establishment and maintenance of an Asset Protection Zone and provision of water for firefighting purposes.**
- 11. Operation of the holiday accommodation cabins is to be in accordance with the Bushfire Emergency Plan prepared by Bushfire Prone Planning including the requirement to close the facility during days with a forecast Fire Danger Rating of Extreme and Catastrophic.**
- 12. A copy of the Bushfire Emergency Plan, is to be made permanently available to occupants and/or guests of the property with a copy of the Bushfire Emergency Information Poster and Instructions always placed on display. Guests are to be advised of the recommendations of the Plan in case of a bushfire event.**
- 13. Prior to the commencement of use, a manager is to be designated for the holiday accommodation development and the details of the manager are to be provided to the Shire. Should the dedicated manager change, details of the new manager must be provided to the Shire prior to the next use of the holiday accommodation.**
- 14. The applicant's operational management plan is to be amended to the satisfaction of the Shire, to include the following:**
 - a. Mitigation plan;**
 - b. Complaints management procedure;**
 - c. Guest check-in and check-out procedures;**
 - d. Bushfire Management Plan ongoing compliance and Bushfire Emergency Plan;**
 - e. Pet management; and**
 - f. Road use.**
 - g. Information regarding preservation of existing farming activities, guests are to be advised that the development is located on an operating farm and adjoin other farms that has the potential for guests to be affected by noise and dust and other impacts associated with the continued operation of a farm.**

Once approved the plan will form part of this approval and must be always complied with.

15. Prior to commencement of use, cabins must be connected to an approved effluent disposal system.

Advice:

- a. The Shire Environmental Health Services advises that:
- (i) The development is to be connected to an approved effluent disposal system in accordance with the *Health (Treatment of Sewage and Disposal of Liquid Waste) Regulations 1974*. An “Application to Construct or Install an apparatus for the treatment of sewage” is required at Building Application stage.
 - (ii) The Department of Health has identified that the Site and Soil Evaluation was conducted at the wrong time of the year and a detailed Site and Soil assessment in accordance with of AS 1457: 2012 is to be lodged at building application stage to determine the suitability of the site and soil to accommodate your proposed onsite wastewater treatment and disposal systems. Such a report must be compiled by a suitably qualified service provider. Further information can be obtained from the Department of Health on https://ww2.health.wa.gov.au/Articles/S_T/Site-and-soil-evaluation-for-onsite-wastewater-management.
- b. The Department of Health advises that:
- (i) Given the historical use as an orchard, there is some potential for residual pesticides and/or herbicide contamination of soils. Therefore, the applicant is to consider restricting children and pets so that they will not have access to soils. If playground facilities are proposed, then the potential for exposure for contamination is to be managed.
 - (ii) Any non-drinking water must be managed to ensure it cannot be confused with or contaminate the drinking water supply. This requires satisfactory labelling of non-drinking water taps, and depending on the system configuration, suitable backflow prevention arrangements.
- c. Compliance with the Building Code of Australia is required. A Building Permit Application must be submitted to, and approved by, the Shire prior to the commencement of any development. The Building Permit plans must reflect the relevant conditions and approved plans of this Development Approval. Any subsequent revisions to the plans may require prior development approval.

Under the building code (BCA) where 4 to 10 buildings are proposed at least one cabin is required to be fully accessible for use by people with a disability. All cabins will require a smoke alarm that is hard wired with a battery backup.

- d. A “manager” means a person duly appointed by the landowner to have management and care of the holiday accommodation. The manager is the contact person responsible for the day-to-day compliance of the holiday accommodation operations as per the conditions of this approval. The manager may be a landowner or caretaker of the site. Details provided are to include a full name and appropriate contact details.**
- e. Regarding Condition 14, the operational management plan is to include the managers responsibility for the implementation of the plan, and regarding complaints management the following management conditions for the use of the holiday accommodation:**

 - (i) Surrounding landowners are to be provided with the contact details of the manager prior to the commencement of the use;**
 - (ii) Prior to each guest stay, the guests are to be provided with the contact details of the manager;**
 - (iii) The manager must be always contactable while the holiday accommodation is in use;**
 - (iv) It is the manager’s responsibility to ensure that all guests behave appropriately and do not unreasonably disturb surrounding premises.**
- f. Regarding Condition 14, regarding pet management, if pets are allowed in the accommodation, it is to be ensured that pets are properly managed and not allowed to interact with livestock or enter the neighbouring properties. In accordance with the Shire of Donnybrook-Balingup Dogs Local Law, no more than two dogs may be brought to the property by guests and must be appropriately secured within the premises.**
- g. Regarding Condition 14, regarding road use, it is to be noted that unsealed roads experience periodic maintenance grading. The condition of unsealed roads can be subject to sudden change with major contributing factors being weather conditions, traffic type, traffic volume and traffic speed. Unlike sealed roads, permanent speed limit signs are not used on unsealed roads because the condition of such roads cannot be assured, and vehicles must always be driven to suit the conditions.**
- h. The word “guest” refers to any user of the holiday accommodation that has either paid to utilise the facility or is accompanying a person who has paid to use the facility.**
- i. The development the subject of this development approval must comply with the *Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997* in relation to noise emissions. Further information can be obtained from the Shire’s Environmental Health Services.**
- j. *Advertising signage does not form part of this approval. Any advertising signage is subject to a separate assessment and may require prior***

development approval from the Shire. It is recommended that you contact the Shire prior to the placement of any advertising signage onsite.

- k. If the development the subject of this approval is not substantially commenced within a period of two years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.**
- l. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought or obtained.**
- m. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. An application must be made within 28 days of the determination.**

CARRIED 8/0

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

Against: Nil.

**9.1.7 DEVELOPMENT APPLICATION P23067: CARBON FARMING
“PLANTATION” – LOTS 1, 15, 485 & 836 (No. 749) GREENBUSHES-GRIMWADE
ROAD BALINGUP**

Location	Lots 1, 15, 485 & 836 Greenbushes - Grimwade Road Balingup
Applicant	Woodside Energy Carbon Services Pty Ltd
File Reference	A1517 and A5236 (P23067)
Author	Cecilia Muller - Principal Planner Phil Shephard - Planning Officer
Responsible Manager	Michelle Dennis - Manager Development Services
Attachments	9.1.7(1) Development Application details and Plantation Management Plan 9.1.7(2) Public Submission & Applicant Responses 9.1.7(3) Government Agency Submissions and Applicant Responses 9.1.7(4) Bushfire Management Plan V1.1 dated 5 April 2024 9.1.7(5) Assessment under Clause 67
Voting Requirements	Simple Majority

EXECUTIVE RECOMMENDATION

That Council:

Pursuant to Schedule 2, Part 9, Clause 68(2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the Shire of Donnybrook Balingup Local Planning Scheme No. 7 (LPS7), approves the Development Application P23067 for a Plantation use for Carbon farming – Lots 1, 15, 485 and 836 Greenbushes – Grimwade Road, Balingup, subject to the following conditions and advice:

- 1. The layout of the lots, firebreaks, exclusion, and planting areas to be in accordance with the Bushfire Prone Planning Bushfire Management Plan by Bushfire Prone Planning Ref No. 230312 Version 1.1 dated 5 April 2024 and Woodside Energy Plantation Management Plan to the satisfaction of the Shire of Donnybrook Balingup and/or conditions of approval and must not be altered or modified without the further written consent of the Shire of Donnybrook Balingup.**
- 2. Prior to works commencing the planting configuration plans to be updated to include the following minimum setbacks:
2.1 Front Setback – 30 metres to Greenbushes – Grimwade Road; and
2.2 Side and Rear Setbacks – 20 metres from all side/rear boundaries; and
2.3 where the land adjoins State Forest or other timbered Crown controlled land the setback shall be 100 metres.**
- 3. Prior to works commencing the planting configuration plans must be updated to include a strip grazing mineral earth zone on nominated areas of the northern, southern, and eastern sides of the property boundary.**

- 4. Prior to works commencing the planting configuration plans must be updated to include a 100m-wide organic spray zone is maintained adjacent to the property boundary of a registered AS 6000-2015 organic farm and/or certified under the National standard for Organic and Biodynamic Produce.**
- 5. The Bushfire Management Pan and Plantation Management Plan are to be implemented to the satisfaction of the Shire of Donnybrook Balingup and the Shire of Donnybrook Balingup Bush Fire Brigades Local Law and *Bush Fires Act 1954*, or superseding standard(s), thereafter for the life of the development.**
- 6. The Plantation Management Plan and Bushfire Management Plan are to be reviewed every 5 years from the date of this approval and amended as appropriate, to the satisfaction of the Shire of Donnybrook Balingup.**
- 7. The landowner is to ensure that an up-to-date copy of the approved Bushfire Management Plan and Plantation Management Plan are stored at entrances to the property in secure, weatherproof, and clearly labelled containers always and provided to Department and Department of Fire and Emergency Services Regional Office and local bushfire control brigades to the satisfaction of the Shire of Donnybrook Balingup.**
- 8. Access tracks, firebreaks and turnaround areas as depicted in the approved plans are to be adequately installed with a trafficable surface and maintained thereafter to the satisfaction of the Shire of Donnybrook Balingup for access by emergency fire vehicles.**
- 9. Prior to the commencement of planting, the landowner shall execute and provide to the Shire of Donnybrook Balingup a notification pursuant to Section 70A of the *Transfer of Land Act 1893* to be registered on the title to the land as notification to prospective purchasers as follows:

Bushfire Prone Area – This lot is located within a bushfire prone area and is subject to a Bushfire Management Plan and Plantation Management Plan relating to the operation of an approved plantation.**
- 10. Dieback measures to reduce the spread of dieback are to be undertaken to the satisfaction of the Shire of Donnybrook Balingup in consultation with the Department of Biodiversity, Conservation and Attractions.**
- 11. A minimum 10m buffer is to be provided between all proposed planation areas and adjacent existing native vegetation areas internally on the lots. The 10m exclusion area is to be clearly demarcated to ensure vehicles and planting works are located outside of these areas.**
- 12. Any erosion and/or sedimentation issues that occur due to insufficient drainage and/or stormwater management from the proposed development, including any firebreak or accessway, is to be rectified, so as not to impact any surrounding waterways and/or properties, including any infrastructure, to the satisfaction of the Shire of Donnybrook Balingup.**

- 13. This approval does not permit any harvesting of the plantation. A separate application for development approval is required to be approved by the Shire of Donnybrook Balingup prior to any harvesting activity occurring.**

ADVICE NOTES

- a. It is recommended that the applicant undertake public consultation, including to surrounding residences prior to:
- (i) Planned/Prescribed burns;
 - (ii) Boundary fencing;
 - (iii) Use of herbicides/insecticides; and
 - (iv) Any other activity that the applicant considers may impact surrounding residences.
- b. The Department of Planning, Lands and Heritage (Aboriginal Heritage Conservation/Heritage and Property Services) have advised:
- (i) The lots intersect with Aboriginal site ID 20434 (Blackwood River). Approvals under the *Aboriginal Heritage Act 1972* are not required for any works that will not intersect this site and the Department acknowledges the application advises the Aboriginal site will not be disturbed by the plantation.
 - (ii) The applicant/landowner is responsible to ensure that their obligations under the *Aboriginal Heritage Act 1972* with regards to undertaking a due diligence assessment and obtaining all relevant approvals.
 - (iii) The applicant is to regularly check the Aboriginal Cultural Heritage Inquiry System should new Aboriginal Cultural Heritage be reported within subject lots.
- c. The Department of Water and Environmental Regulation have advised:
- (i) Potential clearing of native vegetation for the purposes of maintaining firebreaks at the property boundaries and within the properties are likely to be exempt from the requirement for a clearing permit under the Environmental Protection Act, although it is the landowner's responsibility to check.
 - (ii) Consistent with the principles of the *Code of Practice for Timber Plantations in Western Australia* (FIFWA 2014) the following measures should be implemented:
 - a) Operation of site preparation equipment should avoid riparian zones;
 - b) To avoid spills of fuel and oil reaching watercourses, wetlands, and reservoirs, refuelling of machinery should be undertaken away from riparian zones;
 - c) Heavy machinery should not enter riparian zones or designated buffers; and
 - d) Particular care should be taken to prevent pesticides/herbicides being washed or leached into the watercourses or wetlands.

- d. The Department of Primary Industries and Regional Development have advised:
- (i) The property is located on three soil-landscapes and there will be some challenges to the establishment of a plantation in this landscape with the main risk being water erosion due to slopes ranging from 5 - 35%. All preparation (ripping) and planting to be done along the contours as any preparation or planting across the contours will significantly increase the risk of water erosion.
 - (ii) Firebreaks and formed tracks are required to control surface water flow and prevent the risk of water erosion and the Department requests that fire breaks and tracks include appropriate surface water engineering structures to control/capture surface water to minimise the risk of soil erosion.
 - (iii) The applicant is to monitor and implement controls for weeds and pests for the entire duration of the project to meet their obligations under the *Biosecurity and Agriculture Management Act 2007*.
- e. The Department of Biodiversity, Conservation and Attractions have advised:
- (i) The lots are surrounded by the Wilga State Forest and freehold land managed by the Department of Biodiversity, Conservation and Attractions and there should be no direct or indirect impacts, including surface water run-off, drainage, erosion, weed and/or *Phytophthora* dieback spread from the proposed plantation into the adjacent Department-managed land.
 - (ii) The indicative planting species list contains insufficient species diversity, particularly within different soil types, to adequately represent nearby forested areas within this location and recommends that the proposed planting species list be expanded to include additional flora species from the '*Species in Wilga DBCA quadrat*' list.
 - (iii) The surrounding tree layer has a canopy cover of between 30 to 70%, and the shrub layer would be greater than 70% and to create a forest consistent with the surrounding local remnant vegetation, the completion criteria should aim for canopy cover that is also between 30 to 70%.
 - (iv) The proposal should consider management of bushfire spread from the proposed plantation to the adjacent State Forest, and measures to minimise the spread of bushfires from the State Forest land to the proposed development, such as on-site fire protection resources.
- f. If the development the subject of this approval is not substantially commenced within a period of two years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
- g. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought or obtained.

- h. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. An application must be made within 28 days of the determination.**

- i. A demolition permit will be required prior to the removal of any structure on site over 40m².**

STRATEGIC ALIGNMENT

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

Outcome	6	The built environment is responsibly planned and well maintained.
Objective	6.1	Ensure sufficient land is available for residential, industrial, and commercial uses.

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider an application for development approval for a Plantation development on the lots to be used for carbon farming which will involve seeding and/or planting using local native species of plants with the objective of establishing a native forest. The primary product generated by this development would be Australian Carbon Credit Units.

Officers do not have delegation to determine applications for development approval where concerns/objections are received. Officers note the comments and concerns in the submissions received. The conditions/advice proposed on the approval address the matters raised in the public/government agency submissions.

Officers consider that the proposal is consistent with the planning framework and recommend that approval be granted subject to conditions/advice.

BACKGROUND

Proposal

The property was purchased by Woodside Energy Carbon (Services) Pty Ltd in November 2022, and they are currently assessing the feasibility of using the property to generate Australian Carbon Credit Units under the Federal Government's Emissions Reduction Fund. The development application details, and Plantation Management Plan are contained in Attachment 9.1.7(1).

The applicant advises the proposal would establish permanent plantings of a mix of native tree species with species selected to be representative of the remnant vegetation in the local area.

The applicant advises the carbon farming is proposed using the Carbon Farming initiative (CFI) Act - Reforestation by Environmental or Mallee Plantings - FullCAM 2020 method.

This involves:

- Seeding and/or planting using local native species of plants with the objective of establishing a native forest to achieve 2m height with 20% canopy cover with a planting density of up to 500 stems per hectare.
- Planting will include a mixture of species built from surveys of the native remnant vegetation on the farm and some of the surrounding area. Species mixes will be matched as far as possible with soil types on which different native vegetation systems grow.
- A 'block planting' method is proposed to be used whereby portions of the property are divided by vegetation community type and planted in furrows approximately 3m apart in rows spaced 6m apart and planted manually.
- Infill planting would only occur if a high mortality (~90%) event occurs, over a contiguous area bigger 0.2 ha.
- The plantation will be composed of 19 plantation cells between 1 – 27 hectares with furrowing for the tree planting within the cells to follow the orientation of the contours.
- Measures are proposed to be taken to ensure no net harm on surrounding areas.
- Fertiliser is proposed to be applied to seedlings prior to planting to minimise any chances of leaching.
- Herbicide sprays are proposed to be applied using industry norms to reduce drift and maximize efficacy. Spraying will generally occur during dry periods to reduce chances of runoff.
- To quantify the positive benefits of this project, commissioning of baseline biodiversity monitoring will be undertaken. This monitoring is intended to subsequently inform ongoing measures to protect biodiversity at the property.
- The plantings are proposed not to be harvested. Under the Emissions Reduction Fund scheme, the plantings from this project are proposed to be subject to a 100-year permanence period. During that time, carbon stores in the project area are planned to be maintained.

The applicant commits to protecting existing native vegetation and natural surface water points on the property.

The applicant notes the property had been previously used mainly for grazing with approximately 50 hectares planted as a blue gum plantation cleared in 2018.

The application was advertised to all adjoining properties, for a period of 3 weeks. At the conclusion of the public advertising period, one public submission (including some additional comments) objecting to the proposal, was received; and one submission in support of the proposal. The Public Submissions and Applicant Response are contained in Attachment 9.1.7(2).

The applicant has undertaken direct consultation with the public submitter and has proposed the following conditions be placed on the approval, if granted:

1. *The landowner is to ensure that a 100-meter organic spray zone is maintained adjacent to the property boundary of a registered AS 6000-2015 organic farm*

and and/or certified under the National standard for Organic and Biodynamic Produce.

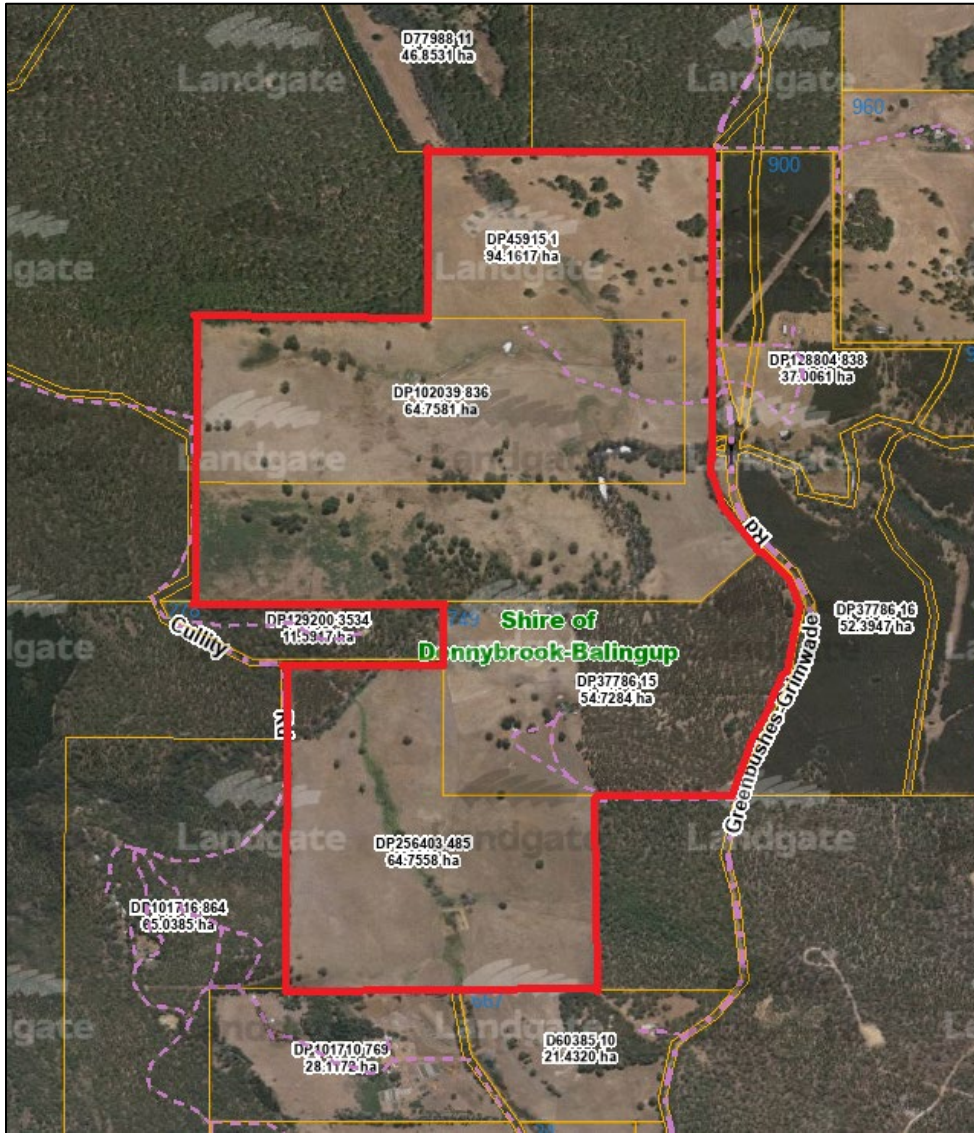
2. *The Plantation Management Plan will be updated prior to planting to include a strip grazing mineral earth zone on nominated areas of the northern, southern, and eastern sides of the property boundary.*

The proposal was also referred to relevant government agencies including the Forest Products Commission, Department of Fire and Emergency Services, Department of Planning, Lands and Heritage (Aboriginal Heritage Conservation/Heritage and Property Services), Department of Biodiversity, Conservation and Attractions, Department of Primary Industries and Regional Development and Department of Water and Environmental Regulation for comment.

Most of the agencies advised of no objection or provided conditions/advice to be considered on the approval, if granted.

Location Plan

The lots have a combined area of approx. 279 hectares and are bounded by Greenbushes – Grimwade Road to the east and State Forest (with some blue gum areas) to the west and south-east. There are smaller farming enterprises some containing single dwellings on other surrounding rural land to the south and east. The property is approx. 7.7km north-east of the Balingup townsite.



Lots 1, 15, 485 & 836 bordered in red

The property is undulating with creeks and gullies, rock outcrops and steep inclines. The applicant has checked Department of Biodiversity, Conservation and Attractions datasets which identify no Threatened Ecological Communities across the property, as well as no threatened and priority flora and fauna in or at the perimeter of the property.

The lots are zoned General Agriculture under the Shire of Donnybrook Balingup Local Planning Scheme No. 7 (LPS7).

Further details regarding the advertising, consultation and submissions received are available in 'Consultation' below.

FINANCIAL IMPLICATIONS

All relevant application fees have been paid by the applicant.

If the application is refused by Council the applicant may exercise the right to have the decision reviewed by the State Administrative Tribunal. If that is the case, then it may be

likely that there will be additional resourcing required (staff time and/or the cost of appointing a consultant to represent the Shire).

POLICY COMPLIANCE

9.3 Private Tree Plantations/Agroforestry

The proposed planation to re-establish a native forest, is not agroforestry under the Policy definition and does not comply with all the Aims of the Policy. Whilst the proposal can be appropriately sited and will re-establish a native forest it does not comply with those Aims of the Policy that prefer integration of tree farming and agroforestry rather than whole of lot plantings. The proposed plantation will not be harvested and therefore does not require a harvesting management plan to be prepared.

The proposal achieves these requirements including retaining and protecting existing native vegetation areas and setbacks to Balingup Brook.

The re-establishment of the native vegetation forest on the property would not be considered to have an adverse impact on the surrounding landscape values given that much of it occupied by State Forest and other plantations.

STATUTORY COMPLIANCE

The application has been assessed against the relevant and applicable statutory Shire of Donnybrook Balingup Local Planning Scheme No.7 (LPS7) provisions as follows:

Part 3 – Zones and the Use of Land

The lots are zoned General Agriculture under LPS7, and the purpose and objectives of the zone are as follows:

3.5.1 Purpose

The purpose of the General Agriculture zone is to provide for the sustainable use of rural land which primarily accommodates a broad range of rural pursuits and complementary non-agricultural uses that are compatible with the capability of the land, and which retain the rural character and amenity of the locality.

3.5.2 Objectives

The local government's objectives in managing and guiding land use, development and subdivision within the General Agriculture zone are:

- (i) Encourage the protection of rural infrastructure and agricultural land resources;*
- (ii) Encourage the use of rural land for commercial agricultural production including grazing, cropping, agroforestry, tree plantations, and intensive agriculture (where permitted);*
- (iii) Seek to protect the economic viability of the area;*
- (iv) Seek to encourage developments which will improve the Shire's population base;*

- (v) *Recognise the aesthetic and tourism importance of the scenic landscape, realise the need to retain the rural scenic character of a site and of the district by ensuring through siting and landscaping provision that any development does not detrimentally change the scenic rural character;*
- (vi) *Recommend support for subdivision where it provides for boundary adjustments, realignments and farm restructuring and new lot creation which promotes effective land management practices, environmental and landscape enhancement, and infrastructure provision;*
- (vii) *Support non-rural uses where they are compatible with adjacent and nearby rural and other uses, and where environmental, landscape and servicing considerations are appropriately addressed;*
- (viii) *Support the retention and protection of portions of land within that zone that are not cleared of remnant vegetation and that are valuable to the rural and natural landscape values and ecological systems of the district; and*
- (ix) *Encourage and promote appropriate bush fire risk management.*

The proposed plantation is considered to comply with the purpose and relevant objectives for the General Agriculture zone to accommodate a broad range of sustainable rural pursuits and encourage the use of land for commercial agriculture including plantations where the proposal retains the rural character and ensures that bushfire risk is managed.

Land Use Permissibility

The proposal involves planting a stand of trees (native vegetation) larger than 10 hectares in area, for commercial gain (being the production of Australian Carbon Credit Units) and which may also have an environmental benefit. On this basis, the proposed development is considered consistent with the definition of 'Plantation' within LPS7 which means:

'Plantation' has the same meaning as in the Code of Practice for Timber Plantations in Western Australia (1997) published by the Department of Conservation and Land Management and the Australian Forest Growers as amended from time to time.

The Code of Practice for Timber Plantations in Western Australia (1997) defines a 'Plantation' as follows:

'A stand of trees of ten hectares (or as defined by the Local Government Authority), or larger, that has been established by sowing or planting of either native or exotic tree species selected and managed intensively for their commercial and/or environmental benefits. A plantation includes roads, tracks, and firebreaks.'

'Plantation' is an 'P' permitted land use in the General Agriculture zone which means:

'That the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme.'

Part 4 – General Development Requirements

4.8 Clearing native vegetation.

The Scheme allows the Shire to limit and control the clearing of native vegetation associated with development proposals.

The applicant advises there are no proposed plans to clear native vegetation in the planting areas. Clearing of native vegetation for firebreaks will occur if necessary.

The Scheme allows, subject to the provisions of the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*, clearing of native vegetation for approved firebreaks and implementation of approved Fire Management Plans. This achieves the requirements of Cl.4.8. The protection of the existing native vegetation is recommended to form part of the conditions of approval, if granted.

4.11 Plantations

The Scheme requires Plantations be established in accordance with the fire protection guidelines set out in the State Government publication 'Guidelines for Plantation Fire Protection'.

The proposal does not include harvesting that would normally be associated with a plantation. The applicant has provided a Bushfire Management Plan and Plantation Management Plan to assess the proposal against the 'Guidelines for Plantation Fire Protection' and relevant parts of State Planning Policy 3.7 Planning in Bushfire Prone Areas and Department of Planning, Lands and Heritage 'Guidelines for Planning in Bushfire Prone Areas'.

The Bushfire Management Plan and Plantation Management Plan outline fire mitigation measures and annual fire management practices (including controlled grazing, slashing, chopper rolling, herbicide weed control, mitigation burning and provision of water tanks/bores water supply) to be undertaken within the plantation. These Plans will need to be updated during the life of the proposal to reflect changes as the plantation matures.

The implementation of the Bushfire Management Plan and Plantation Management Plan fire mitigation measures and annual fire management practices is recommended to form part of the conditions of approval, if granted.

4.17 General Appearance of Buildings and Preservation of Amenity

The Scheme requires the Shire ensure the development is in harmony with surrounding developments and allows the Shire to place conditions on approvals to ensure the development will not have an adverse impact on the character of the area or the amenity and landscape quality of the locality.

The proposal will re-establish native vegetation/forest environment onto the property and achieves the requirements of Cl.4.17.

4.27 Car Parking and Vehicle Access Requirements

The Scheme requires on-site parking and vehicle access be provided for the proposal. The Scheme does not include any parking standards for a plantation proposal and the Shire shall determine the parking need generated by the use.

The proposal will require parking for machinery (used for the ground preparation activities) and parking for staff vehicles on a temporary/as-needed basis. Given the size

of the lots, there is adequate space for parking of vehicles to occur within the lots to comply with Cl.4.27.

There are no changes to any existing access/egress point proposed.

4.32 Vehicle Crossovers/Entrances

The Scheme allows the Shire to set standards on the position and development of crossovers onto roads.

The proposal will utilise existing crossovers.

4.42 Bush Fire Hazard and Fire Management Plans

The Scheme requires the Shire assess applications for development approval where the land is a bushfire risk and ensure that development complies with relevant State and local government policy and considers the advice of the Department of Fire and Emergency Service (DFES) on bushfire protection.

Parts of the lots are designated as bushfire prone areas by the DFES mapping. DFES notes that plantations will typically not achieve compliance with requirements of State Planning Policy 3.7 due to the introduction of risk (through increased vegetation).

The applicant has provided a Bushfire Management Plan (updated to address the Department's comments) and Plantation Management Plan with the application.

As noted in Cl.4.11 above, the implementation of the Bushfire Management Plan and Plantation Management Plan fire mitigation measures and annual fire management practices is recommended to form part of the conditions of approval, if granted.

4.54 General Agriculture Zone

The Shire's policies in controlling development and influencing subdivision within the Priority Agriculture zone are to:

- (i) *Encourage a diversity of well managed and sustainable rural and agricultural activities where landowners and operators contain impacts on their own properties and where they adopt 'good neighbour' practices;*
- (ii) *Confirm that rural residential or rural smallholdings subdivisions will not be supported unless and until the land is identified in an endorsed Local Planning Strategy for Rural Residential or Rural Smallholdings and has been rezoned for that purpose; and*
- (iii) *Require proposals for non-agricultural uses to be supported and justified by an Agricultural Impact Assessment unless otherwise varied by the local government.*

Under Cl.4.54.2.1, the Shire in considering applications for development approval in the General Agricultural zone, will have due regard to State Planning Policy 2.5 'Rural Planning'. Section 5.6 'Tree farming' of the Policy describes the activity as follows:

'Tree farming is an umbrella term used to describe the planting of trees to generate economic return and/or environmental benefits. It has been a rapidly emerging industry

in a number of rural locations across the State. Usually this has involved the planting of trees for harvest. However, more recently the planting of trees for carbon sequestration has emerged as a new rural land use. Tree farming which involves harvesting is a primary production activity that also sequesters carbon. The different types of tree farms, i.e. integrated, chip logs or saw logs, require varied planning approaches.

The proposal has been assessed against the Policy requirements for tree farming:

Policy requirements	Proposal
(a) Tree farming is supported and encouraged on rural land as a means of diversifying rural economies and providing economic and environmental benefit;	Complies. The proposed plantation to re-establish a native forest for commercial gain (being the production of Australian Carbon Credit Units) will assist diversify the local rural economy and is expected to have an environmental benefit through creation of new flora/fauna habitats.
(b) Tree farming should generally not occur on priority agricultural land;	Complies. The proposed plantation is not on Priority Agriculture zoned land.
(c) Tree farming should generally be a permitted use on rural land, except where development of a tree farm would create an extreme or unacceptable bushfire risk or when responding to specific local circumstances as identified in a strategy or scheme;	Complies. The lots are zoned General Agriculture and Plantation is a “P” permitted use in the zone under LPS7. The Local Planning Strategy prohibits tree plantations within the immediate surrounds of the townsites based on the extreme fire risk represented by such plantations and their visual impact. The Strategy also establishes a Plantation Exclusion Area Special Control Area in LPS7. The plantation extends over 2km outside the boundary of the Plantation Exclusion Area around Balingup.
(d) Local governments should manage the location, extent, and application requirements for tree farming in their communities through local planning strategies, schemes and/or local planning policies;	Complies. As noted in c) above, the proposal complies with the Local Planning Strategy recommendations, LPS7 standards and Town Planning Policy 9.3 ‘Private Tree Plantations/Agroforestry’ (discussed below).
(e) In planning for tree farming, local government considerations should include but are not limited to, potential bushfire risk, environmental and economic factors, water availability and recharge, visual landscape impacts, transport impacts of tree farming (where harvesting is proposed), planting thresholds, appropriate buffers, and	Complies. The applicant has provided a Bushfire Management Plan and Plantation Management Plan and the implementation of these Plans combined with recommended conditions/advice on the approval (including that from Government Agencies and the applicant to introduce buffers), if granted,

Policy requirements	Proposal
location relative to conservation estates and sensitive land uses;	adequately addresses those relevant considerations.
(f) Where tree farm proposals are integrated with farm management for the purpose of natural resource management and occupy no more than 10 per cent of the farm, the proposal should not require local government development approval; and	Complies. The plantation will occupy most of the area of the lots when completed and requires development approval.
(g) The establishment of tree farms does not warrant the creation of new or smaller rural lots.	Complies. No subdivision is proposed.

Under Cl.4.54.8.1 of LPS7, the development standards for the General Agriculture zone are as follows:

Setbacks

(i) Front Setback – Minimum 30 meters

The plantation shall be setback a minimum of 30m from the front boundary to Greenbushes – Grimwade Road to achieve the required setback.

(ii) Side Setback – Minimum 20 meters

The plantation shall be setback a minimum of 20m from all side boundaries to achieve the required setback.

(iii) Rear Setback – Minimum 20 meters

The plantation shall be setback a minimum of 20m from the rear boundary to achieve the required setback.

(iv) Where the land adjoins State Forest, National Park, Conservation Reserve or other timbered Crown or local government-controlled land, in the opinion of the local government the setback from the common boundary shall be 100 meters.

The lots adjoin several parcels of State Forest and other timbered land and shall be setback a minimum of 100m from these areas to achieve the required setback. The applicant has also, in response to the neighbour’s submission, included a draft condition of development approval to ensure that a 100m organic spray zone is maintained adjacent to the property boundary of a registered AS 6000-2015 organic farm.

Cl.4.54.8.2 – 4.54.8.6 of LPS7 allow the Shire to increase setbacks to effectively manage buffers, environmental impacts, and any other potential land use conflict or decrease setbacks where the topography, soil conditions, location or shape of the lot make adherence to the setback impractical or require a minimum setback of 100 meters from existing intensive agricultural activities on any adjacent lot, whether owned by the applicant or a third party.

Under Cl.4.54.8.7 of LPS7, in assessing applications for development approval for the establishment of a plantation development on land within the General Agriculture zone, the Shire shall seek to ensure that the setbacks assist in maintaining environmental and

landscape qualities of the locality, so they are not detrimentally affected. The proposed setbacks outlined above can achieve the LPS7 standards and are considered adequate for the plantation.

Under Cl.4.54.8.8 of LPS7, in assessing applications for development approval within the General Agriculture zone, the Shire will consider the following:

- (i) *The availability of services required to support the proposed development and the economic impact of the provision of, extension or upgrading of those services that may be required;*
- (ii) *The adequacy of the roads, existing or proposed in the area which may be needed to support the amount of road traffic expected to be generated by the development; and*
- (iii) *The need to enforce such conditions as the local government deems appropriate, in order to minimise any adverse effect, the development may have on the general environment of the area.*

The proposal is considered to comply with these requirements on the basis that:

- It does not require services such as water supply and deep sewer (water supply will be sourced from existing dams and no on-site effluent disposal is required) and adequate servicing with electricity and telecommunications is available;
- Is not expected to generate traffic other than that normally expected from a farming operation and no harvesting of the plantation is proposed that could affect local roads with increased truck traffic; and
- Requires the placement of conditions of approval, if granted, to ensure the activity is managed to minimise any potential adverse impacts.

Cl.4.54.10 of LPS7, allows the Shire to refuse an application for development approval where in its opinion the proposed development will:

- (i) *Adversely affect the rural landscape;*
- (ii) *Adversely impact upon the agricultural use of the land and adjacent/nearby areas;*
- (iii) *Cause detrimental environmental impacts;*
- (iv) *Result in unacceptable fire management risk;*
- (v) *Place unacceptable servicing requirements which have not been appropriately addressed by the applicant;*
- (vi) *Result in the impacts of the proposed use/development not being adequately contained on the application site;*
- (vii) *In the opinion of the local government, result in an undesirable planning outcome.*

The proposal is not considered to warrant a refusal on the basis that:

- The re-establishment of the native vegetation forest on the property would not be considered to have an adverse impact on the surrounding rural landscape much of it occupied by State Forest and other plantations;
- The plantation is unlikely to impact the ability of the land or surrounding area to continue to be used for existing uses including agriculture;

- Although the proposal provides a fire management risk the applicant has provided a Bushfire Management Plan and Plantation Management Plan to implement measures to address the fire risks;
- There are no new servicing requirements needed;
- The proposal includes measures to be implemented to address and manage potential impacts on adjoining properties including setbacks to State Forrest areas and spray buffer to the adjoining organic farm; and
- The plantation proposal can be appropriately managed through conditions of approval, and this would prevent an undesirable planning outcome.

Local Planning Strategy

The lots are identified as General Agriculture under the Shire of Donnybrook Balingup Local Planning Strategy. Balingup Brook is shown as a major river.

The Local Planning Strategy (Cl.5.4.1) advises:

In the consideration of development proposals within the “General Agriculture” and “Priority Agriculture” areas, the local government will take into account the following:

- *Discourage land uses unrelated to agriculture from locating on agricultural land (unless the proponent suitably demonstrates there are exceptional circumstances and that these can be compatible with agricultural uses to the satisfaction of the local government);*
- *Provide adequate separation distance between potential conflicting land uses;*
- *Introduce management requirements that protect existing agricultural land uses;*
- *Discourage development that may result in land or environmental degradation;*
and
- *Appropriate land management and consideration of sequential land use change.*

The use of land for plantations (albeit those normally expected to be harvested) has been included as a permitted land use within the General Agriculture zone and the proposal is generally consistent with the LPS requirements.

The lots are identified as Rural under the draft Shire of Donnybrook Balingup Local Planning Strategy. Balingup Brook is shown as a major river. Regarding plantations, the draft Shire of Donnybrook Balingup Local Planning Strategy Planning Direction advises “21.1. Facilitate opportunities for agroforestry, tree farming and plantations in suitable locations where bushfire risk and land use conflict can be appropriately managed”.

CONSULTATION

Public consultation

Staff provided written notification to all adjoining landowners of the subject lots in accordance with Schedule 2, Clause 64 of the *Planning and Development (Local Planning Scheme) Regulations 2015* with a submission period of 3 weeks (concluding on 31 January 2024).

One objection and one submission in support of the proposal was received at the conclusion of the public advertising period. The Public Submissions and Applicant Response are contained in Attachment 9.1.7(2).

A summary of key issues/concerns raised within the objection and Officer response is provided below.

Issue Raised in Submission	Response
Lack of community consultation	<p>Any pre-application consultation is for the applicant to determine.</p> <p>The applicant response acknowledges the concerns and comments on their plan to share resources and fencing material and other salvageable material from the site and are currently working with an adjacent landowner to facilitate grazing on the property before planting. They commit to continue to identify further opportunities to provide shared resources.</p> <p>The Shire has referred the proposal to adjoining landowners and Government Agencies for comment as part of the assessment of the proposal.</p> <p>The applicant has advised they will seek to continue to discuss the proposal with neighbours.</p>
The location is in prime agriculture for mixed farming and in the middle of certified organic producers.	<p>The plantation is a permitted use in the General Agriculture zone under LPS7.</p> <p>The proposal does not remove the land from agricultural use as tree farms (including those for carbon sequestration) are also considered to be rural/ agricultural uses.</p> <p>As noted, the applicant has in response to the neighbour’s submission, included a draft condition of development approval to ensure that a 100m organic spray zone is maintained adjacent to the property boundary of a registered AS 6000-2015 organic farm.</p>
Lack of application details	The application (and additional information provided) has included sufficient detail to enable the assessment of the development application.

Issue Raised in Submission	Response
Local employment opportunities	<p>This matter is outside of planning controls available to the Shire.</p> <p>It is noted in their response, the applicant advises their <i>“Approach is to employ local subcontractors where possible and purchase local goods and services including local native tree agronomist on planting activities, local farm manager to manage operations and future contract opportunities will prioritise local suppliers.”</i></p> <p><i>The key opportunities may include farm maintenance, on ground activities, procurement of chemicals and other goods and local accommodation during activity times”.</i></p>
Indigenous participation	<p>This matter is outside of planning controls available to the Shire.</p> <p>It is noted in their response, the applicant has advised that <i>“For this proposal’s development activities, we have engaged local Indigenous groups to perform planting services”.</i></p>
Impact on Balingup Brook (and consequently the Blackwood River).	<p>The plantation to re-establish native vegetation on the property would be expected to have a positive environmental benefit on the Balingup Brook and Blackwood River areas.</p> <p>There is no plantation activity proposed within approx. 50m (and up to 200m) either side of Balingup Brook to protect the brook area and identified Aboriginal Heritage Site.</p>

Consultation with Government/Service Agencies

The proposal was referred to the Department of Planning, Lands and Heritage, Department of Water and Environmental Regulation, Department of Primary Industries and Regional Development, Forest Products Commission, Department of Fire & Emergency Services and Department of Biodiversity, Conservation and Attractions for comment. Their comments are summarised below along with Officer comments in response. The Government Agency submissions and Applicant Responses are contained in Attachment 9.1.7(3).

Department of Planning, Lands and Heritage

- Confirm that a review of the Register of Places and Objects as well as the Department's Aboriginal Heritage Database concludes that the portions of Lots 485, 15, 836 and 1, intersect with the actual boundary of Aboriginal site ID 20434 (Blackwood River), as administered by the Department.
- Note the Applicant has identified the above Aboriginal site and will comply with the current Aboriginal Heritage Legislation and do not intend to plant within the boundaries. Therefore, approvals under the AHA will not be required for any works that will not intersect with the boundary of Aboriginal site ID 20434 (Blackwood River).
- Advises the Applicant regularly to check the Aboriginal Cultural Heritage Inquiry System (ACHIS) should new Aboriginal Cultural Heritage be reported within subject Lots.

Response:

The Department's comments are noted and are recommended to form part of the advice on the approval, if granted.

Department of Water and Environmental Regulation

- The proposal is for carbon farming which will involve seeding and/or planting using local native species with the objective of establishing a permanent native forest. No harvesting is proposed in this referral – with the main product being Australian Carbon Credit Units.
- Has identified that the proposal has the potential for impact on the environment and water values management:
 - Issue 1: Clearing of native vegetation under the *Environmental Protection Act 1986* (EP Act)
Advice 1: Potential clearing of native vegetation for the purposes of maintaining firebreaks at the property boundaries and within the properties are likely to be exempt from the requirement for a clearing permit under Schedule 6, Clause 1 & 10 of the EP Act.
 - Issue 2: General water quality advice and watercourses
Advice 2: The following is advised, consistent with the principles of the *Code of Practice for Timber Plantations in Western Australia* (FIFWA 2014):
 - Operation of site preparation equipment should avoid riparian zones.
 - To avoid spills of fuel and oil reaching watercourses, wetlands, and reservoirs, refuelling of machinery should be undertaken away from riparian zones.
 - Heavy machinery should not enter riparian zones or designated buffers.
 - Care should be taken to prevent pesticides/herbicides being washed or leached into the watercourses or wetlands.
 - Issue 3: Appropriate native vegetation species selection
Advice 3: To assist the applicant in ensuring the native vegetation species selection is appropriate for the locality and topography, they are advised to contact the Department of Biodiversity, Conservation and Attractions for guidance.
 - Issue 4: Aboriginal heritage site

Advice 4: The applicant is advised to consult the Department of Planning, Lands and Heritage (DPLH) in regard to the Aboriginal heritage site (Blackwood River).

Response:

The proposal was referred to the Department of Biodiversity, Conservation and Attractions for comment (see submission below) and Department of Planning, Lands and Heritage in regard to the Aboriginal heritage site (Blackwood River) (see submission above).

The Department's comments are noted and are recommended to form part of the conditions/advice of approval, if granted.

Department of Primary Industries and Regional Development

- Does not object to the proposed plantation for Australian Carbon Credit Units.
- Note the property is located on three soil-landscapes and there will be some challenges to the establishment of a plantation in this landscape with the main risk being water erosion due to slopes ranging from 5 - 35%. The applicant mentioned that all preparation (ripping) and planting will be done along the contours and the Department agrees with this approach as any preparation or planting across the contours will significantly increase the risk of water erosion.
- Fire management and erosion control.
Firebreaks are anticipated in the plantation areas to assist with property access and fire control and formed tracks without measures to control surface water flow can increase the risk of water erosion. The applicant has obligations to mitigate and prevent land degradation (soil erosion from water and wind) and the Department requests that fire breaks and tracks include appropriate surface water engineering structures to control/capture surface water to minimise the risk of soil erosion.
- Biosecurity
The applicant monitors and implement controls for weeds and pests for the entire duration of the project to meet their obligations under the *Biosecurity and Agriculture Management Act 2007*.

Response:

The implementation of the Bushfire Management Plan and Plantation Management Plan and other conditions of approval, if granted, will address the matters raised in the Department's submission.

Forest Products Commission

- Advise whilst this proposal will have limited impact on their existing softwood plantation estate operations in the Balingup/Grimwade area they are keen to liaise with the applicant's property managers at the Shire's Bushfire Advisory meetings to establish the fire management/protection responsibilities given the

State's softwood plantations are close on Department of Biodiversity, Conservation and Attractions controlled lands.

Response:

The Commission's comments are noted.

Department of Fire & Emergency Services

- The Department of Fire & Emergency Services provides the following comments pursuant to *State Planning Policy 3.7 Planning in Bushfire Prone Areas* (SPP 3.7) and the *Guidelines for Planning in Bushfire Prone Areas* (Guidelines), as well as the *Guidelines for Plantation Fire Protection 2011* (FESA) (PFP Guidelines).
- Have reviewed both the updated Bushfire Management Plan and Plantation Management Plan and acknowledge that current policy documents are not necessarily best suited for the assessment of carbon sequestration as the use itself will create a hazard that will not be managed or mitigated.
- Noted the updated information has confirmed that the residential dwelling on the site is being removed, the components of State Planning Policy 3.7 that were being applied are no longer relevant for the site.
- Have considered the intent of the Elements of State Planning Policy 3.7, and the requirements of the Plantation Fire Protection Guidelines and this assessment is on the basis that the area will be planted out with minimal ongoing management moving forward and there is no intention for the harvesting or clearing of the site.
- The decision maker should consider if additional information is required to address the below areas of the Guidelines for Plantation Fire Protection 2011, to ensure that the plantation will not have a negative impact on emergency services in the area.
- The Plantation Management Plan to ensure the plantation will not be located within 50/100m of buildings, or confirmation that the buildings are not habitable.
- The plantation should not be established without adequate firebreaks.
- The Bushfire Management Plan/Plantation Management Plan to confirm the firefighting equipment to be provided for the site is available for response, and that this is commensurate with the scale of the hazard that will be created by the proposal.
- Information should be provided to ensure that any emergency response action can be best informed as to how access is provided throughout the site.
- Recommend that the Shire consider requesting the provision of strategic water tanks as part of any plantation approval (in lieu of tanks being required within the site), noting that these may provide more benefit to the Shire with regard to broader bushfire response.
- Any plantation approval should be advised to the Office of Bushfire Risk Management, regional Department of Fire & Emergency Services operational staff, and the Bushfire Mitigation Branch to ensure that the plantation can be mapped.

Response

The Department acknowledges the current policy documents including the State Planning Policy 3.7 and Plantation Fire Protection Guidelines are not necessarily best suited for

the assessment of plantations for carbon sequestration purposes. The applicant has reviewed the Bushfire Management Plan (BMP) and Plantation Management Plan to address the comments provided by the Department and are considered to comply with the relevant parts of these policies. A copy of the BMP is contained in Attachment 9.1.7(4).

The Department's comments are noted and are recommended to form part of the conditions/advice of approval, if granted.

Department of Biodiversity, Conservation and Attractions

- The lots are surrounded by the Wilga State Forest and freehold land managed by the Department of Biodiversity, Conservation and Attractions and there should be no direct or indirect impacts, including surface water run-off, drainage, erosion, weed and/or *Phytophthora* dieback spread from the proposed plantation into the adjacent Department-managed land.
- Forest Planting
 - Recommend that the retained native vegetation be protected from accidental damage during the proposed land preparation and planting works.
 - Advises that the indicative planting species list contains insufficient species diversity, particularly within different soil types, to adequately represent nearby forested areas within this location and recommends that the proposed planting species list be expanded to include additional flora species from the "*Species in Wilga DBCA quadrat*" list.
 - Advises that the surrounding tree layer has a canopy cover of between 30 to 70%, and the shrub layer would be greater than 70% and to create a forest consistent with the surrounding local remnant vegetation, the completion criteria should aim for canopy cover that is also between 30 to 70%.
- Fire management
 - The proposal should consider management of bushfire spread from the proposed plantation to the adjacent State Forest, and measures to minimise the spread of bushfires from the State Forest land to the proposed development, such as on-site fire protection resources.
 - The Bushfire Management Plan should include the following details:
 - (a) The Department would also have a significant interest in fire control for any fires within close proximity to the adjacent State Forest;
 - (b) Planting densities may be higher than listed;
 - (c) Any grazing should ensure good quality fencing is provided to prevent grazing stock from entering the adjacent State Forest areas;
 - (d) Liaison with the Department's Blackwood office in relation to any proposed planned/prescribed burn programs.
 - (e) The property fire equipment location layout map should be provided to the Department and Department of Fire and Emergency Services.

Response

The applicant has committed to protecting the existing native vegetation from works. The species to be planted have been selected by the applicant to achieve the requirements for the production of Australian Carbon Credit Units from the plantation using local native species with the objective of establishing a native forest to achieve 2m height with 20% canopy cover.

The applicant has reviewed the Department's comments and the Bushfire Management Plan and/or Plantation Management Plan now contains the required details.

The Department's comments are noted and are recommended to form part of the conditions/advice of approval, if granted.

OFFICER COMMENT

The proposal has been assessed in accordance with Schedule 2, Part 9, Clause 67 (2) of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. A full assessment is contained in Attachment 9.1.7(5).

Under LPS7, the land is zoned General Agriculture, and the proposed Plantation is a 'P' permitted land use in the zone which means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme.

When considering a development application, clause 68 (2) of the Deemed Provisions outlines the following options for determination:

The local government may determine an application for development approval by

-

- (a) *Granting development approval without conditions; or*
- (b) *Granting development approval with conditions; or*
- (c) *Refusing to grant development approval.*

Staff have assessed the application including the submission and advice received from government agencies. Staff consider the proposal is capable of being approved and managed through reasonable and achievable conditions of approval.

Conclusion

The proposal is considered compatible with the purpose and objectives for the General Agriculture zone and development standards and is compatible with the surrounding developments and the amenity and rural character of the area.

The proposal is considered to comply with the relevant parts of the State Planning Policy 2.5 and Plantation Fire Protection Guidelines and the matters raised during the advertising period have been appropriately addressed through the reviewed Bushfire Management Plan and Plantation Management Plan and can be managed by conditions/advice.

Staff consider that the application complies with the requirement of orderly and proper planning and are therefore recommending conditional approval of the application.

COUNCIL RESOLUTION 67/24

MOVED: Cr Lindemann

SECONDED: Cr Mitchell

That Council:

Pursuant to Schedule 2, Part 9, Clause 68(2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the Shire of Donnybrook Balingup Local Planning Scheme No. 7 (LPS7), approves the Development Application P23067 for a Plantation use for Carbon farming – Lots 1, 15, 485 and 836 Greenbushes – Grimwade Road, Balingup, subject to the following conditions and advice:

- 1. The layout of the lots, firebreaks, exclusion, and planting areas to be in accordance with the Bushfire Prone Planning Bushfire Management Plan by Bushfire Prone Planning Ref No. 230312 Version 1.1 dated 5 April 2024 and Woodside Energy Plantation Management Plan to the satisfaction of the Shire of Donnybrook Balingup and/or conditions of approval and must not be altered or modified without the further written consent of the Shire of Donnybrook Balingup.**
- 2. Prior to works commencing the planting configuration plans to be updated to include the following minimum setbacks:
2.1 Front Setback – 30 metres to Greenbushes – Grimwade Road; and
2.2 Side and Rear Setbacks – 20 metres from all side/rear boundaries; and
2.3 where the land adjoins State Forest or other timbered Crown controlled land the setback shall be 100 metres.**
- 3. Prior to works commencing the planting configuration plans must be updated to include a strip grazing mineral earth zone on nominated areas of the northern, southern, and eastern sides of the property boundary.**
- 4. Prior to works commencing the planting configuration plans must be updated to include a 100m-wide organic spray zone is maintained adjacent to the property boundary of a registered AS 6000-2015 organic farm and/or certified under the National standard for Organic and Biodynamic Produce.**
- 5. The Bushfire Management Pan and Plantation Management Plan are to be implemented to the satisfaction of the Shire of Donnybrook Balingup and the Shire of Donnybrook Balingup Bush Fire Brigades Local Law and *Bush Fires Act 1954*, or superseding standard(s), thereafter for the life of the development.**
- 6. The Plantation Management Plan and Bushfire Management Plan are to be reviewed every 5 years from the date of this approval and amended as appropriate, to the satisfaction of the Shire of Donnybrook Balingup.**

- 7. The landowner is to ensure that an up-to-date copy of the approved Bushfire Management Plan and Plantation Management Plan are stored at entrances to the property in secure, weatherproof, and clearly labelled containers always and provided to Department and Department of Fire and Emergency Services Regional Office and local bushfire control brigades to the satisfaction of the Shire of Donnybrook Balingup.**
- 8. Access tracks, firebreaks and turnaround areas as depicted in the approved plans are to be adequately installed with a trafficable surface and maintained thereafter to the satisfaction of the Shire of Donnybrook Balingup for access by emergency fire vehicles.**
- 9. Prior to the commencement of planting, the landowner shall execute and provide to the Shire of Donnybrook Balingup a notification pursuant to Section 70A of the *Transfer of Land Act 1893* to be registered on the title to the land as notification to prospective purchasers as follows:

Bushfire Prone Area – This lot is located within a bushfire prone area and is subject to a Bushfire Management Plan and Plantation Management Plan relating to the operation of an approved plantation.**
- 10. Dieback measures to reduce the spread of dieback are to be undertaken to the satisfaction of the Shire of Donnybrook Balingup in consultation with the Department of Biodiversity, Conservation and Attractions.**
- 11. A minimum 10m buffer is to be provided between all proposed planation areas and adjacent existing native vegetation areas internally on the lots. The 10m exclusion area is to be clearly demarcated to ensure vehicles and planting works are located outside of these areas.**
- 12. Any erosion and/or sedimentation issues that occur due to insufficient drainage and/or stormwater management from the proposed development, including any firebreak or accessway, is to be rectified, so as not to impact any surrounding waterways and/or properties, including any infrastructure, to the satisfaction of the Shire of Donnybrook Balingup.**
- 13. This approval does not permit any harvesting of the plantation. A separate application for development approval is required to be approved by the Shire of Donnybrook Balingup prior to any harvesting activity occurring.**

ADVICE NOTES

- a. It is recommended that the applicant undertake public consultation, including to surrounding residences prior to:
 - (i) Planned/Prescribed burns;**
 - (ii) Boundary fencing;**
 - (iii) Use of herbicides/insecticides; and**
 - (iv) Any other activity that the applicant considers may impact surrounding residences.****
- b. The Department of Planning, Lands and Heritage (Aboriginal Heritage**

Conservation/Heritage and Property Services) have advised:

- (i) The lots intersect with Aboriginal site ID 20434 (Blackwood River). Approvals under the *Aboriginal Heritage Act 1972* are not required for any works that will not intersect this site and the Department acknowledges the application advises the Aboriginal site will not be disturbed by the plantation.**
- (ii) The applicant/landowner is responsible to ensure that their obligations under the *Aboriginal Heritage Act 1972* with regards to undertaking a due diligence assessment and obtaining all relevant approvals.**
- (iii) The applicant is to regularly check the Aboriginal Cultural Heritage Inquiry System should new Aboriginal Cultural Heritage be reported within subject lots.**

c. The Department of Water and Environmental Regulation have advised:

- (i) Potential clearing of native vegetation for the purposes of maintaining firebreaks at the property boundaries and within the properties are likely to be exempt from the requirement for a clearing permit under the Environmental Protection Act, although it is the landowner's responsibility to check.**
- (ii) Consistent with the principles of the *Code of Practice for Timber Plantations in Western Australia* (FIFWA 2014) the following measures should be implemented:
 - e) Operation of site preparation equipment should avoid riparian zones;**
 - f) To avoid spills of fuel and oil reaching watercourses, wetlands, and reservoirs, refuelling of machinery should be undertaken away from riparian zones;**
 - g) Heavy machinery should not enter riparian zones or designated buffers; and**
 - h) Particular care should be taken to prevent pesticides/herbicides being washed or leached into the watercourses or wetlands.****

d. The Department of Primary Industries and Regional Development have advised:

- (i) The property is located on three soil-landscapes and there will be some challenges to the establishment of a plantation in this landscape with the main risk being water erosion due to slopes ranging from 5 - 35%. All preparation (ripping) and planting to be done along the contours as any preparation or planting across the contours will significantly increase the risk of water erosion.**
- (ii) Firebreaks and formed tracks are required to control surface water flow and prevent the risk of water erosion and the Department requests that fire breaks and tracks include appropriate surface water engineering structures to control/capture surface water to minimise the risk of soil erosion.**
- (iii) The applicant is to monitor and implement controls for weeds and pests for the entire duration of the project to meet their obligations under the *Biosecurity and Agriculture Management Act 2007*.**

- e. **The Department of Biodiversity, Conservation and Attractions have advised:**
- (i) **The lots are surrounded by the Wilga State Forest and freehold land managed by the Department of Biodiversity, Conservation and Attractions and there should be no direct or indirect impacts, including surface water run-off, drainage, erosion, weed and/or *Phytophthora* dieback spread from the proposed plantation into the adjacent Department-managed land.**
 - (ii) **The indicative planting species list contains insufficient species diversity, particularly within different soil types, to adequately represent nearby forested areas within this location and recommends that the proposed planting species list be expanded to include additional flora species from the '*Species in Wilga DBCA quadrat*' list.**
 - (iii) **The surrounding tree layer has a canopy cover of between 30 to 70%, and the shrub layer would be greater than 70% and to create a forest consistent with the surrounding local remnant vegetation, the completion criteria should aim for canopy cover that is also between 30 to 70%.**
 - (iv) **The proposal should consider management of bushfire spread from the proposed plantation to the adjacent State Forest, and measures to minimise the spread of bushfires from the State Forest land to the proposed development, such as on-site fire protection resources.**
- f. **If the development the subject of this approval is not substantially commenced within a period of two years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.**
- g. **Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought or obtained.**
- h. **If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. An application must be made within 28 days of the determination.**
- i. **A demolition permit will be required prior to the removal of any structure on site over 40m².**

CARRIED 8/0

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

Against: Nil.

9.2 DIRECTOR FINANCE AND CORPORATE

9.2.1 ACCOUNTS FOR PAYMENT - APRIL 2024

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

EXECUTIVE RECOMMENDATION

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

COUNCIL RESOLUTION 68/24

MOVED: Cr Patrick

SECONDED: Cr MacCarthy

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

CARRIED 8/0

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

Against: Nil.

9.2.2 MONTHLY FINANCIAL REPORT - APRIL 2024

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

EXECUTIVE RECOMMENDATION

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

COUNCIL RESOLUTION 69/24

MOVED: Cr Gubler

SECONDED: Cr Lindemann

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

CARRIED 8/0

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

Against: Nil.

9.3 CHIEF EXECUTIVE OFFICER

Nil.

10 ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Nil.

12 MEETINGS CLOSED TO THE PUBLIC

Nil.

12.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

Nil.

13 CLOSURE

The Shire President advised that the next Agenda Briefing Session will be held on 19 June 2024 commencing at 5:00pm in the Shire of Donnybrook Balingup Council Chamber.

The Shire President declared the meeting closed at 6:15pm.