



Notice of Ordinary Council Meeting

To be held on 23 October 2024 and to commence at 5:00pm

To be held at the Council Chambers in Donnybrook

(1 Bentley Street, Donnybrook)

Authorised:

A handwritten signature in black ink, appearing to read "Nicholas O'Connor", is positioned to the right of the "Authorised:" label.

Nicholas O'Connor, Chief Executive Officer

Prepared:

18 October 2024

Disclaimer:

Please note the items and recommendations in this document are not final and are subject to change or withdrawal.

MEASURES OF CONSEQUENCE

LEVEL	RATING	HEALTH & SAFETY	FINANCIAL	SERVICE INTERRUPTION	COMPLIANCE	REPUTATION	PROPERTY	ENVIRONMENT
1	Insignificant	Negligible injuries	Less than \$5,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, localised low impact on community trust, low profile or no media item	Inconsequential or no damage.	Contained, reversible impact managed by on site response
2	Minor	First aid injuries	\$5,000 - \$20,000 Or < 5% variance in cost of project	Temporary interruption to an activity – backlog cleared with existing resources	Some temporary non compliances	Substantiated, localised impact on community trust or low media item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response
3	Moderate	Medical type injuries	\$20,001 - \$100,000 Or > 5% variance in cost of project	Interruption to Service Unit(s) deliverables – backlog cleared by additional resources	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact on community trust or moderate media profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies
4	Major	Lost time injury	\$100,001 - \$1M	Prolonged interruption of Service Unit core service deliverables – additional resources; performance affected	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, widespread high impact on community trust, high media profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies
5	Catastrophic	Fatality, permanent disability	More than \$1M	Indeterminate prolonged interruption of Service Unit core service deliverables	Non-compliance results in criminal charges or significant damages or penalties	Substantiated, public embarrassment, widespread loss of community trust, high widespread multiple media profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact

MEASURES OF LIKELIHOOD

LEVEL	RATING	DESCRIPTION	FREQUENCY
5	Almost Certain	The event is expected to occur in most circumstances	More than once per year
4	Likely	The event will probably occur in most circumstances	At least once per year
3	Possible	The event should occur at some time	At least once in 3 years
2	Unlikely	The event could occur at some time	At least once in 10 years
1	Rare	The event may only occur in exceptional circumstances	Less than once in 15 years

RISK MATRIX

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	MODERATE (5)	HIGH (10)	HIGH (15)	EXTREME (20)	EXTREME (25)
Likely	4	LOW (4)	MODERATE (8)	HIGH (12)	HIGH (16)	EXTREME (20)
Possible	3	LOW (3)	MODERATE (6)	MODERATE (9)	HIGH (12)	HIGH (15)
Unlikely	2	LOW (2)	LOW (4)	MODERATE (6)	MODERATE (8)	HIGH (10)
Rare	1	LOW (1)	LOW (2)	LOW (3)	LOW (4)	MODERATE (5)

RISK ACCEPTANCE CRITERIA

RISK RANK	DESCRIPTION	CRITERIA FOR RISK ACCEPTANCE	RESPONSIBILITY
LOW	Acceptable	Risk acceptable with adequate controls, managed by routine procedures and subject to annual monitoring	Operational Manager
MODERATE	Monitor	Risk acceptable with adequate controls, managed by specific procedures and subject to semi-annual monitoring	Operational Manager
HIGH	Urgent Attention Required	Risk acceptable with excellent controls, managed by senior management / executive and subject to monthly monitoring	Director / CEO
EXTREME	Unacceptable	Risk only acceptable with excellent controls and all treatment plans to be explored and implemented where possible, managed by highest level of authority and subject to continuous monitoring	CEO / Council

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1. Declaration of Opening / Announcement of Visitors

Acknowledgement of Country:

The Shire President to acknowledge 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 to declare the meeting open and welcome the public gallery.

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

“This meeting is being livestreamed and digitally recorded in accordance with Council Policy. Members of the public are reminded that no other visual or audio recording of this meeting by any other means is allowed without the permission of the chairperson. Whilst every endeavour has been made to only record those who are actively participating in the meeting, loud comments or noises from the gallery may be picked up on the recording.”

2. Attendance

Councillors Present:

Cr Vivienne MacCarthy

Cr Lisa Glover

Cr John Bailey

Cr Alexis Davy

Cr Peter Gubler

Cr Anita Lindemann

Cr Anne Mitchell

Cr Grant Patrick

Staff Present:

Nick O’Connor, Chief Executive Officer

Ross Marshall, Director Operations

Maurice Battilana, Acting Director Finance and Corporate

Loren Clifford, Manager Corporate Services

Samantha Farquhar, Administration Officer
Corporate Services

Other Members Present:

Public Gallery:

2.1. Apologies

Nil.

2.2. Approved Leave of Absence

At its Ordinary Council Meeting held 25 September 2024 Council resolved the following:

"COUNCIL RESOLUTION 150/24

That Council:

- 1. Approve Cr Deanna Shand's request for a leave of absence for the Ordinary Council Meeting held on 23 October 2024."*

2.3. Application for Leave of Absence

Nil.

3. Announcements from the Presiding Member

4. Declarations of Interest

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

5. Public Question Time

5.1. Responses to previous public questions that were taken on notice

Nil.

5.2. Public Question Time

6. Presentations

6.1. Petitions

Nil.

6.2. Presentations

Nil.

6.3. Deputations

Nil.

6.4. Delegates' Reports

Nil.

7. Confirmation of Minutes

7.1. Special Council Meeting held on 18 September 2024

Minutes of the Special Council Meeting held 18 September 2024 are attached as [Attachment 7.1\(1\)](#).

Executive Recommendation:

That the Minutes from the Special Council Meeting held 18 September 2024 be confirmed as a true and accurate record.

7.2. Ordinary Council Meeting held on 25 September 2024

Minutes of the Ordinary Council Meeting held 25 September 2024 are attached as [Attachment 7.2\(1\)](#).

Executive Recommendation:

That the Minutes from the Ordinary Council Meeting held 25 September 2024 be confirmed as a true and accurate record.

7.3. Special Council Meeting held on 9 October 2024

Minutes of the Special Council Meeting held 9 October 2024 are attached as [Attachment 7.3\(1\)](#).

Executive Recommendation:

That the Minutes from the Special Council Meeting held 9 October 2024 be confirmed as a true and accurate record.

8. Reports of Committees

8.1. Warren Blackwood Alliance of Councils Meeting held on 13 August 2024

Minutes of the Warren Blackwood Alliance of Councils Meeting held 13 August 2024 are attached at Attachment 8.1(1)

Executive Recommendation:

That the Minutes from the Warren Blackwood Alliance of Councils Meeting held on 13 August 2024 be received.

9. Reports of Officers

9.1. Director Operations

9.1.1. Development Application – Reception Centre, Camping Area, and Events - Jalbrook Estate

Report Details:

Prepared by:	Principal Planner Planning Officer		
Manager:	Manager Development Services		
Applicant:	Lynn and James Baddeley on behalf of Macharrios Pty Ltd		
Location:	Lot 1 (No. 127) Jayes Road, Balingup		
File Reference:	A1445 (P24022)	Voting Requirement:	Simple Majority

Attachment(s):

- 9.1.1(1) Development application letter.
- 9.1.1(2) Development application plans.
- 9.1.1(3) Agency submissions.
- 9.1.1(4) Public submissions.
- 9.1.1(5) Bushfire Management Plan (BMP) V1.1 19 August 2024.
- 9.1.1(6) Bushfire Emergency Plan (BEP) V1.1 19 August 2024.
- 9.1.1(7) Assessment under Clause 67.
- 9.1.1(8) Addendum to BMP, letter dated 19 August 2024

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* and the provisions of the Shire of Donnybrook Balingup Local Planning Scheme No. 7 (LPS7), approves the Development Application P24022 for the Reception Centre with incidental camping area, and Events at Jalbrook Estate on Lot 1 (No. 127) Jayes Road, Balingup, 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 plan, including any notations, and must not be altered or modified without the further written consent of the Shire.**

Approved plan:

- (i) Development application plan** (Attachment 9.1.1(2)).

2. The development shall not exceed:

Type and number of activities in a year	Maximum number of guest/patrons per event/function	Operating time
12 Weddings	80 guests per wedding	Closing at 10pm Sundays – Thursday and 11pm Friday and Saturday, or as further limited to reduced hours under a Noise Impact Assessment and Noise Management Plan.
6 Incidental camping for wedding guests	50 guests	2 nights for each wedding
Memorial service	200 attendees	Daytime
6 Public ticketed events	250 patrons	Closing at 9pm

Any increase would require a further development approval from the Shire.

3. Use of the camping area is only permitted in conjunction with functions associated with the Reception Centre and not independently, unless otherwise approved by the Shire.
4. Prior to the commencement of use, information is to be provided demonstrating that the measures contained in Tabel 6.2(A), (B) and (C) and 6.3 under Part 5 of the Bushfire Management Plan (Attachment 9.1.1(5)), (Attachment 9.1.1(8)) prepared by Bushfire Prone Planning dated 19 August 2024 have been implemented. This information should include a completed 'Certification by Bushfire Consultant' from the Bushfire Management Plan.
5. Operation of the Reception Centre, Camping Area, and Events to be in accordance with the Bushfire Emergency Plan (Attachment 9.1.1(6)) prepared by Bushfire Pone Planning including the requirement to close the facility during days with a forecast Fire Danger Rating of Extreme or Catastrophic.
6. 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 at all times. Guests are to be advised of the recommendations of the Plan in case of a bushfire event.
7. Prior to the commencement of use, the applicant is to demonstrate that in addition to the relevant provision of water for firefighting purposes, all uses will be provided with a suitable potable water supply to the satisfaction of the Shire.

8. Any dust associated with the use is to be managed appropriately in accordance with the Shire of Donnybrook Balingup *Animals, Environment and Nuisance Local Law 2017*.
9. Prior to the commencement of use, a Noise Impact Assessment is to be undertaken by a suitably qualified acoustic consultant whose qualifications and experience qualify them for membership of the Acoustical Society.

The Noise Impact Assessment is to determine:

- (i) the expected level of noise emissions from the development.
- (ii) determine whether the emissions are expected to be free from tonality, impulsiveness, and modulation characteristics.
- (iii) an assessment of the expected level of noise emissions for compliance with the *Environmental Protection (Noise) Regulations 1997*.
- (iv) provide detail as to the methodology used, calculations made, and any actual data obtained in relation to the assessment and expected noise emissions.

Following receipt of a Noise Impact Assessment and consideration of results the applicant is to prepare and implement a Noise Management Plan which is to include (but not limited to):

- (i) details of and expected levels of noise emissions in accordance with Noise Impact Assessment associated with the development.
- (ii) details of noise reduction measures to be implemented to control noise (including vibration) emissions.
- (iii) noise complaint response procedures.

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

10. Prior to the commencement of use, the driveway contained in the battleaxe is to be widened to allow two-way traffic. The driveway and crossover are to be constructed, drained, and sealed to the satisfaction of the Shire. All other internal driveways are to be constructed to a gravel standard and drained to the satisfaction of the Shire and thereafter maintained.
11. Vehicle parking is to be within the lot at all times with no parking to occur outside of the lot boundaries along Jayes Road.
12. All stormwater from the proposed development including buildings (or temporary buildings such as the marquee), and hardstand areas shall be managed by the applicant 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.

- 13. 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, or watercourses to the satisfaction of the Shire.**

- 14. A manager must always be on-site while functions and events are undertaken including overnight when the camping area is in use. 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.**

- 15. Additional conditions for Events:**
 - (i) Event grounds are to have adequate lighting after dark.**
 - (ii) Adequate potable water is to be available for free to event attendees.**
 - (iii) All portable electrical equipment is to be tested and tagged by an appropriately qualified person.**
 - (iv) An adequate number of portable toilets are to be made available in accordance with the Guidelines for concerts, events and organised gatherings 2022.**
 - (v) All toilets are to be serviceable for the duration of the events.**
 - (vi) Applicant to inform all local emergency services of event dates.**
 - (vii) All temporary structures must be suitably secured to prevent movement in wind gusts and must not be used if winds will exceed manufacturer specified rating.**
 - (viii) Food and drink vendors hired for events must provide a copy of their Food Business Registration Certificates.**
 - (ix) Events attracting over 250 people are not covered by this development approval and require a separate events approval from the Shire of Donnybrook Balingup.**

Advice

- a. The Shire Building Services advises that:**
 - i) Any temporary tent or marquee greater than 55m² would require a Certificate of Structural Adequacy from a practising structural engineer or authorised installer, confirming structural adequacy of temporary structures installed.**

- b. 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.**

- c. With regards to the “Manager” this means an applicant, or a person duly appointed by the applicant/landowner, to have management and care of the site and approved uses.**

- d. The Shire Environmental Health Services advises that:**

- i) Applicant to apply for a licence under the *Caravan Parks and Camping Grounds Act 1995*. An Application for Grant or Renewal of Licence (*Caravan Parks and Camping Grounds Act 1995*) to be submitted for approval by an Environmental Health Officer.
 - ii) Based on the current camping proposal not meeting the requirements of the *Caravan Parks and Camping Grounds Act 1995* and *Regulations 1997* the applicant/landowner would need to apply to for an exemption to the Minister for Local Government.
 - iii) With regard to condition 15(ii), an adequate potable water supply to be provided in accordance with Australian Drinking Water Guidelines. Water supply to be provided with an appropriate filtration and disinfection equipment (for example, water filter with UV Treatment). In relation to events and functions a minimum of 2 litres of free drinking water must be available per person or a rate calculated at 500 mL/hour, whichever is the greater, is required to be available.
 - iv) 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.
- e. Clearing of native vegetation may require a clearing permit from the Department of Water and Environmental Regulation (DWER). Clearing of native vegetation that is not exempt, or does not have a valid clearing permit, is an offence under *the Environmental Protection Act 1986*. For further information regarding clearing permits, contact DWER on (08) 6364 7000.
- f. The applicant is advised to investigate whether approval is required pursuant to the *Aboriginal Heritage Act 1972*. The applicant should conduct a search of the Register of Aboriginal Sites to determine if any Aboriginal sites have been recorded in the vicinity of their application, and this heritage information should be submitted to the Department of Planning Lands and Heritage (Indigenous Affairs) with a request for advice.
- g. With regard to Condition 10, the seal width needs to be a minimum of 5.5m with appropriate gravel shoulders and tappers at its intersection with Jayes Road. A traffic management plan will be required to be submitted, approved, and implemented through these works, when working within the Jayes Road Reserve. Stormwater runoff from the sealed surface will need to be managed within the property. Detailed plans of how this is to be achieved are to be submitted for approval prior to construction commencing.
- h. 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.

- j. 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:** 10 - A popular destination for visitors and tourists.
- Objective:** 2.2 - Facilitate, encourage and support a diverse range of festivals, community events, arts and cultural activities.
- Item:** Nil.

Executive Summary

The purpose of this report is for Council to consider an application for development approval for the use of a marquee/stretch tent for functions such as weddings, memorial services and ticketed events and an open lawned area for camping of up to 50 wedding guests, the lawned area would also be used as a parking area for functions as outlined in the ([Attachment 9.1.1\(1\)](#)) application letter and the ([Attachment 9.1.1\(2\)](#)) application plan.

Officers do not have delegation to determine applications for development approval where objections are received. Officers consider that the proposal may proceed and recommend it be granted approval subject to conditions and advice that address the matters raised in the submissions.

Background

Jalbrook Estate currently operates as a tourism venue with six short stay accommodation units and a lodge that sleeps ten people. Development approval was granted in September 1998 for development of four chalets and another two chalets were approved in December 2009. The lot is zoned Tourist and has been progressively developed in accordance with an approved Development Guide Plan endorsed by the Shire in 2007.

The proposal under consideration is for:

- Twelve (12) Medium sized weddings of up to 80 guests
- Memorial services for up to 200 attendees - Infrequently
- Six (6) Public ticketed events for up to 250 patrons for example: movie nights, outdoor plays, poetry recitals, classical music performances, black tie dinner-dance, ceilidh/folk band with dancing, High Tea, murder-mystery nights, Christmas family event, sculptures on the lawn. Ticketed events finishing by 9pm.
- Incidental Camping for up to 50 wedding guests being used up to a maximum six (6) times per year.

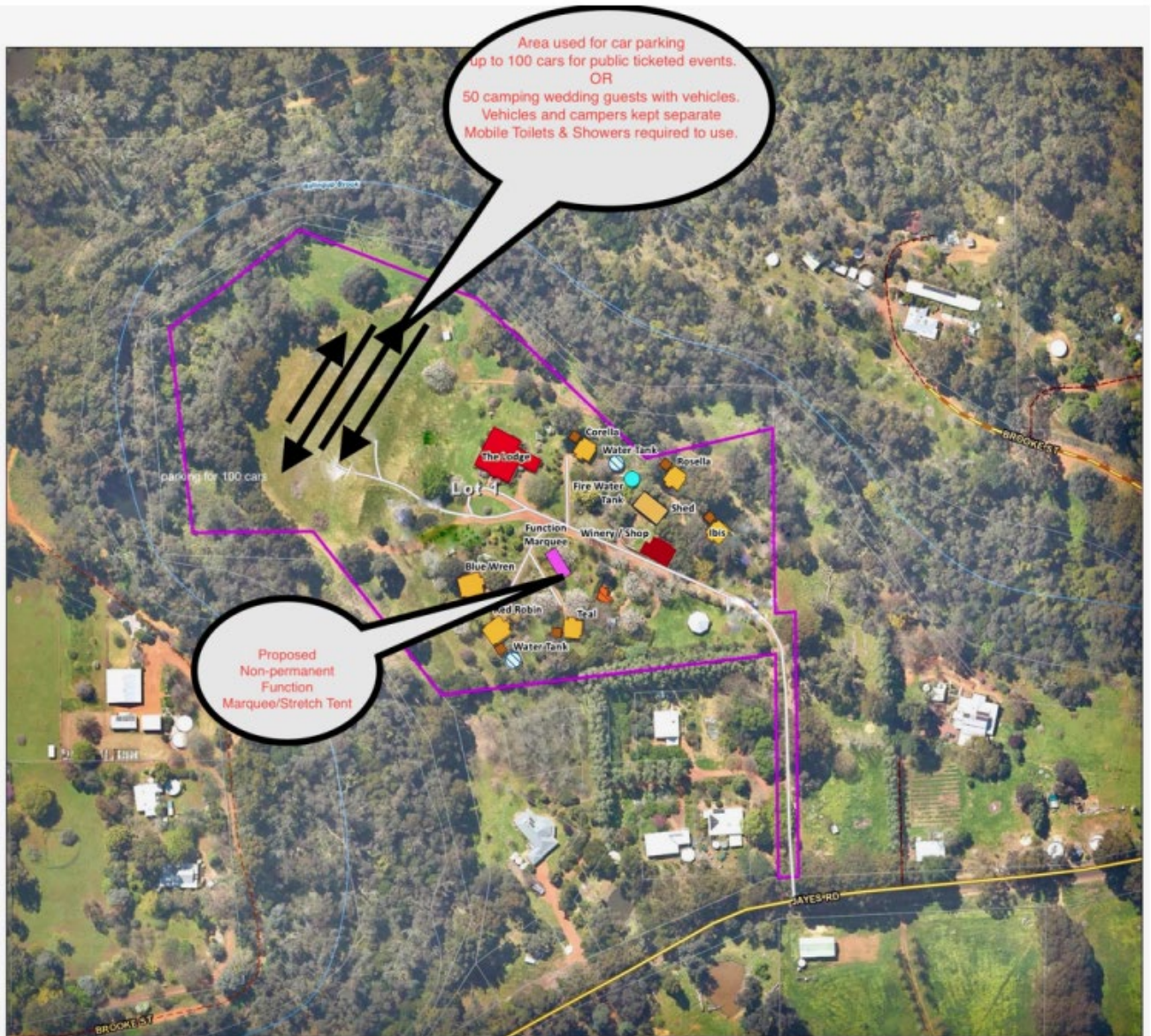


Figure 1 – Development application plan



Shire of Donnybrook Balingup
 Chief Executive Officer
 Dated 23rd April 2007

EXISTING CHALET
 PROPOSED CHALET

FIGURE 2

DEVELOPMENT GUIDE PLAN LOT 1 JAYES ROAD BALINGUP	SCALE: 1:750 at A1 1:1500 at A5	DATE: 12/04/07	
	PLAN NO: 04350P-09		

Figure 2 – Development Guide Plan 04350P-09

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Environment	Possible	Moderate	Moderate (5)
Risk Description:	Operation of the reception centre, incidental camping, and events at Jalbrook Estate may have off site impacts relating to noise and dust.		
Mitigation:	Officers recommend that if approval is granted conditions are to be imposed to mitigate land use impacts and managing potential off-site effects to acceptable levels.		
Risk:	Likelihood:	Consequence:	Risk Rating:
Property	Rare	Catastrophic	Moderate (5)
Risk Description:	Protection of persons and property in the event of a fire.		
Mitigation:	Conditions for specific fire danger levels and fire defence capacity.		

Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Possible	Insignificant	Low (3)
Risk Description:	Impact on local community due to operations.		
Mitigation:	Conditional development approval and compliance.		

Risk:	Likelihood:	Consequence:	Risk Rating:
Health	Unlikely	Minor	Low (4)
Risk Description:	Non-compliance with legislation.		
Mitigation:	Conditional development approval and ongoing compliance inspections and licensing.		

Financial Implications

The applicant has paid all relevant application fees. If Council refuses the application 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

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

The property is identified as bushfire prone by the Department of Fire and Emergency Services mapping. The proposal is not exempt from the requirements of State Planning Policy 3.7 and the application includes a Bushfire Management Plan (BMP) (Attachment 9.1.1(5)) and Bushfire Emergency Plan (BEP) (Attachment 9.1.1(3)) prepared by Bushfire Prone Planning.

These have been referred to the Department of Fire and Emergency Services (DFES) for comment. The applicant’s bushfire consultant has amended the BMP and BEP to address the concerns raised by DFES. The amended BMP and BEP has been referred back to DFES for final comments and DFES on 27 September 2024 recommended that compliance with acceptable solutions have not been demonstrated and that further modifications are required. This matter is further considered in more detail under the “Consultation” section of this report.

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 lot is zoned Tourist and included as T2 in Schedule 4 Tourist - Additional Requirements under LPS7. Schedule 4 of LPS7 contains the following additional requirements for Jalbrook Estate.

Permitted Uses	Conditions of Use	Proposal
<p>Tourist Development whereby the permitted uses are—</p> <ul style="list-style-type: none"> • Chalets • Shop • Dwelling • Winery <p>Associated uses determined by local government to be complementary to the principal use of the lot for tourist related uses.</p>	<p>1. Development shall be generally in accordance with the Development Guide Plan No. 04350P-09 endorsed by the local government or an alternative Structure Plan endorsed by the local government and the Commission.</p>	<p>1. The proposed camping/parking and public ticketed events will occur on the area shown on the approved Development Guide Plan as General Recreation Area. This is considered consistent with the intent of the area to accommodate temporary uses only. Neither of the proposals involve any permanent changes to the site and a revised Development Guide Plan or Structure Plan is not considered necessary to progress the application.</p>
	<p>2. The local government may approve development applications that vary from the Development Guide Plan providing such variations in the opinion of local government, do not affect the amenity of the area. In respect of such applications, the local</p>	<p>2. The Shire may approve the proposal which varies the approved Development Guide Plan providing such variations do not affect the amenity of the area and the Shire seeks public comment on the proposed variation before determining the proposal.</p>

Permitted Uses	Conditions of Use	Proposal
	government shall advertise such variation for public comment in accordance with clause 9.6 of the Scheme.	The proposal was referred to affected adjoining and nearby landowners for comment as required. As discussed in the submissions section of this report, the proposals have general support in the community (10 of the 14 submissions received were in support), with some objections/concerns raised regarding noise, fire control and traffic impacts. These impacts can be addressed/managed through conditions of approval, if granted.
	3. No buildings are to be established within 10 metres of any boundary.	3. The marquee/stretch tent is over 50m to any lot boundary and over 90m from nearest off-site dwelling to the south-east.
	4. That the proponent provides a Fire Management Plan to the satisfaction of the Department of Fire and Emergency Services and the local government as a condition of development approval to the proposed tourist uses on the site which is appropriately implemented.	4. This matter is considered in detail under the “Consultation” section of this report.

These provisions apply as do all other provisions in LPS7 and where there is any inconsistency, the provisions in Schedule 4 prevail.

The proposed use for hosted functions as described in the application falls within the definition of “reception centre” in LPS7 which means premises used for functions on formal or ceremonial occasions but not for un-hosted use for general entertainment purposes. A reception centre is a D discretionary use in the Tourist zone which means that the use is not permitted unless the local government has exercised its discretion by granting development approval.

The proposed use of the lawned area for infrequent camping as described in the application falls within the definition of “camping area” in LPS7 which means land set aside for the erection of tents and other similar structure for temporary accommodation, and “camping” has a compatible meaning. A camping area is a P permitted use in the Tourist 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.

Both of these uses would be considered compatible with the Permitted Uses which allows for associated uses that are incidental and complementary to the use of the lot for tourist accommodation and winery etc.

Part 4 – General Development Requirements

Clause 4.7 Tree planting and vegetation corridors

The Scheme requires the Shire ensure the development improves the environmental amenity of the area where insufficient tree cover exists and allows the Shire to place conditions on approvals to require planting of trees or groups of trees to ensure the development will not have an adverse impact on the amenity and landscape quality of the area.

The site contains extensive landscaping with native and non-native species and no additional tree planting is considered necessary.

4.16 Flood risk land

The property adjoins Balingup Brook. The Scheme requires the Shire not grant approval to the carrying out of development on land that is identified as being within a designated floodway or at risk of flooding and allows the Shire to place conditions on approvals to require certain measures be implemented.

The property is not shown to be flood affected by the Department of Water and Environmental Regulation WA flood mapping, although the LPS cautions about flood risk along the Balingup Brook. The proposal does not involve any permanent building works and flooding in these areas would not be expected to be a major concern for the owners.

Clause 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 main alteration to structures on the property will be the new marquee/stretch tent which is described as 'non-permanent' in the application. This will be sited towards the middle of the property and located behind the existing chalet buildings and landscaping areas when viewed from outside the site. The lawned area is located to the rear of the property and fringed by vegetation both on the property and adjoining the Balingup Brook. It's use for camping (maximum 6 events per year), or parking will not have any expected adverse impact on the character and landscape quality of the area.

4.25 Landscaping

The Scheme requires the Shire consider landscaping of developments and allows the Shire to place conditions on approvals to require landscaping be undertaken.

As noted in Clause 4.7 above, the site contains extensive landscaping with native and non-native species and no additional landscaping is considered necessary.

4.27 Car parking and vehicle access requirements

The Scheme requires the Shire ensure development includes adequate on-site car parking and allows the Shire to place conditions on approvals to require car parking (including cycle racks and universal access bays) and dedicated accessways be provided to service the proposed development.

The list of uses in Table 2 Car parking requirements does not define a parking standard for either reception centre or camping area. The Scheme requires where land is to be developed/used for purposes not mentioned in Table 2, the Shire shall determine the number of spaces to be provided having due regard to the:

- (i) nature of the proposed development;
- (ii) number of employees or others likely to be employed or engaged in the use of the land;
- (iii) anticipated demand for visitor parking; and
- (iv) orderly, proper, and sustainable planning of the area.

The proposal and car parking requirements are discussed below:

Proposal	Parking Assessment	Officer Response
Weddings for up to 80 guests	Given that wedding guests would be expected to be seated for the event, using the restaurant land use requirement in LPS7 of 1 car parking bay per 4 patrons, this would require 20 bays.	The assessment shows that weddings and memorial services type events would require 20-50 car parking bays. Larger events such as public ticketed and camping events would require up to 62 car parking bays. Given all of the proposed events will require staff, it is estimated that between 5-10 staff would be involved in weddings/memorials with more staff (up to 30) involved at the larger public ticketed events. Using a ratio of 1 car parking bay per staff this would add between 5-30 bays required. The application plan shows a nominated on-site car parking area for 100 vehicles which exceeds the minimum estimated 25 bays required for wedding guests and estimated staff through to maximum 92 bays required for public ticketed events and estimated staff.
Memorial services for up to 200 attendees	As with a wedding, attendees at a memorial service would be expected to be seated for the event, using the public worship land use requirement in LPS7 of 1 car parking bay per 4 seats, this would require 50 bays.	
Public ticketed events for up to 250 patrons	Given these events could potentially include patrons either seated or unseated, using a standard land use requirement of 1 car parking bay for every 4 patrons designed to be accommodated, this would require 62 bays.	
Incidental Camping for up to 50 wedding guests	For wedding guests camping, using the caravan park land use requirement in LPS7 of 1.25 car parking bays per tent site, this would require 31-62 bays (based on 25 or 50 tents and dependent on the number of guests per tent).	

Proposal	Parking Assessment	Officer Response
	The application plan shows the 50 wedding guests using 50 sites.	<p>The plan whilst it does not include dimensions for the bays and accessways, is approx. 6000m² in area and considered adequate for the proposals.</p> <p>The landscaping of the car parking area required in clause 4.27.7 is not considered necessary due to the existing landscaping around the site.</p>

4.28 Construction of carparking and vehicle access areas

The Scheme requires car parking and accessways be sealed drained and line marked. As the proposed area will involve a combination of camping and car parking uses, they do not intend to seal the area.

4.29 Access for loading and unloading vehicles

The Scheme requires the Shire ensure in non-residential zones that development include sufficient on-site areas for loading/unloading of goods or materials and that service vehicles leave the property in a forward direction.

The proposal includes sufficient on-site areas for loading/unloading of goods and materials and vehicles can enter and leave the property in forward gear.

4.32 Vehicle crossovers/entrances

The application does not propose any changes to the existing access via a battleaxe leg off Jayes Road. The crossover is sealed. The applicant’s comment that *“We plan to partially bituminise the driveway once there is uptake of ‘reception centre’ weddings and events.”*

DFES has emphasized that a two-way access/egress is essential because the current proposal does not meet the bushfire standard for having a secondary access point.

The Shire Works and Services raised concerns with the current accessway and has recommended that the accessway be widened to allow two vehicles to pass comfortably, which is feasible given the battleaxe is 10 meters wide. Vehicles should not queue on Jayes Road while waiting to access the site and to achieve this the crossover and entry to the site would need to be upgraded by removing the entry statements.

4.37 Services to all development

The Scheme requires the Shire ensure that developments include an adequate water supply and facilities for the removal or disposal of sewerage and drainage and appropriate legal and practical vehicular access is available to support the proposal.

The applicant’s comment that *“Catering for the ‘reception centre’ would be supplied by outsourced local suppliers from Balingup, Donnybrook and surrounds or guests may BYO catering. Light grazing style catering is offered in-house. We have a licensed and inspected small Commercial Kitchen available*

for wedding and event catering. Some wedding events would hire 1 catering supplier and optionally 1 mobile drinks provider: coffee or alcohol and possibly a gelato cart or dessert provider. Public ticketed events would include 1-4 mobile catering/drinks trucks depending on event type and patronage” and “Ablution trailers for the camping area (showers/toilets) will be hired from outsourced suppliers. Camping is un-powered for guests; no camp kitchen is supplied.”

Given the use of the existing kitchen and toilet facilities are to be supplemented with hiring of additional facilities when required (such as for ticketed events and camping) this is considered adequate.

4.45 Advertisements

The Scheme requires development approval for the erection, placement, and display of advertisements, unless they are exempt advertisements under Schedule 9 Exempted Advertisements of LPS7.

The proposal does not include any new signs, and the applicant should be advised of the Scheme requirements as an advice note on the approval, if granted.

4.59 Tourist Zone

The Shire’s policies in controlling development and influencing subdivision within the Tourist zone are to:

- (i) seek to facilitate tourism focused commercial development within the district;*
- (ii) seek to facilitate an urban fabric that consists of a pedestrian orientated movement system, and which complements parks, gardens, art, cultural, entertainment and heritage village style architecture within the townsites of the district;*
- (iii) seek to facilitate building design elements which create a “rural heritage village” theme in townsites within the district;*
- (iv) require proponents of large-scale tourist developments to be responsible for the cost of upgrading roads and other infrastructure to maintain public safety and amenity and to ensure existing land uses are not detrimentally impacted in respect to access and safety;*
- (v) ensure large scale developments are generally located in close proximity to existing towns in strategically identified locations; and*
- (vi) maintain a presumption against permanent residents (except for the owner/manager/ caretaker) in rural areas and non-urban locations.*

The proposal is considered to comply with the policies listed above on the basis that the proposal will enhance an existing successful ‘rural-themed’ tourism development adjoining Balingup and provide new tourist attractions and activities within the Shire.

The proposed camping/parking and public ticketed events will occur on the area shown on the approved Development Guide Plan as General Recreation Area which is considered consistent with the intent of the area to accommodate temporary uses only.

Under Cl.4.59.5 of LPS7, the following development standards apply to proposals within the Tourist zone which are discussed below.

Development standards	Officer Response
<p>Despite anything contained within the Zoning Table, the land specified in Schedule 4 may only be used for the specific uses listed and subject to the conditions set out in Schedule 4 with respect to that land.</p>	<p>The reception centre and camping area uses would be considered compatible with the Permitted Uses (chalets, shop, dwelling and winery) which also allows for associated uses that are incidental and complementary to the use of the lot for tourist accommodation/winery etc.</p>
<p>No development will be permitted to use the land between the street front boundary and the building for any purpose other than the following—</p> <ul style="list-style-type: none"> (i) a means of vehicle access and egress; (ii) vehicle car parking; (iii) the loading and unloading of vehicles; (iv) open air display where approved by the local government; and (v) landscaping. 	<p>The lot has a battleaxe and the area between the street front and the boundary will be used for driveway purposes only.</p>
<p>Provision should be made in any development for area(s) for the storage of any matter including refuse, and shall be -</p> <ul style="list-style-type: none"> (i) screened from view to the satisfaction of the local government; (ii) located not less than 10 metres from any holiday accommodation or residential building unless the area is fully enclosed; (iii) accessible to service vehicles; and (iv) an internal floor area that is in accordance with the <i>Health Act 1911</i>. 	<p>The existing developments incorporate a bin storage and collection area. This is located internally on the lot and will not be visible from the street.</p>
<p>Development within the Tourist zone should reflect, and be compatible with the predominant colours, materials, and finish of existing development in the locality or as required by an adopted Townscape Plan or to the satisfaction of the local government.</p>	<p>The proposed marquee/stretch tent is a non-permanent structure, and the applicant proposes to use subtle natural earth colours to match the buildings on the site.</p>
<p>Applications for development approval are required to appropriately address such matters</p>	<p>The proposal has addressed relevant matters affecting the development including servicing,</p>

Development standards	Officer Response
as servicing, environmental impact, land use compatibility, visual assessment and other relevant matters as determined by the local government.	environmental impact, land use compatibility and visual impacts.
Development within the Tourist zone, shall comply with the following standards - (i) car parking shall be calculated in accordance with Table 2 or where a use is not specified in Table 2 as determined by the local government;	Matter already addressed under Clause 4.27 above.
(ii) all development criteria shall be in accordance with the provisions of the Scheme for a proposed use or as determined by the local government;	All development criteria in LPS7 have been met.
(iii) building design and construction should be sympathetic with the locality's character, climate, site features and attributes in the opinion of the local government;	The design and construction of the marquee/stretch tent is sympathetic to the locality's character and site features. There are no permanent structures proposed.
(iv) for sites within townsites, as determined by the local government, the facade of developments fronting any street within the Tourist zone should reflect, and be compatible with, the predominant existing streetscape and architectural style;	No new permanent structures are proposed. Due to the access to the lot being via a battleaxe the exiting development on the lot is not visible from a public road.
(v) for sites outside townsites, as determined by the local government, the following shall apply - (a) access roads to the proposed site are, in the opinion of the local government, satisfactory for traffic, which may be anticipated as a result of that development or use;	Matter already addressed under Clause 4.7, 4.28, 4.29 and 4.32 above.
(b) adequate water supply, effluent disposal and drainage systems can be provided and managed by the proponent to the satisfaction of the local government;	Matter already addressed Clause 4.37 above.
(c) the site contains adequate tree cover so as to ensure screening and privacy, or in the absence of adequate tree cover, that a planting and maintenance programme of approved tree types is undertaken;	Matter already addressed under Clause 4.7 and 4.25 above.

Development standards	Officer Response
(d) the development is adequately setback from any water course or wetland to ensure that no pollution or detrimental effect occurs to these resources;	Matter already addressed under Clause 4.16 above.
(e) the proponent demonstrates to the satisfaction of the local government that the proposed development is suitably located upon the site, having regard to the development's setbacks and the site's vegetation and topography, so as to not impact upon, or be impacted by, any agricultural or other potentially non-compatible land use in the locality;	No permanent structures are proposed and nuisance impacts such as dust and noise can be managed through conditions, if approved.
(f) the development is sited and managed to ensure that it does not cause nuisance or pollution or adversely affects any adjacent State Forest, national park, nature reserve or other conservation value areas;	<p>The lot abuts the Balingup Brook that forms part of the Blackwood River system and part of the lot is impacted by Aboriginal Cultural Heritage, Place 20434 (Blackwood River).</p> <p>The proposal does not impact the Balingup Brook, and the heritage site will not be disturbed or impacted. Approvals under the Aboriginal Heritage Act may be required if any proposed works impact the heritage place.</p>
(g) a Fire Management Plan shall be prepared and implemented to the local government's specifications and satisfaction; and	This matter is considered in detail under the "Consultation" section of this report.
(h) development shall be 'low-impact development' in nature, maintain the rural landscape and character of the locality and have minimal visual impact from roads and tourist lookouts.	No new permanent structures are proposed. Due to the access to the lot being via a battleaxe the exiting development on the lot is not visible from a public road.
The local government will generally require that a minimum 30% of the site is landscaped and that it enhances the streetscape. The local government will determine the location of and standard of landscaping together with those measures to be adopted to ensure that the landscaping is maintained to an appropriate standard.	Matter already addressed under Clause 4.7 and 4.25 above.

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 \(9.1.1\(7\)\)](#)). Overall, the proposal is considered to comply with LPS7 requirements.

Local Planning Strategy

The lot is identified for Tourism under the Shire of Donnybrook-Balingup Local Planning Strategy (LPS) (see image below). The property is located within the Tree Plantation Exclusion Area and the adjoining Balingup Brook is shown as a Conservation/Recreation area. Balingup Brook is also shown as a Major River with a Walking/Cycling Track included along the along Balingup Brook.

The proposal is considered to comply with the LPS requirements and will assist the Shire achieve its aim to promote sustainable development including tourism as a major contributor to the Shire generally.

Caravan Parks and Camping Grounds Act 1995 and Caravan Parks and Camping Grounds Regulations 1997

Once development approval has been granted, the applicant would need to obtain a licence to operate a camping ground. A licence will only be issued where the camping ground is assessed as being compliant with the *Caravan Parks and Camping Grounds Act 1995* and the *Caravan Parks and Camping Grounds Regulations 1997*. There are considerable infrastructure requirements for the development of a camping ground which includes but is not limited to:

- Ablution block (toilets, hand basins, showers, minimum 45L babies' bath, power point) within 90m of camp sites
- Laundry facilities (washing machines, dryers or clothes line, trough, bench space)
- Washing up facilities for campers (minimum 45L trough within 90m of camp sites)
- Lighting to ablution block and camp sites
- Firefighting equipment (fire hose reels that can reach every camp site and building. Fire extinguishers can be considered if water supply is inadequate)
- Tap with potable water supply to be within 30m of camp sites (10m for caravan sites)
- Sullage waste water dump point to be within 30m of camp sites (10m for caravan sites)
- Communal chemical soil waste dump point
- Installation of onsite effluent disposal systems for the ablution block and dump point. Installation must comply with the *Government Sewerage Policy (2019)*. This will include undertaking a site and soil evaluation to determine the appropriate effluent disposal system, and approval by the WA Department of Health.

A landowner/applicant may apply to the Minister for an exemption to these requirements. This process is separate from the development approval process which considered the suitability of the land use in its setting considering the zoning of the land and the adjoining land uses. Considering the camping area is to be incidental to the reception centre use and only six camping events are proposed in a calendar year the use is considered to be of a low scale. The applicant is proposing to bring in portable toilets and showers for each of the camping events which will provide the necessary services, and the use is considered on this basis. Prior to the commencement of the use the applicant would

need to demonstrate compliance with the *Caravan Parks and Camping Grounds Act 1995* and the *Caravan Parks and Camping Grounds Regulations 1997* or obtain exemption from the Minister.

Consultation

Consultation with Government/Service Agencies

The proposal was referred to the Department of Water and Environmental Regulation, Department of Biodiversity Conservation and Attraction, Department of Planning Lands and Heritage, and Department of Fire and Emergency Services for comment. Submissions are contained in [Attachment 9.1.1\(3\)](#).

Department of Water and Environmental Regulation

Issues Raised in Submission	Response
<p>Issue: Noise</p> <p>Advice: The application would benefit from acoustic modelling to determine whether noise emissions can comply with the <i>Environmental Protection (Noise) Regulations 1997</i>.</p> <p>The department provided the following comment:</p> <ul style="list-style-type: none"> • resident’s 80m away from an open function marquee where amplified music will be played are likely to be impacted, especially in an environment of otherwise low background noise levels; • while sound ‘drops off’ with distance and structures may provide some shielding, vegetation will not provide any actual benefit in reducing noise levels at receivers; • if the applicant has acoustic data, this may assist the Shire’s Environmental Health Officers in determining whether the proposal can comply with the <i>Environmental Protection (Noise) Regulations 1997</i> (Noise Regulations); and • depending on what information is provided in the “inhouse acoustic monitoring,” the application would benefit from acoustic modelling to determine whether noise emissions 	<p>The applicant’s comment (and which is supported by some submitters) that the current activities on the site are well managed and have not caused concerns to neighbours or nearby landowners.</p> <p>The Department of Water and Environmental Regulation advice is accepted, and it is recommended that a Noise Impact Assessment be prepared to ensure the proposal can achieve the requirements of the Noise Regulations as a condition of approval, if granted.</p>

Issues Raised in Submission	Response
<p>can comply with the Noise Regulations at nearby receivers.</p>	
<p>Issue: Water supply</p> <p>Discussion: The justification letter includes an image of a 110 000L Rainwater Tank. This area is not proclaimed under the <i>Rights in Water and Irrigation Act 1914</i>, and there are therefore no regulatory requirements in relation to the take of groundwater or surface water.</p>	<p>The proposal will need to include sufficient potable water for guests. The requirements will be a condition of approval, if granted.</p>
<p>Issue: Wastewater</p> <p>Discussion: The justification letter states, 'Camping guests will require rental toilets and showers as a condition of camping,' and that 'Ablution trailers will be hired from outsourced suppliers.</p> <p>Therefore, there is no application of waste to land or water and the Department has no comment.</p>	<p>Noted.</p>

Department of Biodiversity, Conservation and Attractions

Issues Raised in Submission	Response
<p>Biodiversity values</p> <p>The north-western portion of Lot 1 contains remnant vegetation contiguous with nearby Balingup Brook and adjacent unmanaged reserve bushland.</p> <p>Lot 1 contains the poorly reserved Balingup (BLf) vegetation complex, which has 9.1% and 270 ha of the pre-1750 extent remaining. This is below the nationally recommended 30% and 1500ha threshold for the retention of remnant vegetation.</p> <p>Black cockatoos are listed as threatened fauna under the BC Act and the <i>Environment Protection and Biodiversity Conservation Act 1999</i> and have been found nearby (less than 400 metres). Other fauna species of</p>	<p>The site adjoins Balingup Brook which contains significant remnant vegetation as described in the DBCA's advice. No clearing of any vegetation along the brook is proposed. This area should be clearly marked as proposed in the application to protect the vegetation.</p> <p>The existing accessway onto Jayes Road will require upgrading/widening to achieve bushfire protection standards under State Planning Policy 3.7 – Planning in Bushfire Prone Areas and Shire requirements. Clearing of the vegetation along the existing accessway may require a clearing permit and the applicant will need to contact DWER who is the permit authority for further advice regarding this.</p>

Issues Raised in Submission	Response
<p>conservation significance that are likely to use the site include the chudich.</p> <p>Fauna</p> <p>Vegetation clearing may be required to upgrade or widen the access way and the application refers to bituminising the access way. The proponent should be aware of their obligations and approval requirements under section 40 of the BC Act, which requires Ministerial authorisation to take or disturb threatened species. DBCA recommends that if any vegetation clearing or pruning is required, the proponent should seek advice from DBCA’s Species and Communities Branch prior to clearing works, in relation of section 40 authorisation requirements.</p> <p>Car parking/camping area</p> <p>The “New Plans” indicate a car parking/camping area within the Lot 1 north-western portion and the justification letter indicates that this area will be marked out with parking flags.</p> <p>DBCA recommends that a buffer be provided between the car parking/camping areas and retained native vegetation. To protect the retained native vegetation and tree roots, from accidental vehicle damage, soil compaction and windblown litter, the buffer should be located outside the tree crown drip zone and consist of suitable demarcation materials.</p>	

Department of Fire and Emergency Services (DFES)

The application includes a Bushfire Management Plan (BMP), and Bushfire Emergency Plan (BEP) ([Attachment 9.1.1\(6\)](#)) prepared by Bushfire Prone Planning. These have been referred to DFES for comment and the applicant’s bushfire consultant has amended the BMP and BEP to address the initial concerns raised by DFES. The amended BMP and BEP has been referred back to DFES for final comments and DFES on 27 September 2024 recommended that compliance with acceptable solutions have not been demonstrated and that further modifications are required. The BMP is contained in ([Attachment 9.1.1\(5\)](#)), the Bushfire Emergency Plan is contained in ([Attachment 9.1.1\(6\)](#)) and the Addendum to the BMP is contained in ([Attachment 9.1.1\(8\)](#)).

Issues Raised in Submission	Response
<p>Vegetation classification</p> <p>DFES notes that six (6) additional images have been provided within the letter but not included in the revised BMP. While the header states they demonstrate APZ compliance, these have not been labelled or added to the vegetation classification map, which removes context of aspect and location. Notwithstanding, DFES’ previous comments regarding vegetation modification and the provision of a Landscape Management Plan remains unchanged.</p> <p>The decision maker to be satisfied the implementation and ongoing management of the APZ has an adequate compliance mechanism.</p>	<p>The development if approved will be subject to the following recommended condition:</p> <p><i>Information is to be provided demonstrating that the measures contained in Tabel 6.2(A), (B) and (C) and 6.3 under Part 5 of the Bushfire Management Plan prepared by Bushfire Prone Planning dated 19 August 2024 have been implemented. This information should include a completed ‘Certification by Bushfire Consultant’ from the Bushfire Management Plan.</i></p> <p>Officers consider the recommended condition would ensure the implementation and ongoing management of the APZ as listed in Table 6.2(A) under Action 1 on page 47 of the BMP.</p>
<p>Vegetation classification</p> <p>DFES notes that two (2) additional images have been provided within the letter but not included in the revised BMP. While the header states they demonstrate excluded vegetation in area 7, these have not been labelled or added to the vegetation classification map, which removes context of aspect and location. DFES’ comments in this regard remain unchanged.</p> <p>Modification to the BMP is required.</p>	<p>Additional information received from the bushfire consultant contained in (Attachment 9.1.1(8)) that satisfies DFES requirements will form an addendum to the BMP to provide context and no further modification to the BMP is consider necessary.</p>
<p>Vegetation classification</p> <p>DFES notes that the vegetation classification area has broadened to include assessments</p>	<p>Additional information received from the bushfire consultant contained in (Attachment 9.1.1(8)) that satisfies DFES requirements will form an addendum to the BMP to provide</p>

Issues Raised in Submission	Response
<p>150 metres from the lot boundary and additional areas of Class G Grassland in adjoining properties to the south and west are now included. Two (2) additional images have been provided within the letter but not included in the revised BMP. While the header states they demonstrate Area 2 Grassland vegetation, these have not been labelled or added to the vegetation classification map, which removes context of aspect and location. DFES' previous comments in this regard, however, remain unchanged.</p> <p>Modification to the BMP is required.</p>	<p>context and no further modification to the BMP is consider necessary.</p>
<p>Vegetation Management</p> <p>DFES notes comment by the practitioner that the area is fenced and evidence of livestock and burn piles demonstrate that the adjacent property owner is managing this land, however DFES' previous comments in this regard remain unchanged.</p> <p>Modification to the BMP is required.</p>	<p>Additional information received from the bushfire consultant contained in (Attachment 9.1.1(8)) that satisfies DFES requirements will form an addendum to the BMP to provide context and no further modification to the BMP is consider necessary.</p>
<p>BAL Contour Map</p> <p>DFES notes that the vegetation classification and BAL Contour Map's assessment areas have been updated to extend to 150m of the external boundary and detail the location of the incidental campground. Notwithstanding, the caravan and camping sites remain to be considered by the proponent as a tolerable loss. The BAL Contour Map now shows this area to be located in BAL-29, however the potential for delayed evacuation remains.</p> <p>The decision maker is to be satisfied that the evacuation of visitors using the camping area is not delayed by attempts to protect their assets, which the proponent considers tolerable losses.</p>	<p>Additional information received from the bushfire consultant confirmed the BMP mapping has been updated to include the camp area on the BAL Contour Map refer (Attachment 9.1.1(8)).</p> <p>Improvements to the driveway in the battleaxe to allow two-way traffic would assist with evacuation of larger vehicles and caravans in an emergency situation. The application proposes six camping events at weddings and the facility will be closed during days with a forecast Fire Danger Rating of Extreme and Catastrophic which will reduce the risk significantly.</p>
<p>Vulnerable Tourism Land Uses - Siting and Design</p>	<p>Additional information received from the bushfire consultant confirmed the BAL contour map has been updated demonstrating that all</p>

Issues Raised in Submission	Response
<p>The BMP has been updated to demonstrate the campsite is located in an area of BAL-29 and below, however vegetation classifications in Areas 2 and 7 remain unvalidated and it is unclear if all cabins, particularly those on the eastern and southern sides of the lot can achieve BAL-29 or below.</p> <p>Modification to the BMP is required.</p>	<p>cabins and campsites are located in an area of BAL-29 or below (Attachment 9.1.1(8)).</p>
<p>Vulnerable Tourism Land Uses - Vehicular Access</p> <p>DFES notes that considerable consultation has been undertaken to resolve vehicular access in the event of a bushfire and that the battleaxe design presents challenges in facilitating two-way egress. Given the option for a secondary access point is unlikely, options for widening the entry of the property are imperative to facilitate 2-way access/egress and should be further explored.</p> <p>Decision maker to be satisfied that during a bushfire emergency, visitors can evacuate at the same time emergency services are attending.</p>	<p>Additional information received from the bushfire consultant in (Attachment 9.1.1(8)) provided various options for enhanced vehicular access. Officers consider that option 1 is in line with what the Shire consider a workable option.</p> <p>The existing accessway onto Jayes Road will require upgrading/widening to achieve bushfire protection standards under State Planning Policy 3.7 – Planning in Bushfire Prone Areas and Shire requirements. It is recommended that the accessway be widened to allow two vehicles to pass comfortably, which is feasible given the battleaxe current width of 10 meters. The crossover access would also need to be widened by removing the entry statements and a condition is recommended to be imposed if approval is granted.</p>
<p>Vulnerable Tourism Land Uses – Water</p> <p>DFES notes the additional images evidencing the tank couplings, as per AS2419.1 Section 4 have been installed to the water tank that is dedicated for firefighting purposes. For clarity, these should be included in the BMP. It was not observed in the images provided that there is signage depicting that the water tank is for firefighting use only and that adjacent hard standing is provided for access by a type 3.4 appliance. DFES also notes commentary regarding the secondary 20,000L firefighting tank forming part of a future proposal. The decision maker to be satisfied that Table 6.2(A)</p>	<p>The development if approved will be subject to the following recommended condition:</p> <p><i>Information is to be provided demonstrating that the measures contained in Tabel 6.2(A), (B) and (C) and 6.3 under Part 5 of the Bushfire Management Plan prepared by Bushfire Prone Planning dated 19 August 2024 have been implemented. This information should include a completed 'Certification by Bushfire Consultant' from the Bushfire Management Plan.</i></p> <p>Officers consider the recommended condition would ensure compliance with the required firefighting static water supply as listed in</p>

Issues Raised in Submission	Response
<p>item 3 provides a sufficient mechanism to ensure ongoing compliance is achieved.</p> <p>Decision maker to be satisfied that ongoing compliance will be achieved, as proposed.</p>	<p>Table 6.2(A) under Action 3 on page 47 of the BMP.</p>
<p>Bushfire Emergency Evacuation Plan (BEEP)</p>	
<p>DFES notes that the comment has been acknowledged.</p> <p>Comment only.</p>	<p>Noted</p>
<p>Refuge Building or Refuge Open Space Area</p> <p>DFES notes that the comment has been acknowledged.</p> <p>Comment only.</p>	<p>Noted</p>
<p>Recommendation – compliance with acceptable solutions not demonstrated – modifications required.</p> <p>It is critical the bushfire management measures within the BMP are refined to ensure they are accurate and can be implemented to reduce the vulnerability of the development to bushfire. The proposed development has not demonstrated compliance to the following: 1. Element 5: Vulnerable Tourism Land Uses.</p>	<p>If approved, the applicant will be responsible to implement the measures contained in Tabel 6.2(A), (B) and (C) and 6.3 under Part 5 of the Bushfire Management Plan prepared by Bushfire Prone Planning dated 19 August 2024. Thereafter a ‘Certification by Bushfire Consultant’ is to be lodged with the shire to confirm compliance with all of the actions listed in the BMP. The applicant has also proposed to close the facility on days with a forecast Fire Danger Rating of Extreme or Catastrophic.</p>

Public consultation

Staff provided written notification to all adjoining/nearby landowners within a 1km radius of the property, and a notice was placed on the Shire website in accordance with Schedule 2, Clause 64 of the *Planning and Development (Local Planning Scheme) Regulations 2015* with a submission period of 14 days (concluding on 4 July 2024).

In response to the advertising, fourteen (14) public submissions were received at the conclusion of the public advertising period (10 supporting, 1 providing conditional support, 1 concerned and 1 objection to the application). The Public Submissions are contained in ([Attachment 9.1.1\(4\)](#)).

A summary of key issues/concerns raised in the submissions is provided and Staff response is provided below.

Issues/Concerns Raised in Submission	Response
<p>Proposal will increase traffic and driveway should be sealed.</p> <p>Jayes Road is unsuitable.</p>	<p>Jayes Road was recently widened and resealed from South Western Highway up to and beyond the entrance to Jalbrook Estate. The proposal will increase the amount of traffic using the road, but the road is in a good condition and capable of accommodating the traffic. The Shire’s Works and Services Staff have provided comments on the proposal that will require imposition of conditions for the applicant to action including upgrading the driveway to improve access/egress, no parking will be allowed along Jayes Road and dust suppression to be considered.</p>
<p>Concerned with noise impacts from music at events.</p>	<p>The applicant’s comment (and which is supported by some submitters) that the current activities on the site are well managed and have not caused concerns to neighbours or nearby landowners.</p> <p>The proposal was referred to the Department of Water and Environmental Regulation to consider. The Department advised that due to potential noise emissions <i>“The application would benefit from acoustic modelling to determine whether noise emissions can comply with the Environmental Protection (Noise) Regulations 1997”</i>.</p> <p>This advice is supported by the Shire’s Environmental Health Services Staff that recommend a Noise Impact Assessment and Noise Management Plan be prepared to ensure the proposal can achieve the requirements of the Noise Regulations. The Noise Management Plan would bind all events and operators (even if the property were to change hands) and include any noise reduction measures required to be implemented as well as a noise complaints response procedure.</p>
<p>Concerned with effluent disposal for camping area</p>	<p>As noted in Clause 4.37 the use of the existing approved kitchen and toilet facilities are to be supplemented with hiring of additional</p>

Issues/Concerns Raised in Submission	Response
	portable facilities when required (such as for ticketed events and camping) and this is considered adequate.
Concerned with potential lack of on-site parking and guests using Jayes Road.	<p>The proposal includes 100 car parking bays which is considered sufficient on-site parking as discussed in 4.27 Car parking and vehicle access requirements above.</p> <p>To reinforce that Jayes Road shall not be used for any event parking, and this is included as condition of approval, if granted.</p>
Concerned with bushfire risks.	<p>If approved, the applicant will be responsible to implement the measures contained in Tabel 6.2(A), (B) and (C) and 6.3 under Part 5 of the Bushfire Management Plan (Attachment 9.1.1(5)) prepared by Bushfire Prone Planning dated 19 August 2024. Thereafter a 'Certification by Bushfire Consultant' is to be lodged with the shire to confirm compliance with all of the actions listed in the BMP. The applicant has also proposed to close the facility on days with a forecast Fire Danger Rating of Extreme or Catastrophic.</p>

Officer Comment

The proposal has been assessed in accordance with the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the Shire of Donnybrook Balingup Local Planning Scheme No. 7. Key considerations identified that the development is consistent with the objectives of the Tourist zone. The proposal was advertised, and submissions received from nearby landowners and some agencies. Key considerations identified includes traffic/road condition, bushfire, noise, adequacy of services for the proposal.

Traffic/road condition

Jayes Road has recently undergone widening and resealing from South Western Highway to the entrance of Jalbrook Estate and beyond. While the proposal will increase the volume of traffic on the road, its current condition is good and capable of accommodating the additional load. However, to ensure safety and compliance with bushfire protection standards, the existing accessway onto Jayes Road will require upgrades and widening. It is recommended that a condition be imposed to widen the accessway sufficiently to allow two vehicles to pass comfortably. Given the current battleaxe width of 10 meters, this improvement is feasible. Additionally, the crossover access needs to be expanded by removing the entry statements and some vegetation. This will facilitate the widening of the access

driveway and allow for an upgraded bitumen-sealed two-way driveway. These upgrades are crucial not only for enhancing traffic flow but also for ensuring compliance with Shire requirements and improving overall safety for all road users. Implementing these changes will contribute to a more efficient and secure access point to Jayes Road, aligning with the increased traffic expected from the proposal.

Bushfire

The applicant will be responsible for implementing the measures outlined in the Bushfire Management Plan (BMP) ([Attachment 9.1.1\(5\)](#)). Before the commencement of any use, a 'Certification by Bushfire Consultant' must be submitted to the Shire to confirm compliance with all actions specified in the BMP. This certification will serve as an assurance that all necessary precautions and strategies are in place to mitigate bushfire risks. Additionally, the applicant has proposed to close the facility on days when the forecast Fire Danger Rating is categorized as Extreme or Catastrophic. To ensure the effective management of bushfire risks, it is recommended that conditions be imposed to guarantee ongoing implementation and compliance with both the BMP ([Attachment 9.1.1\(5\)](#)) and the Bushfire Emergency Plan (BEP) ([Attachment 9.1.1\(6\)](#)). This will help maintain a safe environment for all users and protect the surrounding area from potential fire hazards.

Noise

The Department of Water and Environmental Regulation has raised concerns regarding potential noise impacts on residents located 80 meters away from an open function marquee where amplified music will be played. Given the generally low background noise levels in the area, these residents are likely to experience disturbances. While the applicant has provided some "in-house acoustic monitoring," the Shire Environmental Health Officer has indicated that this information is insufficient to determine compliance with the Noise Regulations for nearby receivers. To address these concerns, it is recommended that a condition be imposed requiring a comprehensive Noise Impact Assessment to be completed. Additionally, a Noise Management Plan should be developed and implemented prior to the commencement of the use. These measures will help ensure that the development adheres to the *Environmental Protection (Noise) Regulations 1997*, providing assurance that noise emissions will be managed effectively and reduce potential impacts on the surrounding community.

Servicing

The proposed camping ground is currently facing significant infrastructure challenges due to the absence of essential facilities. Key requirements, such as an ablution block, laundry services, and access to potable water, are necessary for compliance with regulations. As it stands, the camping area lacks these amenities. The applicant's proposal to hold six camping events per year, using portable toilets and showers, offers a practical solution. However, securing an exemption from the Minister is essential before any camping events can commence. This process may require the applicant to demonstrate how the temporary facilities will adequately meet the needs of campers while ensuring that all safety standards are upheld.

Development considerations

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.*

Officers have assessed the application, including the submissions and advice from Agencies and other Shire service divisions. Officers consider the proposal capable of being approved and managed through reasonable and achievable conditions of approval.

Conclusion

The application complies with the requirement of orderly and proper planning and, therefore, Officers consider that the proposal may proceed and recommend it be granted approval subject to conditions and advice. The conditions and advice on the approval address the matters raised in the public and agency submissions.

9.2 Director Finance and Corporate

9.2.1. Schedule of Accounts Paid as at 30 September 2024

Report Details:

Prepared by: Finance Officer

Manager: Manager Financial Services

File Reference: FNC

Voting Requirement: Simple Majority

Attachment(s):

9.2.1(1) Schedule of Accounts Paid Under Delegation

Executive Recommendation

That Council:

Receive the accounts for payment report for the period ended September 2024 as per Attachment 9.2.1(1)

Strategic Alignment

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

Outcome: 12 - A well respected, professionally run organisation.

Objective: 12.1 - Deliver effective and efficient operations and service provision.

Executive Summary

That in accordance with Regulation 13 (3) of the *Local Government (Financial Management) Regulations 1996*, Council receive the "Schedule of Accounts Paid" covering the period 1 September 2024 to 30 September 2024, the schedule contains details of the following transactions:

- **Municipal Account – payments totalling \$2,548,176.71.**

Credit Card payments	3577-3582
EFT Payments	EFT29290C – EFT29451C
Cheque Payments	53807 – 53809
Direct Debit payments	DD27963, 27982 & 27984

Background

In accordance with Delegation 1.2.23 – payments from the Municipal or Trust funds adopted by Council on 18 September 2024, the Chief Executive Officer is authorised to incur expenditure in accordance with the Annual Budget provisions and limited over-expenditure subject to subsequent budget amendments. In doing so, section 13 of the *Financial Management Regulations 1996* is to be adhered to with a list of accounts for approval to be presented to Council each month.

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Financial Impact	Unlikely	Minor	Low (2)
Risk Description:	Additional checks and balances of accounts paid by the Shire.		
Mitigation:	Monthly reporting on accounts paid.		
Compliance	Unlikely	Minor	Low (2)
Risk Description:	Meeting legislative requirement of financial reporting to the Council		
Mitigation:	Monthly reporting on accounts paid.		

Financial Implications

All liabilities settled have been in accordance with the annual budget provisions.

Policy Compliance

- FIN/CP-4 Purchasing
- FIN/CP-5 Regional Price Preference
- FIN/CP-7 Credit Card

Statutory Compliance

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Where the local government has delegated the CEO the exercise of its power to make payments from the municipal fund or the trust funds, Regulation 13 requires that a list of accounts paid by the CEO is to be prepared each month showing for each account paid:

- (a) The payee's name; and
- (b) The amount of the payment; and
- (c) The date of the payment; and
- (d) Sufficient information to identify the transaction.

This list of accounts is to be:

- (a) Presented to Council at the next ordinary meeting of the Council after the list is prepared; and
- (b) Recorded in the minutes of that meeting.

Consultation

Relevant staff have been consulted and have authorised the payments.

Officer Comment

For a detailed listing of payments see [Attachment 9.2.1\(1\)](#)

Please raise any queries prior to the meeting to enable questions to be investigated and a response prepared.

9.2.2. Statement of Financial Activity report as at 31st August 2024

Report Details:

Prepared by: Acting Manager Financial Services

Manager: Acting Director Finance & Corporate

File Reference: Nil.

Voting Requirement: Simple Majority

Attachment(s):

9.2.2(1) Statement of Financial Activity August

Executive Recommendation

That Council receive the Statement of Financial Activity report for the period ending 31st August 2024 as per Attachment 9.2.2(1)

Strategic Alignment

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

Outcome: 12 - A well respected, professionally run organisation.

Objective: 12.1 - Deliver effective and efficient operations and service provision.

Item: Nil.

Executive Summary

Pursuant to Section 6.4 of the *Local Government Act 1995 (the Act)* and Regulation 34(4) of the *Local Government (Financial Management) Regulations 1996 (the Regulations)*, a local government is to prepare, on a monthly basis, a monthly financial report presented to Council details the Shire's performance in relation to its adopted/amended budget and actuals.

This report has been compiled to fulfil the statutory reporting requirements of the Act and associated Regulations, whilst also providing the Council with an overview of the Shire's financial performance for the period ending 31st August.

Background

The Regulations detail the form and manner in which the monthly financial report is to be presented to the Council, and is to include the following:

- Annual budget estimates.
- Budget estimates to the end of the month in which the statement relates.
- Actual amounts of revenue and expenditure to the end of the month in which the statement relates.
- Material variances between budget estimates and actual revenue/expenditure.
- Net current assets at the end of the month to which the statement relates.

Additionally, and pursuant to Regulation 34(5) of the Regulations, a local government is required to adopt a material variance reporting threshold in each financial year.

At its Special Meeting of Council on 18th September 2024 it was recommended Council adopt the following material variance reporting thresholds for the 2024/25 financial year:

A material variance for reporting of \$10,000, for 2024/2025, pursuant to Regulation 34(5) of the Local Government (Financial Management) Regulations 1996.

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Financial Impact	Unlikely	Moderate	Moderate (6)
Risk Description:	Monetary loss that may or may not be managed within existing budget or may not impact a program or services		
Mitigation:	Reporting financials monthly		
Compliance	Unlikely	Minor	Low (4)
Risk Description:	Meeting legislative requirement of financial reporting to the Council		
Mitigation:	Monthly reporting on financial reports.		

Financial Implications

Budget

There are no financial implications relevant to this proposal.

Long Term

As no assets/infrastructure are being created, there are no long-term financial implications relevant to this proposal.

Policy Compliance

Nil.

Statutory Compliance

Section 6.4 of the *Local Government Act 1995* and Regulation 34 of the *Local Government (Financial Management) Regulations 1996* detail the form and manner in which a local government is to prepare financial activity statements.

Consultation

The Shire's Executive Team, Department Managers and Finance staff monitor the Shire's monthly revenue and expenditure.

Approved budget amendments are recorded in the financial statements to always reflect the Shire's current budget and financial position.

Officer Comment

With the timing of preparing the August Financial Statement for inclusion in the October agenda and the lateness of the 2024/2025 budget being adopted the figures shown in the August Financial Activity Statements are compared to **draft** budget amounts only.

Material variance reporting will have anomalies due to the budget timing data yet to be included at the time this Agenda Report was completed. This will be addressed at subsequent Financial Reports present to Council from November 2024 Council meeting.

9.2.3. Budget Variation Request – ICT Disaster Recovery Plan & Testing

Report Details:

Prepared by: Maurice Battilana, Acting Director Finance & Corporate Services
Manager: Maurice Battilana, Acting Director Finance & Corporate Services
File Reference: FNC 04/1 **Voting Requirement:** Absolute Majority
Attachment(s):
 Nil.

Executive Recommendation

Council endorse the following 2024/2025 budget variation to accommodate cost for the establishment of an integrated Information Communication and Technology (ICT) Disaster Recovery Plan and the testing of this plan:

<i>COA No.</i>	<i>Budget Description</i>	<i>Adopted COA Budget Allocation</i>	<i>Recommended Variance</i>	<i>Amended COA Budget Balance</i>
2512	<i>Admin Overheads – Network Switch</i>	<i>\$111,800</i>	<i>-\$7,800</i>	<i>\$104,000</i>
9032	<i>Consultants – Other Governance</i>	<i>\$110,500</i>	<i>+\$7,800</i>	<i>\$118,300</i>
	<i>Allocate the amount of \$5,000 for “Consultancy Contingency” to “the establishment of an integrated Information Communication and Technology (ICT) Disaster Recovery Plan and test”</i>			
<i>Net Effect on Overall 24/25 Budget</i>		<i>\$222,300</i>	<i>\$0</i>	<i>\$222,300</i>

Strategic Alignment

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

- Outcome:** 12 - A well respected, professionally run organisation.
- Objective:** 12.1 - Deliver effective and efficient operations and service provision.
- Item:** 12.1.3 - Review Shire IT, including business and customer service software (such as intramaps).

Executive Summary

The establishment of a robust, integrated and regularly tested Information, Communication and Technology Disaster Recovery Plan is integral to the business continuity of the organisation in the situation of an event which may compromise the operations of the Shire. The Shire currently does not have an ICT Disaster Recovery Plan even though this is referred to in other crisis and disaster management plans.

Background

A full review is in progress of the Shire's *Crisis Management & Business Continuity Response Plan* (CMBCRP), which will hopefully be presented to the Audit & Risk Management Committee for consideration soon. The existing (and revised) CMBCRP refers to an ICT Recovery Plan (ICTRP), which does not exist, hence the reason there is an urgency to establish such a Plan and to have external IT consultants test the validity of the Plan in a "real life" failover situation. Without rigorous and regular testing of the ICTRP the situation may arise where the Shire is unable to reestablish its operational activities in a prioritise, timely and appropriate manner if/when there is a crisis or event which compromises the Shire's operational capabilities.

The CMBCRP and ICTRP need to be integrated with other Shire Plans e.g.

- Local Emergency Management Arrangement and Local Recovery Plan;
- Recordkeeping System Disaster Recovery Plan (RKS)
- Risk Management Framework

The CMBCRP review process is inclusive of other areas and staff within the organisation responsible for specific Plans to ensure these are integrated and relevant.

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Service Interruption	Likely	Major	High (10)
Risk Description:	In the event a situation arises where the Shire's ICT capacity and availability is compromised the organisation will not be able to undertake the basic operational functions and therefore unable to service its community at a desired level. Crisis situation could be many and varied (e.g. cyber-attack, natural disaster, fire, etc.).		
Mitigation:	The establishment of a robust and regularly tested ICT Disaster Management Plan, which allocated responsibilities (both external & internal) and priorities ICT specific functions to be brought back online within acceptable timeframes, is essential to minimising the adverse effects of a crisis event. Without such a Plan being in place and regularly testing the integrity of the Plan leave the organisation significantly exposed.		

Financial Implications

The 2024/2025 Adopted Budget contained a nominal amount of \$7,800 for new switch hardware to be purchased. In discussions with the Shire's Information Systems Officer it has been agreed the new switch hardware can be deferred until the 2025/2026 Budget as it was considered far more important for the Shire to establish an integrated Information Communication and Technology (ICT) Disaster Recovery Plan and to test the integrity of this plan this financial year.

There is also an amount \$5,000 listed in the 2024/2025 Budget under COA 9032 *Consultants Other* for "Consultancy Contingency".

The recommendation is to use the combined amounts of the new switch (\$7,800) and the consultancy contingency amount (5,000) to cover the quoted cost of \$11,800 (GST Exclusive) for the establishment of an integrated Information Communication and Technology (ICT) Disaster Recovery Plan and to test the integrity of this plan this financial year

The budget variation being recommended has a zero effect on the overall budget i.e.

COA No.	Budget Description	Adopted COA Budget Allocation	Recommended Variance	Amended COA Budget Balance
2512	Admin Overheads – Network Switch	\$111,800	-\$7,800	\$104,000
9032	Consultants – Other Governance	\$110,500	+\$7,800	\$118,300
	Allocate the amount of \$5,000 for "Consultancy Contingency" to "the establishment of an integrated Information Communication and Technology (ICT) Disaster Recovery Plan and test"			
Net Effect on Overall 24/25 Budget		\$222,300	\$0	\$222,300

Policy Compliance

Council current *Crisis Management & Business Continuity Recovery Plan* (CMBCRP) is in the process of being reviewed. The review process has highlighted there is no existing ICT Disaster Recovery Plan, even though this is referenced in the CMBCRP and other Shire crisis/disaster plans.

Statutory Compliance

Section 6.8 of the *Local Government Act 1995* refers to expenditure from the municipal fund not included in the Annual Budget. In the context of this report, where no budget allocation exists, expenditure is not to be incurred until such time as it is authorised in advance, by an absolute majority decision of the Council.

Consultation

Consultation has been ongoing with the Shire external IT Consultants (Harmonic IT) for costs to establish and test an ICT Disaster Recovery Plan. The quotes received is \$11,800 (GST Exclusive) to establishment of an integrated Information Communication and Technology (ICT) Disaster Recovery Plan and to test this plan.

Consultation has also commenced between Shire Officers responsible for other plans linked (directly or indirectly) to the review of the existing CMBCRP to ensure all relevant plans are integrated.

Officer Comment

It is recommended Council supports the proposed budget amendments as outlined in the Executive Recommendation.

9.2.4. Review of Local Laws under section 3.16 of the *Local Government Act 1995*

Report Details:

Prepared by: Governance Coordinator

Manager: Manager Corporate Services

Location: Shire of Donnybrook Balingup

File Reference: CNL 25

Voting Requirement: Simple Majority

Attachment(s):

9.2.4(1) Local Public Notice (draft)

Executive Recommendation

That Council:

- 1. In accordance with section 3.16 of the *Local Government Act 1995*, gives local public notice stating that:
 - 1.1. The Shire of Donnybrook Balingup proposes to review its local laws;**
 - 1.2. Copies of the Shire’s local laws may be inspected at, or obtained from, the Shire’s Administration Office and the Shire’s website; and**
 - 1.3. Submissions on the Shire’s local laws may be made to the Shire within a period of not less than 6 weeks after the notice is given.****
- 2. Notes that in accordance with section 3.16 of the *Local Government Act 1995*, the results of the public consultation will be presented to Council for consideration of any submissions received.**

Strategic Alignment

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

Outcome: 11 - Strong, visionary leadership.

Objective: 11.1 - Provide strategically focused, open and accountable governance.

Item: 11.1.2 - Provide a review of local laws.

Executive Summary

Council is requested to consider commencing the review of the Shire’s local laws and to give local public notice calling for submissions. Section 3.16 of the *Local Government Act 1995* (the Act) requires that local laws are reviewed within a period of eight years and specifies the necessary review process.

Background

The Shire has fourteen current local laws, each of which have been adopted by Council. Local laws are required to be reviewed within a period of eight years from the day when a local law commenced, or a report of a review of the local law was undertaken, in accordance with s.3.16 of the Act. Six of the

Shire's local laws are overdue for review, and eight are due within the next calendar year (2025). It is proposed to review all of the Shire's local laws concurrently, towards achieving cost savings, efficiency and legislative compliance.

The below table sets out the titles of the Shire's local laws, along with publishing information in the *WA Government Gazette* and comments where relevant.

Title	Published in <i>WA Government Gazette</i> (note: Commencement Date 14 days after date of publication in Gazette)	Comments
<i>Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000</i>	Original: 17 Oct 2000, No. 215 Amendment: 31 Oct 2008, No. 186 19 Apr 2016, No. 63 3 Mar 2017, No. 50	Potential to merge with <i>Local Government Property Local Law 2000</i> .
<i>Animals, Environment and Nuisance Local Law 2017</i>	Original: 14 Jun 2017, No. 114	Repealed sections of Part 5 and 6 of <i>Health Local Laws 1999</i> . Proposed Animals, Environment and Nuisance Amendment Local Law 2024 currently being advertised for public comment.
<i>Bush Fire Brigades Local Law 2000</i>	Original: 17 Oct 2000, No. 215 Amendment: 13 Apr 2017, No. 79	
<i>Cat Local Law 2016</i>	Original: 27 May 2016, No. 85 Amendment: 3 Mar 2017, No. 50	
<i>Cemeteries Local Law 2008</i>	Original: 30 Dec 2008, No. 230 Amendment: 6 Jan 2015, No. 1	
<i>Dog Local Law 2000</i>	Original: 17 Oct 2000, No 215 Amendment: 3 Jun 2008, No. 84 13 Apr 2017, No. 79	May require amendment to ensure local law reflects changes to <i>Dog Act 1976</i> and Regulations, regarding establishment of off leash exercise areas.
<i>Extractive Industries Local Law 1998</i>	Original: 9 Jun 1998, No 115 Amendment: 31 Oct 2008, No. 186 19 Apr 2016, No. 63	

Title	Published in <i>WA Government Gazette</i> (note: Commencement Date 14 days after date of publication in Gazette)	Comments
<i>Local Laws Relating to Fencing 1999</i>	Original: 3 Sept 1999, No. 171 Amendment: 31 Oct 2008, No. 186 19 Apr 2016, No. 63	
<i>Health Local Laws 1999</i>	Original: 14 Mar 2000, No. 45 Amendment: 18 May 2001, No. 95 14 Jun 2017, No. 114	
<i>Local Government Property Local Law 2000</i>	Original: 17 Oct 2000, No 215 Amendment: 6 Jan 2015, No. 1	Potential to merge with <i>Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000</i> .
<i>Meeting Procedures Local Law 2017</i>	Original: 29 September 2017, No 189	State Government is proposing to replace all Meeting Procedures local laws with regulations, as part of amendments to the <i>Local Government Act 1995</i> . Meeting Procedures Local Law 2018 resolved by Council 27 Jun 2018 and Gazetted 4 Jul 2018, No. 106. However, it appears the full legislative process was not followed, with the 2017 local law remaining valid.
<i>Outdoor Eating Areas Local Law 2013</i>	Original: 24 Jan 2014, No 9	
<i>Parking and Parking Facilities Local Law 2000</i>	Original: 17 Oct 2000, No. 215 Amendment: 3 Jun 2008, No. 84	
<i>Waste Local Law 2017</i>	Original: 14 Jun 2017, No. 114	Proposed Waste Amendment Local Law 2024 currently being advertised for public comment.

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Compliance	Almost Certain	Moderate	High (15)
Risk Description:	Non-compliance with legislation pertaining to the Shire's local laws.		
Mitigation:	Commence the review of the Shire's local laws and give local public notice calling for submissions.		

Financial Implications

The costs associated with Council's decision to commence the review of local laws and give local public notice seeking submissions are estimated at:

- a) Consultant Fees: \$1,936.00 ex. GST (includes review of local laws against current legislation); and
- b) Advertising: \$464.37 ex. GST (South Western Times publication).

In the event any Local Law(s) require amendment or repeal the next stage of the review process will be initiated. An amount has been allocated in the 2024/2025 Adopted Budget of \$10,000 to complete the Local Law Review process and a quote will be obtained from an external consultant assist Shire Staff with the next stage if required.

Policy Compliance

Nil.

Statutory Compliance

Section 3.16 of the *Local Government Act 1995* (the Act)

Section 3.5 of the Act enables local governments to make local laws.

Section 3.12 of the Act sets out the process for making a local law.

Section 3.12(8) of the Act further defines making in relation to a local law, including making a local law to amend the text of, or repeal, a local law.

Consultation

Conway Highbury, a consultant specialising in local government matters, particularly local laws, has been engaged to assist with reviewing the Shire's local laws.

Section 3.16 of the Act requires the Shire to give local public notice of the review and to invite submissions from the public for a minimum of six weeks (42 days). Once endorsed by Council, the draft local public notice ([Attachment 9.2.4\(1\)](#)) will be published on the Shire's website under the 'Latest News' section, advertised in the South Western Times publication and Preston Press newsletter.

The six-week (42-day) period must be 'clear' days – s. 61 of the *Interpretation Act 1984* prescribes this to mean that the day on which it is published and the day on which submissions close cannot be

counted in the 42-day period. In addition, the final day for submissions must not fall on a Saturday, Sunday or public holiday. If it does, the final day is taken to be the next normal working day.

Officer Comment

The review process for local laws specified in s.3.16 of the Act must be adhered to for the review to be compliant with legislation.

Should Council resolve to commence the review of the Shire's local laws, the following sequence of events will commence:

1. Local public notice will be given, seeking submissions from the public for a period of not less than six weeks after the notice is given, and detailing where copies of the local laws may be inspected or obtained from;
2. After the close of advertising, submissions received will be presented to Council for consideration, along with any recommendations from an internal review; and
3. When Council has considered the report inclusive of submissions, it may determine (by Absolute Majority) whether or not any of the Shire's local laws be amended or repealed. If any changes are proposed, s. 3.12 of the Act details the process to be followed.

The Shire's current local laws are considered functional; however, it is apparent some changes will be needed to several of the local laws to ensure they comply with State legislation, reflect current practice and enable efficient application. Analysis and recommendations will be presented to Council after the close of the public submissions period for the commencement of the local law review, as detailed above.

9.2.5 Policy Review: EM/CP-6-Caretaker

Report Details:

Prepared by: Manager Corporate Services

Manager: Maurice Battilana, Acting Director Finance and Corporate

File Reference: ADM 11/4

Voting Requirement: Simple Majority

Attachment(s):

9.2.5(1) Draft Council Policy EM/CP-6-Caretaker

Executive Recommendation

That Council:

1. **Notes the Triennial review of Council Policy EM/CP-6- Caretaker** (Attachment 9.2.6(1)); and
2. **Adopt the draft Council Policy EM/CP-6-Carteaker** (Attachment 9.2.6(1)), **inclusive of the minor amendment as outlined in the report.**

Strategic Alignment

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

Outcome: 11 - Strong, visionary leadership.

Objective: 11.1 - Provide strategically focused, open and accountable governance.

Item: Nil.

Executive Summary

Council is requested to note the policy review undertaken and adopt the minor amendment made to Council Policy EM/CP-6- Caretaker as outlined in this report.

Background

Council first adopted its Caretaker policy in 2017, with further amendments made at its Ordinary Council meeting held, 21 December 2021 (Resolution 213/21) the changes made were as follows:

- Removed policy number 1.18 and added new policy ID; and
- Add a scope and definitions for 'the Act' and 'CEO'; and
- Changed the word 'staff' to 'shire employees', changed 'the caretaker Policy' to 'this policy', changed 'The Shire's Code of Conduct and the Local Government (Rules of Conduct) Regulations 2007' to 'The Code of Conduct for Council Members, Committee Members and Candidates and the *Local Government (Code of Conduct) Regulations 2021* under the heading Use of Shire Resources; and
- Updated references to other clause numbers within the policy; and
- Removed section 17. Media Attention, as it's covered in the Code of Conduct Div 4 Sec 17; and

- Removed *Local Government (Rules of Conduct) Regulations 2007*; and
- Added *Local Government (Model Code of Conduct) Regulations 2021*.

Based on the policy's risk rating, its review frequency is scheduled for biennial evaluation.

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Compliance	Unlikely	Insignificant	Low (2)
Risk Description:	Failing to conduct regular reviews of Council policies.		
Mitigation:	Regular reviews are scheduled to take place in line with the policies risk rating.		

Financial Implications

Nil.

Policy Compliance

Council Policy EXE/CP-8- Policy Framework

The review and amendments made to Council Policy EM/CP-6- Caretaker are in line with the requirements of the Council Policy EXE/CP-8- Policy Framework.

Statutory Compliance

Local Government Act 1995

Section 2.7 states that the role of Council is to determine the local governments policies.

Consultation

Internal consultation has been undertaken in relation to the policy review.

Officer Comment

The biennial review has been conducted with one minor amendment for Council's consideration. The amendments are listed below:

- Updated 6.3 from *Local Government (Code of Conduct) 2021 Regulations 2021* to *Local Government (Model Code of Conduct) Regulations 2021*; and
- Reformatted to new template.

Council is requested to note the policy review undertaken and adopt the amendments.

9.2.6 Policy Review: EXE/CP-4- Welcome and Acknowledgment of Country

Report Details:

Prepared by: Manager Corporate Services

Manager: Maurice Battilana, Acting Director Finance and Corporate

File Reference: ADM 11/4

Voting Requirement: Simple Majority

Attachment(s):

9.2.6(1) Draft Council Policy EXE/CP-4- Welcome and Acknowledgment of Country

9.2.6(2) Current Council Policy EXE/CP-4- Welcome and Acknowledgment of Country

Executive Recommendation

That Council:

1. **Notes the Triennial review of Council Policy EXE/CP-4- Welcome and Acknowledgment of Country Attachment 9.2.6(1); and**
2. **Adopt the draft Council Policy EXE/CP-4- Welcome and Acknowledgment of Country Attachment 9.2.6(1), inclusive of the minor amendment as outlined in the report.**

Strategic Alignment

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

Outcome: 11 - Strong, visionary leadership.

Objective: 11.1 - Provide strategically focused, open and accountable governance.

Item: Nil.

Executive Summary

Council is requested to note the policy review undertaken and adopt the Council Policy EXE/CP-4- Welcome and Acknowledgment of Country as presented in [Attachment 9.2.6\(1\)](#).

Background

Council first adopted an its Welcome and Acknowledgement in 2015, with further amendments made at its Ordinary Council meeting held, 21 December 2021 (Resolution 213/21) the changes made were as follows:

- Removed policy number 1.15 and added new policy ID; and
- Added objective and scope; and
- Removed procedural information
- Added information on:
 - Reference to Noongar people
 - Acknowledgement of Country updated to include event and document types

- o Referenced the SWALSC and their protocols

Based on the policy's risk rating, its review frequency is scheduled for triennial evaluation.

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Compliance	Unlikely	Insignificant	Low (2)
Risk Description:	Failing to conduct regular reviews of Council policies.		
Mitigation:	Regular reviews are scheduled to take place in line with the policies risk rating.		

Financial Implications

Nil.

Policy Compliance

Council Policy EXE/CP-8- Policy Framework

The review and amendments made to Council Policy EXE/CP-4- Welcome and Acknowledgment of Country are in line with the requirements of the Council Policy EXE/CP-8- Policy Framework.

Statutory Compliance

Local Government Act 1995

Section 2.7 states that the role of Council is to determine the local governments policies.

Consultation

Consultation has been undertaken in relation to the policy review with the South West Aboriginal Land and Sea Council.

Officer Comment

The triennial review has been conducted with amendments made as per the tracked changes in [Attachment 9.2.6\(1\)](#), Council should note that the policy has been reformatted and transferred into the new template. Council is requested to note the policy review undertaken and adopt the amendments made to Council Policy EXE/CP-4- Welcome and Acknowledgment of Country.

9.3 Chief Executive Officer

9.3.1 Proposed Budget Variation Bunbury Geographe Tourist Partnership Membership Subscription

Report Details:

Prepared by: Tim Clynch, Chief Executive Officer (Temporary)

Manager: Nick O'Connor, Chief Executive Officer

File Reference: Nil. **Voting Requirement:** Absolute Majority

Attachment(s):

Nil.

Executive Recommendation

That Council:

1. Approve unbudgeted expenditure of \$20,000 for its 2024/25 membership subscription to the Bunbury Geographe Tourist Partnership.
2. Endorse the following 2024/2025 budget variation to unbudgeted expenditure:

COA No.	Budget Description	Adopted COA Budget Allocation	Recommended Variance	Amended COA Budget Balance
0252	Community Grants	\$22,000	-\$22,000	\$0
0252	Donations Minor	\$2,500	\$2,000	\$4,500
0252	New – Bunbury Geographe Tourist Partnership	\$0	\$20,000	\$20,000
Net Effect on Overall 24/25 Budget		\$24,500	\$0	\$24,500

Strategic Alignment

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

Outcome: 10 - A popular destination for visitors and tourists.

Objective: 10.1 - Encourage more people to stop, shop and experience the Shire of Donnybrook Balingup.

Item: 10.1.1 - Partner with the Bunbury Geographe Tourism Partnership (BGTP) and Southern Forests Blackwood Valley Tourism Association (SFBVTA) to develop local tourism marketing initiatives.

Executive Summary

Council did not include funds in its 2024/25 budget to continue membership of the Bunbury Geographe Tourism Partnership (BGTP) as it believed that tourism in Donnybrook-Balingup received little value from the promotional activities of the BGTP. Removing this financial contribution was part

of Council's budget repair process where low value discretionary expenditure was closely reviewed. Since then, it has been advised that under the terms of the MOU for membership of the Bunbury Geographe Group of Councils a member isn't able to withdraw from a specific project (such as the BGTP) without giving specific notice. This notice isn't achievable to negate paying the 2024/25 BGTP membership subscription.

Background

The Bunbury Geographe Tourism Partnership (BGTP), established in 2015, is a collaboration between six Local Government Authorities (LGAs) (City of Bunbury, Shires of Dardanup, Harvey, Capel, Donnybrook Balingup, and Collie). A service level agreement has been signed with Australia's Southwest (ASW) the Regional Tourism Organisation (RTO) to facilitate the delivery of BGTP's strategic direction, as contained in the BGTP Strategic Plan.

Below are some key extracts from the Strategic Plan:

Vision

Bunbury Geographe is recognised as a highly desirable visitor destination and our visitor economy contributes to the region's sustainable future.

Mission

BGTP's mission is to deliver strategic tourism leadership across the Bunbury Geographe region guiding the development of the visitor experience, building industry capacity and growing customer awareness of the region's tourism experience offering.

Purpose

We exist to grow the visitor economy through leadership, promotion, and development. With our partners, we will build Bunbury Geographe's image, drive visitation, and boost the economy.

Long Term Goal

By continuing to work in partnership, Bunbury Geographe is a highly desirable destination with a diverse range of outstanding experiences that attract more visitors, and drive jobs and sustainable investment across the region.

Core Values

- *Inspire: Enhance the reputation of Bunbury Geographe as a visitor destination and develop an emotional connection with our audiences.*
- *Inform: Build awareness for Bunbury Geographe's offering.*
- *Activate: Increase product development and visitation to Bunbury Geographe.*
- *Unite: Expand the growing sense of unity within the Bunbury Geographe tourism sector.*

Focus Areas

1. *Leadership: Provide leadership and coordination to the tourism industry creating a united and compelling voice.*
2. *Industry Development: Empower the tourism industry and help to build capacity and capability.*
3. *Product Development: Support product and infrastructure development and investment.*
4. *Destination Positioning: Increase awareness, raise the appeal, and generate demand for the destination. During the 2024/25 Council budget process councillors provided feedback from local tourist operators that indicated significant dissatisfaction with the amount of promotion*

for Donnybrook Balingup and the annual contribution of \$20,000 was deemed to offer poor value for money.

Following Council’s final budget workshop in late August the Chief Executive Officer sent notification to the Chief Executive Officers of the other Bunbury Geographe Group of Councils members of Council’s intention to withdraw from the BGTP. Advice was received back that under the Bunbury Geographe Group of Council’s MOU a member local government is required to give notice between 1 July and 31 December of a year of their intention to withdraw from a specific project. The withdrawal will then take effect from the end of the financial year. Based on this it is recommended Council retain its membership of BGTP in 2024/25.

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Compliance	Almost Certain	Major	Extreme (20)
Risk Description:	Withdrawal from a service without providing the required 1 year notice would be a breach of the agreement that exists between the 6 local governments of the Bunbury Geographe Group of Councils. Council would likely forfeit its membership of this group and may be liable for financial penalties		
Mitigation:	Pay the 2024/25 BGTP membership fee		
Reputational	Possible	Major	High (12)
Risk Description:	Breach of agreement with Bunbury Geographe Group of Councils		
Mitigation:	Pay the 2024/25 BGTP membership fee		

Financial Implications

The Executive recommendation proposes no material affect on the net budget. Alternatively, Council could approve the \$20,000 membership subscription as unbudgeted expenditure, not identify equivalent budget savings at this time, and await the mid-year budget review to find such savings.

Policy Compliance

Nil.

Statutory Compliance

Section 6.8 of the *Local Government Act 1995* refers to expenditure from the municipal fund not included in the Annual Budget. In the context of this report, where no budget allocation exists, expenditure is not to be incurred until such time as it is authorised in advance, by an absolute majority decision of the Council.

Consultation

Discussion on this matter occurred with councillors at a workshop held on 2 October 2024.

Officer Comment

A review of the strategic framework of the BGTP is in progress. Several meetings have been held between staff from the participating local governments and Australia Southwest and it is likely that significant changes to how promotion and marketing of the region will occur. The current agreement for Australia Southwest to deliver these services expires on 31 December 2024.

A workshop to be attended by relevant local government staff and Australia Southwest is scheduled for 28 October 2024. The Chief Executive Officer will be attending on behalf of the Shire of Donnybrook Balingup.

At a Council workshop held on 2 October 2024 this matter was discussed and a suggestion was put forward by the Executive that Council's \$20,000 contribution could be offset by not running the 2024/25 community grants program (\$22,000). Due to the late budget adoption the process for calling for applications for community grants hasn't commenced. Taking into account periods for advertising and assessment of grant applications it isn't expected that Council would be in a position to determine 2024/25 community grants until January 2025.

Transferring \$20,000 from the community grants allocation to the BGTP membership subscription leaves an amount of \$2,000 left under community grants. It is recommended this amount be allocated to the Minor Donations allocation, which provides the Chief Executive Officer authority to approve donations during the year, up to a value of \$350, upon application from groups or individuals.

The Executive recommendation is to amend the 2024/25 budget by:

- Allocating \$20,000 for membership of the BGTP;
- Reducing expenditure for community grants from \$22,000 to \$0; and
- Increasing minor donations allocation from \$2,500 to \$4,500 (noting that individual donations are up to \$350)

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

12.1. Matters for which the Meeting may be closed

12.1.1 RFQ 334 – Bituminous Products 2024-25

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

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

12.2. Public reading of Resolutions that may be made public

Nil.

13. Closure

The Shire President to advise that the next Agenda Briefing Session will be held on 20 November 2024 at 5:00PM, in the Shire of Donnybrook Balingup Council Chamber.