



## **NOTICE OF ORDINARY MEETING OF COUNCIL (COMMISSIONER)**

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To be held on

**Wednesday 24 May 2023**

Commencing at 5.00pm

Shire of Donnybrook Balingup Council Chamber, Donnybrook

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**Ben Rose**  
Chief Executive Officer

**17 May 2023**

### **Disclaimer**

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

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**SHIRE OF DONNYBROOK BALINGUP**  
**NOTICE OF ORDINARY COUNCIL (COMMISSIONER) MEETING**

To be held at the Council Chambers  
Wednesday, 24 May 2023 at 5.00pm

**1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

**Commissioner – Acknowledgment of Country**

The Commissioner to acknowledge the traditional custodians of the land, the Wardandi People of the Noongar Nation, paying respects to Elders, past, present and emerging.

The Commissioner to declare the meeting open and welcome the public gallery.

The Commissioner to advise that the meeting is being live streamed and recorded in accordance with Council Policy EM/CP-2. The Commissioner 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 ATTENDANCES**

**MEMBERS PRESENT**

<b>MEMBERS</b>	<b>STAFF</b>
Gail McGowan - Commissioner	Ben Rose – Chief Executive Officer
	Kim Dolzadelli – Director Corporate and Community
	Kira Strange – Acting Director Operations
	Loren Clifford – Acting Manager Executive Services

**PUBLIC GALLERY**

**2.1 APOLOGIES**

**2.2 APPROVED LEAVE OF ABSENCE**

**2.3 APPLICATION FOR A LEAVE OF ABSENCE**

### **3 ANNOUNCEMENTS FROM PRESIDING MEMBER**

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### **4 DECLARATIONS OF INTEREST**

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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**

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#### ***5.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE***

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Question: Lisa Glover

Compliance Audit Return - What is the process around ensuring that these actions have been actually abided by? How was the Audit conducted in regard to the CEO's actions? With reference to S537(2) did the CEO give evidence of his actions in regard to staff resigning or being dismissed? Also, what I was seeking was what would be the definition of senior staff and how was it evidenced that the CEO actually provided that information to Councillors? How does it show in the audit report?

Commissioner Response

I'll answer in very general terms because we obviously got a briefing on this at the Audit and Risk Management Committee. I think there are about seven staff involved in the audit process and there's a lot of cross tabulation as with any audit processes checking on how the evidence base is established.

The senior staff under the Act are defined as Director and above. So, the examples used where you talk about the Community Development Manager and Manager Finance and Accounts would not be classified as senior staff in that sense. But if there's anything else we can add, we will add it as a question taken on notice.

Further Response - Acting Manager Executive Service

Once the CAR has been received from the DLGSCI an internal review is conducted. The 94 questions are allocated to relevant officers (this year the seven officers are made up of Officers, Coordinators, Managers, Directors, and the CEO) who have a responsibility relating to the compliance requirement in question, in most cases they are allocated to multiple officers to answer. The answers received from the officers are combined to report the overall response. E.g., if the question is allocated to five officers and four respond with a "yes" and one with a "no", then the question will be answered as "no" because the compliance requirement was not met in this one instance. Officers will provide any relevant commentary against the individual compliance requirements. These responses and comments are reviewed by the CEO. Under Regulation 14 of the Local Government (Audit) Regulations 1996, the CAR is reviewed by Council's Audit and Risk Management Committee and then report the findings to Council (the Commissioner) for adoption.

Question: Lisa Glover

Item 9.2.6 – Statutory Budget Review – In regard to page 13, COA 2583 and 2793 can you please explain why these items were not correctly budgeted in the 2022-23 Budget, why were the amounts not projected, particularly in regard to the lease payment?

Commissioner Response

We may need to take that on notice.

Manager Finance and Corporate Response

Can we take that on notice and then we will come back.

Further Response - Manager Finance and Corporate

In regard to page 13, COA 2583; during the budget process the lease payment income was inadvertently missed, we have now reviewed our processes to ensure this does not occur again. The reimbursements account 2793 did have a budget figure of \$10,000 which was based on the actual amount received in 21/22 financial year. This amount is dependent on actual costs incurred during the year and reimbursement received and will be reassessed for the upcoming 2023/24 budget process.

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**5.2 PUBLIC QUESTION TIME**

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**6 PRESENTATIONS**

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**6.1 PETITIONS**

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**6.2 PRESENTATIONS**

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**6.3 DEPUTATIONS**

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**7 CONFIRMATIONS OF MINUTES**

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**7.1 ORDINARY MEETING OF COUNCIL (COMMISSIONER) – 22 MARCH 2023**

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Minutes of the Ordinary Meeting of Council (Commissioner) held 22 March 2023 are attached (attachment 7.2(1)).

**EXECUTIVE RECOMMENDATION**

**That the Minutes from the Ordinary Meeting of Council (Commissioner) held 22 March 2023 be confirmed as a true and accurate record.**

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**7.2 SPECIAL MEETING OF COUNCIL (COMMISSIONER) – 2 MAY 2023**

Minutes of the Special Meeting of Council (Commissioner) held 2 May 2023 are attached (attachment 7.2(1)).

**EXECUTIVE RECOMMENDATION**

**That the Minutes from the Special Meeting of Council (Commissioner) held 2 May 2023 be confirmed as a true and accurate record.**

**7.3 BUSHFIRE ADVISORY COMMITTEE ANNUAL GENERAL MEETING – 4 MAY 2023**

Minutes of the Bushfire Advisory Committee Annual General Meeting held 4 May 2023 are attached (attachment 7.3(1)).

**EXECUTIVE RECOMMENDATION**

**That the Minutes from the Bush Fire Advisory Committee Annual General Meeting held 4 May 2023 be received.**

## 8 REPORTS OF COMMITTEES

Nil.

## 9 REPORTS OF OFFICERS

### 9.1 DIRECTOR OPERATIONS

#### 9.1.1 MINING TENEMENTS WITHIN THE SHIRE OF DONNYBROOK BALINGUP

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	RAT 03/5
<b>Author</b>	Kira Strange, Acting Director Operations
<b>Responsible Manager</b>	Ben Rose, Chief Executive Officer
<b>Attachments</b>	Nil
<b>Voting Requirements</b>	Simple Majority

#### Recommendation

**That Council (the Commissioner) acknowledge the actions undertaken by staff as they relate to the Motions raised at the Annual General Meeting of Electors held 7 February 2023 and further explored by Council (the Commissioner) held at the Ordinary Meeting 22 March 2023.**

## STRATEGIC ALIGNMENT

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

- Outcome 11 Strong, visionary leadership.
- Objective 11.2 Improve community consultation and engagement.

## EXECUTIVE SUMMARY

Following the formal review and consideration of motions passed at the Annual General Meeting of Electors, Council (the Commissioner) at the Ordinary Council Meeting held 22 March 2023 resolved to action a number of items as they related to mining tenements within the Shire.

The following report is provided as an update as required by Council's (the Commissioner's) resolution of 22 March 2023 regarding the actions taken by staff relating to the subject motions.

## BACKGROUND



At the Annual General Meeting of Electors held 7 March 2023, five of seven motions raised related to mining tenements within the Shire and the role of local government in the consultation process:

- “6.1. Motion 3: Instruct the CEO to immediately notify the landholders if they will be affected by any application for a mining exploration tenements within 7 days of being served a notice of Application by a mining company or individual applicant. The information should be conveyed by public notice and direct contact to the land owner.
- 6.2. Motion 4: Instruct the CEO to inform Councilors and the Shire President within 24 hours of being served a notice of Application by a mining company or individual applicant.
- 6.3. Motion 5: Engage in consultation with the community in regard to the future of mining within the shire.
- 6.4. Motion 6: Instruct the CEO to investigate a rating value of the current tenements and whether such rate can be applied directly to the tenement holder.
- 6.5. Motion 7: In keeping with the Donnybrook-Balingup Local Planning Strategy that states:
- (i) discourage land uses unrelated to agriculture from location on agricultural land (unless the proponent suitably demonstrates there are exceptional circumstances and that these can be compatible with agricultural uses to the satisfaction of the local government) and;
  - (ii) discourages development that may result in land or environmental degradation;

*Instruct the CEO to pursue a policy of lodging objections to mining tenement applications, which do not align with the above Local Planning Strategy. This is also in line with other affected Councils such as Collie, Murray and Serpentine-Jarrahdale Shire Councils.”*

Council (the Commissioner) considered these motions at the Ordinary Meeting of Council held 22 March 2023 and resolved to receive and acknowledge the subject motions and:

- “7.1. Instruct the CEO to investigate the processes and procedures of surrounding and similar local governments to ascertain the best practice for receipt of notifications of this nature, and report back to the May 2023 Ordinary Council (Commissioner) Meeting;
- 7.2. Instruct the CEO to advocate via the South West Zone of WALGA for overall improved [Department of Mines, Industry Regulation and Safety] DMIRS processes of notification requirements for mining tenement applications, particularly as they relate to private landholders;
- 7.3. Consider developing a formal position of Council with regards to the permissibility of mining operations within the Shire through provisions within proposed Local Planning Scheme 8;

- 7.4. *Instruct the CEO to update the Shire’s website to include links to the Department of Mines, Industry Regulation and Safety website, specifically the ‘eMiTS Mineral Titles’ database and the ‘TENEGRAPH Web Public’ mapping system; and*
- 7.5. *Acknowledge that under the Local Government Act 1995, relevant tenement holders are issued a rates notice each year in accordance with information provided to the Shire by Landgate and the Department of Mines, Industry Regulation and Safety;*

*Reason: The processing and approval of mining tenements in Western Australia is the responsibility of the Department of Mines, Industry Regulation and Safety and administered under the Mining Act 1978.*

*Section 120 of the Mining Act 1978 establishes a connection to the Planning and Development Act 2005, such that provisions of a Local Planning Scheme are to be taken into account, however cannot prohibit the granting of a mining tenement. Some local governments choose to formulate a position on ‘mining operations’ within their Shire, specifically through the permissibility’s within the zoning table and communicate this to DMIRS when required under section 120.*

*Notwithstanding this, Council may wish to consider their position on mining operations within the Shire as to whether they are generally supported or not, when reviewing the local planning framework, particularly the new Local Planning Scheme 8 as the key statutory planning mechanism, however this should be deferred to a decision of an elected Council of community representatives. However, preliminary work can continue on the formulation and presentation of the draft Local Planning Scheme 8 for preliminary advertising.*

*In any case, further research and investigation is required prior to making further recommendations to Council and/or DMIRS as they relate to the process of mining tenements within the Shire.*

*With regards to Motion 6 and recommendation 7.6 above, relevant tenement holders are issued with a rates notice each year under the Local Government Act 1995, based on information received by Landgate Valuation Services and the Department of Mines, Industry Regulation and Safety.”*

In addition, a deputation was made to Council (the Commissioner) by Mr Jeff Bremer, Chair, and Ms Julieanne Hilbers, Deputy Chair, of Save Preston River Valley Inc. regarding the above motions and the matter of mining tenements across the Shire.

Following the Council Meeting, on 5 April 2023, Shire officers met with Mr Bremer and Ms Hilbers to further discuss their concerns and the role of local government in this process. On 10 May 2023, Shire staff and the Commissioner again met with Mr Bremer and Ms Hilbers.

## **FINANCIAL IMPLICATIONS**

Council (the Commissioner) need to consider the resourcing implications of undertaking public advertising when mining tenement notifications are received by the Shire. The

notifications are received fairly infrequently however they cover large areas of land and in most cases include a significant number of landowners.

The implications to the Shire to undertake public advertising in the form of letter notifications would include the cost of paper and postage as well as at least 5 to 6 hours of officer time required in administering the process.

## **POLICY COMPLIANCE**

Nil.

## **STATUTORY COMPLIANCE**

### **Mining Act 1978 and the Mining Regulations 1981**

#### Mining Tenements and Mineral Rights

The definition of 'minerals' under the *Mining Act 1978* is:

*naturally occurring substances obtained or obtainable from any land by mining operations carried out on or under the surface of the land, but does not include —*

- (a) *soil; or*
- (b) *a substance the recovery of which is governed by the Petroleum and Geothermal Energy Resources Act 1967 or the Petroleum (Submerged Lands) Act 1982; or*
- (ba) *without limiting paragraph (b), geothermal energy resources as defined in the Petroleum and Geothermal Energy Resources Act 1967 section 5(1); or*
- (c) *a meteorite as defined in the Museum Act 1969; or*
- (d) *any of the following substances if it occurs on private land —*
  - (i) *limestone, rock or gravel; or*
  - (ii) *shale, other than oil shale; or*
  - (iii) *sand, other than mineral sand, silica sand or garnet sand; or*
  - (iv) *clay, other than kaolin, bentonite, attapulgite or montmorillonite;*

The substances outlined in clause (d) above generally form part of those resources subject to an extractive industry licence by the local government.

Under section 9 of the *Mining Act 1978*, all 'Royal' metals and minerals on land belong to the Crown, with the exception of land granted in fee simple prior to 1 January 1899:

#### **9. Gold, silver and other precious metals property of Crown**

*(1) Subject to this Act —*

- (a) *all gold, silver, and any other precious metal existing in its natural condition on or below the surface of any land whether alienated or not alienated from the Crown and if alienated whenever alienated, is the property of the Crown;*

*(b) all other minerals existing in their natural condition on or below the surface of any land that was not alienated in fee simple from the Crown before 1 January 1899 are the property of the Crown...*

To extract or explore for minerals on private land, an applicable mining tenement must be obtained from the Department of Mines, Industry Regulation and Safety (DMIRS). There are different types of mining tenements prescribed under the *Mining Act 1978* including:

- Prospecting Licences (Sections 40 to 56)
- Special Prospecting Licences for Gold (Sections 56A, 70 and 85B)
- Exploration Licences (Sections 57 to 69E)
- Retention Licences (Sections 70A to 70M)
- Mining Leases (Sections 70O to 85A)
- General Purpose Leases (Sections 86 to 90)
- Miscellaneous Licences (Sections 91 to 94)

Section 29 of the *Mining Act 1978* outlines the parameters regarding the granting of mining tenements in respect of private land:

*29. Granting of mining tenements in respect of private land*

*(1) Subject to this Act, but notwithstanding any other Act or law, a mining tenement may be granted in respect of an area that consists of private land only or partly of private land and partly of any other land and the authority conferred thereby on the holder thereof may be exercised by that holder in respect of any such land.*

In relation to mining tenements of the natural surface and to within a depth of 30 metres, section 29 further stipulates that:

- (2) Except with the consent in writing of the owner and the occupier of the private land concerned, a mining tenement shall not be granted in respect of private land —*
- (a) which is in bona fide and regular use as a yard, stockyard, garden, orchard, vineyard, plant nursery or plantation or is land under cultivation; or*
  - (b) which is the site of a cemetery or burial ground; or*
  - (c) which is the site of a dam, bore, well or spring; or*
  - (d) on which there is erected a substantial improvement; or*
  - (e) which is situated within 100 m of any private land referred to in paragraph (a), (b), (c) or (d); or*
  - (f) which is a separate parcel of land and has an area of 2 000m<sup>2</sup> or less*

### Consultation Requirements

Under section 33 (1) of the *Mining Act 1978*, an applicant for a mining tenement on private land must, within 14 days of the application, service of copy of the application together with a map or plan of the proposed tenement area to:

1. The CEO of the relevant local government;

2. The owner and occupier of the private land; and
3. Each mortgagee of the land.

However, where the application for a mining tenement only relates to the portion of land that is not less than 30m below the lowest part of the natural surface of the private land, it is only necessary to provide a copy of the application to;

1. The CEO of the relevant local government.

Under regulation 146 of the *Mining Regulations 1981*, an objection to the granting of an application that relates to private land is to be made within whichever period ends later than:

1. 21 days of the date on which the person was served with a copy of notice; or
2. 35 days of the date of the application.

#### Interaction with the Planning and Development Act 2005

Section 120 of the *Mining Act 1978* (WA) outlines that due consideration may be given to Local Planning Schemes when assessing mining tenement proposals, however they do not have the power to prohibit the granting of a mining tenement.

##### *120. Planning schemes to be considered but not to derogate from this Act*

*In considering any application for the grant of a mining tenement the Minister, warden or mining registrar, as the case requires, shall take into account the provisions of any planning scheme in force under the Planning and Development Act 2005 affecting the use of the land concerned, but the provisions of any such scheme shall not operate to prohibit or affect the granting of a mining tenement or the carrying out of any mining operations authorised by this Act.*

In accordance with Section 120 (2), where the Shire opposes the grant of a mining tenement, its objection (provided it is based on the provisions of a Local Planning Scheme) must be considered by the Minister responsible for the *Mining Act 1978* and the *Planning and Development Act 2005*:

where —

- (a) *an application has been made for a mining lease or a general purpose lease; and*
- (b) *the local government or the Western Australian Planning Commission has, in writing, informed the Minister and the Minister for the time being administering the Planning and Development Act 2005, that the mining lease or general purpose lease would, if granted, authorise the carrying on of mining operations contrary to the provisions of a planning scheme referred to in subsection (1)*

*the Minister shall not dispose of the application until he has first consulted the Minister for the time being administering the Planning and Development Act 2005 and obtained his recommendation thereon.*

## Shire of Donnybrook-Balingup Local Planning Scheme No.7

Under the *Shire of Donnybrook-Balingup Local Planning Scheme No.7* (LPS7), ‘industry-mining’ is defined as:

**“industry-mining”** means land used commercially to extract minerals from the land in accordance with the *Mining Act 1978*;

Whilst the Scheme defines this land use, it does not specifically list it within the zoning table. A zoning table is part of every Local Planning Scheme which sets out the different land uses and their permissibility within each of the different zones. The permissibility levels within the zoning table are broadly categorised by whether they are ‘P’ – permitted, ‘X’ – not permitted, or discretionary (‘A’, ‘D’), which means they are not permitted unless the local government has exercised its discretion by granting approval through an application for development approval. Each local government’s zoning table differs depending on their respective Schemes.

As ‘industry-mining’, is a use that is not listed within the zoning table, officers’ ability to provide comment on mining tenements on behalf of Council (the Commissioner) is limited, as a formal position has not been established.

Examples of how this has been implemented in other local government areas can be seen in the officer’s comment below.

### CONSULTATION

As outlined in the Minutes of the Council (Commissioner) Meeting held 22 March 2023, the processing and approval of mining tenements in Western Australia is the responsibility of the DMIRS and administered under the *Mining Act 1978*.

The Shire currently does not have a formal consultation process to community members when receiving mining tenement application notifications as this is largely the responsibility of the administering authority, DMIRS, and the subject proponents.

### OFFICER COMMENT

The granting of mining tenements within Western Australia is administered by the Minister for Mines and Petroleum, as supported by DMIRS, in accordance with the provisions of the *Mining Act 1978* and the *Mining Regulations 1981*. The Minister may also delegate roles and functions directly to DMIRS.

Whilst the current Mining Act has been in effect for over 40 years, community interest regarding the issue of mining tenements has increased within the Shire and across Western Australia with changes to industry and the discovery of different minerals.

Further to the report presented to Council (the Commissioner) on 22 March 2023, Shire officers provide the following updates as they relate to the motions resolved:

*7.1. Instruct the CEO to investigate the processes and procedures of surrounding and similar local governments to ascertain the best practice for receipt of notifications of this nature, and report back to the May 2023 Ordinary Council (Commissioner) Meeting;*

Shire officers have undertaken a desktop review of a number of surrounding local governments and have found that the Shire of Manjimup (SoM) recently undertook a similar exercise regarding the processing of mining tenement applications. A report was presented to the Shire of Manjimup Council on 23 March 2023 regarding the processes with the following summary provided.

Written Notifications

Shire of Manjimup (SoM) officers explored the option of providing written notification to all owners of land that a mining tenement application notification applied to. SoM officers estimated that for a smaller sized tenement application, such advertising processes would take between 4 to 6 hours with a \$300 cost for stationery and postage, plus staff time.

SoM officers concluded that such a process would have resourcing and financial implications to the Shire and was not recommended.

Officer Comment

Such a process being undertaken at the Shire of Donnybrook Balingup would have similar financial and resourcing implications as that described by the SoM.

In light of this, it is reasonable to expect that a written notification process would have significant implications on existing limited resources. However, an alternative notification processes could be considered.

Website / Electronic Notifications

SoM officers explored the option of providing public notifications on their website when a notice of a mining tenement application is received.

Officer Comment

Shire officers consider that this is a reasonable, more effective option to publicly notify the community when a copy of a mining tenement application is received. In addition, Shire officers consider that establishing an electronic mailing list would be further effective in distributing the relevant information to those interested community members, including Councillors (the Commissioner and future elected representatives). Further recommendations are below in 'Summary'.

*7.2. Instruct the CEO to advocate via the South West Zone of WALGA for overall improved DMIRS processes of notification requirements for mining tenement applications, particularly as they relate to private landholders;*

Shire officers have raised the issue of mining tenements with the CEO's of the South West Zone of WALGA and will be presenting a copy of this report more formally on an upcoming Zone Meeting agenda.

**7.3. Consider developing a formal position of Council with regards to the permissibility of mining operations within the Shire through provisions within proposed Local Planning Scheme 8;**

As outlined in the ‘Statutory Requirements’ above, Shire officer’s ability to provide advice regarding the permissibility of mining within the Shire is limited based on the absence of a formal position by Council. Therefore, Shire officer’s ability to provide a comment when a mining tenement application is received is limited.

The Shire’s draft Local Planning Strategy is currently with the Western Australian Planning Commission for certification prior to it being publicly advertised. Following the public advertising period, the Strategy will be brought back to Council for endorsement, taking into consideration any submission received, prior to forwarding to the WAPC for approval.

During the advertising period, the community may provide further comment for Council consideration regarding mining within the Shire.

The final Local Planning strategy will directly influence the creation of *Local Planning Scheme 8*. As such, while no further immediate action is required in this regard, there remains ongoing actions that may be addressed in the creation of these two documents.

Notwithstanding the overall power of the Mining Act, the following table is a desktop review of Schemes of other local governments in the South West, specifically whether or not ‘industry-mining’ is a use listed within their respective Zoning Tables. As outlined earlier and as a general guide:

- ‘X’ use is not permitted;
- ‘P’ use is permitted (subject to compliance with the relevant development standards and requirements); and
- ‘A’ and ‘D’ uses are discretionary uses which means they are not permitted within the zone unless the local government has exercised discretion by granting approval. In this regard, an application for development approval is required for all ‘A’ and ‘D’ uses.

<b>Local Government</b>	<b>Zoning Table Permissibility</b>
Augusta-Margaret River	Land use not listed in Zoning Table.
Boyup Brook	Land use not listed in Zoning Table.
Bridgetown-Greenbushes	Land use not listed in Zoning Table. Clause 4.3.4 of the Scheme discusses the purpose of Rural Zone 4 to be to ensure continuation of mining and to assist in the eventual restoration of any mines.
Bunbury	‘D’ use in ‘Rural’ zone. ‘X’ use in all other zones.
Busselton	‘A’ use in ‘Industrial’ and ‘Rural’ zones. ‘X’ use in all other zones.
Capel	Land use not listed in Zoning Table.



Collie	<p>'D' use in the 'General Industry' zone.</p> <p>'A' use in the 'Strategic Industry' and 'Rural' zones.</p> <p>'X' use in all other zones.</p> <p>Special Control Area 3 – Identifies land which may be affected by mining operations, designed to separate mining from urban development.</p>
Dardanup	<p>'A' use in 'General Industry' zones.</p> <p>'X' use in all other zones.</p>
Harvey	<p>Land use not listed in Zoning Table.</p> <p>Clause 2.2.2 of Schedule 2 indicates that mining will be discouraged along Darling Scarp.</p>
Manjimup	<p>Land use not listed in Zoning Table.</p>
Nannup	<p>'A' use in 'Priority Agriculture' and 'Rural' zones.</p> <p>'X' use in all other zones.</p>

Further discussion regarding the permissibility of 'industry-mining' within the Shire of Donnybrook Balingup will be discussed during the public consultation of the draft Local Planning Strategy and Local Planning Scheme.

*7.4. Instruct the CEO to update the Shire's website to include links to the Department of Mines, Industry Regulation and Safety website, specifically the 'eMiTS Mineral Titles' database and the 'TENEGRAPH Web Public' mapping system; and*

Shire officers have prepared a specific page on the Shire's website with respective links to the relevant information and mapping services available on the DMIRS website. In addition, Shire officers are working on an information sheet which will become available on the Shire's website in due course. An email notification will be provided to any members of the electronic mailing list as well as Council (the Commissioner) when this is finalised.

No further action is required for this motion.

*7.5. Acknowledge that under the Local Government Act 1995, relevant tenement holders are issued a rates notice each year in accordance with information provided to the Shire by Landgate and the Department of Mines, Industry Regulation and Safety;*

This information has been noted within the adopted minutes of the Ordinary Council Meeting held 22 March 2023 and has been included in the information sheet available on the Shire's website.

No further action is required for this motion.

### Summary

Following the Ordinary Council Meeting held 22 March 2023, Shire officers have further reviewed the procedure of receiving mining tenement applications.

In light of the above information, Shire officers have implemented the following actions:

1. A specific webpage has been created on the Shire's website relating to 'Mining Tenements' which includes:
  - a. A fillable field for the community to add their email address to the Shire's formal mailing list for direct notification when a copy of a mining tenement application is received with information directing recipients to DMIRS;
  - b. Links to the relevant information on the DMIRS website including:
    - i. The eMiTS Mineral Titles database; and
    - ii. The TENEGRAPH Web Public mapping system.

In addition, Shire officers are committed to implementing the following actions:

2. Finalisation of an information sheet as it relates to mining tenements, and how they differ from extractive industries. A copy will be provided on the Shire's website, to Council (the Commissioner), and any established community members on the electronic mailing list;
3. When a notification is received from a proponent for a mining tenement application, directly email the list of recipients on the electronic mailing list; and
4. Continue to liaise with the community and Council (the Commissioner and future elected representatives) regarding the position of mining tenements and general operations within the Shire of Donnybrook Balingup as part of the current local planning framework review.

**9.1.2 NOTICE OF MOTIONS – WARREN BLACKWOOD ALLIANCE OF COUNCILS CLIMATE CHANGE ACTION PLAN IMPLEMENTATION REFERENCE GROUP**

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Warren Blackwood Alliance of Councils Climate Change Action Plan Implementation Reference Group
<b>File Reference</b>	DEP 28/2
<b>Author</b>	Claire Palmer, Environmental Officer
<b>Responsible Manager</b>	Kira Strange, Acting Director Operations
<b>Attachments</b>	9.1.2(1) – Draft Notice of Motions prepared by Executive Officer of WBAC CCCAPIRG 9.1.2(2) – Minutes of WBAC CCAPIRG Meeting 17 February 2023
<b>Voting Requirements</b>	Simple Majority

**Recommendation**

**That Council (the Commissioner):**

**1. Receive the three (3) motions raised at the Warren Blackwood Alliance of Councils Climate Change Action Plan Implementation Reference Group Meeting held 17 February 2023 as it relates to the Shire’s level of participation in the implementation of the Warren Blackwood Alliance of Councils Climate Change Action Plan:**

**1.1. Motion 1: That the Chief Executive Officer investigate the Shire joining the Waterwise Councils Program, and prepare a report to Council (the Commissioner) for consideration;**

**1.2. Motion 2: That the Chief Executive Officer investigate the Shire joining the Cities Power Partnership and prepare a report to Council (the Commissioner) for consideration; and**

**1.3. Motion 3: That the Chief Executive Officer investigate the Shire signing the WALGA Climate Change Declaration, and prepare a report to Council (the Commissioner) for consideration.**

**2. Acknowledge that it has considered Motions 1, 2 and 3 and instruct the Chief Executive Officer to:**

**2.1. Investigate the Shire of Donnybrook Balingup joining the Waterwise Councils Program and defer the decision to join the Waterwise Councils Program until an elected Council is established;**

**2.2. Advise the Executive Officer of the Warren Blackwood Alliance of Councils Climate Change Action Plan Implementation Reference Group**

**that the Shire is an existing participant in the Cities Power Partnership;  
and**

**2.3. Investigate the Shire signing the WALGA Climate Change Declaration and defer the decision sign the WALGA Climate Change Declaration until an elected Council is established.**

**Reason: Shire Officers need to investigate the responsibilities and implications associated with Motions 1 and 3 to ensure the Council has a thorough understanding of the benefits and potential resourcing implications associated with these two items.**

**The Shire is already a member of the Cities Power Partnership, therefore, no further action is required for Motion 3.**

## **STRATEGIC ALIGNMENT**

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

Outcome	4	Shared responsibility for sustainability
Objectives	4.1	Encourage the adoption of Sustainable Practices.

## **EXECUTIVE SUMMARY**

The Shire of Donnybrook Balingup is a member of the Warren Blackwood Alliance of Councils (WBAC). As part of this membership, the Shire is represented on the WBAC Climate Change Action Plan Implementation Reference Group (CCAPIRG), through the membership of both Council and Shire representatives.

At the WBAC CCAPIRG meeting held 17 February 2023, delegates discussed a series of draft respective motions to be considered by each participating local government.

It is recommended that Council (the Commissioner) consider the recommendations of the CCAPIRG.

## **BACKGROUND**

The WBAC Climate Change Action Plan (Action Plan) outlines the WBAC Climate Change Policy commitments, and the relevant adaptation, mitigation, leadership and advocacy, and communication advocacy actions that have been committed to at both the sub-regional and organisational levels. Through the implementation of the Action Plan, it has been identified that joining the Waterwise Councils Program, joining the Cities Power Partnership and signing the WALGA Climate Change Declaration are appropriate actions for the Shire to consider, in order to achieve the outcomes to “tackle climate change, build resilience and minimise the vulnerability of our communities to climate change” as identified in the Action Plan.

Following the WBAC CCAPIRG meeting held 17 February 2023, the Executive Officer of the WBAC CCAPIRG, Mr Mark Batty, prepared the subject draft motions for further consideration:

*Motion 1: That the Chief Executive Officer investigate the Shire joining the Waterwise Councils Program, and prepare a report to Council (the Commissioner) for consideration;*

*Motion 2: That the Chief Executive Officer investigate the Shire joining the Cities Power Partnership and prepare a report to Council (the Commissioner) for consideration; and*

*Motion 3: That the Chief Executive Officer investigate the Shire signing the WALGA Climate Change Declaration, and prepare a report to Council (the Commissioner) for consideration.*

A copy of the draft motions and background information provided by Mr Batty is provided in Attachment 9.1.2(1).

## **FINANCIAL IMPLICATIONS**

Whilst membership of the three stated initiatives is free of charge, there are ongoing responsibilities and resourcing implications associated with each that carry financial implications for the Shire.

Further research and investigation is required to ensure Council (the Commissioner and/or future elected members) has a clear understanding of the ongoing resourcing and associated financial implications.

## **POLICY COMPLIANCE**

### **WBAC Climate Change Policy Statement**

As a member of the WBAC, the Shire has acknowledged its commitment to addressing climate change impacts. The motions outlined by the WBAC CCAPIRG demonstrate this commitment.

## **STATUTORY COMPLIANCE**

Nil.

## **CONSULTATION**

Nil.

## **OFFICER COMMENT**

The participation of the Shire of Donnybrook Balingup in the Warren Blackwood Alliance of Councils has provided clarification, support, and direction in relation to establishing appropriate actions to increase the Shire's capability and resilience to climate change impacts, through the development of the WBAC Climate Change Action Plan. This plan has identified that by joining the Waterwise Council's program, and signing the WALGA Climate Change Declaration, the Shire will obtain access to significant resources to facilitate improved environmental outcomes, and greater capacity for addressing climate change.

As outlined in Attachment 9.1.2.(1), there are many benefits to the participation of the subject initiatives:

1. Waterwise Council Program (Motion 1);
2. Cities Power Partnership (Motion 2); and
3. Signing the WALGA Climate Change Declaration (Motion 3).

The Shire is currently a member of the Cities Power Partnership which includes actions demonstrating a commitment to the following five pledges:

- Install renewable energy (solar PV and battery storage) on Council buildings;
- Roll out energy efficient lighting across the municipality;
- Encourage sustainable transport use such as public transport, walking and cycling through council transport planning and design;
- Support cycling through provision of adequate cycle lanes, bike parking and end-of-ride facilities; and
- Set up meetings and attend events to work with other cities on tackling climate change.

The Shire is also provided with numerous networking opportunities for staff to share innovative ideas and solutions on sustainability with other Local Governments. This partnership also reaffirms the Shire's commitment to sustainable solutions in working towards climate change mitigation.

Noting the Shire's existing participation in the WBAC CCAPIRG and the current WBAC Climate Change Policy commitments as outlined in the WBAC Climate Change Action Plan, the Shire needs to consider the benefits of each of the two (2) remaining Motions (1 and 3) and investigate ongoing associated responsibilities.

Investigating the implications of Motion 1 and 3 will allow improved decision making in relation to viability of Shire participation, considering current resourcing capabilities, and identify potential opportunity for improvement in relation to Climate Change and Natural Resource Management.

Therefore, it is recommended that relevant Shire officers undertake further research and liaise with the WBAC CCAPIRG to ensure that these responsibilities are clearly understood prior to making a formal recommendation to Council (the Commissioner and/or any future elected members), as per the officer's recommendation.

**9.1.3 REQUEST TO CLOSE PORTION OF UNCONSTRUCTED ROAD RESERVE (DARONCHS ROAD), BALINGUP**

<b>Location</b>	Daronchs Road Reserve, Balingup
<b>Applicant</b>	Saul Wende
<b>File Reference</b>	A5413
<b>Author</b>	Philip Diamond, Planning Officer
<b>Responsible Manager</b>	Kira Strange, Acting Director Operations
<b>Attachments</b>	9.1.3(1) – Location Plan 9.1.3(2) – Site Plan 9.1.3(3) – Formal Request to Close Road Reserve 9.1.3(4) – Preliminary Written Advice 9.1.3(5) – Public Advertising 9.1.3(6) – Referral to State Agency 9.1.3(7) – Schedule of Submissions 9.1.3(8) – Legal Access Plan
<b>Voting Requirements</b>	Simple Majority

<b>Recommendation</b>
<p><b>That Council (the Commissioner):</b></p> <ol style="list-style-type: none"> <li><b>1. Pursuant to Section 58 of the <i>Land Administration Act 1997</i> resolve to:</b> <ol style="list-style-type: none"> <li><b>1.1. Authorise the Chief Executive Officer to request the Minister for Lands to close the road subject to all associated costs with the request being borne by the relevant applicant/landowner.</b></li> </ol> </li> </ol>

**STRATEGIC ALIGNMENT**

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

Outcome	8	Safe and convenient movement of people
Objective	8.1	Improve road safety, connectivity and traffic flow for all users.

**EXECUTIVE SUMMARY**

The Shire has received a request to close a portion of unconstructed road reserve for the purposes of private acquisition by an adjoining landowner.

Road closure requests are administered by the Local Government in accordance with the *Land Administration Act 1997* (LAA) and *Land Administration Regulations 1998* (LAR) then forwarded to the Minister for Lands for approval.

Whilst initial questions were raised by Shire officers in a preliminary review of the request, further clarification was sought through the public advertising period, including obtaining

advice from the Department of Planning, Lands and Heritage (DPLH) and the Shire of Bridgetown Greenbushes (SoBG). The initial questions have now been suitably addressed and further detailed within this report.

It is therefore recommended that the request be supported by Council (the Commissioner), administered by officers in accordance with the LAA and LAR and forwarded to the Minister for Lands for approval.

## **BACKGROUND**

On 27 June 2022, the Shire received a preliminary request to close the portion of unconstructed road reserve approximately 5 kilometres south-east of the Balingup townsite (Attachment 9.1.3(1)). The subject parcel, totalling 1.9 hectares, is currently unconstructed and is not identified within the Shire's Works and Services program for future construction.

The request has been made by the adjacent landowner of Lot 6445 Westlington Road, Balingup, for the purposes of private acquisition and amalgamation to their property.

Following the preliminary investigation and provision of written feedback (Attachment 9.1.3(4)), the Shire received a formal request to close the subject portion of road reserve on 13 October 2022. As recommended by Shire officers, the request included advice sought by the proponent from the DPLH and the SoBG indicating their preliminary position on the proposed closure with no initial objections (Attachment 9.1.3(3)).

Generally, when Shire officers receive formal requests of this nature, a report is prepared for Council's consideration prior to commencing the advertising and referral process for preliminary endorsement. However, a number of questions and issues were raised by officers in the preliminary review which presented too many variables for consideration. Therefore, officers determined that further consultation and advertising was required in order to make an informed recommendation to Council (the Commissioner).

Initial issues raised by officers included:

- The implications to surrounding landowners and whether or not this would impact legal access to their properties;
- The disconnect that may be created by closing the central portion of the subject road reserve which extends north to adjacent properties, and south into the SoBG, which may result in ad-hoc, inaccessible portions of unconstructed road reserve. Shire officers currently understand that this is not a desirable outcome for the DPLH;
- Potential implications on the SoBG's road construction program and the connection this road reserve has to their Shire;
- A 'dial before you dig' request revealed there may have been Telstra and Western power assets in the area; and
- The road reserve is located within a designated bushfire prone area and has a number of water courses contained within.



Following the preliminary review by officers and the receipt of the formal request to close the subject road reserve, in accordance with the LAA, the proposal was advertised to the general public, relevant surrounding landowners, and the relevant state agencies.

## **FINANCIAL IMPLICATIONS**

The applicant has paid the relevant fees as it relates to the request including:

- Part 1: Written Planning Advice – Preliminary investigation and feedback (\$73.00)
- Part 2: Formal Request to Close Road (\$750.00)
- Part 2: Cost of Advertisement in the South Western Times (\$267.08)
- Part 2: Purchase of 5 Easement Documentations for Lots surrounding Road Reserve Closure (\$141.00)

In order for officers to complete due diligence, an additional two title documents were purchased for \$56.40, which has been allocated to the appropriate Land Administration budget.

The applicant has provided written confirmation in accepting responsibility of all associated requests as required by the Local Government and/or the DPLH such as surveying, plan/document preparation, etc (Attachment 9.1.3(3)).

## **POLICY COMPLIANCE**

*Local Planning Policy 9.9 Road Closure* (LPP 9.9) outlines the following parameters relevant to a request of this nature:

- 1. Council will not support the closure of any gazetted public road which has any possibility whatsoever of being utilised. There is a general presumption against the closing of roads.*
- 2. Council will however consider the closure of a gazetted road where it will have no impact upon legal practical access to any property and will result primarily in the rationalisation of land and roads within the Shire.*
- 3. In the event that Council supports the closure of a road the proponent will be liable for all costs involved with the road closure.*

A review of the proposal confirms that the request meets the requirements of LPP 9.9 and can be considered by Council (the Commissioner).

## **STATUTORY COMPLIANCE**

A request to the Minister for Lands to formally close a road is to be made in accordance with Section 58 of the *Land Administration Act 1997* including the requirement to advertise the closure for a period of no less than 35 days.

For the purposes of preparing a request under the LAA, the Local Government must also adhere to the requirements of Regulation 9 of the *Land Administration Regulations 1998*.

In summary, the request to the Minister must be accompanied by:

- A written, in-principle agreement from the landowner/applicant to purchase the land identified for closure;
- Plans of the location of the road and portion to be closed;
- A copy of the Council Resolution(s) to initiate and support the proposed closure;
- A copy of the public advertisement/notification (required for a period of no less than 35 days);
- Copies of any submission(s) received during the public/advertisement period;
- The local government's assessment of the comments received; and
- Any other relevant information.

## **CONSULTATION**

In accordance with the LAA, the proposed road closure has been advertised to the general public in a newspaper circulating the district with comments invited for a period of no less than 35 days (Attachment 9.1.3(5)). In addition, letter notifications were provided to surrounding landowners inviting direct comment on the proposed closure (Attachment 9.1.3(5)).

Three responses were received in support of the proposed road reserve closure (Attachment 9.1.3(7)).

Whilst the formal request was made for the portion of unconstructed road reserve adjacent to the proponent's property at Lot 6445, Shire officers advertised the potential closure of the section of unconstructed road reserve to the north that adjoins Lot 3543 and Lot 8 (as illustrated in Attachment 9.1.3(2)).

Shire officers then provided written notification to the subject landowner(s) of Lot 3543 and Lot 8 with no initial response received. As such, they were contacted directly by the Planning officer on 2 February 2023, with follow up correspondence on 7 March 2023 to confirm any interest. Both landowners have verbally advised that they had no interest in the purchase of the section of road reserve adjoining their properties.

In addition, during the preliminary review of the request (Part 1), a 'Before You Dig' enquiry resulted in two agencies identifying assets within the location: Western Power and Telstra. The proposed road closure was referred to the following external agencies (Attachment 9.1.3(6)):

- Shire of Bridgetown-Greenbushes
- Department of Water and Environmental Regulation (DWER);
- Department of Fire and Emergency Services (DFES);
- Department of Biodiversity, Conservations and Attractions (DBCA)

- Main Roads Western Australia (MRWA);
- Telstra;
- Western Power;
- Department of Planning, Lands and Heritage (DPLH); and
- Water Corporation.

No specific objections were received to the proposed road reserve closure, with a schedule of submissions provided in Attachment 9.1.3(7), however Western Power noted they were unable to provide comments on the Road Reserve closure.

## **OFFICER COMMENT**

Road Reserves are Crown Land and generally under the care and control of the local government (except for main roads under the care and control of Main Roads WA).

In order for landowners/applicants to purchase a portion of road (whether unconstructed or not) the actual road reserve parcel needs to be formally closed. In order to do this, the Local Government (at the request of the landowner/applicant) has to administer the request under the LAA and LAR and formally request the Minister for Lands to close the road.

Upon review of the relevant title documentation, it has been identified that that Lot 52 (92) Westlington Road, Balingup, does not have a legal access right to a constructed road reserve (Attachment 9.1.3(8)). The proposed closure of this unconstructed road reserve does not change the current status of Lot 52 as, even if constructed, does not provide it with legal access. Notwithstanding this, Shire officers directly contacted the relevant landowner of Lot 52 to advise of this information and determine if they had any objections to the proposed road reserve closure. The Shire has received correspondence from the landowners of Lot 52 advising that they have no objections to the proposed closure (Attachment 9.1.3(7)).

In summary, a final assessment of the proposed road closure indicates the following:

- The subject road reserve is unconstructed;
- The Shire's Works and Services team have advised that there are no current or future plans for the construction of a road within this road reserve;
- The applicant has agreed to accept all associated costs with the request;
- No objections have been received to the proposed closure;
- The SoBG have confirmed that the closure will not compromise their road program as they have no intention to construct the adjoining road reserve within their Shire;
- Technically, there is no existing access to the subject road reserve as it is not connected to the Shire's constructed road network and remains unconstructed through to the south in the SoBG;
- The road reserve will not impact current legal access provisions to surrounding properties and it is unlikely that the road reserve could provide viable legal access

to Lot 52 (given it does not adjoin the road reserve). A summary of the existing legal access is illustrated in Attachment 9.1.3(8) and hereby detailed:

- Lot 6445 currently has legal access to their property by way of an easement over Lot 52 and Lot 8 connecting to Westlington Road;
- Lot 3543 currently has legal access across the road reserve North of the proposed closure and then by way of easement over Lot 8 connecting to Westlington Road;
- Lot 2932 currently has legal access across the road reserve North of the proposed closure and by way of easement over Lot 3543 and 8 connecting to Westlington Road; and
- Lot 52 does not currently have legal access to the road network.

In light of the above, the proposed road closure complies with LPP 9.9 and can be supported by Council (the Commissioner). It is therefore recommended that Council resolve in accordance with the Officer's recommendation.

**9.1.4 ANNUAL REVIEW OF THE SHIRE OF DONNYBROOK BALINGUP FIRE BREAK ORDER 2023/24 FINANCIAL YEAR**

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	FRC 01, FRC 04
<b>Author</b>	Jess Cooper, Community Emergency Services Manager
<b>Responsible Manager</b>	Kira Strange, Acting Director Operations
<b>Attachments</b>	9.1.4(1) Draft 2023/2024 Fire Break Order
<b>Voting Requirements</b>	Simple Majority

<b>Recommended Committee Resolution</b>	
<p><b>That Council (the Commissioner):</b></p> <ol style="list-style-type: none"> <li><b>1. Endorse the 2023/2024 Shire of Donnybrook Balingup Fire Break Order.</b></li> <li><b>2. Instructs the Chief Executive Officer to produce and distribute the 2023/2024 Shire of Donnybrook Balingup Fire Break order in accordance with Section 33 of the <i>Bush Fires Act 1956</i>.</b></li> </ol>	

**STRATEGIC ALIGNMENT**

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

Outcome	3	The natural environment is well managed for the benefit of current and future generations.
Objective	3.2	Develop community readiness to cope with natural disasters and emergencies.
Priority Project	3.2.4	Provide support for emergency services volunteers.

**EXECUTIVE SUMMARY**

The Shire of Donnybrook Balingup Fire Break Order is a notice that is produced and distributed in accordance with Section 33 of the *Bush Fires Act 1954* and is presented for BFAC endorsement (Attachment 9.4.1(1)).

**BACKGROUND**

The Shire of Donnybrook Balingup Fire Break Order determines the fire prevention requirements of owners or occupiers within the Shire of Donnybrook Balingup, such as the installation of firebreaks or the removal of inflammable materials that may contribute to the spread of fire.

The Shire of Donnybrook Balingup Fire Break Order is included with the annual rates notice, which is distributed via post to all ratepayers within the Shire of Donnybrook

Balingup. This notice is also available to all residents via advertising in the Preston Press and is published on the Shire website.

Each year, the Shire of Donnybrook Balingup Bush Fire Advisory Committee is provided an opportunity to review the requirements contained within the Shire of Donnybrook Balingup Fire Break Order. Other updates such as dates and contact names are automatically carried out by the Community Emergency Services Manager.

## **FINANCIAL IMPLICATIONS**

The total cost of the production and distribution for the 2022/23 Fire Break Order was \$2,596.00.

## **POLICY COMPLIANCE**

Nil

## **STATUTORY COMPLIANCE**

Section 33, *Bush Fires Act 1954*

## **CONSULTATION**

Bush Fire Advisory Committee Meeting (BFAC) – 4 May 2023

## **OFFICER COMMENT/CONCLUSION**

The details of the draft Shire of Donnybrook Balingup Fire Break Order were discussed during the BFAC meeting and a number of minor changes were made including:

- Updated to reflect changes to Australian Fire Danger Rating System (AFDRS);
- Grammatical errors corrected;
- Inclusion of Mr Brad Kettle as Fire Control Officer for Mumballup Bush Fire Brigade (subject to authorisation); and
- *Bush Fires Act 1954 Summary* point 10;
  - Inclusion of defined extinguisher size (9 litres). This was previously undefined.

It is therefore recommended that Council (the Commissioner) endorse the Shire of Donnybrook Balingup Fire Break Order, including the changes made, as per the recommendation of the BFAC.

### 9.1.5 ENDORSEMENT OF NOMINATED FIRE CONTROL OFFICERS

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	FRC 01, FRC 10A-FRC10L
<b>Author</b>	Jess Cooper, Community Emergency Services Manager
<b>Responsible Manager</b>	Kira Strange, Acting Director Operations
<b>Attachments</b>	Nil
<b>Voting Requirements</b>	Simple Majority

#### Recommended Committee Resolution:

##### That Council (the Commissioner):

1. Endorse the following persons as Fire Control Officers for the period 30/06/2023 until 01/07/2024 pursuant to section 38 of the *Bush Fires Act 1954*, and the persons to be advertised pursuant to section 38(2a) of the *Bush Fires Act 1954* and Section 3.11 of the *Shire of Donnybrook Balingup Bushfire Brigades Local Law* subject to the following:

- 1.1 Each endorsed Fire Control Officer having completed the DFES Fire Control Officer training prior to the October 2023 Bush Fire Advisory Committee Meeting;

- 1.2 In the event that a Fire Control Officer has not completed the training by the October 2023 Bush Fire Advisory Committee Meeting, the Brigade shall be requested to nominate an alternative member who has completed the Fire Control Officer training for the remainder of the applicable period.

2. Instruct the Chief Executive Officer to authorise the following persons as Fire Control Officers for their respective brigade areas under Section 38 of *The Bush Fires Act 1956* and delegation 3.1.8 *Appoint Bush Fire Control Officer/s and Fire Weather Officer*:

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

## STRATEGIC ALIGNMENT

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

Outcome	3	The natural environment is well managed for the benefit of current and future generations.
Objective	3.2	Develop community readiness to cope with natural disasters and emergencies.
Priority Project	3.2.4	Provide support for emergency services volunteers.

## EXECUTIVE SUMMARY

The Authorisation of Fire Control Officers is made pursuant to Section 38 of the *Bush Fires Act 1954*.

## BACKGROUND

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

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

The following nominations for FCO have been received by the Shire of Donnybrook Balingup, for consideration of the BFAC:

<b>Brigade Area</b>	<b>Officer</b>
Argyle Irishtown	Mr Scott Rowe
Balingup Town	Mr Paul Davis
Beelerup	Mr Stuart Simmonds
Donnybrook Town	Mr David Tooke
Ferndale Stirling Park	Mr Max Walker
Kirup	Mr Chris Wringe
Lowden	Mr Michael Anderson
Mullalyup	Mr William (Andrew) Scott
Mumballup Noggerup	Mr Brad Kettle
Munro	Mr Tas Thamo
Thomson Brook/Brookhampton (x2)	Mr Graham Foan Mr Tim McNab
Upper Capel	Mr Bevan Dix



## **FINANCIAL IMPLICATIONS**

Nil.

## **POLICY COMPLIANCE**

Nil.

## **STATUTORY COMPLIANCE**

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

## **CONSULTATION**

Bush Fire Advisory Committee Meeting (BFAC) – 4 May 2023.

## **OFFICER COMMENT/CONCLUSION**

It is recommended that the Shire of Donnybrook Balingup Bush Fire Advisory Committee endorse the received nominations for the positions of Fire Control Officer for each Bush Fire Brigade within the Shire of Donnybrook Balingup.

### 9.1.6 ELECTION OF BUSH FIRE ADVISORY COMMITTEE OFFICE BEARERS

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	FRC 01
<b>Author</b>	Jess Cooper, Community Emergency Services Manager
<b>Responsible Manager</b>	Kira Stranger, Acting Director Operations
<b>Attachments</b>	Nil
<b>Voting Requirements</b>	Simple Majority

<b>Recommended Committee Resolution:</b>															
<b>That Council (the Commissioner):</b>															
1. <b>Endorse the recommended office bearers of the Bush Fire Advisory Committee as follows:</b>															
<table border="1"> <thead> <tr> <th><b>OFFICE</b></th> <th><b>NOMINATION</b></th> </tr> </thead> <tbody> <tr> <td><b>Chairperson</b></td> <td><b>Bevan Dix</b></td> </tr> <tr> <td><b>Chief Bush Fire Control Officer</b></td> <td><b>Max Walker</b></td> </tr> <tr> <td><b>Deputy Chief Bush Fire Control Officer</b></td> <td><b>David Tooke</b></td> </tr> <tr> <td><b>Deputy Chief Bush Fire Control Officer</b></td> <td><b>Ian Ralph</b></td> </tr> <tr> <td><b>Communications Officer</b></td> <td><b>Murray Webb</b></td> </tr> <tr> <td><b>Fire Weather Officer</b></td> <td><b>Murray Webb</b></td> </tr> </tbody> </table>		<b>OFFICE</b>	<b>NOMINATION</b>	<b>Chairperson</b>	<b>Bevan Dix</b>	<b>Chief Bush Fire Control Officer</b>	<b>Max Walker</b>	<b>Deputy Chief Bush Fire Control Officer</b>	<b>David Tooke</b>	<b>Deputy Chief Bush Fire Control Officer</b>	<b>Ian Ralph</b>	<b>Communications Officer</b>	<b>Murray Webb</b>	<b>Fire Weather Officer</b>	<b>Murray Webb</b>
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<b>Fire Weather Officer</b>	<b>Murray Webb</b>														

### STRATEGIC ALIGNMENT

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

Outcome	3	The natural environment is well managed for the benefit of current and future generations.
Objective	3.2	Develop community readiness to cope with natural disasters and emergencies.
Priority Project	3.2.4	Provide support for emergency services volunteers.

### EXECUTIVE SUMMARY

The election of Bush Fire Advisory Committee Office Bearers is a process that is undertaken annually as determined by Fire Control Policy 8.2.

### BACKGROUND

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

The Bush Fire Advisory Committee nominates suitable persons for these and other office bearing positions for endorsement by Council annually.

## **FINANCIAL IMPLICATIONS**

Nil.

## **POLICY COMPLIANCE**

Fire Control Policy 8.2 – *Bush Fire Advisory Committee Meetings*.

## **STATUTORY COMPLIANCE**

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

## **CONSULTATION**

Bush Fire Advisory Committee Meeting (BFAC) – 4 May 2023.

## **OFFICER COMMENT/CONCLUSION**

The appointment of the BFAC officers was discussed at the meeting held Thursday 4 May 2023. As per the relevant BFAC meeting minutes in Item 7.3, Attachment 7.3(1), all positions were appointed unopposed with the exception of the two Deputy Chief Bush Fire Control Officer positions. Four individuals were nominated for the two subject positions:

1. Mr David Tooke
2. Mr Ian Ralph;
3. Mr Paul Davis; and
4. Mr Michael Anderson.

Mr Davis declined to accept the nomination and Mr Ralph was not present at the BFAC meeting to confirm. Notwithstanding this, the three nominated candidates were voted on by way of a private ballot. The first successful candidate was Mr Tooke. The second successful candidate was Mr Ralph subject to his confirmation of the nomination. In the instance that Mr Ralph declined, Mr Anderson was the third successful nomination.

Ms Jessie Cooper verbally confirmed with Mr Ralph on 16 May 2023 that he accepted his nomination and was therefore appointed to the position by the BFAC.

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

## **9.2 DIRECTOR CORPORATE AND COMMUNITY**

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### **9.2.1 ACCOUNTS FOR PAYMENT – MARCH 2023**

The Schedule of Accounts Paid under Delegation (No 1.2.21) is presented for public information (attachment 9.2.1(1)).

### **9.2.2 ACCOUNTS FOR PAYMENT – APRIL 2023**

The Schedule of Accounts Paid under Delegation (No 1.2.21) is presented for public information (attachment 9.2.2(1)).

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### **9.2.3 MONTHLY FINANCIAL REPORT – MARCH 2023**

The Monthly Financial Report for March 2023 is attached (*attachment 9.2.3(1)*).

#### **EXECUTIVE RECOMMENDATION**

**That the monthly financial report for the period ended March 2023 be received.**

### **9.2.4 MONTHLY FINANCIAL REPORT – APRIL 2023**

The Monthly Financial Report for April 2023 is attached (*attachment 9.2.4(1)*).

#### **EXECUTIVE RECOMMENDATION**

**That the monthly financial report for the period ended April 2023 be received.**

### 9.2.5 REPORT ON THE RESULTS OF 5-YEARLY ASSET REVALUATIONS

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Not Applicable
<b>File Reference</b>	FNC 10/5
<b>Author</b>	Stuart Eaton – Finance Projects
<b>Responsible Manager</b>	Kim Dolzadelli – Director Corporate and Community
<b>Attachments</b>	<p>9.2.5(1) Valuation Report of Land &amp; Building Assets For Insurance &amp; Financial Reporting (AASB13 &amp; 116) Purposes (Griffin Valuation Advisory)</p> <p>9.2.5(2) Valuation Report of Other Infrastructure Assets For Insurance &amp; Financial Reporting Purposes (Griffin Valuation Advisory)</p> <p>9.2.5(3) Infrastructure Asset Valuation 2022 Roads, Car Parks, Drainage &amp; Paths (Talis Consultants)</p> <p>9.2.5(4) State of the Assets - Results of 5-Year Asset Revaluations</p>
<b>Voting Requirements</b>	Simple Majority

<b>Executive Recommendation</b>	
1.	<p><b>That Council (the Commissioner) receives the following reports, as attached:</b></p> <p><b>1.1 Valuation Report of Land &amp; Building Assets For Insurance &amp; Financial Reporting (AASB13 &amp; 116) Purposes (Griffin Valuation Advisory).</b></p> <p><b>1.2 Valuation Report of Other Infrastructure Assets For Insurance &amp; Financial Reporting Purposes (Griffin Valuation Advisory).</b></p> <p><b>1.3 Infrastructure Asset Valuation 2022 Roads, Car Parks, Drainage &amp; Paths (Talis Consultants).</b></p> <p><b>1.4 State of the Assets - Results of 5-Year Asset Revaluations.</b></p>
2.	<p><b>That Council (the Commissioner) instruct the Chief Executive Officer to include the updated asset valuations (and the estimated economic life sourced from the revaluations) in the 2023/24 review of Asset Management Plans, scheduled to be presented to Council (Commissioner) in June or July 2023.</b></p>

### 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

In accordance with Regulation 17A(4) of the *Local Government (Financial Management) Regulation 1996* (the Regulations), is it a requirement that non-financial assets are revalued at intervals of not greater than five years.

Non-financial assets requiring revaluation under Regulation 17A are:

1. Land and buildings that are classified as property, plant and equipment.
2. Investment properties.
3. Infrastructure.
4. Vested improvements that the local government controls.

In compliance with Reg 17A(4), the Shire undertook a Request for Quotation process in 2022 to engage a suitably qualified and experienced valuer. Griffin Valuation Advisory (Griffin) was appointed to undertake the contract in collaboration with Talis Consultants (Talis).

Asset Category	Valuer	Date of Valuation
Land and buildings	Griffin	30 June 2022
Bridges	Griffin	30 June 2022
Other infrastructure	Griffin	1 July 2022
Roads	Talis	1 July 2022
Carparks	Talis	1 July 2022
Drainage	Talis	1 July 2022
Paths	Talis	1 July 2022

In general, the Shire engaged the contractor to undertake the following works:

- a. Asset valuations for local government financial reporting in accordance with Australian Accounting Standards.
- b. Valuations for insurance.
- c. Asset Condition Assessments.
- d. Review and update of Shire’s RAMM Database.

The revaluations are now complete. Valuation reports are presented for the public record.

1. Attachment 9.2.5(1) - Valuation Report of Land & Building Assets For Insurance & Financial Reporting (AASB13 & 116) Purposes (Griffin Valuation Advisory).
2. Attachment 9.2.5(2) - Valuation Report of Other Infrastructure Assets For Insurance & Financial Reporting Purposes (Griffin Valuation Advisory).
3. Attachment 9.2.5(3) - Infrastructure Asset Valuation 2022 Roads, Car Parks, Drainage & Paths (Talis Consultants).

Officers have further prepared a consolidated report (Attachment 9.2.5(4) titled, *State of the Assets - Results of 5-Year Asset Revaluations*.

## CONSULTATION

Nil.

## OFFICER COMMENT

Summary of valuations are provided in the following tables. The reader is referred to the provided valuation reports for detail of valuations and condition assessments.

A useful indicator of asset condition is the Asset Consumption Ratio (ACR). This is an accounting measure which indicates the potential service remaining in non-financial assets. If the ACR is high, this indicates that an asset is in good condition – that is, they are either relatively new or have been maintained in good condition. If the ACR is low, this indicates that Council’s assets are in relatively poor condition – that is, assets have not been renewed at a time when renewal was expected to occur, and the future service levels expected from these assets is lessened. This ratio seeks to designate the condition of physical assets. It measures the extent to which depreciable assets have been consumed by comparing their written down value to their replacement cost.

- a. An ACR of 100% = New asset.
- b. An ACR of 0% = Asset at end of economic life.

Local Government Operational Guidelines Number 18 – June 2013 (Financial Ratios), details ratios that required statutory reporting in the Annual Financial Report up until 1 June 2022.

The requirement to report these financial ratios has now been removed. The reason provided by the Department of Local Government, Sport and Cultural Industries is that the underlying financial information is still contained in the audited part of the financial statements and that the changes were based on recommendations made by the Office of the Auditor General.

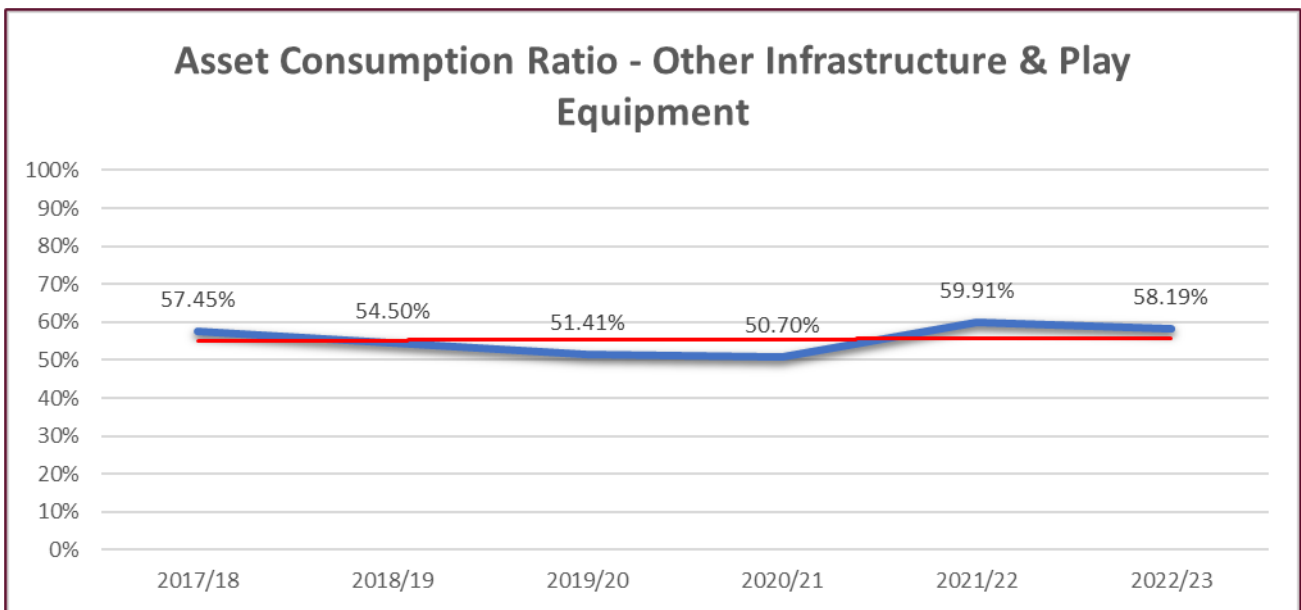
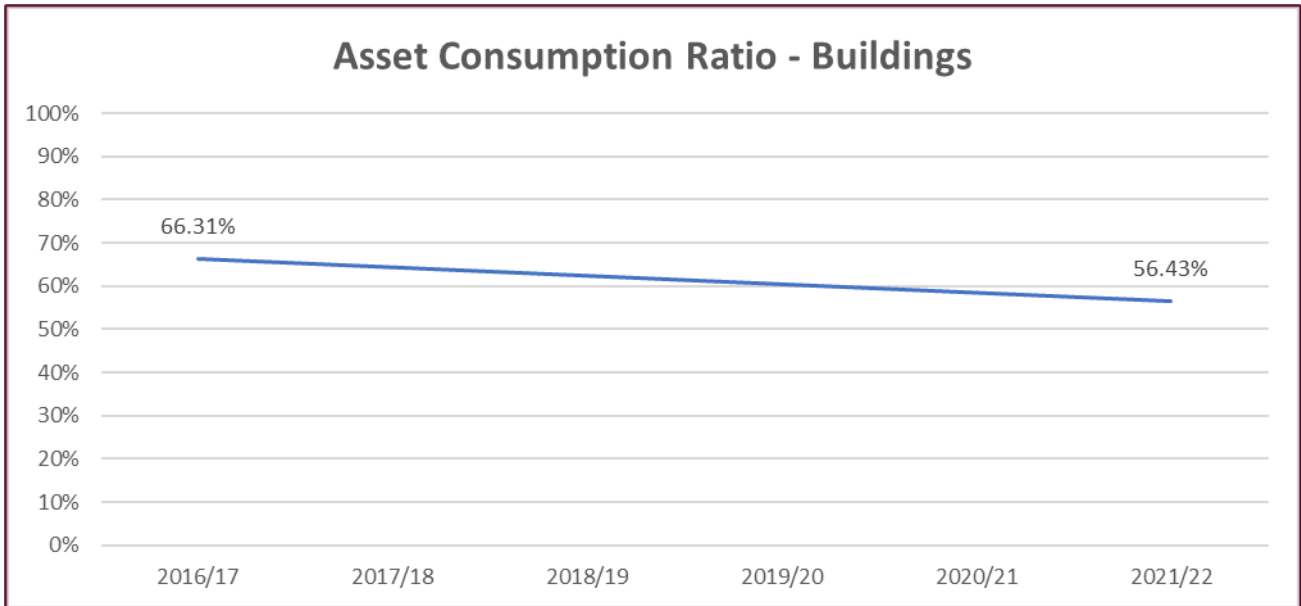
Although discontinued, Guideline Number 18 established a minimum ‘standard’ for the ACR = 50%.

Each asset class is reported with its calculated ACR. It is important to note that the ratio is an indicator based on accounting valuations and does not replace physical inspections of individual assets as the primary source of asset condition.

ASSET CLASS	REPLACEMENT COST	DEPRECIATED REPLACEMENT COST (FAIR VALUE)	ACCUMULATED DEPRECIATION	INSURANCE VALUATION	QUANTITY	ASSET CONSUMPTION RATIO
Land	\$5,342,000	\$5,342,000	N/A	N/A	43	N/A
Buildings	\$73,867,000	\$42,203,900	\$31,663,100	\$81,914,400	132	57%
Bridges	\$74,240,000	\$34,018,000	\$40,222,000	\$79,696,100	35	46%
Other Infrastructure	\$9,860,100	\$5,427,100	\$4,433,000	\$10,969,600	240	55%
Play Equipment	\$1,039,400	\$915,600	\$123,800	\$1,190,700	50	88%

Source: Griffin Valuation Advisory

*Note: For the purposes of revaluation and insurance, bridge 5224 is included, however, ownership remains unresolved, with the Shire currently negotiating with Main Roads WA and the adjoining landowners regarding the asset.*

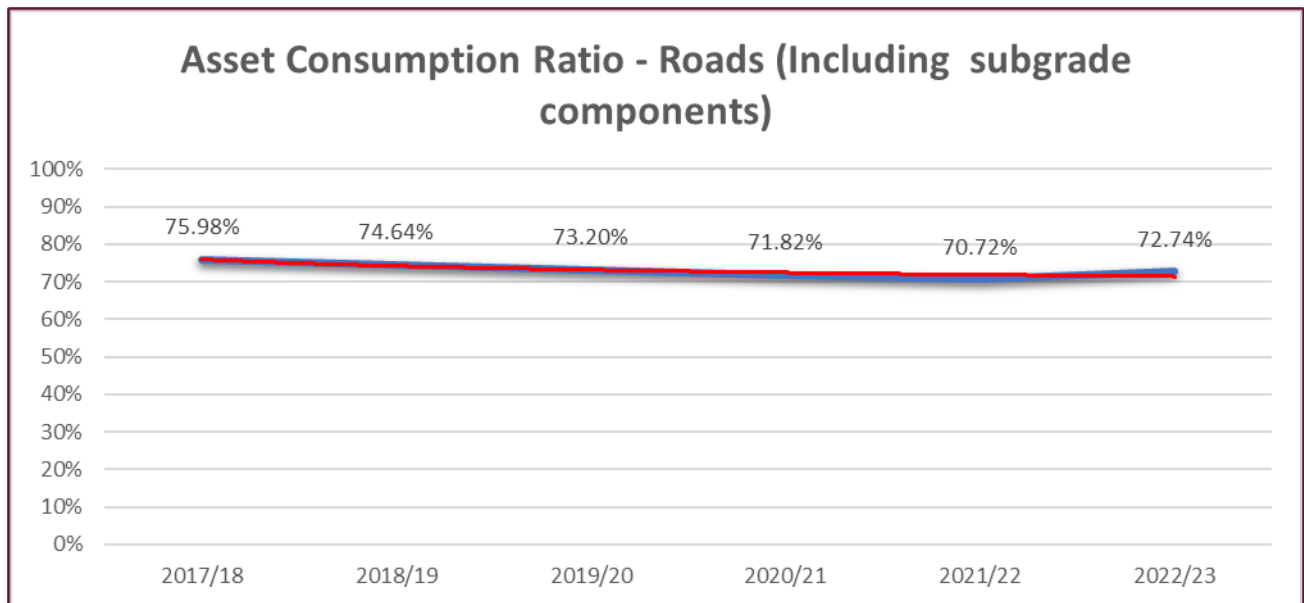


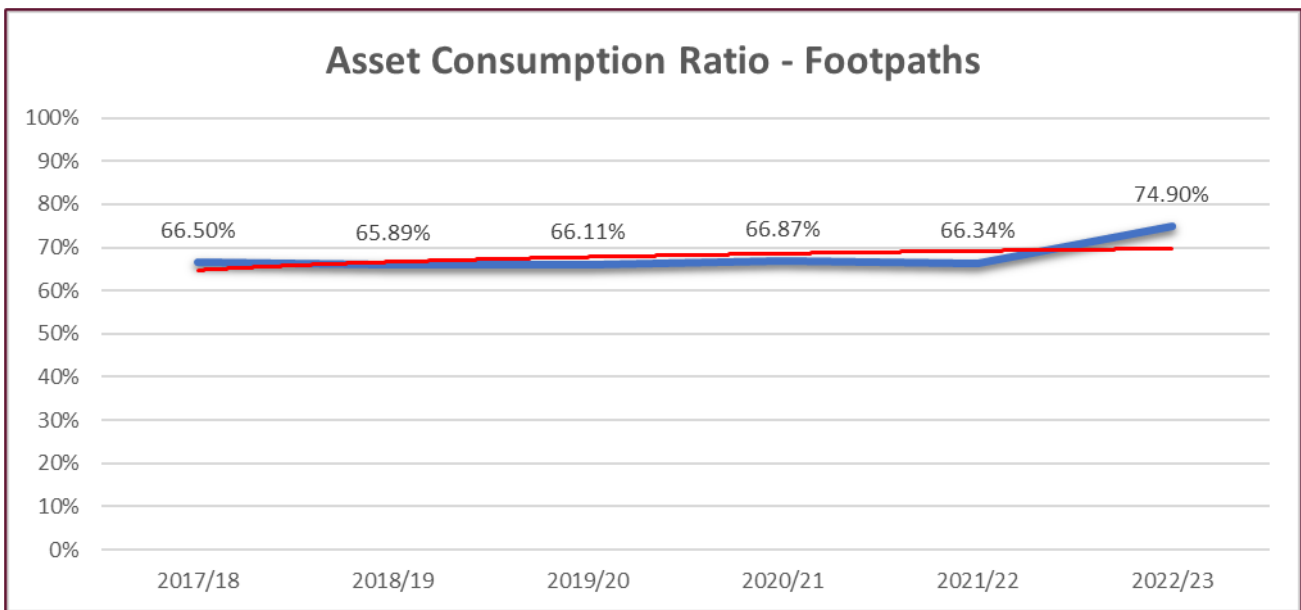
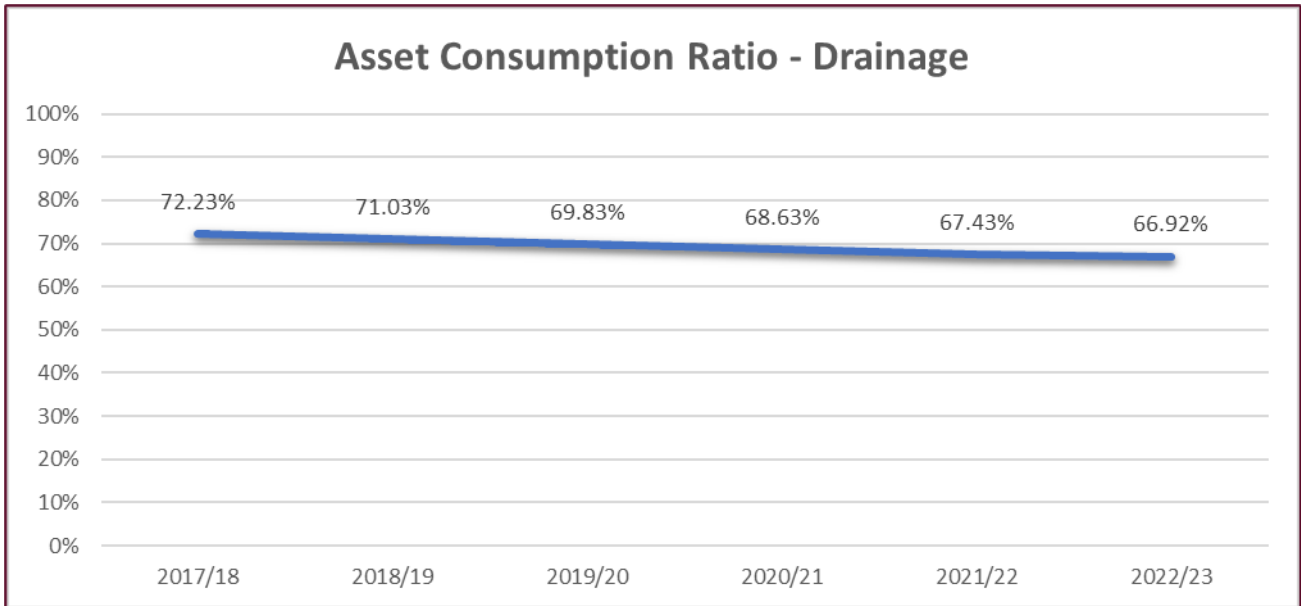
ASSET CLASS	ASSET SUB CLASS	COMPONENT	REPLACEMENT COST	DEPRECIATED REPLACEMENT COST	ACCUMULATED DEPRECIATION	COMPONENT LENGTH (M)	ASSET CONSUMPTION RATIO
<b>Drainage</b>	Culvert	Culvert	\$19,293,801	\$12,885,732	\$6,408,069	20,302	67%
<b>Drainage</b>	Pipes	Pipes	\$7,587,350	\$5,091,770	\$2,495,580	23,528	67%
<b>Electrical</b>	Lighting	Car Park Light	\$43,441	\$28,642	\$14,799	N/A	66%



<b>Electrical</b>	Lighting	Park Light	\$72,402	\$65,524	\$6,878	N/A	91%
<b>Electrical</b>	Lighting	Spot Light	\$7,240	\$6,878	\$362	N/A	95%
<b>Electrical</b>	Lighting	Street Light	\$152,044	\$114,938	\$37,106	N/A	76%
<b>Infrastructure</b>	Railings	Barrier – 2 Rail	\$884,209	\$562,552	\$321,657	4,885	64%
<b>Paths</b>	Footpaths	Surface	\$4,850,197	\$3,632,747	\$1,217,451	27,695	75%
<b>Roads</b>	Sealed	Pavement	\$64,434,756	\$41,329,035	\$23,105,721	299,679	64%
<b>Roads</b>	Sealed	Subgrade	\$7,947,049	\$7,947,049	\$0	299,679	100%
<b>Roads</b>	Sealed	Surface	\$20,465,567	\$16,456,249	\$4,009,318	299,679	80%
<b>Roads</b>	Sealed	Surface Water Channel	\$5,511,072	\$3,830,452	\$1,680,621	540,557	70%
<b>Roads</b>	Unsealed	Pavement	\$13,866,098	\$10,250,852	\$3,615,246	334,824	74%
<b>Roads</b>	Unsealed	Subgrade	\$6,947,493	\$6,947,493	\$0	356,674	100%
<b>Roads</b>	Unsealed	Surface Water Channel	\$ 1,341,730	\$1,341,730	\$0	585,268	100%
<b>Total</b>			\$161,556,420	\$115,998,965	\$45,557,454	2,801,464	72%

Source: Talis Consulting





It is intended that the annual review of the Shire’s Asset Management Plans will be presented to Council (Commissioner) at the June or July 2023 Ordinary Council Meeting. Where relevant, the 2023/24 Asset Management Plans will include revised asset valuations and estimated economic life sourced from the revaluations.

### 9.2.6 2023-2024 DRAFT BUDGET PLANNING

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Shire of Donnybrook Balingup
<b>File Reference</b>	N/A
<b>Author</b>	Kim Dolzadelli, Director Corporate and Community
<b>Responsible Manager</b>	Kim Dolzadelli, Director Corporate and Community
<b>Attachments</b>	9.2.6 (1) - Budget Outline 2023-24
<b>Voting Requirements</b>	Simple Majority

Executive Recommendation
<p><b>That Council (the Commissioner):</b></p> <ol style="list-style-type: none"> <li><b>1. Endorse the 2023-2024 Draft Budget Outline as contained within Attachment 9.2.6(1) - Budget Outline 2023-24.</b></li> <li><b>2. Request the Chief Executive Officer to prepare the Draft Budget based on the endorsed assumptions.</b></li> </ol>

### STRATEGIC ALIGNMENT

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

Outcome	11	Strong, visionary leadership
Objectives	11.1	Provide strategically focused, open and accountable governance.

### EXECUTIVE SUMMARY

Council (Commissioner) is requested to consider and endorse a set of under-pinning financial inputs (assumptions) to assist the Executive in preparing the first draft of the 2023-24 Budget.

### BACKGROUND

The 'Budget Assumptions' document is prepared for Council (Commissioner) and staff to aid preparation of the Draft Annual Budget. This process enables the Council's early consideration of key financial input factors into the Annual Budget. Input factors (assumptions) include items such as the Local Government Cost Index, Long Term Financial Plan recommended rates changes, operating/capital grants, employee costs, utilities costs and many other factors.

### **FINANCIAL IMPLICATIONS**

As the recommendation is for the Draft Budget only, there are no direct financial implications.

### **POLICY COMPLIANCE**

Nil.

### **STATUTORY COMPLIANCE**

As the recommendation is for the Draft Budget only, there are no direct statutory implications.

### **CONSULTATION**

Not applicable.

### **OFFICER COMMENT**

Local government budgets are complex (and regulated) financial instruments and the establishment of key financial directions from Council (the Commissioner) early in the budget development process will assist staff in preparing the draft budget documents.

The Executive recommendation (if approved by the Council) does not bind the Council (Commissioner) in future decision-making in relation to the Budget; the Council (Commissioner) maintains the right to review, modify, reject, change or otherwise make any decision relating to the Budget.

### 9.3 CHIEF EXECUTIVE OFFICER

#### 9.3.1 LOCAL GOVERNMENT REFORM PREPARATION

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Not applicable
<b>File Reference</b>	DEP 20/1
<b>Author</b>	Loren Clifford – Acting Manager Executive Services
<b>Responsible Manager</b>	Loren Clifford – Acting Manager Executive Services
<b>Attachments</b>	9.3.1(1) Local Government Reform Preparedness Report
<b>Voting Requirements</b>	Simple Majority

Recommendation
<p><b>That Council (the Commissioner) receives the report detailing the upcoming Local Government reforms, the Shire’s Administration preparation, comments and advice as shown in Attachment 9.3.1(1).</b></p>

#### STRATEGIC ALIGNMENT

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

Outcome	11	Strong, visionary leadership
Objectives	11.1	Provide strategically focused, open and accountable governance.
	11.2	Improve Community consultation and engagement.

#### EXECUTIVE SUMMARY

Council (Commissioner) is requested to receive the report detailing the upcoming Local Government reforms outlining the Administrations preparation, comments and advice as shown in Attachment 9.3.1(1).

#### BACKGROUND

The Local Government Amendment Bill 2023 is introducing the most significant reforms WA local governments have seen in more than 25 years.

The Shire operates under the *Local Government Act 1995* (the Act). The Act and its subsidiary regulations govern its operations. To enable local governments to better serve residents and ratepayers, the State Government has been working with the sector and the community to improve the Act.

The proposed reforms are based on six key themes:

1. Earlier intervention, effective regulation and stronger penalties,
2. Reducing red tape, increasing consistency and simplicity,
3. Greater transparency and accountability,
4. Stronger local democracy and community engagement,
5. Clear roles and responsibilities, and
6. Improved financial management and reporting.

The latest amendments were introduced into Parliament on 23 February this year and are the first of two tranches. The reforms are intended to provide for a strong, more consistent framework for local government across Western Australia, benefiting residents and ratepayers alike.

This first tranche focuses on electoral reform and has been introduced first to ensure that the reforms are ready for the October 2023 local government elections. These changes are intended to strengthen local democracy and provide greater transparency and accountability.

Following the Bill, amendments to various Regulations will also be progressed.

The second tranche of reform will be introduced later in 2023.

## **FINANCIAL IMPLICATIONS**

Nil.

## **POLICY COMPLIANCE**

Nil.

## **STATUTORY COMPLIANCE**

*Local Government Act 1995.*

## **CONSULTATION**

Sector consultation on these reforms started in November 2021 with webinars, newsletters, forums and meetings. In particular, these reforms drew from the Phase 2 Local Government Act review consultation conducted in 2017-2018 and were further developed as part of working group sessions in 2022 with WA Local Government Association (WALGA) and LG Professionals WA.

## **OFFICER COMMENT**

The Shire is seeking to implement the reform initiatives as outlined in Attachment 9.3.1(1), with early adoption of initiatives where possible and practicable – noting that many reform elements are pending further State legislation and policy development. Several initiatives require the introduction of new legislation (Tranche 2), limiting actions to fast-track implementation.

Work on a second tranche of additional legislation to deliver further reforms (including the establishment of the new Local Government Inspector and the introduction of Local Government Monitors for early intervention) is continuing in consultation with the local government sector.

This tranche will also cover:

- Audit, risk, and improvements committees,
- Conduct panel,
- Council member superannuation,
- WALGA's role in the Local Government Act, and
- Streamlining regional subsidiaries.

**9.3.2 PROPOSED BUSINESS CASE: BUSINESS INCUBATOR UNITS AND BUSINESS HUB**

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Not applicable
<b>File Reference</b>	PWF 23H
<b>Author</b>	Stuart Drummond – Principal Officer Economic Development
<b>Responsible Officer</b>	Ben Rose – Chief Executive Officer
<b>Attachments</b>	Nil.
<b>Voting Requirements</b>	Simple Majority

Recommendation
<p><b>That the Council (Commissioner) request the Chief Executive Officer to prepare a Business Case for the development and operation of Business Incubator Units and a Business Hub in the Shire of Donnybrook Balingup, with the Business Case to be presented to Council (Commissioner) for consideration at the August 2023 Ordinary Meeting.</b></p>

**STRATEGIC ALIGNMENT**

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

Outcome	9	A thriving economy.
Objectives	9.2	Attract and retain a diverse mix of businesses and investment opportunities.
	9.3	Enable appropriate infrastructure to support and enhance business.
	9.4	Facilitate access to quality education, training, and work opportunities.

**EXECUTIVE SUMMARY**

It is recommended that the Shire prepares a Business Case which examines the opportunity to develop and operate a business hub and incubator units within the Shire of Donnybrook Balingup. The Business Case should examine feasibility and implications (financial, and other), with recommendations for the Council (Commissioner) to consider.

**BACKGROUND**

Business Hubs and Incubator Units are spaces where entrepreneurs would be supported to start new businesses in an environment that would allow them to develop and draw upon complementary services and advice to help their business succeed. They could also be spaces where people could hire the facilities to work in an office environment and hold meetings.



This model is successful in other regional (and metropolitan) places. Maker + Co in Bunbury has a proven model of co-working space and a business hub, as does Watso in Mandurah. A State Government funded 'Creative and Tech Hub' has recently (March 2023) been launched in Bunbury, with a network of hubs/offices across the south-west. There are more than a dozen business incubator units in Perth, operating through a range of models and all supporting many new businesses. The model helps to strengthen and diversify the local economy and will help Donnybrook Balingup build a reputation as a place from where people want to run a business.

Business Incubator Units and Business Hubs are popular models that support a contemporary way of business operation, particularly in the entrepreneurial sector. Anecdotal evidence from the local business community suggests both Business Incubator Units and a Business Hub in Donnybrook Balingup are desired and would be supported.

Outcome 9 in the Council Plan is "A Thriving Economy". Business Incubator Units and a Business Hub would aid the Shire in meeting the following objectives:

- 9.2 - Attract and retain a diverse mix of businesses and investment opportunities
- 9.3 - Enable appropriate infrastructure to support and enhance business.
- 9.4 - Facilitate access to quality education, training and work opportunities.

A grant application for \$100,000 has been submitted by the Shire to the State Government's Native Forestry Transition Fund, for the purpose of development of Business Incubator Units and/or a Business Hub. Council (Commissioner) consideration of a Business Case would be required prior to the Shire determining whether to proceed with accepting the grant (if successful), or not.

## **FINANCIAL IMPLICATIONS**

Short-term financial implications involve the allocation of staff time to develop the Business Case. It is expected that the Business Case would be completed 'in-house' by Shire staff.

Medium to longer-term financial implications will be examined in the Business Case.

## **POLICY COMPLIANCE**

Nil.

## **STATUTORY COMPLIANCE**

Nil.

## **CONSULTATION**

Discussions have taken place with industry organisations including the Donnybrook Balingup Chamber of Commerce and Industry, the South West Development Commission, Regional Development Australia South West and several local businesses. Each of these stakeholders responded positively to the concept of a business hub and incubator units and agreed it would be well received and desired in Donnybrook Balingup, as well as offering support and advice where they could.

Discussions have also taken place with some local providers of business support services who would be happy to become involved with an incubator model where needed and offer a range of support services to new and existing businesses.

## **OFFICER COMMENT**

The local economy of Donnybrook Balingup relies heavily on the horticultural, agricultural and tourism industries and needs to diversify in order to remain robust, resilient and sustainable into the future. Having a diverse local economy not only makes the area more resilient to external impacting factors, it also gives local young people more choice of industries in which to work and therefore increases the chances of them remaining in the Shire.

Business incubator models and business hub models have proven to be very successful around Australia. They are spaces which:

- allow new businesses to begin, grow and become established;
- create new jobs and employment opportunities in a wide range of different industries.
- increase footfall in the local area thereby benefiting existing businesses; and
- strengthen the local economy and enhance the area's reputation as a place to do business.

More than 20% of Australian new business start-ups fail within the first 12 months, and more than 60% fail within the first three years (fundsquire.com). Those that begin in an incubator model last much longer as they are operating in a stable and supportive environment and are provided with the tools they need to grow and flourish.

The development of a Business Case will aid the Council's (Commissioner's) decision making in regard to the potential grant, and whether to actively pursue the Incubator Units / Business Hub concept.

**9.3.3 CHIEF EXECUTIVE OFFICER - ANNUAL PERFORMANCE APPRAISAL - SELECTION OF CONSULTANT**

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Ben Rose, Chief Executive Officer
<b>File Reference</b>	EMP 582
<b>Author</b>	Ben Rose, Chief Executive Officer
<b>Responsible Manager</b>	Ben Rose, Chief Executive Officer
<b>Attachments</b>	Nil.
<b>Voting Requirements</b>	Simple Majority

<b>Recommendation</b>
<p><b>That Council (the Commissioner):</b></p> <ol style="list-style-type: none"> <li><b>1. Authorise the appointment of Price Consulting as the independent facilitator for the Chief Executive Officer’s annual performance appraisal for 2023.</b></li> <li><b>2. Acknowledge and agree the process by which the Chief Executive Officer’s performance will be reviewed.</b></li> <li><b>3. Acknowledge the Chief Executive Officer’s agreement to the process by which the Chief Executive Officer’s performance will be reviewed.</b></li> <li><b>4. Appoint Mr Ian Telfer and Ms Vivienne McCarthy (as external members of the Shire’s Audit and Risk Management Committee) to the 2023 Chief Executive Officer Annual Appraisal Working Group.</b></li> <li><b>5. Appoint the Shire’s Director Operations and Director Corporate and Community to the 2023 Chief Executive Officer Annual Appraisal Working Group.</b></li> <li><b>6. Resolve that the Terms of Reference for the Chief Executive Officer 2023 Annual Appraisal Working Group are as follows:</b> <ol style="list-style-type: none"> <li><b>6.1 Meeting with Consultant and/or Commissioner to provide appraisal feedback;</b></li> <li><b>6.2 Review of draft appraisal feedback;</b></li> <li><b>6.3 Observation of compliance with Division 3 of the Model Standards;</b></li> </ol> </li> </ol>

## **STRATEGIC ALIGNMENT**

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

Outcome	11	Strong, visionary leadership
Objectives	11.1	Provide strategically focused, open and accountable governance.

## **EXECUTIVE SUMMARY**

The Chief Executive Officer recommends the appointment of Price Consulting to facilitate the Chief Executive Officer's annual performance appraisal.

## **BACKGROUND**

The previous annual performance appraisal for the Chief Executive Officer was completed in August 2022.

## **FINANCIAL IMPLICATIONS**

In accordance with Council Policy FIN/CP-4, procurement between \$2,000 and \$5,000 requires at least one written quote to be sought. In this instance, however, four separate written quotes were sought, with one responses/quote received, as follows:

1. Beilby Downing Teal: acknowledged the Shire's request for quote and advised that they were not in a position to provide the service in this instance.
2. LOGO Local Government Appointments: did not provide a quote (no response).
3. Mapien Workplace Strategists: did not provide a quote.
4. Price Consulting: \$2,904 (GST inclusive).

## **POLICY COMPLIANCE**

The Shire's Procurement Policy requires one written quote to be sought for works/services under \$5,000.

## **STATUTORY COMPLIANCE**

Section 5.38 of the *Local Government Act 1995* requires the performance of the Chief Executive Officer to be reviewed at least once in relation to every year of employment.

Clause 5.3.1 of the Chief Executive Officer's employment contract requires the conduct of the performance review to be undertaken by a mutually agreed, independent party.

On 3 February 2021, the State Parliament introduced amendments to the *Local Government Act 1995* and subsidiary legislation which modified statutory provisions in

relation to the employment, termination and performance review processes for local government Chief Executive Officers. Specifically in relation to the review of performance, the Model Standards for CEO Recruitment, Performance and Termination sets out:

**Division 3 — Standards for review of performance of CEOs**

**15. Overview of Division**

This Division sets out standards to be observed by the local government in relation to the review of the performance of CEOs.

**16. Performance review process to be agreed between local government and CEO**

- (1) The local government and the CEO must agree on —
  - a. the process by which the CEO's performance will be reviewed; and
  - b. any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.
- (2) Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses 17, 18 and 19.
- (3) The matters referred to in subclause (1) must be set out in a written document.

**17. Carrying out a performance review**

- (1) A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.
- (2) The local government must —
  - a. collect evidence regarding the CEO's performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and
  - b. review the CEO's performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

**18. Endorsement of performance review by local government**

Following a review of the performance of the CEO, the local government must, by resolution of an absolute majority of the council, endorse the review.

**19. CEO to be notified of results of performance review**

After the local government has endorsed a review of the performance of the CEO under clause 18, the local government must inform the CEO in writing of —

- a. the results of the review; and
- b. if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.

In relation to item 16(1)(a), the Chief Executive Officer advises the Council (Commissioner) of his agreement with the process as outlined in the quote proposals (as attached).

**CONSULTATION**

To assist the Commissioner, Chief Executive Officer and the appointed consultant through the annual appraisal process, it is recommended that a Working Group comprising the two external members of the Audit and Risk Management Committee, as

well as two senior staff (Directors) of the Shire is established. The terms of reference of the Working Group should include:

1. Meeting with Consultant and/or Commissioner to provide appraisal feedback (via a survey or similar);
2. Review of draft appraisal feedback;
3. Observation of compliance with Division 3 of the Model Standards;

Cognizant that the Council of the Shire is presently administered via a Commissioner, rather than nine elected members, a broader consultation process (compared to 'normal') is recommended for this year's appraisal. Whilst a broader stakeholder group can assist the appraisal process, all decision-making will need to be made by the Commissioner.

### **OFFICER CONCLUSION**

Whilst four separate quotes were sought for the independent facilitator role, only one company responded, being Price Consulting. The proposed appraisal methodology and fee structure included in Price Consulting's quote is appropriate, and is recommended to Council (the Commissioner) for endorsement.

### 9.3.4 LOCAL GOVERNMENT INDEMNITY SCHEME – BOARD APPOINTMENT

<b>Location</b>	Shire of Donnybrook Balingup
<b>Applicant</b>	Benjamin (Ben) Rose, Chief Executive Officer
<b>File Reference</b>	N/A
<b>Author</b>	Benjamin (Ben) Rose, Chief Executive Officer
<b>Responsible Manager</b>	Benjamin (Ben) Rose, Chief Executive Officer
<b>Attachments</b>	Nil
<b>Voting Requirements</b>	Simple Majority

Executive Recommendation
<p><b>That Council (the Commissioner) approve the Chief Executive Officer’s (Mr Ben Rose) appointment to the Board of the Local Government Indemnity Scheme (LGIS) as a Board Director from 1 July 2023, subject to the Chief Executive Officer’s time commitments to the LGIS Board being managed outside of core Shire of Donnybrook Balingup hours or via approved leave arrangements.</b></p>

### STRATEGIC ALIGNMENT

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

Outcome	12	A well respected, professionally run organisation.
Objectives	12.1	Deliver effective and efficient operations and service provision.

### EXECUTIVE SUMMARY

Council (the Commissioner) is being requested to consider and approve the Chief Executive Officer’s (CEO) appointment to the Local Government Indemnity Scheme (LGIS) Board.

### BACKGROUND

In early April 2023, LGIS (via WALGA), called for applications to the LGIS Board from non-metropolitan local government officers. The Shire’s CEO (Ben Rose) applied, was shortlisted and interviewed. On 8 May 2023, the Minutes of the May 2023 WALGA State Council Meeting were released, with advice that Mr Rose had been approved by the WALGA State Council for the Board position, to commence from 1 July 2023.

The LGIS Board comprises nine members:

- An independent Chair
- The President of WALGA (ex officio)

- The CEO of WALGA (ex officio)
- Two independent members (skills based appointments)
- One elected member, metropolitan
- One serving officer, metropolitan
- One elected member, non-metropolitan
- One serving officer, non-metropolitan

## **FINANCIAL IMPLICATIONS**

There are no financial implications for the Shire of Donnybrook Balingup.

## **POLICY COMPLIANCE**

Nil.

## **STATUTORY COMPLIANCE**

The CEO's employment contract requires Council (Commissioner) approval for the CEO's participation in this Board appointment.

## **CONSULTATION**

Advice on any implications for the role has been sought from the outgoing LGIS non-metropolitan local government serving officer (maximum tenure/term reached) and provided directly to the Commissioner.

## **OFFICER COMMENT**

The LGIS Board appointment offer to the CEO presents an opportunity to the individual, as well as the employing local government (the Shire of Donnybrook Balingup) and the local government sector more broadly. Time commitments of the CEO as a Board member (Director) are easily managed outside of time obligations to the Shire, or via approved leave arrangements.

As per the CEO's employment contract, approval for the CEO to accept the Board appointment from 1 July 2023 is respectfully requested from the Commissioner.



**10 ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

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Nil.

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

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Nil.

**12 MEETINGS CLOSED TO THE PUBLIC**

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***12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED***

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***12.1.1 CHIEF EXECUTIVE OFFICER – KEY PERFORMANCE INDICATORS***

This report is confidential in accordance with Section 5.23 (2) (a) of the Local Government Act 1995, which permits the meeting to be closed to the public.

*(a) a matter affecting an employee or employees;*

***12.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC***

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**13 CLOSURE**

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The Commissioner to advise that the next Ordinary Council Meeting will be held on 28 June 2023 commencing at 5.00pm in the Shire of Donnybrook Balingup Council Chamber.