



Notice of Ordinary Council Meeting

To be held on 28 August 2024 and commence at 5:00pm
To be held at the Council Chambers in Donnybrook
(1 Bentley Street, Donnybrook)

Authorised:

A handwritten signature in black ink, appearing to be "Tim Clynch", is positioned to the right of the "Authorised:" label.

Tim Clynch, Chief Executive Officer (Temporary)

Prepared:

23 August 2024

Disclaimer:

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

MEASURES OF CONSEQUENCE

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

MEASURES OF LIKELIHOOD

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

RISK MATRIX

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

RISK ACCEPTANCE CRITERIA

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

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1. Declaration of Opening / Announcement of Visitors

Acknowledgement of Country:

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

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

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

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

2. Attendance

Councillors Present:

- | | | |
|--|---|---|
| <input type="checkbox"/> Cr Vivienne MacCarthy | <input type="checkbox"/> Cr Lisa Glover | <input type="checkbox"/> Cr John Bailey |
| <input type="checkbox"/> Cr Alexis Davy | <input type="checkbox"/> Cr Peter Gubler | <input type="checkbox"/> Cr Anita Lindemann |
| <input type="checkbox"/> Cr Anne Mitchell | <input type="checkbox"/> Cr Grant Patrick | |

Staff Present:

Tim Clynch, Chief Executive Officer (Temporary)	Maurice Battilana, Acting Director Finance and Corporate
Ross Marshall, Director Operations	Loren Clifford, Manager Corporate Services
Michelle Dennis, Manager Development Services	Samantha Farquhar, Administration Officer Corporate Services

Other Members Present:

Public Gallery:	Livestream Viewers:
Guests:	

2.1. Apologies

Nil.

2.2. Approved Leave of Absence

At its Special Council Meeting held 3 July 2024 Council resolved the following:

"COUNCIL RESOLUTION 112/24

That Council:

- 1. Approve Cr Deanna Shand's request for a leave of absence for the Ordinary Council Meeting held on 28 August 2024."*

2.3. Application for Leave of Absence

Nil.

3. Announcements from the Presiding Member

Nil.

4. Declarations of Interest

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

Cr Peter Gubler declared an indirect financial interest regarding item 9.1.2, as he transports wedding guests and bike riders to Lot 945 South Hampton Road Balingup.

5. Public Question Time

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

Nil.

5.2. Public Question Time

Nil.

6. Presentations

6.1. Petitions

Nil.

6.2. Presentations

Nil.

6.3. Deputations

Nil.

6.4. Delegates' Reports

Nil.

7. Confirmation of Minutes

7.1. Special Council Meeting held on 3 July 2024

Minutes of the Special Council Meeting held 3 July 2024 are attached as [Attachment 7.1\(1\)](#).

Executive Recommendation:

That the Minutes from the Special Council Meeting held 3 July 2024 be confirmed as a true and accurate record.

7.2. Ordinary Council Meeting held on 24 July 2024

Minutes of the Ordinary Council Meeting held 24 July 2024 are attached as [Attachment 7.2\(1\)](#).

Executive Recommendation:

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

8. Reports of Committees

8.1. Warren Blackwood Alliance of Councils Meeting held on 4 June 2024

Minutes of the Warren Blackwood Alliance of Councils Meeting held 4 June 2024 are attached as [Attachment 8.1\(1\)](#).

Executive Recommendation:

That the Minutes from the Warren Blackwood Alliance of Councils Meeting held 4 June 2024 be received.

9. Reports of Officers

9.1. Director Operations

9.1.1. Revestment of Lot 150 on Plan 2170 (Bridge Street) to the State

Report Details:

Prepared by: Manager Development Services

Manager: Ross Marshall, Director Operations

Location: Lot 150 on Plan 2170

File Reference: RD 0191

Voting Requirement: Simple Majority

Attachment(s):

9.1.1(1) Plan 2170

Executive Recommendation

That Council pursuant to Section 52(1)(b) of the *Land Administration Act 1997*, requests the Minister for Lands revest Lot 150 on Plan 2170 to the State.

Strategic Alignment

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

Outcome: 11 - Strong, visionary leadership.

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

Item: Nil.

Executive Summary

Lot 150 on Plan 2170 is a parcel of land adjacent to the river on Bridge Street that is currently owned in freehold by the same four deceased landowners of Lot 151 on Plan 2170 which is the land currently occupied by Shortell Street. The land has never been rated and has been maintained by the Shire for an indeterminate period. Under the Shire's Local Planning Scheme, the land is a Local Scheme Reserve for Parks and Recreation and is identified as Flood Prone Land under Special Control Area 1. It therefore does not have a residential development entitlement.

Should a future pathway be needed as is the case to the south of Bridge Street, the Shire has a right of way, that is located outside of the flood prone area, that would be more suitable for this type of infrastructure. The land is therefore of no value to the Shire and it is requested that it be revested to the State.

Background

At its Ordinary Council meeting held 24 August 2022 Council resolved the following:

“COUNCIL RESOLUTION 107/22

That Council, pursuant to Section 56(1)(c) of the Land Administration Act 1997, requests the Minister for Lands to dedicate Lot 151 on Plan 2170, as illustrated on Attachment 9.1.1(2), as ‘road’ subject to:

- 1. There being no objections from landowners and/or relevant external agencies that are unable to be addressed or rectified at officer level;*
- 2. All associated costs with the request being borne by the Shire; and*
- 3. The Minister for Lands being indemnified against any costs, including any claims for compensation and costs that may reasonably be incurred by the Minister in considering granting the request to dedicate the land as road”*

The above resolution enables Shortell Street, currently owned in freehold by four deceased persons, to be formally dedicated as a road. As part of the administration follow up regarding the above land parcel, it has been identified that the same four deceased persons also own Lot 150 on Plan 2170. Shire records indicate that Lot 150 was identified on a land title plan (Plan 2170) as early as 1899 (refer below excerpt and Attachment 9.1.1(1)).

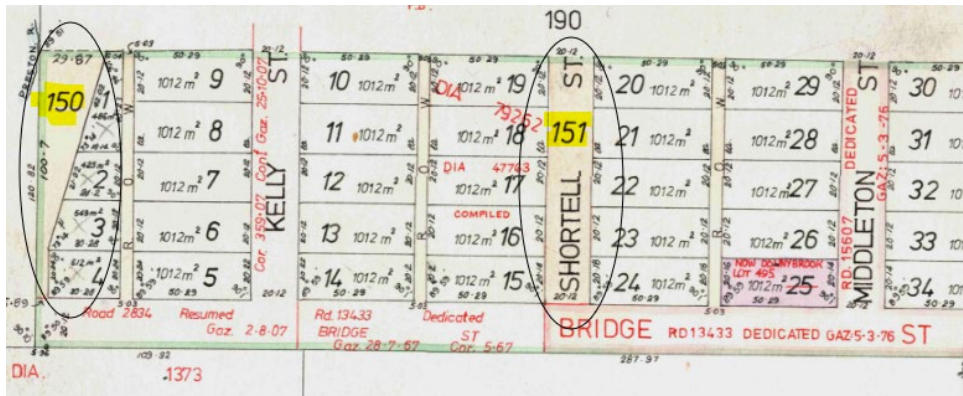


Figure 1 – Excerpt of Plan 2170

Lot 150 on Plan 2170 is a parcel of land adjacent to the river on Bridge Street that was likely delineated for the purposes of ceding to the Crown as part of the Preston River; however as it is shaded brown on the Plan, the Department of Planning, Lands and Heritage have informed that it can be considered “alley, court, land, road, street, thoroughfare or yard on alienated land” under the definition of “private road” under Section 3 of the *Land Administration Act 1997*. The parcel is highlighted in red in Figure 2 below:



Figure 2 – Aerial of Immediate Locality
Image Source: Landgate, MapViewer

Lots 3 and 4 are owned by the Water Corporation for the purposes of a future sewerage pump station. Lots 1 and 2 are owned by the Shire as freehold land. The right of way located immediately adjacent forms part of Lot 123, encompassing all the right of ways on Plan 2170, which are also owned in freehold by the Shire. These right of ways are highlighted in Figure 3 below:



Figure 3: Right of Ways – Lot 123, Plan 2170
Image Source: Landgate, MapViewer

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Possible	Insignificant	Low (3)
Financial	Almost Certain	Insignificant	Moderate (5)
Risk Description:	Shire maintains land it doesn't own/have the authority to manage.		
Mitigation:	Dealing with land tenure matters as they are identified.		

Financial Implications

Previous Shire officers have already undertaken the necessary probate searches in relation to Resolution 107/22 so there are limited costs associated with the current recommendation.

Should Council wish for the land to be transferred to the Shire in freehold, the land would need to be transmitted into the name of the executors of the estate and then transferred to the Shire. There are Landgate fees of approximately \$840 plus settlement agent charges. The Shire currently owns Lots 1 and 2, immediately adjacent to Lot 150, as well as all of the rights of ways. Lot 150 is therefore not required by the Shire and freehold acquisition is not recommended.

Policy Compliance

Nil.

Statutory Compliance

A request to the Minister for Lands to revest Lot 150 is to be made in accordance with Section 52(1)(b) of the *Land Administration Act 1997*. This states:

52. *Local government may ask Minister to acquire as Crown land certain land in district*
- (1) *Subject to this section, a local government may request the Minister to acquire as Crown land —*
 - (b) *any private road; or**within the district of the local government (in this section called the **subject land**).*
 - (2) *A request made under subsection (1) is to be accompanied by —*
 - (a) *a plan of survey or sketch plan —*
 - (i) *showing the subject land; and*
 - (ii) *approved by the Planning Commission; and*
 - (b) *copies of all objections lodged with the local government during the period referred to in subsection (3)(b)(i) or (ii), as the case requires.*
 - (3) *Before making a request under subsection (1), a local government must —*
 - (a) *take all reasonable steps to give notice of that request to —*
 - (i) *the holder of the freehold in the subject land unless the local government holds that freehold; and*
 - (ii) *the holders of the freehold in land adjoining the subject land unless the local government holds that freehold; and*
 - (iii) *all suppliers of public utility services to the subject land;**and*
 - (b) *in the case of—*
 - (i) *alienated land referred to in subsection (1)(a) or a private road referred to in subsection (1)(b), state in the notice a period of not less than 30 days from the day of that notice during which period persons may lodge objections with it against the making of that request; or*
 - (ii) *any land referred to in subsection (1)(c), advertise or take such steps as may be prescribed to notify interested persons of an intention to make the request and state in the notification a period of not less than 30 days from the day of that notification during which period persons may lodge objections with it against the making of that request.*

Under Regulation 6 of the *Land Administration Regulations 1998* in requesting the Minister to revest land under section 52(1)(b) the local government is required to provide a Council resolution for the request.

Consultation

Shire staff have made contact with the executors of the estate of the deceased landowners. As prescribed by Section 52(3) of the *Land Administration Act 1997* consultation with the adjoining landowners, as well as utility providers, is also required.

Officer Comment

In 2013, a statutory declaration was provided by three of the registered landowners (with the fourth already deceased) relinquishing ownership of this land to the Shire. However, it appears that the transfer of land never occurred to the Shire as the land remains in the name of the four deceased owners. It is unclear why the statutory declaration was provided or why the land transfer did not proceed.

There is an opportunity to resolve this land tenure issue, given the Shire has located descendants of the landowners who are prepared to discuss the transfer of both land parcels to the Crown.

Transferring Lot 150 to the Crown will facilitate the use of this land by the general public and provide opportunities for future path linkages for the Shire. As is typical along the foreshore reserve in the Donnybrook townsite the Shire will continue to undertake appropriate levels of maintenance to provide ongoing access to the river. Levels of service will most likely increase as housing development extends to the North of Bridge Street in the future.

9.1.2. Weddings at Linga Longa – Event Application

Report Details:

Prepared by:	Senior Community Development Officer		
Manager:	Manager Development Services		
Applicant:	Paul Eaton		
Location:	Lot 945 Southampton Road, Balingup		
File Reference:	A4987	Voting Requirement:	Simple Majority
Attachment(s):	Nil.		

Executive Recommendation

That Council:

1. Considers the event application, Linga Longa Weddings as temporary works and use and therefore exempt from development approval under clause 61 (1) (a)(17) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
2. Approves Weddings at Linga Longa, Lot 945 Southampton Road Balingup on the 28 September, 5 October, 19 October, 26 October, 2 November, 23 November, 14 December 2024 and 18 January 2025 subject to the following conditions:
 - a) A maximum accommodation number of 100 patrons per wedding event;
 - b) Camping for wedding event attendees is permitted for 2 nights for each wedding event and subject to separate written approval from the Shire;
 - c) Compliance with the Bushfire Emergency Plan dated 11 January 2024 as amended from time to time;
 - d) Adequate potable water is to be available for free to wedding event attendees including campers;
 - e) All portable electrical equipment is to be tested and tagged by an appropriately qualified person;
 - f) All toilets are to be serviceable for the duration of the events;
 - g) Applicant to inform all local emergency services of event dates;
 - h) Event grounds are to have adequate lighting after dark;
 - i) All temporary structures (including tents) must be suitably secured to prevent movement in wind gusts and must not be used if winds will exceed manufacturer specified rating;
 - j) For any temporary tent or marquee greater than 50m² the event organiser is to provide a Certificate of Structural Adequacy from a practising structural engineer or authorised installer, confirming structural adequacy of temporary structures installed;
 - k) The placement of temporary roadside signage will require the development and submission of a Traffic Management Plan (TMP) and Traffic Guidance Scheme (TGS's) prepared by an appropriately qualified person and subject to separate approval from the Shire and Main Roads WA;

- l) Fires permitted in designated pit/structure only and subject to any permits required under the *Bush Fires Act 1954* as appropriate; and;**
- m) Fireworks or any other pyrotechnic display will be subject to separate approval.**

Advice notes:

- a) It is recommended that a First Aid Officer be present at all events.**
- b) In relation to condition (d) a minimum of 2 litres of free drinking water available per person or a rate calculated at 500 mL/hour, whichever is the greater, is required to be available.**
- c) In relation to condition 1, this approval is not to be construed as a development approval for a reception centre or as an ongoing approval for wedding events at Linga Longa beyond the scope of this event application.**

Strategic Alignment

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

Outcome: 2 - A safe and healthy community.

Objective: 2.2 - Facilitate, encourage and support a diverse range of festivals, community events, arts and cultural activities.

Outcome: 9 - A thriving economy.

Objective: 9.2 - Attract and retain a diverse mix of businesses and investment opportunities.

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

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

Executive Summary

Linga Longa Estate's owners are currently working with the Shire to lodge a retrospective development application for a number of land uses, including a reception centre.

Until the Development Application has been approved it is considered that events outside their current Development Application should be determined by Council as temporary works and use.

It is recommended that Linga Longa Weddings be conditionally approved.

Background

In 2016 the landowners obtained development approval (P16012) to hold mountain bike events and construct chalets, car parking areas, camping grounds and ancillary structures. Specifically condition 12 on the approval states:

Organised events of a scale beyond local or small-scale groups/club meetings to be limited to 12 times a year and all impacts resulting from events to be contained within the site.

The approval issued in 2016 did not include the use of the property as a wedding venue (i.e. “reception centre”) and there was some confusion around the terms of the development approval which the landowner is now proactively seeking to remedy. In the interim, it is proposed that eight weddings proposed for the remainder of this season be considered under an event application.

Linga Longa has a permanent marquee structure, toilets and other infrastructure necessary to accommodate these weddings proposed to be held on the 28 September, 5 October, 19 October, 26 October, 2 November, 23 November and 14 December 2024 and 18 January 2025. The maximum number of wedding attendees is 100 people.

Linga Longa has also provided the following information in support of their event application:

- A bushfire management plan
- A bushfire emergency plan
- A copy of their public liability insurance providing a limit of \$20,000,000
- Confirmation that the wedding organisers provide a licensed server in order for alcohol to be consumed at the wedding
- A temporary camping application

There are adequate parking bays for attendees, with Linga Longa also providing a bus transport service for guests staying in town. Linga Longa have at least two staff on site during the events to address any observed issues.

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Possible	Moderate	Moderate (9)
Risk Description:	Negative community experience; risk to attendants.		
Mitigation:	Event conditions.		
Risk:	Likelihood:	Consequence:	Risk Rating:
Health	Rare	Catastrophic	Moderate (5)
Risk Description:	Serious injury to attendants.		
Mitigation:	Risk management through conditions of hire, small size events.		
Risk:	Likelihood:	Consequence:	Risk Rating:
Compliance	Possible	Major	High (12)
Risk Description:	Event set up and operation not in accordance with approval. Offsite impacts.		
Mitigation:	Event conditions and compliance site visits in the lead up to the events.		

Financial Implications

The event assessment process is a collaborative effort between Shire staff across the Operations Directorate, who each provide recommendations specific to their area of expertise. Application fees are not intended to fully recover the costs associated with the event assessment process. This event attracts the following fees (as per Council’s adopted fees and charges):

Item	Rate
Event Application Fee	\$52
Application Fee Temporary Camping	\$110

Policy Compliance

Nil. As an event policy has yet to be finalised, this application is being referred to Council for determination.

Statutory Compliance

Under clause 61(1)(a)(17) and 61(2)(f) of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, events can be considered as exempted development where they meet the definition of “temporary works” and “temporary use”. Temporary works are defined as “the works are in existence for less than 48 hours, or a longer period agreed by the local government, in any 12-month period”; and temporary use is defined as “the use is in existence for less than 48 hours, or a longer period agreed by the local government, in any 12-month period”.

Council approval is sought for a longer period to allow eight weddings to occur. A reception centre is an advertised use in the General Agriculture zone and a development application would need to be advertised to adjoining landowners and various agencies prior to the permanent use being considered and approved. Council approval is not to be construed as a development approval for a reception centre or as an ongoing approval for wedding events at Linga Longa beyond the scope of this events application and the applicant will be advised accordingly.

Events in Western Australia are assessed under the following legislation:

- *Health (Public Buildings) Regulations 1992* (primary legislation);
- *Caravan Parks and Camping Grounds Regulations 1997* (Temporary camping);
- *Food Act 2008* (Temporary food business/mobile food operator); and
- *Bush Fires Act 1954* (Total Fire Bans and Harvest Vehicle Movement Bans).

Consultation

Due to the scale of these weddings (less than 100 people per wedding) and that offsite impacts are unlikely, wide consultation is not considered necessary. However, the permanent land use (subject to separate development application) will receive wider consultation.

Officer Comment

The applicant has indicated that a DJ is most often hired to provide background music during meals and festivities. The relatively remote nature of the site is considered conducive to this type of amplified music with offsite impact unlikely.

The venue has a fire pit which the applicant has confirmed is only used during the appropriate season. A large grassed area is available for camping, with the applicant's having installed fire hose reels in an effort to work towards licensing as a permanent caravan park. Based on the existing facilities available, there are sufficient fixed facilities (i.e. toilets and showers) for 35 overnight campers; with ample room for additional self-contained vehicles if required.

All wedding guests are provided with directions from Bridgetown or Greenbushes as there is less gravel roads to negotiate. Given the number of attendees, it is unlikely that "event ahead" signage will be erected and the applicant is aware that should temporary road side signage be required, a formal traffic management plan will be required to be submitted and approved.

Weddings can be a big economic driver. They can attract guests who would not otherwise visit the Shire who may spend money on fuel, gifts and food. Wedding organisers are likely to engage some local vendors such as celebrants, caterers, hairdressers, makeup artists, florists and photographers. Endorsing these weddings in the Shire is congruent with Council Plan Objective 10.1 i.e. "Encourage more people to stop, shop and experience the Shire of Donnybrook Balingup."

Linga Longa Estate has a history of providing quality events. Whilst their current development application is not approved for weddings, they are in the process of rectifying this with the submission of a retrospective development application.

In supporting this application, the Shire is providing a supportive approach to a small, local business thus meeting Council Plan Objective i.e. 9.2 - Attract and retain a diverse mix of businesses and investment opportunities.

Conditional approval is therefore recommended.

9.1.3. Harvest and Vehicle Movement Ban SMS Communication Service and policy

Report Details:

Prepared by: Community Emergency Services Manager

Manager: Ross Marshall, Director Operations

File Reference: CNL 10

Attachment(s): **Voting Requirement:** Simple Majority

9.1.3(1) Draft EMERG/AP-1-Harvest and Vehicle Movement Ban SMS Communications

9.1.3(2) Copy of Council Resolution

Executive Recommendation

That Council:

- Notes the draft EMERG/AP-1- Harvest and Vehicle Movement Ban SMS Communications Policy (Attachment 9.1.3(1)).**
- Requests the Chief Executive Officer include an allocation of \$2,000 in the 2024/2025 Annual Budget for Council consideration for a SMS Notification Service.**

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.
- Item:** 3.2.4 - Provide support for emergency services volunteers.

Executive Summary

A draft policy ([Attachment 9.1.3\(1\)](#)) has been developed for Council's notation in accordance with Council Resolution 62/24.

The draft administration policy provides guidance around the implementation and use of the Shire's SMS communication system to inform subscribers of Harvest and Vehicle Movement Bans (HVMB) within the Shire of Donnybrook Balingup district.

Background

HVMBs are implemented by Authorised Fire Control Officers where in their opinion, an elevated risk of bushfire exists through the use of engines, vehicles, plant or machinery.

These bans are the responsibility of the Local Government and can be challenging to communicate to the wider community in a timely and effective manner. Currently, the Shire utilises numerous avenues such as social media, ABC or local radio, and email to key stakeholders as well as a heavy reliance on

Bush Fire Brigade Volunteers to communicate this information. These methods have varying levels of effectiveness and can be time-consuming to deliver.

The implementation of a SMS communications service would be utilised in conjunction with the above methods, improving effectiveness and efficiency of communications for HVMB whilst aligning with neighboring local governments.

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Possible	Major	High (12)
Risk Description:	Negative community experience		
Mitigation:	Efficient delivery of HVMB messaging to registered subscribers.		
Risk:	Likelihood:	Consequence:	Risk Rating:
Environment	Possible	Major	High (12)
Risk Description:	Increased fire risk of HVMB implementation		
Mitigation:	Efficient delivery of HVMB messaging to registered subscribers.		
Risk:	Likelihood:	Consequence:	Risk Rating:
Property	Possible	Major	High (12)
Risk Description:	Risk to community and assets		
Mitigation:	Efficient delivery of HVMB messaging to registered subscribers.		

Financial Implications

The Shire has obtained two quotes for a SMS communications service. Based on the estimate frequency of use of the HVMB and an estimated number of initial registered users, it is estimated that the service will cost the Shire \$2,000 (Service subscription and usage). An allocation of \$2,000 will need to be considered by Council in the 2024/2025 Annual Budget. Noting that the overall usage costs are dependent on the fire season.

The Shire has researched alternate funding sources for this service, however no other sources have been identified. The Shire will continue to investigate alternative funding sources.

Policy Compliance

EXE/CP-8- Policy Framework

Statutory Compliance

Nil.

Consultation

Informal consultation has been carried out with Shire's Bush Fire Brigades, The Department of Fire and emergency Services, neighbouring local governments, and the Shire's Bush Fire Advisory Committee.

Officer Comment

Policy

The draft policy ([Attachment 9.1.3\(1\)](#)) provides guidance around subscriber registration, and the use of the SMS communications service.

The draft policy ([Attachment 9.1.3\(1\)](#)) supports the outcomes of Elector's Motion 1 from the 2024 Annual General Meeting, and Council Resolution 62/24 and assists the Shire to effectively notify the community of HVMBs.

SMS Communication Service

The implementation of a HVMB SMS communication service would provide an efficient and rapid communication of these HVMBs, whilst potentially providing additional means of communication during an emergency.

Numerous neighbouring local governments utilise similar services, which is typically well received and often expected by the community.

It's recommended that an allocation of \$2,000 will need to be considered by Council in the 2024/2025 Annual Budget for this SMS communication service.

9.1.4. Town Planning Policy 9.20 Ancillary Dwelling and Caretaker's Dwelling

Report Details:

Prepared by: Principal Planner

Manager: Manager Development Services

File Reference: TP 03

Voting Requirement: Simple Majority

Attachment(s):

9.1.4(1) Existing Policy - Policy 9.20 Ancillary Accommodation

9.1.4(2) Amended Policy - Policy 9.20 Ancillary Dwelling and Caretaker's Dwelling

Executive Recommendation

That Council:

- Pursuant to Schedule 2, Part 2, Clause (4) of the *Planning and Development (Local Planning Schemes) Regulations 2015* makes amendments to Town Planning Policy 9.20 and determines such amendments are of a minor nature that do not warrant advertising.**

Strategic Alignment

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

Outcome: 6 - The built environment is responsibly planned and well maintained.

Objective: 6.1 - Ensure sufficient land is available for residential, industrial and commercial uses.

Item: 6.1.3 - Review Local Planning Policies.

Executive Summary

The Shire of Donnybrook Balingup Local Planning Policies are scheduled to be reviewed parallel with the review of the Local Planning Scheme. This project will commence once Local Planning Strategy 2024 has been adopted by the WAPC. In the interim, Local Planning Policies will be reviewed on an as needs basis.

One of the policies that have been identified for a review is Town Planning Policy 9.20 Ancillary Accommodation. The need for the review was identified due to the inconsistency with the definition for Ancillary Dwelling under the *Planning and Development (Local Planning Schemes) Regulations 2015* and to ensure the Shire follows best practice and align with state government reforms to streamline housing approvals.

Background

Town Planning Policy 9.20 was last amended on 17 December 2014 and reviewed on 1 May 2016. The policy is considered outdated as it includes a definition for Ancillary Accommodation that limits the use by members of the same family. This is not contemporary practice and is not in line with planning reform.

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Compliance	Unlikely	Minor	Low (4)
Risk Description:	Failure to review the policy would result in the Shire not meeting best practice and aligning with state government reforms to streamline housing approvals.		
Mitigation:	Review and update policies to be in line with contemporary practices and state government legislation.		

Financial Implications

It is expected that the number of development application for ancillary dwellings and caretaker's dwellings will be reduced once the policy is adopted and exemptions apply to proposals that comply with the policy. This will allow planning staff to concentrate on more complex proposals and strategic projects such as the Local Planning Strategy review while also reducing red tape.

Policy Compliance

Nil.

Statutory Compliance

The *Planning and Development (Local Planning Schemes) Regulations 2015* provides the mechanism for amendment of local planning policies, specifically Regulation 5 states:

5. *Procedure for amending local planning policy*
 - (1) *Clause 4, with any necessary changes, applies to the amendment to a local planning policy.*
 - (2) *Despite subclause (1), the local government may make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.*

Consultation

The amendments to Town Planning Policy 9.20 are considered minor and do not require advertising.

Officer Comment

Although Ancillary Accommodation is listed as a land use in the Zoning Table under Local Planning Scheme No. 7 (LPS7), there is no definition in LPS7 for this land use which is why a definition for the use was included in Town Planning Policy 9.20. The Deemed provisions for local planning schemes under Schedule 2, Part 1, Clause 1 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and overrides any inconsistencies under LPS7. It includes the following term under "1. Terms Used" for an ancillary dwelling: *"has the meaning given in the Residential Design Codes."*

Under the Residential Design Codes (R Codes) ancillary dwelling is defined as a *"self-contained dwelling on the same site as a dwelling which may be attached to, integrated with or detached from the dwelling."* Under the R Codes the internal floor area of the ancillary dwelling is limited to a maximum of 70m².

For the purpose of this policy, 'Ancillary Accommodation' and 'Ancillary Dwelling' are considered interchangeable and have the same meaning.

Development approval is not required for an ancillary dwelling on land where the R Codes apply; the works comply with the deemed-to-comply requirements of the R Codes; and the works are not located in a heritage protected place.

Officers recommend that a similar approach be taken with regard to the construction of ancillary dwellings on larger lots where the R Codes does not apply, such as lots zoned Rural Residential, Rural Smallholdings, General Agriculture and Priority Agriculture. In addition, officers recommend further flexibility on the larger lots proposing a maximum area of 100m² to be permitted.

To ensure consistency with the LPS7 Scheme provisions under Clause 4.54.9 relating to second dwellings the policy also addresses caretaker's dwellings and limits development to no more than two dwelling types (e.g. dwelling and ancillary dwelling or dwelling and caretaker's dwelling) where applicable. It is to be noted that under LPS7 a caretaker's dwelling is not permitted where the lot size does not exceed 20ha; and where the land does not have legal and suitably constructed road access. If a development does not comply with the development standards, then a development application would need to be lodged for consideration and the development would not be exempted under the policy.

9.2. Director Finance and Corporate

9.2.1. Schedule of Accounts Paid as at 31 July 2024

Report Details:

Prepared by: Finance Officer

Manager: Manager Financial Services

File Reference: FNC

Voting Requirement: Simple Majority

Attachment(s):

9.2.1(1) Schedule of Accounts Paid Under Delegation

Executive Recommendation

That Council:

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

Strategic Alignment

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

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

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

Item: Nil.

Executive Summary

That in accordance with Regulation 13 (3) of the *Local Government (Financial Management) Regulations 1996*, Council receive the "Schedule of Accounts Paid" covering the period 1 July 2024 to 31 July 2024, the schedule contains details of the following transactions:

1 Municipal Account – payments totalling \$3,249,816.18.

Credit Card payments	3560-3567
EFT Payments	EFT28989 – EFT29160
Cheque Payments	53800 – 53803
Direct Debit payments	DD27857 & 27874

Background

In accordance with Delegation 1.2.23 – payments from the Municipal or Trust funds adopted by Council on 30 August 2023, the Chief Executive Officer is authorised to incur expenditure in accordance with the Annual Budget provisions and limited over-expenditure subject to subsequent budget amendments. In doing so, section 13 of the *Financial Management Regulations 1996* is to be adhered to with a list of accounts for approval to be presented to Council each month.

Risk Management

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

Financial Implications

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

Policy Compliance

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

Statutory Compliance

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

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

- The payee's name; and
- The amount of the payment; and
- The date of the payment; and
- Sufficient information to identify the transaction.

This list of accounts is to be:

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

Consultation

Relevant staff have been consulted and have authorised the payments.

Officer Comment

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

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

9.2.2. Making and Advertising Animals, Environment and Nuisance Amendment Local Law 2024

Report Details:

Prepared by:	Governance Coordinator		
Manager:	Manager Corporate Services		
Location:	Shire of Donnybrook Balingup		
File Reference:	CNL 25	Voting Requirement:	Absolute Majority

Attachment(s):

- | | |
|----------|---|
| 9.2.2(1) | Draft Shire of Donnybrook Balingup Animals, Environment and Nuisance Amendment Local Law 2024 |
| 9.2.2(2) | Shire of Donnybrook-Balingup Animals, Environment and Nuisance Local Law 2017 |
| 9.2.2(3) | Draft Advert for Local Public Notice |

Executive Recommendation

That Council:

- 1. In accordance with section 3.12(3)(a) of the *Local Government Act 1995*, resolves that local public notice be given stating that:
 - 1.1. The Shire of Donnybrook Balingup propose to make the ‘Shire of Donnybrook Balingup Animals, Environment and Nuisance Amendment Local Law 2024’, with a summary of its purpose and effect as follows:
 - 1.1.1. Purpose: To amend the *Shire of Donnybrook-Balingup Animals, Environment and Nuisance Local Law 2017* to delete clause 3.10(b), and in clause 2.2(b) delete the words ‘or is’ and replace them with ‘and is not’; and**
 - 1.1.2. Effect: The *Shire of Donnybrook-Balingup Animals, Environment and Nuisance Local Law 2017* is amended.**
 - 1.1.3 Copies of the proposed local law may be inspected at or obtained from the Shire’s Administration Office and the Shire’s website;**
 - 1.1.4 Submissions on the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given; and******
- 2 In accordance with section 3.12(3)(b) of the *Local Government Act 1995*, resolves that as soon as the notice is given, a copy of the proposed local law and public notice be sent to the Minister for Local Government;**
- 3 In accordance with section 3.12(3)(c) of the *Local Government Act 1995*, resolves that a copy of the proposed local law be supplied to any person requesting it; and**
- 4 Resolves that the results of the public consultation be presented to Council for consideration of any submissions received.**

Strategic Alignment

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

- Outcome:** 11 - Strong, visionary leadership.
- Objective:** 11.1 - Provide strategically focused, open and accountable governance.
- Item:** 11.1.2 - Provide a review of local laws.

Executive Summary

Council is asked to consider the amendments to the *Shire of Donnybrook-Balingup Animals, Environment and Nuisance Local Law 2017*, being an undertaking given by the WA Parliamentary Joint Standing Committee on Delegated Legislation (JSCDL) to ensure legislative compliance. Council is also asked to consider making the proposed Shire of Donnybrook Balingup Animals, Environment and Nuisance Amendment Local Law 2024 for the purpose of public advertising.

Background

The *Shire of Donnybrook-Balingup Animals, Environment and Nuisance Local Law 2017* ([Attachment 9.2.2\(2\)](#)) was published in the Government Gazette on 14 June 2017. As part of the process to make a local law, Local Governments are required to submit a copy of local laws after publication in the Government Gazette to the JSCDL.

The JSCDL reviews delegated legislation such as local laws on behalf of the Parliament to ensure that the correct process has been followed, that it does not contravene any other written laws of the Commonwealth or the State, and that it is properly drafted.

If any issues are identified, the JSCDL request the Local Government concerned to amend the local law, and if not done can recommend to Parliament that a local law be disallowed.

Shortly after Gazettal of the *Shire of Donnybrook-Balingup Animals, Environment and Nuisance Local Law 2017*, the JSCDL wrote to the Shire requesting several amendments be made. This included:

- a) Delete clause 3.10(b) as the Commonwealth now regulates this area through a licensing system;
and
- b) Amend clause 2.2(b) to delete the words 'or is' and replace them with 'and is not'; and
- c) Make any necessary consequential amendments.

At its Ordinary Council Meeting held on 27 September 2017 Council resolved to make the required amendments, as outlined below, however to date this has not occurred.

“Council Decision (Officer’s Recommended Resolution)

With reference to the Shire of Donnybrook-Balingup Animals, Environment and Nuisance Local Law 2017, that Council undertakes to:

- Within six months, delete clause 3.10(b) and amend clause 2.2(b) to delete the words ‘or is’ and replace them with ‘and is not’.
- Until clause 3.10(b) is deleted, post a notice on the Shire’s website next to the local law alerting residents to the error and that the Commonwealth now regulates this field through a licensing system.
- Make all necessary consequential amendments.
- Not enforce the local law in a manner contrary to the above undertakings.
- Where the Local Law is made publicly available, whether in hard copy or electronic form, ensure that the law be accompanied by a copy of these undertakings.”

The draft Shire of Donnybrook Balingup Animals, Environment and Nuisance Amendment Local Law 2024 ([Attachment 9.2.2\(1\)](#)) has been prepared incorporating the amendments specified by the JSCDL. To progress in making the amendment local law, local public notice and Ministerial referral is required.

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Compliance	Almost Certain	Moderate	High (15)
Risk Description:	Non-compliance with legislation for the Shire’s <i>Animals, Environment and Nuisance Local Law 2017</i> .		
Mitigation:	Progress in making the <i>Animals, Environment and Nuisance Amendment Local Law 2024</i> by resolving to give local public notice and seeking Ministerial comment.		

Financial Implications

The costs associated with Council’s decision to amend and advertise the proposed local law at this stage of the process are estimated at:

- Consultant Fees: \$616.00; and
- Advertising: \$304.69 (half of total costs given joint advertising with proposed *Shire of Donnybrook Balingup Waste Amendment Local Law 2024*: \$464.37 South Western Times and \$145.00 Preston Press).

Policy Compliance

Nil.

Statutory Compliance

Section 3.5 of the *Local Government Act 1995* (the Act) enables Local Governments to make local laws. Section 3.12 of the Act sets out the process for making a local law.

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

Regulation 3 of the *Local Government (Functions and General) Regulations 1996* outlines the requirement for the Presiding Member to give notice of the purpose and effect of the local law.

Consultation

Conway Highbury, a consultant specialising in local government matters, particularly local laws, was engaged to assist with drafting the Animals, Environment and Nuisance Amendment Local Law. An internal review of the proposed local law has also been undertaken.

Pursuant to section 3.12(3)(a) the Shire is to give local public notice of the proposed local law, including its purpose and effect. It must also invite submissions from the public for a minimum of six weeks (42 days). Once endorsed by Council, the draft local public notice ([Attachment 9.2.2\(3\)](#)) will be published on the Shire's website under the 'Latest News' section, the South Western Times on 10 September 2024, the October Preston Press edition, and the Shire's Facebook page and E-Connect newsletter. The 6-week (42-day) period must be 'clear' days – s. 61 of the *Interpretation Act 1984* prescribes this to mean that the day on which it is published and the day on which submissions close cannot be counted in the 42-day period. In addition, the final day for submissions must not fall on a Saturday, Sunday or public holiday. If it does, the final day is taken to be the next normal working day.

Officer Comment

Local law-making procedure

The procedure for making local laws is detailed in the *Local Government Act 1995* (the Act). There is a specific legislative process that must be adhered to for the local law to be accepted by the Joint Standing Committee on Delegated Legislation (JSCDL) and by Parliament.

In the event that Council resolves to make the proposed Shire of Donnybrook Balingup Animals, Environment and Nuisance Amendment Local Law 2024, the following sequence of events will commence:

1. A public submission period of at least six weeks must be allowed, during which a copy of the proposed local law must also be submitted to the Minister for Local Government;

2. At the close of advertising, Council must consider any submissions received and then resolve to make the local law either as proposed, or in a form that is not significantly different from what was proposed. If, as a result of public submissions, Council wishes to make substantial changes to the local law, a further public submission period will be required;
3. Once the final version of the local law has been approved by Council, it must be published in the Government Gazette and provided to the Minister for Local Government;
4. After gazettal, local public notice must be given stating the title of the local law, its purpose and effect (including the date it comes into operation) and advising where copies of the local law may be inspected at or obtained; and
5. A copy of the local law, together with an accompanying explanatory memorandum, must then be submitted to the WA Parliamentary JSCDL for scrutiny.

Regulation 3 of the *Local Government (Functions and General) Regulations 1996* also requires that, in commencing to make a local law, the person presiding at a Council meeting is to give notice of the purpose and effect of the local law by ensuring that:

- a) The purpose and effect of the proposed local law is included in the agenda for that meeting; and
- b) The minutes of the meeting of the Council include the purpose and effect of the proposed local law.

In view of this, the purpose and effect of the proposed Shire of Donnybrook Balingup Animals, Environment and Nuisance Amendment Local Law 2024 is:

- a) **Purpose:** To amend the *Shire of Donnybrook-Balingup Animals, Environment and Nuisance Local Law 2017* to delete clause 3.10(b), and in clause 2.2(b) delete the words 'or is' and replace them with 'and is not'.
- b) **Effect:** The *Shire of Donnybrook-Balingup Animals, Environment and Nuisance Local Law 2017* is amended.

A copy of the proposed Shire of Donnybrook Balingup Animals, Environment and Nuisance Local Law 2024 ([Attachment 9.2.2\(1\)](#)) is required to be sent to the Minister for Local Government, and to call for public submissions for a 6-week period.

A further report will be presented to Council, detailing the results of the community consultation and feedback from the Minister, for consideration before it resolves to make the local law in accordance with section 3.12(4) of the Act.

9.2.3. Making and Advertising Shire of Donnybrook Balingup Waste Amendment Local Law 2024

Report Details:

Prepared by: Governance Coordinator

Manager: Manager Corporate Services

Location: Shire of Donnybrook Balingup

File Reference: CNL 25 **Voting Requirement:** Absolute Majority

Attachment(s):

9.2.3(1) Draft Shire of Donnybrook Balingup Waste Amendment Local Law 2024

9.2.3(2) Shire of Donnybrook-Balingup Waste Local Law 2017

9.2.3(3) Draft Advert for Local Public Notice

Executive Recommendation

That Council:

1. In accordance with section 3.12(3)(a) of the *Local Government Act 1995*, resolves that local public notice be given stating that:
 - 1.1. The Shire of Donnybrook Balingup propose to make the 'Shire of Donnybrook Balingup Waste Amendment Local Law 2024', with a summary of its purpose and effect as follows:
 - 1.1.1. Purpose: To amend the *Shire of Donnybrook-Balingup Waste Local Law 2017* to replace clause 2.1(1) to address drafting issues, and to add clause 5.1 that provides a right to object and appeal a decision made under the Local Law.
 - 1.1.2. Effect: The *Shire of Donnybrook-Balingup Waste Local Law 2017* is amended.
 - 1.1.3 Copies of the proposed local law may be inspected or obtained from the Shire's Administration Office and the Shire's website; and
 - 1.1.4 Submissions on the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given;
- 2 In accordance with section 3.12(3)(b) of the *Local Government Act 1995*, resolves that as soon as the notice is given, a copy of the proposed local law and public notice be sent to the Minister for Local Government and Minister for the Environment;
- 3 In accordance with section 3.12(3)(c) of the *Local Government Act 1995*, resolves that a copy of the proposed local law be supplied to any person requesting it; and
- 4 Resolves that the results of the public consultation be presented to Council for consideration of any submissions received.

Strategic Alignment

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

Outcome: 11 - Strong, visionary leadership.

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

Item: 11.1.2 - Provide a review of local laws.

Executive Summary

Council is asked to consider the amendments to the *Shire of Donnybrook-Balingup Waste Local Law 2017*, being an undertaking given by the WA Parliamentary Joint Standing Committee on Delegated Legislation (JSCDL) to ensure legislative compliance. Council is also asked to consider making the proposed *Shire of Donnybrook Balingup Waste Amendment Local Law 2024* for the purpose of public advertising.

Background

The *Shire of Donnybrook-Balingup Waste Local Law 2017* ([Attachment 9.2.3\(2\)](#)) was published in the Government Gazette on 14 June 2017. As part of the process to make a local law, Local Governments are required to submit a copy of local laws after publication in the Government Gazette to the JSCDL. The JSCDL scrutinises delegated legislation such as local laws on behalf of the Parliament to ensure that the correct process has been followed, that it does not contravene any other written laws of the Commonwealth or the State, and that it is properly drafted.

If any issues are identified, the JSCDL request the Local Government concerned to amend the local law, and if not done can recommend to Parliament that a local law be disallowed.

After Gazettal of the *Shire of Donnybrook-Balingup Waste Local Law 2017*, the JSCDL wrote to the Shire requesting several minor amendments be made. This included:

- a) To redraft clause 2.1(1) to address drafting issues in relation to the use of receptacles for residential purposes;
- b) To insert an objection and appeal rights clause, being clause 5.1; and
- c) Make any necessary consequential amendments.

At its Ordinary Council Meeting held on 27 September 2017 Council resolved to make the required amendments, as outlined below, however to date this has not occurred.

"Council Decision (Officer's Recommended Resolution)

With reference to the Shire of Donnybrook-Balingup Waste Local Law 2017, Council undertakes to:

- *Within six months, amend the Local Law to include an Objection and Appeal Rights clause;*
- *Within six months, redraft clause 2.1;*
- *Make all consequential amendments arising from the amendments;*
- *Not to enforce the local law in a manner contrary to these undertakings;*
- *Where the Local Law is made publicly available, whether in hard copy or electronic form, ensure that the law be accompanied by a copy of these undertakings."*

The draft Shire of Donnybrook Balingup Waste Amendment Local Law 2024 ([Attachment 9.2.4\(1\)](#)) has been prepared which incorporates the amendments specified by the JSCDL. To progress in making the Amendment local law, local public notice and Ministerial referral is required.

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Compliance	Almost Certain	Moderate	High (15)
Risk Description:	Non-compliance with legislation for the Shire's <i>Waste Local Law 2017</i> .		
Mitigation:	Progress in making the Waste Amendment Local Law 2024 by resolving to give local public notice and seeking Ministerial comment.		

Financial Implications

The costs associated with Council's decision to amend and advertise the proposed local law at this stage of the process are estimated at:

- a) Consultant Fees: \$616.00; and
- b) Advertising: \$304.69 (half of total costs given joint advertising with proposed Shire of Donnybrook Balingup Animals, Environment and Nuisance Amendment Local Law 2024: \$464.37 South Western Times and \$145.00 Preston Press).

Policy Compliance

Nil.

Statutory Compliance

Section 3.5 of the *Local Government Act 1995* (the Act) enables Local Governments to make local laws. Section 3.12 of the Act sets out the process for making a local law.

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

Regulation 3 of the *Local Government (Functions and General) Regulations 1996* outlines the requirement for the Presiding Member to give notice of the purpose and effect of the local law. Section 61 of the *Waste Avoidance and Resource Recovery Act 2007* specifies that waste local laws are to be made in accordance with the process set out in sections 3.11 to 3.17 of the Act. This also applies to amendments to local laws as per section 3.12(8) of the Act.

Consultation

Conway Highbury, a consultant specialising in local government matters, particularly local laws, was engaged to assist with drafting the Waste Amendment Local Law. An internal review of the proposed local law has also been undertaken.

Pursuant to section 3.12(3)(a) the Shire is to give local public notice of the proposed local law, including its purpose and effect. It must also invite submissions from the public for a minimum of six weeks (42 days). Once endorsed by Council, the draft local public notice ([Attachment 9.2.3\(3\)](#)) will be published on the Shire's website under the 'Latest News' section, the South Western Times on 10 September 2024, the October Preston Press edition, and the Shire's Facebook page and E-Connect newsletter. The 6-week (42-day) period must be 'clear' days – s. 61 of the *Interpretation Act 1984* prescribes this to mean that the day on which it is published and the day on which submissions close cannot be counted in the 42-day period. In addition, the final day for submissions must not fall on a Saturday, Sunday or public holiday. If it does, the final day is taken to be the next normal working day.

Officer Comment

Local law-making procedure

The procedure for making local laws is detailed in the *Local Government Act 1995* (the Act). There is a specific legislative process that must be adhered to for the local law to be accepted by the Joint Standing Committee on Delegated Legislation (JSCDL) and by Parliament.

In the event that Council resolves to make the proposed Shire of Donnybrook Balingup Waste Amendment Local Law 2024, the following sequence of events will commence:

1. A public submission period of at least six weeks must be allowed, during which a copy of the proposed local law must also be submitted to the Ministers for Local Government and the Environment;
2. At the close of advertising, Council must consider any submissions received and then resolve to make the local law either as proposed, or in a form that is not significantly different from what was proposed. If, as a result of public submissions, Council wishes to make substantial changes to the local law, a further public submission period will be required;
3. Once the final version of the local law has been approved by Council, it must be published in the Government Gazette and provided to the Ministers for Local Government and the Environment;
4. After gazettal, local public notice must be given stating the title of the local law, its purpose and effect (including the date it comes into operation) and advising where copies of the local law may be inspected at or obtained; and
5. A copy of the local law, together with an accompanying explanatory memorandum, must then be submitted to the WA Parliamentary JSCDL for scrutiny.

Regulation 3 of the *Local Government (Functions and General) Regulations 1996* also requires that, in commencing to make a local law, the person presiding at a Council meeting is to give notice of the purpose and effect of the local law by ensuring that:

- a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and

- b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.

In view of this, the purpose and effect of the proposed Shire of Donnybrook Balingup Waste Amendment Local Law 2024 is:

- c) **Purpose:** To amend the *Shire of Donnybrook-Balingup Waste Local Law 2017* to replace clause 2.1(1) to address drafting issues, and to add clause 5.1 that provides a right to object and appeal a decision made under the Local Law.
- d) **Effect:** The *Shire of Donnybrook-Balingup Waste Local Law 2017* is amended.

A copy of the proposed Shire of Donnybrook Waste Amendment Local Law 2024 ([Attachment 9.2.3\(1\)](#)) is required to be sent to the Ministers for Local Government and the Environment, and to call for comments from the public for a 6-week period.

A further report will be presented to Council, detailing the results of the community consultation and feedback from Ministers, for consideration before it resolves to make the local law in accordance with section 3.12(4) of the Act.

9.3 Chief Executive Officer

9.3.1. Adoption of Community Grants and Donations Policy

Report Details:

Prepared by: Manager Corporate Services

Manager: Tim Clynych, Chief Executive Officers

File Reference: ADM 11

Voting Requirement: Absolute Majority

Attachment(s):

9.3.1(1) Draft Council policy COMD/CP-1- Community Grants and Donations

9.3.1(2) Existing policy COMD/CP-1- Community Grants Funding Scheme

Executive Recommendation

That Council:

1. **Adopts the draft Council policy COMD/CP-1- Community Grants and Donations** (Attachment 9.3.1(1)), **noting the major amendments made as detailed in this report.**
2. **Determines to allocate \$128,000 in the 2024/25 budget for community grants as follows:**
 - 2.1. **\$97,000 Service Level Agreements**
 - 2.2. **\$22,000 Community Grants**
 - 2.3. **\$4,000 Facility Hire Donations**
 - 2.4. **\$2,500 Minor Donations**
 - 2.5. **\$2,500 Community Rubbish Collection Service**
3. **Directs the Chief Executive Officer to advertise the 2024/2025 Community Grants Program, calling for applications from interested community groups/organisations for grants up to a maximum of \$2,000. The application period is to be a minimum of 5 weeks.**
4. **Directs the Chief Executive Officer to develop terms of reference for the proposed Community Grants and Donations Reference Group, for the purpose of assessing grant applications and providing recommendations to Council, and to present to Council at the September Ordinary Council Meeting.**

Strategic Alignment

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

Outcome: 13 - Increased community capacity.

Objective: 13.1 - Enable community organisations and community champions to deliver services and projects to meet local needs.

Item: Nil.

Executive Summary

Council is requested to consider the major amendments made to Council’s existing policy COMD/CP-1- Community Grants Funding Scheme ([Attachment 9.3.1\(2\)](#)), and to adopt the draft Council policy COMD/CP-1- Community Grants and Donations ([Attachment 9.3.1\(1\)](#)). The new policy represents a shift towards a more strategic, transparent, and simplified approach to community grant funding. It provides clearer guidelines, streamlined processes, and a stronger alignment with Council’s broader goals, which will enhance the effectiveness and impact of the funding program. These changes also reflect a savings of \$88,983 for the 2024/2025 budget.

Background

Council first adopted a Community Grant Funding Scheme at Ordinary Council meeting held 26 April 2016, with further amendments made in 2020, as outlined below.

At its Ordinary Council meeting held 28 October 2020 Council resolved the following:

“COUNCIL RESOLUTION 150/20

That Council:

1. *Adopt the amended Community Grants Funding Scheme (CGFS) policy as attached, and which:

 - a. *Introduces an annual funding allocation to the scheme tied at 2.5% of rates;*
 - b. *Renames the Budget/Recurrent funding category to Service Level Agreements to enable three-year funding agreements to be created; and*
 - c. *Changes the funding process timeline to position the major grant round to be implemented in August to September of each financial year.**
2. *Consider in the 2021/22 draft budget an allocation of up to \$100,000 (or a phased implementation approach over successive financial years) to support a proposed Interest Free Loans to Clubs and Organisations policy. “*

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Likely	Insignificant	Low (4)
Risk Description:	Misalignment with Community Expectations		
Mitigation:	Provide clear communication to the community on the changes made to the policy and reasons behind these changes.		

Financial Implications

If the Council adopts Council Policy COMD/CP-1- Community Grants and Donations ([Attachment 9.3.1\(1\)](#)), the required budget allocation for Community Grants and Donations for 2024/2025 will be reduced by \$88,983.

This reduction results from changing the total allocation for Community Grants and Donations from 2.5% of rates to a fixed sum of \$128,000 in 2024/25. Additionally, by reallocating the expenditure for

in-kind support for the Apple Festival, Balingup Small Farm Field Day, and Balingup Medieval Festival into Service Level Agreements within the \$128,000 budget, a further \$18,003 will be saved. In total, these adjustments will result in savings of \$88,983.

Job No./ COA	Description	2024/2025 Budget
G001	Community Grants (up to \$2,000 per grant)	\$ 22,000.00
G002	Facility Hire Donation (up to \$350 per donation)	\$ 4,000.00
G003	Minor Donations (up to \$350 per donation)	\$ 2,500.00
G004	Community Events Rubbish Collection Service	\$ 2,500.00
G005	Service Level Agreements	\$ 97,000.00
0252	Community Grants and Donations	\$ 128,000.00

2024/2025 Service Level Agreement Allocations

Donnybrook Community Resource Centre (Preston Press Printing & Distribution)	\$ 13,000.00
Donnybrook Balingup Chamber of Commerce (Business Development)	\$ 15,000.00
Balingup Progress Association (Balingup Arts & Cultural Hub)	\$ 8,000.00
Donnybrook Regional Tourism Association (Area Promotion)	\$ 21,500.00
Balingup & Districts Tourism Association (Area Promotion)	\$ 21,500.00
Donnybrook Apple Festival (Event in-kind Support)	\$ 7,000.00
Balingup Small Farm Field Day (Event in-kind Support)	\$ 5,500.00
Balingup Medieval Festival (Event in-kind Support)	\$ 5,500.00
Total SLA Allocation	\$ 97,000.00

Policy Compliance

Council Policy EXE/CP-8- Policy Framework

This policy provides direction on the development and implementation of its policies to reflect the Shire's strategic goals and to fulfil statutory requirements. This policy applies to the development of new policies and the review of existing policies. The changes Council are asked to consider are in accordance with this policy.

Statutory Compliance

Local Government Act 1995

The Executive Recommendation is for Council to approve the allocations in 2024/2025 for its community grants and donations ahead of adoption of the 2024/2025 budget. This will allow recipients of grants to plan for their funded activities in 2024/2025 without the uncertainty of having to wait for adoption of the budget.

As the expenditure is being approved by Council ahead of adoption of the budget it is classified as unbudgeted expenditure in accordance with section 6.8 of the *Local Government Act 1995*.

Consultation

Councillors have attended three workshops over July and August to discuss community grants and donations.

Officer Comment

The new policy represents a more streamlined, structured, and specific approach to community grant funding compared to the old policy. Here's a comparative analysis:

Policy Name

Old Policy: Community Grants Funding Scheme

New Policy: Community Grants and Donations

Objective

Old Policy: Focuses broadly on supporting the Shire's four key objectives, including economic resilience, heritage, community health, and leadership.

New Policy: Clearly outlines the Council's commitment to community and economic development, capacity building, and supporting innovation. The objectives are more explicitly connected to enhancing community groups and increasing participation.

Scope

Old Policy: Encourages submissions from eligible individuals, community groups, not-for-profits, and commercial organisations, without specifying the nature of the projects in detail.

New Policy: Narrows the focus to community groups, clubs, not-for-profits, and social enterprises. It emphasises social and economic benefits that align with the Council Plans five key aspirations, reflecting a more strategic approach.

Eligibility and Funding Categories

Old Policy: Provides a detailed list of eligibility criteria and offers multiple funding categories with specified Proportionate Funding Allocations (PFA). There are several categories, including Service Level Agreements (SLAs), major/minor community grants, event sponsorships, and cash/non-cash donations.

New Policy: Simplifies the categories into five clear grant and donation types: SLAs, Community Grants, Minor Cash Donations, Facility Hire Fee Waivers, and Community Events Rubbish Collection Service.

Budget Allocation

Old Policy: The budget is tied as a percentage of Shire rates (2.5%), with detailed PFAs for each category.

New Policy: Sets an annual funding allocation of up to \$128,000, for an annual review, for all grant and donation categories. This approach is more transparent and straightforward but less detailed in terms of exact percentages.

Application Process and Timelines

Old Policy: Applications are assessed by Community Development Officers, with approvals by the CEO. The process is primarily administrative, with a focus on equitable distribution of funds.

New Policy: Introduces a more involved assessment process with a Reference group comprising Council Members and staff for SLAs and Community Grants. This adds a layer of governance and aims to ensure that funded projects align more closely with Council's strategic objectives.

Assessment Criteria

Old Policy: Emphasises capacity building, accountability, and maximizing value for money. It also focuses on building partnerships and leveraging resources.

New Policy: Introduces a merit-based assessment process, where applications that demonstrate cash contributions, strategic alignment with Council objectives, and whole-of-community benefits are given higher priority.

Delegation and Authorisation

Old Policy: Delegates authority to the CEO to approve or refuse applications.

New Policy: While the CEO still has discretion over minor donations and waivers, the assessment of major grants and SLAs involves Council Members, indicating a shift towards more collective decision-making.

Council is being asked to consider these changes to the policy primarily to address budget efficiencies while maintaining a high standard of community support. Given the increasing financial demands and the need to allocate resources more effectively, it is important to ensure that the Shire's funds are utilised in the most impactful way possible.

By adopting a more streamlined and strategic approach to community grant funding, Council could reduce administrative overhead and target funding towards initiatives that align more closely with broader community goals.

This approach not only maximises the value of the grants provided but also supports better long-term financial planning. The potential budget efficiencies would demonstrate Council's commitment to responsible financial management, ensuring that resources are distributed fairly and sustainably across the community.

10. Elected Member Motions of which previous notice has been given

10.1.1. Annual review and update the Shire of Donnybrook Balingup Workforce Plan

Report Details:

Prepared by: Lisa Glover, Shire Councillor

Manager: Tim Clynch, Chief Executive Officer

Location: Shire of Donnybrook Balingup

File Reference: CNL 33

Voting Requirement: Simple Majority

Attachment(s):

10.1.1(1) Workforce Plan 2022-2026 - Confidential

10.1.1(2) Workforce Plan 2020 -2021 - Confidential

Elected Member Recommendation

That Council instruct the Chief Executive Officer to annually review and update the Donnybrook Balingup Shire Workforce Plan and present it to the Council no later than April each year. Furthermore the 2025 review is to include an assessment of the current organisational structure and is to contain recommendations to identify potential operational cost savings in order to assist with addressing the current financial deficit in the Shire of Donnybrook Balingup.

Strategic Alignment

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

Outcome: 11 - Strong, visionary leadership.

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

Elected Member Background

The Workforce Plan has not been reviewed and presented to Council since 2022.

The Workforce Plan is an essential component of the Integrated Planning and Reporting Framework and has been developed to ensure that, as an organisation, the Shire of Donnybrook Balingup can guarantee they have the right skills to deliver the outcomes on the Council Plan 2022 – 2032 effectively. The Workforce Plan is an evolving document that reflects the current position of the Shire's workforce, with a review to be conducted annually to ensure the Workforce Plan is always relevant.

The Elected Member Motion encourages annual reviewing and updating of the plan, as stated in the current Workforce Plan on page 4. This will ensure that skills remain relevant, and that FTE is on target to meet not only the requirements of the Shire but also address the shortfall in the management of the financial deficit.

The Elected Member Motion is to instruct the CEO to identify opportunities to reduce FTE costs and seek strategies to enable staff to evaluate their processes to enable a business-as-usual approach to services delivered for and to the members of our community.

Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Compliance	Unlikely	Insignificant	Low (2)
Risk Description:	Not reviewing the Workforce Plan on an annual basis		
Mitigation:	There isn't a legislative requirement to conduct an annual review but it is considered good practice.		
Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Unlikely	Insignificant	Low (2)
Risk Description:	Not reviewing the Workforce Plan on an annual basis		
Mitigation:	A Workforce Plan is an informing strategy and typically isn't a public document to the same extent as a Council Plan.		

Financial Implications

The draft 2024/25 budget doesn't contain any funding to progress a review of the Workforce Plan. Whilst the review (or preparation of a new Workforce Plan) can be done using internal resources this will impact delivery of other key strategic tasks proposed to be undertaken in 2024/25.

Notwithstanding that preparation of a Workforce Plan can be done using internal resources there is value in engaging the services of an independent consultant as this can facilitate questioning of current capacity/structure. It also ensures that any engagement (i.e. surveys) of staff are conducted in an independent manner, thus ensuring clearer responses from staff.

The cost of engaging a consultant to coordinate preparation of a Workforce Plan is \$30,000.

Policy Compliance

Nil.

Statutory Compliance

Section 5.56 of the *Local Government Act 1995* provides the statutory framework for strategic planning in local government. Under this section local governments are required to produce a plan for the future.

Consultation

Nil.

Officer Comment

The *Local Government Act 1995* incorporates a statutory requirement for local government in Western Australia to produce a set of strategic planning documents through an integrated planning process. The key documents in the Integrated Planning suite are the Strategic Community Plan, the Corporate Business Plan and the Annual Budget. They are supported by a number of informing strategies including Asset Management Plan(s), a Long Term Financial Plan and a Workforce Plan.

The Figure below illustrates the integrated planning framework:



Note for the Shire of Donnybrook-Balingup the Strategic Community Plan and Corporate Business Plan have been amalgamated into a “Council Plan”.

Legislatively, Informing Strategies do not require formal Council adoption however due to their strategic nature they are typically presented to Council, either formally for endorsement or informally via workshop discussion.

An integrated workforce plan identifies and reports on the internal capacity to meet current and future needs of the goals and objectives of the Shire and the community, both in capacity and capability. The goals and objectives of the Shire are articulated in the Council Plan.

A workforce plan also identifies the gaps or surplus in human, assets or financial resources and identifies strategies to ensure there are the right people in the right place and at the right time to deliver on objectives and realistic expectations in an affordable manner. The plan is to address gaps between current and future workforce capability, identify areas of skill or capacity shortage, and outline strategies to address them. Planning human resource requirements is a significant challenge and not only considers the human resource factors, but ties this into overall strategic plans, environmental issues and legislative and governance obligations. Ultimately undertaking a workforce planning activity is a snapshot of what human resources are in place at a given time, and what staffing requirements are required into the future. It also aims to build capacity and resilience to allow the Shire to respond to the changing environment and issues arising from external pressures and legislative compliance issues.

The information and recommendations of the Workforce Plan inform the Long-Term Financial Plan and Asset Management Plan to ensure the financial and physical resources are addressed in those plans and planning activities.

The motion requires the review of the Workforce Plan to include an assessment of the current organisational structure and is to contain recommendations to identify potential operational cost savings to assist with addressing the current financial deficit in the Shire of Donnybrook Balingup. A workforce plan will always include an assessment of organisational structure – to ensure that it is able to meet the strategic directions of the Council (as per the Council Plan) and the operational demands placed on the organisation. If Council ahead of the reviews sets a benchmark (albeit undefined) requiring the review to identify operational cost savings it would prejudice the process. Council has ultimate control of the budget process. If a Workforce Plan identifies the need for additional staff resources Council, via the budget process, would determine if additional funds could be allocated.

Ideally a review of the Workforce Plan should follow any review of the Council Plan so that any change in Council's strategic objective (as contained in the Council Plan) can be assessed for human resource implications. Council last reviewed/adopted its Council Plan in 2022. The State Government's Integrated Planning Framework Guidelines recommend that Strategic Community Plans be subject to a comprehensive review (including community engagement/consultation) every 4 years and a desktop review every 2 years. Corporate Business Plans are recommended to be reviewed annually. By combining the Strategic Community Plan and Corporate Business Plan into a single Council Plan the review timeframes aren't as clear but it is the view of the Shire Executive that priority should be given to preparing a new Council Plan in the 2nd half of 2024/25 and early 2025/26 rather than the Workforce Plan. Once a new Council Plan is prepared, clearly setting out the strategic directions and associated actions for the Council over the next 4 years, a new Workforce Plan can be prepared addressing the impact of any new strategic direction on the workforce structure, ensuring that the organisation has the right people, skills, and resources in place to achieve those goals.

The draft budget contains funds to commence the Council Plan review process, specifically funds for a community survey and other community engagement activities. Thus the community survey/engagement could be done in 2024/25 and the new Council Plan completed in 2025/26. By then the State Government's legislative reforms around integrated planning would be clearer.

The new permanent CEO commences in early October. It would be expected that any new CEO will, after a period of bedding down in the position, observation and investigation, would have views on efficiency improvements, structural and process changes at the operational level. Council sets key performance indicators for the CEO and these areas could well form a future KPI.

Finally, as part of the 2024/25 budget process Council and Shire Executive are working on identifying budget efficiencies. Councillors have, via informal discussion at budget workshops, set the Executive a target for identification of such efficiencies (specifically in recurring expenditure) and these efficiencies will include savings linked to the current organisational structure. These savings will be publicly identified and released as part of the formal budget consideration process.

11. New Business of an urgent nature introduced by Decision of the Meeting
Nil.

12. Meetings Closed to the Public

12.1. Matters for which the Meeting may be closed

Nil.

12.2. Public reading of Resolutions that may be made public

Nil.

13. Closure

The Shire President to advise that the next Agenda Briefing Session will be held on 18 September 2024 at 5:00PM, in the Shire of Donnybrook Balingup Council Chamber.