



Ordinary Meeting of Council

AGENDA

19 May 2022

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SHIRE OF BROOMEHILL-TAMBELLUP

NOTICE OF MEETING

An Ordinary Meeting of Council of the Shire of Broomehill-Tambellup will be held in the Shire Chambers on 19 May 2022 commencing at 4.30pm.

Rob Stewart
Acting Chief Executive Officer

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In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by a member or officer of the Shire of Broomehill-Tambellup during the course of any meeting is not intended to be and is not to be taken as notice of approval from the Shire of Broomehill-Tambellup. The Shire of Broomehill-Tambellup warns that anyone who has any application lodged with the Shire of Broomehill-Tambellup must obtain and should only rely on written confirmation of the outcome of the application, and any conditions attaching to the decision made by the Shire of Broomehill-Tambellup in respect of the application.



Shire of Broomehill–Tambellup

DISCLOSURE OF INTEREST FORM

To: Chief Executive Officer
Shire of Broomehill-Tambellup
46-48 Norrish Street
TAMBELLUP WA 6320

I, **(1)** _____ wish to disclose an interest in the
Following item to be considered by Council at its meeting to be held on **(2)** _____
Agenda Item **(3)** _____

The **type** of Interest I wish to declare is **(4)**

- ☐ Financial pursuant to Section 5.60A of the Local Government Act 1995
- ☐ Proximity pursuant to Section 5.60B of the Local Government Act 1995
- ☐ Indirect Financial pursuant to Section 5.61 of the Local Government Act 1995
- ☐ Impartiality pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007.

The nature of my interest is **(5)** _____

The extent of my interest is **(6)** _____

I understand that the above information will be recorded in the minutes of the meeting and placed in the Disclosure of Financial and Impartiality of Interest Register.

Yours sincerely

Signed

Date

NOTES:

1. Insert your name (print)
2. Insert the date of the Council Meeting at which the item is to be considered.
3. Insert the Agenda Item Number and Title
4. Tick box to indicate type of interest
5. Describe the nature of your interest
6. Describe the extent of your interest (if seeking to participate in the matter under S. 5.68 & 5.69 of the Act)

DISCLOSURE OF INTERESTS (NOTES FOR YOUR GUIDANCE)

A Member, who has a Financial Interest in any matter to be discussed at a Council or Committee Meeting that will be attended by the Member, must disclose the nature of the interest:

- a) In a written notice given to the Chief Executive Officer before the Meeting or;
- b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- a) Preside at the part of the Meeting, relating to the matter or;
- b) Participate in, or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under Section 5.68 or Section 5.69 of the Local Government Act 1995.

NOTES ON FINANCIAL INTEREST (NOTES FOR YOUR GUIDANCE)

The following notes are a basic guide for Councillors when they are considering whether they have a Financial Interest in a matter. These notes will be included in each agenda for the time being so that Councillors may refresh their memory.

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measured in money terms. There are exceptions in the Local Government Act 1995 but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e. sporting, social, religious etc.), and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
4. **If in doubt declare.**
5. As stated in (b) above, if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **MUST** be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences.

The only exceptions are:

- 6.1 Where the Councillor discloses the extent of the interest, and Council carries a motion under s.5.68(1)(b)(ii) or the Local Government Act; or
- 6.2 Where the Minister allows the Councillor to participate under s.5.69(3) of the Local Government Act, with or without conditions.

INTERESTS AFFECTING IMPARTIALITY DEFINITION:

An interest that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected, but does not include an interest as referred to in Section 5.60 of the 'Act'. A member who has an Interest Affecting Impartiality in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest;

- a) in a written notice given to the Chief Executive Officer before the Meeting; or
- b) at the Meeting, immediately before the matter is discussed

IMPACT OF AN IMPARTIALITY DISCLOSURE

There are very different outcomes resulting from disclosing an interest affecting impartiality compared to that of a financial interest. With the declaration of a financial interest, an elected member leaves the room and does not vote. With the declaration of this new type of interest, the elected member stays in the room, participates in the debate and votes. In effect then, following disclosure of an interest affecting impartiality, the member's involvement in the Meeting continues as if no interest existed.

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1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

3. ATTENDANCE

Cr ME White	President
Cr DT Barritt	Deputy President
Cr MC Paganoni	
Cr CJ Letter	
Cr CM Dewar	
CR SH Penny	
Cr JL Wills	
R Stewart	Acting Chief Executive Officer
KP O'Neill	Manager of Finance and Administration
PA Hull	Strategic Support & Projects Officer
HA Richardson	Governance and Executive Assistant

3.1 APOLOGIES

3.2 APPROVED LEAVE OF ABSENCE

3.3 APPLICATION FOR LEAVE OF ABSENCE

4. DISCLOSURE OF INTEREST

5. PUBLIC QUESTION TIME (15 minutes)

5.1 RESPONSE TO MR WARREN JEATER'S QUESTION FROM APRIL 2022 MEETING

CEO responded to Mr Warren Jeater on 29 April 2022 and a copy of the response is attached.

6. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

7. ITEMS BROUGHT FORWARD BY DECISION OF COUNCIL

8. CONFIRMATION OF PREVIOUS MEETING MINUTES

8.1. ORDINARY MEETING OF COUNCIL HELD 17 DECEMBER 2021

Recommendation:

That the Minutes of the Ordinary Meeting of the Council held on 21 April 2022 be confirmed as a true and accurate record of the proceedings.

COUNCIL DECISION

MOTION	Moved	Cr	Seconded	Cr
			CARRIED	/

9. REPORTS OF OFFICERS

9.01 FINANCIAL STATEMENTS FOR APRIL 2022

Attachment:	Monthly Financial Statement for April 2022
File Ref:	Nil
Author:	KP O'Neill - Manager Finance and Administration
Date:	10 May 2022
Disclosure of Interest:	Nil

SUMMARY

To consider the monthly financial report for the periods ending 30 April 2022.

BACKGROUND

The *Local Government (Financial Management) Regulations 1996* require a statement of financial activity to be prepared each month and prescribe the contents of that report and accompanying documents. The report is to be presented at an ordinary meeting of the Council within 2 months after the end of the month to which the report relates.

Each financial year, the Council is required to adopt a percentage or value to be used in the statement of financial activity for reporting material variances.

As part of the 2021/22 budget process, the Council adopted 10% or \$10,000 as the material variance for reporting purposes for the year.

COMMENT

Note 2 in the financial statements provides commentary on the material variances shown in the statement of financial activity by reporting program, which is a requirement of the Local Government (Financial Management) Regulations 1996.

Receivables - which includes outstanding rates, emergency services levy, pensioner rebates and other 'sundry' debtors - is reported at Note 6.

Note 8 tracks capital grants and contributions, the unspent balance of which is reported as 'Restricted Cash' throughout the financial report.

Capital revenue and expenditure is detailed in Note 12, which includes plant replacement, road construction, building improvements, reserve transfers and loan transactions.

The annual financial report and audit for year end 30 June 2021 is being finalised, and until this is complete additions/disposals to the asset register and allocation of depreciation cannot be processed. This results in material variances reporting in the Statement of Financial Activity.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations 1996

34. Financial activity statement report

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22 (1)(d), for that month in the following detail –*
- (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);*
 - (b) budget estimates to the end of the month to which the statement relates;*
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;*
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - (e) the net current assets at the end of the month to which the statement relates.*
- (2) Each statement of financial activity is to be accompanied by documents containing –*
- (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;*
 - (b) an explanation of each of the material variances referred to in subregulation (1)(d); and*
 - (c) such other supporting information as is considered relevant by the local government.*

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Strategic Community Plan 2018-2028

Key Results Area (KRA) One - Our People

1.5 Our Shire demonstrates strong leadership, effective governance and efficient service delivery to our community

1.5.1 Promote excellence in governance, compliance, regulation, reporting, customer service and delivery of outcomes that are in the best interests of our residents

FINANCIAL IMPLICATIONS

The report represents the financial position of the Council at the end of reporting period.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the Financial Statements for the period ending 30 April 2022 be received.

COUNCIL DECISION

MOTION	Moved	Cr	Seconded	Cr
			CARRIED	/

9.02 CREDITOR ACCOUNTS PAID APRIL 2022

Attachment:	List of Payments for April 2022
File Ref:	Nil
Author:	KP O'Neill – Manager Finance and Administration
Date:	10 May 2022
Disclosure of Interest:	Nil

SUMMARY

To consider the list of payments made from the Municipal and Trust Funds during April 2022.

BACKGROUND

The *Local Government (Financial Management) Regulations 1996* prescribe that a list of accounts paid under delegated authority by the CEO is to be prepared each month, providing sufficient information to identify the transactions.

The list is to be presented to the Council at the next ordinary meeting after the list is prepared and recorded in the minutes of that meeting.

COMMENT

Summary of payments made for the month:-

	\$
Municipal Fund	1,032,001.59
Trust Fund	0.00
Credit Cards	1,877.84
TOTAL	1,033,879.43

CONSULTATION

Nil

STATUTORY ENVIRONMENT

13. Lists of accounts

(1) *If the local government has delegated authority to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared –*

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

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Strategic Community Plan 2018-2028

Key Results Area (KRA) One - Our People

1.5 Our Shire demonstrates strong leadership, effective governance and efficient service delivery to our community

1.5.1 Promote excellence in governance, compliance, regulation, reporting, customer service and delivery of outcomes that are in the best interests of our residents

FINANCIAL IMPLICATIONS

Lists the payments made from Municipal and Trust Funds during the previous month.

VOTING REQUIREMENTS

Simple Majority.

OFFICER RECOMMENDATION

That the list of accounts paid during April 2022, consisting of –

- Municipal Fund cheque, Electronic Funds Transfer (EFT) and direct debit payments totalling \$1,032,001.59;
- Trust Fund cheque payments totalling \$Nil; and
- Credit Card payments totalling \$1,877.84

be endorsed.

COUNCIL DECISION

MOTION	Moved	Cr	Seconded	Cr
			CARRIED	/

9.03 CERTIFICATION OF COMPLIANCE WITH THE SHIRE OF BROOMEHILL-TAMBELLUP'S ADOPTED MODEL STANDARD FOR CEO RECRUITMENT, PERFORMANCE AND TERMINATION

Attachment:	Nil
File Ref:	ADM0594
Author:	Rob Stewart, Acting CEO
Date:	19 April 2022
Disclosure of Interest:	NIL

SUMMARY

This report recommends the Council's certification in accordance with the *Local Government Act 1995* and *Local Government (Administration) Regulations 1996*, that the recruitment process for the appointment of a Chief Executive Officer was conducted in accordance with the adopted Model Standards for CEO Recruitment, Performance and Termination.

This process was undertaken between the dates of 17 February 2022, on which date the Council adopted the selection criteria and job description pursuant to Schedule 2 clause 5(2) of the *Local Government (Administration) Regulations Act 1996* and 18 April 2022, on which date the contract of employment was executed by the Shire President, Acting CEO and Mr Middleton.

BACKGROUND

On 2 February 2021, changes to the *Local Government Act 1995* and *Local Government (Administration) Regulations 1996* were promulgated. These changes mandated all local governments to follow a model set of standards when dealing with CEO recruitment, performance management and termination.

At the Ordinary Meeting of the Council held on 20 May 2021, the Council adopted pursuant to *section 5.39B (2) of the Local Government Act 1995*, the new Model Standards for Chief Executive Officer Recruitment, Performance and Termination (Policy 1.28). At the Ordinary Meeting of the Council held on 17 June 2021 the Council also adopted the process for the appointment of a CEO including provision to enable the appointment of an independent person as required by the Model Standards.

Regulation 18FB(3) of the Local Government (Administration) Regulations 1996 now provides that a local government must certify, by absolute majority resolution, that the process that was followed in relation to the recruitment of the Chief Executive Officer, was carried out in accordance with the local government's adopted Standards for CEO Recruitment, Performance and Termination.

STATUTORY ENVIRONMENT

The processes to be followed when recruiting a Chief Executive Officer are to be in accordance with the terms set by the *Local Government Act 1995*, *Local Government (Administration) Regulations 1996* and the Shire of Broomehill-Tambellup's adopted Model Standards for CEO Recruitment, Performance and Termination.

The Shire has complied with these requirements in the performance of its functions and roles in the recruitment process.

Regulation 18FB (3) of the *Local Government (Administration) Regulations 1996* provides:

18FB. Certification of compliance with adopted standards for CEO recruitment

(3) As soon as practicable after the person is employed in the position of CEO, the local government must, by resolution*, certify that the person was employed in accordance with the local government's adopted standards in relation to the recruitment of CEOs.

** Absolute majority required.*

POLICY IMPLICATIONS

Policy 1.28 Standards for CEO Recruitment, Performance and Termination

RISK IMPLICATIONS

The risk implications if the Shire did not follow the adopted Standards for CEO Recruitment, Performance and Termination, is that the process may be challenged and cause negative outcomes to the Shire, as well as exposing it to reputational risk.

If the Council does not certify that the Standards were followed in the recruitment of the Chief Executive Officer, the Shire may be in breach of the Local Government (Administration) Regulations 1996.

FINANCIAL IMPLICATIONS**Budget**

There are no financial implications if the Officer recommendation is adopted. If it is not adopted the financial implications could be the cost to re-start the recruitment process which would involve consultant, advertising, administration and employee costs.

Long Term

The cost to attract a suitable candidate may impact the total reward package required to be offered for a suitable CEO.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2018-2028

Key Result Area One – Our People

To have a cohesive, diverse and inclusive community supported by quality services and facilities. These will be supported by a Council demonstrating effective leadership and good governance. The appointment of a permanent CEO is crucial to the above Strategic goal.

CONSULTATION

Throughout the CEO recruitment process consultation has occurred with the Department of Local Government, Sport and Cultural Industries and WA Local Government Association (WALGA) to ensure compliance with *Schedule 2 – Model standards for CEO recruitment, performance and termination of the Local Government (Administration) Regulations 1996*.

The CEO Selection Committee also sought advice from the Acting CEO

COMMENT

Each of the clauses that provide a requirement from the Standards are listed below, with a brief outline of those requirements and what the Shire did to satisfy the requirements of that clause.

Clause 5 – Determination of selection criteria and approval of job description form

Local governments are required to determine the selection criteria for the position of CEO based on the local government's consideration of the knowledge, experience, qualifications and skills necessary to perform the duties of the CEO, as well as adopting (by absolute majority) the job description form.

At the Special Meeting of the Council held on 17 February 2022, the Council adopted the selection criteria and job description pursuant to Schedule 2 clause 5(2) of the Local Government (Administration) Regulations Act 1996

Clause 6 – Advertising requirements

Local governments are required to comply with section 5.36(4) of the Act and regulation 18A of the Local Government (Administration) Regulations 1996, which requires the local government to advertise the position by Statewide public notice, and the notice must contain:

- *The details of the remuneration and benefits offered.*
- *Details of the place where applications for the position are to be submitted.*
- *The date and time for the closing of applications of the position.*
- *The duration of the proposed contract.*
- *A website address where the job description form for the position can be accessed.*
- *Contact details for a person who can provide further information about the position.*
- *Any other information the local government considers relevant.*

The position was advertised on Saturday 26 February 2022 in the Local Government section of the West Australian, on SEEK and on the Shire's website. The advertisements and application pack contained all information as prescribed above.

Clause 7 – Job description form to be made available by local government

Local governments are required to provide a copy of the job description form to anyone who requests it by either referring to the web address listed in the advertisement (requirement of clause 6 above) or by emailing or posting a copy to the person if unable to access the website.

On all occasions, where a request for the job description form was requested, this request was actioned.

Clause 8 – Establishment of selection panel for employment of CEO

Local governments are required to establish a selection panel to conduct the recruitment of the CEO. This must consist of council members (as determined by the local government) and at least one independent person.

The Council resolved, at its meeting held on 17 February 2022:

That a Chief Executive Officer Selection Panel be established as a committee of the Council pursuant to Section 5.9(2)(d) of the Local Government Act 1995 as follows:

- a) The Committee shall be known as the CEO Selection Committee and is formed to satisfy Clause 8 of Schedule 2 of the Local Government (Administration) Regulations 1996 relating to the establishment of a Selection Panel for the employment of a CEO
- b) The duties of the Committee shall be to recommend to the Council a person to be appointed as CEO of the Shire of Broomehill-Tambellup pursuant to Section 5.36 of the Local Government Act 1996 and the Local Government (Administration) Regulations 1996
- c) The members of the Committee shall number four being Shire President Cr M White, Deputy Shire President Cr D Barritt, Cr C Letter and Mrs Trish Standish formerly Manager Finance and Administration of the Shire of Cranbrook as an Independent Person as defined by Clause 8(1) of Schedule 2 of the Local Government (Administration) Regulations 1996
- d) The committee shall disband upon the signing by both parties of a suitable contract of employment with the selected candidate unless disbanded earlier (Absolute Majority Required)

Clause 9 – Recommendation by selection panel

Local governments are required to:

- *Assess each applicant's knowledge, experience, qualifications against the selection criteria by or on behalf of the selection panel.*
- *Provide a summary of the panel's assessment of each applicant and a recommendation as to which applicant(s) are suitable to be employed as a CEO to the Council.*
- *If none of the applicants are considered suitable, recommend that a new recruitment process be carried out and any changes that should be made to the duties and responsibilities of the position.*

The selection panel must not recommend an applicant to the local government unless the selection panel has:

- *assessed the applicant as having demonstrated that their knowledge, experience, qualifications and skills to meet the selection criteria; and*
- *verified any academic or other tertiary level qualifications the applicant claims to hold; and*
- *whether by contacting referees provided by the applicant or making any other inquiries considered appropriate, verified the applicants character, work history, skills performance and any other claims made by the applicant.*

During the selection committee's deliberations, and through interviews with suitable candidates, the selection committee made assessments based on the adopted criteria and made a recommendation to the Council in accordance with the model standards requirements in a confidential report, which was prepared by the Acting Chief Executive Officer.

The recommendation was made following the candidate undergoing the Shire's selection processes including but not limited to, the candidate's ability to demonstrate that their knowledge, experience, qualifications and skills met the selection criteria, verifying their academic, or other tertiary level, qualifications and contacting referees to verify their character, work history, skills, performance and any other claims made by the candidate.

Clause 10 – Application of clause 5 where new process carried out

This clause applies if the local government accepts a recommendation by the selection panel under clause 9(3) (a) that a new recruitment and selection process for the position of CEO be carried out in accordance with these standards.

This clause does not apply to this recruitment process, as the selection panel recommended an applicant as suitable to be employed in the position of CEO.

Clause 11 – Offer of employment in position of CEO

Local governments are to approve by absolute majority the making of an offer of employment to an applicant and the proposed terms of the contract of employment to be entered into with the applicant before making an offer of employment to that applicant.

The Shire did not make an offer of employment to the successful candidate prior to the resolution of the Council at the Special Council Meeting of 13 April 2022, where the Council approved the offer by absolute majority.

Clause 12 – Variations to proposed terms of contact of employment

This clause applies if an applicant who is made an offer of employment in the position of CEO under clause 11 negotiates with the local government a contract of employment (the negotiated contract) containing terms different to the proposed terms approved by the local government.

This clause does not apply to this recruitment process, as the terms of the contract that was executed with the preferred candidate did not differ from the terms approved by Council at the Special Meeting of the Council of 13 April 2022.

Clause 13 – Recruitment to be undertaken on expiry of certain CEO contracts

Where the incumbent CEO will have held the position of CEO for a period of 10 or more consecutive years and the same time period has elapsed since a recruitment and selection process for the position was carried out, and the CEO has notified the local government that they wish to have their contract renewed upon its expiry, then before the expiry of the contract, the local government must carry out a recruitment process in accordance with these standards. Nothing prevents that CEO from being able to be selected as the preferred candidate.

This clause does not apply to this recruitment process, as this process was triggered by the departure of the previous substantive Chief Executive Officer and not the continuation of an incumbent CEO with 10 years or more of continuous service.

Clause 14 – Confidentiality of information

Local governments must ensure that information relating to a recruitment process is not disclosed or made use of, except for the purpose of, or in connection with, that recruitment or selection process.

No breach of confidentiality occurred during the recruitment process.

Certification process

If the Council adopts the Officer Recommendation to certify that the recruitment process was performed in accordance with the adopted Model Standards of CEO Recruitment, Performance and Termination, the Acting Chief Executive Officer will write to the Department of Local Government, Sport and Cultural Industries to confirm the Council's certification of the process.

VOTING REQUIREMENTS

Absolute majority

OFFICER RECOMMENDATION

Absolute Majority

That

- 1. The recruitment of the Chief Executive Officer be certified as performed in accordance with the model Standards for CEO Recruitment, Performance and Termination.**
- 2. The Departmental CEO for the Department of Local Government, Sport and Cultural Industries be advised in terms of (1) above.**

COUNCIL DECISION

MOTION

Moved Cr

Seconded Cr

CARRIED /

9.04 DOG ACT 1976 - DELEGATIONS

Attachment:	Nil
File Ref:	ADM0239
Author:	Acting CEO
Date:	28 April 2022
Disclosure of Interest:	Nil

SUMMARY

To review delegations under the *Dog Act (1976)* and Dogs Local law 2020 to the CEO, Ranger and other persons.

BACKGROUND

The recent Contract for Services for the provision of Ranger Services entered into by the Shire of Broomehill-Tambellup with the Shire of Kojonup triggered the review of delegations to that position. Consequently, delegations to the CEO were also reviewed.

COMMENT

The recommendation in this report if carried will enable the CEO to undertake powers and duties and to delegate powers necessary under the *Dog Act* and the Dogs Local Law 2020 for the Ranger or other officers or persons to undertake duties under the Dog Act, including impounding of dogs.

Existing delegations 5.9 (*Proceedings under Dog Act 1976*) and 5.10 (*Withdrawal of Infringement Notices*) issued under *Dog Act 1976* will need to be revoked as they both purport to extend delegations to the CEO and other officers pursuant to a repealed section of the Dog Act.

CONSULTATION

No external consultation took place for the preparation of this report.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

Dog Act 1976. Specifically, *Section 10AA of the Dog Act* provides:

‘(1) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, delegate to its chief executive officer any power or duty of the local government under another provision of this Act.’

POLICY IMPLICATIONS

The Council’s Policy Manual is silent regarding application of the Dog Act.

STRATEGIC IMPLICATIONS

The Council’s Strategic Community Plan 2018-2028 provides at Key Result Area One – Our People at Objective 1.1.2: ‘Promote and support activities that enhance the community’s sense of wellbeing and safety.’

The control of dogs is an important component regarding a ‘sense of wellbeing and safety’ and therefore this part of the Community Strategic Plan will be met with the adoption of the officer’s recommendation.

ASSET IMPLICATIONS

There are no asset implications.

FINANCIAL IMPLICATIONS

There are no financial implications.

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION

That:

1. Pursuant to *s10AA(1) of the Dog Act 1976* the Chief Executive Officer is delegated all powers and duties of the Shire under the *Dog Act 1976* and regulations and the Shire's Dogs Local Law.
2. Pursuant to *s10AA(3) of the Dog Act 1976* the Chief Executive Officer is specifically authorised to sub delegate any and all of these powers and duties to other Shire employees or other persons.
3. While exercising the powers and duties referred to in (1) above the CEO must comply with all relevant Council policies.
4. Existing delegations *5.9 Proceedings under Dog Act 1976* and *5.10 Withdrawal of Infringement Notices* issued under *Dog Act 1976* be revoked.

COUNCIL DECISION

MOTION

Moved Cr

Seconded Cr

CARRIED /

9.05 REPORT CARAVAN PARK, TAMBELLUP

Attachment:	Nil
File Ref:	ADM0588
Author:	Acting CEO
Date:	3 May 2022
Disclosure of Interest:	NIL

SUMMARY

To classify the proposed development of a Caravan Park and associated infrastructure as a major business undertaking pursuant to *Section 3.59 of the Local Government Act 1995*.

BACKGROUND

A meeting was held on 11 November 2021 in the Shire of Broomehill-Tambellup Council Chambers with representatives of the Tambellup Co-operative, the Tambellup Cropping Group, Shire President Cr Michael White, and Shire CEO Chris Jackson to discuss the development of a Caravan Park in Tambellup.

Subsequently, at its meeting held on 17 December 2021 the Council resolved:

That:

- A. In pursuance of *Section 75 of the Planning and Development Act 2005*, adopt Amendment No 6 to the Shire of Tambellup Town Planning Scheme No 2 (for the purpose of advertising) by:
1. Amending 'Schedule 2 – Special Use Zones' by deleting the particulars of the land described as 'Lots 3 to 6 inclusive Crowden Street: Lot 19 Taylor Street; and right-off-way off Taylor Street adjacent to Lots 5, 6 and 19; Tambellup' and deleting the Special Use described as 'private club including private recreation' as applicable to a right of way, Lot 5 (No 13) Crowden Street, Lot 6 (No 11) Crowden Street and Lot 19 (No 19) Taylor Street, Tambellup.
 2. Re-zoning Lot 5 (No 13) Crowden Street, Lot 6 (No 11) Crowden Street, Lot 19 (No 19) Taylor Street, Tambellup and the adjacent right-of-way from 'Special Use' zone to 'Town Centre' zone as depicted on the Scheme Amendment Map.
 3. Deleting the existing definition for 'camping area' and 'caravan park' from 'Schedule 1 – Interpretations' and inserting new definitions for 'camping ground' and 'caravan park' in alphabetical order in 'Schedule 1-Interpetations' as follows:

'camping ground' means an area used for a camping ground as defined in the *Caravan Parks and Camping Grounds Act 1995 section 5 (1)*.
'caravan park' means premises that are a caravan park as defined in the *Caravan Parks and Camping Grounds Act 1995 section 5(1)*.'

- B. Resolve that Amendment No 2 is 'standard' under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:
- (i) The amendment is consistent with a local planning strategy for the scheme area that has been endorsed by the Commission.
 - (ii) The amendment has minimal impact on land in the scheme area that is not the subject of the amendment.
 - (iii) The amendment will not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
- C. Authorise the Shire President and Chief Executive Officer to sign 3 hardcopies of the Amendment No 6 documents.
- D. Authorise the Shires Planning Consultant, Liz Bushby of Town Planning Innovations Pty Ltd to:
- (i) Refer the amendment to the Environmental Protection Authority on behalf of the Shire to seek confirmation that no environmental assessment is required.
 - (ii) Refer the amendment to the Western Australian Planning Commission for information.
- E. Note that the amendment will be advertised for 42 days for public comment, following confirmation from the Environmental Protection Authority (EPA) that no environmental assessment is required.
- F. Note that a report on the amendment will be referred to a future Council meeting for further consideration after the completion of advertising.

Given all of the above, it is evident that the council is serious in its intentions to create a Caravan Park and associated infrastructure on the land identified in Crowden Street and Taylor Street.

This proposal for rezoning is presently being advertised.

COMMENT

Although no formal market research has been undertaken, cursory and anecdotal research indicates that there is a need in Tambellup for a caravan/camping facility to be used by tourists, visiting family and friends and importantly by contractors/seasonal workers requiring affordable accommodation. There is virtually no alternative accommodation otherwise available except possibly the Tambellup Hotel.

Therefore should it be agreed that a caravan park in Tambellup is necessary, a way forward will have to be planned.

CONSULTATION

External consultation has occurred with the Shires of Kent and West Arthur.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

Section 3.59 of the Local Government Act 1995 relates to commercial enterprises by local governments and refers to the definition of a major trading undertaking. This definition is prescribed.

The *Local Government (Functions and General) Regulations 1996* set out, at *Regulation 9*, the value of a trading undertaking such that it is defined as a major trading undertaking. For councils other than metropolitan councils this figure is \$2,000,000.00 or 10% of the lowest operating expenditure described in sub regulation 2. For the Shire of Broomehill-Tambellup the defined operating expenditure \$6,245,346.00 and 10% of this figure is \$624,534.00.

Although no costings have been undertaken for such a project as no plans exist, a comparison with other caravan parks in the vicinity indicate a capital expenditure of at least \$600,000 would be realistic. For example, units built in Nyabing for the travelling public cost \$500,000 approximately 2 years ago. Basic accommodation units (8 by 1 bedroom) constructed in Pingrup recently as workers' accommodation cost \$250,000 while just one worker's accommodation unit of a higher quality cost \$225,000. One accommodation unit recently constructed in Darkan at the existing caravan park cost \$108,000.

The 2 cabins in Broomehill cost a total of \$225,000 – one by 1 bedroom, one by 2 bedroom.

It is therefore prudent to accept a value set at the minimum for a business plan to be required.

POLICY IMPLICATIONS

Policy 1.13 Asset management applies.

STRATEGIC IMPLICATIONS

The Council's Corporate Business Plan 2018 – 2022 notes the objective of: 'Investigate the establishment of a Caravan Park in Tambellup'.

ASSET IMPLICATIONS

There are important asset implications for the council.

All infrastructure of the caravan park will have a substantial impact on the council's maintenance requirements for built infrastructure and costings for future maintenance will need to be taken into account, most likely through a caravan park infrastructure maintenance reserve.

FINANCIAL IMPLICATIONS

The method of funding such a venture deserves close consideration.

The Tambellup Cropping Group has given a written undertaking to contribute \$150,000 toward the project.

Loan funding is a reasonable way to fund long term capital acquisitions as future communities who enjoy the benefits of the acquisitions effectively pay for that benefit.

Potentially grant funding may be available as well.

Importantly, thought must be given to how future operational losses (if any) would be funded.

Until decisions are made relating to the extent of the proposed development, the actual capital expenditure is unknown. Further, ongoing operating costs are also unknown along with how it is proposed to run the business, such as council employee, council contractor or lease.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That:

1. The proposed Tambellup Caravan Park be classified a major business undertaking pursuant to *Section 3.59 of the Local Government Act* and as a consequence the Acting CEO be requested to take immediate action for the preparation of a Business Plan.
2. The Business Plan described above is to include an overall assessment of the major business undertaking including details of:
 - (a) its expected effect on the provision of facilities and services by the local government; and
 - (b) its expected effect on other persons providing facilities and services in the district; and
 - (c) its expected financial effect on the local government; and
 - (d) its expected effect on matters referred to in the local government's current plan prepared under section 5.56 (Planning for the Future); and
 - (e) the ability of the local government to manage the undertaking.
3. The Business Plan be referred back to the council no later than 15 September 2022 for endorsement prior to the giving of Statewide notification.

COUNCIL DECISION

MOTION

Moved Cr

Seconded Cr

CARRIED /

9.06 SHIRE OF BROOMEHILL-TAMBELLUP LOGO

Attachment:	Policy 1.3 Shire of Broomehill Tambellup Logo
File Ref:	ADM0112
Author:	Annie Richardson, Governance and EA
Date:	6 May 2022
Disclosure of Interest:	Nil

SUMMARY

To endorse the continued use of the current Shire of Broomehill-Tambellup logo.

BACKGROUND

The Shire of Broomehill-Tambellup logo was adopted in July 2010. The Council engaged the services of Market Creations to create the logo for the Shire of Broomehill-Tambellup.

COMMENT

The current logo was the preferred design in 2010. The rationale behind the design is as follows:

“It represents the ‘tree change’ lifestyle many new residents come to the Shire of Broomehill-Tambellup for.

Within the embracing shape of the forked tree branches are a number of squares in a variety of green shades, representing the multi-faceted community of the Shire coming together.

A simple sans serif font has been used to execute the words ‘Shire of Broomehill-Tambellup’, while a script font has been used in the positioning statement to convey the relaxed feel of the community.

In this and following concepts, the positioning statement ‘Looking Forward’ has been applied to the logo.

Due to the two-word name of the merged Shire, ‘Looking Forward’ is recommended as a more concise version of the original Broomehill positioning ‘Looking to the Future.’”

The only amendment is referencing the correct document in point (a) Logo Style Guide.

CONSULTATION

Acting Chief Executive Officer

STATUTORY ENVIRONMENT

Local Govt Act 1995

Local Government (Functions and General) Regulations 1996

POLICY IMPLICATIONS

Schedule review of Policy 1.3 Shire of Broomehill-Tambellup Logo.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2018-2028:

Key Result Area One - Our People

1.5 Our Shire demonstrates strong leadership, effective governance, and efficient service delivery to our community.

1.5.1 Promote excellence in governance, compliance, regulation, reporting, customer service and delivery of outcomes that are in the best interests of our residents.

ORGANISATIONAL RISK

The regular review of policies ensures that policies are always current and that the pertinent legislation impacting policies is reviewed regularly, thus reducing organisational risk.

ASSET IMPLICATIONS

There are no asset implications for Council.

FINANCIAL IMPLICATIONS

This matter has no financial implications for the Council unless the Council believe it is an opportune time to rebrand and rebranding would need to be a budgeted item in 2022/23.

On average, brands and organisations change their corporate identities once every 7 to 10 years. There comes a time when your brand identity no longer provides a current message that is integral to the organisation's strategic intent.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Policy 1.3 Shire of Broomehill-Tambellup logo as follows:

'1.3 SHIRE OF BROOMEHILL-TAMBELLUP LOGO

Objective:	To adopt the following design as the new logo for the Shire of Broomehill-Tambellup.		
Date of adoption:	18th November 2010	Minute No.	101105
Date of amendment:	19 May 2022		
Date of last review:	18th June 2015		
Legislative References:			
Internal References:	Delegation 1.21 – Use of the Shire Logo		

Council has adopted the following logo for the Shire of Broomehill-Tambellup.



It represents the ‘tree change’ lifestyle many new residents come to the Shire of Broomehill-Tambellup for. Within the embracing shape of the forked tree branches are a number of squares in a variety of green shades, representing the multi-faceted community of the Shire coming together.

The use of the Shire of Broomehill-Tambellup logo:

- (a) shall be in accordance with the guidelines contained in the **logo style guide** ‘Our Identity’ and
- (b) is not permitted by any other person or organisation without the written approval of the Shire of Broomehill-Tambellup.

be endorsed.

COUNCIL DECISION

MOTION

Moved Cr

Seconded Cr

CARRIED /

9.07 ADVERSE EVENTS PLAN 2022

Attachment:	Draft Adverse Events Plan 2022
File Ref:	CP.PR.74
Author:	PA Hull , Strategic Support & Projects Officer
Date:	5 May 2022
Disclosure of Interest:	NIL

SUMMARY

To endorse the Shire of Broomehill-Tambellup Adverse Events Plan.

BACKGROUND

The Federal Government's Drought Communities Program provided funding to eligible local governments to deliver projects that provide economic stimulus and other benefits to targeted drought-affected communities. The Shire of Broomehill-Tambellup was deemed an eligible local government and a total of \$1 million was awarded.

Aside from the Council's nominated projects, the Shire is required to submit an Adverse Events Plan (AEP) with the final project report. The development of the AEP is an eligible project for funding under the program guidelines.

The purpose of an AEP is to provide the local government with guidance on mitigation and preparedness actions for the community during periods of adverse conditions in the region.

COMMENT

While the funding received was allocated in response to the drought conditions that were being experienced across much of Australia, the intent of the AEP is that it will have application across a broad range of short and long term adverse events. For the purpose of this plan, and in the context of the economy of the Shire of Broomehill-Tambellup, the term 'adverse event' is used to include natural disasters and other extraordinary events that impact on the primary production sector, and subsequently, community life.

The Shire engaged Local Government Insurance Services (LGIS) to prepare the AEP. Consultation was undertaken with a targeted group from the farming, business and community sectors to establish local context and feedback has been incorporated into the plan.

The AEP acknowledges previous consultation undertaken as part of the development of the Strategic Community Plan, and relevant strategies from that document have been incorporated into the AEP.

The Council's endorsement of the AEP is required.

CONSULTATION

LGIS

Community members as noted above

Acting Chief Executive Officer

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

The AEP notes linkages with the Strategic Community Plan and other corporate documents, and highlights relevant strategies.

RISK IMPLICATIONS

The AEP will assist the Shire and the community to manage the social, environmental and economic risks and impacts of future adverse events.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this matter.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the Shire of Broomehill-Tambellup's Adverse Events Plan 2022 as attached be endorsed.

MOTION

Moved Cr

Seconded Cr

CARRIED /

9.08 POLICY 1.6 FINANCIAL ASSISTANCE FOR LEGAL SERVICES FOR ELECTED MEMBERS

Attachment:	Policy 1.6 Financial Assistance for Legal Services for Elected Members
File Ref:	ADM0165
Author:	Annie Richardson, Governance and Executive Assistance
Date:	28 April 2022
Disclosure of Interest:	Nil

SUMMARY

To review Policy 1.6 Financial Assistance for Legal Services for Elected Members.

BACKGROUND

Council policies are reviewed on a rolling basis such that a proportion of all policies are reviewed monthly and all policies are reviewed every two years.

COMMENT

Senior Staff and the Acting CEO have reviewed, and amended where necessary Policy 1.6 Financial Assistance for Legal Services for Elected Members. Such amendments are related only to spelling and syntax.

Amendments to policy are highlighted in red text in the attachment.

This policy has been reviewed with reference to relevant Legislation and the Department of Local Government, Sport and Cultural Industries Operational Guidelines ‘legal Presentation for Council Members and Employees’.

CONSULTATION

No external consultation has occurred.

STATUTORY ENVIRONMENT

Section 2.7 (2) (b) of the *Local Government Act 1995* states that Council is to ‘*determine the local government’s policies*’.

Section 9.56 of the Local Government Act 1995 provides protection from actions of tort for anything a council member has, in good faith, done in the performance of a function under the Act.

POLICY IMPLICATIONS

Review of the Shire of Broomehill-Tambellup Policy Manual.

STRATEGIC IMPLICATIONS

The Council’s Community Strategic Plan 2018 – 2028 provides under Key Result Area one (Our People) the following Objectives:

1.5 Our Shire demonstrates strong leadership, effective governance and efficient service delivery to our community

1.5.1 Promote excellence in governance, compliance, regulation, reporting, customer service and delivery of outcomes that are in the best interests of our residents

ORGANISATIONAL RISK

The regular review of policies ensures that policies are always current and that the pertinent legislation impacting policies is reviewed regularly, thus reducing organisational risk.

FINANCIAL IMPLICATIONS

This matter has no financial implications for the Council.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Policy 1.6 Financial Assistance for Legal Services for Elected Members, as follows:

'1.6 FINANCIAL ASSISTANCE FOR LEGAL SERVICES FOR ELECTED MEMBERS

Objective:	To assist with the cost of legal services for elected members in connection with any matter touching on their conduct, or the performance of their functions.		
Date of adoption:	13 October 2008	Minute No.	081008
Date of amendment:	19 May 2022		
Date of last review:	15 October 2020		
Legislative References:	Local Government Act 1995		
Internal References:	Code of Conduct for Council Members Councillors Handbook		

PURPOSE

This Policy is designed to set out:

- the circumstances in which the Shire will, as a general rule, provide financial assistance to elected members who require legal services in the course of or arising out of the performance of their official functions; and
- the procedure for making and dealing with applications.

In each case it will be necessary to determine in the final analysis whether financial assistance is justified for the good government of the district.

POLICY

Members of the Council from time to time may require legal services in connection with any matter touching on their conduct, or the performance of their functions as members.

Questions may arise from time to time as to whether, and the extent to which, the Shire should provide financial assistance to secure legal services, and this Policy is intended to facilitate decision-making on those questions.

As a general rule, financial assistance will only be provided to a member for a matter which arises out of or in the course of their conduct, or the performance of their functions, as members.

It is intended that financial assistance will not be provided to a member who has acted unlawfully, dishonestly, improperly, or otherwise in bad faith.

As a general rule financial assistance may be provided to former, or may continue to be provided for members after they cease their membership, where that can manifestly be seen to be justified by the interest of good government of the district.

The level of financial assistance provided is to be assessed in all cases against an evaluation of the extent to which it is justified in the interest of the good government of the district.

1. DEFINITIONS

In this Policy:

‘Act’ means the *Local Government Act 1995*;

‘CEO’ means the Chief Executive Officer of the Shire;

‘department inquiry’ means an inquiry initiated under *section 8.3 of the Act*;

‘district’ means the local government district of the Shire;

‘financial assistance’ means the provision by the Shire of money to pay the whole or part of the cost of legal services, or a guarantee of or indemnity for the payment of such cost or part;

‘improperly’ in this Policy describes conduct which would be appropriate to be reported to the Corruption and Crime Commission as corruption or improper conduct;

‘inquiry’ means a department inquiry or a panel inquiry under *Part 8 of the Act*;

‘legal services’ means the provision of legal advice on any matter, or legal advice and legal representation in connection with court proceedings, or in connection with any other investigation, inquiry, hearing or adjudication, including but without limiting the generality of the foregoing an inquiry under *Part 8 of the Act*;

‘member’ means a member of the Council of the Shire including a Commissioner appointed under *Part 8 of the Act*;

‘panel inquiry’ means an Inquiry initiated under *section 8.16 of the Act*;

‘President’ means the President of the Shire;

‘Shire’ means the Shire of Broomehill-Tambellup.

2. ELIGIBLE PERSONS

A person is eligible to make application for financial assistance under this Policy if that person is a member.

3. PROCEEDINGS IN RESPECT OF WHICH FINANCIAL ASSISTANCE MAY BE PROVIDED

Proceedings in respect of which financial assistance may be provided include:

3.1 Proceedings brought by any member to enable them to undertake or continue to undertake the duties and responsibilities associated with their office. An example is where a member seeks a restraining order against a person using threatening behaviour.

3.2 Proceedings brought by any member in respect of defamation against them PROVIDED THAT legal advice obtained by the Shire supports such action as being capable of being regarded as appropriate for the good government of the district to ensure members are not deflected from the performance of their duties by unreasonable interference. Such proceedings may involve:

- (a) seeking an injunction to prevent further defamation of a specific member, the intention being to seek the removal of a distraction or impediment to the performance by the member of their functions as such; or

- (b) making a claim for damages:
 - (i) additional to an injunction, if it is determined or appears likely that an injunction has failed or will fail to prevent further defamation of the affected member; or
 - (ii) as an alternative to an injunction if damages is the more appropriate remedy or in the event that a Court declines to grant an injunction on grounds that are not directly related to the merits of the proposed action.
- 3.3 Proceedings brought against one or more members in the performance of their functions as such. For example, this could be in relation to a decision of the Council who aggrieves another person (e.g. refusing a development application).
- 3.4 In, or in connection with, an inquiry or other official proceeding or investigation where, in the opinion of the Council, representation of members is appropriate or justified.

4. LEGAL SERVICE PROVIDER

- 4.1 Legal services provided under this Policy are to be provided by a lawyer or a firm of lawyers nominated by the Chief Executive Officer (CEO).
- 4.2 The CEO or the Council, as the case requires, may entertain an application by a member for financial assistance for legal services provided by a lawyer other than a lawyer nominated by the CEO or the Council, as the case may be, provided that clear justification is given. An example of a justification that may be adequate is where there is a perceived conflict of interest on the part of a nominated lawyer.

5. FORM OF APPLICATION

An application under this Policy should:

- (a) be in writing;
- (b) provide full details of the nature and extent of the legal services anticipated to be required and when they are required;
- (c) detail how the matter for which the legal services are required arises out of the conduct or performance of functions of the applicant;
- (d) explain how it might be said that the provision of financial assistance would be justified in the interest of the good government of the district;
- (e) provide, in the event that the application is not made in advance, details of the services previously provided and the explanation for there being no application in advance;
- (f) indicate if the applicant considers that the application is urgent and the applicant's reasons for that view;
- (g) contain a declaration by the applicant that:
 - (i) the applicant has read this Policy and accepts its terms (including, without limiting the generality of the foregoing, the terms as to repayment in clause 11); and
 - (ii) the applicant in relation to the matter in respect of which the legal services are required did not act unlawfully, dishonestly, improperly or otherwise in bad faith.

An application when presented to the Council is to be accompanied by a report and recommendation prepared through the office of the CEO in response to the application.

6. WHO DETERMINES AN APPLICATION

- 6.1** The CEO may determine an application seeking financial assistance not exceeding, or reasonably anticipated as not likely to exceed, \$3,000.00.
- 6.2** Where the provision of legal services must occur as a matter of urgency prior to the earliest opportunity for an application to be considered by the Council, the CEO may authorize financial assistance up to the value of \$5,000.00, even if that is not anticipated to be the full extent of the financial assistance ultimately required. In any such case, the CEO shall present a report to the next available meeting of the Council detailing the application and outlining the circumstances that required the application to be dealt with as a matter of urgency.
- 6.3** Subject to clause 6.2, all applications seeking financial assistance exceeding, or reasonably anticipated as likely to exceed \$3,000.00 in total, are to be determined by the Council.
- 6.4** Notwithstanding the preceding provisions, the CEO may refer any application to the Council for determination.
- 6.5** An application for financial assistance in respect of proceedings referred to in clause 3.2 is not to be dealt with by the CEO on an urgent application - any application for financial assistance in respect of proceedings referred to in clause 3.2 is to be determined by the Council.

7. FORMAL AGREEMENT TO BE EXECUTED

- 7.1** A person to whom financial assistance is to be provided, whether by the decision of the CEO or the Council, shall be required to execute a formal agreement with the Shire, either in a standard form provided by the Shire, or prepared for the occasion by the Shire's lawyers, setting out the terms and conditions upon which the assistance is offered.
- 7.2** In ordinary circumstances the applicant will be required to execute the agreement prior to any financial assistance being provided.
- 7.3** In the case of an application for urgent financial assistance, the CEO may accept a written undertaking by the applicant to execute a formal agreement as contemplated by this Policy, as soon as it is presented for execution.

8. PRECONDITIONS TO THE PROVISION OF FINANCIAL ASSISTANCE

Financial assistance will only be provided:

- 8.1** In proceedings to be brought by any member where the CEO or the Council, as the case may be, forms the opinion that the action proposed to be taken is reasonably necessary to enable the member to continue to perform their functions without unreasonable obstruction, impediment or discouragement.
- 8.2** In the case of any proceedings against a member, where legal action has been taken or is threatened or seems likely to be taken, in relation to conduct or circumstances arising out of or in the course of the performance of the functions of the member.
- 8.3** In the case of an inquiry where:
 - (a)** prior to the final report on the outcome of the inquiry, an adverse allegation is made against the member, or the inquiry or any officer assisting indicates that an adverse finding against the member is possible;
 - (b)** conduct of the member is subject to inquiry and/or report in the terms of reference of the inquiry, or the member receives a summons or subpoena from the inquiry requiring her to give evidence and/or produce documents;
 - (c)** conduct of the member in the performance of their functions as such is under consideration; and
 - (d)** the legal services are required prior to the conclusion of the inquiry.

- 8.4 In any case, financial assistance will only be provided where no indemnity for legal services is provided for under a policy of insurance taken out by the member, or by the Shire, or to the extent that full cover is not provided under such policy of insurance.**

9. CEO MAY CONTINUE TO SEEK LEGAL ADVICE

Nothing in this Policy derogates from the authority of the CEO or other employees to obtain legal services concerning the business and affairs of the Shire from the Shire's lawyers.

10. REPAYMENT OF FINANCIAL ASSISTANCE

10.1 It is a condition of the provision of financial assistance under this Policy, and it shall be a condition of the formal agreement referred to in clause 7, that:

- (a) the provision of financial assistance shall be at an end; and**
- (b) any financial assistance already paid by the Shire shall be repaid by the member in the event that:**
 - (i) a finding is made in the report of an inquiry or in court proceedings that the member has acted unlawfully, dishonestly, improperly, or otherwise in bad faith, in circumstances that are fundamental to the inquiry or the court proceedings in respect of which the financial assistance was sought;**
 - (ii) the Council determines on legal advice that the member has acted unlawfully, dishonestly, improperly, or otherwise in bad faith in circumstances that are fundamental to the proceedings in respect of which financial assistance was obtained; or**
 - (iii) where information provided to the CEO or to the Council in the application is materially false or misleading.**

10.2 Members are not to personally benefit financially from proceedings to the extent that they are financed by the Shire. Damages or costs awarded to the member in excess of any expenses incurred separately by the member should be dealt with in the following order:

- (a) in reimbursement of any expenses paid or payable personally by the member;**
- (b) in reimbursement of the financial contribution of the Shire which reimbursement may be repaid to the ordinary funds of the Shire; and**
- (c) any excess should be held by the Shire to be used for a charitable purpose within the district.**
The reason for the provisions in this clause is not that the Shire should benefit financially from legal proceedings taken by or against a member, but rather to ensure that financial assistance will only be provided by the Shire in circumstances where it can be demonstrated manifestly that the purpose for the Shire providing financial assistance is to act in the interest of good government of the Shire's district by ensuring that members are not deflected or discouraged from the performance of their official functions by their inability to finance appropriate legal services.

10.3 Where financial assistance is withdrawn, the member who obtained the financial assistance is required to repay any monies already provided.

11. RECOVERY

A member applying for financial assistance under this Policy must agree under clause 7 that:

- (a) the Shire may take action to recover any financial assistance required to be repaid under clause 10;**
- (b) the moneys to be repaid shall constitute a debt due by the member to the Shire and may be recovered in a court of competent civil jurisdiction; and**
- (c) the Shire is entitled additionally to deduct the amount of any outstanding financial assistance from any allowance payable by the Shire to the member.**

The agreement to be prepared under clause 7, should make provision for such repayment and recovery.'

be endorsed.

COUNCIL DECISION

MOTION	Moved	Cr	Seconded	Cr
			CARRIED	/

9.09 REVIEW OF POLICY 1.7 CUSTOMER SERVICE

Attachment:	Policy 1.7 Customer Service
File Ref:	ADM0165
Author:	KP O'Neill – Manager Finance & Administration
Date:	9 May 2022
Disclosure of Interest:	Nil

SUMMARY

To consider a review of the Policy relating to Customer Service.

BACKGROUND

The Policy was first adopted in October 2008, and its last review was in October 2020.

The purpose of the Customer Service Policy is 'to recognise Council's commitment to optimum customer service'. The Policy acknowledges that both customers and Shire staff deserve to be treated respectfully and enquiries will be addressed through provision of quality customer service.

The 'Customer Service Charter' supports the intent of this policy, and outlines the customer service standards that the Council has set for itself and affirms commitment to the provision of quality customer service.

COMMENT

The Legislative Reference - Local Government Act 1995 is proposed to be removed as there is no section of the Act (or Regulations) that relates specifically to this matter. Aside from this minor amendment and typographical changes, no other changes are proposed to the policy.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Section 2.7(2)(b) of the *Local Government Act 1995* states the role of the Council is to determine the local government's policies.

POLICY IMPLICATIONS

Review of Policy 1.7 Customer Service

STRATEGIC IMPLICATIONS

Strategic Community Plan 2018-2028

KRA One – Our People

1.5 Our Shire demonstrates strong leadership, effective governance and efficient service delivery to our community

1.5.1 Promote excellence in governance, compliance, regulation, reporting, customer service and delivery of outcomes that are in the best interest of our residents.

FINANCIAL IMPLICATIONS

There are no financial implications resulting from this item.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That amended Policy 1.7 Customer Service, as follows:

‘1.7 CUSTOMER SERVICE

Objective:	To recognise the Council’s commitment to optimum customer service.		
Date of adoption:	13th October 2008	Minute No.	081008
Date of amendment:	19 May 2022		
Date of last review:	15 October 2020		
Legislative References:			
Internal References:	Disability Access and Inclusion Plan 2020-2025 Customer Service Charter		

INTRODUCTION

The Council is committed to meeting the needs of its community and visitors by providing leadership and facilitating the provision of services and facilities. The Council acknowledges the rights of both customers and staff to be treated respectfully, for viewpoints to be acknowledged and enquiries addressed through quality customer service.

Our customers are those people who have dealings with the Shire of Broomehill-Tambellup including, but not limited to: residents; ratepayers; business proprietors; community sporting and recreation clubs and associations; visitors to the Shire; employees, contractors and volunteers within the Shire; government departments and non-government agencies and organisations.

The Council’s Customer Service Charter outlines the customer service standards the Council sets for itself and affirms the Council’s commitment to providing quality services.

POLICY STATEMENT

The Council’s Customer Service policy applies to the whole of the organisation.’

be endorsed.

COUNCIL DECISION

MOTION	Moved	Cr	Seconded	Cr
			CARRIED	/

9.10 REVIEW OF POLICY 6.3 INDEPENDENT LIVING SENIOR ACCOMMODATION – HOUSING ALLOCATION

Attachment:	Policy 6.3 Independent Living Seniors Accommodation – Housing Allocation
File Ref:	ADM0165
Author:	KP O'Neill – Manager Finance & Administration
Date:	9 May 2022
Disclosure of Interest:	Nil

SUMMARY

To review the Policy relating to allocation of the Shire's Independent Living Seniors Accommodation.

BACKGROUND

The purpose of the Policy is 'to ensure fair and transparent allocation of Independent Living Seniors Accommodation (ILSA) housing'. The Policy states that it is the Council's preference to ensure Broomehill and Tambellup residents are given priority to occupy the units, however when vacancies exist for three months or more applications may be considered from people not living in the Shire.

The Policy was first adopted in September 2014 following construction of the six units at Sandalwood Villas. The four units at Lavieville Lodge were handed to the Shire at around the same time, and four units at Holland Court in Broomehill were more recently constructed. The Policy was last reviewed July 2020.

COMMENT

The 'Housing Management Manual' endorsed by the Council provides guidance to staff when enquiries are made or applications are received for occupancy of the ILSA units.

No changes are proposed to the Policy.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Section 2.7(2)(b) of the *Local Government Act 1995* states the role of the Council is to determine the local government's policies.

POLICY IMPLICATIONS

Review of Policy 6.3 Independent Living Seniors Accommodation – Housing Allocation

STRATEGIC IMPLICATIONS

Strategic Community Plan 2018-2028

KRA One – Our People

1.5 Our Shire demonstrates strong leadership, effective governance and efficient service delivery to our community

1.5.1 Promote excellence in governance, compliance, regulation, reporting, customer service and delivery of outcomes that are in the best interest of our residents.

FINANCIAL IMPLICATIONS

There are no financial implications resulting from this item.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION**That Policy 6.3 Independent Living Seniors Accommodation – Housing Allocation, as follows:****‘6.3 INDEPENDENT LIVING SENIORS ACCOMMODATION – HOUSING ALLOCATION**

Objective:	To ensure fair and transparent allocation of Independent Living Seniors Accommodation (ILSA) housing.		
Date of adoption:	18th September 2014 – Effective from 3 October 2014	Minute No.	140905
Date of amendment:	19 May 2022		
Date of last review:	23 July 2020		
Legislative References:			
Internal References:	Shire of Broomehill-Tambellup Housing Management Manual		

Introduction

Within the Council’s Housing Management Manual, reference is made to ILSA Management Practice 1 wherein applications for tenancy of the Council’s ILSA units may be considered from non-local applicants.

Policy Statement

Preference will be given to Tambellup and Broomehill residents; however if ILSA unit vacancies exist for more than three months, applications for tenancy of ILSA housing will be considered from people outside the Tambellup and Broomehill catchment area providing they meet the other housing allocation criteria requirements.’

be endorsed.

COUNCIL DECISION

MOTION	Moved	Cr	Seconded	Cr
			CARRIED	/

9.11 PROPOSED OUTBUILDING: LOT 3 (NO. 248) OLD BROOMEHILL-KOJONUP ROAD, BROOMEHILL WEST

Attachment:	Site Plans
File Ref:	A
Author:	Liz Bushby, Town Planning Innovations Pty Ltd (Shire planning consultant)
Date:	11 May 2022
Disclosure of Interest:	Declaration of Interest: Liz Bushby, Town Planning Innovations Nature of Interest: Financial Interest as receive planning fees for advice to the Shire – Section 5.60A of <i>Local Government Act 1995</i>

SUMMARY

Council to consider an application for an outbuilding proposed on Lot 3 (No 248) Old Broomehill-Kojonup Road, Broomehill West.

BACKGROUND

Lot 3 contains an existing dwelling and associated outbuildings. The majority of the lot is cleared and used for extensive agriculture. There is a vegetated creek line on the lot.

The main driveway access is from Broomehill-Kojonup Road. The lot is close to the intersection of Broomehill-Kojonup Road and Nookanellup Road to the south – refer to aerial over page.

The owners seek approval for a new multi-purpose outbuilding which will be used for storage uses associated with their existing farming operation.

The proposed development will be sited at least 50 metres from any natural creek line, constructed to be 30m long by 18m wide, and 7.6m in height to the gutter, made from fabricated structural steel, clad with Zinalume cladding to roof and walls, with gutters capturing the rainwater to be stored in an existing stormwater tank on the property.

This shed will be used as a multi-purpose storage facility associated with the current agricultural use of the land. Partly, this shed will be used as agricultural machinery storage, which will be attended to seasonally depending on cropping requirements. Then the other section will remain available for other types of storage, and space for machinery repairs that will occur on a case-by-case basis.

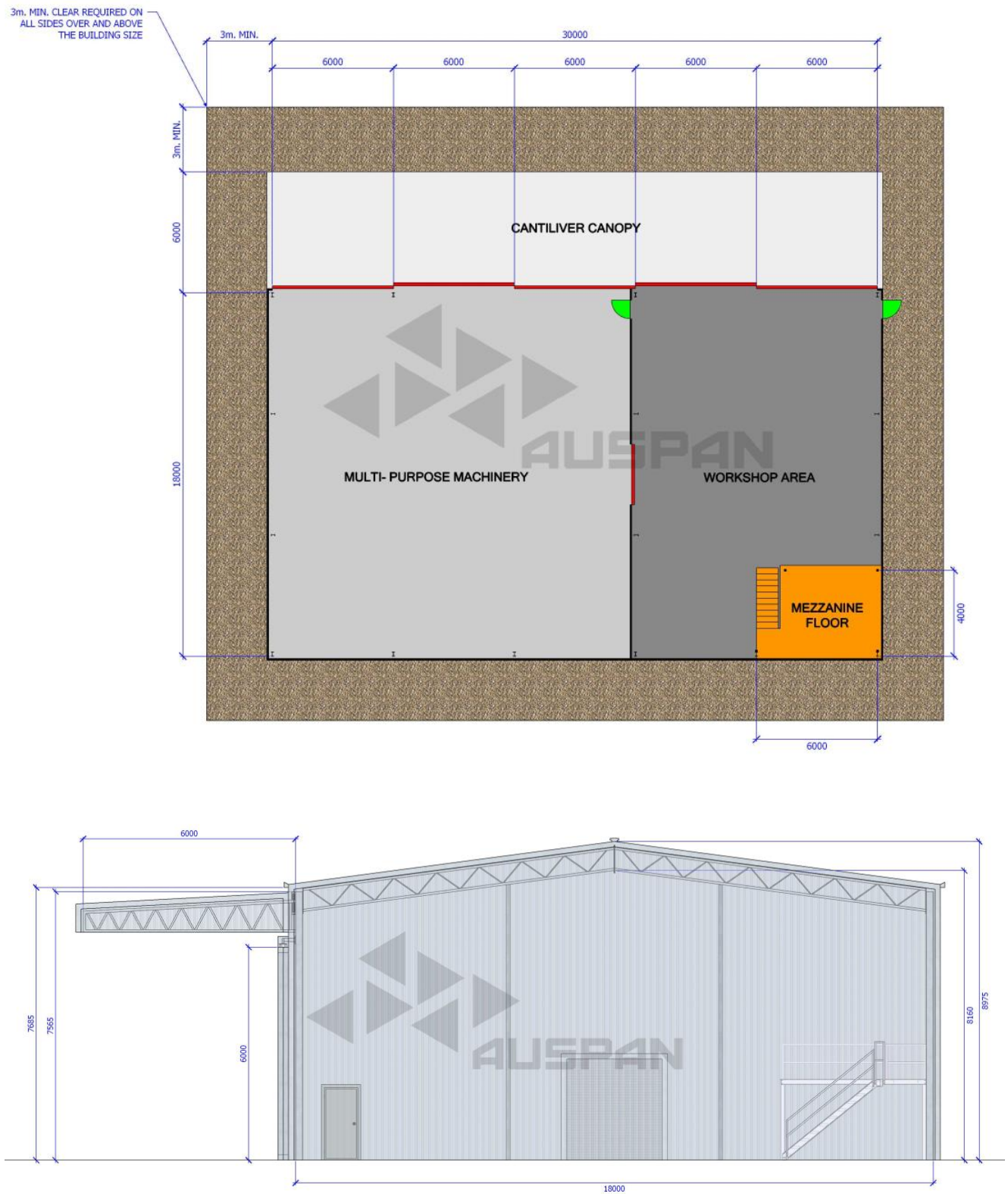
The applicant has advised that none of the neighbouring properties have residences near to the proposed development.

**COMMENT**

Detailed aerial site plans are included as Attachment 1. The building is proposed to be setback approximately 212 metres from the front lot boundary.

The building is proposed to have a floor area of 540m², and a maximum height of 8.975 metres to the peak of the roof.

A floor plan and elevations are included below and over page for ease of convenience.





The outbuilding is ancillary to the existing dwelling on the lot, and established agricultural activities. TPI is supportive of the application and recommends conditional approval.

CONSULTATION

Nil.

STATUTORY ENVIRONMENT

Shire of Broomehill Town Planning Scheme No 1

The lot is zoned Farming. The proposed development complies with the minimum setback requirements applicable to the Farming zone being 15 metres to the front lot boundary, and 10 metres to any side or rear lot boundary.

The Scheme exempts a single house and ancillary outbuildings from the need for planning approval, except where a lot does not have constructed road access. Unfortunately there is an anomaly in the Scheme as a single house is not listed as a permitted use in the Farming zone under Table 1 : Zoning Table, hence lodgement of a planning application has been required.

Development (Local Planning Schemes) Regulations 2015 were gazetted on 25 August 2015, and became effective on 19 October 2015.

The Regulations include 'Deemed Provisions' that automatically apply and override parts of the Shire of Broomehill Tambellup Town Planning Scheme No 1.

Regulation 60 of the 'deemed provisions' requires that a person must not commence or carry out works on, or use, land in the Scheme area unless the person has obtained the development approval of the local government or it is exempt from the requirement for planning.

Under the Regulations there is a list of development that does not require planning approval. There is only an exemption for outbuildings that comply with the Residential Design Codes, where the Codes apply (ie in residential areas).

Regulation 67 outlines 'matters to be considered by Council' including and not limited to the aims and provisions of the Scheme, orderly and proper planning, any approved state policy, the

compatibility of the development with its setting including to development on adjoining land, amenity, loading, access, traffic and any submissions received on a proposal.

POLICY IMPLICATIONS

Under the 'deemed provisions' of the *Planning and Development (Local Planning Schemes) Regulations 2015* Council is to have 'due regard' to any state planning policy. This essentially means Council has an obligation to give proper, genuine and realistic consideration to the requirements of 'State Planning Policy 3.7: Planning in Bushfire Prone Areas' (SPP 3.7).

The Shire has a mandatory obligation to consider SPP3.7 when making a decision on any application where the lot is within a designated bushfire prone area.

The Western Australian Planning Commission released SPP3.7 and associated Guidelines for Planning in Bushfire Prone Areas ('the Guidelines') in December 2015. These documents apply to all land identified as Bushfire Prone.

Mapping identifying Bushfire Prone Areas is available through the Department of Fire and Emergency Services website. Lot 3 is within the declared bushfire prone area.

Under Clause 5.4 of the Guidelines all planning applications in Bushfire Prone Areas are to be accompanied by a BAL (Bushfire Attack Level) assessment. There is no specific exemption for outbuildings.

Despite the above, there are Guidelines that make it clear that application of SPP3.7 is to the discretion of the decision maker, being the Shire Council.

TPI does not recommend that any Bushfire Attack Level assessment be required for the following reasons:

- a) The building will be 20 metres away from the nearest existing outbuilding, and a larger distance away from the existing dwelling on the lot. This reduces the likeliness of any ember attack spreading between the buildings;
- b) The development does not result in any significant increase in the number of employees, and will not be occupied for any significant period of time;
- c) It is a non habitable building;
- d) Any BAL can dictate higher construction standards at the separate Building Permit stage. The outbuilding does not require a separate building permit, therefore there is no benefit in requiring any BAL assessment.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2018-2028 – There are no known strategic implications associated with this report.

FINANCIAL IMPLICATIONS

The Shire pays consultancy fees to Town Planning Innovations (TPI) for planning advice.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION**That Council :**

1. That the application for an outbuilding on Lot 3 (No 248) Old Broomehill-Kojonup Road, Broomehill West be approved subject to the following conditions and footnote:
 - a) The plans lodged with this application dated 30 March 2022 (Drawing Numbers A101 to A103) shall form part of this planning approval. All development shall be in accordance with the approved plans unless otherwise approved in writing by the Chief Executive Officer.
 - b) All stormwater from roofed and paved areas shall be collected and disposed of on-site and any associated drains and stormwater tank shall be maintained in a clean and clear condition. All drainage to be fully contained within the property boundaries with no water discharge into adjacent land or road reserve.
2. Although Lot 3 is in a Bushfire Prone Area a Bushfire Attack Level assessment is not required by a fire consultant under State Planning Policy 3.7 for the following reasons:
 - a) The building will be 20 metres away from the nearest existing outbuilding, and a larger distance away from the existing dwelling on the lot. This reduces the likeliness of any ember attack spreading between the buildings;
 - b) The development does not result in any significant increase in the number of employees, and will not be occupied for any significant period of time;
 - c) It is a non habitable building;
 - d) Any BAL can dictate higher construction standards at the separate Building Permit stage. The outbuilding does not require a separate Building Permit, therefore there is no benefit in requiring any BAL assessment.

Footnote:

Please be advised that the lot is within a bushfire prone area as declared by the Commissioner of Emergency Services. It is recommended that you consider maintaining low fuel areas around existing and proposed buildings to maximise fire management measurements for the lot.

COUNCIL DECISION**MOTION**

Moved Cr

Seconded Cr

CARRIED /

10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED**10.1 CONFIDENTIAL****BUTCHER SHOP (FORMER) – LOT 9 (50) NORRISH STREET, TAMBELLUP**

Attachment:	Confidential Memorandum dated 2 May 2022 and Valuation dated 20 April 2022
File Ref:	ADM0275
Author:	RJ Stewart, Acting CEO
Date:	2 May 2022
Disclosure of Interest:	NIL

Motion to Proceed Behind Closed Doors:

That in accordance with Section 5.23 (2) of the Local Government Act 1995 the meeting is closed to members of the public with the following aspect(s) of the Act being applicable to this matter:

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

(e) a matter that if disclosed, would reveal —

(ii) information that has a commercial value to a person;

COUNCIL DECISION

MOTION	Moved	Cr	Seconded	Cr
			CARRIED	/

SUMMARY

To recommend to the Council confidential matters relating to Lot 9 (50) Norrish Street Tambellup (former butcher shop).

OFFICER RECOMMENDATION/MOTION

Moved Cr J Wills, seconded Cr C Letter

That the recommendation in the Acting CEO's Confidential Memorandum attachment be adopted.

MOTION	Moved	Cr	Seconded	Cr
			CARRIED	/

PROCEDURAL MOTION

MOTION

Moved Cr

Seconded Cr

CARRIED /

That Council re-opens the meeting to members of the public.

11. ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
12. QUESTIONS FROM MEMBERS WITHOUT NOTICE
13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING
14. CLOSURE