



Shire of  
**Nannup**  
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# Minutes

Council Meeting held  
24 July 2014

## **CONFIRMATION OF MINUTES**

These minutes comprising pages 1 – 46 were confirmed by  
Council on 28 August 2014 as a true and accurate record.

.....  
**Tony Dean**  
**SHIRE PRESIDENT**

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# Minutes

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

The Chairperson declared the meeting open at 16:15 hours.

### **ATTENDANCE:**

Councillors; Dean, Gilbert, Lorkiewicz, Mellema, Steer and Slater

Robert Jennings - Chief Executive Officer

Vic Smith - Manager Corporate Services

Chris Wade – Manager Infrastructure

Evelyn Patman – Executive Officer

### **VISITORS: 3**

**APOLOGIES:** None

## **2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE** (previously approved)

Cr Longmore application approved for the period;  
16 July 2014 – 11 August 2014.

## **3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

None.

## **4. PUBLIC QUESTION TIME**

Mr P Fraser

Q1. In reference to the Community Strategy Plan, who did all the work?

CEO responded

A1. The organisation did the data collation and from that created the document for Council approval.

Q2 In respect to page 7, we value our age, why didn't any Councillors attend Mr Longbottom's 80<sup>th</sup> birthday?

Shire President responded

A2. It is up to individuals to attend private functions and not a Council responsibility.

Q3. In regard to the Recreation Centre public meeting, only 10 people turned up to the public meeting and only 2 were Councillors, is this disappointing?

Shire President responded

A3. It is up to individual Councillors and the community to attend these meetings. It was advertised in the usual places.

Mr N Tanner

Q4. In regard to the increase of the hire fees for the Recreation Centre, will this be discussed during the Council meeting?

Shire President responded

A4. Yes, it will come up in item 13 as business of an urgent nature.

Q5. Why did the fees increase so much, more than CPI? The increase is having an impact on the future of the club.

Manager Corporate Service responded

A5 The fees generally went up 5% but in this case fees had not been increased for two years and Council increased fees to cover more of the cost of providing the facility.

## **5. APPLICATIONS FOR LEAVE OF ABSENCE**

None.

## **6. PETITIONS/DEPUTATIONS/PRESENTATIONS**

John Staines – West Coast Trail Bike Safaris & Riding Park  
In relation to Item 12.2

David Somerville - West Coast Trail Bike Safaris & Riding Park  
In relation to Item 12.2

## **7. DECLARATIONS OF INTEREST**

There was 1 declaration of Interest presented during the meeting.

12.5 Cr Gilbert – Historical Society, impartiality

## **8. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**9149 SLATER/LORKIEWICZ**

That the Minutes of the Ordinary Council Meeting of the Shire of Nannup held in Council Chambers on 24 June 2014 be confirmed as a true and correct record.

**CARRIED 6/0**

**9. MINUTES OF COUNCIL COMMITTEES**

None

**10. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

None

**11. REPORTS BY MEMBERS ATTENDING COMMITTEES**

Nigel Hallett meeting

## 12. REPORTS OF OFFICERS

AGENDA NUMBER:	12.1
SUBJECT:	Amendment No.16 to the Shire of Nannup Local Planning Scheme No. 3: submitted for adoption (initiation)
LOCATION/ADDRESS:	Whole of Shire
NAME OF APPLICANT:	Shire of Nannup
FILE REFERENCE:	TPL1/16
AUTHOR:	Steve Thompson – Consultant Planner
REPORTING OFFICER:	Robert Jennings – Chief Executive Officer
DISCLOSURE OF INTEREST:	Edge Planning & Property receive planning fees for advice to the Shire therefore declare a Financial Interest – Section 5.70 of the Local Government Act 1995
DATE OF REPORT:	14 July 2014

### BACKGROUND:

The purpose of Amendment No. 16, to the *Shire of Nannup Local Planning Scheme No. 3* (LPS3), is to provide a statutory “head of power” to enable the local government to require Planning Applications for single houses that are inconsistent with the area’s character as set out in a proposed *Local Planning Policy – Residential Development and Design*.

As Councillors are aware, LPS3 provides the statutory basis for the local government to regulate development and land use. There is however no statutory head of power for the local government to consider design matters for single houses (one dwelling per lot) that comply with LPS3 setback requirements and the *Residential Design Codes of Western Australia* (R Codes). Currently, single dwellings that comply with LPS3 setbacks and the R Codes do not require planning approval and proceed straight to an application for a Building Permit. Aesthetic design considerations are not matters that can be addressed through the Building Permit process. Provided that a single house complies with the *Building Code of Australia*, it will be issued a Building Permit.

Currently, most single houses in the district and extensions to dwellings do not require the submission of a Planning Application to the local government. This approach is generally supported. There are however some forms of development and design of single houses that are arguably inconsistent with the character of the area which, if constructed, could detrimentally impact the area’s amenity.

Related to the above, there is no Local Planning Policy relating to building design in the district outside of the town centre which is applied by the local government. This includes residential and non-residential development. The lack of guidance has, and will have, implications for the Council and the Shire administration assessing a range of Planning Applications. Design considerations have, and will

continue, to regularly come up. Appropriate residential design is expected to become even more critical as densities generally rise and there is greater infill development in the coming years. Retaining Nannup's "village character" could arguably be threatened, especially given there is no direction for most of the district as to what forms of design are supported or not supported.

In recent months, Councillors have recognised the need to provide increased design guidance for residential and non-residential development. In part, this will be addressed through:

- proposed Amendment No. 16 (a preliminary draft *Local Planning Policy – Residential Development and Design* has previously been considered by Councillors and will need to be refined in the coming 12 months);
- the preparation of the Outbuildings Policy (currently out for public comment);
- the drafting of a sea containers policy; and
- support for developers of new larger residential or rural living subdivisions to create Building and Landscaping Guidelines to set the standard and increase certainty for the development.

The Minister for Planning supports Amendment No.13 to extend the range of permitted development (increase the range of development which does not require planning approval). This will be gazetted shortly. Following gazettal of Amendment No.13, clause 8.2 of LPS3 will in part state the following:

“Except as otherwise provided in the Scheme, for the purposes of this Scheme, the following development does not require the planning approval of the local government:

- (b) the erection on a lot of a single house including any extension and ancillary outbuildings except where the proposal:-
  - (i) requires the exercise of a discretion by the local government under the scheme to vary the provisions of the Residential Design Codes;
  - (ii) is located in a Heritage Area designated under the Scheme;
  - (iii) requires the exercise of a discretion by the Council under the scheme to vary the setback provisions of a specific zone;
  - (iv) is outside an approved building envelope or within a building exclusion area;
  - (v) is within the Flood Risk Land Special Control Area;
  - (vi) is within the Landscape Values Area; or
  - (vii) is on a lot or location which does not have access to a dedicated and/or constructed road”.

Amendment No. 16 proposes to modify clause 8.2(b) through the following changes outlined in bold and ~~strikeout~~:

- (vi) is within the Landscape Values Area; ~~or~~



- (vii) is on a lot or location which does not have access to a dedicated and/or constructed road; **or**  
(viii) **is inconsistent with a Local Planning Policy relating to development, design or related matter;**

The suggested Amendment No. 16 to LPS3, if gazetted, is consistent with various Western Australian Planning Commission (WAPC) strategies including *State Planning Strategy 2050* and the draft *South West Regional Planning and Infrastructure Framework*. The Framework includes various statements relating to design including:

- facilitating high-quality urban design that is sensitive to, and enhances the identity and character of the South-West's towns and settlements;
- ensuring that new development reflects and enhances the natural, cultural, visual and built character of the local and regional landscape; and
- ensuring that new development reflects the South-West's climate and incorporates climate design principles, including orientation, siting, passive climate control, sustainable recycling, and efficient water management.

However, without a statutory "head of power" to enable the local government to assess Planning Applications for single houses that are inconsistent with the area's character, there is no ability to implement WAPC strategic requirements.

## **COMMENT:**

### 1. Overview

Should the Council want the legal ability to have a "call in power" to receive a Planning Application for certain single houses, then there is a need to progress with Scheme Amendment No. 16 by adopting (initiating) the amendment.

Should Amendment No.16 be approved by the Minister for Planning and be gazetted, the effect will be that some single houses which are inconsistent with the proposed *Local Planning Policy – Residential Development and Design* will require the submission of a Planning Application. Applicants can still apply for single houses that are inconsistent with the Policy. It is expected that applications that are inconsistent with the Policy will be advertised for comment and may be presented to Council for determination.

Finalisation of Amendment No. 16 and the associated Local Planning Policy are anticipated to result in various implications with restrictions for some landowners. While noting this, the intention is to seek a balance between not unduly inhibiting architectural designs and promoting a high quality neighbourhood appearance and character.

## 2. Will all single houses require the submission of a Planning Application?

No. It is suggested that there will be a need to take a Planning Application for a handful of single houses that are completely out of character and/or could detrimentally impact an area's amenity.

It is highlighted that the Shire administration, the development industry and large sections of the community do not want to see Planning Applications for most single houses. Overall, the Shire administration seeks to improve the efficiency and effectiveness of the planning system. As part of this, Amendment 13 (to be gazetted shortly) proposes to significantly expand the range of low-key and low-risk forms of development that do not require the submission of a Planning Application. Such an approach assists to direct resources increasingly into strategic areas and assists with implementing key projects.

## 3. What type of single houses could require a Planning Application?

The proposed range of single houses that would be subject to a Planning Application is intended to be outlined in the proposed *Local Planning Policy – Residential Development and Design*. Associated with this, there is a need for considerable community/stakeholder debate on the draft Policy. It is highlighted that design issues, particularly residential design, are difficult but are an important planning and community issue.

Assuming the Council adopts Amendment No.16, the Shire administration will refine the draft *Local Planning Policy – Residential Development and Design*. The draft Policy will be publicly advertised once the Shire is advised there is Minister for Planning support for Amendment No. 16. The Policy will in time provide guidance regarding the matter. The intention of the Policy is to set out guidelines for residential development and design in the district.

While noting the above, the draft Policy is expected to:

- set out guidelines for residential development and design in the district;
- encourage appropriate development and where relevant, control residential development by establishing minimum residential design requirements;
- support attractive and sustainable dwellings that strengthen local identity. It will not prescribe particular architectural styles (although a limited number of designs will be not favoured), nor inhibit creative design, but will provide a framework to retain or enhance the character of the Nannup district;
- require the submission of a Planning Application for residential designs that are considered inconsistent with Nannup's character such as Tudor and Georgian styles in the Nannup townsite. For instance, dwellings that mimic outbuildings/barns and designs which provide minimal windows or no verandahs are considered by many community members as visually unappealing and result in undesirable residential character;

- support sustainable housing design along with high quality aesthetic character throughout the district; and
- have greater flexibility with the types of supported dwellings in rural areas (possibly other than in Landscape Values Areas) and in rural residential areas compared to the Residential Zone and within the Nannup townsite.

#### 4. Next steps with Scheme Amendment No. 16

Subject to the Council's decision and subject to the gazettal of Scheme Amendment No. 13, scheme amendment documentation will be prepared to the satisfaction of the Chief Executive Officer. Following this, the documentation will then be forwarded to the Environmental Protection Authority seeking environmental clearance. Following this, the amendment will be publicly advertised for a minimum of six weeks by:

- writing to relevant stakeholders;
- placing notices in local papers;
- details being on the Shire's website; and
- having information available at the Shire office.

Public advertising will provide the community and stakeholders with the opportunity to consider issues and provide written comments to the Shire.

Following the close of the consultation period, the matter will again be considered by the Council to determine whether or not to support final adoption of the scheme amendment (with or without modifications). After this, the WAPC will next assess the scheme amendment request with the final decision made by the Minister for Planning.

#### **STATUTORY ENVIRONMENT:**

*Planning and Development Act, Town Planning Regulations, LPS3 and Residential Design Codes of Western Australia.*

#### **POLICY AND CONSULTATION IMPLICATIONS:**

Nil at this stage. Should the Council adopt Amendment No. 16, it is proposed that draft *Local Planning Policy – Residential Development and Design* be refined. Assuming there is support from the Minister for Planning to Amendment No. 16 the draft Policy will in time be subject to community and stakeholder consultation.

#### **FINANCIAL IMPLICATIONS:**

The Shire will meet the cost of advertising the amendment including placing notices in local papers.

## STRATEGIC AND IMPLICATIONS:

A gazetted Amendment No. 16 and associated Local Planning Policy are expected to have no financial impacts for most applicants. In some situations, there may be added costs where an applicant for instance had proposed to build an inconsistent design of dwelling in the Residential Zone and may be required to build a different form of house.

**VOTING REQUIREMENTS:** Simple Majority

## RECOMMENDATION:

That Council:

1. Agree to adopt (initiate) an amendment to the *Shire of Nannup Local Planning Scheme No. 3*, pursuant to Part 5 of the *Planning and Development Act 2005*, by modifying Clause 8.2(b) of the Scheme through the following changes outlined in bold and strikeout:
  - (vi) is within the Landscape Values Area; ~~or~~
  - (vii) is on a lot or location which does not have access to a dedicated and/or constructed road; **or**
  - (viii) is inconsistent with a Local Planning Policy relating to development, design or related matter.**
2. Following the gazettal of Scheme Amendment No. 13, prepare scheme amendment documents to the satisfaction of the Chief Executive Officer and authorise the Shire President and the Chief Executive Officer to execute the Scheme Amendment No. 16 documents.
3. Note the Shire's Chief Executive Officer will refer Scheme Amendment No. 16 to the Environmental Protection Authority for assessment pursuant to section 81 of the *Planning and Development Act 2005*. Should the Environmental Protection Authority advise that the amendment does not require assessment, advertise the amendment in accordance with the *Town Planning Regulations 1967*.
4. Forward a copy of the amendment to the Western Australian Planning Commission for information.

## 9150 MELLEMA/SLATER

That Council:

1. Agree to adopt (initiate) an amendment to the *Shire of Nannup Local Planning Scheme No. 3*, pursuant to Part 5 of the *Planning and*

*Development Act 2005*, by modifying Clause 8.2(b) of the Scheme through the following changes outlined in bold and strikeout:

- (vi) is within the Landscape Values Area; ~~or~~
- (vii) is on a lot or location which does not have access to a dedicated and/or constructed road; **or**
- (viii) is inconsistent with a Local Planning Policy relating to development, design or related matter.**

2. Following the gazettal of Scheme Amendment No. 13, prepare scheme amendment documents to the satisfaction of the Chief Executive Officer and authorise the Shire President and the Chief Executive Officer to execute the Scheme Amendment No. 16 documents.
3. Note the Shire's Chief Executive Officer will refer Scheme Amendment No. 16 to the Environmental Protection Authority for assessment pursuant to section 81 of the *Planning and Development Act 2005*. Should the Environmental Protection Authority advise that the amendment does not require assessment, advertise the amendment in accordance with the *Town Planning Regulations 1967*.
4. Forward a copy of the amendment to the Western Australian Planning Commission for information.

**CARRIED 6/0**

AGENDA NUMBER:	12.2
SUBJECT:	Trail Bike Park – acoustic assessment and managing noise impacts
LOCATION/ADDRESS:	Lot 4 White Road, Cundinup
NAME OF APPLICANT:	John & Georgina Staines (West Coast Trail Bike Safaris & Riding Park)
FILE REFERENCE:	A154
AUTHOR:	Steve Thompson – Consultant Planner
REPORTING OFFICER:	Robert Jennings – Chief Executive Officer
DISCLOSURE OF INTEREST:	Edge Planning & Property receive planning fees for advice to the Shire therefore declare a Financial Interest – Section 5.70 of the Local Government Act 1995
DATE OF REPORT	14 July 2014

- Attachment:
1. Location map
  2. Report to Council on 28 March 2013
  3. Draft Environmental Site Services report (15 July 2013)
  4. Correspondence from Department of Environment Regulation (19 August 2013)
  5. Correspondence from applicant (12 June 2014) and extract of information recently submitted by applicant

## **BACKGROUND:**

The purpose of the report is to consider the acoustic assessment undertaken and the associated measures being undertaken by the applicant (to be called the operator) to manage noise impacts.

The site is shown in Attachment 1. The site is approximately 25 kilometres north of the Nannup townsite.

At the Council Meeting on 28 March 2013, the Council passed a motion, at minute number 8928 which granted conditional planning approval to the riding park. The motion included condition 3 which stated:

“The applicant must have commissioned a suitably qualified acoustic consultant with the resulting acoustic assessment submitted to the local government by 30 June 2013. The acoustic assessment is to incorporate a series of noise tests, measured at appropriate locations, to the satisfaction of the local government. The results of the noise tests should confirm that the trail bike park use is being conducted in a manner so that noise emissions do not exceed the levels cited in the Environmental Protection (Noise) Regulations 1997. The recommendations arising from the acoustic assessment must be carried out to the satisfaction of the Shire of Nannup by 31 March 2014.”

The report to Council on 28 March 2013 is set out in Attachment 2. This provides background information which is not repeated in this report.

Since the Council granted conditional planning approval, the operator has been working through and addressing the conditions. The operator has submitted other required documentation and appears to be making on-going attempts to minimise off-site impacts. The Shire administration is satisfied that the operator has met conditions 1, 2 and 4 – 8 inclusive. In accordance with the conditions, there is a requirement that the operator continues to ensure that the conditions are met on an on-going basis.

Condition 3, relating to the acoustic assessment, is the only matter requiring Council consideration at this stage or in the foreseeable future.

Following the Council's decision, the operator commissioned Environmental Site Services (ESS) consultants to prepare a draft acoustic report which was submitted to the Shire in May 2013 (see Attachment 3). ESS concluded that "Measured noise levels at the nearest noise sensitive premises (White Road Residents) were found to be compliant." In relation to worst case noise levels near the southern boundary, the realignment of the track approximately 60 metres from the original track "resulted in reduced noise levels complying with Regulations."

Following the receipt of the draft ESS report, the Shire administration provided the draft report to landowners who made a submission on the Planning Application and to other stakeholders. The advice from the Department of Environment Regulation's (DER) Noise Regulation Branch is outlined in Attachment 4. The response from neighbours and other stakeholders in 2013 is available to Councillors on request.

Since the receipt of submitter and stakeholder comments on the draft ESS report along with the Shire's comments, the Shire administration has sought for the operators to arrange for ESS to update the report or alternatively, for the operators to commission another acoustic consultancy to prepare a new acoustic assessment. This has not occurred, although the operators have undertaken a range of supported measures to monitor noise and reduce noise impacts over the past 12 months. This includes incorporating a larger buffer near the southern boundary, purchasing and utilising a noise measuring device and checking noise levels of relevant motorbikes upon arrival.

Attachment 5 sets out the most recent correspondence from the operators and an extract of the supporting information provided to the Shire. This includes setting out the noise buffer zones (implemented by the operators post the ESS report) and the sound testing procedures now undertaken by the operators. Some of the supporting information recently provided by the applicant is included as Attachments 3 and 4.

The Shire administration has advised adjoining/nearby landowners who previously made submissions that the matter will be considered by the Council on 24 July 2014.

### **COMMENT:**

Ideally, the ESS report would have been updated to address DER and Shire administration requirements or the operator would have engaged an alternative acoustic consultant to prepare a new acoustic assessment. An updated or new acoustic assessment would have provided technical evidence, professional sign off and increased certainty for everyone with an interest in the matter. While highlighting the above, the reasons put forward by the operator for not doing this (Attachment 5) are noted.

It is suggested the operator's measures to address noise as outlined in Attachments 3 and 5 be noted (draft ESS report along with a range of additional measures put in place by the operator to reduce noise off-site). In particular, it is suggested that the measures set out in Attachments 3 and 5 suitably address planning approval condition 3 at this stage. This is however on the basis that:

- the operator continues to ensure that the measures set out in Attachments 3 and 5 are met/maintained on an on-going basis, which includes the ride neighbourly principles, undertaking sound testing and implementing the noise buffer zones;
- should a written noise complaint be received by the Shire of Nannup from landowners within the district, that the Shire administration will investigate. Subject to the nature of the investigations, this could require additional measures to reduce noise impacts and/or the preparation of a new acoustic assessment; and
- should the riding park propose to operate after the clearing of the blue gum plantation, there will be a need for a new acoustic assessment post clearing.

The reasons for the above position include:

- no written noise complaints have been received by the Shire or the Shire of Donnybrook-Balingup in the last 12 months;
- the operator has commissioned a draft acoustic assessment which revealed that the trail bike park should be able to comply with the noise regulations for most of the routes in most conditions;
- the operator has adopted other measures (including an increased buffer area in the southern section) and these measures are supported;
- the site is located in a sparsely populated area of the district and there are limited sensitive land uses (residences) located near the site which are generally located around 1 km from the riding park. It is suggested that noise from much of the riding park can generally be controlled due to the topography, buffers of blue gums and prevailing winds (generally from the south west);



- the riding park operates between March – November and up to 6 days per month during this period;
- a condition of the planning approval limits customer use of motorbikes on the site between the hours of 9.00am and 6.00pm; and
- the *Environmental Protection (Noise) Regulations 1997* apply to the site (and throughout Western Australia) regardless of whether a planning approval is given. As outlined above, should a written complaint on noise be received, the Shire will separately investigate. Subject to outcomes, this could, for instance, result in extending the noise buffer and/or restricting certain routes in particularly windy conditions; and
- the Donnybrook-Balingup Council did not require an acoustic assessment in issuing the planning approval until the receipt of noise complaints.

Should the Council not support the measures set out in Attachments 3 and 5, then alternative options are:

- requiring the operator to commission a new acoustic assessment that satisfies DER and the Shire administration's requirements; or
- stopping the riding park's operation or commencing non-compliance/legal action. Should non-compliance action be considered by the Council, then this should be discussed with the Shire administration. It is also suggested that a consistent approach should be sought with the Shire of Donnybrook-Balingup.

#### **STATUTORY ENVIRONMENT:**

*Environmental Protection Noise Regulations 1997, Planning and Development Act 2005* and LPS3.

**POLICY AND CONSULTATION IMPLICATIONS:** None

**FINANCIAL IMPLICATIONS:** None

#### **STRATEGIC IMPLICATIONS:**

The trail bike park is used by people from the Shire of Nannup, South West, Perth and from other parts of Western Australia. It supports local business.

**VOTING REQUIREMENTS:** Simple Majority

#### **RECOMMENDATION:**

That Council in relation to the Trail Bike Park (recreation – private) at Lot 4 White Road, Cundinup:

1. Note the draft Environmental Site Services report set out in Attachment 3. Combined with additional measures set out in Attachment 5, that suitably

addresses condition 3 of the planning approval issued by the Council on 28 March 2013 at this stage.

2. Support the operator's additional measures to reduce off-site noise as set out in Attachment 5. This is however on the basis that the measures are maintained on an on-going basis which includes the ride neighbourly principles, undertaking sound testing and adopting the noise buffer zones.
3. Note that should a written noise complaint be received by the Shire of Nannup from landowners/residents within the district, that the Shire administration will investigate.
4. Outline that should the riding park propose to operate post-clearing of the blue gum plantation, that there will be a need for an appropriate new acoustic assessment post clearing to the satisfaction of the Shire of Nannup.
5. Advise the operator and adjoining/nearby landowners/residents who previously made a submission on the Planning Application of the above.
6. Inform the Donnybrook-Balingup Council of the outcome.

#### **9151 MELLEMA/LORKIEWICZ**

That Council in relation to the Trail Bike Park (recreation – private) at Lot 4 White Road, Cundinup:

1. Note the draft Environmental Site Services report set out in Attachment 3. Combined with additional measures set out in Attachment 5, that suitably addresses condition 3 of the planning approval issued by the Council on 28 March 2013 at this stage.
2. Support the operator's additional measures to reduce off-site noise as set out in Attachment 5. This is however on the basis that the measures are maintained on an on-going basis which includes the ride neighbourly principles, undertaking sound testing and adopting the noise buffer zones.
3. Note that should a written noise complaint be received by the Shire of Nannup from landowners/residents within the district, that the Shire administration will investigate.
4. Outline that should the riding park propose to operate post-clearing of the blue gum plantation, that there will be a need for an appropriate new acoustic assessment post clearing to the satisfaction of the Shire of Nannup.

5. Advise the operator and adjoining/nearby landowners/residents who previously made a submission on the Planning Application of the above.
6. Inform the Donnybrook-Balingup Council of the outcome.

**CARRIED 6/0**

AGENDA NUMBER:	12.3
SUBJECT:	Proposed closure of a portion of the Cundinup-Dudinyillup Road reserve and seeking Shire support to amalgamate an unnamed closed road reserve into adjoining freehold property
LOCATION/ADDRESS:	Cundinup-Dudinyillup Road, Cundinup
NAME OF APPLICANT:	John and Graeme Brockman
FILE REFERENCE:	A1655
AUTHOR:	Steve Thompson – Consultant Planner
REPORTING OFFICER:	Robert Jennings – Chief Executive Officer
DISCLOSURE OF INTEREST:	Edge Planning & Property receive planning fees for advice to the Shire therefore declare a Financial Interest – Section 5.70 of the Local Government Act 1995
DATE OF REPORT:	14 July 2014

- Attachment:
1. Correspondence and plans from applicant (with associated numbering)
  2. Location maps
  3. Plan showing where the road is not located within the Cundinup-Dudinyillup Road reserve

### **BACKGROUND:**

An application has been made to permanently close a portion of the Cundinup-Dudinyillup Road along with seeking Shire support for a section of a closed road reserve to be amalgamated into adjoining freehold land. The applicant's requests are outlined in Attachment 1. This attachment also shows the road reserves with associated numbering as set out in the applicant's correspondence received on 5 May 2014:

- A) the section of Cundinup-Dudinyillup Road reserve between Balingup-Nannup Road and the Blackwood River;
- B) the closed road reserve that divides Lot 103 on Plan 70387; and
- C) the section of Cundinup-Dudinyillup Road north of the Blackwood River through Location (Lot) 6.

The location of the road reserves is shown in Attachment 2. The area is approximately 12 kilometres north-north east of the Nannup townsite.

The locality historically has various land-locked lots along with roads not contained within road reserves (including roads entering freehold land, State Forest and other reserves). Many of the land-locked lots were sold off by the former Department of Conservation and Land Management (CALM) without gazetted road access against the opposition of the Council.

Related to the above, the Council has considered matters associated with Reveley Bridge (also known as Bridge 4944) and Agg Road North (road closure and road

dedication) on various occasions including most recently at its meeting on 22 November 2012. The Agg Road closure and dedication process is currently on hold given the previous Council funding for surveying costs was allocated to other projects.

The Dudinyillup Bridge (also known as Brockman's Bridge, Cundinup-Dudinyillup Road Bridge or Bridge 3965) used to cross the Blackwood River as part of the Cundinup-Dudinyillup Road. The bridge was closed in 2001 following inspection and assessment by Main Roads Western Australia (MRWA). In 2001 and 2002, the Council advised MRWA that both bridges 3965 and 4944 were vital links across the Blackwood River and should be programmed for repair or replacement. MRWA however determined that only one bridge should be replaced. In August 2005, the Council agreed with the decision to demolish Bridge 3965 and demolition has since occurred.

**COMMENT:**

No objection is raised to the closed road reserve (section "B" in Attachment 1) being amalgamated into adjoining Lot 103 on Plan 70387. This section of road reserve is superfluous and the land is largely cleared.

In terms of the Cundinup-Dudinyillup Road (sections "A" and "C" in Attachment 1), it is suggested that the Council not initiate permanent road closure action at this stage. The reasons for this include:

- there are various instances of the road/track not being located within the Cundinup-Dudinyillup Road as outlined in Attachment 3. It is suggested that any request to close portions of the Cundinup-Dudinyillup Road be undertaken as a package. Ideally, practical and legal vehicular access should be contained on the same alignment within a road reserve between Balingup-Nannup Road and Cundinup South Road;
- even with the support of the Brockman family, there is no funding in the short term to meet surveyor costs to address practical and legal vehicular access on the same alignment;
- the road reserve provides legal public access between the Balingup-Nannup Road and the Blackwood River on a key tourist route; and
- circumstances change and there could be future State Government funding in the longer term to build a new Dudinyillup bridge.

The current situation of the Cundinup-Dudinyillup Road in various locations deviating outside of the road reserve into freehold land means that the landowner could prevent the public from traversing between the Balingup-Nannup Road (Revely Bridge) and Cundinup South Road. Alternatively, public access through freehold land raises liability considerations.

The Council is encouraged to consider the role, significance and standard of the Cundinup-Dudinyillup Road including in relation to providing a north-south access

in the district, a crossing of the Blackwood River, an alternative route for agricultural produce, a possible tourist route (including providing a circuit close to Nannup) and assisting in emergency/fire management.

Subject to the Council's decision, the Shire administration will next advise the applicant and the Department of Lands of the Council's decision.

The Shire administration will also undertake research as to the extent of roads which are located outside of road reserves in the district. Following this, the Shire administration will then discuss with Councillors and the Department of Lands as to the extent, risks of doing nothing, options to progressively address historical issues, indicative costs and possible opportunities to reduce/share costs (should roads extend into Crown managed reserves etc.). It is expected that the Council in time will prioritise which roads it will seek to address in the short to medium term (subject to securing/allocating funding) and which roads will be considered in the longer term, or as part of associated land administration proposals or subdivision/boundary adjustment applications.

#### **STATUTORY ENVIRONMENT:**

*Land Administration Act* and *Land Administration Regulations*. A Council resolution is required to initiate the road closure process.

**POLICY AND CONSULTATION IMPLICATIONS:** None

#### **FINANCIAL IMPLICATIONS:**

The applicant has paid the application fee in accordance with the Council's fees and charges.

#### **STRATEGIC IMPLICATIONS:**

Cundinup-Dudinyillup Road provides an opportunity to create an important north-south linkage in the district. Subject to Council considering the role, significance and standard of the Cundinup-Dudinyillup Road, it is suggested there is a need to ensure that legal and practical vehicular access of the road, between Balingup-Nannup Road and Cundinup South Road, is on the same alignment. While noting cost implications, including surveying, it is suggested there will in time be a need to address an historic issue.

## **RECOMMENDATION:**

That Council:

1. Advise the applicant and the Department of Lands that it has no objection to the sale of the unnamed closed road reserve marked as "B" in Attachment 3. This is subject to the closed road reserve being amalgamated into adjoining Lot 103 on Plan 70387.
2. Decline the request to initiate permanent road reserve closure action, under section 58 of the *Land Administration Act 1997*, to close a portion of the Cundinup-Dudinyillup Road marked as "A" and "C" as set out in Attachment 3. The Council instead wishes to keep options open in securing legal and practical vehicular access between Balingup-Nannup Road and Cundinup South Road.
3. Note the Shire administration will research as to where roads are located outside of road reserves in the district.

## **9152 DEAN/STEER**

That Council:

1. Advise the applicant and the Department of Lands that it has no objection to the sale of the unnamed closed road reserve marked as "B" in Attachment 3. This is subject to the closed road reserve being amalgamated into adjoining Lot 103 on Plan 70387.
2. Decline the request to initiate permanent road reserve closure action, under section 58 of the *Land Administration Act 1997*, to close a portion of the Cundinup-Dudinyillup Road marked as "A" and "C" as set out in Attachment 3. The Council instead wishes to keep options open in securing legal and practical vehicular access between Balingup-Nannup Road and Cundinup South Road.
3. Note the Shire administration will research as to where roads are located outside of road reserves in the district.

**CARRIED 4/2**

Voting for the motion: Dean, Slater, Steer and Gilbert

Voting against the motion: Mellema and Lorkiewicz

16.59hrs. Cr Steer left the meeting.

AGENDA NUMBER:	12.4
SUBJECT:	Royalties for Regions Update
LOCATION/ADDRESS:	Nannup Shire
NAME OF APPLICANT:	N/A
FILE REFERENCE:	FNC16
AUTHOR:	Vic Smith – Manager Corporate Services
REPORTING OFFICER:	Vic Smith – Manager Corporate Services
DISCLOSURE OF INTEREST:	None
DATE OF REPORT	9 July 2014

**BACKGROUND:**

The Council receives substantial funding through Royalties for Regions grants. This report seeks to update Council on the current status of these grants and to seek endorsement to the deployment of allocations.

**COMMENT:**

The following paragraphs set out the status of Royalties for Regions grants from 2010/11 to 2013/14.

2010/11

The individual allocation for 2010/11 has been fully acquitted.

The regional allocation for 2010/11 was devoted entirely to the Recreation Centre project. The acquittal documentation for the project has been submitted but will not be finalised until the project has been completed. The submission of the acquittal documentation has allowed the funds due to the Shires of Bridgetown Greenbushes and Manjimup for 2012/13 to be paid out.

2011/12

The individual allocation for 2011/12 covered three projects. Actual income and grant expenditure to 30 June 2014 was as follows:

Element	Budget	Actual
<u>Income</u>	\$	\$
Grant	335,468	335,468



<u>Expenditure</u>		
Brockman Street caravan park	100,000	38,191
Recreation Centre	235,468	15,084
Total Expenditure	<u>335,468</u>	<u>53,275</u>
Balance	<u>0</u>	<u>282,193</u>

The regional allocation for 2011/12 covered three projects. Actual income and grant expenditure to 30 June 2014 was as follows:

Element	Budget	Actual
	\$	\$
<u>Income</u>		
Grant	<u>250,188</u>	<u>250,188</u>
<u>Expenditure</u>		
Heart of Nannup - design	33,528	33,528
Heart of Nannup – service relocations	95,000	0
Heart of Nannup - footpaths & kerbs	106,500	0
Heart of Nannup – traffic management	7,160	0
Heart of Nannup – project management	8,000	0
Total Expenditure	<u>250,188</u>	<u>33,528</u>
Balance	<u>0</u>	<u>216,660</u>

### 2012/13

The regional allocation is devoted entirely to the Heart of Nannup project. The project has been approved by the Department for Regional Development and the Financial Assistance Agreement is awaited. The position is summarised below.

Element	Budget	Actual
	\$	\$
Heart of Nannup	386,188	0
Total	<u>386,188</u>	<u>0</u>

The individual allocation for 2012/13 has now been reinstated in the State Budget for 2014/15. The original allocation of \$335,468 was split between the upgrade of the Brockman Street Caravan Park and the Main Street upgrade. Following the withdrawal of the funding Council reallocated the Main Street Reserve to provide sufficient funding to complete the works to the caravan park. This is set out in Resolution 9032.

### 9032 GILBERT/MELLEMA

*That in the event that the CLGF individual funding for 2012/13 is not reinstated, up to \$100,000 be used from the Main Street Reserve to complete the upgrade to the Brockman Street Caravan Park.*

**CARRIED 7/0**

The simplest course of action is to allocate the whole of the 2012/13 funding to the Main Street upgrade, removing the need to change the policy on the use of reserves. If this is supported the position would be as set out below.

Element	Budget \$	Actual \$
Heart of Nannup	335,468	0
Total	335,468	0

A new Financial Assistance Agreement would be required but can be essentially the same as the draft agreement already developed for the Regional CLGF allocation.

The table below sets out the estimated funding available for the Main Street upgrade as at 1 July 2014, assuming that the recommendation is supported.

Item	Budgeted \$	Received \$	Spent \$	Balance \$
R4R Individual 2011/12	15,084	15,084	15,084	0
R4R Regional 2011/12	250,188	250,188	33,528	216,660
SWDC	15,960	15,960	15,960	0
Reserve	142,188	142,188	61,940	80,248
R4R Individual 2012/13	335,468	0	0	335,468
R4R Regional 2012/13	386,188	0	0	386,188
SWDC	4,320	4,320	4,320	0
Main Roads	200,000	0	0	200,000
Other Grants TBC	150,000	0	0	150,000
Rec Centre sponsorship <sup>1</sup>	176,981	0	0	176,981
<b>Total</b>	<b>1,676,377</b>	<b>427,740</b>	<b>130,832</b>	<b>1,545,545</b>

1. Targeted funding from sponsorship for the Recreation Centre that needs to be returned to the Main Street Upgrade Reserve in accordance with Resolution 9062.

**STATUTORY ENVIRONMENT:** Local Government Act 1995.

**POLICY AND CONSULTATION IMPLICATIONS:** None

**FINANCIAL IMPLICATIONS:**

An additional \$335,468 to the Main Street Upgrade project.

**STRATEGIC IMPLICATIONS:** None.

**VOTING REQUIREMENTS:** Simple Majority

**RECOMMENDATION:**

That the Individual CLGF funding for 2012/13, comprising \$335,468, be allocated to the Main Street Upgrade project.

**9153 SLATER/GILBERT**

That the Individual CLGF funding for 2012/13, comprising \$335,468, be allocated to the Main Street Upgrade project.

**CARRIED 5/0**

Cr Gilbert declared an impartiality interest in the following item, as a member of the Historical Society and photos used belong to the Historical Society.

**9154 MELLEMA/STEER**

Cr Gilbert to stay, participate and vote on item 12.5 Tender of Caravan Park Lease.

**CARRIED 5/0**

17.01hrs. Cr Steer returned to the meeting.

AGENDA NUMBER:	12.5
SUBJECT:	Tender of Caravan Park Lease
LOCATION/ADDRESS:	4 Brockman Street and Reserve 24762 Nannup/ Balingup Rd
NAME OF APPLICANT:	N/A
FILE REFERENCE:	RES 20333 & 24762
AUTHOR:	Robert Jennings – Chief Executive Officer
REPORTING OFFICER:	Vic Smith – Manager Corporate Services
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT	10 July 2014

Attachment 1: Tender for Nannup Caravan Park

**BACKGROUND:**

The land for Reserves 20333 and 24762 has been vested in Council by the Crown and has been utilised for caravan park uses for some years. The sites are known locally as the Brockman Street Caravan Park and the Riverbend Caravan Park respectively. The Nannup Caravan Park business is currently managed by the Shire of Nannup.

During the budget workshops and the subsequent adoption of the 2014/15 Budget, the lease by tender of the Nannup Caravan Park to a private enterprise starting around 1 January 2015 was identified. The adopted budget assumes that the park will be leased to a third party from 1 January 2015.

A presentation was made to Council before the June 2014 Council meeting with the draft package for comment. Comments made during that workshop have been incorporated into the documentation.

## COMMENT:

The attached documentation forms the proposed tender package for the Nannup Caravan Park. The key aims of of this proposal are to:

- Lease to an experienced operator with the passion and shared vision to develop the park successfully
- Provide a quality service to the community and visitors
- Provide an income stream for Council
- Remove risk and volatility currently associated with current Nannup Caravan Park income stream and expenditure.

The tender documentation has been constructed with some flexibility so as to encourage diverse submissions that may best suit Council's needs. Key elements of the package include:

- Five key documents:
  - Tender
  - Lease
  - Business Description
  - Financials
  - Asset list
- A proposed development plan will be required
- A lease based on the Shire of Nannup standard lease, with a minimum period of 10 years and a possible extension
- Rental income to be determined by tender

Whilst the tender price is of prime importance, other areas of proficiency must be achieved. The Selection Criteria areas and weightings for the package are as follows:

- |                                 |     |
|---------------------------------|-----|
| • Tender Price                  | 45% |
| • Business Plan                 | 20% |
| • Technical & Physical Capacity | 20% |
| • Financial Capacity            | 10% |
| • Local Weighting               | 5%  |

It is anticipated that there will be considerable evaluation required. The key dates to be met to achieve the 1 January 2015 deadline are listed below:

- |                     |                              |
|---------------------|------------------------------|
| • Tender endorsed   | July 2014 Council Meeting    |
| • Tender open       | end July 2014                |
| • Tender close      | end August 2014              |
| • Evaluation        |                              |
| • Tender acceptance | October 2014 Council Meeting |
| • Lessee start date | December 2014/January 2015   |

It is worth noting that the current Caravan Park Manager is free to submit a tender and that considerable effort has been put into place to ensure a transparent and equitable process.

The tender package is presented to Council for endorsement and to go out to tender, with the evaluated document to be presented to Council at the October 2014 meeting of Council for acceptance.

**STATUTORY ENVIRONMENT:**

Local Government Act 1995 Section 3.57 and Local Government Regulations 1996 Part 4, Division 2.

**POLICY AND CONSULTATION IMPLICATIONS:** None at this stage.

**FINANCIAL IMPLICATIONS:**

State-wide notice of the invitation to tender is required and will attract a cost.

**STRATEGIC IMPLICATIONS:**

Shire of Nannup Forward Plan 2011/12 – 2015/16:

*Program 11.2.A. That Council undertake the upgrade to the Recreation (and Community) Centre per adopted plans and funding available.*

**VOTING REQUIREMENTS:** Simple majority

**RECOMMENDATION:**

Council endorse the attached tender package and invite tender submissions for consideration at the October 2014 Meeting of Council.

**9155 LORKIEWICZ/MELLEMA**

Council endorse the attached tender package and invite tender submissions for consideration at the October 2014 Meeting of Council.

**CARRIED 5/1**

Voting for the motion: Dean, Lorkiewicz, Mellema, Slater and Steer

Voting against: Gilbert

AGENDA NUMBER:	12.6
SUBJECT:	Review of Councillors Allowances
LOCATION/ADDRESS:	Nannup
NAME OF APPLICANT:	Shire of Nannup
FILE REFERENCE:	ADM 18
AUTHOR:	Vic Smith – Manager Corporate Services
REPORTING OFFICER:	Vic Smith – Manager Corporate Services
DISCLOSURE OF INTEREST:	None
DATE OF REPORT	20 June 2014

Attachment 1: Determination of the Salaries and Allowances Tribunal on Local Government Elected Council Members June 2014  
2: Policy ADM10 Councillor Fees and Reimbursements

**BACKGROUND:**

The Local Government Amendment Bill 2011 empowered the Salaries and Allowances Tribunal (the Tribunal) to determine certain payments made or reimbursed to elected council members with effect from 1 July 2013.

Legislation confers entitlements to claim fees, expenses and allowances on individual council members and provides the Tribunal with the capacity to determine either particular amounts for these payments or to determine a range within which the relevant local governments set the amounts. Those fees, expenses and allowances which are legislated as entitlements of a council member cannot be taken away by any decision or action of the council.

Where the Tribunal has chosen to determine minimum and maximum amounts for fees, expenses or allowances, there is an obligation on local governments to set the amounts to be paid or reimbursed within the range determined.

The Salaries and Allowances Tribunal points out that the fees, expenses and allowances to which they refer are not intended to be full time salaries for council members. They recognise that there is an element of voluntary community service in the role of council members.

The full text of the determination by the Salaries and Allowances tribunal is set out in Attachment 1. For the purposes of the Determination the Shire of Nannup is classed as a Band 4 council.

## COMMENT:

Under existing legislation local governments have a choice of whether to pay a set annual fee to councillors or make payments based on meeting attendance. This council is typical of smaller councils in that it chooses to pay an attendance fee rather than an annual allowance. This flexibility is recognised by the Salaries and Allowances Tribunal and it has provided for both options in its determination.

In building on the Determination for 2013/14 the Tribunal has raised the upper limit for payments by 3%. Recognising that there will be a number of local governments that are unable to afford an increase in members allowances the minimum fees remain unchanged.

The Tribunal has set ranges for attendance fees for 2014/15 as follows:

Ordinary Council Members		Shire President	
Minimum	Maximum	Minimum	Maximum
\$88	\$232	\$88	\$477

The existing fee structure is \$88 for an Ordinary Member and \$150 for the Shire President.

Fees may also be paid for attendance at a committee meeting. The Tribunal has also advised that certain other meetings would qualify for an attendance fee under Regulation 30(3A) of the Local Government Regulations; these meetings are:

- a. a meeting of a WALGA Zone, where the council member is representing a local government as a delegate elected or appointed by the local government;
- b. a meeting of a Regional Road Group established by Main Roads Western Australia, where the council member is representing a local government as a delegate elected or appointed by the local government;
- c. a council meeting of a regional local government where the council member is the deputy of a member of the regional local government and is attending in the place of the member of the regional local government;
- d. meeting other than a council or committee meeting where the council member is attending at the request of a Minister of the Crown who is attending the meeting;



- e. other than a council meeting or committee meeting where the council member is representing a local government as a delegate elected or appointed by the local government.

In this council's case only (a) and (e) above are likely to apply. Members are therefore able to claim the committee fee for any body that Council has delegated them to attend.

The Tribunal has set the following ranges for 2014/15 for attendance fees as follows:

All Council Members	
Minimum	Maximum
\$44	\$116

The existing fee structure is \$44 for each attendance at a committee meeting.

A local government may decide that, instead of paying council members an attendance fee, it will pay all council members who attend council or committee meetings an annual fee. The Tribunal has set ranges for annual fees as follows:

Ordinary Council Members		Shire President	
Minimum	Maximum	Minimum	Maximum
\$3,500	\$9,270	\$3,500	\$19,055

The Shire President is entitled, in addition to any fees or reimbursement of expenses payable as set out above, to be paid the annual allowance set by the local government within a prescribed range. The Tribunal has set ranges for attendance fees as follows:

Minimum	Maximum
\$500	\$19,570

The existing allowance for the Shire President is \$8,000.

The Deputy Shire President is entitled, in addition to any fees or reimbursement of expenses payable as set out above, to an allowance based on a percentage of that paid to the Shire President. This percentage remains unchanged at 25%.

Regulation 31(1) of the Local Government Administration Regulations 1996 sets out those reimbursements that must be paid by a local government when claimed by a council member; these are:

- 1) Rental charges incurred by a council member in relation to one telephone and one facsimile machine;

- 2) Child care costs incurred by a council member because of the member's attendance at a council or committee meeting; and
- 3) Travel costs incurred by a council member because of the member's attendance at a council or committee meeting.

Alternatively, a local government may set an annual allowance for these expenses as permitted by Section 5.99A of the Local Government Act 1995.

The Tribunal has set the following rates of reimbursement where no annual allowance has been set:

- 1) The extent to which a council member can be reimbursed for rental charges in relation to one telephone and one facsimile machine is the actual expense incurred by the council member;
- 2) The extent to which a council member can be reimbursed for child care costs incurred because of attendance at a meeting is the actual cost per hour or \$25 per hour, whichever is the lesser amount;
- 3) The extent to which a council member of a local government can be reimbursed for travel costs is:
  - (a) if the person lives or works in the local government district or an adjoining local government district, the actual cost for the person to travel from the person's place of residence or work to the meeting and back; or
  - (b) if the person does not live or work in the local government district or an adjoining local government district, the actual cost, in relation to a journey from the person's place of residence or work and back:
    - (i) for the person to travel from the person's place of residence or work to the meeting and back; or
    - (ii) if the distance travelled referred to in subparagraph (i) is more than 100 kilometres, for the person to travel from the outer boundary of an adjoining local government district to the meeting and back to that boundary.

Travel costs incurred while driving a privately owned or leased vehicle (rather than a commercially hired vehicle) are to be calculated at the same rate applicable to the reimbursement of travel costs in the same or similar circumstances under the *Public Service Award 1992* issued by the Western Australian Industrial Relations Commission as at the date of this determination.

The extent to which a council member can be reimbursed for intrastate or interstate travel and accommodation costs incurred in any of the circumstances referred to in regulation 32(1) of the Local Government Administration Regulations is at the same rate applicable to the reimbursement of travel and accommodation costs in the same or similar circumstances under the *Public*

*Service Award 1992* issued by the Western Australian Industrial Relations Commission as at the date of this determination

The Tribunal has set the following rates of reimbursement where an annual allowance has been set:

***ICT expenses*** means:

- (a) rental charges in relation to one telephone and one facsimile machine; or
- (b) any other expenses that relate to information and communications technology (for example, telephone call charges and internet service provider fees).

***Travel and accommodation expenses*** means:

- (a) travel costs incurred by a council member because of the member's attendance at a council or committee meeting; or
- (b) an expense incurred by a council member in performing a function under the express authority of the local government; or
- (c) an expense incurred by a council member to whom paragraph (b) applies by reason of the council member being accompanied by not more than one other person while performing the function if, having regard to the nature of the function, the local government considers that it is appropriate for the council member to be accompanied by that other person; or
- (d) an expense incurred by a council member in performing a function in his or her capacity as a council member.

The Tribunal has determined that the minimum annual allowance for ICT expenses is \$500 and the maximum annual allowance is \$3,500. This council currently pays \$1,300 to the Shire President and \$1,100 to Ordinary Members.

The Tribunal has determined that the annual allowance for travel and accommodation expenses is \$50. This council bases its reimbursement on actual costs incurred.

### Conclusion

The Determination recognises that there is a range of approaches allowed for in existing regulations and that local governments are constrained by their size and ability to pay. The Determination is therefore flexible enough to allow this council to maintain its current payment structure with very little modification.

Whilst Council can vary the fee structure within the existing Determination as it sees fit, there are two main options that should be considered:

1. Maintain fees at their current level for 2014/15; or
2. Raise all allowances by 3%, rounded to the nearest dollar.

The adopted budget is based on the existing allowances being maintained at their current levels.

The current policy on Members Allowances is set out in Policy ADM 10 and this attached for Members' information.

**STATUTORY ENVIRONMENT:** Local Government Act 1995 Section 6.

**POLICY AND CONSULTATION IMPLICATIONS:** None.

**FINANCIAL IMPLICATIONS:**

An increase in the current fees by 3% would add approximately \$900 to the 2014/15 budget, otherwise there would be no financial implication.

**STRATEGIC IMPLICATIONS:** None.

**VOTING REQUIREMENTS:** Absolute majority.

**RECOMMENDATION:**

That Council maintain the current schedule of fees and allowances as set out in Policy ADM10.

**9156 MELLEMA/SLATER**

That Council maintain the current schedule of fees and allowances as set out in Policy ADM10.

**CARRIED 6/0**

AGENDA NUMBER:	12.7
SUBJECT:	Sale of Surplus Equipment
LOCATION/ADDRESS:	Nannup Shire
NAME OF APPLICANT:	N/A
FILE REFERENCE:	FNC 8
AUTHOR:	Vic Smith – Manager Corporate Services
REPORTING OFFICER:	Vic Smith – Manager Corporate Services
DISCLOSURE OF INTEREST:	None
DATE OF REPORT	24 June 2014

Attachment 1: List of Surplus Equipment Advertised for Tender

**BACKGROUND:**

The Chief Executive Officer is delegated authority to dispose of surplus equipment by tender and to report to Council on the result of the tender process.

**COMMENT:**

A range of surplus equipment was advertised for tender in May 2014. The full list was reported to the April Information Session. As a result of the tender exercise three PC's were disposed of, generating income of \$210. Bids were as follows:

Item	Successful Bid \$
PC#01	10
PC#03	50
PC#05	100
Benchpress	50
Total	<u>210</u>

There being no other bids, the remaining items were disposed of.

**STATUTORY ENVIRONMENT:**

Local Government Act 1995

**POLICY AND CONSULTATION IMPLICATIONS:** None.

**FINANCIAL IMPLICATIONS:**

Income of \$210.

**STRATEGIC IMPLICATIONS:** None.

**VOTING REQUIREMENTS:** Simple majority

**RECOMMENDATION:**

That the result of the tender process is noted.

**9157 SLATER/LORKIEWICZ**

That the result of the tender process is noted.

**CARRIED 6/0**

**9158 MELLEMA/GILBERT**

That Council suspend standing orders.

**CARRIED 6/0**

Standing Orders were suspended at 17.13hrs.

**9159 MELLEMA SLATER**

That Standing Orders be resumed.

**CARRIED 6/0**

Standing Orders were resumed at 17.18 hrs.

AGENDA NUMBER:	12.8
SUBJECT:	Write off of Rates – 16 Carey Street
LOCATION/ADDRESS:	Nannup Shire
NAME OF APPLICANT:	N/A
FILE REFERENCE:	A410
AUTHOR:	Vic Smith – Manager Corporate Services
REPORTING OFFICER:	Vic Smith – Manager Corporate Services
DISCLOSURE OF INTEREST:	None
DATE OF REPORT	25 June 2014

Attachment 1: Maps of the property

Attachment 2: Correspondence with the Department of Parks & Wildlife

**BACKGROUND:**

At its April meeting Council deferred authorising a request to write off the rates relating to 16 Carey Street (Assessment A410 in the rate records) pending further clarification. The request has been made by the Department of Parks and Wildlife (DPaW) on the basis that the property is used as an office and is therefore classed as a government building not subject to rating.

**COMMENT:**

One of the concerns expressed by Council was that the property appeared to have a very high rate liability for a domestic dwelling. Officers therefore examined the

Landgate records to establish the extent of the property covered by the assessment.

Assessment A410 comprises three parcels of land:

1. Lot 51 Warren Road
2. Lot 125 Carey Street
3. Reserve at Lot 316 Kearney Street

It is clear from the maps that the boundaries of the various land parcels as shown do not reflect the physical boundaries as they exist today. The majority of the site comprises the DPaW Depot and a house comprises part of Lot 51. The relevant maps are appended at Attachment 1. The inclusion of the DPaW depot accounts for the high rate liability relating to the site.

In their letter the Department of Parks and Wildlife stated that Lot 51 was being used as an office. An inspection of the property was undertaken on 20 June 2014 and officers are satisfied that the property is being used as an office and not a domestic dwelling. All of the site therefore comprises public buildings and is not liable for rates. Officers have therefore amended the rate liability from the point when the council was notified of the change of use; this was 6 November 2013.

The reduced liability is \$21,908.77; this includes \$1,641.80 in refuse and recycling charges that remain chargeable whether or not the property is classed as non-rateable. The amount of remission that relates to the property being classed as a public building is therefore \$20,266.97.

Subdivision 7 of Part 6 of the Local Government Act allows a ratepayer to object to a rate notice. Section 6.76(1)(a)(ii) allows for an objection to be raised "*on the basis that the land or part of the land is not rateable land.*" Section 6.76(2) requires that an objection is raised within 42 days of the service of the rate notice, that it identifies the land in question and that it set out in detail the grounds for the objection.

Rate notices for 2013/14 were issued on 1 September 2013, meaning that an objection would need to be received by 12 October 2013 to comply with the requirements above. The initial objection by DPaW was to the Department of Fire and Emergency Services rather than the Council. However, Section 6.76(4) of the Act allows a local government to extend the time for an objection and officers have agreed that it would be reasonable to apply this discretion to resolve the issue of the liability.

Once an objection is received the local government is required by Section 6.76(5) to promptly consider the objection. Clearly it has taken some time to complete the detailed investigations into the property ownership and liability but all the relevant information has now been obtained to enable a decision to be made. Council is able to allow or disallow the objection wholly or in part.



Once Council has made a decision on the matter written notice must be served on the objector outlining its decision and the reasons for it. If the ratepayer is not satisfied with this decision they can appeal to the State Administrative Tribunal within 42 days of receiving the notice.

In this case officers are satisfied that a valid objection has been received for the current financial year and that the property covered by Assessment A410 should be classed as non-rateable from 1 July 2013. However, no valid objection was received prior to 6 November 2013 and the officers' recommendation is that the property be classed as rateable prior to 1 July 2013.

**STATUTORY ENVIRONMENT:** *Local Government Act 1995 Section 6*

**POLICY AND CONSULTATION IMPLICATIONS:** None.

**FINANCIAL IMPLICATIONS:**

The financial implication of the officers' recommendation for this financial year is a reduction of \$4,844.36 in rate revenue for 2013/14. Should Council decide to allow the objection in its entirety rate revenue would be reduced by \$21,805.87, including penalty interest accrued on the outstanding debt.

**STRATEGIC IMPLICATIONS:** None.

**VOTING REQUIREMENTS:** Absolute majority.

**RECOMMENDATION:**

1. In accordance with Section 6.76(5) of the Local Government Act 1995 Council allow the objection to the 2013/14 rate notice and agree to class Assessment A410 as non-rateable with effect from 1 July 2013 on the grounds that the property is a public building.
2. In accordance with Section 6.76(5) of the Local Government Act 1995 Council disallow the objection to the 2010/11, 2011/12 and 2012/13 rate notices on the grounds that no valid objection was received relating to those years and that the rates and associated penalty charges remain due and payable.
3. In accordance with Section 6.77 of the Local Government Act 1995 officers notify the Department of Parks and Wildlife that they have the right to appeal the decision to the State Administrative Tribunal within 42 days of service of the notice of the decision.

## **9160 SLATER/STEER**

1. In accordance with Section 6.76(5) of the Local Government Act 1995 Council allow the objection to the 2013/14 rate notice and agree to class Assessment A410 as non-rateable with effect from 1 July 2013 on the grounds that the property is a public building.
2. In accordance with Section 6.76(5) of the Local Government Act 1995 Council disallow the objection to the 2010/11, 2011/12 and 2012/13 rate notices on the grounds that no valid objection was received relating to those years and that the rates and associated penalty charges remain due and payable.
3. In accordance with Section 6.77 of the Local Government Act 1995 officers notify the Department of Parks and Wildlife that they have the right to appeal the decision to the State Administrative Tribunal within 42 days of service of the notice of the decision.

**CARRIED 5/1**

Voting for the motion: Dean, Gilbert, Mellema, Steer and Slater  
Voting against the motion; Lorkiewicz

AGENDA NUMBER:	12.9
SUBJECT:	Monthly Accounts for Payment - June 2014
LOCATION/ADDRESS:	Nannup Shire
NAME OF APPLICANT:	N/A
FILE REFERENCE:	FNC 8
AUTHOR:	Vic Smith – Manager Corporate Services
REPORTING OFFICER:	Vic Smith – Manager Corporate Services
DISCLOSURE OF INTEREST:	None
DATE OF REPORT	15 July 2014

Attachment 1: Schedule of Accounts for Payment – June 2014

**BACKGROUND:**

The Accounts for Payment for the Nannup Shire Municipal Account fund and Trust Account fund to 30 June 2014 as detailed hereunder and noted on the attached schedule, are submitted to Council.

**COMMENT:**

If Councillors have questions about individual payments prior notice of these questions will enable officers to provide properly researched responses at the Council meeting.

There are two corporate credit cards currently in use. A breakdown of this expenditure in the monthly financial report is required to comply with financial regulations. There are no credit card transactions to report for June 2014.

**Municipal Account**

Accounts paid by EFT	61032 - 6238	\$326,690.97
Accounts paid by cheque	19520 –19552	\$21,912.33
Accounts paid by Direct Debit	99505 - 99510	\$5,385.74
Sub Total Municipal Account		<u>\$353,989.04</u>

**Trust Account**

Accounts paid by EFT		\$0.00
Accounts Paid by cheque		\$0.00
Sub Total Trust Account		<u>\$0.00</u>

<b>Total Payments</b>		<u><b>\$353,989.04</b></u>
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**STATUTORY ENVIRONMENT:**

LG (Financial Management) Regulation 13

**POLICY AND CONSULTATION IMPLICATIONS:** None.

**FINANCIAL IMPLICATIONS:**

As indicated in Schedule of Accounts for Payment.

**STRATEGIC IMPLICATIONS:** None.

**VOTING REQUIREMENTS:** Simple majority

**RECOMMENDATION:**

That the List of Accounts for Payment for the Nannup Shire Municipal Account fund totalling \$353,989.04 in the attached schedule be endorsed.

**9161 MELLEMA/LORKIEWICZ**

That the List of Accounts for Payment for the Nannup Shire Municipal Account fund totalling \$353,989.04 in the attached schedule be endorsed.

**CARRIED 6/0**

**13. NEW BUSINESS OF AN URGENT NATURE INTRODUCTION BY DECISION OF MEETING**

(a) OFFICERS

None.

(b) ELECTED MEMBERS

13(b).1 Fees and Charges adjustment

**GILBERT/DEAN**

That Council introduce new business of an urgent nature.

13 (b)1.Fees and Charges adjustment

**LOST 2/4**

Voting for the motion: Dean & Gilbert

Voting against the motion: Mellema, Lorkiewicz, Slater and Steer

**14. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

None

**15. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Cr Gilbert.

Q1. What form of agreement exists between the Shire of Nannup and Nannup Sports and Recreation Association and Nannup Golf Club re the proposed Recreation Centre?

Response

There are a series of correspondence and lease items related in part to Council resolutions that form the agreement between the parties to date. These largely relate to the funding of the building as well as the current lease of the building. It is the Officers intent to finalise these agreements for Council endorsement and notice at a future meeting. The differentiation between the Nannup Sports and Recreation Association and the Nannup Golf Club is not clearly identified in these items of correspondence.

Q2 What is the progress in developing a plan for the replacement of the hazardous trees shading the children's playground on the recreation reserve?

Response

We now have the trees at Marinko Tomas park under control and appear to have removed most trees that were dropping limbs near the play ground. The issue of shade has not been raised by anyone recently and talking to the people that use the park they appear to be happy with the level of sun protection. Our leading hand gardener checks the trees on regular basis and any work that needs to be done is completed as soon as possible. For that reason we have not looked at any replacement trees at this point in time but I am happy for you to discuss with Steve Winfield, the leading hand gardener, if you have any ideas.

## **16. CLOSURE OF MEETING**

There being no further business to discuss the Shire President declared the meeting closed at 17:29 hours.