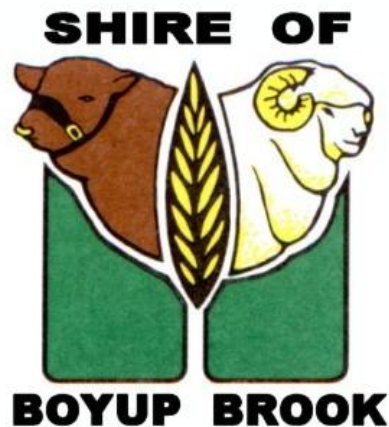


Minutes



ORDINARY MEETING

held

THURSDAY 19 June 2014

Commenced AT 5.04PM

AT

SHIRE OF BOYUP BROOK

CHAMBERS

ABEL STREET - BOYUP BROOK

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1 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED

1.1 Attendance

Cr M Giles – Shire President
Cr G Aird – Deputy Shire President
Cr N Blackburn
Cr J Imrie
Cr P Kaltenrieder
Cr K Moir
Cr B O'Hare
Cr T Oversby
Cr R Walker

STAFF: Mr Alan Lamb (Chief Executive Officer)
Mr Stephen Carstairs (Manager Corporate Services)
Mr Rob Staniforth-Smith (Manager of Works & Services)
Mr Geoffrey Lush (Planning Consultant)
Mrs Maria Lane (Executive Assistant)

PUBLIC: Mr Terence Ginnane

1.2 Apologies

1.3 Leave of Absence

2 PUBLIC QUESTION TIME

2.1 Response to Previous Public Questions Taken on Notice

Nil

2.2 Public Question Time

3 APPLICATIONS FOR LEAVE OF ABSENCE

MOVED: Cr Oversby

SECONDED: Cr Blackburn

That Cr Giles and Cr Aird be granted leave of absence for the July 2014 ordinary meeting of Council and Cr Blackburn be granted leave of absence for the August 2014 ordinary meeting of Council.

CARRIED 9/0

Res 65/14

4 PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS

Cr Walker informed Council about an event which was held in Wilga, 370 people attended and it went well.

5 CONFIRMATION OF MINUTES

5.1 Ordinary Meeting of Council - Thursday 15 May 2014

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr O'Hare

SECONDED: Cr Imrie

That the minutes of the Ordinary Meeting of Council held on Thursday 15 May 2014 be confirmed as an accurate record.

CARRIED 9/0

Res 66/14

6 PRESIDENTIAL COMMUNICATIONS

Attended a Bushfire Meeting held on 17th June 2014.

Attended a meeting relating to Rylington Park on 19 June 2014.

7 COUNCILLORS QUESTIONS ON NOTICE

8 REPORTS OF OFFICERS

8.1 MANAGER WORKS & SERVICES

Nil

8.2 FINANCE

8.2.1 List of Accounts Paid

Location:	<i>Not applicable</i>
Applicant:	<i>Not applicable</i>
File:	<i>FM/1/002</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>13 June 2014</i>
Author:	<i>Carolyn Mallett – Finance Officer</i>
Authorizing Officer:	<i>Alan Lamb – Chief Executive Officer</i>
Attachments:	<i>Yes – List of Accounts Paid</i>

SUMMARY

In accordance with the Local Government (Financial Management) Regulations the list of accounts paid is presented to Council.

BACKGROUND

Invoices received for the supply of goods and services, salaries and wages and the like have been paid during the period.

COMMENT

The attached listing represents accounts paid by cheque and by electronic means during the period 1 May to 31 May 2014.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Local Government (Financial Management) Regulations 1996, Regulations 12 and 13 apply and are as follows:

12. Payments from municipal fund or trust fund

- (1) A payment may only be made from the municipal fund or the trust fund —*
 - (a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or*
 - (b) otherwise, if the payment is authorised in advance by a resolution of the council.*
- (2) The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.*

13. Lists of accounts

- (1) *If the local government has delegated 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.*
- (2) *A list of accounts for approval to be paid is to be prepared each month showing —*
 - (a) *for each account which requires council authorisation in that month —*
 - (i) *the payee's name;*
 - (ii) *the amount of the payment; and*
 - (iii) *sufficient information to identify the transaction;**and*
 - (b) *the date of the meeting of the council to which the list is to be presented.*
- (3) *A list prepared under sub regulation (1) or (2) is to be —*
 - (a) *presented to the council at the next ordinary meeting of the council after the list is prepared; and*
 - (b) *recorded in the minutes of that meeting.*

POLICY IMPLICATIONS

Council's Authority to Make Payments Policy has application.

BUDGET/FINANCIAL IMPLICATIONS

Account payments are in accordance with the adopted budget for 2013/14 or authorised by separate resolution.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.2.1

MOVED: Cr Walker

SECONDED: Cr Aird

That the list of accounts paid in May 2014 as presented totalling \$402,875.34 and as represented by cheque voucher numbers 19546-19547 and 19552-19570 totalling \$68,574.43 and accounts paid by direct electronic payments through the Municipal Account totalling \$334,300.91 be received.

CARRIED 9/0

Res 67/14

8.2.2 Monthly Statements of Financial Activity

Location:	Not applicable
Applicant:	Not applicable
File:	FM/10/003
Disclosure of Officer Interest:	None
Date:	10 June 2014
Author:	Consultant–Darren Long
Authorizing Officer:	Alan Lamb – Chief Executive Officer
Attachments:	Yes – Financial Reports

SUMMARY

Report recommends Council receive the Statement of Financial Activities and the Net Current Assets for the month ended 31 May 2014.

BACKGROUND

Section 6.4 of the Local Government Act 1995 places financial reporting obligations on local government operations.

Regulation 34 (1)–(4) of the Local Government (Financial Management) Regulations 1996 requires the local government to prepare a 'Monthly Statement of Financial Activity'.

The regulations also prescribe the content of the reports. Details of items of Material Variances are also listed.

The various data are included as separate attachments.

COMMENT

It is a statutory requirement that the Financial Activities Report be presented for every month.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Local Government (Financial Management) Regulations 1996, s34 (1) (a)

Local Government (Financial Management) Regulations 1996, s34 (2) (a)
(b)

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

As listed on the attached reports

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.2.2

MOVED: Kaltenrieder

SECONDED: Cr Oversby

(a) That the May 2014 Monthly Statements of Financial Activity and Statement of Net Current Assets as presented, be received.

(b) That the amounts listed as material variances be authorised.

CARRIED 9/0

Res 68/14

Mr Terence Ginnane left the Chambers at 5.30pm

8.2.3 Western Australian Treasury Corporation – Execution of Local Government Master Lending Agreement

Location:	N/A
Applicant:	Western Australian Treasury Corporation
File:	FM/34/118
Disclosure of Officer Interest:	None
Date:	09 June 2014
Author:	Stephen Carstairs - MCS
Authorizing Officer:	Alan Lamb – Chief Executive Officer
Attachment:	Master Lending Agreement between Western Australian Treasury Corporation and Shire of Boyup Brook

SUMMARY

The Western Australian Treasury Corporation (WATC) is implementing a Master Lending Agreement (LGMLA) for local governments (*Attachment 8.2.3*). The new LGMLA has been developed so as to incorporate the recently introduced Commonwealth Government's Personal Property Security Act 2009 (PPSA) and to improve the efficiency of the lending processes to local governments. The LGMLA has been reviewed by both the State Solicitor's Office and the Department of Local Government and Communities.

Should Council determine to enter into this LGMLA, then:

- the nine loans the shire currently has with Western Australian Treasury Corporation (WATC) would automatically be captured under this one (open ended) agreement, as would any future borrowings; and
- the LGMLA would facilitate future WATC borrowings as it effectively removes the need to execute under seal individual and separate agreements each time the shire applies for borrowings from WATC.

BACKGROUND

The shire's loans register includes eight active WATC loans as follows:

- 1) Loan 102 House-General Practitioner (01.03.07) for \$100,000 @ 6.38% for 10 yrs.
- 2) Loan 106 Flax Mill Complex Upgrade (01.08.97) for \$65,000 @ 7.18% for 20 yrs.
- 3) Loan 107 Hospital Upgrade (04.03.98) of \$146,612 @ 6.72% for 15 yrs.
- 4) Loan 109 Flax Mill Water Upgrade (30.06.98) of \$60,000 @ 6.39% for 20 yrs.
- 5) Loan 110 Admin Roof-Building Upgrade (30.06.98) of \$40,000 @ 6.45% for 20 yrs.

- 6) Loan 112 New Tip-Transfer Station (30.06.00) of \$39,000 @ 7.07% for 20 yrs.
- 7) Loan 114 Pool Bowl Upgrade (10.02.06) for \$200,000 @ 5.89 for 20 yrs.
- 8) Loan 115 Employee Accom-Rogers (13.03.06) for \$110,000 @ 5.88% for 20 yrs.
- 9) Loan 118 Aged Care Initiative (26.04.13) for \$400,000 @ 4.80% for 20 yrs.

The nine loans amount to some \$1,160,612 in borrowings from WATC over the past seventeen years, and at the time of writing the shire's loan liability amounted to some \$716,714. The loans are characterised as being of long duration (10 to predominantly 20 year terms) with somewhat high interest rates, which is not so much in keeping with the economic climate in Australia since September 2008 (Global Economic Crisis).

The proposed LGMLA will do two things, it will gather up the abovementioned nine loans under the LGMLA, and it will have the effect of facilitating future WATC borrowing events as this open ended LGMLA removes the need for individual loan agreements to be executed under seal each time the shire borrows from WATC. Having said that, any future borrowings under the LGMLA will continue to be subject to WATC's credit approval policy (at the time of application), and will still require Council's approval for inclusion in its annual budget.

COMMENT

Entering into this agreement with WATC will afford the shire a number of benefits, particularly as it will improve the efficiency of the lending process. Risk will continue to be low under the agreement, as Council's approval to borrow money will continue to be a requirement before loan applications might be considered by WATC.

CONSULTATION

The LGMLA has been reviewed by the State Solicitor's Office and the Department of Local Government and Communities.

STATUTORY OBLIGATIONS

With respect to the LGMLA, the shire will continue to be required to comply with all requirements of the Local Government Act 1995 (the act) and Regulation, and ensure that all new loans have been approved by Council in its annual budget or have satisfied the provisions of Section 6.20(2) Power to Borrow of the act.

POLICY IMPLICATIONS

Policy A.10. Use of Common Seal and the Signatories for Contract Execution.

BUDGET/FINANCIAL IMPLICATIONS

Not applicable

STRATEGIC COMPLICATIONS

Not applicable

SUSTAINABILITY IMPLICATIONS

Not applicable

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION – Item 8.2.3

The Shire of Boyup Brook hereby RESOLVES:

- 1) That the Shire of Boyup Brook enters into a Master Lending Agreement with Western Australian Treasury Corporation as per the document tabled at this meeting.
- 2) To approve the affixation of the Common Seal of the Shire of Boyup Brook to the said Master Lending Agreement in the presence of the President and the Chief Executive Officer.
- 3) That the Chief Executive Officer is authorized to sign schedule documents under the Master Lending Agreement, and give instructions thereunder, on behalf of the Shire of Boyup Brook.

COUNCIL DECISION

MOVED: Cr Walker

SECONDED: Cr O'Hare

The Shire of Boyup Brook hereby RESOLVES:

- 1) That the Shire of Boyup Brook enters into a Master Lending Agreement with Western Australian Treasury Corporation as per the document tabled at this meeting.
- 2) To approve the affixation of the Common Seal of the Shire of Boyup Brook to the said Master Lending Agreement in the presence of the President and the Chief Executive Officer.
- 3) That the Chief Executive Officer is authorized to sign schedule documents under the Master Lending Agreement, and give instructions thereunder, on behalf of the Shire of Boyup Brook.
- 4) Amend the year on the maturity dates for loan 107 to read 01/08/2017, loan 109 to read 30/06/2018 and loan 110 to read 30/08/2018 on page 23 of the attachments.

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 69/40

8.2.4 Councillor Sitting Fees and Allowances

Location:	N/A
Application:	
File:	
Disclosure of Interest:	Nil
Date:	10 June 2014
Author:	Stephen Carstairs
Authorising Officer:	Alan Lamb
Attachments:	<i>Local Government Elected Council Members Determination No. 1 of 2013 Determination of Fees, Allowances and Expenses for Local Government Elected Council Members</i>

SUMMARY

For Council to consider the method for determining Councillor meeting fees in 2014-15, and further for Council to set the Councillor meeting fees and allowance amounts for 2014-15. When setting fees or allowances for 2014-15 Council is to have regard for the *Local Government Elected Council Members Determination No. 1 of 2013* (the Determination) made by the Salaries and Allowances Tribunal (*Attachment 8.2.5*).

BACKGROUND

Part 5, Division 8 (Sections 5.98, 5.98A, 5.99 and 5.99A) of the Local Government Act provides for council members to receive certain payments.

The Salaries and Allowances Tribunal (the Tribunal) completed its review of fees, allowances and expenses for elected council members of Local Governments throughout Western Australia, and made a determination which came into operation from 1 July 2013. In accordance with the Local Government Act 1995 and the Local Government (Administration) Regulations 1996, the determination established a scale of payments and provisions for reimbursement of expenses.

The Tribunal issued a statement with its determination, and some of the key points in the statement (*Attachment 8.2.5*) were as follows:

- This is the first independent determination of fees, allowances and expenses which were set in 1996 and last adjusted in 2005. It brings levels of remuneration for elected council members into line with other States and

also with the fees paid to Government Board and Committee members in Western Australia.

- The Tribunal noted that it is vital that local governments attract capable and committed elected council members to provide leadership, expertise and good government at a community level. After extensive consultation the Tribunal concluded that the current (pre-determination) framework of fees, allowances and expenses did not take into account the significant weight of responsibilities shouldered by elected council members, particularly in the large and most populated local governments.
- In establishing a new framework for the payment of fees, allowances and expenses, the Tribunal has adopted a banding model to differentiate between the responsibilities carried by Councillors, Mayors, Presidents and their deputies in local governments throughout the State. Provision has been made for reimbursement of expenses properly incurred in enabling elected council members to properly fulfill their duties.
- The levels of remuneration for attending meetings and allowances for elected council members are not intended to be salaries but do take into account the responsibilities and commitments of elected council members serving as representatives of the community.
- Community service continues to be the cornerstone of a commitment to local government.
- The fees which may be claimed under the four band structure under which each local government is designated enables local governments to exercise the discretion vested in them by the Local Government Act 1995 and the Local Government (Administration) Regulations 1996.

The Tribunal has divided all local governments into four bands based on a number of factors such as population, size of budget, complexity of issues, etc. The Determination classified the Shire of Boyup Brook as a Band 4 local government.

Meeting Fees or Annual Attendance Fees - Councillors

Pursuant to Section 5.98 of the Local Government Act a council member, mayor or president who attends a council or committee meeting is entitled to be paid a fee set by the Council within the range stipulated in the Tribunal's determination. Pursuant to Section 5.99 of the Local Government Act a Council may decide by absolute majority that instead of paying council members, mayors or presidents a meeting fee it will be pay an annual attendance fee within the range stipulated in the Tribunal's determination.

Band 4 Councils are able to set meeting fees in the range \$188 and \$225 for council meetings, and between \$44 and \$113 for committee meetings. Alternatively Council, by absolute majority, may pay Councillors an annual attendance fee within the range of \$3,500 to \$9,000.

In 2013-14 Council resolved that Councillors would receive an annual attendance fee of \$6,270, which is an amount in the range set by the Tribunal.

Meeting Fees or Annual Attendance Fees – Shire President

The shire President can be provided with a higher meeting or annual attendance fee in recognition of the greater workload and responsibility associated with presiding at a council meeting.

Band 4 Councils are able to set a council meeting fee for the President in the range \$88 and \$463 for council meetings. The President would receive the same meeting fee for committees as determined by Council for Councillors. Alternatively, Council, via absolute majority can determine that the President receive an annual attendance fee in the range of \$3,500 to \$18,500.

In 2013-14 Council resolved that the President would receive an annual attendance fee of \$12,055, which is an amount in the range set by the Tribunal.

Annual Allowance for President

Under Section 5.98 of the Local Government Act Council can set an allowance for the President (separate from meeting or annual attendance fees), and as per the Determination, the allowance can be in the range \$500 to \$19,000 or 0.2% of Council's 2013-14 operating revenue, whichever is the lesser. Council's 2013-14 (estimated) operating revenue is of the order \$4.195m of which 0.2% equates to \$8,390. Thus a President's Allowance of between \$500 and \$8,390 can be set.

In 2013-14 Council resolved that the President's Allowance would be \$6,270.

Annual Allowance for Deputy President

Section 5.98A of the Local Government Act allows Council to provide a special allowance to the Deputy President, with the amount of the allowance being 25% of the President's allowance.

In 2013-14 Council resolved that the Deputy President would receive an allowance.

Meetings Fees or Annual Attendance Fee?

It is recommended that Council retain the "annual" method for determining Councillor allowances rather than changing to a "per meeting" fee. The advantages of the "annual" method include:

- A "per meeting" fee doesn't take into account all the work that a Councillor does in between Council or Committee meetings. A councillor may undertake a significant amount of work between meetings but if he/she

misses a meeting due to legitimate reasons they would not receive any payment towards that work.

- Under the Local Government Act only Council or committee meetings trigger payment of a meeting fee. This Council uses the “briefing session” process on a regular basis, and those meetings, which can generate additional work for Councillors, would not provide a meeting fee to those participating Councillors.

- Whilst the annualising of meetings fees can result in councillors receiving a fee when not attending meetings such as when an apology or on leave of absence, it is a rare occurrence for a Councillor to take extended leave of absence.

Reimbursement of Expenses Including Annual Allowances *in Lieu of* Reimbursement

Under the Local Government Act and Local Government (Administration) Regulations elected members are entitled to reimbursement of telecommunications, information technology, child care, travel and accommodation expenses. Policies M.05 (Councillors – Expenses Reimbursement and Loss of Earnings) and M.11 (Councillors Telecommunications and Information Technology) provides guidance on these entitlements.

Pursuant to Section 5.99A of the Local Government Act Council can decide by absolute majority that instead of reimbursing councillors for all of a particular type of expense it pay an annual allowance.

The Tribunal has amalgamated telecommunications and information technology allowances into a single Information and Communications Technology (ICT) Allowance, with a permissible range between \$500 and \$3,500.

While policy M.11 indicates that elected members will be paid an annual ICT allowance of \$1,800, in 2013-14 Council resolved that each Councillor would receive an ICT allowance of \$1,050.

COMMENT

In this report officers are recommending that elected council member annual meeting attendance fees, the President’s annual meeting attendance meeting fee and allowance, and the annual ICT allowance for elected council members increase in 2014-15 by 5% (rounded up to the nearest \$5). The proposed 5% increase comprises an inflationary (Perth CPI through to March 2014) increase of 3.1%, an increase in line with population growth (some 1.0%), and an additional regional component of 0.9%.

Currently meeting attendance fees, allowances and travel re-imbursements payments are made to Councillors in three x four monthly instalments, occurring in February, June and October of the year.

CONSULTATION

Alan Lamb

STATUTORY OBLIGATIONS

Local Government Act

5.98. Fees etc. for council members

(1) A council member who attends a council or committee meeting is entitled to be paid —

(a) the prescribed minimum fee for attending a council or committee meeting; or

(b) where the local government has set a fee within the prescribed range for council or committee meeting attendance fees, that fee.

(2A) A council member who attends a meeting of a prescribed type at the request of the council is entitled to be paid —

(a) the prescribed minimum fee for attending a meeting of that type; or

(b) where the local government has set a fee within the prescribed range for meetings of that type, that fee.

(2) A council member who incurs an expense of a kind prescribed as being an expense —

(a) to be reimbursed by all local governments; or

(b) which may be approved by any local government for reimbursement by the local government and which has been approved by the local government for reimbursement, is entitled to be reimbursed for the expense in accordance with subsection (3).

(3) A council member to whom subsection (2) applies is to be reimbursed for the expense —

(a) where the minimum extent of reimbursement for the expense has been prescribed, to that extent; or

(b) where the local government has set the extent to which the expense can be reimbursed and that extent is within the prescribed range (if any) of reimbursement, to that extent.

(4) If an expense is of a kind that may be approved by a local government for reimbursement, then the local government may approve reimbursement

of the expense either generally or in a particular case but nothing in this subsection limits the application of subsection (3) where the local government has approved reimbursement of the expense in a particular case.

(5) The mayor or president of a local government is entitled, in addition to any entitlement that he or she has under subsection (1) or (2), to be paid —

(a) the prescribed minimum annual local government allowance for mayors or presidents; or

(b) where the local government has set an annual local government allowance within the prescribed range for annual local government allowances for mayors or presidents, that allowance.

(6) A local government cannot —

(a) make any payment to; or

(b) reimburse an expense of, a person who is a council member or a mayor or president in that person's capacity as council member, mayor or president unless the payment or reimbursement is in accordance with this Division.

(7) A reference in this section to a committee meeting is a reference to a meeting of a committee comprising —

(a) council members only; or

(b) council members and employees.

[Section 5.98 amended by No. 64 of 1998 s. 36; No. 17 of 2009 s. 33.]

5.98A. Allowance for deputy mayor or deputy president

(1) A local government may decide to pay the deputy mayor or deputy president of the local government an allowance of up to the prescribed percentage of the annual local government allowance to which the mayor or president is entitled under section 5.98(5).*

** Absolute majority required.*

(2) An allowance under subsection (1) is to be paid in addition to any amount to which the deputy mayor or deputy president is entitled under section 5.98.

[Section 5.98A inserted by No. 64 of 1998 s. 37.]

5.99. Annual fee for council members in lieu of fees for attending meetings

A local government may decide that instead of paying council members a fee referred to in section 5.98(1), it will instead pay all council members who attend council or committee meetings —*

(a) the prescribed minimum annual fee; or

(b) where the local government has set an allowance within the prescribed range for annual allowances for that type of expense, an allowance of that amount and only reimburse the member for expenses of that type in excess of the amount of the allowance.

* Absolute majority required.

POLICY IMPLICATIONS

Policy M.11 (Councillors Telecommunications and Information Technology) provides guidance on ICT entitlements, and Policy M.05 (Councillors – Expenses Reimbursement and Loss of Earnings) addresses other expenses e.g. child care & travel, not covered in this report.

BUDGET/FINANCIAL IMPLICATIONS

As part of the annual budget process Council is to set annual attendance fees (or per meeting fees) for Councillors, the President's annual attendance fees and allowance, and ITC allowances within the permissible range set by the Tribunal.

STRATEGIC IMPLICATIONS

Not Applicable

SUSTAINABILITY APPLICATIONS

Not Applicable

VOTING REQUIREMENTS

Absolute Majority is required for payments of allowances to elected members.

MOVED INTO COMMITTEE

MOVED: Cr Giles

SECONDED: Cr Oversby

That the Council move into a committee of the whole under clause 15.6 of the Standing Orders, Local Law No.1.to allow members free discussion on the matter.

CARRIED 9/0

Res 70/14

MOVED OUT OF COMMITTEE

MOVED: Cr Oversby

SECONDED: Cr Kaltenrieder

That the Council moves out of committee of the whole under clause 15.6 of the Standing Orders, Local Law No.1.

CARRIED 9/0

Res 71/14

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.2.4

MOVED: Cr Kaltenrieder

SECONDED: Cr Blackburn

That Council:

- 1. Retain in 2014-15 the annual attendance fee method of payment of Councillor and President meeting attendance fees, rather than the 'per meeting basis' method.**
- 2. Set in 2014-15 Councillor meeting attendance fees, President's annual attendance fee and allowance, and ICT allowances as follows:**
 - Annual Attendance Fee for Council Members is to be \$6,585;**
 - Annual Attendance Fee for Shire President is to be \$12,660;**
 - Annual President's Allowance is to be \$6,590;**
 - Provision of an Annual Deputy President Allowance to an amount 25% of the amount determined for the Annual President's Allowance i.e. \$1,647.50; and**
 - Annual Information and Communications Technology Allowance is to be \$1,105.**

CARRIED BY ABSOLUTE MAJORITY 5/4

Res 72/14

8.2.5 Adoption of 2014-15 Schedule of Fees & Charges

Location: N/A
File:
Disclosure of Interest:
Date: 04 June 2014
Author: Alan Lamb – Chief Executive Officer
Authorising Officer: Alan Lamb
Attachments: Draft 2014-15 Schedule of Fees & Charges
2014-15 ESL Rates and Charging Parameters

SUMMARY

This matter is put before Council for information, and for Council to consider and adopt a Schedule of Fees & Charges for 2014-15. Further, for Council to receive the Department of Fire and Emergency Services ESL rates and charging parameters that are to apply in 2014-15.

BACKGROUND

In contrast with previous years, Council's 2014-15 Schedule of Fees & Charges (the Schedule) is to be considered separately in the budget adoption process. This has its advantages as it allows Council the time to consider its fees & charges in isolation, and second, as the budget will not be adopted prior to 30 June, finalising the 2014-15 fees & charges in June will enable them to take effect from 1 July 2014.

In 2012-13 fees and charges comprised 19.325% (\$951,863 and down \$12,313 from 2011-12) of the total operating revenue raised (\$4,925,388), and was third in order of importance to rates (41.103%) and operating grants (25.668%).

Under Council's draft Long Term Financial Plan 2013-2023 (the LTFP) fees and charges were proposed to increase annually by some 3.0%. However, in drafting the proposed 2014-15 fees a 5% increase was factored in (subject to appropriate rounding), as this was more in keeping with the LTFP's factored annual rate increase (6%). The proposed 5% increase in fees comprises an inflationary (Perth CPI through to March 2014) increase of 3.1%, an increase in line with population growth (some 1.0%), and an additional regional component of 0.9%. Please note, swimming pool entrance fees were excluded from the 5% increase, and annual inspection fees for low/medium risk food outlets were reduced from \$125 in 2013-14 to \$75 in 2014-15.

The Schedule attached shows the fees and charges imposed in 2013-14 and the charges recommended for 2014-15.

Proposed new fees in 2014-15 include:

- Heavy Haulage application processing fee - \$145 +GST

Some historical fees have been removed from the Schedule as they are redundant. These include:

- Fax charges – customers can be directed to the community resource centre (CRC).
- Laminating and Binding & Laminating – again customers can be referred to the CRC.
- Hard Copy of Council Agendas and Minutes – most people seeking these can obtain them in an electronic format. If a person wishes a hard copy, then normal photocopy charges would apply.

For those fees that are statutory in nature (e.g. – development application fees, building fees, swimming pool inspection fees, FOI fees, etc), Council is without discretion to set fees higher than permitted by the applicable legislation. At the time of writing, officers had received verbal advice from the Building Commission that: there will be variations made to the Statutory Building Application Fees, and that the changes will apply from 01 July 2014.

It is proposed that Council will set its rubbish and recycling collection charges and waste collection rate at the time of budget adoption as these fees and the rate are to be imposed on a cost recovery basis.

In the event of Council adopting the fees & charges in June it is intended they will apply from 1 July 2014. A notice will be inserted in the Donnybrook Bridgetown Times advising of the new fees and the commencement date as per Section 6.19 of the Local Government Act.

On Thursday 12 June 2014 the shire was notified by the Department of Fire and Emergency Services (DFES) of the ESL rates and charging parameters that will apply in 2014-15 (and see attached). Council collects these rates and charges on behalf of DFES, and forwards the revenue to them as four (quarterly) installments.

COMMENT

All fees are reviewed annually. Most fees do not cover the cost of providing the service (the subject of the fee), with a proportion of the service costs being funded from other (General Purpose) revenue streams.

DFES estimate that relative to 2013-14, their 2014-15 ESL and charging parameters will increase by 6.6% (\$18.025m) the revenue that they collect.

CONSULTATION

All sectors within the organisation have had an opportunity for input into the proposed 2014-15 fees and charges.

STATUTORY OBLIGATIONS

Section 6.16(1) and (2) of the Local Government Act states:

(1) A local government may impose and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.

(2) A fee or charge may be imposed for the following —

(a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;

Section 6.17(1) of the Local Government Act states:

In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors-

(a) the cost to the local government of providing the service or goods;

(b) the importance of the service or goods to the community; and

(c) the price at which the service or goods could be provided by an alternative provider.

ESL rates and charging parameters are covered under the *Fire and Emergency Services Act 1998*.

POLICY IMPLICATIONS

Policy B.01 *Building Permit Fees* applies to this report.

BUDGET/FINANCIAL IMPLICATIONS

The draft 2014-15 Annual Budget will include income streams that will have been estimated using this draft Schedule of Fees & Charges.

STRATEGIC IMPLICATIONS

Every effort has been made to identify those appropriate areas where the user pays cost recovery principle might reasonably be applied.

SUSTAINABILITY IMPLICATIONS

The fees are determined having regard to the cost of providing the service, the scope of the service and the anticipated preparedness of a person to pay the fee.

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION – Item 8.2.5

That Council:

1. Adopt the 2014-15 Schedule of Fees & Charges as per Attachment.
2. Determine the waste collection rate under Section 66 of the Waste Avoidance and Resource Recovery Act at the time of adoption of the 2014-15 budget.
3. Determine the kerbside rubbish and recycling collection charges at the time of adoption of the 2014-15 budget.
4. Receive from the Department of Fire and Emergency Services the ESL rates and charging parameters that are to apply in 2014-15.

COUNCIL DECISION

MOVED: Cr Oversby

SECONDED: Cr Kaltenrieder

That Council:

1. Adopt the 2014-15 Schedule of Fees & Charges subject to a review of the Transfer Station fees and the food premises/building approvals.
2. Determine the waste collection rate under Section 66 of the Waste Avoidance and Resource Recovery Act at the time of adoption of the 2014-15 budget.
3. Determine the kerbside rubbish and recycling collection charges at the time of adoption of the 2014-15 budget.
4. Receive from the Department of Fire and Emergency Services the ESL rates and charging parameters that are to apply in 2014-15.

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 63/14

8.2.6 Levying Rates in 2014-15 – Part 2. Setting the Rates in the Dollar and Minimum Rates

Location:	N/A
Application:	N/A
File:	
Disclosure of Interest:	
Date:	12 June 2014
Author:	Stephen Carstairs
Authorising Officer:	Alan Lamb
Attachments:	2014-15 Rates Model

PURPOSE

This report seeks to have Council endorse the new differential rating model put to it at its May 2014 ordinary meeting, to consider and adopt proposed differential general rates and minimum payments for the coming 2014-15 financial year, and seek public comment about the differential rates in accordance with section 6.36 of the Local Government Act 1995.

BACKGROUND

Rates revenue is a substantial source of general purpose (sometimes described as discretionary) revenue for the Shire of Boyup Brook, and accounted for some 41% of total operating revenue in 2012-13. The Local Government Act 1995 (the Act) empowers local governments to impose differential general rates and minimum payments on rateable land.

The imposition of differential rates is a conscious decision by Council to redistribute the rate burden in its district by imposing a higher impost on 'higher-end' service users (ratepayers) relative to others. Recognising this, and in accord with the WA Local Government Grants Commission's (the Grants Commission) 2013-14 Balance Budget, Council determined at its May ordinary meeting to increase in 2014-15 the proportion of mining rates in the total pool of rates collected i.e. to differentially rate mining (Unimproved Value (UV) properties in the district at a higher rate than other UV properties. Rates modelling for the 2014-15 financial year is to aim to approach the following percentage split:

- 16.39% GRV : 80.91% Rural UV : 2.69% Mining UV

After all the other sources of income and expenses have been recognised for a budget, the object of a rating model is to provide for the funding shortfall required to meet the needs (services, activities, financing costs and the current and future capital requirements) of the community. For the 2014-15 financial year both the shire's (detailed) 2013-23 Long Term Financial (LTFP) and 2014-17 Corporate Business (CBP) Plans estimated that funds shortfall to be some \$2,264,124, this representing an increase in rate revenue to be collected of \$123,417 relative to that recognised in the plans for 2013-14 (\$2,140,707).

Increasingly, assets management is being recognised as a significant challenge for local governments in Western Australia, and any rating model must also support asset renewal and replacement requirements in line with defined service levels.

Pursuant to section 6.36 of the Act, local governments are required to give a minimum of 21 days' notice of the proposed differential general rates and minimum payments and must consider any submissions received. Advertising 'proposed' rates and payments does not prohibit Council from amending these following the period of public comment. The purpose of advertising is to provide ratepayers with the ability to comment and make a submission prior to the rates formally being imposed.

The revaluation of UV properties by Landgate during May and June 2014 has resulted in the following outcomes:

- the number Mining UV properties in the district decreased from twenty three (23) prior to 2012 to 21 in 2013, and then to 18 in 2014;
- the rateable value of all UV properties decreased by some \$5,453,435 from \$285,295,158 in 2013-14 to \$279,841,723 for 2014-15,

meaning that actual UV rates in the \$ would have to increase substantially (about 2%) in 2014-15 just to recover the same amount of UV rate revenue that Council achieved for 2013-14.

COMMENT

In the development of the rating modelling methodology the following principle were applied:

1. Equity
2. Incentive
3. Administrative Efficiency
4. Compliance
5. Sustainability

The differential rates applied will ensure greater equity and contribution of rates according to land use, and this is the first year that the differential rating model (including minimum payments) has been applied by the shire to achieve that end.

Rates are calculated by multiplying the valuation (either GRV or UV), provided by Landgate (the Valuer-General), with a rate in the dollar, imposed by the Council. When Landgate revalue properties, the Shire can adjust the rate in the dollar to offset significant fluctuations in valuation. Having the additional rating differential categories, therefore allows the Council more discretion.

For the 2014-15 financial year, it is proposed that Council adopt increases across its various rating classes as follows:

		2013-14		2014-15	
Rate Classes		Rate in \$	Min \$'s		% Increase
Rate in \$	Min S's				
GRV		12.75	707	1.58	12.9508
765					
GRV – Urban Townsites		12.75	707	1.58	12.9508
765					
UV - Rural		0.5854	707	10.11	
0.6446	710				
UV – Urban Townsites		0.5854	707	10.11	
0.6446	710				
UV – Mining		0.5854	707	2127.18	12.4525
845					

Adopting these rates in the \$ will not preclude Council from striking some other rates, when adopting the 2014-15 Annual Budget. The proposed general and minimum rate increases will generate in 2014-15 some \$2,293,355 (the rates pool), giving the differential rates categories the following percentage split (proportional representation) in the pool:

- 17.20% GRV : 80.94% Rural UV : 1.86% Mining UV

The difference (\$29,231) between the rates pool (\$2,293,355), compared with the revenue shortfall identified in the LTFP and CBP (\$2,264,124), represents the windfall the shire derives from rating Mining UV in line with that assessed by the Grants Commission. Further, the difference (0.83%) between the percentage split of Mining UV revenue in the rates pool (1.86%), compared with the split assessed by the Grants Commission (2.69%), derives from the reduction in number of mining properties from 23 when the Grants Commission made its 2013-14 assessment, to 18 properties in June 2014.

Should Council determine to adopt the proposed model, general rates in the dollar and minimum rates, then it might consider transferring some of the windfall (\$29,231) to an Asset Management Reserve for asset renewal purposes. More often this is becoming a strategy among local governments e.g. in 2013-14 the City of Swan transferred 3% from an overall 5% increase, into an Infrastructure Reserve.

Included as Attachment 8.2.6 is a workbook which models the proposed increases, showing in some detail the average rates that would be payable for each of the differential rating categories. It should be noted that this is just an average, and that every property will vary based on its valuation.

CONSULTATION

Alan Lamb

Subject to endorsement of the proposed rating model by Council, the proposed differential general rates and general minimum payments will be advertised in the local newspaper, on public notice boards and in the all library. The Notice of Intention to Levy Differential Rates will be accompanied by the Objects of and Reasons for Differential Rates.

STATUTORY OBLIGATIONS

Local Government Act 1995
Part 6 Division 6 – Rates and service charges
s.6.33; s.6.35; and s.6.36

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

The matter of this report has no implications for the shire's 2013-14 *Amended Budget*. Based on property valuations at the time of writing, the proposed differential general rates and minimum rates are expected to yield in 2014-15 total rates revenue of approaching \$2,293,355. This amount will vary, however, should property development occur prior to 30 June and new valuation schedules are received by the shire.

STRATEGIC IMPLICATIONS

The financial principles and strategies identified on page 27 of the 2013-23 LTFP have been adhered to.

SUSTAINABILITY IMPLICATIONS

The financial sustainability principles and strategies identified on page 25 of the 2013-23 LTFP have been adhered to.

VOTING REQUIREMENTS

Absolute Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.2.6

MOVED: Cr Kaltenrieder

SECONDED: Cr Imrie

That Council:

- 1. Endorses for advertising for a minimum of twenty-one (21) days and seeks public submissions on the following proposed differential general rates and minimum payments to be applied from 1 July 2014 for the 2014-15 financial year in accordance with section 6.36 of the Local Government Act 1995:**

Rate Classes	2014-15 Rate in \$	Min S's
GRV	12.9508	765
GRV – Urban Townsites	12.9508	765
UV - Rural	0.6446	710
UV – Urban Townsites	0.6446	710
UV – Mining	12.4525	845

- 2. Authorises the CEO to seek approval from the Minister for Local Government to approve the Council in imposing a rate in the dollar for UV Mining (12.4525) which will result in it being more than twice the lowest differential general rate (0.6446) imposed, in accordance with section 6.33(3) of the Local Government Act 1995.**

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 64/14

8.3 **CHIEF EXECUTIVE OFFICER**

8.3.1 Local Government Convention and Exhibition

Location:	<i>Perth Convention Exhibition Centre</i>
Applicant:	<i>Not applicable</i>
File:	<i>GR/31/002</i>
Disclosure of Officer Interest:	<i>Nil</i>
Date:	<i>10 June 2014</i>
Author:	<i>Alan Lamb – Chief Executive Officer</i>
Attachments:	<i>Yes – Convention Program</i>

SUMMARY

The 2014 Local Government Convention and Exhibition will be held on the 6th August to 8th August 2014. This report recommends that Council be represented at the convention and nominate delegates accordingly.

BACKGROUND

The Local Government Convention is the premier event for Elected Members and Officers within Local Government.

The Association's Annual General Meeting is part of the convention program.

In accordance with Western Australian Local Government's constitution, member Councils are entitled to have two voting delegates. Registration of the voting delegates is required prior to the 10th July 2014.

Elected member development program training is being offered during the lead up to the convention and also immediately afterwards.

COMMENT

Convention Registration deadline is 8th July 2013.

In previous years Boyup Brook has been well represented with at least three Councillors and the Chief Executive Officer attending.

The estimated cost per attendee could be up to \$2,500, depending on accommodation requirements and involvement with member development programs.

CONSULTATION

Not applicable

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Council's policy on conferences – attendances and expenses by Councillors is as follows:-

Objective

To determine the procedures for attendance at conferences and seminars by Councillors.

Statement

It is Council's policy to have the Shire of Boyup Brook represented at any conference or seminar where it is evident that some benefit will accrue to the Council and/or the district. Attendance at conferences and seminar, etc is to be determined by the Shire President in consultation with the Chief Executive Officer. All Councillors are to be given the opportunity to attend conferences and seminars etc when they are available.

It is Council policy that all reasonable and direct expenses incurred by delegates and partners attending conferences, seminars, etc are to be met by the Shire.

Funds are to be listed annually for Budget consideration to enable the Shire President together with up to 50% of Councillors to attend Local Government Week.

Where possible, attendance at Conferences is to be on a rotation basis.

BUDGET/FINANCIAL IMPLICATIONS

Expenditure will be incurred in 2014/15 and would be budgeted accordingly.

STRATEGIC IMPLICATIONS

The Convention program will enable delegates to gain information that will benefit local government in Boyup Brook, as will interaction with elected members from throughout Western Australia.

SUSTAINABILITY ISSUES

- **Environmental**
There are no known significant environmental issues.
- **Economic**
There are no known significant economic issues.
- **Social**
There are no known significant social issues.

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.3.1

**MOVED: Cr Giles
That:-**

SECONDED: Cr Walker

Cr Kaltenrieder, Cr Oversby, Cr Aird and the CEO attend the 2014 Local Government convention and exhibition and expenses incurred be paid by the Shire, as per Council Policy M.01.

CARRIED 9/0

Res 65/14

COUNCIL DECISION

MOVED: Cr Giles

SECONDED: Cr Walker

Cr Aird and Cr Kaltenrieder be appointed as voting delegates for the Western Australian Local Government Association Annual General Meeting.

CARRIED 9/0

Res 66/14

8.3.2 State Planning Policy 3.7 Planning for Bushfire Risk Management

Location:	N/A
Applicant:	WAPC
File:	
Disclosure of Officer Interest:	Author is a member of FPAA and a bushfire consultant
Date:	5 th June 2014
Author:	Geoffrey Lush (Council Consultant)
Authorizing Officer:	A Lamb
Attachments:	1 Development application flowchart 2 BAL setback table

SUMMARY

This report is to consider the draft State Planning Policy 3.7 Planning for Bushfire Risk Management which has been advertised by the Western Australian Planning Commission.

In addition to the Policy it has been announced that the proposed State Bushfire Prone Mapping will be completed by November 2014 in the south west region. There will also be new Bushfire (Planning) Regulations in operation from May 2015. These will operate as part of the Town Planning Scheme and will be administered by Council.

While the general approach and provisions of the State Planning Policy are supported there are likely to be a number of issues with the implementation of the measures.

BACKGROUND

The State Government has released a new bushfire management framework which consists of:

- SPP 3.7 Planning for Bushfire Risk Management – advertised until 4th July.
- Planning for Bushfire Risk Management Guidelines – advertised until 1st August.
- Office of Bushfire Risk Management (OBRM) bushfire prone mapping specifications – to be released in June 2014.
- State bushfire prone maps – May 2015 (1st phase by November 2014).
- Bushfire (Planning) Regulations – May 2015.

In this report reference to AS3959 means Australian Standard AS3959 (2009) Construction of Buildings in Bushfire Prone Areas. The different levels of construction are referred to as Bushfire Attack Levels (BALs) and these are explained later in this report.

The draft State Planning Policy 3.7 Planning for Bushfire Risk Management (SPP 3.7) and the revised draft Planning for Bushfire Risk Management Guidelines have been prepared to strengthen bushfire risk management measures in the planning and development process. Specifically, the documents address the land use planning elements arising from the Keelty Inquiry into the Perth Hills Bushfire in February 2011.

The key measures in the framework are:

1. Elevating bushfire issues to be addressed in the highest level of planning policy available,
2. Emphasising the need to consider bushfire management measures in strategic level policy documents, and
3. Seeking to achieve the consistent implementation of bushfire risk management measures across the community.

SPP 3.7 Planning for Bushfire Risk Management

SPP 3.7 applies to all planning proposals located in bushfire-prone areas, including:

- regional planning schemes and amendments;
- sub-regional structure plans;
- local planning strategies;
- local planning schemes and amendments;
- district and local structure plans;
- subdivision applications; and
- development applications.

The key policy measures are summarised as follows:

1. Promoting that bushfire management be incorporated into the design of developments and subdivisions rather than as a condition of approval.
2. New development should provide the highest achievable level of protection from bushfire.
3. Responsible planning authorities should apply the 'precautionary principle' to all decision-making that potentially involves bushfire risk.
4. Proposals within identified bushfire-prone areas are to undertake a bushfire hazard assessment.
5. Proposals on land that has or will have a bushfire hazard level above "low" are to comply with the policy measures.

6. Any proposal in an area that has or will have an extreme bushfire hazard level, and/or requires construction standards of BAL-40 or BAL-FZ, shall not be supported unless it can be demonstrated that the risk can be reduced.
7. Any proposal in an area that has or will have a moderate bushfire hazard level, and where construction standards at or between BAL-12.5 and BAL-29 may apply, may be approved where it can be undertaken in accordance with policy measures.
8. Any planning proposal or development application to which the policy applies shall be accompanied by a Bushfire Management Plan prepared by a fire consultant.
9. Proposals with a BAL-40 or BAL-FZ rating shall only be supported if it is unavoidable development.
10. The decision-maker may require an independent assessment of the bushfire risk be undertaken by a fire consultant prior to a decision being made on any proposal.
11. Proposals for vulnerable or high-risk land uses in moderate bushfire hazard level areas shall not be supported unless they are accompanied by a Bushfire Management Plan.
12. The decision maker may impose conditions on subdivision or development applications to address bushfire protection issues in accordance with the policy.

Bushfire Risk Management Guidelines

The revised guidelines are designed to supplement the objectives and policy measures established in SPP 3.7. They also provide an overview of the Western Australian planning process as it relates to bushfire protection.

The Guidelines address:

- The identification of bush fire prone areas;
- Assessing bushfire risk;
- Applying SPP3.7; and
- Roles and Responsibilities.

Bush fire prone land will be designated in three ways:

1. On the proposed State Bushfire-Prone Area Map;
2. if the land is identified on a local government bushfire map; or
3. If the land is not covered by (1) or (2), but is within 100 metres of an area of bushfire-prone vegetation equal to or greater than one hectare.

The Planning for Bushfire Risk Management Guidelines include the “Bushfire Protection Criteria.” These replace the current Planning for Bush Fire Protection Guidelines and contain the performance measures and acceptable solutions for development and subdivisions.

Element 1 Location

A1.1 Development – Development is not to be located in an extreme hazard area or require the use of BAL-40 or BAL-FZ construction standards.

Element 2 Siting and Design of Development

A2.1 Hazard separation zone in areas with a moderate hazard rating. This may be reduced where AS3959 construction standards are applied.

A2.2 Building protection zone – 20m around dwellings.

A2.3 Hazard separation zone – fuel load requirements.

Element 3 Vehicular Access

A3.1 Two access routes required.

A3.2 Public roads construction specifications

A3.3 Cul-de-sac design criteria

A3.4 Battle axe design criteria

A3.5 Driveway design criteria

A3.6 Emergency access design criteria

A3.7 Fire service access design criteria

A3.8 Gates on emergency access ways design criteria

A3.9 Signs on emergency access ways.

Element 4 Water

A4.1 Hydrants in reticulated areas.

A4.2 Non reticulated areas – alternative supplies.

The above are generally the same as the existing Guidelines with the exception that the current Guidelines have a requirement for boundary firebreaks on land greater than 0.5 hectares in size.

As the Bushfire Protection Criteria form part of the SPP the Planning Commission will be the custodian of the documents whereas the Planning Commission and Department of Fire and Emergency Services jointly administer the current Guidelines.

Bushfire Regulations

It proposed to introduce Regulations to “capture” any bush fire prone land not addressed in the mapping. Bush fire prone land will include any land within 100m of land with more than 1 hectare of “bush fire prone vegetation.”

These Regulations will be prepared under section 256 of the Planning and Development Act 2005. They will operate as part of the Local Planning Scheme and be administered by Council.

It is proposed that residential development in close proximity to “bush fire prone vegetation” will require a planning approval.

CONSULTATION

- Department of Planning;
- Department of Fire and Emergency Services;
- Office of Bushfire Risk Management (OBRM);
- Fire Protection Association Australia (FPAA);
- Building Surveyor.

STATUTORY OBLIGATIONS

- Planning and development Act 2005
- Building Act 2011

COMMENT

While the immediate task is to consider and comment on the draft State Planning Policy many of the issues relate to the other subsequent documents some of which are not currently available.

This also includes consideration of the “Concept Paper” Review of the Emergency Services Acts.

The key objectives and measures in the Policy have existed for some time but have not had the importance of a State Planning Policy. The integration of bushfire management issues into the early phases of the planning process is critical in providing a sustainable outcome.

Bushfire Prone Land

The identification of bushfire prone land is the foundation element of the Policy. There are several different methods for doing this being:

- The generalized low, moderate and extreme hazard ratings in the Guidelines;
- The Bushfire Attack Level (BAL) rating under AS3959 Construction of Buildings in Bushfire Prone Areas; or

- Based upon the fuel loads found in the vegetation. Fuel loads relate the amount of fine fuel found close to ground level and is expressed as tonnes per hectare.

AS3959 classifies “low threat vegetation” and this includes grassland managed in a minimal fuel condition being less than 100mm in height. Unmanaged grassland is a defined vegetation type / hazard.

The proposed hazard assessment criteria classifies areas of pasture or cropping as a moderate hazard only when there is a slope greater than 10 degrees. This is the same criteria as in the current Planning for Bush Fire Protection Guidelines.

The proposed Regulations will refer to “bush fire prone vegetation” and this definition will be a critical factor in the operation of the Policy. It is assumed that this definition will be consistent with that used by OBRM for the State Bushfire Prone Area Map, but this has not been confirmed.

Within bushfire prone land it is proposed that:

- a) All dwellings will be required to be constructed in accordance with AS3959 Construction of Buildings in Bushfire Prone Land.
- b) All building applications must be accompanied by a BAL assessment. This is likely to apply in all the current Special Rural zones and potentially parts of the townsites and also rural settlements. On any rural land it will be necessary for every application to be checked against the maps to determine if it is affected or not.

There has not been any indication of whether building application fees will be increased to cover the additional administration costs to Council.

- c) All subdivision applications must be accompanied by a bushfire management plan. This will be a more significant issue for the development industry than it will be for Council. If the application demonstrates that the hazard will be removed i.e. by clearing then no bushfire management plan should be required.
- d) All Scheme amendments or structure plans must be accompanied by a bushfire management plan. This is in order to ensure that appropriate fire management measures are incorporated into the design and any statutory provisions. However whenever the subdivision design is altered it will be necessary to modify the bushfire management plan which will create additional work and delays. Councils should be able to have some flexibility in the level of detail in a bushfire management plan and advise the Commission accordingly.
- e) Development applications must have a hazard assessment done. Any land with native vegetation is likely to at least have a moderate hazard rating. A formal hazard assessment will in many instances just be confirming / stating the obvious. Whereas the real issue is assessing the impact of the development and the associated risks.
- f) Development applications may be required to have a bushfire management plan prepared to support the application. This should

be at Council's discretion. Requiring a bushfire management plan to support non compliant proposals is still likely to attract an objection from DFES.

- g) Irrespective of any existing Scheme provisions a planning application will be required for dwellings in areas with a BAL-40 or BAL-FZ rating. The determination of the BAL-40 or BAL-FZ rating will also be done through the BAL assessment process. This will be required before any development application is lodged and may have implications for Council in relation to resources and budget.

There are number of issues relating to BAL assessments which are discussed in the following section.

In relation to (g) above the likely process for considering a development application is shown in Attachment 1. There is an inherent contradiction between the Policy and the Regulations. While the Regulations might require a planning application for BAL-40 or BAL-FZ, the Policy has a strong presumption against this and any bushfire management plan which is submitted in support of this would not comply with the Bushfire Criteria. A non compliant bushfire management plan is unlikely to be supported by DFES.

It is not clear which agency (Council, DFES or WAPC) will be responsible for the approval of hazard assessments and bushfire management plans.

Bushfire Attack Levels (BALs)

AS3959 Construction of Building in Bush Fire Prone Areas provides measures for improving the ability of buildings to withstand burning debris, radiant heat and flame contact during a bush fire. The lower the separation distance from bushfire prone vegetation, the higher the standard of construction is required for building.

The Standard contains six Bushfire Attack Levels (BAL) categories as follows:

BAL Low	The risk is considered to be very low and does not warrant any specific construction requirements.
BAL 12.5	The risk is considered to be low but there is still a risk of ember attack.
BAL 19	The risk is considered to be moderate. There is risk of ember attack and burning debris by wind borne embers and a likelihood of exposure to radiant heat.
BAL 29	The risk is considered to be high. There is an increased risk of ember attack and burning debris by wind borne embers and a likelihood of exposure to an increased level of radiant heat.

BAL 40 The risk is considered to be very high.

BAL FZ The risk is considered to be extreme.

Each BAL level corresponds to different construction requirements.

The BAL assessment is based upon the type of vegetation within 100m of the development and the slope relative to that vegetation. There are 28 vegetation types categorized as:

- A Forest;
- B Woodland;
- C Shrubland;
- D Scrub;
- E Mallee/Mulga;
- F Rainforest; and
- G Grassland – unmanaged

The minimum development setbacks for the different BALs are shown in Attachment 2. The minimum BAL setbacks will take priority over traditional boundary setbacks in the Planning Scheme.

Council will be responsible for the approval of the BAL assessment.

While a number of Councils are implementing BAL levels there are many issues arising in relation to these including:

- The BAL assessment is based upon the site conditions when the assessment is done i.e. this would normally be uncleared.
- The BAL assessment does not include any right to clear land which must be done through another approval processes.
- The BAL assessment is for 100m from the site and this will often extend into a neighbouring property where the applicant has no control over vegetation maintenance.
- An uncleared vacant lot within an existing estate may impose BALs on the adjoining land which are then extinguished once that land is developed. The neighbouring lots have had to incur additional construction standards and expenses which are then no longer required.
- Many of the BAL setbacks conflict with the requirement for a 20m BPZ.
- Can the BAL assessment be subject to any conditions?
- Can the BAL assessment have regard to Council's fire break notice and any potential BPZ requirements?
- Can the Planning Scheme, structure plan or development approval stipulate minimum or maximum BAL levels?

The majority of the existing fire management plans in the Shire already require the use of different BALs.

Vulnerable and High Risk Uses

Vulnerable uses are those considered to have occupants with a lesser capacity to respond in the event of a bushfire. These include hospitals, nursing homes and retirement villages, tourist accommodation, childcare centres, schools, and corrective institutions.

High-risk land uses are those which may lead to the potential ignition, duration and/or intensity of a bushfire. These include uses which have flammable or otherwise hazardous materials.

These can be approved in areas with a moderate hazard rating subject to a suitable bushfire management plan.

It will be important to ensure that existing or proposed facilities especially within the townsite are not unduly affected by this provision.

Accreditation of Fire Consultants

A major issue with the above proposals is that there is currently no accreditation scheme in operation in Western Australia for people preparing or approving BAL assessments; hazard assessments or bushfire management plans.

Fire Protection Association Australia (FPAA) administers the national accreditation scheme known as Bushfire Planning and Design (BPAD). It presently operates in the eastern states and the FPAA are negotiating the introduction of it in Western Australia.

Under the Scheme there are three levels of accreditation being:

BPAD Level 1

- Determining the appropriate Bushfire Attack Level (BAL) using Method 1 (simplified method) of Australian Standard AS 3959-2009.
- Providing a report or advice that a building or proposed building is consistent with the bushfire construction provisions as specified in Australian Standard AS 3959-2009.
- Public and Product Liability insurance of a minimum of AUD \$10 million and Professional Indemnity insurance for a minimum of AUD \$2 million.

BPAD Level 2

- Preparation of a fire management plan and assessment of subdivisions and developments in accordance with the Planning for Bush Fire Protection Guidelines deemed to comply provisions.
- Public and Product Liability insurance of a minimum of AUD \$10 million and Professional Indemnity insurance for a minimum of AUD \$2 million.

BPAD Level 3

- The development of alternative solutions to those prescribed in with the Planning for Bush Fire Protection Guidelines Australian.
- The development of alternative solutions to those prescribed in Australian Standard AS 3959-2009 for the construction of buildings to address the performance requirements of the Building Code of Australia in accordance with regulatory requirements.
- Determining the appropriate Bushfire Attack Level (BAL) using Method 2 (detailed method) of Australian Standard AS 3959-2009.
- Public and Product Liability insurance of a minimum of AUD \$10 million and Professional Indemnity insurance for a minimum of AUD \$2 million.

The accreditation is done by the FPAA once the required training and experience has been achieved. The Level 2 & 3 practitioners presently undertake a Post Graduate course as one of the acceptable training requirements.

It is also likely that interim accreditation will be given to existing practitioners allowing them time to complete any gaps in their training.

It is intended that BPAD Level 2 practitioners will be able to certify that a bushfire management plan complies with the Bushfire Protection Criteria. This is so that it is suitable for lodgement of a subdivision or development application without prior approval of the bushfire management plan by Council or DFES.

The BPAD Level 1 which is especially relevant to undertaking BAL assessments may require completion of a short course i.e. one week duration.

While the SPP refers to fire consultants being accredited there is no such provision in relation to the Building Regulations. The FPAA is presently having discussions with the Building Commissioner regarding this.

Bushfire Management Plans

Bushfire management plans are not assigned any statutory weight in the proposed reforms. They will remain as a technical document which supports a planning proposal or a development application.

This will raise a number of potential issues with the implementation of the recommendations within a bushfire management plan. Potentially:

- Design issues should be incorporated into the subdivision or development plan;
- Development provisions should be incorporated into the structure plan; amendment provisions; or as conditions of development approval.
- Subdivision conditions requiring a bushfire management plan will still lapse when the conditions are cleared.

- Some maintenance recommendations could be included in the Fire Break Notice.

It is likely that the above implementation will be piecemeal and confusing. Recommendations may easily be missed especially if there is no subsequent development approval.

A possible solution is to have a general reference to bushfire management plans in the Planning Scheme as occurs in some Schemes at present. Effectively the bushfire management plan would be adopted under the Scheme and its recommendations would have greater statutory weight.

The better alternative would be for the proposed Regulations to also address this and so avoid Councils having to individually amend their Scheme.

Property Maintenance

The maintenance of the vegetation in the BAL setback is a contentious issue. This setback may vary from between 0 – 100m and must be maintained as low threat vegetation. If this is not maintained then the BAL rating is no longer applicable and the safety of residents may be compromised.

In order for the applicant to have control over the maintenance of the vegetation the BAL minimum setbacks (as shown in Attachment 2) should be contained within the subject land.

There have been suggestions that Council's Ranger should be responsible for inspecting these in conjunction with inspections for the Fire Break Notice. It would also be logistically difficult as neighboring properties can have different BAL setbacks.

Other suggestions include:

- Requiring an inspection whenever a property is sold; or
- Requiring the landowner to have a regular audit done by a fire consultant.

While this may not form part of the current SPP, it will be an important issue for Council to monitor as it potentially has budgetary implications.

Implications for Council

The implications to Council are summarized below.

1. Council will be required to review the draft State bush fire prone mapping within the municipality. It is then likely to become a party to any modification requests made by landowners to the Emergency Services Commissioner.

2. It is expected that the vegetated areas of the shire and land within 100m of this vegetation will be classified as being bush fire prone. This will require the checking of all building licence applications against the State bush fire prone mapping. Alternatively if the Regulations apply then this will have to be done by other means e.g. aerial photography.
3. The current building and planning application form and checklists will need to be modified.
4. Potential need to include a fee for the approval of BAL assessments in its annual fees and charges.
5. That there is likely to be an increase in the number of planning applications once the Regulations are introduced in May 2015.
6. The potential for Council to have to review BAL assessments; hazard assessments and bushfire management plans may require additional staff training and resources.
7. The potential for Council to have to review hazard assessments and bushfire management plans may result in additional costs. If considered as a planning cost then Council can charge a fee for this.
8. Council may need to review its Fire Break Notice especially in relation to maintenance measures contained in bushfire management plans.
9. There will be many more bushfire management plans which will need to be recorded and be readily available.
10. Council will need to prepare a planning/building policy in relation to Bushfire Attack Level classifications and associated issues. Especially as a BAL-40 or BAL-FZ rating will require a planning application under the Regulations.
11. Council will need to prepare a planning policy relating to the administration of the Policy in particular “unavoidable development.”

POLICY IMPLICATIONS

Council will have to review both building and planning policies.

BUDGET/FINANCIAL IMPLICATIONS

The administration of the Policy, State bushfire prone mapping and Regulations are likely to result in additional costs to Council.

STRATEGIC IMPLICATIONS

The draft State Planning Policy will have major planning implications for Council as it raises the importance of bushfire management issues and the need for such matters to be addressed prior to the lodgement of subdivisions, rezoning and some development applications.

SUSTAINABILITY IMPLICATIONS

- **Environmental**
The management of bushfire mitigation measures must balance other environmental issues especially in relation to vegetation.
- **Economic**
The implementation of the Policy will result in additional development and construction costs.
- **Social**
The risk posed by bushfires is one of the few planning matters which directly relates to public safety.

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.2

MOVED: Cr Oversby

SECONDED: Cr Aird

1 That in relation to the draft SPP3.7 Planning for Bushfire Risk Management, Council submit the following comments to the Western Australian Planning Commission:

- a) That the general principles within the Policy are supported but there needs to be more information on the proposed bushfire prone mapping and Regulations.**
- b) The interchanging of terminology in the Policy / Guidelines with that in AS3959 is confusing especially in relation to the hazard ratings. For example a low hazard rating does not equate to a BAL Low rating.**
- c) The classification of bushfire prone land is not clear in respect of planning proposals and development applications which may contain revegetation areas which will create the bushfire hazard where the vacant undeveloped land is not bushfire prone.**
- d) Consideration should be given to the proposed Regulations providing a statutory recognition of approved bushfire management plans. Reliance on Council's Firebreak Notice under Section 33 of the Bush Fires Act is considered to only provide a partial solution as it is restricted to those measures relating to fuel management.**
- e) Clause 6.1 is redundant as the Hazard Assessment criteria in Appendix 2 of the Guidelines stipulate that any land with a low hazard rating within 100m of hazard vegetation (i.e. bushfire prone land) shall be classified as having a moderate hazard rating. Hence on bushfire prone land planning proposals and development applications are required to comply with the Policy.**
- f) Clause 6.3 should highlight that the focus should be on what the hazard level will be on the developed site, rather than the undeveloped land.**
- g) Clause 6.4 requiring a BMP in areas with a moderate hazard rating is accepted.**
- h) Clause 6.5 would be made clearer by replacing "to which this policy applies" with "on bushfire prone land" given the comment in relation to Clause 6.1. The submitting of a bushfire management plan to Council in conjunction with a development application should still be at Councils discretion. The submittal of a bushfire management plan with a planning proposal to the WAPC needs to clarify which agency is responsible for the approval of that BMP. This is not clear in Section 5 Roles and Responsibilities.**
- i) Clause 6.6 requires more explanation regarding unavoidable development especially in relation to single dwellings on existing lots.**
- j) Clause 6.7 allowing the Decision Maker to request the preparation of a BMP is supported. It may be desirable to expand this so that it does not just apply on bushfire prone land.**

- k) **Clause 6.8 requiring DFES comments on structure plans, planning strategies etc is supported.**
 - l) **Clause 6.9 requiring DPaW comments structure plans, planning strategies etc which require land clearing is noted. As it can be expected that DPaW will normally object to such clearing or submit that it must be minimal, the Policy does not provide any guidance to Decision Maker as to how to resolve any such objection.**
 - m) **Clause 6.10 requiring vulnerable or high risk land uses to be supported by a BMP is supported.**
 - n) **Clause 6.11 allowing the Decision Maker to impose bushfire management conditions on an approval is supported.**
-
- 2 That further reports be submitted to Council as information becomes available on the proposed specifications for the State bushfire prone mapping; Regulations; training and accreditation.**
 - 3 That Council include provisional amounts in its Annual Fees and Charges for the consideration of BAL assessments and bushfire management plans.**
 - 4 That a new building/planning policy be prepared in relation to BAL assessments and associated processing of development applications.**

CARRIED 8/1

Res 67/14

8.3.3 Amendment No 16 – Removal of Restrictive Covenant

Location:	<i>DP13493 Knapp Street; Terry Road; Rogers Avenue and Reid Place</i>
Applicant:	<i>Shire of Boyup Brook</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>11th June 2014</i>
Author:	<i>Geoffrey Lush (Council Consultant)</i>
Authorizing Officer:	<i>A Lamb</i>
Attachments:	<i>1 Survey Plan</i>

SUMMARY

This report is to consider the adoption of Amendment No 16 to the Planning Scheme which will allow the revocation an existing covenant on a residential subdivision.

BACKGROUND

In the early 1980s Council subdivided land in Reid Place; Rogers Avenue and Knapp Street. As part of the sale of the land it imposed a restrictive covenant on the lots relating to:

- Dwellings are to be of brick construction;
- Dwellings are to have roofs with tiles; and
- The minimum size of any dwelling is 112sqm.

The covenant applies to Plan 13493 (see Attachment 1) and is worded as follows:

The Transferee for himself his executors administrators successors and assigns and registered proprietor for the time being of the land above described covenants with the Transferor (as the proprietor and for the benefit of each and every Lot on Plan 13493 save and except within the transferred Lot) and its successors and assigns that the exterior walls of any dwelling house erected on the land above described shall not be constructed of any other material than brick or brick veneer and that the roof of any dwelling house erected on the said land shall not be constructed of any other material than tiles and that the ground floor size of any dwelling house erected on the said land shall not be less than 112 square metres.

While the majority of lots have been built upon Council has received inquiries from purchasers seeking to construct dwellings which do not comply with the covenant and they have asked if this can be removed.

This matter was considered by Council at its March Meeting at which time it resolved that prior to considering an amendment to the Planning Scheme, Council write to the affected landowners seeking their views on the possibility of removing the covenant on Deposited Plan 13493.

CONSULTATION

- Landowners;
- State Lands; and
- Department of Planning.

While there were a number of inquiries from landowners no submissions were received.

STATUTORY OBLIGATIONS

- Land Administration Act 1997;
- Transfer of Land Act 1983;
- Planning and Development Act;
- Town Planning Regulations; and
- Planning Bulletin 91.

Section 7(1) of Schedule 7 of the Planning and Development Act stipulates that a Planning Scheme may contain a provision relating the extinguishment or variation of any restrictive covenant, easement or right of way.

The Town Planning Regulations (Model Scheme Text) provide the following standard clause relating to the restrictive covenants which only relates to restrictions on the number of dwellings.

A restrictive covenant affecting any land in the local planning scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the local planning scheme (including any covenant purporting to:

- (i) limit or restrict subdivision or
- (ii) limit or restrict the maximum area occupied by a dwelling), is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Planning Design Codes which apply under the local planning scheme.

COMMENT

There are a number of ways which a covenant can be varied or extinguished including:

- By agreement between the parties having an interest in the covenant;
- By an order of the Court; or
- By the implementation of a Town Planning Scheme.

Inclusion of a provision in the Planning Scheme does not automatically remove the covenant. The registered proprietor of the land must then apply (on a Form A5) for the removal of the covenant as an encumbrance on the title, quoting the notice in the Government Gazette and producing a letter or other evidence from the Local Government certifying that the land the subject of the application, was released from all or a defined part of the covenant by resolution of the Council. The duplicate certificate of title (if any) for the land burdened by the covenant must be produced.

The Model Scheme Text general provisions in relation to restrictive covenants should be included in the Scheme with an additional clause specifically relating to the subject land.

POLICY IMPLICATIONS

None

BUDGET/FINANCIAL IMPLICATIONS

None

STRATEGIC IMPLICATIONS

None

SUSTAINABILITY IMPLICATIONS

▪ Environmental

There are no known significant environmental issues.

▪ Economic

There are no known significant economic issues.

▪ Social

There are no known significant social issues.

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.3

MOVED: Cr Oversby

SECONDED: Cr Imrie

1 That Council, in pursuance of Section 75 of the Planning and Development Act 2005, amend Local Planning Scheme No 2 by

A) Updating the TABLE OF CONTENTS to reflect the Amending Text below:

5.23 Restrictive Covenants

B) Insert clause 5.23 as follows:

5.23 RESTRICTIVE COVENANTS

5.23.1. Subject to clause 5.23.2, a restrictive covenant affecting any land in the Scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under the Scheme.

5.23.2. Where clause 5.23.1. operates to extinguish or vary a restrictive covenant the local government is not to grant planning approval to the development of the land which would, but for the operation of clause 5.23.1, have been prohibited unless the application has been dealt with as an 'SA' use and has complied with all of the advertising requirements of clause 3.5.

5.23.3 The restrictive covenants, as referenced below are extinguished in respect to those land parcels detailed below

C166290 for: Lots 4 – 8 (inclusive) Plan 13493 Terry Road;

Lots 9 – 15 (inclusive) 16, 25, 26, 27, 40 and 41 Plan 13493 Rogers Avenue;

**Lots 17 and 22 Plan 13493 Knapp Street;
and**

Lots 28; 33 – 39 (inclusive) Plan 13493 Reid Place.

C153702 for Lot 1 Diagram 94503 Reid Place;

C171130 for Lot 45 Diagram 84579 Reid Place; and

C162026 for Lot 45 Diagram 84579 Reid Place.

- 2 That Council adopt Amendment No 16 for the purpose of advertising and referral.**
- 3 That in accordance with Section 81 of the Planning and Development Act 2005, the Amendment be referred to the Environmental Protection Authority for examination and assessment.**
- 4 Upon receipt of advice from the EPA that the Amendment is not subject to a formal environmental assessment, the Amendment shall be advertised and referred to government agencies for a period of 42 days in accordance with Section 83 of the Planning and Development Act 2005 and the associated regulations.**

CARRIED 9/0

Res 68/14

8.3.4 Subdivision Application (WAPC Ref 149976) Lot 734, Banks Road
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Location:	<i>Lot 734 Banks Road</i>
Applicant:	<i>A Doust</i>
File:	<i>A4472</i>
Disclosure of Officer Interest:	
Date:	<i>12th June 2014</i>
Author:	<i>Geoffrey Lush (Council Consultant)</i>
Authorizing Officer:	<i>A Lamb</i>
Attachments:	<i>1 Subdivision Plan</i>

SUMMARY

This report is to consider a referral of a subdivision application from the Western Australian Planning Commission.

The subject land is Lot 734 Banks Road which is zoned as Special Rural. Subdivision of the land is to be in accordance with the adopted subdivision guide plan.

The application is supported subject to conditions including the upgrading of Banks Road.

BACKGROUND

The subject land was rezoned to Special Rural by Amendment No 13 which was gazetted on the 26th October 2012.

Council adopted the revised subdivision guide plan at its Meeting in October 2013. The WAPC has yet to give final endorsement to the subdivision guide plan.

At this time it Council also resolved

3. To advise the applicant:
 - That in order to provide appropriate safe egress to Banks Road, Council at the time of subdivision will request the WAPC to require the construction of Banks Road for the full frontage of the subject land for which the applicant is responsible for half the cost in accordance with Council's Policy W.07 Road Contribution Policy as stated in Special Condition 14(a) of Schedule 3 - Special Rural Zone No 8.

- The fire management plan is to be updated and approved by DFES.
 - The creation of driveway crossovers onto Banks Road requires Council's approval and this approval will be based on the premise that Banks Road will be sealed and a reduced speed limit applied.
4. The an application be lodged with Main Roads Western Australia for a reduced speed limit for the section of Banks Road that is now sealed and the section that is to be sealed as part of this subdivision process.

The proposed Stage 1 subdivision plan is contained as Attachment 1. This will create six lots being:

Lot A – 4.8 ha;

Lot B – 4.6 ha;

Lot C – 5.2 ha;

Lot D – 4.2 ha;

Lot E – 4.0 ha; and

Lot F – 42 ha.

All lots will have direct frontage and access to Banks Road.

Lots C and E will have 6m wide battle axe legs approximately 240m in length. Lot F contains the existing residence which will need to construct a new driveway access to Banks Road.

CONSULTATION

Works Supervisor

Applicant

STATUTORY OBLIGATIONS

The subdivision and development of the land is subject to the Special Conditions contained in Schedule 3 of the Planning Scheme. These include:

- a) Subdivision is to be in accordance with the approved subdivision guide plan.
- b) All buildings shall be located within the defined building envelope.
- c) The landscaping areas shown on the Structure Plan shall be established, enhanced and managed in accordance with a Landscaping Plan approved by the Council and the Department of Water and Department of Environment and Conservation.

- d) A geotechnical report shall be provided to demonstrate that the areas where septic tank systems are proposed to be used are capable of disposing of effluent within each lot.
- e) All driveways and underground infrastructure shall be designed and constructed so as to avoid erosion impacts and storm water runoff to the satisfaction of Council.
- f) A fire management plan is to be prepared and implemented to the satisfaction of the Shire of Boyup Brook and FESA.
- g) The Fire Management Plan is to be prepared in conjunction with a Landscaping Plan.
- h) To provide appropriate fire management the existing plantation, or parts thereof, shall be harvested prior to the subdivision of the land.
- i) Prospective purchasers of land are to be advised of the Special Provisions
- j) Battleaxe access ways are to be constructed to the requirements and satisfaction of the Council.
- k) Council may request the Western Australian Planning Commission that any subdivision approval include a requirement that the applicant is to contribute to the upgrading of Banks Road to a sealed standard to access the subdivision, consistent with the Council W.07 Road Contribution policy.

COMMENT

Any subdivision approval should reflect the above provisions.

The subdivision application has not included several of the above matters including:

- The fire management plan;
- The landscaping plan; and
- The geotechnical report to effluent disposal.

While it is understood that the fire management plan is being revised this has not been received by Council and it is not known if the revisions specifically address Stage 1 of the subdivision.

Construction of Banks Road to a sealed standard is required in Council's in Council Policy W.07 Road Contribution and the applicant is responsible for half the cost of constructing Banks Road across the frontage of the subject land.

Presently Banks Road does not have any posted speed restrictions as it is a gravel road. There is a crest in the road near the boundary to Lots A & B which restricts the sight distance in both directions. There are no clear guidelines in relation to the sight distance requirements for driveways, especially in rural areas with a gravel road.

Ausroads is the principle reference document for the design of roads and intersections but it is not clear if Council should apply this to new

driveways. The relevant sight and stopping distances only apply on a sealed road. Once Banks Road is constructed then the speed limit could potentially be lowered to 80 kph. Where an 80 kph speed limit applies, then AS2890 requires a minimum stopping distance of 110m.

The need to potentially construct the full frontage of Banks Road for the first stage of the subdivision will potentially have financial implications for both the developer and Council.

An application has been made to MRWA to reduce the speed limit on Banks Road but can only occur once the road is sealed and line marked.

The Works Supervisor has advised that Council should not be approving any crossover where appropriate sight distances cannot be achieved. Pending the upgrading of Banks Road, the applicant would have to engage a consulting engineer to design and certify that any crossovers meet the relevant standards.

POLICY IMPLICATIONS

Policy W.07 Road Contribution is application to this application.

In relation to the Special Rural policy areas it states that a 50% contribution from landowners for the frontage of the properties on the southern side of Banks Road will be required when subdivision occurs.

The minimum standard of road construction for Special Rural (Rural Residential) zones and Rural Small Holdings subdivisions is a six (6) metre formed and sealed surface (two coat spray seal) with roadside drainage and crossovers.

The construction or upgrading costs may include the following:

- Field and feature surveys;
- Soil testing;
- Preparation of the road design;
- Application to the EPA for the removal of any remnant vegetation;
- Confirming the absence declared rare flora with DEC;
- Compliance with Native Title and Future Act requirements;
- Relocation of existing services (if required);
- Fencing and signage (if required);
- Twelve month maintenance bond and supervision fees.

BUDGET/FINANCIAL IMPLICATIONS

Council will be responsible for 50% of the cost of upgrading Banks Road and 100% of the cost for extending the existing seal from Lee Steere Drive to the eastern boundary of the subject land.

Depending upon when the subdivision occurs this may have implications for the approved 2014-2015 construction programme.

STRATEGIC IMPLICATIONS

None

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION – Item 8.3.4

- A) That in relation to the proposed subdivision of Lot 734, Banks Road (WAPC Ref 149976) Council advise the Planning Commission that it:
- (i) Council has adopted Local Planning Policy W.07 Road Contribution which specifically sets out the provisions for road construction in the Special Rural policy areas and upgrading of the adjoining (Banks) roads.
 - (ii) Banks Road is an unsealed gravel road with a derestricted speed limit. The subdivision design has lots fronting Banks Road and access to these lots (with suitable sight distances) requires a lower speed limit. An application has been made to MRWA for this but it will not be approved until such time as the road is sealed. Pending the upgrading of Banks Road Council will not approve any crossovers unless appropriate sight distances can be achieved. To demonstrate this, the applicant will have to engage a consulting engineer to design and certify that any crossovers meet the relevant standards.
 - (iii) The existing dwelling and effluent disposal systems already have the necessary clearance from the new boundaries as required under the relevant legislation including the Local Planning Scheme and Building Regulations of Australia.
 - (iv) Any subdivision approval should be subject to the following conditions:

1. In accordance with Special Condition 8(b) a landscaping plan for the areas shown on the structure plan shall be submitted to and approved by Council.
 2. In accordance with Special Condition 9(c) a geotechnical report shall be provided to demonstrate that the areas where septic tank systems are proposed to be used are capable of disposing of effluent within each lot.
 3. In accordance with Special Condition 14(a) satisfactory arrangements being made with the local government for the 50% cost of upgrading and/or construction of Banks Road for the frontage of the subject land in accordance with Council Policy W.07 Road Contribution.
 4. In accordance with Special Condition 11 a fire management plan shall be prepared, approved and relevant provisions implemented during subdivisional works, in accordance with the WAPC's Guideline Planning for Bushfire Protection Edition 2, May 2010 (in particular Appendix 3) to the specifications of the local government.
 5. In accordance with Special Condition 12 an information sheet shall be prepared to the requirements and satisfaction of Council advising prospective purchasers of the special zoning conditions applying to the subject land.
 6. Suitable arrangements being made with the local government for the provision of vehicular crossover(s) to service the lot(s) shown on the approved plan of subdivision.
 7. A notification, pursuant to section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:
 8. Notification in the form of a section 70A notification, pursuant to the Transfer of Land Act 1893 (as amended) is to be placed on the Certificates of Title of the proposed lot(s) advising that the subject land is contained in Special Rural Zone No 7 and the use and development of the land is restricted under provisions of the local government's Town Planning Scheme.
 9. The battleaxe access way(s) being constructed and drained at the applicant/owner's cost to the specifications of the local government.
- B) That a preliminary costing for the upgrading of Banks Road be prepared and submitted to Council for consideration.
- C) That the applicant be advised of the above.

COUNCIL DECISION

MOVED: Cr O'Hare

SECONDED: Cr Moir

- A) That in relation to the proposed subdivision of Lot 734, Banks Road (WAPC Ref 149976) Council advise the Planning Commission that:**
- (i) Council has adopted Local Planning Policy W.07 Road Contribution which specifically sets out the provisions for road construction in the Special Rural policy areas and upgrading of the adjoining (Banks) roads.**
 - (ii) Banks Road is an unsealed gravel road with a derestricted speed limit. The subdivision design has lots fronting Banks Road and access to these lots (with suitable sight distances) requires a lower speed limit. An application has been made to MRWA for this but it will not be approved until such time as the road is sealed. Pending the upgrading of Banks Road Council will not approve any crossovers unless appropriate sight distances can be achieved. To demonstrate this, the applicant will have to engage a consulting engineer to design and certify that any crossovers meet the relevant standards.**
 - (iii) The existing dwelling and effluent disposal systems already have the necessary clearance from the new boundaries as required under the relevant legislation including the Local Planning Scheme and Building Regulations of Australia.**
 - (iv) Any subdivision approval should be subject to the following conditions:**

1. In accordance with Special Condition 8(b) a landscaping plan for the areas shown on the structure plan shall be submitted to and approved by the Shire of Boyup Brook.
 2. In accordance with Special Condition 9(c) a geotechnical report shall be provided to demonstrate that the areas where septic tank systems are proposed to be used are capable of disposing of effluent within each lot.
 3. In accordance with Special Condition 14(a) satisfactory arrangements being made with the local government for the 50% cost of upgrading and/or construction of Banks Road for the frontage of the subject land in accordance with Council Policy W.07 Road Contribution.
 4. In accordance with Special Condition 11 a fire management plan shall be prepared, approved and relevant provisions implemented during subdivisional works, in accordance with the WAPC's Guideline Planning for Bushfire Protection Edition 2, May 2010 (in particular Appendix 3) to the specifications of the local government.
 5. In accordance with Special Condition 12 an information sheet shall be prepared to the requirements and satisfaction of the Shire of Boyup Brook advising prospective purchasers of the special zoning conditions applying to the subject land.
 6. Suitable arrangements being made with the local government for the provision of vehicular crossover(s) to service the lot(s) shown on the approved plan of subdivision.
 7. A notification, pursuant to section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:
 8. Notification in the form of a section 70A notification, pursuant to the Transfer of Land Act 1893 (as amended) is to be placed on the Certificates of Title of the proposed lot(s) advising that the subject land is contained in Special Rural Zone No 8 and the use and development of the land is restricted under provisions of the local government's Town Planning Scheme.
 9. The battleaxe access way(s) being constructed and drained at the applicant/owner's cost to the specifications of the local government.
- B) That a preliminary costing for the upgrading of Banks Road be prepared and submitted to the Shire of Boyup Brook for consideration.
- C) That the applicant be advised of the above.

CARRIED 9/0

Res 69/14

Geoffrey Lush left the Chambers at 6.40pm

Impartiality Interest

Cr Oversby declared an impartiality interest in the following item due to being a member of the Lions Club.

8.3.5 Scavenging Rights – Boyup Brook Transfer station

<i>Location:</i>	<i>Waste Transfer Station</i>
<i>Applicant:</i>	<i>Lions Club</i>
<i>File:</i>	<i>WM/31/002</i>
<i>Disclosure of Officer Interest:</i>	<i>None</i>
<i>Date:</i>	<i>12 June 2014</i>
<i>Author:</i>	<i>Alan lamb</i>
<i>Authorizing Officer:</i>	<i>Not applicable</i>
<i>Attachments:</i>	<i>Letter</i>

SUMMARY

The purpose of this report is to put before Council the Lions Club request that it be permitted to take ownership of recyclable goods, at the transfer station, and on sell those goods from the site. The recommendation is that Council authorise the Chief Executive Officer to permit these activities for the time being, and until changes are made to the collection and disposal of waste material.

BACKGROUND

The Lions Club has sold certain recyclable goods collected by the Shire and stored at transfer station for a number of years but there appears to be no formal agreement to support this. In more recent times the Lions have built up a small retail business, at the transfer station, where it sells material that others have dumped.

COMMENT

The purpose of this item is to allow the CEO to formalise current informal practices to make them legal, maintain the community groups income stream and to minimise waste to landfill. Council's relationship with the Bunbury Wellington Group of Councils (BWGC), and the joint tendering done, last year, for collection of waste and disposal of recyclables, will eventually lead to all recyclable waste, from properties in the town, being collected by a contractor, taken to a central location in the region and becoming the property of Perth Waste. Similarly, the work being done by BWGC toward a regional waste disposal site will result in a totally regional

approach to waste disposal. This is expected to include the closure of the land fill site and all materials that go to the transfer station now, including recyclable material, being transported to a regional facility. Any agreements put in place will therefore be fairly temporary and subject to change as the circumstances change.

Traditionally, Council has sold car bodies and other large metal items and retained the proceeds, and all other saleable goods have provided benefit to the Lions. There is no plan to change this arrangement.

CONSULTATION

The author has spoken with the Lions President, and other Lions officials, over an extended period of time.

STATUTORY OBLIGATIONS

Rubbish collection, Transfer stations and waste disposal sites are regulated by various pieces of legislation. The process to formalise the arrangements will include an intensive study of all relevant controls.

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

The Strategic Community Plan includes the following:

OUTCOMES	OBJECTIVES	PRIORITIES
	Enhanced refuse and recycling opportunities	<ul style="list-style-type: none">✦ Investigate the expansion of the Shire's refuse collection service.✦ Examine extension of Waste Transfer Station opening hours.✦ Examine potential to introduce free waste transfer station vouchers as part of annual refuse collection service.

SUSTAINABILITY IMPLICATIONS

- **Environmental**
There are no known significant environmental issues.
- **Economic**
There are no known significant economic issues.

- **Social**
There are no known significant social issues.

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.5

MOVED: Cr Imrie

SECONDED: Cr Blackburn

That Council authorise the Chief Executive Officer to permit the current activities of the Lions Club, as they relate to waste disposal, for the time being, and until changes are made to the collection and disposal of waste material in the Shire.

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 70/14

8.3.6 Blackwood Basin Group – Nominations for Committee

Location:	N/A
Applicant:	BBG
File:	CR/31/004
Disclosure of Officer Interest:	None
Date:	12 June 2014
Author:	Alan lamb
Authorizing Officer:	Not applicable
Attachments:	letter

SUMMARY

The purpose of this report is to bring before Council the Blackwood Basin Group's (BBG) invitation to nominate a Committee member with the recommendation that Council nominate an interested Council Member.

BACKGROUND

The BBG has invited Council to nominate a representative to fill a vacancy on its Management Committee for the upcoming two year period.

There are two positions for the Middle Catchment Group (Shires of Boyup Brook, Bridgetown/Greenbushes and Donnybrook/Balingup) one of which is occupied by Dr Per Christensen. The three Shires of the Middle Catchment Group have been invited to nominate a person to fill the one vacancy. The nominated person does not have to be a Councillor.

In the event there are two or more nominations, a ballot will be held to select the new Committee member.

Nominations, which close 27 June, 2014, have to be on the Shire letterhead and be endorsed by the nominee.

COMMENT

It is recommended that Council nominate a Council Member.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

One of the Strategic Community Plan goals is:

Natural Environment

- *Maintain and preserve the natural environment, enhancing the 'river and forest' experience of Boyup Brook.*

SUSTAINABILITY IMPLICATIONS

- **Environmental**
There are no known significant environmental issues.
- **Economic**
There are no known significant economic issues.
- **Social**
There are no known significant social issues.

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.6

MOVED: Cr Moir

SECONDED: Cr Blackburn

That Council nominate Councillor Kaltenrieder for the position of Committee member on the Blackwood Basin Group Committee.

CARRIED 9/0

Res 71/14

8.3.7 Boyup Brook Swimming Pool - improvements

Location:	Shire Swimming Pool
Applicant:	Heated Multi Purpose Therapeutic Pool Committee
File:	
Disclosure of Officer Interest:	None
Date:	12 June 2014
Author:	Alan Lamb
Authorizing Officer:	Not applicable
Attachments:	Copy of letter

SUMMARY

The purpose of this report is to put before Council the offer, with conditions, made by the Heated Multi Purpose Therapeutic Pool Committee (HMPTPC), with the recommendation that it be accepted.

BACKGROUND

As Members will be aware, the HMPTPC had been seeking to have another pool constructed at the Shire pool facility. The group had conducted various fundraising activities over a number of years, in order to fund its aspirations.

Council passed the following resolution at its December 2013 meeting:

That the Heated Multi Purpose Therapeutic Pool Committee may build and operate a facility but Council will not contribute toward the up front or ongoing costs.

In January 2014 the HMPTPC wrote seeking approval for it to use a portion of the area of Reserve land fenced for the purposes of operating a public pool facility (i.e. the swimming pool area), for its planned pool facility. Administration sought more detail from the group and Council dealt with the request at its February 2014 meeting, where it passed the following resolution:

- 1. Council does not agree to the Heated Multi Purpose Therapeutic Pool Committee's request for approval to use a portion of the Boyup Brook Swimming Pool area for its proposed new facility.***
- 2. The Heated Multi Purpose Therapeutic Pool Committee be asked if it would consider partnering with Council to provide heating, and other associated improvements, for the existing pool facility, as an alternative to its new facility.***

COMMENT

The HMPTPC considered Council's proposal and responded as per the attached letter (which was provided as information at the May briefing session).

In dealing with this matter it was considered that the conditions put, by the group, could be agreed to at an administrative level. However this would then not provide Council with an opportunity to formally recognise the generous offer, and it would deny the opportunity for the offer to be recorded in the Council minutes, and so become a part of the permanent and public record.

Taking the detail from the letter, the HMPTPC advised as follows:

The Committee agrees:

1. That the Shire Council may only use the amount of \$100,000 as the ***Community Contribution*** in any funding applications that it shall apply for.
2. That the executive of our Committee be allowed to view any application forms for such funding.
3. That the understanding of Council is that this Community Contribution can ***only*** be applied to the actual heating of the current pool.
4. That Council make a firm undertaking that the Pool will be opened from the beginning of October to the end of April each year.
5. That an Honour Board showing the names of contributors to the Tile Fund (as advised by the Heated Pool Committee) be supplied by Council and erected at the Pool as recognition of their donation.
6. That every endeavour be made to advise/instruct the new Pool Manager of the requirements of pool users – i.e. the walkers and the lap swimmers who may want to use the pool at the same time, as well as others who may only be able to swim early in the day.

We look forward to receiving written confirmation that these matters will be taken on board out of respect for our effort in raising \$100,000.

Council included a project to heat the existing pool in its long term planning and had this scheduled for 2013/14. Funding constraints meant that the project had to be dropped from that budget. The HMPTPC's offer of a very significant contribution will enable Council to seriously consider this project for 2014/15. The funding will also better enable Council to attract external

funding, such as that available from the Department for Sport and Recreation.

It is suggested that the conditions, set by the HMPTPC, are achievable and not too onerous. As discussed with the group, the heating will make it practical to open the pool earlier each year and close it later, and this may be achieved, with minimal additional costs, by rationalising opening hours and days in accordance with demand cycles. The notion of an honour board was also discussed with the group and would be a relatively inexpensive, attractive and very fitting, display for a prominent area of the complex. In terms of using the groups funds for the heating only, this would be achieved by showing the correct mix of funds in the Shire's accounts (that is the donation would be shown as funding the heating). From an administrative perspective, the intent is to work with the group on the project, including the grant finding application. The HMPTPC will not only get the opportunity to see the application, it will be a partner in the project. With regard to the Pool Manager accommodating walkers and lap swimmers needs, this is part of the normal operation now and will continue to be so.

From a management perspective, and in consultation with the current, and newly appointed new, Pool Manager, the HMPTPC's conditions are mutual goals and so we see no difficulty in meeting them.

It is recommended that Council resolve to recognise the HMPTPC's very generous offer and accept it along with the conditions sought.

The HMPTPC's impressive efforts and generous offer is testament to the tenacity, diligence and creativity of the community, and to the vision and leadership very clearly demonstrated by this group.

CONSULTATION

The author has spoken with Council, the HMPTPC, and other Shire staff.

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

The HMPTPC's offer will make the project of heating the existing pool achievable. Council's recently adopted long term planning includes pool improvements in 14/15 and the draft budget, being prepared for that year, will also include this project.

STRATEGIC IMPLICATIONS

The 2013/ Strategic Community Plan includes relevant objectives as follows:

OUTCOMES	OBJECTIVES	PRIORITIES
Sustainable community	Build community participation, interactions and connections.	<ul style="list-style-type: none"> ✦ Engagement with community in promotion of Boyup Brook. ✦ Increase volunteer support.
Community needs for services and facilities are met	Ensure access to services and facilities as needs change within the community.	<ul style="list-style-type: none"> ✦ Develop and implement service plans that detail aim of service, level and frequency of service, and partnerships required to deliver services.
Increased Visitors and Residents	Attract permanent residents	<ul style="list-style-type: none"> ✦ Promote the family friendly lifestyle of Boyup Brook.
Council and Community Leadership	Provide leadership on behalf of the community.	<ul style="list-style-type: none"> ✦ Lobby and advocate for improved services, infrastructure, and access to. ✦ Develop partnerships with stakeholders to enhance community services and infrastructure.
	Foster community participation and collaboration.	<ul style="list-style-type: none"> ✦ Develop a community engagement strategy and provide opportunities for community participation. ✦ Support volunteers and encourage community involvement.

SUSTAINABILITY IMPLICATIONS

- **Environmental**
There are no known significant environmental issues.
- **Economic**
There are no known significant economic issues.
- **Social**
There are no known significant social issues.

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.7

MOVED: Cr Moir

SECONDED: Cr Walker

- 1. That Council resolve to accept the Heated Multi Purpose Therapeutic Pool Committee's offer and conditions.**
- 2. That Council resolve to formally thank the Heated Multi Purpose Therapeutic Pool Committee for its generous offer of funding assistance to heat the existing Shire swimming pool, and ask the Shire President to write to the group, on behalf of Council, to advise of its decision and gratitude.**

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 72/14

8.3.8 Chief Executive Officer – Annual Performance and Remuneration Review

Location:	<i>Boyup Brook district</i>
Applicant:	<i>N/A</i>
File:	<i>N/A</i>
Disclosure of Officer Interest:	<i>The author has an interest in the matter in that it deals with his employment.</i>
Date:	<i>12 June 2014</i>
Author:	<i>Alan Lamb – Chief Executive Officer</i>
Authorizing Officer:	<i>Alan Lamb</i>
Attachments:	<i>Nil</i>

SUMMARY

The purpose of this item is to bring the matter of the Chief Executive Officer's (CEO) Annual Performance and Remuneration Review (APRR) before Council in order to commence the process.

BACKGROUND

The CEO commenced service 18 August 2008 and the current contract of employment provides for annual review as follows;

4. Performance Criteria and review

4.1 Performance Criteria

- (1) Within 3 months of the Commencement Date, the Council and You must negotiate and determine the Performance Criteria.
- (2) The Performance Criteria must be reasonably achievable by You.
- (3) You must use every reasonable endeavour to comply with the Performance Criteria.

4.2 Performance Criteria and review

Your performance under this Contract, must be reviewed and determined by the Reviewer –

- (a) by reference to the Performance Criteria;
- (b) at least annually; and
- (c) more frequently if the Council or You perceives there is a need to do so and, in that case, gives to the other party a Review Notice.

4.3 Selection of Reviewer

- (1) The Council, in consultation with You, is to determine, in respect of each review under clause 4.2 and 4.5 -
 - (a) who the Reviewer is to be; and
 - (b) whether the Reviewer is to be accompanied or assisted by any other person and, if so, the identity of that person.
- (2) For example, the Reviewer may be –
 - (a) the Council;

- (b) a committee to which the conduct of the performance review has been delegated by the Council under section 5.16 of the Act; or
- (c) a person or body who has been authorised by the Council to conduct the performance review.

4.4 Procedure

- (1) Subject to any alternative procedure agreed between the Council and You, a performance review under this clause must include the following procedures -
 - (a) You must give the Council at least one month's written notice of when Your performance review is required;
 - (b) the Council must decide, under clause 4.3, who is to conduct the performance review and must give You at least 10 working days' notice in writing of when the performance review is to be conducted and who is to conduct it;
 - (c) within 14 days after being given notice under paragraph (b), You must prepare a report assessing Your performance against the Performance Criteria, and give that report to the Reviewer;
 - (d) You and the Reviewer will discuss the process and timing of the performance review, which must include at least one interview session that provides for mutual discussion and feedback;
 - (e) You must ensure that You are available for the performance review as reasonably required by the Reviewer;
 - (f) You may be accompanied at an interview session by any other person nominated by You;
 - (g) within one month of the conclusion of the performance review, the Reviewer must prepare a report, in consultation with You, to be signed by both the Reviewer and You, that includes -
 - (i) conclusions about Your performance during the period covered by the performance review;
 - (ii) any proposal by either party to amend the Performance Criteria as a consequence of the performance review;
 - (iii) any directions or recommendations made to You in relation to the future performance by You; and
 - (iv) details of the extent, if any, to which You disagree with any statement in the report;
 - (h) if the Reviewer is not the Council, that report must then be submitted to the Council for consideration; and

- (i) under regulation 18D of the *Local Government (Administration) Regulations 1996*, the Council is to accept the report with or without modifications, or is to reject the report.
- (2) Reports and other documentation prepared under, or for the purposes of, this clause are to be treated by the parties as confidential.

4.5 Review and amendment

The Performance Criteria –

- (a) must be reviewed annually by the parties; and
- (b) may be amended, from time to time, by agreement in writing between the parties.

7. Annual Review of Remuneration Package

- (1) Your Remuneration Package must be reviewed by the Reviewer annually –
 - (a) at a time that is no later than 3 months after the anniversary of the Commencement Date; or
 - (b) if otherwise determined by the Council, at a time that enables the review to coincide with other remuneration reviews conducted by the Shire.
- (2) The Council is to determine and notify You, in respect of each Remuneration Package review under this clause –
 - (a) who the Reviewer is to be; and
 - (b) whether the Reviewer is to be accompanied or assisted by any other person and, if so, the identity of that person.
- (3) In reviewing Your Remuneration Package and Your Performance Bonus, the Reviewer must have regard to –
 - (a) Your performance;
 - (b) any changes to the work value or responsibilities of the Position;
 - (c) the hours worked by You, including hours in addition to normal working hours;
 - (d) the condition of the market and the economy generally; and
 - (e) the capacity of the Shire to pay an increase.
- (4) As a result of a review of Your Remuneration Package under this clause, the Shire
 - (a) is not obliged to increase the amount of the Remuneration Package;
 - (b) may increase the amount of the Remuneration Package;
 - (c) must not reduce the amount of the Remuneration Package; and
 - (d) will give due regard to the general adjustment to the remuneration of Local Government CEOs that the Salaries and Allowances Tribunal determines each year.

Council resolved at its August 2013 meeting as follows:

That Council commence the process of the Chief Executive Officer's Annual Performance Review by requesting that the Shire President write to the officer notifying of the review in accordance with the employment contract.

At its October 2013 meeting Council resolved as follows;

That the following Chief Executive Performance Criteria apply for the year to 18 August 2014:

- ***Provide accurate and timely advice to the Council.***
- ***Annual review of all relevant long term plans, as part of the budget preparation process and to add the new tenth year, to Council for adoption by 30 June each year.***
- ***Draft budget to Council for adoption by 31st July each year.***
- ***Maintain a high level of financial control and reporting as assessed by periodic audits and financial systems reviews.***
- ***Ensure progress of projects identified in the Corporate Business plan i.e. achievement of specific milestones as they appear in the Strategic, Business and Long Term Financial Plans.***

COMMENT

The Local Government Act provides that meetings are to be open to the public also that some matters may be dealt with behind closed doors (see Statutory Obligations). Council may close to members of the public a part of a meeting dealing with matters affecting employees.

It will be noted that the review process is started by the CEO giving at least one month's written notice of when the review is required. This report meets this requirement.

The next step is for Council to decide who is to conduct the review and then give the CEO at least 10 working days' notice in writing of when the review is to be conducted and who is to conduct it.

In terms of who is to conduct the review process, this could be Council as a whole, a committee, or a person or body. In the past, Council has generally opted to deal with the matter as a whole, on one occasion it opted to employ a consultant (WALGA). It is the author's experience, of each of the options listed, is that they all work reasonably well. Council may wish to discuss the options with the officer at the meeting, and then decide on who is to conduct the process. The next step is for Council to give the CEO notice of when the review is to be conducted and who is to conduct it. In the past, this process has entailed Council resolving that the President write to the officer, the CEO preparing a draft for the President and the President then providing that notice.

If Council intends to conduct the review as a whole, it may wish to discuss the process and timing, with the CEO, at the meeting (satisfying clause 4.4(1)(d) of the agreement).

The terms of the agreement provides the option of an external facilitator to be used. The cost of using a facilitator tends to be in the order of \$3,000 to \$4,000 depending on the extent of travel and time involvement. It is suggested that there may be no need for a facilitator, at least initially, unless Council felt the need for independent assistance/advice. The Executive Assistant would be able to assist with the clerical aspects of the review process if Council chose to conduct it "in house", that is via a Committee of Council or Council as a whole, and is well practiced in dealing with confidential matters.

From the officer perspective, I am more than happy to deal directly with Council but, at the same time, will respect whatever decision is made in this regard.

The recommendation does not include the engagement of a consultant to assist it with these matters but if the decision was to take this option Council may wish to add the following;

That _____ of _____ be appointed to conduct the Chief Executive Officer's annual review and that the officer be advised accordingly.

If Council opts to conduct the process in house, either via a committee or as a whole, then it may wish to consider, for the purposes of discussing with the CEO, the following process and timing:

17 July 2014	Reviewer reviews CEO's self-assessment report, meets with the CEO for mutual discussion and feedback, the CEO record the outcomes of the discussions for the purposes of drafting the Reviewer's report (Clause 4.4(1)(g). The intention would be for these activities to occur on the Council meeting day prior to the scheduled proceedings.
24 July	CEO to provide Reviewer with draft report.
14 August	Reviewer confirms report, discusses report with the CEO, both parties sign the report.
21 August	Reviewer submits report to Council for consideration, Council resolves to accept, or reject, the report, and its recommendations, with or without modifications.

Note, If Council was agreeable, the processes listed for 14 August could be done on the Council meeting day (21 August) and prior to the meetings. That is, if the Reviewer is a Committee of Council, then the Committee could meet to confirm the report, discuss it with the CEO and then meet with Council to deliver the report either directly to the Council meeting, or in a briefing style of meeting held prior to the scheduled meetings. If the Reviewer is Council as a whole, then the same process could be followed, excepting that there would be no need to deliver the report to Council. The idea would be that there would be an item in the Council meeting agenda, for that day, that dealt with a final determination by Council.

STATUTORY OBLIGATIONS

The following sections of the Local Government Act deal with delegations;

5.16. Delegation of some powers and duties to certain committees

- (1) Under and subject to section 5.17, a local government may delegate* to a committee any of its powers and duties other than this power of delegation.*
** Absolute majority required.*
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*
- (3) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —*
 - (a) a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and*
 - (b) any decision to amend or revoke a delegation under this section is to be by an absolute majority.*
- (4) Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.*

5.17. Limits on delegation of powers and duties to certain committees

- (1) A local government can delegate —*
 - (a) to a committee comprising council members only, any of the council's powers or duties under this Act except —*
 - (i) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government; and*
 - (ii) any other power or duty that is prescribed;**and*
 - (b) to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and*
 - (c) to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of —*
 - (i) the local government's property; or*
 - (ii) an event in which the local government is involved.*
- (2) A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f).*

[Section 5.17 amended by No. 49 of 2004 s. 16(2).]

5.18. Register of delegations to committees

A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.

Section 5.23 of the Local Government Act has application.

5.23. Meetings generally open to the public

- (1) *Subject to subsection (2), the following are to be open to members of the public —*
- (a) *all council meetings; and*
 - (b) *all meetings of any committee to which a local government power or duty has been delegated.*
- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*
- (a) *a matter affecting an employee or employees;*
 - (b) *the personal affairs of any person;*
 - (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;*
 - (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
 - (e) *a matter that if disclosed, would reveal —*
 - (i) *a trade secret;*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person,**where the trade secret or information is held by, or is about, a person other than the local government;*
 - (f) *a matter that if disclosed, could be reasonably expected to —*
 - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;*
 - (ii) *endanger the security of the local government's property; or*
 - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety;*
 - (g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and*
 - (h) *such other matters as may be prescribed.*
- (3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

The following Regulation, from the Local Government (Administration) Regulations, has relevance:

18D. *Performance review of CEO, local government's duties as to*

A local government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.

[Regulation 18D inserted in Gazette 31 Mar 2005 p. 1038.]

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Provision was made in the 2013/14 Budget to cover the estimated cost of a consultant to assist Council with the process. However this provision was removed at the half year budget review. It is anticipated that the review process will be conducted in the 2014/15 financial year, and so there is the opportunity for Council to commit to the provision of funds, to employ a consultant, in the 2014/15 Budget.

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

- **Environmental**
There are no known environmental issues at this stage.
- **Economic**
There are no known economic issues at this stage.
- **Social**
There are no known social issues at this stage.

VOTING REQUIREMENTS

Simple Majority unless there is a resolution to engage a consultant.
Absolute majority if Council opts to engage a consultant and commit to expenditure in 2014/15

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.8

MOVED: Cr Aird

SECONDED Cr Oversby

That Council:

Appoint a committee to conduct the Chief Executive's annual performance and remuneration review and that the Shire President write a letter to the Chief Executive Officer.

CARRIED 9/0

Res 73/14

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.8

MOVED: Cr Blackburn

SECONDED: Cr Kaltenrieder

That the Committee constitute all members of Council to the Chief Executive's Annual Performance and Remuneration Review Committee.

CARRIED 5/4

Res 74/14

9 COMMITTEE REPORTS

9.1.1 Minutes of the Bunbury Wellington Group

Location: Shire of Boyup Brook
Applicant: N/A
File:
Disclosure of Officer Interest: Nil
Date: 8 June 2014
Author: Alan Lamb - CEO
Attachments: Yes – Minutes

BACKGROUND

The Bunbury Wellington Group of Councils meeting was held on 23rd May 2014.

Minutes of the meeting are laid on the table and circulated.

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 9.1.1

MOVED: Cr Aird

SECONDED: Cr Imrie

That the minutes of the Bunbury Wellington Group of Councils meeting held on 23rd May 2014 be received.

CARRIED 9/0

Res 75/14

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11 URGENT BUSINESS BY APPROVAL OF THE PRESIDENT OR A MAJORITY OF COUNCILLORS PRESENT

11.1.1 Emergency Services Act – Review

The President approved this late item being introduced in order that Council may deal with the Bushfire Advisory Committee's recommendations in relation to the review.

MOVED: Cr Giles

SECONDED: Cr Moir

Cr Giles moved that Council provide a response to the review of the Emergency Services Act based on the recommendations of the Bushfire Advisory Committee.

CARRIED 9/0

Res 76/14

12 CONFIDENTIAL MATTERS – BEHIND CLOSED DOORS

Nil

13 CLOSURE OF MEETING

There being no further business the Shire President, Cr Giles thanked all for attending and declared the meeting closed at 7.10pm.