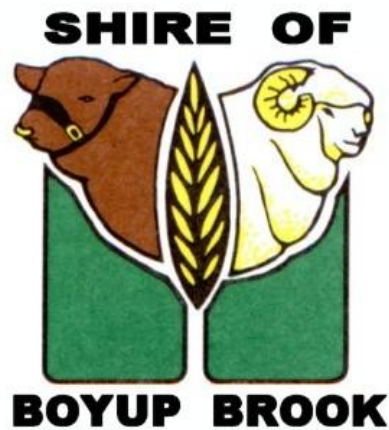


MINUTES



ORDINARY MEETING

held

THURSDAY 16 FEBRUARY 2017
Commenced AT 5.10PM

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 G Aird – Deputy Shire President
Cr N Blackburn
Cr J Imrie
Cr P Kaltenrieder
Cr K Moir
Cr E Muncey
Cr T Oversby
Cr E Rear

STAFF: Mr Alan Lamb (Chief Executive Officer)
Mr Stephen Carstairs (Director Corporate Services)
Mr Rob Staniforth-Smith (Director of Works & Services)
Ms Kerry Fisher (Manager of Finance)
Mrs Maria Lane (Executive Assistant)
Mr Adrian Nicoll (Planning Consultant)
Dr Michiel Mel

PUBLIC: Mr Doug Corker
Mr Ralph Knapp

Apologies

Cr M Giles

1.2 Leave of Absence

2 PUBLIC QUESTION TIME

- Ralph Knapp thanked Council and the Community for receiving his award for Citizen of the Year.
- Ralph Knapp provided pictures of the display at the Royal Show which showed a display of crops, fruit and vegetables giving the public a closer inspection of the South West produce.
- Ralph Knapp informed Council that the Chowerup Cemetery board has received a letter from the Department of Local Government & Communities urging us to relinquish control of our cemetery by transferring its management to the Boyup Brook Shire.
- Doug Corker would like to see Six Mile Road bitumised as it has some issues.

2.1 Response to Previous Public Questions Taken on Notice

3 APPLICATIONS FOR LEAVE OF ABSENCE

Ralph Knapp left the Chambers at 5.51pm

4 PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS

- Cr Kaltenrieder attended the CRC meeting in December 2016 & January 2017, attended the Australia Day breakfast and attended the Blackwood Basin Group meeting.
- Cr Blackburn thanked the Shire staff for assisting with the Australia Day event. The Shire received seven nominations for Citizen of the Year, three for Sportsman and one for Young Achiever which is a good response from the Community.
- Cr Aird attended the Australia Day breakfast and thanked Cr Blackburn for assisting with this event.
- Cr Oversby attended the BRVMA meeting and advised Council that the BRVMA is in the process of disbanding itself and provided the following report:-

"After 30 years of providing regional development, supported by the Shire Councils within the Valley, to promote the Blackwood River Valley Tourism Associations and Operators and instigating numerous regional initiatives to enhance the visibility of the area, it has run its course.

The development of larger regional bodies encouraged and supported by Shire Councils, State Government and Tourism South West have replaced the role of this Association.

The Nannup Shire has recently withdrawn their continued support of representation on the committee. The Bridgetown Shire has withdrawn financial support. We have been unable to attract a President since the AGM in August to lead the committee. There has not been a quorum in attendance for the last four meetings.

Cr Oversby recommends that the Boyup Brook Tourism Association supported by the Shire Council endeavour to maintain close ties with the Southern Forests and Valley Group."

- Cr Aird attended a presentation where Hon Terry Redman presented funds to the Saint John Ambulance Centre which will go towards extending the shed.
- Dr Mel informed Council that he has organized a mountain bike ride for locals and tourism which has been going for 2 months, around 30 locals have participated at different times. Seeking support from the Shire for workers and material to assist with developing a cycle track.

- Dr Mel informed Council that he will be meeting with the Rural Health West Department in relation to the recruitment process for a new Doctor and is seeking funding for advertising.
- Dr Mel informed Council that the Mental Health Action Group has been meeting for a year and has achieved a good understanding between the High School and Medical Centre. The Group wishes to develop a position for a Mental Health Community Officer to be employed at the Community Resource Centre and is seeking \$10,000 from the shire.

Dr Mel will present to Council a business case and provide information on what credentials this person must have.

- Mr A Nicoll donated two Planning Scheme Maps to Council for future reference.

5 CONFIRMATION OF MINUTES

5.1 Ordinary Meeting of Council - Thursday 15 December 2016

COUNCIL DECISION & OFFICER RECOMMENDATION - Item 5.1

MOVED: Cr Muncey

SECONDED: Cr Kaltenrieder

That the minutes of the Ordinary Meeting of Council held on Thursday 15 December 2016 be confirmed as an accurate record.

CARRIED 8/0

Res 03/17

6 PRESIDENTIAL COMMUNICATIONS

Nil

7 COUNCILLORS QUESTIONS ON NOTICE

Nil

8 REPORTS OF OFFICERS

8.1 MANAGER WORKS & SERVICES

Nil

COUNCIL DECISION

MOVED: Cr Moir

SECONDED: Cr Blackburn

That the Council adopts enbloc 8.2.1, 8.2.2, 8.2.3, 8.2.4 and 8.2.5.

CARRIED 8/0

Res 04/17

8.2 FINANCE

8.2.1 List of Accounts Paid in December 2016

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>7 February 2017</i>
Author:	<i>Kerry Fisher – Manager of Finance</i>
Authorizing Officer:	<i>Alan Lamb – Chief Executive Officer</i>
Attachments:	<i>Yes – List of Accounts Paid in December</i>

SUMMARY

In accordance with the *Local Government (Financial Management) Regulations 1996* the list of accounts paid in December 2016 are presented to Council.

BACKGROUND

This report presents accounts/invoices received for the supply of goods and services, salaries and wages, and the like which were paid during the period 01 to 31 December 2016.

COMMENT

The attached listing represents accounts/invoices the shire paid by cheque or electronic means during the period 01 to 31 December 2016.

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 accorded with a detailed 2016-17 Annual Budget

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.2.1

That at its February 2017 ordinary meeting Council receive as presented the list of accounts paid in December 2016, totalling \$852,173.42 and as represented by:

Municipal Cheques	20023-20030	\$111,877.24
Municipal Electronic Payments	EFT 4816-EFT 4945	\$477,720.37
Municipal Direct Payments		\$262,575.81

CARRIED BY ENBLOC

Res 05/17

Dr Mel left the Chambers at 6.25pm

Dr Mel returned to the Chambers at 6.27pm

8.2.2 List of Accounts Paid in January 2017

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>7 February 2017</i>
Author:	<i>Kerry Fisher – Manager of Finance</i>
Authorizing Officer:	<i>Alan Lamb – Chief Executive Officer</i>
Attachments:	<i>Yes – List of Accounts Paid in December</i>

SUMMARY

In accordance with the *Local Government (Financial Management) Regulations 1996* the list of accounts paid in January 2017 are presented to Council.

BACKGROUND

This report presents accounts/invoices received for the supply of goods and services, salaries and wages, and the like which were paid during the period 01 to 31 January 2017.

COMMENT

The attached listing represents accounts/invoices the shire paid by cheque or electronic means during the period 01 to 31 January 2017.

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 accorded with a detailed 2016-17 Annual Budget

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.2.2

That at its February 2017 ordinary meeting Council receive as presented the list of accounts paid in January 2017, totalling \$333,472.50 from the Municipal Account and \$5,250.00 from the Trust Account and as represented by:

Municipal Cheques	20031-20036	\$11,527.51
Municipal Electronic Payments	EFT 4946-EFT 5003	\$146,231.07
Municipal Direct Payments		\$175,713.92
Trust Fund Cheques	2077-2079	\$5,250.00

CARRIED BY ENBLOC

Res 06/17

8.2.3 30 November 2016 Statement of Financial Activity

Location:	Not applicable
Applicant:	Not applicable
File:	FM/10/003
Disclosure of Officer Interest:	None
Date:	7 February 2017
Author:	Kerry Fisher – Manager of Finance
Authorizing Officer:	Alan Lamb – Chief Executive Officer
Attachments:	Yes – Financial Reports

SUMMARY

This report recommends that Council receive the Statement of Financial Activities and Net Current Assets for the month ended 30 November 2016.

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 *Statement of Financial Activity*.

The regulations also prescribe the content of the reports, and that details of items of Material Variances shall also listed.

COMMENT

It is a statutory requirement that the statement of financial activity be prepared each month (Regulation 34.(1A)), and that it be presented at an ordinary meeting of the Council within 2 months after the end of the month to which the statement relates (Regulation 34.(4)(a)).

CONSULTATION

Alan Lamb – Chief Executive Officer

STATUTORY OBLIGATIONS

Local Government (Financial Management) Regulations 1996, Regulation 34.(1A)

Local Government (Financial Management) Regulations 1996, Regulation 34.(4)(a)

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

As presented in the attached reports.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.2.3

That having regard for any material variances, Council receive the 30 November 2016 Statement of Financial Activity and Statement of Net Current Assets, as presented.

CARRIED BY ENBLOC

Res 07/17

8.2.4 31 December 2016 Statement of Financial Activity

Location:	Not applicable
Applicant:	Not applicable
File:	FM/10/003
Disclosure of Officer Interest:	None
Date:	7 February 2017
Author:	Kerry Fisher – Manager of Finance
Authorizing Officer:	Alan Lamb – Chief Executive Officer
Attachments:	Yes – Financial Reports

SUMMARY

This report recommends that Council receive the Statement of Financial Activities and Net Current Assets for the month ended 31 December 2016.

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 *Statement of Financial Activity*.

The regulations also prescribe the content of the reports, and that details of items of Material Variances shall also listed.

COMMENT

It is a statutory requirement that the statement of financial activity be prepared each month (Regulation 34.(1A)), and that it be presented at an ordinary meeting of the Council within 2 months after the end of the month to which the statement relates (Regulation 34.(4)(a)).

CONSULTATION

Alan Lamb – Chief Executive Officer

STATUTORY OBLIGATIONS

Local Government (Financial Management) Regulations 1996, Regulation 34.(1A)

Local Government (Financial Management) Regulations 1996, Regulation 34.(4)(a)

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

As presented in the attached reports.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.2.4

That having regard for any material variances, Council receive the 31 December 2016 Statement of Financial Activity and Statement of Net Current Assets, as presented.

CARRIED BY ENBLOC

Res 08/17

8.2.5 31 January 2017 Statement of Financial Activity

Location:	Not applicable
Applicant:	Not applicable
File:	FM/10/003
Disclosure of Officer Interest:	None
Date:	8 February 2017
Author:	Kerry Fisher – Manager of Finance
Authorizing Officer:	Alan Lamb – Chief Executive Officer
Attachments:	Yes – Financial Reports

SUMMARY

This report recommends that Council receive the Statement of Financial Activities and Net Current Assets for the month ended 31 January 2017.

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 *Statement of Financial Activity*.

The regulations also prescribe the content of the reports, and that details of items of Material Variances shall also listed.

COMMENT

It is a statutory requirement that the statement of financial activity be prepared each month (Regulation 34.(1A)), and that it be presented at an ordinary meeting of the Council within 2 months after the end of the month to which the statement relates (Regulation 34.(4)(a)).

CONSULTATION

Alan Lamb – Chief Executive Officer

STATUTORY OBLIGATIONS

Local Government (Financial Management) Regulations 1996, Regulation 34.(1A)

Local Government (Financial Management) Regulations 1996, Regulation 34.(4)(a)

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

As presented in the attached reports.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.2.5

That having regard for any material variances, Council receive the 31 January 2017 Statement of Financial Activity and Statement of Net Current Assets, as presented.

CARRIED BY ENBLOC

Res 09/17

8.3 CHIEF EXECUTIVE OFFICER

8.3.1 Policy Manual – Review of Policies – Planning Section
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Location:	Shire of Boyup Brook
Applicant:	Shire of Boyup Brook
File:	N/A
Disclosure of Officer Interest:	None
Date:	16 February 2017
Author:	A. Nicoll, Town and Regional Planner
Authorizing Officer:	Alan Lamb, Chief Executive Officer
Attachments:	Policy Manual – Section 5 - Updated

SUMMARY

The Shire of Boyup Brook maintains a manual of policies adopted by the Council (Policy Manual).

The Policy Manual has seven sections:

1. Administration;
2. Building;
3. Finance;
4. Members;
5. Planning;
6. Works; and
7. Other.

The purpose of this report is to put before Council, a review of Section five (5) of the Shire of Boyup Brook Policy Manual, which deals with matters relating to 'Planning'.

This report item makes recommendations, which include revoking and amending Policies within the 'Planning' section of the Policy Manual.

BACKGROUND

Some of the Policies contained within the Shire's Policy Manual were adopted in 2006 and 2007, ten years ago and are therefore due for review.

There are ten (10) Policies adopted under Section 5 – 'Planning' of the Policy Manual. They include:

1. Landscaping Provisions – Commercial and Industrial Buildings;
2. Subdivisions – Drain and Fill Conditions;
3. Subdivisions and Amalgamation;
4. Outbuildings;
5. Bed and Breakfast Accommodation;
6. Farm Chalets;
7. Feedlots (Extensive Stock Farming);
8. Naming New Roads;
9. Aged Accommodation (Granny Flats) – Special Rural Zone; and
10. Fire.

COMMENT

Policies are essentially guidelines, which are used to help make decisions.

Policies should be consistent with the Shire’s Scheme and where any inconsistency arises the Scheme prevails.

Council should not adopt a Policy, which emulates legislation or policy already endorsed by the state of Western Australia. The Council should merely make reference to the relevant policy for decision making.

Council is not bound to follow a Policy, however, the Council should have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its decision.

This report assesses Policies in the ‘Planning’ section of the Shire’s Policy Manual to determine if any amendments are necessary. The methodology used to assess the various Policies includes:

1. Identifying issues of current Policy objectives and provisions;
2. Identifying inconsistencies between Policies and other legislation; and
3. Making recommendations to amend or repeal policy(s) based on issues and inconsistencies.

Policy	Purpose of Policy	Policy issues/recommendations
1. Landscaping Provisions – Commercial and Industrial Buildings	<p>The use and development of industrial and commercial areas is generally unappealing to the eye. The buildings are generally bulky with simple design features. Products such as scrap metal, sand and gravel and machinery are often stored outside. Extensive bitumen areas are developed for car parking and advertising is used to entice customers.</p> <p>The landscaping policy was therefore</p>	<p>There are no issues or inconsistencies pertaining to Policy No.1.</p> <p>It is recommended that no amendments are made to the Policy No.1.</p>

	<p>introduced to improve the look of commercial and industrial areas by ensuring areas are developed with gardens and trees. The landscaping policy currently requires 5% of a lot to be landscaped.</p>	
<p>2. Subdivisions – Drain and Fill Conditions</p>	<p>When it rains, depending on the velocity of rain and soil type, water filtrates into the soil and/or flows on the surface.</p> <p>When the land is subdivided and developed, often this entails filling and excavating the land and developing retaining walls on property boundaries. Subdivision and development therefore more often than not, alters the direction and velocity of surface water flow, which means:</p> <ul style="list-style-type: none"> • Engineering design solutions may need to be employed; and • Neighbours may need to be consulted. <p>Engineering design solutions need to ensure that the post development flow rates are similar to the pre development flow rates and ultimately neighbouring land uses are not impacted.</p> <p>Current drain and fill policy provisions include:</p> <ul style="list-style-type: none"> • No fill shall be placed in areas designated as flood ways. • All fill should be retained on the lot by the use of retaining walls or ensuring the natural angle of repose is not exceeded. • Fill placed on a lot to meet Local Government Authority standards should be compacted to a degree that will allow typical development. • Where a comprehensive drainage system exists or is proposed, a subdivider should be required to 	<p>There are no issues or inconsistencies with the current Policy No.2 provisions. The provisions are in accordance with best practice measures recommended by the Department of Water.</p> <p>It is recommended that the following additional provisions are included in accordance with engineering and building standards generally adhered to across the state of WA.</p> <p>Fill/Retaining</p> <ul style="list-style-type: none"> • Development approval and a Building Permit may be required for any retaining walls over 0.5m from natural ground level. • Retaining walls exceeding 1m in height require structural certification. • Retaining walls shall be entirely contained within the boundaries of a single lot. <p>Drainage</p> <ul style="list-style-type: none"> • Appropriate drainage is to be installed behind retaining walls. • Stormwater management shall be in accordance with the Department of Water ‘Stormwater Management Manual’ and address the following: <ul style="list-style-type: none"> ▪ Re-use of stormwater; ▪ Stormwater discharge to the Shire’s drainage system must be at or below predevelopment rates. ▪ Post-development flow rates are to be attenuated to pre-development flow rates through the provision of adequate temporary detention storage. ▪ Discharge to the Shire’s system is to be via a silt trap located within the property. ▪ Connection to the Shire’s system is to be via a 90mm Stormwater Grade PVC pipe to a manhole located in the verge fronting the lot.

	<p>contribute to the cost.</p>	<ul style="list-style-type: none"> ▪ Treatment of the 1 year average recurrence interval event; ▪ Sizing of pipe systems to accommodate the 5 year average recurrence interval event; ▪ Provision of storage infrastructure sized to attenuate the 10 year average recurrence interval event to predevelopment flow rates to protect the downstream drainage system; ▪ Overland flood route for the 100 year average recurrence interval event; ▪ Specific requirements of downstream receiving waters and existing upstream catchment. <p>Note: Refer also to Shire Policies <i>B04 – Stormwater Drainage</i> and <i>W13 - Connection of Private Landholders Stormwater into Councils Stormwater Drainage System</i>.</p>
<p>3. Subdivision and Amalgamation</p>	<p>The subdivision of land is governed by the Western Australian Planning Commission (WAPC). On receipt of an application to subdivide land, the WAPC forwards the application to relevant authorities (e.g. Local Government, Western Power and Water Corporation) requesting comment (not consent).</p> <p>The WAPC then either approves or refuses the application in accordance with adopted State Planning Policy(s). An approval notice is often subject to conditions, which arise from state policy and comments posted by government authorities.</p> <p>Prior to obtaining new titles, the applicant is required to complete any conditions of approval within three years of the approval notice.</p> <p>The Shire has adopted a set of provisions forming the basis of comments and recommendations to the Western</p>	<p>The Shire’s Policy No.3, pertaining to the subdivision of ‘Rural’ zone land is somewhat misleading and contrary to the <i>State Planning Policy 2.5 – Rural Planning</i>.</p> <p>The Shire’s Policy infers that the Shire Council has the authority to refuse or approve applications for subdivision when actually the Western Australian Planning Commission is the governing authority for subdivisions.</p> <p>The policy also supports the subdivision of lots to a minimum 40ha where demonstrated that subdivided lots would be viable. This principle is dissimilar to criteria considered by the <i>State Planning Policy 2.5 – Rural Planning</i>. The <i>State Planning Policy 2.5 – Rural Planning</i> only considers rural subdivision in the following exceptional circumstances:</p> <ul style="list-style-type: none"> • to realign lot boundaries with no increase in the number of lots, where the resultant lots will not adversely affect rural land uses; • to protect and actively conserve places of cultural and natural heritage; • to allow for the efficient provision of utilities and infrastructure and/or for access to natural resources;

	<p>Australian Planning Commission prior to the determination of the subdivision of <u>rural</u> land.</p> <p>Current subdivision provisions relating to rural land include:</p> <ul style="list-style-type: none"> • The Council should consider: <ul style="list-style-type: none"> ▪ the size, dimensions and shape of each lot; ▪ whether or not services are available; ▪ suitability of access; ▪ whether the land has been declared unfit for building under the provisions of the Health Act 1911; ▪ The provisions of Town Planning Scheme No 2; ▪ Any other matter relating to the proposed subdivision or amalgamation which the Council in its opinion considers necessary or desirable in relation thereto including: <ul style="list-style-type: none"> ○ Bush Fire Protection measures; ○ Flood prone land; ○ Battleaxe blocks; and ○ Subdivision boundary to suit topography. ▪ Supporting the subdivision of lots to a minimum 40ha where demonstrated that subdivided lots would be viable. 	<ul style="list-style-type: none"> • to allow for the continued occupation of existing homesteads when they are no longer used as part of a farming operation; and • for other unusual or unanticipated purposes which, in the opinion of the WAPC, do not conflict with this and other relevant policies and are necessary in the public interest. <p>It is recommended that the following provisions are deleted as they are contrary to the <i>State Planning Policy 2.5 – Rural Planning</i> and the Shire is not the governing agency for the subdivision of land.</p> <p>1. In order to achieve the objectives contained in Clause 5.2 of Town Planning Scheme No 2, the Council will not generally support the subdivision of land within the Rural Zone into lots having a minimum size of less than 80 hectares except for:-</p> <p>a) Amalgamation;</p> <p>b) Boundary realignments provided no additional lots are created. In accordance with Recommendation 12 of the Rural Strategy lots may have a minimum area of 20 hectares where the land is located within 10kms of the townsite.</p> <p>c) Any subdivision required for public works;</p> <p>d) Where the lot is a minimum of 40ha and all of the criteria in Recommendation 2 of the Rural Strategy are met. These relate to the lot having a minimum of 30ha of land with a high land capability rating (class 1 or 2) and long term secure access to a suitable water supply; as evidenced by a hydrologist's and agronomist's report.</p> <p>It is also recommended that any reference to the Local Rural Strategy in the Policy No.3 is deleted as recommendations in the Local Rural Strategy are contrary to the <i>State Planning Policy 2.5 – Rural Planning</i>.</p>
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		<p>f) The provisions of Town Planning Scheme No 2, the approved Local Rural Strategy or any regulations under the Act made by the Minister, and / or any town planning by-laws by the local government wherein the land to be subdivided or amalgamated is situated.</p> <p>h) Where the subdivision of land requires access via an unconstructed road reserve or a substandard road (as defined in Policy W0.7) then in accordance with Recommendation 4(c) of the Rural Strategy, Council may object to the application where it is not accompanied by a commitment from the applicant to construct or upgrade the road to a suitable standard.</p>
<p>4. Outbuildings</p>	<p>Outbuildings (sheds) are generally developed and used to store materials incidental to a business or dwelling. Outbuildings are also used to undertake manufacturing, wholesale, home business or showroom type activities.</p> <p>Outbuildings are development with differing sizes and in different locations on a property. The size and location of an outbuilding generally relates to the proposed use, the size of the property and the location of other developments.</p> <p>Large outbuildings are accepted in commercial and industrial areas, however they need to be located appropriately to enable access, car-parking and landscaping. Large outbuildings in residential areas are generally not accepted as they dominate the landscape and detract from the look of the dwelling.</p>	<p>It is recommended that no amendments are made to the Policy No.4 'Outbuildings' for the following reason:</p> <ol style="list-style-type: none"> 1. This policy appropriately guides the development of outbuildings proposed to be used for: <ol style="list-style-type: none"> a. Domestic storage incidental to a dwelling; and b. Where appropriate in accordance with Scheme 2, intensive uses such as cottage industry, commercial, rural industry, light industry, transport depot and stables. 2. The policy also adequately seeks to minimise adverse impacts outbuildings may have on a locality.

	<p>The outbuilding policy was introduced to minimise adverse impacts outbuildings may have on a locality.</p> <p>Provisions include:</p> <ul style="list-style-type: none"> • Locating outbuildings behind dwellings so that the streetscape is characteristic of dwellings with appealing design features and not uninteresting outbuildings; and • Constructing outbuildings using low-reflective materials or colours, which blend with the landscape (dark blue, green, brown or red). 	
<p>5. Bed & Breakfast Accommodation</p>	<p>Bed and Breakfast means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast.</p> <p>A key concern with respect to the occupation of dwellings by persons seeking short stay accommodation is to ensure that the use will not adversely impact (e.g. noise) on residential amenity currently enjoyed by residents in surrounding properties.</p> <p>The Shire adopted a bed and breakfast policy to enable an alternative tourist accommodation type whilst ensuring the amenity of neighbouring properties is protected.</p> <p>Current provisions include:</p> <ul style="list-style-type: none"> • Accommodation may not be occupied by the same tenant/s for a continuous period of more than 4 months in a 12 month period; • A maximum of 6 guests shall occupy the premises at any one time 	<p>The Policy No. 5 incorrectly states that:</p> <p><i>Bed and Breakfast accommodation is a land use not listed in the Scheme.</i></p> <p>A recent amendment to the Shire's <i>Local Planning Scheme No.2</i> included Bed and Breakfast as a use in its Zoning Table and with its own definition in schedule 1 of the scheme.</p> <p>It is therefore recommended that the following text in the Policy No.5 is deleted:</p> <p>A Bed and Breakfast accommodation will be classified as a "home occupation" as prescribed in the Town Planning Scheme and shall be defined as an existing dwelling whereby the owner/occupier of an existing dwelling offers short stay accommodation to the travelling public.</p> <p><i>Locations/Zones</i></p> <p>Bed and Breakfast accommodation may only be located in the residential, urban, special rural or</p>

	<p>dependent upon the maximum number of bedrooms approved by the Shire.</p> <ul style="list-style-type: none"> • Compliance with the Scheme’s definition of “Home Occupation” and restrictions contained therein. • The minimum lot size of a Bed and Breakfast accommodation in residential and urban zones is 800m². 	<p>rural zones with the Council’s approval.</p> <p>Bed and Breakfast accommodation is a land use not listed in the Scheme. The Shire in classifying this type of accommodation as a ‘home occupation’ deems such use to be an “SA” use under the scheme which is defined as ‘a use that is not permitted unless the Council has granted planning approval after giving notice in accordance with clause 3.5, which requires the CEO to carry out the following:-</p> <p>1 notice of the proposed development to be served on the owners and occupiers likely to be affected by the granting of planning approval stating that submissions may be made to the Council within 21 days of the service of such notice.</p> <p><i>Home Occupation</i></p> <p>Compliance with the Scheme’s definition of “Home Occupation” and restrictions contained therein.</p> <p>It is recommended that the following text is added in-line with the Shire’s scheme and to clarify owner/manager responsibility.</p> <p><i>“Bed and Breakfast Accommodation” means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast.</i></p> <p>1) <i>The owner/manager of the Bed and Breakfast accommodation will reside on-site.</i></p>
<p>6. Farm Chalets</p>	<p>The Shire adopted a policy, allowing rural property’s that are greater than 10 hectares, to develop chalets. Chalets are then offered for lease to tourists for short</p>	<p>When the ‘Farm Chalets’ policy was adopted, the term ‘Chalet’ was not defined. The policy therefore used the schemes definition for ‘Holiday Cottage’.</p> <p>The scheme has since been amended and the term</p>

	<p>term accommodation.</p> <p>The policy defines a Chalet as a ‘Holiday Cottage’, which is a ‘detached dwelling on one lot let for holiday purposes, which may not be occupied by the same tenant for a continuous period of more than four (4) months.’</p> <p>The policy requires landowners to enter into a legal agreement with the Shire to ensure standards such as car parking, the provision of drinking water and fire management measures are adhered.</p>	<p>‘Chalet’ is listed in the scheme’s Zoning Table, with a definition as follows:</p> <p><i>“Chalet” means an individual self-contained unit usually comprising cooking facilities, ensuite, living area and one or more bedrooms designed to accommodate short-stay guests, forming part of a tourism facility and where occupation by any person is limited to a maximum of three months in any 12-month period.</i></p> <p>It is therefore recommended that the policy is amended by deleting reference to the ‘Holiday Cottage’ definition.</p> <p>Statement</p> <p>Farm Chalets are formally defined as ‘Holiday Cottages’ under the Town Planning Scheme No. 2.</p> <p>The Scheme’s Zoning Table indicates that a ‘Holiday Cottage’ is an ‘AA’ use in both the ‘Rural’ and ‘Urban’ zones. It also indicates that ‘Holiday Cottages’ is an ‘SA’ use in the ‘Rural’ zone and an ‘AA’ use in the ‘Urban’ zone.</p> <p>An “SA” use under the scheme which is defined as ‘a use that is not permitted unless the Council has granted planning approval after giving notice in accordance with clause 3.5, requires the CEO to carry out the following:-</p> <ol style="list-style-type: none"> 1. Where the application proposes 2,3 or 4 chalets, notice of the proposed development to be served on the owners ;land occupiers likely to be affected by the granting of planning approval stating that submissions may be made to the Shire within 21 days of the service of such notice:- 2. Where the application proposes 5 or more chalets:- <ol style="list-style-type: none"> a) notice of the proposed development to be served on the owners and occupiers likely to be affected by the granting of planning approval stating that submissions may be made to the Shire within 21 days of the service of such notice, b) notice of the proposed development to be published in a newspaper circulating in the scheme area stating that submissions may be made to the Shire within 21 days from the publication thereof.
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		<p>The Scheme defines a 'Holiday Cottage' as a 'detached dwelling on one lot let for holiday purposes, which may not be occupied by the same tenant for a continuous period of more than four (4) months.'</p> <p>The scheme (as amended) may consider the development of a chalet on Lots that are zoned 'Special Rural'. Special Rural Lots are generally 2 hectares in area. It is therefore unreasonable to restrict the development of a chalet on a 'Rural' zone property that is less than 10 hectares in area.</p> <p>It is therefore recommended that the policy is amended to support chalets on 'Rural' properties, regardless of lot size.</p> <p><i>Minimum Lot Size:</i></p> <p>A farm chalet or chalets shall not be approved in a 'Rural' zone where that location/lot is less than ten (10) ha in area.</p> <p>It is not necessary for a legal agreement to be drawn up between the Shire and the landholder to ensure standards are adhered to. A Development Approval Notice, with conditions, is sufficient enough to ensure compliance in accordance with enforcement measures enacted by the <i>Planning and Development Act 2005</i>.</p> <p>It is therefore recommended that the following text is deleted:</p> <p><i>Future Owners – Notification of Conditions:</i></p> <p>The landowner and all future landowners shall enter into a legal agreement with the Shire to ensure the specific conditions are adhered to. A caveat, recognising this agreement, is to be lodged on the certificate of title.</p>
7. Feedlots (Extensive Stock Farming)	A feedlot is a confined yard area with watering and feeding facilities where stock are completely hand or mechanically fed for the purpose of	There are no issues or inconsistencies pertaining to Policy No.7.

	<p>production.</p> <p>Current policy provisions include:</p> <ul style="list-style-type: none"> • Locating feedlots: <ul style="list-style-type: none"> ▪ at-least 5km from townsites; ▪ on gently sloping land; ▪ on soils with sufficient infiltration; and ▪ with a minimum 3m separation distance to groundwater. 	<p>It is recommended that no amendments are made to the Policy No.7 – Feedlots.</p>
<p>8. Naming New Roads</p>	<p>The Shire adopted a policy to determine the process for naming new roads.</p> <p>Current standards include:</p> <ul style="list-style-type: none"> • Using names sourced from: <ul style="list-style-type: none"> ▪ Aboriginal names; ▪ Pioneers of the State or area; ▪ War casualty list; and ▪ Thematic names (e.g. fauna, ships etc.) • Not using names of living individuals; and • Avoid using first names, difficult to pronounce names or commercialised names. 	<p>There are no issues or inconsistencies pertaining to Policy No.8.</p> <p>It is recommended that no amendments are made to the Policy No.8 – Naming New Roads.</p>
<p>9. Aged Accommodation (Granny Flats) – Special Rural Zone</p>	<p>The Shire adopted a policy to allow a second residence on ‘Special Rural’ properties for persons over the age of 55, subject to:</p> <ul style="list-style-type: none"> • a maximum of one bedroom, living room, kitchen, laundry, and bathroom and toilet; • wheel chair access • located within 50 metres of the main residence • confirmation in writing to the shire that it will be used by persons 55 years or older who are relatives of one of the owner/occupiers of the main residence. 	<p>Since the adoption of Policy No.9 the Shire’s scheme has been amended to include the use ‘Ancillary Accommodation’ within ‘special rural’ and ‘rural small holding’ zone properties.</p> <p>An ancillary dwelling is defined as a:</p> <p><i>Self-contained dwelling on the same lot as a single house which may be attached to, integrated with or detached from the single house.</i></p> <p>An ancillary dwelling may be used to serve the same purpose as a granny flat.</p> <p>The scheme states the following for the ‘special rural’ and ‘rural small holding’ zone:</p>

		<p>5.3.7 Caretaker Dwelling or Ancillary Accommodation</p> <p>The Council may permit a caretaker dwelling or ancillary accommodation if:</p> <p>a) appropriately justified by the applicant and addresses relevant planning consideration; and</p> <p>b) it is located within a defined building envelope area or building exclusion area on a structure plan or the immediate curtilage of the primary dwelling where a building envelope is not defined, and complies with the criteria applicable to an 'Ancillary dwelling' in the Residential Design Codes and the local government's Local Planning Policy.</p> <p>It is therefore recommended that the Policy No. 9 is revoked as it is no longer required.</p>
<p>10. Fire</p>	<p>The Shire adopted a policy to assist in reducing the probability and impact of bushfire to:</p> <ul style="list-style-type: none"> • New dwellings; • Additions to existing dwellings; and • Outbuildings located (Class 10a) within 6m of a dwelling. <p>Provisions include:</p> <ul style="list-style-type: none"> • 20m cleared areas being maintained around buildings; • The development of a water tank designed to hold at least 30,000l for firefighting purposes; and • The construction of buildings in accordance with Australian Standards 3959. 	<p>Since the adoption of Policy No. 10, the state government has adopted legislation and guidelines to administer development in bushfire prone areas.</p> <p>The <i>LPS Amendment Regulations 2015</i> complement <i>State Planning Policy 3.7 Planning in Bushfire Prone Areas</i> and the accompanying <i>Guidelines for Planning in Bushfire Prone Areas</i>.</p> <p>These planning instruments create a revised planning framework for bushfire risk management with the overall objective of preserving life and reducing the impact of bushfire damage on property and infrastructure while ensuring that conservation values are taken into account.</p> <p>It is therefore recommended that the Policy No. 10 is revoked as it is no longer required.</p>

STATUTORY OBLIGATIONS

A local planning policy may apply generally or in respect of a particular class or classes of matters specified in the policy and may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.

A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.

The local government may amend or revoke a local planning policy.

The procedure for amending or revoking planning policies is to occur in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

In making a determination to make, amend or revoke a local planning policy, the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

CONSULTATION

In accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*, if the local government resolves to amend or revoke a local planning policy, the local government shall, advertise the proposed amendment or revoked policy in a newspaper circulating in the Scheme area, for at least 21 days.

After the expiry of the period within which submissions may be made, the local government shall review the proposed amendment or revoked policy in the light of any submissions made.

VOTING REQUIREMENTS

Simple majority

SUMMARY

On review of 'Planning' Policies adopted in the Shire's Policy Manual, it is recommended that some Policies are amended and some Policies are revoked.

Reasons for amending or revoking Policies include:

- Inconsistencies with the Shire's *Local Planning Scheme No.2* and State legislation/policy; and
- Bringing in-line with current standards.

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.3.1

MOVED: Cr Kaltenrieder

SECONDED: Cr Oversby

That Council

- 1. Resolves not to amend Policy No.1 – 'Landscaping Provisions – Commercial and Industrial Buildings'.**

2. Resolves to amend Policy No.2 – ‘Subdivisions (Drain and Fill Conditions)’ by including the following additional provisions:

Fill/Retaining

- *Development approval and a Building Permit, may be required for any retaining walls over 0.5m from natural ground level.*
- *Retaining walls exceeding 1m in height require structural certification.*
- *Retaining walls shall be entirely contained within the boundaries of a single lot.*

Drainage

- *Appropriate drainage is to be installed behind retaining walls.*
- *Stormwater management shall be in accordance with the Department of Water ‘Stormwater Management Manual’ and address the following:*
 - *Re-use of stormwater;*
 - *Stormwater discharge to the Shire’s drainage system must be at or below predevelopment rates.*
 - *Post-development flow rates are to be attenuated to pre-development flow rates through the provision of adequate temporary detention storage.*
 - *Discharge to the Shire’s system is to be via a silt trap located within the property.*
 - *Connection to the Shire’s system is to be via a 90mm Stormwater Grade PVC pipe to a manhole located in the verge fronting the lot.*
 - *Treatment of the 1 year average recurrence interval event;*
 - *Sizing of pipe systems to accommodate the 5 year average recurrence interval event;*
 - *Provision of storage infrastructure sized to attenuate the 10 year average recurrence interval event to predevelopment flow rates to protect the downstream drainage system;*
 - *Overland flood route for the 100 year average recurrence interval event;*
 - *Specific requirements of downstream receiving waters and existing upstream catchment.*

Note: Refer also to Shire Policies B04 – Stormwater Drainage and W13 - Connection of Private Landholders Stormwater into Councils Stormwater Drainage System.

3. Resolves to amend Policy No.3 – ‘Subdivision and Amalgamation’, by deleting reference to the Shire’s Local Rural Strategy and by deleting the following provisions. Both the Local Rural Strategy and the following provisions contradict the State Planning Policy 2.5 – Rural Planning.

~~2. In order to achieve the objectives contained in Clause 5.2 of Town Planning Scheme No 2, the Council will not generally support the subdivision of land within the Rural Zone into lots having a minimum size of less than 80 hectares except for:-~~

~~a) Amalgamation;~~

~~b) Boundary realignments provided no additional lots are created. In accordance with Recommendation 12 of the Rural Strategy lots may have a minimum area of 20 hectares where the land is located within 10kms of the townsite.~~

~~c) Any subdivision required for public works;~~

~~d) Where the lot is a minimum of 40ha and all of the criteria in Recommendation 2 of the Rural Strategy are met. These relate to the lot having a minimum of 30ha of land with a high land capability rating (class 1 or 2) and long term secure access to a suitable water supply; as evidenced by a hydrologist's and agronomist's report.~~

~~2f) The provisions of Town Planning Scheme No 2, the approved Local Rural Strategy or any regulations under the Act made by the Minister, and / or any town planning by-laws by the local government wherein the land to be subdivided or amalgamated is situated.~~

~~2h) Where the subdivision of land requires access via an unconstructed road reserve or a substandard road (as defined in Policy W0.7) then in accordance with Recommendation 4(c) of the Rural Strategy, Council may object to the application where it is not accompanied by a commitment from the applicant to construct or upgrade the road to a suitable standard.~~

4. Resolves not to amend Policy No.4 – 'Outbuildings'

5. Resolves to amend Policy No.5 – 'Bed & Breakfast Accommodation' by deleting the following text:

~~A Bed and Breakfast accommodation will be classified as a "home occupation" as prescribed in the Town Planning Scheme and shall be defined as an existing dwelling whereby the owner/occupier of an existing dwelling offers short stay accommodation to the travelling public.~~

~~Locations/Zones~~

~~Bed and Breakfast accommodation may only be located in the residential, urban, special rural or rural zones with the Council's approval.~~

~~Bed and Breakfast accommodation is a land use not listed in the Scheme. The Shire in classifying this type of accommodation as a 'home occupation' deems such use to be an "SA" use under the scheme which is defined as 'a use that is not permitted unless the Council has granted planning approval after giving notice in accordance with clause 3.5, which requires the CEO to carry out the following:-~~

~~1 notice of the proposed development to be served on the owners and occupiers likely to be affected by the granting of planning approval stating that submissions may be made to the Council within 21 days of the service of such notice.~~

~~Home Occupation~~

~~Compliance with the Scheme's definition of "Home Occupation" and restrictions contained therein.~~

- 6. Resolves to amend Policy No.5 – 'Bed & Breakfast Accommodation' by including the following definition and provision:**

"Bed and Breakfast Accommodation" means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast.

1) The owner/manager of the Bed and Breakfast accommodation will reside on-site.

- 7. Resolves to amend Policy No.6 – 'Farm Chalets' by deleting reference to the 'Holiday Cottage' definition.**

~~Statement~~

~~Farm Chalets are formally defined as 'Holiday Cottages' under the Town Planning Scheme No. 2.~~

~~The Scheme's Zoning Table indicates that a 'Holiday Cottage' is an 'AA' use in both the 'Rural' and 'Urban' zones. It also indicates that 'Holiday Cottages' is an 'SA' use in the 'Rural' zone and an 'AA' use in the 'Urban' zone.~~

~~An "SA" use under the scheme which is defined as 'a use that is not permitted unless the Council has granted planning approval after giving notice in accordance with clause 3.5, requires the CEO to carry out the following:-~~

~~1. Where the application proposes 2,3 or 4 chalets, notice of the proposed development to be served on the owners ;land occupiers likely to be affected by the granting of planning approval stating that submissions may be made to the Shire within 21 days of the service of such notice:-~~

~~2. Where the application proposes 5 or more chalets:-~~

~~a) notice of the proposed development to be served on the owners and occupiers likely to be affected by the granting of planning approval stating that submissions may be made to the Shire within 21 days of the service of such notice,~~

~~b) notice of the proposed development to be published in a newspaper circulating in the scheme area stating that submissions may be made to the Shire within 21 days from the publication thereof.~~

~~The Scheme defines a 'Holiday Cottage' as a 'detached dwelling on one lot let for holiday purposes, which may not be occupied by the same tenant for a continuous period of more than four (4) months.'~~

- 8. Resolves to amend Policy No.6 – 'Farm Chalets' by supporting chalets on 'Rural' properties, regardless of lot size.**

~~Minimum Lot Size:~~

~~A farm chalet or chalets shall not be approved in a 'Rural' zone where that location/lot is less than ten (10) ha in area.~~

- 9. Resolves to amend Policy No.6 – 'Farm Chalets' by deleting the following text, which requires landholders to enter into an agreement with the Shire:**

~~Future Owners – Notification of Conditions:~~

~~The landowner and all future landowners shall enter into a legal agreement with the Shire to ensure the specific conditions are adhered to. A caveat, recognising this agreement, is to be lodged on the certificate of title.~~

- 10. Resolves not to amend Policy No.7 – 'Feedlots (Extensive Stock Farming)'.
11. Resolves not to amend Policy No.8 – 'Naming New Roads'.**

- 12. Resolves to revoke Policy No.9 – 'Aged Accommodation (Granny Flats) – Special Rural Zone', for the following reason:**

The Shire's Local Planning Scheme No.2 was amended to include the use 'Ancillary Accommodation'. The uses, ancillary accommodation or group dwelling, may be used instead of aged accommodation.

- 13. Resolves to revoke Policy No.10 – 'Fire', for the following reason:**

The state government adopted legislation and guidelines in 2015 to administer development in bushfire prone areas. The legislation overrides local government provisions relating to development in bushfire prone areas.

CARRIED 8/0

Res 10/17

Dr Mel left the Chambers at 6.38pm

Adjournment

That the meeting be adjourned for an afternoon tea break, the time being 6.40pm.

Resumption

That the meeting resume, the time being 7.00pm.

The meeting resumed with the following persons in attendance.

Cr Aird
Cr Moir
Cr Oversby
Cr Muncey
Cr Rear
Cr Imrie
Cr Kaltenrieder
Cr Blackburn

Mr R Staniforth -Smith
Mr A Lamb
Mr S Carstairs
Dr Mel
Mr A Nicoll
Ms K Fisher
Mrs M Lane

Mr R Knapp
Mr D Corker

8.3.2 Policy A.20 Children at the Workplace Policy

Location:	Shire Boyup Brook
Applicant:	N/A
File:	
Disclosure of Officer Interest:	None
Date:	08 February 2017
Authors:	Angela Hales (Environmental Health) and Kay Raisin (Senior Finance Officer)
Authorizing Officer:	Alan Lamb (Chief Executive Officer)
Attachments:	Yes: Draft policy A.20 <i>Children at the Workplace Policy</i> and abridged Worksafe Victoria handbook <i>Keeping children safe in the workplace</i> Edition No. 2 December 2010

SUMMARY

Council is requested to consider and adopt administration policy A.20 *Children at the Workplace Policy* (as attached).

BACKGROUND

Employers and those in control of workplaces are responsible for ensuring, as far as is practical, the safety and health of visitors including children at the workplace. As employers may be held liable for incidents involving employee's children while at the workplace (and see case examples 1-5 on page 6 of Worksafe handbook *Keeping children safe in the workplace*, as attached), there is a need for clear policies and procedures that consider the circumstances of any request from an employee to have their children (or children in their charge) with them at work.

COMMENT

Proposed Policy A.20 is a move toward fulfilling Council's duty of care under the *Occupational Safety and Health Act 1984*, with respect to employee's children at the workplace by the provision of consistent guidelines that consider the individual's circumstances, and that of other employees at the workplace.

CONSULTATION

Chief Executive Officer, Director Works and Services and shire workplace managers.

WALGA Employee Relations and LGIS

STATUTORY OBLIGATIONS

The *Local Government Act 1995* prescribes that the role of Council includes:

1.7 *The role of the council*

(2) ... is to –

(a) *determine the local government's policies.*

Occupational Safety and Health Act 1984

POLICY IMPLICATIONS

Policy A.20 *Children at the Workplace Policy* should be read in conjunction with Policy A.17 *Occupational Safety & Health Policy*.

BUDGET/FINANCIAL IMPLICATIONS

There are no financial implications relating to this item.

STRATEGIC IMPLICATIONS

Administration policy A.20 seeks to improve the management of risk as it relates to children while with their employee parent/carer at the workplace.

SUSTAINABILITY IMPLICATIONS

- **Environmental** – Nil
- **Economic** – Nil
- **Social** – See the section on *Strategic Implications*.

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION - Item 8.3.2

MOVED: Cr Imrie

SECONDED: Cr Rear

That Council adopts administration policy A.20 *Children at the Workplace Policy*, as presented.

CARRIED 8/0

Res 11/17

8.3.3	Boyup Brook Ward - Council Vacancy
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Location:	<i>N/a</i>
Applicant:	<i>N/a</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>8 February 2017</i>
Author:	<i>Alan Lamb</i>
Authorizing Officer:	<i>Chief Executive Officer</i>
Attachments:	<i>No</i>

SUMMARY

The purpose of this report is to put before Council the matter of an extra ordinary vacancy for the Boyup Brook Ward with a recommendation that Council seek to have the position remain vacant until the next ordinary Council elections this year.

BACKGROUND

Councillor Blackburn has spoken to the President and Councillors about his impending resignation and is in the process of formalising this. It is expected that his resignation will take effect after 16th February, 2017 (the Council meeting day).

Councillor Blackburn's term of office ends in October 2017.

Council is in the process of conducting its required representation and ward review.

COMMENT

Legislation provides that if an elected Member's office becomes vacant on the 273rd day before the ordinary election polling day, or between that day and the 92nd day before polling day, Council may, with the Electoral Commissioner's approval, allow the vacancy to remain unfilled until the ordinary election. Where a vacancy occurs on or after the 91st day before polling day the vacancy is to remain unfilled until the ordinary elections.

2017 is an ordinary election year, polling day is generally the 3rd Saturday in October. Assuming polling day will be 20 October 2017 and assuming the resignation date is say 17 February, 2017, the resignation date will be 247 days

from polling day. Therefore Council may seek to avoid holding an extraordinary election.

There are many scenarios which may arise but the following gives an indication of what may happen if an extraordinary election were to be opted for, noting that the position will be subject to election again at the ordinary elections later in the year. If an extraordinary election were to be held the process would take between 56 and 70 days to complete (its 80 days if the Electoral Commissioner is to conduct the election.) Assuming Council and/or the Commissioner opted to conduct an extraordinary election the process would not begin until the decision was made. If Council made the decision to hold an election then the first date the advertisement regarding the closing of elector enrolments would be Monday 20/2/17. Based on this, and keeping with a Saturday for the poll, the earliest date for polling day would be 22/4/17 (the poll could be conducted on a week day before this date and the earliest would be Tuesday 18/ 4/17). Keeping with this scenario then, the new Councillor may take office on or after that date (22/4/17, if the oath of office ceremony was held on the polling day). So the new Councillor's first Council meeting would be in May (if the poll were to be conducted on a week day before the ordinary Council meeting scheduled for 20/4/17, the new Councillor could attend that meeting as a Councillor). The position on Council would be up for contesting at the ordinary elections and it may be that the person elected in April or May is replaced at the ordinary election poll in October.

It is recommended that Council apply to the Electoral Commissioner to leave one vacancy in the Boyup Brook Ward unfilled till the ordinary election because:

- there are three positions of Councillor in the Boyup Brook Ward and so the community will still have two members to represent them until the ordinary election in October,
- any person elected at an extraordinary election commenced now would be up for re-election in October 2017,
- the cost and workload on Council to conduct an extraordinary election so close to the ordinary election, when the position would be contested again, is not warranted,
- Council is in the process of conducting the required representation and ward review which may be completed in time to have an impact on the 2017 ordinary elections. It is possible that Council will seek to have Councillor numbers, ward boundaries and the like amended.

CONSULTATION

The author has spoken with Councillor Blackburn and the President.

STATUTORY OBLIGATIONS

The following sections of the Local Government Act have relevance, particularly Sections 4.16(4) and 43.17(2):

4.16. Postponement of elections to allow consolidation

(1) *This section modifies the operation of sections 4.8, 4.9 and 4.10 in relation to the holding of extraordinary elections.*

(2) *If a member's office becomes vacant under section 2.32 (otherwise than by resignation) on or after the third Saturday in July in an election year and long enough before the ordinary elections day in that year to allow the electoral requirements to be complied with, any poll needed for the extraordinary election to fill the vacancy is to be held on that ordinary elections day.*

(3) *In the case of a member's office becoming vacant under section 2.32 by resignation, if—*

(a) *the resignation takes effect, or is to take effect, on or after the third Saturday in July in an election year but not later than one month after the ordinary elections day in that year; and*

(b) *the CEO receives notice of the resignation long enough before that ordinary elections day to allow the electoral requirements to be complied with,*

any poll needed for the extraordinary election to fill the vacancy is to be held on that ordinary elections day.

(4) *If a member's office becomes vacant under section 2.32 —*

(a) *after the third Saturday in January in an election year; but*

(b) *before the third Saturday in July in that election year,*

the council may, with the approval of the Electoral Commissioner, fix the ordinary elections day in that election year as the day for holding any poll needed for the extraordinary election to fill that vacancy.

[Section 4.16 amended by No. 66 of 2006 s. 7; No. 2 of 2012 s. 11.]

4.17. Cases in which vacant offices can remain unfilled

(1) *If a member's office becomes vacant under section 2.32 on or after the third Saturday in July in the election year in which the term of the office would have ended under the Table to section 2.28, the vacancy is to remain unfilled and the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*

(2) *If a member's office becomes vacant under section 2.32 —*

- (a) *after the third Saturday in January in the election year in which the term of the office would have ended under the Table to section 2.28; but*
- (b) *before the third Saturday in July in that election year,*

the council may, with the approval of the Electoral Commissioner, allow the vacancy to remain unfilled and, in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.

- (3) *If a councillor's office becomes vacant under section 2.32 and under subsection (4A) this subsection applies, the council may, with the approval of the Electoral Commissioner, allow* the vacancy to remain unfilled and, subject to subsection (4), in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*

** Absolute majority required.*

- (4A) *Subsection (3) applies —*

- (a) *if —*

- (i) *the office is for a district that has no wards; and*
- (ii) *at least 80% of the number of offices of member of the council in the district are still filled;*

or

- (b) *if —*

- (i) *the office is for a ward for which there are 5 or more offices of councillor; and*
- (ii) *at least 80% of the number of offices of councillor for the ward are still filled.*

- (4) *If an ordinary or an extraordinary election is to be held in a district then an election to fill any vacancy in the office of councillor in that district that was allowed to remain unfilled under subsection (3) is to be held on the same election day and Division 9 applies to those elections as if they were one election to fill all the offices of councillor for the district or ward that need to be filled.*

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

No provision was made in the current budget for an election. Elections conducted by Council cost in the order of \$5,000.

STRATEGIC IMPLICATIONS

Nil

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 8.3.3

MOVED: Cr Moir

SECONDED: Cr Oversby

That Council seek approval from the Electoral Commissioner to allow the vacancy in the Boyup Brook Ward to remain unfilled until the ordinary election in 2017.

CARRIED BY ABSOLUTE MAJORITY 8/0

Res 12/17

Proximity Interest

Cr Blackburn declared a proximity interest in the item 8.3.4 and departed the Chambers the time being 7.02pm.

8.3.4 Lot 320 on DP405320 Kaufmann Close - Management Order
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Location:	<i>Lot 320 Kaufmann Close</i>
Applicant:	<i>N/a</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>9 February 2017</i>
Author:	<i>Alan Lamb</i>
Authorizing Officer:	<i>Chief Executive Officer</i>
Attachments:	<i>Lands Department letter</i>

SUMMARY

The purpose of this report is to put before Council the Department of Lands (DL) enquiry regarding management of a parcel of land with the recommendation that Council not accept management.

BACKGROUND

Subdivision of lot 1284 Banks Road resulted in the creation of a small portion of land at the end of Kaufmann Close. As part of the submission process DL created a lot (lot 230, as Unallocated Crown Land (UCL) which it will now make into a Crown Reserve (Reserve number 52789).

DL wants to know if Council is prepared to manage this land (and so accept the Management Order or not.

COMMENT

It is recommended that Council not accept the burden of managing this Lot.

As will be seen from the plan provided by DL, and attached to this report, Lot 320 does not link up with Banks Road. Whilst it is designated as Fire and Emergency Access, it does not achieve this.

The Planning Commission and Council sought for the developer to provide for a road link to Banks Road, the applicant successfully appealed this, and other matters, to the State Administrative Tribunal (SAT). The result being the creation

of a half width road extension which terminates at a property boundary and does not provide for access through to Banks Road.

The SAT imposed condition which created Lot 320 required that the land be ceded to the Crown, a carriageway be constructed and the like but did not make provision for the ongoing maintenance or management.

The SAT conditions also included a requirement for the developer to construct a carriageway over the north-west corner of Lot 735 Banks Road to provide a linkage between Lot 320 and Banks Road. This access was to be capable of "ready usage by heavy duty fire fighting vehicles" but ongoing maintenance and management was not covered. This access is on private land and it is understood that Lot 735 has an easement which allows access to Lot 1284. Details of this easement were not to hand at the time of writing and it is possible that this instrument sets out who has the right of access and who has responsibility for its maintenance. Regardless though, it is not clear how Council could have responsibility for maintaining a portion of private land or have the right to access it to carryout the maintenance. The subdivision conditions required the owner of Lot 1284 to construct a carriageway over the easement indicating that responsibility for maintenance remained with the owner, or owners of the then divided lot.

On going management of Lot 320 will be a problem in that property owners in the new subdivision, and others are likely to seek to use Lot 320 and the easement as a short cut to town etc. added to this are the maintenance requirements (which may include gate and fence repairs) and costs which would place a burden on the whole community.

CONSULTATION

The matter of the subdivision has been before Council a number of times over the years (back as far as 2009 from memory).

STATUTORY OBLIGATIONS

Nil. The Shire is not obliged to accept management of the Lot

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

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 8.3.4

MOVED: Cr Moir

SECONDED: Cr Rear

That Council resolves to not accept management of Lot 320 Kaufmann Close and that the Chief Executive Office write to the Department of Lands to advise of this determination.

CARRIED 7/0

Res 13/17

Cr Blackburn returned to the Chambers at 7.13pm.

8.3.5 Purchase of land - 7 Hospital Road Boyup Brook, Lots 47 and 48 Hospital Road

Location:	<i>7 (lot 49) Hospital Road and Lots 47 and 48 Hospital road</i>
Applicant:	<i>N/a</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>9 February 2017</i>
Author:	<i>Alan Lamb</i>
Authorizing Officer:	<i>Chief Executive Officer</i>
Attachments:	<i>copy of offer and acceptance and accompanying letter, maps of location</i>

SUMMARY

The purpose of this report is to bring back to Council the matter of purchasing the vacant lot at 7 (lot 49) Hospital Road, with a recommendation that the purchase be made. Also to introduce the notion of purchasing lots 47 and 48 Hospital road with a recommendation that the CEO be authorised to make an offer.

BACKGROUND

In October 2016, Council resolved as follows:

That Council authorise the Chief Executive Officer to lodge an offer to purchase 7 Hospital Road subject to Council approval with the matter coming back to Council once accepted.

The offer was made, subject to Council approval, and accepted.

At the time of bringing the matter of purchasing 7 Hospital Road to Council it was suggested that Council also look at purchasing the remaining two vacant lots in that street.

The two vacant lots in Hospital Road are registered as lots 47 and 48 on deposited plan P009942. An application to amalgamate the two lots into one, then being Lot 470, has been lodged. It is unclear how far this process has progressed. Council may be able to halt the process, if it were to proceed to purchase, but in any event it may not be of consequence if its one large or two smaller lots.

Landgate shows Lot 47 to be 839.22m² and Lot 48 to be 838.8m². The proposed sewerage scheme should open more development opportunities for this land.

COMMENT

With respect to the purchase of 7 Hospital Road, the offer has been made and accepted and is now presented to Council with a recommendation that the purchase be made.

As previously advised, 7 Hospital Road has a Shire constructed drain running through it taking storm water from a wide area through to a natural drainage line (creek) that runs along practically parallel to Bridge Street past the high school, across Barron Street and then into the brook, which in terns flows into the Blackwood. The drain through this lot is vital to the towns drainage system validating its purchase.

Council has undertaken to build a house for the Department of Housing to house government officers (police in the first instance) and so needs a vacant lot for this purpose. The Department and Police have supported the house being located in Hospital Road.

Council also has a need to consider building a new house to house the new Doctor. Dr Mel's contract runs out in 2019 and he has indicated he will not seek to have it renewed. The house he is in is getting old now and may not be suitable for a Doctors residence. A new house will be an attraction when looking to fill the position and the location opposite the hospital will be of benefit for the afterhours work.

There is also a lack of suitable accommodation for locum Doctors, student Doctors and the like and a duplex or triplex style of development would provide many opportunities.

When and if Council moves to develop the land around the Lodge for aged accommodation there could be a need for more support services and so a need for accommodation for these people. Also when and if Council was to take over operation of the Lodge, and perhaps run it as part of an expanded development, it may need to provide senior staff with accommodation.

The foregoing demonstrates a potential need for Council to provide two or more dwellings, one now for the Government, and one soon for the new Doctor. It also demonstrates there may be additional requirements going forward.

From a financial perspective, the cost to purchase the two additional lots is not expected to be great. Current deposit rates are in the order of 2%, property values are down and so moving from cash to property, albeit in a very minor way, may be advantageous. Purchasing now, at today's depressed prices may avoid a higher cost later if Council later needs to acquire land.

It is recommended that Council authorise the Chief Executive Officer to lodge an offer to purchase lots 47 and 48 Hospital Road subject to Council approval with the matter coming back to Council once accepted.

CONSULTATION

The matters have been before Council and the author spoke with relevant real estate agents.

STATUTORY OBLIGATIONS

The following sections of the Local Government Act have relevance.

2.5. *Local governments created as bodies corporate*

- (1) *When an area of the State becomes a district, a local government is established for the district.*
- (2) *The local government is a body corporate with perpetual succession and a common seal.*
- (3) *The local government has the legal capacity of a natural person.*
- (4) *The corporate name of the local government is the combination of the district's designation and name.*

Example:

City of (name of district)

- (5) *If the district's name incorporates its designation, the designation is not repeated in the corporate name of the local government.*

Example:

district's name : Albany (Town)

corporate name : Town of Albany

- (6) *Proceedings may be taken by or against the local government in its corporate name.*

3.55. *Acquisition of land*

A local government can only take land under Part 9 of the Land Administration Act 1997 if it is in, or is to be regarded as being included in, its own district.

POLICY IMPLICATIONS

Council's Purchasing Policy does not apply to land.

BUDGET/FINANCIAL IMPLICATIONS

No provision has been made in the current budget for the purchase of any of the vacant lots. It is expected that funding for the purchase of 7 Hospital Road will be allowed for in the annual budget review process and, depending on the outcome of this item to Council, provision would be made to purchase lots 47 and 48.

STRATEGIC IMPLICATIONS

Purchasing the three lots meets a current need and addresses future needs for accommodation. It meets the need to ensure the State Government retains its current police station and that its manned by officers who live in the district. It also meets the need to attract and retain Doctors in the district and provides for further opportunities relevant to Council's aged accommodation initiatives.

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

OFFICER RECOMMENDATION – ITEM 8.3.5

MOVED: Cr Kaltenrieder

SECONDED: Cr Oversby

That Council:

1. **Agree to purchase the vacant lot at 7 (lot 49) Hospital Road for the sum of \$40,000.**
2. **Authorise the Chief Executive Officer to lodge an offer to purchase lots 47 and 48 Hospital Road subject to Council approval with the matter coming back to Council once the offer is accepted.**

AMENDMENT

MOVED: Cr Moir

SECONDED: Cr Blackburn

To deal with the two items separately.

CARRIED BY ABSOLUTE MAJORITY 5/3

Res 14/17

COUNCIL DECISION

MOVED: Cr Moir

SECONDED: Cr Blackburn

That Council:

1. **Agree to purchase the vacant lot at 7 (lot 49) Hospital Road for the sum of \$40,000.**

CARRIED BY ABSOLUTE MAJORITY 7/1 Res 15/17

COUNCIL DECISION

MOVED: Cr Oversby

SECONDED: Cr Kaltenrieder

- 2. Authorise the Chief Executive Officer to lodge an offer to purchase lots 47 and 48 Hospital Road subject to Council approval with the matter coming back to Council once the offer is accepted.**

MOVED INTO COMMITTEE

MOVED: Cr Moir

SECONDED: Cr Kaltenrieder

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 8/0

Res 16/17

MOVED OUT OF COMMITTEE

MOVED: Cr Oversby

SECONDED: Cr Imrie

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

CARRIED 8/0

Res 17/17

MOTION WAS PUT

Authorise the Chief Executive Officer to lodge an offer to purchase lots 47 and 48 Hospital Road subject to Council approval with the matter coming back to Council once the offer is accepted.

LOST 1/7

Res 18/17

NOTE:

Council felt there were other vacant lots in town which were more suitable for building on.

Cr Aird announced he was a member of the Management Committee and left the Chambers at 7.47pm and Cr Moir took the chair.

8.3.6 Saleyard - relocation of steel yards to Rylington Park

Location:	<i>Reserve 33552</i>
Applicant:	<i>Rylington Park Institute of Agriculture</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>8 February 2017</i>
Author:	<i>Alan lamb</i>
Authorizing Officer:	<i>Chief Executive Officer</i>
Attachments:	<i>Copy of letter of request</i>

SUMMARY

The purpose of this report is to put the request to Council with a recommendation to agree to it.

BACKGROUND

The sale yards have not been used for sales a number of years and do not meet current standards. The opportunity to upgrade the yards to meet current standards was looked at by Council for funding from the Country Local Government Fund (CLGF) in 2012 but the cost was prohibitive and the use/benefit low.

Council then looked at opportunities to make this area into an industrial park which would require removal of some of the yards.

Some of the yards have been used by local land owners and cartage contractors to aggregate small loads and Council applied a portion of the 2012/13 CLGF grant to improve the truck wash down area.

The Shire owns Rylington Park and leases it to a community group.

COMMENT

Most of the existing yards have not been used much, if at all, for more than eight years. They do not meet the standards required for sales. Whilst no Council decisions have been made, Council has looked at removing most of the yards and clearing the site so that it might be used for commercial and/or light industrial purposes. This new use has stalled due to it not being compatible with the

current Purpose of the Reserve (that is the purpose, as shown on the Management Order, for which the Shire may use it).

The current use of some yards (those closest to the wash down area) is of benefit to small landholders and others who may have relatively small numbers of sheep to move, and local transport contractors. Council has looked to retain some of the yards at the Reserve to allow this use to continue.

The existing sheep yards at Rylington Park are wood construction and in need of constant repair. These yards are well used.

Whilst there is no great urgency at this time to remove the yards, removing some at no cost to Council will be of benefit to progress the industrial site aspiration. It is noted also that the Shire owns Rylington Park and so it is transferring the yards from a Reserve it manages to a farm it owns and at no cost Council. The intention is for the Institute to dispose of some of the yards that it does not use on the farm and this should offset its costs to remove and transport the yards.

It is recommended that Council agree to the Institutes request for approval to relocate some of the yards at the Boyup Brook Saleyards to Rylington Park and sell of any material excess to requirement to offset costs. That the Institute liaise with the CEO who will ensure some yards are retained on the Reserve for community use.

CONSULTATION

The author has spoken with the Rylington Park Institute of Agriculture Management Committee Chairman.

STATUTORY OBLIGATIONS

Nil. Whilst there are restrictions on the disposal of assets in this case the real value of the asset is not being transferred to another organisation, it remains the Shire's (that is the value of the yards less the cost to remove transport and resite them).

The following section of the Local Government Act deals with the disposal of property:

3.58. Disposing of property

(1) *In this section —*

dispose *includes to sell, lease, or otherwise dispose of, whether absolutely or not;*

property *includes the whole or any part of the interest of a local government in property, but does not include money.*

- (2) *Except as stated in this section, a local government can only dispose of property to —*
- (a) *the highest bidder at public auction; or*
 - (b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*
- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
- (a) *it gives local public notice of the proposed disposition —*
 - (i) *describing the property concerned; and*
 - (ii) *giving details of the proposed disposition; and*
 - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*
- and*
- (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*
- (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*
- (a) *the names of all other parties concerned; and*
 - (b) *the consideration to be received by the local government for the disposition; and*
 - (c) *the market value of the disposition —*
 - (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
 - (ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*
- (5) *This section does not apply to —*
- (a) *a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or*
 - (b) *a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or*
 - (c) *anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or*
 - (d) *any other disposition that is excluded by regulations from the application of this section.*

The following Regulation from the Local Government (Functions and General) Regulations also has relevance:

30. *Dispositions of property excluded from Act s. 3.58*

- (1) *A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.*
- (2) *A disposition of land is an exempt disposition if —*
 - (a) *the land is disposed of to an owner of adjoining land (in this paragraph called the transferee) and —*
 - (i) *its market value is less than \$5 000; and*
 - (ii) *the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;*
 - or
 - (b) *the land is disposed of to a body, whether incorporated or not —*
 - (i) *the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and*
 - (ii) *the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;*
 - or
 - (c) *the land is disposed of to —*
 - (i) *the Crown in right of the State or the Commonwealth; or*
 - (ii) *a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or*
 - (iii) *another local government or a regional local government;*
 - or
 - (d) *it is the leasing of land to an employee of the local government for use as the employee's residence; or*
 - (e) *it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land; or*
 - (f) *it is the leasing of land to a person registered under the Health Practitioner Regulation National Law (Western Australia) in the medical profession to be used for carrying on his or her medical practice; or*
 - (g) *it is the leasing of residential property to a person.*
- (2a) *A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been —*

- (a) *put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government; or*
 - (b) *the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable; or*
 - (c) *the subject of Statewide public notice under section 3.59(4) of the Act, and if the business plan referred to in that notice described the property concerned and gave details of the proposed disposition including —*
 - (i) *the names of all other parties concerned; and*
 - (ii) *the consideration to be received by the local government for the disposition; and*
 - (iii) *the market value of the disposition as ascertained by a valuation carried out not more than 12 months before the proposed disposition.*
- (2b) *Details (see section 3.58(4) of the Act) of a disposition of property under subregulation (2a) must be made available for public inspection for at least 12 months from the initial auction or tender, as the case requires.*
- (3) *A disposition of property other than land is an exempt disposition if —*
- (a) *its market value is less than \$20 000; or*
 - (b) *the entire consideration received by the local government for the disposition is used to purchase other property, and where the total consideration for the other property is not more, or worth more, than \$75 000.*

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil. The asset value, if any, of the yards would be transferred from the Saleyards Reserve to Rylington Park (freehold).

STRATEGIC IMPLICATIONS

Whilst not specifically covered in the strategic plan, this proposal will result in an underutilised Shire asset moving from one Shire managed/owned property to another, where it will be fully utilised. It also progresses Council's desired changes to the use of the Saleyards Reserve and improves Rylington Park (a Shire owned asset used by an active and productive community group).

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

OFFICER RECOMMENDATION – ITEM 8.3.6

MOVED: Cr Oversby

SECONDED: Cr Imrie

That Council agree to the Rylington Park Institute of Agriculture's request for approval to:

- 1. relocate some of the sheep yards at the Saleyards Reserve to replace wooden yards at Rylington Park.**
- 2. sell excess yards materials to off set the cost of relocation.**

That the CEO liaise with the Institute over what yards may be relocated and what is to be retained.

Cr Aird re-entered the Chambers at 7.56pm at the request Council to provide answers to Councilor questions.

MOVED INTO COMMITTEE

MOVED: Cr Kaltenrieder

SECONDED: Cr Muncey

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 7/0

Res 19/17

MOVED OUT OF COMMITTEE

MOVED: Cr Blackburn

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 7/0

Res 20/17

Cr Aird left the Chambers at 8.05pm

WITHDRAWN ITEM

The Chief Executive Officer withdrew item 8.3.6 to seek further clarification from the Rylington Park Institute of Agriculture on what they require from the Saleyards.

NOTE: That Cr Rear object to the withdrawal.

NOTE:

Council wanted the request quantified in terms of the area of yards to be removed and the area of yards that needed to be retained for community use. The CEO was not able to provide this information and so withdrew the item in order to obtain the required information.

Mr R Staniforth-Smith left the Chambers at 7.55pm

Cr Aird returned to the Chambers at 8.10pm and took the chair.

8.3.7	Boyup Brook Netball Association
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Location:	<i>N/A</i>
Applicant:	<i>Boyup Brook Netball Association</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>9 February 2017</i>
Author:	<i>Daly Winter - Manager Community & Regulatory Services</i>
Authorizing Officer:	<i>Alan Lamb - Chief Executive Officer</i>
Attachments:	<i>Yes - Correspondence from Mrs Jen Staniforth-Smith (President) Boyup Brook Netball Association.</i>

SUMMARY

A request has been received from the Boyup Brook Netball Association requesting that Council consider reducing or waiving the Club's annual grounds fee for the 2015-2016 season (\$459.00). This request is in light of the decline in the number of netball players and the inexperience of the Association's Committee in not being aware of the Shire's annual grounds fee costs (see correspondence attached).

BACKGROUND

Last year some volunteers stepped in to ensure that netball could continue in the community for the young children so that they could be coached to develop netball skills. A NetSetGo program was offered for the young ones but there was no Junior or Adult competition.

The people that assumed the administrative roles in the new committee had limited knowledge of the Association's past activities and only charged a fee for the NetSetGo program and the Netball Association South West Zone fee. The Association made no provision for court fees!

I contacted Mrs Jen Staniforth-Smith (President of the Boyup Brook Netball Association) to discuss the future of the competition moving forward. From that discussion it is hoped that a local junior competition can be restarted and past players can be encouraged to return to use the local facilities.

In the table below are the current Shire Fees and Charges for the use of Sporting and Recreation Facilities:

GROUP	ADOPTED FEE 2016-17
Boyup Brook Football Club per season	\$940.00
Boyup Brook Hockey per season	\$470.50
Boyup Brook Cricket Club per season	\$470.50
Boyup Brook Juniors Netball per season (when required)	\$470.50
Boyup Brook Tennis Club per season	\$470.50
Boyup Brook Swimming Club per season	\$470.50
Country Music Club – Charge for use of Music Park per year	\$670.50

COMMENT

The above table shows that a standard set fee applies across most of the sporting clubs. This fee does not differentiate between the type of Club nor does it differentiate between the age group/groups of participants or the type of facilities used (Swimming Pool, Oval, Courts etc.). As some Sporting groups have Junior and Adult participation, Council could consider for a solely Junior competition that the fee could be halved.

Ground fees for the 2016 – 2017 season are now due. If the Netball Association decide to proceed with their NetSetGo program for this year (to continue with the netball development for the children) then they may well end up approaching the Shire again with a similar request, although they now know to make sure they make some provision in the registration fee for the juniors to cover all/some of the ground fee costs.

CONSULTATION

Chief Executive Officer and the Director of Corporate Services.

STATUTORY OBLIGATIONS

The *Local Government Act 1995* prescribes that the role of Council includes:

2.7 *The role of the council*

(2) ... the council is to -

(a) *oversees the allocation of the local government's finances and resources.*

POLICY IMPLICATIONS

While it doesn't address waivers of fees or charges, policy F.06 *Sundry Debt (Other than Rates) Management* should be read in conjunction with this report.

BUDGET/FINANCIAL IMPLICATIONS

Current outstanding debt to the Shire of \$459.00. If the officers recommendations are accepted by Council, \$229.50 of this debt will be waived having the affect of reducing Council's surplus of funds brought forward from 2015-16.

STRATEGIC IMPLICATIONS

Nil.

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 as the 2016-17 Annual Budget would be amended.

COUNCIL DECISION & OFFICER RECOMMENDATION - ITEM 8.3.7

MOVED: Cr Kaltenrieder

SECONDED: Cr Oversby

- 1. That Council write off the amount payable by the Boyup Brook Netball Association in 2015-16 because of the limited number of children undertaking this activity.**

CARRIED BY ABSOLUTE MAJORITY 8/0

Res 21/17

Mr R Staniforth-Smith returned to the Chambers at 8.05pm

Ms K Fisher left the Chambers at 7.56pm

Ms K Fisher returned to the Chambers at 8.04pm

9 COMMITTEE MINUTES

Nil

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

The Deputy Shire President noted the following late item to the meeting and, with dissent, agreed to deal with it.

11.1.1 Development (Advertisement) – Boyup Brook

Location: Lots 57 & 58 Bridge Street (IGA Store)
Applicant: Kingman Visual
File:
Disclosure of Officer Interest: None.
Date: February 2017
Author: A. Nicoll, Town and Regional Planner
Authorizing Officer: Alan Lamb, Chief Executive Officer
Attachments: Nil

SUMMARY

The purpose of this report is to put before Council the request to develop an advertisement.

The advertisement is proposed to be located at the Boyup 'IGA' store.

The advertisement is proposing to advertise 'Lotterywest'.

Council discretion is required in accordance with the Shire's *Local Planning Scheme No.2*, which states:

8.1.1 For the purpose of this Scheme, the erection, placement and display of advertisements and the use of land or buildings for that purpose in development within the definition of the Act requires, except as otherwise provided, the prior approval of the Council.

This report item recommends that the Council support the proposed advertisement.

BACKGROUND

The Shire of Boyup Brook received an application proposing to develop an advertisement.

COMMENT

Design

The advertisement is designed as follows:

- Under awning advertisement;
- 705mm X 405mm X 228mm;
- Acrylic Material;
- Illuminated; and
- 2.6m between bottom of advertisement and ground level.

The following illustrates the proposed location, size and shape of the advertisement.



The advertisement is not expected to impact upon the amenity of the area due to its proposed location (setback from street) and small size.

The advertisement is also not expected to obstruct visual sightlines of vehicles or obstruct pedestrian movement.

STATUTORY OBLIGATIONS

Shire's Local Planning Scheme No. 2

The Shire's *Local Planning Scheme No.2* defines 'advertisement' as follows:

any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements. The term includes any airborne device anchored to any land or building and any vehicle or trailer or other similar object placed or located so as to serve the purpose of advertising.

The Shire's *Local Planning Scheme No.2* states the following at clause 8.1.1:

For the purpose of this Scheme, the erection, placement and display of advertisements and the use of land or buildings for that purpose in development within the definition of the Act requires, except as otherwise provided, the prior approval of the Council. Such planning consent is required in addition to any licence pursuant to Council's Signs, Hoarding and Bill Posting Bylaws.

The Shire's *Local Planning Scheme No.2* states the following at clause 8.3:

Without limiting the generality of the matters which may be taken into account when making a decision upon an application for consent to erect, place or display an advertisement, Council shall examine each such application in the light of the objectives of the Scheme and with particular reference to the character and amenity of the locality within which it is to be displayed, including its historic or landscape significance and traffic safety, and the amenity of adjacent areas which may be affected.

As per the above clause 8.3, if approval is granted for the proposed advertisement, the following condition should be specified:

The advertisement is not to be illuminated during periods when the business (IGA store) is not open for customers.

The Shire's *Local Planning Scheme No.2* states the following at clause 8.6:

Where, in the opinion of the Council, an advertisement has been permitted to deteriorate to a point where it conflicts with the objectives of the Scheme or it ceases to be effective for the purpose for which it was erected or displayed, Council may, by notice in writing, require the advertiser to:-

i) repair, repaint or otherwise restore the advertisement to a standard specified by Council in the notice, or

ii) remove the advertisement.

As per the above clause 8.6, if approval is granted for the proposed advertisement, the following condition should be specified:

The advertisement being maintained to the satisfaction of the Shire of Boyup Brook.

POLICY IMPLICATIONS

There are no policy implications relating to this item.

CONSULTATION

N/A

VOTING REQUIREMENTS

Simple majority

SUMMARY

In accordance with *Local Planning Scheme No.2*:

- Development approval is required prior to developing an advertisement; and
- In considering an application for an advertisement, Council is to consider any potential impact to the amenity of the area and the need to ensure that advertisements are properly maintained.

Due to the small size of the sign and the location of the advertisement, well setback from the street, the advertisement is not expected to impact on the amenity of the area.

Approval should be on the condition that the advertisement is maintained to a reasonable standard and that the advertisement is not illuminated during periods when the business (IGA store) is not open for customers.

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 11.1.1

MOVED: Cr Moir

SECONDED: Cr Rear

That Council

Grants development approval for advertisement at Lots 57 & 58 Bridge Street, subject to the following notice:

Planning and Development Act 2005

Shire of Boyup Brook

NOTICE OF DETERMINATION ON APPLICATION FOR DEVELOPMENT APPROVAL

Location: Lots 57 & 58 Bridge Street

Description of proposed development:

Advertisement (Illuminated)

The application for development is approved subject to the following conditions.

Conditions:

1. Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the Shire of Boyup Brook, all development shall occur in accordance with the approved plans.
2. The advertisement being maintained to the satisfaction of the Shire of Boyup Brook.

Advice

Where, in the opinion of the Council, an advertisement has been permitted to deteriorate to a point where it conflicts with the objectives of the Scheme or it ceases to be effective for the purpose for which it was erected or displayed, Council may, by notice in writing, require the advertiser to:-

i) repair, repaint or otherwise restore the advertisement to a standard specified by Council in the notice, or

ii) remove the advertisement.

3. The advertisement is not to be illuminated during periods when the business (IGA store) is not open for customers.

Date of determination: 16 February 2017

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.

Note 2: Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

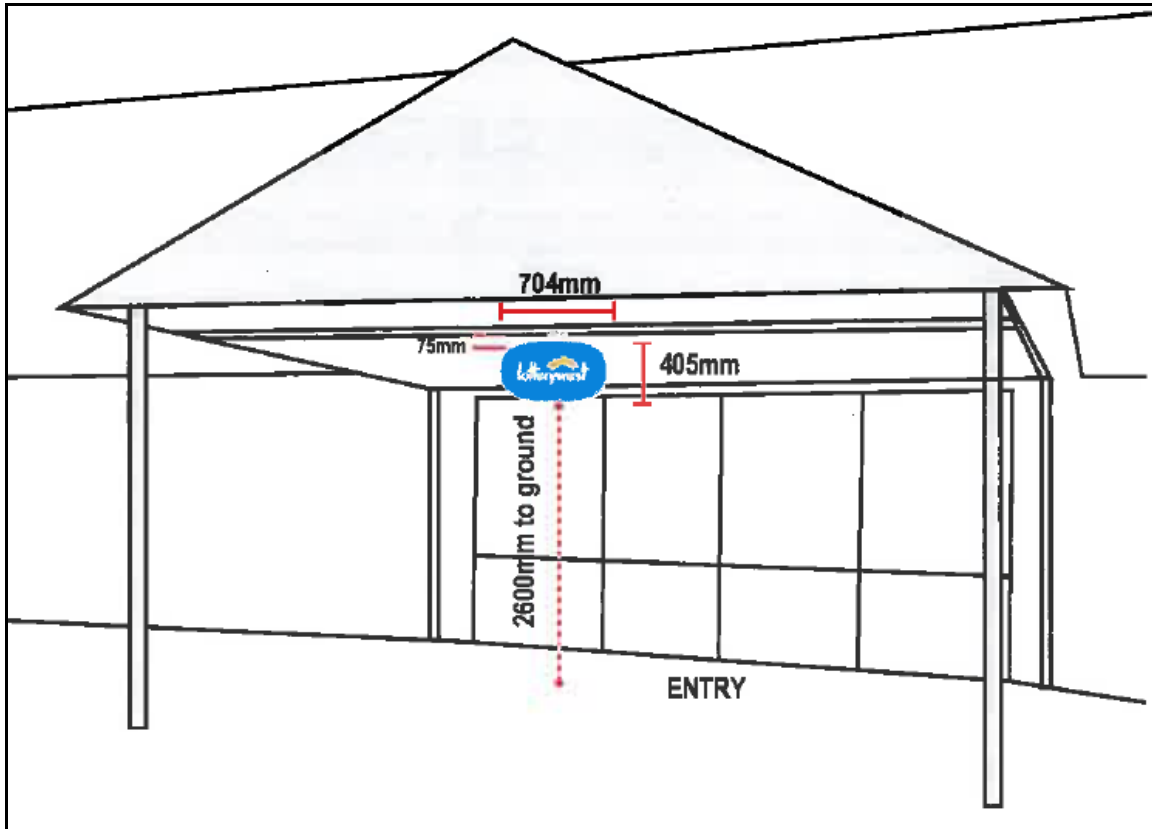
Note 3: If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

Signed:

Dated:

for and on behalf of the Shire of Boyup Brook.

Approved Plans



CARRIED 8/0

Res 22/17

12 CONFIDENTIAL MATTERS – BEHIND CLOSED DOORS
Nil

13 CLOSURE OF MEETING

There be no further business the Deputy Shire President, Cr Aird thanked all for attending and declared the meeting closed at 8.10pm.