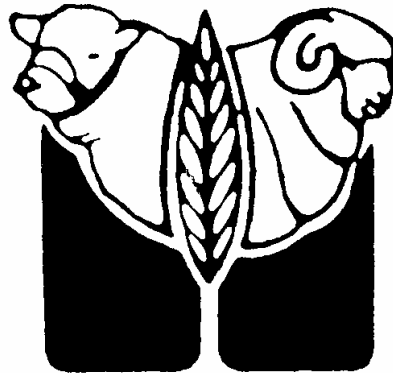


AGENDA



ORDINARY MEETING

TO BE HELD

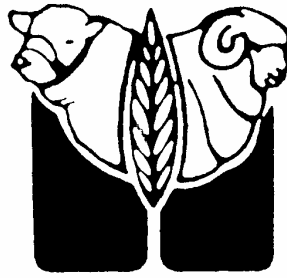
THURSDAY, 15 FEBRUARY 2007

COMMENCING AT 3.30PM

AT

SHIRE OF BOYUP BROOK CHAMBERS

ABEL STREET – BOYUP BROOK



SHIRE OF BOYUP BROOK

NOTICE OF ORDINARY COUNCIL MEETING

To:-

Cr T Ginnane – Shire President
Cr R Downing – Deputy Shire President
Cr S Broadhurst
Cr J Florey
Cr P Marshall
Cr M Martin
Cr K Moir
Cr T Oversby
Cr A Piper

The next Ordinary Council Meeting of the Shire of Boyup Brook will be held on Thursday 15 February 2007 in the Council Chambers, Shire of Boyup Brook, Abel Street, Boyup Brook – commencing at 3.30pm.

MR TONY DOUST
Acting Chief Executive Officer

Date: 9 February 2007

Disclosure of Financial and Proximity Interest

- (a) Members must disclose the nature of their interest in matters to be discussed at the meeting. (Sections 5.60B and 5.65 of the Local Government Act 1995).
- (b) Employees must disclose the nature of their interest in reports or advise when giving the report or advice to the meeting. (Sections 5.70 and 5.71 of the Local Government Act 1995).

Disclosure of Interest affecting Impartiality.

- (a) Members and staff must disclose their interest in matters to be discussed at the meeting In respect of which the member or employee has given or will give advice.

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

1.1 Attendance

1.2 Apologies

2 PUBLIC QUESTION TIME

2.1 Response to Previous Public Questions Taken on Notice

2.2 Public Question Time

3 APPLICATIONS FOR LEAVE OF ABSENCE

4 PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS

5 CONFIRMATION OF PREVIOUS MINUTES

5.1 Minutes of the Ordinary Meeting of the Council held on 21 December 2006.

MOVED:

SECONDED:

That the minutes of the previous Ordinary Meeting of the Council held on Thursday 21 December 2006, be confirmed as an accurate record.

6 PRESIDENTIAL COMMUNICATIONS

7 REPORTS OF OFFICERS AND COMMITTEES

7.1 WORKS AND SERVICES

7.1.1 Plant Tender No 07-001 – Tri-Axle Low Loader

Location: NA
Applicant: Shire of Boyup Brook
File: EQ/57/001
Disclosure of Interest: Nil
Date: 7 February 2007
Author: John Eddy – Manager of Works & Services

Signature of Author _____

Signature of CEO _____

SUMMARY

This report is presented for the Council to consider Tender No 07-001 for the purchase of a new Tri-Axel Low Loader submitted by SFM Engineering.

BACKGROUND

Tender No 07-001 is for the supply and delivery of one new tri-axle low loader.

The tender was advertised in the West Australian newspaper on Saturday 13 January 2007 and closed on 1 February 2007.

COMMENT

Tender 07-001 was called to replace the Council's dual axle low loader in accordance with the Council's Plant Replacement Program.

Only one tender was received to supply a new tri-axle low loader and met all conditions of the Council's specifications.

A twelve (12) month warranty period applies from the date of delivery and the delivery time is twelve (12) weeks from acceptance of the tender.

CONSULTATION

Works Supervisor and Shire Mechanic re: requirements for transportation of Council's plant.

STATUTORY ENVIRONMENT

Local Government Act 1995 (s 3.57)
Local Government (Functions and General) Regulations 1996 (Part 4)

POLICY IMPLICATIONS

Tenders were called in accordance with the Shire of Boyup Brook Policy – Tender Procedures

FINANCIAL IMPLICATIONS

The amount of seventy five thousand dollars (\$75,000) was budgeted for the purchase of a tri-axle low loader in the Shire of Boyup Brook 2006/2007 budget.

The tender price for the supply of a tri-axle low loader submitted by SFM Engineering was seventy five thousand, two hundred dollars (\$75,200) excluding GST.

STRATEGIC IMPLICATIONS

Not Applicable

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATIONS

That the Council consider Tender No 07-001 and approve the SFM Engineering submission for the purchase of one (1) new Tri-axle Low Loader as specified for the price of seventy five thousand, two hundred dollars (\$75,200) excluding GST.

7.2 DEVELOPMENT AND COMMUNITY SERVICES

7.2.1 Aged Accommodation (Granny Flats) Special Rural Zones

Location: Special Rural Zones
Applicant: Shire of Boyup Brook
File: LN/42/001 & As 985
Disclosure of Interest: Nil
Date: 5 February 2007
Author: Tony Doust – Acting Chief Executive Officer

Signature of Author _____

SUMMARY

The purpose of this report is to advise Council of the results of advertising the above policy and to confirm the policy as previously adopted.

BACKGROUND

Council at its meeting on the 16th November 2006, considered an application from John & Betty Watters for approval to erect a granny flat on Lot 22 Lee Steere Drive Boyup Brook.

Council was advised in the report dated 16th November 2006 as follows:-

“The shire’s Town Planning Scheme No. 2 (the ‘scheme’) does not allow grouped dwellings in the ‘special rural’ areas.

However, the clause 3.6 of the scheme states-

*“Except for development in respect of which the Residential Planning Codes apply under this Scheme, if a development the subject of an application for Planning Consent does not comply with a standard prescribed by the Scheme **with respect to minimum lot sizes, building height, set backs, site coverage, car parking, landscaping and related matters**, the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit. The power conferred by this clause may only be exercised if the Council is satisfied that:*

- i) approval of the proposed development would be consistent with the orderly and proper planning of the district and the preservation of the amenity of the district.*
- ii) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the general population of the district, and*
- iii) the spirit and purpose of the standard or requirement will not be unreasonably departed from.”*

The visual impact of the granny flat on the special rural lot and surrounding properties is of concern.

The proponent has confirmed in writing that the habitation of the proposed dwelling will be for a family member.

The Council does need to consider the precedence that an approval will set. A policy to reflect this position should be adopted to ensure consistency in decision-making in the future.

The policy could state –

“AGED ACCOMMODATION (GRANNY FLATS) - SPECIAL RURAL ZONE

Objective

To allow for the construction of a second residence on 'Special Rural' properties for aged accommodation only.

Statement

The Council will allow the construction of second residence on a lot in the 'Special Rural' zones under the following conditions –

1. subject to a planning application
2. residence to comply with the Building Code of Australia
3. residence to comply with the shire's town Planning Scheme No.2
4. building license required prior to construction
5. consist of a maximum of one bedroom, kitchen, laundry, bathroom, WC and wheel chair access
6. is located within 50 metres of the main residence
7. confirmation in writing to the shire that it will be used for 'Granny Flat' purposes only, meaning that the residence will be occupied by one person only 65 years or older who is a parent of one of the occupiers of the main residence.

The Council will consider minor deviations to the above conditions when considering the application.”

As the use is not permitted pursuant to the scheme, it is suggested that the Council rejects the planning application requesting a 'granny flat' to be built on Special Rural' property lot 22 Lee Steere Drive, Boyup Brook

The CEO suggested that the Council approve the proposal as reflected in the recommendation.

The Development Services Committee considered this issue at its meeting held on 06 November 2006 and suggests the above recommendation in contrast to the CEO's recommendation due to the social benefits that the introduction of this policy will bring to the community.”

Council considered the report and resolved accordingly:-

- “1. That the Council adopts the “AGED ACCOMMODATION (GRANNY FLATS) – SPECIAL RURAL_ZONE” policy,

“AGED ACCOMMODATION (GRANNY FLATS) - SPECIAL RURAL ZONE

Objective

To allow for the construction of a second residence on 'Special Rural' properties for aged accommodation only.

Statement

The Council will allow the construction of second residence on a lot in the 'Special Rural' zones under the following conditions –

1. subject to a planning application
2. residence to comply with the Building Code of Australia
3. residence to comply with the Shire's Town Planning Scheme No.2
4. building license required prior to construction
5. consist of a maximum of one bedroom, kitchen, laundry, bathroom, WC and wheel chair access
6. is located within 50 metres of the main residence

7. confirmation in writing to the shire that it will be used for 'Granny Flat' purposes only, meaning that the residence will be occupied by persons 65 years or older who are parents of one of the owner/occupiers of the main residence.
8. When the second residence (Granny Flat) is no longer occupied by persons under clause 7, the structure must be removed within 3 years.

The Council will consider minor deviations to the above conditions when considering the application."

2. That J & B Watters be held in abeyance until the "AGED ACCOMMODATION (GRANNY FLATS) – SPECIAL RURAL ZONE" is advertised."

COMMENT

The proposal to adopt an "Aged Accommodation" (Granny Flats – Special Rural Zone) policy was advertised for public comment in the Donnybrook – Bridgetown Mail on 28th November 2006. Submissions closed on 2nd January 2007. One submission was received from John & Betty Watters:-

After reviewing the proposed Policy terms and conditions in relation to Aged Accommodation Special Rural Zone we would ask the councilors to please reconsider Number 7 and 8 of the statement.

Under the current proposed format we feel it's unviable for us to establish a second residence due to:

Number 8

- The cost of connecting the unit to electricity and plumbing outway the cost of removal of the unit within 3 years from being occupied
- Would Council consider putting in a caveat stating "should the owner/occupiers of the main household sell, they are to remove the second dwelling"?

Number 7

- The term "parents of one of the owner/occupiers of the main dwelling" is a concern. We realize you have stated "the council will consider minor deviations to the conditions" but we do worry that once something is written, people tend to fixate on the actual wording and stick to it.
- Would the Council consider the word "relative" or "relation" due to the diverse family dynamics of todays society. This could include step parent, grandparent, even foster parent.
- Would the Council consider setting the age at 55 years in preference to 65 years. Bench mark retirement age starts at 55.

Whilst the comments made by Mr and Mrs Watters are concerns that any potential developer would have to consider it is important that the objectives of the Shire of Boyup Brook Town Planning Scheme No 2 in relation to a single house are not overlooked and that the Council is mindful of problems that may arise if a development was permitted without the clear undertaking that it must be removed within (3) years of the occupation by eligible persons under the policy ceasing.

It is recommended that Council adopt the policy as advertised.

Whilst the report in November 2006 refers to Section 3.6 of the Shire of Boyup Brook Town Planning Scheme No 2 (SBBTPSNo2) as a section Council may utilize when considering a proposal for a development that is not within the uses allowed under the Scheme for a zone, this is only in relation to minimum lot sizes, building height, set backs, site coverage, car parking, landscaping and related matters. The additional use is not covered by this section.

The relevant section under the Shire of Boyup Brook Town Planning Scheme No 2 is Section 3.3. "Requirement for Planning Approval and Zoning Table" subsection 3.3.7.

"In respect of uses and development which are not specifically mentioned in the Zoning Table, and which could not be reasonably determined as falling within the interpretations of one of the use classes listed, the Council may:-

- a) determine that the use is consistent with the objectives and purposes of the Zone and thereafter follow the "SA" procedures of Clause 3.5 in considering an application for planning approval.
- b) Determine that the use is not consistent with the objectives and purposes of the Zone and is therefore not permitted."

The "SA" procedures required by Clause 3.5 are as follows:-

- 3.5.1 Where an application is made for planning approval to commence or carry out development which involves an "SA" use, the Council shall not grant approval to that application unless notice of the application is first given in accordance with the provisions of sub-clause 3.5.3.
- 3.5.2 Where an application is made for planning approvals to commence or carry out development which involves an "AA" use, or any other development which requires the planning approvals of the Council, the Council may give notice of the application in accordance with the provisions of sub-clause 3.5.3.
- 3.5.3 Where the Council is required or decides to give notice of an application for planning approval the Council shall cause one or more of the following to be carried out:-
 - a) Notice of the proposed development to be served on the owners and occupiers as likely to be affected by the granting of planning approval stating the submissions may be made to the Council within twenty – one 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 Council within twenty-one days from the publication thereof.
 - c) A sign or signs displaying notice of the proposed development to be erected in a conspicuous position on the land for a period of twenty-one days from the date of publication of the notice referred to in paragraph b) of this sub-clause.
- 3.5.4 The notice referred to in sub-clause 3.5.3a) and b) shall be in the form contained in Schedule 11 with such modifications as circumstances require.
- 3.5.5 After expiration of twenty-one days from the serving of notice of the proposed development, the publication of notice or the erection of a sign or signs, whichever is the later, the Council shall consider and determine the application."

Given the requirements of Section 3.5.3 of the Shire of Boyup Brook Town Planning Scheme No 2 it will be necessary for any applicants wishing to proceed with a development in accordance with the "Aged Accommodation (Granny Flats) Special Rural Zone Policy to comply with the conditions outlined within the "SA" provisions.

CONSULTATION

Advertising – Donnybrook – Bridgetown Mail
Item – Boyup Brook Gazette

STATUTORY ENVIRONMENT

Shire of Boyup Brook Town Planning Scheme No 2 Part 3 Sections 3.4 & 3.5

POLICY IMPLICATIONS

Proposed policy to allow “Granny Flats” development in Special Rural Zones.

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

The proposed policy will allow the development of land within Special Rural Zones to meet the needs of the community.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATIONS

1. The Council formally adopts the following “Aged Accommodation (Granny Flats) Special Rural Zone Policy:-

“AGED ACCOMMODATION (GRANNY FLATS) - SPECIAL RURAL ZONE

Objective

To allow for the construction of a second residence on ‘Special Rural’ properties for aged accommodation only.

Statement

The Council will allow the construction of second residence on a lot in the ‘Special Rural’ zones under the following conditions –

1. subject to a planning application
2. residence to comply with the Building Code of Australia
3. residence to comply with the shire’s town Planning Scheme No.2
4. building license required prior to construction
5. consist of a maximum of one bedroom, kitchen, laundry, bathroom, WC and wheel chair access
6. is located within 50 metres of the main residence
7. confirmation in writing to the shire that it will be used for ‘Granny Flat’ purposes only, meaning that the residence will be occupied by persons 65 years or older who are parents of one of the owner/occupiers of the main residence.
8. When the second residence (Granny Flat) is no longer occupied by persons under clause 7, the structure must be removed within 3 years.

The Council will consider minor deviations to the above conditions when considering the application.”

2. That any applications for Planning approval must comply with the requirements of the “SA” provisions under section 3.5 of the Shire of Boyup Brook Town Planning Scheme No 2.
- 3(a). The application for planning approval received from Mr and Mrs John & Betty Watters in October 2006 for the development of a Granny Flat on Lot 22 Lee Steere Drive Boyup Brook be refused as the proposal does not comply with the requirements of the Shire of Boyup Brook Town Planning Scheme No 2.

- (b) Mr & Mrs Watters be advised that an application in accordance with the Council Policy “Aged Accommodation (Granny Flats) Special Rural Zone” will be supported subject to the requirements of the “SA” provision under section 3.5 of the Shire of Boyup Brook Town Planning Scheme No 2.**

7.2.2 Planning Application "Alfresco Area" Lot 68 Abel Street Boyup Brook

Location: Boyup Brook Hotel – Lot 68 Abel Street Boyup Brook
Applicant: P Mansfield – Boyup Brook Hotel
File: As 800
Disclosure of Interest: Nil
Date: 5 February 2007
Author: Tony Doust – Acting Chief Executive Officer

Signature of Author _____

SUMMARY

To consider a proposal from Mr P Mansfield, Boyup Brook Hotel to utilise a section of the footpath in Abel Street Boyup Brook adjacent to the Hotel for an alfresco area. The proposal also incorporates a portable cover.

BACKGROUND

Council at its meeting on 16th November 2006 discussed the following report:-

"The proponent wishes to provide both fix cover and portable cover alfresco areas. It is the primary intent that this will used as a dining area with the serving of liquor being secondary.

The proposed 8 x 3m steel framed structure encroaches into public space over the footpath on Abel Street to provide for an additional service area for the hotel located on lot 68 Abel Street.

The roof will be covered with canvass.

The proponent wishes to also provide a further alfresco area using umbrellas adjacent to the proposed covered area.

The aesthetics of the proposed covered structure is a concern.

A further concern is the addition of another type of cover being placed over the footpath along this stretch of Abel Street, that is from Bridge Street to Inglis Street, where there have been a variety of styles used over the years.

The committee is encouraged to inspect the proposed alfresco site and the other commercial buildings along Abel Street prior to the meeting.

Should the proposal be approved, the following conditions would be appropriate-

1. structure to comply with the Building Code of Australia and have a minimum height of 2400mm and be setback 600mm from the kerb;
2. building license required prior to construction;
3. tables and chairs shall not interfere with pedestrian movement or parked vehicles by incorporating minimum 1500mm passing areas and 900mm 'footpath widths';
4. the alfresco area shall be conducted strictly in accordance with provisions of the Health Act 1911 and subsequent regulations and local laws and Liquor Licensing regulations covering the conduct of an alfresco area;
5. the alfresco area shall be kept free of litter, refuse, rubbish and all other disused materials at all times during its conduct;

6. the proprietor hereby agrees to indemnify the Shire of Boyup Brook and the Crown against any and all claims for compensation howsoever arising from the conduct of the eating area and further agrees to hold not less than \$10,000,000 public liability insurance at all times.

Evidence of such insurance having been affected is to be submitted to the satisfaction of CEO prior to the establishment of the alfresco area. Evidence is to be provided on the annual renewal of transfer of a licence;

7. surrounds, including tables, chairs and footpaths shall be kept in a clean and tidy condition at all times.

The Development Services Committee at its meeting held on 06 November 2006 recommended that this item be referred to the Council for consideration.”

Council resolved on 16th November 2006:-

“That the proposal as submitted in item 7.2.8 be advertised inviting public comment and following the closure of this the item be referred back to council incorporating any comments received.”

COMMENT

The proposal was advertised in the Donnybrook – Bridgetown Mail on 28th November 2006 inviting public comment. Only two submissions have been received. One submission is unsigned. Both submissions opposed the proposed development on the grounds that is not in the best interest of the town and it will allow drinking on the street.

There are a number of issues to be considered including:-

- The space available for this type of use is limited given that the footpath is approximately 3.8 metres wide, and the development would need to be 600mm from the kerb line and also allow a clear pedestrian access of 1.5 metres in width.
- Whilst the use is primarily for dining is it not desirable to encourage drinking of liquor on the street.
- The aesthetics of the proposed structure are not in keeping with the general ambience of the town.
- The general principal and precedent that may follow if this development is approved.

The Council has the power under section 17(2) Local Government (Uniform Local Provisions) Regulations 1996 to grant approval for the use of the footpath for the purpose outlined above, however in doing so it may impose conditions in respect to the use.

For the reasons outlined above it is recommended to Council that the application be refused.

CONSULTATION

Advertised – Donnybrook – Bridgetown Mail
Item – Boyup Brook Gazette

STATUTORY ENVIRONMENT

Local Government Act 1995 – Schedule 9.1
Local Government (Local Uniform Provisions) Regulations 1996 Section 17(2)

POLICY IMPLICATIONS

No Specific Policy in relation to this proposal.

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

The general ambience, aesthetics of the Town of Boyup Brook and utilization of public thoroughfares.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATIONS

That the Planning/Development Application received from Mr P Mansfield Boyup Brook Hotel to develop an “Alfresco Area” on the footpath in Abel Street Boyup Brook be refused on the following grounds:-

- **The space available for this type of use is limited given that the footpath is approximately 3.8 metres wide, and the development would need to be 600mm from the kerb line and also allow a clear pedestrian access of 1.5 metres in width.**
- **Whilst the stated use is primarily for dining it is not desirable to encourage drinking of liquor on the street.**
- **The aesthetics of the proposed structure is not in keeping with the general ambience of the town.**
- **The general principal and precedent that may follow if this development is approved.**

7.2.3 Local Rural Strategy

Location: Shire of Boyup Brook
Applicant: Shire of Boyup Brook
File: LN/55/001
Disclosure of Interest: Nil
Date: 5 February 2007
Author: Tony Doust – Acting Chief Executive Officer

Signature of Author _____

SUMMARY

The purpose of this report is to obtain Council approval to make the modifications to the Draft Local Rural Strategy required by the Department of Planning and Infrastructure (DPI) to allow the policy to be progressed.

BACKGROUND

The draft Shire of Boyup Brook Local Rural Strategy was prepared and sent to the DPI on 31st October 2002 for approval to advertise. The Department advised the Shire on 10th September 2003 accordingly:

“I refer to your letter of 31 October 2002 and submission of the draft Local Rural Strategy to the Western Australian Planning Commission for consent to advertise. In response I advise that the Commission has assessed the Strategy and resolved to:

- i) Require modifications to the Local Rural Strategy to address issues related to the draft Warren Blackwood Rural Strategy, Statement of Planning Policy No. 11, Commission Policy DC3.4 and other matters outlined in Schedule 1 – “Schedule of Modifications”;
- ii) Require modifications to the subdivision criteria in the Local Planning Strategy to reflect the criteria proposed for the Warren-Blackwood Rural Strategy as per the attachment dated 29 August 2003;

The Commission in its preliminary assessment considered the Industrial Development Investigation Area as very large and should be assessed further after public advertising.

The Commission acknowledged that the Strategy provides a comprehensive background to the issues facing the Shire of Boyup Brook and a basis to develop guidelines for the future direction and growth of the Shire, but that it needed modifications before advertising.

On completion of the modifications, the Local Rural Strategy can be advertised for public comment, with comments being sought from the following agencies:

Waters and Rivers Commission;
Department of Conservation and Land Management;
Fire and Emergency Services Authority;
Department of Agriculture;
Department of Industry and Resources;
Department of Environmental Protection;
Department of Indigenous Affairs;
Main Roads of Western Australia;
Water Corporation; Western Power;

The Commission also noted that when the Town Planning Scheme is reviewed there will be a need to upgrade the Local Rural Strategy to a Local Planning Strategy so as to consider the urban areas of the Shire.”

Since that time the Shire has taken various approaches to obtain support for the requirement of the Council outlined in the draft.

This matter was last considered by Council at its meeting on 21st September 2006:-

“The following report was presented to the Development Services committee and the Council in July 2006:-

“In summary, the Council supports 40ha rural subdivisions as-of-right while the Western Australian Planning Commission (WAPC) supports a minimum of 80ha.

The Council at its April 2006 meeting resolved that the:-

1. response dated 11 December 2005 from the Western Australian Planning Commission in relation to the draft Local Rural Strategy be received;
2. Western Australian Local Government Association be requested to call the meeting as offered by the WAPC as soon as possible and to invite representatives from the Shires of Boyup Brook, Manjimup and Nannup when confirmed.

The Shire President, Cr Moir and the CEO met with J Dawkins - WAPC Chairman, R Stokes - Department of Planning and Infrastructure Director, B Mitchell – WALGA President and A Hailes – WALGA Director on 14 June 2006.

Shire representatives put the case that the WAPC support for 80ha rural subdivisions, as determined in the Warren Blackwood Rural Strategy (WBRS), is in contradiction to State Planning Policy 2.5.

The policy only nominates 80ha minimum where the local government does not have a Local Planning Strategy to determine such criteria.

The policy states that local governments should ‘develop subdivision ... criteria...’ in their strategies.

The chairman acknowledged that the subsequent transference into the WBRS has been an unfortunate misreading of the policy.

Mr Dawkins advised that he will request the DPI to place this matter on the agenda of the next SW Planning Commission meeting, of which he is also chairman, for consideration.”

The WAPC responded to the request made at the meeting on 14th June 2006 in the following manner:-

I refer to the abovementioned matter and advise that the Commission has further considered the issue of subdivision in rural areas at its meeting of July 21, 2006 and resolved to:

1. Advise the Shire of Boyup Brook that the Commission has considered the issue of 40ha 'as of right' subdivision in rural areas of the Shire, but has resolved not to support this, for the following reasons:
 - i) Subdivision which does not result in lots capable of ongoing agricultural use would be contrary to the principles established by the Warren Blackwood Rural Strategy, which have the objective of retaining the integrity of agricultural areas; and
 - ii) The Rural Strategy provides the opportunity for significant areas of lifestyle development, which will aid in supporting the social and economic function of the town of Boyup Brook.

2. Advise the Shire of Boyup Brook that the Commission reconsidered the modifications required in order to achieve certification of the Local Rural Strategy for public advertising, and resolved to reiterate its previous resolution of as follows;

- "i) modifications are required to the Local Rural Strategy to address issues related to the draft Warren Blackwood Rural Strategy, Statement of Planning Policy No.11, Commission Policy DC3.4 and other matters outlined in Schedule 1 "Suggested Changes to the LRS";*
- ii) the Department's Bunbury office is prepared to discuss issues raised and provide guidance and assistance in modifying the Local Rural Strategy as outlined in Schedule 1; and*
- iii) on completion of the modifications, the Local Rural Strategy can be advertised for public comment, with comments being sought from the following agencies:*

Water and Rivers Commission;

Department of Conservation and Land Management;

Fire and Emergency Services Authority;

Department of Agriculture;

Department of Industry and Resources;

Department of Environmental Protection;

Department of Indigenous Affairs;

Main Roads Western Australia;

Water Corporation;

Western Power; and

- iv) when the Town Planning Scheme is reviewed there will be a need to upgrade the Local Rural Strategy to a Local Planning Strategy so as to consider the urban areas of the Shire."*

3. Advise the Shire of Boyup Brook that:

- i) Where the Shire's position in relation to rural subdivision, differs from that held by the Commission, a clear indication of that alternative position, may be included within the documentation, for the purpose of seeking public and government agency comment; and*
- ii) Where the Shire supports and progresses proposals related to the Commission endorsed Rural Strategy, DPI is available to provide advice and provides an undertaking to progress proposals in a timely manner.*

Council resolved on the 21st September 2006:-

"That the:-

- 1) response dated 18 August 2006 from the Western Australian Planning Commission rejecting the Council's March 2006 request to include 40ha rural subdivision criteria in the draft the Shire of Boyup Brook Local Rural Strategy, be received;

- 2) Western Australian Local Government Association be requested to pursue the issue with the Western Australian Planning Commission Chairman on behalf of the Shire of Boyup Brook.”

The Western Australian Local Government Association has been requested to pursue this matter with the WAPC. The Association advised on 7th November 2006 that the matter will be raised at a meeting with the WAPC. To date no further response has been received.

COMMENT

Whilst the Council’s requirements in relation to the issues raised are important, the development of the community outside the townsite also needs to be considered. Any development not in accordance with the existing Town Planning Scheme outside the townsites will be difficult to achieve without the Local Rural Strategy being in place. A number of recent proposals whilst supported by Council may not be possible. In the interest of the community and its development it is time for Council to move forward on this issue, and amend the strategy to meet the requirements of DPI. The Council can always pursue the objectives at a later date once the Local Rural Strategy has been finalized, by the way of an amendment.

With this in mind the Acting Chief Executive Officer asked the Shire’s Town Planner Consultant Thompson, McRobert Edgeloe (TME) to provide an overview on what is necessary to progress this matter. TME has advised accordingly:-

“I refer your fax dated the 21st December 2006 and to our subsequent discussions regarding the completion of Council’s Draft Rural Strategy.

The completion of the Rural Strategy forms a component of a general review of the Town Planning Scheme. In essence the tasks before Council are:

1. the statutory review of Town Planning Scheme No 2;
2. the completion of the Local Rural Strategy; and
3. the preparation of a new Town Planning Scheme.

Current Status of the Rural Strategy

The current situation is understood to be that the Western Australian Planning Commission has given consent for the Strategy to be advertised for public comment subject to a number of modifications being completed. The Council has been in dispute with the Commission regarding two aspects of the Strategy being:

1. The provisions for rural subdivisions; and
2. Requesting the inclusion of Special Residential subdivisions within the Riverside Development Area.

The first point relates to Council’s long standing concern of the general position of the Commission for restricting the subdivision of general farming areas as outlined in Statement of Planning Policy 2.5 and the Commission’s Development Policy 3.4.

The second point specifically relates to the proposal from Mr Bombara to develop Lots 2043, 441 and 1007 into Special Residential lots as reported to Council at its Meeting in July 2006. While I have not examined any details of the proposal I note that the Agenda report refers to 100’s of potential lots having a major impact on the district.

It is understood that the Commission has rejected Council’s request on both of these changes.

Review of Town Planning Scheme No 2.

Town Planning Scheme No 2 was gazetted on the 7th November 1997 and is well past its statutory five yearly review period.

It is noted that that on the 9th April 2006 that the Planning and Development Act came into operation. While the provisions for the review of Schemes are similar to the previous Town Planning and Development Act 1928, there are a number of changes.

Council is required to prepare a consolidated version of the Scheme and its Amendments and advertise this for public comment on any issues regarding its operation. It then provides a report to the Minister on the need for a review to be done.

The Minister will then direct if a new Town Planning Scheme should be prepared. As the current Scheme does not accord with the Model Scheme Text as contained in the Regulation 27 Town Planning Regulations 1967 it would be expected that the Minister would direct that a new Scheme be prepared to incorporate this.

The second issue is that Regulation 12A requires that a Local Planning Strategy (LPS) be prepared in conjunction with the Scheme. In essence the LPS is similar to the Rural Strategy but it covers the entire Shire including the townsite. The LPS

- (a) sets out the long-term planning directions for the local government;
- (b) applies State and regional planning policies; and
- (c) provides the rationale for the zones and other provisions of the Scheme.

The Commission's consent is required to advertise the LPS and it may direct that it be modified to reflect Commission Policies.

Town Site Strategy

I have previously had discussions with Mr Will Pearce regarding the issue of preparing a town site strategy for Boyup Brook. The purpose of this would be to:

1. Assist in enabling the preparation of an over all Local Planning Strategy for the whole Shire. In effect this would be the amalgamation of the Draft Local Rural Strategy with the Townsite Strategy; and
2. To address the possible impacts of the Bombarra development on the future of the town.

The townsite strategy must formulate a future vision for the town in terms of the expected development and growth. This vision would reflect community expectations and values and provide the mechanisms for obtaining this. This would include recommendations for future residential, commercial and industrial development and associated community infrastructure.

Modifications to the Draft Rural Strategy

The Commission has documented the required modifications to the Rural Strategy in Schedule 1 of its letter dated the 18th August 2006. A number of these changes are generalised and not specific.

As they require further discussion and agreement with the officers from DPI, they are difficult to quantify or to determine how much work and cost will be involved.

Another example is the reference in the Commission's letter dated the 20th September to "developing a set of criteria which could be used to assess the limited inclusion of clustered lots of between 2,000m² and 1ha where they form part of a larger 'rural residential' proposal". This is in response to the Bombarra proposal but may potentially involve some significant investigation.

It is also assumed that Council has electronic copies of the Rural Strategy Report and Plans and that these do not need to be reproduced.

Each of the proposed modifications needs to be examined and presented to Council to ensure that Councillors understand the possible implications.

Recommended Course of Action

Ultimately Council will need to prepare a Local Planning Strategy for the whole Shire and review the Town Planning Scheme.

However given the status of the Draft Local Rural Strategy and discussions with the Planning Commission, there is merit in finalising the Rural Strategy.

There may also be merit in doing this without recognising the Bombara proposal as this would be the most expeditious way of proceeding and would also allow the Bombara proposal to be examined separately to the Strategy.

The timeframe to complete the Rural Strategy would still be expected to be at least twelve months and possibly longer depending upon what issues arise with the Planning Commission. The following stages/tasks can be identified for this:

1. Examine each modification and negotiate with DPI as to the specific requirements. Provide a report to Council on these and if necessary attend the Council Meeting to present and explain them.
2. Modify the actual documents (report and plans) and submit them to Council for adoption.
3. Submit the revised documents to the Planning Commission for checking prior to advertising.
4. Commence formal advertising and referral to other Government Agencies. Council will need to determine what additional public consultation measures are desirable including any public presentations or workshops.
5. Analyse any submissions which are received and make recommendations on these to Council.
6. Modify the documents for Final Adoption by Council.
7. Submit the documents to the Planning Commission and negotiate any issues relating to obtaining Final Endorsement.

Given the variables involved with the above it is difficult to give a finite quotation. The simplest way to proceed is based upon hourly rates up to an agreed maximum eg \$5,000.

I would also recommend that that there be regular Steering Committee Meetings to provide guidance and allow detailed involvement by interested Councillors. However these are inherently costly due to the travel required and general length of the meetings and the frequency of them must to be considered.”

To allow this matter to be progressed expeditiously it is suggested that the Council authorises the CEO to proceed this matter and that the Development Services Committee be delegated authority to make decisions when required. As with any delegation it is a requirement that the Council be advised on any decision made under Delegated Authority given.

CONSULTATION

Council Briefing Session 21st December 2006
Geoffrey Lush – Thompson McRobert Edgeloe
Western Australian Planning Commission Officers – Bunbury
Western Australian Local Government Association – Alison Haines

STATUTORY ENVIRONMENT

Planning Development Act 2005
Town Planning Regulations 1967
Shire of Boyup Brook Town Planning Scheme No2

Local Government Act 1995

POLICY IMPLICATIONS

No Specific adopted policy that applies to this matter

FINANCIAL IMPLICATIONS

\$25000 funding has been provided in the 2006/07 budget to progress planning requirements including the Local Rural Strategy. Expenditure to date from this allocation is \$480.

STRATEGIC IMPLICATIONS

Finalisation of the Shire of Boyup Brook Local Rural Strategy will be a significant planning achievement for the Council and will provide a foundation on which future planning and land use decisions can be correctly made.

VOTING REQUIREMENTS

Recommendation 1 Simple Majority

Recommendation 2 Absolute Majority (Delegation)

OFFICER RECOMMENDATIONS

- 1. That the CEO be authorized to make arrangements with Thompson McRobert Edgeloe to progress with the “Recommended Course of Action” outlined in the comment section of this report.**
- 2. The Council delegates authority to the Development Services Committee to make any decisions required to achieve the “Recommended Course of Action” outlined by Thompson McRobert Edgeloe in their letter detailed in the comment section of this report.**

7.2.4 Subdivision/Amalgamation – RF & EA Ritson

Location: Lot 1858, 1859, 2130, 7866 & 7867 Parsons Swamp –
Ritson Road
Applicant: RAS Machin
File: Ass 8170
Disclosure of Interest: Nil
Date: 7 February 2007
Author: Tony Doust – Acting Chief Executive Officer

Signature of Author

Appendix:

1.1 - Plan

SUMMARY

This report recommends that Council does not support the request to re-align the boundary of 5 existing lots and to create 5 new lots.

BACKGROUND

The lots are situated within the Rural zone under the Shire of Boyup Brook Town Planning Scheme No 2. The purpose stated in the application is agricultural.

The applicant has provided the following additional information to the Western Australian Planning Commission in support of the proposal:-

“This application is to:

- Relocate a LANDLOCKED location
- Relocate and protect the physical access to Locs 2344 + 3926
- Formalize road resumption’s made by the Shire of Boyup Brook

Location 7867 is in the process of being sold and it is necessary to

- Relocate the physical access to locations 2344 + 3926
- Formalize the road resumption in the NW corner provided the Shire meet costs of survey.

Location 7866 is a LANDLOCKED location. It is proposed to relocate this location to a position facing PARSONS SWAMP ROAD and shown as “E” on the sketch. Location 7866 will be amalgamated into adjoining locations 2130 + 1858.

Lot E will be of equal area to Location 7866. The land is currently subject to a TIMBER PLANTATION lease expiring in 2023.

Location 1859 will contain the new access road being relocated out of 7867 plus the existing road. The area to the north of the access will be amalgamated with part of 7866 into Location 2130. The remaining part of 1859 is about 49ha’s.

Location 2130 will be increased by the addition of part of 7866 and 1859 reduced by the Road widening at NW corner of 2130 subject to the Shire paying survey fees.

Location 1858 will be increased by part of 7866 and reduced by lot E. The lot will be marginally smaller by about 6ha’s at 196ha’s.

Access to 2344 + 3926 will be formalized with a RIGHT OF CARRIAGEWAY easement.

COMMENT

The Shire of Boyup Brook Town Planning Scheme No 2 sets out the following as the zoning objectives and development requirements.

“The Rural Zone is intended primarily for the preservation of agriculturally significant land. Land within the Scheme Area is capable of high levels of agricultural production and is therefore a valuable resource worthy of protection. Council shall therefore seek to ensure that no action is taken to jeopardize that potential.

- 5.2.1 In considering applications for subdivision, rezoning and planning consent in the Rural zone, Council shall have regard to:
- i) the need to protect the agricultural practices of the Rural zone in light of its importance to the District’s economy;
 - ii) the need to protect the area from uses which will reduce the amount of land available for agriculture;
 - iii) the need to preserve the rural character and rural appearance of the area; and
 - iv) where rural land is being subdivided for closer development, the proposal should be supported with evidence outlining the land’s sustainability and capability for further development.
- 5.2.2 Council shall encourage the continued use of land within the Rural Zone for the entire spectrum of broadacre and intensive rural activities except in close proximity to the town where such activities, by their very nature, may detract from the residential and environmental quality within the town.”

The Council has adopted the following policy in relation to subdivisions and amalgamations:-

“Objective

The following provisions should form the basis of comments and recommendation to the Western Australian Planning Commission prior to the determination of the subdivision of rural land.

Statement

- 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 40 hectares except for: -
 - a) Amalgamation;
 - b) Boundary realignments provided no additional lots are created;
 - c) Any subdivision required for public works;
 - d) Where the proposal is accompanied with supporting evidence outlining a land suitability and capability study for further development.
- 2 In considering a plan of subdivision submitted to it for support, the Council shall have regard to the following matters:
 - a) The size, dimensions and shape of each lot;
 - b) The situation and planning of each lot in relation to services, both present and prospective:-

Note: A statement of undertaking may be required in the sale of any new lots with regard to provision of existing Council services.
 - c) The existing and proposed access to the subject land and to each lot. The Council will have regards to:-
 - i) the provisions of the “Road Contribution” Policy;
 - ii) the likely impact of the proposal on the Council road construction program;

- iii) the ability to reduce the potential upgrading of existing roads by utilising an alternative subdivision design or battleaxe access legs which shall be constructed and designed to the satisfaction of the Manager of Works and Services;
- iv) sight distances;
- v) provision of school bus pick –up and let-down points.

(Note: the Council will not automatically support the subdivision of land which requires the use of unconstructed road reserves as the potential impact of this upon the Council budget and road construction program may be detrimental to the community).

- d) The drainage of land and whether the land for drainage is to be vested in the local government or some public body or a government department.
- e) Whether the land has been declared unfit for building under the provisions of the Health Act 1911.
- f) The provisions of any operative or proposed town planning scheme, 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.
- g) Any other matter relating to the proposed subdivision or amalgamation which the Council in its opinion considers necessary or desirable in relation thereto including:-

Bush Fire Protection measures
Battleaxe blocks
Subdivision boundary to suit topography.”

Whilst a number of requirements of Council policy are being met, the shape of the proposed lots and division of existing lots that are presently entirely natural bushland need to be considered.

The Warren Blackwood Rural Strategy includes the following policy strategy:-

“ 3. Farm Restructuring:

In the case of farm restructuring or boundary adjustment, the principal issue of consideration is assessment will be improving the sustainability and long-term agricultural viability of the farming operation and observing the primary principle of protecting and enhancing the productive capacity of agricultural land. Where a farm consist of multiple titles and the proposal is to consolidate the main operation into a single title, consideration will be given to the creation of lots smaller than the outline criteria, provided that:

- The smaller lots have sufficient size to allow for the construction of a dwelling and other small farm infrastructure and buildings with sufficient setback from adjoining properties so as not to restrict potential agricultural productivity on those properties.
- The smaller lots are located to have minimal adverse impact on the viability and sustainability on the main farming property.
- The total number of resulting lots is not greater than the original number of lots.
- In the case of lifestyle lots, the land is located within 10km of a major townsite.

For the purpose of this clause, a “lifestyle” lot is a lot that does not comply with the criteria outline dor subdivision of land designated Agriculture or Priority Agriculture in subdivision criteria 1.

Variations to this theme may be considered on their individual merits in line with these basic principles.

In the case of farm rationalisations, where boundaries are realigned along existing fence lines, contours, creek lines, ridge lines, other topographic features or similar, rather than along rigid

survey alignments, subdivision is and will be supported where it can be clearly demonstrated that the changes will be beneficial to viable and sustainable agricultural production and land management on the subject land and will not be prejudicial to similar production and management on adjoining lands. Special variations to these criteria may be stated for each planning unit according to the specific circumstances that apply within that planning unit. As stated in *Development Control Policy DC 3.4 Subdivision of Rural Land*, the Commission may approve subdivision of rural land where:

- The new boundaries reflect good environmental and land management practices;
- No additional dwelling entitlements are created or where the dwelling entitlements are removed or reduced; and
- The proposal is intended to facilitate the ongoing agricultural usage on all of the lots in the locality.

Rural-residential or rural small holdings subdivisions will not be supported unless the land is designated for the purpose in the local planning strategy or rural strategy and until the land has been rezoned for the purpose.”

Given the requirements of the Shire of Boyup Brook Town Planning Scheme No 2, Warren Blackwood Rural Strategy and the Council’s Policy “Subdivision and Amalgamations” it is recommended that the application not be supported and the applicant be requested to prepare a report addressing the objectives outlined in the documents referred to.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Planning & Development Act 2005
Town Planning Development (Subdivision) Regulations 2000
Shire of Boyup Brook Town Planning Scheme No 2
Warren Blackwood Rural Strategy

POLICY IMPLICATIONS

Policy Subdivision & Amalgamation

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

The proposal needs to meet the strategic direction in the Shires Town Planning Scheme and Warren Blackwood Rural Strategy.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATIONS

That the Council not support the proposed subdivision/amalgamation to realign the boundaries of lots 1858, 1859, 2130. 7866 and 7867 Parsons Swamp and Ritson Roads Boyup Brook and requests that the applicant address the requirements outlined in the Shire of Boyup Brook Town Planning Scheme No 2, Warren Blackwood Strategy and Council Policy “Subdivisions & Amalgamations”

7.2.5 Access to lot 2629 Boyup Brook North Road

Location: Lot 2629 Boyup Brook North Road
Applicant: D Wildy & J Graham
File: As 4360
Disclosure of Interest: Nil
Date: 5 February 2007
Author: Tony Doust – Acting Chief Executive Officer

Signature of Author
Appendices:

1.2 - Plan

SUMMARY

To consider a request received by the Department for Planning and Infrastructure from the owner of Lot 2629 to provide an access to the property through the surrounding Pastoral lease 3114/459 – “Strathairlie Station”.

BACKGROUND

The property is completely surrounded by the Pastoral lease and the present access is by three tracks that have been created over the past years (see attached map).

The following letter has been received from the Department:-

“The Department for Planning and Infrastructure (DPI) is currently considering a request from the landowners of lot 2629 for the creation of three (3) access routes through Pastoral Lease 3114/459.

DPI is prepared to consider the provision of a single access to lot 2629 by way of survey of a corridor along an existing track to a width of ten (10) metres and sale and amalgamation into lot 2629 thus creating a battleaxe lot. The access track marked “A” shown on the enclosed print is the prime access to lot 2629 and would be the preferred access route.

Agreement to surrender the area for an access route has not been referred to the pastoral lessee at this point in time.

For your information, the Department of Environment and Conservation has identified Pastoral Lease 3114/459 for reservation for “Conservation Park” once the current pastoral lease expires on 30 June 2015.”

COMMENT

The proposal by DPI to provide one access by the means of a battleaxe leg attached to the existing lot 2629 is supported. The access would be the responsibility of the landowner. It is suggested that the owner be required to construct the access road to the satisfaction of the Shire of Boyup Brook.

The preferred route “A” of the North Boyup Brook Road for the battleaxe leg is also supported.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Planning Development Act 2005

POLICY IMPLICATIONS

Council normally requires the construction of battle axe access ways to the satisfaction of the Shire of Boyup Brook as a part of any subdivision/amalgamation.

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

The provision of the access proposed will formalize the existing unauthorized access.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATIONS

That Council support the proposal to establish a battle axe access way to Lot 2629 from the Boyup Brook North Road along the route marked "A" on the attached plan, subject to the access road being constructed by the owner to the standard required by the Shire of Boyup Brook.

7.3 CORPORATE SERVICES

7.3.1 Accounts for Payment

Location: Shire of Boyup Brook
Applicant: Shire of Boyup Brook
File: EM/51/003
Disclosure of Interest: Nil
Date: 8 February 2007
Author: Keith Jones – Manager of Finance and Administration

Signature of Author _____

Signature of CEO _____
Appendices: 1.3 - Cheque Listings

SUMMARY

Report recommends the acceptance and approval of the Schedule of Accounts for Payment.

BACKGROUND

Invoices have been received during the month of December 2006 & January 2007.

COMMENT

Accounts are presented for consideration (see appendix 1.3) or where paid by direct debit pursuant to the Council's "Authorisation to Incur Debts and Make Payments" policy.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations Act 1009, Regulation 12; and Regulations 13(3)(a)(b); 13(1); and 13(4).

POLICY IMPLICATIONS

Accounts are presented for consideration or where paid by direct debit pursuant to the Council's "Authorisation to Incur Debts and Make Payments" policy.

FINANCIAL IMPLICATIONS

Account payments are in accordance with the adopted budget for 2006/07 or authorized by separate resolution.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATIONS

1. That the accounts for December 2006 as presented totaling \$418,209.84 as-
 - a.. cheque voucher numbers 15639 - 15737 be approved for payment;
 - b.. paid by-
 - i. direct electronic payments through the Municipal Account;
 - ii. cheque voucher number 2094 - 2098 paid through the Chief Executive Officer's Advance Account;

be endorsed.

2. That the accounts for January 2007 as presented totaling \$395,470.51 as-
 - a. cheque voucher numbers 15737 - 15799 be approved for payment;
 - b. paid by-
 - i. direct electronic payments through the Municipal Account;
 - ii. cheque voucher number 2099 - 2103 paid through the Chief Executive Officer's Advance Account;

be endorsed.

7.3.2 December 2006 Monthly Statement of Financial Activity

Location: NA
Applicant: NA
File: EM/51/003
Disclosure of Interest: Nil
Date: 7 February 2007
Author: Keith Jones – Manager of Finance & Administration

Signature of Author _____

Signature of CEO _____
Appendices: 1.4 - Financial Report

SUMMARY

Report recommends Council receive the Balance Sheet and Operating Statement for the month ended 31 December 2006, and Investment Schedule for the month end 31 January 2007.

BACKGROUND

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

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

The regulations also prescribe the content of the report.

The report is attached – see appendix 1.4

COMMENT

It is suggested that the recommendation be considered.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations 1996, s34(1)(a)
Local Government (Financial Management) Regulations 1996, s19(1)(2)(a)(b)
Local Government (Financial Management) Regulations 1996, s34(2)(a)(b)

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATIONS

That the December 2006 Monthly Statement of Financial Activity as presented, be received.

7.3.3 Railway Carriage Boyup Brook Railway Station Area

Location: Boyup Brook Railway Station Area
Applicant: Blackwood Valley Wine Industry Association Inc
File: IM/20/005
Disclosure of Interest: Nil
Date: 5 February 2007
Author: Tony Doust – Acting Chief Executive Officer

Signature of Author _____

SUMMARY

To formally approve the lease of a vacant Railway Carriage situated at the Boyup Brook Railway Station to the Blackwood Valley Wine Industry Association Inc.

BACKGROUND

Council at its meeting on the 21st December 2006 resolved accordingly:-

“That the Chief Executive Officer be authorized to negotiate and complete a “peppercorn” lease arrangement for one the vacant railway carriages at the Boyup Brook Railway Station area, with the Blackwood Valley Wine Industry Association Inc and advertise the proposal in accordance with the provisions of the Local Government Act 1995”

COMMENT

The CEO advised the Association of the Council’s decision and that the lease would be subject to the following conditions:-

1. As it is proposed to lease Shire property other than by Tender or Public Auction, the proposal must be advertised inviting public comment and Council consideration of any comments received, prior to finalizing the arrangements with your Association
2. The Lease is for a period of five years at an annual rental of five dollars per year. At this time it is proposed the Lease will commence on 1st March 2007, however this is subject to the requirements of item 1 above being completed.
3. Your Association will be responsible for all outgoings in relation to the use of the carriage, including the maintenance of the gardens and appearance of the exterior of the carriage.
4. The Association providing evidence of the Public Liability Insurance cover not less than ten million dollars that specifically includes the use of the railway carriage at Boyup Brook.

It is proposed that the above will be included in a standard lease agreement that will be prepared and forwarded to you on completion of the requirements on item 1 above.”

The Association has now confirmed their acceptance of the above conditions and also “Thanks the Shire of Boyup Brook for the generous opportunity to use the carriage and promote the high quality wines and fruit being produced in the area”

The proposal was advertised in the Donnybrook – Bridgetown Mail on the 10 January 2007 and no submissions/comments have been received.

As the requirement of Section 3.58 of the Local Government Act 1995 and Local Government (Functions & General) Regulations 1996 Section 30 have now been completed with the lease can now be finalised.

CONSULTATION

Blackwood Valley Wine Industry Association Inc
Advertising – Donnybrook-Bridgetown Mail on 10 January 2007

STATUTORY ENVIRONMENT

Although it is proposed to lease the facilities to the association on a peppercorn basis the provisions of the Local Government Act 1995 Section 3.58 and Local Government (Functions & General) Regulations 1996 , Section 30 does not provide exemption and therefore the lease of the Railway Carriage by private treaty and will need to advertise.

POLICY IMPLICATIONS

No special policy has been adopted in regards to leasing/rental of these facilities.

FINANCIAL IMPLICATIONS

Given the rental is only a “peppercorn” the lease proposal will not impact on the revenue of the Shire. No outlays are proposed with regard to the operation of the use of the Railway Carriage.

STRATEGIC IMPLICATIONS

The establishment of the Blackwood Valley Wine Association office at the Boyup Brook Railway Station area will contribute to the development and promotion of Boyup Brook.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATIONS

As there have been no objections/comments received in relation to the leasing of a Railway Carriages by private treaty to the Blackwood Valley Wine Association Inc the Chief Executive Officer proceed with the completion of the lease.

8. PETITIONS AND MEMORIALS

9. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10. URGENT BUSINESS – BY APPROVAL OF THE PRESIDENT OR A MAJORITY OF COUNCILLORS PRESENT

10.1 Financial Review for Period Ending 31st December 2006

It is proposed to circulate this Agenda Item to all Councillors by Tuesday 13th February 2007.

11. CONFIDENTIAL MATTERS

11.1 Chief Executive Officer

This item relates to the progressing of the appointment of a Chief Executive Officer and will be handed to Councillors on Thursday 15th February 2007.

12.. CLOSURE OF MEETING

There being no further business the Chairman declared the meeting closed at