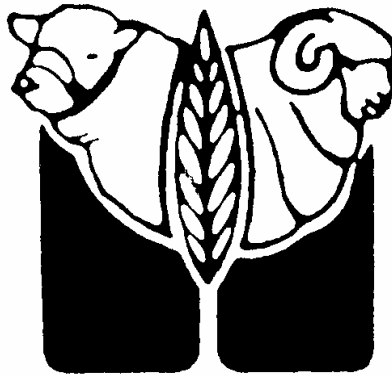


# MINUTES



## ORDINARY MEETING

HELD ON

THURSDAY, 20 APRIL 2006

AT

SHIRE OF BOYUP BROOK  
ABEL STREET – BOYUP BROOK  
COMMENCEMENT AT 3.35PM

*These unconfirmed council minutes are a typewritten transcription of a hand written minutes of the Council meeting as taken by the Chief Executive Officer and Manager of Finance and Administration during that meeting. Whilst every attempt has been made to ensure that the unconfirmed minutes accurately reflect the content of the discussing of the Council meeting, the minutes HAVE NOT YET BEEN CONFIRMED and accordingly the Shire is not liable for and accepts no responsibility for any loss (including purely economic loss) or damage caused directly or indirectly to any person who relies upon the content of the unconfirmed minutes as being true and correct and acts or refrains from acting on reliance upon them.*

## TABLE OF CONTENTS

1	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED .....	3
	1.1 <u>Attendance</u> .....	3
	1.2 <u>Apologies</u> .....	3
2	PUBLIC QUESTION TIME	
	2.1 <u>Response to Previous Public Questions Taken on Notice..</u> .....	3
	2.2 <u>Public Question Time..</u> .....	3
3	APPLICATIONS FOR LEAVE OF ABSENCE .....	3
4	PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS .....	3
5	CONFIRMATION OF MINUTES OF PREVIOUS MEETING .....	4
6	PRESIDENTIAL COMMUNICATIONS .....	5
7	REPORTS OF OFFICERS AND COMMITTEES	
	7.1    WORKS AND SERVICES	
	7.1.1    Townscape Advisory Committee Minutes .....	5
	7.1.2    Reserve 10973 Wahkinup Road – Road Widening .....	7
	7.2    DEVELOPMENT AND COMMUNITY SERVICES	
	7.2.1    Recreation and Leisure Advisory Committee Minutes .....	8
	7.2.2    Boyup Brook Hotel – Exit Doors .....	12
	7.2.3    Lot 2 Moore Rogers Road, Dinninup – Subdivision/Amalgamation .....	13
	7.2.4    Lot 2 Stanton Road, Boyup Brook – Planning Application for a Plant Nursery ..	14
	7.2.5    Review of Proposed New Building Legislation .....	16
	7.2.6    Review of Town Planning Scheme .....	21
	7.2.7    Draft Local Rural Strategy .....	24
	7.2.8    Economic Development Committee Minutes .....	26
	7.2.9    Youth Advisory Committee Minutes .....	27
	7.2.10    Bushfire Advisory Committee Minutes .....	27
	7.3    CORPORATE SERVICES	
	7.3.1    Accounts For Payments and Financial Status .....	28
	7.3.2    Register of Sealed Documents .....	29
	7.3.3    Audit and Finance Committee Minutes .....	29
	7.3.4    Western Australian Local Government Association 2006 AGM .....	30
	7.3.5    Review of the Western Australian Emergency Management Act 2005 .....	30
	7.3.6    Code of Conduct Review .....	34
	7.3.7    Call for Nominations – State Board Vacancies .....	35
8	PETITIONS AND MEMORIALS .....	36
9	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....	36
	9.1    Proposed Change of 2 May Budget Meeting Date	
10	URGENT BUSINESS .....	37
	10.1    Representation on the South West Community Foundation Committee	
11	CLOSURE OF MEETNG .....	37

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

1.1 Attendance

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

Mr J Eddy – Acting Chief Executive Officer  
Mr K Jones – Manager of Finance and Administration (entered the meeting at 3.40pm)  
Mr M Tomlinson – Community and Economic Development Officer

1.2 Apologies

Mr W Pearce – Chief Executive Officer  
Cr A Piper

**2 PUBLIC QUESTION TIME**

2.1 Response to Previous Public Questions Taken on Notice

Nil

2.2 Public Question Time

**3 APPLICATIONS FOR LEAVE OF ABSENCE**

**4 PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS**

Report: Council meeting 20/04/06  
By: Cr S Broadhurst – Shire Representative for Tourism Matters  
Re: Tourist Association

At the last meeting of the Tourism Association of Boyup Brook the Committee was approached by Lisa Martello on behalf of a group of artists who would like to start a small Gallery in the side room of the Tourist Information Centre building, being the property of the Shire of Boyup Brook. This received approval and immediate action occurred to clear the room of Tourism Assoc property the following weekend, with a view to bringing the idea to fruition. Unfortunately, baring the walls showed that moisture is encroaching in several places and mould developing and the group will be seeking advice and support from the Council to solve this problem. The room would be further enhanced by a repaint of the interior but this cannot occur until the moisture issue is solved. Moisture and mould encroachment in the walls of the Beetle and Butterfly museum has been reported previously on several occasions and it is hoped that this can be addressed at the same time. Acknowledging the internationally recognized value of the collection and the fact that it is the only display of the Carnaby Collection available to the public, in the whole of Australia, and in fact, the southern hemisphere, this is considered a matter of some urgency.

The Book Bonanza will occur next month and it is hoped that all persons have been following the reports in the Gazette and will avail themselves of the opportunities being offered.

Report: Council meeting 20/04/06  
By: Cr S Broadhurst – Shire Representative for Tourism Matters  
Re: Blackwood River Valley Marketing Association (BRVMA)

The booklet regarding the valley towns is moving smoothly. The first draft is being constructed and will need a bit of “pruning” at the next workshop.

## 5 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

5.1 Minutes of the Ordinary Meeting of the Council held on 16 March 2006.

**MOVED: Cr Downing**

**SECONDED: Cr Martin**

**That the minutes of the previous Ordinary Meeting of the Council held on 16 March 2006, be confirmed as an accurate record with the following changes:**

- **“ MOVED: Cr Oversby**

**SECONDED: Cr Broadhurst**

***In accordance with Section 5.23 (2) of the Local Government Act 1995 the next part of the meeting is open to the members of the public and the Council come out of committee, the time being 5.17pm.***

**CARRIED 9/0**

***Mr John Imrie, Mr John Eddy and Mr Keith Jones re-entered the meeting the time being 5.17pm.”***

**Be moved and placed prior to the following motion on page 45:**

**“MOVED: Cr Oversby**

**SECONDED: Cr Martin**

***That the Performance Review – Self Assessment of the Chief Executive Officer, be received.***

**CARRIED 9/0”**

- Page 50 – Swimming Pool Policy – Review of Opening Times should read:

**“MOVED: Cr Florey**

**SECONDED: Cr Broadhurst**

***That the Council in addition to the ‘Swimming Pool’ policy opening hours, increase the Boyup Brook Swimming Pool hours for March and April 2006 by being open on Tuesdays from 10am – 6pm and between 12.30pm and 1.30pm from Wednesdays to Mondays.***

**CARRIED 7/2**

***It was requested that the votes for and against be minuted - Crs Ginnane, Broadhurst, Florey, Moir, Martin, Piper and Oversby voted for the motion.***

***Crs Downing and Marshall voted against the motion.”***

**CARRIED 8/0**

- 5.2 Minutes of the Special Meeting of the Council held on 29 March 2006.

**MOVED: Cr Downing**

**SECONDED: Cr Broadhurst**

**That the minutes of the Special Meeting of the Council held on 29 March 2006, be confirmed as an accurate record.**

**CARRIED 8/0**

## **6 PRESIDENTIAL COMMUNICATIONS**

## **7 REPORTS OF OFFICERS AND COMMITTEES**

### **7.1 WORKS AND SERVICES**

#### **7.1.1 Townscape Advisory Committee Minutes**

<i>Proponent:</i>	<i>Shire of Boyup Brook</i>
<i>Location:</i>	<i>-</i>
<i>Reporting Officer:</i>	<i>John Eddy</i>
<i>Date Report Written:</i>	<i>31 March 2006</i>
<i>Enabling Legislation:</i>	<i>Local Government Act 1995</i>
<i>File:</i>	<i>PA/37/001</i>
<i>Appendices:</i>	<i>1.1 - Minutes</i>

#### **BACKGROUND:**

A Townscape Advisory Committee meeting was held on 27 March 2006.

Minutes of the meeting are laid on the table and circulated (refer to appendix 1.1).

**MOVED: Cr Broadhurst**

**SECONDED: Cr Florey**

**That the minutes of the Townscape Advisory Committee held on the 27 March 2006, be**

received.

**CARRIED 8/0**

**MOVED: Cr Oversby**

**SECONDED: Cr Martin**

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

**CARRIED 8/0**

**MOVED: Cr Oversby**

**SECONDED: Cr Downing**

**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**

**MOVED: Cr Broadhurst**

**SECONDED: Cr Florey**

**That Council –**

- (a) adopt the “Tall Man” figures as the ‘town theme’**
- (b) subject to (a), approve the placement of the four “Tall Man” entry statements (see sketches attached to minutes) on the following roads to the Boyup Brook townsite:**
  - Tall Man Family – Boyup Brook/Bridgetown Road**
  - Tall Man Canoe – Boyup Brook/Kojonup Road**
  - Tall Kangaroo – Arthur River Road in the vicinity of Roo Gully**
  - Tall Man with sheep and guitar – Donnybrook Road**
- (c) funds for above be determined and submitted for budgetary consideration**

**CARRIED 6/2**

**MOVED: Cr Broadhurst**

**SECONDED: Cr Downing**

**That Council approves the following Townscape Projects for consideration in the 2006/2007 Budget:-**

- (a) Installation of Aerial Bound Cabling to the Bridge Street median subject to external funding contributions,**
- (b) Construction of town footpaths in the following priority:**
  - Bridge Street – Hotel to Railway Parade**
  - Bridge Street – Co-op to Barron Street**
  - Dickson Street – Abel Street to Railway Parade**
  - Knapp Street – Bridge Street to Rogers Avenue,**
- (c) Register name of “Flax Mill Caravan Park” and provide a new “Flax Mill Caravan Park” sign on the corner of Jackson Street and Beatty Street,**
- (d) Provide information to Main Roads WA for proposed modification of Cowley Street and Inglis Street intersection,**
- (e) Remove existing tree on northern corner (Abel Street corner) of Boyup Brook Town Hall,**
- (f) Construct new Niche Wall, courtyard and gazebo to Boyup Brook Cemetery entrance.**

**CARRIED 6/2**

Cr Moir declared an impartiality interest in the item 7.1.2 – Reserve 10973 Wahkinup Road – Road Widening and departed the Chambers the time being 4.30pm.

**7.1.2 Reserve 10973 Wahkinup Road - Road Widening**

<i>Proponent:</i>	<i>Department for Planning and Infrastructure</i>
<i>Location:</i>	<i>Reserve 10973 Wahkinup Road – Boyup Brook</i>
<i>Reporting Officer:</i>	<i>John Eddy</i>
<i>Date Report Written:</i>	<i>10 April 2006</i>
<i>Enabling Legislation:</i>	<i>Local Government Act 1995</i>
<i>File:</i>	<i>RD024-</i>
<i>Appendices:</i>	<i>1.2 Letters and Plan</i>

**BACKGROUND:**

In October 2002 it was resolved:

*“That the Council requests that the Department of Land Administration excise 5671m<sup>2</sup> from Reserve 10793 to be amalgamated into Wahkinup Road as presented in the attached diagram.”*

The aim of the excision was to acquire further land to rebuild and relocate the Wahkinup Bridge slightly south of its original location.

**DETAIL:**

Section 56(4) of the Land Administration Act 1997 requires the Department for Planning and Infrastructure to seek indemnification from the Shire of Boyup Brook for any costs incurred in the widening of Wahkinup Road.

**COMMENT:**

The Roads to Recovery funded Wahkinup Road Bridge project was completed in May 2005 with no costs incurred to the Department for Planning and Infrastructure.

It is suggested that the Boyup Brook Shire Council indemnify the Department for Planning and Infrastructure for any costs incurred in the widening of Wahkinup Road.

**MOVED: Cr Oversby**

**SECONDED: Cr Florey**

**That the Boyup Brook Shire Council indemnify the Department for Planning and Infrastructure for any costs incurred in the widening of Wahkinup Road.**

**CARRIED 7/0**

Cr Moir re-entered the meeting the time being 4.32pm

## 7.2 DEVELOPMENT AND COMMUNITY SERVICES

### 7.2.1 Recreation & Leisure Advisory Committee Minutes

*Proponent:* Shire of Boyup Brook  
*Location:* -  
*Reporting Officer:* Keith Jones  
*Date Report Written:* 11 April 2006  
*Enabling Legislation:* Local Government Act 1995  
*File:* RE/37/001  
*Appendices:* 1.3 Minutes

#### **BACKGROUND:**

Meetings of the Recreation & Leisure Advisory Committee were held on the 21 March and 6 April 2006.

Minutes of the meetings are laid on the table and circulated (refer to appendix 1.3)

#### **DETAIL:**

In relation clause 2 above, the contents of the whiteboard are in reference to the brainstorming session on the 21 March 2006 on the possible future needs and development of the music park. These items recorded were-

##### CONTENTS OF WHITEBOARD 21 MARCH 2006-03-22

AMENITIES  
ABLUTION/CHANGEROOM ] COMBINED M/P BUILDING – CENTRAL LOCATION  
HOCKEY STORE  
FENCE OFF HOCKEY FIELDS -  
INCORPORATE WITH MUSIC PARK  
OLD HOCKEY OVAL ->UTE TRUCK MUSTER  
RAIL CORRIDOR – ACCESS TO FLAX MILL  
GROUNDS. UTILISE PADDOCKS FOR  
CARAVANS/CAMPING  
F/MILL CHALETS POWERED SITES ENSUITES UNITS  
MOTEL  
TOWN BINS  
TAKE THE OPPORTUNITIES  
RESTRAIN EXPANSION  
BB IS CENTRAL TO REGION  
FACILITIES TO BE PORTABLE REGIONAL BANK OF ASSETS  
LIAISE WITH THE NEIGHBOURING SHIRES  
SHIRE OWNED

COMBINE F/MILL AND MUSIC PARK AS ONE PROJECT FOR GRANT FUNDING PURPOSES  
CULTURAL FESTIVALS 10 10ers  
RAISE RIVER LEVELS  
SEAL PATHWAYS  
OUTDOOR SEATING  
SCULPTURES  
ABLUTIONS DISTANCE  
MARKETING  
BBQ'S  
6 MONTH VENUE  
LANDBANK  
OTHER EVENTS, CONVENTION, ADVENTURE ACTIVITIES,  
FILL IN GAP HOCKEY FIELDS  
F/T EVENTS CO-ORDINATOR  
PROMOTION – SHIRTS BILLBOARDS  
DEMOLISH FOOTY CLUBROOMS/SQUASH  
DEMOLISH FLAX MILL  
CHALETS – BUILD UP OVER TIME



**MOVED: Cr Oversby**

**SECONDED: Cr Broadhurst**

**That the minutes of the Recreation & Leisure Advisory Committee meetings held on 21 March and 6 April 2006, be received.**

**CARRIED 8/0**

**MOVED: Cr Downing**

**SECONDED: Cr Florey**

**That the points brought up and written on the whiteboard be put to the Economic Development Committee for consideration.**

**Amendment**

**MOVED: Cr Broadhurst**

**SECONDED: Cr Martin**

**That the points brought up and written on the whiteboard be put to the Recreation and Leisure Committee for consideration.**

**CARRIED 6/2**

The above motion was then put and carried.

**CARRIED 7/1**

Mr M Tomlinson left the meeting the time being 4.44pm

**MOVED: Cr Martin**

**SECONDED: Cr Oversby**

**That Council subject to budgetary consideration-**

- (a) supports to the maximum value of \$13,000 the Boyup Brook Hockey Council's Sport & Recreation Grant for the construction of a Shelter and Storeroom alongside the hockey field;**
- (b) is satisfied with the location of the building being in consultation with the Manager of Works;**
- (c) ensures the throughway alongside the hockey fields is blocked to vehicular traffic for the safety of children, the design of which will allow for access when absolutely necessary.**

**CARRIED 8/0**

**MOVED: Cr Broadhurst**

**SECONDED: Cr Martin**

**That Council grant funds obtained from Lotterywest secured through Department of Sports & Recreation totaling \$7,500 will be used for the purposes of signage, furniture and gazebo on the Skeleton Bridge bridle trail.**

**CARRIED 8/0**

**MOVED: Cr Oversby**

**SECONDED: Cr Martin**

**That the Recreation Manager investigates cheaper options and any grants available for toilets and change rooms for the recreation precinct.**

**CARRIED 8/0**

**MOVED: Cr Downing**

**SECONDED: Cr Florey**

**That the following 'Recreation Ground Use' policy be updated by the addition of the highlighted points:**

**RECREATION GROUNDS AND PARKS – USE OF**

**Objective**

**To provide direction for the use of Recreation Grounds and Parks by various groups.**

**Statement**

**(New clause) The grounds covered under this policy include-**

- \* Recreation Oval**
- \* Hockey grounds**
- \* Music Park**
- \* Basketball/netball courts**
- \* Sandakan Park**
- \* Visitor Centre grounds**
- \* Other areas at the discretion of the CEO**

**The use of the shire grounds by any locally based community organisation or club is permitted without reference to the Council provided that booking details in written format are forwarded to the shire CEO at least two months (previously one month) prior to the event/s. Shire staff are responsible for registering the usage to avoid double bookings.**

**The use of the grounds by any other organisation is subject to the Council's approval. The request for approval shall be in written format and forwarded to the shire at least two month's prior to the event/s. Should the event be approved, registration shall take place.**

**Sporting clubs shall pay an annual fee for the regular use of the facilities.**

**Schools are exempt from paying hire fees where fund-raising does not take place (intent the same but wording improved)**

**Subject to the Council's approval, other community organisations may be exempt from paying hire fees for one-off annual events and festivals subject to applications being in written format and forwarded to the shire at least 2 months prior to the event.**

**Commercial entities and non-exempt community organisations are subject to paying the private hire fees as set in the Council's Annual Budget.**

**All organisations shall comply with the 'conditions of approval' for the use/hire of the grounds as determined by the CEO. These conditions shall include a clause whereby groups/clubs shall provide, at the discretion of the CEO, written proof of holding public liability insurance for their activities(new clause)**

**All organisations are required to pay a bond prior to using the facility as set in the Council's Annual Budget.**

**CARRIED 8/0**

**MOVED: Cr Florey**

**SECONDED: Cr Broadhurst**

**That the amount of \$5,000 for recreation maintenance be put forward for budgetary consideration.**

**CARRIED 5/3**

**MOVED: Cr Moir**

**SECONDED: Cr Oversby**

**That the meeting be adjourned for an afternoon tea break, the time being 5.10pm.**

**CARRIED 8/0**

**MOVED: Cr Moir**

**SECONDED: Cr Oversby**

**That the meeting resume, the time being 5.23pm.**

**CARRIED 8/0**

The meeting resumed with the following persons in attendance.

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

Mr J Eddy – Acting Chief Executive Officer  
Mr K Jones – Manager for Finance & Administration  
Mr M Tomlinson - Community and Economic Development Officer

**MOVED: Cr Downing**

**SECONDED:**

**That the amount of \$5000 for recreation maintenance be put forward for budgetary consideration to be spent at the Manager of Works and Services discretion.**

**Motion lapsed due to lack of Seconder.**

7.2.2 Boyup Brook Hotel – Exit Doors

<i>Proponent:</i>	<i>Shire of Boyup Brook</i>
<i>Location:</i>	<i>74 Abel Street, Boyup Brook</i>
<i>Reporting Officer:</i>	<i>Wayne Jolley</i>
<i>Date Report Written:</i>	<i>28 March 2006</i>
<i>Enabling Legislation:</i>	<i>Health (Public Buildings) Regulations 1992</i>
<i>File:</i>	<i>-</i>
<i>Appendices:</i>	<i>-</i>

**BACKGROUND:**

The Boyup Brook Hotel, 74 Abel Street, as a public building was inspected by the Environmental Health/Building Officer on the 28<sup>th</sup> March 2006.

Two of the required and nominated exit doors for the bar areas open inwards (against the direction of egress), which is contrary to the Regulations.

The Council has discretion to allow the doors to remain as they are under existing legislation.

**DETAIL:**

Regulation 14(1) of the Health (Public Buildings) Regulations 1992 states:

*“Except where automatic sliding doors are provided exit doors shall be constructed to open in the direction of egress unless the local government otherwise approves.”*

The purpose of this requirement and general principle is to minimise obstructions in the event that exits must be used to rapidly evacuate a building in an emergency (e.g. fire).

However, the legislation recognises that circumstances may exist that make such a requirement impractical. In this case, the building is quite old and some of the doorways will likely pre-date current requirements.

**COMMENT:**

Across the scope of all public buildings, licensed premises are considered to be high risk. However, when considering the Boyup Brook Hotel with other licensed premises, such as large hotels and night clubs, the risk profile is considerably less because:

- it is a small hotel with a maximum bar capacity of 93 people.
- it is a ground floor building only.
- its exits have relatively short distances of travel onto open streets.

Other Councils eg. Shire of Harvey have adopted similar approvals in terms of old hotels.

It is suggested that the Council consider the above recommendation.

The Development Services Committee considered this issue at its meeting held on 10 April 2006 and concurred with the Chief Executive Officer’s recommendation.

**MOVED: Cr Moir**

**SECONDED: Cr Florey**

**That the Council exercise its discretion under regulation 14(1) of the Health (Public Buildings) Regulations 1992, to allow certain exit doors nominated by the Environmental Health Officer at the Boyup Brook Hotel to swing inwards (against the direction of egress).**

**CARRIED 8/0**

Crs Moir and Martin declared financial interests in the following item and departed the Chambers, the time being 5.25pm.

**7.2.3 Lot 2 Moore Rogers Road, Dinninup – Subdivision/Amalgamation**

*Proponent: H, C, G and A Rogers*  
*Location: Lot 2 Moore Rogers Rd, Dinninup*  
*Reporting Officer: Will Pearce*  
*Date Report Written: 30 March 2006*  
*Enabling Legislation: Town Planning Scheme No 2*  
*File: AS4370*  
*Appendices: 1.4 Attached Plan*

**BACKGROUND:**

The proponent wishes to subdivide Lot 2 Moore Rogers Road into three new lots.

A plan of the proposal and correspondence are attached.

**DETAIL:**

Lot 2 has an area of 817.1997 ha.

The new lots will be 283.07ha, 311.62ha and 222.15ha in area if approved.

The Council's 'Subdivisions and Amalgamations' policy states in part that:-

- "1 *In order to achieve the objectives contained in Clause 5.2 of the Scheme, 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."*

**COMMENT:**

Moore Rogers Road has been inspected by the Manager of Works and Services. It is in a satisfactory condition in compliance with the Council's 'Road Contribution' policy.

The area of each new lot complies with the Council's policy.

It is suggested that the proposal be supported.

The Development Services Committee considered this issue at its meeting held on 10 April 2006 and concurred with the Chief Executive Officer's recommendation.

**MOVED: Cr Florey**

**SECONDED: Cr Broadhurst**

**That the Council supports the proposed subdivision of Lot 2 Moore Rogers Road, Dinninup to create three new lots being 283.07ha, 311.62ha and 222.15ha in area.**

**CARRIED 6/0**

Crs Martin and Moir re-entered the meeting the time being 5.26pm

Cr Florey declared a financial interest in the following item and departed the Chambers, the time being 5.26pm.

7.2.4 Lot 2 Stanton Road, Boyup Brook – Planning Application for a Plant Nursery

*Proponent: J Florey*  
*Location: Lot 2 Stanton Road, Boyup Brook*  
*Reporting Officer: Will Pearce*  
*Date Report Written: 31 March 2006*  
*Enabling Legislation: Town Planning Scheme No 2*  
*File: AS9050*  
*Appendices: 1.5 Correspondence & plan attached*

**BACKGROUND:**

The proponent is seeking to establish a "Plant Nursery" on Lot 2 Stanton Road, Boyup Brook.

The proponent has forwarded general details and a plan to support the application as required by the Shire's Town Planning Scheme No 2 (the 'Scheme') – see attached.

**DETAIL:**

The proponent wishes to sell bulk mulch on the subject property currently zoned "Rural" with a total area of 137.8ha.

This type of land use is best described as a "Plant Nursery" and is defined under the Shire's Town Planning Scheme No 2 as..."land or a building or buildings used for the propagation, rearing and sale of plants and the storage and sale of products associated with horticultural and garden decor" which is permitted at the discretion of the Council ("AA" use).

General requirements under the Scheme include -

- Carparking – the applicant does not indicate any carparking areas, however, the Scheme would require that one space for every 100m<sup>2</sup> would be required. In this case one (1) spaces would suffice. The Scheme also provides for construction standards of parking areas.
- Landscaping – The Scheme states that .... “*landscaping shall be undertaken and maintained to the Council’s satisfaction for all development unless, at the option of the Council such landscaping is considered unnecessary*”.

It is considered unnecessary to enforce this provision.

- Access – to be located to the satisfaction of the Manager of Works and Services.

**COMMENT:**

As there is no Council policy to provide guidance on such a development, this proposal is required to be treated on its merits.

The provision of water, toilet and waste water services has not been indicated on the submitted plan. However, the proponent will not be required to provide these services as there is no shop front for the business.

The overall impact of the proposal on the surrounding rural properties would seem to be minimal.

It is suggested that the Council approves the planning application for a Plant Nurser (sale of mulch only) at Lot 2 Stanton Road, Boyup Brook, subject to the following conditions:-

1. compliance with the Town Planning Scheme No 2;
2. a minimum of one (1) carparking spaces being provided and constructed, property drained and sealed to the satisfaction of the Manager of Works and Services;
3. access being located to the satisfaction of the Manager of Works and Services, with the crossovers being constructed to the Council’s design specifications and levels.

The Development Services Committee considered this issue at its meeting held on 10 April 2006 and concurred with the Chief Executive Officer’s recommendation, except that the word ‘sealed’ in clause 2 should be deleted otherwise this would place an unreasonable impost on the proponent.

**MOVED: Cr Downing**

**SECONDED: Cr Martin**

**That the Council approves a planning application for a Plant Nursery (sale of mulch only) to operate from Lot 2 Stanton Road, Boyup Brook, subject to the following conditions:-**

- 1. compliance with the Town Planning Scheme No 2;**
- 2. a minimum of one (1) carparking spaces being provided and constructed and properly drained to the satisfaction of the Manager of Works and Services;**
- 3. access being located to the satisfaction of the Manager of Works and Services, with the crossovers being constructed to the Council’s design specifications and levels.**

**CARRIED 7/0**

Cr Florey re-entered the meeting the time being 5.27pm.

## 7.2.5 Review of Proposed New Building Legislation

*Proponent:* Shire of Boyup Brook  
*Location:*  
*Reporting Officer:* Wayne Jolley  
*Date Report Written:* 5 April 2006  
*Enabling Legislation:* proposed legislation  
*File:*  
*Appendices:*

### **BACKGROUND:**

An information session regarding the above at the Shire of Dardanup on the 20 February 2006, discussed two pieces of legislation:-

- 1 Imminent amendment of the Local Government (Miscellaneous Provisions) Bill 2005. This is proposed to apply until a new Building Act is introduced.
- 2 The proposed new Building Act.

In the course of reviewing proposed changes staff have examined the Miscellaneous Provisions Amendment Bill and associated documents, the Discussion Paper in relation to the New Building Act and comments that have been prepared and circulated by other country local governments (of , namely:-

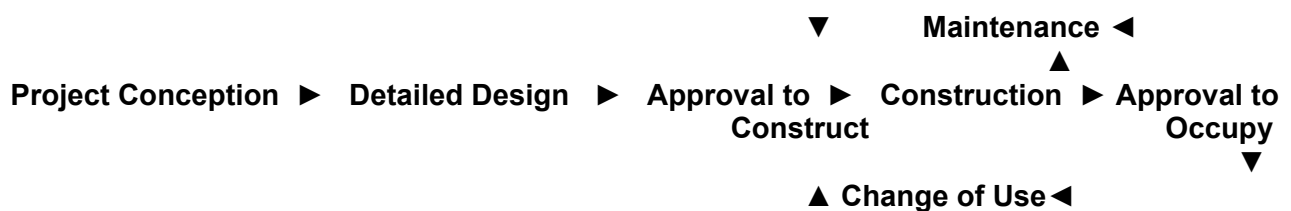
- o Shires of Goomalling and Dowerin (Linton Thomas)
- o Shire of Northampton (David Hadden)

### **DETAIL:**

#### **Description**

A discussion paper titled 'A New Building Act for Western Australia' has recently been released for comment until 28<sup>th</sup> April 2006.

It signals the most significant changes to the system of building control in Western Australia since the introduction of the Building Code of Australia (BCA) in 1989 and purports to follow a national model. It is based on the following regulatory framework:



There are a number of important elements in each step, as described below. Some of will adversely affect the ability of local government (particularly a small country local governments) to either meet statutory responsibilities or to maintain current levels of building control service to their communities. Some of these proposals may also cost ratepayers significantly more without any clear benefit.

#### **1. Project Conception**



This represents the stage at which a landowner decides to initiate a development (e.g. a house). The owner will be responsible for the whole building project although this does not mean that responsibilities cannot be shifted by contracting specialists such as an architect, an engineer and a builder, all of which it is intended will ultimately if not already, be registered.

## **2. Detailed Design**

The proposed scheme contemplates that there will be a series of specialists involved in the design (e.g. architects, engineers etc.), that they will ultimately be registered and will certify their particular elements of the design. At the end of this phase, the owner will have a package of plans, specifications and certificates ready for submission to the 'License Issuing Authority' (usually the local government).

## **3. Approval to Construct**

- There are several types of License Issuing Authorities contemplated including the State Government for State-owned buildings and specialist authorities in certain circumstances (e.g. a large development project spreading across more than one local government). However, local governments will be the prime License Issuing Authority and will be expected to issue licenses and certificates and enforce the legislation.
- The local government will be required to employ or contract a Building Surveyor, who must be qualified at level 1 or 2 by virtue of either a stipulated degree or diploma respectively. Level 1 officer's will be permitted to approve more complex developments.
- The Building Surveyor will not check plans against the BCA but rather ensure that all documentation including relevant certificates (e.g. Certificate of Construction Liability from the builder) are in place before the local government issues a Building License to the project owner.
- The License Issuing Authority will stipulate required inspections during construction, to be carried out by specialist engineers, building surveyors etc. It is expected that the same certifiers used in the design phase will be used in the construction phase, although the Building Surveyor must also determine if additional independent inspections are required.
- The maximum fee allowed to be charged by the License Issuing Authority will be set by regulation.
- There will be retrospective provisions for approving unauthorised constructions.

## **4. Construction**

- The Builder will certify that the building substantially complies with approved plans and legislation.
- The License Issuing Authority will have the power to inspect during construction.

## **5. Approval to Occupy**

- The project owner must apply for a Certificate of Occupancy on a standard application form.
- The License Issuing Authority must issue a Certificate of Occupancy after sighting all relevant construction compliance certificates. This represents an additional duty and may require additional resources. The Authority may include conditions relative to the use of the building.
- Essential services and on-going inspections where required, will be prescribed on the certificates of occupancy.
- There will be no certificate of occupancy in relation to Class 10 buildings (sheds)
- There will also be powers to both issue preliminary approval to occupy before all the

requirements are fulfilled and to revoke a certificate of occupancy.

## **6. Maintenance**

- The License Issuing Authority must periodically review or audit compliance of buildings in respect to building usage and the essential maintenance items set out on the certificate of occupancy.
- Reviews or audits may be carried out by an independent appropriately registered building surveyor.
- Upon receiving the above or where a change of use is notified, the License Issuing Authority will re-issue a certificate of occupancy for a further period of time.
- The Licensing Issuing Authority is responsible for enforcement of the proposed Act.

## **Other General Provisions**

- The proposed Act will bind the Crown in right of the State, although the State Government may set up its own license issuing authority to approve State owned buildings.
- Building approvals will apply to all defined buildings throughout the State, with certain stipulated exceptions (e.g. minor structures such as flag poles, aerials, small sheds)
- Retrospective building approval for unauthorised buildings will be allowed.
- Maximum building fees will be set by regulation.

## **COMMENT:**

### **Local Government Responsibilities:**

The following represents the key areas of responsibility for a local government, most of which can be delegated to its Building Surveyor. A local government must:-

- Provide license issuing service for its district and issue building licenses
- Issue building licenses within two weeks of receipt of application
- Employ or contract a qualified building surveyor
- Enforce compliance (even that notified by a private certifier)
- Issue Certificates of Occupancy
- Periodically review or audit compliance in respect to building usage and essential maintenance.

There are three notable new responsibilities at dot points 2, 5 and 6. In terms of processing approvals within two weeks, this Shire generally meets that requirement. However, the added steps, players and complexity in the process are more likely to create delays outside of the control of the local government but the local government will be held accountable or at least will be obliged to record and defend delays under this new provision. Local governments should support the concept of a 2 week turnaround but resist it being enshrined in legislation.

The other additional duties relative to Certificates of Occupancy and periodic audits of existing buildings will clearly require additional resources in terms of:-

- Pre-certification inspections and reports
- Issue of Certificates prescribing periodic inspections of maintenance and essential services, with associated records
- Periodic inspections as prescribed and consequential follow-up
- Re-issue of Certificates.

While enforcement is an existing responsibility, the new system also makes the local government responsible to enforce breaches of the law detected by private certifiers. Moreover, the process will generally involve an extra step because the local government will be required to issue a "building notice" that allows the owner or builder to provide just cause, before it is able to issue a 'building order' that requires rectification.

### **Added Complexity and Cost**

The proposed new building licensing scheme comprises more steps and more players than the existing system; namely:-

- The collection and submission of relevant certificates by the owner in the design phase;
- The production of certificates by relevant designers (and builder) in the construction phase, to certify that construction reflects design;
- The submission/collection of construction certificates in order to issue an approval to occupy.

Although the proposed scheme is systematic, and might work satisfactorily in the metropolitan area, any added steps, involving the need to consult specialists will add time and cost to the building process, particularly in country areas where such professional services are not readily available.

While the local government building surveyor is intended only to ensure that certifications are in place in a building approval application, he/she may also provide some of the certifications required. This would at least assist a country community where specialists have to be imported. The irony is that to do so, the country building surveyor will need to be more competent (and perhaps more qualified) than one that only examines relevant certifications provided by others (more likely to occur in the metropolitan area).

The vast majority of building applications processed in small to medium size country local governments are sheds and houses. At the Eaton information session, an inquiry was made as to what additional steps might be required in terms of building a house but the question was not answered.

While the this Shire currently meets the two weeks turn-around for building applications, additional steps will undoubtedly create more delays putting the Shire, owners and builders under more pressure.

### **Qualification of Building Surveyors**

This is the most controversial of the proposals in the new Building Act, whereby a local government will only be able to employ Building Officers qualified at one of two levels. It is clear that the vast majority of building officers currently employed by local governments throughout the State (including this Shire) do not hold these qualifications. It seems equally as clear that there is a very substantial deficiency of qualified officers waiting in the wings.

There are no courses of study currently offered in Western Australia for either of these levels. Indeed, at the Eaton information session, the Department of Housing and Works acknowledged that the building approvals system would collapse if all building officers, unqualified in the terms of the new Act, were suddenly removed.

Despite the dependency of the current system on a very large contingency of environmental health/building officers, there are no 'transitional arrangements' to ensure continuity and a seamless transition to the new scheme and this is a very large deficiency in the proposals.

Many local governments, particularly country ones rely on Environmental Health Officers who receive some training in building to perform a dual task. There are many more such officers employed by country local governments than there are pure building surveyors.

Consequently, in previous discussions about new building legislation, agreements have been reached

about sensible transitional arrangements to ensure as seamless a transition as possible to a new scheme. These arrangements were hinged on either the complexity of building that might be approved by such officers or the size of a local government (i.e. less or greater than 15,000 population).

The former restriction seems to make more sense because it focuses on complexity, which is at the centre of any argument to increase qualifications or to introduce professional registration. A sensible way forward would be to allow existing officers to continue to approve up to two story dwelling houses and sheds, which represents the great majority of the approvals issued by small country local governments. More complex structures (e.g. commercial and public buildings) would be referred to qualified contracted building surveyors.

It is imperative to minimise negative impacts on country communities, local governments and the building approvals system. Any scheme to upgrade the qualifications and competence of building officers needs to be evolutionary rather than revolutionary. It must be supported by local training courses and a Department of Housing and Works proficient in supporting and advising building approval practitioners.

In the late 1970's the environmental health fraternity sought to increase its professional standing through introduction of tertiary qualifications. Instead of imposing the elevated level of qualification through legislation, the education system swapped to a tertiary course of study and over a period of time the level of qualification held by environmental health officers has been upgraded through natural attrition. Now, the vast majority of EHO's hold degrees in environmental health.

### **Setting Fees**

The discussion paper signals that maximum building license fees that can be charged by local governments will be:-

- o Set by regulations made under the new Building Act
- o Less than current fees because the approval process no longer requires the building surveyor to check the plans against the Building Code. Where the local government provides certifications, it is considered a separate service for which presumably another charge can be made.

Maximum fees set by legislation are invariably conservative and lag behind increases in costs, putting local governments at a disadvantage in balancing costs and revenue. As a general principle, local governments should set their own level of fees under the Local Government Act, which sets appropriate checks and balances. Many other local government services are funded in this way and the Building Act should likewise defer fee setting to the Local Government Act.

### **Summary of Comments on the New Building Act**

1. The new building approval and compliance process is more complicated, has more steps and involves more players than the existing system. These attributes will certainly increase the cost of services and slow down the process, which in turn will affect local government's ability to provide an effective low cost service, particularly in country areas. The new scheme needs to be:

- o Effective, practical and workable for both metropolitan and country areas
- o Cost effective, requiring no more resources than are currently provided
- o Free of onerous inspections and requirements to submit certificates as they will add unnecessary costs to home owner
- o Applied to buildings other than outbuildings in rural zoned areas.

2. Local government is required to bear greater responsibility in terms of the building application process (two week's turn-a-round), certificates of occupancy and periodic audits for on-going compliance inspections. This will also affect its ability to provide a service within existing resources and emphasises the need to ensure the new scheme provides the means for local governments to raise the additional resources necessary and the practicality of additional responsibilities.

3. The introduction of higher qualifications for building surveyors is commendable but impractical in the short term. There is a clear inadequacy of qualified officers to support the current level of building control in WA and just as clear a reliance on existing 'unqualified' officers, particularly in country areas. Any movement towards increasing the qualification level needs to be accompanied by:

- o Recognition of previous discussions and agreements reached in relation to the many existing building officers that do not hold the target qualifications.
- o Medium to long term transitional arrangements that recognise existing unqualified officers. The preference is a system that would allow existing building officers to approve Classes 1 and 10 buildings.
- o The introduction of training courses within Western Australia which will allow local career building officers to 'grow' into the new qualifications.
- o A competent networking, training and support strategy implemented by the Department of Housing & Works, to ensure that all building officers are kept up to date with developments and have a 'centre of excellence' to refer to for advice.

4. The level of fees charged by local governments for building application approvals should not be set by regulation. Such a system is consigned to lag behind cost increases and exacerbate local governments' ability to resource its services. Fees should be set under the Local Government Act as they are for many other services. This will allow each local government to rapidly respond to its own local circumstances, while being constrained common practice amongst its neighbours.

It is suggested that the Council endorse the officer's report and submit it to the Department of Housing and Works by 28 April 2006 as comments in relation to the *Discussion Draft – A New Building Act for Western Australia*.

The Development Services Committee considered this issue at its meeting held on 10 April 2006 and concurred with the Chief Executive Officer's recommendation and added further points as highlighted above.

**MOVED: Cr Moir**

**SECONDED: Cr Florey**

**That the Council endorse the officer's report as amended, submit it to the Department of Housing and Works by 28 April 2006 as comments in relation to the *Discussion Draft – A New Building Act for Western Australia* and seek Terry Waldron MLC's support to lobby for the Boyup Brook position to be captured by the new act.**

**CARRIED 8/0**

#### 7.2.6 Review of Town Planning Scheme

<i>Proponent:</i>	<i>Shire of Boyup Brook</i>
<i>Location:</i>	-
<i>Reporting Officer:</i>	<i>Will Pearce</i>
<i>Date Report Written:</i>	<i>5 April 2006</i>
<i>Enabling Legislation:</i>	<i>Town Planning Scheme No 2</i>
<i>File:</i>	-
<i>Appendices:</i>	-

**BACKGROUND:**

It has been suggested that the Shire of Boyup Brook Town Planning Scheme No. 2 (TPS) be reviewed and updated.

Advice has been sought on such a review and is presented for consideration.

**DETAIL:**

The CEO sought advice on this matter from the Council's planning consultants, Thompson McRobert Edgeloe. Their response received on 20 March 2006 states:-

"Please find attached the letter regarding the Town Planning Scheme review and Local Planning Strategy.

The issue of rural subdivision will not go away and will have to be addressed with the Planning Commission at some stage. Even if Council wants to go out to Tender on the project we would be happy to assist you with preparing the Project Brief.

However if the Commission has not been pushing the 5 yearly review then you should not rush into it as you can always say that you are awaiting the resolution of the Rural Strategy. It might be better to think of what approach to adopt or even prepare a separate townsite strategy in the interim.

I refer to your discussion regarding the review of the Town Planning Scheme and the relationship of this to the Local Planning Strategy.

TPS was gazetted on the 7<sup>th</sup> November 1997 and hence is due for its five yearly review under Section 7AA(1)(b) of the Act. This review is then submitted to the Minister with a recommendation as to what should happen to the Scheme and in the majority of cases the Minister will direct that a new Scheme be prepared.

This is particularly relevant as the current Scheme does not accord with the Model Scheme Text format as contained in the Regulation 27 Town Planning Regulations 1967 and hence it would be expected that the Minister would direct that a new Scheme be prepared to reflect this. The second issue is that Regulation 12A requires that if a Scheme envisages the zoning or classification of land, the local government shall prepare the Scheme Report under Regulation 12 in the form of a Local Planning Strategy.

The Local Planning Strategy is incorporated in to the Scheme by reference and

- (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.

In essence the LPS is similar to the Rural Strategy but the LPS covers the entire Shire and also addresses Council's Corporate Plan. It should not be a difficult task to convert the Draft Rural Strategy as apart from formatting and updating of information, a townsite strategy would need to be prepared. The townsite strategy would be a section of the report and would address settlement and conservation issues, residential, commercial and industrial land requirements.

However the principal issue of rural subdivision would still need to be addressed and resolved with the Western Australian Planning Commission. Otherwise the Commission is likely to direct that this section of the Strategy be altered in accordance with relevant Policy is Statement of Planning Policy No 2.5 Agriculture and Rural land Use Planning.

In addressing the rural subdivision issue we are aware that some Councils are now "tying" rural lot sizes to land capability classifications ie land with a Class 1 or 2 classification can have a certain lot size while Class 3 or 4 land might have a larger minimum lot size. The important issue is that this matter is negotiated with the Planning Commission and given the history of this issue that any tender specification for the preparing the Local Planning Strategy highlights this need.

You also need to be aware that the preparation of the new Town Planning Scheme will be subject to assessment by the EPA. The EPA will have careful regard to the draft Local Planning Strategy in determining what level of assessment that the Scheme requires. Clearly the objective is avoid any formal level of assessment as this will create significant cost and time issues for Council.

There will be three key stages in the project being:

1. the review if the current Scheme;
2. the completion of the Local Planning Strategy; and
3. preparation of the new Town Planning Scheme.

The review of the current Scheme requires Council to prepare a report on the adequacy of the current Scheme setting out any issues or concerns in its administration and Council must:

- (i) prepare a consolidation of the scheme incorporating such amendments as have been made to the scheme and are in force; and
- (ii) invite submissions from the public on the desirability of a review of the scheme; and
- (ii) report on all such submissions and the local government's recommendations thereon.

The completion / conversion of the Rural Strategy to a Local Planning Strategy. Discussions will need to be held with the Department for Planning and Infrastructure as to what additional matters need to be incorporated. The Local Planning Strategy will then make the specific recommendations for the proposed zonings in the Town Planning Scheme.

We still take the view that the Local Planning Strategy is a community document and should reflect community values and issues. Council should conduct public workshops during the preparation of the Strategy to identify community issues. The stronger the participation in this the easier it is negotiate with the Commission on those issues.

The Town Planning Scheme should then be a relatively simple project of preparing the Scheme based on the Model Scheme Text provisions and the recommendations of the Local Planning Strategy.

I trust that this is of assistance to you and I would be happy to discuss this process further with either yourself or Council.

**COMMENT:**

It is suggested that the Council considers funding the preparation of a Local Planning Strategy, incorporating the existing draft Local Rural Strategy, in the 2006/07 budget.

The Development Services Committee considered this issue at its meeting held on 10 April 2006 and concurred with the Chief Executive Officer's recommendation.

**MOVED: Cr Florey**

**SECONDED: Cr Moir**

**That the Council considers funding the preparation of a Local Planning Strategy, incorporating the existing draft Local Rural Strategy, in the 2006/07 budget.**

**CARRIED 8/0**

**7.2.7**      Draft Local Rural Strategy

*Proponent:*                      *Shire of Boyup Brook*  
*Location:*                        *-*  
*Reporting Officer:*            *Will Pearce*  
*Date Report Written:*        *03 May 2005*  
*Enabling Legislation:*        *Town Planning Scheme No 2*  
*File:*                                *LN/55/001*  
*Appendices:*                    *1.6 Letter attached*

**BACKGROUND:**

The draft Local Rural Strategy (LRS) has been in dispute for two years between the Council and the Minister for Planning and Infrastructure over rural subdivision criteria.



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 March 2004 meeting resolved, in part:-

*That the Western Australian Planning Commission is requested to approve the following modifications to the draft Shire of Boyup Brook Local Rural Strategy:-*

1. *Farm Restructure Policy – shall apply anywhere in the shire ‘as-of-right’ subject to the area of the resultant lots being no less than the area of the smallest existing lot;*
2. *Subdivision and Amalgamation Policy – 40ha minimum lot size shall apply anywhere in the shire ‘as-of-right’ because -*
  - i. *SPP11 states that 80ha lot sizes apply only to ‘Agricultural Areas of State or Regional Significance’ (the WBRS does not identify any such areas in the Shire of Boyup Brook);*
  - ii. *SPP11 states that ‘... strategies should express the vision of the local government and identify proposals for the future development of the district ...’;*
  - iii. *The Supreme Court Case of Ingram & Anor v WAPC (2003) clearly states that the WAPC ‘erred in law by rigidly applying (state) planning policy that each of the proposed (rural) lots must be economically viable’;*

The Council at its July 2004 meeting resolved:-

*‘That the Chief Executive Officer’s response as presented to the Minister for Planning and Infrastructure in relation to the rural subdivision criteria as presented be endorsed and that the issue be raised politically by:-*

1. *seeking the support of the Western Australian Local Government Association (WALGA) for the Shire of Boyup Brook’s position;*
2. *requesting WALGA to arrange for a delegation that includes representatives from the Boyup Brook Shire Council to meet with the Minister for Planning and Infrastructure to discuss the criteria.’*

**DETAIL:**

A response from the WAPC (dated 11 December 2005) via WALGA was received on the 15 March 2006 and is attached.

**COMMENT:**

The WALGA took some 9 months to write to the WAPC seeking a meeting pursuant to the Council’s July 2004 decision. The CEO regularly requested verbally and even during their State Council meeting in February 2005 the WALGA to pursue the matter on Boyup Brook’s behalf.

The WAPC took a further 7 months to reply to the WALGA. Only recently has Boyup Brook received the attached correspondence from the WAPC after much agitation by this report’s author.

To suggest that the Council has been let down in this matter is certainly clear.

The Shire President and CEO are meeting with the WALGA’s President and CEO on 7 April 2006 to discuss various local government issues including our disappointment on the handling of this matter. The committee will be provided with a verbal report on their response from this meeting.

It is suggested that the response dated 11 December 2005 from the Western Australian Planning Commission in relation to the draft Local Rural Strategy be received.

The Development Services Committee considered this issue at its meeting held on 10 April 2006 and concurred with the Chief Executive Officer's recommendation.

**MOVED: Cr Florey**

**SECONDED: Cr Moir**

**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.**

**CARRIED 8/0**

7.2.8 Economic Development Committee Minutes

<i>Proponent:</i>	<i>Shire of Boyup Brook</i>
<i>Location:</i>	<i>-</i>
<i>Reporting Officer:</i>	<i>Will Pearce</i>
<i>Date Report Written:</i>	<i>12 April 2006</i>
<i>Enabling Legislation:</i>	<i>Local Government Act 1995</i>
<i>File:</i>	<i>GO/37/005</i>
<i>Appendices:</i>	<i>1.7 Minutes</i>

**BACKGROUND:**

A Meeting of the Economic Development Committee was held on the 5 April 2006.

Minutes of the meeting are laid on the table and circulated (refer to appendix 1.7).

**MOVED: Cr Florey**

**SECONDED: Cr Moir**

**That the;-**

- 1. Minutes of the Economic Development Committee Meeting held on 5 April 2006, be received;**
- 2. Council considers funding of up to 20 additional powered sites in the 'grain shed' at the Flax Mill at accost of approximately \$7,000 (inc GST) in the 2006/07 budget;**
- 3. Visitor accommodation be a priority in the shire's draft 4 year Forward Plan and Budget comprising of motel style units and chalet / cabin style units;**
- 4. Council approves the 'Business and Industrial Development' and 'Increase the Profile of Boyup Brook' policies as presented for future planning purposes;**
- 5. plan to create four industrial lots along Abel Street and Forbes Street as presented be supported;**
- 6. owners of lot 360 Forbes Street and lot 361 Henderson be requested to consider relinquishing a portion of their lots for the purposes of creating four industrial lots.**

**CARRIED 8/0**

7.2.9 Youth Advisory Committee Minutes

*Proponent:* Shire of Boyup Brook  
*Location:* -  
*Reporting Officer:* Keith Jones  
*Date Report Written:* 12 April 2006  
*Enabling Legislation:* Local Government Act 1995  
*File:* IM/37/004  
*Appendices:* 1.8 - Minutes

**BACKGROUND:**

A meeting of the Youth Advisory Committee was held on 28 March 2006.

Minutes of the meeting are laid on the table and circulated (refer to appendix 1.8).

**MOVED: Cr Downing**

**SECONDED: Cr Oversby**

**That the minutes of the Youth Advisory Committee on 28 March 2006 be received.**

**CARRIED 8/0**

7.2.10 Bushfire Advisory Committee Minutes

*Proponent:* Shire of Boyup Brook  
*Location:* -  
*Reporting Officer:* Keith Jones  
*Date Report Written:* 13 April 2006  
*Enabling Legislation:* Local Government Act 1995  
*File:* IM/37/004  
*Appendices:* 1.9 - Minutes

**BACKGROUND:**

A meeting of the Bushfire Advisory Committee was held on 11 April 2006.

Minutes of the meeting are laid on the table and circulated (refer to appendix 1.9).

**MOVED: Cr Oversby**

**SECONDED: Cr Martin**

**That the minutes of the Bushfire Advisory Committee on 11 April 2006 be received.**

**CARRIED 8/0**

**7.3 CORPORATE SERVICES**

7.3.1 Accounts for Payment and Financial Status

*Proponent:* Shire of Boyup Brook  
*Location:* -  
*Reporting Officer:* Keith Jones  
*Date Report Written:* 13 April 2006  
*Enabling Legislation:* Local Government Act 1995  
*File:* FM/10/003  
*Appendices:* 1.10 – Payments – 1.11 - Statement

**BACKGROUND:**

A monthly financial report is presented for consideration.

**DETAIL:**

The accounts for payment up to 13 April 2006 are attached (see Appendix 1.10).

The Account Balances for the various accounts as at 31 March 2006 are:-

• Municipal Account	\$454,351.95
• Shire Clerk Advance	\$ 278.08
• Shire Medical Account	\$ 88,452.94
• Trust Account	\$ 35,177.59

Investments secured with the Commonwealth Bank maturing 2 May 2006 are:-

- Reserves Account Term Deposit \$ 556,732.72 @ 5.47%

As at 13 April 2006 \$106,965.11 in rates was outstanding.

As at 13 April 2006 Sundry Debtors was \$ 155,585.42 and Sundry Creditors was nil.

**MOVED: Cr Downing**

**SECONDED: Cr Martin**

**That the accounts as presented totaling \$476,993.94 as-**

**1 cheque voucher numbers 14799-14914 be approved for payment;**

**2 paid by-**

- a) direct electronic payments through the Municipal Account;**
- b) cheque voucher numbers 2052-2055 paid through the Chief Executive Officer's Advance Account;**

**be endorsed.**

**CARRIED 8/0**

7.3.2 Register of Sealed Documents

*Proponent:* Shire of Boyup Brook  
*Location:* -  
*Reporting Officer:* Will Pearce  
*Date Report Written:* 6 April 2006  
*Enabling Legislation:* Local Government Act 1995  
*File:* CM/51/001  
*Appendices:* -

**BACKGROUND:**

The documents referred to in the recommendation have been sealed since the 16 February 2006 Council Meeting.

**MOVED: Cr Downing**

**SECONDED: Cr Moir**

**That the following documents sealed since 16 February 2006 Ordinary Council meeting be noted:-**

<u>DATE</u>	<u>PARTICULARS</u>
29/3/06	Debenture Loan 115 for \$110,000 – 1 Rogers Avenue
29/3/06	Debenture Loan 114 for \$200,000 – Swimming Pool Upgrade
6/4/06	Deed Poll – WA Tourism Commission – Flax Mill

**CARRIED 8/0**

7.3.3 Audit and Finance Committee Minutes

*Proponent:* Audit and Finance Committee  
*Location:* -  
*Reporting Officer:* Will Pearce  
*Date Report Written:* 23 March. 2006  
*Enabling Legislation:* -  
*File:* FM/37/001  
*Appendices:* 1.12 - Minutes

**BACKGROUND:**

An Audit and Finance meeting was held on the 21 March 2006.

Minutes of the meeting are laid on the table and circulated (refer to appendix 1.12).

**MOVED: Cr Florey**

**SECONDED: Cr Broadhurst**

**That the minutes of the Audit and Finance Committee Meeting held on 21 March 2006 be received.**

**CARRIED 8/0**

7.3.4 Western Australian Local Government Association 2006 AGM

*Proponent:* Western Australian Local Government Association (WALGA)  
*Location:* -  
*Reporting Officer:* Will Pearce  
*Date Report Written:* 5 April 2006  
*Enabling Legislation:* Local Government Act 1995  
*File:* GR/31/002  
*Appendices:* 1.13 Correspondence

**RECOMMENDATION:**

**That the Council considers submitting agenda items for the 2006 Annual General Meeting of the Western Australian Local Government Association.**

**BACKGROUND:**

The AGM for the Western Australian Local Government Association (WALGA) will take place on Sunday 06 August 2006.

Members of Local Governments are invited to submit motions for inclusion on the agenda for consideration at the 2006 AGM.

**DETAIL:**

The attached correspondence (appendix 1.13) including guidelines should be followed by members in the formulation of motions:-

**COMMENT:**

It is suggested that the Council considers submitting agenda items for the 2006 Annual General Meeting of the Western Australian Local Government Association.

7.3.5 Review of the Western Australian Emergency Management Act 2005

*Proponent:* Fire and Emergency Services Authority  
*Location:* -  
*Reporting Officer:* Will Pearce  
*Date Report Written:* 7 April 2006  
*Enabling Legislation:* Emergency Management Act  
*File:* GR/31/002  
*Appendices:* -

**BACKGROUND:**

The Emergency Management Act was passed by Parliament on 24 December 2005.

This report provides a summary of the legislation with no decisions required at this time.

**DETAIL:**

The following is a brief summary of the Act and an outline of those provisions which most affect or obligate a local government.

## **STRUCTURE**

There are 10 Parts as follows:

### **Part 1 – Preliminary**

This includes:

- Definitions
- Prescription of HMA's
- Delegation
- Prescription of combat agencies
- Relationship to other Acts
- Limitations

*Most importantly, this Act binds the Crown in right of the State.*

### **Part 2 – State arrangements**

This Part is divided into 4 Divisions and refers to the functions, powers, delegations, reporting and other matters in relation to:

- Division 1 - The State Emergency Coordinator
- Division 2 - The State Emergency Management Committee (SEMC)
- Division 3 - The State Emergency Coordination Group
- Division 4 - Emergency management districts (*this division applies to local government and will be described in more detail later in this report*)

### **Part 3 – Local arrangements**

This Part is the most applicable to local government and is divided into 3 Divisions, namely:

- Division 1 - Local emergency authorities
- Division 2 – Emergency management arrangements for local governments
- Division 3 – Powers of local governments during cyclones

*This is the Part that most applies to local government and will be described in more detail later in this report.*

### **Part 4 – Hazard management**

This Part is divided into 2 Divisions and deals with the declaration, extension and revocation of emergency situations as well as authorization of HMA officers. *It may apply to local government in the unlikely event that it is prescribed as a HMA under S4 of the Act).*

### **Part 5 – State of emergency**

This Part is divided into 3 Divisions and deals with the declaration, duration, extension and revocation of a State of emergency (*by the Minister*). It also covers appointment and functions of “Authorised officers” and the establishment, procedures and functions of a “State Disaster Council”.

### **Part 6 – Emergency powers**

This Part is divided into 3 Divisions and sets out the powers which may be exercised in either an emergency situation or a state of emergency and the relevant procedures. *These powers relate to hazard management officers from HMA's or authorized officers appointed by the State Emergency Coordinator and who are unlikely to come from a local government.*

### **Part 7 – Compensation and insurance**

This Part is divided into 3 Divisions which cover:

- Entitlement to, application for and procedures relating to compensation
- Review of compensation decision
- Policies of insurance

*There are several sections that impact, albeit positively on local government, which will be outlined later in this report.*

### **Part 8 – Offences**

This Part deals with offences relating to:

- Obstruction

- Failure to comply
- Failure to lend assistance
- Impersonation
- False or misleading information
- False compensation claim

*This is not legislation which a local government would enforce.*

### **Part 9 – Employment protection**

This Part deals with the right of an employee who performs a function during an emergency, not to be penalized in any way by his/her employer for performing that function or being temporarily absent from work during that period.

*As an employer that might have employees performing functions outside the workplace during an emergency, a local government will very likely be affected by this Part. Specific requirements will be outlined later in this report.*

### **Part 10 – Miscellaneous**

This Part deals with:

- Confidentiality of information
- The Minister may approve payment of expenses to a HMA
- Evidentiary provisions
- Protection from liability for the State, the Minister, the State Emergency Coordinator, *a local government* or an official for anything done in good faith under this Act.
- Empowering the making of Regulations for insuring and compensating volunteers against injury.
- Other regulation making powers
- The mandatory review of the Act by the Minister in 5 years.

### **Schedule 1 – Consequential amendment**

This deals with powers concerning persons exposed to hazardous material. *The requirements relate to the power for an authorized officer to direct a person who has been exposed to hazardous material, and are unlikely to directly affect a local government.*

## **SPECIFIC PROVISIONS AFFECTING LOCAL GOVERNMENT**

### **Part 2 Division 4 – Emergency management districts**

- The Minister will determine emergency management districts, which as far as practicable will be established with reference to local government boundaries. If it is proposed to establish an emergency management district other than by reference to local government boundaries, the Minister will consult with each of the local governments. *This relates to a group of local governments which will make up a district, in the same way as Bridgetown-Greenbushes currently sits in the Bunbury district. In fact there may be no change in that regard.*
- The State Emergency Management Coordinator will appoint a district emergency management coordinator for each district. *This will presumably be a FESA officer.*
- SEMC may consult with the chairmen of LEMC's within the district in establishing the District Emergency Management Committee (DEMC).
- Functions of the District Emergency Management Coordinator and the DEMC are stipulated.
- The DEMC is obliged to submit an annual report to the SEMC, which is to include the annual report of each LEMC.

### **Part 3 Division 1 – Local emergency authorities**

- Two or more local governments may with the consent of SEMC, combine for the purposes of emergency management.
- The SEMC may specify an area of one or more local governments in which a specified public authority will perform the emergency management functions of local government. A procedure for such an action is also stipulated.
- The local government is charged with:



- Ensuring that effective local emergency management arrangements are prepared and maintained;
- Managing recovery following an emergency affecting the community;
- Performing other local government functions under the Act.
- The State Emergency Coordinator will after consultation with the local government, appoint a local emergency coordinator for each local government district. *This will also presumably be a FESA officer.*  
The functions of the Local Emergency Coordinator are:
  - Provide advice and support to the LEMC
  - Assist HMA's
  - Carry out other activities at the direction of the State Emergency Coordinator
- The local government must establish one or more LEMC's. A LEMC is to consist of :
  - A chairman and other members appointed by the local government, and
  - If no-one is appointed chairman, the Local Emergency Coordinator becomes the chairman.
- The functions of the LEMC are to:
  - Advise and assist local governments to ensure that local emergency management arrangements as established
  - Liaise with public authorities to develop, review and test local emergency management arrangements
  - Carry out other activities directed by SEMC or prescribed by regulations.
- The LEMC must submit an annual report to the DEMC at the end of each financial year, within a time and as directed by the SEMC.

### **Part 3 Division 2 – Emergency management arrangements in local government district**

- A local government must ensure that local emergency management arrangements are prepared, which include:
  - Local government policies
  - Roles and responsibilities of public authorities and other involved individuals
  - Provisions for coordination of emergencies
  - Descriptions of emergencies that are likely to occur
  - Strategies and priorities
  - Other matters as prescribed by regulations
  - Other matters the local government considers appropriate
- Local emergency management arrangements are to be consistent with State policies and emergency management plans
- Local emergency management plans are to include a Recovery Plan and the nomination of a local Recovery Coordinator
- A local government must:
  - Provide a copy of its local recovery plan to the SEMC as soon as practicable
  - Ensure its Arrangements are reviewed according to SEMC procedures
  - Keep a copy of its Arrangements at its offices and make them available for public inspection.
- A local government may delegate its powers under this Division
- Further powers are given to local governments in terms of requiring clean-up of dangerous vegetation or premises in cyclonic areas.

### **Part 7 – Compensation and insurance**

- A person who sustains loss under certain sections of the Act may make a claim to the Minister for compensation. The sections under which claims can be made either relate to cyclone clean-up (which will not affect Boyup Brook) or to the actions of a hazard management officer

or authorized officer, which I think are unlikely to be local government officers. At any rate, the claim is on the Minister and the payments will come from the Consolidated Fund. I am not clear on other damage which might be sustained by local government officers in discharging duties during an emergency but I suspect it would be no different than already exists.

- If damage is caused to a property because of the exercise of a power or the performance of a function under this Act by a person in good faith and it occurs in attempts to protect property from damage or preventing injury (or death) to a person or animal, then an insurance policy cannot reject a claim based on that action.

### **Part 9 – Employment protection**

- If an employee carries out an activity in an emergency in a voluntary capacity, they cannot be penalized by an employer for related absences in relation to:
  - Remuneration
  - Sick leave
  - Annual leave
  - Long service leave
  - Continuity of service
  
- An employee cannot be victimised in any way for an absence relative to an emergency activity.

### **COMMENT:**

Further clarity on local governments' obligations under the legislation will be forwarded by the Fire and Emergency Services Authority in the near future which will require Council's actions across the state.

**MOVED: Cr Marshall**

**SECONDED: Cr Downing**

**That the contents of this report be received.**

**CARRIED 8/0**

### **7.3.6 Code of Conduct Review**

<i>Proponent:</i>	<i>Shire of Boyup Brook</i>
<i>Location:</i>	<i>-</i>
<i>Reporting Officer:</i>	<i>Will Pearce</i>
<i>Date Report Written:</i>	<i>11 April 2006</i>
<i>Enabling Legislation:</i>	<i>Local Government Act 1995 Section 5.103</i>
<i>File:</i>	<i>CM/42/001</i>
<i>Appendices:</i>	<i>1.14 Codes of Conduct</i>

### **BACKGROUND:**

The Council is required to review its Code of Conduct within twelve (12) months after each ordinary election day and make such changes as it considers appropriate, pursuant to Section 5.103 of the Local Government Act.

### **DETAILS:**

The existing Shire of Boyup Brook Code of Conduct (last reviewed in 2003) is attached – see appendix 1.14.

The Code documents responsibilities for both elected members and staff relating to conflicts of interest, the use of resources and the use of information for personal benefit. Most importantly, it

provides guidance in an endeavour to ensure that individuals within the organisation not only act with integrity in their public positions, but are seen to do such.

**COMMENT:**

The Chief Executive Officer has undertaken a review of the Shire of Boyup Brook Code of Conduct and advises that it does not cover all the provisions of the Local Government Act 1995 eg impartiality interest and considers that it no longer meets community expectations.

A draft replacement code is presented, see appendix 1.14, which is a copy of the Shire of Donnybrook/Balingup's code. The Boyup Brook Shire would like to express its gratitude to the Donnybrook/Balingup Shire for the use of their document.

This code is comprehensive and up-to-date and complies fully with the requirements of the act.

**MOVED: Cr Martin**

**SECONDED: Cr Florey**

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

**CARRIED 8/0**

**MOVED: Cr Martin**

**SECONDED: Cr Oversby**

**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**

**MOVED: Cr Oversby**

**SECONDED: Cr Broadhurst**

**That the draft 'Shire of Boyup Brook Code of Conduct – Elected Members and Staff' as amended be adopted.**

**CARRIED 8/0**

**7.3.7      Call for Nominations - State Board Vacancies**

*Proponent:                      Shire of Boyup Brook*  
*Location:                        -*  
*Reporting Officer:              Will Pearce*  
*Date Report Written:          11 April 2006*  
*Enabling Legislation:        Local Government Act 1995*  
*File:                                CM/42/001*  
*Appendices:                    1.15 Information Sheet*

**RECOMMENDATION:**

**That the Council considers nominating elected members for various state positions as presented.**

**BACKGROUND:**

The Council is requested to nominate members for various state boards and committees.

**DETAILS:**

The Western Australian Local Government Association has forwarded a summary of these positions – see appendix 1.15

**COMMENT:**

It is suggested that the recommendation be considered.

**8. PETITIONS AND MEMORIALS**

**9. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

9.1 Proposed Change of 2 May Budget Meeting Date

**CEO Comment:**

At its 10 April 2006 meeting, the Development Services Committee was advised that the Western Australian Planning Commission will be visiting the Warren Blackwood region on 2 May 2006.

The Shire President and CEO are invited to meet with the WAPC from 4pm – 8pm to discuss local issues.

The committee sees this invitation as a timely opportunity for Boyup Brook to lobby for support to change the state government's Warren Blackwood rural subdivision criteria that is currently obstructing the approval of the shire's Local Rural Strategy.

**MOVED: Cr Florey**

**SECONDED: Cr Martin**

**That the 2 May 2006 Budget Meeting be rescheduled to 5 May 2006.**

**CARRIED 8/0**

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

10.1 Representation on the South West Community Foundation Committee

Background

The State Government has made available to the South West Development Commission \$100,000 for the establishment of a South West Community Foundation. The Development Commission is in the process of setting up such a Foundation.

It is planned that the Foundation will be an identity which is completely separate from any Government Department or Agency, and they are seeking input from representatives of Industry, Local Government, Community Groups etc.

This Foundation could be a valuable source of funds for a number of volunteer organisations within the Boyup Brook area. Its funds will not be only available for specific types of projects, as is often the case with other funding sources. The recipient organisation will not necessarily need to be an incorporated body with a Tax Department ABN. The Foundation itself will be the sole determinant of any grants and any conditions to be applied.

Currently, the Interim Committee is planning to work in conjunction with community based Foundations (like Future Boyup Brook) and to be able to assist them with paperwork and advice on procedural matters. They envisage their targets for funding assistance to be State Government and large corporate entities. Donations from individuals which would be more area specific (example, for use for the betterment of the Boyup Brook community) will be directed and encouraged to the appropriate Community Foundation in that area, even to the extent of assisting with the formation of a Community Foundation if one does not exist in that area.

A presence of committee members from the smaller communities in the South West is perhaps one way of ensuring that these intentions remain in place within the committee.

There is every likelihood that the Shire will receive a letter from the Chairman of Future Boyup Brook, requesting that the Shire Council give serious thought to having representation on the South West Community Foundation interim committee.

**MOVED: Cr Florey**

**SECONDED: Cr Broadhurst**

**That Council endorse Cr Downing to represent the Boyup Brook community/district on the interim committee of the South West Community Foundation.**

**CARRIED 8/0**

**11 CLOSURE OF MEETING**

There being no further business the Chairman declared the meeting closed at 6.48pm.

These Minutes and Schedule of Accounts were confirmed by the Council at the Council Meeting held on the 18 May 2006.

\_\_\_\_\_  
Cr Terry Ginnane, Shire President