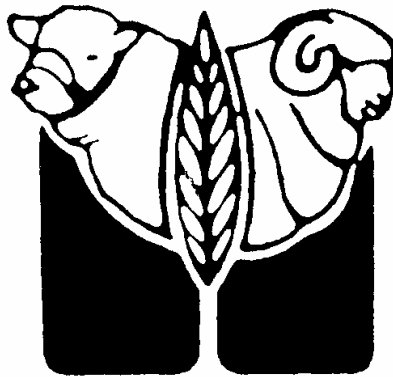


MINUTES



ORDINARY MEETING

HELD

THURSDAY, 17 SEPTEMBER 2009

COMMENCED AT 3.35PM

AT

SHIRE OF BOYUP BROOK CHAMBERS
ABEL STREET – BOYUP BROOK

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

1.1 Attendance

Cr R Downing – Shire President
Cr Marshall
Cr S Broadhurst
Cr M Giles
Cr T Ginnane
Cr K Lamshed
Cr A Piper

STAFF: Mr Alan Lamb (Chief Executive Officer)
Mr Keith Jones (Manager of Finance)
Mr John Eddy (Manager of Works and Services)
Mrs Maria Lane (Executive Assistant)

PUBLIC: Ms Lyn Schreurs (arrived at 3.30pm left at 5.11pm)
Mrs Elizabeth Marshall (arrived at 3.30pm left at 5.11pm)
Mr Eric Biddle (arrived at 3.30pm left at 5.11pm)
Mr Gary Chambers (arrived at 3.36pm left at 4.30pm)
Mrs Debbie Chambers (arrived at 3.36pm left at 5.11pm)
Ms Kaye Kerruish (arrived at 3.36pm left at 5.11pm)

Apologies

Cr Muncey
Cr O'Hare

1.2 Leave of Absence

Nil

2 PUBLIC QUESTION TIME

Nil

2.1 Response to Previous Public Questions Taken on Notice

Nil

2.2 Public Question Time

Nil

3 APPLICATIONS FOR LEAVE OF ABSENCE

4 PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS

Cr Broadhurst advised Council that Board members of the Boyup Brook Tourism Association are as follows:

Mr Brian Walker – President
Ms Beverley Mudge – Manager
Ms Sue White – Treasurer

Cr Giles attended the Manjimup Shire Public meeting which was held on 14th September 2009. 19 people attended the meeting which included Councillors. The Manjimup Shire informed the public that they are in a strong secure position (category 2) and are working closely with the Warren Blackwood Strategic Alliance.

5 CONFIRMATION OF MINUTES

5.1 Ordinary Meeting of Council Thursday 20 August 2009.

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 5.1

MOVED: Cr Ginnane

SECONDED: Cr Broadhurst

That the minutes of the Ordinary Meeting of Council held on Thursday 20 August 2009, be confirmed as an accurate record.

CARRIED 7/0

Res 188/09

6 PRESIDENTIAL COMMUNICATIONS

- | | |
|-----------|--|
| 21 August | Meeting with Hon. Terry Redman MLC |
| 24 August | Represented Shire Council at Boyup Brook Hospital for dedication of Rose Garden Memorial. |
| 25 August | Meeting with Hon. Colin Holt MLC |
| 1 Sept | Reform Committee meeting with Bridgetown-Greenbushes and Donnybrook-Balingup. |
| 2 Sept | Meeting with United States Consul General Dr. Kenneth Chern |
| 3 Sept | Attended Lions Sandakan Scholarship judging. |
| 6 Sept | Represented Boyup Brook at North Borneo Memorial Service in Kings Park. |
| 10 Sept | Attended High School Assembly to present winners prize for Banners in the Terrace competition. |
| 14 Sept | Reform Committee meeting with Bridgetown-Greenbushes and Donnybrook-Balingup. |
| 15 Sept | Represented Shire Council at the funeral of former Councillor Mrs. Noreen Tuckett. |

7 REPORTS OF OFFICERS

Change to Order of Business

COUNCIL DECISION

MOVED: Cr Giles

SECONDED: Cr Piper

That the order of business in the agenda be changed to allow item 7.3.5 to be brought forward and dealt with at this time.

CARRIED 7/0

Res 189/09

7.3 CHIEF EXECUTIVE OFFICER

7.3.5 Local Government Reform Submission

Location:	<i>Boyup Brook district</i>
Applicant:	<i>N/A</i>
File:	<i>GR/31/009</i>
Disclosure of Officer Interest:	<i>none</i>
Date:	<i>11 September 2009</i>
Author:	<i>Alan Lamb – Chief Executive Officer</i>
Authorizing Officer:	<i>N/A</i>
Attachments:	<i>Draft reform submission</i>

SUMMARY

The purpose of this report is to put before Council a draft of a reform submission with the recommendation that Council modifies it as it sees fit then adopts the document.

BACKGROUND

The Minister for Local Government commenced a reform process in February this year that included the following (Structural Reform Guidelines);

The Minister requests that by 31 August 2009, each of the 139 local governments in Western Australia will have made an informed decision on voluntary amalgamation, their preferred regional groupings and the number of elected members required within a range of six to nine.

The deadline on this was subsequently extended to 30 September 2009.

The Minister's stated aims were as follows (Structural Reform Guidelines):

The desired outcome of structural reform is a strong sustainable local government. There are a range of benefits that will be achieved through the reform process: increased capacity for local government to better plan, manage and deliver services to their communities with a focus on social, environmental and economic sustainability;

increased capacity for local government to have adequate financial and asset management plans in place;
enhanced efficiency in the processing of planning, building and other licence applications made by business and the community;
greater ability to attract and retain staff including the provision of further career development opportunities;
greater competition for positions on council and, in conjunction with other reforms, potential for enhanced governance capacity; and
larger local governments with greater capacity to partner with State and Federal Government, and the private sector, to further improve services to communities.

Council appointed the President and Chief Executive Officer to be its "Local Government Reform team and that this team meet with their counterparts at the Shires of Cranbrook, Kojonup, West Arthur, Collie, Donnybrook Balingup, Bridgetown Greenbushes, and Manjimup to conduct exploratory meetings on the matter of reform."

Meetings were conducted with all but the Shire of Cranbrook and none of the Councils spoken with favoured amalgamation. Talks centred on matters such as boundary adjustments, better collaboration and assistance, and the like. The attached draft reform submission contains much of the history of the process so it will not be further repeated here.

COMMENT

It is recommended that the thrust of the draft submission be debated fully and that, once a decision is made as to the direction, Councillors and Administration strongly support the direction. Also that steps be taken to action the agreed direction, if there is some change to current operations, to clearly demonstrate a commitment to the desired path.

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Not known at this time and will depend on the direction Council takes.

STRATEGIC IMPLICATIONS

Nil

4.17pm – Kaye Kerruish left the Chambers.

4.24pm – Kaye Kerruish returned to the Chambers.

SUSTAINABILITY IMPLICATIONS

This area has not been addressed because Council's direction is not known, the attached draft submission however does deal with these areas in varying degrees of detail.

- **Environmental**
There are no known environmental issues at this stage.

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

4.30pm – Mr Gary Chambers left the Chambers.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION – ITEM 7.3.5

That Council

Debates and modifies, as it sees fit, the attached draft Local Government Reform Submission and adopts the resulting final draft for submission to the Minister for Local Government.

MOTION

MOVED: Cr Ginnane

SECONDED: Cr Lamshed

- 1 That Council moves towards the formation of a ROC with the Shires of Bridgetown/Greenbushes and Donnybrook/Balingup and the southern section of the Shire of West Arthur; and further to investigate the value of the future amalgamation with those Shires in the event of Government Direction
- 2 That the current Reform Committee be disbanded and the Shire President and Deputy Shire President continue further negotiations with the Shires of Bridgetown/Greenbushes and Donnybrook/Balingup in line with Council's Policy.

NOTE

It was noted that Regional Organisations of Councils (ROCs) could only be formed with other Councils and not portions of other Council's districts. The motion was amended by the mover with agreement of the seconder to read as follows:

- 1 That Council moves towards the formation of a ROC with the Shires of Bridgetown/Greenbushes and Donnybrook/Balingup; and further to investigate the value of the future amalgamation with those Shires in the event of Government Direction
- 2 That the current Reform Committee be disbanded and the Shire President and Deputy Shire President continue further negotiations with the Shires of Bridgetown/Greenbushes and Donnybrook/Balingup in line with Council's Policy.

FORESHADOWED MOTION

Cr Marshall foreshadowed the following motion:

That Council:

- Actively pursue the Voluntary Amalgamation of the Boyup Brook / Donnybrook / Bridgetown Shires.
- In the event of Bridgetown being unwilling, Boyup Brook pursues a Boyup Brook / Donnybrook merger which may include portions of the Capel and Dardanup Shires.
- Realign the Northern boundary of the Shire where it joins the Shire of West Arthur to include the area bounded by the Bowelling McAlinden road through to Bowelling, the Bowelling Duranillin road through to Duranillin, the Duranillin road through to Moodiarup, the Arthur River road back to Trigwells Bridge. This area, in any Shire amalgamation is logistically more efficiently managed from Boyup Brook, and also includes a significant portion of the watershed of the Blackwood River.
- Realign the Donnybrook boundary into the current Donnybrook Shire to a position that ensures Boyup Brook has a minimum representation of two Councillors on the newly created Preston Blackwood regional council.
- Immediately withdraw from the Warren Blackwood Economic Alliance.
- Move to form a ROC between the newly formed Preston Blackwood regional council and Shire of Manjimup and or Nannup.
- The Shire of Boyup Brook believes Nannup is more closely aligned with the Shire of Augusta Margaret River.

NOTE

The foregoing was contained in a note attached to an email that Cr Marshall had circulated to Councillors prior to the Council meeting. Following the meeting Cr Marshall informed that it was his intention and expectation that his emailed note be included in the minutes of this meeting. A copy of the note is attached to the minutes.

COUNCIL DECISION – MOVE INTO COMMITTEE

MOVED: Cr Piper

SECONDED: Cr Giles

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

CARRIED 4/3

Res 190/09

COUNCIL DECISION – MOVE OUT OF COMMITTEE

MOVED: Cr Broadhurst

SECONDED: Cr Ginnane

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

CARRIED 7/0

Res 191/09

COUNCIL DECISION – ITEM 7.3.5

MOVED: Cr Ginnane

SECONDED: Cr Lamshed

That the draft submission as presented and amended by the structural reform committee be submitted to the Minister for Local Government.

CARRIED 5/2

Res 192/09

Request for Vote to be recorded

Cr Giles requested that the vote of all Councillors be recorded.

For	Against
Cr Downing	Cr Giles
Cr Ginnane	Cr Marshall
Cr Broadhurst	
Cr Lamshed	
Cr Piper	

NOTE

The foregoing motion was amended by the mover and seconder following discussions held whilst Council was in committee.

5.11pm – Cr Marshall, Cr Giles, Ms L Schreurs, Ms D Chambers and Ms K Kerruish left the Chambers.

7.1 MANAGER WORKS & SERVICES

7.1.1 Proposed New Road Name

Location:	<i>Shire of Boyup Brook</i>
Applicant:	<i>Mrs B Trigwell</i>
File:	<i>RD/35/006</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>4th September 2009</i>
Author:	<i>John Eddy – Manager of Works & Services</i>
Authorizing Officer:	<i>Alan Lamb – Chief Executive Officer</i>
Attachments:	<i>Yes – Policy P.08 – Naming New Roads</i>

SUMMARY

The applicant Mrs B Trigwell has requested that the surname of 'Cuttriss' be considered by the Council as a future road / street name within the Shire of Boyup Brook and added to the schedule of suggested names.

At the May 2009 Council meeting it was resolved that:
'Item 7.3.1 lay on the table pending further information'.

BACKGROUND

The applicant has forwarded further information and is added to the previous summary of the 'Cuttriss' family history in the Boyup Brook community:-

Previous Summary

"Frank Cuttriss farmed at Westcliffe for many years and was also a wool buyer. When Frank retired from farming the farm was taken over by his son Brian and wife Val.

Frank then retired to town where he carried on his wool buying and also boat repairing in the woolshed behind the house he built on the corner of Jayes road and Blechynden Street.

The woolshed and office can still be seen today. Mr Cuttriss had a magnificent flower garden which is carried on today by her daughter in-law Val.

The book Frank wrote called "Try Australia First" is well worth reading and there must be a copy in your library."

Additional Information

Frank Cuttriss took up a virgin block of land at Westcliffe about 1920, the block was covered in many areas with poison. Frank worked hard to fence block, re-built a camp out of saplings with a bark roof and had a dirt floor.

To get money he burnt charcoal for the war effort committee, was a member of the V.D.C in war years, also helped and employed many Italian families looking for work. After moving to Boyup he had a boat repair shop he also created leather and made boats, his shop was in Railway Parade.

Frank built and operated a wool shed at the rear of 15 Jayes Road. It still stands today, was agent for various firms such as Wilcox Mofflin, Victoria Insurance and was the town's marine buyer. Rowena Staniforth-Smith nee Campbell was his Secretary her office is still there too.

He was a member of the Masonic Lodge and at Christmas donned his Father Christmas outfit to the delight of all the children. He was a staunch member of the Repetory Club, was Goal umpire for football club. Later built a wool store on Donnybrook Road and operated from there for many years buying wool had a marine depot and sold second hand furniture. Later wrote his book 'Try Australia First' this gives a vivid picture of all Franks like after he arrived from England as a young lad. I urge you to read it.

These are just some of the things Frank did that I have been able to find, so hope this will be the information you required for a Cuttriss Street name.

Brenda Trigwell.

COMMENT

The 'Cuttriss' family name satisfies all the criteria in the Shire of Boyup Brook Naming New Roads Policy and is considered suitable to be added to the schedule of suggested road names included in the policy.

(see appendix 7.1.1 – Policy P.08 Naming New Roads)

CONSULTATION

Chief Executive Officer

STATUTORY OBLIGATIONS

The Geographic Names Committee gives final approval of Street and Road names submitted by Local Authorities.

POLICY IMPLICATIONS

Compliance with Shire of Boyup Brook Policy No P.08.

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY ISSUES

- **Environmental**
There are no known significant environmental issues.
- **Economic**
There are no known significant economic issues.
- **Social**
The process of maintaining a register of names for selection of new road names is recognising the local identities and history of Boyup Brook.

5.12pm – Cr Giles returned to the Chambers.

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICE RECOMMENDATION – ITEM 7.1.1

MOVED: Cr Piper

SECONDED: Cr Broadhurst

That the Council approve the inclusion of the surname ‘Cuttriss’ to the schedule of suggested names in the Shire of Boyup Brook Naming New Roads Policy.

LOST 2/4

Res 193/09

7.2 **MANAGER – FINANCE**

7.2.1 **Accounts for Payment**

<i>Location:</i>	<i>Not applicable</i>
<i>Applicant:</i>	<i>Not applicable</i>
<i>File:</i>	<i>FM/1/002</i>
<i>Disclosure of Officer Interest:</i>	<i>None</i>
<i>Date:</i>	<i>11th September 2009</i>
<i>Author:</i>	<i>Keith Jones – Manager of Finance</i>
<i>Authorizing Officer:</i>	<i>Not applicable</i>
<i>Attachments:</i>	<i>Yes – List of Accounts Paid</i>

SUMMARY

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

BACKGROUND

Invoices have been received during the month of August 2009.

COMMENT

Accounts are presented for consideration (see appendix 7.2.1) or where paid by direct debit pursuant to the Council's "Authorisation to Make Payments" policy.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

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 "Authorization to Make Payments" policy.

BUDGET/FINANCIAL IMPLICATIONS

Account payments are in accordance with the adopted budget for 2009/10 or authorized by separate resolution.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.2.1

MOVED: Cr Ginnane

SECONDED: Cr Lamshed

That the payment of accounts for August 2009 as presented totalling \$600,894.90 and as represented by cheque voucher numbers 17601, 17622 – 17657 totalling \$141,035.37, and accounts paid by direct electronic payments through the Municipal Account totalling \$459,859.53 be endorsed.

CARRIED 6/0

Res 194/09

7.2.2 July 2009 Monthly Statements of Financial Activity

Location:	<i>Not applicable</i>
Applicant:	<i>Not applicable</i>
File:	<i>FM/10/003</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>11 September 2009</i>
Author:	<i>Keith Jones – Manager of Finance</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>Yes – Financial Reports</i>

SUMMARY

Report recommends Council receive the Balance Sheet and Operating Statement for the month ended 31 August 2009 and Investment Schedule for the month ended 30 September 2009.

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 reports are attached – see appendix 7.2.2

COMMENT

Nil

CONSULTATION

Nil

STATUTORY OBLIGATIONS

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

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.2.2

MOVED: Cr Piper

SECONDED: Cr Broadhurst

That the August 2009 Monthly Statements of Financial Activity as presented, be received.

CARRIED 6/0

Res 195/09

7.2.3 Reallocation of Reserve Funds

Location:	<i>Not applicable</i>
Applicant:	<i>Not applicable</i>
File:	<i>N/A</i>
Disclosure of Officer Interest:	<i>Nil</i>
Date:	<i>10th September 2009</i>
Author:	<i>Keith Jones – Manager of Finance</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>No</i>

SUMMARY

The purpose of this report is to enable a reallocation of funds that was determined during the budgetary process but was not brought to Council formally.

BACKGROUND

During the recent Annual Audit of the 2008/2009 Financial Report it was discovered that changes made to the Reserve Accounts were not done according to statutory requirements and an adjustment was necessary to take the changes out of the 2008/2009 figures.

The incorrect transfer of \$324,981 from the CEO Housing Reserve was made as follows:

IT Reserve	70,000.00
Transfer Station Reserve	54,981.00
Caravan Park Reserve	100,000.00
Library Furniture Reserve	20,000.00
Recreation Improvement Reserve	60,000.00
Building Maintenance Reserve	20,000.00

Due to this transfer being reversed an additional amount of interest has been earned in the CEO Housing Reserve totalling \$1389.71 which will need to be accounted for.

Since adoption of the budget has occurred the necessary advertising will need to be performed.

The Local Government Act 1995 Section 6.11 states:-

6.11. Reserve accounts

(1) Subject to subsection (5), where a local government wishes to set aside money for use for a purpose in a future financial year, it is to establish and maintain a reserve account for each such purpose.

(2) Subject to subsection (3), before a local government —

(a) changes* the purpose of a reserve account; or

(b) uses* the money in a reserve account for another purpose,

it must give one month's local public notice of the proposed change of purpose or proposed use.

** Absolute majority required.*

(3) A local government is not required to give local public notice under subsection (2)

- (a) where the change of purpose or of proposed use of money has been disclosed in the annual budget of the local government for that financial year; or
- (b) in such other circumstances as are prescribed.
- (4) A change of purpose of, or use of money in, a reserve account is to be disclosed in the annual financial report for the year in which the change occurs.
- (5) Regulations may prescribe the circumstances and the manner in which a local government may set aside money for use for a purpose in a future financial year without the requirement to establish and maintain a reserve account.

COMMENT

As Council has already agreed to this transfer during the previous budgetary process, this action is just to formalise the intent of Council and perform the statutory requirements as determined in the Act.

CONSULTATION

Chief Executive Officer
Auditors – Russell Barnes

STATUTORY ENVIRONMENT

Local Government Act 1995 Section 6.11

FINANCIAL IMPLICATIONS

There will be no change to the bottom line of the 2009/2010 budget, however the distribution of Reserve Funds will alter.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION– ITEM 7.2.3

MOVED: Cr Ginnane

SECONDED: Cr Giles

That

- 1 Council transfer funds of \$324,981 plus additional interest of \$1389.71 from CEO Reserve Account to the following Reserve Accounts:-**

IT Reserve	70,000.00
Transfer Station Reserve	56,370.71
Caravan Park Reserve	100,000.00
Library Furniture Reserve	20,000.00
Recreation Improvement Reserve	60,000.00
Building Maintenance Reserve	20,000.00; and
- 2 Give one month's notice of this change of purpose by advertising in the Bridgetown-Donnybrook Mail newspaper.**

CARRIED 6/0

Res 196/09

7.2.4 Replacement of Swimming Pool Diving Board

Location:	<i>Not applicable</i>
Applicant:	<i>Not applicable</i>
File:	<i>RE/45/002</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>10th September 2009</i>
Author:	<i>Keith Jones – Manager of Finance</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>No</i>

SUMMARY

This report recommends the consideration of additional funds for the provision of a new diving board at the swimming pool.

BACKGROUND

This matter was considered during the budget process but did not gain inclusion. The current diving board has been repaired previously but cannot be repaired further. A cost of \$6,820 for the diving board plus approximately \$300 in freight will be required to provide for a new diving board.

An internal memo from the Pool Manager has been received as follows:

REPORT – BUDGET ITEMS

I would like to bring to Councils attention the decision to delete the small diving board from this year's budget.

For the past two years I have been professionally welding the small board and have failed to fix the problem. I feel that this year the small board will not be available for use due to safety concerns.

Council may not be aware that we are only one of two Councils to offer diving boards to the public outside the metropolitan area. The board is very popular with our residents as well as visitors to our Shire and they are a draw card.

I know that the budget has been adopted but have only been made aware of the final budget recently.

I would like Council to see if this issue can be addressed without taking the small board out of use.

COMMENT

The small diving board is one of two. The higher board is still in good condition so even if the small board was unavailable this season, we would still be able to provide a diving opportunity for those who wish to do so.

CONSULTATION

Chief Executive Officer
Pool Manager

STATUTORY ENVIRONMENT

Local Government Act 1995 – Section 6.8

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The cost of \$7,120 would be additional expenditure and would create a deficit of this amount due to the budget showing a nil balance.

Local Government Act 1995

Section 6.8. Expenditure from municipal fund not included in annual budget

(1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —

(a) is incurred in a financial year before the adoption of the annual budget by the local government;

(b) is authorised in advance by resolution*; or

(c) is authorised in advance by the mayor or president in an emergency.

** Absolute majority required.*

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATIONS – ITEM 7.2.4

That Council consider the inclusion of these costs in the budget.

COUNCIL DECISION – ITEM 7.2.4

MOVED: Cr Piper

SECONDED: Cr Broadhurst

That Council amend the budget 2009/10 to provide \$7,120 for a new diving board to be purchased and that the funds come from the Swimming Pool Reserve.

CARRIED BY ABSOLUTE MAJORITY 6/0

Res 197/09

7.3 **CHIEF EXECUTIVE OFFICER**

7.3.1 Adoption of Town Hall Conservation Plan

Location:	Abel Street, Boyup Brook
Applicant:	Not applicable
File:	FM/25/038
Disclosure of Officer Interest:	Nil
Date:	7 th September 2009
Author:	Geoff Carberry – Senior Administration Officer
Authorizing Officer:	Alan Lamb – Chief Executive Officer
Attachments:	Yes – Policy Recommendation Sheet - Conservation Plan

SUMMARY

That Council adopt the Boyup Brook Town Hall Conservation plan as presented by Kent Lyon Architect.

BACKGROUND

In mid 2007 it was decided to apply for grants to provide funding for the preparation of Conservation Plans for the Flax Mill and Town Hall. This innovation was to some degree influenced by the Heritage Council of Western Australia South West Manager, Annette Green.

It was suggested these plans would provide Council with a more informed perspective of the overall condition of these buildings and address the nature of restoration work required to take place to sustain their structural longevity.

Kent Lyon Architect was subsequently appointed to provide a Conservation Plan for both buildings.

COMMENT

To date the Conservation plan for the Town Hall has been received and is here presented for consideration and adoption.

Regional Heritage Advisor Annette Green has requested a copy and will also provide a report on the plan.

The plan high lights several urgent maintenance issues and also makes several suggestions requiring further reporting by a structural Engineer.

CONSULTATION

Kent Lyon Architect
Annette Green – Regional Heritage Advisor

STATUTORY ENVIRONMENT

Local Government Act: 6.10 financial management regulations that may provide for;
(c) The management by a local government of its assets, liabilities and revenue

FINANCIAL IMPLICATIONS

Further expenditure will be required depending on acceptance of the Conservation Plan and implementing its suggested actions. The majority of suggested maintenance work has been allowed for in the 2009/2010 budget. The commissioning of a structural report by a Structural Engineer would then require funding.
It is proposed to apply for Lotterywest grants to offset this expenditure.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION– ITEM 7.3.1

MOVED: Cr Ginnane

SECONDED: Cr Giles

- 1) That Council adopts the Town Hall Conservation Plan as provided
- 2) That Council proceed with immediate maintenance recommendations.
- 3) That Council move to source a grant to cover a Structural Engineers report

CARRIED 6/0

Res 198/09

7.3.2 Chowerup School – acquisition by Council

Location:	<i>Chowerup School site</i>
Applicant:	<i>Tonebridge Progress Association</i>
File:	<i>LN/42/001</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>8 September 2009</i>
Author:	<i>Alan Lamb</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>Correspondence from Tonebridge Progress Association</i>

SUMMARY

The purpose of this report is to put before Council the position in relation to the Chowerup School with the recommendation that Council authorise the Chief Executive Officer to commence the process to seek to acquire the School site.

BACKGROUND

The attached letter provides some detail on the history of the School and the Progress Association's aspirations for it.

It is noted that the site is on three parcels of land, one being a freehold title and the other two Crown Reserves. The land is owned/controlled by more than one Government Agency.

The Department of Water (DOW) have control over at least a portion of the land involved and the buildings, and no longer needs these. DOW is dealing with a proposal to sell and relocate the buildings.

Some of the buildings in question were provided to the Education Department by the community but became the property of that Department and now appear to be controlled by DOW.

Dow had used the buildings for occasional meetings but now appear to have no further use for them. The Tonbridge Progress Association (TPA) is keen for the buildings to remain on site and see a commercial use of the facilities as the way to keep them there and maintained to a reasonable level. The TPA would like to purchase the land and buildings, tidy them up and then perhaps on sell to a "suitable buyer".

State Government Agencies are restricted in the process for disposing assets and so DOW could not sell direct to a private entity, such as TPA without going through a contestable process (tenders, auction) and there would be no guarantee the TPA would be successful. State Agencies may however dispose of assets direct to other agencies or other levels of government. The proposal therefore is for Council to seek to acquire the property and then to sell or lease it to TPA. Councils are restricted on how they may dispose of assets but there is provision for direct disposal provided the intended arrangements are advertised (see Statutory Obligations).

COMMENT

It is noted that the community has provided some of the assets on the land at the school site. Also that the TPA is keen to keep "their" school where it is, maintained and used and is prepared to put money and effort into this aim. Council is in a position to assist this community group and it is recommended that it provide this assistance by moving to purchase the school.

It is also noted that there appear to be three parcels of land involved and that each is controlled by a different Agency so the acquisition process could be involved and perhaps protracted.

It is suggested that Council authorise the Chief Executive Officer to pursue the acquisition of the Chowerup School land and buildings, but not to commit to the purchase, and report back to Council with costs and relevant details to enable it to decide whether or not to purchase the property.

CONSULTATION

The author has spoken with the TPA President and Mr Richard Turner and Greg O'Reilly from DOW.

STATUTORY OBLIGATIONS

The following section of the Local Government Act has application:

3.58. Disposing of property

- (1) In this section —
dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;
property includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) Except as stated in this section, a local government can only dispose of property to —
 - (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned;
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;and
 - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
 - (a) the names of all other parties concerned;
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.
- (5) This section does not apply to —
 - (a) a disposition of land under section 29 or 29B of the *Public Works Act 1902*;
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

The following section of the Local Government (Functions and General) Regulations also have application;

30. Dispositions of property to which section 3.58 of Act does not apply

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.
- (2) A disposition of land is an exempt disposition if —
 - (a) the land is disposed of to an owner of adjoining land (in this paragraph called *the transferee*) and —
 - (i) its market value is less than \$5 000; and
 - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;
 - (b) the land is disposed of to a body, whether incorporated or not —
 - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;
 - (c) the land is disposed of to —
 - (i) the Crown in right of the State or the Commonwealth;
 - (ii) a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or
 - (iii) another local government or a regional local government;
 - (d) it is the leasing of land to an employee of the local government for use as the employee's residence;
 - (e) it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land;
 - (f) it is the leasing of land to a "medical practitioner" (as defined in section 3 of the *Medical Act 1894*) to be used for carrying on his or her medical practice; or
 - (g) it is the leasing of residential property to a person.
- (2a) A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been —
 - (a) put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government;
 - (b) the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable; or
 - (c) the subject of Statewide public notice under section 3.59(4), and if the business plan referred to in that notice described the property concerned and gave details of the proposed disposition including —
 - (i) the names of all other parties concerned;
 - (ii) the consideration to be received by the local government for the disposition; and
 - (iii) the market value of the disposition as ascertained by a valuation carried out not more than 12 months before the proposed disposition.
- (2b) Details (*see section 3.58(4) of the Act*) of a disposition of property under sub regulation (2a) must be made available for public inspection for at least 12 months from the initial auction or tender, as the case requires.

- (3) A disposition of property other than land is an exempt disposition if —
- (a) its market value is less than \$20 000; or
 - (b) it is disposed of as part of the consideration for other property that the local government is acquiring for a consideration the total value of which is not more, or worth more, than \$50 000.

[Regulation 30 amended in Gazette 25 Feb 2000 p. 974-5; 28 Apr 2000 p. 2041; 31 Mar 2005 p. 1055-6.]

31. Anti-avoidance provision about dispositions

If a local government disposes of property by means of 2 or more dispositions in circumstances such that the desire to exclude the application of section 3.58 of the Act is a significant reason for not dealing with the matter in a single disposition, the dispositions are not exempt dispositions.

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil at this time other than Officer time. The matter will be brought back to Council at some point and there may be budget implications then.

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

- **Environmental**
There are no known significant environmental issues.
- **Economic**
There are no known significant economic issues.
- **Social**
It is anticipated that there is a positive social benefit to be derived from assisting the local progress association with this project.

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.3.2

MOVED: Cr Ginnane

SECONDED: Cr Giles

That Council authorise the Chief Executive Officer to pursue the acquisition of the Chowerup School land and buildings, but not to commit to the purchase. The Officer is to report back to Council with costs and relevant details to enable Council to decide whether or not to purchase the property.

CARRIED 6/0

Res 199/09

Impartiality Interest

The Shire President, Chief Executive Officer and Cr Giles declared an impartiality interest in the following item due to being members of the Boyup Brook Country Music Club,

7.3.3 Event Tourism Officer – employment arrangements

Location:	<i>Not applicable</i>
Applicant:	<i>Boyup Brook Country Music Club</i>
File:	<i>CR/31/003</i>
Disclosure of Officer Interest:	<i>The Author is a member of the Boyup Brook Country Music Club</i>
Date:	<i>9 September 2009</i>
Author:	<i>Alan Lamb</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>Yes – Letter from Country Music Club</i>

SUMMARY

The purpose of this report is to put before Council the Boyup Brook Country Music Club's (BBCMC) proposal for Council to employ the Event Tourism Officer (ETO) with the recommendation that Council amend the 2009/10 budget to allow this to occur.

BACKGROUND

The ETO position has been supported by Council for some time, the Telecentre was the original employing body and last year the Country Music Club took this over. It has been suggested that Council should be the employing body and it is understood that this was considered last year but not progressed at that time.

COMMENT

In speaking with the BBCMC President, Deborah Chambers, it is noted that the proposal is for Council to employ the ETO and for his services to be contracted to BBCMC for two days per week. In practice this would result in the ETO working at the Tourist Centre one day per week, at the BBCMC two days per week and at Council's offices two days per week.

Under provisions of the Local Government Act, and in summary, Council employs the Chief Executive Officer (CEO) and the CEO employs all other staff. Council however controls this area via e budget provisions. There is no provision in the current budget to employ the ETO so this report is made to seek an amendment to facilitate this new appointment.

CONSULTATION

The author has spoken with the BBCMC President and ETO.

STATUTORY OBLIGATIONS

The Local Government Act provides as follows:

Division 4 — Local government employees

5.36. Local government employees

- (1) A local government is to employ —
 - (a) a person to be the CEO of the local government; and
 - (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.
- (2) A person is not to be employed in the position of CEO unless the council —
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied* with the provisions of the proposed employment contract.
- (3) A person is not to be employed by a local government in any other position unless the CEO —
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied with the proposed arrangements relating to the person's employment.
- (4) If the position of CEO of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.
- (5) For the avoidance of doubt, subsection (4) does not impose a requirement to advertise a position before the renewal of a contract referred to in section 5.39.

** Absolute majority required.*

[Section 5.36 amended by No. 49 of 2004 s. 44.]

5.37. Senior employees

- (1) A local government may designate employees or persons belonging to a class of employee to be senior employees.
- (2) The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO's recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.
- (3) If the position of a senior employee of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.
- (4) For the avoidance of doubt, subsection (3) does not impose a requirement to advertise a position where a contract referred to in section 5.39 is renewed.

[Section 5.37 amended by No. 49 of 2004 s. 45 and 46(4).]

5.38. Annual review of certain employees' performances

The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.

5.39. Contracts for CEO's and senior employees

- (1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.
- (1a) Despite subsection (1) —
 - (a) an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and
 - (b) a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2 year period, without a written contract.
- (2) A contract under this section —
 - (a) in the case of an acting or temporary position, cannot be for a term exceeding one year;
 - (b) in every other case, cannot be for a term exceeding 5 years.
- (3) A contract under this section is of no effect unless —
 - (a) the expiry date is specified in the contract;
 - (b) there are specified in the contract performance criteria for the purpose of reviewing the person's performance; and
 - (c) any other matter that has been prescribed as a matter to be included in the contract has been included.
- (4) A contract under this section is to be renewable and subject to subsection (5), may be varied.
- (5) A provision in, or condition of, an agreement or arrangement has no effect if it purports to affect the application of any provision of this section.
- (6) Nothing in subsection (2) or (3)(a) prevents a contract for a period that is within the limits set out in subsection 2(a) or (b) from being terminated within that period on the happening of an event specified in the contract.
- (7) A report made by the Salaries and Allowances Tribunal, under section 7A of the *Salaries and Allowances Act 1975*, containing recommendations as to the remuneration to be paid or provided to a CEO is to be taken into account by the local government before entering into, or renewing, a contract of employment with a CEO.

[Section 5.39 amended by No. 49 of 2004 s. 46(1)-(3).]

5.40. Principles affecting employment by local governments

The following principles apply to a local government in respect of its employees —

- (a) employees are to be selected and promoted in accordance with the principles of merit and equity;
- (b) no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage;
- (c) employees are to be treated fairly and consistently;

- (d) there is to be no unlawful discrimination against employees or persons seeking employment by a local government on a ground referred to in the *Equal Opportunity Act 1984* or on any other ground;
- (e) employees are to be provided with safe and healthy working conditions in accordance with the *Occupational Safety and Health Act 1984*; and
- (f) such other principles, not inconsistent with this Division, as may be prescribed.

5.41. Functions of CEO

The CEO's functions are to —

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;
- (b) ensure that advice and information is available to the council so that informed decisions can be made;
- (c) cause council decisions to be implemented;
- (d) manage the day to day operations of the local government;
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;
- (f) speak on behalf of the local government if the mayor or president agrees;
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.

The Act further provides:

6.8. Expenditure from municipal fund not included in annual budget

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
 - (a) is incurred in a financial year before the adoption of the annual budget by the local government;
 - (b) is authorised in advance by resolution*; or
 - (c) is authorised in advance by the mayor or president in an emergency.

** Absolute majority required.*

- (1a) In subsection (1) —

additional purpose means a purpose for which no expenditure estimate is included in the local government's annual budget.

- (2) Where expenditure has been incurred by a local government —
 - (a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and

- (b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

The current position is that Council pays \$27,000 (2009/10 budget) to the BBCMC and the Tourist Group contributes \$2,000. The proposal is for Council to be the employer and meet the estimated \$49,159 costs and then to recoup \$19,664 from the BBCMC and \$2,000 from the Tourist Group resulting in a net cost to Council of \$27,495.

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.3.3

MOVED: Cr Broadhurst

SECONDED: Cr Lamshed

That Council amend the 2009/10 budget to provide for expenditure of \$49159 on employment costs in the area of Tourism and area Promotion and income of \$21,664. Also that these amendments replace the provision of \$27,000 made in that are for Promotion, Events and Festivals – Events Tourism Officer.

CARRIED BY ABSOLUTE MAJORITY 6/0

Res 200/09

7.3.4 Outdoor fitness equipment

Location:	<i>Not applicable</i>
Applicant:	<i>Not applicable</i>
File:	<i>GR/31/003</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>9 September 2009</i>
Author:	<i>Alan Lamb</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>Nil</i>

SUMMARY

The purpose of this report is to put before Council a proposal to accept a grant from the South West Development Commission (SWDC) to purchase outdoor fitness equipment and amend the 2009/10 budget to facilitate this.

BACKGROUND

At the time the 2009/10 budget was being developed the SWDC advised that it would supply 4 pieces of outdoor fitness equipment provided Council paid for installation, signage soft fall (if this was required) and ongoing maintenance. An amount of \$4,500 was provided for in the budget for installation etc.

SWDC subsequently found that it could not purchase and provide the equipment and so now offers a grant of \$10,400 (plus GST) to purchase the equipment.

COMMENT

No provision was made in the budget to purchase the equipment and, although there is no additional net cost to Council as the expenditure is to be matched with grant funding, a budget amendment is required to provide for the expenditure. It is therefore recommended that the 2009/10 budget be amended by increasing the provision for Capital Expenditure of \$4,500 for Outdoor Fitness Equipment for Sandakan Park to \$14,900, and that provision be made under "Income other Recreation" for a grant of \$10,400 from the South West Development Commission.

CONSULTATION

The author has spoken with SWDC representatives and other Council staff.

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

The grant and proposed purchase will have no net impact on the budget however a budget amendment is required as set out above.

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.3.4

MOVED: Cr Piper

SECONDED: Cr Ginnane

That the 2009/10 budget be amended by increasing the provision for Capital Expenditure of \$4,500 for Outdoor Fitness Equipment for Sandakan Park to \$14,900, and that provision be made under “Income Other Recreation” for a grant of \$10.400 from the South West Development Commission.

CARRIED BY ABSOLUTE MAJORITY 5/1

Res 201/09

7.3.6 Sandakan Relationship – Council Policy

Location: *Not applicable*
Applicant: *Not applicable*
File: *CR/26/006*
Disclosure of Officer Interest: *None*
Date: *9 September 2009*
Author: *Alan Lamb*
Authorizing Officer: *Not applicable*
Attachments: *Nil*

SUMMARY

The purpose of this report is to review the policy to provide clarity and to recommend an amendment that sets the term “year” to mean financial year.

BACKGROUND

Council adopted this policy in June 2008 to formalize Council’s involvement in the Anzac Day service and Sandakan Memorial Day Services in Sandakan over the previous three years.

COMMENT

As with many policies, local laws and the like once in use questions of interpretation arise and this has occurred with the Sandakan policy.

The first dot point under the heading “Statement” reads “...each year.” And it has been suggested that this could either be the calendar year or financial year so in order to clarify the position it is recommended that the policy be amended by deleting those words and replacing them with “each Financial Year”.

CONSULTATION

The matter has been discussed by Council members

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

This matter deals with a policy amendment, the policy is included below with recommended amendments highlighted:

POLICY NO.	M.10
POLICY SUBJECT	Sandakan Relationship
ADOPTION DATE	19 June 2008
VARIATION DATE	

Objective

To promote and develop the Memorandum of Friendship between the Sandakan Municipal Council and the Boyup Brook Shire Council.

Statement

The Memorandum of Friendship between the two Municipalities was signed in October 2007. The aims of the Memorandum are to improve the management of the two councils; to encourage commerce, trade and tourism; exchange of administration and information on culture, arts and relics of World War II; and exchange of youth and sport matters.

To uphold the memorandum-

- the Council Representative (usually the Shire President) and partner of the Shire of Boyup Brook attend either the Anzac Day Service or the Sandakan Memorial Day Service in Sandakan each financial year.
- Council offer financial assistance to the Boyup Brook Lions Club in their annual school scholarship programme to send a student to the Sandakan Anzac Day Ceremony.
- the Boyup Brook Shire Council invite representatives from the Sandakan Municipal Council and two High School students, nominated by the Sandakan Municipal Council, to attend the Boyup Brook Sandakan Memorial service each year.

It is Council policy that all reasonable and direct expenses incurred by the Shire Representative and partner are met by the Shire.

To assist Council and the Community to monitor the success of the relationship in respect to the aims of the Memorandum of Friendship the Council representative and the scholarship recipient provide a written report to Council outlining progress in the five key areas of the Memorandum of Friendship.

Implementation of this policy is subject to annual budget considerations.

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.3.6

MOVED; Cr Ginnane

SECONDED: Cr Broadhurst

That the Sandakan Relationship Policy be amended by deleting the words “each year” in the last line of the first dot point under the heading “Statement” and replacing them with “each Financial Year”

CARRIED BY ABSOLUTE MAJORITY 5/0

Res 202/09

5.31pm – Cr Piper left the Chambers.

7.3.7 Subdivision Application (WAPC Ref 140523) Kojonup Road

Location:	<i>Nelson Locations 1213 and 1265 Boyup Brook – Kojonup Road</i>
Applicant:	<i>Thompson McRobert Edgeloe</i>
File:	
Disclosure of Officer Interest:	<i>G Lush is employed by TME.</i>
Date:	<i>11 September 2009</i>
Author:	<i>Geoffrey Lush – Council’s Consultant Planner</i>
Authorizing Officer:	<i>Alan Lamb – Chief Executive Officer</i>
Attachments:	<i>1 Location Plan 2 Existing Boundaries 3 Proposed Subdivision</i>

SUMMARY

This report is to consider a referral of a subdivision application from the Western Australian Planning Commission. The subject land comprises of Nelson Locations 1213 and 1265 Boyup Brook – Kojonup Road (as shown in Attachment 1).

Nelson Locations 1213 is presently “land locked” and does not have any title access to the Boyup Brook – Kojonup Road. The application is to “re-align” the existing boundary to provide a frontage to Kojonup Road.

No additional lots will be created.

BACKGROUND

The subject land is located on the eastern edge of the Boyup Brook townsite, adjacent to the Blackwood River, as shown on the attached location plan (Figure 1).

The property consists of two allotments both of which are on the same Certificate of Title. The property has a total area of 95.4805 ha comprising of:-

- Lot 1213 has an area of 64.7497ha; and
- Lot 1265 has an area of 30.7308 ha.

The configuration of the existing allotments is shown in Figure 2.

The boundary realignment will create new lot sizes of 33.22ha and 62.23ha.

The subject land is owned by Bindaree Corporation (Mr and Mrs Hilder).

It is site cleared farming land which is used for broad acre grazing. There is an existing dwelling and associated farm outbuildings located on NL 1265.

The site generally has a westerly aspect with elevations of approximately 185 m AHD adjacent to the river rising to 250 m AHD along the eastern boundary.

COMMENT

The purpose of the application is to realign the boundary between the two existing lots.

The Planning Commission only requires a 40ha minimum lot size where the land is located more than 10km from the townsite.

The applicant has lodged previous submissions with Council regarding the possible future subdivision of the site for rural small holdings i.e. lots larger than 4 hectares. The position of the proposed boundary recognizes the likely position of any future subdivision road within the property.

The subdivision plan proposes that the access to Lot A would be located in the north western corner of the Lot B and would be accessed by a right of carriageway granted in favour of Lot A. The reason for doing so is to recognise the potential future subdivision of the land and construction of a subdivision road in this location at a future time.

The Department of Water has previously advised that the 100 year flood level estimated to be 187.00 m AHD. The majority of Lot A is situated above 187m and there are ample building sites available with no threat from flooding.

As a simple boundary re-alignment no specific conditions are required.

CONSULTATION

None

STATUTORY OBLIGATIONS

Town Planning Scheme

The subject land is zoned 'Rural' in Town Planning Scheme No.2. The surrounding area is generally zoned 'Rural'.

Clause 5.1 of the Scheme states that 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 suitability and capability for further development.

The application is considered to be consistent with these objectives.

Draft Local Rural Strategy

Within the draft Local Rural Strategy the subject land is situated in the BBR5 Townsite Surrounds Policy Area. The subject land is included Area No 7.

The Strategy development guidelines (Table 1 of the Strategy) for Area No 7 are set out below and recognise that subject to suitable structure planning that land in Area No 7 could be developed for rural small holdings with a minimum lot size of 4 hectares..

Area	Location	Description	Objective	Recommendations
7	Stanton Rd.	Mixed rural uses. Land is situated on top of the primary river valley.	Rural small holdings in appropriate locations.	<ul style="list-style-type: none"> • Granite ridge areas are unlikely to be suitable for development, except as part of a larger lot. • Requires an overall structure plan to identify appropriate development locations addressing:- <ul style="list-style-type: none"> - Land capability; - Flood levels, river corridor; and public access; - Possible road connection from Kojonup Road to Fern Valley Road. - Landscape protection and view sheds; - Upgrading of the river crossing at Terry Road. • Low key tourist development.

In relation to boundary realignments the draft Rural Strategy recommendations include:-

- 8 Council's objective is to encourage the redesign of existing (multiple lot) farms into a more appropriate configuration of lot boundaries relative to land management and land capability factors, subject to maintenance or reduction of the original number of lots.
- 9 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.
- 10 The smaller lots are located to have minimal adverse impact on the viability and sustainability of the main farming property.
- 11 The total number of resulting lots is not greater than the original number of lots.
- 12 In the case of lifestyle lots, the land is located within 10kms of a major townsite.
- 13 That for the purpose of the above provision a "lifestyle" lot is defined as having a minimum area of 20 hectares (being within 10kms of the townsite).
- 14 That areas more than 10kms distance from the townsite the smaller lot shall have a minimum size of 40 hectares.

The application is considered to be consistent with the above recommendations.

Any structure planning for Area 7 would occur in conjunction with a rezoning proposal. The current application does not prejudice this as it recognizes the most likely location of any connecting access road.

POLICY IMPLICATIONS

Council Policy P.03 relates to Subdivisions and Amalgamations. It addresses the general matters contained within Clause 5.2 of the Scheme, the WAPC Policies, Warren Blackwood Rural Strategy and draft Local Rural Strategy

It states that boundary realignments can be considered where no additional allotments are created.

BUDGET/FINANCIAL IMPLICATIONS

None

STRATEGIC IMPLICATIONS

Western Australian Planning Commission

There are several WAPC Policies affecting boundary realignments for rural land including:-

- DC 3.4 – Subdivision of Rural Land; and
- Warren Blackwood Regional Rural Strategy.

The Warren Blackwood Regional Rural Strategy recommends in relation to farm rationalization that the principal issue 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.

The proposal is consistent with these provisions.

SUSTAINABILITY IMPLICATIONS

➤ **Environmental:**

There are no known environmental issues.

➤ **Economic:**

There are no known significant economic issues.

➤ **Social:**

There are no known significant social issues.

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.3.7

MOVED: Cr Ginnane

SECONDED: Cr Broadhurst

That Council advises the Western Australian Planning Commission that it supports the proposed boundary re-alignment of Nelson Locations 1213 and 1265 Boyup Brook - Kojonup Road as:-

- 1. The application is consistent with the recommendations of Council’s draft Rural Strategy; and**
- 2. The location of the revised boundary does not prejudice any future development of Policy Area No 7 as it recognizes where a future access road is most likely to be located.**

CARRIED 5/0

Res 203/09

8 COMMITTEE REPORTS

8.1.1 Youth Advisory Committee Minutes

Location:	N/A
Applicant:	N/A
File:	IM/37/004
Disclosure of Officer Interest:	Nil
Date:	10 th September 2009
Author:	Annie Jones – Youth Officer
Authorizing Officer:	Alan Lamb – Chief Executive Officer
Attachments:	Yes - Minutes

BACKGROUND:

A meeting of the Youth Advisory Committee was held on 18th, 25th August and 8th September 2009

Minutes of the meeting are laid on the table and circulated (*refer to appendix 8.1.1*)

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.1.1

MOVED: Cr Broadhurst

SECONDED: Cr Lamshed

That the minutes of the Youth Advisory Committee held on 18th, 25th August and 8th September 2009 be received.

CARRIED 5/0

Res 204/09

8.1.2 Minutes of the Blackwood River Valley Marketing Association

Location:	N/A
Applicant:	N/A
File:	IM/37/008
Disclosure of Officer Interest:	Nil
Date:	10 th September 2009
Author:	Alan Lamb – Chief Executive Officer
Authorizing Officer:	Not Applicable
Attachments:	Yes - Minutes

BACKGROUND:

A meeting of the Blackwood River Valley Marketing Association was held on 14th July and 11th August 2009.

Minutes of the meeting are laid on the table and circulated (*refer to appendix 8.1.2*)

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.1.2

MOVED: Cr Broadhurst

SECONDED: Cr Lamshed

That the minutes of the Blackwood River Valley Marketing Association held on 14th July and 11th August 2009 be received.

CARRIED 5/0

Res 205/09

8.1.3 Minutes of the Boyup Brook Shire Council Heated Multi Purpose Therapeutic Pool Committee

Location:	N/A
Applicant:	N/A
File:	RE/45/002
Disclosure of Officer Interest:	Nil
Date:	10 th September 2009
Author:	Alan Lamb – Chief Executive Officer
Authorizing Officer:	Not Applicable
Attachments:	Yes - Minutes

BACKGROUND:

A meeting of the Heated Multi Purpose Therapeutic Pool Committee was held on 27th August 2009.

Minutes of the meeting are laid on the table and circulated (*refer to appendix 8.1.3*)

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.1.3

MOVED: Cr Ginnane

SECONDED: Cr Giles

That the minutes of the Heated Multi Therapeutic Pool Committee held on 27th August 2009 be received.

CARRIED 4/1

Res 206/09

9 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

9.1.1 Warren Blackwood Economic Alliance

MOTION WITHDRAWN

MOVED: Cr Ginnane

SECONDED: Cr Broadhurst

Cr Marshall – Deputy Shire President lodged the following notice of motion:

Notice of motion 8/2009

That the Shire of Boyup Brook withdraws immediately from the Warren Blackwood Economic Alliance.

Councillor Comment.

At the public meeting on Wednesday 9th September attended by approx 130 community members there was a clear (unanimous) direction given to council that our community did not want any perceived or potential tie-up / amalgamation with Manjimup.

The structural reform report commissioned by the WBEA and presented at the meeting indicated that “there was no economic reason why the four Shires in the report could not be amalgamated”.

This report is a public document and will be used by the minister in making decisions on possible amalgamations. As such it is a very dangerous report for our Shire.

Withdrawing from that alliance will send a very clear message that this Shire does not want an ongoing along these lines.

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

11 CONFIDENTIAL MATTERS

12 CLOSURE OF MEETING

There being no further business the Shire President, Cr Roger Downing, thanked Councillors and Staff for their attendance and declared the meeting closed at 5.43pm.