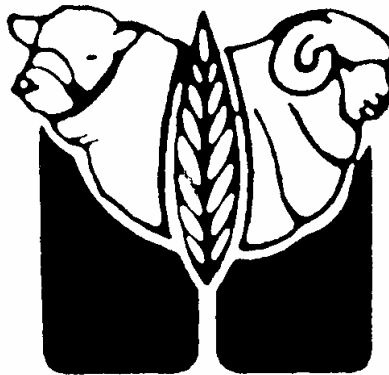


# MINUTES



ORDINARY MEETING

HELD

THURSDAY 15 JULY 2010

COMMENCED AT 3.30PM

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 T Ginnane– Shire President  
Cr T Doust – Deputy Shire President  
Cr E Biddle  
Cr R Downing  
Cr M Giles  
Cr P Marshall  
Cr E Muncey  
Cr B O'Hare  
Cr T Oversby

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

PUBLIC: Ms Shirley Broadhurst arrived at 3.30pm and left at 3.36pm  
Ms Julie Lance arrived at 3.30pm and left at 3.50pm  
Mr Richard Walker arrived at 3.30pm and left at 4.22pm  
Mr David Marshall arrived at 3.30pm and left at 4.53pm  
Mr Maxine Marshall arrived at 3.30pm and left at 4.53pm  
Mr John Imrie arrived at 3.30pm and left at 4.53pm  
Mr Kevin Moir arrived at 3.30pm and left at 4.53pm  
Mrs Elizabeth Moir arrived at 3.30pm and left at 4.53pm

### **Apologies**

Nil

### **1.2 Leave of Absence**

## **2 PUBLIC QUESTION TIME**

### **2.1 Response to Previous Public Questions Taken on Notice**

Nil

### **2.2 Public Question Time**

2.2.1 Ms Shirley Broadhurst asked the following question:-

- the June Gazette included notice that the Flax Mill Concept Plan would be going to the Forward Planning Committee, when will this be done and how will the community be consulted?

3.36pm – Ms Shirley Broadhurst left the Chambers.

2.2.2 Mr Kevin Moir spoke on terminology, noted that the Boyup Brook/Donnybrook Road as it ran through State Forrest 29 was not a Gazetted road, and noted that the officer's report in relation to his request was not correct in that his lots did have access to Gazetted roads but access tracks had been built through DEC land as this was a cheaper alternative to constructing on the Gazetted road alignment.

2.2.3 Mr Richard Walker asked the following questions regarding Agenda items 7.3.2 and 10.1.2.

- 1 If the "council has not at anytime budgeted to maintain tracks on DEC land."

Does this mean that at no time in the past 70+ years has council stayed within budget on road maintenance?

If the Council has at times met budget targets on road maintenance, then whilst not specifically identifying each individual road has council not budgeted for maintaining these roads on DEC land by the very fact that they have spent the money doing the job?

- 2 Do we understand by the fact the CEO has not addressed items in paragraphs 2 & 3 of the referred email re "Road Maintenance", that these are legitimate arguments for the maintenance of roads on DEC land which are clearly identifiable from other roads on land controlled by various entities in that they are regularly used and have been maintained by the shire for many decades?
- 3 Can you, as Councillors, satisfy yourselves and others as necessary as to the Sustainability Implications indicated in this agenda item 7.3.2, given that those affected by a decision not to maintain these roads face substantial Environmental, Economic and Social issues that will flow on to the communities in which they live and the Shire as a whole?
- 4 The claim that these matters relate primarily to "land locked lots" is not correct (land locked lots are a minority) and most situations involve an unconstructed, surveyed road with an unsurveyed, constructed road. Is it not in the best interests of all involved environmentally, economically and socially to dedicate the existing constructed roads rather than to bulldoze native vegetation and undertake substantial earthworks to build new roads on the existing surveys?

2.2.4 Mr John Imrie asked the following questions:-

- was there a request sent in asking for work on his access road.
- what is the percentage of rates for rural/town.

The Chief Executive Officer responded noting that 80% of total rate income came from rural properties. Councillor Doust added that the Grants Commission data indicated that Council was rating town properties higher than the assessed amount and rural properties lower, also that actual expenditure on roads exceeded the assessed requirement.

### **3 APPLICATIONS FOR LEAVE OF ABSENCE**

**MOVED: Cr Downing**

**SECONDED: Cr Oversby**

**That Cr Marshall be granted leave of absence for the August 2010 ordinary meeting of Council.**

**CARRIED 9/0**

**Res 121/10**

**MOVED: Cr Biddle**

**SECONDED: Cr Giles**

**That Cr Ginnane be granted leave of absence for the August 2010 ordinary meeting of Council.**

**CARRIED 9/0**

**Res 122/10**

**MOVED: Cr Giles**

**SECONDED: Cr Oversby**

**That Cr O'Hare be granted leave of absence for the August 2010 ordinary meeting of Council.**

**CARRIED 9/0**

**Res 123/10**

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

Nil

**5 CONFIRMATION OF MINUTES**

**5.1 Ordinary Meeting of Council Thursday 17 June 2010.**

3.50pm – Julie Lance left the Chambers.

**OFFICER RECOMMENDATION – ITEM 5.1**

**That the minutes of the Ordinary Meeting of Council held on Thursday 17 June 2010, be confirmed as an accurate record.**

**COUNCIL DECISION – ITEM 5.1**

**MOVED: Cr Downing**

**SECONDED: Cr O'Hare**

**That the minutes of the Ordinary Meeting of Council held on Thursday 17 June 2010, be confirmed as an accurate record, subject to the following corrections:-**

**Page 4 – amend the correction to read from Monday 26 April to Sunday 25 April.**

**Page 32 – add Cr Downing to the votes (Against).**

**Page 31 – amend the amendment to read “That \$60,000 be considered in the budgetary process to be provided from the commercial reserve for demolition of the buildings numbered 3, 4, 5, 11 and 12.”**

**CARRIED 9/0**

**Res 124/10**

**5.2 Special Meeting of Council Thursday 17 June 2010.**

**OFFICER RECOMMENDATION – ITEM 5.2**

**MOVED: Cr Giles**

**SECONDED: Cr Downing**

**That the minutes of the Special Meeting of Council held on Thursday 17 June 2010, be confirmed as an accurate record.**

**CARRIED 9/0**

**Res 125/10**

**5.3 Special Meeting of Council Thursday 1 July 2010.**

**OFFICER RECOMMENDATION – ITEM 5.3**

**MOVED: Cr O’Hare**

**SECONDED: Cr Biddle**

**That the minutes of the Special Meeting of Council held on Thursday 1 July 2010, be confirmed as an accurate record.**

**CARRIED 9/0**

**Res 126/10**

**6 PRESIDENTIAL COMMUNICATIONS**

South West Development Commission Board Meeting will be held in the Shire Chambers on 30<sup>th</sup> July 2010.

**7 REPORTS OF OFFICERS**

**COUNCIL DECISION - CHANGE IN ORDER OF BUSINESS**

**MOVED: Cr Doust**

**SECONDED: Cr O’Hare**

**That the late items 7.3.2 and 10.1.2 be dealt with and that the order of business in the agenda be changed to allow the items 7.3.2 and 10.1.2 to be brought forward and dealt with at this time.**

**CARRIED 9/0**

**Res 127/10**

**7.3 CHIEF EXECUTIVE OFFICER**

**7.3.2 Maintenance of tracks through Department of Environment and Conservation land**

<b><i>Location:</i></b>	<i>Wilga</i>
<b><i>Applicant:</i></b>	<i>Mr R Walker</i>
<b><i>File:</i></b>	<i>RD/35/005</i>
<b><i>Disclosure of Officer Interest:</i></b>	<i>None</i>
<b><i>Date:</i></b>	<i>8 July 2010</i>
<b><i>Author:</i></b>	<i>Alan lamb</i>
<b><i>Authorizing Officer:</i></b>	<i>Not applicable</i>
<b><i>Attachments:</i></b>	<i>email from Mr Walker</i>

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**SUMMARY**

The purpose of this report is to put before Council a note from Mr Walker suggesting that if Council “would like to have these roads gazetted” some of the people would be interested in sharing the costs and in the meantime asking that Council “approve interim

maintenance grading for the access tracks to Moirs and Walkers whilst this is being carried out". The recommendation is that Council not maintain tracks on land controlled by others.

### **BACKGROUND**

Councillors will be aware of Mr Walker's request and the situation regarding the track through State Forrest 29 from information provided by Administration and direct contact by Mr Walker so this report will not reiterate this.

The Manager of Works recently became aware that Council had been maintaining an access track through State Forrest 29 from the termination of Cunningham Road to Mr Walkers land holding and Mr Walker was advised that this practice would cease. The reasons given were that Council had no right or responsibility to maintain the track also that Council had not provided funds in its budget for the maintenance of tracks on land it did not control.

Mr Walker highlighted other examples in the area where Council was maintaining tracks that may be in land not controlled by Council.

Mr Walker forwarded the attached email asking Council to approve the grading of access tracks to Moirs and Walkers.

### **COMMENT**

Taking a step back and looking at the bigger picture, this matter relates to land locked lots of which there are no doubt many in the Shire and all other Shires in the State. Council is not responsible for resolving the problems created by the State Government issuing titles to properties that do not have access to a gazetted road. Presumably, purchases of such properties do so with the knowledge that they are land locked, in any case again Council has no responsibility. In this particular case, and the others that Mr Walker has alerted us to, the land locked lots abut DEC controlled land but it makes no difference who owns or has control of the land, if the lot is land locked Council has no role or responsibility. It is apparent that whilst this is the case some perhaps informal arrangements of years past have resulted in Council maintaining some tracks through land it has no control over and so no right or responsibility to maintain these tracks. Once this error has been highlighted and assessed as officers we cannot continue the practice because, as stated, Council has no right or responsibility to maintain tracks on land held by others and Council has not provided funds in its budget for this purpose. It is suggested that Council can seek to take on responsibility for maintenance of such tracks but if contemplating this should be mindful of the ramifications in that there may well be many tracks over land not controlled by Council to land locked lots and it may be difficult to justify a selective approach. A decision to maintain all such tracks could well be burdensome in terms of costs and may require many separate agreements with various entities to give Council the power to maintain these tracks, each agreement could have different conditions etc. It is understood that Council has no liability for tracks on land held by others but if Council entered into agreement with the various land owners/controllers it is understood that Council may have a liability.

It is noted that there are a number of names at the bottom of the email indicating that it may be supported by persons other than the sender however it could not be taken to be so because those other persons have not signed it. Having noted this though it is understood from Mr Walker that there are other tracks used by other people such and so

others may well support his request and it is assumed they would want their track included.

In a phone call from Mr Moir, Mr Moir suggested he would be writing to request that Council start the process to have tracks to his properties gazetted. In the absence of the correspondence he indicated he would send it is assumed that Mr Walker's request is on behalf of Mr Moir as well. Mr Moir indicated he had two properties that he accessed via tracks (one to a house he uses and another to a house he is about to rent out. He indicated that the Shire had maintained access tracks to both but some years ago he had asked that maintenance on one of the tracks be ceased to limit other people accessing his property but that now he is renting out the house he wanted the maintenance to be resumed) and it was assumed that these were through DEC land. No research was done to establish where Mr Moir's properties are and where the tracks are because he indicated he would be sending in a request that could go to this Council meeting and it was assumed these would be supported by diagrams or the like as was discussed with him. There was insufficient time to do the research to include this level of detail for the agenda item however this will be done and the information tabled at the meeting.

Mr Walker's email claims that the Donnybrook-Balingup Shire maintains "unsurveyed roads on DEC Land with approval of DEC". The Donnybrook-Balingup Shire has advised that they do maintain a gazetted road through DEC land where DEC contributes toward the cost under an informal agreement. They stated that they are not aware of any tracks through DEC land that they maintain but recognise that they, like this Council, may be dosing so unwittingly. Talking with DEC representatives there are no other agreements between DEC and that Shire over the maintenance of tracks or roads.

Mr Walker's email refers to the chaos that would be caused if Council stopped maintaining roads and it is not clear where this comes from because the position is that Council does maintain roads under its control to the best level it can do so having regard to funding and other considerations. It does not however maintain access tracks on land controlled by others (that is in full knowledge that it is doing this). Mr Walker makes a point that "these regularly used unsurveyed roads on DEC land are classified by DEC as Non-defendable Public Roads". This classification was not known to the two senior DEC officers the author spoke to (one is the officer in charge of tracks roads etc on all DEC land) and so the significance of it is not known, in any event, it is immaterial what DEC might call its assets.

The following is an email from a DEC officer to Mr Walker;

*Further to our recent telephone discussion on the matter of roads and maintenance. DEC undertakes a road upgrading and maintenance programme which is essentially driven by the annual planned burning programme, the maintenance of a strategic network predominantly for fire management or high use access roads to managed recreation sites. Unfortunately this means that there are a number of lower priority roads which do not receive maintenance as the funds available for this are limited.*

*In the case of roads on the DEC managed estate but which do not have a formal easement over them but provide access to private property, it is common for local authorities to undertake road maintenance as a service to their rate payers. As a general rule DEC has no objections to this activity and usually only get involved if a major upgrade requiring widening or clearing is proposed or if there are particular environmental sensitivities which may be impacted in the operation.*

*For the roads in your case DEC would be amenable to the Shire of Boyup Brook seeking approval from DEC to carry out road grading on the roads and tracks which service your*



*property and those of the neighbours in your district. I understand that up until recently the Shire has undertaken this work. If the Shire wishes to proceed to seek the approval from DEC to grade these roads they can contact Jeremy Chick via our Busselton office.*

The officer was asked about his comment that it was common for local authorities to undertake road maintenance on roads on DEC land was not able to substantiate this, but this was his understanding of the situation.

In speaking with the DEC officer looking after tracks roads etc on DEC land noted that DEC was a Road Authority in the same way that Councils are (it is unclear where this terminology comes from, the author has heard it before but could not find it any legislation that it could have come from) because they have tracks and roads etc on their land that the public has access to and that they are responsible for these. Also that DEC is grappling with the problem of liability, the cost of maintenance etc in relation to these tracks and roads and is doing similar asset recognition, classification and maintenance planning for its tracks and roads to what Council is doing. He also noted that whilst these track roads etc were open for public use they could be closed at any time for any reason (they would not be subject to the road closure constraints imposed on gazetted roads). It is highly likely that any DEC approval to maintain tracks would come with conditions

It is clear that Council could seek approval from DEC to maintain tracks on DEC land however it is clearly a responsibility for DEC to manage and maintain the land it controls and the assets on that land, and not a responsibility of Council. DEC will note that it does not have the funding to maintain all of the tracks under its control and so no doubt would be happy for Councils to take on this burden. Individuals can make agreements with DEC for them to maintain tracks through DEC land to access their properties. Council is not responsible to provide access to properties that are land locked.

The question of how did we come to be maintaining tracks on DEC land and not be aware of it might well be asked. Not making any excuses or mounting any defence for this however experience shows that informal practices commenced years ago tend to become part of what is done without any conscious decision to do so. It may be that a grader operator years ago was asked by a property owner to grade a track or the like and then this became the practice even though Council had not resolved to do this. The road hierarchy process will bring to light irregularities and, as noted, Mr Walker has alerted us to other possible situations that will be investigated and the intention is to deal with these as they come to light.

Council has not at anytime budgeted to maintain tracks of DEC land, or any other land controlled by others and it is suggested that if Council wished to take on this responsibility it should make provision in the budget for this.

Council could deal with Mr Walker's request as if it was on behalf of both him and others, including Mr Moir, but it runs the risk of making a decision that may not be in response to a request from those persons. It is recommended that Council deal with the principal of maintaining tracks on land controlled by others rather than individual cases.

As suggested, Council could equally look more broadly at the position with all land locked lots, not just those that abut DEC land. As in essence it makes no difference in who controls the adjoining land, the land has no gazetted road access and purchasers would have been aware of this when they purchased. It is clearly not a Shire responsibility though to sort out such land issues

The position is that Council has no right or responsibility and has provided no funding to maintain tracks on land controlled by others. If it chooses to do so Council could address each of these factors and legitimise the informal practice that appears to have occurred. If Council wished to commence the process to have the tracks gazetted it is suggested that this action be held off until any other such tracks are identified so that they can all be addressed at the same time.

It is however recommended that Council not take on the added burden as there are other solutions open to DEC and affected landholders.

### **CONSULTATION**

The author has spoken with Councillors the applicant, DEC and Council staff.

### **STATUTORY OBLIGATIONS**

Nil. Council has no obligation to maintain anything on land controlled by DEC.

### **POLICY IMPLICATIONS**

Nil

### **BUDGET/FINANCIAL IMPLICATIONS**

Nil other than if Council wants to maintain these tracks it should amend the budget to set aside some portion of the maintenance grading budget for that purpose. We do not know how many tracks are involved and so cannot estimate the annual maintenance cost at this time however we may have this information at the Council meeting. In the absence of this it would be prudent to take say \$5,000 from the maintenance grading (SCH 12) provision and apply this to DEC Tracks (perhaps a separate section in SCH 12).

### **STRATEGIC IMPLICATIONS**

Nil

### **SUSTAINABILITY IMPLICATIONS**

- **Environmental**  
There are no known significant environmental issues however it is expected that DEC would impose environmental conditions as part of any agreement to maintain tracks on its land.
- **Economic**  
There are no known significant economic issues.
- **Social**  
There are no known significant social issues.

### **VOTING REQUIREMENTS**

Absolute majority

### **OFFICER RECOMMENDATION – ITEM 7.3.2**

**That Council received Mr Walker's requests and resolve that it will not maintain tracks on land it has no control over and where it has no obligation to do so.**

**COUNCIL DECISION – ITEM 7.3.2**

**MOVED: Cr Giles**

**SECONDED: Cr Downing**

**That Council received Mr Walker’s requests and resolve that it will not maintain tracks on land it has no control over and where it has no obligation to do so.**

**MOVED INTO COMMITTEE – ITEM 7.3.2**

**MOVED: Cr Giles**

**SECONDED: Cr Oversby**

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

**CARRIED 6/3**

**Res 128/10**

4.10pm - Maria Lane left the Chambers.  
4.12pm – Maria Lane returned to the Chambers.  
4.22pm – Mr Richard Walker left the Chambers

**MOVED OUT OF COMMITTEE – ITEM 7.3.2**

**MOVED: Cr Muncey**

**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 9/0**

**Res 129/10**

**AMENDMENT**

**MOVED: Cr Doust**

**SECONDED: Cr Oversby**

**That Council receives Mr Walker’s requests and resolve that it will not maintain tracks on land it has no control over and where it has no obligation to do so.**

**The matter be reviewed following a report which identifies all the tracks and roads that are being maintained by the Shire at the present time, that are not on shire controlled land.**

**CARRIED BY ABSOLUTE MAJORITY 9/0**

**Res 130/10**

### 10.1.2 Dedication of roads - Wilga

<b>Location:</b>	<i>State Forrest 29 and Timber Reserve 0131/25 Wilga</i>
<b>Applicant:</b>	<i>Mr K. Moir</i>
<b>File:</b>	
<b>Disclosure of Officer Interest:</b>	<i>None</i>
<b>Date:</b>	<i>12 July 2010</i>
<b>Author:</b>	<i>Alan lamb</i>
<b>Authorizing Officer:</b>	<i>Not applicable</i>
<b>Attachments:</b>	<i>copy of email and plan provided by applicant, marked up Landgate imagery and a section of a map of the Wilga area.</i>

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#### **SUMMARY**

Mr Moir seeks to have access tracks through Department of Environment and Conservation (DEC) land dedicated as public roads and the recommendation is that Council reject the request.

#### **BACKGROUND**

Mr Moir emailed a request for Council to have two access tracks to two separate parcels of land he owns in Wilga. One is from the termination of Cunningham through State Forrest 29 to Wellington Location 2323 and the other is from Walker road through what is understood to be a Timber Reserve 0131/25 to Nelson Location 11287. It is understood that the land that both of these tracks run through are controlled by DEC.

It is understood that Council has maintained both tracks over a number of years.

#### **COMMENT**

It will be noted that this item follows on from a similar item relating from requests from Mr Walker. Mr Walker's emailed requests were made on behalf of himself and others including Mr Moir but not signed by any of the other parties and so it was suggested that his request be considered to be from him alone.

Mr Moir has provided detail of the locations, the tracks and supported these with maps marked up to show relevant features. He has offered to undertake surveying, plan preparation and lodging at his cost as contribution toward the dedicating (dedicated roads are often referred to as gazetted roads, the term dedicated has been used here because that is the term used in the Land Administration Act) of access tracks through DEC land to his properties.

As suggested in the previous report, in essence the matter relates to land locked lots and there are many in this Shire and probably thousands in the south west. It is suggested that it is not a role or responsibility of Local Government to sort out the access issues for land locked lots.

In Mr Moir's case he suggest that the track off Walker road has been in use since 1938 and the track of Cunningham Road was in use from around 1930 and that both have been maintained by Council (the latter track has not been maintained, at Mr Moir's request, for some years however he now wants maintenance resumed). Neither track is on Council's road inventory and it is probable that Council has not consciously made the decision to maintain them. The position is that the tracks are DEC assets and like the reserves that run through very clearly DEC responsibilities. The track through State Forrest 29 is to a land locked lot and serves other land locked lots. The lot Nelson Location 11287 is not land locked as it has a portion of frontage to Walker road however Mr Moir suggests that this frontage is a gully and so not suitable for constructing a crossover or internal road.

The process to dedicate a road is as set out under the heading Statutory Obligations. It is noted that 56(1) (b) talks about a private "road that is constructed and maintained to the satisfaction of the local government". It is noted that this is to ensure that the Local Government does not take on a substandard road and so gives rise to the question of what standard should the tracks be in for Council to take on responsibility for them. It is recommended that this aspect be tackled as a separate issue once Council has decided whether or not it wishes to pursue the matter of dedication.

State Land Services advises that in order for the process to commence Council first has to gain agreement from DEC for the portion of state forest or timber reserve to be handed over. In speaking with DEC representatives, the process is lengthy and relies on DEC officers recommending that the transfer take place. Before they do so they have to consider a number of factors including environmental. The 12 to 18 month process entails their recommendations being vetted and then passed to their minister for approval. Once this process has been completed the matter is then dealt with by State Land Services and following processes their minister must agree to the dedication. Once all of this is done and gazetted the track becomes a dedicated road. The process for state forests is similar except that the matter must go through State Parliament and so the process can become even more protracted and 3 years was mentioned by DEC.

It is unclear what the costs to Council might be for the process but it is suggested that this should not be great especially if the surveying etc is done at no cost.

DEC notes that land holders can obtain agreements to gain access to their land through DEC land and this usually involves the applicant being responsible for the cost of maintaining the track. Also that there are generally some conditions.

It is suggested that Council could accept Mr Moir's offer to survey the two access tracks to his properties and make up plans and then use these to test the water as it were with DEC to see if it is prepared to give up parts of its reserve land for the purposes of creating dedicated roads through them. It is possible that DEC will not want to have this permanent access and if so the matter would end there and possibly be the same for all other such tracks through DEC land.

Alternatively Council could reject Mr Moir's request noting that it has no responsibility to resolve issues relating to land locked lots or to maintain tracks on DEC land, and that there are other options open to landholders.

No doubt there will be other options however one could be to see if DEC is prepared to release portions of its reserves for the purposes of creating dedicated roads and using Mr Moir's accesses as an example (as there are no guarantees it will and some indication there could be opposition to this) . If Mr Moir's offer extends to a preliminary request to DEC (i.e. survey and plans) this will reduce the cost of doing so to administration time in

sending one letter to DEC. It is noted though that there will be many similar situations and this may set a precedence that could result in many new single access roads being created and raises the question of the standard of construction at the time Council takes responsibility for maintenance. If we were dealing with a subdivision the standard condition requested would be for roads to be built to Council's specifications. It is appreciated that Council may have maintained these tracks (may have even built them), also that there are many dedicated roads in the district that are not up to standard but for consistency Council may wish to make as a condition of agreement to seeking to have the roads dedicated that they are brought up to a standard first. Council may wish Administration to do a separate report on this when and if DEC has indicated its agreement to release the land if Council choses this option.

It is recommended that Council reject Mr Moir's request. If however Council is inclined to consider the request then it is recommended that the option of a test case as set out above be taken.

### **CONSULTATION**

The applicant Councillors, DEC and State Land Services officers and staff

### **STATUTORY OBLIGATIONS**

Section 56 of the Land Administration Act may have some application:

## **56. Dedication of roads**

- (1) *If in the district of a local government —*
- (a) *land is reserved or acquired for use by the public, or is used by the public, as a road under the care, control and management of the local government;*
  - (b) *in the case of land comprising a private road constructed and maintained to the satisfaction of the local government —*
    - (i) *the holder of the freehold in that land applies to the local government, requesting it to do so; or*
    - (ii) *those holders of the freehold in rateable land abutting the private road, the aggregate of the rateable value of whose land is greater than one half of the rateable value of all the rateable land abutting the private road, apply to the local government, requesting it to do so;*
- or*
- (c) *land comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years,*

*and that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.*

- (2) *If a local government resolves to make a request under subsection (1), it must —*
- (a) *in accordance with the regulations prepare and deliver the request to the Minister; and*
  - (b) *provide the Minister with sufficient information in a plan of survey, sketch plan or document to describe the dimensions of the proposed road.*
- (3) *On receiving a request delivered to him or her under subsection (2), the Minister must consider the request and may then —*

- (a) *subject to subsection (5), by order grant the request;*
  - (b) *direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or*
  - (c) *refuse the request.*
- (4) *On the Minister granting a request under subsection (3), the relevant local government is liable to indemnify the Minister against any claim for compensation (not being a claim for compensation in respect of land referred to in subsection (6)) in an amount equal to the amount of all costs and expenses reasonably incurred by the Minister in considering and granting the request.*
- (5) *To be dedicated under subsection (3) (a), land must immediately before the time of dedication be —*
- (a) *unallocated Crown land or, in the case of a private road, alienated land; and*
  - (b) *designated in the relevant plan of survey, sketch plan or document as having the purpose of a road.*
- (6) *If land referred to in subsection (1)(b) or (c) is dedicated under subsection (3)(a), a person with an interest in that land (including a person who has the benefit of an easement created under section 167A of the TLA) is not entitled to compensation because of that dedication.*

#### **POLICY IMPLICATIONS**

Nil

#### **BUDGET/FINANCIAL IMPLICATIONS**

Depends on the option taken by Council.

#### **STRATEGIC IMPLICATIONS**

Nil

#### **SUSTAINABILITY IMPLICATIONS**

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

#### **VOTING REQUIREMENTS**

Simple majority

#### **OFFICER RECOMMENDATION – ITEM 10.1.2**

**That Council receive Mr Moir’s application to have two tracks through Department of Environment and Conservation land to property owned by him made into dedicated roads be rejected.**

**COUNCIL DECISION – LAY ON THE TABLE**

**MOVED: Cr Downing**

**SECONDED: Cr Biddle**

That item 10.1.2 lay on the table pending the completion of a report which identifies all the tracks and roads that are being maintained by the Shire at the present time, that are not on shire controlled land.

**CARRIED 7/2**

**Res 131/10**

**7.1 MANAGER WORKS & SERVICES**

**7.1.1 Shire of Boyup Brook Water Conservation Plan**

<b>Location:</b>	<i>Shire of Boyup Brook</i>
<b>Applicant:</b>	<i>Not applicable</i>
<b>File:</b>	
<b>Disclosure of Officer Interest:</b>	<i>None</i>
<b>Date:</b>	<i>7 July 2010</i>
<b>Author:</b>	<i>John Eddy – MWKS &amp; Services</i>
<b>Authorizing Officer:</b>	<i>Alan Lamb, Chief Executive Officer</i>
<b>Attachments:</b>	<i>1 – Water Conservation Plans – Attachment 2 – Shire of Boyup Brook Water Conservation Plan</i>

**SUMMARY**

At the request of the Department of Water the Shire of Boyup Brook has produced a Water Conservation Plan to implement strategies to manage and conserve water in the irrigation of public open space and recreational areas within the Shire.

**BACKGROUND**

Under the water efficiency measures cabinet decision which came into effect on 1 October 2007, Councils were required to produce water conservation plans. The Shire of Boyup Brook was identified as a priority to receive assistance in completing a water conservation plan by 1 September 2009.

The development of a water conservation plan addressed:-

- increasing Councils participation in water resource management.
- identify areas and develop strategies to conserve water.
- highlight any licence inconsistencies.
- demonstrate to the community wise water use as a response to climate change.

**COMMENT**

On 18 August 2009 the Manager of Works and Services and Parks and Gardens Supervisor of the Boyup Brook Shire met with Mr Gary McKenzie consultant for the



Department of Water to conduct a Water Conservation Plan workshop. Following the workshop Mr McKenzie forwarded a draft water conservation plan with water use and allocation of water resource data to be completed by Shire of Boyup Brook staff.

With the assistance of Regional Environmental Officer Dion Steven the draft Water Conservation Plan was completed in December 2009 and forwarded to Mr McKenzie for approval in March 2010. Following approval by Mr McKenzie the Water Conservation Plan is now presented to the Council for comment prior to submission to the Department of Water.

### **CONSULTANT**

Mr Gary McKenzie – McKenzie Consulting  
Mr Aaron Compton – Department of Water  
Mr Dion Steven – Regional Environmental Officer  
Chief Executive Officer  
Parks and Gardens Supervisor

### **STATUTORY OBLIGATIONS**

Nil

### **POLICY IMPLICATIONS**

Nil

### **BUDGET/FINANCIAL IMPLICATIONS**

Future budget considerations.

### **STRATEGIC IMPLICATIONS**

#### **2008-2013 Strategic Plan – Critical Success Factor**

Development of sustainable management of the Shire's natural resources, heritage and culture.

#### **ACTION PLAN No 7.1 (E)**

Develop and implement a Water Management Plan. (incorporating all other plans)

### **SUSTAINABILITY IMPLICATIONS**

- **Environmental**  
Develop strategies to help cope with climate change and population growth.
- **Economic**  
There are no known significant economic issues.
- **Social**  
Increase community awareness of responsible water management.

### **VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION – ITEM 7.1.1**

That the Council receive the Shire of Boyup Brook Water Conservation Plan dated June 2010 as presented.

**COUNCIL DECISION – ITEM 7.1.1**

**MOVED:** Cr Giles

**SECONDED:** Cr Doust

That the Council receive the Shire of Boyup Brook Water Conservation Plan dated June 2010 as presented and that the summary of actions included in the plan be costed and presented to the Council prior to 30 April 2011.

**CARRIED 9/0**

**Res 132/10**

**7.2 MANAGER – FINANCE**

**7.2.1 Accounts for Payment**

<b><i>Location:</i></b>	<i>Not applicable</i>
<b><i>Applicant:</i></b>	<i>Not applicable</i>
<b><i>File:</i></b>	<i>FM/1/002</i>
<b><i>Disclosure of Officer Interest:</i></b>	<i>None</i>
<b><i>Date:</i></b>	<i>9 July 2010</i>
<b><i>Author:</i></b>	<i>Keith Jones – Manager of Finance</i>
<b><i>Authorizing Officer:</i></b>	<i>Not applicable</i>
<b><i>Attachments:</i></b>	<i>Yes – List of Accounts Paid</i>

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**SUMMARY**

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

**BACKGROUND**

Invoices have been received during the month of June 2010.

**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 Oversby**

**SECONDED: Cr Giles**

**That the payment of accounts for June 2010 as presented totalling \$516,085.81 and as represented by cheque voucher numbers 18116 – 18156 totalling \$32,141.85, and accounts paid by direct electronic payments through the Municipal Account totalling \$483,943.46 be endorsed.**

**CARRIED 9/0**

**Res 133/10**

## 7.2.2 June 2010 Monthly Statements of Financial Activity

<b>Location:</b>	<i>Not applicable</i>
<b>Applicant:</b>	<i>Not applicable</i>
<b>File:</b>	<i>FM/10/003</i>
<b>Disclosure of Officer Interest:</b>	<i>None</i>
<b>Date:</b>	<i>9 July 2010</i>
<b>Author:</b>	<i>Keith Jones – Manager of Finance</i>
<b>Authorizing Officer:</b>	<i>Not applicable</i>
<b>Attachments:</b>	<i>Yes – Financial Reports</i>

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### **SUMMARY**

Report recommends Council receive the Balance Sheet and Operating Statement for the month ended June 2010 and Investment Schedule for the month ended 31 July 2010.

### **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

4.43pm – Mr Alan Lamb left the Chambers.

4.45pm – Mr Alan Lamb returned to the Chambers

**COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.2.2**

**MOVED: Cr Giles**

**SECONDED: Cr O'Hare**

**That the June 2010 Monthly Statements of Financial Activity as presented, be received.**

**CARRIED 9/0**

**Res 134/10**

### 7.3 **CHIEF EXECUTIVE OFFICER**

#### 7.3.1 Road Hierarchy and maintenance regime'

<b>Location:</b>	N/A
<b>Applicant:</b>	N/A
<b>File:</b>	
<b>Disclosure of Officer Interest:</b>	None
<b>Date:</b>	8 July 2010
<b>Author:</b>	Alan Lamb – Chief Executive Officer
<b>Authorizing Officer:</b>	Not applicable
<b>Attachments:</b>	copy of the draft road hierarchy

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#### **SUMMARY**

The purpose of this report is to put before Council a draft road hierarchy that includes a maintenance regime for Council's adoption.

#### **BACKGROUND**

As part of its asset management planning process Council was presented with a draft road hierarchy and resolved as follows at the 15 April 2010 Council meeting;

**The Road, Footpath and asset management plans as presented, be included in the draft Asset Management Plan.**

#### **COMMENT**

With this resolution (as mentioned above) the hierarchy became the basis for asset management planning and so it could perhaps be interpreted that Administration should commence works planing around it as well. However it was considered that it would be prudent to first seek Council approval for this.

The intention is for the hierarchy to be used to compile road grading programs, routes and the like and it is expected that once this more detailed work is done we will need to come back to Council to seek amendments to the hierarchy. Similarly, it's envisaged that there will be community consultation and that this will result in the need for other amendments. However it is important that we start with a document that Council has agreed to.

The recommendation is that the hierarchy be reviewed after six months of operation of the resulting road maintenance plan and that it then be reviewed annually there after as part of the budget process. The maintenance planning is expected to take some time and so will not impact on the drafting of the 2010/11 budget.

#### **CONSULTATION**

The matter has been before Council previously.

**STATUTORY OBLIGATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**BUDGET/FINANCIAL IMPLICATIONS**

Nil in the current financial year however it is expected that the maintenance plans that come from the road hierarchy will result in a more accurate assessment of funding needs and so will have an impact on future budgets.

**STRATEGIC IMPLICATIONS**

The following action has some relevance:

## Action Plan No 6.5

	DETAILS OF ACTIONS REQUIRED	TIME REQ'D	TARGET DATE	EST'D COST	RESP'BL PERSON
A H	<b>PART A = Present &amp; Ongoing PRIORITY = High</b>				
1 0 2	<p><i>Action:</i> <b>Maintain and enhance rural roads throughout the Shire</b></p> <p><i>Reason:</i> To provide reasonable access to other property and maintain the rural roads network in a reasonable state of repair</p> <p><i>Expected Outcome:</i> Maintenance of rural roads to a standard which meets reasonable community expectations</p>	Ongoing	30 June 2008/ 2009/ 2010	\$850,000 per year	CEO

**SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENTS**

Simple majority

**COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.3.1**

**MOVED: Cr Giles**

**SECONDED: Cr Muncey**

**That Council adopts the attached road hierarchy for the purposes of developing road maintenance plans and programs, that the hierarchy be reviewed six months after the revised maintenance plans and programs have been implemented and then annually there after as part of the budget process.**

**CARRIED 9/0**

**Res 135/10**



**7.3.3 Regional and Local Community Infrastructure Program - Round 3**

<b>Location:</b>	<i>Not applicable</i>
<b>Applicant:</b>	<i>Not applicable</i>
<b>File:</b>	<i>FM/04/004</i>
<b>Disclosure of Officer Interest:</b>	<i>None</i>
<b>Date:</b>	<i>7 July 2010</i>
<b>Author:</b>	<i>Alan Lamb</i>
<b>Authorizing Officer:</b>	<i>Not applicable</i>
<b>Attachments:</b>	<i>copy of funding guidelines</i>

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**SUMMARY**

The purpose of this report is to put before Council options for application of these funds with a recommendation that an application be lodged

**BACKGROUND**

The Federal Government commenced its Regional and Local Community Infrastructure Program (RLCIP) in 2008/09 and distributed funds to all Australian Local Governments. This was termed round 1, the total pie was \$250m and Boyup Brook received the minimum grant of \$100,000. In 2009/10 the comparable pie was \$100m and Boyup Brook's share was \$30,000. This year, we have been advised that Council may apply for \$30,000 (i.e. the same amount as last year). It is noted that the guidelines provide that projects cannot be in Council's 2010/11 budget and so the funding is for "additional" projects

It should be noted that in past years there were two parts to this funding initiative, one being a non-competitive grant opportunity (i.e. the \$100m pool) and the other being a competitive component (Last year this was \$120M). It is not clear what may be available or what the guidelines would be for 2010/11. Last year the minimum grant was \$1m, and the guidelines provided that projects must be additional, ready to proceed, or additional stages of current projects. Additional projects are those which have not been included in the Local Government's current budget and can be brought forward as a result of this funding. Projects that are ready to proceed are those that will begin construction within six months of signing the funding agreement.

The \$100m RCLIP grant application phase commenced recently and Council was notified by email 25/6/2010 of the grant and guidelines. Applications close 5pm AEST 30 July 2010. The distribution is based on a minimum grant of \$30,000 for each Council in Australia. Councils with a population of 30,000 and categorised as "urban fringe" or "urban regional" according to the Australian Classification of Local Government Code will receive an additional growth component of \$150,000. All Councils with at least 5,000 residents will share in the remaining funds proportionate to their 2009-10 general purpose Financial Assistance Grant.

A Copy of the funding guidelines is attached and so the detail will not be repeated here.

Council put forward the following projects for funding in 2009/10 (in priority order)

1. **That administration lodge an application for a Regional and Local Community Infrastructure Program grant of \$30,000 listing the following projects as being options noting that the listing order is Council's priority order:**
  - a) **Swimming Pool Carpark – improvements and beautification**  
**This project entails asphaltting and kerbing the carpark area, new plantings and reticulation.**
  - b) **Town footpaths – installing concrete footpaths, that include access ramps and the like, to improve access around town.**
  - c) **Sandakan Park – improvements and beautification**  
**This project entails turfing, reticulation and a general up grade.**

The swimming pool carpark project was accepted and funding was provided for it.

### **COMMENT**

It is noted that the grant is relatively small and Council is advised to not seek to spread it over too many of small projects because of the acquittal process, that includes signage and official openings etc, can tend to be expensive in terms of time and money and the benefit of the grant could be reduced if we had to acquit in relation to more than one project.

Speaking with the Commonwealth Department of Infrastructure, Transport, Regional Development and Local Government team set up to manage this funding program, they suggested it is preferable for Councils to nominate a list of projects indicating order of preference and it will be noted that the recommendation aligns with this.

In looking at projects that would benefit from this additional funding and that can be completed before the 31 December 2011 deadline, the following two projects that were not funded last year and logically should be reconsidered by Council as its potential priorities for 2010/11:

1. Town footpaths – installing concrete footpaths that include access ramps and the like, to improve access around town.
2. Sandakan Park – improvements and beautification  
This project entails turfing, reticulation and a general up grade.

It is noted though that the guidelines have now changed and footpaths, unless they are a part of an eligible project (such as up grading the main street), are now not eligible for funding (refer Q9 on page 10 of the attachment). The Sandakan Park improvements may be eligible.

Council may wish to consider projects such as up grading the Town Hall kitchen to commercial standard. This project is designed to bring the kitchen up to the required standard so that community groups and others can cater, for functions and the like, and meet health requirements. This project entails tiling splash backs, a hood over the cooker and new linoleum and is expected to costs in the order of \$13,000 (this was an item in the draft budget but has dropped off due to the need to reduce overall costs). This kitchen has a commercial cooker that many users find difficult to use, it is a number of years old and so it would be ideal to replace this and the small domestic cooker with two large domestic cookers (i.e. the stainless steel domestic units that resemble commercial appliances). It is expected that these would cost in the order of \$10,000 fitted. Also, replacing the two domestic refrigerators with one glass fronted, commercial type, refrigerator would finish the up grade project (estimated cost \$4,000).

The draft budget had an item for a new fence for the Family Stop (\$6,000) and this would qualify for funding (i.e. page 7 playgroup centre).

Other options include photovoltaic cells for the swimming pool (guidelines Q8 page 10) to reduce the cost and impact of electricity from the grid. It is estimated that this project would cost \$15,000 and that it would reduce electricity charges for the pool by \$1,900 per year (note based on the service providers estimate of cost recovery, also note, current annual cost is \$7,500 and this is expected to increase with increased power tariffs. The Sporting Complex would be another candidate for photovoltaic cells. No estimates have been obtained for the sporting complex but based on others that have been obtained the cost is expected to be in the order of \$15,000. Annual electricity charges for this facility are in the order of \$6,000 and annual savings would be similar to that for the pool. Another facility that Council might consider is the medical centre. The cost for this facility would be in the order of \$12,000, the annual electricity usage cost is \$4,000 and the savings are expected to be more than \$1,000 per year.

Another option might be to seek to use the funds to up grade change rooms at the town oval. No costings have been done but it is expected that \$30,000 would go a long way to improving the facilities.

It is recommended that the proposed work to bring the town hall kitchen up to a commercial standard be priority one as this will benefit all local not for profit groups that wish to fund raise by doing catering (i.e. the basic up grade is estimated to cost \$13,000). Also that this be extended to include new cooking and refrigeration equipment \$14,000 and that the remaining \$3,000 be applied to the Family Stop fence (i.e. that is with Council contribution of \$3000). The rationale behind the recommendation is that much of what is proposed was in the draft budget and so a high priority.

It is also recommended that priority two be photovoltaic cells at the swimming pool, and sporting complex, and that priority three be an upgrade of change rooms (tiling, plumbing etc) at the sporting complex (\$30,000).

### **CONSULTATION**

The author has spoken with the funding provider and Council staff.

### **STATUTORY OBLIGATIONS**

Nil

### **POLICY IMPLICATIONS**

Nil

### **BUDGET/FINANCIAL IMPLICATIONS**

Neither the grant income its expenditure on a project is included in the current draft budget and it is recommended that Council amend the budget once the grant has been approved.

### **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

4.49pm - Cr Muncey left the Chambers

4.51pm - Cr Muncey returned to the Chambers.

4.53pm –Mr David Marshall, Mr Maxine Marshall, Mr John Imrie, Mr Kevin Moir and Mrs E Moir left the Chambers.

**MOVED INTO COMMITTEE – ITEM 7.3.3**

**MOVED:Cr Marshall**

**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 BY ABSOLUTE MAJORITY 7/2**

**Res 136/10**

4.51pm - Cr Giles left the Chambers

4.53pm - Cr Giles returned to the Chambers

4.58pm - Cr Oversby returned to the Chambers

4.59pm Cr Oversby returned to the Chambers

**MOVED OUT OF COMMITTEE – ITEM 7.3.3**

**MOVED: Cr Oversby**

**SECONDED: Cr Doust**

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

**CARRIED 9/0**

**Res 137/10**

**OFFICER RECOMMENDATION – ITEM 7.3.3**

**That administration lodge an application for a Regional and Local Community Infrastructure Program grant of \$30,000 listing the following projects as being options noting that the listing order is Council's priority order:**

- 1. Boyup Brook Town Hall Kitchen up grade to commercial standard for community use and Boyup brook Family Stop fence up grade.**
- 2. Installation of photovoltaic cells at Boyup Brook Swimming Pool and Sporting Complex.**
- 3. Boyup Brook Sporting Complex change room facilities up grade.**

**COUNCIL DECISION – ITEM 7.3.3**

**MOVED:**Cr Doust

**SECONDED:** Cr O'Hare

That administration lodge an application for a Regional and Local Community Infrastructure Program grant of \$30,000 listing the following projects as being options noting that the listing order is Council's priority order:

1. Provide electricity for the transfer station.
2. Boyup Brook Sporting Complex change room facilities up grade.

**CARRIED BY ABSOLUTE MAJORITY 8/1**

**Res 138/10**

**7.3.4 Plant Replacement Programme 2009 to 2019**

<b>Location:</b>	N/A
<b>Applicant:</b>	N/A
<b>File:</b>	
<b>Disclosure of Officer Interest:</b>	None
<b>Date:</b>	9 July 2010
<b>Author:</b>	Alan Lamb – Chief Executive Officer
<b>Authorizing Officer:</b>	Not applicable
<b>Attachments:</b>	copy of the plant replacement plan adopted by Council and a copy of the draft amended plan.

**SUMMARY**

The purpose of this report is to put before Council a revised plant replacement plan for adoption and inclusion in the 2010/11 budget

**BACKGROUND**

As part of the asset management process Council adopted the attached plant replacement plan at its March 2010 meeting. As part of the budget development process officers have reviewed the plan and now seek Council endorsement of a revised plan

**COMMENT**

As with any long range plan, especially those that feed into the budget, the process is to review the plan and make any necessary adjustments then take the relevant years activities into the budget.

Officers have reviewed the plan and seek to make some adjustments and rather than put each to Council singularly the hope it's that Council would deal with the proposed revised plan. Areas of change are highlighted on the proposed plan.

It will be noted that the major changes are the revised estimated net cost of replacing the loader (2010/11) and shifting the grader from 2011/12 to 2012/13. The former is based on quotations received and the latter is recommended because the grader can last another term and should not lose too much value. Also because this reduces the load on 2010/11 to build up sufficient funds in funds from the Municipal fund to cover plant

replacement. It will be noted that by providing \$275,000 per year for this purpose and using the reserve fund to smooth out the variances in actual changeover cost, the reserve fund balance is positive for the entire ten year period (the lowest balance is \$12,024 at the end of 2018/19). Also the total provision for plant replacements exceeds the estimate change over cost by \$36,000, for the ten years, and so there is no overall draw on the reserve fund balance from the 2009/10 end of year balance (\$99,209) providing a handy buffer against unknowns.

**CONSULTATION**

Other staff.

**STATUTORY OBLIGATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**BUDGET/FINANCIAL IMPLICATIONS**

The revised plant replacement plan is reflected in the draft 2010/11 budget.

**STRATEGIC IMPLICATIONS**

Nil

**SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENTS**

Simple majority

**COUNCIL DECISION AND OFFICER RECOMMENDATION – ITEM 7.3.4**

**MOVED: Cr Downing**

**SECONDED: Cr Giles**

**That Council adopt the revised Plant Replacement Plan 2009/2019 as presented.**

**CARRIED 9/0**

**Res 139/10**

## 7.4 Budget Adoption

### 7.4.1 Adoption of 2010/11 Budget

<b>Location:</b>	<i>Not applicable</i>
<b>Applicant:</b>	<i>Not applicable</i>
<b>File:</b>	<b>FM/9/002</b>
<b>Disclosure of Officer Interest:</b>	<b>None</b>
<b>Date:</b>	<b>9th July 2010</b>
<b>Author:</b>	<b>Alan Lamb CEO</b>
<b>Authorizing Officer:</b>	<b>Not applicable</b>
<b>Attachments:</b>	<b>Yes – Draft Budget</b>

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#### **SUMMARY**

Consideration and adoption of the 2010/11 draft budget.

#### **BACKGROUND**

A copy of the 2010/11 draft budget has been provided to Councillors.

The budget has been prepared with due regard to the Plan for the Future/Strategic plan, decisions made by Council during the past twelve months and directions given to staff following informal budget discussions.

#### **COMMENT**

As presented the draft budget allows for an overall, average rate increase for GRV (Gross Rental Values) properties and UV (Unimproved Values) of 5.00%.

The minimum rate prepared is \$620 for both UV and GRV, compared to \$590 in 2009/10.

Kerbside waste collection charges are to be increased from \$160 to \$168 per annum.

#### **CONSULTATION**

Councillors and senior staff.

#### **STATUTORY OBLIGATIONS**

Local Government Act 1995 Local Government (Financial Management) Regulations.

#### **POLICY IMPLICATIONS**

Nil

#### **BUDGET/FINANCIAL IMPLICATIONS**

Not applicable

### **STRATEGIC IMPLICATIONS**

Adoption of the budget will enable Council to provide the necessary services and facilities to ratepayers and residents.

### **SUSTAINABILITY IMPLICATIONS**

- **Environmental**  
The budget reflects an increase in environmental initiatives particularly with the employment of a part time Environmental Officer.
- **Economic**  
There are no specific economic development initiatives however expenditure on capital building works and area promotion will achieve economic stimulus.
- **Social**  
Maintenance of existing facilities, including roads, playing fields and recreation areas together with new capital works will ensure adequate facilities and services are maintained for the community.

### **VOTING REQUIREMENTS**

Absolute Majority

### **OFFICER RECOMMENDATION – 7.4.1**

1. **Fees & Charges**  
That the Schedule of Fees & Charges as per Attachment 1 of the 2010/11 budget papers be adopted.
2. **Minimum Rate**  
That the Minimum Rate for the 2010/11 year be set at \$620.
3. **Rates in the Dollar**  
That Council sets the Rates in the dollar for the 2010/11 year as:
  - Gross Rental Value (GRV) Rate – 0.1510 cents
  - Unimproved Value (UV) Rate – 0.004572 cents
4. **Kerbside Waste Collection**  
1 x 240 litre bin per week commercial and residential \$168
5. **Due Date for Payment of Rates & Charges**  
That Council in accordance with the Local Government Financial Management Regulations 1996 – Clause 64 (1) set the due date for the single payment of a rate and charges for the 2010/11 financial year to be 15 September 2010
6. **Due Date for Payments of Rate Instalments**  
That Council in accordance with the Local Government Financial Management Regulations 1996 – Clause 64 (2) set the due date for the payment of rate instalments for the 2010/11 financial year as follows:

First Instalment	15 September 2010
Second Instalment	17 November 2010
Third Instalment	19 January 2011
Fourth Instalment	16 March 2011



7. **Administration Charge on Instalments**  
That Council in accordance with Section 6.45 (3) of the Local Government Act 1995 and the Local Government Financial Management Regulations 1996 – Clause 67 set an administration charge of \$10 per rate instalment notice for the 2010/11 financial year where the instalment plan is selected.
8. **Interest on Rate Instalments**  
That Council in accordance with Section 6.45 (3) of the Local Government Act 1995 and the Local Government Financial Management Regulations 1996 – Clause 68 sets an additional charge by the way of Interest where the instalment plan is selected, an interest rate of 5.5% for the 2010/11 financial year.
9. **Late Payment Interest Charge**  
That Council in accordance with Section 6.51 (1) of the Local Government Act 1995 and the Local Government Financial Management Regulations 1996 – Clause 70 set an interest rate of 11% for the 2010/11 financial year as penalty interest for the late payment of rates and charges.
10. **Reserve Funds**  
That Council in accordance with Section 6.11 of the Local Government Act 1995 allocate funds to and from the Reserve Funds for the financial year ending June 30, 2011 as specified in the 2010/11 budget document.
11. **Trust Fund Budget**  
That Council adopt the Trust Fund Budget for the financial year ending June 30 2011 as per the budget document.
12. **Annual Fees and Allowances for Election Members**  
That the following Fees and Allowances for Elected Members for 2010/11 be set at:

Presidents Annual Local Government Allowance	\$ 5,250
Deputy Presidents Annual Local Government Allowance	\$ 1,313
Presidents Annual Attendance Fee	\$10,500
Councillors Annual Attendance Fee	\$ 5,250
Telecommunications Allowance	\$1,200

**2010/11 Municipal Fund Budget**

That the 2010/11 budget as presented incorporating the Schedule of Fees & Charges; Minimum Rate; Rates in the Dollar; Significant Accounting Policies and Annual Fees and Allowances for Elected Members be adopted.

**COUNCIL DECISION – ITEM 7.4.1**

**MOVED: Cr Oversby**

**SECONDED: Cr Downing**

That the draft budget be referred back to the Chief Executive Officer for further consideration.

**CARRIED BY ABSOLUTE MAJORITY 9/0**

**Res 140/10**

## 8 COMMITTEE REPORTS

### 8.1.1 Youth Advisory Committee Minutes

<b>Location:</b>	N/A
<b>Applicant:</b>	N/A
<b>File:</b>	IM/37/004
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	7 July 2010
<b>Author:</b>	Annie Jones – Youth Officer
<b>Authorizing Officer:</b>	Alan Lamb – Chief Executive Officer
<b>Attachments:</b>	Yes – Minutes

#### **BACKGROUND:**

A meeting of the Youth Advisory Committee was held on 1<sup>st</sup> and 8<sup>th</sup> June 2010.

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 Giles

**SECONDED:** Cr Biddle

That the minutes of the Youth Advisory Committee Minutes held on 1<sup>st</sup> and 8<sup>th</sup> June 2010 be received.

**CARRIED 9/0**

**Res 141/10**

### 8.1.2 Minutes of the Blackwood River Valley Marketing Association

<b>Location:</b>	N/A
<b>Applicant:</b>	N/A
<b>File:</b>	IM/37/008
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	7 <sup>th</sup> July 2010
<b>Author:</b>	Alan Lamb – Chief Executive Officer
<b>Authorizing Officer:</b>	Not Applicable
<b>Attachments:</b>	Yes - Minutes

#### **BACKGROUND:**

A meeting of the Blackwood River Valley Marketing Association was held on 8<sup>th</sup> June 2010.

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 Giles**

**SECONDED: Cr Biddle**

**That the minutes of the Blackwood River Valley Marketing Association held on 8<sup>th</sup> June 2010 be received.**

**CARRIED 9/0**

**Res 142/10**

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

Nil

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

**COUNCIL DECISION**

**MOVED: Cr Giles**

**SECONDED: Cr Doust**

**That Council deal with late item 10.1.1**

**CARRIED 9/0**

**Res 143/10**

**10.1.1 Boyup Brook Flax Mill – Demolition of some structures**

<b><i>Location:</i></b>	<i>Boyup Brook Flax Mill</i>
<b><i>Applicant:</i></b>	<i>Heritage Council of WA</i>
<b><i>File:</i></b>	
<b><i>Disclosure of Officer Interest:</i></b>	<i>None</i>
<b><i>Date:</i></b>	<i>12 July, 2010</i>
<b><i>Author:</i></b>	<i>Alan Lamb</i>
<b><i>Authorizing Officer:</i></b>	<i>Not applicable</i>
<b><i>Attachments:</i></b>	<i>Heritage Council letter</i>

**SUMMARY**

The purpose of this report is to put to Council the Heritage Council's (HC) request that the Shire defer any demolition of the flax mill pending assessment for registration with the recommendation that Council agrees to this request.

**BACKGROUND**

Council has considered the matter of the flax mill over a number of years.

In November 2007 Council applied for a Lotterywest Grant to do a conservation plan for the flax mill and the application was successful. In June 2008 Council resolved as follows;

**That Kent Lyon (Architects) be appointed to undertake and complete the following conservation plan:-**

**Flax Mill - \$21,945 (Inc GST)**

An order was issued 8 July 2008 and the Architect's quote provided that the draft conservation plan would be presented 25 weeks after commission and that the final plan would be 8 weeks after the review period. The final draft was received September 2009 and put to Council in November 2009. The recommendation was as follows;

- 1) That Council adopts the Flax Mill Conservation Plan as provided**
- 2) That Council proceed with immediate maintenance recommendations and investigate the cost of major repairs recommended in the report.**
- 3) That Council move to source a grant to cover a Structural Engineers report to an approximate cost of \$7000.**

Council resolved as follows;

**That the matter be referred to a Forward Planning Committee for consideration.**

In March 2010 the Forward Planning Committee considered the matter of a plan for the flax mill in terms of the asset management planning it was engaged in and resolved as follows;

**The following recommendations relate to the Flax Mill Complex, lot 336 Jackson Street – freehold title;**

**Recommended to Council that the buildings numbered 3, 4, 5, 11 and 12 on the attached plan (page 97 of the Boyup Brook Flax Mill Conservation plan) be demolished with timbers and other salvageable materials to be recovered. That building number 6 to be removed and retained pending an alternative use being found.**

**Recommended to Council that buildings numbered 1, 2, 7, 8, 9 and 10 on the attached plan (page 97 of the Boyup Brook Flax Mill Conservation plan) be considered for upgrading for conversion to higher quality accommodation and that these buildings be listed in the asset management plan with provision being made for maintenance and replacement .**

**Recommended to Council that buildings numbered 13 and 14 on the attached plan (page 97 of the Boyup Brook Flax Mill Conservation plan) be maintained and that provision be made in the asset management plan for replacement of wall and roofing cladding and fencing only.**

Council accepted these recommendations at its March 2010 meeting.

In June Council considered the matter of timing of the planned demolition works and resolved as follows (note minutes subject to confirmation);

**That \$60,000 be provided from the commercial reserve for demolition of the buildings numbered 3, 4, 5, 11 and 12. Keybrook Holdings be engaged and volunteers be used under direction of Keybrook Holdings with the net funds being placed in the Future of Boyup Brook Community Funds.**

30 June 2010, the HC emailed a letter advising that the flax mill is likely to be considered for entry onto the State's Register of Heritage Places in the near future. Also that heritage assessment will be presented to the Register Committee of the HC within the next six months.

Subsequently a letter was received requesting information. A number of emails and phone conversations between HC and the CEO occurred and the HC forwarded (by email) the attached letter. The request in this letter is for the "Shire to defer any demolition until the Register Committee has had the opportunity to consider the additional information in the draft assessment at its meeting on 30 July 2010.

Following the June Council meeting aspects of the demolition works were discussed with the contractor and an order issued. The contractor has been asked to put the project on hold pending Council's resolution. It is expected that there will be some costs to Council for any delay or cancellation however it is not know what these would be.

### **COMMENT**

It is noted that in January 2004 the HC advised that it would be putting the flax mill on its list of places to assess and that it appears that it was not assessed in the six and a half years to date. It appears that the HC has now commenced this process though and asks Council to put on hold the demolition works whilst it completes this assessment. Council will be aware of the legal advice obtained (emailed to all Councillors for information). The Shire Council has an obligation to cooperate with the HC and the HC may ask the Minister to intervene and make an order requiring the demolition to stop.

It could be suggested that the HC has had more than enough time in which to decide if it thinks the flax mill is of some historical value or not and that delaying the project now whilst it gets around to doing its assessment is not reasonable.

On the other hand it is understood that the purpose of the previous haste to get the work done may no longer be there and so delaying the project might be prudent and avoid the matter escalating to a Ministerial directive.

It is noted that the HC is expediting the assessment process to reduce the impact of the delay it seeks. Also that the deferral sought is to 30 July 2010 only at this time.

On balance, whilst it is rather poor that the HC has only now commenced its assessment at a time when Council has moved to rationalise the structures at the flax mill in order that it may have a reasonable chance of funding the retention and improvement of the others, it is recommended that Council agree to the HC's request to defer demolition works till 30 July 2010 as requested.

### **CONSULTATION**

Council, the Heritage Council, Legal adviser and staff.

### **STATUTORY OBLIGATIONS**

As previously advised.

### **POLICY IMPLICATIONS**

Nil

### **BUDGET/FINANCIAL IMPLICATIONS**

Not known at this time.

**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

**OFFICER RECOMMENDATION – ITEM 10.1.1**

**That Council agree to the Heritage Council’s request to defer planned demolition works at the Boyup Brook Flax Mill until after Register Committee meets and notifies council of its decision.**

**AMENDMENT**

**MOVED: Cr Doust**

**SECONDED: Cr Marshall**

**That Council agree to the Heritage Council’s request to defer planned demolition works at the Boyup Brook Flax Mill until a decision has been made whether the facility is to be included in the state heritage register or the 31 October 2010 whichever is the earliest.**

**LOST 4/5**

**COUNCIL DECISION**

**MOVED: Cr Downing**

**SECONDED: Cr Biddle**

- 1 That Council agree to the Heritage Council’s request to defer planned demolition works at the Boyup Brook Flax Mill until a decision has been made whether the facility is to be included in the state heritage register or the 31 October 2010 whichever is the earliest.**

**CARRIED BY ABSOLUTE MAJORITY 8/1**

**Res 144/10**

**MOVED: Cr Downing**

**SECONDED: Cr O’Hare**

- 2 That Council not implement Council decision number 116/10 of June 2010 until council conducts information and consultation sessions with the Boyup Brook community.**

**MOVED: Cr Giles**

**SECONDED: Cr Marshall**

That the motion be put.

**CARRIED 9/0**

**Res 145/10**

**The motion was put**

- 2 That Council not implement Council decision number 116/10 of June 2010 until council conducts information and consultation sessions with the Boyup Brook community.**

**LOST 4/5**

**Request for Vote to be recorded**

**Cr Oversby requested that the vote of all Councillors be recorded**

<b>For</b>	<b>Against</b>
<b>Cr Oversby</b>	<b>Cr Marshall</b>
<b>Cr Downing</b>	<b>Cr Ginnane</b>
<b>Cr O'Hare</b>	<b>Cr Doust</b>
<b>Cr Biddle</b>	<b>Cr Muncey</b>
	<b>Cr Giles</b>

5.38pm - Cr Giles left the Chambers

5.38pm - Cr Oversby left the Chambers.

5.40pm – Cr Oversby returned to the Chambers.

**Behind Closed Doors**

**MOVED: Cr Downing**

**SECONDED: Cr Doust**

That in accordance with Section 5.23 (2) (b) of the Local Government Act 1995 the next part of the meeting be closed to members of the public and staff to allow the Council to consider matters dealing with the personal affairs of the CEO, the time being 5.40pm.

**CARRIED 8/0**

**Res 146/10**

5.40pm – CEO, MF, MWKS and EA left the Chambers.

**11 CONFIDENTIAL MATTERS**

**11.1.1 Chief Executive Officer – Long Service Leave**

**COUNCIL DECISION – ITEM 11.1.1**

**MOVED: Cr Muncey**

**SECONDED: Cr Biddle**

That Council approve of the Chief Executive Officer deferring his long service leave with the rate of pay being the rate of pay applicable at the time he takes the leave provided it is taken within two years from 15<sup>th</sup> July 2010.

**CARRIED BY ABSOLUTE MAJORITY 8/0**

**Res 147/10**

**COUNCIL DECISION – CHANGE IN ORDER OF BUSINESS**

**MOVED: Cr Downing**

**SECONDED: Cr Ginnane**

That item 7.3.5 be dealt with behind closed doors and that the order of business in the agenda be changed.

**CARRIED 9/0**

**Res 148/10**

**7.3.5 Chief Executive Officer – Annual Performance Review**

**COUNCIL DECISION – ITEM 7.3.5**

**MOVED: Cr Downing**

**SECONDED: Cr Biddle**

That Council commence the process of the Chief Executive Officer's Annual Performance Review by requesting that the Shire President write to the officer notifying of the review in accordance with the employment contract and advise that the Council has decided that an external facilitator be used and their preference is Mr John Phillips from WALGA.



**CARRIED 8/0**

**Res 149/10**

6.30pm – Cr Oversby left the Chambers.

**MOVED: Cr Downing**

**SECONDED: Cr O'Hare**

**In accordance with Section 5.23 (2) of the Local Government Act 1995 the next part of the meeting is open to the staff and members of the public, the time being 6.26pm.**

**CARRIED 7/0**

**Res 150/10**

6.35pm – CEO, MWKS and MF returned to the Chambers.

## **12 CLOSURE OF MEETING**

There being no further business the Shire President, Cr Terry Ginnane declared the meeting closed at 6.37pm