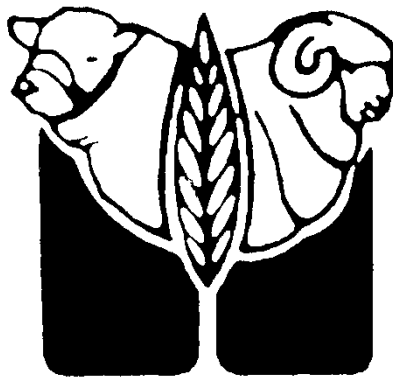


# MINUTES



**SPECIAL MEETING**

**THURSDAY, 12 FEBRUARY 2015  
COMMENCED AT 7.00PM**

**AT**

**SHIRE OF BOYUP BROOK  
ABEL STREET – BOYUP BROOK**

# TABLE OF CONTENTS

1.	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED .....	3
2.	PUBLIC QUESTION TIME .....	3
3.	MATTERS REQUIRING A DECISION .....	4
4.1	Annual Report 2013/14.....	4
4.2	Major Land Transaction.....	7

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

**1.1 Attendance**

Cr M Giles Shire President  
Cr G Aird Deputy Shire President  
Cr J Imrie  
Cr P Kaltenrieder  
Cr K Moir  
Cr B O'Hare  
Cr T Oversby  
Cr R Walker  
Cr N Blackburn

STAFF: Mr Alan Lamb (Chief Executive Officer)  
Mr Stephen Carstairs (Director of Corporate Services)

**1.2 Apologies**

Nil

**1.3 Leave of Absence**

Nil

**2. PUBLIC QUESTION TIME**

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

Nil

**2.2 Public Question Time**

Nil

APPLICATIONS FOR LEAVE OF ABSENCE

Nil

### 3. MATTERS REQUIRING A DECISION

<b>4.1 Annual Report – 2013/14</b>
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<b>Location:</b>	<i>Shire of Boyup Brook</i>
<b>Applicant:</b>	<i>Shire of Boyup Brook</i>
<b>File:</b>	<i>N/A</i>
<b>Disclosure of Officer Interest:</b>	<i>Nil</i>
<b>Date:</b>	<i>5 December 2012</i>
<b>Author:</b>	<i>Alan Lamb – Chief Executive Officer</i>
<b>Authorizing Officer:</b>	<i>Alan Lamb – Chief Executive Officer</i>
<b>Attachments:</b>	<i>Yes – Draft Annual Report 2013/14</i>

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#### **SUMMARY**

The purpose of this report is to present to Council the Annual Report for the year 2013/14 for their acceptance.

#### **BACKGROUND**

The Local Government Act 1995 sets out the requirement for the preparation of Annual Reports and the information to be included:

- A report from the mayor or president;
- A report from the CEO;
- An overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year;
- The financial report for the financial year;
- Such information as may be prescribed in relation to the payments made to employees;
  - i) the number of employees of the local government entitled to an annual salary of \$100 000 or more;
  - ii) the number of employees with an annual salary entitlement that falls within each band of \$10 000 over \$100 000;
- the auditor's report for the financial year;
- a matter on which a report must be made under section 29(2) of the *Disability Services Act 1993*; and
- such other information as may be prescribed.

Council is required to accept the Annual Report when presented with or without modification:-

- (1) Subject to subsection (2), the annual report for a financial year is to be accepted\* by the local government no later than 31 December after that financial year.

\* *Absolute Majority required.*

- (2) If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.

**Local Government Act 1995 Section 5.27. Electors' general meetings**

- (1) A general meeting of the electors of a district is to be held once every financial year.
- (2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.
- (3) The matters to be discussed at general electors' meetings are to be those prescribed.

**Local Government Act 1995 Section 5.29. Convening electors' meetings**

- (1) The CEO is to convene an electors' meeting by giving —
  - (a) at least 14 days' local public notice; and
  - (b) each council member at least 14 days' notice, of the date, time, place and purpose of the meeting.
- (2) The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.

**CONSULTATION**

Shire President, Director of Corporate Services and Director of Works & Services

**STATUTORY OBLIGATIONS**

Local Government Act 1995 Sections 5.53 & 5.54 Annual Report, Sections 5.27 & 5.29  
Electors Meeting

Local Government (Administration) Regulations 1996 Section 19B

The following sections are included for information:

**5.29. Convening electors' meetings**

- (1) *The CEO is to convene an electors' meeting by giving —*
  - (a) *at least 14 days' local public notice; and*
  - (b) *each council member at least 14 days' notice,**of the date, time, place and purpose of the meeting.*
- (2) *The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.*

**5.30. Who presides at electors' meetings**

- (1) *The mayor or president is to preside at electors' meetings.*
- (2) *If the circumstances mentioned in section 5.34(a) or (b) apply the deputy mayor or deputy president may preside at an electors' meeting in accordance with that section.*
- (3) *If the circumstances mentioned in section 5.34(a) or (b) apply and —*
  - (a) *the office of deputy mayor or deputy president is vacant; or*
  - (b) *the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president,*

*then the electors present are to choose one of the councillors present to preside at the meeting but if there is no councillor present, able and willing to preside, then the electors present are to choose one of themselves to preside.*

**COMMENT**

The report presented has been prepared as it has in past formats and also in accordance with statutory requirements.

It is recommended that Council accept the report as presented.

**POLICY IMPLICATIONS**

There are no specific policy items in relation to the Annual Report and or the Annual Electors Meetings.

**BUDGET/FINANCIAL IMPLICATIONS**

The costs associated with producing the Annual Report and holding Annual Electors meeting are provided for in the current year's budget.

**STRATEGIC IMPLICATIONS**

The Annual Report provides information about activities which occurred in the Shire for 2013/14, and the pursuit of items contained in the Council's adopted Plan for the Future.

**SUSTAINABILITY IMPLICATIONS**

Nil

**VOTING REQUIREMENTS**

Absolute Majority Item 1  
Simple Majority Item 2

**COUNCIL DECISION & OFFICER RECOMMENDATION – Item 4.1**

**MOVED: Cr Kaltenrieder**

**SECONDED: Imrie**

1. **That Council accepts the Annual Report as presented for the 2013/14 financial year with some minor changes.**
2. **That the Annual meeting of Electors relating to the year 2013/14 be held in the Council Chambers on Thursday 19th February 2015 at 7.00pm.**

**Carried 9/0**

**01/15**

<b>4.2 Major Land Transaction</b>
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<b>Location:</b>	<i>Cnr Bridge Street and Hospital Road Boyup brook</i>
<b>Applicant:</b>	<i>N/a</i>
<b>File:</b>	
<b>Disclosure of Officer Interest:</b>	<i>None</i>
<b>Date:</b>	<i>5<sup>th</sup> February 2015</i>
<b>Author:</b>	
<b>Authorizing Officer:</b>	<i>Chief Executive Officer</i>
<b>Attachments:</b>	<i>Copy of draft plan and support documents</i>

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**SUMMARY**

The purpose of this report is to put before Council a copy of the draft Major Land Transaction Business Plan, for the aged accommodation project planned for the Shire Managed land at the corner of Bridge Street and Hospital Road, for endorsement prior to advertising.

**BACKGROUND**

In 2012, Council funded the preparation of preliminary planning for a number of future initiatives. These included a 5 unit independent living development at the site in question (Preliminary Cost Indication report attached).

In the latter part of 2012 and early 2013, and with South West Development Commission funding, a Boyup Brook Age Friendly Report was prepared, based on the World Health Organisation framework, to allow regional integration, as part of a regional initiative, and as a future planning reference. Also with SWDC funding, an Aged Housing Plan was developed based on community consultation that included a survey. Both reports are attached. These reports went to Council in June 2013 and Council resolved as follows:

- ***It is recommended that reports listed below be received by Council: Boyup Brook Aged Housing Plan, Boyup Brook Aged Friendly Community Study and Boyup Brook Age Friendly Report.***
- ***That the contents of the reports be reviewed and that their findings and recommendations be considered by Council in future Shire business development and strategic planning.***

The Long Term Final Plan and Long Term Asset Management Plan contained provision for an independent living aged accommodation initiative.

Provision was made in the 2014/15 for an Aged Accommodation project. Funding of \$2m was provided for the project, \$45,000 for the preliminary planning, design etc and \$1.955M for the construction. The source of funds was utilising an existing loan of \$400,000 and borrowing the remainder. At the time of the budget no project had been selected

In August 2014, Council dealt with a report on 3 project options, at this meeting Council resolved as follows:

1. ***That Council resolve to commence the process of further evaluating the development of the area of Shire controlled land, bounded by Bridge Street and Hospital Road, for the purpose of aged accommodation.***
2. ***That Administration develop a plan, that meets legislative requirements for the purposes of a major land transaction, and report back to Council prior to commencing the public consultation process.***

- 3. That Administration commences the process of having a portion of the Health Department's Hospital Reserve transferred to Council's control.**
- 4. That Administration commences the process of seeking to have the three lots managed by the Shire (lots 347, 367 and 381), plus any of the Health Department's Reserve that might be transferred to Shire control, amalgamated into a form that best facilitates 'lease for life' arrangements between two parties only, and does not involve the purchase of land.**

The plan was to utilise the services of the Town Planning consultant to do all of the development planning and engage other professionals, as needed, then to put the draft planning, with options to Council and then for community consultation. At around that time, we changed service providers and, with the need to settle in, deal with pressing matters of the townsite strategy (which had come off the rails) and the like not much progress as made other than broad planning. However the project is now a priority. In the latter period of last year contact was made with an architect, who has done work for Council previously and is working with us on the Lodge rooms renovations, for the relevant design options. With the festive season, and other things, we are still waiting for his submission (will include costs etc).

The need for a Major Land Transaction Business Plan has been triggered for this project because the value/cost of the development is over 10% of the operating revenue for 2013/14.

Also attached for information, is a report commissioned and paid for by SWDC to assist Council in its RDA application in 2013. This provides information on expected impact on the local economy of a significant project being completed in town. It also indicates the impact of an increase in residents on the viability of businesses and clubs and employment opportunities.

### **COMMENT**

Parts 1 and 2 of the August 2014 have been actioned. That is work did commence on the project and a complying plan is now before Council. The amount of work involved in meeting the requirements of part one should not be underestimated. The first step is to identify the total land area available for the project. Assess any constraints (such as minimum lot size of 1000m<sup>2</sup> where there is no sewerage scheme) then do a concept design of the whole development. This needs to show the layout and number of units etc with and without a sewerage scheme.

The project then needs to be put into stages (perhaps 5 or 6 units for each stage) and an assessment of utility needs made. Based on this we can assess at what point the need for any utility upgrades would be triggered and then get costing on these. Once we have the big picture planning, in draft form and with associated business planning, the task requires detailed planning of the first stage.

Logically, Council would not do stage one if the constraints on further stages were to great, or if the business planning, based on more accurate cost estimates derived from the planning, showed the need to carry a large amount of long term debt for this project.

In researching the Major Land Transaction aspect, it was found that these appear to be done at fairly high level and at the start of the project. The attached plan meets the legislative requirements and provides the community with a broad brush of the planned project.

It should be noted that Council has not resolved to do this project, only to start the process of further evaluation. It is hoped that the required advertising period for the Major Land Transaction, and completion of sufficient of the planning, will coincide to enable Council to make a commitment to the project. Council should not commit before it completes the Major Land Transaction process.



Parts 3 and 4 of the August 2013 resolution have also been actioned, relevant preliminary enquiries have been made and in principal agreement gained. A survey is to be done of the site and this will be used to support a formal approach to the Health Department and State Land Services.

### **CONSULTATION**

The matter has been before Council a number of times over the years, and so has been included in the minutes of meetings.

### **STATUTORY OBLIGATIONS**

The following section of the Local Government Act applies:

#### **3.59. Commercial enterprises by local governments**

(1) *In this section —*

**acquire** has a meaning that accords with the meaning of **dispose**;

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

**land transaction** means an agreement, or several agreements for a common purpose, under which a local government is to —

- (a) acquire or dispose of an interest in land; or
- (b) develop land;

**major land transaction** means a land transaction other than an exempt land transaction if the total value of —

- (a) the consideration under the transaction; and
- (b) anything done by the local government for achieving the purpose of the transaction, is more, or is worth more, than the amount prescribed for the purposes of this definition;

**major trading undertaking** means a trading undertaking that —

- (a) in the last completed financial year, involved; or
- (b) in the current financial year or the financial year after the current financial year, is likely to involve,

expenditure by the local government of more than the amount prescribed for the purposes of this definition, except an exempt trading undertaking;

**trading undertaking** means an activity carried on by a local government with a view to producing profit to it, or any other activity carried on by it that is of a kind prescribed for the purposes of this definition, but does not include anything referred to in paragraph (a) or (b) of the definition of **land transaction**.

(2) *Before it —*

- (a) commences a major trading undertaking; or
- (b) enters into a major land transaction; or
- (c) enters into a land transaction that is preparatory to entry into a major land transaction,

a local government is to prepare a business plan.

(3) *The business plan is to include an overall assessment of the major trading undertaking or major land transaction and is to include details of —*

- (a) its expected effect on the provision of facilities and services by the local government; and

- (b) *its expected effect on other persons providing facilities and services in the district; and*
  - (c) *its expected financial effect on the local government; and*
  - (d) *its expected effect on matters referred to in the local government's current plan prepared under section 5.56; and*
  - (e) *the ability of the local government to manage the undertaking or the performance of the transaction; and*
  - (f) *any other matter prescribed for the purposes of this subsection.*
- (4) *The local government is to —*
- (a) *give Statewide public notice stating that —*
    - (i) *the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction; and*
    - (ii) *a copy of the business plan may be inspected or obtained at any place specified in the notice; and*
    - (iii) *submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
  - and*
  - (b) *make a copy of the business plan available for public inspection in accordance with the notice.*
- (5) *After the last day for submissions, the local government is to consider any submissions made and may decide\* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed.*
- \* Absolute majority required.*
- (5a) *A notice under subsection (4) is also to be published and exhibited as if it were a local public notice.*
- (6) *If the local government wishes to commence an undertaking or transaction that is significantly different from what was proposed it can only do so after it has complied with this section in respect of its new proposal.*
- (7) *The local government can only commence the undertaking or enter into the transaction with the approval of the Minister if it is of a kind for which the regulations require the Minister's approval.*
- (8) *A local government can only continue carrying on a trading undertaking after it has become a major trading undertaking if it has complied with the requirements of this section that apply to commencing a major trading undertaking, and for the purpose of applying this section in that case a reference in it to commencing the undertaking includes a reference to continuing the undertaking.*
- (9) *A local government can only enter into an agreement, or do anything else, as a result of which a land transaction would become a major land transaction if it has complied with the requirements of this section that apply to entering into a major land transaction, and for the purpose of applying this section in that case a reference in it to entering into the transaction includes a reference to doing anything that would result in the transaction becoming a major land transaction.*
- (10) *For the purposes of this section, regulations may —*
- (a) *prescribe any land transaction to be an exempt land transaction;*

- (b) *prescribe any trading undertaking to be an exempt trading undertaking.*

The following Part of the Local Government (Functions and General) Regulations have relevance:

*Part 3 — Commercial enterprises by local governments (s. 3.59)*

## **7. Term used: major regional centre**

- (1) *In this Part —*

**major regional centre** means a local government the district of which —

- (a) *is not in the metropolitan area; and*  
(b) *has more than 20 000 inhabitants.*
- (2) *Section 2.4(6) of the Act applies to determine the number of inhabitants of a district for the purposes of the definition of **major regional centre**.*

*[Regulation 7 inserted in Gazette 27 Sep 2011 p. 3843-4.]*

## **8A. Amount prescribed for major land transactions; exempt land transactions prescribed (Act s. 3.59)**

- (1) *The amount prescribed for the purposes of the definition of **major land transaction** in section 3.59(1) of the Act is —*

- (a) *if the land transaction is entered into by a local government the district of which is in the metropolitan area or a major regional centre, the amount that is the lesser of —*  
(i) *\$10 000 000; or*  
(ii) *10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year;*

*or*

- (b) *if the land transaction is entered into by any other local government, the amount that is the lesser of —*  
(i) *\$2 000 000; or*  
(ii) *10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year.*

- (2) *A land transaction is an exempt land transaction for the purposes of section 3.59 of the Act if —*

- (a) *the total value of —*  
(i) *the consideration under the transaction; and*  
(ii) *anything done by the local government for achieving the purpose of the transaction,*

*is more, or is worth more, than the amount prescribed under subregulation (1); and*

- (b) *the Minister has, in writing, declared the transaction to be an exempt transaction because the Minister is satisfied that the amount by which the total value exceeds the amount prescribed under subregulation (1) is not significant taking into account —*  
(i) *the total value of the transaction; or*  
(ii) *variations throughout the State in the value of land.*

*[Regulation 8A inserted in Gazette 27 Sep 2011 p. 3844.]*

## **8. Exempt land transactions prescribed (Act s. 3.59)**

- (1) *A land transaction is an exempt land transaction for the purposes of section 3.59 of the Act if the local government enters into it —*
  - (a) *without intending to produce profit to itself; and*
  - (b) *without intending that another person will be sold, or given joint or exclusive use of, all or any of the land involved in the transaction.*
- (2) *For the purposes of subregulation (1)(b) a person is given joint use of land if the land is to be jointly used for a common purpose by the local government and that person (whether or not other persons are also given joint use of the land).*
- (3) *A transaction under which a local government disposes of a leasehold interest in land is an exempt land transaction for the purposes of section 3.59 of the Act if—*
  - (a) *all or any of the consideration to be received by the local government under the transaction is by way of an increase in the value of the land due to improvements that are to be made without cost to the local government; and*
  - (b) *although the total value referred to in the definition of **major land transaction** in that section is more, or is worth more, than the amount prescribed for the purposes of that definition, it would not be if the consideration were reduced by the amount of the increase in value mentioned in paragraph (a).*

*[Regulation 8 amended in Gazette 29 Aug 1997 p. 4867-8.]*

## **9. Amount prescribed for major trading undertakings; exempt trading undertakings prescribed (Act s. 3.59)**

- (1) *The amount prescribed for the purposes of the definition of **major trading undertaking** in section 3.59(1) of the Act is —*
  - (a) *if the trading undertaking is entered into by a local government the district of which is in the metropolitan area or a major regional centre, the amount that is the lesser of—*
    - (i) *\$5 000 000; or*
    - (ii) *10% of the lowest operating expenditure described in subregulation (2);**or*
  - (b) *if the trading undertaking is entered into by any other local government, the amount that is the lesser of—*
    - (i) *\$2 000 000; or*
    - (ii) *10% of the lowest operating expenditure described in subregulation (2).*
- (2) *The lowest operating expenditure referred to in subregulation (1) is the lowest of —*
  - (a) *the operating expenditure incurred by the local government from its municipal fund in the last completed financial year; and*
  - (b) *the operating expenditure likely to be incurred by the local government from its municipal fund in the current financial year; and*
  - (c) *the operating expenditure likely to be incurred by the local government from its municipal fund in the financial year after the current financial year.*
- (3) *A trading undertaking is an exempt trading undertaking for the purposes of section 3.59 of the Act if—*
  - (a) *the undertaking —*
    - (i) *in the last completed financial year, involved; or*
    - (ii) *in the current financial year or the financial year after the current financial year, is likely to involve,*

*expenditure by the local government of more than the amount prescribed under subregulation (1); and*

- (b) *the Minister has, in writing, declared the transaction to be an exempt transaction because the Minister is satisfied that the amount by which expenditure is, or is likely to be, more than the amount prescribed under subregulation (1) is not significant taking into account —*
  - (i) *the total value of the undertaking; or*
  - (ii) *variations throughout the State in the value of land.*

*[Regulation 9 amended in Gazette 31 Mar 2005 p. 1054; 27 Sep 2011 p. 3845.]*

**10. Business plans for major trading undertaking and major land transaction, content of**

- (1) *If a local government is required to prepare a business plan because of a major trading undertaking or major land transaction that it is to carry on or enter into jointly with another person —*
  - (a) *the business plan is to include details of the whole undertaking or transaction, even though the local government is not the only joint venturer; and*
  - (b) *the business plan is to include details of —*
    - (i) *the identity of each joint venturer other than the local government; and*
    - (ii) *the ownership of, and any other interests in, property that is involved in, or acquired in the course of, the joint venture; and*
    - (iii) *any benefit to which a joint venturer other than the local government may become entitled under or as a result of the joint venture; and*
    - (iv) *anything to which the local government may become liable under or as a result of the joint venture.*

- (2) *In subregulation (1) —*

**joint venture** *means the major trading undertaking or major land transaction that is to be jointly carried on or entered into;*

**joint venturer** *means the local government or another person with whom the local government is to carry on or enter into the joint venture.*

**POLICY IMPLICATIONS**

Nil

**BUDGET/FINANCIAL IMPLICATIONS**

Council’s 2014/15 budget makes provision for a \$2m project with the funds coming from loans (an existing loan of \$400,000 plus additional borrowings of \$1,600,000). \$45,000 of the budget funds were for the planning stage.

**STRATEGIC IMPLICATIONS**

The Plan provides as follows:

<b>OUTCOMES</b>	<b>OBJECTIVES</b>	<b>PRIORITIES</b>
Planned development	Create land use capacity for industry	<input type="checkbox"/> Review land-use planning to ensure commercial and industrial opportunities are

maximised.

□ Advocate for provision of sewerage solutions to permit more intensive land use in town.

Housing needs are met

Facilitate affordable and diverse housing options

□ Review land-use planning to provide housing and land size choices.

□ Advocate for the State to develop residential land for release.

□ Develop a range of aged accommodation opportunities.

### **SUSTAINABILITY IMPLICATIONS**

- **Environmental**  
There are no known significant environmental issues.
- **Economic**  
Any significant development in town will provide a beneficial economic impact during the construction phase. The addition of a small lot development for over 55's should enable existing residents to stay in Boyup Brook longer and should also attract others to the district.
- **Social**  
The addition of a well aged accommodation opportunity should meet the needs of some people in the local, and wider, community.

### **VOTING REQUIREMENTS**

Absolute majority

### **COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 4.2**

**MOVED: Cr Kaltenrieder**

**SECONDED: Cr O'Hare**

**That Council endorse the attached Major Land Transaction Business Plan for an aged accommodation development on Shire managed land at the corner of Bridge Street and Hospital Road, and that it be advertised, as required by legislation, and brought back to Council, along with any submissions received, following the advertising period.**

**Carried by Absolute Majority 9/0**

**Res 02/15**

### **5 CLOSURE OF MEETING**

There being no further business the Chairman thanked all for attending and declared the meeting closed at 7.15pm.