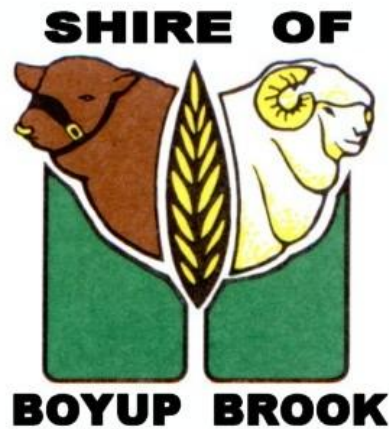


Minutes



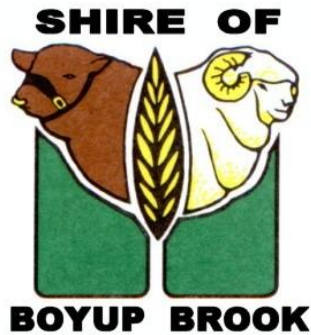
ORDINARY MEETING

held

THURSDAY 15 October 2015
Commenced AT 5.00PM

AT

SHIRE OF BOYUP BROOK
CHAMBERS
ABEL STREET - BOYUP BROOK



SHIRE OF BOYUP BROOK

NOTICE OF ORDINARY COUNCIL MEETING

To:-

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

The next Ordinary Council Meeting of the Shire of Boyup Brook will be held on Thursday 15 October 2015 in the Council Chambers, Shire of Boyup Brook, Abel Street, Boyup Brook – commencing at 5.00pm.

Mr Alan Lamb
Chief Executive Officer

Date: 6 October 2015

TABLE OF CONTENTS

1	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED	4
1.1	Attendance.....	4
1.2	Apologies.....	4
1.3	Leave of Absence	4
2	PUBLIC QUESTION TIME.....	4
2.1	Response to Previous Public Questions Taken on Notice	4
3	APPLICATIONS FOR LEAVE OF ABSENCE	4
4	PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS	4
5	CONFIRMATION OF MINUTES	5
6	PRESIDENTIAL COMMUNICATIONS	5
7	COUNCILLORS QUESTIONS ON NOTICE.....	5
8.1	MANAGER WORKS & SERVICES.....	5
8.1.1	Town Drainage Upgrades.....	5
8.2	FINANCE	8
8.2.1	List of Accounts Paid in September 2015	8
8.2.2	31 August 2015 Statement of Financial Activity.....	11
8.2.3	30 September 2015 Statement of Financial Activity	13
8.3	CHIEF EXECUTIVE OFFICER	15
8.3.3	Development – Extension to Arts & Craft Building - 52 Jayes Road (Reserve 7065)	15
8.3.1	Subdivision Application (WAPC Ref 152356) - Lots 8253 & 12235 Gibbs Road, Dinninup	20
8.3.2	Subdivision Application (WAPC Ref 152339) - Lot 6664 Asplin Siding Road, Boyup Brook.	24
8.3.4	Boyup Brook Airfield – lease of a portion of the land	29
8.3.5	Craft Hut Reserve 7065, Flax Mill usage and Aged Accommodation – Affordable Housing	45
8.3.6	Reserve 33552 – Stock Sale Yards and Holding Yards	50
8.3.7	Aged accommodation project Hospital Road	52
9	COMMITTEE REPORTS.....	63
10	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	64
10.1.1	Provision of Fire Hazard Indicators.....	64
11	URGENT BUSINESS BY APPROVAL OF THE PRESIDENT OR A MAJORITY OF COUNCILLORS PRESENT.....	66
11.1.1	Citizens Lodge – Health Department Lease	66
11.1.2	2015-2016 Plant Replacement Budget – Change in Purpose	68
12	CONFIDENTIAL MATTERS – BEHIND CLOSED DOORS.....	74

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

1.1 Attendance

Cr G Aird – Deputy Shire President
Cr N Blackburn
Cr P Kaltenrieder
Cr K Moir
Cr O’Hare
Cr T Oversby
Cr R Walker

STAFF: Mr Alan Lamb (Chief Executive Officer)
Mr Rob Staniforth-Smith (Director of Works & Services)
Mrs Maria Lane (Executive Assistant)

PUBLIC: Rosalie McKeown
Lyn Baldwin
Mary-Ann Brlevich
Susan Gale
Betty Knapp
Ralph Knapp
Ruth Clark
Dorothy Ricetti
Debra Leonard
Robert Jackson
Phillipa Jackson
Daryl Jackson
Tanya Newman

1.2 Apologies

Cr M Giles – Shire President
Cr J Imrie

1.3 Leave of Absence

2 PUBLIC QUESTION TIME

2.1 Response to Previous Public Questions Taken on Notice

3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

4 PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS

- 4.1 Dorothy Ricetti presented 2 books from the Country Women’s Association to the Boyup Brook Library.
- 4.2 Cr Oversby informed Council that the Church of England provided a presentation on recycling.

- 4.3 Cr Kaltenrieder attended the Black Basin Group and has been appointed Treasurer and is also a Representative.

5 CONFIRMATION OF MINUTES

5.1 Ordinary Meeting of Council - Thursday 17 September 2015

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr Kaltenrieder

SECONDED: Cr O'Hare

That the minutes of the Ordinary Meeting of Council held on Thursday 17 September 2015 be confirmed as an accurate record.

Carried 7/0

Res 95/15

6 PRESIDENTIAL COMMUNICATIONS

Nil

7 COUNCILLORS QUESTIONS ON NOTICE

8 REPORTS OF OFFICERS

8.1 MANAGER WORKS & SERVICES

8.1.1 Town Drainage Upgrades

Location:	N/A
Applicant:	
File:	
Disclosure of Officer Interest:	None
Date:	8 th of October
Author:	Rob Staniforth-Smith
Authorizing Officer:	Alan Lamb
Attachments:	Nil

SUMMARY

This report recommends that Council approve additional funds in the 2016-2017 financial year to complete drainage upgrades commenced in the 2015-2016 year.

BACKGROUND

Council approved in its 2015-2016 budget to spend \$111,485 dollars on the upgrading of some of the Towns drainage system to reduce the chance of

inundation of properties due to insufficient pipe flow carrying capacity and to increase the flow into the Depot dam

The First 5 projects identified are:

1. Railway Parade – west end – installation of a drainage system as part of the preliminary works in the re-construction of the west end of Railway Parade.
2. Installing a larger pipe across railway Parade at the Inglis St intersection
3. Upgrading the size of the pipe that runs down the laneway between Abel St and railway Parade – just east of the Ambulance Centre to prevent flooding in the main street.
4. Installing a pipe down the western side of Bridge St from the Boyup Brook Hotel down and across Railway Parade to carry the stormwater from this area into the main drain. Currently the water runs down the road channel which causes flooding at the intersection of Railway and Bridge Streets.
5. Increasing the capacity of the pipe that runs under Connolly Street between Forrest and Barron Streets, preventing reducing flooding of both Connolly and Barron Streets.

This project has not gone to tender yet, however initial guestimates have shown that the cost of these works could be in the order of \$250,000, with \$111,485 coming from the approved 2015-2016 budget and the remainder coming from the 2016-2017 budget.

As the total costs of these works is an unknown and as the total cost is expected to be in excess of \$100,000, Council will put the projects out to tender, in the 5 separable portions above, as per the requirements of Policy F03.

As the separable portions are interconnected, Council would like the same contractor to perform all the works in the two financial years, which would mean that Council does not have to run two tenders and Council does not have two different contractors complaining about each other's work. It also gives Council the ability to hand out only the amount of work in 2015-2016 that is covered in the 2015-2016 budget with the remainder being done in the 2016-2017 budget with a C.P.I increase clause.

The 2016-2017 works would be financed via the additional RTR funds that the Federal Government is giving Councils in the 2016-2017 year.

Council will be putting the tender out in late October for a mid to late November commencement.

COMMENT

It is very difficult to get exact prices for work until they have gone to tender. This resolution would allow the sharing of the projects costs across two years and for the works to be undertaken by a single contractor via a single tender process.

Council also rarely has the ability to spend the required money on “contractor performed” capital works to undertake new capital upgrades. Most of our funds tend to be spent on capital works programmes that existing Council Employees can undertake. In this case the additional RTR funds in 2015-2016 and 2016-2017 will allow Council to commence the much needed drainage upgrades as highlighted in the “*Boyup Brook Drainage Study – December 2011*”.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Purchasing Policy F03

Estimated value of goods exceeds \$100,000, therefore conduct a public tender.

BUDGET/FINANCIAL IMPLICATIONS

Nil. Council will not spend in excess of its 2015-2016 Budget Drainage upgrades project and the 2016-2017 costs will be allowed for in the 2016-2017 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 & OFFICER RECOMMENDATION – Item 8.1.1

MOVED: Cr Moir

SECONDED: Cr Aird

That Council endorses the continuation of the “drainage upgrades” commenced in the 2015-2016 year into the 2016-2017 year and that the additional funds required in the 2016-2017 year come from the additional RTR funds being supplied by the Federal Government in the 2016-2017 financial year.

Carried 7/0

Res 96/15

COUNCIL DECISION

MOVED: Cr Moir

SECONDED: Cr Walker

That the Council adopts enbloc items 8.2.1, 8.2.2 and 8.2.3

Carried 7/0

Res 97/15

8.2

FINANCE

8.2.1 List of Accounts Paid in September 2015

Location:	<i>Not applicable</i>
Applicant:	<i>Not applicable</i>
File:	<i>FM/1/002</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>08 October 2015</i>
Author:	<i>Stephen Carstairs – Director Corporate Services</i>
Authorizing Officer:	<i>Alan Lamb – Chief Executive Officer</i>
Attachments:	<i>Yes – List of Accounts Paid in August</i>

SUMMARY

In accordance with the *Local Government (Financial Management) Regulations 1996* the list of accounts paid in September 2015 are presented to Council.

BACKGROUND

This report presents accounts/invoices received for the supply of goods and services, salaries and wages, and the like which were paid during the period 01 to 30 September 2015.

COMMENT

The attached listing represents accounts/invoices the shire paid by cheque or electronic means during the period 01 to 30 September 2015.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Local Government (Financial Management) Regulations 1996, Regulations 12 and 13 apply and are as follows:

12. Payments from municipal fund or trust fund

(1) A payment may only be made from the municipal fund or the trust fund —

- (a) *if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or*
 - (b) *otherwise, if the payment is authorised in advance by a resolution of the council.*
- (2) *The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.*

13. Lists of accounts

- (1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —*
- (a) *the payee's name;*
 - (b) *the amount of the payment;*
 - (c) *the date of the payment; and*
 - (d) *sufficient information to identify the transaction.*
- (2) *A list of accounts for approval to be paid is to be prepared each month showing —*
- (a) *for each account which requires council authorisation in that month —*
 - (i) *the payee's name;*
 - (ii) *the amount of the payment; and*
 - (iii) *sufficient information to identify the transaction;*
 - and*
 - (b) *the date of the meeting of the council to which the list is to be presented.*
- (3) *A list prepared under sub regulation (1) or (2) is to be —*
- (a) *presented to the council at the next ordinary meeting of the council after the list is prepared; and*
 - (b) *recorded in the minutes of that meeting.*

POLICY IMPLICATIONS

Council's Authority to Make Payments Policy has application.

BUDGET/FINANCIAL IMPLICATIONS

Account payments accorded with the 2015-16 Annual Budget.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.2.1

That at its October 2015 ordinary meeting Council receive as presented the list of accounts paid in September 2015, and totalling \$656,872.38 and as represented by: cheque voucher numbers 19858-19876 totalling \$21,943.43; and accounts paid by direct electronic payments through the Municipal Account totalling \$634,928.95.

8.2.2 31 August 2015 Statement of Financial Activity

Location:	Not applicable
Applicant:	Not applicable
File:	FM/10/003
Disclosure of Officer Interest:	None
Date:	08 October 2015
Author:	Stephen Carstairs – Director Corporate Services
Authorizing Officer:	Alan Lamb – Chief Executive Officer
Attachments:	Yes – Financial Reports

SUMMARY

This report recommends that Council receive the Statement of Financial Activities and Net Current Assets for the month ended 31 August 2015.

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 *Statement of Financial Activity*.

The regulations also prescribe the content of the reports, and that details of items of Material Variances shall also listed.

COMMENT

It is a statutory requirement that the statement of financial activity be prepared each month (Regulation 34.(1A)), and that it be presented at an ordinary meeting of the Council within 2 months after the end of the month to which the statement relates (Regulation 34.(4)(a)).

CONSULTATION

Alan Lamb – Chief Executive Officer

STATUTORY OBLIGATIONS

Local Government (Financial Management) Regulations 1996, Regulation 34.(1A)

Local Government (Financial Management) Regulations 1996, Regulation 34.(4)(a)

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

As presented in the attached reports.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.2.2

That having regard for any material variances, Council receive the 31 August 2015 Statement of Financial Activity and Statement of Net Current Assets, as presented.

8.2.3 30 September 2015 Statement of Financial Activity

Location:	Not applicable
Applicant:	Not applicable
File:	FM/10/003
Disclosure of Officer Interest:	None
Date:	08 October 2015
Author:	Stephen Carstairs – Director Corporate Services
Authorizing Officer:	Alan Lamb – Chief Executive Officer
Attachments:	No

SUMMARY

This report recommends that Council defer to the November 2015 ordinary meeting of Council the receiving of the Statement of Financial Activities and the Net Current Assets for the month ended 30 September 2015.

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 *Statement of Financial Activity*.

The regulations also prescribe the content of the reports. Details of items of Material Variances are also listed.

COMMENT

It is a statutory requirement that the statement of financial activity be prepared each month (Regulation 34.(1A)), and that it be presented at an ordinary meeting of the Council within 2 months after the end of the month to which the statement relates (Regulation 34.(4)(a)).

Because finance staff are currently finalizing the shire's 2014-15 Annual Statements for a 22-23 October deadline, presentation of the 30 September 2015 Statement of Financial Activity has been deferred to Council's November 2015 ordinary meeting.

CONSULTATION

Alan Lamb – Chief Executive Officer

STATUTORY OBLIGATIONS

Local Government (Financial Management) Regulations 1996, Regulation 33(A)

Local Government (Financial Management) Regulations 1996, Regulation 34.(1A)

Local Government (Financial Management) Regulations 1996, Regulation 34.(4)(a)

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.2.3

That receipt by Council of the shire's 30 September 2015 Statement of Financial Activity and Statement of Net Current Assets be deferred to Council's November 2015 ordinary meeting.

8.3 CHIEF EXECUTIVE OFFICER

Change to Order of Business

The President advised that he intended to amend the order of business in the agenda be changed to allow Item 8.3.3 to be brought forward and dealt with at this time. There being no dissent, item 8.3.3 was brought forward.

8.3.3 Development – Extension to Arts & Craft Building - 52 Jayes Road (Reserve 7065)

Location:	52 Jayes Road (Reserve 7065)
Applicant:	Boyup Brook Arts & Craft Club
File:	A1994
Disclosure of Officer Interest:	None
Date:	October 2015
Author:	A. Nicoll, Town Planner
Authorizing Officer:	Alan Lamb, Chief Executive Officer
Attachments:	Nil

SUMMARY

The purpose of this report is to put before Council the request to develop an extension to the Boyup Brook Arts and Craft Club building located at 52 Jayes Road.

Arts & Craft building – 52 Jayes Rd



Arts and Craft Building – street view



BACKGROUND

The Boyup Brook Arts and Craft Club submitted plans for an extension to their Arts and Craft building.

The property the subject, of the application is approximately 1000m² in area.

The existing Arts and Craft building is setback 20m from Jayes Road and comprises an area of approximately 100m² (14m x 7m).

COMMENT

Proposal

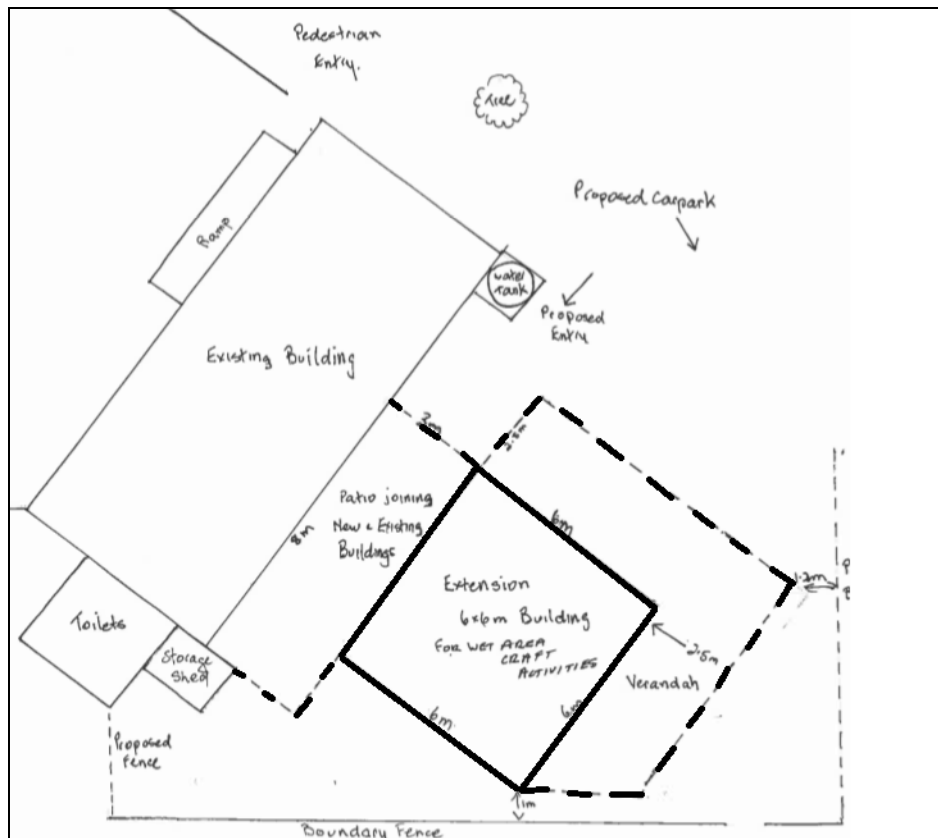
The purpose of the extension is to provide additional enclosed space of approximately 36m² for arts and crafts.

Colourbond wall cladding, of a colour matching the existing building, is proposed to be used.

A patio and veranda is also proposed to provide a cover surrounding and between the existing and new development.

The extensions are towards the side and rear of the lot with suitable setback to a rear laneway and neighbouring residential land use.

Site Plan – existing and proposed developments



CONSULTATION

N/A

STATUTORY OBLIGATIONS

The subject property is identified in the Shire's *District Planning Scheme 2* as a 'Reserve' (7065) for 'Public Purpose'.

Clause 2.1.3 of the Shire's Scheme states:

Except as otherwise provided in this Part, a person shall not carry out any development on land reserved under this Scheme other than the erection of a boundary fence, without first applying for, and obtaining, the written approval of the Council.

POLICY IMPLICATIONS

There are no policy implications in relation to the application.

BUDGET/FINANCIAL IMPLICATIONS

There are no financial implications in relation to the application.

STRATEGIC IMPLICATIONS

There are no strategic implications in relation to the application.

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 8.3.3

MOVED: Cr Blackburn

SECONDED: Cr Moir

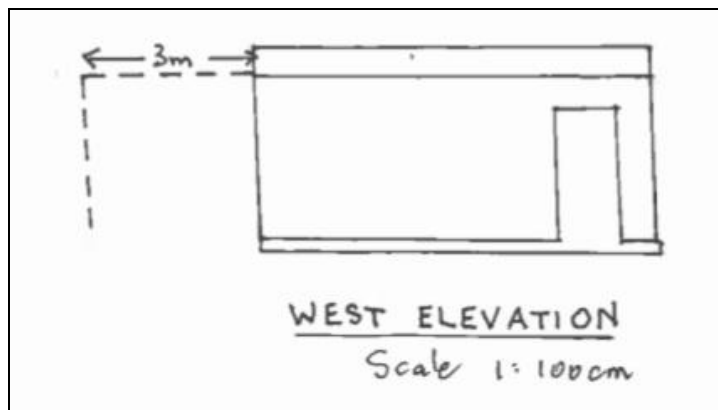
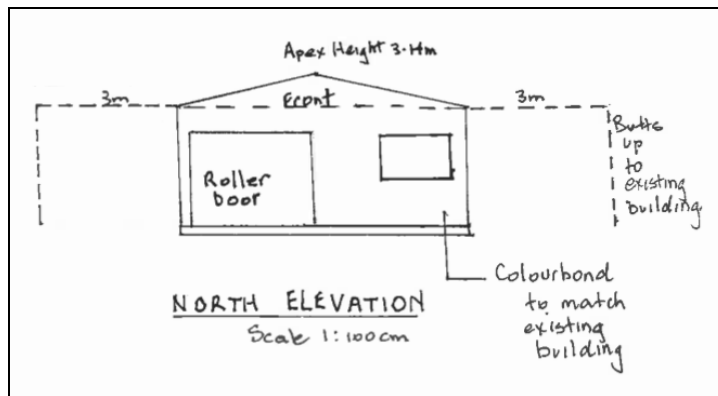
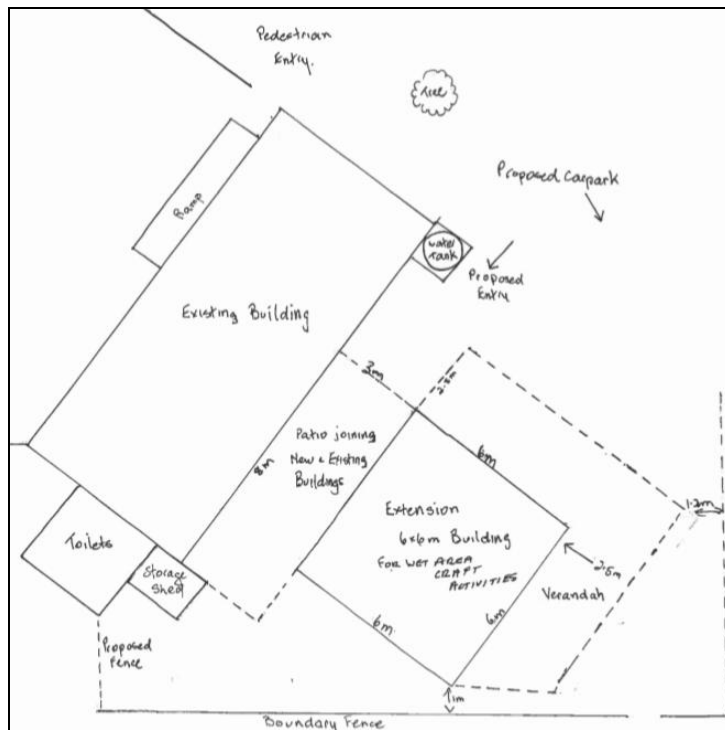
That Council

Grants planning scheme consent for 52 Jayes Road for the purpose of Development (Extension to Arts and Craft Club building) subject to the following conditions:

Conditions

1. Development is to be carried out in accordance with the approved plans dated October 2015.
2. All stormwater is to be managed to the satisfaction of the Shire of Boyup Brook.

Approved Plans – Extension to Arts and Craft Building – October 2015



Carried 6/1

Res 98/15

8.3.1 Subdivision Application (WAPC Ref 152356) - Lots 8253 & 12235 Gibbs Road, Dinninup

Location:	Lots 8253 & 12235 Gibbs Road, Dinninup
Applicant:	M & P Chambers Nippon Paper Resources Australia Pty Ltd Mitsui Plantation Development (Australia) Pty Ltd
File:	A15289
Disclosure of Officer Interest:	None
Date:	October 2015
Author:	A. Nicoll, Town Planner
Authorizing Officer:	Alan Lamb, Chief Executive Officer
Attachments:	Nil

SUMMARY

Council is requested to agree to advise the WAPC to support a subdivision comprising the resumption of land for the purpose of formalising a constructed section of Waverley Road.

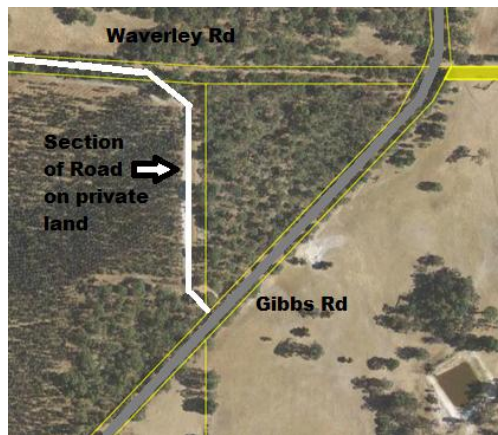
BACKGROUND

Waverley Road is located north of Dinninup, running east-west connecting to Gibbs Road.

The eastern portion of Waverley Road has been constructed, to an adequate standard, outside of the gazetted road reserve boundary and on private property.

The construction of the section of Waverley Road over private property is understood to have come about to create a safer intersection to facilitate vehicle movements onto Gibbs Road.

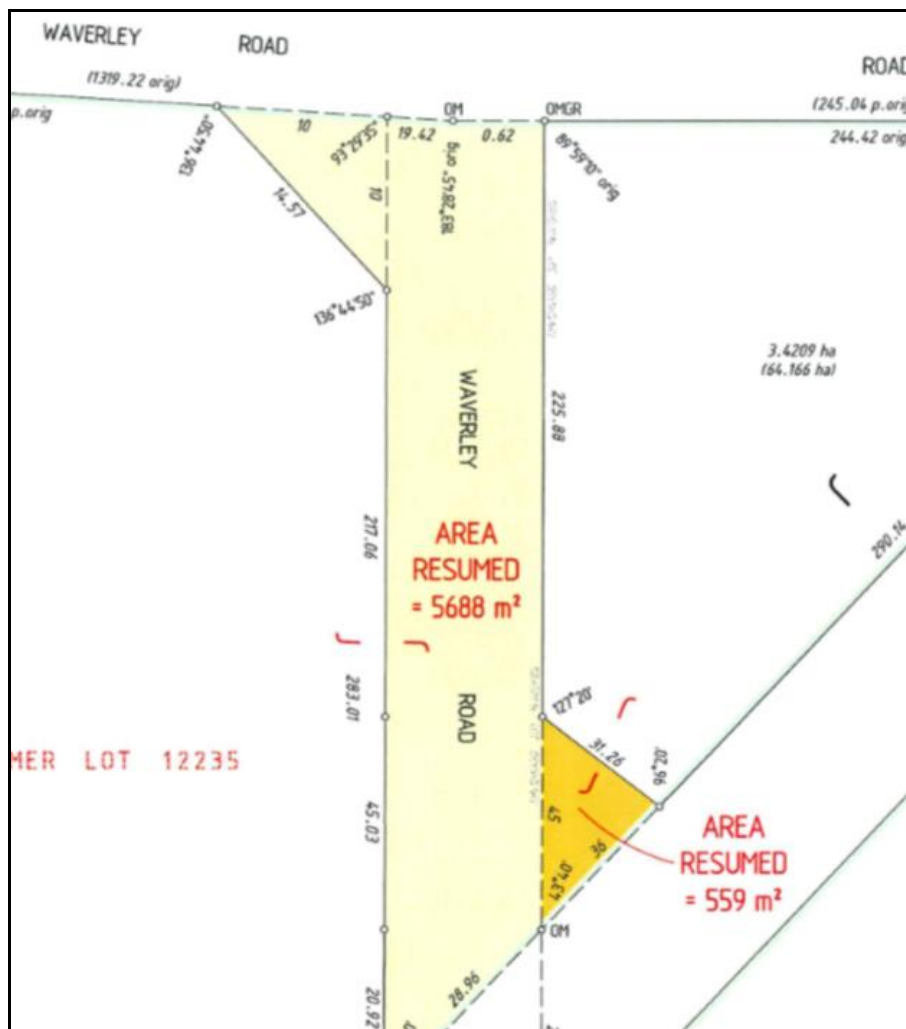
Section Waverley Rd over Private Land (Mapping Source – Landgate)



COMMENT

The following is the plan of subdivision, which proposes to resume an area for road reserve. The area for resumption amounts to 5688 m², includes truncated sections and formalises connection between Waverley Road and Gibbs Road.

Subdivision Plan



CONSULTATION

The owner of land which the road traverses has consented to the proposal to resume land to formalise the extension of Waverley Road.

STATUTORY OBLIGATIONS

Compliance with the Land Administration Act 1997, Sec 56. – “*Dedication of land as road*” and procedures.

POLICY IMPLICATIONS

“W.02 Preservation of Gazetted Roads” – the intent of this proposal complies with the policy.

BUDGET/FINANCIAL IMPLICATIONS

Cost estimate of \$30,000 for administration.

STRATEGIC IMPLICATIONS

There are no strategic implications relating to this item.

SUSTAINABILITY IMPLICATIONS

- **Environmental**
N/A
- **Economic**
N/A
- **Social**
N/A

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.1

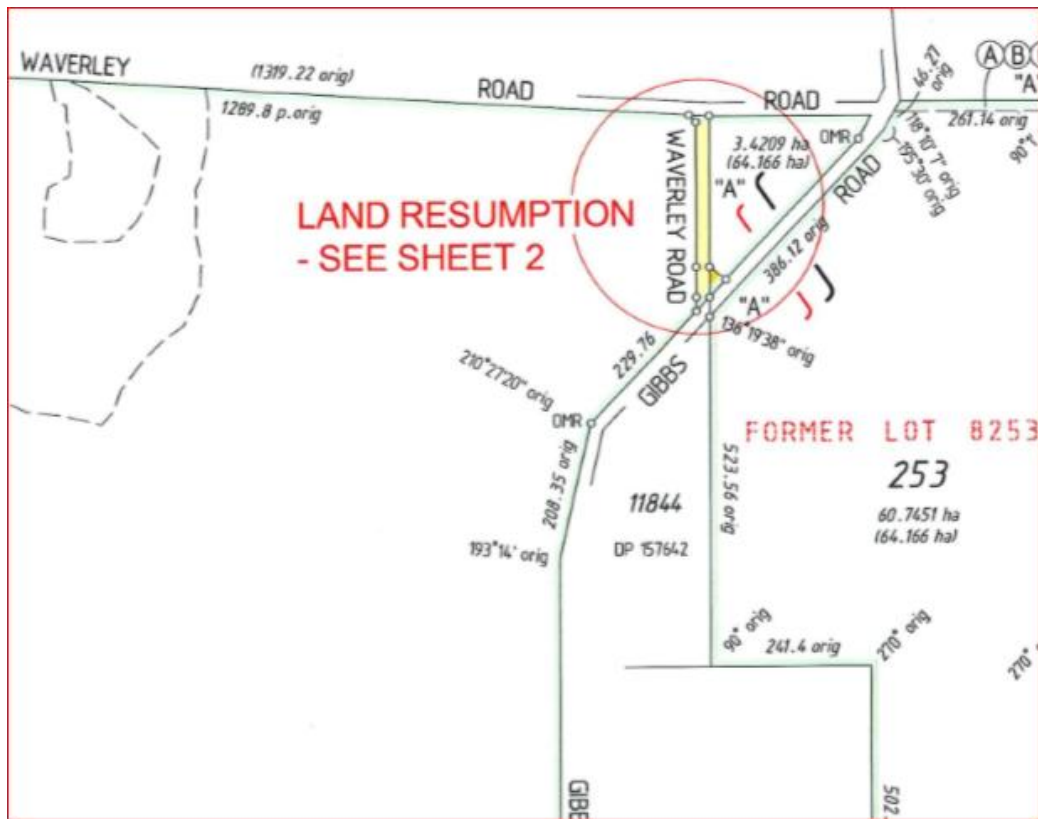
MOVED: Cr Oversby

SECONDED: Cr O’Hare

That Council

Agree to advise the Western Australian Planning Commission to support the proposed subdivision, for the purpose of resuming land to formalise a constructed extension of Waverley Road, with no conditions.

Proposed Subdivision



Carried 7/0

Res 99/15

8.3.2 Subdivision Application (WAPC Ref 152339) - Lot 6664 Asplin Siding Road, Boyup Brook.

Location:	Lot 6664 Asplin Siding Road, Boyup Brook
Applicant:	F & D Thomas
File:	A12001
Disclosure of Officer Interest:	A. Nicoll – Advisor to applicant
Date:	October 2015
Author:	A. Nicoll, Town Planner
Authorizing Officer:	Alan Lamb, Chief Executive Officer
Attachments:	Nil

SUMMARY

Council is requested to agree to advise the WAPC to conditionally support the proposed 'Rural' Lot 6664 Asplin Siding Road, subdivision (1 lot into 2 lots).

BACKGROUND

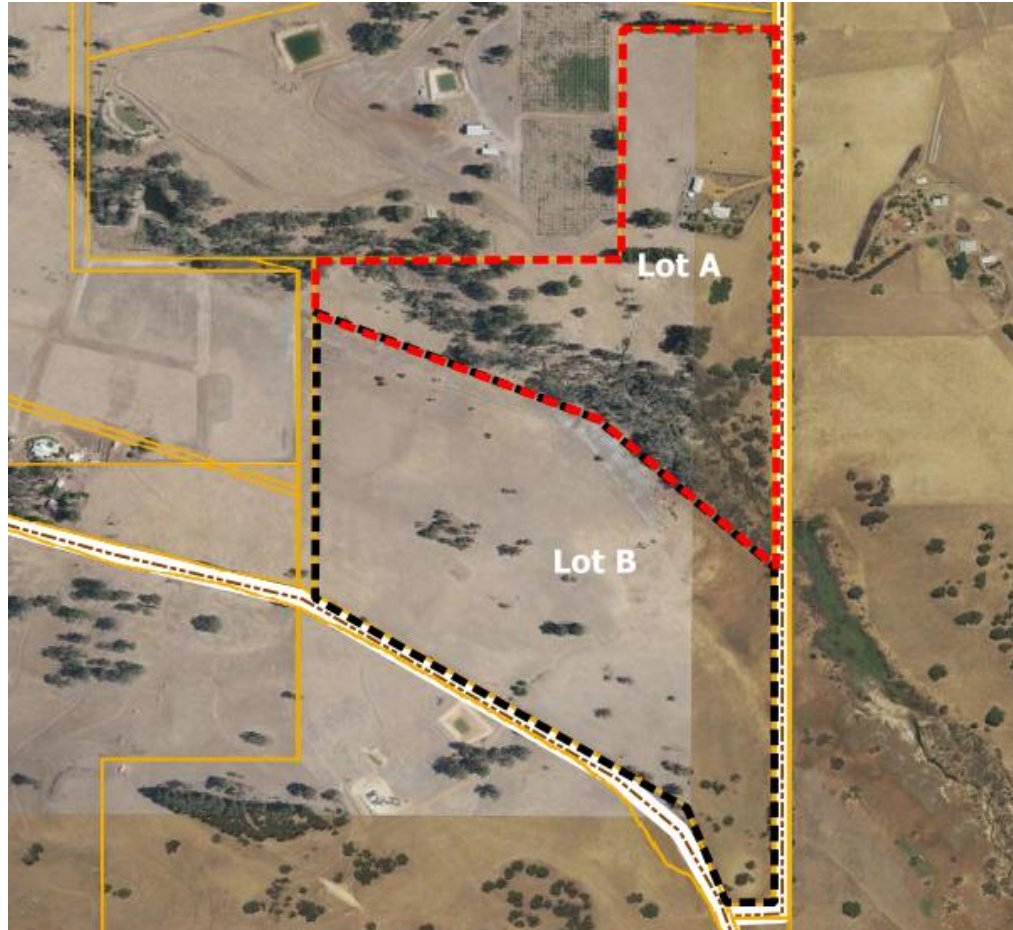
Lot 6664 is approximately 49.5ha in area and is located approximately 3 km east of the Boyup Townsite centre.

Existing Layout (Mapping Source – Landgate)



The Western Australian Planning Commission received an application to subdivide Lot 6664 into 2 lots as follows:

Proposed Layout (Mapping Source – Landgate)



The subject land is currently used for living purposes (single house) and leased for the purpose of grazing livestock.

The Western Australian Planning Commission forwarded the application to the Shire of Boyup Brook requesting information, comment and/or recommended conditions.

COMMENT

Proposal

The application is proposing to create one additional lot by subdividing an existing lot in half.

An environmentally sensitive area consisting of a watercourse and vegetation is being used to form a natural boundary between the two proposed lots.

Considering the use of the environmentally sensitive area to form a boundary between the proposed two lots (one additional lot), the subdivision is not expected to adversely affect future subdivision, development or land use and is therefore considered 'minor'.

Roads

The existing Lot 6664 has dual road frontage and is currently accessed via Asplin Siding Road, which is a gravel road. Proposed Lot A will maintain access to an existing dwelling off Asplin Siding Road. Proposed Lot B will have safe access off the Boyup Brook Kojonup Road.

Electricity

Adequate electricity supply exists for the creation of the proposed lots.

Water

On site collection and rainwater tanks will be utilized for the provision of domestic water supply.

Effluent Disposal

An on-site effluent disposal system to Local Government and Health Department standards will be utilized for any future proposed dwelling arising from subdivision of the land.

Communications

Telephonic, television and other communications common to the rural areas of the South West are available.

CONSULTATION

N/A

STATUTORY OBLIGATIONS

Shire District Planning Scheme 2

The subject land is zoned 'Rural' and defined as 'Structure Plan Area – No.3' in the *District Planning Scheme 2*.

The proposed application is in keeping with Structure Plan Area No.3 objectives, which include:

- To accommodate lots generally of 4 – 40ha; and
- To permit the subdivision of land included within the Structure Plan area.

The proposed new lot sizes are approximately 20 and 30 hectares.

In accordance with the *District Planning Scheme 2* clause 10.1.3.4:

Council may approve a development or support a subdivision of the land in a manner that is consistent with the objectives of the underlying zone without requiring a Structure Plan where, in its opinion, the proposal is of a minor nature, will not adversely affect the future subdivision or development of the land and where it can be demonstrated that it does not conflict with the future land use expectation of the Structure Plan Area.

POLICY IMPLICATIONS

There are no policy implications relating to this item.

BUDGET/FINANCIAL IMPLICATIONS

There are no Budget or Financial implications relating to this item.

STRATEGIC IMPLICATIONS

There are no strategic implications relating to this item.

SUSTAINABILITY IMPLICATIONS

- **Environmental**
Extensive efforts have gone into protecting and enhancing environmentally sensitive areas adjacent to the creek. Remnant vegetation and sensitive areas adjacent to the creek have been fenced off from livestock. New plantings have also been established in a sandy area, which was previously susceptible to erosion. Water quality and habitats are expected to be enhanced.
- **Economic**
There are no economic implications relating to the proposed subdivision.
- **Social**
There are no social implications relating to the proposed subdivision.

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.2

MOVED: Cr Oversby

SECONDED: Cr Blackburn

That Council

Agree to advise the Western Australian Planning Commission to support the proposed 'Rural' subdivision, 1 lot into 2 lots, subject to the following conditions:

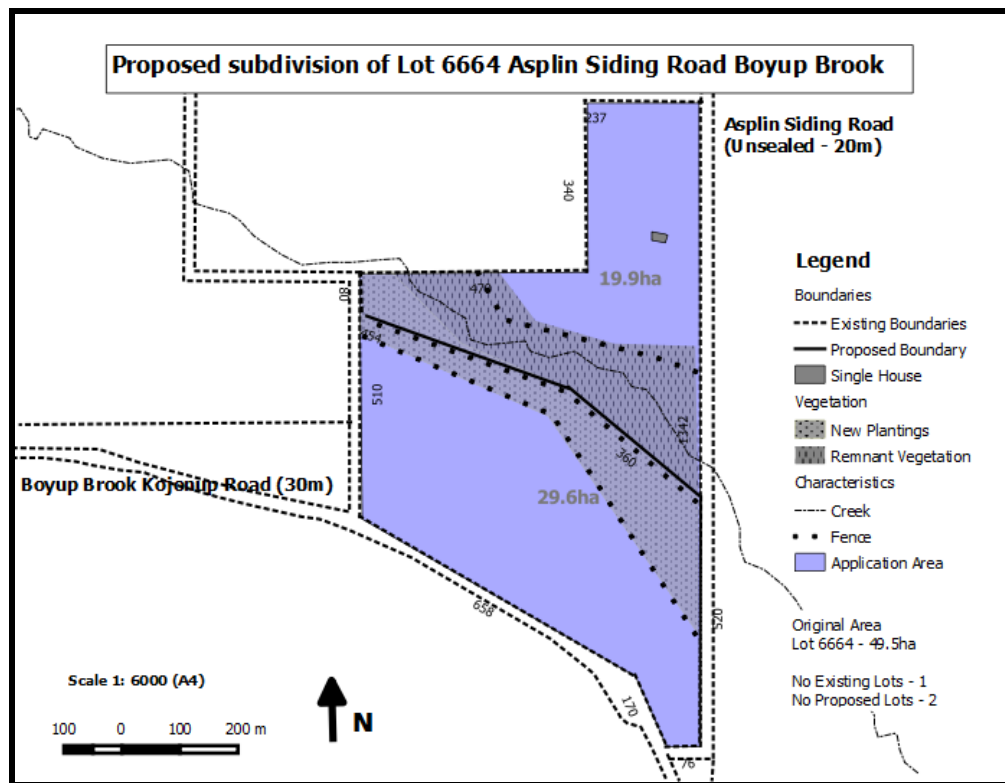
Landscape Management Plan

1. A Landscape Management Plan is to be prepared and approved to ensure the protection of vegetation to the satisfaction of the Local Government.

Notice to Prospective Purchasers

2. A notification, pursuant to section 70A of the Transfer of Land Act 1893 is to be placed on the certificates of title of the proposed lots. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:
 - a. The lot(s) is/are subject to a Landscape Management Plan.

Proposed Subdivision



Carried 7/0

Res 100/15

8.3.4 Boyup Brook Airfield – lease of a portion of the land

Location:	<i>Lot 2 Boyup Brook Kojonup Road</i>
Applicant:	<i>Paul Drayton</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>11 June 2015</i>
Author:	<i>Alan Lamb - CEO</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>Confidential attachment - copy of emails to and from Mr Drayton. Copy of 2014 advertisement.</i>

SUMMARY

The purpose of this report is to bring back before Council the matter of a lease over a portion of the airfield site with the recommendation that Council call tenders.

BACKGROUND

The matter of Mr Drayton's interest in starting up a business in Boyup Brook at the Shire airfield has been before Council a number of times.

In June 2013 Council passed the following resolution:

That Council:

- 1. Allow Mr. Drayton immediate access to the airfield, and to occupy and improve, as agreed by the Chief Executive Officer, the existing hangar facility.***
- 2. Allow Mr. Drayton to site his 40 foot x40 foot hangar at the airfield in a location as agreed by the Chief Executive Officer.***
- 3. Advise Mr. Drayton that Council intends to work toward a suitable lease where the first few years will be at minimal rental to allow the business to establish.***
- 4. Advise Mr. Drayton that Council intends to look at what improvements it may be able to make to the airfield, and how it might fund these, as part of the 2013/14 budget development.***
- 5. Approve of up to \$5,000 to employ an entity to develop and cost the project, establish funding opportunities and the like for the purposes of having the relevant information to put before Council as part of the budget process.***

In November 2013 Council resolved as follows:

That Council:

- 1. Advertise, in accordance with section 3.58 of the Local Government Act, its intention to lease a portion of the Boyup Brook Airfield to Mr Drayton.***
- 2. Approve the provision for the airstrip re-sheeting work to be applied to airfield improvements.***

The matter went before Council again in December 2013 and Council resolved as follows:

That Council delegate to the Chief Executive Officer the authority to lease 3 portions of the Boyup Brook airfield being 30m x 30m plots, with one containing the old hangar, to a value of no more than \$5,000 per annum each for a three year lease, to Mr Drayton subject to the process set out in section 3.58(3) of the Local Government Act being followed.

The commercial value of the proposed lease was determined by a suitably qualified valuer and the required advertising was done. Mr Drayton subsequently advised that, due to personal circumstances, he would not now be pursuing the business enterprise, at this time, but still wanted to lease parts of the airfield. The original request was to lease the hangar on a 30m by 30m portion of the land and another two 30m by 30m sections of land alongside this. Advertising was done with these details, the assessed value and the agreed rental.

Mr Drayton now wishes to lease two 30m by 30m sites, one with the hangar on it and another alongside this. He would like to pay a lower rental amount.

He also requested that he be given approval to install gates across the hangar to secure the place. Mr Drayton sited fuel being taken from his aircraft, that it had been tampered with etc. The CEO gave approval for this in accordance with part 1 of the June 2013 resolution on this matter.

Mr Drayton further requested that Council consider sealing the hangar floor of assisting with the cost of doing so. Also that Council consider installing gates across the entrance track and security cameras.

The following was reported to the April 2014 meeting of Council:

Please note that all dollar amounts in this report are exclusive of GST.

Whilst the original agreement regarding a lease was advertised, in accordance with legislation, the proposed new agreement has not and the "deal" would need to be advertised for 14 days and any submissions assessed before a lease could be entered into. The valuations obtained were on the basis of an annual rental for the 30m by 30m site with the hangar and a valuation for a 30m by 30m site with no improvements. The second valuation applied to any of the vacant sites. Therefore the current valuation could be used for the advertising.

The valuation of the hangar site was \$2,475 per annum and \$900 for vacant sites. The original proposal for three sites was therefore valued at \$4,275 per annum and the negotiated rental was - \$100 per month for the first year \$150 per month for the second and \$200 per month for the third (i.e. \$1,200, \$1,800 and \$2,400 per annum).

The rental discussed with Mr Drayton was based on assisting a new business to commence operation and so was not at a commercial level (it is not uncommon for Council's to assist new businesses in this way). Whilst Mr Drayton's immediate plans have changed Council may wish to still view this as an opportunity to assist a new business that may start to operate sometime in the future. If so and using the assessed valuations as a guide but rounding 10 dollars, the monthly rental for two sites, including the one with the hangar, would be \$80 for the first year (\$960 per annum), \$120 for the second year (\$1,440 per annum) and \$160 for the third year (\$1,920 per annum).

With regard to the sealing of the hangar floor, this is needed for, among other things, to enable one person to physically move planes around in the hangar (the small wheels tend to bog when turning aircraft around). The floor area under the hangar roof is approximately 151.3 m2. Based on a rate of \$80 per m2, a concrete floor would cost in the order of \$12,104. Asphalt would be an option, the preparation rate is \$25 m2 and the asphalt rate is the same. Therefore the preparation cost would be in the order of \$3,783, and the asphalt would cost in the order of \$3,783 (note the rate for asphalt could be affected by oil prices and a small job premium), a total of \$7,566. Another option could be a stone seal (such as is used for roads). Here the preparation rate would be the same as for asphalt but the material and laying costs would be in the order of \$10 per M2, the total cost would then be in the order of \$5,296.

With regard to security, gates and cameras, Council has a number of security cameras that are put up at various locations from time to time and, as part of general operation, cameras will be located at the airfield. It would be advantageous to also put up signs advising of the use of cameras.

With respect to financial capacity and the budget. An amount of \$20,000 was set aside in the budget for planning for the airstrip. At the half year budget review this amount was reduced to \$5,000 because much of the planning work was done in house. The required valuation (for leasing purposes) cost \$1,364 and it is expected that employee costs will be allocated to consume the balance of this adjusted provision.

The original budget contained a \$60,160 provision for re-sheeting the airstrip. As previously discussed, the strip is adequate at this time and so some of these funds would be available for other capital works at the strip. All but \$35,000 of the provision relates to employee and plant costs. When all added together these costs equal the cost of employees and plant operation, so whilst the remaining \$25,160 may be available for other projects, it would only be so where this

involved the relevant amounts for employee and plant costs. When looking at what Council might be able to do with regard to electrical power supply, ablutions, water supply and phone connection, that Mr Drayton needed for his planned business, it was noted that \$35,000 of the \$60,160 provision was available for external expenditure. In essence then, if Council wanted to do something at the airfield that involved the works crew and plant, then the \$25,160 could be applied to this. If Council wished to purchase materials, or the like, then the \$35,000 could be applied to this.

So, on the face of things, Council has the capacity to look at doing some works at the airfield. If Council were to agree to seal the area inside the hangar then consideration should also be given to sealing an area for aeroplanes to warm up and test their engines before going to the runway.

In terms of making decisions and progressing the matters. If Council wished to lease the hangar site plus one 30m by 30m vacant site to Mr Drayton, then it would have to come to an agreed rental, and other terms, with Mr Drayton. The next step would be to advertise the proposal for 14 days and the move to having an agreement drawn up and executed. Council could set parameters and then authorise the CEO to deal with these matters.

With regard to sealing the hangar floor, it has to be noted that the structure is old. In 2012, AVP Valuers assessed the building to be in fair condition, that it's estimated economic working life was 40 years and that the estimated remaining life was 18 years. It estimated that the gross current replacement cost would be \$28,000 and that the current (2/12) fair value (all buildings) was \$22,000. Unfortunately other than the estimated gross current replacement cost (GCRC), all of AVP's estimates were based on the hangar, wind sock and water storage tank. The GCRC for the hangar is \$28,000 and \$20,000 for the wind sock and water tank combined. It may be deduced that the current value of ten hangar is then in the order of \$10,000. Further, it can be taken from this that the hangar should be serviceable for in the order of 16 years (i.e. 18 years in 2012).

With regard to the security gate at the entrance and the cameras. Closing the airfield to the public at this stage, and without a plan for who can have access, on what basis, fee level for landing and other airfield uses, is not recommended. The other and significant consideration that needs to be tackled is use by fire brigades in emergencies (i.e. fire bombers). It is therefore recommended that no action be taken in regard to a gate at this time. The security cameras and an appropriate sign will be done as part of the normal operation.

It is recommended that Council deliberate this matter in sequence, with the first decision being to lease or not based on the current request. The recommendation here is that Council does seek to lease the two bays as requested.

The next is to determine the rental, who pays legal costs for the lease (generally this is the lessee but Council's often meet this cost for community groups and

fledgling businesses). It is recommended that Council determine who pays the lease drafting costs and what the rental will be at the meeting.

The third is in relation to sealing the hangar floor. If the building is going to be serviceable for 16 more years then spending some funds on making it more fit for use is warranted. If Council is going to do seal work then it should also include a sealed pad for all aircraft to use (as there will be cost savings in doing two small jobs as one). Asphalt lasts longer than a stone seal and does not require the same level of preparatory work. It is thicker and so when laid can be laid level despite small irregularities in the ground surface). It is therefore recommended that Council opt for asphalt, that it require Mr Drayton to do all of the relevant preparatory work inside the hangar, to the Shire's required standard, and that it allow a sum of up to \$15,000, from the current capital provision of \$60,160, to pay for this work.

Council considered the matter and resolved 17 April 2014 as follows:

That Council:

- 1) delegate to the Chief Executive Officer the authority to lease two 30m by 30m portions of the Boyup Brook Airfield (Part of Lot 2 on Diagram 43995), one of which contains the existing hangar building, to Mr Drayton provided that:***
 - a) the term of the lease does not exceed three years***
 - b) the Chief Executive Officer follows the process set out in section 3.58(3) of the Local Government Act, and no compelling objections are received.***
 - c) Mr Drayton agrees to an annual rental, for the two lots,***
 - i) of \$1000.00 for the first year, \$1500.00 for the second year and \$2000.00 for the third year.***
- 2) Approve of up to \$15,000 being spent on sealing the hangar floor and a pad, for the purpose of testing aircraft engines for all airstrip users, on the condition that Mr Drayton does, to the satisfaction of Council, or pays the cost of, all of the preparatory work for the hangar floor area. With the funds coming from the current provision for capital works at the airfield***

Council's decision was conveyed to Mr Drayton via emailed letter 8 May 2014. Mr Drayton responded 30 June noting that the conditions on the table were different to what had been discussed and that he would come to Boyup Brook to discuss the matter. Mr Drayton and the CEO met 21 November 2014, Mr Drayton was advised that nothing had been done in relation to a lease as he had not agreed to the terms. Also that it was now a new financial year with a new budget and that provisions made in 13/14 were not automatically carried forward to 14/15. That the matter would need to go back to Council if he wanted to progress it now.

The CEO wrote to Mr Drayton on or about 13 May 2015 to ask that arrangements regarding his use of the hangar be firmed up or Council may need to open the hangar to other uses.

Mr Drayton emailed the following proposal 1 June 2015:

To Boyup Brook Shire Council

Re: Existing request for Council Involvement, and Approval to open and establish an Aircraft Maintenance facility at the Boyup Brook Shire Aerodrome.

- 1) I currently have access to the existing Hangar at the Airstrip, and wish to enter into a Lease Agreement for that structure and land*
- a) as well as a Lease Agreement for the following Proposal:*
- 2) I seek permission to erect a 13 meter by 16 meter Aircraft Maintenance Facility on the southern side of the existing hangar.*
 - a) 10 meter wall distance between the 2 hangars*
 - b) a cyclone style proof fence to be erected between the back wall corners of the 2 Hangars, with wire gates to be erected at the front between the 2 hangars*
 - c) this 10 meter distance is to facilitate Secure sheltered Aircraft parking for Customer Aircraft*
- 3) I seek permission to personally start cleaning up, in my own time, and my expense - in and around the existing hangar of, old metal objects, old tree limbs, including nuisance tree limbs etc.*
- 4) If favourable consideration is give to the above, I request consideration for the following:*
 - a) that power be connected to the Airfield, and that I will pay Power accounts as would be for a normal House Hold, or Industrial area accommodation.*
 - b) A water tank be considered for Hangar roof run off*
 - c) Current Hangar floor to be sealed with Hot Mix*
 - d) A Hot Mix hard stand area be considered in front of existing Hangar*
 - e) A Hot Mix Aircraft parking area, and Aircraft serviceability "Run Up" bay (to minimize Propeller damage size to be determined*
 - f) Installation of a Toilet facility (also for use by other Airstrip users)*

Respectfully forwarded for Consideration

Paul Drayton

This was followed up with a lease rental proposal as follows:

I am agreeable to enter into the original proposal of \$1000.00 for the first year, \$1500.00 for the second year, and \$2000.00 for the third year, but as I outlined in my new application, the area between the existing hangar and new hangar for reasons outlined, I request that, that portion of land may be free of charge, or at best, at a much reduced rate.

Council passed the following resolution in June 2015:

That Council defers Mr Drayton's proposal regarding a lease of a portion of the Boyup Brook Airfield to its 2015/16 Budget deliberations before considering it further.

Mr Drayton be asked to vacate the hangar or pay a hire fee for the hangar \$40.00 per week effective 2nd July 2015.

COMMENT

The following was reported to Council in June 2015:

This matter has dragged on for some time now and personal circumstances got in the way of Mr Drayton's aim of starting an aircraft maintenance business in Boyup Brook.

Council would need to budget for electrical power supply, an onsite water supply sealing the hangar floor and apron and an aircraft parking area, and a toilet facility. Administration had done a fair bit of work in 2013 and early in 2014 on these requests and so costs estimates may be available for budgeting proposes however there will be a cost in locating and checking these so it has not been done pending indication from Council as to its intentions.

The opportunity that appeared to be offered to Boyup Brook by the new business enterprise was attractive to Council at the time. But Council may wish to now see some surety that a business would be established before it went down the path of establishing costs of upgrade work and budgeting for this.

Whilst we have all had our challenges that get in the way of great ideas, opportunities and plans, Council needs to ensure that public assets are used to their best purpose.

It is apparent that other users of the airfield, who may have used the existing hangar in the past, have been denied its use for quite some time. Whilst the free use was a prelude to a business commencing it may have been seen to be reasonable but as the business did not eventuate, the community value of the free use has been limited.

Whilst the draft budget is still being developed, it is expected there will be no significant opportunities for additional expenditure. From an administration perspective, we are stretched to the limit now and this will not improve into 2015/16 with the additional R2R funding for road works limiting opportunities to use Shire staff and equipment for additional works. Also current projects such as aged accommodation and the need to pressure/assist Water Corp over the announced sewerage scheme will consume resources. The requested works have not been costed but a ball park figure is \$50,000, when compared to the offered rental of \$4,500 over three years this would not be a sound investment unless there was another benefit (such as might accrue from a new business in the Shire).

Also, it is expected that increased use of the airstrip would result in increased demands for improvements and will increase maintenance costs.

On the other hand, a new business, such as what Mr Drayton seeks to establish, should have wide beneficial impact on the local economy (increased numbers using eateries, accommodation, retail, and the like). And if so Council may see value in investing community resources in helping to establish the business, as it did in 2013 and again in 2014.

Mr Drayton appears to be keen to get moving on his business aspirations here in Boyup Brook.

Council may deal with this matter on economic grounds and so it is recommended that Council defer consideration till it has completed the 2015/16 Budget, that it considers the expenditure requests as part of the budget deliberations.

Budget considerations did not include additional works at the airfield and the adopted 2015/16 budget provides for general maintenance only. Mr Drayton is aware of this and seeks to lease the hangar, and the land it sits on and an adjacent 30m x 30m area in order to establish an aircraft maintenance business there.

Council has a number of options including the following:

- Move to leave the portions of land sought
- Resolve to not lease the portions of land sought.

Regarding the first option listed, here Council has to comply with the Local Government Act which requires a tender or auction process unless certain conditions prevail. Alternatively Council could establish the commercial value of what is to be leased and then advertise, for public comment, the value, the price to be paid and the entity who will receive the lease.

Regarding dot point two above, here Council could ask that Mr Drayton vacate the area within a reasonable time period.

Council obtained a valuation and advertised the relevant lease details early in 2014. The comment period closed 27th February 2014. The legislation does not appear to set a time limit for the lease to be entered into after advertising and so it may have been possible to rely on this, rather than to do it all again. However Mr Drayton's current offer is not the same as what was advertised and, unless an agreement was reached that aligned with what was advertised (3 parcels each being 30m x 30m for \$100 per month for the first year, \$150 per month for the second and \$200 per month for the third) Council would have to start this process over again.

If Council wishes to move down the path of leasing a portion of the land and the hangar, it may be better to put the matter to public tender so that any other interested parties could have the opportunity. Given the relatively low rental income that might be derived from a lease, Council may wish to include community benefit into the criteria and perhaps give this a higher prominence than the rent income. A commercial operation is likely to result in more use of the facility and so Council may be required to spend more on maintenance and

upgrades. It is unlikely that the income would ever meet the required expenditure and so it may be seen as a minor consideration.

It is recommended that:

1. Tenders for a three year lease of the aircraft hangar, the 30m x 30m area it sits on, and the adjoining 30m x 30m area, be called.
2. The tender evaluation criteria put a higher value on community benefit than on rental income.
3. The tender process timetable allow more than the required time in which to lodge a tender.
4. Tenders come back to Council for final evaluation and determination.
5. Council envisages it would be determining the tender at its February 2016 meeting.

CONSULTATION

The matter has been before Council a number of times and the author has spoken with Mr Drayton.

STATUTORY OBLIGATIONS

Council may wish to deal with some aspects of this matter behind closed doors, if so the following section of the Local Government Act has relevance:

5.23. *Meetings generally open to public*

(1) Subject to subsection (2), the following are to be open to members of the public —

- (a) all council meetings; and*
- (b) all meetings of any committee to which a local government power or duty has been delegated.*

(2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —

- (a) a matter affecting an employee or employees; and*
- (b) the personal affairs of any person; and*
- (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*
- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*
- (e) a matter that if disclosed, would reveal —*
 - (i) a trade secret; or*

- (ii) *information that has a commercial value to a person; or*
- (iii) *information about the business, professional, commercial or financial affairs of a person,*
where the trade secret or information is held by, or is about, a person other than the local government; and
- (f) *a matter that if disclosed, could be reasonably expected to —*
 - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or*
 - (ii) *endanger the security of the local government's property; or*
 - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety;**and*
- (g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and*
- (h) *such other matters as may be prescribed.*
- (3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

The following section of the Local Government Act has relevance

3.58. *Disposing of property*

- (1) *In this section —*

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

***property** includes the whole or any part of the interest of a local government in property, but does not include money.*
- (2) *Except as stated in this section, a local government can only dispose of property to —*
 - (a) *the highest bidder at public auction; or*
 - (b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*
- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
 - (a) *it gives local public notice of the proposed disposition —*
 - (i) *describing the property concerned; and*

- (ii) *giving details of the proposed disposition; and*
 - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*
 - and*
 - (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*
- (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*
- (a) *the names of all other parties concerned; and*
 - (b) *the consideration to be received by the local government for the disposition; and*
 - (c) *the market value of the disposition —*
 - (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
 - (ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*
- (5) *This section does not apply to —*
- (a) *a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or*
 - (b) *a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or*
 - (c) *anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or*
 - (d) *any other disposition that is excluded by regulations from the application of this section.*

[Section 3.58 amended by No. 49 of 2004 s. 27; No. 17 of 2009 s. 10.]

The following section applies to delegations:

5.43. Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;*
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
- (c) appointing an auditor;*
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;*
- (f) borrowing money on behalf of the local government;*
- (g) hearing or determining an objection of a kind referred to in section 9.5;*
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;*
- (h) any power or duty that requires the approval of the Minister or the Governor;*
- (i) such other powers or duties as may be prescribed.*

[Section 5.43 amended by No. 49 of 2004 s. 16(3) and 47; No. 17 of 2009 s. 23.]

The Local Government Act provides for Council to make the requested delegation as follows:

5.43. Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties —

- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

There is no impact at this time however there will be a cost in reviewing and costing the requested works and lease, and in doing the works. The 2015/16 budget is still being developed and has not been to Council as yet so these costs could be included. It is clear that the rental income will not cover the anticipated cost of requested works over the term of the proposed lease.

STRATEGIC IMPLICATIONS

OUTCOMES	OBJECTIVES	PRIORITIES
Economic Growth	Build and support new businesses.	<ul style="list-style-type: none"> ✦ Encourage new businesses through information, incentives and land-use provision. ✦ Advocate for new business start-up support. ✦ Encourage business diversity through promotion of local comparative advantages. ✦ Examine potential for buy local campaign supported by local price preference policy.
	Promote commercial centre	<ul style="list-style-type: none"> ✦ Investigate development of the music park. ✦ Develop and implement streetscaping/landscaping plan. ✦ Investigate options to encourage owners of business houses to renovate shop frontages.
Increased Visitors and Residents	Develop tourism industry	<ul style="list-style-type: none"> ✦ Investigate development of cultural register. ✦ Support tourism capability through events, fairs, arts, produce, history and cultural experiences.
	Attract permanent residents	<ul style="list-style-type: none"> ✦ Promote the family friendly lifestyle of Boyup Brook.

SUSTAINABILITY IMPLICATIONS

- **Environmental**
There are no known significant environmental issues.
- **Economic**
The new business that may eventually be created by the proposed lease of land has the potential to bring more customers to food, retail and accommodation business in town.
- **Social**
The new business, if it commences, may foster off shoots and the like that may increase the town's population, resulting in more members for clubs and community organisations.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION – Item 8.3.4

That:

1. Tenders for a three year lease of the aircraft hangar, the 30m x 30m area it sits on, and the adjoining 30m x 30m area, be called.
2. The tender evaluation criteria put a higher value on community benefit than on rental income.
3. The tender process timetables allow more than the required time in which to lodge a tender.
4. Tenders come back to Council for final evaluation and determination.
5. Council envisages it would be determining the tender at its February 2016 meeting.

MOVED INTO COMMITTEE

MOVED: Cr Blackburn

SECONDED: Cr Kaltenrieder

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 7/0

Res 101/15

MOVED OUT OF COMMITTEE

MOVED: Cr Walker

SECONDED: Cr Oversby

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

Carried 7/0

Res 102/15

Break for Afternoon Tea

Adjournment

That the meeting be adjourned for an afternoon tea break, the time being 6.52pm.

Resumption

The meeting resumed, the time being 7.09pm with the following persons in attendance.

Cr Aird
Cr Blackburn
Cr Kaltenrieder
Cr Moir
Cr Oversby
Cr Walker
Alan Lamb
Rob Staniforth-Smith
Maria Lane
Elizabeth Rear

OFFICER RECOMMENDATION – Item 8.3.4

MOVED: Cr O'Hare

SECONDED: Cr Aird

That:

1. Tenders for a three year lease of the aircraft hangar, the 30m x 30m area it sits on, and the adjoining 30m x 30m area, be called.
2. The tender evaluation criteria put a higher value on community benefit than on rental income.
3. The tender process timetables allow more than the required time in which to lodge a tender.
4. Tenders come back to Council for final evaluation and determination.
5. Council envisages it would be determining the tender at its February 2016 meeting.

MOVED: Cr Walker

SECONDED: Cr Aird

That the motion be put

Lost 2/5

Res 103/15

NOTE

Following some further discussion on the matter the motion was put

COUNCIL DECISION – Item 8.3.4

That:

- 1. Tenders for a three year lease of the aircraft hangar, the 30m x 30m area it sits on, and the adjoining 30m x 30m area, be called.**
- 2. The tender evaluation criteria put a higher value on community benefit than on rental income.**
- 3. The tender process timetables allow more than the required time in which to lodge a tender.**
- 4. Tenders come back to Council for final evaluation and determination.**
- 5. Council envisages it would be determining the tender at its February 2016 meeting.**

LOST 6/1

Res 104/15

Note: The recommendation was not supported because Council wanted to revisit the previous advertised rental arrangements with conditions.

8.3.5 Craft Hut Reserve 7065, Flax Mill usage and Aged Accommodation – Affordable Housing

Location:	<i>Reserve 7065 comprising lots 52 Jayes Road and 2 Barron Street. Crown Grant 112 Jackson Street, Lot 336.</i>
Applicant:	<i>Boyup Brook Arts and Craft Club</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>8 October 2015</i>
Author:	<i>Alan Lamb</i>
Authorizing Officer:	<i>Chief Executive Officer</i>
Attachments:	<i>Copy of Club's letter</i>

SUMMARY

The purpose of this report is to put before Council the opportunity to gain better utilisation of flax mill structures, and so warrant their retention and restoration/improvements, and make two adjoining lots available for development.

BACKGROUND

Council has been working on opportunities to develop aged persons housing in Boyup Brook. Whilst housing is not a function of Local Government, it is apparent that there is not sufficient profit opportunity to attract a commercial developer and the other levels of Government do not appear to be in a position to meet the growing demands here.

Council established there was local demand for aged accommodation with a study, which included a survey and other community engagement that was conducted by a consultant in 2012.

Council has looked at a number of sites for a variety of models of aged accommodation development and had noted that the Reserve it manages at the corner of Jayes Road and Barron Street offered an opportunity. It also noted that the current structure on the two lots was in need of work to improve its presentation and utility.

Council has had ownership of the flax mill since 1972. The Shire Council then repaired and converted some structures to create a recreation camp which was officially opened in 1977. Structures were used for various purposes over the years but many did not stand the test of time and, in part perhaps due to insufficient maintenance, many were in a sorry state by 2009 when Council looked hard at its capacity to maintain and renew its assets. This resulted a number being demolished due to safety and economic concerns.

In 2010 a Conservation Plan for the flax mill was prepared for Council funded by Lotterywest. This included a structural engineer's report, which Council had commissioned in 2007, and other information.

The local men's shed group took up use of part of one structure in around 2008/9 and more recently took up a lease on another structure.

The craft group are interested in the old dining room building and the cottage. Both are currently used occasionally as part of the caravan operation.

COMMENT

Prompted by the craft group's application to construct a new structure on the Reserve they lease from Council, contact was made with them to discuss the bigger picture and opportunities. The result was that they would be prepared to relocate and saw some value in co-locating with the men's shed group at the flax mill, albeit in different buildings. Also in making regular use of the structures mentioned.

It was pointed out that the dining room and cottage would need some restoration (preceded by a new structural assessment), that this would most likely be reliant on Lotterywest funding and so take some years. Also that the area was subject to flooding.

As will be seen from their letter, the group is interested in the move and recognises that, if approved by Council, it will not happen for some time.

It would be advantageous to gain Council's sanction or opposition before going any further with discussions, Lotterywest grant applications (enquiries at first then an application to fund the engineering assessment), closing bookings for the facilities (bookings whilst not numerous, can be months in advance and it would be of advantage to have a long notice period), planning etc. Also to look at opportunities for an affordable aged accommodation development on Reserve 7065 (on the basis of Council providing the land and a State Government sponsored service provider building and perhaps managing the group dwelling facility)

It is recommended that Council agree to:

1. The notion of the Boyup Brook Arts and Craft Club relocating to the flax mill

2. Funding opportunities to have flax mill structures reassessed for restoration/improvement and then the relevant works
3. The notion of Reserve 7065 being used for aged accommodation
4. The CEO researching the opportunities for a joint venture arrangement for an affordable housing development on the Reserve.
5. Advise the Boyup Brook Arts and Craft Club that does favour the opportunity to have flax mill structures better utilised, that the projects make the structures ready and suitable for use will be researched, brought back to Council for evaluation and then a time line would be set.

CONSULTATION

Consultation has been limited to the craft group at this time because there would be little point in going much further until Council has indicated its agreement to the idea.

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil at this time. The preliminary work will entail staff time and office resources however this would be managed within the budget provisions for these areas.

STRATEGIC IMPLICATIONS

The craft group, like the men's shed group, are as much about being a social outlet for community members as it is about arts and craft and so supporting this group meets the Outcome – Sustainable Community, Objective – Build community participation, interactions and connections.

Use of Reserve 7065 for affordable aged accommodation meets the Objective – Facilitate affordable and diverse housing options.

SUSTAINABILITY IMPLICATIONS

- **Environmental**
There are no known significant environmental issues.
- **Economic**
Removing the craft hut from the asset register and spending grant funding on flax mill structures will improve Council's asset sustainability ratio.
- **Social**
The craft group serves an undoubted need in the community and the proposed move may enhance its already high appeal.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION – Item 8.3.5

That Council agree to:

1. The notion of the Boyup Brook Arts and Craft Club relocating to the flax mill
2. Funding opportunities to have flax mill structures reassessed for restoration/improvement and then the relevant works
3. The notion of Reserve 7065 being used for aged accommodation
4. The CEO researching the opportunities for a joint venture arrangement for an affordable housing development on the Reserve.
5. Advise the Boyup Brook Arts and Craft Club that does favour the opportunity to have flax mill structures better utilised, that the projects make the structures ready and suitable for use will be researched, brought back to Council for evaluation and then a time line would be set.

REVISED OFFICER RECOMMENDATION – Item 8.3.5

MOVED: Cr Oversby

SECONDED: Cr Walker

That Council agree to:

1. The notion of the Boyup Brook Arts and Craft Club relocating to the flax mill
2. Pursue funding opportunities to have flax mill structures reassessed for restoration/improvement and then the relevant works
3. The notion of Reserve 7065 being used for aged accommodation
4. The CEO researching the opportunities for a joint venture arrangement for an affordable housing development on the Reserve.
5. Advise the Boyup Brook Arts and Craft Club that it favours the opportunity to have flax mill structures better utilised, that the projects to make the structures ready and suitable for use will be researched, brought back to Council for evaluation and then a time line would be set.

AMENDMENT

MOVED: Cr Walker

SECONDED: Cr Blackburn

That Council agree to:

1. The notion of the Boyup Brook Arts and Craft Club relocating to the flax mill.
2. Pursue funding opportunities to have flax mill structures reassessed for restoration/improvement and then the relevant works.
3. The notion of Reserve 7065 being used for accommodation.
4. Advise the Boyup Brook Arts and Craft Club that it favours the opportunity to have flax mill structures better utilised, that the projects to make the structures ready and suitable for use will be researched,

brought back to Council for evaluation and then a time line would be set.

Carried 7/0

Res 105/15

MOTION

That Council agree to:

1. The notion of the Boyup Brook Arts and Craft Club relocating to the flax mill.
2. Pursue funding opportunities to have flax mill structures reassessed for restoration/improvement and then the relevant works.
3. The notion of Reserve 7065 being used for accommodation.
4. Advise the Boyup Brook Arts and Craft Club that it favours the opportunity to have flax mill structures better utilised, that the projects to make the structures ready and suitable for use will be researched, brought back to Council for evaluation and then a time line would be set.

Carried 6/1

Res 106/15

8.3.6 Reserve 33552 – Stock Sale Yards and Holding Yards

Location: Nelson Location 13129 Boyup Brook
Bridgetown Road

Applicant: N/a

File:

Disclosure of Officer Interest: None

Date: 8 October 2015

Author: Alan Lamb

Authorizing Officer: Chief Executive Officer

Attachments: Nil

SUMMARY

The purpose of this report is to seek Council approval to apply to amend the Purpose of Reserve 33552 to include light industrial/commercial uses.

BACKGROUND

Council has looked at a number of opportunities for an industrial site development over a number of years.

In more recent times Council centred on the saleyards Reserve as a potential site.

COMMENT

Whilst the saleyards is still subject to a detailed study to establish costs and the like a potential opportunity may present itself, in the near future, that will require relatively little development work provide a lot. This would then represent an opportunity to move fairly quickly, and cheaply, to meet an immediate need.

One hurdle that Council delay any lease is that the Purpose of the Reserve does not allow for this new use. It is therefore recommended that Council apply to Minister for Lands (this is done through State Land Services) to have light industrial/commercial added to the Purpose for Reserve 33552.

CONSULTATION

Brief discussions with the potential lessee.

STATUTORY OBLIGATIONS

Nil at this time

POLICY IMPLICATIONS

Nil at this time

BUDGET/FINANCIAL IMPLICATIONS

Nil at this time

STRATEGIC IMPLICATIONS

The Strategic Community Plan includes the objective of “Create land use capacity for industry

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.6

MOVED: Cr Walker

SECONDED: Cr Blackburn

That Council apply to the Minister for Lands to amend the Purpose of Reserve 33552 to include light industrial/commercial use.

Carried by Absolute Majority 7/0

Res 107/15

8.3.7 Aged accommodation project Hospital Road

Location:	Corner Hospital Road and Bridge Street
Applicant:	N/a
File:	
Disclosure of Officer Interest:	None
Date:	8 October 2015
Author:	
Authorizing Officer:	Chief Executive Officer
Attachments:	Consultant's report

SUMMARY

The purpose of this report is to bring the matter of the proposed aged accommodation project back to Council with a recommendation that it approve Opus being employed to do the detailed survey and design for stage 1 (Estimated to cost in the order of \$30,000)

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.

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. 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 Financial 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 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.

At its Special Meeting held 12th February 2015 Council reviewed the draft Business Plan and resolved as follows:

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.

At its April 2015 Meeting Council dealt with the major land transaction, community submissions and resolved as follows:

- 1. That Council receive and note the two submissions lodged in relation to its proposed 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.**
- 2. That the project evaluation work, currently in train, be continued.**
- 3. That the project, as set out in the Business Plan, be implemented dependant on the satisfactory, to Council, results of the evaluation.**
- 4. That if the evaluation process gives rise to a material deviation from the Business Plan, as advertised, Council put a revised Plan out to the community for comment, as required.**
- 5. That further community consultation take place, providing more detail of the project, once Council is satisfied that the project is sound.**

(NOTE this is not a commitment to the implementation of the proposed development as set out in the Business Plan, as advertised, it is however a commitment to continue the evaluation process with a view implementing this, or another similar project, based on Council's assessment of its viability)

The Albany branch of Opus was subsequently appointed to undertake study to determine a preferred and workable layout for the development, the number of units that may be accommodated, an overall cost for the development, a logical stage program and the cost of stage 1. To date we have received a draft report and a draft of the costs of stage 1. By the day of the meeting it is expected we will have the final report and the final cost estimates for stage 1.

COMMENT

Whilst it would be ideal to have the final report to hand at the time of writing the report it is also important to keep the project moving.

Based on costs received so far, and based on the last draft of the recommended layout there will be 11 lots in stage 1. The original idea was to have the first 6 lots face Hospital Road and so avoid the cost of an internal road in that stage. However on review, this was altered to have the 6 units abutting Hospital Road face into the development to provide a better sense of being part of the development. This then necessitated the making of an internal road that would also serve 5 further lots and so stage 1 is now 11 lots. It appears that the cost per lot will be less than \$70,000 (includes a 30% contingency).

As noted to Council, the units to turn key stage will cost in the region of \$180,000 making the total cost per unit \$250,000. Further work on the development design will provide far more accurate cost estimates which are expected to be lower than the current estimates. Also further work done on the cost of units show that it is possible to get relocatable units for as low as \$130,000 and brick and iron, built on site, units would cost in the region of \$200,000.

There is also an option that Council may wish to explore where it would provide the developed land, in the form of a lease, and the lessee would purchase a unit from Council's preferred supplier. Councillors will note that there is to be presentation from a supplier at the briefing session and this supplier suggested this model as an option.

Based on the information provided so far it is possible to have units available at a cost of less than \$260,000 and so based on this it is recommended that Council take the next step and appoint Opus to do the detailed survey and design for stage 1. The cost of this is estimated at \$30,000, 7% of the development cost (see consultants costings).

More accurate information will be available at the meeting.

A detailed business plan will be developed once more accurate development costs are available. The plan will provide options for the mode of providing accommodation units, the legislative framework for operation of the village and how it may be applied, and the relevant ongoing costs, cost recovery and the like. The detailed survey and design phase should take in the order of 6 weeks and so the aim is to provide Council with the detailed business plan by Its March 2016 meeting.

As Councillors will be aware, our works section has a very full program this year and, with the additional R2R funding, will have a full program in 2016/17 also. Because of this it will be recommended that Council outsource the project management to Opus (provision included in cost estimates) and that all of the civil works be completed by contractors. With the price preference (as per the purchasing policy) for local firms, this project represents an opportunity for local service providers to benefit from the project.

CONSULTATION

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

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 2015/16 budget makes provision for a \$655,000 project with the funds coming from loans (an existing loan of \$400,000 plus additional borrowings of \$275,000). \$26,380 of the budget funds were for the planning stage. Referring to the latest cost indications provided by the consultant (just received), the detailed survey and design work required for stage 1 (11 lots) will be in the region of \$30,000 and the total development costs will be \$679,000 (including a 30% contingency for the civil works component, \$99,000). As noted elsewhere, the detailed stage will provide more accurate prices for financial planning but as the capital costs are expected to be recovered from residents taking up units, it appears logical to look to the Commercial Reserve Fund, for the additional funds that will be required, rather than a new load as provided for in the budget.

The detailed survey and design work is essential to enable to project to move forward and is included in the consultant's project estimates.

STRATEGIC IMPLICATIONS

The Plan provides as follows:

OUTCOMES

OBJECTIVES

PRIORITIES

Planned development

Create land use capacity for industry

- ☐ 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 8.3.7

MOVED: Cr Kaltenrieder

SECONDED: Cr Oversby

That Council:

- 1. Receive the consultants report on cost indications, a preferred layout and logical stages for the aged accommodation development being considered for the land at the corner of Hospital Road and Bridge Street.**
- 2. Approve the appointment of Opus to conduct the detailed survey and design of stage 1 of the development.**
- 3. That \$30,000 of the budget provision for this project be allowed for this stage.**
- 4. That the CEO report to Council by the December 2015 Council meeting with recommendations for the acquisition of units, for the mode of operation of the village and the anticipated periodic maintenance fee to cover operating costs.**

Carried by Absolute Majority 7/0

Res 108/15

9 COMMITTEE REPORTS

Nil

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1.1 Provision of Fire Hazard Indicators

Notice of motion from Cr Kaltenrieder

MOTION

Shire of Boyup Brook, in consultation with local Fire Brigades to provide and install Fire Hazard indicator signs at Strategic entrance points to Shire.

CEO Comment

These fire hazard indicator signs were installed some years ago by some Local Governments but in recent times, due to problems in keeping them up to date, some Council's have removed the signs. They look great and may provide a service but the cost, logistics and liability appear to outweigh any benefit.

The estimated cost per sign (located in the ground) is in the order of \$1,500 each. The estimated cost for Shire staff to maintain the correct information on signs for the restricted burning period (6 months) is \$24,000.

The Chief Fire Control Officer was contacted for his thoughts on the signage. His initial thoughts were that they were an unnecessary cost, that their purpose was unclear, they would not prevent or help fight a fire. People were more likely to get fire danger ratings from the internet. The funds may be better spent on more equipment, education and training for fire prevention or fire fighting.

The senior DFES Officer contacted noted the signs were popular with Shires some years ago but are less widely used now. That some Shires had removed them due to the logistics of maintaining correct information. The fire hazard ratings are determined by DFES and communicated via its web site, radio messages and the like. Attached is a copy of the DFES fire danger ratings, it will be noted that they relate to what to expect if a fire starts.

Council's insurance broker, LGIS, advised that "if the Shire is installing the signage it is the Shire's responsibility to ensure that the information is correct. In the event that incorrect information has been provided and consequentially leads to personal injury, death or property damage of a member of the public the Shire may be deemed liable and the scheme would provide cover.

It is suggested that the signs may not provide a cost effective service. Residents who live on rural properties are perhaps the most at risk group and have, or should have, processes and plans in place to deal with fire emergencies,

including mechanisms to make them aware of prevailing conditions and any fires that may be in their area.

The sign boards appear to be designed to inform the travelling public which makes sense. But there are other mechanisms for DFES to discharge its reasonability to keep the community informed and any signage put out by a Council and not maintained, would provide mixed messages. Empirical evidence is that these signs are not maintained and so do provide incorrect evidence. As the officer of the Council who may be held liable, perhaps along with Council, for the results of incorrect information being provided, I am not keen on the possible personal liability unless there is a very clear and completing purpose for these signs. Having said this though, I am an officer of the Council and naturally will comply with whatever decision is reached.

MOVED: Cr Kaltenrieder

Shire of Boyup Brook, in consultation with local Fire Brigades to provide and install Fire Hazard indicator signs at Strategic entrance points to Shire.

Lapsed for want of a Seconder.

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

The Deputy Shire President noted the following late items to the meeting and, without dissent, agreed to deal with them.

11.1.1 Citizens Lodge – Health Department Lease

Location:	<i>Lots 347 and 367 Bridge Street Boyup Brook</i>
Applicant:	<i>Health Department of WA</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>12 October 2015</i>
Author:	<i>Alan Lamb</i>
Authorizing Officer:	<i>Chief Executive Officer</i>
Attachments:	<i>Copy of current lease and copy of draft deed of extension of lease</i>

SUMMARY

The purpose of this report is to put before Council the draft deed of extension of lease with the recommendation that Council agree to it.

BACKGROUND

The Citizens Lodge is owned by the Shire and operated by the Health Department under a lease agreement. The current lease term expired in 2011 and has operated on a month by month basis since.

The Department was keen on a new lease being drawn up and a number of discussions were held about changes that might be made. The Department was going to draw up the new draft.

There have been a number of staff changes at the Department and so a number of different people dealt with the matter over the time since the lease expired. It is apparent that the direction now is to secure an extension of the current lease for a term of 5 years with a lessee option of a 1 year extension.

COMMENT

Whilst the current lease document is now dated and was the matter of some discussions, it appears to be now acceptable to the Department. Re reading it now, it does appear to cover everything well. The only exception being the

listings of items owned by the Shire which may be worth reviewing at some time but this should not hold up the lease renewal process, and it can be done later.

It is recommended that Council agree to the draft deed of extension which extends the current lease for a 5 year term from 2015, and provides for a lessee option of an extension of a further 1 year at the end of the term.

CONSULTATION

The matter of a new lease has been discussed a number of times over the years.

STATUTORY OBLIGATIONS

Nil known

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Retaining the lodge in its current mode of operation is vital to the community.

SUSTAINABILITY IMPLICATIONS

- **Environmental**
There are no known significant environmental issues.
- **Economic**
If the Health Department were to cease the lease and cease operating the Lodge, the financial burden of doing so would fall to Council. Matters such as health, aged services and accommodation are not the responsibility of Local Government but this level of Government tends to jump in to meet service demand shortfalls where the other levels of Government fail to do so. It is fitting therefore to continue to provide the facility at a subsidised rental (yearly rental \$5.00 plus outgoings).
- **Social**
The Lodge is an important low care facility for the district and allows community members to remain in the community in their dotage.

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 11.1.1

MOVED: Cr Oversby

SECONDED: Cr Kaltenrieder

That Council:

1. **Agree to the draft deed of extension which extends the current lease for a 5 year term from 2015, and provides for a lessee option of an extension of a further 1 year at the end of the term.**
2. **Authorise the execution of a deed of extension that is not materially different from the draft presented to Council.**

Carried by Absolute Majority 7/0

Res 109/15

11.1.2 2015-2016 Plant Replacement Budget – Change in Purpose

<i>Location:</i>	<i>N/A</i>
<i>Applicant:</i>	
<i>File:</i>	
<i>Disclosure of Officer Interest:</i>	<i>None</i>
<i>Date:</i>	<i>15th October 2015</i>
<i>Author:</i>	<i>Rob Staniforth-Smith</i>
<i>Authorizing Officer:</i>	<i>Alan Lamb</i>
<i>Attachments:</i>	<i>Nil</i>

SUMMARY

This report recommends that Council approve the change in purpose and additional funds to purchase a 2nd hand back hoe in lieu of a new 3 tonne excavator.

BACKGROUND

Council approved in its 2015-2016 budget to spend \$50,000 dollars on a new 3 tonne mini excavator to commence clearing Councils blocked culverts drains throughout the Shire.

Further investigation has high-lighted that due to the number of culverts requiring work and the slow travel time of a mini excavator, Council would be better off with a back hoe. To move the mini excavator, it would need to be loaded up and down onto the back of a yet to be purchased up graded small truck (current 3 tonne truck would need to be upgraded to a 4 tonne truck to carry the mini excavator).

Council has become aware of a low hour 2nd hand machine being available, which subject to a mechanical inspection would be a good entry point into the market.

The 2006 machine has done 1124 hours and comes with an a/c cabin, quick hitch, 4 in 1 front bucket, 3 rear buckets and has side shift plus an extendable rear boom

The additional costs for this machine \$15,000, would be borne by the reduction in the cost of the new truck (approximately \$7000) and by the plant reserve.

COMMENT

It was highlighted in our recent "Road Asset Pickup" that our culverts are in a poor shape with regards to cleanliness. Generally this is due to a blocked drain at the outlet of the culvert, causing the water flow to slow down and drop any suspended solids in the culvert. Typically by clearing the outlet and ensuring a good flow away from the culvert, the pipes will clear themselves.

Council originally intended to purchase a new mini excavator, but further review has indicated that a back hoe would be better, both in speed of travel and length of reach. A new back hoe similar to the low hour machine identified would cost in the order of \$150,000 to \$160,000 plus GST which is beyond our current budget consideration.

As Councillors will appreciate used items of equipment, in good condition and at a reasonable price, are generally snapped up fairly quickly. The opportunity to purchase the used backhoe came up as part of enquiries about a mini excavator. It appears that a backhoe may be ideal for the drain work and would also offer much wider usage. The cost of a new machine is outside the budget provision. It is recommended that Council agree to the change is what is to be purchased and to allow the specific machine identified to be selected without the need for further quotations.

CONSULTATION

Alan Lamb

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Purchasing Policy F03.

Purchasing a 2nd hand machine for \$65,000 plus GST would be contravening our purchasing policy F03 below, as we have not got 3 written quotes.

POLICY NO.	F.03
POLICY SUBJECT	Purchasing Policy
ADOPTION DATE	15 March 2007

VARIATION DATE	
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OBJECTIVES

- To provide compliance with the Local Government Act, 1995 and the Local Government Act (Functions and General) Regulations, 1996 (as amended in March 2007).
- To deliver a best practice approach and procedures to internal purchasing for the Shire of Boyup Brook (The Shire)
- To ensure consistency for all purchasing activities that integrates within all the Shire's operational areas.

WHY DO WE NEED A PURCHASING POLICY?

The Shire of Boyup Brook is committed to setting up efficient, effective, economical and sustainable procedures in all purchasing activities. This policy:

- Provides the Shire with a more effective way of purchasing goods and services.
- Ensures that purchasing transactions are carried out in a fair and equitable manner.
- Strengthens integrity and confidence in the purchasing system.
- Ensures that the Shire receives value for money in its purchasing.
- Ensures that the Shire considers the environmental impact of the procurement process across the life cycle of goods and services.
- Ensures the Shire is compliant with all regulatory obligations.
- Promotes effective governance and definition of roles and responsibilities.
- Uphold respect from the public and industry for the Shire's purchasing practices that withstands probity.

ETHICS & INTEGRITY

All officers and employees of the Shire of Boyup Brook shall observe the highest standards of ethics and integrity in undertaking purchasing activity and act in an honest and professional manner that supports the standing of the Shire.

The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing process to ensure the fair and equitable treatment of all parties:

- full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money;
- all purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with the Shire policies and code of conduct;
- purchasing is to be undertaken on a competitive basis in which all potential suppliers are treated impartially, honestly and consistently;

- all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies and audit requirements;
- any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and
- any information provided to the Shire by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation.

VALUE FOR MONEY

Value for money is an overarching principle governing purchasing that allows the best possible outcome to be achieved for the Shire. It is important to note that compliance with the specification is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, sustainability, life cycle costing, and service benchmarks.

An assessment of the best value for money outcome for any purchasing should consider:

- all relevant whole-of-life costs and benefits whole of life cycle costs (for goods) and whole of contract life costs (for services) including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal.
- the technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality;
- financial viability and capacity to supply without risk of default. (Competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history);
- a strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable.
- The Shire of Boyup Brook Local Purchases and Sale of Goods and Services Policy (Copy attached as Addendum 1)

Where a higher priced conforming offer is recommended, there should be clear and demonstrable benefits over and above the lowest total priced, conforming offer.

SUSTAINABLE PROCUREMENT

Sustainable Procurement is defined as the procurement of goods and services that have less environmental and social impacts than competing products and services.

The Shire is committed to sustainable procurement and where appropriate shall endeavour to design quotations and tenders to provide an advantage to goods, services and/or processes that minimise environmental and negative social impacts. Sustainable considerations must be balanced against value for money outcomes in accordance with the Shire's sustainability objectives.

Practically, sustainable procurement means the Shire shall endeavour at all times to identify and procure products and services that:

- Have been determined as necessary;
- Demonstrate environmental best practice in energy efficiency / and or consumption which can be demonstrated through suitable rating systems and eco-labelling.
- Demonstrate environmental best practice in water efficiency.
- Are environmentally sound in manufacture, use, and disposal with a specific preference for products made using the minimum amount of raw materials from a sustainable resource, that are free of toxic or polluting materials and that consume minimal energy during the production stage;
- Products that can be refurbished, reused, recycled or reclaimed shall be given priority, and those that are designed for ease of recycling, re-manufacture or otherwise to minimise waste.
- For motor vehicles – the most suitable vehicle for the proposed use having regards for fuel efficiency, vehicle type and within the designated price range;
- For new buildings and refurbishments – where available use renewable energy and technologies and their suitability on each occasion.

PURCHASING THRESHOLDS

Where the value of procurement (excluding GST) for the value of the contract over the full contract period (including options to extend) is, or is expected to be:-

Amount of Purchase	Model Policy
Up to \$5,000	Quotations not required.
\$5,001 - \$39,999	Obtain at least two written quotations.
\$40,000 - \$99,999	Obtain at least three written quotations containing price and specification of goods and services (with procurement decision based on all value for money considerations).
\$100,000 and above	Conduct a public tender process.

* Note: The “contract period” means “a one off purchase” or “a pre-defined period”

Where it is considered beneficial, tenders may be called in lieu of seeking quotations for purchases under the \$100,000 threshold (excluding GST). If a decision is made to seek public tenders for Contracts of less than \$100,000, a Request for Tender process that entails all the procedures for tendering outlined in this policy must be followed in full.

1.6.1 Up to \$5,000

Where the value of procurement of goods or services does not exceed \$5,000, quotations will not be required. However it is recommended to use professional discretion and occasionally undertake market testing with a greater number or more formal forms of quotation to ensure best value is maintained.

This purchasing method is suitable where the purchase is relatively small and low risk.

1.6.2 \$5,001 to \$39,999

This category is for the procurement of goods or services where the value of such procurement ranges between \$5,001 and \$39,999.

At least two written quotations are required. Where this is not practical, e.g. due to limited suppliers, it must be noted through records relating to the process.

The general principles for obtaining written quotations are:

- An appropriately detailed specification should communicate the requirement(s) in a clear, concise and logical fashion.
- The request for written quotation should include as a minimum:
 - Written Specification
 - Selection Criteria to be applied
 - Price Schedule
 - Conditions of responding
 - Validity period of offer
- Invitations to quote should be issued simultaneously to ensure that all parties receive an equal opportunity to respond.
- Offer to all prospective suppliers at the same time any new information that is likely to change the requirements.
- Responses should be assessed for compliance, then against the selection criteria, and then value for money and all evaluations documented.
- Respondents should be advised in writing as soon as possible after the final determination is made and approved.

The responsible officer is expected to demonstrate due diligence seeking quotes and to comply with any record keeping and audit requirements.

Record keeping requirements must be maintained in accordance with record keeping policies.

1.6.3 \$40,000 to \$99,999

For the procurement of goods or services where the value exceeds \$40,000 but is less than \$99,999, it is required to obtain at least three written quotations containing price and a sufficient amount of information relating to the specification of goods and services being purchased.

The Local Government Purchasing and Tender Guide has a series of forms including a Request for Quotation Template which can assist with recording details. Record

keeping requirements must be maintained in accordance with record keeping policies.

For this procurement range, the selection should not be based on price alone, and it is strongly recommended to consider some of the qualitative factors such as quality, stock availability, accreditation, time for completion or delivery, warranty conditions, technology, maintenance requirements, organisation's capability, previous relevant experience and any other relevant factors as part of the assessment of the quote.

BUDGET/FINANCIAL IMPLICATIONS

Worse case scenario, over expenditure of 2015-2016 Plant Replacement by \$10,000

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 & OFFICER RECOMMENDATION – Item 11.1.2

MOVED: Cr Moir

SECONDED: Cr Oversby

That Council endorses Council officers to put in an “offer” on the purchase of a low hour 2nd hand back hoe up to the value of \$65,000 plus GST in lieu of purchasing a new 3 tonne mini excavator.

Carried 7/0

Res 110/15

12 CONFIDENTIAL MATTERS – BEHIND CLOSED DOORS

13 CLOSURE OF MEETING

There being no further business the Shire President thanked all for attending and declared the meeting closed at 8.15pm.