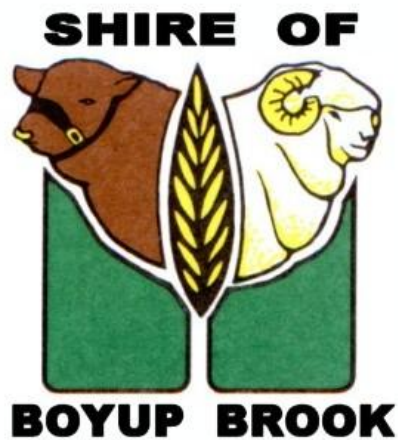


# MINUTES



ORDINARY MEETING

HELD

THURSDAY 16 DECEMBER 2010

COMMENCED AT 3.30PM

AT

SHIRE OF BOYUP BROOK CHAMBERS  
ABEL STREET – BOYUP BROOK

TABLE OF CONTENTS

<b>1</b>	<b>RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED .....</b>	<b>3</b>
1.1	Attendance .....	3
1.2	Apologies .....	3
1.3	Leave of Absence.....	3
<b>2</b>	<b>PUBLIC QUESTION TIME .....</b>	<b>3</b>
2.1	Response to Previous Public Questions Taken on Notice.....	3
2.2	Public Question Time .....	3
<b>3</b>	<b>APPLICATIONS FOR LEAVE OF ABSENCE.....</b>	<b>3</b>
<b>4</b>	<b>PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS.....</b>	<b>4</b>
<b>5</b>	<b>CONFIRMATION OF MINUTES.....</b>	<b>4</b>
<b>6</b>	<b>PRESIDENTIAL COMMUNICATIONS.....</b>	<b>4</b>
<b>7</b>	<b>REPORTS OF OFFICERS .....</b>	<b>5</b>
7.1	MANAGER WORKS & SERVICES.....	5
7.2	MANAGER – FINANCE.....	5
7.2.1	Accounts for Payment.....	5
7.2.2	November 2010 Monthly Statements of Financial Activity .....	6
7.3	CHIEF EXECUTIVE OFFICER.....	8
7.3.1	Lot 1 Boyup Brook (old Bowling Green bounded by Forrest, Connolly and Railway Parade) – proposed purchase of State’s interest .....	8
7.3.2	Proposed Amendments to the Local Government Act 1995 – WALGA’s request for comments.....	11
7.3.3	Warren Blackwood VROC proposal .....	15
7.3.4	Subdivision Application (WAPC Ref 14220) Parsons Swamp Road .....	22
7.3.5	Rezoning Request - Lot 734, Banks Road from ‘Rural’ zone to ‘Special Rural’ .....	24
7.3.6	Home Occupation .....	33
7.3.7	Council – Extraordinary Vacancy .....	35
<b>8.1</b>	<b>COMMITTEE REPORTS.....</b>	<b>39</b>
8.1.1	Minutes of the WA Local Government Association South West Zone.....	39
8.1.2	Youth Advisory Committee Minutes .....	40
8.1.3	Minutes of the Special Meeting held on 7 December 2010 .....	40
8.1.4	Minutes of the Blackwood River Marketing Association held on 9 December .....	41
8.1.5	Minutes of the Boyup Brook Shire Council Forward Planning Committee.....	42
<b>9</b>	<b>MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....</b>	<b>44</b>
9.1.1	Boyup Brook Golf Club Rates .....	44
<b>10</b>	<b>URGENT BUSINESS BY APPROVAL OF THE PRESIDENT OR A MAJORITY OF COUNCILLORS PRESENT .....</b>	<b>45</b>
<b>11</b>	<b>CONFIDENTIAL MATTERS – BEHIND CLOSED DOORS.....</b>	<b>46</b>
<b>12</b>	<b>CLOSURE OF MEETING .....</b>	<b>46</b>

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

**1.1 Attendance**

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

STAFF:                   Mr Alan Lamb (Chief Executive Officer)  
                              Mr Keith Jones (Manager of Finance)  
                              Mr John Eddy (Manager of Works & Services)  
                              Mr Geoffrey Lush (Planning Consultant) - departed 4.43pm

PUBLIC:

**1.2 Apologies**

Cr T Doust

**1.3 Leave of Absence**

Nil

**2 PUBLIC QUESTION TIME**

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

Nil

**2.2 Public Question Time**

Nil

**3 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

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

**Cr Biddle** - reported the Australia Day Awards have been determined and a winner in each of the three categories was identified. He stated that there was a good healthy response in the nominations from the community. He recently met with a group tentatively named "Growing Boyup Brook". The next meeting is scheduled for Tuesday 1 February 2011.

**Cr Giles** - attended the Regional Roads Group meeting in Bunbury recently. Boyup Brook did well out of T.I.R.E.S. funding securing \$210,000 which equated to one third of the total pool available.

**Cr Marshall** - reported that Rylington Park has a new manager and believes he will run the farm well. A derelict building on the property, which is believed to contain asbestos, may be an issue.

**5 CONFIRMATION OF MINUTES**

**5.1 Ordinary Meeting of Council Thursday 18 November 2010.**

**COUNCIL DECISION AND OFFICER RECOMMENDATION – ITEM 5.1**

**MOVED: Cr O’Hare**

**SECONDED: Cr Muncey**

**That the minutes of the Ordinary Meeting of Council held on Thursday 18 November 2010 be confirmed as an accurate record.**

**CARRIED 8/0**

**Res 283/10**

**5.2 Special Meeting of Council Tuesday 7 December 2010**

**COUNCIL DECISION AND OFFICER RECOMMENDATION – ITEM 5.2**

**MOVED: Cr Downing**

**SECONDED: Cr O’Hare**

**That the minutes of the Special Meeting of Council held on Tuesday 7 December 2010 be confirmed as an accurate record.**

**CARRIED 8/0**

**Res 284/10**

**6 PRESIDENTIAL COMMUNICATIONS**

Cr Ginnane met with the Regional Council Chairmen.

Cr Ginnane attended the Boyup Brook District Primary School and High School Graduation Ceremonies and made relevant presentations on behalf of the Council.

Cr Ginnane attended the Awards evening honouring local volunteers.

## 7 REPORTS OF OFFICERS

### 7.1 MANAGER WORKS & SERVICES

Nil

### 7.2 MANAGER – FINANCE

<b>7.2.1 Accounts for Payment</b>
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<b>Location:</b>	<i>Not applicable</i>
<b>Applicant:</b>	<i>Not applicable</i>
<b>File:</b>	<i>FM/1/002</i>
<b>Disclosure of Officer Interest:</b>	<i>None</i>
<b>Date:</b>	<i>9 December 2010</i>
<b>Author:</b>	<i>Keith Jones – Manager of Finance</i>
<b>Authorizing Officer:</b>	<i>Not applicable</i>
<b>Attachments:</b>	<i>Yes – List of Accounts Paid</i>

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#### **SUMMARY**

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

#### **BACKGROUND**

Invoices have been received during the month of November 2010.

#### **COMMENT**

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

#### **CONSULTATION**

Nil

#### **STATUTORY OBLIGATIONS**

Local Government (Financial Management) Regulations Act 1009, Regulation 12; and Regulations 13(3) (a) (b); 13(1); and 13(4).

#### **POLICY IMPLICATIONS**

Accounts are presented for consideration or where paid by direct debit pursuant to the Council's "Authorization to Make Payments" policy.

**BUDGET/FINANCIAL IMPLICATIONS**

Account payments are in accordance with the adopted budget for 2010/11 or authorized by separate resolution.

**STRATEGIC IMPLICATIONS**

Nil

**VOTING REQUIREMENTS**

Simple Majority

**COUNCIL DECISION AND OFFICER RECOMMENDATION – ITEM 7.2.1**

**MOVED: Cr Oversby**

**SECONDED: Cr Downing**

**That the payment of accounts for November 2010 as presented totalling \$262,333.87 and as represented by cheque voucher numbers 18296 – 18319 totalling \$54,812.18, and accounts paid by direct electronic payments through the Municipal Account totalling \$207,521.69 be endorsed.**

**CARRIED 8/0**

**Res 285/10**

**7.2.2 November 2010 Monthly Statements of Financial Activity**

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

**SUMMARY**

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

**BACKGROUND**

Section 6.4 of the Local Government Act 1995 places financial reporting obligations on local government operations.

Regulation 34 (1)–(4) of the Local Government (Financial Management) Regulations 1996 requires the local government to prepare a ‘Monthly Statement of Financial Activity’.

The regulations also prescribe the content of the report.

The reports are attached – see appendix 7.2.2

**COMMENT**

Nil

**CONSULTATION**

Nil

**STATUTORY OBLIGATIONS**

Local Government (Financial Management) Regulations 1996, s34 (1) (a)  
Local Government (Financial Management) Regulations 1996, s19 (1) (2) (a) (b)  
Local Government (Financial Management) Regulations 1996, s34 (2) (a) (b)

**POLICY IMPLICATIONS**

Nil

**BUDGET/FINANCIAL IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**VOTING REQUIREMENTS**

Simple Majority

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

**MOVED: Cr O’Hare**

**SECONDED: Cr Oversby**

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

**CARRIED 8/0**

**Res 286/10**

### **7.3 CHIEF EXECUTIVE OFFICER**

#### **7.3.1 Lot 1 Boyup Brook (old Bowling Green bounded by Forrest, Connolly and Railway Parade) – proposed purchase of State’s interest**

<b>Location:</b>	<i>Lot 1 old bowling green, Boyup Brook</i>
<b>Applicant:</b>	<i>N/A</i>
<b>File:</b>	
<b>Disclosure of Officer Interest:</b>	<i>Nil</i>
<b>Date:</b>	<i>9 December 2010</i>
<b>Author:</b>	<i>Alan Lamb – Chief Executive Officer</i>
<b>Authorizing Officer:</b>	<i>Alan Lamb – Chief Executive Officer</i>
<b>Attachments:</b>	<i>Copy of State Land Services letter</i>

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#### **SUMMARY**

The purpose of this report is to put before Council the opportunity to purchase the State’s interest in Lot 1 with the recommendation that the interest be purchased.

#### **BACKGROUND**

In 1950 the Upper Blackwood Roads Board (this organisation later became the Boyup Brook Shire Council) held a number of lots (bounded by Forrest, Connolly and Railway Parade) in fee simple.

In 1967 the lots were surrendered to the State and amalgamated with adjoining Crown Land.

In 1969 a Crown Grant was issued to the Shire with respect to the new lot created in 1967.

In 2007 a portion of the lot was excised to facilitate a realignment of Connolly Street and the Lot was then redescribed as Lot 1 on Deposited Plan 37264 (its current description).

The Crown Grant noted that the land was “to be used and held solely in trust for Public Recreation”. Enquiries made to State Land Services reveal the position to be that the Shire has a 96% interest in the property and the State holds a 4% interest which facilitates the Trust Condition (i.e. restriction on usage). State Land Services is prepared to recommend to the Minister that the Trust Conditions be removed subject to Council agreeing to purchase the State’s 4% interest and pay for relevant fees. They have valued the Lot at \$100,000 and so the sale price would be \$4,000 plus GST.

Lot 1 has been used as a bowling green for a number of years and leased by the Boyup Brook Club for this purpose. With the upgrade done to the Club’s green on its land in Railway Parade the Club relinquished the lease. The green has been maintained and used by the Boyup Brook Croquet Club on an informal and interim basis whilst major works are being done to its green.



### **COMMENT**

It is noted that the current Grown Grant Trust Conditions restrict what the Lot could be used for and 100% ownership, without the conditions, would provide Council with more options. It is suggested that public recreation is not a good use of freehold land and that Reserve land is more appropriate for this type of use (i.e. freehold land usage is less restricted and can be leased or sold at the will of the owner to create income. Reserves are restricted in their usage, the management orders can be withdrawn, the managing authority can't sell the land and leasing is restricted).

Whilst the "sale price" of the State's interest (\$4,000 plus GST plus fees) has not been budgeted for in the current financial year it is suggested that deferring the purchase may result in it costing more at a future date in that land values tend to increase over time. Also having full ownership would enable Council pursue a variety of options for its use that may provide a social and financial benefit to the community (a small retirement village development is one such potential use that Council may wish to explore). Ownership of the land would facilitate grant options in that Council could show a significant contribution toward a project (i.e. the land valued at \$100,000).

It is recommended that Council resolve to purchase the Lot.

### **CONSULTATION**

The author has included this matter in a briefing session to Council, has communicated with State Land Services, and spoken with Council staff members.

### **STATUTORY ENVIRONMENT**

Nil

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

No provision has been made in the current budget for the proposed purchase of Lot1. Cost estimates are;

- \$4000 plus GST for the purchase - \$4,400
- fees (est. - lodgement \$135, document preparation \$104, other including stamp duty \$300) say \$600.

A total estimated cost of \$5,000. No savings or addition income has been identified to offset this cost and the options are:

- defer the purchase till 2011/12 and budget for it
- make the purchase now and leave the additional cost to be reflected in a reduced surplus or increased deficit at the end of the year (a surplus is generally achieved)
- make the purchase now and use a portion of the Commercial Reserve fund to meet the cost

On balance, it is probably wiser to opt for dot point three if the land is to be purchased now because this will provide authority for Administration to transfer \$5,000 from the Reserve if need be. In practice, authorised transfers from reserves are made toward the end of the financial year and this would give Council the opportunity to review the transfer (i.e. it may not be needed) at a later date.

Note, in speaking with State Land Services the intention would be to keep the fees as low as possible and so legal services conveyancing agents etc would not be used.

**STRATEGIC IMPLICATIONS**

It is suggested that the proposed purchase of the State's interest in the lot aligns with the Mission:

*To enhance sustainable growth, economic vitality and diversity.*

Full ownership of the lot would enable Council to put the land to a use that meets this mission.

**VOTING REQUIREMENTS**

Absolute Majority

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

**MOVED: Cr Oversby**

**SECONDED: Cr Biddle**

**That Council:**

- 1. Amend the 2010/11 Budget to provide for a \$5,000 transfer from the Commercial Reserve Fund and for the purchase of the State Government's interest in Lot 1 on Deposited Plan 31264 Boyup Brook for the same amount.**
- 2. Seek to purchase the State Government's 4% interest in Lot 1 on Deposited Plan 31264 Boyup Brook.**

**CARRIED BY ABSOLUTE MAJORITY 8/0**

**Res 287/10**

**7.3.2 Proposed Amendments to the Local Government Act 1995 – WALGA’s request for comments**

<b>Location:</b>	N/A
<b>Applicant:</b>	N/A
<b>File:</b>	GR/31/002
<b>Disclosure of Officer Interest:</b>	<i>The author has an interest in that he is an employee of the Council and some of the proposed amendments to the Local Government Act that WALGA seeks comment on may have an impact on his future remuneration.</i>
<b>Date:</b>	9 December 2010
<b>Author:</b>	Alan Lamb – Chief Executive Officer
<b>Authorizing Officer:</b>	Alan Lamb – Chief Executive Officer
<b>Attachments:</b>	Email and explanatory notes from WALGA

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**SUMMARY**

The purpose of this report is to put before Council the Western Australian Local Government Association’s (WALGA) request for feedback on proposed amendments to the Local Government Act with a recommendation that Council provide the feedback sought.

**BACKGROUND**

Attached is a copy of WALGA’s explanatory notes which provide detail on the proposed amendments and WALGA’s position in relation to them.

**COMMENT**

The following format is taken from WALGA’s feedback form

**1. Reducing the number of Elected Members to between six and nine**

Comment – As pointed out by WALGA, such a restriction would have a significant impact on large Councils and result in Councillors having to become fulltime Councillors. Also the one size fits all approach is flawed in that each Local Government is different and has changing needs and circumstances over time and it should be up to the Council of the day to determine the number of members appropriate to adequately represent their community. Section 2.17 of the Act sets the parameters of no less than 6 members and no more than 15. There has been no argument put forward other than that fewer numbers of positions on Councils would create greater competition for each. It is suggested that with fewer numbers the work load would increase and this may deter some residents from nominating for Council. WALGA’s point that the sector should be given reasoned argument for the change is valid.

Recommendation - that Council supports WALGA's State Council's resolution of 12 October 2010 as follows:

**"That WALGA;**

**c. Oppose the Local Government Reform Steering Committee Report recommendation 8 concerning prescribing the number of Elected members to between 6 and 9"**

**2. Salaries and Allowances Tribunal to set the fees for Elected Members and salaries for CEOs**

Comment – fees for Elected Members are set by Local Governments within a range prescribed by the Act. Similarly, CEO salaries are determined by the employing Local Government with reference to a range set annually by the Salaries and Administrative Tribunal (SAT). WALGA's position was that the Tribunal should set ranges for Councillors in a similar manner to the ranges it sets for CEO's and that the Councils then determine the appropriate fee within that range. The proposed change would erode the Local Government's autonomy.

Recommendation – that Council supports the position that SAT sets a range for Councillors fees and CEO remuneration and that the individual Local Governments retain the power to determine the fees and remuneration within these ranges.

**3. New mechanism for the temporary suspension of Council**

Comment – It is noted that the current Inquiry Panel process and the Authorised Inquiry process as required by the Act are expensive and protracted as pointed out by the Department for Local Government (DLG) but perhaps the action of dismissing a Council is of sufficient importance to warrant this. WALGA's position in 2008 supported a mechanism to suspend individual Councillors rather than the entire Council

Recommendation – That Council supports a mechanism to suspend individual Councillors rather than the entire Council.

**4. Require Elected Members to resign when elected to State or Commonwealth Parliament**

Comment – It is noted that WALGA supported this proposed amendment. Essentially the change would be that the Councillor elected to Parliament would have to resign upon election rather than at next ordinary Election Day. The proposed change could result in the need for extraordinary elections being held outside of the normal election cycle and so resulting in more costs for the Council. The incidence of this sort of situation is not great and so the impact would not be great.

Recommendation – that Council supports the proposed change

**5. Restricting the types of local government investments to low risk products such as those with the WA Treasury Corporation, major banks and government bonds**

Comment – as the WALGA comment notes, the 1995 Act featured general competency powers for Local Governments (the 1960 Act was very prescriptive) and the proposed amendment erodes this. It is true that some Council's have sought the high interest income provided by higher risk investments and perhaps

this is unwise when dealing with public funds but the actions of 8 Local Governments and 2 regional Local Governments, who lost money in 2007, perhaps should not adversely impact on the majority who have acted prudently and did not need further restrictions on their self determination. It is noted that Local Governments are being pushed to derive income from areas other than rates and perhaps if other limitations placed on them by legislation were to be eased (as recommended in the SSS Report) the propensity to seek high interest income (which always equates to high risk) would be lower.

Recommendation – That Council not support the proposed amendment.

**6. Align criminal conviction criteria for Elected Members with that of WA Members of Parliament**

Comment – it is noted that the proposal is consistent with WALGA's policy position.

Recommendation – that Council support the proposed amendment.

**7. To limit employee termination payments to one year's salary**

Comment – it is not appropriate for the author to comment on this especially as WALGA has no position on the matter that could otherwise be referred to

Recommendation – it is not appropriate for the author to make a recommendation.

**CONSULTATION**

Nil

**STATUTORY OBLIGATIONS**

The various sections of the Local Government Act referred to in the Notes have relevance.

**POLICY IMPLICATIONS**

Nil

**BUDGET/FINANCIAL IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**VOTING REQUIREMENTS**

Simple majority

**COUNCIL DECISION AND OFFICER RECOMMENDATION – ITEM 7.3.2**

**MOVED: Cr Giles**

**SECONDED: Cr Biddle**

**That Council provide feedback to the Western Australian Local Government Association's request for feedback on proposed amendments to the Local Government Act 1995 as follows:**

1. Reducing the number of Elected Members to be between six and nine

The Boyup Brook Shire Council does not support the proposed amendment and considers that the current provisions are adequate and allow Local Governments to determine the number of positions on Council appropriate for their communities.

2. Salaries and Allowances Tribunal to set the fees for Elected Members and salaries for CEOs

The Boyup Brook Shire Council does not support the proposed amendment but does support the position that SAT sets a range for Councillors fees and CEO remuneration and that the individual Local Governments retain the power to determine the fees and remuneration within these ranges.

3. New mechanism for the temporary suspension of Council

The Boyup Brook Shire Council does not support the proposed amendment but does support a mechanism to suspend individual Councillors rather than the entire Council.

4. Require Elected Members to resign when elected to State or Commonwealth Parliament

The Boyup Brook Shire Council supports the proposed amendment

5. Restricting the types of local government investments to low risk products such as those with the WA Treasury Corporation, major banks and government bonds

The Boyup Brook Shire Council does not support the proposed amendment because it impacts on the general competency powers of Local Governments

6. Align criminal conviction criteria for Elected Members with that of WA Members of Parliament

The Boyup Brook Shire Council supports the proposed amendment

7. To limit employee termination payments to one year's salary

The Boyup Brook Shire Council support the proposed amendment

**CARRIED 8/0**

**Res 288/10**

**COUNCIL MOVED INTO COMMITTEE**

**MOVED: Cr Giles**

**SECONDED: Cr Oversby**

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

**CARRIED 8/0**

**Res 289/10**

**COUNCIL MOVED OUT OF COMMITTEE**

**MOVED: Cr Giles**

**SECONDED: Cr Oversby**

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

**CARRIED 8/0**

**Res 290/10**

**7.3.3 Warren Blackwood VROC proposal**

<b>Location:</b>	N/A
<b>Applicant:</b>	N/A
<b>File:</b>	
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	9 December 2010
<b>Author:</b>	Alan Lamb – Chief Executive Officer
<b>Authorizing Officer:</b>	Alan Lamb – Chief Executive Officer
<b>Attachments:</b>	A copy of spreadsheet summarising Councillors initial thoughts on a range of options.

**SUMMARY**

The purpose of this report is to put before Council a range of questions posed by the Warren Blackwood Shire Councils to assist in the determination process of forming a Voluntary Regional Organization of Councils (VROC) with the recommendation that Council support the notion of grouping with the Shires for the purposes of dealing with the Regional Portion of the Country Local Government Fund grant only at this time.

**BACKGROUND**

At its October 2010 Council resolved as follows:

***That Council:***

- 1. express an interest in participating in the proposed VROC consisting of the Shires of Boyup Brook, Bridgetown/Greenbushes, Denmark, Manjimup and Nannup.***
- 2. that the President be empowered to progress this with the group and report back to the December Council meeting with the details of how it might work, what it might do and with a recommendation on whether or not Council should commit to it.***

This resolution was prompted by a meeting with the relevant Shires representatives in Perth during the WALGA Conference and a follow-up meeting held in Manjimup where as a group the Shire representatives look at the projects being put forward for funding from the regional portion of the CLGF and set the following timeline for looking at a VROC:

- 31 October 2010 - Expression of interest in participating
- 31 December 2010 – Agreement to form a VROC and terms of agreement decided
- 31 December 2010 – Nominations by each Council of projects of regional significance for the next five years. Lead times to be included
- 31 March 2011 – Agreement on the five year project plan and priorities therein.

Representatives were invited to a meeting held in Manjimup on 9 November to deal with the first step as set out above (i.e. the expression of interest in participating in a VROC). Denmark had already written to all parties explaining that they were no longer interested in joining the group because they had entered into an arrangement with Albany for the CLGF.

The meeting was chaired by the Nannup President because she was the Presiding officer for the Strategic Alliance. It quickly became apparent that there had been some changes since Boyup Brook last met with the group and whilst the main thrust had been the regional portion of the CLGF and regional projects this could be applied to, and whilst the timeline set out above shows that this was the intent, delegates noted that there was an expectation that the VROC would do things other than deal with the CLGF and in fact these other things (that were yet to be decided on) were the main reason for forming a VROC.

At the end it was decided that a matrix be drawn up so that each Shire could look at and decide what it might want the grouping of Councils to do. A copy of a questionnaire (that was drawn up for the group) was given to all Boyup Brook Shire Councillors and a summary of the results of this was sent out to all Councillors and is attached.

**COMMENT**

It is noted that Councillors had little time to think about their initial responses to the questionnaire and so it is expected that there will be some changing views based on the summary sheet attached and the opportunity to think more about the matter.

The following recommendation is based on the summary of responses as attached. It is recommended that Council go through each of the questions at the meeting as some may become redundant or otherwise influenced by preceding questions.

**Potential formation of a VROC - Questionnaire**

Tick 

- Preferred structure:

	1. VROC with formal agreement;
	2. ROC with formal agreement;
x	3. No formal entity, just an informal agreement between respective parties;
	4. Other (Please specify).

Comments: simple structure perhaps a Memorandum of Understanding as the supporting document

- Do you see this group as a precursor to amalgamation?

	1. Yes;
x	2. No;
	3. Other (Please specify).



Comments:

- Do you see as the purpose or objective of the group including any or all of the following:

x	1. Determination of R4R regional funding projects;
	2. Advocacy to State or Federal Government on common regional issues;
	3. Rationalising processes / forms / laws of the participating LG's;
	4. Resource sharing;
	5. Other (Please specify).
	6. Restricted to LGA's

Comments:

- What is the desired membership / representation on the group:

x	1. Two nominees from each participating LG;
	2. Other (Please specify).

Comments:

- How should the group be chaired?

	1. Rotation basis chaired by the LG hosting the meeting;
x	2. Elected by the membership on an annual basis;
	3. Other (Please specify).

Comments:

- How should the deputy chair be elected?

x	1. As above;
	2. Other method (Please specify).

Comments:

- Should the group have an executive officer?

	1. Yes;
x	2. No.

Comments:

- What functions should an executive officer undertake if appointed?

x	1. Minutes and agenda;
	2. Grant (R4R) applications / acquittals;
x	3. Financial records;
	4. Media releases;
	5. Other (Please specify).

Comments:

- Who could undertake the executive officer function?

	1. Contract out;
	2. LG elected to provide in kind;
	3. LG elected to provide in cash;
x	4. Undertaken by each LG on a rotation basis at no cost;
	5. Other (Please specify).

Comments:

- How should financial contribution towards costs of the group be determined?

x	1. Equally by member LG's;
	2. Proportionally by LG's population;
	3. Proportionally by LG's operating income;
	4. Other (Please specify)

Comments:

- How often should the group meet?

x	1. Quarterly;
	2. Annually;
	3. Other (Please specify).

Comments:

- How should decisions of the group be reached?

	1. Consensus;
	2. By simple majority;
x	3. By absolute majority;
	4. Unanimous;
	5. Other (Please specify).

Comments:

- How should decision of the group be communicated to government / broader community?

	1. By media release / letter authorised by the Chair;
	2. By media release / letter signed by all LG Presidents;
X	3. Other (Please specify).

Comments: If the body has no power then perhaps there is no need for it to communicate with any entity other than the constituent Councils

- Should there be a required period of commitment to the group?

	1. Yes – 1 year
x	2. Yes – 2-3 years
	3. Yes – 4-4 years
	4. No.

Comments:

- Mechanism to opt out / introduce new members

	1. Decision by member LG wishing to opt out / in;
	2. Simple majority by member LG's;
	3. Absolute majority by member LG's;
x	4. Other (Please specify).

Comments: Opting out should be at the relevant Council's choice and joining should be by an absolute majority of the constituent Shire Councils

- Ownership of assets created (such as names, web sites etc) by the group?

x

1. In joint names of participating LG's;
2. By one LG as nominee for the group;
3. Other (Please specify).

Comments:

**CONSULTATION**

There has been significant consultation between the relevant Councils and within this Council.

**STATUTORY OBLIGATIONS**

The proposed VROC is not covered by the Local Government Act

**POLICY IMPLICATIONS**

Nil

**BUDGET/FINANCIAL IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

The Plan provides for a regional approach as follows:

DETAILS OF ACTIONS REQUIRED	TIME REQ'D	TARGET DATE	EST'D COST	RESP'BL PERSON
<b>PART A = Present &amp; Ongoing PRIORITY = High</b>				
<i>Action:</i>  <i>Reason:</i>  <i>Expected Outcome:</i>	<p style="text-align: center;"><b>Investigate regional delivery of services run by and for the Shire</b></p> <p>Identification of services, present efficiencies and possible improvements Possible greater efficiencies</p>	Ongoing	Dec 2008	Officer time  CEO

2 0 8	<p><i>Action:</i></p> <p><i>Reason:</i></p> <p><i>Expected Outcome:</i></p>	<p><b>Investigation into the development of a regional council</b></p> <p>Amalgamation is on the state governments programme</p> <p>Specific and workable data</p>	Ongoing	June 2010	To be estimated	WBSA (Council)
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**VOTING REQUIREMENTS**

Simple majority

**OFFICER RECOMMENDATION – ITEM 7.3.3**

1. Council support the notion of grouping with the Warren Blackwood Shires for the purposes of dealing with the Regional Portion of the Country Local Government Fund grant only at this time.
2. That Council indicate its responses to the questionnaire and the Chief Executive Officer forward this to the Shire of Manjimup as requested.

**COUNCIL DECISION – ITEM 7.3.3**

**MOVED: Cr Giles**

**SECONDED: Cr Muncey**

1. Council support the notion of grouping with the Warren Blackwood Shires for the purposes of dealing with the Regional Portion of the Country Local Government Fund grant only at this time.
2. That Council indicate its responses to the questionnaire and the Chief Executive Officer forward this to the Shire of Manjimup as requested.
3. That Council identify the following potential regional projects
  - a. Industrial sites
  - b. Aged needs
  - c. Sport Facilities
  - d. Waste Management

**CARRIED 8/0**

**Res 291/10**

**Proximity Interest**

Cr Marshall declared a proximity interest in the following item and departed the Chambers, the time being 4.09pm.

### 7.3.4 Subdivision Application (WAPC Ref 14220) Parsons Swamp Road

<b>Location:</b>	<i>Lots 1831, 1832, 1833, 2132, 2251 Parsons Swamp Road Mayanup</i>
<b>Applicant:</b>	<i>Thompson Surveying</i>
<b>File:</b>	<i>AS9030</i>
<b>Disclosure of Officer Interest:</b>	
<b>Date:</b>	<i>8<sup>th</sup> November 2010</i>
<b>Author:</b>	<i>Geoffrey Lush (Council Consultant)</i>
<b>Authorizing Officer:</b>	<i>A Lamb</i>
<b>Attachments:</b>	<i>1 Location Plan 2 Existing lots 3 Subdivision Plan</i>

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#### **SUMMARY**

This report is to consider a referral of a subdivision application from the Western Australian Planning Commission. The subject land comprises of Lots 1831, 1832, 1833, 2132, 2251 Parsons Swamp Road Mayanup. The land is owned by E & L Fortune.

The application is for a re-subdivision of the land into two lots having areas of 245 and 270 hectares. No additional lots will be created.

The application is supported as it complies with the provisions of the Town Planning Scheme and Rural Strategy.

#### **BACKGROUND**

The subject land is located approximately 11 kms south east of Boyup Brook. It is situated between Parsons Swamp Road and Six Mile Road as shown in Attachment 1.

The site is located on the eastern side of the golf course.

The subject land has an area of 515 hectares comprising of:

- Lot 1831 – 64 hectares;
- Lot 1832 – 101 hectares;
- Lot 1833 – 141 hectares;
- Lot 2132 – 38 hectares; and
- Lot 2251 – 171 hectares

The existing lots are shown in Attachment 2.

Lots 1831, and 2132 are land locked with no road frontage. Lot 2251 has a small 15m frontage to Six Mile Road. Lot 1832 fronts Ritson Road on the eastern side.

There are two existing dwellings on the site and these are both located on Lot 1833 with access from Parsons Swamp Road.

The application is to re-subdivide the property into two lots having areas of 245 and 270 hectares as shown in Attachment 3.

**CONSULTATION**

None

**STATUTORY OBLIGATIONS**

Town Planning Scheme

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

Clause 5.1 of the Scheme sets out the matters to be considered for a subdivision in the Rural zone.

Local Rural Strategy

Within the draft Local Rural Strategy the subject land is situated in the BBR3 Eastern Policy Area.

Recommendations 8 and 13 apply to boundary realignments.

**COMMENT**

The proposal complies with the provisions of the Town Planning Scheme and Rural Strategy.

As the revised lots will have areas in excess of 80 hectares there is no objection to the application.

As no additional lots will be created there is no requirement for any road upgrading.

**POLICY IMPLICATIONS**

None

**BUDGET/FINANCIAL IMPLICATIONS**

None

**STRATEGIC IMPLICATIONS**

None

**VOTING REQUIREMENTS**

Simple Majority

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

**MOVED: Cr Oversby**

**SECONDED: Cr Giles**

**That Council advise the Western Australian Planning Commission that supports the proposed re-subdivision of Lots 1831, 1832, 1833, 2132, 2251 Parsons Swamp Road Mayanup.**

**CARRIED 7/0**

**Res 292/10**

4.10pm – Cr Marshall returned to the Chambers.

**7.3.5 Rezoning Request - Lot 734, Banks Road from 'Rural' zone to 'Special Rural'**

<b>Location:</b>	<i>Lot 734 Banks Road</i>
<b>Applicant:</b>	<i>Harley Global</i>
<b>File:</b>	
<b>Disclosure of Officer Interest:</b>	
<b>Date:</b>	<i>7<sup>th</sup> December</i>
<b>Author:</b>	<i>Geoffrey Lush (Council Consultant)</i>
<b>Authorizing Officer:</b>	<i>A Lamb – Chief Executive Officer</i>
<b>Attachments:</b>	<i>1 Proposed Subdivision Guide Plan 2 Proposed Special Conditions</i>

---

**SUMMARY**

This report is presented to consider a request to rezone 734 Banks Road from 'Rural' zone to 'Special Rural' and to include special provisions into Schedule 3 'Special Rural' zones.

The subject land is owned by AJR Doust.

The subject land is within the Special Rural Policy area and hence the amendment request is supported subject the issues outlined below.

**BACKGROUND**

This item was withdrawn from the October agenda and since then there has been further discussion with the applicant resulting in a revised proposal being lodged.

The subject land is lot 734 DP 100791 (Vol 1728 Fol 869) and it has an area of 64.75 hectares. Part of the site is leased to WA Chip & Pulp Co Pty Ltd.

The subject site is located approximately 1.8 kilometres from town.

The draft Subdivision Guide Plan is contained in Attachment 1. The aerial photograph has been removed from this to allow copying.



It is proposed to create sixteen (16) special rural lots. These range in size from 2.1 ha to 5.6 ha. Four of the lots are approximately 2ha in size, with two 3ha lots, five 4ha lots and five 5ha lots.

Access to the lots will be from a single internal subdivision road *being "20m wide road reserve with 6m wide two coat bitumen seal."*

The draft special provisions which are proposed to be included in Schedule 3 'Special Rural' are included in Attachment 2.

The subject land is undulating, and sloping towards the southern and north western parts of the site and is dissected by a natural watercourse and wet areas. The site is predominantly used for agricultural or rural pursuits including sheep grazing, bluegum plantations and olive production.

### **CONSULTATION**

Applicant

### **STATUTORY OBLIGATIONS**

#### Town Planning Scheme

The subject land is included with a "Special Rural Policy Area" as depicted on the Scheme Maps. The purpose of this Policy Area is to identify the intended future development of the land within the area.

The provisions for the Policy area are contained in Clause 3.2.2. The statement for the Special Rural Policy area is:

*Whereas this area has been partly developed as a 'Special Rural' area and whereas a plantation has been established on Nelson Location 734 Banks Road and whereas further 'Special Rural' development could take place within this area, the following planning policy shall apply:*

- (i) Special Rural development shall be the predominant use in the area and shall be in accordance with those provisions laid down in Clause 5.3.*
- (ii) Council shall not generally support proposals for the rezoning of land outside the policy area to the 'Special Rural' zone. suitability and capability for further development.*

Clause 5.3 of the Scheme contains the provisions for the Special Rural zone with the following objective.

*"The Special Rural Zone is intended primarily to accommodate rural residential retreats and hobby farms. Council's objective within the Special Rural zone shall be to permit the progressive rezoning and subdivision of land included within the Special Rural Policy Area (as defined on the Scheme Maps) subject to such proposals being consistent with Council's overall planning requirements and planning objectives. All development in the Special Rural Zone shall be conducted in a manner that preserves local amenity and the natural landscape or rural character of the zone."*

Clause 5.3.1 requires that before making provision for a Special Rural Zone Council will prepare or require the owner(s) of the land to prepare a submission supporting the creation of the Special Rural Zone and such submission shall include:

- (i) Preparation of a structure plan demonstrating how the land is to be developed and that the subject proposal will not prejudice the future development of adjoining or surrounding land.
- (ii) The reasons for selecting the particular area of the proposed zone.
- (iii) A detailed land capability analysis of the site (to the satisfaction of the Department of Agriculture) demonstrating the land's suitability for rural residential development.
- (iv) A plan or plans showing contours at such intervals as to adequately depict the land form of the area and physical features such as existing buildings, rock outcrops, trees or groups of trees, lakes, rivers, creeks, swamps, orchards, wells and significant improvements.
- (v) Information regarding the method whereby it is proposed to provide a potable water supply and a secondary water supply to each lot.
- (vi) The proposed staging of the subdivision (where relevant).
- (vii) A schedule of permitted uses, development requirements and management provisions to be adopted by Council and incorporated into Schedule 3 of the Scheme Text.
- (viii) Any other matter Council considers to be relevant.

Clause 5.3.2 then sets out the matters for which the provisions of a Special Rural, as contained in Schedule 3) must address. Clauses 5.3.3 to 5.3.12 address general matters for the zone which are summarised as:

- Water supply of a minimum of 92,000L;
- Management of the land to protect vegetation;
- Removal of remnant vegetation requires Council approval;
- Minimum Building setbacks of 15m front and 10m for others;
- Application of Council's policy for relocated buildings and second materials;
- Protection of the visual appearance of the area;
- Buildings not to contain undesirable materials;
- Limitation of stocking rates; and
- Minimum fencing standard of 1.4m post and four strand wire.

#### Local Rural Strategy

Within the Rural Strategy the subject land is contained within Area 2 of Townsite and Surround Planning Precinct (BBR5).

The objective for this area is to encourage rural residential development. The Development Guidelines (Table 1 of the Strategy) recommends that:

- Development of the balance of the area for rural residential purposes.
- Consistent with the existing development.
- Minimum lot sizes of 2 hectares may be considered without a reticulated water supply.
- Proposals for rural pursuit and discretionary agricultural uses and animal keeping to address proposed water supply.

Recommendations 23 and 24 reinforce the need for detailed plans of the site addressing the same issues as Clause 5.3.1 of the Scheme.

## **COMMENT**

The surrounding land is already included in Special Rural Zones 5, 6 and 7.

The issues and comments outlined below have been prepared having regard to the Minister's requirements for Amendment 12 (south of the site) and also the Appeal in relation to the subdivision of Lot 1284 Banks Road to the west of the site.

### Lot Sizes and Design

Based upon an initial assessment, the proposed lot design appears appropriate. The only concern is with Lot B due to the proximity of the building envelope to the drainage line and to Banks Road. This will be further discussed under Building Envelopes.

The Amendment report states that it does not seek to set a minimum lot size for the future subdivision of the site. It uses the approval of the subdivision guide plan and any future modifications to this as the guiding mechanism.

There are several issues with this:-

- In the absence of a minimum lot size there is less certainty as to what may happen in the future.
- The 2ha minimum lot size is the standard demarcation for Special Rural lots based upon water supply. For example Special Rural Zone 6 is the only zone where lots smaller than 2 hectares may be permitted and it has a Special Condition stating that:

*"The minimum lot size that shall be recommended shall be 2 ha except where it is proposed to connect lots to a reticulated water supply in which case the minimum lot size that shall be recommended shall be 1ha."*

- Most of the Special Rural zones while potentially allowing for a revised subdivision guide plan then also provide that once the land has been subdivided then no further fragmentation can occur.
- It will be possible for individual lot owners to submit a revised subdivision guide plan. The Model Scheme Text provisions for structure plans provide for appeals against Council's refusal to approve a structure plan. In the review of the Scheme all subdivision guide plans will be treated as structure plans under these provisions.

The Special Conditions however stipulate a minimum lot size of 2 hectares.

The Rural Strategy also distinguishes between Special Rural lots and Rural Small Holdings. Rural Small Holdings is defined as lots greater than 4 hectares in size.

The Planning Commission's approval of the Rural Strategy took into consideration the potential to develop the remaining Special Rural areas into 2 hectare lots. This was on the basis of promoting the efficient use of land especially in proximity to the townsite.

Given the site characteristics the range and mixture of lots sizes is appropriate to the site. However a minimum lot size of 2 hectares should be included.

### Banks Road Upgrading

The draft subdivision guide plan notates that:-

*“Banks Road to be upgraded to a two coat bitumen seal to the satisfaction of the Shire of Boyup Brook.”*

The Amendment report further states that:

*“At the time of subdivision, the developer will contribute a fair and equitable amount to the upgrade of Banks Road to bitumen seal, given the amount of rural residential development (as proposed) to the west of the subject land.”*

There is no Special Condition relating to this and clearly the applicant is not accepting 100% liability for the road upgrading. The issue of road upgrading is addressed in Council Policy W.07 Road Contribution.

The Planning Commission has issued several Bulletins on the issue of development contributions, which includes road upgrading. Developer contributions are generally imposed through conditions on subdivision.

Commission Development Policy DC 1.7 Road Planning also states that:

*“Existing roads shall be required to be constructed or upgraded as a condition of subdivision, where the Commission and the road authority agree that the subdivision should not proceed unless the construction or upgrading occurs. In imposing this condition the Commission and the road authority should be satisfied that the existing roads are either substandard or inadequate to accommodate the additional traffic generated from the subdivision and associated development.”*

There is no clear policy which stipulates that Special Rural subdivision, or the roads leading to them must be sealed. Although this is generally accepted so as to ensure a reasonable standard of amenity as these subdivisions tend to demand urban type services.

As Banks Road will also service other Special Rural subdivisions and rural areas, it can be expected that the owners directly fronting the road would only be liable for 50% of any upgrading. This is reinforced by the fact that the land on the northern side of Banks Road is not within a Special Rural policy area.

**Council would then be liable for 50% of the cost of upgrading Banks Road.**

The subject land has an approximate frontage of 800m to Banks Road and the internal subdivision road will be located slightly less than halfway along the frontage.

So effectively the landowner's 50% contribution to the upgrading of the full frontage of the property is the equivalent to paying the total cost for upgrading the road for half the length of the frontage.

Banks Road is only sealed as far as Lee Steere Drive. If the applicant constructed Banks Road from his boundary to the proposed subdivision road, then there would be approximately 270m of road (adjacent to Lot 17) which is left unsealed.

Using the same principle as explained above, the proportionate liability for this section of Banks Road construction should have been resolved when the Lee Steere Dve subdivision occurred.

*Bridgetown Road Connection*

As a condition of Amendment 12 the Minister instructed that provision was to be made for a future road connection from Banks Road to the Bridgetown Road. It has been generally accepted that this should be located in the vicinity of the western boundary of the subject land.

The proposed subdivision guide plan shows a 10m wide road reserve along this boundary. The inference is that when the adjoining Lot 735 is subdivided that the complementary 10m would be provided.

The subdivision design does not require the use of this road to access any lots.

On this basis it is reasonable for the applicant to only provide the land component of the road reserve.

If the adjoining Lot 735 is subdivided then that development would be liable for the construction of the road if it is used to access their lots.

*Bush Fire Management*

The draft Amendment Report provides some preliminary information on bush fire issues and requires a fire management plan to be prepared as a condition of subdivision. This approach is consistent with Amendment 12.

The assessment of the fire hazard rating on the site is based upon the existing vegetation characteristics and not the proposed development.

The report states that the fire risk has been assessed in accordance with Planning for Bush Fire Protection Guidelines and that the majority is designated as having a low bush fire hazard as it contains pasture. This overlooks that the existing plantation which has a higher hazard risk than pasture.

However as the plantation is proposed to be removed then this should be referenced in the fire management section.

The fire management plan will also have to address water supply. Normally a static water supply must be provided within a subdivision for fire fighting and this can be either a tank or a dam. Other Councils have been requiring the water supply to be located in a dedicated reserve but this has not been required in the other nearby subdivisions.

It should be sufficient for the subdivision guide plan to note that the existing dam is to be made available for fire fighting.

*Building Envelopes*

Further information has been requested from the applicant regarding the proposed setbacks of the building envelopes.

The report states that:

- a) Each building envelope will have an area of approximately 2,000m<sup>2</sup>;
- b) These are able to be moved subject to the agreement of Council;
- c) They are generally to be setback 15m from Banks Road and 30m from all other boundaries; and

d) In some instances these setbacks cannot be achieved due to the lot constraints.

It is not clear which lots have reduced setbacks as not of the distances have been dimensioned.

The major constraints will be:-

- A 40m setback for fire management; and
- A 50m setback from the creek for effluent disposal.

Lots E and B are potentially affected by the setback from the creek. However the 50m setback which has been provided for is for the location of the effluent disposal system rather than the setback of the dwelling.

The building envelope on Lot B is also located in proximity to Banks Road which may create dust issues if the road is not sealed. This can also be addressed by the provision of a landscaping strip along the frontage of this lot.

#### Vegetation and Landscaping

The subdivision guide plan shows areas of remnant vegetation which are to be retained.

While the subdivision guide plan nominates that the plantation will be cleared there is no requirement for this to be done before the subdivision occurs. This should be included in the Special Conditions.

It is noted that the report nominates that the creek line will be revegetated but this is not shown on the subdivision guide plan.

#### **POLICY IMPLICATIONS**

These implications are addressed above.

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

Council's Budget sets Amendment fees of:

- \$3,000 for a minor amendment; and
- \$5,000 for a major amendment.

In accordance with the Planning and Development Regulations 2009, the fees are based upon an "estimate" of hourly charges in processing the Amendment and do not include the advertising costs.

There is no definition of major and minor and this generally relates to the complexity of the issues.

#### **STRATEGIC IMPLICATIONS**

None

#### **VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION – ITEM 7.3.5**

- 1 That Council resolve pursuant to Section 75 of the Planning and Development Act 2005, to amend Local Planning Scheme No 2 by rezoning Lot 734, Banks Road from ‘Rural’ zone to ‘Special Rural’.
- 2 That the amendment report be modified by are to take into consideration the issues raised in this report and specifically:-
  - a) The upgrading of Banks Road to clearly nominate the applicant’s and Council’s responsibilities;
  - b) Section 4.1 be modified to make it consistent with Special Condition 1(b) which refers to a minimum 2ha lot size;
  - c) Section 4.5 be modified to reference the fire hazard rating of the plantation while noting the intention to harvest this before subdivision;
  - d) Section 4.6 include a paragraph relating to the future road connection along the western boundary. This should describe the intended vesting and management of the land as well as the applicant’s responsibilities.
  - e) Section 4.0 include a sub section dealing with the building envelopes and identifies where any variations to the setbacks in the Scheme may occur. Such variations may mean less than or larger than those provided for in the Scheme. This should include a more detailed examination of Lots E and B to ensure that the location of the envelopes is suitable.
- 3 The subdivision guide plan be modified by:
  - a) Dimensioning the proposed building envelopes;
  - b) Including the setbacks of the building envelopes from the lot boundaries;
  - c) Providing a landscaping buffer along the frontage of Lot B; and
  - d) Showing landscaping / revegetation requirements along the creek line.
- 4 That the proposed Special Conditions be modified by:
  - a) Condition 9(b) delete the reference to “Ecomax” as this is a commercial trade name;
  - b) Condition 10(b) be revised to refer to preventing access until such time as the road is dedicated;
  - c) Condition 12(c) be renumbered as 12(a);
  - d) That Condition 15 be added as follows:

***Banks Road Upgrade***  
***Council may request the Western Australian Planning Commission that any subdivision approval include a requirement that the applicant is to contribute to the upgrading of Banks Road to a sealed standard to access the subdivision.***
  - e) That Condition 16 be added as follows:

***Plantation Harvesting***  
***Prior to the subdivision of the land the existing plantation, or parts thereof, shall be harvested and the land rehabilitated to the satisfaction of Council.***
- 5 That upon receipt of the revised documents and payment of the major application fee the proposal be further considered by Council for preliminary adoption and for the purpose of referral to the EPA and public advertising.

**COUNCIL MOVED INTO COMMITTEE**

**MOVED: Cr Downing**

**SECONDED: Cr Biddle**

**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 8/0**

**Res 293/10**

4.10 pm Manager of Finance left the chambers

4.11 pm Manager of Finance returned to the chambers

**COUNCIL MOVED OUT OF COMMITTEE**

**MOVED: Cr Downing**

**SECONDED: Cr Marshall**

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

**CARRIED 8/0**

**Res 294/10**

**COUNCIL DECISION – ITEM 7.3.5**

**MOVED: Cr Downing**

**SECONDED: Cr Biddle**

- 1 That Council resolve pursuant to Section 75 of the Planning and Development Act 2005, to amend Local Planning Scheme No 2 by rezoning Lot 734, Banks Road from 'Rural' zone to 'Special Rural'.
- 2 That the amendment report be modified to take into consideration the issues raised in this report and specifically:-
  - a) The upgrading of Banks Road to clearly nominate the applicant's and Council's responsibilities;
  - b) Section 4.1 be modified to make it consistent with Special Condition 1(b) which refers to a minimum 2ha lot size;
  - c) Section 4.5 be modified to reference the fire hazard rating of the plantation while noting the intention to harvest this before subdivision;
  - d) Section 4.6 include a paragraph relating to the future road connection along the western boundary. This should describe the intended vesting and management of the land as well as the applicant's responsibilities.
  - e) Section 4.0 include a sub section dealing with the building envelopes and identifies where any variations to the setbacks in the Scheme may occur. Such variations may mean less than or larger than those provided for in the Scheme. This should include a more detailed examination of Lots E and B to ensure that the location of the envelopes is suitable.
- 3 The subdivision guide plan be modified by:
  - a) Showing the dimensions of the proposed building envelopes;
  - b) Including the setbacks of the building envelopes from the lot boundaries;



- c) Providing a landscaping buffer along the Banks Road frontage of Lot B; and
  - d) Showing landscaping / revegetation requirements along the creek line.
- 4 That the proposed Special Conditions be modified by:
- a) Condition 9(b) delete the reference to “Ecomax” as this is a commercial trade name;
  - b) Condition 10(b) be revised to refer to preventing access until such time as the road is dedicated;
  - c) Condition 12(c) be renumbered as 12(a);
  - d) That Condition 15 be added as follows:  
*Banks Road Upgrade*  
*Council may request the Western Australian Planning Commission that any subdivision approval include a requirement that the applicant is to contribute to the upgrading of Banks Road to a sealed standard to access the subdivision.*
  - e) That Condition 16 be added as follows:  
*Plantation Harvesting*  
*Prior to the subdivision of the land the existing plantation, or parts thereof, shall be harvested and the land rehabilitated to the satisfaction of Council.*
- 5 That upon receipt of the revised documents and payment of the major application fee the proposal be further considered by Council for preliminary adoption and for the purpose of referral to the EPA and public advertising.
- 6 That the CEO and Council Planning Consultant meet with the applicant and his consultant to discuss matters of non-agreement.

CARRIED 8/0

Res 295/10

4.33 pm Cr Muncey left the chambers

4.35 pm Cr Muncey returned to the chambers

### 7.3.6 Home Occupation

<b>Location:</b>	Lot 583 Muir Road
<b>Applicant:</b>	G Wallace
<b>File:</b>	AS10220
<b>Disclosure of Officer Interest:</b>	
<b>Date:</b>	8 <sup>th</sup> December 2010
<b>Author:</b>	Geoffrey Lush (Council’s Consultant Planner)
<b>Authorizing Officer:</b>	
<b>Attachments:</b>	1 – Subdivision Plan

### SUMMARY

The application is to conduct a Home Occupation on the subject land. This is for children’s toys and giftware.

**BACKGROUND**

The subject land is Lot 583 P228873 Muir Road. The subject land has an area of 236 hectares.

The application states that:

*"I wish to run a Baby/Children Toys and Giftware business which I am calling Henry & Hope. I plan to sell products at regional shows and events both in Boyup Brook and surrounding towns, have an online shop and possibly party plan. My home will be used as a warehouse to store these goods using existing storage areas and possibly host party plan style."*

**COMMENT**

Home occupations are by their nature minor and should not have any adverse implications. The development of computer based home industries should provide opportunities for employment within the Shire.

**CONSULTATION**

None

**STATUTORY ENVIRONMENT**

The subject land is zoned Rural in Town Planning Scheme No 2. A Home Occupation is an AA use in the Rural zone.

Home Occupation is defined in the Scheme as means a business or activity carried on within a dwelling house or the curtilage of a house by a person resident therein or within a domestic outbuilding by a person resident in the dwelling house. It is limited to a area of 20 square metres and by definition cannot create any impacts upon surrounding properties.

**POLICY IMPLICATIONS**

None

**FINANCIAL IMPLICATIONS**

None

**STRATEGIC IMPLICATIONS**

None

**VOTING REQUIREMENTS**

Simple Majority

**COUNCIL DECISION AND OFFICER RECOMMENDATION – ITEM 7.3.6**

**MOVED: Cr O’Hare**

**SECONDED: Cr Oversby**

**That Council approve the use of Lot 583 P228873 Muir Road for the purpose of a Home Occupation subject to the following conditions:**

- 1. The development hereby approved shall occur generally in accordance with the plans and specifications submitted with the application and these shall not be altered or modified without the prior written approval of the Council.**
- 2. Any use, additions to and further intensification of any part of the building or land (not the subject of this consent) shall be subject to a further development application and consent for that use.**
- 3. The use shall comply with the definition of Home Occupation within Town Planning Scheme No 2.**
- 4. This development hereby approved shall cease within 12 months of the date hereof or upon expiration of such further period as the Council may, on application made prior to that date, permit.**
- 5. An on-site sign having a maximum area of 0.2 square metres may be erected in accordance with the requirements of Council.**

**CARRIED 8/0**

**Res 296/10**

**7.3.7 Council – Extraordinary Vacancy**

<i>Location:</i>	<i>N/A</i>
<i>Applicant:</i>	<i>N/A</i>
<i>File:</i>	
<i>Disclosure of Officer Interest:</i>	<i>None</i>
<i>Date:</i>	<i>10 December 2010</i>
<i>Author:</i>	<i>Alan Lamb</i>
<i>Authorizing Officer:</i>	<i>Not applicable</i>
<i>Attachments:</i>	<i>Copy of an election timetable</i>

**SUMMARY**

The purpose of this report is to put before Council the position in relation to an election to fill the vacancy resulting from Cr Downing’s resignation with the recommendation that Council seek to have the vacant office to remain unfilled until the 2011 ordinary elections.

**BACKGROUND**

Councillor Downing tendered his resignation from the position of Councillor for the Boyup Brook Ward effective on Monday 17 January, 2011. Cr Downing’s term of office is due to expire in October 2011.

### **COMMENT**

The position is then that Council could seek to have the vacancy remain until the elections next year or hold an extraordinary election. Councillor Downing's term of office ends October 2011 and so if Council opted for an extraordinary election the newly elected person would then face another election at the ordinary elections in October. As will be seen from the attached election timetable for 2009, the election process takes 91 days (can be shortened if no new roll is needed etc) and so if Council opted for an extraordinary election the polling day would probably be around 19 March 2011 and the new Councillor would then face a new election process with the election day being (subject to other factors) 15 October 2011.

The Act provides for Council to apply to have the office remain vacant if the vacancy occurs between 273 and 91 days before the polling day and the effective date of Councillor Downing's resignation falls within this period.

It is noted that if the vacancy was to remain there would still be two Councillors to represent the Boyup Brook Ward and so the impact may not be great.

It is recommended that Council seek to approval to allow the vacancy to remain unfilled until the ordinary elections in 2011.

### **CONSULTATION**

The author has spoken with Councillors and the Electoral Commission.

### **STATUTORY OBLIGATIONS**

The following sections of the Local Government Act have application:

#### Division 4 — Extraordinary ***elections***

#### **4.8. Extraordinary elections**

- (1) *If the office of a councillor or of an elector mayor or president becomes vacant under section 2.32 or 2.33 an election to fill the office is to be held.*
- (2) *An election is also to be held under this section if section 4.57 or 4.58 so requires.*
- (3) *An election under this section is called an **extraordinary election**.*

#### **4.9. Election day for extraordinary election**

- (1) *Any poll needed for an extraordinary election is to be held on a day decided on and fixed —*
  - (a) *by the mayor or president, in writing, if a day has not already been fixed under paragraph (b); or*
  - (b) *by the council at a meeting held within one month after the vacancy occurs, if a day has not already been fixed under paragraph (a).*
- (2) *The election day fixed for an extraordinary election is to be a day that allows enough time for the electoral requirements to be complied with but, unless the Electoral Commissioner approves or section 4.10(b) applies, it cannot be later than 4 months after the vacancy occurs.*

- (3) *If at the end of one month after the vacancy occurs an election day has not been fixed, the CEO is to notify the Electoral Commissioner and the Electoral Commissioner is to —*
- (a) *fix a day for the holding of the poll that allows enough time for the electoral requirements to be complied with; and*
  - (b) *advise the CEO of the day fixed.*

#### **4.10. Extraordinary election can be held before resignation has taken effect**

*If a member resigns —*

- (a) *the vacancy is to be regarded for the purposes of sections 4.8(1) and 4.9 as occurring when the CEO receives the notice of resignation even if the resignation takes effect on a later day; but*
- (b) *the election day fixed for the extraordinary election cannot be earlier than one month before the resignation actually takes effect.*

#### **4.17. Cases in which vacant offices can remain unfilled**

- (1) *If a member's office becomes vacant under section 2.32 on or after the third Saturday in July in the election year in which the term of the office would have ended under the Table to section 2.28, the vacancy is to remain unfilled and the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*

- (2) *If a member's office becomes vacant under section 2.32 —*

- (a) *after the third Saturday in January in the election year in which the term of the office would have ended under the Table to section 2.28; but*
- (b) *before the third Saturday in July in that election year,*

*the council may, with the approval of the Electoral Commissioner, allow the vacancy to remain unfilled and, in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*

- (3) *If a councillor's office becomes vacant under section 2.32 and under subsection (4A) this subsection applies, the council may, with the approval of the Electoral Commissioner, allow\* the vacancy to remain unfilled and, subject to subsection (4), in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*

*\* Absolute majority required.*

- (4A) *Subsection (3) applies —*

- (a) *if—*
  - (i) *the office is for a district that has no wards; and*
  - (ii) *at least 80% of the number of offices of member of the council in the district are still filled;*

*or*

- (b) *if—*
  - (i) *the office is for a ward for which there are 5 or more offices of councillor; and*
  - (ii) *at least 80% of the number of offices of councillor for the ward are still filled.*

- (4) *If an ordinary or an extraordinary election is to be held in a district then an election to fill any vacancy in the office of councillor in that district that was allowed to remain unfilled under subsection (3) is to be held on the same election day and Division 9 applies to those elections as if they were one election to fill all the offices of councillor for the district or ward that need to be filled.*

**POLICY IMPLICATIONS**

Nil

**BUDGET/FINANCIAL IMPLICATIONS**

No provision was made in the current budget for an election to be held within the current financial year.

**STRATEGIC IMPLICATIONS**

Nil

**SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENTS**

Simple majority

**COUNCIL DECISION AND OFFICER RECOMMENDATION – ITEM 7.3.7**

**MOVED: Cr Muncey**

**SECONDED: Cr O’Hare**

**That Council apply to the Electoral Commissioner for approval to allow the vacancy of one Councillor in the Boyup Brook Ward, where the term of office would have ended in October 2011, to remain unfilled in accordance with Section 4.17(2) of the Local Government Act 1995.**

**CARRIED 7/1**

**Res 297/10**

Cr Biddle requested that the vote of all members present be recorded.

**For**  
Cr Ginnane  
Cr Marshall  
Cr Oversby  
Cr Giles  
Cr Muncey  
Cr O’Hare  
Cr Downing

**Against**  
Cr Biddle

4.43 pm G Lush left the chambers

## 8.1 COMMITTEE REPORTS

### 8.1.1 Minutes of the WA Local Government Association South West Zone

<b>Location:</b>	N/A
<b>Applicant:</b>	N/A
<b>File:</b>	IM/37/003
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	30 November 2010
<b>Author:</b>	Alan Lamb – Chief Executive Officer
<b>Authorizing Officer:</b>	Not Applicable
<b>Attachments:</b>	Yes – Minutes

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#### **BACKGROUND:**

A meeting of the WA Local Government Association South West Zone was held on 26<sup>th</sup> November 2010.

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

#### **COUNCIL DECISION AND OFFICER RECOMMENDATION – ITEM 8.1.1**

**MOVED:** Cr Oversby

**SECONDED:** Cr O'Hare

That the minutes of WA Local Government Association South West Zone held on 26<sup>th</sup> November 2010 be received.

**CARRIED 8/0**

**Res 298/10**

#### **COUNCIL DECISION – EN BLOC RESOLUTION NO. 1**

**MOVED:** Cr Muncey

**SECONDED:** Cr Downing

That council receives en bloc the minutes in items 8.1.2, 8.1.3 and 8.1.4.

**CARRIED 8/0**

**Res 299/10**

### 8.1.2 Youth Advisory Committee Minutes

<b>Location:</b>	N/A
<b>Applicant:</b>	N/A
<b>File:</b>	IM/37/004
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	30 November 2010
<b>Author:</b>	Annie Jones – Youth Officer
<b>Authorizing Officer:</b>	Alan Lamb – Chief Executive Officer
<b>Attachments:</b>	Yes – Minutes

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#### **BACKGROUND:**

A meeting of the Youth Advisory Committee was held on 9<sup>th</sup>, 16<sup>th</sup> and 23<sup>rd</sup> November 2010.

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

#### **COUNCIL DECISION AND OFFICER RECOMMENDATION – ITEM 8.1.2**

That the minutes of the Youth Advisory Committee Minutes held on 9<sup>th</sup>, 16<sup>th</sup> and 23<sup>rd</sup> November be received.

CARRIED BY EN BLOC RESOLUTION NO. 1

Res 299/10

### 8.1.3 Minutes of the Special Meeting held on 7 December 2010

<b>Location:</b>	N/A
<b>Applicant:</b>	N/A
<b>File:</b>	IM/37/011
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	7 December 2010
<b>Author:</b>	Alan Lamb – Chief Executive Officer
<b>Authorizing Officer:</b>	Not Applicable
<b>Attachments:</b>	Yes – Minutes

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#### **BACKGROUND:**

A Special Meeting was held on 7 December 2010.

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



**COUNCIL DECISION AND OFFICER RECOMMENDATION – ITEM 8.1.3**

That the minutes of the Special Meeting held on 7<sup>th</sup> December 2010 be received.

CARRIED BY EN BLOC RESOLUTION NO. 1

Res 299/10

**8.1.4 Minutes of the Blackwood River Marketing Association held on 9 December**

<b>Location:</b>	<i>Bridgetown Shire Chambers</i>
<b>Applicant:</b>	<i>N/A</i>
<b>File:</b>	
<b>Disclosure of Officer Interest:</b>	<i>Nil</i>
<b>Date:</b>	<i>9 November 2010</i>
<b>Author:</b>	<i>Shirley Broadhurst</i>
<b>Authorizing Officer:</b>	<i>Alan Lamb – Chief Executive Officer</i>
<b>Attachments:</b>	<i>Yes – Minutes</i>

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**BACKGROUND:**

A Blackwood River Marketing Association Meeting was held on 9 November 2010.

Minutes of the meeting are laid on the table and circulated (*refer to appendix 8.1.4*)

**COUNCIL DECISION AND OFFICER RECOMMENDATION – ITEM 8.1.4**

That the minutes of the Blackwood River Valley Marketing Association Meeting held on 9<sup>th</sup> November 2010 be received.

CARRIED BY EN BLOC RESOLUTION NO. 1

Res 299/10

**8.1.5 Minutes of the Boyup Brook Shire Council Forward Planning Committee**

<b>Location:</b>	<i>Boyup Brook Council Chambers</i>
<b>Applicant:</b>	<i>N/A</i>
<b>File:</b>	
<b>Disclosure of Officer Interest:</b>	<i>Nil</i>
<b>Date:</b>	<i>7 December 2010</i>
<b>Author:</b>	<i>Alan Lamb</i>
<b>Authorizing Officer:</b>	<i>Alan Lamb – Chief Executive Officer</i>
<b>Attachments:</b>	<i>Yes – Minutes and Draft 3 of the Forward Capital Works Plan</i>

**BACKGROUND:**

A Boyup Brook Shire Council Forward Planning Meeting was held on 7 December 2010.

Minutes of the meeting are laid on the table and circulated (*refer to appendix 8.1.5*)

**COUNCIL DECISION AND OFFICER RECOMMENDATION – ITEM 8.1.5**

**MOVED: Cr Giles**

**SECONDED: Cr Oversby**

**That the minutes of the Boyup Brook Shire Council Forward Planning Meeting held on 7<sup>th</sup> December 2010 be received.**

**CARRIED 8/0**

**Res 300/10**

**COUNCIL DECISION AND COMMITTEE RECOMMENDATION – ITEM 8.1.5**

**MOVED: Cr Marshall**

**SECONDED: Cr Muncey**

**That:-**

- 1. the Council receive and endorses the Shire of Boyup Brook's Forward Capital Works Plan 2010/2011 to 2014/2015 Draft 3**
- 2. the Council request the Chief Executive Officer to develop a method of Council reviewing the Forward Capital Works Plan annually.**
- 3. the Council seek to apply the direct portion of the 2010/11 Country Local Government Fund Grant of \$365,263, in accordance with the Forward Capital Works Plan on the following projects:**
  - a. Town Drainage Improvements – Water Harvesting - \$328,263**
  - b. Boyup Brook Town Hall air conditioning - \$22,000**
  - c. Boyup Brook Swimming Pool solar power - \$15,000**
  - d. The 2010/11 Budget be amended accordingly.**
- 4. the 2010/11 Budget be amended by re-applying the \$40,000 provision for drainage study consultancy fees (account E108005) to the following projects**

- a. **Sporting Complex Development Planning - \$10,000**
- b. **Flax Mill Caravan Park Planning - \$10,000**
- c. **Infrastructure Projects Planning - \$20,000**
5. **two of the steel door structures from the retting tanks be retained from the demolition process and stored.**
6. **an Interpretive Centre be included for consideration in the Flax Mill Caravan Park Planning Process.**

**AMENDMENT**

**MOVED: Cr O'Hare**

**SECONDED:**

**That:-**

1. **the Council receive and endorses the Shire of Boyup Brook's Forward Capital Works Plan 2010/2011 to 2014/2015 Draft 3**
2. **the Council request the Chief Executive Officer to develop a method of Council reviewing the Forward Capital Works Plan annually.**
3. **the Council seek to apply the direct portion of the 2010/11 Country Local Government Fund Grant of \$365,263, in accordance with the Forward Capital Works Plan on the following projects:**
  - a. **Town Drainage Improvements – Water Harvesting - \$328,263**
  - b. **Boyup Brook Town Hall air conditioning - \$22,000**
  - c. **Boyup Brook Swimming Pool solar power - \$15,000**
  - d. **The 2010/11 Budget be amended accordingly.**
4. **the 2010/11 Budget be amended by re-applying the \$40,000 provision for drainage study consultancy fees (account E108005) to the following projects**
  - a. **Sporting Complex Development Planning - \$10,000**
  - b. **Flax Mill Caravan Park Planning - \$10,000**
  - c. **Infrastructure Projects Planning - \$20,000**
5. **the contractor offer be accepted to mount two of the steel door structures from the retting tanks on concrete panels and retained on site.**
6. **an Interpretive Centre be included for consideration in the Flax Mill Caravan Park Planning Process.**

**LAPSED – No seconder**

The Presiding Person put the original motion:

**That:-**

1. **the Council receive and endorses the Shire of Boyup Brook's Forward Capital Works Plan 2010/2011 to 2014/2015 Draft 3**
2. **the Council request the Chief Executive Officer to develop a method of Council reviewing the Forward Capital Works Plan annually.**
3. **the Council seek to apply the direct portion of the 2010/11 Country Local Government Fund Grant of \$365,263, in accordance with the Forward Capital Works Plan on the following projects:**
  - a. **Town Drainage Improvements – Water Harvesting - \$328,263**
  - b. **Boyup Brook Town Hall air conditioning - \$22,000**
  - c. **Boyup Brook Swimming Pool solar power - \$15,000**
  - d. **The 2010/11 Budget be amended accordingly.**
4. **the 2010/11 Budget be amended by re-applying the \$40,000 provision for drainage study consultancy fees (account E108005) to the following projects**
  - a. **Sporting Complex Development Planning - \$10,000**
  - b. **Flax Mill Caravan Park Planning - \$10,000**
  - c. **Infrastructure Projects Planning - \$20,000**
5. **two of the steel door structures from the retting tanks be retained from the demolition process and stored.**
6. **an Interpretive Centre be included for consideration in the Flax Mill Caravan Park Planning Process.**

**CARRIED 8/0**

**Res 302/10**

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

### **9.1.1 Boyup Brook Golf Club Rates**

Councillors Marshall, Biddle and Muncey support the following motion.

1. That Council rescinds motion 7.3.13 lost at the November 2010 council meeting.
2. That Council waives the Boyup Brook Golf Club's rate account for 2010/2011 being \$649.22 and that future year's rate charges are similarly waived as part of the budget process.

#### **COMMENT**

The rating of the golf club (a sporting body) is an anomaly that has arisen with the change in the Local Government Act in 1995.

At this stage it appears to be the only sporting club or not for profit organization that pays rates in the Shire.

The golf course is a major asset in the Shire that is entirely built and maintained by volunteers and is available to all community members.

Waiving the rates merely brings the golf club into line with other community organizations.

Cr. Marshall.  
7<sup>th</sup> December 2010

**Impartiality Interest**

Cr Marshall made a declaration of impartiality noting that he is a member of the Boyup Brook Golf Club but would act impartially in relation to this matter.

**COUNCIL DECISION – ITEM 9.1.1**

**MOVED: Cr Marshall**

**SECONDED: Cr Biddle**

**That Council waives the Boyup Brook Golf Club's rate account for 2010/2011 being \$649.22 and that future year's rate charges are similarly waived as part of the budget process.**

**CARRIED 6/2**

**Res 303/10**

Cr Downing requested that the vote of all members present be recorded.

**For**

Cr Ginnane  
Cr Marshall  
Cr Oversby  
Cr Giles  
Cr Muncey  
Cr Biddle

**Against**

Cr Downing  
Cr O'Hare

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

**COUNCIL DECISION – ITEM 10.1**

**MOVED: Cr Downing**

**SECONDED: Cr Oversby**

**That this meeting consider allowing a Councillor to attend a meeting electronically.**

**CARRIED 8/0**

**Res 304/10**

**VERBAL REPORT – CHIEF EXECUTIVE OFFICER**

The CEO gave a brief outline of a concept to allow a Councillor to attend a meeting via telephone link up which is allowable under section 14A of the Local Government (Administration) Regulations 1996.

**COUNCIL DECISION – ITEM 10.1**

**MOVED: Cr Downing**

**SECONDED: Cr Giles**

**That council allow a Councillor to participate in a meeting under section 14A of the Local Government (Administration) Regulations 1996 via electronic means on application to the CEO and a subsequent report from the CEO to council.**

**CARRIED 8/0**

**Res 305/10**

**COUNCIL DECISION – ITEM 10.2**

**MOVED: Cr Giles**

**SECONDED: Cr O'Hare**

**That this meeting consider budgeting for a further \$14,000 to proceed with a water bore to supplement the recreation grounds over the summer months.**

**CARRIED 8/0**

**Res 306/10**

**VERBAL REPORT – MANAGER OF WORKS AND SERVICES**

The Manager of Works and Services gave a brief explanation of the Contractor and his methods of supplying a water bore. He explained that the budgeted costs originally related to exploratory work but this concept is to develop a fully functioning bore supplying water from a depth of 70 metres. The total cost of \$20,000 included supplying a pump to the water bore.

**COUNCIL DECISION – ITEM 10.2**

**MOVED: Cr Giles**

**SECONDED: Cr Muncey**

**That council proceed with a water bore to supplement the recreation grounds over the summer months and a further \$14,000 be transferred from the Recreation Facilities Reserve to add to the \$6,000 already budgeted.**

**CARRIED 7/1**

**Res 307/10**

Cr Ginnane requested that the vote of all members present be recorded.

**For**  
Cr Marshall  
Cr O'Hare  
Cr Oversby  
Cr Giles  
Cr Muncey  
Cr Biddle  
Cr Downing

**Against**  
Cr Ginnane

**11 CONFIDENTIAL MATTERS – BEHIND CLOSED DOORS**

Nil

**12 CLOSURE OF MEETING**

There being no further business the Shire President, Cr Terry Ginnane declared the meeting closed at 5.33pm.