

MEETING HELD ON

**Thursday 26 May 2022**

Commenced at 6.05pm

Shire of Boyup Brook Council Chambers, Boyup Brook

---

Dale Putland  
Chief Executive Officer

## INDEX PAGE

<b>1.</b>	<b>DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS .....</b>	<b>3</b>
<b>2.</b>	<b>RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED .....</b>	<b>3</b>
<b>3.</b>	<b>RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....</b>	<b>3</b>
<b>4.</b>	<b>PUBLIC QUESTION TIME.....</b>	<b>3</b>
<b>5.</b>	<b>PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS .....</b>	<b>4</b>
<b>6.</b>	<b>DISCLOSURE OF INTEREST .....</b>	<b>4</b>
<b>7.</b>	<b>CONFIRMATION OF MINUTES .....</b>	<b>5</b>
<b>7.1</b>	<b>Ordinary Council Minutes – 28 April 2022.....</b>	<b>5</b>
<b>8.</b>	<b>PRESIDENTIAL COMMUNICATIONS .....</b>	<b>5</b>
<b>9.</b>	<b>COUNCILLOR QUESTIONS ON NOTICE .....</b>	<b>5</b>
<b>10.</b>	<b>REPORTS OF OFFICERS.....</b>	<b>5</b>
<b>10.1</b>	<b>MANAGER WORKS AND SERVICES.....</b>	<b>5</b>
<b>10.2</b>	<b>FINANCE .....</b>	<b>6</b>
<b>10.2.1</b>	<b>List of Accounts Paid in April 2022.....</b>	<b>6</b>
<b>10.2.2</b>	<b>30 April 2022 Statement of Financial Activity .....</b>	<b>9</b>
<b>10.3</b>	<b>CHIEF EXECUTIVE OFFICER/PLANNING .....</b>	<b>12</b>
<b>10.3.1</b>	<b>Development (Tree Farm – Pinus Radiata) – Lots 2 &amp; 3, Condinup Road, Dinninup.....</b>	<b>12</b>
<b>10.3.2</b>	<b>Subdivision Application (WAPC Ref 162282) Lot 913 Fern Valley Road, Boyup Brook .....</b>	<b>22</b>
<b>10.3.3</b>	<b>Development Application – (Transportable Unit &amp; Railway Carriage/Youth Centre) 110 Jackson St Boyup Brook.....</b>	<b>28</b>
<b>10.3.4</b>	<b>Local Planning Strategy .....</b>	<b>36</b>
<b>11</b>	<b>COMMITTEE MINUTES.....</b>	<b>39</b>
<b>11.1</b>	<b>Local Emergency Management Committee Minutes .....</b>	<b>39</b>
<b>12</b>	<b>MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....</b>	<b>39</b>
<b>13</b>	<b>URGENT BUSINESS BY APPROVAL OF THE PRESIDENT OR A MAJORITY OF .....</b>	<b>40</b>
	<b>COUNCILLORS PRESENT .....</b>	<b>40</b>
<b>13.1</b>	<b>Submission to Local Government Advisory Board for District Boundary Adjustment with Shire of Donnybrook .....</b>	<b>40</b>
<b>14</b>	<b>CONFIDENTIAL MATTERS – BEHIND CLOSED DOORS .....</b>	<b>51</b>
<b>15</b>	<b>CLOSURE OF MEETING .....</b>	<b>51</b>

**1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**

*We acknowledge and pay our respects to the traditional custodians of the land on which we meet and work.*

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

PRESENT:	Shire President	Richard Walker
	Deputy Shire President	Helen O'Connell
	Councillor	Sarah Alexander
		Steele Alexander
		Philippe Kaltenrieder
		Adrian Price
		Charles Caldwell
	Chief Executive Officer	Dale Putland
	Deputy Chief Executive Officer	Carolyn Mallett
	Executive Assistant	Maria Lane

Cr Darren King attending via electronic media.

*Pursuant to Regulation 14D(2)(a) of the Local Government (Administration) Regulations 1996 (Regulations), in light of the state of emergency continuing and the latest public health circumstances, and Councillor King's current requirement to isolate due to Covid 19 which would otherwise prevent him from attending tonight's Council meeting, I have authorised Councillor King to participate in the Council meeting via electronic media.*

LEAVE OF ABSENCE: Nil

APOLOGIES: Cr Kevin Moir

MEMBERS OF PUBLIC: Mary-Anne Inglis  
Harry Bardoe-Potter  
Helen Wass  
Lorrene Sambell-Sayer  
Ian Kugler arrived at 6.53pm

**3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**4. PUBLIC QUESTION TIME**

4.1 Helen Wass

Question - Please refer to attachment 4.1.

***Response was provided at the Ordinary Council Meeting.***

4.2 Lorrene Sambell-Sayer

Question – Pleaser refer to attachment 4.2

***Response was provided at the Ordinary Council Meeting.***

4.3 Kanella Hope – Planned Focus

- Condition 1 – clarify this is not a new Fire Management Plan required but some minor revisions (that are agreed), to the one already submitted.
- Condition 7 – query the necessity for a new water tank given the reliable and large supply of water demonstrated as readily available at the site.
- Condition 4 – adjust this to be an Advice Note. The Bushfires Act is separate legislation.

**Response from the CEO**

- Condition 1 - The applicant may prepare a new Fire Management Plan or amend the existing Fire management Plan to meet the Shire’s requirements. Please note that some additional matters to be addressed in the Fire Management Plan are included as conditions to provide certainty to the applicant as to what must be included in order to meet the “to the Shire’s satisfaction” requirement.
- Condition 7 - The new water tank is required to ensure that sufficient water for initial fire response is available for firefighting purposes and that this water can be accessed without entering the plantation area or having to bring in additional equipment to draw water from farm dams.
- Condition 4 - Council are advised that this condition could be removed and replaced with an advice note if this is Council’s preference.

Mary-Anne Inglis and Harry Bardoe-Potter provided Council with information relating to item 10.3.3.

Mary-Anne Inglis, Harry Bardoe-Potter, Helen Wass and Lorrene Sambell-Sayer left the Chambers at 6.40pm.

**5. PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS**

**6. DISCLOSURE OF INTEREST**

Nil

**7. CONFIRMATION OF MINUTES**

**7.1 Ordinary Council Minutes – 28 April 2022**

**COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.1**

**MOVED: Cr Philippe Kaltenrieder**

**SECONDED: Cr Charles Caldwell**

**That the minutes of the Ordinary Council Meeting held on Thursday 28 April 2022 be confirmed as an accurate record.**

**CARRIED 8/0**

**Res 22/5/49**

**8. PRESIDENTIAL COMMUNICATIONS**

Attended the Local Emergency Management Committee meeting held on 6<sup>th</sup> May.

WALGA interview – 10<sup>th</sup> May.

Attended the Benjinup Bushfire Brigade AGM at Wilga Hall – 10<sup>th</sup> May.

Attended the Rylington Park Committee meeting on 12<sup>th</sup> May.

Attended the Nannup Opening of Tank 7 Bike track on 13<sup>th</sup> May.

Attended the WBAC at the Lesser Hall Bridgetown on 16<sup>th</sup> May.

Attended the BFAC AGM in the Town Hall on 24<sup>th</sup> May.

**9. COUNCILLOR QUESTIONS ON NOTICE**

Nil

**10. REPORTS OF OFFICERS**

**10.1 Manager Works and Services**

Nil

## 10.2 FINANCE

### 10.2.1 List of Accounts Paid in April 2022

<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>12/05/2022</i>
<b>Author:</b>	<i>Ben Robinson – Finance Manager</i>
<b>Authorising Officer:</b>	<i>Dale Putland – CEO</i>
<b>Attachments:</b>	<i>Yes – List of Accounts Paid in April</i>

---

#### **SUMMARY**

In accordance with the *Local Government (Financial Management) Regulations 1996* the list of accounts paid in April 2022 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 April 2022.

#### **COMMENT**

The attached listing represents accounts/invoices the shire paid by cheque or electronic means during the period 01 to 30 April 2022.

#### **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 a detailed 2021-22 Annual Budget

**STRATEGIC IMPLICATIONS**

Nil

**VOTING REQUIREMENTS**

Simple Majority

**COUNCIL DECISION & OFFICER RECOMMENDATION – Item 10.2.1**

**MOVED: Cr Helen O’Connell**

**SECONDED: Cr Darren King**

**That at its May 2022 ordinary meeting Council receive as presented the list of accounts paid in April 2022, totalling \$645,929.26 from Municipal account, \$43,524.80 from Police Licensing account and \$0.00 from Boyup Brook Early Learning Centre account, as represented by:**

<b>Municipal Cheques</b>	<b>20557</b>	<b>\$ 10,149.72</b>
<b>Municipal Electronic Payments</b>	<b>EFT12261– EFT12362</b>	<b>\$ 242,420.91</b>
<b>Municipal Direct Payments</b>		<b>\$ 393,358.63</b>
<b>Police Licensing Payments</b>		<b>\$ 43,524.80</b>
<b>BBELC Payments</b>		<b>\$ 0.00</b>

**CARRIED 8/0**

**Res 22/5/50**



### 10.2.2 30 April 2022 Statement of Financial Activity

<b>Location:</b>	<i>Not applicable</i>
<b>Applicant:</b>	<i>Not applicable</i>
<b>File:</b>	<i>FM/10/003</i>
<b>Disclosure of Officer Interest:</b>	<i>None</i>
<b>Date:</b>	<i>13 May 2022</i>
<b>Authors:</b>	<i>D Long – Finance Consultant</i>
<b>Authorizing Officer:</b>	<i>Dale Putland – Chief Executive Officer</i>
<b>Attachments:</b>	<i>Yes</i>

---

#### **SUMMARY**

The Monthly Financial Report for 30 April 2022 is presented for Council's consideration.

#### **BACKGROUND**

The Local Government Act 1995 and the Local Government (Financial Management) Regulations 1996 require local governments to prepare monthly reports containing the information that is prescribed.

The Regulations require local governments to prepare annual budget estimates and month by month budget estimates so that comparatives can be made to Year to Date (YTD) Actual amounts of expenditure, revenue and income, and materials variances can be commented on.

#### **COMMENT**

The Shire prepares the monthly financial statements in the statutory format along with other supplementary financial reports consisting of:

- (a) Statement of Comprehensive Income by Function/Program;
- (b) Statement of Comprehensive Income by Nature/Type;
- (c) Statement of Financial Activity;
- (d) Summary of Net Current Asset Position;
- (e) Statement of Explanation of Material Variances;
- (f) Statement of Financial Position;
- (g) Statement of Cash Flows;
- (h) Detailed Operating and Non-Operating Schedules;
- (i) Statement of Cash Back Reserves; and
- (j) Loan Borrowings Statement.

At its budget meeting, Council adopted a material variance threshold of \$10,000 or 10%. For interpretation purposes, this means any variance at Function/Program level that is greater than 10% and exceeds \$10,000 in value is reported on and commentary is provided to explain the YTD budget estimate to YTD actual variance. The material variance is shown on the Statement of Financial Activity, in accordance with the *Local Government (Financial Management) Regulations 1996*.

The material variance commentary is now provided in a separate statement, called the Statement of Explanation of Material Variances. This statement categorises the variance commentary according to reporting Functions/Programs and groups the variances by Operating Revenue, Operating Expenditure, Non-Operating/Capital Revenue, and Capital Expenditure.

The Statement of Financial Activity as at 30 April shows a closing surplus of \$3,605,664. A substantial amount of this surplus (\$1,206,369) is due to the advance paid general purpose and local road grants for 2022/2023 by the Commonwealth Government.

**CONSULTATION** – Nil

**STATUTORY OBLIGATIONS**

Local Government Act 1995

Section 6.4—Specifies that a local government is to prepare such other financial reports as are prescribed.

Local Government (Financial Management) Regulations 1996:

Regulation 34 states:

- (1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d) for that month in the following detail:
  - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
  - (b) budget estimates to the end of month to which the statement relates;
  - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
  - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c);
  - (e) the net current assets at the end of the month to which the statement relates.

Sub regulations 2, 3, 4, 5, and 6 prescribe further details of information to be included in the monthly statement of financial activity.

**POLICY IMPLICATIONS** – Nil

**BUDGET/FINANCIAL IMPLICATIONS**

As presented in the attached reports.

**STRATEGIC IMPLICATIONS** - Nil

**VOTING REQUIREMENTS**

Simple Majority

**COUNCIL DECISION & OFFICER RECOMMENDATION – Item 10.2.2**

**MOVED: Cr Sarah Alexander**

**SECONDED: Cr Charles Caldwell**

**That Council receive the Monthly Financial Report for 30 April 2022, as presented.**

**CARRIED 8/0**

**Res 22/5/51**

### 10.3 CHIEF EXECUTIVE OFFICER/PLANNING

#### 10.3.1 Development (Tree Farm – Pinus Radiata) – Lots 2 & 3, Condinup Road, Dinninup

<b>Location:</b>	<i>Lots 2 &amp; 3 Condinup Road, Dinninup.</i>
<b>Applicant:</b>	<i>Planned Focus – on behalf of Mitsui Bussan Woodchip Oceanic Pty Ltd and the Bunbury Fibre Exports.</i>
<b>File:</b>	<i>Property files</i>
<b>Disclosure of Officer Interest:</b>	<i>None.</i>
<b>Date:</b>	<i>26 May 2022.</i>
<b>Author:</b>	<i>Dale Putland, Chief Executive Officer</i>
<b>Authorizing Officer:</b>	<i>Dale Putland, Chief Executive Officer</i>
<b>Attachments:</b>	<i>-DFES Submission -Proposed Plantation -Plantation Management Plan</i>

---

#### **SUMMARY**

The purpose of this report is to put before Council the request to develop a 'Tree Farm' of Pinus Radiata trees, on land zoned 'Rural', within the locality of Dinninup.

The land is owned by Mitsui Pty Ltd and the proposed Tree Farm is to be managed by the Bunbury Fibre Exports Company.

The site has an area of 374ha and has been used for the last 20 years as a Eucalypt plantation. There are no structures or buildings on the site.

In accordance with the Shire's *Local Planning Scheme No.2 (LPS2)*, 'Tree Farm' development is a use which Council, in exercising the discretionary powers available to it, may approve on land zoned 'Rural'.

As required by the '*Code of Practice for Timber Plantations in Western Australia*', a 'Plantation Management Plan' has been provided as part of the request for approval to develop a Tree Farm.

The 'Plantation Management Plan' includes detailed information about the planting strategy and the steps the owner will take to manage the site and its operations. Importantly, this also includes fire management criteria, developed to comply with the '*Guidelines for Plantation Fire Protection*'. The fire management criteria proposed that:

- Fire management criteria will be readily available onsite via a Fire Management Plan Map; and
- Fire response and preparedness for the site will be undertaken in accordance with a Plantation Managers Fire Cooperative Agreement.

The applicant has provided the following information regarding their industry response to fire management and mitigation:

The Plantation Managers Fire Cooperative Agreement, which the Bunbury Fibre Exports is a member of, involves the reciprocal sharing of resources when fire threatens another company's assets. The Plantation Managers Fire Cooperative Agreement sets out minimum requirements and specifications for a plantation company's fire appliances that are agreed and updated yearly. For Boyup Brook, this will also include a Forest Products Commission resource recently agreed to be stationed in McAlinden.

The Plantation Managers Fire Cooperative Agreement is made up of experienced and trained fire personnel, overseen by the Forest Industries Federation WA (FIFWA). The FIFWA is representative of almost all of the major companies that operate in the WA timber industry, including the processors, harvest, and haul operators for the plantation sectors. The industry also participates in staff training, including joint exercises and training events, to ensure DFES requirements are met.

The Plantation Managers Fire Cooperative Agreement has a Memorandum of Understanding with DBCA and DFES that sets out inter-operability, command structures and protection priorities that will support Local Government bushfire brigades in the management of rural high bushfire risk areas.

In the instance of a fire, the following is an example of how procedures may evolve:

1. Fire spotted
2. Ring 000
3. ComCEN Cockburn takes the call
4. Controlling Agency contacted (LGA) in accordance with Triple 0 agreement with DFES (this might be group call to Boyup Brook Chiefs).
5. LGA directs activation of Shire Resources and requests State Resources (e.g. Aerial support)
6. FIFWA receives text message from ComCEN if fire within defined proximity to FIFWA Co-op property.
7. FIFWA Duty Officer contacts relevant member company.
  - a) If threatening or potentially threatening assets, Member company turns out crews.
8. LGA or Regional Duty Coordinator (Manjimup DFES Lower South West) contacts FIFWA or Member company direct, requesting assistance.
  - a) Member company turns out crews.

The applicant contends that the proposed operations are duly and appropriately managed via the provided Plantation Management Plan (including Fire Management Plan). This complies with the *'Code of Practice for Timber Plantations in Western Australia'* and the *'Guidelines for Plantation Fire Protection'*, satisfying the planning framework.

The applicant also contends that the proposal also has the added support of the Plantation Managers Fire Cooperative Agreement. The Plantation Managers Fire Cooperative Agreement is a means to assist in the management of fire at the proposed plantation and can also provide the Shire with resources in support of brigades, DFES and DBCA operating under the *Bushfires Act*.

As the proposed development, with its continued use as a Tree Farm, does not remove agricultural land from production, and as issues related to bushfire risk and response can be adequately addressed through additional conditions placed on the development, it is recommended that the Council conditionally approve the development application.

### **BACKGROUND**

The Shire received a development application from 'Planning Focus' (planning consultant), on behalf of the land holder (Mitsui Bussan Woodchip Oceanic Pty Ltd), requesting approval to establish a 269ha 'Tree Farm', on land zone 'Rural'. The land has previously been established with Blue Gums.

Following receipt of the application, the Shire consulted with the Department of Fire and Emergency Services, where it was recommended that:

- The Plantation Management Plan is updated to comply with the most recent 2011 version of the Guidelines (The submitted Plantation Management Plan document refers to the Guidelines for Plantation Fire Protection (1998)).
- Dedicated firefighting water tanks are provided as there is no guarantee that the dams will have an adequate supply of water all year-round.
- The minimum trafficable surface width should be 6m throughout the plantation as opposed to the 4m minimum demonstrated on the Fire Management Plan Map.
- DFES has expressed a view that the requirement set out in the Shire's draft planning policy for the landholder to provide a fire unit and trained personnel for plantations that are greater than 140ha in size may set an impractical and unreasonable requirement for the plantation industry that is inconsistent with other industries carrying a similar fire risk.

It is noted that this advice does not make specific reference to this planation or suggest what size plantation should require fire units. This advice appears to be somewhat inconsistent with the landowner obligations set out in s28 of the Bushfires Act 1954.

The Shire also consulted with the Forest Industries Federation WA (FIFWA) and the Forest Products Commission (FPC).

The FIFWA confirmed that a Plantation Managers Fire Cooperative Agreement (PMFA) has been adopted, whereby plantation industries share personnel and firefighting equipment in the instance of a plantation fire. The FIFWA also confirmed that Mitsui/Bunbury Fibre Exports application to join the PMFA has been approved by a majority of the members by circular resolution.

The FPC confirmed that they are happy to make available their Heavy-Duty Fire-fighting tanker, which is to be located in McAlinden, to assist with fires impacting or threatening the plantation assets of other plantation industries. It was indicated that the appliance can be made available either under the operation of FPC staff or alternatively for operation by suitably qualified and skilled staff from other companies or Volunteer Bushfire Brigade personnel.

### **COMMENT**

The Shire's *Local Planning Scheme No.2* seeks to protect the existing agricultural base and encourage the diversification of activities and including more intensive forms of agriculture.

In accordance with the Shire's *Local Planning Scheme No.2*, a 'Tree Farm' is a use that can be considered by Council for approval on a property zoned 'Rural' and Council shall, in considering applications for a 'Tree Farm', have regard to the '*Code of Practice for Timber Plantations in Western Australia*' and the '*Guidelines for Plantation Fire Protection*'.

The subject Lots 2 & 3 Condinup Road, Dinninup are zoned 'Rural' and the application for a 'Tree Farm' at the subject land has included a 'Plantation Management Plan', which has been developed to ensure compliance with the '*Code of Practice for Timber Plantations in Western Australia*' and the '*Guidelines for Plantation Fire Protection*'.

The subject land has been in use as a blue gum plantation and therefore the proposed new application for Pine trees is not expected to impact on the 'existing agricultural base'.

There is however the need to ensure the proposed development is appropriately managed in relation to bushfire. In recent years there has been an increase in the frequency and severity of bushfires largely due to a drying climate. These bushfires have resulted in heavy losses to the total plantation estate in Western Australia.

The 'Plantation Management Plan' (submitted to accompany the development application) refers to a 'Plantation Managers Fire Agreement', which exists amongst plantation companies, to ensure that in the instance of a bushfire, all participants of the agreement will mutually support each other for fire suppression. Through FIFWA, commercial plantation growers and managers actively participate in a Plantation Managers Fire Co-operative. The purpose of this fire cooperative is to facilitate a coordinated approach to fire preparedness, mitigation and when necessary, suppression.

The administrative aspects of the agreement include:

- Members meet each year and submit their resource list to Forest Industries Federation WA, who provides this to DFES for upload to their asset register.
- DFES make available automatic vehicle location systems for our safety and for efficiency of command and control.
- Meetings are held with DFES and DBCA (2x per year) to discuss operational matters and streamline inter-operations.
- The agreement is reviewed, modified and renewed each year, ahead of the fire season. This means it always reflects best practice and incorporates recommended opportunities for improvement.
- The members are also currently working with DBCA and DFES to review the Plantation Fire Fighting training module to assist local governments where plantation assets are integrated into other land uses throughout the shire.

In the event of a fire on or threatening the Lots 2 & 3 Condinup Road, the combined resources of the plantation industry will be called upon to respond. FIFWA asserts that the members associated with the fire agreement are proactive about fire prevention, management, mitigation, suppression and general safety. It makes sense that a company or agency wants to ensure their assets are protected, and not want to place its neighbours at risk.

It is noted that the equipment listed in the applicant's Plantation Management Plan are remote from this site, the nearest being more than an hour travelling time at normal road

speeds. However, the Shire is aware that the applicant has reached agreement with the FPC to use the FPC's McAlinden based fire unit, which is located within a 40-minute travel time from the site.

Plantations are increasingly being recognised as valuable assets and as such are given due consideration in fire prevention and mitigation planning as well as during a fire incident.

As indicated in the background section of this report, the DFES was consulted and it is recommended that DFES advice (e.g. vehicle access, and water tank) is addressed via planning conditions of approval). The DFES also advised that a requirement for the landholder to provide a fire unit and trained personnel for a 140ha plantation as set out in the Shire's draft local planning policy may set an impractical and unreasonable requirement for plantation owners.

However, it is also noted that s28 of the Bushfires Act 1954 establishes the following obligations for landowners:

*28. Occupier of land to extinguish bush fire occurring on own land:*

*(1) Where a bush fire is burning on any land —*

*(a) at any time in any year during the restricted burning times; or (b) during the prohibited burning times, and the bush fire is not part of the burning operations being carried on upon the land in accordance with the provisions of this Act, the occupier of the land shall forthwith, upon becoming aware of the bush fire, whether he has lit or caused the same to be lit or not, take all possible measures at his own expense to extinguish the fire.*

It is recommended that the Shire conditionally approve the proposed Pine Tree Farm development, which was previously established as Blue Gums.

The proposal includes a comprehensive 'Plantation Management Plan', which has been developed to comply with relevant legislative standards. The applicant contends that the proposed development will be managed by a fire cooperative, which includes fire equipment in the locality and trained personnel overseen by the FIFWA.

**STATUTORY OBLIGATIONS**

*Local Planning Scheme No.2.*

The Shire's *Local Planning Scheme 2*, states:

*Council shall encourage the continued use of land within the Rural Zone for the entire spectrum of broadacre and intensive rural activities except in close proximity to the town where such activities, by their very nature, may detract from the residential and environmental quality within the town.*

*Council, in considering the granting of approval to plantations in the Rural Zone will take into account the landscape and amenity of the area and may refuse to grant approval for the planting of tree species which it does not consider to be appropriate for the area and is not supported by adequate bushfire suppression measures.*



*With a view to protecting the agricultural base of the District, Council shall discourage the wholesale planting of broadacre rural holdings for plantations and shall instead, encourage the diversification of rural activities.*

*Tree farm means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the Carbon Rights Act 2003 section 5*

**Bush Fires Act 1954**

The Bush Fires Act 1954 states (Part III, Division 6, Reg 28):

- (1)     *Where a bush fire is burning on any land —*
- (a)     *at any time in any year during the restricted burning times; or*  
(b)     *during the prohibited burning times,*

*and the bush fire is not part of the burning operations being carried on upon the land in accordance with the provisions of this Act, the occupier of the land shall forthwith, upon becoming aware of the bush fire, whether he has lit or caused the same to be lit or not, take all possible measures at his own expense to extinguish the fire.*

**POLICY IMPLICATIONS**

There are no policy implications.

The Shire is in the process of preparing a Tree Plantation Policy, to provide additional guidance to the Council and applicants in determining the suitability of proposals for tree plantations in the Shire of Boyup Brook.

The draft policy has been developed in response to the Shire's scheme, which encourages the diversification of rural activities within rural holdings.

It has been considered that because the Tree Plantation Policy has not been finalised, it is not appropriate to apply the policy position, to the current plantation application.

**CONSULTATION**

Consultation was undertaken with DFES, the Forest Industries Federation WA and other plantation companies from which it can be considered that bushfire management criteria will be appropriately actioned for the proposed development.

**ALTERNATIVE RECOMMENDATIONS**

Council may approve the application with or without conditions or may refuse the application.

Please note that if the local government does not make a determination, on this application, the applicant may have the right to commence SAT review proceedings. SAT review proceedings are generally available to the person who applied for the relevant planning decision in the following circumstances:

- Where an application was refused;
- Where an application was approved subject to conditions which are not satisfactory to the applicant; or
- Where the decision-maker has failed to make a decision within the prescribed time period (90 days for advertised application), and the relevant scheme states that such a failure amounts to a deemed refusal.

#### **VOTING REQUIREMENTS**

Simple majority

#### **COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 10.3.1**

**MOVED: Cr Steele Alexander**

**SECONDED: Cr Helen O’Connell**

**That Council**

Grants development approval for Lots 2 & 3 Condinup Road, Dinninup, for the purpose of Development (Tree Farm - Pinus), subject to the following conditions:

#### ***Planning and Development Act 2005***

#### **Shire of Boyup Brook**

#### **NOTICE OF DETERMINATION ON APPLICATION FOR DEVELOPMENT APPROVAL**

Location: Lots 2 & 3 Condinup Road, Dinninup.

Description of proposed development:

#### **Tree Farm (Pinus Radiata – 374ha)**

The application for development is approved subject to the following conditions.

Conditions:

- Prior to commencement of development, a Fire Management Plan Map is to be developed to comply with the FESA *Guidelines for Plantation Fire Protection* and the Plantation Management Plan (dated March 2022) and shall be maintained on-site in red PVC tubes located at each access point.

#### **Advice on condition 1.**

The Fire Management Plan Map is to detail the following as a minimum:

- i. Landowner/manager’s details and a 24 hour contact number (FPC contact 9725 5288);
- ii. Details of the fire suppression equipment and operational arrangements;
- iii. Details of the plantation species and plantation layout including cell size;

- iv. Water sources;
  - v. Firebreaks and access routes.
  - vi. The submitted Plantation Management Plan document refers to the 1998 Guidelines for Plantation Fire Protection. The Plantation Management Plan and map need to comply with the 2011 version.
  - vii. The minimum trafficable surface width throughout the plantation should be 6m as opposed to the 4m minimum demonstrated on the submitted Fire Management Plan Map.
- All development shall occur in accordance with the approved Plantation Management Plan (updated to the satisfaction of the Shire) and Fire Management Plan Map (updated to the satisfaction of the Shire), unless varied by a condition of approval or a minor amendment, to the satisfaction of the Shire of Boyup Brook.
- Management of the tree plantation is to be carried out in accordance with the *Code of Practice for Timber Plantations in Western Australia* and the FESA 2011 *Guidelines for Plantation Fire Protection*, to the satisfaction of the Shire of Boyup Brook.

Advice on conditions 2 and 3

More detailed requirements to address the requirement that the Plantation Management Plan are included in subsequent conditions.

As a minimum, the following actions are to be complied with:

- i. Where appropriate, conduct regular prescribed burning.
  - ii. Manage weeds with herbicide or removal.
  - iii. Maintain full canopy cover to reduce grass competition.
  - iv. High prune trees near critical infrastructure where required to allow access for vehicles such as fire trucks.
  - v. External firebreaks must be 15 m wide and pruned to 4 m high for clear access.
  - vi. Powerline easements 10-30 m clear each side. .
- The applicant must at all times ensure that they provide adequate firefighting capacity to their development to fulfil their obligations set out under s28 of the Bushfires Act 1954.
- Prior to commencement of development, the applicant is to ensure that adequate arrangements are made to respond to fires originating from or entering into the plantation. A heavy duty fire appliance fitted with in cab protection systems is to be stationed in or near the site during the high risk fire season. The owner must advise the Shire's Chief Bushfire Officer that the equipment is unavailable to allow alternative arrangements to be made.

Advice on condition 5

- i. Neither Shire staff nor the Shire's Volunteer Bushfire Brigades are equipped or trained to respond to plantation fires and are consequentially prohibited from

entering plantations to respond to fires within the plantation area. While the Shire volunteer fire brigades will make every effort to contain fires within the boundaries of the plantation, the plantation owner is responsible for control and suppression of fires within the plantation boundaries.

- ii. It is essential upon detecting a fire in or near a plantation that suppression action is as fast as possible and safe, determined and thorough with the primary objective of controlling the fire in the shortest time possible to minimise loss and environmental damage.
- iii. The Shire acknowledges that the applicant has made arrangements with FPC to utilise their McAlinden based fire unit. These arrangements are deemed suitable to meet the requirements of condition 5. However, if these arrangements cease, the plantation manager is to ensure that alternative arrangements are made to ensure that a heavy duty fire appliance is available to this plantation and that the response times for this unit are not greater than those for the FPC McAlinden based unit.
- iv. The Shire acknowledges that the subject equipment and fire crews may be required to attend outbreaks of fire in other locations within or outside of the Shire and due to unforeseen or extenuating circumstances may not be available to respond to specific instances of fire outbreak on this plantation while diverted to these duties. If this occurs, the plantation manager will advise the Shire's Chief Bushfire Officer when the equipment is unavailable to allow alternative arrangements to be made.
- As an ongoing condition, suitably trained fire personnel are to be available to attend a fire at the subject land. These fire personnel must be trained in plantation fire prevention and response and equipped with all necessary equipment suitable for this use.
- Prior to the commencement of development, a min 50,000L water tank is to be established as a dedicated firefighting water supply adjacent to the main entrance to the site and outside of the plantation area, in a location and of a design, to the satisfaction of the Shire of Boyup Brook.
- The owner/operator is responsible for the repair of any undue damage to public roads caused by harvesting operations and or movement of machinery associated with the plantation operation.

Advice on condition 8

- i. Prior to commencement of harvesting, the developer is to provide a road condition report, to the satisfaction of the Shire of Boyup Brook.
- ii. Council is to be notified in writing of future harvesting at least 3 months prior to harvesting commencing.
- iii. Traffic management measures may need to be implemented following consultation with the local government to minimise damage to the road and to ensure safety requirements are met.
- iv. Prior to commencement and following the completion of harvesting, a joint inspection (landholder and Local Government) of the relevant local roads, used as a haulage route, should be conducted.

- Note 1: In accordance with the Shire of Boyup Brook Firebreak Notice:
- Clear a 15m wide bare earth firebreak immediately inside all external boundaries of the land by removing all inflammable matter and vegetation to a height of 5m;
  - Where a plantation is divided into compartments –
  - if the compartments do not exceed 30ha, a 6m wide bare earth firebreak between compartments must be cleared by removing all inflammable matter and vegetation within the 6m firebreak between the ground and 5m above the ground;
  - if compartments exceed 30ha, a 10m wide bare earth firebreak between compartments must be cleared by removing all inflammable matter and vegetation within the 10m wide firebreak between the ground and 5m above the ground;
  - Clear a 50m wide bare earth firebreak around all buildings and fuel storage areas by removing all inflammable matter and vegetation within the 50m firebreak between the ground and 5m above the ground;
  - Where power lines pass through the plantation, clear firebreaks in accordance with Western Power specifications (consult Western Power – phone 13 10 87).
- Note 2: The removal of any native vegetation will require the approval of the Department of Water and Environmental Regulation.
- Note 3: If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
- Note 4: Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
- Note 5: If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

**CARRIED 8/0**

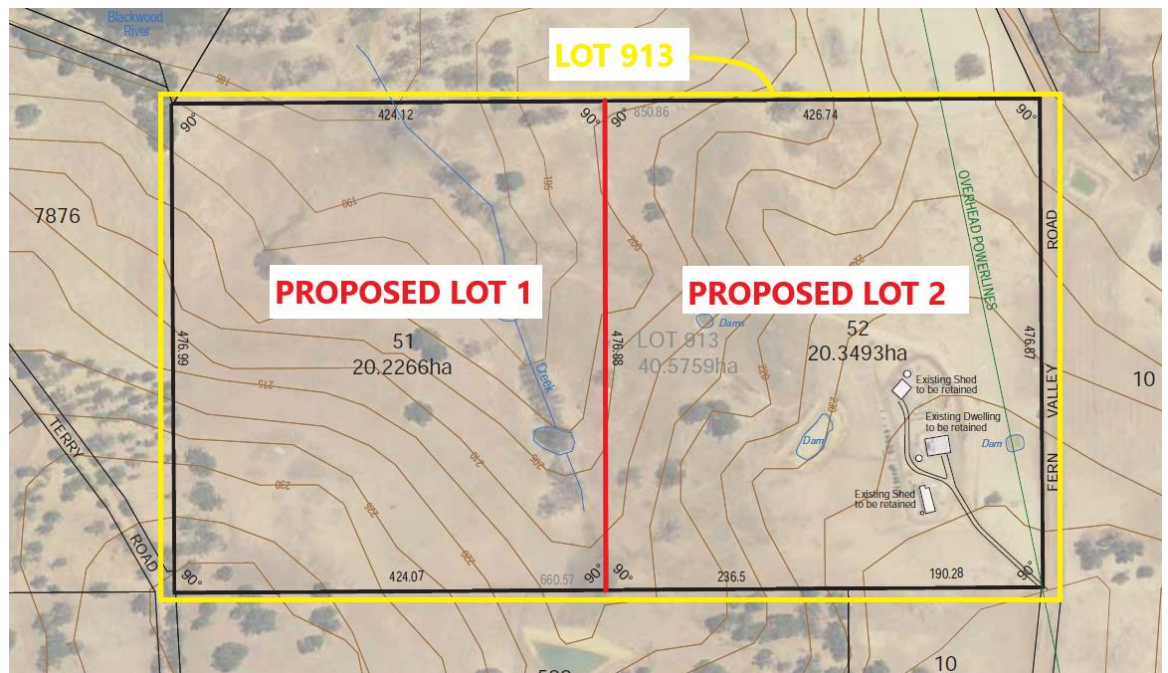
**Res 22/5/52**

**10.3.2 Subdivision Application (WAPC Ref 162282) Lot 913 Fern Valley Road, Boyup Brook**

<b>Location:</b>	Lot 913 Fern Valley Road, Boyup Brook.
<b>Applicant:</b>	Len Kosova
<b>File:</b>	162282
<b>Disclosure of Officer Interest:</b>	None
<b>Date:</b>	26 May 2022
<b>Author:</b>	A. Nicoll, Town Planner
<b>Authorizing Officer:</b>	Dale Putland, Chief Executive Officer
<b>Attachments:</b>	1. Covering Letter about the proposal 2. Bushfire Management Plan

**SUMMARY**

Council is requested to advise the Western Australian Planning Commission (WAPC) to conditionally support the proposed 'Rural' Lot 913 Fern Valley Road subdivision (1 lot into 2 lots).



The application accords with the Shire's Local Planning Scheme No.2, the WAPC's previous subdivision approval and an endorsed Structure Plan for the property.

**BACKGROUND**

In July 2020, the WAPC conditionally approved the subdivision of the Lot 913 Fern Valley Road, from one lot into two lots.

The landholder was aggrieved by conditions requiring the connection to the Western Power electricity supply, however, the opportunity to contest the conditions lapsed under the current subdivision approval. Accordingly the subdivision application has been re-submitted, with a request that the Commission approves the subdivision application without previously imposed Western Power conditions 6 and 7 as follows:

*6. Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specifications of Western Power for the provision of an underground electricity supply to the lot(s) shown on the approved plan of subdivision.*

*7. The transfer of land as a crown reserve free of cost to Western Power for the provision of electricity supply infrastructure.*

After obtaining a quotation from Western Power, the landholder determined it was not financially viable to extend an underground power supply to a proposed Lot A, given the cost of doing so relative to the market value of the proposed lot. The landholder subsequently obtained a quote from a local electrician to install an entirely off-grid stand-alone power system. This system has a lower upfront capital cost and provides unlimited sustainable energy free from future service charges.

Instead of conditions requiring connection to Western Powers electricity supply, the landholder is supportive of a notification on title stating:

*“This lot is not connected to a reticulated network electricity supply. Contact Western Power for more information”*

The Western Australian Planning Commission forwarded the re-application to the Shire of Boyup Brook requesting information, comment or recommended conditions by 7 June 2022.

## **DISCUSSION**

Lot 913 is 40.5759 hectares in area and is located approximately 2km south of the Boyup Brook Townsite.

The lot has a regular shape with frontage to Terry Road on its Western boundary and Fern Valley Road on its Eastern boundary.

Lot 913 comprises one single dwelling with associated outbuildings situated near the southeast corner of the property (to be contained on proposed Lot 52).

Much of the property has been cleared through its historical agricultural use (primarily grazing) over many decades, with vegetation scattered sparsely across the property and along a minor drainage route flowing into the Blackwood River.

An existing private underground electricity connection services the existing dwelling via an overhead high voltage distribution line traversing the eastern portion of the property.

Proposed lot 51 will be 20.2266 hectares in area with frontage to Terry Road. Proposed Lot 52 will be 20.3493 hectares in area with frontage to Fern Valley Road.

The proposed subdivision is in-keeping with a structure plan endorsed to guide subdivision and development over the subject land. A Bushfire Management Plan and Bushfire Hazard Level Assessment have been submitted to accompany the subdivision application.

The Council is recommended to advise the Commission that it supports the proposed subdivision as it aligns with the Shire's strategic objectives for the locality and the *Local Planning Scheme No.2* objectives of the Rural Small Holdings zone.

The Council is recommended to advise the Commission to enforce the following conditions:

1. *A re-vegetation plan being prepared, approved and implemented for the re-vegetation of areas adjacent to creeks with appropriate native species to the satisfaction of the Local Government.*
2. *A fence restricting stock and feral animal access to an appropriate standard is to be constructed on the re-vegetation area boundary(s) to protect native vegetation.*
3. *A notification, pursuant to Section 165 of the Planning and Development Act 2005 is to be placed on the certificate(s) of title of the proposed lot(s) with a Bush-fire Attack Level (BAL) Rating of 12.5 or above, advising of the existence of a hazard or other factor. Notice of this Notification is to be included on the diagram or plan of survey (deposited plan). The Notification is to state as follows:*

*"This land is within a bush-fire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and is subject to a Bushfire Management Plan, (Lot 913 Fern Valley Road, Boyup Brook, Version 4, 29/03/22). Additional Planning and Building Requirements may apply to development of this land".*

4. *Information is to be provided to demonstrate that the measures contained in the bush-fire management plan have been implemented during subdivisional works. This information should include a notice of 'Certification by Bushfire Consultant'.*

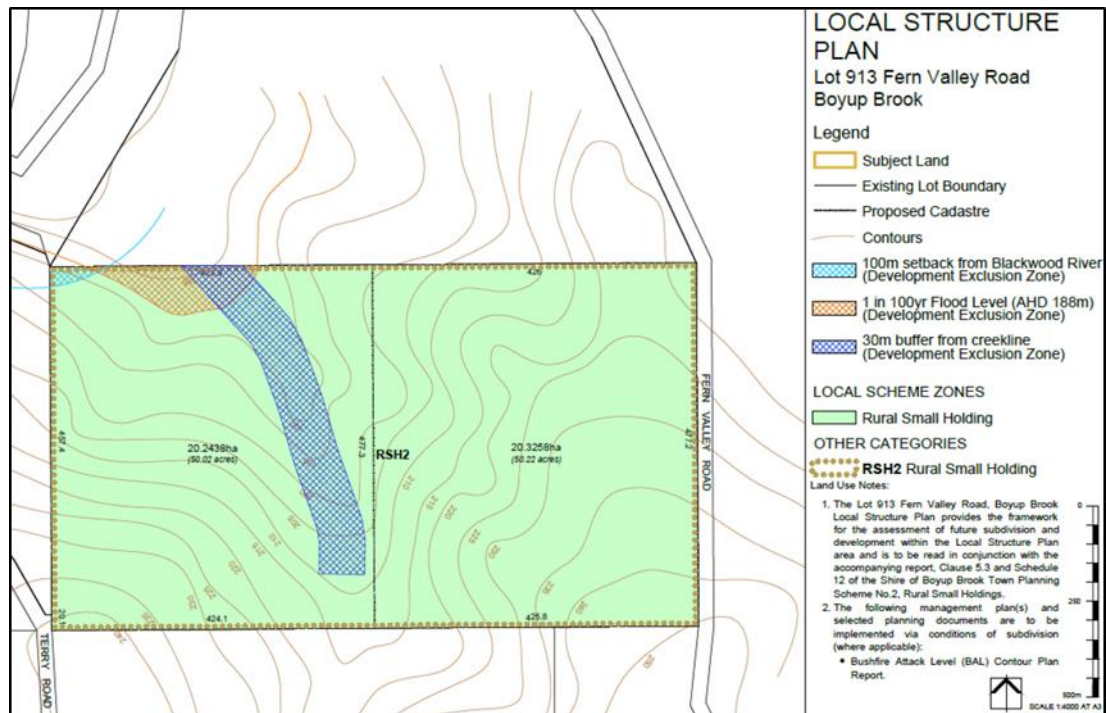
#### **CONSULTATION**

N/A

#### **STATUTORY OBLIGATIONS**

The land is identified in the Shire's Scheme as being within the 'Structure Plan Area No 4' (SP4). A structure plan has been endorsed by the Commission, to facilitate the future subdivision of the subject land into two lots.





## POLICY IMPLICATIONS

N/A

## BUDGET/FINANCIAL IMPLICATIONS

Nil

## VOTING REQUIREMENTS

Simple majority

## OFFICER RECOMMENDATION – ITEM 10.3.2

**MOVED: Cr Philippe Kaltenrieder**

**SECONDED: Cr Adrian Price**

## **That Council**

Agree to advise the Western Australian Planning Commission to support the proposal to subdivide Lot 913 Fern Valley Road subdivision for the following reason and with the following conditions:

### Reason for support

The proposal complies with the Shire's *Local Planning Scheme No.2* and endorsed structure plan pertaining to the subject land.

### Conditions

1. A re-vegetation plan being prepared, approved and implemented for the re-vegetation of areas adjacent to creeks with appropriate native species to the satisfaction of the Local Government.
2. A fence restricting stock and feral animal access to an appropriate standard is to be constructed on the re-vegetation area boundary(s) to protect native vegetation.
3. A notification, pursuant to Section 165 of the Planning and Development Act 2005 is to be placed on the certificate(s) of title of the proposed lot(s) with a Bush-fire Attack Level (BAL) Rating of 12.5 or above, advising of the existence of a hazard or other factor. Notice of this Notification is to be included on the diagram or plan of survey (deposited plan). The Notification is to state as follows:

“This land is within a bush-fire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and is subject to a Bushfire Management Plan, (Lot 913 Fern Valley Road, Boyup Brook, Version 4, 29/03/22). Additional Planning and Building Requirements may apply to development of this land”.

5. Information is to be provided to demonstrate that the measures contained in the bush-fire management plan have been implemented during subdivisional works. This information should include a notice of ‘Certification by Bushfire Consultant’.

#### **AMENDMENT**

**MOVED: Cr Steele Alexander**

**SECONDED: Cr Darren King**

To remove the wording “and feral animal” to condition 2.

**CARRIED 8/0**

**Res 22/5/53**

#### **MOTION**

**That Council**

Agree to advise the Western Australian Planning Commission to support the proposal to subdivide Lot 913 Fern Valley Road subdivision for the following reason and with the following conditions:

##### Reason for support

The proposal complies with the Shire’s *Local Planning Scheme No.2* and endorsed structure plan pertaining to the subject land.

##### Conditions

1. A re-vegetation plan being prepared, approved and implemented for the re-vegetation of areas adjacent to creeks with appropriate native species to the satisfaction of the Local Government.
2. A fence restricting stock access to an appropriate standard is to be constructed on the re-vegetation area boundary(s) to protect native vegetation.

3. A notification, pursuant to Section 165 of the Planning and Development Act 2005 is to be placed on the certificate(s) of title of the proposed lot(s) with a Bush-fire Attack Level (BAL) Rating of 12.5 or above, advising of the existence of a hazard or other factor. Notice of this Notification is to be included on the diagram or plan of survey (deposited plan). The Notification is to state as follows:

“This land is within a bush-fire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and is subject to a Bushfire Management Plan, (Lot 913 Fern Valley Road, Boyup Brook, Version 4, 29/03/22). Additional Planning and Building Requirements may apply to development of this land”.

6. Information is to be provided to demonstrate that the measures contained in the bush-fire management plan have been implemented during subdivisional works. This information should include a notice of ‘Certification by Bushfire Consultant’.

**CARRIED 8/0**

**Res 22/5/54**

**10.3.3 Development Application – (Transportable Unit & Railway Carriage/Youth Centre) 110 Jackson St Boyup Brook**

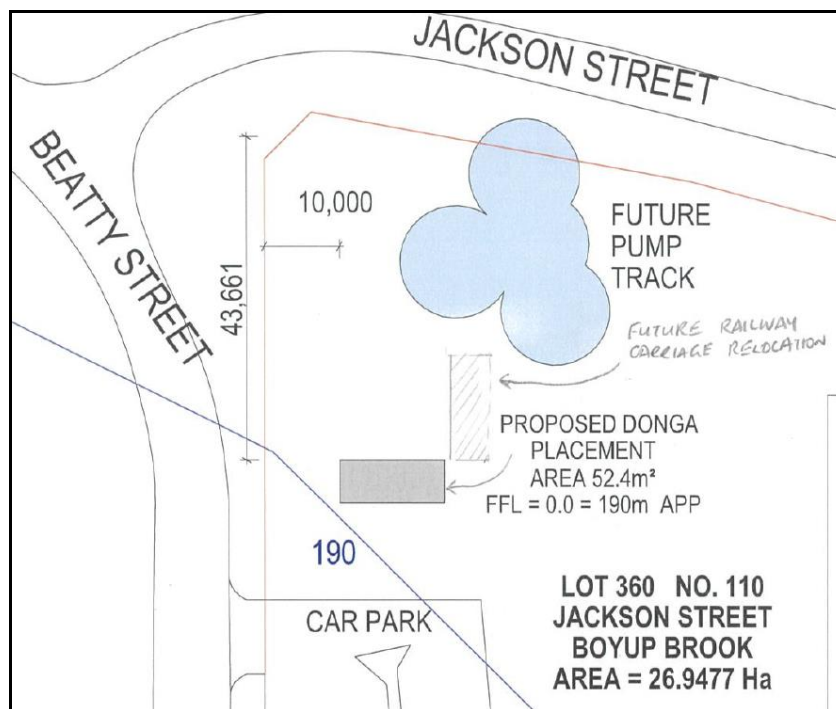
**Location:** 110 Jackson Street, Boyup Brook  
**Applicant:** B Meehan  
**File:** Reserve 1454  
**Disclosure of Officer Interest:** None  
**Date:** 26 May 2022  
**Author:** Town Planner (Adrian Nicoll)  
**Authorizing Officer:** Chief Executive Officer (Dale Putland)  
**Attachments:** Nil

---

**SUMMARY**

The Shire received an application, on behalf of the 'Community Mental Health Action Team', seeking approval to develop a Transportable Unit and a Railway Carriage, at 110 Jackson Street, Boyup Brook.

The 'Community Mental Health Action Team' propose to utilise the Transportable Unit and the Railway Carriage as a Youth Centre, for mentoring persons with mental health related issues.



In accordance with the Shire's *Local Planning Scheme No.2*, the subject land is 'Reserved' for the purpose of Recreation. The proposal to utilise the land as a Youth Centre, complies with the purpose of the subject 'Reserve' (Recreation).

Council is requested to agree to approve the development of the Transportable Unit and the Railway Carriage at the subject site.

### **BACKGROUND**

The 'Community Mental Health Action Team' received grant funding, which is proposed to be utilised for the development of a Transportable Unit and a Railway Carriage, to be located at the Jackson Street recreation precinct area.

### **COMMENT**

The subject property is a Reserve (No.1454) for the purpose of Recreation. The reserve is vested with the Shire of Boyup Brook, with the power to lease.

The Transportable Unit and the Railway Carriage are proposed to be developed in existing cleared areas, as illustrated in the below figure.



The Transportable Unit is 12m long, 4.37m wide and 2.9m high. The floor area consists of two (2) meeting rooms, two (2) storage rooms and includes a wash basin. The roof is constructed using zincalume steel sheeting. It is proposed that a mural is painted on the walls of the Transportable Unit, to enhance its appearance to the street frontage.

The Railway Carriage is featured in the following photo and is proposed to be used for storage purposes (i.e. storage of mountain bikes).



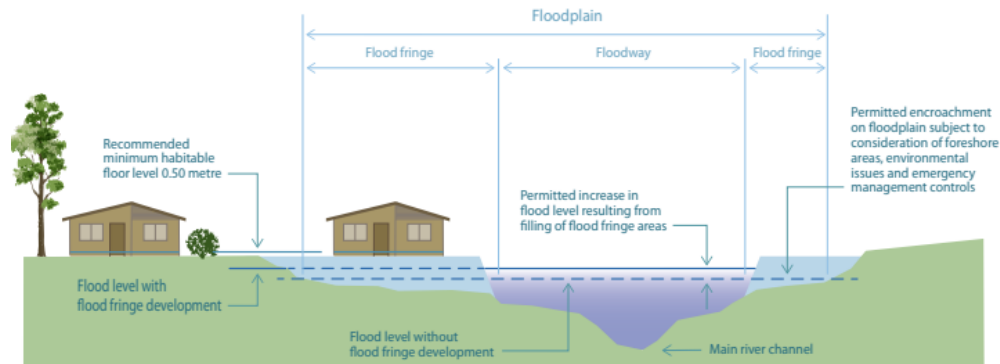


Department of Water and Environmental Regulation data identifies the subject land as being located within a 'floodplain'. The area has in the past been subject to flooding from the Blackwood River and the Boyup 'Brook'.

In accordance with the *Draft State Planning Policy 2.9 Planning for Water Guidelines 34 August 2021*, development may be considered within a 'floodplain', subject to not obstructing the flow of flood-water.

It is proposed, with the use of concrete blocks, that the Transportable Unit and the Railway Carriage are raised higher than the natural ground level. The proposed developments are therefore not expected to impact the flow of any flood-water.

Flood criteria and terminology - The Draft State Planning Policy 2.9 Planning for Water Guidelines 34 August 2021



Access to the proposed Youth Centre is via an existing crossover off Beatty Street.

An existing car parking area is located alongside the proposed Youth Centre. It has been considered that there is a suitable number of existing carparking spaces available to accommodate patrons using the proposed Youth Centre and/or an existing swimming pool, which is also located within the subject Reserve. Overflow parking may also be available in cleared areas adjacent to Jackson Street.

The proposed development is not expected to impact of the environmental attributes of the area and complies with the purpose of the subject 'Reserve'.

Council is recommended to approve the proposed Transportable Unit and Railway Carriage at the subject location, for the purpose of a Youth Centre.

**CONSULTATION**

N/A

**STATUTORY OBLIGATIONS**

In accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*, the objective of a 'Recreational' reserve is for:

*Public Purposes which specifically provide for a range of public recreational facilities.*

**POLICY IMPLICATIONS**

The *Draft State Planning Policy 2.9 Planning for Water Guidelines 34 August 2021* states:

*Maintaining the function of the floodplain is essential to ensure it can perform its natural functions of flow conveyance and storage. Therefore, no structures will be approved for construction within a defined floodway where they are considered to constitute an obstruction during flooding.*

The design of the proposed transportable units (located off the ground via concrete blocks), is not expected to obstruct any potential flooding.

**BUDGET/FINANCIAL IMPLICATIONS**

Nil

**VOTING REQUIREMENTS**

Simple majority

**COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 10.3.3**

**MOVED: Cr Steele Alexander**

**SECONDED: Cr Sarah Alexander**

That Council grants Development Approval for 110 Jackson Street, Boyup Brook (R1454), for the purpose 'Community Purpose', subject to the following notice:

***Planning and Development Act 2005***

**Shire of Boyup Brook**

**NOTICE OF DETERMINATION ON APPLICATION FOR DEVELOPMENT APPROVAL**

Location: 110 Jackson Street, Boyup Brook (R1454)

Description of proposed development:

**Transportable Unit and Railway Carriage (Community Purpose – Youth Centre)**

The application for development is approved subject to the following conditions.

Conditions:

1. Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the Shire of Boyup Brook, all development shall occur in accordance with the approved plans.
2. The Transportable Unit and the Railway Carriage being raised off the ground to the satisfaction of the Shire of Boyup Brook.
3. Stormwater being managed to the satisfaction of the Shire of Boyup Brook.

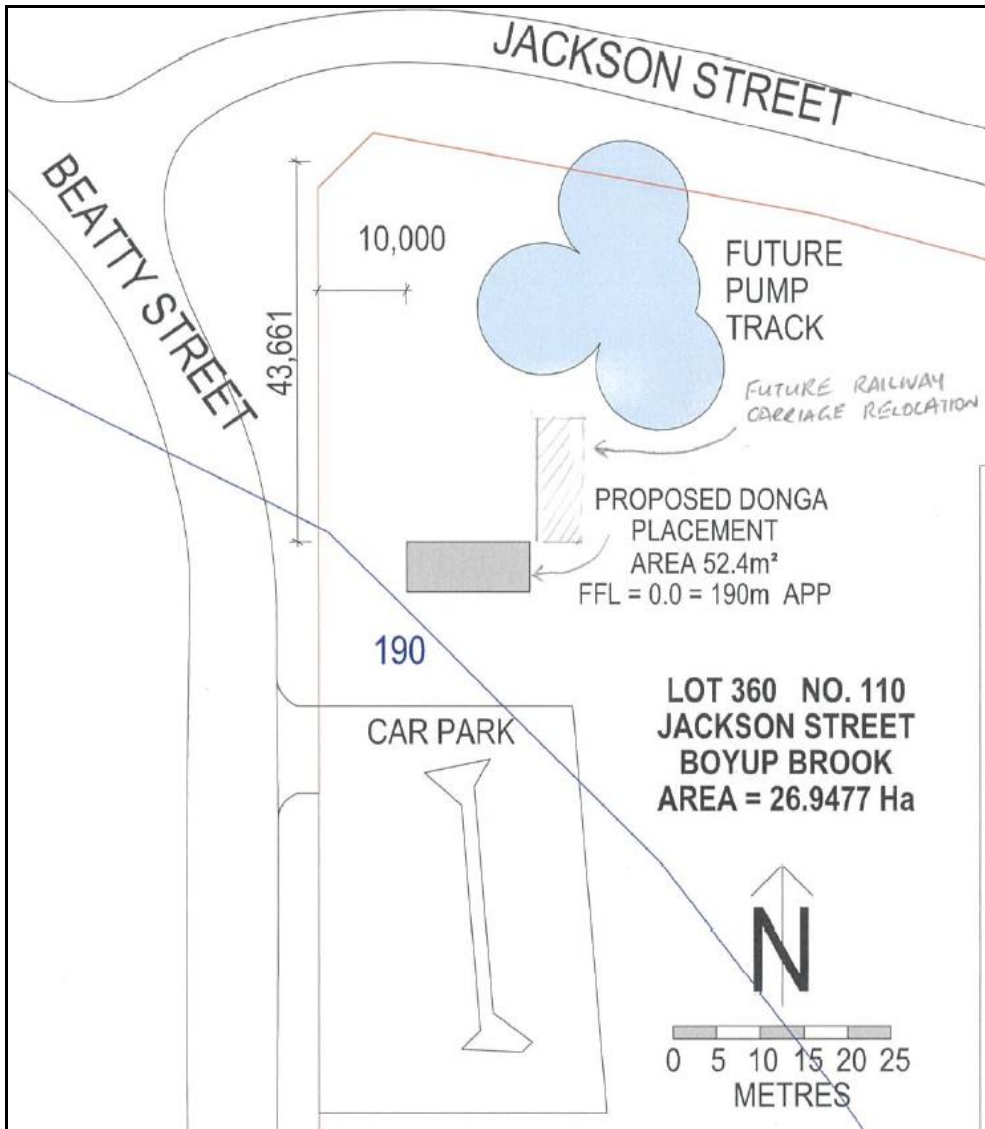
Date of determination: 26 May 2022

- Note 1: Sign(s) shall not be erected on the lot without the prior approval of the Shire of Boyup Brook.
- Note 2: If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
- Note 3: Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
- Note 4: If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

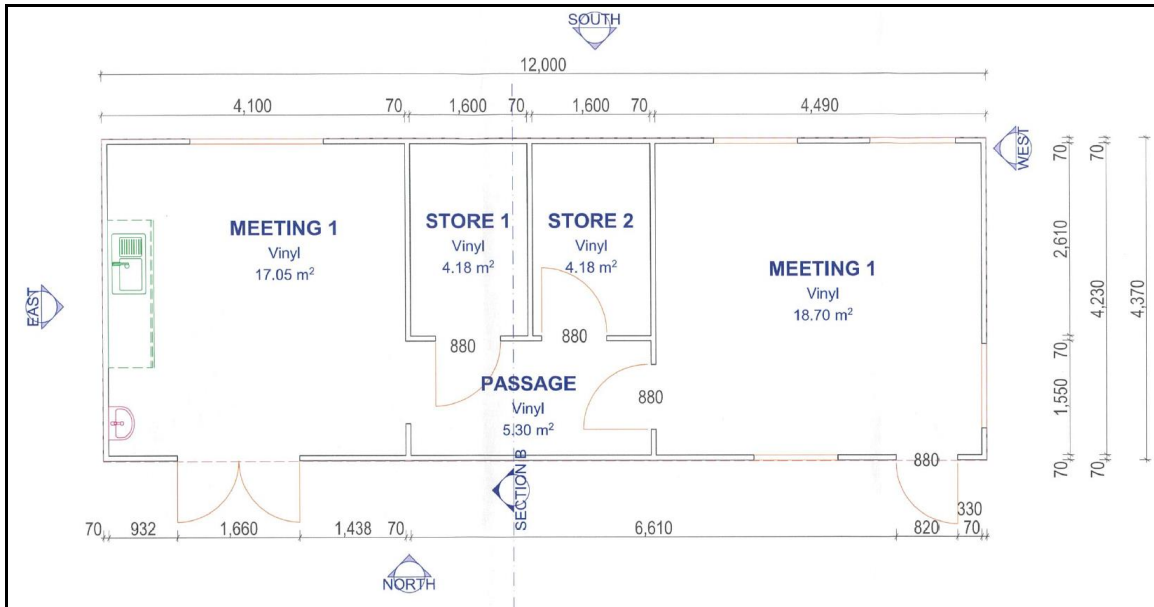


APPROVED PLANS

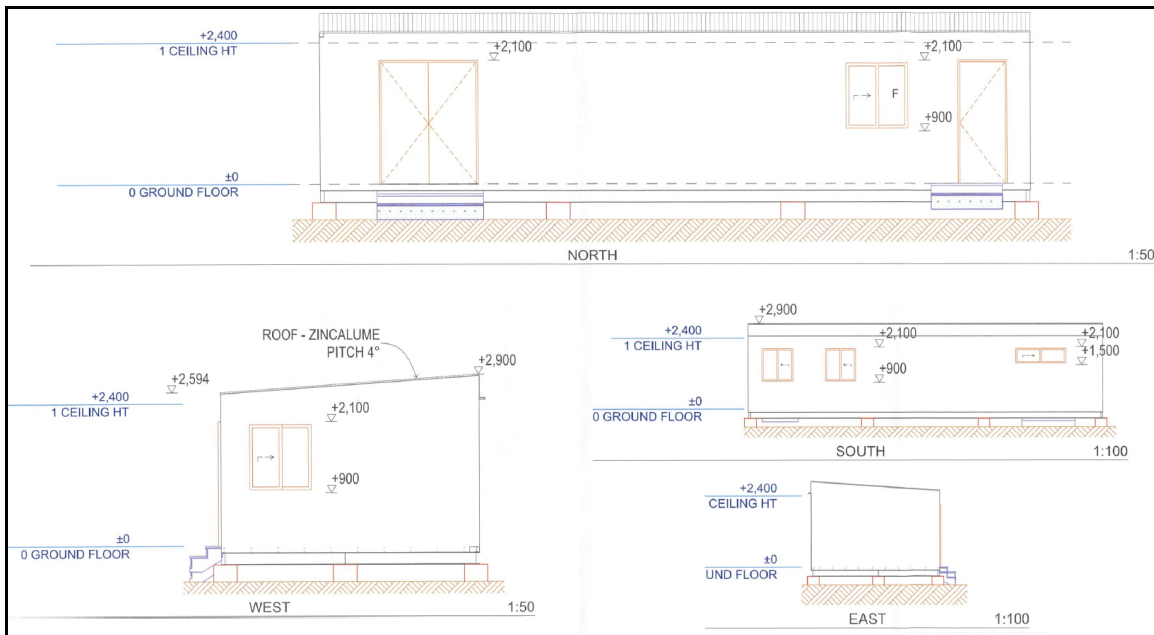
Site Plan



## Transportable Unit - Floor Plan



## Transportable Unit - Elevations



**Railway Carriage**



**CARRIED 8/0**

**Res 22/5/55**

#### 10.3.4 Local Planning Strategy

<b>Location:</b>	<i>Shire of Boyup Brook</i>
<b>Applicant:</b>	<i>NA</i>
<b>File:</b>	<i>LPS</i>
<b>Disclosure of Interest:</b>	<i>Nil</i>
<b>Date:</b>	<i>15/5/22</i>
<b>Author:</b>	<i>Dale Putland – Chief Executive Officer</i>
<b>Authorizing Officer:</b>	<i>Dale Putland – Chief Executive Officer</i>
<b>Attachments:</b>	<i>Local Planning Strategy</i>

---

#### **SUMMARY**

The Shire commissioned Taylor Burrell Barnett (TBB) to prepare a new, contemporary Local Planning Strategy (LPS) for the Shire that addresses the current needs and aspirations of the Boyup Brook community.

The draft LPS has now been prepared for Council's consideration and recommendation to the Western Australian Planning Commission (WAPC) that the draft strategy be approved for advertising to allow for community and stakeholder input.

#### **BACKGROUND**

In 2014, Council initiated preparation of a Local Planning Strategy for the Shire of Boyup Brook.

A draft Local Planning Strategy was certified for advertising by the Western Australian Planning Commission on 22 November 2019.

Following advertising, a revised draft Local Planning Strategy was presented to Council for adoption on the 18 June 2020. At this meeting, Council resolved that Council lay the item on the table and have the draft strategy reviewed by a third party and reported back to the ordinary Council meeting.

Following his appointment, the CEO undertook a review of the LPS and found major flaws in the draft strategy.

Council subsequently resolved to discontinue development of the draft strategy and commencement of development of a new, contemporary Local Planning Strategy that addresses the current needs and aspirations of the Boyup Brook community.

The planning firm, Taylor Burrell Barnett (TBB) was engaged to prepare the new strategy, commencing with several workshops with Councillors and Shire staff.

Concurrently with development of the draft SPS, the Department Planning, Lands and Heritage (DPLH) prepared an omnibus amendment to the Shire's Local Planning Scheme, updating it to a current, contemporary standard. The updated planning scheme was gazetted in April 2022.

### **COMMENT**

Local Planning Strategies are the highest order planning documents prepared by the Shire and establish the basis for amendments to the Shire's Local Planning Scheme and establishment of Local Planning Policies to guide development. The WAPC is the approving agency for Local Planning Strategies and has established requirements regarding the form and content of Local Planning Strategies. The draft LPS has been prepared in a form acceptable to the WAPC.

The draft LPS is informed by the outcomes of the Shire's Strategic Community Plan and addresses current shortages in industrial and commercial land in addition to identifying areas of land for residential and rural residential living.

Once adopted by the WAPC, the LPS will establish the basis for amendments to the Shire's Local Planning Scheme to rezone land for commercial, industrial, and residential use. It will provide the basis for rezoning of the old saleyards, bowling green and allow creation of a more flexible town centre zone.

The LPS deliberately identifies more land for residential and industrial development than will be needed to prevent the town being dependant on a single developer or several developers being able to provide growth opportunities for the Shire.

During preparation of the draft strategy the State Government announced its intention to invest heavily in the establishment new pine plantations that potentially might be located on existing agricultural land in the Shire. Preparation of the LPS was delayed to allow additional provisions to be included in the LPS to establish a basis and set out Council's expectations for new plantation developments in the Shire. Once adopted, the Shire's draft Tree Plantation Policy will expand on the position expressed in the draft LPS and establish specific requirements for new plantations.

### **CONSULTATION**

Chairman of the Western Australian Planning Commission

Assistant Director General, Department of Planning, Lands and Heritage

Planning Director Regional South, Department of Planning, Lands and Heritage

Councillors and Shire Staff

### **STATUTORY COMPLIANCE**

The LPS has been prepared to be in accordance with the requirements set out in the WAPC's Local Planning Strategy Guidelines 2021

Local Planning Strategy Guidelines ([www.wa.gov.au](http://www.wa.gov.au))

The Boyup Brook Local Planning Strategy is prepared under the *Planning and Development (Local Planning Schemes) Regulations 2015*. 21. Clause 11(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires that a Local Planning Strategy must:

- a) Set out the long-term planning directions for the local government; and
- b) Apply any State or regional planning policy that is relevant to the strategy; and

- c) Provide the rational for any zoning or classification of land under the local planning scheme.

#### **POLICY IMPLICATIONS**

Local Planning Strategies are the highest order planning documents prepared by Local Governments and establish the basis for future amendments to the Shire's Local Planning Scheme and creation of Local Planning Policies to guide development in the Shire.

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

Nil

#### **STRATEGIC IMPLICATIONS**

An up to date and contemporary Local Planning Strategy establishes a direction for land development and growth in the Shire of Boyup Brook for the next 15 to 25 years and establishes the basis for amendments to the Shire's Local Planning Scheme to rezone new land for residential, commercial and industrial uses.

#### **VOTING REQUIREMENTS**

Absolute Majority

#### **COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 10.3.4**

**MOVED: Cr Steele Alexander**

**SECONDED: Cr Helen O'Connell**

That Council:

1. Endorses Shire's draft Local Planning Strategy subject to minor edits and requests the Western Australian Planning Commission (WAPC) approve the amended draft Local Planning Strategy for advertising to allow for community and stakeholder input prior to final consideration by Council and the WAPC.
2. THAT Council, in pursuance to the *Planning and Development (Local Planning Schemes) Regulations 2015*, RESOLVES to provide a copy of the Boyup Brook Local Planning Strategy to the Western Australian Planning Commission to certify that the Strategy complies with Part 3, Clause 11 (2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the purpose of proceeding to advertise the Strategy.
3. In accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*, advertise the strategy once certification has been provided by the Western Australian Planning Commission.

**CARRIED BY ABSOLUTE MAJORITY 8/0**

**Res 22/5/56**

**11 COMMITTEE MINUTES**

<b>11.1 Local Emergency Management Committee Minutes</b>
--

**COUNCIL DECISION & COMMITTEE RECOMMENDATION – ITEM 11.1**

**MOVED:** Cr Helen O’Connell

**SECONDED:** Cr Steele Alexander

That the unconfirmed minutes of the Local Emergency Management Committee held on Friday, 6 May 2022 be received.

**CARRIED 8/0**

**Res 22/5/57**

**12 MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**  
Nil

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

**13.1 Submission to Local Government Advisory Board for District Boundary Adjustment with Shire of Donnybrook**

<b>Location:</b>	<i>Shire of Boyup Brook/Shire of Donnybrook Balingup</i>
<b>Applicant:</b>	<i>Shire of Boyup Brook</i>
<b>File:</b>	<i>Property files</i>
<b>Disclosure of Officer Interest:</b>	<i>None</i>
<b>Date:</b>	<i>16 March 2022</i>
<b>Authors:</b>	<i>Dale Putland – Chief Executive Officer</i>
<b>Authorizing Officer:</b>	<i>Dale Putland – Chief Executive Officer</i>
<b>Attachments:</b>	<i>13.1(a) Guiding Principles</i> <i>13.1(b) Making a submission for a district boundary change</i> <i>13.1 (c) proposed boundary maps</i>

---

**SUMMARY**

The purpose of this report is to seek a joint Council resolution between the Shire of Donnybrook and Shire of Boyup Brook to determine the preferred district boundary alignment for properties where the shire boundary bisects individual properties along the Shire of Donnybrook Balingup / Shire of Boyup Brook boundary. This determination is necessary to provide direction to officers to prepare the formal Local Government Advisory Board (Board) submission document.

The Board is the body established by the *Local Government Act 1995* (Act) to assess proposals for changes to local government district boundaries.

The proposed boundary change is to permanently resolve issues relating to the Shire of Donnybrook Balingup and Shire of Boyup Brook shared boundary bisecting individual lots. This anomaly results in landowners having a single lot of land located in two local government districts.



## **BACKGROUND**

Seven individual lots have been identified as being bisected by the Shire of Donnybrook Balingup / Shire of Boyup Brook local government boundary.

**Table 1 Affected Properties**

Land ID	VEN	Assess No	Cert of Title	Lot	Address
4522P162073/2	1076360	A2491	2215/767	Lot 4522	3853 Donnybrook-Boyup Brook Road, Noggerup
11P20750/1	1075849	A1732	2048/547	Lot 11	3851 Boyup Brook Road Noggerup
3804P153547/2	1076419	A2671	1897/282	Lot 3804	3905 Donnybrook-Boyup Brook Road, Noggerup
11859P157909/2	1630596	A4390	1245/290	Lot 11859	Lot 11859 Walker Road, Wilga West
12087P163478/2	1630597	A4389	1328/357	Lot 12087	199 Walker Road, Wilga West
10833P140931/2	1076069	A1393	1039/55	Lot 10833	118 Walker Road, Wilga West
11287P159733/2	1076069	A1393	1175/249	Lot 11287	118 Walker Road, Wilga West

At the Ordinary Council Meeting on 22 September 2021, the Council of the Shire of Donnybrook Balingup resolved unanimously to support a joint submission to change the boundary as follows (Res: 154/21):

*“That Council:*

- 1. Endorse support for a joint submission to the Local Government Advisory Board with the Shire of Boyup Brook for a district boundary adjustment on the following properties where the Shire of Donnybrook-Balingup /Shire of Boyup Brook boundary dissects the individual lot.*

Land ID	VEN	Assess No	Cert of Title	Lot	Address
4522P162073/2	1076360	A2491	2215/767	Lot 4522	3853 Donnybrook-Boyup Brook Road, Noggerup
11P20750/1	1075849	A1732	2048/547	Lot 11	3851 Boyup Brook Road Noggerup
3804P153547/2	1076419	A2671	1897/282	Lot 3804	3905 Donnybrook-Boyup Brook Road, Noggerup
11859P157909/2	1630596	A4390	1245/290	Lot 11859	Lot 11859 Walker Road, Wilga West
12087P163478/2	1630597	A4389	1328/357	Lot 12087	199 Walker Road, Wilga West
10833P140931/2	1076069	A1393	1039/55	Lot 10833	118 Walker Road, Wilga West
11287P159733/2	1076069	A1393	1175/249	Lot 11287	118 Walker Road, Wilga West

- 2. Subject to the Council of the Shire of Boyup Brook resolving to support a joint submission in accordance with resolution 1, endorse the Chief Executive Officer to undertake consultation with landowners resolved in Resolution 1 to determine the preferred district for each affected lot.*
- 3. That the Chief Executive Officer reports back to Council following the completion of landowner consultation undertaken in accordance with Resolution 2.”*

At the Ordinary Meeting of Council on 30 September 2021 Council of the Shire of Boyup Brook resolved unanimously to support a joint submission to change the boundary.

**COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 10.4.1**

**MOVED:** Cr Sarah E G Alexander

**SECONDED:** Cr Helen C O'Connell

**That Council**

1. **Endorse support for a joint submission to the Local Government Advisory Board with the Shire of Donnybrook Balingup for a district boundary adjustment on the following properties where the Shire of Donnybrook-Balingup / Shire of Boyup Brook boundary dissects the individual lot.**

Land ID	VEN	Assess No	Cert of Title	Lot	Address
4522P162073/2	1076360	A2491	2215/767	Lot 4522	3853 Donnybrook-Boyup Brook Road, Noggerup
11P20750/1	1075849	A1732	2048/547	Lot 11	3851 Boyup Brook Road Noggerup
3804P153547/2	1076419	A2671	1897/282	Lot 3804	3905 Donnybrook-Boyup Brook Road, Noggerup
11859P157909/2	1630596	A4390	1245/290	Lot 11859	Lot 11859 Walker Road, Wilga West
12087P163478/2	1630597	A4389	1328/357	Lot 12087	199 Walker Road, Wilga West
10833P140931/2	1076069	A1393	1039/55	Lot 10833	118 Walker Road, Wilga West
11287P159733/2	1076069	A1393	1175/249	Lot 11287	118 Walker Road, Wilga West

2. **Subject to the Council of the Shire of Donnybrook Balingup resolving to support a joint submission in accordance with resolution 1, endorse the Chief Executive officer to undertake consultation with landowners resolved in Resolution 1 to determine the preferred district for each affected lot.**
3. **That the Chief Executive Officer reports back to Council following the completion of landowner consultation undertaken in accordance with Resolution 2.**

**CARRIED 6/0**

**Res 22/9/130**

The following plan is guiding the joint submission to the Board with relevant completed sections shown..

The resolution that is the subject of this report relates to Stage 3 only (highlighted).

**Table 1 Stages**

Stages - Boundary Change		Council Decision Required	Landowner Consultation	Status
1	Joint Council resolution with Shire of Boyup Brook			Completed
	a. Endorse boundary change process	√		Completed
	b. Endorse initiating consultation with affected landowners	√		Completed
2	Letter to landowners advising process - Include a return form where landowner indicates preferred district for the affected lot		√	Completed
3	Joint Council resolution with Shire Donnybrook			
	a. Endorse proposed changes to boundary alignment			

	b. Authorise CEOs to prepare a submission for a district boundary change to Local Government Advisory Board			
4	Officers prepare Local Government Advisory Board submission report			
5	Joint Council resolution with Shire of Boyup Brook adopting the submission report for a district boundary change to Local Government Advisory Board	√		
6	Submit to Local Government Advisory Board			
7	Resolve matters raised from the Local Government Advisory Board assessment process			
8	Local Government Advisory Board considers proposal and makes recommendation to Minister for Local Government			
9	Minister makes determination on proposal and advises proponent via Local Government Advisory Board			

The subject properties are clustered in two distinct, geographically separated nodes. The two nodes are approximately 10km apart.

1. Northern Node (Noggerup) – 3 properties.
2. Southern Node (Wilga) – 4 properties.

Figure 1 – Geographic Overview

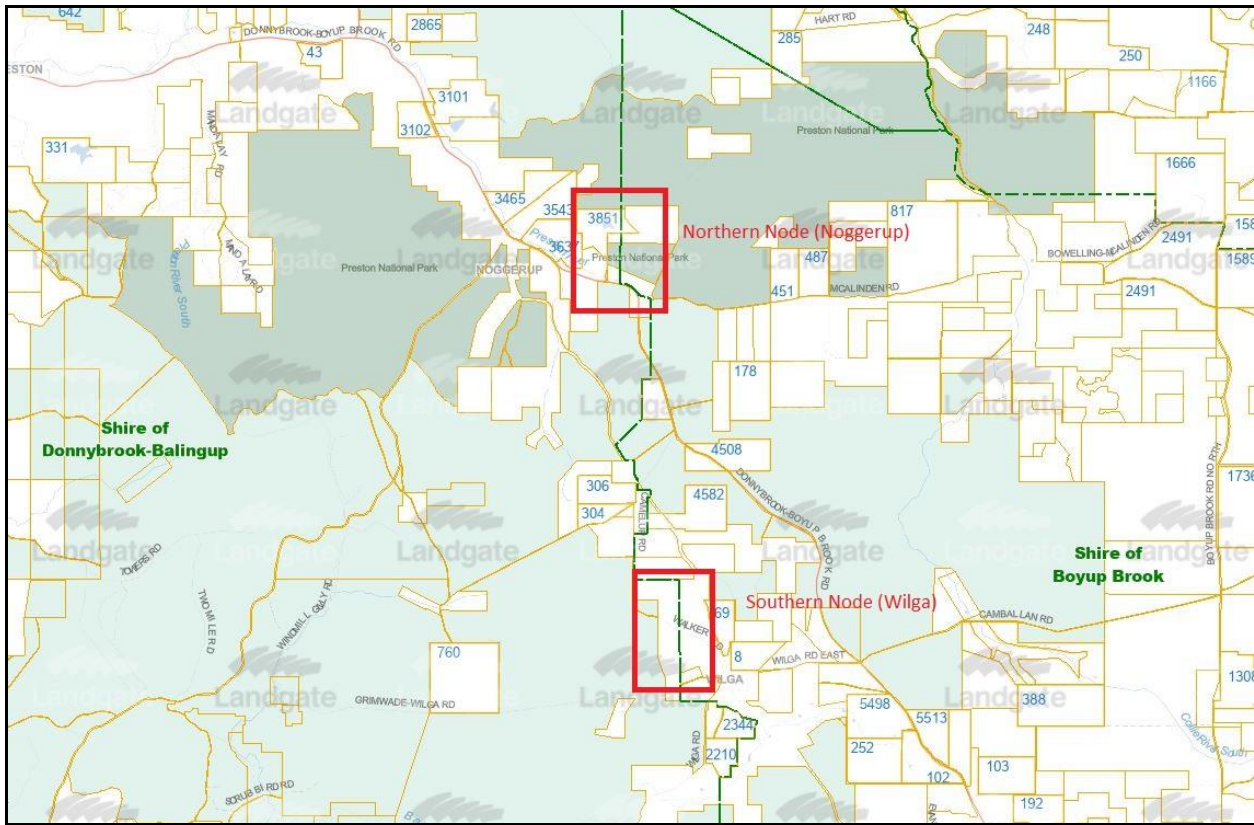


Figure 2 - Northern (Noggerup) Node (3 properties) - Existing Boundary

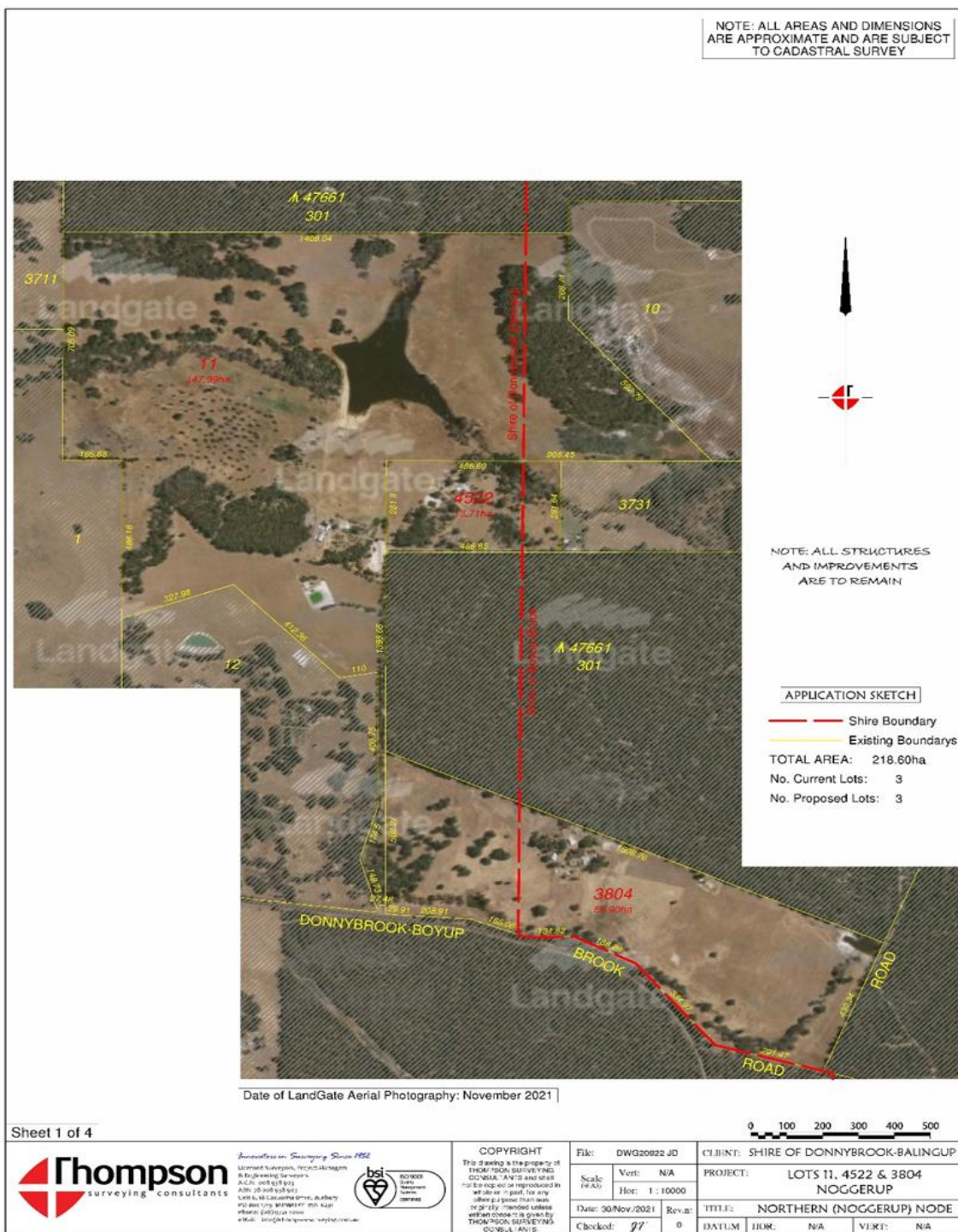
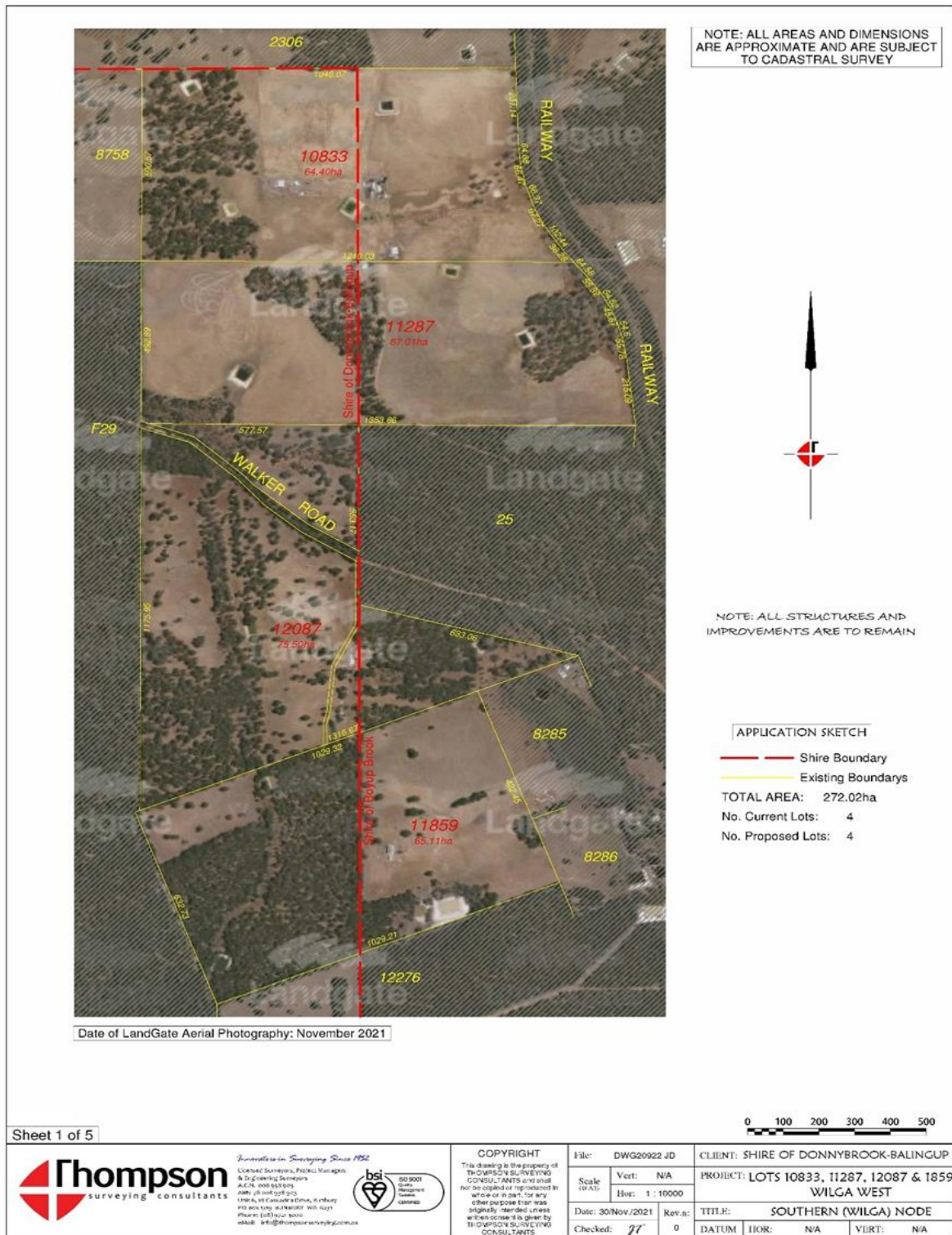




Figure 3 - Southern (Wilga) Node (4 properties) – Existing Boundary



### **COMMENT**

The proposed boundary recommendations are based on officer assessment undertaken against the following prescribed guiding principles (Attachment 13.1(a) Guiding Principles. Proposal to create, change the boundaries of, or abolish a local government district). These guiding principles form the basis for The Board considering changes to local government boundaries.

1. Community Interests
2. Physical and Topographic Features
3. Demographic Trends
4. Economic Factors
5. History of the Area
6. Transport and Communication
7. Matters Affecting the Viability of Local Governments
8. The Effective Delivery of Local Government Services

**Table 4 Summary of Assessment Under the Guiding Principles**

	<b>Northern (Noggerup) node</b>	<b>Southern (Wilga) node</b>
Community of Interests	Donnybrook Balingup	Boyup Brook
Physical and Topographic Features	Donnybrook Balingup	Boyup Brook
Demographic Trends	Not Applicable	Not Applicable
Economic Factors	Donnybrook Balingup	Boyup Brook
History of the Area	Not Applicable	Not Applicable
Transport and Communication	Not Applicable	Not Applicable
Matters Affecting the Viability of Local Governments	Not Applicable	Not Applicable
The Effective Delivery of Local Government Services	Not Applicable	Not Applicable
<b>Summary</b>	<b>Northern (Noggerup) node</b>	<b>Southern (Wilga) node</b>
Shire of Donnybrook Balingup	3	0
Shire of Boyup Brook	0	3
Not Applicable	5	5

The assessment has informed the following proposed realignments which are reflected in the officer recommendation.

**Table 5 Assessed Proposed District Boundary**

Lot Number	Street Number	Road	Suburb	Postcode	Proposed district that the property to be wholly located	Landowner Preference
Lot 4522	3853	Donnybrook - Boyup Brook Road	Noggerup	6225	Shire of Donnybrook Balingup	Shire of Boyup Brook
Lot 11	3851	Donnybrook - Boyup Brook Road	Noggerup	6225	Shire of Donnybrook Balingup	Shire of Donnybrook Balingup
Lot 3804	3905	Donnybrook - Boyup Brook Road	Noggerup	6226	Shire of Donnybrook Balingup	Shire of Boyup Brook
Lot 11859	N/A	Walker Road	Wilga West	6243	Shire of Boyup Brook	Shire of Boyup Brook
Lot 12087	199	Walker Road	Wilga West	6243	Shire of Boyup Brook	Shire of Donnybrook Balingup
Lot 10833	118	Walker Road	Wilga West	6243	Shire of Boyup Brook	No Response Received
Lot 11287	118	Walker Road	Wilga West	6243	Shire of Boyup Brook	No Response Received

It is noted that three recommendations are at odds with individual landowner preference. Having taken in account landowner survey responses, it is considered that the officer assessment against the guiding principles provide a robust basis for a submission to the Board and therefore forms the basis of the recommendation.

### **CONSULTATION**

In accordance with joint resolutions of the Shires of Donnybrook Balingup and Boyup Brook, consultation was undertaken with affected landowners.

Landowner consultation was undertaken for a period of 6 weeks, commencing on 1 December 2021, and concluding on 14 January 2022.

Consultation consisted of:

- advising landowners of the Shires' intention to submit a boundary change proposal.
- surveying respective landowners to obtain a preference for the alignment of a future.

Of the seven subject properties, five survey responses were received.

**Table 2 Submissions**

Support	Oppose	No Response	Total
5	0	2	7

The results of the consultation surveys are detailed as follows:



**Table 3 Landowner consultation responses**

Owner Last Name	Owner Initials	Lot Number	Street Number	Road	Suburb	Postcode	Support	Landowner Preferred District
Stockton	DJ	Lot 4522	3853	Donnybrook - Boyup Brook Road	Noggerup	6225	Yes	Shire of Boyup Brook
Scott	BF & RA	Lot 11	3851	Donnybrook - Boyup Brook Road	Noggerup	6225	Yes	Shire of Donnybrook Balingup
McAndrew	MA	Lot 3804	3905	Donnybrook - Boyup Brook Road	Noggerup	6226	Yes	Shire of Boyup Brook
Charteris	GW	Lot 11859	N/A	Walker Road	Wilga West	6243	Yes	Shire of Boyup Brook
Charteris	EN	Lot 12087	199	Walker Road	Wilga West	6243	Yes	Shire of Donnybrook Balingup
Moir	EMM & KJ	Lot 10833	118	Walker Road	Wilga West	6243	N/A	No Response Received
Moir	EMM & KJ	Lot 11287	118	Walker Road	Wilga West	6243	N/A	No Response Received

### **STATUTORY OBLIGATIONS**

Schedule 2.1 of the *Local Government Act 1995* prescribes the requirements for changing boundaries of a local government district

#### ***2. Making a proposal***

***(1) A proposal may be made to the Advisory Board by —***

- (a) the Minister; or***
- (b) an affected local government; or***
- (c) 2 or more affected local governments, jointly; or***
- (d) affected electors who —***
  - (i) are at least 250 in number; or***
  - (ii) are at least 10% of the total number of affected electors.***

***(2) A proposal is to —***

- (a) set out clearly the nature of the proposal, the reasons for making the proposal and the effects of the proposal on local governments; and***
- (b) be accompanied by a plan illustrating any proposed changes to the boundaries of a district; and***
- (c) comply with any regulations about proposals.***

### **POLICY IMPLICATIONS**

Not Applicable

**FINANCIAL IMPLICATIONS**

Based on assessments, loss of rates would be \$2975.44 per financial year based on our current rate in the dollar. Area reduction on A3210, based on 21/22 valuation would be approximately \$656.00.

**STRATEGIC IMPLICATIONS**

Nil

**VOTING REQUIREMENTS**

Simple

**COUNCIL DECISION & OFFICER RECOMMENDATION – 13.1**

**MOVED:** Cr Darren King

**SECONDED:** Cr Philippe Kaltenrieder

**That Council:**

**1. Endorses a proposed district boundary adjustment for the following properties:**

Land ID	VEN	Assess No	Cert of Title	Lot	Address	Proposed district that the property to be wholly located
4522P162073/2	1076360	A2491	2215/767	4522	3853 Donnybrook-Boyup brook Rd Noggerup	Shire of Donnybrook Balingup
11P20750/1	1075849	A1732	2048/547	11	3851 Boyup Brook Rd Noggerup	Shire of Donnybrook Balingup
3804P153547/2	1076419	A2671	1897/282	3804	3905 Donnybrook-Boyup Book Rd Noggerup	Shire of Donnybrook Balingup
11859P157909/2	1630596	A4390	1245/290	11859	Lot 11859 Walker Rd Wilga	Shire of Boyup Brook
12087P163478/2	1630597	A4389	1328/357	12087	199 Walker Rd Wilga West	Shire of Boyup Brook
10833P140931/2	1076069	A1393	1039/55	10833	118 Walker Rd, Wilga West	Shire of Boyup Brook
11287P159733/2	1076069	A1393	1175/249	11287	118 Walker Rd, Wilga West	Shire of Boyup Brook

**2. Subject to the Council of the Shire of Donnybrook Balingup resolving to support the proposed boundary adjustment in accordance with Resolution 1, request the Chief Executive Officer to:**

- a) Prepare a joint submission document to the Local Government Advisory Board in conjunction with the Shire of Donnybrook Balingup.**
- b) Present the joint submission document to Council for endorsement.**

**CARRIED 8/0**

**Res 22/5/58**

**14 CONFIDENTIAL MATTERS – BEHIND CLOSED DOORS**

Nil

Ian Kugler expressed his concern in relation to recycling being thrown in the general waste and at least 6 bins at various locations are not getting their bins picked up by Suez.

**15 CLOSURE OF MEETING**

There being no further business the Shire President, Cr Walker thanked all for attending and declared the meeting closed at 7.09pm.