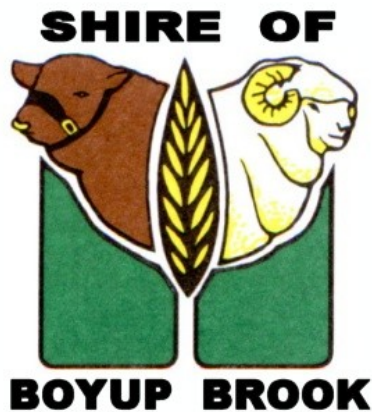


MINUTES



ORDINARY MEETING

HELD

THURSDAY 19 APRIL 2012

COMMENCED AT 3.30PM

AT

SHIRE OF BOYUP BROOK CHAMBERS
ABEL STREET – BOYUP BROOK

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

1.1 Attendance

Cr K Moir – Deputy Shire President
Cr G Aird
Cr E Biddle
Cr P Kaltenrieder
Cr B O'Hare
Cr T Oversby
Cr R Walker

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

PUBLIC: Nil

1.2 Apologies

1.3 Leave of Absence

Cr M Giles – Shire President

2 PUBLIC QUESTION TIME

2.1 Response to Previous Public Questions Taken on Notice

Nil

2.2 Public Question Time

3 APPLICATIONS FOR LEAVE OF ABSENCE

MOVED: Cr Oversby

SECONDED: Cr Biddle

That Cr O'Hare be granted leave of absence for the May 2012 ordinary meeting of Council.

CARRIED 7/0

Res 042/12

MOVED: Cr Oversby

SECONDED: Cr Moir

That Cr Kaltenrieder be granted leave of absence for the July 2012 ordinary meeting of Council.

CARRIED 7/0

Res 043/12

4 PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS

Cr Biddle being a representative on the Boyup Brook District High School Board attended a meeting and spoke about the Strategic Plan/Business Plan.

Cr Kaltenrieder attended the Boyup Brook District High School's Anzac Service on 5th April 2012. He mentioned it was a good presentation from the students.

5 CONFIRMATION OF MINUTES

5.1 Ordinary Meeting of Council - Thursday 15 March 2012

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr Kaltenrieder

SECONDED: Cr Biddle

That the minutes of the Ordinary Meeting of Council held on Thursday 15 March 2012 be confirmed as an accurate record.

CARRIED 7/0

Res 044/12

6 PRESIDENTIAL COMMUNICATIONS

Nil

7 COUNCILLORS QUESTIONS ON NOTICE

Nil

8 REPORTS OF OFFICERS

8.1.1 MANAGER WORKS & SERVICES

Nil

8.2 MANAGER – FINANCE

8.2.1 Accounts for Payment

Location:	<i>Not applicable</i>
Applicant:	<i>Not applicable</i>
File:	<i>FM/1/002</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>12 April 2012</i>
Author:	<i>Kay Raisin – Finance Officer</i>
Authorizing Officer:	<i>Alan Lamb – Chief Executive Officer</i>
Attachments:	<i>Yes – List of Accounts Paid</i>

SUMMARY

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

BACKGROUND

Invoices have been received during the month of April 2012.

COMMENT

Accounts are presented for consideration 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 2011/12 or authorized by separate resolution.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.2.1

MOVED: Cr O’Hare

SECONDED: Cr Kaltenrieder

That the payment of accounts for March 2012 as presented totalling \$610,537.78 and as represented by cheque voucher numbers 18908-18942 totalling \$84,148.78 and accounts paid by direct electronic payments through the Municipal Account totalling \$278,779.47 be endorsed.

CARRIED 7/0

Res 045/12

WITHDRAWN BY CEO – ITEM 8.2.2

Reason:

The attachments for item 8.2.2 were sent to Councillor’s too late for adequate perusal and so are to be presented to the May Council meeting.

8.2.2 March 2012 Monthly Statements of Financial Activity
--

<i>Location:</i>	<i>Not applicable</i>
<i>Applicant:</i>	<i>Not applicable</i>
<i>File:</i>	<i>FM/10/003</i>
<i>Disclosure of Officer Interest:</i>	<i>None</i>
<i>Date:</i>	<i>12 April 2012</i>
<i>Author:</i>	<i>Kay Raisin – Finance Officer</i>
<i>Authorizing Officer:</i>	<i>Alan Lamb – Chief Executive Officer</i>
<i>Attachments:</i>	<i>Yes – Financial Reports</i>

8.3 CHIEF EXECUTIVE OFFICER

8.3.1 Review of Delegations of Authority

Location:	<i>Shire of Boyup Brook</i>
Applicant:	<i>Shire of Boyup Brook</i>
File:	<i>GO/15/004</i>
Disclosure of Officer Interest:	<i>Nil</i>
Date:	<i>9 April 2012</i>
Author:	<i>Alan Lamb – Chief Executive Officer</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>Yes – current Register of Delegations of Authority Manual & Proposed New Delegation</i>

SUMMARY

This item reviews the existing Delegations of Authority and recommends that the existing delegations continue without change.

BACKGROUND

Local Government Act 1995 section 5.42(1) states a local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43. Local Government Act 1995 section 5.46(2) states At least once every financial year, delegations made under this Division are to be reviewed by the delegator. Council last reviewed its delegations at the June 2011 Council meeting.

COMMENT

An extensive review of the Shire of Boyup Brook Delegations of Authority conducted in February 2009 and it is suggested that no further changes are needed at this time.

CONSULTATION

Manager of Works and Services
Manager of Finance
Health and Building Officer

STATUTORY OBLIGATIONS

Local Government Act 1995 (various sections)
Local Government Act (Administration) Regulations 1996
Local Government Act (Functions and General) Regulations 1996
Occupational Safety and Health Act 1984 and Regulations 1986
Local Government (Financial Management) Regulations 1996
Local Government (Miscellaneous Provisions) Act 1960

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

The adoption and implementation of this Delegations Authority will not require any additional expenditure.

STRATEGIC IMPLICATIONS

The Delegations of Authority will assist with the delivery of “Best Practice” within the industry.

SUSTAINABILITY IMPLICATIONS

- **Environmental:**
There are no known environmental issues at this stage.
- **Economic:**
There are no known economic issues at this stage.
- **Social:**
There are no known social issues at this stage.

VOTING REQUIREMENTS

Absolute Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.3.1

MOVED: Cr Biddle

SECONDED: Cr Walker

That Council adopt the Delegations of Authority as presented and the same be implemented as from 19 April 2012 until further notice.

CARRIED BY ABSOLUTE MAJORITY 7/0

Res 046/12

Impartiality Interest

Cr Oversby declared an impartiality interest in the following item due to being the Vice President of the Upper Blackwood Agricultural Society.

8.3.2 Appointment of Delegates – Upper Blackwood Agricultural Society

Location:	<i>N/a</i>
Applicant:	<i>UBAS</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>12/4/2012</i>
Author:	<i>Alan lamb</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>UBAS letter</i>

SUMMARY

The purpose of this report is to put before Council the Upper Blackwood Agricultural Society's request that Council delegate a Councillor to attend Society meetings with a recommendation that a Councillor be delegated.

BACKGROUND

The UBAS Committee meets monthly.

COMMENT

It is recommended that Council appoint a delegate to the UBAS Committee.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.3.2

MOVED: Cr Walker

SECONDED: Cr Biddle

That Council appoint Councillor Oversby to be its representative for the Upper Blackwood Agricultural Society's Committee.

CARRIED 7/0

Res 047/12

8.3.3 Wards & Representation - Review

Location:	N/A
Applicant:	N/A
File:	
Disclosure of Officer Interest:	None
Date:	11/4/2012
Author:	Alan lamb
Authorizing Officer:	Not applicable
Attachments:	Letter from Local Government Advisory Board, copies of agenda items/resolutions from Council minutes

SUMMARY

The purpose of this report is to put before Council the Local Government Advisory Board's suggestion that Council reviews its wards and representation prior to the 2013 ordinary Council elections with the recommendation that Council advise that the status quo should remain.

BACKGROUND

The Board wrote suggesting that Council conduct a review of its wards and representation. The Board advised that, based on the 2011 elections data, the Councillor to elector ratio for three of the four wards had a deviation of more than 10% from a balanced representation (the Board sees a 10% deviation as acceptable and that more than that is the trigger for review).

The Local Government Act provides that that Local Governments are to review wards/representations every eight years. In response to a call from the Board (made in December 2007) Council conducted a review in 2008 and resolved as follows:

In accordance with schedule 2.2 (9) of the Local Government Act 1995 it is recommended to the Local Government Advisory Board that given the existing ward boundaries satisfy the assessment factors and the minimal number of electors influencing the Councillor/Elector ratio deviation, the existing Shire of Boyup Brook Ward Boundaries and representation be retained.

The Local Government Advisory Board may require a Local Government to conduct a review at any time but it is not doing so now and is merely bringing the matter to Councils attention. It should be noted that the Board may however require Council to conduct a review if it sees a need to do so.

COMMENT

It will be noted from the following table that the current situation is that representation ratios for three wards deviate by more than 10% from a balanced representation.

Shire of Boyup Brook
Table 1

Ward Name	No. Electors	No. Councillors	Councillor: Elector Ratio	% Ratio Deviation
Benjinup	248	2	124	3.88%
Boyup Brook	474	3	158	-22.48%
Dinninup	217	2	109	15.89%
Scotts Brook	222	2	111	13.95%
Totals	1161	9	129	

The following table shows that adding another Boyup Brook Ward member would bring all ward representations within accepted limits.

Shire of Boyup Brook
Table 2

Ward Name	No. Electors	No. Councillors	Councillor: Elector Ratio	% Ratio Deviation
Benjinup	248	2	124	-6.80%
Boyup Brook	474	4	119	-2.07%
Dinninup	217	2	109	6.55%
Scotts Brook	222	2	111	4.39%
Totals	1161	10	116	

Similarly, reducing the representation for all wards by one would, as will be seen from the following, address Boards concerns but does not meet legislative requirements for a minimum of 6 members where the President is elected by Council, so could not be considered unless Council was to pursue the option of having the President elected by the electors (the Local Government Act provides that the minimum number of offices is 5 where the President is elected by the electors, resulting in a Council of 6 with 5 representing wards and the President representing the Shire as a whole).

Shire of Boyup Brook
Table 3

Ward Name	No. Electors	No. Councillors	Councillor: Elector Ratio	% Ratio Deviation
Benjinup	248	1	248	-6.80%
Boyup Brook	474	2	237	-2.07%
Dinninup	217	1	217	6.55%
Scotts Brook	222	1	222	4.39%
Totals	1161	5	232	

The following table shows the movement in the Councillor to elector ratio and % deviation between the 2007 and 2011 election years. It will be noted that the ratios for the Benjinup and the Boyup Brook wards improved. Also that Dinninup and Scotts Brook wards show a relatively small increase in deviation.

Shire of Boyup Brook

Table 4

Ward Name	Councillor: Elector Ratio 2007	Councillor: Elector Ratio 2011	Variance	% Ratio Deviation 2007	% Ratio Deviation 2011	Variance
Benjinup	116	124	8	10.23%	3.88%	-6.35%
Boyup Brook	159	158	-1	-23.83%	-22.48%	1.35%
Dinninup	110	109	-2	14.51%	15.89%	1.38%
Scotts Brook	115	111	-4	11.01%	13.95%	2.94%

The following table compares the number of voters in each ward as at the October 2007 and October 2011 election:

Shire of Boyup Brook

Table 5

Ward Name	2007	2011	Change
	No. Electors	No. Electors	
Benjinup	231	248	17, 7.36%
Boyup Brook	478	474	-4, -0.84%
Dinninup	220	217	-3, -1.36%
Scotts Brook	229	222	-7, -3.06%
Totals	1158	1161	3, 0.26%

As will be seen, the number of electors overall has increased, that there has been a reasonably significant increase in the Benjinup Ward (perhaps a combination of special rural and Wilga numbers increasing), and that all other wards had relatively small decreases.

It is suggested that the changes in electors in each ward, and so the resulting changes in representation ratios, since the 2007 review is not significant enough to prompt an extensive review at this time.

If Council did however wish to conduct an extensive review it could consider increasing the number of positions in the Boyup Brook ward, doing away with wards or adjusting ward boundaries. Each option has its costs, problems and opportunities. The process, to be complete, should include details of each option including what boundary changes would be needed to better even up the number of electors in each ward.

The information provided is in essence a mini review concentrating on Council position numbers. The option of doing away with wards is available but it is suggested there would have to be a compelling need, other than the Boards current suggestion, to prompt consideration. The option of amending ward boundaries would require a fair bit of time (cost) and it may well be that you would be looking at further changes in 2015 (when the review is due) if there is any significant changes to elector numbers.

It is recommended that it is too early to be looking at making dramatic changes at this time, that the scheduled review in 2015 may well reveal different movements in elector numbers that might sway Council in a different direction to what it might choose now based on current information, that the Board is not requiring a review

at this time, and so that Council advises the Board that it wishes the status quo to remain.

CONSULTATION

The author has spoken with Department of Local Government Officer.

STATUTORY OBLIGATIONS

Schedule 2.2 of the Local Government Act 1995 provides as follows (please note Section 6):

Schedule 2.2 — Provisions about names, wards and representation

[Heading amended by No. 64 of 1998 s. 53.]

[Section 2.2(3)]

1. Terms used

In this Schedule, unless the contrary intention appears —

affected electors, in relation to a submission, means electors whose eligibility as electors comes from residence, or ownership or occupation of property, in the area directly affected by the submission;

review means a review required by clause 4(4) or 6 or authorised by clause 5(a);

submission means a submission under clause 3 that an order be made to do any or all of the things referred to in section 2.2(1), 2.3(3) or 2.18(3).

2. Advisory Board to make recommendations relating to new district

(1) *When a local government is newly established, the Advisory Board —*

(a) *at the direction of the Minister; or*

(b) *after receiving a report made by a commissioner appointed under section 2.6(4) after carrying out a review,*

is, in a written report to the Minister, to recommend the making of an order to do all or any of the things referred to in section 2.2(1)(a), 2.3(2) or 2.18(1).

(2) *In making its recommendations under subclause (1) the Advisory Board is to take into account the matters referred to in clause 8(c) to (g) so far as they are applicable.*

3. Who may make submissions about ward changes etc.

(1) *A submission may be made to a local government by affected electors who —*

(a) *are at least 250 in number; or*

(b) *are at least 10% of the total number of affected electors.*

(2) *A submission is to comply with any regulations about the making of submissions.*

4. Dealing with submissions

(1) *The local government is to consider any submission made under clause 3.*

(2) *If, in the council's opinion, a submission is —*

(a) *one of a minor nature; and*

(b) *not one about which public submissions need be invited,*

the local government may either propose to the Advisory Board that the submission be rejected or deal with it under clause 5(b).*

** Absolute majority required.*

(3) *If, in the council's opinion —*

(a) *a submission is substantially similar in effect to a submission about which the local government has made a decision (whether an approval or otherwise) within the period of 2 years immediately before the submission is made; or*

- (b) *the majority of effected electors who made the submission no longer support the submission,*

the local government may reject the submission.

- (4) *Unless, under subclause (2) or (3), the local government rejects, or proposes to reject, the submission or decides to deal with it under clause 5(b), the local government is to carry out a review of whether or not the order sought should, in the council's opinion, be made.*

[Clause 4 amended by No. 49 of 2004 s. 68(2)-(4).]

5. Local government may propose ward changes or make minor proposals

A local government may, whether or not it has received a submission —

- (a) *carry out a review of whether or not an order under section 2.2, 2.3(3) or 2.18 should, in the council's opinion, be made;*
 - (b) *propose* to the Advisory Board the making of an order under section 2.2(1), 2.3(3) or 2.18(3) if, in the opinion of the council, the proposal is —*
 - (i) *one of a minor nature; and*
 - (ii) *not one about which public submissions need be invited;*
- or*
- (c) *propose* to the Minister the making of an order changing the name of the district or a ward.*

** Absolute majority required.*

6. Local government with wards to review periodically

- (1) *A local government the district of which is divided into wards is to carry out reviews of —*
 - (a) *its ward boundaries; and*
 - (b) *the number of offices of councillor for each ward,*

from time to time so that not more than 8 years elapse between successive reviews.
- (2) *A local government the district of which is not divided into wards may carry out reviews as to —*
 - (a) *whether or not the district should be divided into wards; and*
 - (b) *if so —*
 - (i) *what the ward boundaries should be; and*
 - (ii) *the number of offices of councillor there should be for each ward,*

from time to time so that not more than 8 years elapse between successive reviews.
- (3) *A local government is to carry out a review described in subclause (1) or (2) at any time if the Advisory Board requires the local government in writing to do so.*

[Clause 6 amended by No. 49 of 2004 s. 68(5) and (6).]

7. Reviews

- (1) *Before carrying out a review a local government has to give local public notice advising —*
 - (a) *that the review is to be carried out; and*
 - (b) *that submissions may be made to the local government before a day fixed by the notice, being a day that is not less than 6 weeks after the notice is first given.*
- (2) *In carrying out the review the local government is to consider submissions made to it before the day fixed by the notice.*

8. Matters to be considered in respect of wards

Before a local government proposes that an order be made —

- (a) *to do any of the matters in section 2.2(1), other than discontinuing a ward system; or*
- (b) *to specify or change the number of offices of councillor for a ward,*

or proposes under clause 4(2) that a submission be rejected, its council is to have regard, where applicable, to —

- (c) community of interests;
- (d) physical and topographic features;
- (e) demographic trends;
- (f) economic factors; and
- (g) the ratio of councillors to electors in the various wards.

[Clause 8 amended by No. 49 of 2004 s. 68(7).]

9. Proposal by local government

On completing a review, the local government is to make a report in writing to the Advisory Board and may propose to the Board the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit.*

** Absolute majority required.*

10. Recommendation by Advisory Board

- (1) *Where under clause 5(b) a local government proposes to the Advisory Board the making of an order under section 2.2(1), 2.3(3) or 2.18(3), and the Board is of the opinion that the proposal is —*

- (a) *one of a minor nature; and*
- (b) *not one about which public submissions need be invited,*

the Board, in a written report to the Minister, is to recommend the making of the order but otherwise is to inform the local government accordingly and the local government is to carry out a review.

- (2) *Where under clause 9 a local government proposes to the Advisory Board the making of an order of a kind referred to in clause 8 that, in the Board's opinion, correctly takes into account the matters referred to in clause 8(c) to (g), the Board, in a written report to the Minister, is to recommend the making of the order.*

- (3) *Where a local government proposes to the Advisory Board the making of an order of a kind referred to in clause 8, or that a submission under clause 4(2) be rejected, that, in the Board's opinion, does not correctly take into account the matters referred to in that clause —*

- (a) *the Board may inform the local government accordingly and notify the local government that a proposal that does correctly take those matters into account is to be made within such time as is set out in the notice; and*
- (b) *if the local government does not make a proposal as required by a notice under paragraph (a), the Board may, in a written report to the Minister, recommend* the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit that would correctly take into account those matters.*

** Absolute majority required.*

- (4) *Where a local government fails to carry out a review as required by clause 6, the Advisory Board, in a written report to the Minister, may recommend* the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit that would correctly take into account the matters referred to in clause 8.*

** Absolute majority required.*

[Clause 10 amended by No. 49 of 2004 s. 68(8).]

11. Inquiry by Advisory Board

- (1) *For the purposes of deciding on the recommendation, if any, it is to make under clause 10(3)(b) or (4), the Advisory Board may carry out any inquiry it thinks necessary.*
- (2) *The Advisory Board may recover the amount of the costs connected with an inquiry under subclause (1) from the local government concerned as if it were for a debt due.*

12. Minister may accept or reject recommendation

- (1) *The Minister may accept or reject a recommendation of the Advisory Board made under clause 10.*
- (2) *If the recommendation is accepted the Minister can make a recommendation to the Governor for the making of the appropriate order.*

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil if Council agrees with the recommendation.

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.3.3

MOVED: Cr Walker

SECONDED: Cr Kaltenrieder

That the Chief Executive Officer advises the Local Government Advisory Board that Council has conducted a desktop review of its ward representation, as suggested by the Board, and that in doing so it has considered the options of changing the number of positions on Council, changing ward boundaries, doing away with wards and, based on the relatively small change in representation ratios from 2007 to 2011, Council recommends making no changes at this time.

CARRIED BY ABSOLUTE MAJORITY 7/0

Res 048/12

Impartiality Interest

Cr Oversby declared an impartiality interest in the following item due to being a member of the Lions club.

8.3.4 Contribution to Boyup Brook Lions to assist with Sandakan Scholarship

Location:	<i>N/a</i>
Applicant:	<i>Boyup Brook Lions</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>12/4/2012</i>
Author:	<i>Alan lamb</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>letter from LIONS</i>

SUMMARY

The purpose of this report is to put before Council the Lions request with a recommendation that it be agreed to.

BACKGROUND

Traditionally the local Lions have provided an annual scholarship enabling a child and guardian to visit the Sandakan ANZAC day memorial service in Sandakan.

Each year for a number of years Council has budgeted to provide financial assistance to the Lions but until now no request had been received.

COMMENT

There is no doubt about the value of the work done by Lions or of their annual scholarship and it is recommended that Council contribute \$2,500.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

The current budget contains provision for \$2,500 for "Sandakan Scholarship - provision for 50% Contribution if requested and approved". Council may wish to review, as part of its 2012/13 budget deliberations, the amount provided for each year based on the Lions estimate that the current cost of the scholarship is \$6,184.

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

- **Environmental**
There are no known significant environmental issues.
- **Economic**
There are no known significant economic issues.
- **Social**
The Lions initiative of providing an annual scholarship, and organising the annual Sandakan Day ceremony here in Boyup Brook, has a significant, beneficial social impact.

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.3.4

MOVED: Cr O'Hare

SECONDED: Cr Biddle

That Council contribute \$2,500 toward the Lions Sandakan scholarship.

CARRIED BY ABSOLUTE MAJORITY 7/0

Res 049/12

8.3.5 Amendment No 13 - Lot 734, Banks Road from 'Rural' zone to 'Special Rural'

Location:	<i>Lot 734 Banks Road</i>
Applicant:	<i>Harley Global</i>
File:	<i>AS4472</i>
Disclosure of Officer Interest:	
Date:	<i>10th April 2012</i>
Author:	<i>Geoffrey Lush (Council Consultant)</i>
Authorizing Officer:	<i>A Lamb</i>
Attachments:	<i>1 Adopted Subdivision Guide Plan 2 Applicant's submission 3 Proposed Local Road Network</i>

SUMMARY

The Minister for Planning has resolved to grant final approval to Amendment No 13 subject to several modifications being made to the proposed Special Conditions.

The West Australian Planning Commission has also resolved to approve the proposed subdivision guide plan subject to a major modification to the proposed design. Specifically the Planning Commission is requiring that the internal cul-de-sac be connected to the south corner of the site so that it becomes a through road to the land to the south of the site.

The applicant is opposed to this modification and has indicated that he will not proceed with the Amendment.

There is a statutory period of 42 days within which time Council is to comply with the Minister's directions. There is no time limit in relation to completing the modifications to the subdivision guide plan.

The proposed modifications to the subdivision guide plan are not supported as they ignore the proposed long term road pattern for the area and they will influence the potential development of the adjoining Lot 735. The modifications are also inequitable and will result in the applicant being burdened with a significantly higher development cost.

While the Council could proceed with the Amendment this is not supported when it is clearly contrary to the applicant's view.

It is recommended that Council:

- Seek approval from the Minister to defer the completion of Amendment No 13 pending the resolution of the proposed modifications to the subdivision guide plan; and
- That Council requests that the West Australian Planning Commission reconsider the proposed modifications to the subdivision guide plan.

BACKGROUND

The subject land is lot 734 Banks Road and it has an area of 64.75 hectares.

Council at its Meeting of the 15th September 2011 resolved (in summary) to:

- Determine the submissions which were received from advertising the amendment;
- To adopt the amendment subject to several modifications; and
- To defer consideration of the subdivision guide plan (SGP) until a fire management plan had been approved by Council and FESA.

The fire management plan was completed and submitted to Council which at its Meeting of the 15th December resolved (in summary) to:

- Adopt the fire management plan;
- Endorse the subdivision guide plan; and
- Refer the SGP to the WAPC for approval.

The Minister's modifications are as follows:

No	Modification	Reason
1	Retitle the 'Subdivision Guide Plan' to 'Structure Plan' and replace all references on the amending text pages accordingly.	In accordance with the Scheme.
2	Reword Condition 3. a) to state: a) "A Structure Plan is to be submitted to and approved by the Shire of Boyup Brook and endorsed by the WAPC prior to subdivision or development of the land."	To provide consistency and clarity
3	Reword Condition 6. b) to state: b) "All buildings and structures shall be located outside of the 'Remnant Vegetation Protection' areas marked on an approved Structure Plan."	To provide consistency with the Structure Plan.
4	Remove duplication of the word 'that' in Condition 9. a).	Typographical error.
5	Delete Conditions 10. b) and 14.	Superfluous conditions.
6	Reword Condition 11. a) to state: a) "A Fire Management Plan is to be prepared and implemented to the satisfaction of the Shire of Boyup Brook and FESA."	To ensure FESA's involvement and satisfaction.

The Planning Commission modifications to the subdivision guide plan are as follows:

No	Modification	Reason
1	Retitle the 'Subdivision Guide Plan' to 'Structure Plan'.	In accordance with the Scheme.
2	Provide a road linkage between the cul-de-sac road and the proposed (western) road reserve.	To improve road permeability by providing a linkage with the future road.
3	Delete the battleaxe access legs for	Permanent access can

	proposed Lots C, E and G.	be provided via the western road or the recommended road linkage.
4	Review the need for the 10m wide easement for fire fighting purposes.	The recommended road linkage may obviate the need for the easement.
5	Modify the caption applicable to the proposed western road in recognition of No.3 above.	Suitable access for each of the proposed lots is required.

CONSULTATION

- Department of Planning;
- Applicant and consultants.

STATUTORY OBLIGATIONS

Amendment

In accordance with the provisions of regulations 21(2) and 25 of the Town Planning Regulations, 1967 (as amended), Council is required to return the executed modified scheme/amending documents to the Western Australian Planning Commission within 42 days of being notified of the Minister's decision.

Council was advised of the Minister's decision by a letter dated the 16th March.

Subdivision Guide Plan

Under Special Condition 3(a) a Subdivision Guide Plan is to be submitted to and approved by the Shire of Boyup Brook and WAPC prior to subdivision or development of the land.

COMMENT

The applicant has indicated his opposition to the proposed modifications and in particular to the modifications to the subdivision guide plan. His submission in relation to these is contained as Attachment 2 and states that:

Please be advised that the client is unlikely to proceed with the Scheme Amendment No. 13 unless the Subdivision Guide Plan (now Structure Plan) is approved in its current form. Should the WAPC not consider the Council and/or Harley Global's justification against the proposed modifications to the Structure Plan, then the entire process will be ceased as advised by the client.

Road Access

The central issue is the proposed future road connection on the western boundary of the subject land. The need for this connection originated in Amendment 12 (Barron Lot 720) on the land to the south.

Council at its Meeting of the 19th July 2007 resolved not to support Main Roads request for this connection and the agenda report stated that:

The proposed connection to Banks Road (to the north) is not necessary as it will not reduce dependence on the use of the Bridgetown Road. Banks Road does not provide a direct connection

to the townsite as it connects to the Donnybrook Road, which is also a Main Road.

There is already a proposed road connection through the land to the north (Lots 735 & 1284) connecting into the 'Ridge View Estate' as part of the existing Special Rural zoning.

The Minister did not accept Council's position and directed that an additional road reservation be identified to connect to the adjoining land to the north (either Lots 734 or 735 Banks Road). This was required on the basis that it was needed to improve road connectivity throughout the locality.

Subsequently the West Australian Planning Commission has in relation to Lot 720 (Barron) to the south of the subject land:

- Endorsed a revised subdivision guide plan on the 15th February 2011; and
- Approved a subdivision application (Ref 144120).

Both of the above approvals show the proposed northern access on the boundary of Lots 734 & 735 Banks Road i.e. ten metres on either side.

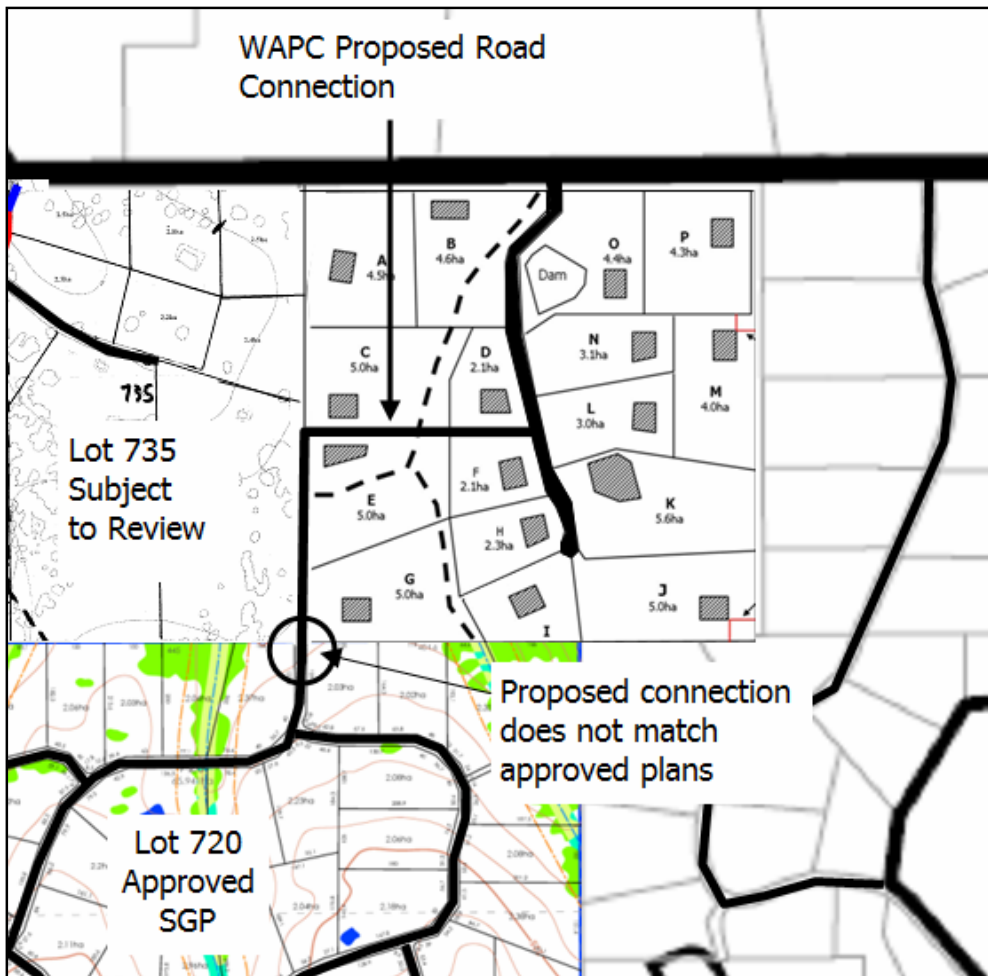
It is also important to consider these required modifications based upon the final development of the area which includes the ultimate subdivision of Lot 735. The future road connection will be provided at this time which will also provide the opportunity for the larger lots on the western side of Lot 734 to be further subdivided.

The final road layout for this area is shown in Attachment 3. The proposed modifications required by the Planning Commission would result in a final road layout as shown on the following page.

The connection from the south western corner of the site to the cul-de-sac does not create a direct or permeable linkage to Banks Road. It is more convoluted than a direct linkage along the western property boundary as originally proposed.

It is also noted that:

- The connection of the cul-de-sac head to the western road will require a formal road crossing over the drainage line.
- The modification request infers that there is a presumption against the use of battle axe legs within a subdivision design. The only evidence of this within the Commission's policies is in relation to bush fire planning. FESA have endorsed the fire management plan and access arrangements as being acceptable.



The additional development cost associated with the road connection would be significant. If this is solely borne by the applicant it may affect the viability of the subdivision.

- When the western access road is constructed, Lots C, E and G will have double frontages and can be accessed from either road. While this may be unusual, it does not constitute a basis for opposing the subdivision.
- It is questioned, when given the ultimate subdivision design, why it is necessary for the cul-de-sac to be connected to western road. It only marginally provides a more direct route for those residents when they leave the site and wish to travel towards Bridgetown. Conversely it reduces the quiet nature of the cul-de-sac and its use for walking, riding etc as it may have increased traffic flows.

Structure Plan Requirement

The Planning Commission has requested that the term “structure plan” be used instead of “subdivision guide plan.”

It is noted that Clause 5.3.1(i) of the Scheme refers to the preparation of a structure plan. However all references within all the existing Special Rural zone provisions in Schedule 3 of the Scheme specifically refer to a “subdivision guide plan.” This includes for Special Rural Zone No 7 (Amendment No 12) which was approved in 2011.

Because of the reference in Clause 5.3.1(i) the Commission is technically correct but this would result in Amendment 13 being inconsistent with all other approved Special Rural zones and provisions.

This modification appears to be more related to the proposed updating of the Scheme Text which will introduce the standard provisions for the approval of structure plans. These provisions will also provide that the applicant may appeal against any decision of the Planning Commission to require the subdivision guide plan to be changed. At present there is no such right of appeal for the applicant.

Lot 735

The assumption in the consideration of the road layout for this area has been that the eventual subdivision of Lot 735 would use a shared road access with Lot 734.

The requested modification from the Planning Commission would potentially diminish the likelihood of this. As shown in the above plan it is more likely that the subdivision of Lot 735 would connect into the 'corner' of the new road alignment between Lots C and E rather than connecting directly to Banks Road.

Fire Accessway

A further issue would occur if the Planning Commission proceeds with the modified road layout and also required the unconstructed road reserve along the western boundary to be retained through to Banks Road.

The Minister has directed that Conditions 10(b) and 14 are to be deleted as they are no longer required. These two conditions are designed to ensure that there is no automatic right for residents to use the unconstructed road reserve.

Process for Completion

There is no statutory process for Council to query or challenge either the Minister's or the Planning Commission's decision. It is expected that the Council will automatically modify the Amendment documents and submit them for final endorsement. While there is a statutory time period to deal with this matter, it is not uncommon for this not to be complied with.

While there is no provision in the Act, Councils have requested that the Minister review his decision.

If the Council refuses to modify the Amendment, then the Minister has the power to make the modifications, approve the Amendment and to recover the costs from Council. However officers are not aware of any instances where this has occurred. In this situation it is more usual for the Amendment to be left in abeyance.

As the primary issue relates to the subdivision guide plan it is possible to complete the Amendment but not to proceed with the subdivision guide plan. This would result in the subject land being rezoned but with no approved subdivision guide plan. Such a zoning would alter the land uses that can be considered on the property and the existing plantation would become a non conforming use.

POLICY IMPLICATIONS

These implications are addressed above.

BUDGET/FINANCIAL IMPLICATIONS

None

STRATEGIC IMPLICATIONS

The outcome of this issue will determine the ultimate subdivision pattern in this area. Should the proposed subdivision not proceed it will limit the potential supply of special rural lots.

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.3.5

MOVED: Cr Walker

SECONDED: Cr Kaltenrieder

1. That Council seek the Minister's approval to defer the time period for modifying the Amendment until such time as the issues with the subdivision guide plan are resolved.
2. That Council request that the West Australian Planning Commission reconsider the proposed modifications to the subdivision guide plan as:
 - a) The proposed modifications would result in a revised local road network (as shown) which has a less direct connection to Banks Road than that which was proposed by using the western road.
 - b) The modifications are likely to result in any subdivision within Lot 735 also utilizing the connection to the cul-de-sac rather than connecting directly to Banks Road.
 - c) The Planning Commission has already approved a subdivision guide plan for Lot 720 to the south and approved a subdivision application (Ref 144120) which provides for the road alignment to be on the border of Lots 734 and 735. The proposed modification would require the road connection to be wholly contained within Lot 734 and this would not provide for a suitable connection into Lot 720.
 - d) The modifications are inferring that there is a presumption against the use of cul-de-sacs and battle axe legs. This is not supported by the Commission's policy except where there is a high bush fire risk. However that does not apply in this instance and FESA have endorsed the current road layout as part of the approved fire management plan. The Commission has also approved the use of cul de sacs and battle axe legs in the adjoining subdivisions.
 - e) The proposed modification would require the public road to crossing of the creek. This will have a significant cost and require a greater disturbance of the 'Remnant Vegetation Protection' area than the proposed driveway access.
- 3 That the applicant be advised of the above.

CARRIED 7/0

Res 050/12

8.3.6 Rezoning Request – Lots 8 & 9 Boyup Brook – Kojonup Road

Location:	<i>Lots 8 & 9 Boyup Brook – Kojonup Road</i>
Applicant:	<i>MPM Development Consultants</i>
File:	
Disclosure of Officer Interest:	
Date:	<i>10th April</i>
Author:	<i>Geoffrey Lush (Council Consultant)</i>
Authorizing Officer:	<i>A Lamb</i>
Attachments:	<i>1 Location and Policy Plan</i> <i>2 Rezoning request</i> <i>3 Rural Strategy Recommendations</i>

SUMMARY

This report is to consider an application to rezone Lots 8 & 9 Boyup Brook – Kojonup Road from ‘Rural’ zone to ‘Rural Small Holdings.’ The amendment will introduce:

- The general provisions for the Rural Small Holdings zone;
- The provisions for the preparation and approval of structure plans; and
- The special development conditions for the subject land as Schedule 3A ‘Rural Small Holdings’ zones.

The subject land is owned by the Bindaree Corporation and Mr R Maddens.

The subject land is within the Rural Small Holdings Policy area as identified in the Rural Strategy. This forms part of a larger policy area for which a structure plan is required.

The amendment request is supported subject the issues outlined below.

BACKGROUND

The subject land comprises of Lots 8 and 9 Boyup Brook – Kojonup Road and it has a total area of 95.5 hectares. The subject land is located south east of the Boyup Brook town site adjacent to the Blackwood River as shown in Attachment 1.

Council at its Meeting of the 20th July 2006 resolved in relation to the subject land that

- 1 Pursuant to Section 75 of the Planning and Development Act 2005 the Council resolves to amend Town Planning Scheme No 2 by including Lots 1213 and 1265 Boyup Brook-Kojonup Road within a Special Rural Zone;
- 2 Upon receipt of the formal documentation the Council will consider these further and will refer any adopted amendment to the WAPC for consent to advertise.

Since that time a boundary realignment has occurred and hence the new lot numbers. In addition the approval of the Local Rural Strategy in 2010 has now superseded the above resolution.

The applicants’ letter requesting the amendment is contained as Attachment 2.

The subject land is substantially cleared farming land with an existing residence and associated outbuildings situated on Lot 9. The site is undulating with elevations of approximately 185m AHD adjacent to the river rising to 250m along

the eastern boundary which is characterized by a central ridge line that defines the river valley. Lot 9 is elevated and is characterized by rocky granite outcrops, while Lot 8 is gently sloping and relatively flat adjacent to the river.

CONSULTATION

- Applicant and consultants; and
- Department of Planning

STATUTORY OBLIGATIONS

Local Rural Strategy

Within the Rural Strategy the subject land is contained within Area 7 of Townsite and Surround Planning Precinct (BBR5).

The objective for this area is to encourage the development of rural small holding subdivision in appropriate locations. The Development Guidelines (Table 1 of the Strategy) recommends that:

- Granite ridge areas are unlikely to be suitable for development, except as part of a larger lot.
- Requires an overall structure plan to identify appropriate development locations addressing:-
 - Land capability;
 - Flood levels, river corridor; and public access;
 - Possible road connection from Kojonup Road to Fern Valley Road.
 - Landscape protection and view sheds;
 - Upgrading of the river crossing at Terry Road.
- Low key tourist development.

Recommendations 23, 24, 25 and 26 of the Strategy are included as Attachment 3 and these reinforce the need for detailed plans of the site addressing the same issues as is normally required for a Special Rural zone.

COMMENT

The subject land forms part of a larger policy area within the Rural Strategy. This is comprised of thirteen properties with a total area of 452 hectares as shown in the following table.

The main issue associated with the development of this area is the potential road connection from the Kojonup Road to either Fern Valley or Terry Road. If this road connects through to Terry Road then there may be a requirement to upgrade the river crossing and the landowners would be expected to contribute to this.

Lot	Plan	Road	Area
8	68176	Kojonup	33.53
9	68176	Kojonup	61.99
223	251175		16.20
696	251166	Fern Valley	40.61
798	251166	Fern Valley	22.92
913	103309	Fern Valley	40.58
10	33494	Fern Valley	5.45
1777	125980	Fern Valley	10.32
10	33494	Stanton	104.38

589	100797	Stanton	36.15
6	96448	Terry	40.13
6116	81971	Terry	27.58
7876	81971	Terry	12.31
Total			452.15

It is not expected that a detailed subdivision design would be prepared over the whole of the policy area, but it is important to confirm the potential location of road access, potential upgrading and landowner contributions. Additional matters which also have to be considered include:

- the 1:100 year flood level;
- interface and management of the river corridor;
- landscape protection; and
- additional land uses.

In relation to the introduction of the Rural Small Holding zone Council will need to determine the proposed development and land use provisions. These have already been discussed in general terms in the Planning Scheme review workshops.

These provisions would operate in a similar manner to the current Special Rural zone and include a Schedule with special conditions for each development. The main difference is that the lots are larger and that a greater range of land uses can potentially be considered.

In discussions with the Department of Planning it has been confirmed that there is no objection to combining the general provisions for both the Special Rural and Rural Small Holdings zones.

Whereas previously each subdivision would have a subdivision guide plan; these are now being referred to as structure plans. Each structure plan area covers multiple properties and is required to coordinate development between properties. The introduction of the Structure Plan areas was intended to be done as part of the Scheme review/omnibus amendment. It is prudent for these provisions to be included as part of the current proposal as it is likely to precede the omnibus amendment.

The proposed structure plan areas will only reflect the approved policy areas within the Rural Strategy. Policy Areas 6 and 11 (See Attachment 1) will not be included as they are identified for possible townsite expansion subject to the finalization of the Townsite Strategy. These areas will be rezoned once the Townsite Strategy is approved by the Planning Commission.

POLICY IMPLICATIONS

The introduction of the Rural Small Holding zone is a major step forward for the planning of the municipality.

Council Policy W07 Road Contributions applies.

It states that rural small holding subdivisions shall have:

- A road width a two coat spray seal;
- A reserve width of 20m;
- A pavement width of 6m; and

- Shoulders of 1.2m.

In relation to Policy area No 7 the Policy stipulates that:

Road	Rural Strategy Policy Area	Subdivision Type	Contributions to upgrade
Terry Road Crossing	Area 7 and rural areas.	Rural Small Holdings	Will need further investigation to determine what type of crossing is required. Contributions will be based upon the subdivision lot yield which will be assessed in structure plan for the Area.
Terry Road South (To Stanton Rd)	Area 7 and rural areas.	Rural Small Holdings	Functions as a rural distributor road. Adjoining landowner's contribution would be 50% based upon lot yield to be assessed in structure plan.
Fern Valley Road	Area 7	Rural Small Holdings	100% contribution from landowners based upon the subdivision lot yield which will be assessed in structure plan for the Area.
Stanton Road West (Fern Valley to Terry Rd)	Area 7 to the north. Rural to the south.	Rural Small Holdings Rural	May need sealing depending final road configuration in Area 7. Adjoining landowner's contribution would be 50% based upon lot yield to be assessed in structure plan.
Stanton Road West (Fern Valley to Kojonup Rd)	Part Area 7 to the north. Rural to the south.	Rural	Standard would depend upon the upgrading of Terry Road and final road pattern in Area 7. Any contribution would be from properties in Terry Rd and Fern Valley Road and would be 50% based upon lot yield to be assessed in structure plan.

The exact nature of any upgrading and associated contributions will need to be addressed in the structure for the area.

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

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.3.6

MOVED: Cr Walker

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:
 - a) Introducing provisions for the Rural Small Holdings zone into the Scheme;
 - b) Amending the Zoning Table to include the Rural Small Holdings zone;
 - c) Introducing provisions into the Scheme for Special Control Areas (Structure Plans);
 - d) Introducing Schedule 12 Structure Plan Areas;
 - e) Including the Special Rural and Rural Small Holdings policy areas from the endorsed Rural Strategy as Structure Plan Areas on the Scheme Maps;
 - f) Rezoning Lots 8 & 9 Boyup Brook – Kojonup Road from 'Rural' zone to 'Rural Small Holdings'; and
 - g) Including appropriate special conditions into Schedule 3A Rural Small Holdings
- 2 That the draft structure plan is to include an indicative road network for the whole of the Policy Area and identify road upgrading requirements; landowner contributions; major development opportunity and constraints. This should be prepared recognising Recommendations 23 – 26 (inclusive) of the Rural Strategy.
- 3 That notice of the proposed preparation of the structure plan be sent to all landowners within the policy area and they be invited to make any comments to Council in relation to possible development within this area.
- 4 That a separate report be submitted to Council outlining the proposed general development and land use provisions which will be applied in the Rural Small Holdings zone.
- 5 That upon receipt of the draft amendment documents and payment of the major application fee of the \$5,000 the proposal be further considered by Council for preliminary adoption and for the purpose of referral to the EPA and public advertising.

CARRIED 7/0

Res 051/12

8.3.7 Authorisation of Officers *Food Act 2008* and *Health Act 1911*

Location:	<i>Not applicable</i>
Applicant:	<i>Not applicable</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>24 January 2012</i>
Author:	<i>Wayne Jolley – Environmental Health Officer</i>
Authorizing Officer:	<i>Alan Lamb - CEO</i>
Attachments:	<i>Copy of Certificate (Angela Hales)</i>

SUMMARY

As an “Enforcement Agency” under the *Food Act 2008*, the Shire of Boyup Brook is empowered to appoint authorised officers in order to administer the Act and the *Food Regulations 2009*. Likewise, under the *Health Act 1911*, the Shire is empowered to appoint and gazette Environmental Health Officers.

This item carries recommendations:

- To appoint Angela Hales as an authorised officer;
- To seek gazettal of Angela Hales as an Environmental Health Officer; and
- To seek re-gazettal of Wayne Jolley as an Environmental Health Officer.

BACKGROUND

The Shire of Boyup Brook is an “Enforcement Agency” under the *Food Act 2008*, which is charged with responsibility to administer the Act and its regulations. In order to do so, the Shire is empowered to appoint authorised officers who are suitably qualified or experienced. Shire Environmental Health/Building Officer, Wayne Jolley was so appointed on 6 July 2010, following a Council resolution on 17 December 2009.

Section 27 of the *Health Act 1911* empowers a local government to appoint suitably qualified environmental health officers to perform duties expected of it under the Act. Section 28 requires that such appointments are approved (gazettal) by the Department of Health. Wayne Jolley was so approved but that approval has since expired.

Based on a proposal by Wayne Jolley, Angela Hales has recently been engaged to share the environmental health duties but needs to be authorised under the *Food Act 2008* and gazetted under the *Health Act 1911*. Wayne Jolley needs to be re-gazetted under the *Health Act 1911*.

COMMENT

Angela Hales holds a degree as a Bachelor Applied Science in Environmental Health (copy of Certificate attached), which is a suitable qualification for both an authorised officer under the *Food Act 2008* and an environmental health officer under the *Health Act 1911*. Angela has previously held the position of environmental health officer with this Shire and has more recently relieved for short periods in that position.

Wayne Jolley also holds a Bachelor Applied Science in Environmental Health. He is currently appointed as the authorised officer under the *Food Act 2008* for this Shire and has been the gazetted environmental health officer under the Health Act 1911, since late 2005. However, that approval has now expired and needs to be renewed.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Food Act 2008
Food Regulations 2009
Food Safety Standards – 3.1.1, 3.2.2, and 3.2.3
Health Act 1911

POLICY IMPLICATIONS

No Policy implications.

BUDGET/FINANCIAL IMPLICATIONS

No budget or financial implications.

STRATEGIC IMPLICATIONS

No strategic implications.

SUSTAINABILITY IMPLICATIONS

Approval of these authorisations and approvals supports the sustainability of the Shires capacity to meet its obligations under the *Food Act 2008* and the *Health Act 1911*.

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.3.7

MOVED: Cr Biddle

SECONDED: Cr O’Hare

- **That Council endorse the authorisation of Angela Hales under the Food Act 2008.**
- **That Council endorse the gazettal of Angela Hales under the Health Act 1911; and**
- **That Council endorse the re-gazettal of Wayne Jolley under the Health Act 1911.**

CARRIED 7/0

Res 052/12

8.3.8 New Building Legislation and Arrangements

Location:	<i>Whole of Western Australia</i>
Applicant:	<i>N/A</i>
File:	<i>N/A</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>3 April 2012</i>
Author:	<i>Wayne Jolley –Building Surveyor</i>
Authorizing Officer:	<i>Alan Lamb – Chief Executive Officer</i>
Attachments:	<i>Nil</i>

SUMMARY

After several years of development, new building legislation becomes operational on 2 April 2012, which signals a number of very significant changes:

- A system of private Building Surveyors;
- New roles and responsibilities for local governments;
- A new building approval system; and
- A new fees structure.

It is recommended that Council endorses:

1. Delegation such that the Building Surveyor can issue Certificates of Design Compliance (CDC) under the new legislation;
2. Delegation such that the CEO, the Building Surveyor and the Manager Administration and Assets are able to issue building permits on behalf of the Shire (i.e. Permit Authority); and
3. Designation of the Building Surveyor as an “Authorised Officer” under the new *Building Act 2011*, for the purpose of enforcement.

BACKGROUND

State building control authorities (formerly Department of Local Government -> Department of Housing -> Department of Commerce -> Building Commission) have been developing new building legislation for many years, culminating in the part-enactment of the *Building Act 2011*. During the past two years, the Building Surveyor has followed developments and attended a number of briefing sessions, the last on 23 March where the following was confirmed by the Building Commission.

As from the 2 April 2012:

- The full *Building Act 2011* will apply (the *Local Government (Miscellaneous Provisions) Act 1960* is repealed); and
- New *Building Regulations 2012* will commence.

The key points and changes brought about by the new system is summarised as follows:

- There is considerable change in terminology (e.g. the term “Building License” is superseded by the term “Building Permit” and a local government is referred to as a “Permit Authority”).
- Each Building or Demolition Permit application must be certified by a registered building surveyor, formalised by a Certificate of Design Compliance (CDC), which

- signals compliance with the Building Code of Australia (BCA), following examination of all plans and associated documents. Our Shire building surveyor is registered for this purpose.
- A new system of private certification is introduced whereby private or commercial certifiers (i.e. building surveyors registered for the purpose) may issue a CDC in respect to a Building Permit application, in-lieu of the Shire Building Surveyor issuing the certificate.
 - A local government may also provide a commercial certification service, whereby its registered Building Surveyor/s issue CDC in respect to Building Permit applications from any district. Additional provisions apply in this respect.
 - New prescribed forms have been introduced to standardise a series of application forms, certificates and permits.
 - There are two types of Building Permit application – a **Certified application** (where a private certifier examines all plans and documents for compliance with the BCA and issues a CDC) and an **Uncertified application** (where the Shire Building Surveyor performs that function (much in the way of the current system). There is greater onus on applicants to complete application forms in-full and accurately (e.g. all owners of a property are now required to sign a permit application). The Shire still issues the Building Permit regardless of the type of application,
 - The new *Building Regulations* prescribe time limits for processing Building Permit applications (i.e. 10 working days for certified applications and 25 working days for uncertified applications). This assumes that all required information is provided. Where information is lacking from the application, the clock stops and additional time is prescribed for a Permit Authority issue or refuse a Building Permit.
 - Schedule 4 of the *Building Regulations 2012* prescribe that certain structures are exempt from the requirement for a Building Permit (e.g. sheds $\leq 10\text{m}^2$, non-structural renovations or repair, temporary buildings, masts or antennas, retaining walls $\leq 0.5\text{m}$ high, pergolas, rainwater tanks $\leq 5,000$ litres, solar hot water systems and photovoltaic panels and park homes/annexes under the *Caravan Parks and Camping Grounds Act 1995*).
 - Other than class 1 and 10 buildings (i.e. houses and sheds etc.), the Permit Authority must issue a Certificate of Occupancy after completion of construction and before a building is occupied.
 - A new fees structure is prescribed in Schedule 2 of the *Building Regulations 2011* for a range of matters. Where new replace old, fees are only moderately increased (e.g. the minimum Building Permit fee is raised from \$85.00 to \$90.00). Rates for Certified applications (0.19%) and Uncertified applications (0.32%), reflect the difference in workload to be undertaken by the Permit Authority.

COMMENT

The timeline for preparations at Shire level to adjust to this new legislation was short. Conceptually, the new arrangements have been in the pipeline for some time. However, the detail was absent until the last few weeks approaching the 2 April deadline. The new prescribed forms were released only a few weeks before, information seminars explaining the details were conducted only 2 weeks before, at which point the new Regulations had developed to draft 7 status.

In order to prepare for the introduction of the new building legislation on 2 April, the Building Surveyor has undertaken the following:

- This Agenda item to inform Council;
- Briefing Shire staff on new arrangements;
- Replacement of old documents with new (e.g. application forms etc.);

- Posting new documents and information on the Shire website;
- Creating Check-lists for front-of-office staff;
- Review and consequential amendment of Shire information packs, Council Policies and other documents. Where necessary, specific amendment of Policies and other documents will be submitted to Council in due course.

In order that an officer can access a building site or attend to enforcement functions on behalf of a Permit Authority, the officer must be designated an “Authorised Officer” under S96 of the *Building Act 2011* and must carry an identity card. The Shire Building Surveyor ought to be designated as an Authorised Officer for this purpose, so that he can attend to his functions as he has done in the past. If in the future, mandatory inspections are re-introduced as has been forecast such authorisation will be essential.

Likewise, a Building Surveyor may issue Certificates of Design Compliance (CDC) and Building Permits on behalf of a Permit Authority, however, delegations from Council under the *Local Government Act 1995*, must be in place. Council could delegate these functions to the CEO who could sub-delegate to the Building Surveyor. This effectively replaces the existing delegation from Council under which the Building Surveyor currently operates. In terms of issuing Building Permits (after a CDC has been issued by the Building Surveyor), it would be prudent to delegate at least the CEO as well as the Building Surveyor, for the sake of continuity when the Building Surveyor is not available.

CONSULTATION

Building Commission seminar on new building legislation, held in Busselton 23 March 2012.

STATUTORY OBLIGATIONS

Building Act 2011
Building Regulations 2012
Local Government Act 1995

POLICY IMPLICATIONS

Minor consequential amendments (e.g. change of legislation names etc.) will need to be made to Council Building Policies, in some cases if there is conflict, Policies will need to be changed accordingly:

1. Building License Fees
2. Building License – Kerb Deposits
3. Building Approvals – Variation of “R” Codes
4. Building Stormwater Drainage
5. Building with Bush Timbers
6. Building Application – Land Without Legal Access
7. Sub-Standard Buildings
8. Resited Transportable Residences
9. Buildings – Set-out by Licensed Surveyor
10. Building Materials Standards in Industrial and Light Industrial Areas.

Planning Policies will also be reviewed to determine if consequential amendments are indicated.

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

As the new legislation and arrangements roll-out, there may be impact or opportunities in terms of the Shire's building control operations. One matter that may arise in the future that will have impact is the potential re-introduction of mandatory inspections by the Shire Building Surveyor during a building project (e.g. a new house).

SUSTAINABILITY IMPLICATIONS

- **Environmental:**
None anticipated
- **Economic:**
None anticipated
- **Social:**
There are no known significant social considerations

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.3.8

MOVED: Cr Walker

SECONDED: Cr Oversby

1. That Council endorses the delegation of the Building Surveyor under S96 of the *Building Act 2011* to issue Certificates of Design Compliance on behalf of Council in the process of issuing Building Permits. The Chief Executive Officer and the Building Surveyor under the *Local Government Act 1995*, to issue Building Permits on behalf of the Permit Authority.
2. That Council endorses that the Building Surveyor is designated as an "Authorised Officer" in terms of the *Building Act 2011*.
3. That Council approves any consequential amendments only (arising from the *Building Act 2011* and the *Building Regulations 2012*), to Council Policies and other documents, without further reference to Council.

CARRIED 7/0

Res 053/12

WITHDRAWN BY CEO– ITEM 8.3.9

Reason: The Chief Executive Officer withdrew this item to verify some costs before presenting it.

8.3.9 Vehicle Purchase – approval of additional expenditure

Location: N/A
Applicant: N/A
File:
Disclosure of Officer Interest: None
Date: 13 April 2012
Author: Alan lamb
Authorizing Officer: Not applicable
Attachments: Nil

9 COMMITTEE REPORTS

Nil

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

The Deputy Shire President approved of this late item of business being dealt with.

11.1.1 Boyup Brook Country Music Club

MOVED: Cr Aird

SECONDED: Cr Kaltenrieder

That the CEO write to the Boyup Brook Country Music Club to request that it permit a Council Representative to sit on its Management Committee.

CARRIED 6/1

Res 054/12

11.1.2 Website Renovations Advisory Committee

MOVED: Cr Oversby

SECONDED: Cr O'Hare

That the minutes of the Website Renovations Advisory Committee meeting that was held on 17 April 2012 be received and Council endorse the recommendation and that costs and proposals be sought and bought back to Council.

CARRIED 7/0

Res 055/12

NOTE

The Committee recommendation was as follows:

That the Shire Council provides the resources to restructure the website and make provision for an ongoing maintenance and update programme.

12 CONFIDENTIAL MATTERS – BEHIND CLOSED DOORS

Nil

13 CLOSURE OF MEETING 5.05PM.

There being no further business the Deputy Shire President, Cr Moir thanked all for attending and declared the meeting closed at 5.05pm