



BRIEFING AGENDA

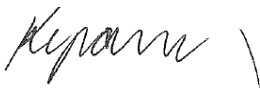
ORDINARY COUNCIL MEETING

TO BE HELD ON

**Thursday 23 March 2023**

Commencing at 6.00pm

Shire of Boyup Brook Shire Council Chambers, Boyup Brook



Athanasios Kyron  
Acting Chief Executive Officer



## INDEX PAGE

1.	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS AND DISCLAIMER .....	3
2.	RECORD OF ATTENDANCE .....	3
3.	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....	3
4.	PUBLIC QUESTION TIME.....	4
5.	PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS .....	4
6.	DISCLOSURE OF INTEREST .....	4
7.	CONFIRMATION OF MINUTES .....	5
7.1	Special Council Minutes – 9 February 2023 – 2022 Ward and Representation Review .....	5
7.2	Special Council Minutes – 13 February 2023 – Appointment of Acting Chief Executive Officer .....	5
7.3	Ordinary Council Minutes – 16 February 2023.....	5
7.4	Special Council Minutes – 2 March 2023 – Appointment of the Chief Executive Officer for the Shire of Boyup Brook .....	5
7.5	Special Council Minutes – 2 March 2023 – Tender for the Upgrade of the Boyup Brook Town Hall Precinct Building .....	5
7.6	Special Council Minutes – 15 March 2023 – Rylington Park Committee Meeting Minutes of 9 March 2023, Amendment to the Terms and Conditions of the Temporary A/CEO Letter of Offer, Contract of the Chief Executive Officer .....	6
8.	PRESIDENTIAL COMMUNICATIONS .....	6
9.	COUNCILLOR QUESTIONS ON NOTICE .....	6
10.1	MANAGER WORKS AND SERVICES .....	6
10.2	FINANCE .....	7
10.2.1	List of Accounts Paid in January 2023.....	7
10.2.2	List of Accounts Paid in February 2023 .....	9
10.3	CHIEF EXECUTIVE OFFICER .....	11
10.3.1	Model Standards for CEO Recruitment, Performance and Termination.....	11
10.3.2	Local Government Elections 2023 .....	14
10.3.3	Annual Compliance Audit Return 2022 .....	18
10.4	PLANNING .....	22
10.4.1	Subdivision Application (WAPC Ref 163264) – Lots 203, 709 and 711, Terry Road, Boyup Brook .....	22
10.4.2	Subdivision Application (WAPC Ref 163272) – Lot 105 Donnybrook-Boyup Brook Road .....	28
11	COMMITTEE MINUTES .....	33
11.1	Local Emergency Management Committee Minutes – 19 August 2022.....	33
11.2	Local Emergency Management Committee Minutes – 10 November 2022 .....	33
11.3	Rylington Park Committee Minutes – 2 February 2023 .....	33
12	MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....	33
13	LATE ITEM/URGENT BUSINESS MATTERS.....	34
14	CLOSURE OF MEETING .....	34

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

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

Council Meetings are public meetings.

The Council Chambers are not a parliament and Parliamentary Privilege does not apply.

Elected Members and staff risk being held personally liable if their comments are defamatory, or breach any duty of confidentiality.

Statements made during Council meetings are solely those of the person making them. Nothing expressed at a Council Meeting can be attributed to the Shire, unless it is adopted by a resolution of Council.

The Confirmed Minutes of a Council Meeting are the official record of that Council meeting. Verbatim Minutes are not required.

May I ask everyone here today, to make sure your mobiles are turned off or on silent for the duration of the Meeting.

**2. RECORD OF ATTENDANCE**

PRESENT:	Shire President	Richard F Walker
	Deputy Shire President	Helen C O'Connell
	Councillor	Sarah E G Alexander
		Steele Alexander
		Charles A D Caldwell
		Philippe Kaltenrieder
		Darren E King
		Kevin J Moir
		Adrian Price
	Acting Chief Executive Officer	Athanasios (Arthur) Kyron
	Deputy Chief Executive Officer	Carolyn Mallett
	Executive Assistant	Maggie Le Grange

APOLOGIES:

LEAVE OF ABSENCE:

MEMBERS OF PUBLIC:

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

Questions taken on notice at the Council Meeting held on 16 February 2023

**Questions from Glenda Moroni**

Will Council consider implementing a Flax Mill and Caravan Park Working Group to assist Shire in developing this local heritage site and caravan park for the people of Boyup Brook and visitors to our town?

Will Council commit to ensuring continued community access to the banks of the Blackwood River that has been in place since the Flax Mill was built 82 years ago?

**Response from Cr Walker**

The Shire has not considered the idea of the formation of a Flax Mill and Caravan Park Working Group.

It is acknowledged that access to the banks of the Blackwood River is an important issue and Elected Members and staff will be investigating existing access and proposed access.

**Question from Carina Wilson**

Will Council consider:

1. Formalising public pedestrian access to the riverbank at the Flax Mill Caravan Park using the existing paved entrance that has been used by the community for many decades; and
2. Using tree planning as an alternative to fencing to delineate the boundary for the new RV bays?

**Response from Cr Walker**

Access to the riverbank will be investigated including, but not limited to, formalised access routes, vegetation, lined paths, security for caravan park users and facilities.

**4. PUBLIC QUESTION TIME**

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

Stewart Tutton from PF Olsen Australia will provide a PowerPoint presentation on Rationalisation of Tree Farms (30 minutes) at the Ordinary Council Meeting to be held on 30 March 2023.

**6. DISCLOSURE OF INTEREST**

[Chief Executive Officer to advise of Disclosures received.](#)

**Declarations of Interest (Financial)**

Officer/Elected Member	Order of Business/ Report No	Agenda Page No	Item Details	Nature of Association

**Declarations of (Impartiality)**

Officer/Elected Member	Order of Business/ Report No	Agenda Page No	Item Details	Nature of Association
Cr P Kaltenrieder	10.4.1	22	Subdivision Application – Lots 203, 709 & 711	My residential address on Terry Road

**Declarations of Interest (Proximity)**

<b>Officer/Elected Member</b>	<b>Order of Business/ Report No</b>	<b>Agenda Page No</b>	<b>Item Details</b>	<b>Nature of Association</b>

**7. CONFIRMATION OF MINUTES**

**7.1 Special Council Minutes – 9 February 2023 – 2022 Ward and Representation Review**

**OFFICER RECOMMENDATION – ITEM 7.1**

That the unconfirmed minutes of the Special Council Meeting held on Thursday 9 February 2023 which commenced at 7.40pm be confirmed as an accurate record.

**7.2 Special Council Minutes – 13 February 2023 – Appointment of Acting Chief Executive Officer**

**OFFICER RECOMMENDATION – ITEM 7.2**

That the unconfirmed minutes of the Special Council Meeting held on Monday 13 February 2023 which commenced at 1.41pm be confirmed as an accurate record.

**7.3 Ordinary Council Minutes – 16 February 2023**

**OFFICER RECOMMENDATION – ITEM 7.3**

That the unconfirmed minutes of the Ordinary Council Meeting held on Thursday 16 February 2023 which commenced at 6.05pm be confirmed as an accurate record.

**7.4 Special Council Minutes – 2 March 2023 – Appointment of the Chief Executive Officer for the Shire of Boyup Brook**

**OFFICER RECOMMENDATION – ITEM 7.4**

That the unconfirmed minutes of the Special Council Meeting held on Thursday 2 March 2023 which commenced at 3.05pm be confirmed as an accurate record.

**7.5 Special Council Minutes – 2 March 2023 – Tender for the Upgrade of the Boyup Brook Town Hall Precinct Building**

**OFFICER RECOMMENDATION – ITEM 7.5**

That the unconfirmed minutes of the Special Council Meeting held on Thursday 2 March 2023 which commenced at 3.30pm be confirmed as an accurate record.

<b>7.6 Special Council Minutes – 15 March 2023 – Rylington Park Committee Meeting Minutes of 9 March 2023, Amendment to the Terms and Conditions of the Temporary A/CEO Letter of Offer, Contract of the Chief Executive Officer</b>
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**OFFICER RECOMMENDATION – ITEM 7.6**

That the unconfirmed minutes of the Special Council Meeting held on Wednesday 15 March 2023 which commenced at 12.05pm be confirmed as an accurate record.

**8. PRESIDENTIAL COMMUNICATIONS**

**9. COUNCILLOR QUESTIONS ON NOTICE**

**10. REPORTS OF OFFICERS**

**10.1 MANAGER WORKS AND SERVICES**

Nil

## 10.2 FINANCE

### 10.2.1 List of Accounts Paid in January 2023

Location:	Not applicable
Applicant:	Not applicable
File:	FM/1/002
Disclosure of Officer Interest:	None
Author:	Ben Robinson, Finance Manager
Authorising Officer:	Athanasios Kyron, Acting Chief Executive Officer
Attachments:	List of Accounts Paid in January 2023

#### **SUMMARY**

In accordance with the *Local Government (Financial Management) Regulations 1996* the list of accounts paid in January 2023 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 31 January 2023.

#### **COMMENT**

The attached listing represents accounts/invoices the shire paid by cheque or electronic means during the period 01 to 31 January 2023.

#### **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 2022-23 Annual Budget.

### **STRATEGIC IMPLICATIONS**

Key outcome area: Governance and Organisation - improve financial sustainability.

### **VOTING REQUIREMENTS**

Simple Majority

### **OFFICER RECOMMENDATION – Item 10.2.1**

That Council receives the list of accounts paid in January 2023, totalling \$460,396.68 from Municipal account, \$57,508.35 from Police Licensing account and \$0.00 from Boyup Brook Early Learning Centre account, as represented by:

Municipal Cheques	20590-20592	\$ 6,728.38
Municipal Electronic Payments	EFT13512 – EFT13623	\$ 220,190.61
Municipal Direct Payments		\$ 233,477.69
Police Licensing Payments		\$ 57,508.35
BBELC Payments		\$ 0.00



### 10.2.2 List of Accounts Paid in February 2023

Location:	Not applicable
Applicant:	Not applicable
File:	FM/1/002
Disclosure of Officer Interest:	None
Author:	Ben Robinson, Finance Manager
Authorising Officer:	Athanasios Kyron, Acting Chief Executive Officer
Attachments:	List of Accounts Paid in February 2023

#### **SUMMARY**

In accordance with the *Local Government (Financial Management) Regulations 1996* the list of accounts paid in February 2023 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 28 February 2023.

#### **COMMENT**

The attached listing represents accounts/invoices the shire paid by cheque or electronic means during the period 01 to 28 February 2023.

#### **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.*
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    - (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 2022-23 Annual Budget.

### **STRATEGIC IMPLICATIONS**

Key outcome area: Governance and Organisation - improve financial sustainability.

### **VOTING REQUIREMENTS**

Simple Majority

### **OFFICER RECOMMENDATION – Item 10.2.2**

That Council receives the list of accounts paid in the list of accounts paid in February 2023, totalling \$589,945.91 from Municipal account, \$54,249.90 from Police Licensing account and \$0.00 from Boyup Brook Early Learning Centre account, as represented by:

Municipal Cheques	20593-20595	\$ 24,253.63
Municipal Electronic Payments	EFT13624 – EFT13758	\$ 289,754.01
Municipal Direct Payments		\$ 275,938.27
Police Licensing Payments		\$ 54,249.90
BBELC Payments		\$ 0.00

### 10.3 CHIEF EXECUTIVE OFFICER

#### 10.3.1 Model Standards for CEO Recruitment, Performance and Termination

Location:	Not applicable
Applicant:	Not applicable
Disclosure of Officer Interest:	None
Author:	Maria Lane, Records/Governance Officer
Authorising Officer:	Athanasios Kyron, Acting Chief Executive Officer
Attachments:	<ol style="list-style-type: none"><li>1. Local Government (Administration) Regulations 1996, Schedule 2 of the Regulations</li><li>2. Shire of Boyup Brook Standards for CEO Recruitment, Performance and Termination</li><li>3. Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination</li></ol>

#### **SUMMARY**

For Council to adopt the new Model Standards for Chief Executive Officer Recruitment, Performance and Termination.

#### **BACKGROUND**

On Tuesday 2 February 2021, the final aspects of the Local Government Act Review were proclaimed and amendments to the Local Government (Administration) Regulations 1996 were advertised in the gazette. Schedule 2 of the Regulations (as presented in Attachment 1), details the Model Standards for Chief Executive Officer (CEO) Recruitment, Performance and Termination. The Model Standards contains more detail on how to manage the recruitment, performance and termination processes for CEO's compared to the details originally specified in the Act.

The Department of Local Government, Sport and Cultural Industries states these Model Standards are intended to ensure best practice and greater consistency in these processes between local governments.

The Shire of Boyup Brook Standards for CEO Recruitment, Performance and Termination as presented in Attachment 2 takes the same content and format from the Model Standards.

The Department of Local Government, Sport and Cultural Industries also released in February 2021 "Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination". These guidelines presented in Attachment 3 outline the recommended practice for local governments in undertaking these processes and are intended to assist local governments in meeting the Model Standards prescribed in the regulations.

### **COMMENT**

The CEO is of the opinion that the model standards are consistent with current contemporary practice being applied at the Shire already and can be adopted without modifications. However, the Council is at liberty to adjust them, as long as they are not inconsistent with the default standards in the regulations.

### **CONSULTATION**

Department of Local Government, Sport and Cultural Industries.

### **STATUTORY ENVIRONMENT**

*Local Government Act 1995* Section 5.39B – Adoption of Model Standards

*Local Government (Administration) Regulations 1996* Section 18FB

Section 5.39B (4) states if Elected Members wish to make any amendments to the standards, these amendments must be consistent with the Model Standards and cannot be contrary to the intent of the original model.

Section 5.39B (6) states the CEO must publish an up-to-date version of the adopted standards on the local government's official website.

Regulations 18FB9(3) of the Local Government (Administration) Regulations 1996 provides that as soon as practicable after a person is employed in the position of CEO, the local government must, by resolution (absolute majority), certify that the person was employed in accordance with the local government's adopted standards (or model standards if the local government has not adopted its own standards) in relation to the recruitment of CEO's. A copy of the resolution to appoint the CEO in accordance with the adopted standards must be provided to the Department of Local Government, Sport and Cultural Industries within 14 days of the decision to appoint.

### **STATUTORY OBLIGATIONS**

Nil

### **POLICY IMPLICATIONS**

There are no current Council policies in place with regards to CEO Recruitment, Performance or Termination.

### **BUDGET/FINANCIAL IMPLICATIONS**

The adoption of the model standard which is required by law with only minor variations permitted and only to the extent that it is not inconsistent will, in all probability, may add to the cost of recruitment of a Chief Executive Officer. This by virtue of the additional mandated administrative requirements of a consultant. The consultant will charge a fee and the inclusion of an external person (in addition to the consultant) on the recruitment panel may also require remuneration. However, examples of recent external independent persons engaged in CEO recruitment panels has not incurred a fee/cost.

### **STRATEGIC IMPLICATIONS**

These standards meet the following:

#### **Demonstrate effective leadership, advocacy and governance**

- 1.1 Strengthen leadership, advocacy and governance capabilities;
- 1.2 Provide transparent decision making that meets our legal and regulatory obligations, reflects the level of associated risk, and is adequately explained to the community;
- 1.3 Improve our business and asset management systems and processes to meet our audit compliance and the needs of the community.

### **VOTING REQUIREMENTS**

Absolute Majority

### **OFFICER RECOMMENDATION – Item 10.3.1**

**That Council:**

1. **Adopts the Department of Local Government, Sports and Cultural Industries Model Standards for CEO Recruitment, Performance and Termination as contained in Attachment 1 which now replaces the Shire of Boyup Brook Chief Executive Officer Standards for Recruitment, Performance and Termination;**
2. **Follows the Western Australian Local Government Association template.**

### 10.3.2 Local Government Elections 2023

Location:	Not applicable
Applicant:	Not applicable
Disclosure of Officer Interest:	None
Author:	Maria Lane, Records/Governance Officer
Authorising Officer:	Athanasios Kyron, Acting Chief Executive Officer
Attachments:	1. Letter from Hon John Carey MLA 2. Quote from the WAEC 3. Letter from WAEC (option 1 and 2)

#### **SUMMARY**

The next Local Government election is due to be held on 21 October 2023. In accordance with *the Local Government Act 1995* (the Act), Council can opt to conduct an election either as an in-person election or a postal election. Current legislation dictates that if a Council decides to conduct a postal election, the Western Australian Electoral Commission (WAEC) must conduct the election, with the cost of the election to be recouped by the WAEC on the basis of full accrual cost recovery.

This year's election is significant as it will be voting using the optional preferential system. This will add a degree of complexity to the system.

The Shire of Boyup Brook has received a cost estimate from the WAEC to conduct the election as a postal ballot. Council is required to make a decision, from the options available, for the conduct of the 2023 Local Government Election.

#### **BACKGROUND**

Many Local Governments utilize the services of the Electoral Office in managing the election process as it streamlines the process and allows staff to progress other priority areas within the organization. The Shire of Boyup Brook has traditionally held an in-person election.

Local government elections occur on the third Saturday in October every two years. Councillors each serve a term of four years. The Shire of Boyup Brook have four Councillors whose term expires in 2023.

At a Special Council Meeting held on 9 February 2023, the Shire of Boyup Brook decided to remove wards and reduce the number of elected member positions by one in 2023 with the aim of reducing the overall number of elected members by two (an additional one elected member position) in 2025 local government elections. This will bring the number of elected members to seven for the Shire of Boyup Brook. The number of elected member positions that will be contested in the October 2023 elections will be three.

There is a possibility that an election would not be required in the event that only three nominations are received to fill the 4 vacancies.

**PREVIOUS COUNCIL RESOLUTIONS**

Special Council Meeting minutes 9 February 2023:

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

MOVED: Cr Helen C O'Connell

SECONDED: Cr Darren E King

That Council:

1. Advises the Local Government Advisory Board that it:
  - a. Has conducted a Ward and Representation Review and consulted with the community.
  - b. Has considered submissions made during the consultation on its proposed Ward Review and has resolved to abolish the Ward Review System and reduce the number of Councillors to seven (7) elected members following a staged reduction over two election cycles to 8 Councillors from 2023 to 2025 and 7 Councillors from 2025 onwards based on the following consideration:
    - The Staged reduction in the number of Councillors to 7 elected positions would result in the least disruption to Council and allow all Councillors whose terms end in 2025 to complete their elected terms in office.
2. Authorises the Chief Executive Officer to forward the Council Resolution, copy of the Shire of Boyup Brook Ward Review and copies of submissions received by the Shire of Boyup Brook to the Local Government Advisory Board.

CARRIED 9/0

Res 23/02/003

**COMMENT**

The State Government's Local Government reforms which will be legislated prior to this year's elections will require changes to the way that Local Government Elections will be held. The State Government will be abolishing Wards and introducing optional preferential voting.

With the introduction of optional preferential voting, elections are becoming more complex and need specialists to undertake them to ensure they comply with the Local Government Act and Regulations; therefore, Council may deem it prudent to engage the Electoral Commissioner to carry out the Shire of Boyup Brook Local Government election as a postal election.

Postal voting generally receives a greater return of votes than an in-person vote, also the votes can be returned by the elector at their convenience rather than having to come into town on Election Day.

There is no issue with finding staff to work that day as this is the responsibility of the electoral commissioner.

With the Electoral commissioner running the Elections it is also perceived to be a greater level of independence by Councillors and Community in the running of the election as the administration is removed from the election process.

The estimated cost for the 2023 election if conducted as a postal ballot is \$18,000 (incl. GST), which has been based on the following assumptions:

- 1,300 electors;
- response rate of approximately 50%;
- 3 vacancies;
- Count to be conducted at the offices of the Shire of Boyup Brook;
- Appointment of a local Returning Officer;
- Regular Australia Post delivery service to apply for the lodgement of the election packages.

If Council intends to conduct the 2023 election by postal voting, the following two resolutions will need to be passed:

1. Declare, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2023 ordinary elections together with any other elections or polls which may be required.
2. Decide, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the election will be as a postal election.

If Council resolves not to declare the WA Electoral Commission responsible for conduction the election, the election will be conducted as a “voting in person election”, in accordance with s.4.61(1) of the Act.

The estimate cost for an ‘in-person’ election is approximately \$7,000 including:

- Production and printing of all election related material;
- Advertising, both statutory and any other local or promotional;
- Wage costs: engagement of a Returning Officer (generally the Chief Executive Officer) and at least two other employees to staff the polling booth for at least ten hours on polling day.

Should Council choose to conduct the election, an alternative resolution is:-

1. That Council appoints the Shire of Boyup Brook CEO as returning officer in accordance with section 4.20 (1) of the *Local Government Act 1995* for the October 2023 Local Government Elections.
2. Decides, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the election will be as a postal election; and
3. Endorses the allocation of funds in the 2023/24 annual budget for the Western Australian Electoral Commission to conduct the Shire of Boyup Brook’s ordinary postal election.

## **CONSULTATION**

Western Australian Electoral Commission

## **STATUTORY OBLIGATIONS**

The principal legislation covering local government elections is:

- *Local Government Act 1995* Part 4
- *Local Government (Elections) Regulations 1997*.

*Local Government Act 1995*

### ***s.4.61. Choice of methods of conducting election***

*(1) The election can be conducted as a-*

***Postal election*** which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or ***voting in person election*** which is an election at which the principal method of casting votes is by voting in



*person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.*

### **POLICY IMPLICATIONS**

Nil

### **BUDGET/FINANCIAL IMPLICATIONS**

The WAEC has provided the quote at this time to enable Council to allocate the funds in its 2023/24 budget.

### **STRATEGIC IMPLICATIONS**

This item is relevant to the Councils approved Strategic Community Plan 2021-2031.

#### **Support a strong and inclusive economy**

- 3.1 Partner with key stakeholders to maximize economic development opportunities through regional and sub regional initiatives;
- 3.2 Promote the town as a great place to visit, stay and live;
- 3.3 Partner with key stakeholders to attract investment that will create jobs and support growth.

#### **Demonstrate effective leadership, advocacy and governance**

- 1.1 Strengthen leadership, advocacy and governance capabilities;
- 1.2 Provide transparent decision making that meets our legal and regulatory obligations, reflects the level of associated risk, and is adequately explained to the community;
- 1.3 Improve our business and asset management systems and processes to meet our audit compliance and the needs of the community.

### **VOTING REQUIREMENTS**

Absolute Majority for appointing the Electoral Commission to conduct the election.

Simple Majority to resolve to have the elections 'in-person'.

### **OFFICER RECOMMENDATION – Item 10.3.2**

**That Council:**

1. Declares, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commission to be responsible for the conduct of the 2023 ordinary election together with any other elections or polls which may be required;
2. Decides, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the election will be as a postal election and;
3. Endorses the allocation of funds in the 2023/24 annual budget for the WAEC to conduct the Shire of Boyup Brook's ordinary postal election.

### 10.3.3 Annual Compliance Audit Return 2022

Location:	Shire of Boyup Brook
Applicant:	Shire of Boyup Brook
File:	FM/9/004
Disclosure of Officer Interest:	None
Author:	Maria Lane, Records/Governance Officer
Authorising Officer:	Athanasios Kyron, Acting Chief Executive Officer
Attachments:	Shire of Boyup Brook Compliance Audit Return 2022 Report

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#### **SUMMARY**

This report is for Council to consider adopting the Compliance Audit return for 2022.

The CAR questions the following categories:

- **Commercial Enterprises by Local Governments**
  - The Shire has not undertaken any major land transactions.
- **Delegations on Power/Duty**
  - No issues or concerns to report.
- **Disclosure of Interest**
  - No issues or concerns to report.
- **Disposal of Property**
  - This section primarily had to be responded to as “no” due to 55 Cailes Street Boyup Brook not being advertised in a local newspaper.
- **Elections**
  - No issues or concerns to report.
- **Finance**
  - This section primarily had to be responded to as “no” due to currently being finalised with Auditors and Office of the Auditor General.
- **Local Government Employees**
  - No issues or concerns to report.
- **Tenders for providing Goods and Services.**
  - N/A – no tenders for the year 2022
- **Integrated Planning and Reporting**
  - Number 2 and 3 had to be responded to as “no” due to a corporate business plan not being provided to Council. Previous Plan expired. Currently Plan in progress.
- **Optional Questions**
  - Number 1,2 and 8 had to be responded to as “no”. Currently in the process of being reviewed.

## **BACKGROUND**

Each local government has to carry out a compliance audit for the period 1 January to 31 December each year against the requirements included in the Compliance Audit Return (Return) set out by the Department of Local Government Sport and Cultural Industries (the Department).

The Department of Local Government, Sport and Cultural Industries (the Department) has distributed the 2022 Compliance Audit Return for completion by the Shire of Boyup Brook. The Compliance Audit Return is one of the tools that allow the Audit Committee and Council to monitor how the organization is functioning. The Compliance Audit Return is required to be presented to Council for adoption before its submission to the Department.

The Return places emphasis on the need to bring to Council's attention cases of non-compliance or where full compliance was not achieved. The return also requires Council to endorse any remedial action taken or proposed to be taken in relation to instances of non-compliance.

The year's Return has again been prepared by electronic means and will be submitted electronically to the Department.

The Compliance Audit Return for 2022 for the Shire of Boyup Brook will be presented for review at the Ordinary Council meeting being held on 30 March 2022.

## **COMMENT**

The Deputy Chief Executive Officer and the Records/Governance Officer have undertaken the review of the Compliance Audit Return and the findings are attached.

## **CONSULTATION**

D/CEO  
Records/Governance Officer

## **LEGISLATION AND POLICY CONSIDERATIONS**

- *Local Government Act 1995*
  - *Local Government (Administration) Regulations 2007*
  - *Local Government (Audit) Regulations 1996*
14. *Compliance audits for local governments*
- (1) *A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.*
  - (2) *After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.*
  - (3A) *The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.*
  - (3) *After the audit committee has reported to the council under sub regulation (3A), the compliance audit return is to be-*
    - (a) *presented to the council at a meeting of the council; and*
    - (b) *adopted by the council; and*
    - (c) *recorded in the minutes of the meeting at which it is adopted.*

*(Regulation 14 inserted in Gazette 23 Apr 1999 p. 1724-5; amended in Gazette 30 Dec 2011 p. 5580-1.)*

15. *Compliance audit return, certified copy of etc. to be given to Executive Director*
- (1) *After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with –*
    - (a) *a copy of the relevant section of the minutes referred to in regulation 14 (3)(c); and*
    - (b) *any additional information explaining or qualifying the compliance audit, is to be submitted to the Executive Director by 31 March next following the period to which the return relates.*
  - (2) *In this regulation-*  
**certified** *in relation to a compliance audit return means signed by-*
    - (a) *the mayor or president; and*
    - (b) *the CEO*

*(Regulation 15 inserted in Gazette 23 Apr 1999 p.1725.)*

### **POLICY IMPLICATIONS**

Nil

### **BUDGET/FINANCIAL IMPLICATIONS**

Nil

### **STRATEGIC IMPLICATIONS**

Shire of Boyup Brook Strategic Community Plan 2021-2031 sets out our governance goals.

Demonstrate effective leadership, advocacy and governance.

- 1.1 Strengthen leadership, advocacy and governance capabilities.
- 1.2 Provide transparent decision making that meets our legal and regulatory obligations, reflects the level of associated risk, and is adequately explained to the community.
- 1.3 Improve our business and asset management systems and processes to meet our audit compliance and the needs of the community.  
Improve financial sustainability.
- 1.4 Improve short- and long-term financial management planning.

### **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

**OFFICER RECOMMENDATION – Item 10.3.3**

**That Council resolves to:**

- 1. Adopt the Compliance Audit Return (Attachment 5.1) for the local government of the Shire of Boyup Brook for the period 1 January 2022 to 31 December 2022; and**
- 2. Authorise the Shire President and Chief Executive Officer to certify the Compliance Audit Return for 2022;**
- 3. Request the Chief Executive Officer to submit a certified copy of the Compliance Audit Return to the Director General of the Department of Local Government Sport and Cultural Industries by 31 March 2023.**

## 10.4 PLANNING

### 10.4.1 Subdivision Application (WAPC Ref 163264) – Lots 203, 709 and 711, Terry Road, Boyup Brook

Location:	Lots 203, 709 & 711, Terry Road, Boyup Brook
Applicant:	Survey South
File:	S163264
Disclosure of Officer Interest:	None
Author:	A. Nicoll, Town Planner
Authorising Officer:	Athanasios Kyron, Acting Chief Executive Officer
Attachments:	Subdivision Plan

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#### **SUMMARY**

Council is requested to agree to advise the Western Australian Planning Commission (WAPC) to support the proposed 'Rural' Lots 203 and 709 and the Rural Residential/Rural Lot 711, Terry Road subdivision (3 lot into 3 lots) with no conditions.

#### **BACKGROUND**

The WAPC received an application to modify lot boundaries and lot sizes for existing Lots 203, 709 and 711, Terry Road, to allow for better farm management.

The WAPC forwarded the application to the Shire of Boyup Brook requesting information, comment or recommended conditions.

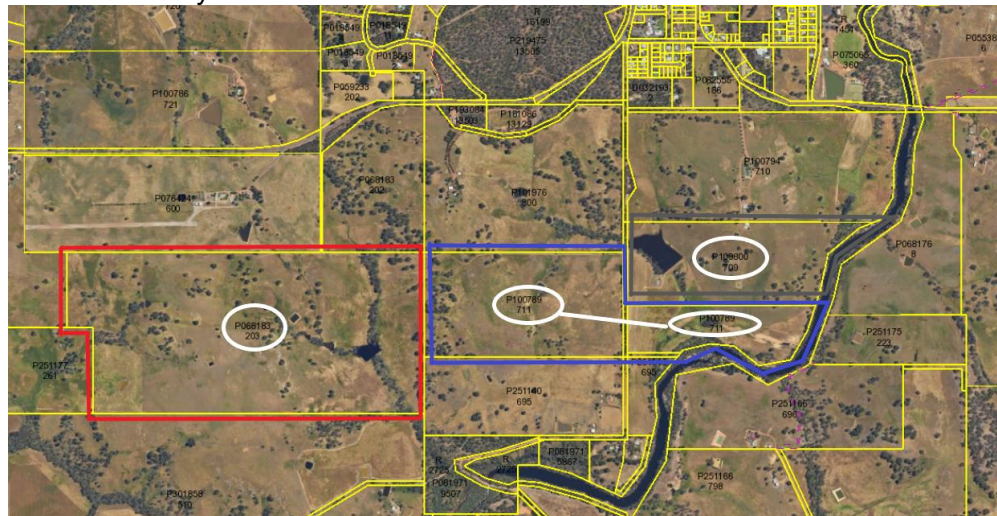
#### **COMMENT**

The Lots 203 and 709 are zoned 'Rural', and the Lot 711 has a dual zoning of 'Rural Residential' and 'Rural', in accordance with the Shire's Local Planning Scheme 2.

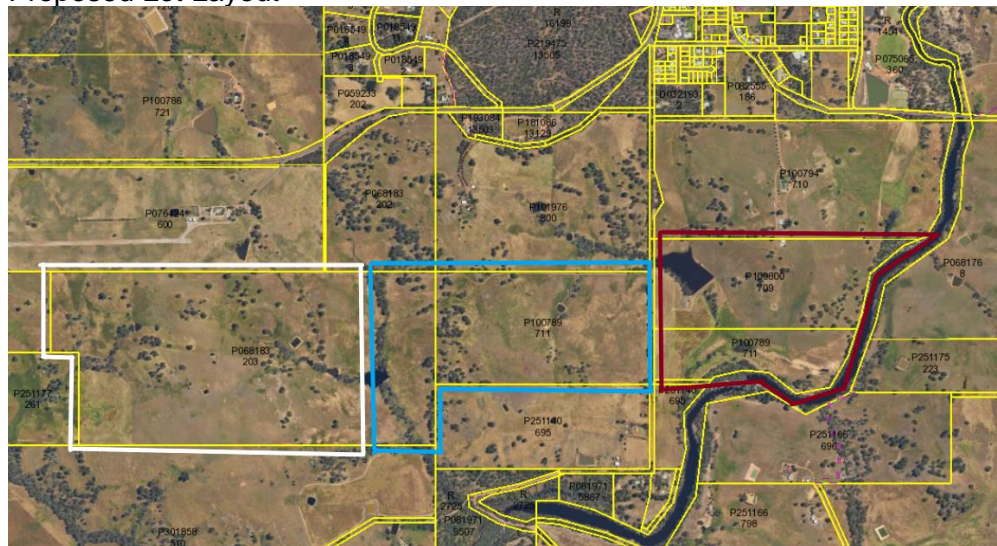
The subject Lots are located on the fringe of the Boyup townsite and are used for farming practices (livestock grazing).

The following figures illustrate the current Lot layout and the proposed Lot layout.

### Current Lot Layout



### Proposed Lot Layout



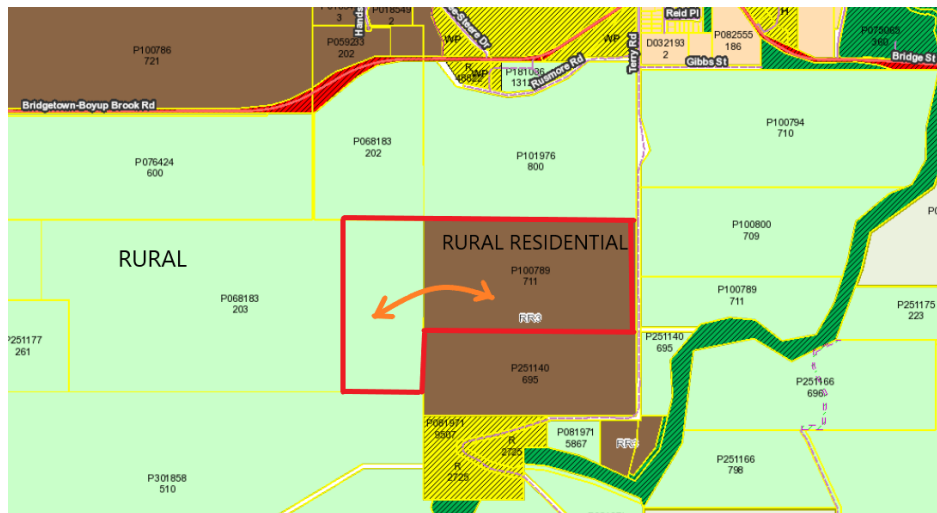
The subdivision includes:

- Decreasing the size of Lot 203 (by approximately 24ha), by moving the shared boundary between Lots 203 and 711
- Increasing the size of Lot 711 (by approximately 6ha), by amalgamating with a portion of Lot 203
- Increasing the size of Lot 709 (by approximately 20ha), by amalgamating with the portion of Lot 711, which is located on the east side of Terry Road

The subdivision is proposed to allow for better farm management, by allowing similar lot sizes and by preventing Lot 711 from crossing the Terry Road.

The subdivision proposes to realign the western boundary of the Lot 711 to include a dam and a watercourse. Should the subdivision be approved by the WAPC, this would mean that the Lot 711 would have a dual zoning of 'Rural' and 'Rural Residential' (which is currently the case). The following figure shows the Shire's scheme zones for the subject area and a dual zoning outcome for the proposed subdivision.





Should the subdivision be approved, the Shire should consider (at a later date – post advertising) amending its draft Local Planning Strategy to show the 'Rural' portion of Lot 711, as 'Rural Residential'. The following figure is the Shire's draft Local Planning Strategy map.

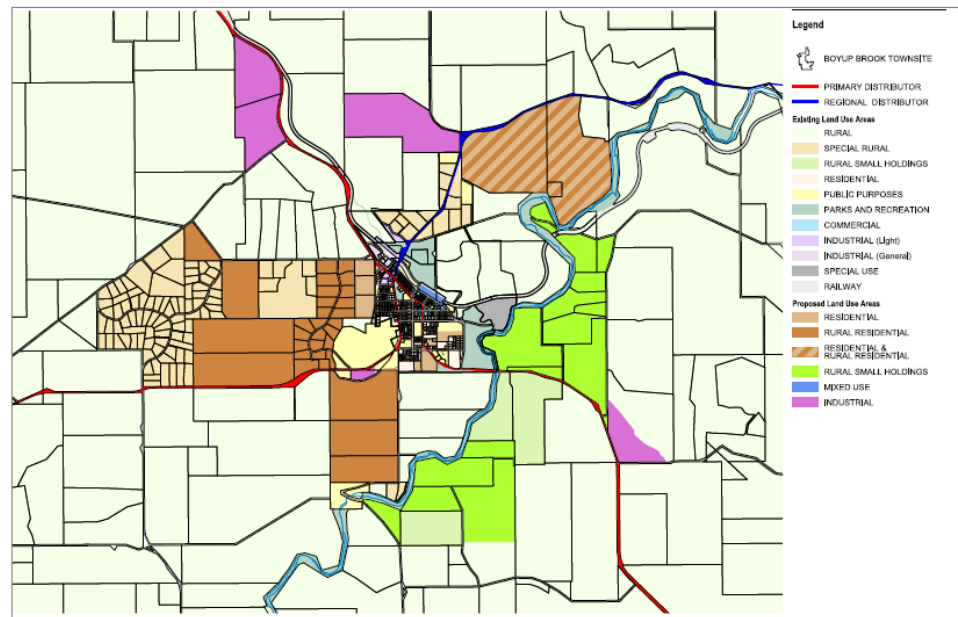


Figure 6: Local Planning Strategy Map for Boyup Brook Townsite and Surrounds

It is recommended that the Shire Council agree to advise the Western Australian Planning Commission to support the proposed subdivision as it complies with the Commissions Development Control Policy 3.4. The Development Control Policy 3.4 supports the subdivision of 'Rural' zone land, which proposes to realign boundaries and which does not propose additional lots.

## **CONSULTATION**

N/A



## **STATUTORY OBLIGATIONS**

### Shire of Boyup Brook Local Planning Scheme No.2

Pursuant to clause 25 of the Shire of Boyup Brook *Local Planning Scheme No. 2* the following is outlined in respect to subdivision:

*1. In considering applications for subdivision, rezoning and planning consent in the Rural Zone, Council shall have regard to:*

- (a) the need to protect the agricultural practices of the Rural zone in light of its importance to the District's economy;*
- (b) the need to protect the area from uses which will reduce the amount of land available for agriculture;*
- (c) bushfire risk to the locality and adequacy of fire suppression measures;*
- (d) the need to preserve the rural character and rural appearance of the area; and*
- (e) where rural land is being subdivided for closer development, the proposal should be supported with evidence outlining the land's suitability and capability for further development.*

The proposed subdivision does not inherently change or impact on existing land uses or the rural character of the area.

## **POLICY IMPLICATIONS**

The Development Control Policy 3.4 - Rural Subdivision outlines the requirements for rural subdivision within Western Australia. Specifically, section 6 of DCP3.4 outlines the following for which rural subdivision may be considered:

*In considering applications under section 6, the WAPC will consider rural subdivision in the following exceptional circumstances:*

- a) To realign lot boundaries with no increase in the number of lots, where the resultant lots will not adversely affect the rural land uses;*
- b) To protect and actively conserve place of cultural and natural heritage;*
- c) To allow for the efficient provision of utilities and infrastructure and/or for access to natural resources;*
- d) In the Homestead lot policy (Appendix 2)1 allow for the continued occupation of existing homesteads when they are no longer used as part of a farming operation: and*
- e) For other unusual or unanticipated purposes which, in the opinion of the WAPC, do not conflict with this and other relevant policies and are necessary to the public interest.*

Subdivision of the rural land, in the form proposed, is in accordance with the Western Australian Planning Commissions *Development Control Policy 3.4 Subdivision of Rural Land*, which supports the realignment of boundaries.

## **BUDGET/FINANCIAL IMPLICATIONS**

Nil

**VOTING REQUIREMENTS**

Simple majority

**OFFICER RECOMMENDATION – ITEM 10.4.1**

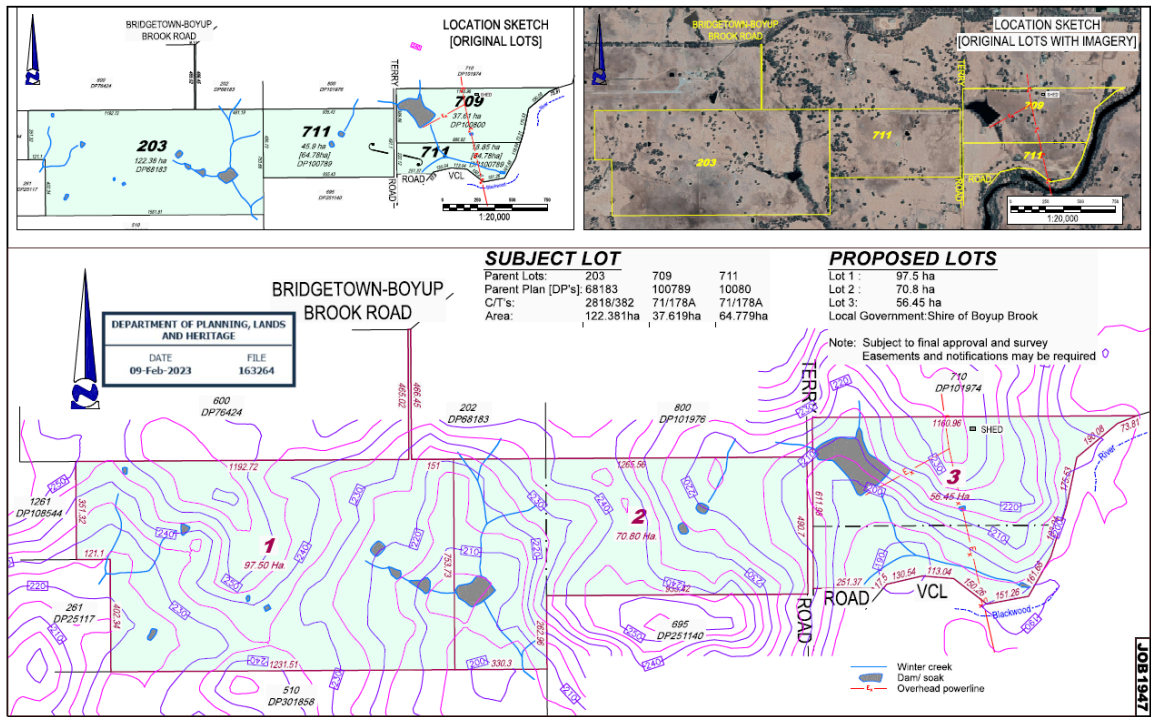
That Council

1. Agrees to advise the Western Australian Planning Commission to support the proposal (WAPC Ref 163264) to subdivide Lots 203, 709 and 711, Terry Road, for the following reasons and with no conditions.

**Reason for support**

- a) The subdivision is in accordance with the State's *Development Control Policy 3.4 Subdivision of Rural Land*, which limits subdivision potential to the following criteria:
    - To realign lot boundaries with no increase in the number of lots, where the resultant lots will not adversely affect the rural land uses.
  - b) The boundary realignments are not expected to impact on existing land uses or the rural character of the area.
2. Agrees to advise the Western Australian Planning Commission that the subdivision of the Lot 711, will inherently create a dual zoning situation pertaining to the Lot 711.

Subdivision Plan



**10.4.2 Subdivision Application (WAPC Ref 163272) – Lot 105 Donnybrook-Boyup Brook Road**

Location:	Lot 105 Donnybrook-Boyup Brook Road
Applicant:	Thompson Surveying
File:	S163272
Disclosure of Officer Interest:	None
Author:	A. Nicoll, Town Planner
Authorising Officer:	Athanasios Kyron, Acting Chief Executive Officer
Attachments:	Subdivision Plan

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**SUMMARY**

In accordance with the Shire's scheme, the Council is requested to agree to advise the Western Australian Planning Commission (WAPC), NOT to support the proposed 'Rural' Lot 105 Donnybrook-Boyup Brook Road subdivision (1 lot into 2 lots).

The Shire's scheme seeks to protect 'Rural' zone land for agriculture purposes. The scheme considers that the creation of additional 'Rural' zone lots (via subdivision), reduces the amount of land available for agriculture. The creation of additional Lots may reduce the capacity for farming, due to a reduction in farm size (economy of scale) and farmland, potentially lost to housing and infrastructure, needed to accommodate new landholders.

**BACKGROUND**

The WAPC received an application to subdivide the Lot 105 Donnybrook-Boyup Brook Road, into two lots.

The WAPC forwarded the application to the Shire of Boyup Brook requesting information, comment or recommended conditions.

**COMMENT**

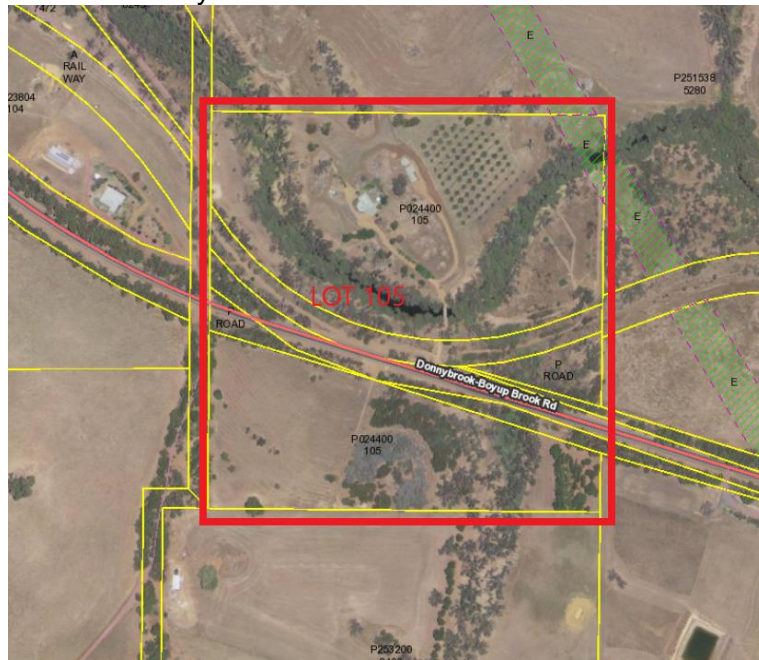
The subject Lot is zoned 'Rural' in accordance with the Shire's *Local Planning Scheme 2*.

The Donnybrook-Boyup Brook Road and a railway reserve dissect through the middle of the subject Lot.

The application proposes to create two lots, one Lot located either side of the Donnybrook-Boyup Brook Road and railway reserve.

The following figures illustrate the current Lot layout and the proposed Lots.

Current Lot Layout



Proposed Lots



It is the view of the Western Australian Planning Commission (State Planning Policy 2.5), that:

*There are sufficient, suitably sized and located rural lots to cater for intensive and emerging primary production land uses. Creation of new rural lots through ad-hoc, unplanned subdivision will not be permitted.*

Pursuant to clause 25 of the Shire of Boyup Brook *Local Planning Scheme No. 2*, in considering applications involving the creation of additional Rural zone Lots, the Council should have regard to:

*The need to protect the area from uses which will reduce the amount of land available for agriculture.*

By allowing the creation of an additional Lot (Lot 107), the amount of land available for agriculture is potentially diminished. A more favourable subdivision is in the form of an amalgamation with an adjoining farm (no additional created). This would increase the carrying capacity of an existing farming enterprise and ultimately its economic viability.

The proposal seeks to vary from the Shire's scheme and the Western Australian Planning Commission Policy and therefore it is recommended that the Shire Council agree to advise the Western Australian Planning Commission not to support the proposed subdivision.

The ability to undertake a viable farming enterprise at the subject Lot is somewhat constrained due to its small size and a river and major road dissecting the property. The Council is at liberty to provide advice contrary to scheme standards and therefore may wish to consider recommending that the Commission approve the subdivision for the reasons stipulated above (e.g. the built and natural constraints associated with the land, limit its potential for farming).

### **CONSULTATION**

N/A

### **STATUTORY OBLIGATIONS**

#### **Shire of Boyup Brook Local Planning Scheme No.2**

Pursuant to clause 25 of the Shire of Boyup Brook Local Planning Scheme No. 2 the following is outlined in respect to subdivision:

*1. In considering applications for subdivision, rezoning and planning consent in the Rural Zone, Council shall have regard to:*

- (a) the need to protect the agricultural practices of the Rural zone in light of its importance to the District's economy;*
- (b) the need to protect the area from uses which will reduce the amount of land available for agriculture;*
- (c) bushfire risk to the locality and adequacy of fire suppression measures;*
- (d) the need to preserve the rural character and rural appearance of the area; and*
- (e) where rural land is being subdivided for closer development, the proposal should be supported with evidence outlining the land's suitability and capability for further development.*

### **POLICY IMPLICATIONS**

The State Planning Policy 2.5 – Rural Planning, seeks to protect and preserve Western Australia's rural land assets due to the importance of their economic, natural resource, food production, environmental and landscape values. Specifically, section 6.5 states:

*In contemplating subdivision proposals on rural land, WAPC policy is:*

- (a) the creation of new or smaller rural lots will be by exception and in accordance with Development Control Policy 3.4: Subdivision of rural land;*
- (b) the creation of new or smaller rural lots by exception may be provided for in other State Planning Policies and/or a local planning strategy or scheme;*
- (c) no other planning instruments besides those listed at (a) or (b) can provide for the subdivision of rural land; and*
- (d) the introduction of new dwelling entitlements or other sensitive land uses should not limit or prevent primary production from occurring.*

The Development Control Policy 3.4 - Rural Subdivision outlines the requirements for rural subdivision within Western Australia. Specifically, section 6 of DCP3.4 outlines the following for which rural subdivision may be considered:

*In considering applications under section 6, the WAPC will consider rural subdivision in the following exceptional circumstances:*

- a) To realign lot boundaries with no increase in the number of lots, where the resultant lots will not adversely affect the rural land uses;*
- b) To protect and actively conserve place of cultural and natural heritage;*
- c) To allow for the efficient provision of utilities and infrastructure and/or for access to natural resources;*
- d) In the Homestead lot policy (Appendix 2)1 allow for the continued occupation of existing homesteads when they are no longer used as part of a farming operation: and*
- e) For other unusual or unanticipated purposes which, in the opinion of the WAPC, do not conflict with this and other relevant policies and are necessary to the public interest.*

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

Nil

#### **VOTING REQUIREMENTS**

Simple Majority

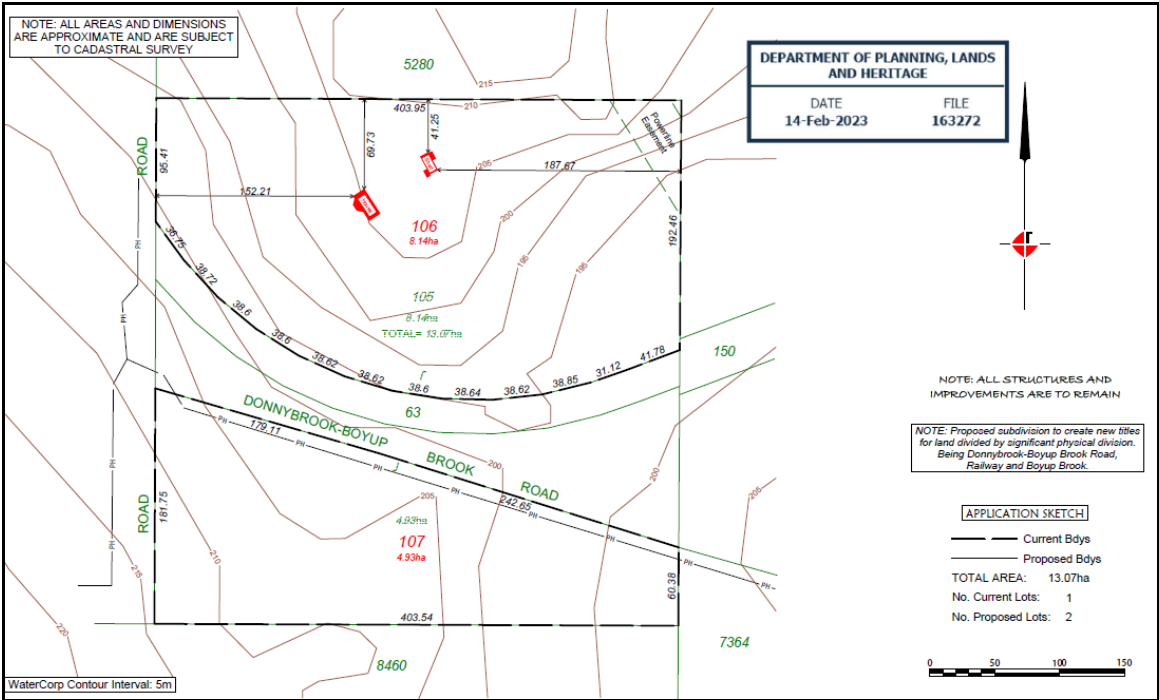
#### **OFFICER RECOMMENDATION – ITEM 10.4.2**

**That Council:**

**Agrees to advise the Western Australian Planning Commission NOT to support the proposal (WAPC Ref 163272) to subdivide Lot 105 Donnybrook-Boyup Brook Road, for the following reason:**

- 1) The subdivision is not in accordance with the Commissions Policy (3.4 and 2.5) or the Shire's *Local Planning Scheme 2*, which seek to protect and preserve Western Australia's rural land assets due to the importance of their economic, natural resource, food production, environmental and landscape values.**

Subdivision Plan





**11 COMMITTEE MINUTES**

**11.1 Local Emergency Management Committee Minutes – 19 August 2022**

**COMMITTEE RECOMMENDATION – ITEM 11.1**

That the confirmed minutes of the Local Emergency Management Committee held on Friday, 19 August 2022 be received.

**11.2 Local Emergency Management Committee Minutes – 10 November 2022**

**COMMITTEE RECOMMENDATION – ITEM 11.2**

That the confirmed minutes of the Local Emergency Management Committee held on Thursday, 10 November 2022 be received.

**11.3 Rylington Park Committee Minutes – 2 February 2023**

**COMMITTEE RECOMMENDATION – ITEM 11.3**

That the confirmed minutes of the Rylington Park Committee held on Thursday, 2 February 2023 be received.

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

Nil

**13 LATE ITEM/URGENT BUSINESS MATTERS**

**14 CLOSURE OF MEETING**

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