

BRIEFING AGENDA

ORDINARY COUNCIL MEETING

TO BE HELD ON

Thursday 20 April 2023

Commencing at 6.00pm

Shire of Boyup Brook Shire Council Chambers, Boyup Brook



Peter Clarke
Acting Chief Executive Officer



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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.

Briefing Sessions 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 Briefing Sessions are solely those of the person making them. Nothing expressed at a Briefing Sessions can be attributed to the Shire, unless it is adopted by a resolution of Council.

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	Peter Clarke
	Deputy Chief Executive Officer	Carolyn Mallett
	Urban and Regional Planner	Adrian Nicoll
	Finance Manager	Ben Robinson
	Executive Assistant	Maggie Le Grange

APOLOGIES:

LEAVE OF ABSENCE:

MEMBERS OF PUBLIC: Simon Maddrell

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Questions taken on notice at the Council Meeting held on 30 March 2023

Question from Ian Kugler

Has due diligence been done with the appointment of the new CEO?

Response from Cr Walker

The appointment of the new Chief Executive Officer was done in accordance with departmental guidelines on recruitment and selection.

Questions from Ian Kugler

Refund on services supplied?

Recycling of waste?

Response from Acting Chief Executive Officer

The Acting Chief Executive Officer to call Mr Kugler and discuss the questions.

4. PUBLIC QUESTION TIME

5. PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS

Simon Maddrell from FutureBus will provide a virtual presentation for the Councillors to consider new technology whereby the Shire of Boyup Brook produces its own electricity, and zero-emission fuel for transport (15 minutes).

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
Peter Clarke	10.3.2	19	Appointment of the Acting Chief Executive Officer	Acting Chief Executive Officer

Declarations of (Impartiality)

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

Declarations of Interest (Proximity)

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

7. CONFIRMATION OF MINUTES

7.1 Ordinary Council Minutes – 30 March 2023

OFFICER RECOMMENDATION – ITEM 7.1

That the unconfirmed minutes of the Ordinary Council Meeting held on Thursday 30 March 2023 which commenced at 6.00pm be confirmed as an accurate record.

8. PRESIDENTIAL COMMUNICATIONS

April 2023

Tuesday, 4 April 2023, 11.30 Attended the WBAC meeting in Nannup

The morning session was 10am to 1pm

Review of the Warren Blackwood sub-Regional Growth Plan with the purpose being to review specific projects and update or remove as needed.

This was followed by a 2pm Board meeting at which there was a presentation on the Marketing Campaign for the Regional Brand Launch “Southern Forests & Valleys - A World Away From The Every Day “ The Staff, led by EO Katie McDonnell have done an outstanding job and there will be the launch of a new website in May 2023.

Additional matters covered were Brand Messaging Strategy Content Strategy Social Media Strategy & Action Plan MoU with Australia South West.

The Climate Change Impact Reference Group minutes were tabled with matters for endorsement referred to member Councils.

Thursday, 6 April 2023, 9am Audit Exit meeting with ACEO, Deputy Shire President, Office of Auditor General staff and a representative from auditor Moore Australia.

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 March 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 March 2023

SUMMARY

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

COMMENT

The attached listing represents accounts/invoices the shire paid by cheque or electronic means during the period 01 to 31 March 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 March 2023, totalling \$629,301.63 from Municipal account, \$65,297.70 from Police Licensing account and \$0.00 from Boyup Brook Early Learning Centre account, as represented by:

Municipal Cheques	20596-20599	\$	220.50
Municipal Electronic Payments	EFT13759 – EFT13893	\$	250,180.99
Municipal Direct Payments		\$	387,900.14
Police Licensing Payments		\$	65,297.70
BBELC Payments		\$	0.00

10.2.2 28 February 2023 Statement of Financial Activity

Location:	Not applicable
Applicant:	Not applicable
File:	FM/10/003
Disclosure of Officer Interest:	None
Authors:	D Long, Finance Consultant
Authorising Officer:	Peter Clarke, Acting Chief Executive Officer
Attachments:	Monthly Financial Report 28 February 2023

SUMMARY

The Monthly Financial Report for 28 February 2023 is presented for Councils adoption.

BACKGROUND

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

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

COMMENT

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

- (a) Statement of Comprehensive Income by Program;
- (b) Statement of Comprehensive Income by Nature/Type;
- (c) Statement of Financial Activity by Nature;
- (d) Statement of Financial Activity by Program;
- (e) Summary of Net Current Asset Position;
- (f) Material Variances Report;
- (g) Statement of Financial Position;
- (h) Statement of Cash Flows;
- (i) Report on Progress of Capital Expenditure Program;
- (j) Report on Major Business Units;
- (k) Statement of Cash Back Reserves;
- (l) Loan Borrowings Report; and
- (m) Detailed Operating and Non-Operating Schedules.

At its budget meeting, Council adopted a material variance threshold of \$10,000 or 10%.

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

The material variance commentary is now provided in a separate statement, called the Material Variances Report. This statement categorises the variance commentary according to reporting Nature/Type and groups the variances by Operating Revenue, Operating Expenditure, Investing and Financing Activities.

The Statement of Financial Activity as at 28 February shows a closing surplus of \$3,053,992.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Local Government Act 1995

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

Local Government (Financial Management) Regulations 1996:

Regulation 34 states:

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

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

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

As presented in the attached reports.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION – Item 10.2.2

That Council receives the Monthly Financial Report for 28 February 2023, as presented.

10.2.3 31 March 2023 Statement of Financial Activity

Location:	Not applicable
Applicant:	Not applicable
File:	FM/10/003
Disclosure of Officer Interest:	None
Authors:	D Long, Finance Consultant
Authorising Officer:	Peter Clarke, Acting Chief Executive Officer
Attachments:	Monthly Financial Report 31 March 2023

SUMMARY

The Monthly Financial Report for 31 March 2023 is presented for Councils adoption.

BACKGROUND

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

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

COMMENT

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

- (n) Statement of Comprehensive Income by Program;
- (o) Statement of Comprehensive Income by Nature/Type;
- (p) Statement of Financial Activity by Nature;
- (q) Statement of Financial Activity by Program;
- (r) Summary of Net Current Asset Position;
- (s) Material Variances Report;
- (t) Statement of Financial Position;
- (u) Statement of Cash Flows;
- (v) Report on Progress of Capital Expenditure Program;
- (w) Report on Major Business Units;
- (x) Statement of Cash Back Reserves;
- (y) Loan Borrowings Report; and
- (z) Detailed Operating and Non-Operating Schedules.

At its budget meeting, Council adopted a material variance threshold of \$10,000 or 10%.

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

The material variance commentary is now provided in a separate statement, called the Material Variances Report. This statement categorises the variance commentary according to reporting Nature/Type and groups the variances by Operating Revenue, Operating Expenditure, Investing and Financing Activities.

The Statement of Financial Activity as at 31 March shows a closing surplus of \$2,531,220.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Local Government Act 1995

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

Local Government (Financial Management) Regulations 1996:

Regulation 34 states:

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

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

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

As presented in the attached reports.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION – Item 10.2.3

That Council receives the Monthly Financial Report for 31 March 2023, as presented.

10.3 CHIEF EXECUTIVE OFFICER

10.3.1 Local Government Elections 2023

Location:	Not applicable
Applicant:	Not applicable
Disclosure of Officer Interest:	None
Author:	Maria Lane, Governance Officer/Records
Authorising Officer:	Peter Clarke, 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) 4. Ward & Representation Review Outcome

SUMMARY

For Council to consider conducting the shire 2023 ordinary Local Government election by the postal voting method and appointing the Western Australian Electoral Commission (WAEC)

BACKGROUND

The Minister for Local Government is progressing a range of Local Government Act legislative reform initiatives related to the conduct of elections, notably the introduction of optional preferential voting to replace the first past the post system. Legislation will be in place for the conduct of the 2023 elections with optional preferential voting likely to significantly increase the complexity of the election count.

This report is provided to assist Council in its consideration of the method of conducting the October 2023 election and includes the proposal that the Local Government adopts the postal voting method.

In accordance with section 4.7 of the Local Government Act 1995 (Act), the next ordinary Local Government election is scheduled for Saturday, 21 October 2023.

The process to appoint the WAEC to conduct the elections is as follows:

- a. Agreement sought from the WAEC to conduct the Shire's elections (complete);
and
- b. Formal appointment of the WAEC by the Council.

The shire contacted the WAEC to seek agreement to conduct the 2023 Ordinary elections. One of the benefits of the WAEC conducting the elections is that the process and the Returning Officer are largely independent of the Shire of Boyup Brook. This separation may improve the community's perception and confidence in the election process. In addition, postal voting is more convenient for Electors and typically achieves a higher rate of voter participation. If the Shire of Boyup Brook was to conduct the Local Government Elections themselves without engaging the services of the WAEC this is likely to have a considerable impact on both the Shire's financial and staff resources.

Postal elections encourage greater voter participation and are generally considered to be more representative of the community. Conducting voting in-person elections

presents a number of challenges, particularly on account of the role of the Chief Executive Officer who is also the Returning Officer. The requirements and expectations placed on the Chief Executive Officer when taking on this dual role can be both contentious and time-consuming. In addition to dealing with complaints received during the election period, the dual role can lead to an unwelcome perception of conflict of interest and bias from the community. It is the prerogative of the Council to decide whether to conduct elections by postal vote and to make a declaration that the elections are to be conducted by the WAEC.

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.

The cost estimate does not include expenses for election functions that remain the responsibility of the Local Government, including:

- a. Appointment of a Deputy Returning Officer and an appropriate number of additional Local Government election officers to assist with the election process;
- b. Any additional postage rate increases passed on by Australia Post.

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

Ordinary Council Meeting minutes 30 March 2023:

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.

MOVED: Cr Darren E King

SECONDED: Cr Charles A D Caldwell

THAT THE MOTION BE REFERRED TO ADMINISTRATION TO CLARIFY WHETHER COUNCIL IS REQUIRED TO USE POSTAL VOTING IN THE LOCAL GOVERNMENT ELECTIONS

MOVED: Cr Darren E King

SECONDED: Cr Sarah E G Alexander

CARRIED 9/0

Res 23/02/042

Response:

The Shire is not required to use postal voting in the Local Government Elections.

COMMENT

As per LGA s.4.61(1), Local Government elections can be either a Postal Election or an In-Person election:

Postal Election which is an election in 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 in 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.

At the 2021 ordinary Local Government elections, the WAEC conducted 98 elections (70% of the total elections held) comprising:

- 92 Postal Elections (66%) and
- 6 In-Person Elections (4%).
- The remaining 41 elections were held as in-person elections, managed by the Local Government with the CEO acting as Returning Officer

With the proposed legislative changes to Local Government elections, including the increased complexity of counting with the introduction of optional preferential voting, the Local Government should consider the option of the WAEC conducting a Postal Voting election.

If Council does not resolve to adopt the Officer Recommendation to request the WAEC to conduct a Postal Voting election, the shire will be required to conduct the election as either as In-Person voting election managed by the Local Government, with the CEO

as the Returning Officer (unless otherwise determined), or alternatively as an In-Person voting election managed by the WAEC.

An In-Person election managed by the Local Government would require a considerable resource allocation and has the potential to adversely affect service delivery.

Additionally, Local Governments may seek access to the WAEC's proprietary CountWA vote counting software (at a cost) however the level of support and training in the use of this software is as yet unknown.

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 cost of \$18,000 inc GST to conduct the election will be accommodated in the 2023/24 budget.

This figure will not identify the opportunity cost to the organization in terms of the officer time and resources consumed during normal operating hours to conduct the election.

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 10.3.1

That Council:

1. **Declares in accordance with section 4.20(4) for the Local Government Act 1995, the WA Electoral Commissioner is to be responsible for the conduct of the 2023 ordinary elections 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 a Postal Election.**

10.3.2 Appointment of Acting Chief Executive Officer

Location:	Not applicable
Applicant:	Not applicable
Disclosure of Officer Interest:	None
Author:	Maggie Le Grange, Executive Officer
Authorising Officer:	Peter Clarke, Acting Chief Executive Officer
Attachments:	Nil

SUMMARY

To appoint Mr Peter Clarke as Acting Chief Executive Officer of the Shire of Boyup Brook commencing 12 April 2023.

BACKGROUND

At the Special Council Meeting held 13 February 2023, Council resolved to appoint Arthur Kyron as Acting CEO of the Shire of Boyup Brook, to act in this temporary CEO role from 14 February 2023 until commencement of the substantive CEO, following the CEO recruitment process.

Mr Arthur Kyron was offered the position of ACEO initially in a full time capacity. Arthur Kyron wishes to convert from full time to part time effective 01 April 2023 to engage in additional business or employment, under his registered business ENOSIS.

Mr Arthur Kyron informed the Shire of Boyup Brook that he will be ceasing as acting Chief Executive Officer with the Shire of Boyup Brook on 13 April 2023 as his consulting business has become very busy and as a consequence have to devote his time to his business.

PREVIOUS COUNCIL RESOLUTIONS

Special Council Meeting minutes 13 February 2023:

COUNCILLORS MOTION – Item 4.1

MOVED: Cr Kevin J Moir SECONDED: Cr Helen C O'Connell

That Council:

1. Appoint Arthur Kyron as Acting CEO of the Shire of Boyup Brook From 14 February 2023 until commencement of the new CEO.
2. Is satisfied that Arthur Kyron is suitably qualified for the position of Acting CEO and is satisfied with the contract of employment.
3. Agree to the following remuneration arrangements being as for the substantive CEO, vehicle supplied, and will travel from Busselton while accommodation is arranged.
4. Agree to pay out the remaining portion of the substantive CEO contract with Dale Putland's last day being Monday 13th February 2023.

CARRIED 9/0 Res 23/02/005

Special Council Meeting minutes 15 March 2023:

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 5.2

That Council approves the officer recommendation in the confidential report 5.2 regarding the letter of engagement for the temporary Acting Chief Executive Officer for the Shire of Boyup Brook.

MOVED: Cr Helen C O'Connell

SECONDED: Cr Charles A D Caldwell

CARRIED 5/1 Res 23/03/033

COMMENT

Although Local Government Act 1995 Clause 5.39 (1a) states that an employee may act in the position of a CEO for a term not exceeding one year without a written contract, it is prudent for an ACEO to enter into an employment arrangement, being a Letter of Engagement in this instance.

Local Government (Administration) Regulations 1996 (amended) Schedule 2 Clause 12(1) applies if a CEO (or ACEO in this instance) wishes to negotiate terms and conditions of employment different to those initially proposed. Clause 12(2) requires that Council resolve to approve the terms of the negotiated Letter of Engagement.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Local Government Act 1995

Local Government (Administration) Regulations 1996

Local Government (Administration) Amendment Regulations 2021 – Schedule 2

Schedule 2 of the Regulations,

5.36. Local government employees

- (1) A local government is to employ —
 - (a) a person to be the CEO of the local government; and
 - (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed. Local Government Act 1995 Part 5 Administration Division 4 Local government employees s. 5.37 page 154 Version 07-r0-01 As at 01 May 2020 Published on www.legislation.wa.gov.au
- (2) A person is not to be employed in the position of CEO unless the council
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied* with the provisions of the proposed employment contract. * Absolute majority required.

5.39. Contracts for CEO and senior employees

- (1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.
- (1a) Despite subsection (1) —
 - (a) an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and
 - (b) a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2-year period, without a written contract.
- (2) A contract under this section —
 - (a) in the case of an acting or temporary position, cannot be for a term exceeding one year;
 - (b) in every other case, cannot be for a term exceeding 5 years.
- (3) A contract under this section is of no effect unless —
 - (a) the expiry date is specified in the contract; and
 - (b) there are specified in the contract performance criteria for the purpose of reviewing the person's performance; and
 - (c) any other matter that has been prescribed as a matter to be included in the contract has been included.
- (4) A contract under this section is to be renewable and subject to subsection (5), may be varied.
- (5) A provision in, or condition of, an agreement or arrangement has no effect if it purports to affect the application of any provision of this section.
- (6) Nothing in subsection (2) or (3)(a) prevents a contract for a period that is within the limits set out in subsection 2(a) or (b) from being terminated within that period on the happening of an event specified in the contract.
- (7) A CEO is to be paid or provided with such remuneration as is determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975* section 7A.
- (8) A local government is to ensure that subsection (7) is complied with in entering, or renewing, a contract of employment with a CEO.

[Section 5.39 amended by No. 49 of 2004 s. 46(1)-(3); No. 2 of 2012 s. 13 (correction to reprint in Gazette 28 Mar 2013 p. 1317).]

Schedule 2 of the Regulations - Model standards for CEO recruitment, performance and termination, Clause 12

12. Variations to proposed terms of contract of employment

- (1) This clause applies if an applicant who is made an offer of employment in the position of CEO under clause 11 negotiates with the local government a contract of employment (the negotiated contract) containing terms different to the proposed terms approved by the local government under clause 11(b).
- (2) Before entering into the negotiated contract with the applicant, the local government must, by resolution of an absolute majority of the council, approve the terms of the negotiated contract.

[Clause 12 inserted: SL 2021/14 r. 7.]

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Provision has been made in the adopted 2022/23 budget for the substantive Chief Executive Officer's remuneration. It was resolved at the Special Council Meeting 13 February 2023 that the Acting Chief Executive Officer receive the same remuneration as the previous substantive Chief Executive Officer.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION – Item 10.3.2

That Council:

- 1. Appoints Peter Clarke as Acting CEO of the Shire of Boyup Brook commencement 12 April 2023;**
- 2. Is satisfied that Peter Clarke is suitably qualified for the position of Acting CEO and is satisfied with the contract of employment;**
- 3. Approves the letter of engagement for the temporary Acting Chief Executive Officer;**
- 4. Agrees to the remuneration arrangements being as for the substantive CEO whereby a vehicle is supplied and accommodation is provided.**

10.3.3 Boyup Brook District High School Board - Appointment of Representative

Location:	Boyup Brook
Applicant:	Boyup Brook District High School
File:	GO/51/001
Disclosure of Officer Interest:	Nil
Author:	Maria Lane – Governance Officer/Records
Authorizing Officer:	Peter Clarke - Acting Chief Executive Officer
Attachments:	Terms of Reference and Code of Conduct

SUMMARY

The Boyup Brook District High School wish to invite a Councillor of the Shire of Boyup Brook to become a member of the Boyup Brook District High School Board in order to represent the community and to enhance a partnership between the school and the Shire.

The School Board consists of six parent representatives, three staff representatives and a select number of community representatives who have contemporary expertise that is required by the School Board.

Details of the role include:

Tenure

A period of one year.

What is a school Board and what does it do?

All Independent Public Schools in Western Australia have a School Board. They are legally constituted bodies that are given powers to set the key directions (governance) of a school within centrally provided guidelines. An unincorporated Board uses approved terms of reference to define its way of working and to meet the requirements of the legislation. Boyup Brook District High School's Terms of Reference and Code of Conduct is attached.

Who is on the school Board?

There are three possible categories of membership:

1. A mandated elected Parent category. More than one third of the total members must be from this category.
2. A mandated elected Department of Education employee category. Members of this category may make up no more than one third of the total membership of school Board.
3. An optional Community Member category. Its members are appointed by a decision of the Board because of their special skills, interests or experiences. (Members for this category may come from the Community Members, P&C Representative or Association Representative groups)

The school Board must comprise a collective majority of either parent and/or community members.

Why is Community membership so important?

Any member of the community considered to have suitable qualifications or experience is eligible to be placed on the list of nominees for the community category of membership. Community members have contemporary expertise required by the board. Examples of contemporary expertise include current employment with an employer working in partnership with the school, or business skills that are required at the time. There will not be an election to appoint community members. The board may appoint suitably qualified persons from the list of nominees by vote in a meeting.

Do I need special experience to be on school Board?

No. What you do need is an interest in the school and the desire to work in partnership with others to help shape the school's future.

Induction

There is an induction for new members. Further training is available upon request. Ongoing support is provided throughout the tenure as members become aware with the governance role.

Frequency & Time of Meetings

A minimum of four meetings must be held annually, with 8 meetings normally planned throughout the calendar year. Meetings are usually held in weeks 3 and 7 of each school term, commencing at 5:00pm at the high school.

BACKGROUND

PREVIOUS COUNCIL RESOLUTION

At its Ordinary Council meeting Council meeting held on 22 August 2019, Cr Sarah Alexander was appointed to the Boyup Brook District High School Committee, as follows:

MOVED: Cr O'Connell

SECONDED: Cr Rear

Council appointed Cr Sarah Alexander to the Boyup Brook District High School Committee.

CARRIED BY ABSOLUTE MAJORITY 8/0 Res 186/19

COMMENT

The Boyup Brook District High School's Board provide additional expertise to assist the school to achieve the best outcomes for students. Its primary role is to contribute to the establishment and review the school's objectives, priorities and general policy direction.

CONSULTATION

Boyup Brook District High School.

STATUTORY OBLIGATIONS

Section 5.2 of the *Local Government Act 1995* (the Act), has application as follows:

5.2. Administration of local governments

The council of a local government is to ensure that there is an appropriate structure for administering the local government.

Further, s.5.10.(1) and (4) of the Act have has application, as follows:

5.10. Committee members, appointment of

- (1) A committee is to have as its members —
 - (a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and
 - (b) persons who are appointed to be members of the committee under subsection (4) or (5).

** Absolute majority required.*

- (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.

Finally, s.5.11A.(1) and (2) of the Act also have application, as follows:

5.11A. Deputy committee members

- (1) The local government may appoint* a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.

** Absolute majority required.*

- (2) A person who is appointed as a deputy of a member of a committee is to be —
 - (a) if the member of the committee is a council member — a council member; or

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Promote quality education, health, childcare, aged care and youth services.

- 2.1 Develop and maintain partnerships with schools and police;
- 2.2 Advocate and lobby for the maintenance and improvement of service provision to our community;
- 2.3 Improve support for youth and youth activities;
- 2.4 Improve aged care services, accommodation and support.

SUSTAINABILITY IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION - Item 10.3.3

That Council appoints Cr to the Boyup Brook District High School Board.

10.4 PLANNING

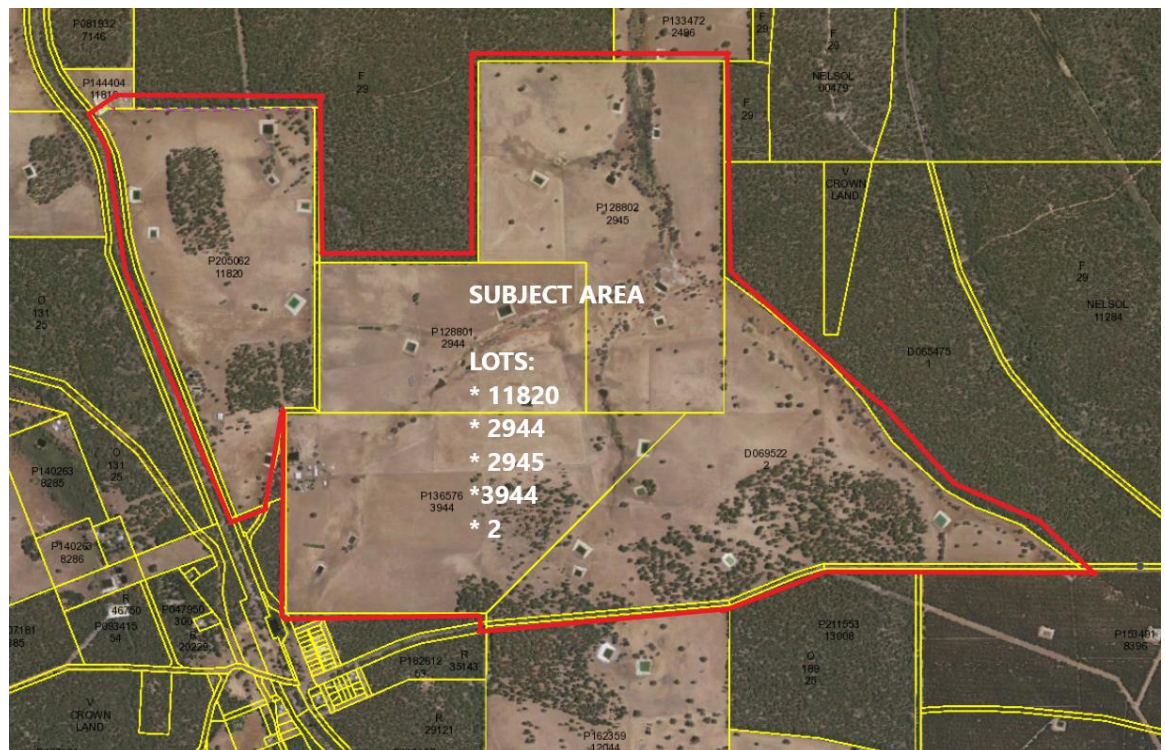
10.4.1 Development (Tree Farm – Pine Trees) – Lots 1182, 2944, 2945, 3944 and 2, Cunningham Road, Wilga

Location:	Lots 1182, 2944, 2945, 3944 and 2, Cunningham Road, Wilga
Applicant:	Forest Product Commission
File:	A3200
Disclosure of Officer Interest:	None
Author:	A. Nicoll, Urban and Regional Planner
Authorising Officer:	Athanasios Kyron, Acting Chief Executive Officer
Attachments:	Plantation Management Plan

SUMMARY

The purpose of this report is to put before Council the request to develop a 'Tree Farm' of pine trees, on land zoned 'Rural', in the Wilga area.

The following map indicates the plantation area, which has previously been utilised as a manuka honey enterprise with the majority of the originally cleared area planted to *Leptospermum* species (Tea tree).



The proposal to develop this property as a pine plantation development, represents part of the State Government commitment to expand the State's softwood estate, thereby ensuring sawmills and associated manufacturing businesses have security of resource well into the future. Planting of this property to pine would also generate

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approximately 16,000 Australian Carbon Credit Units (ACCU's) assisting in progress towards Australia's target of net zero emissions by 2050.

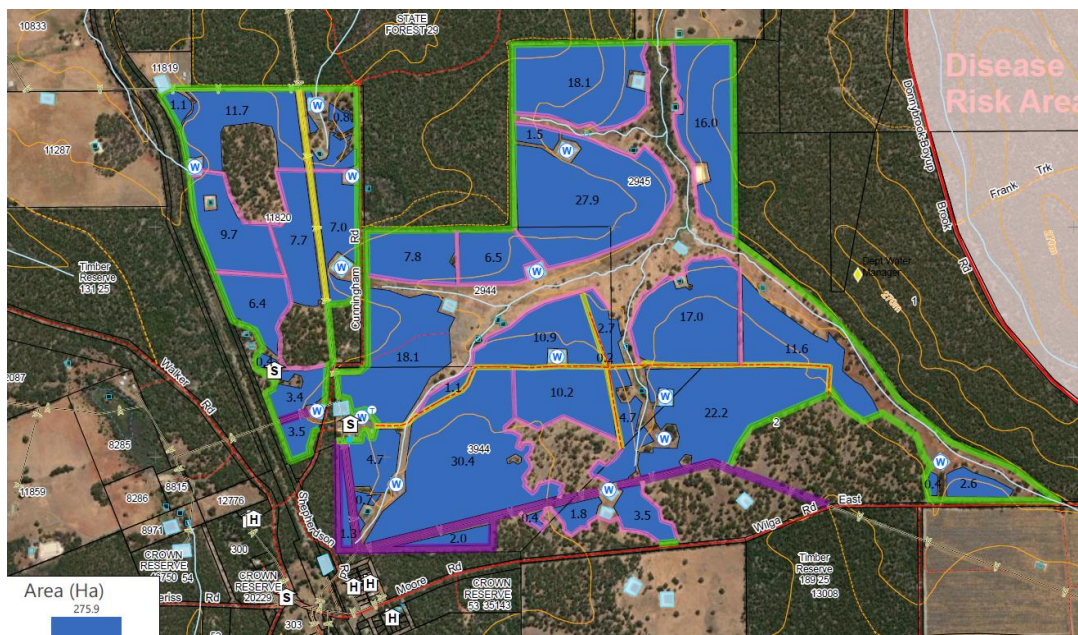
In accordance with the Shire's *Local Planning Scheme No.2 (LPS2)*, 'Tree Farm' development is a use which Council, in exercising the discretionary powers available to it, may approve on land zoned 'Rural'.

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

The 'Plantation Management Plan' includes the following:

1. Plantation Establishment Plan
2. Plantation Tending Plan
3. Fire Management Plan
4. Timber Harvesting Plan

The below figure illustrates (in blue) the areas proposed for pine tree planting (275.9ha).



It is recommended that the Council supports the application subject to conditions. The proposal is a continuation of an existing plantation use, which will be appropriately managed in accordance with a Plantation Management Plan.

BACKGROUND

The Shire received a tree farm application involving converting an existing Tea-tree plantation to a Pine plantation.

The application was referred to landholders in the Wilga townsite, to the Department of Fire and Emergency Services (DFES), to the Department of Biodiversity, Conservation and Attractions (DBCA) and to the Department of Planning, Lands and Heritage (Aboriginal).

No comments were received from landholders.

The DBCA commented that:

If grazing is proposed within the site, then good quality fencing would be required to prevent grazing stock from entering adjacent DBCA-managed land. If the proponent considers improving/upgrading any existing fencing that adjoins DBCA-managed land, the proponent should liaise with the DBCA District Manager (blackwood@dbca.wa.gov.au) prior to any fencing construction works being undertaken to check whether there are any requirements.

The DFES commented that:

DFES does have an active mitigation program that covers the Wilga townsite on UCL/UMR land and supports the Shire of Boyup Brook through the combined employment of a Bushfire Risk Management Coordinator and, access to the Mitigation Activity Funding grant process...recommend that as additional risks are identified in a local government area that the local government can review the associated risk to resources process as part of their Local Government Grant Scheme (LGGS) application, that may provide direction for possible future resource requests.

COMMENT

The application involves the planting, maintenance and harvesting of pine trees encompassing an area of 275.9ha, located just north of the Wilga townsite.

The following key measures are proposed regarding the Tree Farm application:

- Buffers - A buffer of a minimum 6 metres is proposed adjacent to waterways. External firebreaks are proposed at 15 metres to comply with the Shire's Firebreak notice. A firebreak of 25m will be left unplanted and maintained as a low fuel buffer to the Wilga townsite. 6-10 metre wide internal firebreaks will be provided in accordance with the *Guidelines for Plantation Fire Protection (FESA 2011)*.
- Weeds and Pests - Weeds and pests will be managed on a regular basis.
- Native Vegetation - Existing native vegetation is proposed to be protected.
- Livestock - Grazing of the property will be encouraged in the future to reduce grass fuel loads in unfenced remnant areas.
- Bushfire Safety - The areas proposed for tree planting have a min 100m setback to dwellings. The proposed tree farm compartment sizes comply with the *Guidelines for Plantation Fire Protection (FESA 2011)* and the local shire Firebreak Notice. A daily fire management notification system is proposed for plantation harvesting operations. In the event of a bushfire, notification is made to the DFES, local fire brigade and Forest Products Commission officer(s). The Forest Products Commission can deploy in excess of 6 fast attacks and up to 3 fully equipped heavy duty fire trucks heavy units to this area in a relatively short period of time. These appliances come with fully trained staff. The closest manned Forest Products Commission units are located in Collie (3 light units in Collie and 1 fully equipped heavy duty fire truck is located in McAlinden which is approximately 15 minutes travel from the Wilga property. Fire management maps will be stored in waterproof tubes at property access points and will be made available to the Fire

Control Officer. Water points will be maintained to provide permanent water within a maximum 20 minute turnaround time for fire within the plantation (20 dams and 3 tanks onsite).

- Road Maintenance - The Forest Products Commission has offered to enter into a road use agreement with the Shire including coverage of harvesting traffic management measures and a commitment to rectification of any undue damage to public roads caused by harvesting operations and or movement of machinery associated with the plantation (based on pre and post operation road condition inspections).

The details submitted in the application comply with the:

- *Guidelines for Plantation Fire Protection (FESA 2011)*
- *Code of Practice for Timber Plantations in Western Australia'*
- *Boyup Brook Firebreak Notice*

It is recommended that the Shire conditionally approve the proposed Pine Tree Farm application, as it is not expected to impact on landscape characteristics and it is expected to be managed to ensure compliance with regulatory standards, particularly bushfire.

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

CONSULTATION

Consultation was undertaken and submissions considered.

STATUTORY OBLIGATIONS

Local Planning Scheme No.2

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

50. Land use terms used

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

42 TREE FARMING

Tree farm as defined in Part 6 – 'Terms referred to in Scheme' is a permissible use in the 'Rural' zone subject to compliance with all requirements of this Scheme.

In addition to those other matters contained in clause 25, Council shall, in considering applications for 'Plantations', have regard to –

- a) *The Code of Practice for Timber Plantations in Western Australia;*
- b) *Council's Firebreak Order; and*
- c) *FESA's Guidelines for Plantation Fire Protection.*

25 RURAL ZONE

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.*

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

Bush Fires Act 1954

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

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

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

POLICY IMPLICATIONS

There are no policy implications.

ALTERNATIVE RECOMMENDATIONS

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

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

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

BUDGET/FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION – ITEM 10.4.1

That Council grants development approval for Lots 1182, 2944, 2945, 3944 and 2, Cunningham Road, Wilga, for the purpose of Development (Tree Farm - Pinus), subject to the following Notice:

Planning and Development Act 2005

Shire of Boyup Brook

NOTICE OF DETERMINATION ON APPLICATION FOR DEVELOPMENT APPROVAL

Location: Lots 1182, 2944, 2945, 3944 and 2, Cunningham Road, Wilga

Description of proposed development:

Tree Farm (Pinus Radiata – 275.9ha)

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

Conditions:

- 1) All development shall occur in accordance with the approved Plantation Management Plan, unless varied by a condition of approval or a minor amendment, to the satisfaction of the Shire of Boyup Brook.
- 2) As an ongoing condition, the plantation map, which shows the location of tanks, access and planting areas, is to be maintained on-site in red PVC tubes located at each access point.
- 3) The owner/operator is responsible for the repair of any undue damage to public roads caused by harvesting operations and or movement of machinery associated with the plantation operation.

Advice:

- 1) If grazing is proposed within the site, then good quality fencing would be required to prevent grazing stock from entering adjacent DBCA-managed land. If the proponent considers improving/upgrading any existing fencing that adjoins DBCA-managed land, the proponent should liaise with the DBCA District Manager (blackwood@dbca.wa.gov.au) prior to any fencing construction works being undertaken to check whether there are any requirements.

Date of determination: 27 April 2023

Note 1: In accordance with the Shire of Boyup Brook Firebreak Notice:

- a) Clear a 15m wide bare earth firebreak immediately inside all external boundaries of the land by removing all inflammable matter and vegetation to a height of 5m;
- b) Where a plantation is divided into compartments –
 - (i) if the compartments do not exceed 30ha, a 6m wide bare earth firebreak between compartments must be cleared by removing all inflammable matter and vegetation within the 6m firebreak between the ground and 5m above the ground;
 - (ii) if compartments exceed 30ha, a 10m wide bare earth firebreak between compartments must be cleared by removing all inflammable matter and vegetation within the 10m wide firebreak between the ground and 5m above the ground;
- c) Clear a 50m wide bare earth firebreak around all buildings and fuel storage areas by removing all inflammable matter and vegetation within the 50m firebreak between the ground and 5m above the ground;
- d) Where power lines pass through the plantation, clear firebreaks in accordance with Western Power specifications (consult Western Power – phone 13 10 87).

Note 2: The removal of any native vegetation will require the approval of the Department of Water and Environmental Regulation.

Note 3: If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.

Note 4: Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

Note 5: If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

Signed:

Dated:

for and on behalf of the Shire of Boyup Brook.

11 COMMITTEE MINUTES

Nil

12 MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

13 LATE ITEM/URGENT BUSINESS MATTERS

Nil

14 CLOSURE OF MEETING

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