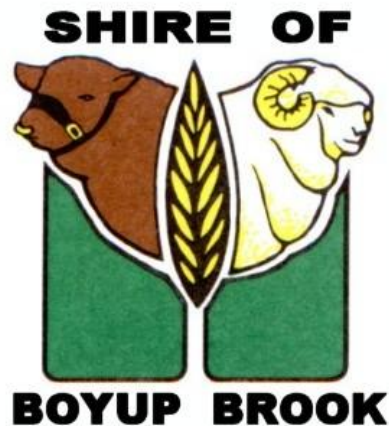


Minutes



ORDINARY MEETING

held

THURSDAY 17 December 2015
Commenced AT 5.00PM

AT

SHIRE OF BOYUP BROOK
CHAMBERS
ABEL STREET - BOYUP BROOK

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

1.1 Attendance

Cr M Giles – Shire President
Cr G Aird – Deputy Shire President
Cr N Blackburn
Cr J Imrie
Cr P Kaltenrieder
Cr K Moir
Cr E Muncey
Cr T Oversby
Cr E Rear

STAFF: Mr Alan Lamb (Chief Executive Officer)
Mr Stephen Carstairs (Director Corporate Services)
Mr Rob Staniforth-Smith (Director of Works & Services)
Mrs Maria Lane (Executive Assistant)

1.2 Apologies

1.3 Leave of Absence

2 PUBLIC QUESTION TIME

2.1 Response to Previous Public Questions Taken on Notice

3 APPLICATIONS FOR LEAVE OF ABSENCE

Councillor Imrie advised he may not be able to attend the next Council meeting.

4 PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS

- Cr Kaltenrieder attended the Community Resource Centre meeting on 16th December 2015.
- Cr Kaltenrieder attended the Blackwood Basin Group meeting.
- Cr Kaltenrieder attended the Boyup Brook Community Christmas celebrations on 4th December 2015 and assisted with the cooking.
- Cr Kaltenrieder attended the Club regarding the Bendigo Bank seminar on 25 November 2015.
- Cr Rear attended the Club regarding the Bendigo Bank seminar on 25 November 2015.
- Cr Rear attended the Boyup Brook Community Christmas celebrations on 4th December 2015.
- Cr Muncey attended the Boyup Brook Community Christmas celebrations on 4th December 2015.
- Cr Imrie attended the Club regarding the Bendigo Bank seminar on 25 November 2015.
- Cr Aird attended the Club regarding the Bendigo Bank seminar on 25 November 2015.
- Cr Aird attended the South West Zone meeting held in the Shire Chambers on 27th November 2015 where the CEO presented a talk on the Stormwater Harvesting, Pool Heating, Aged Accommodation and the Media Releases.
- Cr Blackburn attended the Annual Awards Committee meeting on 9th December 2015 and was elected to Chair the meeting.

4.1 Petition

Councillor Kaltenrieder presented a petition signed by 18 persons with the following prayer:

To have a bin service implemented in Ridgeview Estate

COUNCIL DECISION

MOVED: Cr Kaltenrieder

SECONDED: Cr Blackburn

That the petition be accepted and be dealt with by the full Council.

CARRIED 9/0

Res 120/15

5 CONFIRMATION OF MINUTES

5.1 Ordinary Meeting of Council – Thursday 19 November 2015

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr Aird

SECONDED: Cr Imrie

That the minutes of the Ordinary Meeting of Council held on Thursday 19 November 2015 be confirmed as an accurate record.

CARRIED 9/0

Res 121/15

6 PRESIDENTIAL COMMUNICATIONS

- Attended the Boyup Brook Community Christmas celebrations on 4th December 2015.
- Attended the South West Zone meeting held in the Boyup Brook Chambers on 27th November 2015.
- Attended the Club regarding the Bendigo Bank seminar on 25th November 2015.
- Attended the Regional Road Group meeting held on 7th December 2015.

7 COUNCILLORS QUESTIONS ON NOTICE

7.1 Councillor Muncey

Question

Subject Policies

Policy No A.06

Policy No O.07

And when was the last policy review as it is recommended to do this annually

CEO Response

Policy A.06 - Shire Vehicles Private Use was last amended by Council 17 June 2006.

Policy O.07 – Temporary Accommodation – Owner Builder was last amended by Council 21 December 2007.

These, and all other, Council policies are subjected to review by Council officers each time they are used. Where the policy is found to be wanting, it is referred to Council along with recommended amendments. Council dealt with 20 reports from Administration on reviewing or introducing policies from May 2013 to date. The two policies mentioned do not contain a review by date and no recommendation that these, or any other, policies should be reviewed annually could be found.

Standing orders provide as follows:

8. QUESTIONS

8.1 Questions of Which Due Notice Has to be given

8.1.1 Any Councillor seeking to ask a question at any meeting of the Council shall give written notice of the specific question to the Chief Executive Officer at least 24 hours before publication of the business paper.

8.1.2 All questions and answers shall be submitted as briefly and concisely as possible, and no discussion shall be allowed thereon.

8.2 Questions Not to Involve Argument or Opinion

In putting any question, no argument or expression of opinion shall be used or offered, nor any facts stated, except those necessary to explain the question.

8 REPORTS OF OFFICERS

8.1 MANAGER WORKS & SERVICES

8.1.1 Demolition of McAlinden Hall

Location:	<i>N/A</i>
Applicant:	
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>10th of December, 2015</i>
Author:	<i>Rob Staniforth-Smith</i>
Authorizing Officer:	<i>Alan Lamb</i>
Attachments:	<i>Internal Memo from Wayne Jolley, Shire Building Surveyor Photographs of Hall</i>

SUMMARY

This report recommends that Council approve the demolition of the old McAlinden Hall (timber hall) located on McAlinden Road, McAlinden (reserve R20757).

BACKGROUND

The old timber McAlinden Hall is in an unsafe condition due to age, neglect and termites. It was historically constructed as a school building and used as a hall, however a concrete masonry hall was built alongside and the timber hall been left to decay (see pictures).

The timber hall was inspected by the Shires Building Surveyor (see attached report), who recommends that due to its poor state it should be demolished.

On discussion with Laurie Shine who is the President of the McAlinden Progress Society, who are the custodians of the hall (the Shire is the owner as it sits on a Shire controlled reserve), he indicated that they have been meaning to demolish the old building but have not had the time.

Due to liability issues associated with the building collapsing and hurting someone it is recommended that Council approve the demolition of the timber hall.

It is estimated that the cost of demolishing and pushing the hall into a pile that can then be fenced off and burnt in Winter would be in the order of \$5,000, which would need to be found in the 6 month budget review or from reserves.

The McAlinden Progress Association will also need to fit 2 x veranda posts into the interconnecting veranda and disconnect the timber building from the masonry building in order to retain the veranda.

COMMENT

The old timber McAlinden Hall is in a condition that currently makes it unsafe to people using the reserve.

The Hall is on Council property as the reserve R20757 is vested in the Shires control, which means that the liability is ultimately the Shire of Boyup Brooks.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Estimated un-budgeted expenditure of \$5,000 to demolish the timber hall at McAlinden on reserve R20757

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.1.1

MOVED: Cr Moir

SECONDED: Cr Blackburn

That Council approves the demolition of the ‘timber hall’ at McAlinden on reserve R20757 and that Council approves that the unbudgeted costs to come from the 6 month budget review or reserves.

CARRIED 9/0

Res 122/15

8.2

FINANCE

8.2.1 List of Accounts Paid in November 2015

Location: *Not applicable*
Applicant: *Not applicable*
File: *FM/1/002*
Disclosure of Officer Interest: *None*
Date: *10 December 2015*
Author: *Kerry Fisher – Manager of Finance*
Authorizing Officer: *Alan Lamb – Chief Executive Officer*
Attachments: *Yes – List of Accounts Paid in November*

SUMMARY

In accordance with the *Local Government (Financial Management) Regulations 1996* the list of accounts paid in November 2015 are presented to Council.

BACKGROUND

This report presents accounts/invoices received for the supply of goods and services, salaries and wages, and the like which were paid during the period 01 to 30 November 2015.

COMMENT

The attached listing represents accounts/invoices the shire paid by cheque or electronic means during the period 01 to 30 November 2015.

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 the 2015-16 Annual Budget.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.2.1

MOVED: Cr Kaltenrieder

SECONDED: Cr Imrie

That at its December 2015 ordinary meeting Council receives as presented the list of accounts paid in November 2015, and totalling \$806,185.03 and as represented by: cheque voucher numbers 19882-19895 totalling \$22,554.36; and accounts paid by direct electronic payments through the Municipal Account totalling \$783,630.67.

CARRIED 9/0

Res 123/15

8.2.2 30 November 2015 Statement of Financial Activity

Location:	Not applicable
Applicant:	Not applicable
File:	FM/10/003
Disclosure of Officer Interest:	None
Date:	10 December 2015
Author:	Kerry Fisher – Manager of Finance
Authorizing Officer:	Alan Lamb – Chief Executive Officer
Attachments:	Yes – Financial Reports

SUMMARY

This report recommends that Council receive the Statement of Financial Activities and Net Current Assets for the month ended 30 November 2015.

BACKGROUND

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

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

The regulations also prescribe the content of the reports, and that details of items of Material Variances shall also listed.

COMMENT

It is a statutory requirement that the statement of financial activity be prepared each month (Regulation 34.(1A)), and that it be presented at an ordinary meeting of the Council within 2 months after the end of the month to which the statement relates (Regulation 34.(4)(a)).

CONSULTATION

Alan Lamb – Chief Executive Officer

STATUTORY OBLIGATIONS

Local Government (Financial Management) Regulations 1996, Regulation 34.(1A)

Local Government (Financial Management) Regulations 1996, Regulation 34.(4)(a)

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

As presented in the attached reports.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.2.2

MOVED: Cr Kaltenrieder

SECONDED: Cr Moir

That having regard for any material variances, Council receive the 30 November 2015 Statement of Financial Activity and Statement of Net Current Assets, as presented.

CARRIED 9/0

Res 124/15

8.3 CHIEF EXECUTIVE OFFICER

8.3.1 Outbuilding (Sea Container) – Lot 21 Jays Road, Boyup Brook

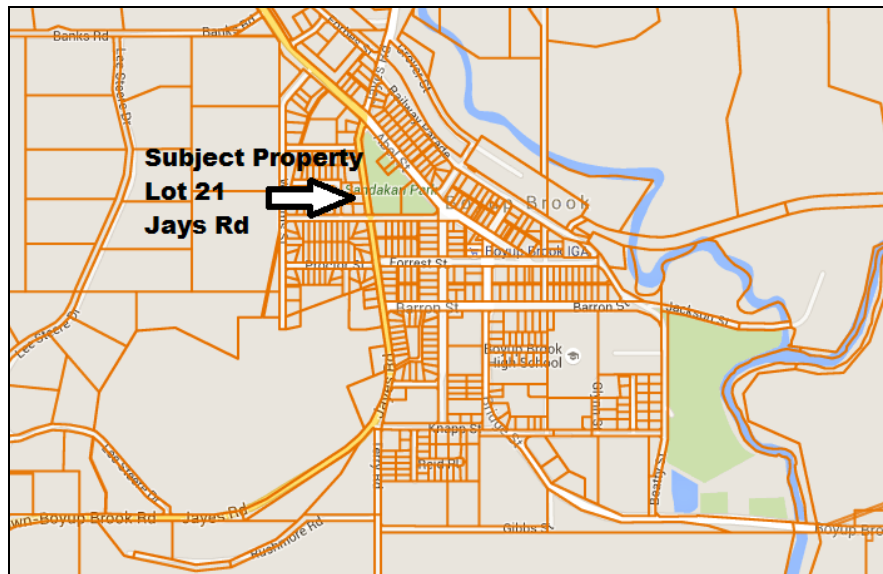
Location:	Lot 21 Jays Road.
Applicant:	D Wyres & M Franklin
File:	A1121
Disclosure of Officer Interest:	None
Date:	December 2015
Author:	A. Nicoll, Town Planner
Authorizing Officer:	Alan Lamb, Chief Executive Officer
Attachments:	Nil

SUMMARY

The purpose of this report is to put before Council the request to develop an Outbuilding/Sea Container at Lot 21 Jays Road, Boyup Brook.

As per the Shire's Outbuilding Policy P.04, Council discretion is required on assessment of:

- The appearance of sea containers in contrast to existing development;
- The screening of sea containers to the street; and
- Neighbours comment regarding a proposal to develop a sea container.

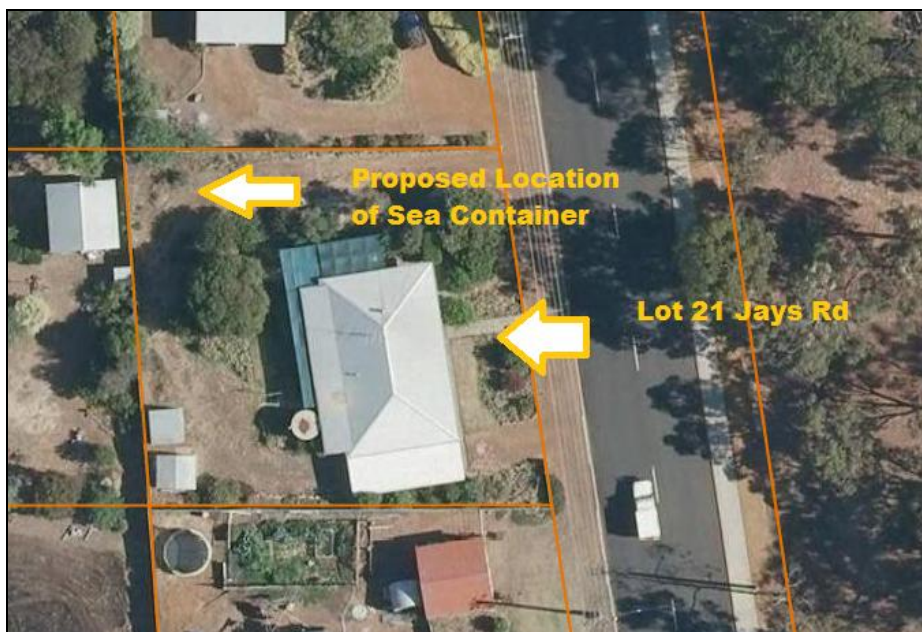


BACKGROUND

The owner of Lot 21 Jays Road questioned Shire officers as to whether or not approval is required to develop a Sea Container.

The Shire advised the owner of Lot 21 Jays Road that planning approval is required and that neighbours comment will need to be sought.

An application for planning approval and neighbours signature of approval was subsequently submitted to the Shire.



COMMENT

Subject Property

The subject property is:

- Zoned 'Residential';
- 1140m² in area; and
- Developed with a single house and two small outbuildings totalling 16.8m².

Proposal

The proposal is for a 2.4m high and 6m X 2.4m (14.4m²) Sea Container.

The Sea Container is proposed to be located at the rear of the lot, in the north western corner.

The owners of Lot 21 Jays Road propose to use the Sea Container to store incidental household items.

The Sea Container is painted white, which is in keeping with the colour of the single house located at 21 Jayes Road.



The owner proposes to plant vegetation between the Sea Container and the street to screen from view.

STATUTORY OBLIGATIONS

There are no relevant statutory obligations relating to the application for the Sea Container.

POLICY IMPLICATIONS

Policy Obligations	Recommendations
<p>The Shire’s Outbuilding Policy P.04 makes the following requirements:</p> <p>Sea containers may be considered where:</p> <p>a. Plans indicate measures to make more visually appealing such as:</p> <ul style="list-style-type: none"> • painting and/or re-cladding to a colour and design similar to surrounding development; and • Screening by planting trees or shrubs or by locating behind other development. <p>b. Neighbours have been consulted and comments considered manageable.</p>	<p>The application complies with the Shire’s Outbuilding Policy on the following grounds:</p> <ul style="list-style-type: none"> • The Sea Container is the same colour (white) as the single house located at Lot 21 Jayes Road and is therefore in keeping with existing development; • The owner proposes to locate the Sea Container at the rear of the property, behind the single house; • The owner proposes to plant vegetation between the Sea Container and the street to screen from view; • Neighbours have been consulted and have no objections; • The height and floor area of the Sea Container complies with maximum and minimum standards; • The setbacks proposed for the Sea Container comply with minimum standards.

<p>The development of Outbuildings or Sea Containers on 'Residential' zone lots 1000m² or greater, is to comply with the following:</p> <ul style="list-style-type: none">• Max wall height 3m;• Max ridge height 4.2m;• Maximum individual floor area 120m²;• Maximum total floor area 200m²; and• Min 1m side and rear setbacks.	
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CONSULTATION

Neighbours were consulted and have no objections to the proposal.

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.3.1

MOVED: Cr Moir

SECONDED: Cr Oversby

That Council

Grants planning scheme consent for Lot 21 Jayes Road, Boyup Brook for the purpose of Outbuilding (Sea Container) and subject to the following conditions:

Conditions

1. Development is to be carried out in accordance with the approved plans dated December 2015, unless varied by conditions of Planning and Building approval.
2. If the development the subject of this approval is not substantially commenced within a period of 2 years, the approval will lapse and be of no further effect.
3. All stormwater is to be managed and contained on-site, to the satisfaction of the Shire of Boyup Brook.
4. The external colour of the Outbuilding (Sea Container) is to be in-keeping with the colour of the single house located at Lot 21 Jayes Road.
5. Vegetation for the purpose of screening is to be planted and maintained between the Outbuilding (Sea Container) and the street.

CARRIED 9/0

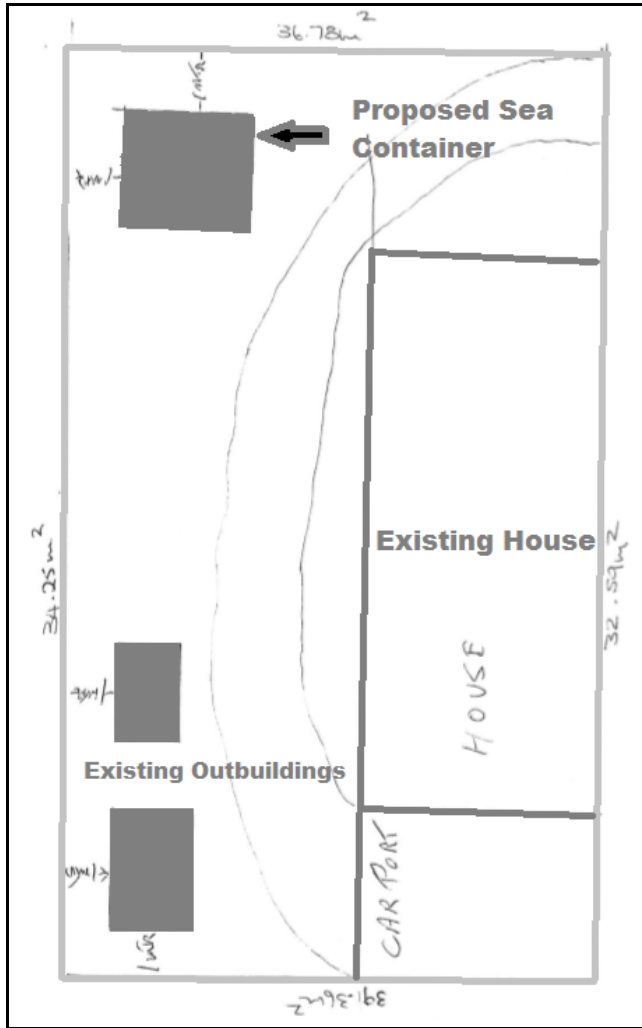
Res 125/15

Notes

This Planning Scheme Consent contains 5 conditions.

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. For further information regarding this, refer to www.sat.justice.wa.gov.au, with reference to section 252 of the Planning and Development Act (2005) (as amended).

Approved Plans – December 2015



Outbuilding (Sea Container) - Site Plan



Outbuilding (Sea Container) – Photo/Elevation

8.3.2 Outbuilding (Extension) – Lot 233 Ridgeview Avenue, Boyup Brook

Location:	Lot 233 Ridgeview Avenue.
Applicant:	E & D Fletcher
File:	A15081
Disclosure of Officer Interest:	None
Date:	December 2015
Author:	A. Nicoll, Town Planner
Authorizing Officer:	Alan Lamb, Chief Executive Officer
Attachments:	Nil

SUMMARY

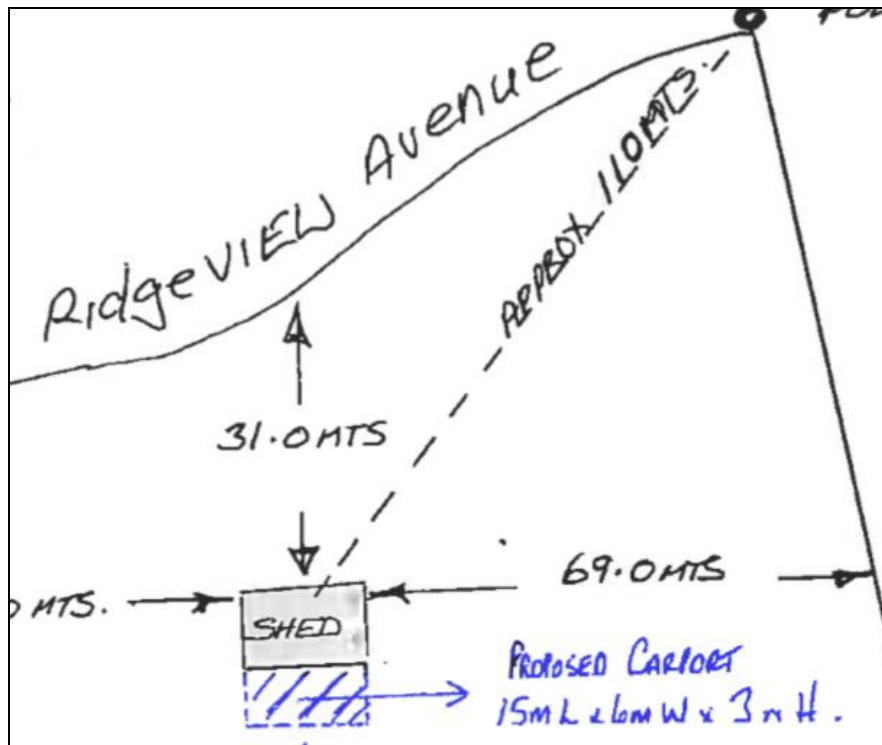
The purpose of this report is to put before Council the request to develop an extension to an existing outbuilding at Lot 233 Ridgeview Avenue, Boyup Brook.

Council discretion is required due to the proposed overall size (existing outbuilding + extension) of outbuilding exceeding the maximum floor area permitted in accordance with the Shire’s Outbuilding Policy P.04.



BACKGROUND

The Shire received an application for a Building Permit to develop an extension to an existing outbuilding at Lot 233 Ridgeview Avenue, Boyup Brook.



Plan - Proposed Extension (Outbuilding/Carport)

It was determined that the floor area of the extension, plus the floor area of the existing outbuilding, exceeds the permitted maximum Shire Policy floor area, for an outbuilding on a Special Rural property, by 40m².

An application for planning approval was then submitted to enable due consideration to whether the proposal is likely to impact on the amenity of the area.

COMMENT

Subject Property

The subject property is:

- Zoned 'Special Rural 6';
- 2ha in area; and
- Developed with an existing 10m x 15m (150m²) outbuilding.

Proposal

The proposal is for a 15m x 6m (90m²) extension, to an existing outbuilding. The total floor area proposed, inclusive of the existing outbuilding and proposed extension, is 240m².

The extension is proposed to be located at the rear of the existing outbuilding, out of view from Ridgeview Avenue.

The materials proposed for the extension includes steel posts, steel trusses and coloured steel roof sheeting. The colour of the roof sheeting is light brown, which is in-keeping with the existing outbuilding colour. The extension is open on three sides and is proposed to be used for storing a caravan.

STATUTORY OBLIGATIONS

Statutory Obligations	Recommendations
<p>Town Planning Scheme 2, Special Rural Zone No. 6 states:</p> <p><i>vi) Buildings, structures and on-site effluent disposal systems may not be constructed within the 'building exclusion area' which is defined as being -</i></p> <ul style="list-style-type: none"> • 30m from road; • 20m from side boundaries; • 25m from rear boundaries; • 30m from: <ul style="list-style-type: none"> ○ the centreline of water courses; ○ heavily vegetated areas as may be defined by Council; and ○ skylines. <p><i>No building, outbuilding or fence shall be constructed of materials or be of a colour, which in the opinion of the Council, is detrimental to the character of the natural landscape of the locality.</i></p>	<p>Recommend simply noting clauses for Special Rural zone 6 for the following reasons:</p> <p>The proposed extension is setback within defined limits and the colour of the proposed extension is 'Jasper' (light brown), which is in keeping with the existing outbuilding colour. The proposal is therefore not expected to be detrimental to the character of the natural landscape of the locality.</p>

POLICY IMPLICATIONS

Policy Obligations	Recommendations
<p>The Shire’s Outbuilding Policy P.04 makes the following requirement:</p> <p><i>The design and location of outbuildings shall comply with the following:</i></p> <ul style="list-style-type: none"> • <i>Max floor area of outbuilding is 200m² for Special Rural Zone Lots 2ha and greater.</i> 	<p>The application is seeking to vary the maximum floor area limit for an outbuilding by 40m².</p> <p>Recommend disregarding the maximum floor area limit (200m²) and supporting the proposed application (240m²) for the following reason:</p> <ul style="list-style-type: none"> • The proposal is not expected to impact on the amenity of the area for the following reasons: <ul style="list-style-type: none"> ○ The extension is located at the rear of the existing outbuilding and out of site to the main road (Ridgeview Avenue); ○ The outbuilding and proposed extension are well set-back from neighbouring properties (>60m); ○ The light brown colour of the proposed extension is in keeping with the existing outbuilding colour; and ○ The proposed total size of the outbuilding is not too dissimilar to other outbuildings in the Special Rural estate.

Clause 9.6.6 of the Shire’s Scheme 2 states:

A Policy shall not bind the Council in respect of any application for planning approval but the Council shall have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its decision.

CONSULTATION

N/A

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.3.2

MOVED: Cr Moir

SECONDED: Cr Imrie

That Council

Grants planning scheme consent for Lot 233 Ridgeview Avenue, Boyup Brook for the purpose of Outbuilding (Extension) and subject to the following conditions:

Conditions

1. Development is to be carried out in accordance with the approved plans dated December 2015, unless varied by conditions of Planning and Building approval.
2. If the development the subject of this approval is not substantially commenced within a period of 2 years, the approval will lapse and be of no further effect.
3. All stormwater is to be managed and contained on-site, to the satisfaction of the Shire of Boyup Brook.
4. The colour of the roof sheeting of the proposed extension is to be in-keeping with the colour of the existing outbuilding.

CARRIED 9/0

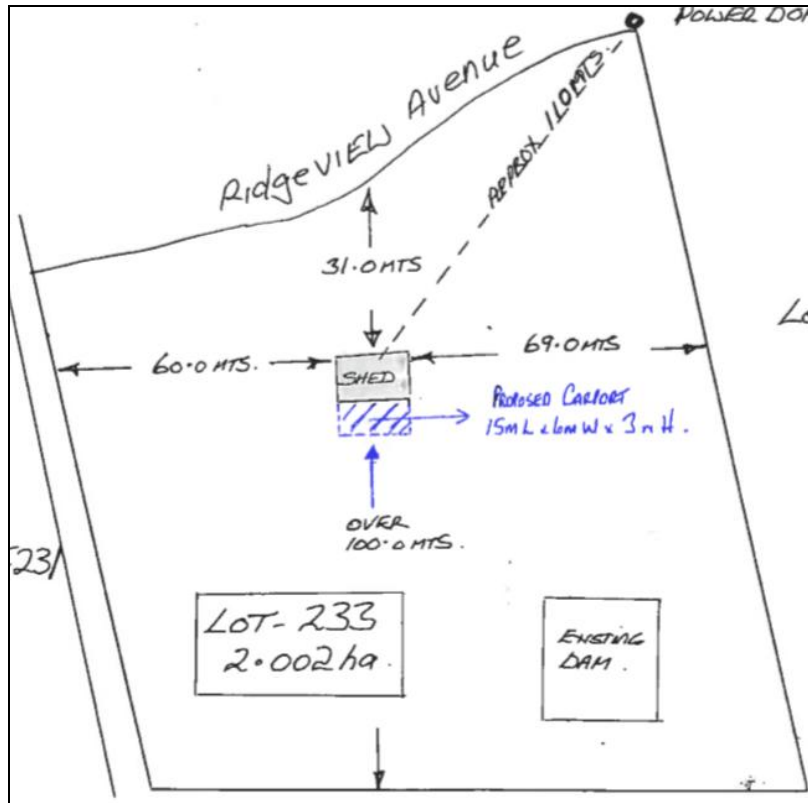
Res 126/15

Notes

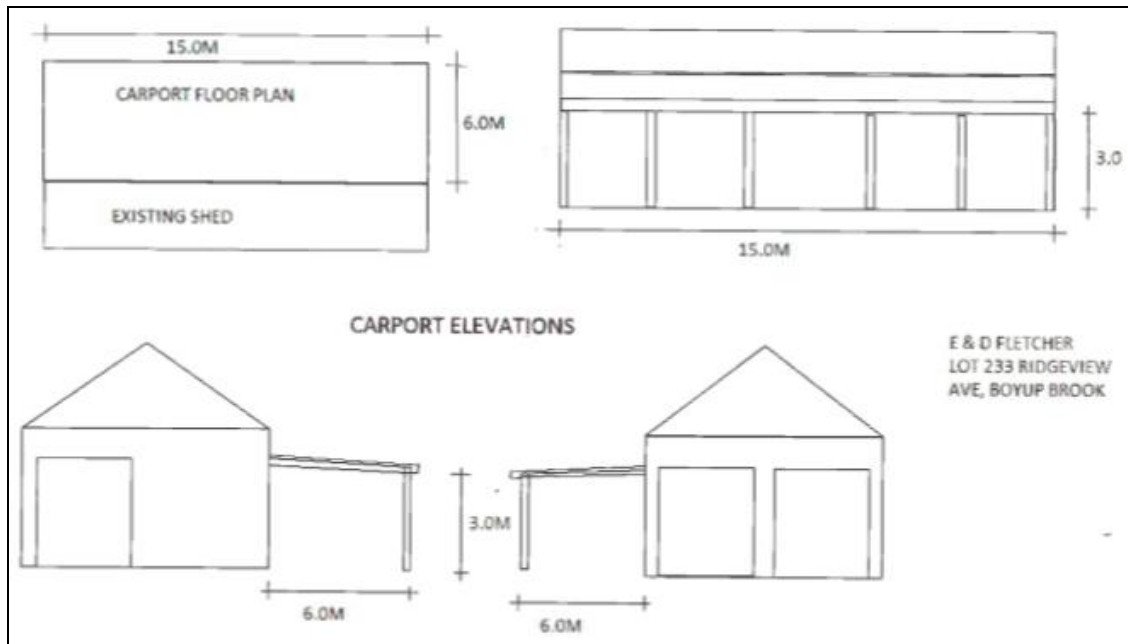
This Planning Scheme Consent contains 4 conditions.

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. For further information regarding this, refer to www.sat.justice.wa.gov.au, with reference to section 252 of the Planning and Development Act (2005) (as amended).

Approved Plans – December 2015



Outbuilding (Extension) - Site Plan



Outbuilding (Extension) – Elevation

8.3.3 Single House (Transportable) 1348 Arthur River Road, Dinninup

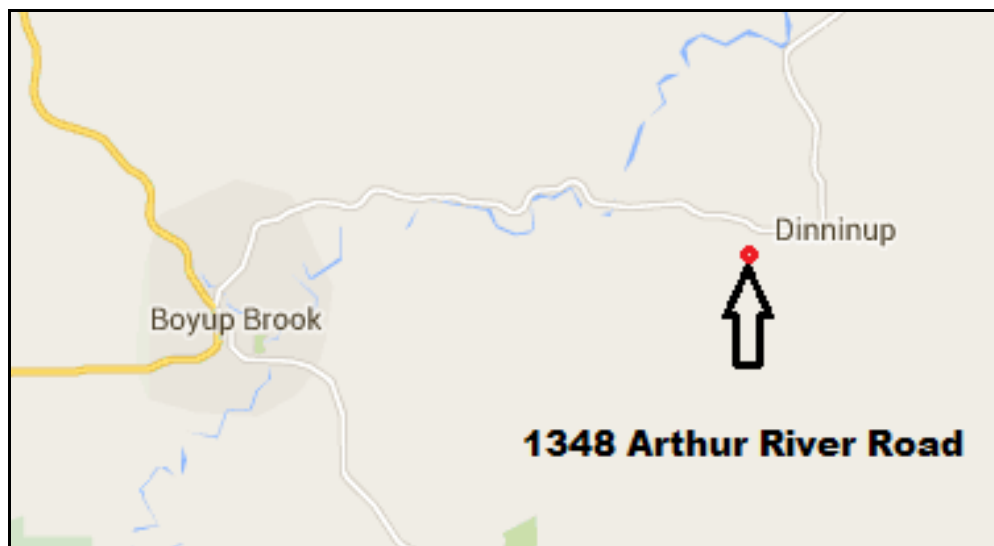
Location: 1348 Arthur River Rd, Dinninup
Applicant: R Sibbes
File: A40027
Disclosure of Officer Interest: None
Date: December 2015
Author: A. Nicoll, Town Planner
Authorizing Officer: Alan Lamb, Chief Executive Officer
Attachments: Nil

SUMMARY

The purpose of this report is to put before Council the request to get approved, a Single House (Transportable) at 1348 Arthur River Road, Dinninup.

Council discretion is required due to the house being developed without approval and the Shire's Scheme 2 clause 5.17.1, which states:

A relocated dwelling may not be transported to and placed on a lot within the district and thereafter occupied as a residential dwelling (whether in whole or in part) except with the approval of Council and in accordance with any conditions contained in such an approval.



Subject Development Location

BACKGROUND

A Single House has been transported to an allotment at 1348 Arthur River Road Dinninup without planning or building approval and within 100m of fire prone vegetation.

The Shire notified the owner that planning approval, a building permit and a bond is required for the development of a transportable house.

The Shire notified the owner that because the house is within 100m of fire prone vegetation, a Bushfire Attack Level Assessment is required.

A planning application for the transported house has subsequently been submitted with a Bushfire Attack Level Assessment.

A building permit application has also been submitted and is currently being assessed for approval, pending planning approval. Associated building fees and bond of \$5,000 have been paid.

COMMENT

Subject Property

The subject property is:

- Zoned 'Rural';
- 70.5ha in area; and
- Occupied by a large dam and approximately 1.8ha of Remnant Vegetation (Fire-prone).

Proposal

The transported house contains two bedrooms, one bathroom, living area and kitchen.

The transported house is positioned on stumps and is located central to property boundaries and alongside the dam.

External wall and roof cladding consists of custom orb sheeting.



House transported to 1348 Arthur River Road – Dinninup

Bushfire Attack Level Assessment

The Bushfire Attack Level assessment has determined a rating of 19 (BAL19), meaning:

- In the instance of a bushfire, embers and heat flux is expected to reach the transported house;
- A cleared building protection zone of 20m around the house is necessary to help reduce the impact of a bushfire;
- Low fuel maintenance in the bush-fire prone vegetation surrounding the vicinity is necessary; and
- An Australian 3959 construction standard of 3 and 6 is required.

STATUTORY OBLIGATIONS

Statutory Obligations	Recommendations
<p>The Shire’s Scheme 2 clauses 5.17.1 and 9.2.2 state:</p> <p><i>5.17.1</i></p> <p><i>A relocated dwelling may not be transported to and placed on a lot within the district and thereafter occupied as a residential dwelling (whether in whole or in part) except with the approval of Council and in accordance with any conditions contained in such an approval.</i></p>	<p>Recommend <u>noting</u> clauses 5.17.1 and 9.2.2 for the following reason:</p> <p>A penalty for the breach is considered unnecessary as retrospective planning and building applications have been received.</p>

<p>9.2.2</p> <p><i>Any person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to such penalties as are prescribed by Section 10 of the Act.</i></p>	
<p>The Shire's Scheme 2 clause 5.17.2 states:</p> <p><i>In considering whether or not to grant approval for a relocated dwelling the Council shall have special regard to:</i></p> <ul style="list-style-type: none"> <i>i. the appearance and external materials of the dwelling, and any proposed alterations thereto;</i> <i>ii. the amenity of the locality;</i> <i>iii. the visual prominence of the site;</i> <i>iv. all applicable statutes, local laws and regulations relating to dwelling houses applicable to both the relocated dwelling and the lot upon which it is to be located following transportation.</i> 	<p>Recommend <u>noting</u> clause 5.17.2 for the following reason:</p> <p>Based on the location of the transported house, central to the property, the appearance of the transported dwelling is not expected to impact on the amenity of the locality.</p>
<p>The Shire's Scheme 2 clause 5.17.3 states:</p> <p><i>In granting an approval for a relocated dwelling the Council may impose conditions including:</i></p> <ul style="list-style-type: none"> <i>i. Require the applicant or owner to obtain a building license in accordance with Section 9 of the Building Act 2011;</i> <i>ii. require the applicant or owner to provide a bond or bank guarantee to Council as surety for the completion of the relocated dwelling to a standard of presentation acceptable to Council within a specified time</i> 	<p>Recommend <u>noting</u> clause 5.17.3 for the following reason:</p> <p>A building permit and bond have already been submitted.</p>

<p><i>frame.</i></p>	
<p>The <i>Planning and Development (Bushfire Risk Management) Regulations 2014</i> (Draft) state:</p> <p><i>4(1) Before commencing or carrying out any development on a development site in a bushfire prone area a person (the developer) must prepare, or cause to be prepared, a bushfire attack level assessment for the development site.</i></p> <p><i>4(2) If (a) the bushfire attack level assessment prepared under subclause (1) calculates the bushfire attack level of the development site as BAL — 40 or BAL — Flame Zone...the developer must not commence or carry out any development on the development site without development approval.</i></p>	<p>Recommend <u>noting</u> clauses defined in the <i>Planning and Development (Bushfire Risk Management) Regulations 2014</i> for the following reason:</p> <p>A bushfire attack level assessment for the development site has been submitted. A bushfire attack level rating of 19 has been allocated.</p>

POLICY IMPLICATIONS

Policy Obligations	Recommendations
<p>The following Policy B.08 (Transportable Residences) provisions are applicable to the application at hand:</p> <ul style="list-style-type: none"> • <i>Relocated houses may not be brought into the shire until a building permit is issued.</i> • <i>Houses clad with asbestos cement sheeting will be permitted, provided the cladding is undamaged and the relocation complies with the Health (Asbestos) Regulations.</i> • <i>The visual amenity of the building shall be brought up to the required standard within three (3) months of being placed on the lot.</i> • <i>The building application shall include a Structural Engineers Report with the following:</i> <ul style="list-style-type: none"> ○ <i>A statement that the proposed dwelling is in a sound structural condition;</i> ○ <i>Details of any defects in relation to cladding, roofing, etc and repairs necessary to bring the house up to the required standard;</i> ○ <i>Photographs of each elevation;</i> ○ <i>Building plans of the dwelling as per the building regulations;</i> ○ <i>Septic tank application form and plans;</i> ○ <i>Building permit fee and bond (cash or bank guarantee) must be paid prior to the issuing of a building permit.</i> • <i>Stumps may be of timber, steel or concrete. All timber stumps and sole plates to be of new jarrah or other hardwood approved by the</i> 	<p>Recommend <u>upholding</u> Policy B.08 provisions by including the following with a Planning Approval.</p> <p>Advice</p> <p><i>Any person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to such penalties as are prescribed by Section 10 of the Act.</i></p> <p>N/A</p> <p>Advice</p> <p><i>a. The building application shall include a Structural Engineers Report with the following:</i></p> <ul style="list-style-type: none"> ○ <i>A statement that the house is in a sound structural condition;</i> ○ <i>Details of any defects in relation to cladding, roofing, etc and repairs necessary to bring the house up to the required standard;</i> ○ <i>Photographs of each elevation;</i> ○ <i>Building plans of the dwelling as per the building regulations;</i> ○ <i>Septic tank application form and plans.</i>

<p><i>Building Surveyor. No second-hand wood stumps or sole plates to be used.</i></p> <ul style="list-style-type: none"> • <i>All damaged sections of external wall cladding and roof sheeting shall be replaced with new material to match existing.</i> • <i>If more than 10% of roofing sheets, gutters, ridgecaps or flashings are affected by rust then those sheets or materials must be replaced with new roofing materials to match existing.</i> • <i>Any damaged or rusted gutters or downpipes are to be replaced with new materials to match existing.</i> • <i>Any damaged tiles to be replaced with new tiles of the same colour and design as the existing tiles.</i> • <i>All windows and openings are to comply with the Building Code of Australia. All broken glass in the dwelling is to be replaced, all windows and doors to open freely and locks and catches are to be easily operable.</i> • <i>The building is not to be occupied prior to final inspection by the Building Surveyor.</i> 	
<p>The Shire’s Fire Policy P.10 states the following:</p> <p>1. Dwellings and including additions and Class 10a outbuildings and decks within 6m of a dwelling, on land within:</p> <ul style="list-style-type: none"> a) Bushfire prone areas; b) 50 metres of unmanaged grassland; c) 100m of vegetation that’s greater in area than 1ha; or d) 100m of vegetation that’s between 0.25ha and 1ha and within 100m of other identified veg that’s >1ha, <p>shall be accompanied by a:</p>	<p>Recommend <u>upholding</u> Policy P.10 by including the following conditions of Planning Approval:</p> <p>Conditions</p> <p><i>The transported house being developed (upgraded) to comply with the Australian Standards 3959 – for construction category 3 and 6.</i></p> <p><i>A 20m cleared building protection zone being maintained around the Single House.</i></p> <p><i>Fuel load within bush-fire prone vegetation surrounding the vicinity of the building protection zone being maintained to a minimum.</i></p>

<p>a) 'Bushfire Attack Level Assessment'; and</p> <p>b) Plan showing:</p> <ul style="list-style-type: none">I. Proposed building envelope with 20m cleared building protection zone surrounding all development (20m is to be measured on the horizontal plain);II. Proposed hazard separation zone (must be located within subject property boundaries);III. For non-reticulated areas, a water tank designed to hold at least 30,000l for firefighting purposes; andIV. Applicable construction standard in accordance with Australian Standards 3959.	<p><i>At least 30,000L of water for firefighting purposes, being made available.</i></p>
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CONSULTATION

N/A

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.3.3

MOVED: Cr Oversby

SECONDED: Cr Kaltenrieder

That Council

Grants planning scheme consent for 1348 Arthur River Rd, Dinninup for the purpose of Single House (Transportable) and subject to the following conditions:

Conditions

1. Development is to be carried out in accordance with the approved plans dated December 2015, unless varied by conditions of Planning and Building approval.
2. If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
3. All stormwater is to be managed and contained on-site, to the satisfaction of the Shire of Boyup Brook.
4. A 20m cleared building protection zone being maintained around the transported house.
5. Fuel load within bush-fire prone vegetation surrounding the vicinity of the building protection zone being maintained to a minimum.
6. The transported dwelling being developed to comply with the Australian Standards 3959 – for construction category 3 and 6.
7. At least 30,000L of water for firefighting purposes, being made available.

CARRIED 9/0

Res 127/15

Advice

1. The Shire has adopted a Policy applicable to transportable houses. The following policy provisions apply and will need to be addressed as part of submitting a building permit:
 - a. The building application shall include a Structural Engineers Report with the following:
 - A statement that the house is in a sound structural condition;
 - Details of any defects in relation to cladding, roofing, etc and repairs necessary to bring the house up to the required standard;
 - Photographs of each elevation;
 - Building plans of the dwelling as per the building regulations;
 - Septic tank application form and plans;
2. There is no reticulated water and therefore it is advised that a water storage tank of minimum capacity of 92,000 is constructed prior to occupation of the dwelling.
3. A relocated dwelling may not be transported to and placed on a lot within the district and thereafter occupied as a residential dwelling (whether in whole or in part) except with the approval of Council and in accordance with any conditions contained in such an approval. Any person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without

prejudice to any other remedy given herein is liable to such penalties as are prescribed by Section 10 of the Act.

Notes

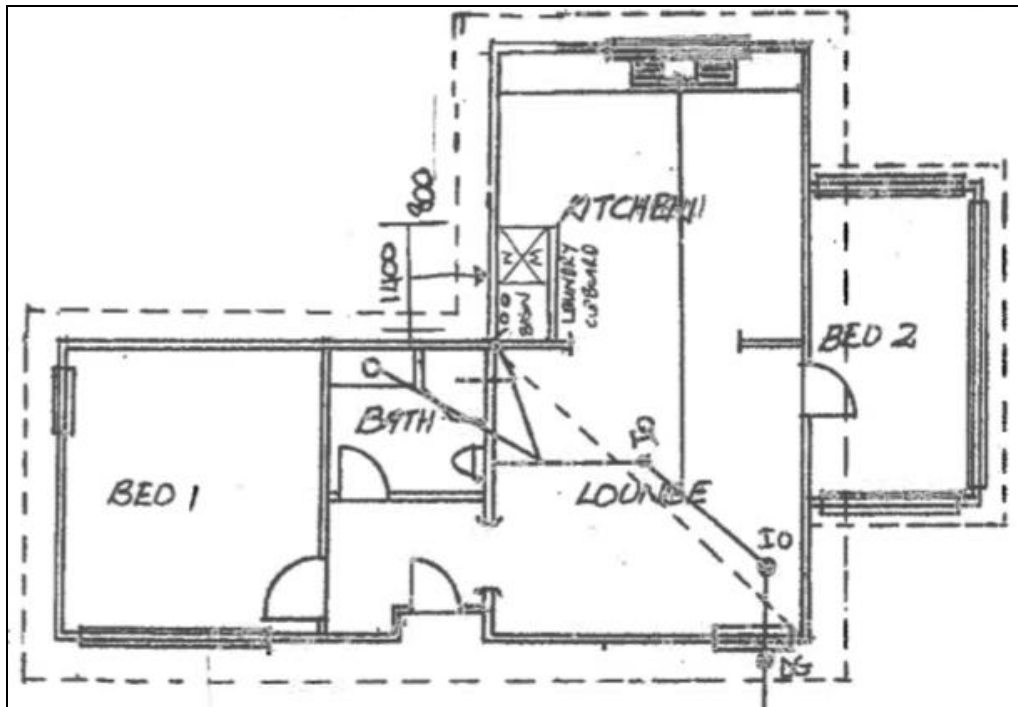
This Planning Scheme Consent contains 7 conditions.

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. For further information regarding this, refer to www.sat.justice.wa.gov.au, with reference to section 252 of the *Planning and Development Act (2005)* (as amended).

Approved Plans – December 2015



Single House (Transportable) - Site Plan



Single House (Transportable) – Floor Plan



Single House (Transportable) – Elevation

8.3.4 Single House – Lot 155 Ritson Street, Boyup Brook

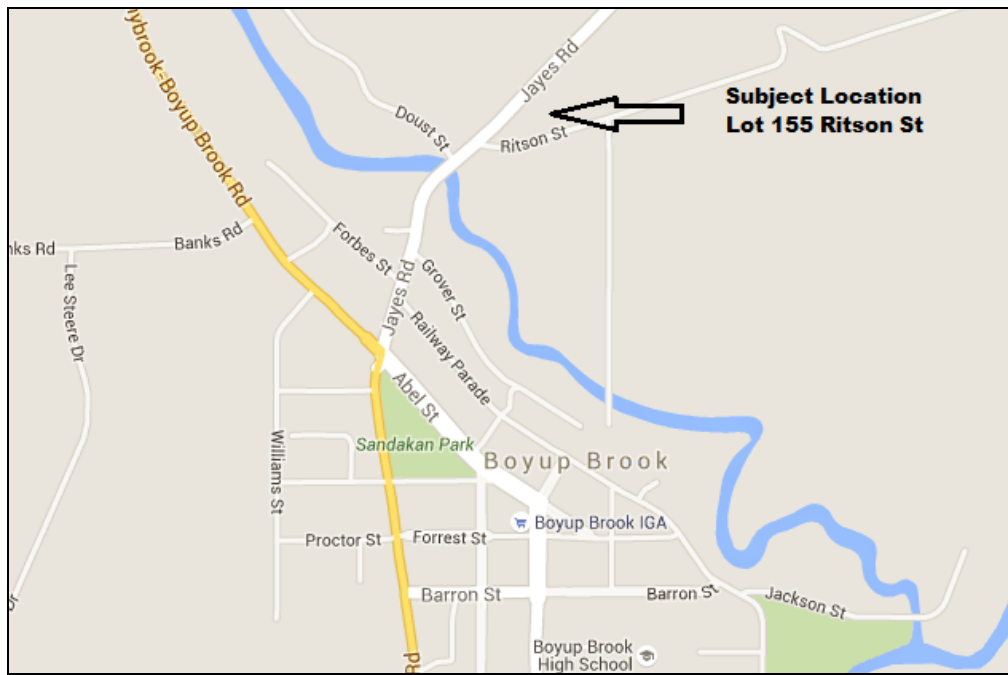
Location:	Lot 155 Ritson Street, Boyup Brook
Applicant:	B & R Gear
File:	A40015
Disclosure of Officer Interest:	None
Date:	December 2015
Author:	A. Nicoll, Town Planner
Authorizing Officer:	Alan Lamb, Chief Executive Officer
Attachments:	Nil

SUMMARY

The purpose of this report is to put before Council the request to develop a Single House at Lot 155 Ritson Street, Boyup Brook.

Council discretion is required in accordance with clause 3.4.3 of Scheme 2, which states:

The Council in considering an application for planning approval is to have due regard to...whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire, site contamination, acid sulphate soils and possibly salinity or any other risk.



BACKGROUND

The Shire received an application for a Building Permit to develop a Single House at Lot 155 Ritson Street.

The Shire determined that a Bushfire Attack Level Assessment was required due to bushfire prone vegetation located within 100m of the proposed house.



A Bushfire Attack Level Assessment was submitted, determining the potential for impact by windborne embers together with increasing heat flux. A Bushfire Attack Level rating of BAL19 was determined, meaning the dwelling will need to be constructed in accordance with the *Australian Standards 3959 – Construction of Buildings in Bushfire-prone-areas*, 3 & 6 rating.

An application for planning approval was then submitted to enable due consideration to whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to bush fire.

COMMENT

Subject Property

The subject property is:

- Zoned 'Special Rural 1';
- 3.4ha in area; and
- Developed with a shed and water-tank.

Proposal

The proposal is a Single House with 2 x bedrooms, 1 x bathroom and two storeys.

The house is proposed to be setback 60m from Jayes Road and 67m from Ritson Street.

Construction materials include hardiplank external wall cladding and zincalume roof sheeting.

Bushfire Attack Level Assessment

A Bushfire Attack Level assessment has determined an overall rating of 19, meaning:

- In the instance of a bushfire, the dwelling will be exposed to embers and heat flux;
- A cleared building protection zone of 20m around the house is necessary to help reduce the impact to the house from a bushfire;
- An Australian 3959 construction standard of 3 and 6 is required;
- All grasses within the building protection zone are to be maintained to a height of a maximum 10cm;
- The crowns of trees within the building protection zone should be separated where practical such that there is a clear separation distance between adjoining tree crowns. Prune lower branches of trees within the building protection zone (up to 2 metres off the ground) to stop a surface fire spreading to the canopy of the trees. There are to be no tree crowns or branches overhanging the building or asset and a minimum horizontal

- clearance of 2 metres is required between tree branches and buildings or assets. Do not clump shrubs close to building. Ensure that there is a gap of at least 3 times the height (at maturity) of the shrub away from the building;
- Trees or shrubs in the building protection zone are to be cleared of any dead material;
 - Fences, sheds and structures within the building protection zone should be constructed of non-flammable material and be clear of trees and shrubs.

STATUTORY OBLIGATIONS

Statutory Obligations	Recommendations
<p>Town Planning Scheme 2, Special Rural Zone No. 1 clauses 5.3.5 and 5.3.9 state:</p> <p>5.3.5</p> <p><i>No building shall be erected closer than 15m to any street or road boundary or 7.5m in respect of any other boundary.</i></p> <p>5.3.9</p> <p><i>Except where a reticulated water supply is provided, a person shall not construct a dwelling unless a roof water storage tank of minimum capacity of 92,000 litres or other type of domestic water supply approved by the Council is incorporated in the approved plans and constructed at the same time as the dwelling. No dwelling shall be considered fit for human habitation unless a tank has been installed and is operating.</i></p>	<p>Recommend <u>noting</u> clauses 5.3.5 and 5.3.9 for the following reasons:</p> <p>The single house is proposed to be located in excess of 50m from all boundaries.</p> <p>A water storage tank of minimum capacity of 92,000 has already been constructed at Lot 155 Ritson Street.</p>
<p>Clause 3.4.3 of Scheme 2, states:</p> <p><i>The Council in considering an application for planning approval is to have due regard to...whether the land to which the application relates is unsuitable for the proposal by reason</i></p>	<p>Recommend <u>upholding</u> clause 3.4.3 by requiring the following bush fire policy conditions:</p> <p>1. <i>The single house being developed to comply with the Australian Standards 3959 – for</i></p>

<p><i>of it being, or being likely to be, subject to...bush fire.</i></p>	<p><i>construction category 3 and 6.</i></p> <p><i>2. A 20m cleared building protection zone being maintained around the Single House.</i></p> <p><i>3. At least 30,000L of water for firefighting purposes, being made available.</i></p>
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POLICY IMPLICATIONS

Policy Obligations	Recommendations
<p>The Shire’s Fire Policy P.10 states:</p> <p>2. Dwellings and including additions and Class 10a outbuildings and decks within 6m of a dwelling, on land within:</p> <p>a) Bushfire prone areas;</p> <p>b) 50 metres of unmanaged grassland;</p> <p>c) 100m of vegetation that’s greater in area than 1ha; or</p> <p>d) 100m of vegetation that’s between 0.25ha and 1ha and within 100m of other identified veg that’s >1ha,</p> <p>shall be accompanied by a:</p> <p>c) ‘Bushfire Attack Level Assessment’; and</p> <p>d) Plan showing:</p> <p>V. Proposed building envelope with 20m cleared building protection zone surrounding all development (20m is to be measured on the horizontal plain);</p> <p>VI. Proposed hazard separation zone (must be located within subject property boundaries);</p> <p>VII. For non-reticulated areas, a water tank designed to hold at least 30,000l for firefighting purposes; and</p> <p>VIII. Applicable construction standard in accordance with Australian Standards 3959.</p>	<p>Recommend <u>upholding</u> policy P.10 by requiring the following bush fire policy conditions (as stated previously under Statutory Obligations):</p> <p>1. <i>The single house being developed to comply with the Australian Standards 3959 – for construction category 3 and 6.</i></p> <p>2. <i>A 20m cleared building protection zone being maintained around the Single House.</i></p> <p>3. <i>At least 30,000L of water for firefighting purposes, being made available.</i></p>

CONSULTATION

N/A

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.3.4

MOVED: Cr Blackburn

SECONDED: Cr Imrie

That Council

Grants planning scheme consent for Lot 155 Ritson Street, Boyup Brook for the purpose of Single House and subject to the following conditions:

Conditions

1. Development is to be carried out in accordance with the approved plans dated December 2015, unless varied by conditions of Planning and Building approval.
2. If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
3. All stormwater is to be managed and contained on-site, to the satisfaction of the Shire of Boyup Brook.
4. A 20m cleared building protection zone being maintained around the Single House.
5. The Single House being developed to comply with the Australian Standards 3959 – for construction category 3 and 6.
6. At least 30,000L of water for firefighting purposes, being made available.

CARRIED 9/0

Res 128/15

Advice

- All grasses within the building protection zone are to be maintained to a height of a maximum 10cm.
- The crowns of trees within the building protection zone should be separated where practical such that there is a clear separation distance between adjoining tree crowns. Prune lower branches of trees within the building protection zone (up to 2 metres off the ground) to stop a surface fire spreading to the canopy of the trees. There are to be no tree crowns or branches overhanging the building or asset and a minimum horizontal clearance of 2 metres is required between tree branches and buildings or assets. Do not clump shrubs close to building. Ensure that there is a gap of at least 3 times the height (at maturity) of the shrub away from the building.
- Trees or shrubs in the building protection zone are to be cleared of any dead material.
- Fences, sheds and structures within the building protection zone should be constructed of non-flammable material and be clear of trees and shrubs.

Notes

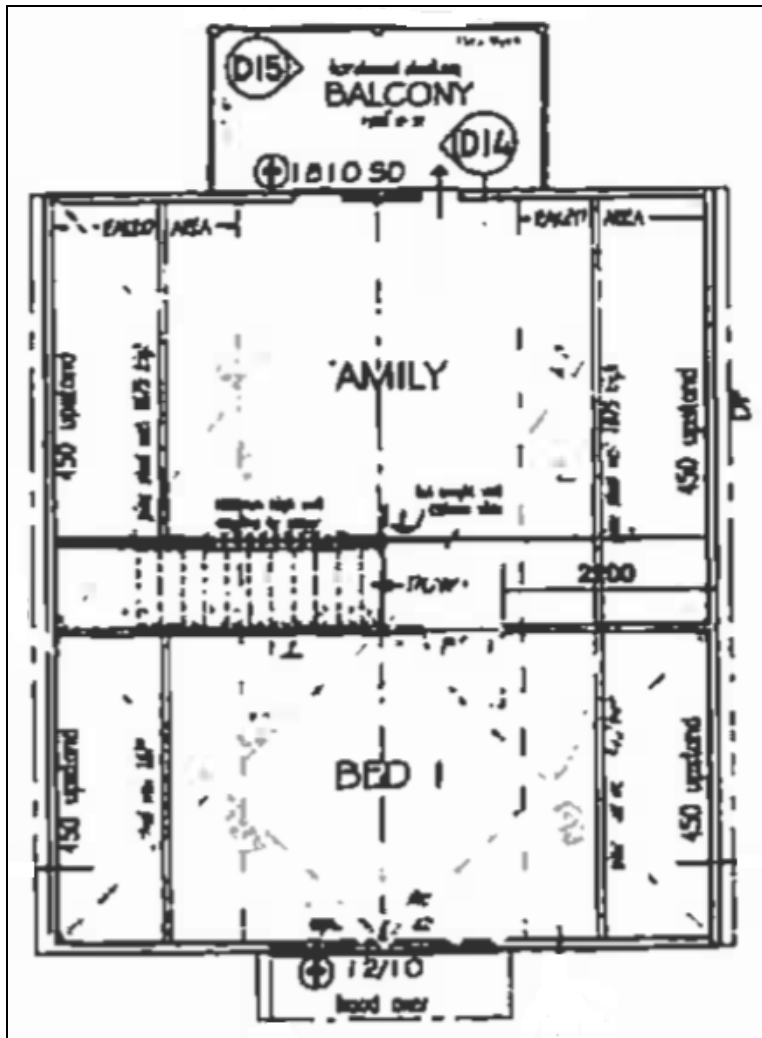
This Planning Scheme Consent contains 6 conditions.

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. For further information regarding this, refer to www.sat.justice.wa.gov.au, with reference to section 252 of the Planning and Development Act (2005) (as amended).

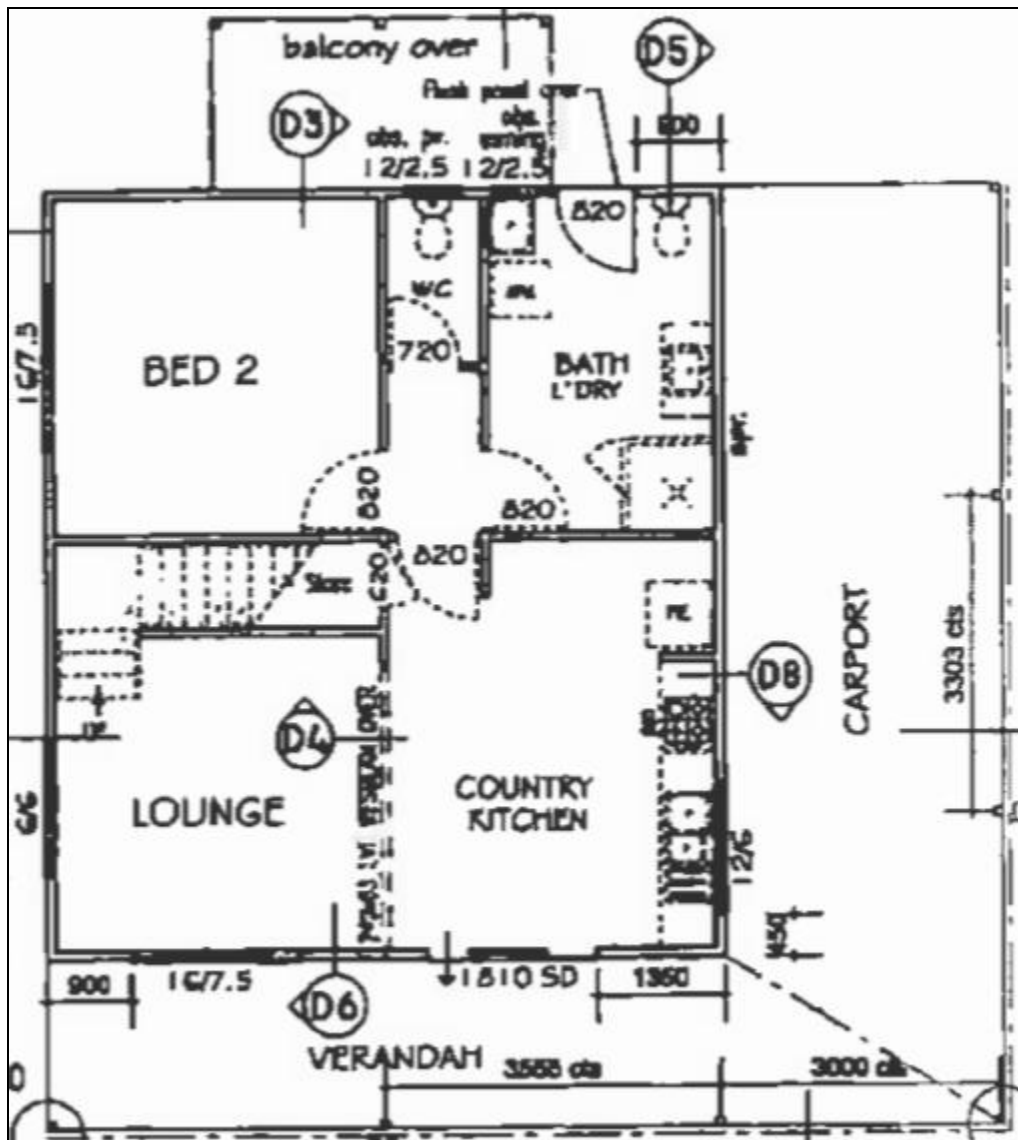
Approved Plans – December 2015



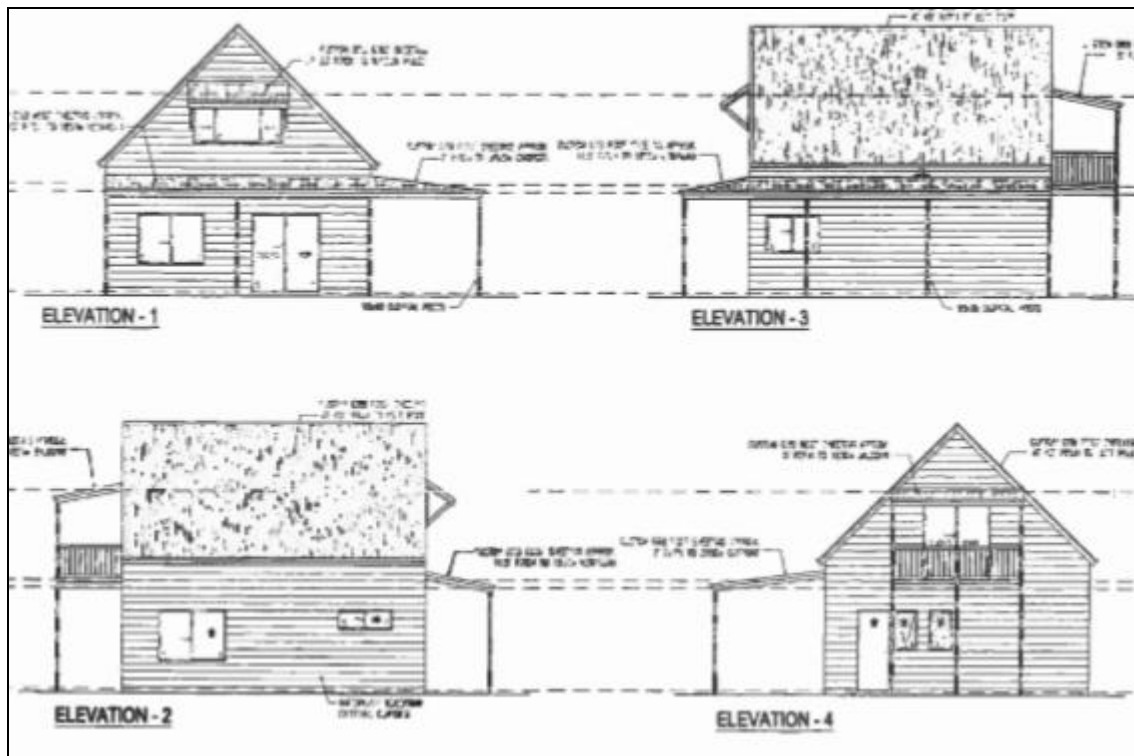
Single House - Site Plan



Single House – Ground Floor Plan



Single House – Upper Floor Plan



Single House – Elevation

Impartiality Interest

Cr Oversby declared an impartiality interest in the following item due to being on the Committee.

8.3.5 Kulikup Hall Committee Draft Lease

Location:	Lot 36 on Deposited Plan 225685 being the whole of the land in Qualified Certificate of Crown Land Title Volume 3050 Folio 313
Applicant:	Kulikup Hall Committee
File:	LS/62/019
Disclosure of Officer Interest:	
Date:	4 December 2015
Author:	Alan Lamb – Chief Executive Officer
Authorising Officer:	Chief Executive Officer
Attachments:	Draft Kulikup Hall Lease for “Community Hall” including Annexure 1 Management Order and Plan

SUMMARY

For Council to endorse the draft lease document for the Kulikup Hall Committee for the ongoing use of the Community Hall at Kulikup.

BACKGROUND

As part of the process of bringing all of Council’s outstanding leases up to date the lease of the Community Hall at Kulikup to the Kulikup Hall Committee has been prepared and provided to the group.

COMMENT

The Kulikup Hall Committee represented by Mr Grant Wardle and Ms Rosslynne Fairbrass have agreed to the terms and conditions contained in the draft lease and the document is submitted to Council seeking endorsement. The document was initially prepared by Council’s solicitor and has been updated over recent months taking into account contemporary practices recommended by Council’s solicitor. The main amendment, similar to other leases approved by Council over recent times, is a clear indemnification for the Minister for Lands which is now a standard requirement.

This land subject to the lease is the subject of a Management Order requiring the Minister for Lands approval to lease.

The commencement date for the lease will be inserted following the anticipated approval from the Department of Lands. The commencement date cannot be a date prior to that approval.

CONSULTATION

Mr Grant Wardle and Ms Rosslynne Fairbrass, Kulikup Hall Committee. Alyce Jefferies (Council's representative solicitor).

STATUTORY OBLIGATIONS

The lease document becomes a legal document and is entered into pursuant to the Land Administration Act 1997.

The final document would be registered with Landgate with original copies being held by the Shire of Boyup Brook, the Kulikup Hall Committee and the Department of Lands.

POLICY IMPLICATIONS

There are no policy implications relating to this item.

BUDGET/FINANCIAL IMPLICATIONS

There are minor legal costs in finalising this matter which are taken into account in the 2015/16 budget.

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.3.5

MOVED: Cr Moir

SECONDED: Cr Muncey

That Council endorse the lease document between the Shire of Boyup Brook and the Kulikup Hall Committee for the Kulikup Hall located at Lot 36 on Deposited Plan 225685 being the whole of the land in Qualified Certificate of Crown Land Title Volume 3050 Folio 313, and as depicted on Annexure 1 of the draft Lease document confirming the following actions –

- **Signing and sealing of the document by the Shire President and Chief Executive Officer.**
- **Submission to the Department of Lands for approval with any non-substantial changes incorporated into the lease document.**
- **Submission to Landgate for Registration.**

CARRIED 9/0

Res 129/15

8.3.6 Appointment of Rangers as Authorized Persons under various Acts & Regulations

Location:	SHIRE OF BOYUP BROOK
Applicants:	SHIRE OF BOYUP BROOK
Author:	Daly Winter – Community Development
Report Date:	16 November 2015
Attachments:	Nil

BACKGROUND

Pursuant to the following Acts and Regulations, a local government shall, in writing appoint persons to exercise on behalf of the local government the powers conferred on an authorised person by those Acts and Regulations:

Local Government Act 1995, Part 9, Division 2 - issuing of infringement notices

Local Government Act 1995, Sections 9.13 and 9.15 – vehicle offences

Local Government Act 1995, Section 3.39 – power to remove and impound

Local Government (Miscellaneous Provisions) Act 1960, Part XX, Section 449 - Pound Keeper and Ranger

Dog Act 1976, Sections 29 (1) and 33E (1) – for the purposes of registering, seizing, impounding, detaining and destroying of dogs

Cat Act 2011 Section 48

Control of Vehicles (Off Road Area) Act 1978, Section 38

Litter Act 1979, Section 26

Bush Fires Act 1954

Caravan Parks and Camping Grounds Act 1995, Section 17

Local Government (Parking for People with Disabilities) Regulations 2014

Shire of Boyup Brook Local Laws and Regulations

COMMENT

Mr Paul Robins has been appointed Senior Ranger with the Shire of Donnybrook-Balingup from 2 November 2015. Richard Heppener has been appointed Shared Ranger (between the Shires of Donnybrook-Balingup and Boyup Brook) as of 29

October 2015. Both need to be appointed by Council as authorised persons under these Acts and Regulations.

CONSULTATION

N/A

POLICY IMPLICATIONS

N/A

STATUTORY IMPLICATIONS

Authorisation is required under:

Local Government Act 1995, Part 9, Division 2

Local Government Act 1995, Sections 9.13 and 9.15

Local Government Act 1995, Section 3.39

Local Government (Miscellaneous Provisions) Act 1960, Part XX, Section 449

Dog Act 1976, Section 33E (1)

Cat Act 2011, Section 48

Control of Vehicles (Off Road Area) Act 1978, Section 38

Litter Act 1979, Section 26

Bush Fires Act 1954

Caravan Parks and Camping Grounds Act 1995, Section 17

Caravan Parks and Camping Grounds Regulations 1997, Regulation 6

Shire of Boyup Brook Local Laws and Regulations

VOTING IMPLICATIONS

Simple majority

FINANCIAL IMPLICATIONS

N/A

STRATEGIC IMPLICATIONS

Shire of Boyup Brook Strategic Community Plan states:

Outcome Growing Our Community Together – A place that is safe and secure.

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.6

MOVED: Cr Oversby

SECONDED: Cr Kaltenrieder

- 1 That Paul James Robins and Richard Antony Heppener are appointed as authorised persons for the Shire of Boyup Brook, to administer the following Acts, Regulations and Local Laws -**

Local Government Act 1995, Part 9, Division 2

Local Government Act 1995, Sections 9.13 and 9.15

Local Government Act 1995, Section 3.39

Local Government (Miscellaneous Provisions) Act 1960, Part XX, Section 449 - Pound Keeper and Ranger

Dog Act 1976, Section 33E (1) – for the purposes of registering, seizing, impounding, detaining and destroying of dogs

Cat Act 2011, Section 48- for the purposes of registering, seizing, impounding, detaining and destroying of cats

Control of Vehicles (Off Road Area) Act 1978, Section 38

Litter Act 1979, Section 26

Bush Fires Act 1954

Caravan Parks and Camping Grounds Act 1995, Section 17

Caravan Parks and Camping Grounds Regulations 1997, Regulation 6

Shire of Boyup Brook Local Laws and Regulations

- 2 That this appointment is published in the State Government Gazette.**

CARRIED 9/0

Res 130/15

8.3.7 Council Meeting Dates for 2016

Location:	<i>Shire of Boyup Brook</i>
Applicant:	<i>Not Applicable</i>
File:	<i>N/A</i>
Disclosure of Officer Interest:	<i>none</i>
Date:	<i>5 December 2013</i>
Author:	<i>Alan Lamb – Chief Executive Officer</i>
Authorizing Officer:	<i>N/A</i>
Attachments:	<i>Nil</i>

SUMMARY

The purpose of this report is to put before Council proposed meeting times and dates for the Ordinary Council meetings for the 2016 year.

BACKGROUND

At the Chief Executive Officer's review last year it was recommended that regular Council briefing sessions be conducted before Ordinary Council Meetings.

COMMENT

Nil

CONSULTATION

Nil

STATUTORY OBLIGATIONS

The following sections of the Local Government Act have relevance:

5.3. Ordinary and Special Council Meetings

- 1) A council is to hold ordinary meetings and may hold special meetings.
- 2) Ordinary meetings are to be held not more than 3 months apart.
- 3) If a council fails to meet as required by subsection (2) the Chief Executive Officer is to notify the Minister of that failure.

5.4. Calling Council Meetings

An ordinary or a special meeting of a council is to be held –

- (a) if called for by either-
 - (i) the mayor or president; or

- (ii) at least 1/3 of the councillors;
in a notice to the Chief Executive Officer setting out the date and purpose of the proposed meeting; or
- (b) if so decided by the council

5.5. Convening Council Meetings

- (1) The Chief Executive Officer is to convene an ordinary meeting by giving each Council member at least 72 hours' notice of the date, time and place of the meeting and an agenda for the meeting.
- (2) The Chief Executive Officer is to convene a special meeting by giving each Council member notice, before the meeting, of the date, time, place and purpose of the meeting.

The Local Government (Administration) Regulations provide:

Public notice of Council or Committee Meetings – s. 5.25(1)(g)

- (1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which –
 - (a) the ordinary council meetings; and
 - (b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public are to be held in the next 12 months.
- (2) A local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).
- (3) Subject to sub regulation (4), if a special meeting of a council is to be open to members of the public then the local government is to give local public notice of the date, time, place and purpose of the special meeting.
- (4) If a special meeting of a council is to be open to members of the public but, in the Chief Executive Officer's opinion, it is not practicable to give local public notice of the matters referred to in sub regulation (3), then the local government is to give public notice of the date, time, place and purpose of the special meeting in the manner and to the extent that, in the Chief Executive Officer's opinion, is practicable.

The Local Government Act provides that local public notice is as follows;

1.7. Local Public Notice

- (1) Where under this Act local public notice of a matter is required to be given, a notice of the matter is to be –
 - (a) published in a newspaper circulating generally throughout the district;
 - (b) exhibited to the public on a notice board at the local government's offices; and

- (c) exhibited to the public on a notice board at every local government library in the district.
- (2) Unless expressly stated otherwise it is sufficient if the notice is –
 - (a) published under subsection (1) (a) on at least once occasion; and
 - (b) exhibited under subsection (1) (b) and (c) for a reasonable time, being not less than –
 - (i) the time prescribed for the purpose of this paragraph; or
 - (ii) if no time is prescribed, 7 days.

POLICY IMPLICATIONS

Council Policy

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION –Item 8.3.7

MOVED: Cr Kaltenrieder

SECONDED: Cr Rear

That the following meeting dates and times apply for the 2016 year:

Council Meeting Dates 2016

Held at 5.00pm in the Boyup Brook Chambers

18 February 2016	25 August 2016
17 March 2016	15 September 2016
21 April 2016	20 October 2016
19 May 2016	17 November 2016
16 June 2016	15 December 2016
21 July 2016	

CARRIED 9/0

Res 131/15

8.3.8 Review of Delegation Register

Location:	<i>Shire of Boyup Brook</i>
Applicant:	<i>Shire of Boyup Brook</i>
File:	<i>GO/15/004</i>
Disclosure of Officer Interest:	<i>Nil</i>
Date:	<i>10 December 2015</i>
Author:	<i>Alan Lamb – Chief Executive Officer</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>Yes – current Register of Delegations of Authority Manual Showing proposed changes & Proposed New Delegation</i>

SUMMARY

This item reviews the existing Delegation Register and recommends that the draft delegation be adopted.

BACKGROUND

Local Government Act 1995 section 5.42(1) states a local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.

Local Government Act 1995 section 5.46(2) states At least once every financial year, delegations made under this Division are to be reviewed by the delegator. Council last reviewed its delegations 21 August 2014.

COMMENT

A consultant was engaged to conduct an extensive review of the Shire of Boyup Brook Delegation of Authority and this was conducted over the period April, May and June 2014. The attached draft is the current list of delegations as adopted August 2014 and as recommended by the consultant. Whilst the delegations are reviewed annually, the review is generally not extensive. The last extensive review was conducted in 2014 and the previous extensive review was conducted in 2009.

CONSULTATION

The consultant consulted with all relevant staff.

STATUTORY OBLIGATIONS

Local Government Act 1995 (various sections)
Local Government Act (Administration) Regulations 1996

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

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Absolute Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.8

MOVED: Cr Aird

SECONDED: Cr Kaltenrieder

That Council adopt the Delegation Register as presented and the same be implemented as from 17 December 2015 until further notice.

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 132/15

8.3.9 Bunbury Wellington Group of Councils – Regional Tourism Development Strategy

Location:	<i>N/A</i>
Applicant:	<i>BWGC</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>9 December 2015</i>
Author:	<i>Alan Lamb</i>
Authorizing Officer:	<i>Chief Executive Officer</i>
Attachments:	<i>Development Strategy 2015, Summary Report.</i>

SUMMARY

The purpose of this report is to bring before Council the Bunbury Wellington Group of Councils (BGGC) Draft Regional Tourism Development Strategy for Council to receive prior to it being put to tourism stakeholders for feedback by 29 February 2016. Then for member Councils to refer stakeholder feedback to the Steering Committee for review and reporting back to the BWGC by 31 March 2016.

BACKGROUND

In 2012 a tourism working group comprising of the Bunbury Wellington Group of Councils, South West Development Commission and Regional Development Australia came together to develop a sub-regional tourism strategy that would complement the Tourism Futures South West plan and the South West Regional Blueprint.

Evolve Strategic Solutions were appointed to investigate the best way to facilitate tourism growth in the region. The resultant strategy and summary documents focus on the following areas:

- Identifying tourism opportunities, priorities and gaps
- Developing a unified tourism brand for the region
- Marketing, governance and product development
- Identifying infrastructure and product priorities

A meeting of the Bunbury Wellington Group of Councils was held on Wednesday 2 December 2015 to discuss the report and bring a regional approach to each respective member Council for consideration.

The Bunbury Wellington Group of Councils resolved at this meeting to:

That the Bunbury Wellington Group of Councils:-

1. Receive the following three draft reports
 - a. Bunbury Wellington and Boyup Brook Regional Tourism Development Strategy 2015;
 - b. Bunbury Wellington and Boyup Brook Regional Tourism Development Summary Report; and
 - c. Regional Action Plan and Regional Marketing Plan;
2. Refer the three draft documents (as amended) to each of the member Councils;
3. Refer the Draft Regional Action Plan and Regional Marketing Plan to the respective tourism stakeholders and request provision of feedback by 29 February 2016;
4. Request that member Councils refer the stakeholder feedback to the Steering Committee for review and report back to the Bunbury Wellington Group of Councils by 31 March 2016.

COMMENT

This BWGC initiative was to create a unified approach to the management of tourism development, marketing and infrastructure. A Steering Committee was formed to appoint and work with a consultant on the plan. The committee has now completed a draft that has been reviewed by the BWGC CEOs and amended.

The BWGC now wishes its constituent Councils to receive the three documents and forward the summary and action plan to tourism stakeholders in their Council areas.

The BWGC then wants the Steering Committee to review any feedback received and come back to it with a final draft.

It is important to note that the BWGC request does not include Council adopting the reports, at this time, and only asks that they seek local comment and refer this back. Council is of course able to also make comment but it may wish to do so at a later date when it has local stakeholder feedback or a final draft.

CONSULTATION

Council had an officer on the Steering Committee and tourist centres were allowed input into the development process. The draft documents reviewed by BWGC were distributed to all Council members previously.

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil at this time however there is a potential for a subregional group to be formed to manage the strategy and it is expected that this would result in a call on funding from BWGC members. It is also possible that some actions might become additional LG responsibilities.

STRATEGIC IMPLICATIONS

There is no specific mention of a regional strategy for tourism in the Strategic Community Plan however Council has actively engaged with its fellow BWGC members on a number of matters that may be of more benefit to some than others. There is no data to show the annual dollar value of tourism in this Shire and the activities of major players (Country Music Club and Harvey Dickson's) appear to be the main attractions to town. However tourism is significant in some areas of the Group and so it is apt for the group to take on this project and for this Council to work with its partners on it. Also, there will no doubt be some spinoff benefits for Boyup Brook which may make the exercise worthwhile.

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item8.3.9

MOVED: Cr Moir

SECONDED: Cr Oversby

That Council:

- 1. Receive the following three draft reports:**
 - a. Bunbury Wellington and Boyup Brook Regional Tourism Development Strategy 2015;**
 - b. Bunbury Wellington and Boyup Brook Regional Tourism Development Summary Report; and**
 - c. Regional Action Plan and Regional Marketing Plan;**
- 2. Refer the Draft Regional Action Plan and Regional Marketing Plan to the respective tourism stakeholders and request provision of feedback by 29 February 2016;**
- 3. Request that member Councils refer the stakeholder feedback to the Steering Committee for review and report back to the Bunbury Wellington Group of Councils by 31 March 2016.**

CARRIED 9/0

Res 133/15

8.3.10 Crown Reserve 36325, Boyup Brook Lot 359, Tourist Information Board

Location:	<i>Boyup Brook Lot 359</i>
Applicant:	<i>Boyup Brook Tourism Association</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>9 December 2015</i>
Author:	<i>Alan lamb</i>
Authorizing Officer:	<i>Chief Executive Officer</i>
Attachments:	<i>Copy of emailed request</i>

SUMMARY

The purpose of this report is to put before Council the Boyup Brook Tourism Association's (TA) request to make use of the information board.

BACKGROUND

The Shire has management of the reserve and its purpose is "Tourist Information Bay, Drainage and Park. The management order does not include power to lease.

The reserve runs along the Donnybrook/Boyup Brook Road from where the disused rail line abuts the Main Road to Henderson Street, and then from Henderson Street to the boundary of lot 120. It also includes a section that meets up with Forbes Street. The section from Henderson to Lot 120 has been developed as a tourist information bay which includes an information board under a shelter.

The TA recently advertised for business to promote themselves with a place on the back of the information board located on the reserve and sought a fee for this.

There is and could not be any enforceable lease for any part of this reserve because Council does not have the required power to lease. Whilst this could be obtained, the process may be slow, especially at this time of year.

In order to facilitate the TA's aspirations for this information board it was suggested that they seek to "adopt" it.

COMMENT

The term adopt may or may not be appropriate but the intention was to provide the TA with access to use the information board without the need for individual approvals for each matter.

It should be noted that Council would remain the manager of the reserve and owner of all improvements. It would also retain all of the relevant liabilities and so should put conditions on the TA's usage. The matter of maintenance and eventual replacement was not discussed and it is assumed that this would remain with Council however this is a matter Council may wish to discuss and then make a determination on.

Taking a pragmatic approach, whilst the TA has no rights to the information board and so has no rights to "sell" advertising space on it, any retained revenue may reduce its need to seek additional funding from Council. Also, even though the advertising will be on the side away from the road it will gain some exposure and so may be good for the town's businesses.

On balance then it is recommended that Council allow the TA to adopt the Tourist Information Bay Information Board for a period of 3 years subject to its agreement to the following conditions:

- Boyup Brook Tourism Association to maintain information on both sides of the board at its expense.
- Boyup Brook Tourism Association to provide a broad plan of its proposed uses of the board at the start of each financial year and prior to actioning its plan.
- Boyup Brook Tourism Association to ensure that any items posted on the board are not supporting any political party, not defamatory, not inappropriate for public display on a Shire facility.
- Boyup Brook Tourism Association to maintain a current public liability policy of a suitable value.
- Any other that Council may deem necessary

CONSULTATION

The Author has spoken with the President and Secretary of the TA

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

There is no specific reference in the Strategic Community Plan however Council has supported the TA and its endeavours for a number of years. The information board is designed for use by visitors to town and it appears to be fitting that the TA "looks after" the information provided on that board.

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.10

MOVED: Cr Kaltenrieder

SECONDED: Cr Rear

That Council allows the Boyup Brook Tourism Association to adopt the Tourist Information Bay Information Board for a period of 3 years subject to its agreement to the following conditions:

- **Boyup Brook Tourism Association to maintain information on both sides of the board at its expense.**
- **Boyup Brook Tourism Association to provide a broad plan of its proposed uses of the board at the start of each financial year and prior to actioning its plan.**
- **Boyup Brook Tourism Association to ensure that any items posted on the board are not supporting any political party, not defamatory, not inappropriate for public display on a Shire facility.**
- **Boyup Brook Tourism Association to maintain a current public liability policy of a suitable value.**

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 134/15

8.3.11 Kerbside rubbish collection services – Ridgeview Estate area

Location:	The area bounded by Abels Road, Zig Zag Road, Ridgeview avenue , Bridgetown – Boyup Brook Road and lots 721, 720, 1284 and 1957
Applicant:	<i>Petition signed by 18 persons</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>10 December, 2015</i>
Author:	
Authorizing Officer:	<i>Chief Executive Officer</i>
Attachments:	<i>copy of petition, map of the area.</i>

SUMMARY

The purpose of this report is to put before Council a request for the extension of kerbside rubbish collection services with the recommendation that it be agreed to.

BACKGROUND

Council introduced a new style of kerbside collection services in the current financial year. This included a fortnightly recycling collection service.

Council had planned to look at extensions to the areas serviced (this aim was included in the Community Strategic Plan) once the new service was operational. A petition was received requesting a service is provided in the Ridgeview Estate area.

As advised at the last Councillor briefing session, the intention was to conduct a survey to gauge support for a service. A survey conducted on this matter for this area, in 2012 showed that the majority of property owners were not in favour of the service being provided (12 responses to the survey were received, 2 for the service and 10 against).

COMMENT

The petition receive has 18 signatures representing 16 properties. Two signatories, relating to two properties, were undecided so the number of properties whose owners or occupiers support a service is 14.

The survey was not completed at the time of writing this report but preliminary figures indicate that there are 24 properties in the area which have dwellings on them (and so may be charged for the service). We were able to contact owners/occupiers of 19 of these and 12 were in favour and 7 were opposed.

It is planned that more detail of the survey be provided at the Council meeting but based on preliminary information it appears the majority now support the introduction of the service.

The collection company advises that based on 24 services per week there will be no change to the current charge per service. This being the case, the service charge levied on the twenty four properties will be the same as for town services (\$207 for general waste and \$103.50 for recycling for 2015/16). The charge would be apportioned based on the number of weeks left in the year if the service was to be provided part way through a financial year.

CONSULTATION

The matter has been the subject of two surveys and one petition.

STATUTORY OBLIGATIONS

The Waste Avoidance and Recovery Act 2007 applies, in particular the following:

50. Provision of waste services

- (1) Subject to this Act and the EP Act, a local government may provide, or enter into a contract for the provision on its behalf of, waste services.*
- (2) A local government does not require a waste collection permit or an EP authorisation to collect or transport local government waste but is otherwise subject to the provisions of the EP Act.*
- (3) The CEO may, for the purpose of protecting human health or the environment, by written notice require a local government, or 2 or more local governments together, to provide, in relation to local government waste, a waste service of a kind specified in the notice.*
- (4) The CEO must seek and have regard to the advice of the Waste Authority before issuing a notice under subsection (3).*
- (5) The notice must be given to each local government required to provide the waste service.*
- (6) The notice may apply to the whole of a local government district or districts or to a specified portion of a local government district or districts.*
- (7) Subject to subsection (8) and the EP Act, the local government must comply with the notice.*

- (8) *The local government is not required to provide a waste service for which the local government is required to hold an EP authorisation until the authorisation has been granted, but must use reasonable endeavour to obtain the authorisation as soon as practicable after the notice is issued.*
- (9) *A local government aggrieved by a requirement in a notice given by the CEO under subsection (3) may apply to the State Administrative Tribunal for a review of the requirement.*

The following parts of the Regulations also apply:

66. *Local government may impose waste collection rate*

- (1) *A local government may impose on rateable land within its district, and cause to be collected, an annual rate for the purpose of providing for the proper performance of all or any of the waste services it provides.*
- (2) *The annual rate must not exceed —*
 - (a) *12 cents in the dollar on the gross rental value; or*
 - (b) *where the system of valuation on the basis of the unimproved value is adopted, 3 cents in the dollar on the unimproved value of the land in fee simple.*
- (3) *The provisions of the Local Government Act 1995 relating to the making, payment and recovery of general rates apply with respect to rates referred to in subsection (1).*

67. *Local government may impose receptacle charge*

- (1) *A local government may, in lieu of, or in addition to a rate under section 66, provide for the proper disposal of waste, whether within its district or not, by making an annual charge per waste receptacle, payable in one sum or by equal monthly or other instalments in advance, in respect of premises provided with a waste service by the local government.*
- (2) *The charge is to be imposed on the owner (as defined in section 64(1)) or occupier, as the local government may decide, of any premises provided with a waste service by the local government.*
- (3) *The provisions of the Local Government Act 1995 relating to the recovery of general rates apply with respect to a charge referred to in subsection (1).*
- (4) *In the case of premises being erected and becoming occupied during the year for which payment is to be made, the charge for the service provided is to be the sum that proportionately represents the period between the occupation of the premises and the end of the year for which payment is made.*
- (5) *Notice of any charge made under this section may be included in any notice of rates imposed under section 66 or the Local Government Act 1995, but the omission to give notice of a charge does not affect the validity of the charge or the power of the local government to recover the charge.*

- (6) *A charge may be limited to premises in a particular portion of the area under the control of the local government.*
- (7) *Charges under this section may be imposed in respect of and are to be payable for all premises in respect of which a waste service is provided, whether such premises are rateable or not.*
- (8) *A local government may make different charges for waste services rendered in different portions of its district.*

68. *Fees and charges fixed by local government*

Nothing in this Part prevents or restricts a local government from imposing or recovering a fee or charge in respect of waste services under the Local Government Act 1995 section 6.16.

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

The impact will be nil. The additional costs of providing the services would be covered by the charges raised.

STRATEGIC IMPLICATIONS

OUTCOMES

Sustainable Infrastructure

OBJECTIVES

Enhanced refuse and recycling opportunities

PRIORITIES

- ✦ Investigate the expansion of the Shire's refuse collection service.
- ✦ Examine extension of Waste Transfer Station opening hours.
- ✦ Examine potential to introduce free waste transfer station vouchers as part of annual refuse collection service.

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Absolute majority

OFFICER RECOMMENDATION – Item 8.3.11

That Council:

- introduce a weekly general waste kerbside collection service and a fortnightly recycling kerbside collection service to the Special Rural Zoned area bounded by Abels Road, Zig Zag Road, Ridgeview avenue , Bridgetown – Boyup Brook Road and lots 721, 720, 1284 and 1957
- Instruct the CEO to advise relevant property owners of this new service and the corresponding charge
- Instruct the CEO to commence these services as soon as practicable following the advice being given to property owners
- Impose an annual charge of 207.00 for the weekly general waste services and \$103.50 for the fortnightly recycling service
- Instruct the CEO to raise a charge for these services based on the annual charges set by Council and the number of weeks left in the 2015/16 financial year once the services are commenced.

REVISED RECOMMENDATION

MOVED: Cr Rear

SECONDED: Cr Kaltenrieder

That Council:

1. Introduce a weekly general waste kerbside collection service and a fortnightly recycling kerbside collection service to properties with dwellings in the Special Rural Zoned area bounded by Abels Road, Zig Zag Road, Ridgeview Avenue, Bridgetown – Boyup Brook Road and lots 721, 720, 1284 and 1957.
2. Instruct the CEO to advise relevant property owners of this new service and the corresponding charge giving at least one month's notice of the intention to commence this service.
3. Instruct the CEO to commence these services as soon as practicable following the advice being given to property owners provided no significant, in terms of numbers of owners of properties with dwellings, opposition. If more than 50% of the owners of properties with a dwelling in the area express opposition, the CEO is to bring the matter back to Council for determination before it being actioned further.
4. Apply the annual charge of \$207.00 for the weekly general waste service and \$103.50 for the fortnightly recycling service for 2015/16 as set in the 2015/16 Budget adoption.

5. **Instruct the CEO to raise a charge for these services based on the annual charges set by Council and the number of weeks left in the 2015/16 financial year once the services are commenced.**
6. **That a weekly general waste kerbside collection service and a fortnightly recycling kerbside collection service be offered to the owners of properties along the route to be taken by the collection service vehicle servicing the Special Rural Zone now being serviced.**
7. **Introduce a weekly general waste kerbside collection service and a fortnightly recycling kerbside collection service to properties with dwellings along the route to be taken by the collection service vehicle servicing the Special Rural Zone now being serviced, provided more than 50% of relevant property owners support the proposed new service.**
8. **Instruct the CEO to follow the same course of action as for 2 through to 5 for this new service area.**

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 135/15

MOVED: Cr Aird

SECONDED: Cr Moir

NOTE -

The foregoing recommendation was amended due to interest being expressed in expanding this new service to include properties, with dwellings, on the route taken by the collection vehicle to and from the Ridgeview area.

That the Council adopts enbloc 9.1.1 and 9.1.2.

CARRIED 9/0

Res 136/15

9 COMMITTEE REPORTS

9.1.1 Minutes of the Bunbury Wellington Group of Councils
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Location:	<i>N/A</i>
Applicant:	<i>N/A</i>
File:	
Disclosure of Officer Interest:	<i>Nil</i>
Date:	<i>19 August 2015</i>
Author:	<i>Alan Lamb - CEO</i>
Attachments:	<i>Yes – Minutes</i>

BACKGROUND

The Bunbury Wellington Group of Councils meeting was held on 2nd December 2015.

Minutes of the meeting are laid on the table and circulated.

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 9.1.1

That the minutes of the Bunbury Wellington Group of Councils be received.

9.1.2 Minutes of the Blackwood River Valley Marketing Association
--

<i>Location:</i>	<i>N/A</i>
<i>Applicant:</i>	<i>N/A</i>
<i>File:</i>	
<i>Disclosure of Officer Interest:</i>	<i>Nil</i>
<i>Date:</i>	<i>19 August 2015</i>
<i>Author:</i>	<i>Alan Lamb - CEO</i>
<i>Attachments:</i>	<i>Yes – Minutes</i>

BACKGROUND

The Blackwood River Valley Marketing Association meeting was held on 11th November 2015.

Minutes of the meeting are laid on the table and circulated.

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 9.1.2

That the minutes of the Blackwood River Valley Marketing Association meeting be received.

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 Councillor Muncey

MOTION

That the request for funding Youth Services be readdressed.

That the CRC. Manager be invited to put the case to the full council.

CEO Report

Council is the appropriate body to deal with this motion, and as its servant I will comply with and support any decision made by Council but I am recommending Council does not support this motion.

Council dealt with donation requests at its Special Meeting held 2 July 2015. This meeting dealt with requests totaling \$105,000 and decided that requests totaling \$85,792 be included in the draft budget. When the draft budget was considered, and adopted, by Council, Council funded \$76,611 of requests. This is over \$20,000 more than the previous year (55,481). If Council is to reconsider its decision in relation to this one request, should it also then reconsider the whole decision, that is what requests were funded and requests were not? Standing Orders provide as follows in relation to changing decision once made:

16.20 Revoking Decisions - When This Can Occur

16.20.1 A substantive motion may be revoked at any time provided that no action in relation to the resolution being rescinded has already occurred;

16.20.2 If a decision has been made at a Council or a committee meeting then any motion to revoke or change the decision must be supported-

(a) in the case where an attempt to revoke or change the decision has been made within the previous three months but had failed, by an absolute majority; or

(b) in any other case, by at least one third of the number of offices (whether vacant or not) of members of the Council or committee, inclusive of the mover.

16.20.3 If a decision has been made at a Council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made

(a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or

(b) in any other case, by an absolute majority.

16.20.4 This clause does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.

The purpose of 16.20 in this Local Law is to protect the Shire from making decisions that affect others, and have been acted on, then changing these and so opening the Shire to claims for compensation. Donation applicants have been notified of Council's decision and most of the successful ones have been paid. So it is contrary to the Local Law to look to change the decision. However the main exposure is to the successful applicants and so provided there is no change to the decision to make the donations, there could be no injury other than where Council determined a lower amount than what was requested, be provided. In this case the applicant may have a claim that if one application is being reviewed and the previously made decision changed then their partly successful application should also be reviewed. Similarly, all unsuccessful applicants may have a similar claim. Whilst the chances of litigation may be small, other groups may never the less put pressure on Council if it reverses its previous decision in relation to just one application. So whilst changing decisions may be necessary for a great range of reasons, the Local Law Standing Orders recognize the undesirability of doing so.

It is not possible for Council to fund every request that is made and it may not be appropriate for it to fund some. In the end, Council is dealing with public funds and it is suggested that the foregoing shows Council was diligent and, at the same time, generous in its dealings with donation requests.

Council provides a range of services, some of which are targeted and others are general. In the past Council chose, through its budget process and the like, to employ a specific officer to deal with youth services. Originally the officer provided support and guidance to a group called the Youth Advisory Council (YAC). Council received minutes of YAC meetings at its monthly meeting but then decided to no longer include them in its agendas due to lack of applicable content. It is unclear what the purpose of the YAC was but the intention when they were originally set up was to provide advice to Council on matters relating to youth. Like many initiatives, this model did not work and Council was not refereeing matters to the group or receiving any advice back.

Subsequent Youth Officers were encouraged to do something different to their predecessors with varying degrees of success. The last Officer started up an after school youth club type of arrangement (one day per week) which was reasonably popular at the start but numbers reduced. Then there were issues with the hall they were using. All Youth Officers complained about lack of involvement by the group they were servicing, difficulties in getting numbers along to fund raising activities the Officer had toiled to arrange and the like. When the last Officer resigned I did not seek to replace her immediately in order to gauge the level of community demand for this specific service. No enquiries or complaints were received other than from the Manager of the CRC who wanted to provide youth services and for the Shire to fund this.

Logically, any Youth Officer would report to the Community Development Officer position as this person's role is to provide services to all community members regardless of age. In the absence of an officer specifically for an age group (such as youth, seniors and the like) the CDO provides the services directly. I believe the CDO has provided a high level of service to the whole community within the bounds of budget constraints.

The term youth generally means age's say 10 to 17 which translates to high school aged children some of who are either travelling daily to a school outside of town or boarding away. These plus the students, who attend the local High School, have the increased work load of secondary school, sporting and other commitments. Further many do not live in town and travel by school bus to get home etc. So it is unclear what age group, cohort or numbers the CRC planned after school activities may service or how frequent these activities would be provided. Or how it established there was a need. Certainly, the youth centre previously operated by Council, was open one afternoon per week and the day was selected after considering all competing services (sports etc).

It should also be noted, before deciding whether or not to revisit Council's previous decision on the CRC donation application, that Council already provides a great number of important services to all age groups. Council provides and maintains excellent sporting fields, swimming pool, hall facilitates and the like. Whilst there may be many other things that the Council could do, if it had unlimited funds, it does meet most peoples requirements most of the time.

Any group or individual can do anything, which is legal, they want to do but this does not mean the Shire should fund the initiative. So the CRC is at liberty to conduct any youth programs it sees as being required.

Telecentres were a State Government initiative, to provide rural communities with services it wants to provide. LG was asked to provide premises. As with many Government initiatives, the initial funding was enough to allow a center to be open part time. But as the years went on and the annual State funding did not increase, the centers looked for other funding sources to keep the doors open (it was probably the intention of the State that the centers would eventually become self funded). Royalties for Regions initiatives included a significant boost to the annual grant funding and a name change to CRCs. But the need to attract additional funding remains and this is a dilemma for all CRCs.

Some neighboring Councils cap funding to their CRCs, one provides the premises, free of rent, only and another makes a modest additional annual contribution. Based on a nominal rental of \$350 per week (which is what a house in town could attract), Council contributes \$18,200 per year, in foregone rent, to the Boyup Brook CRC. This added to Council's budgeted costs of maintain the property and the apportioned share of administration costs of \$8,000, Council's annual support

is in the order of \$26,000, which inching closer to being half of the State's annual contribution without adding any other donations Council may make. CRC's are a State initiative and the provided/requested assistance is another example of cost shifting.

In summary then, Council should be cautious about revisiting previous decisions, CRCs are a State initiative but Council contributes annually nearly half as much as the State does (if Council agrees to the donation then the funding will be more than half), the CRC is at liberty to provide any services it wishes but Council does not have to provide the funds for this.

RECOMMENDATION

That Council does not support the motion.

If however Council does wish to support the motion it will need to be reworded and the following wording is suggested:

That the Boyup Brook Community Resource Centre's request for a donation of \$5,000 to provide weekly afterschool activities for young people in the community, which was previously denied, be reassessed.

That the Boyup Brook Community Resource Centre Manager be invited to speak to its request at a meeting of Council.

MOTION

MOVED: Cr Muncey

SECONDED: Cr Rear

That the request for funding Youth Services be readdressed.

That the CRC. Manager be invited to put the case to the full council.

AMENDMENT

MOVED: Cr Blackburn

SECONDED: Cr Muncey

That the request for funding Youth Services be readdressed.

That the CRC. Manager be invited to put the case to the full council in reference to next years budget.

LOST 2/7

Res 137/15

MOVED INTO COMMITTEE

MOVED: Cr Blackburn

SECONDED: Cr Aird

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

CARRIED 9/0

Res 138/15

MOVED OUT OF COMMITTEE

MOVED: Cr Moir

SECONDED: Cr Imrie

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

CARRIED 9/0

Res 139/15

Cr Rear left the Chambers at 6.36pm

Cr Rear returned on 6.37pm

WITHDRAWN

With agreement of Cr Rear, who seconded the motion, Cr Muncey withdrew his motion.

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

The President noted the following late items to the meeting and, without dissent, agreed to deal with them.

11.1.1 Aged Accommodation

<i>Location:</i>	<i>various</i>
<i>Applicant:</i>	<i>N/A</i>
<i>File:</i>	
<i>Disclosure of Officer Interest:</i>	<i>None</i>
<i>Date:</i>	<i>14 December 2015</i>
<i>Author:</i>	<i>Alan Lamb</i>
<i>Authorizing Officer:</i>	<i>Chief Executive Officer</i>
<i>Attachments:</i>	<i>Nil</i>

SUMMARY

The purpose of this report is to put to Council the opportunity, that the pending sewerage scheme now allows, to look at the Lot 1 Forrest Street Site before spending any further funds on the Hospital Road site.

BACKGROUND

The following is an excerpt from the CEO's report to the August 2014 Council meeting:

Before looking at sites and the like perhaps it is important to differentiate between the various types of development. Before doing so though, it should be noted that aged accommodation is the general term used for over 55's accommodation where the residents are not in need or care.

One is the lifestyle village; these are generally operated under the caravan and camping legislation that requires units to be capable of being moved within 24 hours. This style of development is ideal in areas that may be subject to flooding and was popular at caravan parks and other developments in low lying areas. Councillors looked at two such developments, one at Serpentine, which was next to a caravan park, and another at Mandurah. The Mandurah development had no short stay accommodation. Both featured accommodation units that had wheels and so could be moved. Council also looked at a retirement village in Bridgetown. This operated under the Retirement Villages legislation and the units were not transportable.

1 Forrest Street

This lot is owned freehold by the Shire and it contains the old bowling green opposite the Shire Depot. The cost estimates done in 2012 were based on a 5 unit development. Subsequent work done with a potential developer indicated the site may accommodate 6 to 10 units. This site is less than 4,000m² and so, without sewerage scheme is limited to 3 units, if strata titling, or 4 units if developed as a group dwelling.

Landcorp is currently working with Council, together with SWDC, on maximising the potential for this site by pursuing a sewerage scheme for at least part of Boyup Brook. This partnership with Landcorp is vital to the town sewerage push and would be jeopardised if this lot was developed now (that is Landcorp's interest is in facilitating development of this site and the lack of a scheme is the barrier)

The cost indication for developing the site and erecting five units on it was \$1.320M.

Life style village

Council looked at a lifestyle village style of development and selected a potential site. No detail of a site is provided here because no site has been selected. However based on the cost estimates done for the site looked at in 2012, for a 30 lot development (with no accommodation units) was Just under \$3m.

At the same time Council looked at a similar development for the flax mill area (held by the Shire under a Crown Grant). This area would require fill to bring the area up above the 1 in 100 year flood level, and there would still be a potential for flooding given its proximity to the Blackwood River. The cost estimate for a 30 lot

development on this site was just over \$2.5m. Again this did not include the cost of units.

Land near the lodge and hospital

This area was looked at in 2012 and recent talks with the Health Department indicate opportunities for a development there to use Lodge facilities. This area comprises three lots managed by the Shire (two Reserves and one Crown Grant). Talks with the Health Department have indicated an opportunity to have some of its Reserve transferred to Shire management, and so expanding the area available to Council.

A five lot development was estimated to cost in the order of \$1.6m in 2012.

It should be noted that these cost estimates resulted from a desktop exercise and based on average costs at that time. Design, geotechnical investigation and the like could have a significant impact on the costs. However, these cost indications are valid for the purpose of comparing opportunities prior to embarking on the, often costly, exercise of more detailed planning and costing.

In summary, lot 1 is the key to Landcorp support for a sewerage scheme and so, it is recommended, should not be considered at this time. This site may be an opportunity for partnering with a State agency, once the sewer is in, where Council provides the land and the agency provides the buildings. These units are then generally rented to people who qualify for housing assistance; it could still be an aged accommodation development.

The flax mill would be an ideal area for a lifestyle village type of development, once it is filled, and Council would not have to purchase any land to do the development. The site, to be purchased, may not be low lying, and so might be an option for a retirement village style of development, as an alternative to the lifestyle type previously considered. Both of these options exceed the \$2m Council budgeted for this project and do not include accommodation units, and so it is recommended that these be left as future options to be looked at later.

The area near the Lodge and Hospital looks to be within the budget to develop now, and so it is recommended that Council commence more in depth work on this site. If Council agrees to this, the process would be staged and reported on to Council so that there would be the opportunity to cease further work, and move to an alternative, if that was Council's direction.

Preliminary talks with State Land Services, indicate that it would be best to seek to have the whole of the land managed by the Shire, converted into one Crown Grant, as this would remove the leasing constraints, particular to Reserves, and allow whole of life leases direct between Council and the resident.

At this meeting, held 21 August 2015, Council resolved as follows:

- 1. That Council resolve to commence the process of further evaluating the development of the area of Shire controlled land, bounded by Bridge Street and Hospital Road, for the purpose of aged accommodation.**
- 2. That Administration develop a plan, that meets legislative requirements for the purposes of a major land transaction, and report back to Council prior to commencing the public consultation process.**
- 3. That Administration commences the process of having a portion of the Health Department's Hospital Reserve transferred to Council's control.**
- 4. That Administration commences the process of seeking to have the three lots managed by the Shire (lots 347, 367 and 381), plus any of the Health Department's Reserve that might be transferred to Shire control, amalgamated into a form that best facilitates 'lease for life' arrangements between two parties only, and does not involve the purchase of land.**

Council's decision of last August will have been influenced by restrictions on the number of units that Council may be built on Lot 1 Forrest Street with out a sewerage scheme. Since that decision, it has been established that the Water Corporation is working on a STED sewerage scheme for Boyup Brook, that it is; likely it will service the whole of the town, that it is planned to be operational by 2018 and that Council could obtain a letter, from Water Corporation, advising the scheme was to be built and that the Health Department may then allow a more dense development to commence and allow a temporary on site disposal system.

In relation to 1 above, the process of further evaluating the Hospital Road site commenced and a preliminary layout and cost estimate, for the whole of the site and for stage one, was provided to Council. Based on this, Council agreed to engage Opus to detailed design for stage 1. This design work has been put on hold pending Council's confirmation that it wants to move forward with the Hospital Road project now or if it would prefer to engage opus to conduct a study and cost estimate (to the same level as it did for the Hospital Road site) for Lot 1 Forrest Street, so that it may better compare the two options.

2 above has been completed for the Hospital Road site. 3 is all but completed in that the Health Department has formally approved the transfer of a portion of its reserve and now the process is in the hands of State Land Services to finalise (could take 12 months). Further enquiries have been made with State Land Services regarding Crown Grant vs Crown Reserve.

COMMENT

Both sites have issues that need to be resolved but the lot 1 Forrest Street site is flatter and so sites costs will be less. The modular building company representative who viewed both sites recommended that Lot 1 should be done first and Council's town planning adviser recommends that Council should

consider a less dense development for the Hospital Road site that might better fit in with the topography and so cost less to develop.

<u>Site</u>	<u>For</u>	<u>Against</u>
Hospital Road	Crown Grant or Reserve managed by the Shire so no need to purchase	Can never be sold, Minister for lands approval for every lease.
Hospital Road	May be able to access site before process completed	Amalgamation of Grant/Reserve will take around 12 months
Hospital Road	Close to Lodge /Hospital and so residents may have access to Lodge facilities, panic button and meals (for a fee). Some see this close proximity as desirable.	Some see this close proximity as undesirable
Hospital Road		Typography, need to clear and relocate croquet field make the site works cost relatively high.
Hospital Road		DFES bushfire prone areas mapping shows the whole of this site is potentially Bushfire Prone. A Bushfire Attack Level assessment will be required and may lead to the need for upgrades to building material/design.

<u>Site</u>	<u>For</u>	<u>Against</u>
Lot 1 Forrest Street	Freehold land so could be sold as one lot or subdivided or leased without the need for Minister for lands approval	
Lot 1 Forrest Street	WAPC has advised that assistance would be provided which may reduce the time taken for the rezoning..	Zoned for recreation so rezoning required. Process is likely to cost \$2,500 for the Planner and Council may be asked to do a land

		capability study, perhaps a similar amount, plus advertising etc, say \$6,000 in total. The rezoning may take 12 months take
Lot 1 Forrest Street	Relatively flat site with very limited clearing and so development costs will be lower per lot than for the Hospital Road site	
Lot 1 Forrest Street		DFES bushfire prone areas mapping shows part of this site is potentially Bushfire Prone. A Bushfire Attack Level assessment will be required and may lead to the need for upgrades to building material/design.
Lot 1 Forrest Street	Depending on expected development costs, may require a Major Land Transaction Plan to be developed, advertised and adopted by Council.	Depending on expected development costs, may not require a Major Land Transaction Plan to be developed, advertised and adopted by Council.

Council now has a reasonable cost estimate for stage 1 of the Hospital Road site (\$679,000 ex GST, for 11 lots, \$62,000 per lot) and it would be prudent to now obtain similar costs for the Lot 1 Forrest Street site. The latter should be less and so would allow Council to provide this accommodation opportunity to residents, and others, at a lower price than would have to be charged, to cover costs, for the Hospital Road site.

CONSULTATION

The author has spoken with the town planning consultant, Opus and other staff

STATUTORY OBLIGATIONS

The Local Government Act provides as follows for commercial enterprises by Local Governments. In terms of a major land transaction, the proposed matter

does not entail the purchase of land but it does entail the development of land. Regulations set the trigger value for a major land transaction at \$2m or 10% of operating expenditure in the last financial year. We are still waiting for the audit to be completed but at the time of writing the annual accounts showed \$6,340,411. (The 2015/16 budget shows a forecast operating expenditure of \$7,207,825. This compares to a budget of \$5,224,048 for 13/14 and \$5,857,560 for 14/15), 10% of this is \$634,041. It is expected that the development costs for Lot 1 Forrest Street would not exceed this amount, if so no Plan is required.

3.59. *Commercial enterprises by local governments*

(1) *In this section —*

acquire *has a meaning that accords with the meaning of* **dispose**;

dispose *includes to sell, lease, or otherwise dispose of, whether absolutely or not;*

land transaction *means an agreement, or several agreements for a common purpose, under which a local government is to —*

- (a) *acquire or dispose of an interest in land; or*
- (b) *develop land;*

major land transaction *means a land transaction other than an exempt land transaction if the total value of —*

- (a) *the consideration under the transaction; and*
- (b) *anything done by the local government for achieving the purpose of the transaction,*

is more, or is worth more, than the amount prescribed for the purposes of this definition;

major trading undertaking *means a trading undertaking that —*

- (a) *in the last completed financial year, involved; or*
- (b) *in the current financial year or the financial year after the current financial year, is likely to involve,*

expenditure by the local government of more than the amount prescribed for the purposes of this definition, except an exempt trading undertaking;

trading undertaking *means an activity carried on by a local government with a view to producing profit to it, or any other activity carried on by it that is of a kind prescribed for the purposes of this definition, but does not include anything referred to in paragraph (a) or (b) of the definition of* **land transaction**.

(2) *Before it —*

- (a) *commences a major trading undertaking; or*
- (b) *enters into a major land transaction; or*

- (c) *enters into a land transaction that is preparatory to entry into a major land transaction,*

a local government is to prepare a business plan.

- (3) *The business plan is to include an overall assessment of the major trading undertaking or major land transaction and is to include details of —*
 - (a) *its expected effect on the provision of facilities and services by the local government; and*
 - (b) *its expected effect on other persons providing facilities and services in the district; and*
 - (c) *its expected financial effect on the local government; and*
 - (d) *its expected effect on matters referred to in the local government’s current plan prepared under section 5.56; and*
 - (e) *the ability of the local government to manage the undertaking or the performance of the transaction; and*
 - (f) *any other matter prescribed for the purposes of this subsection.*

- (4) *The local government is to —*

- (a) *give Statewide public notice stating that —*
 - (i) *the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction; and*
 - (ii) *a copy of the business plan may be inspected or obtained at any place specified in the notice; and*
 - (iii) *submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*

and

- (b) *make a copy of the business plan available for public inspection in accordance with the notice.*

- (5) *After the last day for submissions, the local government is to consider any submissions made and may decide* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed.*

** Absolute majority required.*

- (5a) *A notice under subsection (4) is also to be published and exhibited as if it were a local public notice.*

- (6) *If the local government wishes to commence an undertaking or transaction that is significantly different from what was proposed it can only do so after it has complied with this section in respect of its new proposal.*
- (7) *The local government can only commence the undertaking or enter into the transaction with the approval of the Minister if it is of a kind for which the regulations require the Minister's approval.*
- (8) *A local government can only continue carrying on a trading undertaking after it has become a major trading undertaking if it has complied with the requirements of this section that apply to commencing a major trading undertaking, and for the purpose of applying this section in that case a reference in it to commencing the undertaking includes a reference to continuing the undertaking.*
- (9) *A local government can only enter into an agreement, or do anything else, as a result of which a land transaction would become a major land transaction if it has complied with the requirements of this section that apply to entering into a major land transaction, and for the purpose of applying this section in that case a reference in it to entering into the transaction includes a reference to doing anything that would result in the transaction becoming a major land transaction.*
- (10) *For the purposes of this section, regulations may —*
 - (a) *prescribe any land transaction to be an exempt land transaction;*
 - (b) *prescribe any trading undertaking to be an exempt trading undertaking.*

[Section 3.59 amended by No. 1 of 1998 s. 12; No. 64 of 1998 s. 18(1) and (2).]

3.60. *No capacity to form or acquire control of body corporate*

A local government cannot form or take part in forming, or acquire an interest giving it the control of, an incorporated company or any other body corporate except a regional local government unless it is permitted to do so by regulations.

Local Government (Functions and General) Regulations provide the following for major land transactions and joint ventures, however neither apply to this matter:

Part 3 — Commercial enterprises by local governments (s. 3.59)

7. *Term used: major regional centre*

(1) *In this Part —*

major regional centre *means a local government the district of which —*

- (a) *is not in the metropolitan area; and*
 - (b) *has more than 20 000 inhabitants.*
- (2) *Section 2.4(6) of the Act applies to determine the number of inhabitants of a district for the purposes of the definition of **major regional centre**.*

[Regulation 7 inserted in Gazette 27 Sep 2011 p. 3843-4.]

8A. *Amount prescribed for major land transactions; exempt land transactions prescribed (Act s. 3.59)*

- (1) *The amount prescribed for the purposes of the definition of **major land transaction** in section 3.59(1) of the Act is —*
- (a) *if the land transaction is entered into by a local government the district of which is in the metropolitan area or a major regional centre, the amount that is the lesser of —*
 - (i) *\$10 000 000; or*
 - (ii) *10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year;*

or

 - (b) *if the land transaction is entered into by any other local government, the amount that is the lesser of —*
 - (i) *\$2 000 000; or*
 - (ii) *10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year.*
- (2) *A land transaction is an exempt land transaction for the purposes of section 3.59 of the Act if —*
- (a) *the total value of —*
 - (i) *the consideration under the transaction; and*
 - (ii) *anything done by the local government for achieving the purpose of the transaction,*

is more, or is worth more, than the amount prescribed under subregulation (1); and
 - (b) *the Minister has, in writing, declared the transaction to be an exempt transaction because the Minister is satisfied that the amount by which the total value exceeds the amount prescribed under subregulation (1) is not significant taking into account —*
 - (i) *the total value of the transaction; or*
 - (ii) *variations throughout the State in the value of land.*

[Regulation 8A inserted in Gazette 27 Sep 2011 p. 3844.]

8. *Exempt land transactions prescribed (Act s. 3.59)*

- (1) *A land transaction is an exempt land transaction for the purposes of section 3.59 of the Act if the local government enters into it —*
- (a) *without intending to produce profit to itself; and*

- (b) *without intending that another person will be sold, or given joint or exclusive use of, all or any of the land involved in the transaction.*
- (2) *For the purposes of subregulation (1)(b) a person is given joint use of land if the land is to be jointly used for a common purpose by the local government and that person (whether or not other persons are also given joint use of the land).*
- (3) *A transaction under which a local government disposes of a leasehold interest in land is an exempt land transaction for the purposes of section 3.59 of the Act if —*
 - (a) *all or any of the consideration to be received by the local government under the transaction is by way of an increase in the value of the land due to improvements that are to be made without cost to the local government; and*
 - (b) *although the total value referred to in the definition of **major land transaction** in that section is more, or is worth more, than the amount prescribed for the purposes of that definition, it would not be if the consideration were reduced by the amount of the increase in value mentioned in paragraph (a).*

[Regulation 8 amended in Gazette 29 Aug 1997 p. 4867-8.]

9. *Amount prescribed for major trading undertakings; exempt trading undertakings prescribed (Act s. 3.59)*

- (1) *The amount prescribed for the purposes of the definition of **major trading undertaking** in section 3.59(1) of the Act is —*
 - (a) *if the trading undertaking is entered into by a local government the district of which is in the metropolitan area or a major regional centre, the amount that is the lesser of —*
 - (i) *\$5 000 000; or*
 - (ii) *10% of the lowest operating expenditure described in subregulation (2);*
 - or*
 - (b) *if the trading undertaking is entered into by any other local government, the amount that is the lesser of —*
 - (i) *\$2 000 000; or*
 - (ii) *10% of the lowest operating expenditure described in subregulation (2).*
- (2) *The lowest operating expenditure referred to in subregulation (1) is the lowest of —*
 - (a) *the operating expenditure incurred by the local government from its municipal fund in the last completed financial year; and*

- (b) *the operating expenditure likely to be incurred by the local government from its municipal fund in the current financial year; and*
 - (c) *the operating expenditure likely to be incurred by the local government from its municipal fund in the financial year after the current financial year.*
- (3) *A trading undertaking is an exempt trading undertaking for the purposes of section 3.59 of the Act if —*
- (a) *the undertaking —*
 - (i) *in the last completed financial year, involved; or*
 - (ii) *in the current financial year or the financial year after the current financial year, is likely to involve,*
expenditure by the local government of more than the amount prescribed under subregulation (1); and
 - (b) *the Minister has, in writing, declared the transaction to be an exempt transaction because the Minister is satisfied that the amount by which expenditure is, or is likely to be, more than the amount prescribed under subregulation (1) is not significant taking into account —*
 - (i) *the total value of the undertaking; or*
 - (ii) *variations throughout the State in the value of land.*

[Regulation 9 amended in Gazette 31 Mar 2005 p. 1054; 27 Sep 2011 p. 3845.]

10. *Business plans for major trading undertaking and major land transaction, content of*

- (1) *If a local government is required to prepare a business plan because of a major trading undertaking or major land transaction that it is to carry on or enter into jointly with another person —*
- (a) *the business plan is to include details of the whole undertaking or transaction, even though the local government is not the only joint venturer; and*
 - (b) *the business plan is to include details of —*
 - (i) *the identity of each joint venturer other than the local government; and*
 - (ii) *the ownership of, and any other interests in, property that is involved in, or acquired in the course of, the joint venture; and*
 - (iii) *any benefit to which a joint venturer other than the local government may become entitled under or as a result of the joint venture; and*
 - (iv) *anything to which the local government may become liable under or as a result of the joint venture.*

(2) *In subregulation (1) —*

joint venture means the major trading undertaking or major land transaction that is to be jointly carried on or entered into;

joint venturer means the local government or another person with whom the local government is to carry on or enter into the joint venture.

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil. The cost of a study is expected to be \$15,000 and the funds would come from the aged accommodation provision.

STRATEGIC IMPLICATIONS

OUTCOMES	OBJECTIVES	PRIORITIES
Planned development	Create land use capacity for industry	<input type="checkbox"/> Review land-use planning to ensure commercial and industrial opportunities are maximised. <input type="checkbox"/> Advocate for provision of sewerage solutions to permit more intensive land use in town.
Housing needs are met	Facilitate affordable and diverse housing options	<input type="checkbox"/> Review land-use planning to provide housing and land size choices. <input type="checkbox"/> Advocate for the State to develop residential land for release. <input type="checkbox"/> Develop a range of aged accommodation opportunities.

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 11.1.1

MOVED: Cr Aird

SECONDED: Cr Kaltenrieder

1. **That Council engage Opus International Consultants to prepare a feasibility study on developing Lot 1 Forrest Street, to the same level it did for the Hospital Road site, for an aged accommodation development.**
2. **That, following receipt of the feasibility study, Council reviews the two development options with a view to then committing to and moving forward with the development of one site.**

Cr Muncey left the Chambers at 7.01pm

Cr Muncey returned to the Chambers at 7.02pm

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 140/15

11.1.2 Boyup Brook District High School Committee
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MOVED: Cr Aird

SECONDED: Cr Moir

That Cr Rear be appointed as the Council Representative on the Boyup Brook District High School Committee.

CARRIED 9/0

Res 141/15

Rob Staniforth-Smith left the Chambers at 7.05pm

Stephen Carstairs left the Chambers at 7.05pm

12 CONFIDENTIAL MATTERS – BEHIND CLOSED DOORS

12.1.1 Gratuitous payment – Past Pool Manager – Confidential item

MOVED: Cr Aird

SECONDED: Cr Oversby

That Council make a gratuitous payment to Mr David Millington, in accordance with Regulation 19 A of the Local Government (Administration) Regulations of the maximum allowable, in recognition of his 41 years of exemplary service to the Shire and community of Boyup Brook

CARRIED 8/1

Res 142/15

Request for Vote to be recorded

Cr Giles requested the votes to be recorded

FOR

AGAINST

Cr Aird

Cr Muncey

Cr Oversby

Cr Moir

Cr Kaltenrieder

Cr Giles

Cr Imrie

Cr Blackburn

12.1.2 CEO Annual Review – Confidential item

COUNCIL DECISION

MOVED: Cr Kaltenrieder

SECONDED: Cr Oversby

1. Assess the performance of the Chief Executive Officer as Satisfactory.

CARRIED 9/0

Res 143/15

MOVED: Cr Kaltenrieder

SECONDED: Cr Blackburn

2. Approve a remuneration package increase of 1.8%.

CARRIED 6/3

Res 144/15

Request for Votes to be recorded

Cr Giles requested that the vote of all Councillors be recorded.

FOR	AGAINST
Cr Muncey	Cr Aird
Cr Rear	Cr Giles
Cr Moir	Cr Oversby
Cr Imrie	
Cr Kaltenrieder	
Cr Blackburn	

MOVED: Cr Oversby

SECONDED: Cr Moir

- 3. Allow the officer to take more of the remuneration package as a superannuation component that the 12% provided for in the contract provided that the amount is in keeping with current superannuation legislation.**

CARRIED 9/0

Res 145/15

MOVED: Cr Kaltenrieder

SECONDED: Cr Muncey

- 4. Agree to the following performance criteria for the coming year:**
- **Provide accurate and timely advice to the Council.**
 - **Annual review of all relevant long term plans, as part of the budget preparation process and to add the new tenth year, to Council for adoption by 30 June each year.**
 - **Draft budget to Council for adoption by 31st July each year.**
 - **Maintain a high level of financial control and reporting as assessed by periodic audits and financial systems reviews.**
 - **Ensure progress of projects approved by Council in the Corporate Business Plan i.e. achievements of specific milestones as they appear in the Strategic, Business and Long Term Financial Plans.**
 - **Strategic Community Plan review completed and before Council by 30 April 2016.**

CARRIED 9/0

Res 146/15

13 CLOSURE OF MEETING

There being no further business the Shire President thanked all for attending and declared the meeting closed at 7.38pm.