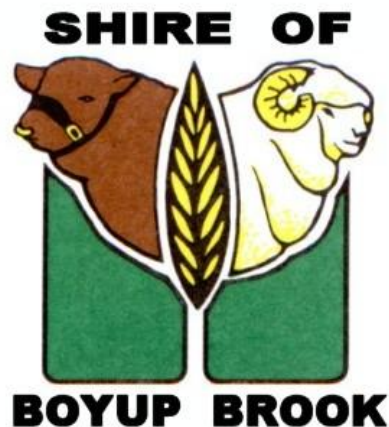


# Minutes



## **SPECIAL COUNCIL MEETING**

held

**THURSDAY 27 September 2018**  
**Commenced AT 6.00PM**

**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 G Aird – Shire President  
Cr R Walker - Deputy Shire President  
Cr S Alexander  
Cr P Kaltenrieder  
Cr Moir  
Cr H O'Connell  
Cr E Rear

STAFF: Mr Alan Lamb (Chief Executive Officer)

PUBLIC: Mr M Wright  
Mr P Broockmann

**1.2 Apologies**

Cr T Oversby  
Cr E Muncey

**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**

**4 REPORTS OF OFFICERS**

## **NOTE**

The President noted that the Chairman and Deputy Chairman of the Boyup Brook Co-Operative were in attendance to talk on, and hear Council's determination regarding, Item 4.3.3 Reserve 33552 - Saleyards - Purchase to develop for industrial uses. This being the case, the President, without dissent, moved this item forward to be dealt with first.

Mr Wright spoke of the need for a light industry/commercial development and noted that the Co-Operative had two businesses interested in setting up at the Saleyards facility once it was ready.

Mr Broockmann also spoke of the need and the Co-Operative's good track record with assisting other businesses to get started in Boyup Brook.

### **4.3 CHIEF EXECUTIVE OFFICER**

<b>4.3.3 Reserve 33552 - Sale yards - Purchase to develop for industrial uses</b>
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<b>Location:</b>	<i>Bridgetown Boyup Brook Road</i>
<b>Applicant:</b>	<i>N/a</i>
<b>File:</b>	<i>Reserve 33552</i>
<b>Disclosure of Officer Interest:</b>	<i>None</i>
<b>Date:</b>	<i>9 April 2018</i>
<b>Author:</b>	<i>Alan Lamb</i>
<b>Authorizing Officer:</b>	<i>Chief Executive Officer</i>
<b>Attachments:</b>	<i>Nil</i>

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## **SUMMARY**

The purpose of this report is to put before Council Department of Planning, Lands and Heritage (DPLH) value for sale with the recommendation that Council accepts it and authorises the relevant documents to be signed and sealed.

## **BACKGROUND**

The following was provided to the December 2017 Council meeting under Background:

*The saleyard reserve has not been used for sheep sales for a number of years. In 2008 Council leased the area to a local cartage contractor as a short term storage facility for relatively small lots of sheep, from various owners, to make up truck loads to cart to market and a truck wash down facility.*

*It is understood that the yards were used for perhaps one sale during the term of the lease and on two other occasions, making three sales since 2008.*

*After the lease terminated (2012) Council looked at using grant funds, available at the time, to upgrade the yards which had been assessed to be unsafe to use for sales. The cost was prohibitive so Council decided to keep the yards for aggregating loads and truck wash down, as there was a demand for this use at the time. Grant funding was used to upgrade the wash down facility to bring it up to required standards.*

*Some of the yards and the wash down facility are used now by one local cartage operator.*

*Council agreed to the Rylington Park Management Committee's request to remove some of the yards, primarily, for use at Rylington Park (a Shire owned property). The removal works is a staged affair with some of the yards having been moved already and others to be removed later in stages.*

*Council has looked at a number of sites over a number of years for the purpose of establishing a light industrial/commercial area. The site that was selected as being most suitable is the saleyards. It has a good buffer but still close to town. On a main road, large enough etc. In order to share the risk of a site not being leased, the Cooperative and Council talked about partnering on an initiative. Council would provide and develop the land and the Cooperative would build and lease the premises. No commitments were made.*

*In October 2015 Council resolved as follows:*

***That Council apply to the Minister for Lands to amend the Purpose of Reserve 33552 to include light industrial/commercial use.***

*This request was communicated to State Land Services. In January 2016 the reply was that the light industry/commercial purpose could not be applied over the reserve. Options offered were for the State to cancel the reserve and have a direct lease with the Shire and Department of Lands or a development lease with an option to purchase under section 85 of the Land Administration Act. There was also the option to seek to purchase.*

*The Boyup Brook Cooperative (BBC) wrote to Council seeking to have the saleyard area fast tracked to enable them to lease an area and establish a premises for a local person wanting to set up a business in Boyup Brook.*

*The following was provided to the December 2017 Council meeting under Comment:*

*Almost all of the process relating to the saleyards land rests with the State Government as the "owner" so Council could not speed the process up. It is*

*recommended however that the matter be progressed to a point where Council will be in a position to move on a lease, when ever it wants to, regardless of what eventuates with the current enquiry.*

### **OPTIONS/CONSTRAINTS**

*Before moving on it may be best to review the various ways in which the Shire may have control over the land.*

*Crown Reserves - these are parcels of Crown Land set aside for a specific purpose. The state government controls these and may issue management orders to entities such as the Shire. Where the Shire has management it cannot sell but may lease if the management order permits this. The State remains the "owner" and so has to be a party to any lease, so there are three parties, the State, the lessor (the Shire) and the lessee. Leases are limited to a maximum of 21 years. The State may divest a Reserve to allow it to be held by the Crown (the State Government) in fee simple to allow it to be sold.*

*Crown land leases - the state may lease Crown land. There does not appear to be a restriction on the term or the conditions which may apply. The legislation mentions sub-leases and so that is clearly possible but it is not clear if the State has to be a party to any sub-leases. This option has been put forward, by a Lands Department (DL) officer, with regard to the saleyards.*

*Conditional purchase leases - the State may agree to a purchase price, or not as the case may be, up front then lease to an entity till the entity makes the purchase. Whilst this option was not put forward for the sale yards it was for the Hospital Road land.*

*Purchase - once the State holds the land in fee simple it may sell it to the Shire but this would be a market price, as determined by the Valuer General.*

*If the intention is for the Shire to lease to the Cooperative with the power for the Cooperative to sub-lease then adding the State into the equation could be messy. Lessors almost always retain the right to vet who their lessees sub-lease to so if there would be the State, then the Shire, then the Cooperative then their lessee in a chain of approvals, which may be complicated with input, and may protract the process.*

*At this point we have no financial information on what the purchase price might be, what the annual lease rental would be and what the development costs might be. The DL would use market values for the first two and so based on previous dealings it is suggested that the purchase price might be in the order of \$200,000 and that annual rental between \$5,000 and \$10,000 per annum. Development costs will depend on what is to be done to the site, the size of the development etc. A cost in excess of \$100,000 is expected. No provision was made in the current budget for this project. Based on DL time estimates, experience working with DL, the recent staff downsizing exercises etc, it is expected that Council would*

*not get to the point of having to pay rent or purchase price in the current financial year.*

*It is apparent from the attached image that the saleyards development has encroached into the adjoining Water Corporation managed Reserve. It is understood that for the light industry/commercial site to work it needs semi trailer configuration right around the site and it is not clear if this could be achieved within the boundaries of the site so a feature survey will be required (around \$2,000).*

*Similarly, part of the saleyards wash down facility appear to encroach onto the adjoining portion of Reserve 16199 also managed by the Shire. It may be necessary and perhaps wise to seek to have this portion of Reserve 16199 amalgamated into Reserve 33552. Whilst it would make sense to do this ahead of any changes, or as part of them, to the tenure of 33552, it should not be seen as a high priority in case it protracts the process (there are a number of things that might come up such as the class of the reserve, rare and endangered species and the like).*

*It is vital the survey company engaged has electronic plan capability so that the plan they create, with contours features, boundaries etc can be used as the basis for all other planning. Then the required ring road, using the relevant vehicle configuration templates, drawn on the plan. This would result in a plan showing the available space for business operations. At this point Council and the Cooperative should confirm if the area is sufficient and how any shed, or other, structures should be configured so that these could be included on a concept plan (essentially an overlay on the survey plan with the road shown The road design and concept plan together with indicative cost estimates will cost in the order of \$5,000 to \$8,000). This expenditure would occur in the current financial year and here is no funding in the current budget for associated costs.*

*When trying to move forward promptly with projects the understandably constraining purchasing policy requirements protract the process. The recommendation will include nominating a consultant in order to negate the need for quotations. The consultant named is one the Shire has been using for the Aged Accommodation studies and planning. The firm is Opus and the contact is Dr Danny Burkett. Opus is in the process of being purchased by a larger organisation and so will have increased and broader capability.*

### **Way Forward**

*In an ideal world, the survey, road and concept design would be completed before any further work/cost was incurred. But here Council has a golden opportunity to partner with another important local organisation and have a business up and running as soon as construction is completed. So at the same time we will need to make application to DL so that the relevant, and lengthy, processes of that department, can commence ASAP. The following recommendation is crafted to*

*capture relevant needs, allow the matter to progress without constant reference back to Council.*

*It is recommended that Council:*

- 1. Authorise the CEO to engage a suitable survey firm to conduct a feature survey of Reserve 33552 and engage Dr Danny Burkett of Opus International Consulting (Australia), for concept options and indicative costs, with the cost (estimated to be \$10,000) to be included in the upcoming budget review with a view to offsetting this with identified savings.*
- 2. Apply to have Reserve 33552 cancelled and a title created*
- 3. Set its preference for options to lease or own the land in the following order:*
  - 3.1 Outright purchase*
  - 3.2 Lease with an option to purchase*
  - 3.3 Lease*
- 4. Authorise the CEO to make application to the Minister for Lands to cancel Reserve 33552 and for the Shire to acquire the land in a manner appropriate to order of preference set in point 3 of this resolution.*
- 5. The CEO to report back to Council in February 2018 on the progress of this matter.*

Council passed the following resolution at that meeting:

***That Council:***

- 1. Apply to have Reserve 33552 cancelled and a title created***
- 2. Set its preference for options to lease or own the land in the following order:***
  - 3.1 Lease***
  - 3.2 Lease with an option to purchase***
  - 3.3 Outright purchase***
- 1. Authorise the CEO to make application to the Minister for Lands to cancel Reserve 33552 and for the Shire to acquire the land in a manner appropriate to order of preference set in point 3 of this resolution.***
- 2. Authorise the CEO to engage a suitable survey firm to conduct a feature survey of Reserve 33552 and engage Dr Danny Burkett of Opus International Consulting (Australia), for concept options and indicative costs, with the cost (estimated to be \$10,000) to be included in the upcoming budget review with a view to offsetting this with identified savings***



***That the CEO report back to Council in February 2018 on the progress of this matter.***

Council Resolution Status Report for February 2018, to the Briefing Session, contained a progress update as did the Report for March.

DPLH provided the following market valuations, to assist with the decision making process. They are yet to be approved as well as any actual proposal from Council:

- Market value - \$140,000 ex GST
- Annual market Rental Value - \$5,000 ex GST

At the April 2018 Ordinary meeting of Council resolved as follows:

***That Council resolve:***

- 1. to purchase Reserve 33552, Saleyards,***
- 2. that the CEO advise the Department of Planning, Lands and Heritage of this decision.***
- 3. that the CEO include the cost to purchase in the draft 2018/19 budget and other relevant planning documents.***

The officer report to the April meeting contained the following comment:

*As will be seen, the valuations are not as high as may have been expected. To put the purchase price into perspective, the lease option would amount to the purchase price in 28 years (less really as the cost of the rental is bound to have an inflation factor). Purchasing would make the process of developing and leasing (or later subdividing, or strata titling, and selling) etc easier as there would be no need to include the Minister for Lands as a co approver/signatory.*

*What ever is the decision it is expected to take six months before the title or lease is in place.*

*It is recommended that Council take the purchase option and plan to pay for the land in 2018/19.*

#### **COMMENT**

The Department of Planning Lands and Heritage (DPLH) has confirmed that the value is \$140,000, as previously reported. The cost then is \$140,000 plus GST, a total payment of \$154,000. In addition there will be a DPLH Document Preparation fee of \$976.00 and there may be settlement fees.

The offer is valid for two months but given the urgency Council has placed on this, the matter is put forward as a late item in order for the purchase process to be progressed.

## **CONSULTATION**

This matter has been before Council in the past. The author spoke with the Cooperative management committee Chairperson previously and the Shire President. Also with DPLH officers.

## **STATUTORY OBLIGATIONS**

Then following sections of the Land Administration Act have relevance:

### **79. Minister's powers as to lease of Crown land**

- (1) Subject to Part 7, the Minister may grant leases of Crown land for any purpose and may, without limiting the generality of that power —*
  - (a) grant leases of Crown land by public auction, public tender or private treaty; and*
  - (b) fix the duration of any such lease; and*
  - (c) determine rentals, premiums, conditions and penalties in respect of any such lease; and*
  - (d) require a performance bond in respect of any such lease.*
- (2) The Minister may pay a commission to a person acting on behalf of the Minister in the granting of leases of Crown land.*
- (3) Without limiting the generality of conditions referred to in subsection (1)(c), those conditions include —*
  - (a) options for renewal of leases granted; and*
  - (b) options to purchase the fee simple of the Crown land leased, under subsection (1), and conditions for the variation of those conditions.*
- (4) The Minister may at any time extend the term of a lease, other than a pastoral lease, having effect under this Act or vary the provisions of such a lease.*
- (5) Any sublease or other interest granted under a lease —*
  - (a) the term of which is extended; or*
  - (b) the provisions of which are varied, under subsection (4) continues to have effect insofar as it is permitted to do so by that extension or variation.*

### **80. Conditional purchase leases**

- (1) In this section —*

***conditional purchase lease** means conditional purchase lease granted under subsection (2).*

- (2) *The Minister may grant to an applicant a conditional purchase lease of any Crown land.*
- (3) *A conditional purchase lease may be granted —*
  - (a) *for such term and subject to the payment of such rental, instalments and interest as the Minister thinks fit; and*
  - (b) *on condition that improvements specified in the conditional purchase lease are made within the period so specified; and*
  - (c) *on such other conditions and subject to such covenants, reservations or exemptions as the Minister thinks fit or as are prescribed.*
- (4) *When the Minister is satisfied that the lessee under a conditional purchase lease —*
  - (a) *has made improvements specified in the conditional purchase lease under subsection (3)(b); and*
  - (b) *has complied with all conditions, covenants, reservations and exemptions to which the conditional purchase lease is subject, the Minister must transfer that Crown land in fee simple to that lessee —*
  - (c) *if a purchase price was fixed when the conditional purchase lease was granted, on payment to him or her of the full purchase price, whether or not paid by rental that the conditional purchase lease provides or the Minister agrees may be offset against the purchase price, together with any other outstanding rental or outstanding interest as the Minister may require the lessee to pay before the Crown land is transferred to the lessee; or*
  - (d) *if a purchase price was not fixed when the conditional purchase lease was granted, on payment to him or her of the full purchase price, which price is to be fixed by the Minister or calculated in accordance with the terms of the conditional purchase lease, together with any other outstanding rental or outstanding interest as the Minister may require the lessee to pay before the Crown land is transferred to the lessee.*
- (5) *In determining whether under subsection (4)(c) or (d) the full purchase price has been paid, the Minister is to offset against the price fixed by him or her or calculated in accordance with the terms of the conditional purchase lease any rental payment that the conditional purchase lease provides or the Minister agrees may be offset against the purchase price.*
- (6) *If the lease is mortgaged, is affected by another interest or is subject to a caveat and the lessee, during the continuance of the mortgage, other interest or caveat, becomes entitled under subsection (4), the mortgage, other interest or caveat is by operation of this subsection*

*transferred to the fee simple and applies to the fee simple when transferred in all respects as if the fee simple had been referred to in the mortgage, other interest or caveat and has the same effect in respect of the fee simple as if it were a mortgage, other interest or caveat under the TLA.*

*[Section 80 amended by No. 59 of 2000 s. 20.]*

**81. Surrender of lease of Crown land**

- (1) The Minister may accept the surrender of a lease from the lessee of the relevant Crown land in respect of the whole or any part of the area to which the lease applies.*
- (2) On the acceptance of the surrender of a lease of Crown land under subsection (1), any sublease under that lease, and any interest or caveat dependent on such a sublease, continue to subsist unless that sublease is forfeited under section 35 or otherwise terminates according to law.*
- (3) The Minister may by order, with the consent of the relevant sublessee, vary the conditions to which a sublease which continues to subsist by virtue of subsection (2) is subject.*

**Division 4 — Provisions not restricted to either sale or leasing of Crown land**

**82. Revesting land held by Crown in fee simple in Crown**

- (1) The Minister may by order revest in the Crown, with or without existing encumbrances, land held by the Crown in fee simple.*
- (2) Land revested under subsection (1) is Crown land and may be dealt with accordingly by the Minister under this Act.*

**83. Transfer etc. of Crown land to advance Aboriginal people**

- (1) The Minister may for the purposes of advancing the interests of any Aboriginal person or persons —*
  - (a) transfer Crown land in fee simple; or*
  - (b) grant a lease of Crown land, whether for a fixed term or in perpetuity, to that person or those persons, or to an approved body corporate, on such conditions as the Minister thinks fit in the best interests of the person or persons concerned.*
- (2) Subsection (1) does not limit the right of any Aboriginal person, or a body corporate, to apply for and acquire an interest in or the fee simple of Crown land under any other provision of this Act.*
- (3) In subsection (1) —*

*approved body corporate means a body corporate that the Minister is satisfied —*

- (a) *is to hold the land or the lease in trust for the Aboriginal persons concerned; or*
- (b) *has a membership that comprises only the Aboriginal persons concerned.*

*[Section 83 inserted by No. 61 of 1998 s. 5.]*

**84. Auctioneers of Crown land, functions of**

- (1) *If Crown land is to be sold in fee simple or leased by public auction on behalf of the Minister by —*
  - (a) *an employee, the employee may so sell or lease without being the holder of a licence under the Auction Sales Act 1973; or*
  - (b) *a person who is not an employee, that person must be the holder of a licence under the Auction Sales Act 1973 and may so sell or lease on a commission basis.*
- (2) *A person acting as auctioneer for the purposes of the sale in fee simple or lease of any Crown land on behalf of the Minister may —*
  - (a) *set the monetary levels at which bids may be made; and*
  - (b) *negotiate that sale or lease with the highest bidder if the bidding does not reach the reserve price for the fee simple or lease of that Crown land.*

**85. Sale etc. of Crown land subject to condition etc. it be subdivided**

- (1) *The Minister may —*
  - (a) *sell the fee simple in; or*
  - (b) *lease with option to purchase, Crown land subject to conditions, or to any regulations, requiring the purchaser to subdivide and develop the land concerned.*
- (2) *If the relevant conditions or regulations referred to in subsection (1) have been complied with or, in the case of those conditions, security has been given to the satisfaction of the Minister for the purpose of ensuring compliance with those conditions, the Minister may, with the approval of the Planning Commission, permit the staged transfer in fee simple of Crown land sold under that subsection.*

**86. Sale etc. of Crown land by private treaty to Commonwealth etc.**

*The Minister may sell by private treaty the fee simple in, or lease, Crown land —*

- (a) *to the Commonwealth or to another State or to a Territory; and*
- (b) *to any instrumentality of the Commonwealth or of a State or Territory empowered to purchase land; and*

- (c) *subject to the Local Government Act 1995, to any local government.*

**87. Sale etc. of Crown land for amalgamation with adjoining land**

- (1) *In this section —*

***adjoining land*** means the land referred to in subsection (2)(b) or (3)(b), as the case requires.

- (2) *Whenever the Minister considers that a parcel of Crown land is —*

- (a) *unsuitable for retention as a separate location or lot, or for subdivision and retention as separate locations or lots, because of its geographical location, potential use, size, shape or any other reason based on good land use planning principles; but*

- (b) *suitable for —*

- (i) *conveyance in fee simple to the holder of the fee simple; or*
- (ii) *disposal by way of lease to the holder of a lease granted by the Minister under this Act, of land adjoining that parcel, the Minister may, with the consent of that holder and on payment to the Minister of the price, or of the initial instalment of rent, as the case requires, agreed with that holder, by order convey that parcel in fee simple or lease that parcel to that holder and amalgamate that parcel with the adjoining land.*

- (3) *If —*

- (a) *a parcel of land comprised in a road that is closed, whether under this Act or the repealed Act, is Crown land; and*
- (b) *part of the land through which that closed road passes or which it adjoins is taken under Part 9 for the purpose of a road to replace that closed road; and*
- (c) *as a result of that taking, the person holding the fee simple of, or a lease granted by the Minister under this Act in respect of, the adjoining land (the **landholder**) is entitled to compensation under that Part from the person who took that part (the **taker**), the Minister may, with the consent of the landholder and the taker and on payment to the Minister of any price, or of any initial instalment of rent, as the case requires, agreed with the landholder, by order —*
- (d) *convey to the landholder in fee simple or lease to the landholder, as the case requires, by way of satisfaction or part satisfaction of the compensation payable to the landholder, so much of that parcel as*

*is, in the opinion of the Minister, equivalent in value to the whole or the relevant part of that compensation; and*

- (e) amalgamate the land so conveyed or leased with the adjoining land.*
- (4) When land has been conveyed or leased under subsection (3)(d), the taker must, if required by the Minister to do so, pay to the Minister forthwith the amount of the compensation in satisfaction of which that land has been so conveyed or leased.*
- (5) On the amalgamation under subsection (2) or (3) of the whole or part of a parcel of Crown land with the adjoining land —*
  - (a) that parcel or part becomes, if the adjoining land is —*
    - (i) land held in freehold, part of the adjoining land and held in the same freehold; or*
    - (ii) Crown land held under lease, part of the adjoining land and held under the same lease, and, if the adjoining land is subject to any encumbrance, that parcel or part becomes subject to that encumbrance as if it had been part of the adjoining land when that encumbrance was created; and*
  - (b) the Registrar must alter the certificate of title or the certificate of Crown land title and the Register so as to show that that parcel or part forms part of the adjoining land.*
- (6) If the freehold or lease of the adjoining land is, at the time of the amalgamation of the adjoining land with the whole or part of a parcel of Crown land under subsection (2) or (3), in the course of being sold under a contract of sale and the purchaser under that contract consents —*
  - (a) the purchase price or consideration set out in that contract is to be taken to be increased by an amount equal to the unimproved value of that whole or part; and*
  - (b) the conditions of that contract are taken to apply to that whole or part as if that whole or part had been part of the adjoining land when that contract was entered into.*
- (7) Despite anything in subsection (6), that subsection does not affect the rights of any person in respect of a claim that has before the amalgamation referred to in that subsection been settled or decided.*

**88. Option to purchase or lease Crown land, grant of**

- (1) The Minister may —*
  - (a) grant an option to purchase the fee simple in, or lease, any Crown land; and*
  - (b) fix the consideration to be paid for any such option; and*

- (c) *impose conditions on the exercise of any such option.*
- (2) *A purchaser or lessee under an option granted under subsection (1) may, with the permission of the Minister, offset the whole or any portion of the relevant consideration fixed under that subsection against the purchase price or rent payable in respect of the land concerned.*

**89. *Certain lessees of Crown land may purchase, or purchase options to purchase, the land***

- (1) *The holder of a lease, other than a pastoral lease, of any Crown land may apply to the Minister to purchase —*
  - (a) *the fee simple of the Crown land; or*
  - (b) *an option to purchase that fee simple.*
- (2) *The Minister may grant or refuse to grant an application made under subsection (1).*
- (3) *If the Minister grants an application under subsection (1), the applicant is entitled, on payment of a price fixed by the Minister for the sale of —*
  - (a) *the fee simple and on compliance with such conditions, if any, as are prescribed, to obtain in lieu of the lease the fee simple of the relevant Crown land; or*
  - (b) *the option and on compliance with such conditions, if any, as are prescribed, to obtain an option to purchase the fee simple of the relevant Crown land.*
- (4) *If the lease is mortgaged, is affected by another interest or is subject to a caveat and the lessee, during the continuance of the mortgage, other interest or caveat, becomes entitled under subsection (3), the mortgage, other interest or caveat is by operation of this subsection transferred to and applies to the fee simple when purchased in all respects as if the fee simple had been referred to in the mortgage, other interest or caveat and has the same effect in respect of the fee simple as if it were a mortgage, other interest or caveat under the TLA.*

*[Section 89 amended by No. 59 of 2000 s. 21.]*

**POLICY IMPLICATIONS**

Nil

**BUDGET/FINANCIAL IMPLICATIONS**

The 2018/19 budget was to have provided for this purchase but its inclusion was missed in error. The budget does however provide for a Multi Function Culture Hub which relies on grant funding (\$525,000 of the \$1.05M total provision) and community group contributions totalling \$175,000. Given that the site has not



been selected, community group funding has not been secured and grant processes, especially for large sums, normally involve more than one financial year, it is unlikely that this project could be completed within the current year, as provided for in the budget. This project relies on a Shire contribution of \$175,000, from reserve funds and a loan of \$175,000.

It is recommended that the \$175,000 provision from Shire Reserve funds be moved from this project to the Saleyards project to facilitate the purchase of land.

### **STRATEGIC IMPLICATIONS**

This project will better provide for small business ventures which might be classed a light industry or commercial.

### **SUSTAINABILITY IMPLICATIONS**

- **Environmental**  
There are no known significant environmental issues.
- **Economic**  
Any new business in is likely to spend at least a portion of its annual expenditure in Boyup Brook as will the owner and any employees. It is expected that some of the businesses trade would come from Boyup Brook residents keeping more fund within the community.
- **Social**  
Any new business is expected to bring with it opportunities for the schools clubs and the like.

### **VOTING REQUIREMENTS**

Absolute majority

### **COUNCIL DECISION & OFFICER RECOMMENDATION – Item 4.3.3**

**MOVED: Cr Kaltenrieder**

**SECONDED: Cr Alexander**

**That Council approve:**

- 1. amendment of the 2018/19 Budget by transferring the \$175,000 provision for the Multi Function Culture Hub, to come from Reserve Funds, to Saleyards land purchase and development as a light industrial/commercial estate.**
- 2. the CEO actioning Council's previous decision to purchase the saleyards land from the Department of Planning, Lands and Heritage.**
- 3. the Shire Seal being affixed to documents relevant to the purchase and land transfer.**

**CARRIED BY ABSOLUTE MAJORITY 7/0**

**Res 180/18**

Mr Wright and Mr Broockmann left the meeting at 6.50pm

#### 4.1 FINANCE

<b>4.2.1 Special Rural Properties - ensuring non-rural land is rated on its GRV</b>
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<b>Location:</b>	Shire Boyup Brook
<b>Applicant:</b>	N/A
<b>File:</b>	FM/48/002
<b>Disclosure of Officer Interest:</b>	None
<b>Date:</b>	12 September 2018
<b>Author:</b>	Kay Raisin (A/Finance & HR Manager) and Stephen Carstairs (Director Corporate Services)
<b>Authorizing Officer:</b>	Alan Lamb (Chief Executive Officer)
<b>Attachments:</b>	Yes: 1. Local Government Operational Guidelines Number 02 - March 2012. 2. Landgate Valuations & Property Analytics. 3. Town Planning Scheme Maps 6, 7 and 8. 4. Excerpt <i>Local Government Act 1995</i> : Schedule 6.1 Phasing in of certain valuations.

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#### **SUMMARY**

Council is requested to consider and confirm that where it is found that the predominant use of Special Rural land in the district is non-rural, the method of rating the properties shall be GRV.

#### **BACKGROUND**

Local Government Operational Guidelines Number 02 - March 2012 (*refer attached*), describes a role of local government (LG) as "*... ensuring that the rating principals of the Act are correctly applied to rateable land within their district such that rural land is rated on its UV and non-rural land is rated on its GRV.*" Guideline Number 2 goes on to inform that LG's should have systems and procedures in place to:

- identify and record any changes in land use;
- review the predominant use of land affected by significant land use changes;  
and
- ensure timely applications for the Minister's approval.

In its overview of the process for changing the method of valuation of land for rating purposes e.g. UV to GRV, Guideline Number 02 identifies the steps in the process as follows:

Step 1 Identify land use changes that may affect predominant use.

Step 2 Reviewing predominant use.

Step 3 Consulting affected parties.

Step 4 Changing the method of valuation.

Reviewing predominant use: Events which trigger when the predominant use of the land should be reviewed include, but are not restricted to:

- Town planning scheme amendments where the scheme imposes restrictions on the clearing of the land and the use of livestock and other activities usually associated with the rural use of the land i.e. restricting the use of the land for non-rural purposes e.g. residential, commercial etc.; and
- the subdivision of land into smaller lots, e.g. a broad acre farm into smaller lots.

In the case of farmland that has been subdivided into smaller rural/residential lots, LG's should carry out inspections to evidence that the subdivided land is no longer used for farming purposes.

As the Act (*Local Government Act 1995*) does not define the term "predominant", LG's are to make an assessment on a case by case basis as a question of "fact or degree" as to whether or not the use of a particular property should be categorized as predominantly rural or non-rural. Guideline Number 02 puts the onus on LG's to take all relevant factors into consideration (refer page 9 of the Guideline), including the following:

- (a) Activity conducted on the land
- (b) Development on the land
- (c) Income
- (d) Town planning scheme restrictions

Consulting Affected Parties: Prior to making any significant changes to valuation systems, LG's should liaise with the Valuer General (the VG, alternatively Landgate) to obtain an indication of the notional values of the properties, which in turn will assist the LG to model the effects of the changes for the LG and rate payers alike.

During March and April 2017 Landgate (the VG) conducted a (desk top) review of 124 Special Rural properties in Boyup Brook, appraising them using aerial photography evidence, house and built structures plans, and year of construction information to derive estimates of their Gross Rental Values. The intent of Landgate supplying this information to the shire was that it may be used for rate modelling and rate payer consultation purposes by the Shire of Boyup Brook. The results of that initial review was presented to Council at its Special Meeting of 10 August 2017. Outcomes of the review were as follows:

1. Landgate determined that the total Unimproved Value (UV) of the 124 properties for 2016-17 was \$15,725,000 and at 0.007125 cents in the \$, then the total raw score of UV rates levied would amount to \$112,041. Relative to this method for measuring rates levied, Landgate estimated the total GRV of the 124 properties for 2016-17 to be \$928,344 and at 0.12244 cents in the \$, the total raw score of UV rates levied would amount to \$113,667. Based on raw scores the Special Rural property sector would contribute only \$1,626 more to the total rates pool of the shire if the basis for measuring their rates was GRV.
2. When Minimum Rates are introduced, however, for the 2016-17 financial year Special Rural properties would have contributed substantially more (\$29,129) to the total rates pool if rated by the GRV method (\$144,714) than if those properties were rated by the UV method (\$115,585).

After considering the findings Council resolved:

1. *Receives Landgate's Comparison Working Sheet Indicative GRV's for UV to GRV Proposal.*
2. *Determines not to rate Special Rural properties on the basis of GRV at this stage.*
3. *Obtain accurate GRV valuations from the Valuer General for all special rural zoned areas with a view to making a determination on the basis of valuation for special rural zoned properties for the 2018/19 budget.*

Res. 100/17

During December 2017 Landgate conducted their physical survey of Special Rural properties in the district, and refer attached for the details of their report (Landgate Valuations and Property Analytics). Town Planning Scheme Maps 6, 7 and 8 (as attached), identify the Special Rural properties potentially affected by the valuation change.

Should the shire's assessments determine that all Special Rural land is rural or predominantly rural in nature, and they should not be differentially rated relative to Townsite GRV land, then based on 2018-19 rates levied the shire might realise \$34,941.31 more income to the total rates pool by valuing the properties by the GRV method.

#### **COMMENT**

That Council has determined to take these steps to ensure that the rating principles of the Act are correctly applied, is in keeping with the role of the local government.

#### **CONSULTATION**

Consultation has taken place with Councillors and the CEO via a previous Council Agenda Report.

#### **STATUTORY OBLIGATIONS**

##### *6.28. Basis of rates*

*(1) The Minister is to —*

*(a) determine the method of valuation of land to be used by a local government as the basis for a rate; and*

*(b) publish a notice of the determination in the Government Gazette.*

*(2) In determining the method of valuation of land to be used by a local government the Minister is to have regard to the general principle that the basis for a rate on any land is to be —*

*(a) where the land is used predominantly for rural purposes, the unimproved value of the land; and*

*(b) where the land is used predominantly for non-rural purposes, the gross rental value of the land.*

**6.31. Phasing in of certain valuations**

*Schedule 6.1 which deals with the phasing in of valuations has effect. (refer attached)*

**6.39. Rate record**

*(1) As soon as practicable after a local government has resolved to impose rates in a financial year it is to ensure that a record is compiled, at the time and in the form and manner prescribed, for that financial year of —*

*(a) all rateable land in its district; and*

*(b) all land in its district on which a service charge is imposed.*

*(2) A local government —*

*(a) is required, from time to time, to amend a rate record for the current financial year to ensure that the information contained in the record is current and correct and that the record is in accordance with this Act; and*

*(b) may amend the rate record for the 5 years preceding the current financial year.*

**6.40. Effect of amendment of rate record**

*(1) Where the rate record in relation to any land is amended under section 6.39(2) as a result of a change in —*

*(a) the rateable value of; or*

*(b) the rateability of; or*

*(c) the rate imposed on,*

*that land, the local government is to reassess the rates payable on the land and to give notice to the owner of the land of any change in the amount of rates payable on the land.*

**POLICY IMPLICATIONS**

Council's Rating Strategy applies, as currently it does not recognize that the valuation method of Special Rural UV properties would be different from Rural UV properties.

**BUDGET/FINANCIAL IMPLICATIONS**

This report may have significance for the 2019-20 rating period.

**STRATEGIC IMPLICATIONS**

Nil

**SUSTAINABILITY IMPLICATIONS**

- **Environmental** – Nil
- **Economic** – Nil
- **Social** – Nil

**VOTING REQUIREMENTS**

Simple majority

**COUNCIL DECISION & OFFICER RECOMMENDATION - ITEM 4.2.1**

**MOVED:** Cr Walker

**SECONDED:** Cr Aird

**That Council:**

1. In keeping with the rating principles of the *Local Government Act 1995*, determines that where it is assessed that the predominant use of Special Rural land in the district is non-rural in nature, the land shall be rated on its Gross Rental Value (GRV).
2. Directs the CEO to make an assessment on a case by case basis as a question of "fact or degree" as to whether or not the use of each of the Special Rural properties in the district should be categorised as predominantly rural or non- rural and report findings back to Council.
3. Directs the CEO to write to affected Special Rural property owners informing them:
  - of proposed changes to the method of valuing their properties;
  - the reason(s) for seeking to change the method of valuation;
  - of the overall likely impact of such changes; and
  - of how to comment on the proposed changes i.e. how to lodge an objection to the determined land use, and the appeal process.
4. Directs the CEO to also inform the community of the proposed changes to the method of valuing Special Rural land by advertising: in the Gazette; on the shire website; and on Shire notice boards.
5. Directs the CEO to report back to Council objections by Special Rural property owners to the determined land use (rural or non-rural) of their property by its December Ordinary Council Meeting.

**CARRIED 7/0**

**Res 181/18**

**Adjournment**

That the meeting be adjourned for an afternoon tea break, the time being 7.35pm.

**Resumption**

That the meeting resume, the time being 8.00pm.

The meeting resumed with the following persons in attendance.

Cr G Aird – Shire President  
Cr R Walker - Deputy Shire President  
Cr S Alexander  
Cr P Kaltenrieder  
Cr Moir  
Cr H O'Connell  
Cr E Rear  
Mr Alan Lamb (Chief Executive Officer)

**4.3 CHIEF EXECUTIVE OFFICER**

<b>4.3.1 Boyup Brook Caravan Park - Compliance and Improvements</b>
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<b>Location:</b>	<i>Boyup Brook Caravan Park</i>
<b>Applicant:</b>	<i>N/a</i>
<b>File:</b>	<i>CP/31/001</i>
<b>Disclosure of Officer Interest:</b>	<i>None</i>
<b>Date:</b>	<i>13 September 2018</i>
<b>Author:</b>	<i>Alan Lamb</i>
<b>Authorizing Officer:</b>	<i>Chief Executive Officer</i>
<b>Attachments:</b>	<i>Review of compliance report (Internal Document)</i>

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**SUMMARY**

The purpose of this report is to put before Council the current position with regard to the Boyup Brook Caravan Park (BBCP) as the starting point for planning compliance and upgrade initiatives

**BACKGROUND**

The report was commissioned by the CEO in order to assess compliance as part of a plan to meet these requirements and look to upgrades.

**COMMENT**

The attached report was written as an internal report for planning purposes. The next step is to cost and prioritise the areas on non compliance. Then seek to amend the current budget to allow the most urgently required works (matters that relate to safety are always considered to be first priority) to be commenced and completed in 2018/19. Dependant on urgency, costs and the like, it may be possible/necessary to stage the works over more than one financial year.

It is recommended that Council receive this report and direct the CEO to obtain budget estimates for all works, prioritise the works and report back with a plan by November 2018.

### **CONSULTATION**

A preliminary report was tabled at a briefing session.

### **STATUTORY OBLIGATIONS**

The BBCP needs to comply with all relevant legislation including:

- Caravan and Camping Grounds Regulations 1997,
- Disability Access and Inclusion standards, and
- Occupational Safety and Health Act & Regulations 1993

### **POLICY IMPLICATIONS**

Nil

### **BUDGET/FINANCIAL IMPLICATIONS**

Nil at this time

### **STRATEGIC IMPLICATIONS**

The BBCP does not feature in the Strategic Community Plan, or Corporate Business Plan. The former is due for a desktop review and the latter the annual review. It is noted that compliance works are required regardless of what is or is not in the long term plans. Also that, at Council workshops held to review these plans, it will be demonstrated that, whilst not specifically mentioned in the SCP, the caravan park could be aligned to existing tourism and/or short stay accommodation aspirations.

### **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 4.3.1**

**MOVED:** Cr Kaltenrieder

**SECONDED:** Cr Alexander

**That Council:**

- 1. Receive the report on Caravan Park Compliance.**
- 2. Direct the CEO to cost and prioritise recommended actions to meet compliance.**
- 3. Report back to Council's November 2018 meeting with a plan to address areas of non compliance.**

**CARRIED 7/0**

**Res 182/18**

**WITHDRAWN**

Item 4.3.2 withdrawn by the CEO as it was clear that some Members were confused regarding the 2018 to 2022 Corporate Business Plan action plans, which were workshopped in May 2018 and then put to Council in September for adoption, and the 2017 to 2021 Corporate Business Plan which was adopted in June 2018. The matter was deferred to a workshop to deal with a review of the 2018 to 2022 Corporate Business Plan action plans in order to arrive at draft action plans for the four years 2019 to 2023. Councillors indicated they could attend a workshop Thursday October 11, 2018, commencing at 6pm in the Council chambers to first review the Strategic Community Plan (desktop review as required by legislation) and then to commence the required review of the current Corporate Business plan to, in part, delete the first year and then add a new fourth year.

<b>4.3.2 Corporate Business Plan - Review 2018</b>
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<b>Location:</b>	<i>N/a</i>
<b>Applicant:</b>	<i>N/a</i>
<b>File:</b>	<i>CM/42/002</i>
<b>Disclosure of Officer Interest:</b>	<i>None</i>
<b>Date:</b>	<i>12 September 2018</i>
<b>Author:</b>	<i>Alan Lamb</i>
<b>Authorizing Officer:</b>	<i>Chief Executive Officer</i>
<b>Attachments:</b>	<i>Draft Action Plans 2018 to 2022</i>

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**SUMMARY**

The purpose of this report is to put before Council the Corporate Business Plan's action plans as reviewed by Council, in May 2018, for adoption.

## **BACKGROUND**

The attached action plans are the result of a workshop conducted with Councillors in May 2018. The intention was for the whole of the CBP to be updated and that this then be put to Council for adoption. It is a lengthy process to update all of the other parts of the CBP and other priorities have prevented this being done to date.

As it is time to start the annual forward planning cycle again the action plans are put to Council for adoption so they may be used for the next review/update.

## **COMMENT**

The intent is that the SCP is reviewed every 4 years with community input. At the two year mark, the SCP is also to be reviewed, at a high level, just to make sure it remains current. Whilst its important to plan it is also important to have sufficient flexibility to move with any changes in funding and the like.

The CBP takes the SCP and, among other things, provides a 4 year actions listing. The CBP is to be reviewed and updated annually so that it remains a 4 year plan. It is important that the CBP is reviewed and updated prior to starting the annual budget development so that its actions can be included in the budget.

2019 is the when Council is required to conduct a desktop review of the SCP, however it was hoped that the review process for this and the CBP could commence soon to reduce the load in the first part of next year.

In order to conduct a review of the CBP, and noting that the review concentrates on the action plans, it is recommended that Council adopt the attached reviewed action plans so that they may be reviewed and another year added in the coming months.

## **CONSULTATION**

The annual review of the CBP was conducted at a Councillor workshop.

## **STATUTORY OBLIGATIONS**

The Local Government Act provides as follows:

### *5.56. Planning for the future*

- (1) A local government is to plan for the future of the district.*
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

The Local Government (Administration) Regulations provide as follows:

### *Division 3 — Planning for the future*

*[Heading inserted in Gazette 26 Aug 2011 p. 3483.]*

**19C. Strategic community plans, requirements for (Act s. 5.56)**

- (1) A local government is to ensure that a strategic community plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.*
- (2) A strategic community plan for a district is to cover the period specified in the plan, which is to be at least 10 financial years.*
- (3) A strategic community plan for a district is to set out the vision, aspirations and objectives of the community in the district.*
- (4) A local government is to review the current strategic community plan for its district at least once every 4 years.*
- (5) In making or reviewing a strategic community plan, a local government is to have regard to —*
  - (a) the capacity of its current resources and the anticipated capacity of its future resources; and*
  - (b) strategic performance indicators and the ways of measuring its strategic performance by the application of those indicators; and*
  - (c) demographic trends.*
- (6) Subject to subregulation (9), a local government may modify its strategic community plan, including extending the period the plan is made in respect of.*
- (7) A council is to consider a strategic community plan, or modifications of such a plan, submitted to it and is to determine\* whether or not to adopt the plan or the modifications.*

*\*Absolute majority required.*

- (8) If a strategic community plan is, or modifications of a strategic community plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.*
- (9) A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a strategic community plan and when preparing modifications of a strategic community plan.*
- (10) A strategic community plan for a district is to contain a description of the involvement of the electors and ratepayers of the district in the development of the plan or the preparation of modifications of the plan.*

*[Regulation 19C inserted in Gazette 26 Aug 2011 p. 3483-4.]*

**19DA. Corporate business plans, requirements for (Act s. 5.56)**

- (1) A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.*

- (2) *A corporate business plan for a district is to cover the period specified in the plan, which is to be at least 4 financial years.*
  - (3) *A corporate business plan for a district is to —*
    - (a) *set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district; and*
    - (b) *govern a local government's internal business planning by expressing a local government's priorities by reference to operations that are within the capacity of the local government's resources; and*
    - (c) *develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.*
  - (4) *A local government is to review the current corporate business plan for its district every year.*
  - (5) *A local government may modify a corporate business plan, including extending the period the plan is made in respect of and modifying the plan if required because of modification of the local government's strategic community plan.*
  - (6) *A council is to consider a corporate business plan, or modifications of such a plan, submitted to it and is to determine\* whether or not to adopt the plan or the modifications.*
- \*Absolute majority required.*
- (7) *If a corporate business plan is, or modifications of a corporate business plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.*

Whilst not legislated, there is a requirement for the SCP to be reviewed at two years (desktop review) in addition to the 4 year review mentioned above.

The following is taken from the IPR framework and guidelines 2016 as published by the Department:

### **Annual cycle**

*The next part of the cycle is the annual cycle. It consists of the Annual Budget, monitoring implementation, and the Annual Report. The Annual Budget is based on the relevant year's work program and financial year in the Corporate Business Plan.*

*Each year the Corporate Business Plan is updated and reviewed. Both progress and significant revisions are recorded in the Annual Report. A year is added to the Long Term Financial Plan.*

### **Strategic review**

*Every second year, the process enters the Strategic Review. The Strategic Review alternates between the minor and major versions. The minor version is generally a desktop review process*

*and tends to focus on resetting the Corporate Business Plan. The major version involves re-engagement with the community on vision, outcomes and priorities, and a comprehensive review of the whole IPR suite.*

**POLICY IMPLICATIONS**

Nil

**BUDGET/FINANCIAL IMPLICATIONS**

Nil as the Corporate Business plan is not a commitment to fund, it informs the budget where the commitment is made.

**STRATEGIC IMPLICATIONS**

Nil

**SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENTS**

Absolute majority

**OFFICER RECOMMENDATION – Item 4.3.2**

**That Council adopt the attached section of the Corporate Business Plan, which contains action plans for Strategic Community Plan priorities, for the 4 years 2018/19 to 2021/22.**

**5 CLOSURE OF MEETING**

There be no further business the Shire President, Cr Aird thanked all for attending and declared the meeting closed at 9.15pm.