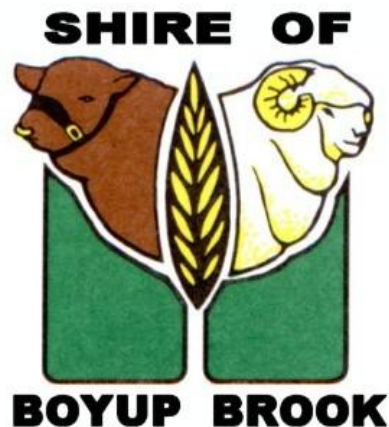


Minutes



ORDINARY MEETING

held

THURSDAY 20 September 2018
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 G Aird – Shire President
Cr R Walker - Deputy Shire President
Cr S Alexander
Cr P Kaltenrieder
Cr Moir
Cr E Muncey
Cr H O'Connell
Cr T Oversby
Cr E Rear

STAFF: Mr Alan Lamb (Chief Executive Officer)
Mrs Kay Raisin (Acting Finance & HR Manager)
Mrs Maria Lane (Executive Assistant & Records Officer)
PUBLIC: Mr Neil Derrick

1.2 Apologies

1.3 Leave of Absence

2 PUBLIC QUESTION TIME

Neil Derrick expressed his concern in relation to the condition of the Depot Machinery, he suggested they need to be maintained on a regular basis.

2.1 Response to Previous Public Questions Taken on Notice

3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

4 PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS

Cr Rear attended the Boyup Brook Pioneer Museum meeting on 14th September.
Cr Rear attended the Dinner on 10th September 2018
Cr Rear attended the Sandakan Service on 11th September 2018.
Cr Walker attended the Sandakan Service on 11th September 2018.
Cr Kaltenrieder attended the Lexus Melbourne Cup
Cr Kaltenrieder attended the funeral service of the Late Ettie Mead
Cr Kaltenrieder attended the Dinner held on 10th September 2018.
Cr Kaltenrieder attended the Sandakan Service on 11th September 2018.
Cr Alexander attended the Dinner held on 10th September 2018.
Cr Alexander attended the Sandakan Service on 11th September 2018.
Cr Oversby attended the Sandakan Service in Sandakan.
Cr O'Connell attended the Boyup Brook Tourism Association Committee meeting on Monday 27th August 2018 and Monday 17th September 2018.
Cr O'Connell attended a Waste & Recycling Conference on Thursday 6th & Friday 7th September 2018.
Cr O'Connell attended the Rylington Park Field Day on Friday 14th September 2018.

5 CONFIRMATION OF MINUTES

5.1 Ordinary Meeting of Council - 23 August 2018

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr Kaltenrieder

SECONDED: Cr Alexander

That the minutes of the Ordinary Council Meeting held on Thursday 23 August 2018 be confirmed as an accurate record.

CARRIED 9/0

Res 166/18

6 PRESIDENTIAL COMMUNICATIONS

3rd September - Attended a workshop in relation to the Talison Greenbushes Expansion.

11th September - Attended the Sandakan Service.

19th September - Attended a Bushfire Risk Workshop.

7 COUNCILLORS QUESTIONS ON NOTICE

Nil

8 REPORTS OF OFFICERS

8.1 MANAGER WORKS & SERVICES

Nil

MOTION

MOVED: Cr Moir

SECONDED: Cr Walker

- 1. Council appoints the whole of the Council to the Audit and Finance Committee.**
- 2. Items 8.2.1, 8.3.3, 8.3.4 and 11.1 to be referred to the Audit and Finance Committee.**

CARRIED 8/1

Res 167/18

Note:

Council wanted the Audit and Finance Committee to evaluate these items prior to Council dealing with them and that then the Audit and Finance Committee should be the whole of Council.

Special Council Meeting being held on Thursday, 27th September at 6.00pm

Cr Muncey left the Chambers at 6.00pm

Cr Muncey returned to the Chambers at 6.10pm

8.2 FINANCE

| |
|---|
| 8.2.1 Special Rural Properties - ensuring non-rural land is rated on its GRV |
|---|

| | |
|--|---|
| Location: | Shire Boyup Brook |
| Applicant: | N/A |
| File: | FM/48/002 |
| Disclosure of Officer Interest: | None |
| Date: | 12 September 2018 |
| Author: | Kay Raisin (A/Finance & HR Manager) and Stephen Carstairs (Director Corporate Services) |
| Authorizing Officer: | Alan Lamb (Chief Executive Officer) |
| Attachments: | 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. |

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

OFFICER RECOMMENDATION - ITEM 8.2.1

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.**

3. Directs the CEO to report back to Council for consideration, that Special Rural land assessed to be predominantly rural.
4. 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.
5. 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.
6. 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.

COUNCIL DECISION

MOVED: Cr Walker

SECONDED: Cr Moir

That the Council adopts enbloc 8.2.2, 8.2.3 and 8.2.4

CARRIED 9/0

Res 168/18

| |
|---|
| 8.2.2 List of Accounts Paid in August 2018 |
|---|

| | |
|--|---|
| Location: | <i>Not applicable</i> |
| Applicant: | <i>Not applicable</i> |
| File: | <i>FM/1/002</i> |
| Disclosure of Officer Interest: | <i>None</i> |
| Date: | <i>14/09/2018</i> |
| Author: | <i>Carolyn Mallett - Acting Accountant and Kay Raisin – Acting Finance and HR Manager</i> |
| Authorising Officer: | <i>Alan Lamb – Chief Executive Officer</i> |
| Attachments: | <i>Yes – List of Accounts Paid in August</i> |

SUMMARY

In accordance with the *Local Government (Financial Management) Regulations 1996* the list of accounts paid in August 2018 are presented to Council.

BACKGROUND

This report presents accounts/invoices received for the supply of goods and services, salaries and wages, and the like which were paid during the period 01 to 31 August 2018.

COMMENT

The attached listing represents accounts/invoices the shire paid by cheque or electronic means during the period 01 to 31 August 2018.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Local Government (Financial Management) Regulations 1996, Regulations 12 and 13 apply and are as follows:

12. *Payments from municipal fund or trust fund*

(1) *A payment may only be made from the municipal fund or the trust fund —*

- (a) *if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or*
- (b) *otherwise, if the payment is authorised in advance by a resolution of the council.*

(2) *The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.*

13. *Lists of accounts*

(1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —*

- (a) *the payee's name;*
- (b) *the amount of the payment;*
- (c) *the date of the payment; and*
- (d) *sufficient information to identify the transaction.*

(2) *A list of accounts for approval to be paid is to be prepared each month showing —*

- (a) *for each account which requires council authorisation in that month —*
 - (i) *the payee's name;*
 - (ii) *the amount of the payment; and*

- (iii) *sufficient information to identify the transaction;*
and
 - (b) *the date of the meeting of the council to which the list is to be presented.*
- (3) *A list prepared under sub regulation (1) or (2) is to be —*
 - (a) *presented to the council at the next ordinary meeting of the council after the list is prepared; and*
 - (b) *recorded in the minutes of that meeting.*

POLICY IMPLICATIONS

Council's *Authority to Make Payments Policy* has application.

BUDGET/FINANCIAL IMPLICATIONS

Account payments accorded with a detailed 2018-19 Annual Budget

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.2.2

That at its September 2018 ordinary meeting Council receive as presented the list of accounts paid in August 2018, totalling \$809,668.17 from Municipal account, \$2,561.65 from Trust account, \$2.84 from Early Learning Centre account and \$38,317.70 from Police Licensing account as represented by:

| | | |
|--------------------------------|-------------------|---------------|
| Municipal Cheques | 20210 - 20220 | \$ 31,980.16 |
| Municipal Electronic Payments | EFT6979 – EFT7106 | \$ 573,983.52 |
| Municipal Direct Payments | | \$ 203,704.49 |
| Trust Cheques | 2140 - 2142 | \$ 2,561.65 |
| Early Learning Centre Payments | | \$ 2.84 |
| Police Licensing Payments | | \$ 38,317.70 |

CARRIED BY ENBLOC

Res 169/18

| |
|---|
| 8.2.3 31 July 2018 Statement of Financial Activity |
|---|

| | |
|--|---|
| Location: | Not applicable |
| Applicant: | Not applicable |
| File: | FM/10/003 |
| Disclosure of Officer Interest: | None |
| Date: | 15 August 2018 |
| Authors: | Kay Raisin - A/Finance and HR Manager and Stephen Carstairs - Director Corporate Services |
| Authorizing Officer: | Alan Lamb – Chief Executive Officer |
| Attachments: | Yes – 31 July 2018 Financial Reports |

SUMMARY

This report recommends that Council receive the Statement of Financial Activities and Net Current Assets for the month ended 31 July 2018.

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

Nil

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 8.2.3

That having had regard for any material variances, Council receive the 31 July 2018 Statement of Financial Activity and Statement of Net Current Assets, as presented.

CARRIED BY ENBLOC

Res 170/18

| |
|---|
| 8.2.4 31 August 2018 Statement of Financial Activity |
|---|

| | |
|--|---|
| Location: | Not applicable |
| Applicant: | Not applicable |
| File: | FM/10/003 |
| Disclosure of Officer Interest: | None |
| Date: | 13 September 2018 |
| Authors: | Kay Raisin - A/Finance and HR Manager and Stephen Carstairs - Director Corporate Services |
| Authorizing Officer: | Alan Lamb – Chief Executive Officer |
| Attachments: | Yes – 31 August 2018 Financial Reports |

SUMMARY

This report recommends that Council receive the Statement of Financial Activities and Net Current Assets for the month ended 31 August 2018.

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

Nil

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 8.2.4

That having had regard for any material variances, Council receive the 31 August 2018 Statement of Financial Activity and Statement of Net Current Assets, as presented.

CARRIED BY ENBLOC

Res 171/18

Cr Oversby left the Chambers at 6.25pm

Kay Raisin left the Chambers at 6.26pm

Cr Oversby returned to the Chambers at 6.28pm

COUNCIL DECISION

MOVED: Cr Moir

SECONDED: Cr Kaltenrieder

That the Council adopts enbloc 8.3.1 and 8.3.2

CARRIED 9/0

Res 172/18

8.3 CHIEF EXECUTIVE OFFICER

| |
|---|
| 8.3.1 Development – Outbuildings – 207 Elder Road, Wilga |
|---|

| | |
|--|------------------------------------|
| Location: | 207 Elder Road, Wilga |
| Applicant: | M & E Roney |
| File: | A4280 |
| Disclosure of Officer Interest: | None |
| Date: | 20 September 2018 |
| Author: | A. Nicoll, Town Planner |
| Authorizing Officer: | Alan Lamb, Chief Executive Officer |
| Attachments: | Nil |

SUMMARY

In accordance with Part 7, cl.60 of the *Planning and Development (Local Planning Schemes) Regulations 2015*:

A person must not commence or carry out any works on, or use, land in the Scheme area unless the person has obtained the development approval of the local government.

Two outbuildings/sea containers have been developed at 207 Elder Road without the approval of the Shire of Boyup Brook.

The purpose of this report is to seek Council discretion in accordance with Part 8, cl.65 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, which states:

65. Subsequent approval of development

The procedures relating to applications for development approval set out in Part 7, Part 9 and this Part apply, with any modifications necessary, to an application for development approval for development already commenced or carried out.

It has been determined that the outbuildings/sea containers are structurally adequate and are not expected to impact on the amenity of the area. It is

recommended that the Council agree to support the outbuildings/sea containers, which comply with statutory standards.

BACKGROUND

In response to an alleged use of 207 Elder Road for commercial motocross events, Shire staff undertook a site visit to the property on the 19 July 2018.

It was revealed that motocross jumps and tracks have been developed at the subject site. Staff were advised by the landholder that the motocross facilities are for personal training use and not for commercial gain.

It was also revealed by the site visit that outbuildings/sea containers had been developed at the subject site, without Council approval.

Shire staff wrote a letter to the landholder advising the following:

As the development (sea containers) is unauthorised, you are required to:

- a) Remove the sea containers from the property by the 5 September 2018; or*
- b) Lodge an application for Development Approval by the 5 September 2018.*

An application for development approval has since been received and is hereby presented to Council for development approval. Development includes a carport/sea-container and shed/lean-to.

A Civil and Structural Engineers report has been submitted confirming that the outbuildings are structurally adequate.

The following aerial photo illustrates the location of outbuildings proposed for subsequent development approval.



COMMENT

207 Elder Road is a 'Rural' zone property located on the southern fringe of the Wilga Townsite.

The subject property is approximately 70 hectares in area and is used for agricultural practices. The property is also used by the son(s) of the landholder to practice motocross. A motocross track and individual jumps have been developed at the property.

The landholder has been advised that, should the motocross facilities be used for commercial activities (e.g. 'Camping Ground' and/or 'Recreation-Private' – motocross), Development Approval will need to be sought.

The outbuildings, the subject of this application consist of a shed/lean-to and a carport/sea-container.

The shed/lean-to is approximately 300m² (5m high) in floor area and consists of a steel frame and steel cladding to walls and roof. This outbuilding is used to store machinery.

The carport/sea-container is approximately 100m² (3m high) in floor area, is located adjacent to the house and is used to store cars.

Shed/lean-to





Carport/sea container



It was reported by a Building/Surveyor Practitioner, that the buildings comply with each applicable building standard and are deemed to be fit for the purpose for which they are intended.

In assessing the proposed outbuildings, shire staff referred to the Shire's *Local Planning Scheme No.2*, the Shire's *Outbuilding Policy No.4* and the *Planning and Development (Local Planning Schemes) Regulations 2015*.

It has been concluded that:

- a) The outbuildings comply with the Shire's Scheme for minimum (10m) setbacks to property boundaries;
- b) The outbuildings comply with the Shire's Outbuilding Policy for floor area or height limit set for outbuildings on rural properties;

- c) The outbuildings comply with the *Planning and Development (Local Planning Schemes) Regulations 2015*, in relation to the expected impact on the amenity of the area.

It is recommended that the Council agree to grant subsequent approval of the carport/sea-container and the shed/lean-to as they are structurally sound and they are not expected to impact on the amenity of the area with regard to:

- a) height, bulk, scale, orientation and appearance;
- b) environmental impacts;
- c) the character of the locality;
- d) social impacts;
- e) human health or safety; and
- f) probable effect on traffic flow and safety.

It is recommended that approval is granted subject to conditions and that the following advise note is included on the development approval notice:

A person must not commence or carry out any works (including a sea container) on, or use, land in the Scheme area unless the person has obtained the development approval of the local government.

CONSULTATION

Due to the remoteness of the development to neighbouring property boundaries and dwellings, it was deemed unnecessary to consult with neighbours.

Should the Shire receive a complaint in relation to noise from motocross bikes, noise monitoring may need to be undertaken to determine compliance with noise levels set by the *Environmental Protection (Noise) Regulations 1997*.

STATUTORY OBLIGATIONS

The subject property is identified in the Shire's *Local Planning Scheme 2* as a 'Rural' zone property.

Clauses 5.2.1 and 5.2.5 of the Shire's Scheme state:

5.2.1 In considering applications for subdivision, rezoning and planning consent in the Rural zone, Council shall have regard to:

- i. the need to protect the agricultural practices of the Rural zone in light of its importance to the District's economy;*
- ii. the need to protect the area from uses which will reduce the amount of land available for agriculture;*
- iii. the need to preserve the rural character and rural appearance of the area; and*

- iv. *where rural land is being subdivided for closer development, the proposal should be supported with evidence outlining the land's suitability and capability for further development.*

5.2.5 No building development shall be located within 10 metres of any boundary of a lot in the Rural Zone.

POLICY IMPLICATIONS

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; and
- The screening of sea containers to the street.

BUDGET/FINANCIAL IMPLICATIONS

There are no financial implications in relation to the application.

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.1

That Council

Grants subsequent approval of development for 207 Elder Road, Boyup Brook, for the purpose of Outbuildings subject to the following notice:

Planning and Development Act 2005

Shire of Boyup Brook

NOTICE OF DETERMINATION ON APPLICATION FOR

SUBSEQUENT APPROVAL OF DEVELOPMENT

Location: 207 Elder Road, Boyup Brook

Description of proposed development:

Outbuildings (Shed/lean-to and carport/sea-container)

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

Conditions

1. Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the Shire of Boyup Brook, all development shall occur in accordance with the approved plans.

2. The outbuildings hereby approved shall not be used for human habitation, unless otherwise agreed in writing by the Shire of Boyup Brook.
3. All stormwater is to be managed and contained on-site, to the satisfaction of the Shire of Boyup Brook.
4. No processes being conducted on the property that may cause a detriment to the amenity of that area by reason of contamination, noise, vibration, smell, fumes, dust or grit.

Date of determination: 20 September 2018

Note 1: A person must not commence or carry out any works (including a sea container) on, or use, land in the Scheme area unless the person has obtained the development approval of the local government.

Note 2: If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination.

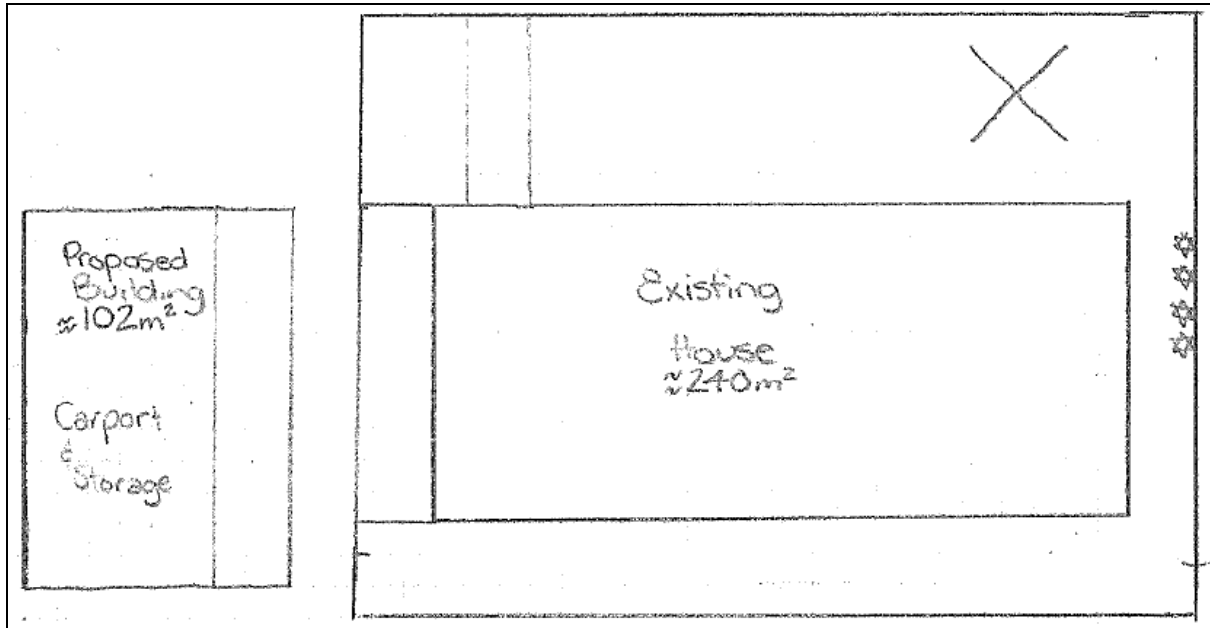
Signed:

Dated:

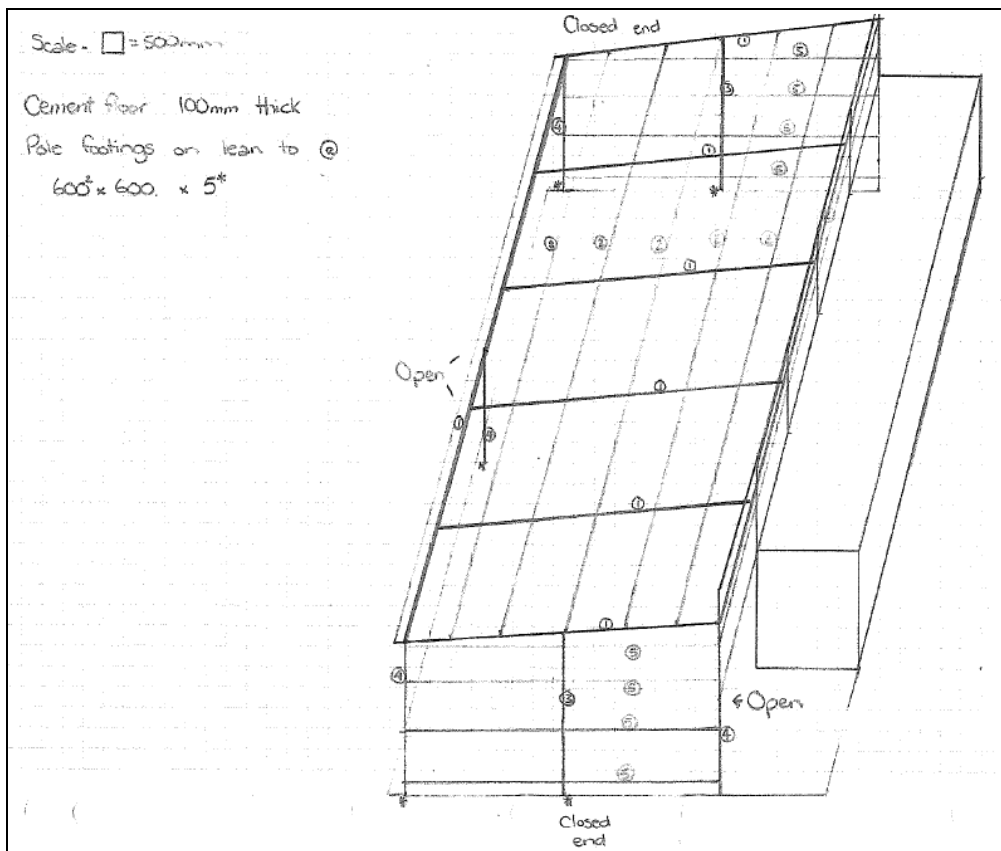
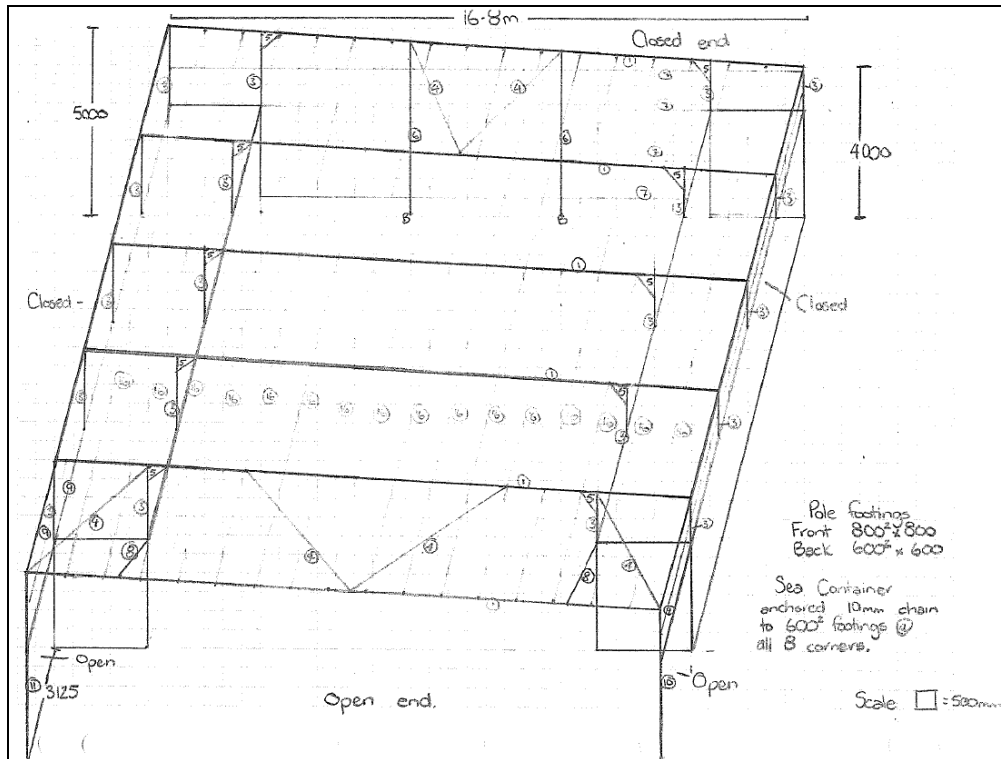
for and on behalf of the Shire of Boyup Brook.

APPROVED PLANS

Proposed Carport/Sea-container



Proposed Shed/lean-to



Structural Certification



CERTIFICATE OF INSPECTION

| | | | |
|------------------------|--|----------------------------|------------|
| Address | 207 Elder Rd, Wilga | Building Permit No. | N/A |
| Owner | Liz & Mick Roney | Date of Inspection | 07/08/2018 |
| Persons on site | Liz & Mick Roney & son & Peter Butcher | Time of Inspection | 10.00 am |



Shed – east elevation



Lean-to – south elevation



Carport/sea container – east elevation

Purpose of Inspection:

To inspect the unauthorised structures, Shed, lean-to, carport/sea container, on the above site to determine structural adequacy and compliance with BCA and Standards to enable the issue of a Certificate of Building Compliance.

CARRIED BY ENBLOC 9/0

Res 173/18

8.3.2 Harvey Dickson Rodeo - request to waive rubbish fees

| | |
|--|--|
| Location: | N/A |
| Applicant: | N/A |
| File: | CR/31/002 |
| Disclosure of Officer Interest: | N/A |
| Author: | Joanna Kaye (Research and Development Coordinator) and Alan Lamb (Chief Executive Officer) |
| Authorizing Officer: | Alan Lamb (Chief Executive Officer) |
| Attachments: | No |

SUMMARY

This report is for Council to consider a request from the Double Barrel Entertainment to waive the tip charge for 4 x 9 cubic metre skip bins for the Harvey Dickson Rodeo event.

BACKGROUND

The Shire received an email request Monday 10 September from Mark Kestel on behalf of Double Barrel Entertainment requesting that the tip fee be waived in order to keep costs down for the event.

Mark further communicated to the shire that:

- the Harvey Dickson's Rodeo is an iconic event for the Shire of Boyup Brook and a great tourism draw card.
- Hastie Waste has agreed to provide bins for \$200 instead of \$400 to keep event costs down, assuming that the bins can be emptied at the tip free of charge.
- Although the rodeo is a commercial enterprise it is very focused on family and community. The organisers are very conscious of using local content and keeping it affordable for the community.

Council has supported Harvey's events in the past in recognition of the significance of his events, attraction to the community and marketing of Boyup Brook. Harvey received a \$5,000 donation for 2014/15, 2015/16 and 2016/17 financial years. There was no request through the annual donation process this year.

This request does not fit into the Shire's Donation policy as this request is from a commercial enterprise and does not meet the eligibility criteria of being not for direct profit or financial gain to the organisation or an individual.

This is a donation request from a commercial operator for the value of:

Current fees and charges provides - bulk bin 6m³ to 10m³ - \$88.00

The email request indicates there would be 4 x 9m³ bins to value of \$352.00

OFFICER COMMENT

Council might consider stipulating that this fee waiver is a once off contribution and that the cost of disposing rubbish for a commercial event needs to be incorporated in the event planning costs.

CONSULTATION

Mark Kestel Double Barrel Entertainment

STATUTORY OBLIGATIONS

Nil.

POLICY IMPLICATIONS

Nil - The Donations Policy does not apply.

BUDGET/FINANCIAL IMPLICATIONS

The donation would be recorded as an extra-ordinary request as approved by Council as it does not meet the community donation eligiabilty criteria. Notwithstanding that the transaction is of an immaterial amount, Finance would need to process the in-kind cost of \$352.00 against Community Donations, and process \$352.00 in income against tip charges. The nett effect on the 2018-19 Adopted Budget would be nil.

STRATEGIC IMPLICATIONS

Relevant excerpts from the Adopted Boyup Brook Strategic Community Plan 2017 - 2027.

Our Goals

Built Environment

- Improve road infrastructure

Social

- Improve community safety.
 - Promote outdoor activities, community participation, interactions and connections.
 - Strengthen an active and vibrant community.
-

SUSTAINABILITY IMPLICATIONS

➤ Environmental

Nil.

➤ Economic

Nil.

➤ Social

Community Priorities against Key Areas

Social: **Sense of Community**

Our Vision:

Our place will be a safe, caring and secure community. Our place will be an active and vibrant community.

We will have access to services and facilities that meet our requirements.

Our objectives and priorities are built from our outcomes.

| OUTCOMES | OBJECTIVES | PRIORITIES |
|-----------------------|---|--|
| Sustainable community | Ensure a safe, secure community with access to services and facilities as needed. | <ul style="list-style-type: none">+ Continue to work on retaining a Police Station in Boyup Brook.+ Continue to encourage initiatives that provide employment opportunities.+ Continue to provide and advocate for quality medical and ancillary services in Boyup Brook+ Continue to advocate for the retention of schools from K to year 10 in Boyup Brook.+ Continue to support development which provides diversity and opportunity for accommodation. |
| | Promote community participation, interactions and connections | <ul style="list-style-type: none">+ Continue to support Community groups and clubs+ Partner with key stakeholders on community needs driven projects. |
| | | |

VOTING REQUIREMENTS

Simple majority.

COUNCIL DECISION & OFFICER RECOMMENDATION - Item 8.3.2

That Council approve the request of Double Barrel Entertainment to waive the tip fee for 4 x 9m3 bulk bins for the Harvey Dickson Rodeo Oct 26/27 October 2018 to the value of \$352.00.

CARRIED BY ENBLOC 9/0

Res 174/18

8.3.3 Boyup Brook Caravan Park - Compliance and Improvements

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

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

OFFICER RECOMMENDATION – Item 8.3.3

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.**

8.3.4 Corporate Business Plan - Review 2018

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

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 8.3.4

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.

8.3.5 Gratuitous payment Director of Works and Services

Location: N/a
Applicant: N/a
File: P/F
Disclosure of Officer Interest: None
Date: 13 September 2018
Author: Alan lamb
Authorizing Officer: Not applicable
Attachments: Nil

SUMMARY

The purpose of this report is to put before Council a proposal under the Gratuitous Payment to Employees Policy.

BACKGROUND

In May 2008 Council adopted a Gratuitous Payment to Employees Policy and amended it June 2012.

COMMENT

The policy sets the following determining factors:

| Policy | | Comment |
|--------|--|--|
| a) | the employee's history and length of employment with the Council | Commenced work as a general hand on the outside crew 22/3/2011 (employed on a casual employee). Was appointed Senior Technical Officer 16/1/2012 (casual basis). on 23/4/2012 he was appointed to the position of Manager Works and Services but did not take that position on fully until 7/7/2012 when the then position holder retired. The position was retitled Director of Works and Services, he is set to terminate 25/9/2018. |
| b) | the employee's sick leave record | Robert's sick leave balance (accrued sick leave not taken) is 453.40 hours |

| | | |
|----|---|---|
| | | (11.9 weeks). |
| c) | the employee's personal contribution to the progress of Council's objective and community wellbeing | Robert has made a significant contribution in the works area. |

CONSULTATION

The author spoke with the Council at its last briefing session.

STATUTORY OBLIGATIONS

Section 5.50 of the Local Government Act has application and is as follows:

5.50. Payments to employees in addition to contract or award

- (1) *A local government is to prepare a policy in relation to employees whose employment with the local government is finishing, setting out —*
 - (a) *the circumstances in which the local government will pay an employee an amount in addition to any amount to which the employee is entitled under a contract of employment or award relating to the employee; and*
 - (b) *the manner of assessment of the additional amount,**and cause local public notice to be given in relation to the policy.*
- (1a) *A local government must not make any payment of the kind described in subsection (1)(a) unless the local government has adopted a policy prepared under subsection (1).*
- (2) *A local government may make a payment —*
 - (a) *to an employee whose employment with the local government is finishing; and*
 - (b) *that is more than the additional amount set out in the policy prepared under subsection (1) and adopted by the local government,**but local public notice is to be given in relation to the payment made.*
- (3) *The value of a payment or payments made to a person under this section is not to exceed such amount as is prescribed or provided for by regulations.*
- (4) *In this section a reference to a payment to a person includes a reference to the disposition of property in favour of, or the conferral of any other financial benefit on, the person.*

Regulation 19 A of the Local Government (Administration) Regulations applies and is as follows:

19A. *Payments in addition to contract or award, limits of (Act s. 5.50(3))*

- (1) *The value of a payment or payments made under section 5.50(1) and (2) to an employee whose employment with a local government finishes after 1 January 2010 is not to exceed in total —*
- (a) *the value of the person's final annual remuneration, if the person —*
- (i) *accepts voluntary severance by resigning as an employee; and*
- (ii) *is not a CEO or a senior employee whose employment is governed by a written contract in accordance with section 5.39;*
- or*
- (b) *in all other cases, \$5 000.*

- (2) *In this regulation —*

final annual remuneration *in respect of a person, means the value of the annual remuneration paid, or payable, to the person by the local government which employed that person immediately before the person's employment with the local government finished.*

POLICY IMPLICATIONS

The following Council Policy has application:

| | |
|-----------------------|---------------------------------|
| POLICY NO. | A.03 |
| POLICY SUBJECT | Gratuitous Payment to Employees |
| ADOPTION DATE | 15 May 2008 |
| VARIATION DATE | 21 June 2012 |

Objective

To determine ex-gratia payments to employees in addition to award or contract entitlements, when a person is leaving the employment of the Shire of Boyup Brook.

Statement

For the purpose of Section 5.50 (1) of the Act, the following approximate amounts be spent on a presentation gift to employees who retire or resign after a period of satisfactory service and who meet the criteria of items 2a, b and c.

1. After 3 years \$200 and thereafter an additional \$30 per year of completed service.

2. Council may also consider the payment of a gratuity to any employee leaving the service of the Council and who is regarded by Council to have been a loyal and productive employee. In considering this matter, Council will give particular regard to:
 - a) the employee's history and length of employment with the Council;
 - b) the employee's sick leave record; and
 - c) the employee's personal contribution to the progress of Council's objective and community wellbeing.
3. Council, after taking into account the above criteria, may agree to the awarding of the following gratuity:

Council, after taking into account the above criteria, may agree to the awarding of a gratuity up to the maximum permitted by legislation (currently limited by Regulations 19A of the Local Government (Administration Regulations)).

BUDGET/FINANCIAL IMPLICATIONS

No specific provision was made in the 2018/19 budget for this payment but there will be savings in employee costs (the officer is, and has been for some time, on leave without pay. The budget provided for employee costs for this position for 12 months) and the budget provided for a surplus at the end of 2018/19. It is intended that this expenditure, if approved, be included in the budget amendments done at the traditional half year review.

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.5

MOVED: Cr Moir

SECONDED: Cr Oversby

That Council make the maximum gratuitous payment allowable to Mr Robert Staniforth-Smith.

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 175/18

| |
|--|
| 8.3.6 Request for angled parking along Forrest Street |
|--|

| | |
|--|---|
| Location: | <i>Forrest Street Boyup Brook</i> |
| Applicant: | <i>Boyup Brook Co-Operative Company Limited</i> |
| File: | <i>A251</i> |
| Disclosure of Officer Interest: | <i>The author holds an account with the applicant. and as such also holds two, fifty dollar shares in that company.</i> |
| Date: | <i>12th September 2018</i> |
| Author: | <i>Alan Lamb</i> |
| Authorizing Officer: | <i>Chief Executive Officer</i> |
| Attachments: | <i>Landgate image of Co-Operative's car park, Forrest Street parking designs options.</i> |

SUMMARY

The purpose of this report is to put the request, for angled parking in Forrest Street, to Council with the recommendation that it be agreed to.

BACKGROUND

The Co-Operative wrote seeking angled parking in Forrest Street.

The Co-Operative were looking at ways to increase parking space available to customers and staff and saw that angled parking on the south side of Forrest Street, next to the Co -Operative, would more than double the number of bays available and leave the bays on Bridge Street for larger vehicle (trucks, caravans). It noted that there used to be angled parking on the south side of Forrest Street.

The CEO emailed response, noting that the planning approval in 2001, for the current Co-Operative building fronting Bridge Street, included a condition for 22 on site parking spaces, and that this condition remained current. Also that their more recent development application for a warehouse on lot 42 Forrest Street, triggered the requirement for 11 more parking bays to be established on site. The Planner, used by the Co-Operative and Council noted that "customers are proposed to be received at the Boyup Co-op Site, which has ample car parking and which is located one property away fronting Bridge Street". Council, in dealing with the application agreed to discount the requirement for the additional, on site, 11 parking bays, and so no additional on site parking was mandated. The email noted that the Co-Operative, like any existing business, is a vital part of the

community and so it is important to work with it on any issue, including the parking matter. It noted that there would be a cost in looking at the opportunity of the requested angled parking and then in relation to any subsequent works. Also that there were parking opportunities for their staff other than their on site parking or on the street close to their business. Finally, the email asked that before Shire funds were spent in evaluating the requested changes to on street parking, the Co-Operative should ensure that they maintain the required 22 on site parking spaces, encourage employees to park further away from the store, and the like.

A representative of the Co-Operative wrote back to reiterate the request for angled parking in Forrest Street, noting that on site parking bays currently used to store stock would be made available for parking when the new shed construction was completed.

Subsequently, the CEO and Technical Officer met with Mr Ron Tuckett, representing the Co-Operative, to discuss the matter

COMMENT

It should be noted that the development to provide 22 on site parking bays remains in force until another planning application is dealt with, for the same lot, which modifies and/or sets new conditions. This being the case the Co-Operative is required to maintain 22 bays at all times. The attached Landgate image shows that some bays are used for purposes other than vehicle parking, and that there does not appear to be 22 marked parking bays.

Also that the original warehouse at 27 Forrest Street triggered the requirement for two on site car parking bays to be established. These were accessed from the rear lane but are no longer available. The Co-Operative's request is at odds with previous advice to Council that existing on site parking is adequate and so there was no need to require the 11 additional bays the Town Planning Scheme prescribed for the new warehouse at 27 Forrest Street.

Parking in Boyup Brook has been raised as an issue by a number of community members over a number of years. Recent time restrictions in some locations appear to have resolved some issues.

Looking at the area of Forrest Street the Co-Operative seeks to have angled on street parking, there is a crossover which appears to have been constructed for the lane which used to run along the back of 10 Bridge Street (the Co-Operative building fronting Bridge Street), but which was closed and purchased by the Co-Operative some years ago. Mr Tuckett advised that they had no need for the crossover.

Budget estimates for work to establish angled parking put the cost at \$17,500 but it would be prudent to budget \$20,000 for the job.

Earlier work done on options for parking in Forrest Street, and reported to Council, indicated that angled bays would protrude into the street further than other marked parking along the street creating a potential hazard. Subsequent work done indicates that excavating the verge to the pedestrian path and installing a retaining wall, will allow a number of angled parking bays without creating the hazard of parked vehicles jutting out into the traffic flow. The retaining wall would prevent vehicular access from Forrest Street to the area at the rear of the Co-Operative building at 10 Bridge Street.

There is space for 4 vehicles, to park parallel to the kerb, in Forrest Street adjacent to 10 Bridge Street. Work done so far indicate this would be increased to 9, or more dependant on the angle, angled parking spaces if the verge/road were to be modified.

No doubt the additional on street parking will be an advantage for Co-Operative customers and staff but it would also serve the tourist centre, people dropping off/picking up people from the bus (both school and coach) and other entities in the area. At the same time, any drop from the footpath to the road may trigger the need for better lighting or the like.

Whilst there appears to be more negatives than positives to support the Co-Operative's request, it is suggested that angled parking will prove to be of long term benefit and so it is recommended that Council agree to the request with the works being funded, and done, in 2019/20.

CONSULTATION

The matter has been before Council at a briefing session.

STATUTORY OBLIGATIONS

Nil that are applicable to this request.

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

No funding was provided in the 2018/19 budget and so it is recommended that, if Council agrees to provide the requested angled parking, this be done in 2019/20.

STRATEGIC IMPLICATIONS

| OUTCOME | OBJECTIVES | PRIORITIES |
|-----------------|--------------------------------------|--|
| Economic Growth | Support new and existing businesses. | <ul style="list-style-type: none">✦ Encourage new businesses through information, incentives and land-use provision.✦ Support existing businesses through advocating for a sewerage scheme, tailored parking controls and other initiatives |

SUSTAINABILITY IMPLICATIONS

- **Environmental**
There are no known significant environmental issues.
- **Economic**
Additional parking near to businesses is a recognised advantage to trade .
- **Social**
There are no known significant social issues.

VOTING REQUIREMENTS

Absolute majority (If Council commits to the project)

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.6

MOVED: Cr Oversby

SECONDED: Cr Walker

That Council Agree to the Boyup Brook Co-Operative's request to establish angled parking bays in Forrest Street, adjacent to 10 Bridge Street, with the funding and works being scheduled for 2019/20 provided that the Co-Operative contribute 50% of the cost.

CARRIED BY ABSOLUTE MAJORITY 7/2

Res 176/18

Impartiality Interest

Cr Kaltenrieder and Cr O'Connell declared an impartiality interest in the following item due to being on the CRC Committee.

| |
|--|
| 8.3.7 Department of Transport -Licensing Agency |
|--|

| | |
|--|--|
| Location: | <i>Boyup Brook</i> |
| Applicant: | <i>Boyup Brook Community Resource Centre</i> |
| File: | <i>LS/4/001</i> |
| Disclosure of Officer Interest: | <i>None</i> |
| Date: | <i>14 September 2018</i> |
| Author: | <i>Alan Lamb</i> |
| Authorizing Officer: | <i>Chief Executive Officer</i> |
| Attachments: | <i>Nil</i> |

SUMMARY

The purpose of this report is to put before Council a request from the Boyup Brook Community Resource Centre (CRC) for the opportunity for it to take on the Department of Transport (DoT) Licensing Agency with the recommendation that it be agreed to.

BACKGROUND

In response to a request from the CRC, the Shire President and CEO met with the CRC Manager and the Management Committee Secretary 27 March 2018. The purpose of the meeting was for the CRC to provide an update on their current funding issues, which primarily related to announced and very significant cuts to their funding.

The meeting discussed Shire Council operations which the CRC may wish to undertake and/or take part in to help fill the funding gap.

Areas discussed at some length included:

- DoT agency
- library operation
- Tourism
- Daycare

In relation to the DoT agency, it was noted that:

- The agency commissions had been reducing, in real terms, for many years to the point where its operation appeared to be a net cost to Council.
- The CEO would not oppose relinquishing the agency.

The matter was brought to Council's attention at a subsequent Briefing Session where both the President and CEO reported on the meeting. The CEO reiterated that he did not oppose the change as the operation was a net cost and employee resources could be better used elsewhere. But noted concerns that once the organisation had geared up for the change it would be costly and difficult to later take on the agency, in the event the CRC later relinquished it.

The current position being that:

- a significant portion of front counter customer contact related to the agency
- staff had to be trained (a one week course conducted in Perth) and certified in order to operate the agency
- staff had to operate the system (processing payments and the like) on a periodic basis, where the gap between their logins exceeded a set period, they had to redo the training.
- approximately half of the front counter space, and a similar portion of the overall storage space in that area, is dedicated to the agency computer, cash register, forms, license plates, and the like
- there is also a computer and space for DoT online tests.

Recent announcements indicate that the State Government has reversed its decision to reduce funding to CRCs. The CRC has reconfirmed its request to be given the opportunity to take on the DoT agency.

COMMENT

It was thought that this matter had already been put to Council for a decision but a check through minutes reveals this step has not been taken.

It is recommended that Council agree to relinquish the DoT agency to allow the CRC to take it over.

If agreed to, the next step is to advise the DoT of this decision. It is understood that the CRC would then bid for the agency, be assessed and when, and if, it becomes the agent and is ready to commence operation, the Shire would cease providing the service.

On the matter of the service of providing the DoT agency in town, this was a vital operation prior to the common use of computers to conduct business. Over the counter transactions have been reducing and tend now to mainly be the difficult transactions/enquiries which take a lot of time. Agency income is based on fees for transaction types. Once staff are proficient, transactions such as renewals take less time and so the fee exceeds the organisations costs for that transaction.

But for the more complex matters, which can run into days to resolve, the cost of handling them exceeds the fee.

So, if there was no community need for the service then there would be no argument for the Shire, or any local organisation, to operate the agency. But there is a need, demonstrated by the number of customers, and so the service may be needed for some time. On the other hand, as more and more people opt for on line transactions, and as the government is always looking to reduce costs, it is likely that DoT will review its agency model and perhaps close many.

CONSULTATION

The matter has been before Council at a briefing session, the CRC has been involved.

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

The average revenue from the DoT agency over the past 6 years is \$31,239 per year. In 2017/18 the revenue was \$28,738. Records show an average of 12 DoT transactions per day (over the front counter) comparing an average of 8 per day for Shire related transactions (does not include library). The current administration allocation to the DoT agency is \$85,865. This includes employee costs plus a portion of the building operation costs.

As previously advised at a briefing session, loss of the agency is not expected to reduce employee costs. It will result in a loss of income, \$30,915 was budgeted to be received in 2018/19. It is not possible to indicate the precise impact on this provision until the date, on which the agency may be closed, is known.

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 8.3.7

MOVED: Cr Walker

SECONDED: Cr Moir

That Council:

- 1. Agree to relinquish its Department of Transport Licensing Agency in favour of the Boyup Brook Community Resource Centre.**
- 2. Instruct the CEO to advise the Department of Transport and Boyup Brook Community Resource Centre of this decision.**

LOST 1/8

Res 177/18

Request for Vote to be recorded

Cr Kaltenrieder requested the votes be recorded.

FOR

Cr Kaltenrieder

AGAINST

Cr Aird

Cr Oversby

Cr Rear

Cr Alexander

Cr O'Connell

Cr Moir

Cr Walker

Cr Muncey

9 COMMITTEE MINUTES

9.1.1 Minutes of the Bushfire AGM

| | |
|--|----------------|
| Location: | N/A |
| Applicant: | N/A |
| File: | n/a |
| Disclosure of Officer Interest: | Nil |
| Date: | 16 August 2018 |
| Author: | Alan Lamb |
| Attachments: | Yes – Minutes |

BACKGROUND

The Bushfire Advisory AGM was held on 19 June 2018. Minutes of the meeting are attached.

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 9.1.1

Moved: Cr Kaltenrieder **Seconded: Cr Alexander**

That the minutes of the Bushfire Advisory AGM meeting held 19 June 2018 be received and the recommendations endorsed as 6, 7, 8.4 and 8.6.

CARRIED 9/0 **Res 178/18**

Neil Derrick left the Chambers at 7.36pm

Declare an Interest

Cr Alexander declared a financial interest in the following item and departed the Chambers, the time being 7.23pm.

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

| |
|---|
| 10.1 Cr Moir - Review of Policy A.01 |
|---|

MOTION

MOVED: Cr Moir

SECONDED: Cr Walker

- 1. Review of Policy A.01
Section 1 – Administration.**
- 2. That the following positions be added to the list of senior employees.

Director of Corporate Services
Director of Works & Services**

Carried 7/2

Res 179/18

Request for Vote to be recorded

Cr Kaltenrieder requested the votes be recorded.

FOR

AGAINST

**Cr Walker
Cr Oversby
Cr Rear
Cr Alexander
Cr O'Connell
Cr Moir
Cr Muncey**

**Cr Aird
Cr Kaltenrieder**

Cr O'Connell left the Chambers at 7.46pm
Cr O'Connell returned to the Chambers at 7.49pm
Cr Alexander returned to the Chambers at 7.49pm
Cr O'Connell returned to the Chambers at 7.49pm

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

11.1 Reserve 33552 - Sale yards - Purchase to develop for industrial uses

| | |
|--|------------------------------------|
| Location: | <i>Bridgetown Boyup Brook Road</i> |
| Applicant: | <i>N/a</i> |
| File: | <i>Reserve 33552</i> |
| Disclosure of Officer Interest: | <i>None</i> |
| Date: | <i>9 April 2018</i> |
| Author: | <i>Alan Lamb</i> |
| Authorizing Officer: | <i>Chief Executive Officer</i> |
| Attachments: | <i>Nil</i> |

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

OFFICER RECOMMENDATION – Item 11.1

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 Saleyard 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.**

12 CONFIDENTIAL MATTERS - BEHIND CLOSED DOORS

13 CLOSURE OF MEETING

There being no further business the Shire President, Cr Aird thanked all for attending and declared the meeting closed at 7.50pm.