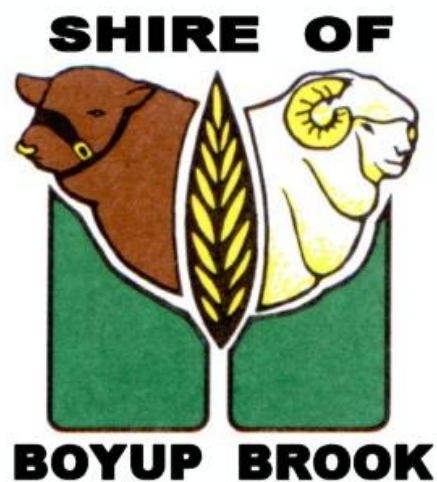


MINUTES



**SPECIAL MEETING
HELD**

**THURSDAY, 7 FEBRUARY 2019
COMMENCED AT 7.00PM**

AT

**SHIRE OF BOYUP BROOK
ABEL STREET – BOYUP BROOK**

TABLE OF CONTENTS

1.	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED	3
2.	PUBLIC QUESTION TIME	3
3.	APPLICATIONS FOR LEAVE OF ABSENCE	3
4.	DECLARATION OF INTEREST.....	4
5.	PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS.....	4
6.	MATTERS REQUIRING A DECISION	4
6.1	Wilga plantation planning application & keeping of bees.....	5
6.2	Affixing the Common Seal to Local Planning Scheme Amendment 20.....	16
6.3	Budget amendment: Town Oval Verti-Drain Works.....	20
6.4	Budget Amendment: Managing Fox, Cat & Rabbit Pests in the District	23
6.5	Regional Price Preference Policy - Notice of Proposed Policy.....	25
6.6	2017-18 Annual Report.....	27
6.7	Confidential Item: Appointment of Acting CEO	30
7.	MEETING CLOSED.....	30

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 A Alexander
Cr P Kaltenrieder
Cr K Moir
Cr E Muncey
Cr H O'Connell
Cr T Oversby
Cr E Rear

STAFF: Mr Stephen Carstairs (Acting Chief Executive Officer)
Mrs Maria Lane (Executive Assistant)

PUBLIC: Mr Shane McLinden

1.2 **Apologies**

1.3 **Leave of Absence**

2. PUBLIC QUESTION TIME

2.1 **Response to Previous Public Questions Taken on Notice**

2.2 **Public Question Time**

3. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

4. PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS

Mr McLinden provided a powerpoint presentation to Council in relation to developing a 'Plantation' and 'Bee-keeping' at Lots 2944, 2945, 3944, 2 and 11820 Cunningham Road Wilga.

5. DECLARATIONS OF INTEREST

Cr Moir and Cr Walker declared a proximity interest in item 4.1: Development 'Plantation' and 'Bee-keeping', Lots 2944, 2945, 3944, 2 and 11820, Cunningham Road, Wilga.

Cr O'Connell, Cr Alexander and Cr Rear declared a financial interest in item 6.5: Finance Policy Regional Price Preference.

6. MATTERS REQUIRING A DECISION

Nil

Proximity Interest

Cr Moir and Cr Walker declared a proximity interest in item 6.1 and departed the Chambers the time being 7.17pm.

6.1 Development – ‘Plantation’ and Beekeeping, Lots 2944, 2945, 3944, 2 and 11820, Cunningham Road, Wilga.

Location:	Lots 2944, 2945, 3944, 2 and 11820, Cunningham Road, Wilga.
Applicant:	S McLinden
File:	A3200
Disclosure of Officer Interest:	none
Date:	7 February 2018
Author:	A Nicoll, Town & Regional Planner
Authorizing Officer:	Stephen Carstairs (Acting Chief Executive Officer)
Attachments:	<ol style="list-style-type: none">1. Development Application – Honey for Life2. Public Submissions3. Department of Biodiversity, Conservation and Attractions Submission4. Cooperative Research Centre – Economic and Environmental Impact Review

SUMMARY

The purpose of this report is to put before Council an application requesting approval to develop a ‘Plantation’ (Australian native shrubs) and Beehives, at Lots 2944, 2945, 3944, 2 and 11820, Cunningham Road, Wilga.

The application was presented to the 2018 December Council Meeting where it was resolved that ‘Environmental’ and ‘Economic’ reviews are undertaken and that adjoining properties and residents in the Wilga town site are consulted prior to making a decision.

As requested by Council, an ‘Environmental’ and ‘Economic’ review has been submitted by the proponent and is attached to this Council report item. The review was undertaken by the Cooperative Research Centre for Honey Bee Products Limited (CRCHBP). The CRCHBP is a company that was formed to manage a well-defined research program on honey bees across Australia to develop intellectual property for the honey bee industry. The CRCHBP concluded in its review that:

1. State forest plant species or native bees are not expected to be significantly impacted by the introduction of bee hives.
2. Apiaries within a 5 km radius of the private farm are not expected to be significantly impacted by the introduction of bee hives.

The environmental and economic review is provided as an attachment to this Council report item. Reasons for above conclusions are summarized in the ‘Comment’ section of this report item.

As requested by Council, the application was referred to:

1. Landholders in and around Wilga;
2. The Department of Primary Industries and Regional Development (DPIRD); and
3. The Department of Biodiversity, Conservation and Attractions (DBCA).

No objections or outstanding issues were raised by landholders or government agencies. Further information regarding public and agency comment, is provided in the 'Comment' section of this report item.

It is recommended that the Council agree to approve the proposed development ('Plantation' and Beehives), as operations are not expected to impact on neighbouring residents, the environment or the economic viability of neighbouring apiary sites.

It is recommended that the Council approve the 'Plantation' and Beehives, subject to conditions, including the owner/operator complying with endorsed:

1. Plantation Establishment Plan;
2. Plantation Maintenance Plan;
3. Fire Management Plan; and
4. Apiary Operations Plan.

As recommended by the DBCA, it is recommended that the proponent is advised of the following:

1. The proponent is required to register beehives with the Department of Primary Industries and Regional Development;
2. The proponent is required to abide by the Biosecurity and Agriculture Management Act, to prevent the introduction or spread of disease by honeybees; and
3. The proponent is advised to limit the number of bee hives based on nectar production. This should help to minimize competition with native bees and other apiarists.

BACKGROUND

The subject property known as "Epping" – 8 Cunningham Road, was purchased by Apis Assets Pty Ltd, which is a subsidiary of Honey For Life Pty Ltd.

Honey for Life Pty Ltd purchased the farm in 2018 for the purpose of changing it from animal grazing, to a high-value nectar-producing orchard.

In 2018, an application was submitted to the Shire proposing:

1. A 400ha 'Plantation' of Australian native shrubs;
2. During flowering (October-December) of the planted native shrubs, the positioning of beehives amongst planted native shrubs at a rate of 1 hive per hectare;
3. During the flowering (January-March) of Marri trees, which are remnant in the locality, the positioning of beehives around property boundaries at approximately 100 metre intervals or depending on extent of flowering and liaison with the Western Australian Beekeeping Industry.
4. The processing of honey offsite.

The application was deliberated at the December 2018 Council meeting where it was resolved:

That the report be laid on the table for want of more information as follows:

1. *That the proponent prepare an Environmental Impact Statement (Plan) addressing the question of how 400 bee hives would not significantly impact native pollinator (insect, bird & marsupial) species of Jarrah, White Gum, Red Gum and other state forest plant species when in flower.*
2. *That the proponent prepare an Economic Impact Statement (Plan) addressing the question of how 400 bee hives would not significantly impact the economic viability of static apiaries and apiarists holding state forest licences within a 5 km radius of Lots 2944, 2945, 3944, 2 and 11820, Cunningham Road, Wilga.*
3. *That the CEO seek support or otherwise comment from the owners of adjoining properties and residents in the Wilga town site.*

As per the December Council decision, the applicant has submitted an 'Environmental' and 'Economic' review. Refer to attached and the below 'Comment' section of the report item for further information.

Following the December Council decision on the proposed plantation and bee-keeping activity, Shire officers sought comment from residents in and around Wilga and comment from the Department of Biodiversity, Conservation and Attractions (DBCA) and the Department of Primary Industries and Regional Development. In particular, the DBCA was requested to provide details pertaining to neighbouring apiary listed sites i.e.:

- Contact details for apiary site numbers 7185, 6878 and 7805.
- When the sites (7185, 6878 and 7805) were first used; and
- How often the sites may have been used in the past 5 years?

The DBCA commented that:

Beekeepers are able to place hives on private land without DBCA approval, as the Conservation and Land Management Act only covers CALM Act land.

...we would recommend that the beekeeper is registered with the Department of Primary Industries and Regional Development, and ensure that they abide by the Biosecurity and Agriculture Management Act to prevent the introduction or spread of disease by honeybees.

No written comment was received from the DPIRD.

Three submissions were received from Wilga residents, with no objections.

COMMENT

There is increased interest in private nectar farming, due to a growth in demand for honey, a reduction in floral resource caused by recent increase in prescribed burning by the State Government and irregular flowering of DBCA's Flora Base.

To be a beekeeper in Western Australia it is a legal requirement that you register with the Department of Primary Industries and Regional Development (DPIRD). The DPIRD assists the bee industry in its commitment to quality assurance and ensuring apiary products are clean, safe and free from chemical contamination. Strong focus on research in honeybee nutrition and queen bee breeding has been pivotal. DPIRD Apiary Officers undertake surveillance and sampling for exotic bee pests and disease.

Honey For Life Pty Ltd has submitted an application outlining development and operational details around the planting of 400 hectares of native shrubs and the use of bees in bee-hives to extract nectar from the flowering shrubs and remnant vegetation, to produce honey.

Details of the application is provided as an attachment and includes:

- a) A Plantation Establishment Plan;
- b) A Plantation Maintenance Plan;
- c) A Fire Management Plan; and
- d) An Apiary Operations Plan;

Plantation Establishment Plan

The 'Plantation Establishment Plan' identifies procedures for establishing the plantation.

Currently cleared portions of the subject land will be planted with Australian native Leptospermum species.

Plantation Maintenance Plan

The 'Plantation Maintenance Plan' identifies procedures for ongoing maintenance of plants.

Following establishment, it is proposed to use sheep to graze between the rows of shrubs to keep ground fuel loads to a minimum.

Pests and weeds will be controlled as required using licenced pesticides and operators abiding with all specifications as required by the relevant authorities.

Fire Management Plan

The 'Fire Management Plan' identifies procedures for protecting plants from bushfire.

The proponent proposes to:

1. Install 2 firefighting units on standby at all times.
2. Spray firebreaks and access roads in September /October to maintain an appropriate width of bare mineral earth. Where required, grading will also be undertaken to maintain smooth access and provide bare earth.
3. Develop plantings no closer than 10 metres from property boundaries.

The proponent is aware that an exemption to the 2018-19 Boyup Brook Firebreak Notice may be required, in order to comply with a 15m wide external boundary setback to plantations.

Apiary Operation Plan

The 'Apiary Operation Plan' indicates the location, amount and timing for the distribution of bee hives.

During flowering (October-December) of the planted native shrubs, beehives will be positioned amongst the shrubs at a rate of 1 hive per hectare which is similar to the rate used in orchards.

During the flowering (January-March) of Marri trees, which are remnant in the locality, hives will be placed around the boundary at 100 metre intervals or depending on extent of flowering and liaison with the Western Australian Beekeeping Industry.

Hives will be delivered by truck. Four truck movements will be required to get all hives onto the site for each flowering event. Four truck movements will also be required to move all the hives off the site. Hives will be unloaded/loaded and moved into position by use of forklift.

During the flowering events, staff will attend to the hives. There is likely to be no more than 2 people on site at these times.

Honey extraction will be undertaken offsite.

Environmental and Economic Review

As requested by the Council, the Cooperative Research Centre for Honey Bee Products Limited was tasked by the proponent to provide information on potential environmental and economic impacts, the result of introducing bee hives adjacent to DBCA registered apiary sites.

The Cooperative Research Centre for Honey Bee Products Limited is a company that was formed to manage a well-defined research program on honey bees (*Apis mellifera*) across Australia to develop intellectual property for the honey bee industry. The company is supported by federal and industry funding and is divided into four programs: bee hive sites, bee health, honey chemistry and product traceability. At present it is supporting 32 projects which include 16 PhD scholarships.

The CRCHBP concluded in its review that:

1. State forest plant species or native bees are not expected to be significantly impacted by the introduction of bee hives. Marsupials, birds and native bees have been living in harmony with honey bees for nearly 200 years in the south west of Western Australia. As would be the case for any beekeeper and apiary site, only the number of hives that the site can support will be placed on the farm. A nectar flow event normally lasts at best 4-6 weeks. It is uneconomic to move bees onto a site only to have them reduce in weight, and the risk of losing precious honey bee colonies to starvation is too high not to manage hive numbers without careful monitoring.
2. Static apiaries within a 5 km radius of the farm are not expected to be significantly impacted by the introduction of bee hives. Honey bees on the farm are unlikely to move into the forest when hives are placed on an apiary site surrounded by Jarrah, Red and White Gum. It is claimed by beekeepers that honey bees can move great distances to take advantage of a nectar resource. Scientific evidence does not substantiate this claim. A genetic study of out crossing of Wandoo showed that the average distance pollen was moved by a pollinator between trees was 31 and 49m for two different populations (Byrne et al, 2008). In the first population, by 100 m there was no further movement of pollinators, and in the other population, by 150m there was only one pollination event. This distance can differ depending on the terrain and species. As for a rare Acacia species, from a low rainfall scrub area, the distance moved by the pollinator was over the large distance of <1870m (Millar et al. 2014). So in the Boyup Brook area, it is likely that the honey bees main foraging area will be within 100m of the hive.

Consultation

As requested by Council, the application was referred to neighbouring landholders, landholders in the townsite of Wilga, the Department of Primary Industries and Regional Development (DPIRD) and the Department of Biodiversity and Conservation Attractions (DBCA).

Regarding neighbours and landholders in and around Wilga, the Shire received two letters of 'no objection' and one letter requesting additional comment, which the Shire has responded to.

Regarding the DPIRD and the DBCA, the DPIRD did not comment and the DBCA recommended that:

The Council advise the proponent to register with the Department of Primary Industries and Regional Development, and that that they are required to abide by the Biosecurity and Agriculture Management Act, to prevent the introduction or spread of disease by honeybees.

Shire officers spoke with officers at the DBCA where it was revealed that the DBCA does not approve sites on private property and that a licence is required from the DPIRD. The DBCA was also not at liberty to disclose contact details of apiary sites registered on the DBCA database. At best, the DBCA propose to provide apiarists with information and contact details of the private floral and bee hive development. Apiarists on neighbouring Crown land may then liaise with the private property bee keeper to advise of bee hive positioning. Apiarists can then monitor pollen and nectar to determine appropriate bee hive numbers.

It seems that there is no legislation to restrict the location of bee hives on private property relative to apiary sites on Crown land. The Town Planning profession generally does not limit land use based on competition. At best, it is recommended that the Council advise the proponent of the need to:

1. Register beehives with the Department of Primary Industries and Regional Development;
2. Comply with the Biosecurity and Agriculture Management Act; and
3. Limit the number of bee hives based on nectar production. This should help to minimize competition with native bees and neighbouring apiarists.

It is recommended that the Council agree to approve the proposed development - 'Plantation' and Beehives, for the following reason:

1. Subject to conditions, the plantation and bee-keeping operations are not expected to impact on:
 - a) Neighbouring residents. No objections were received from landholders in and around the Townsite of Wilga.
 - b) The Western Australian Beekeeping Industry. No issues were raised by the Department of Biodiversity, Conservation and Attractions or the Department of Primary Industries and Regional Development.
 - c) The environment or economic viability of neighbouring apiary sites. It is proposed that the number of bee hives is monitored dependent on nectar production. This will minimize impact on native bees and neighbouring apiarists operating in the area.

It is recommended that the Council approve the 'Plantation' and Beehives, subject to conditions, including the owner/operator complying with endorsed:

1. Plantation Establishment Plan;
2. Plantation Maintenance Plan;
3. Fire Management Plan; and
4. Apiary Operations Plan.

STATUTORY OBLIGATIONS

Plantation

In accordance with the *Code of Practice for Timber Plantations in Western Australia (Second Edition 2014)*, Shire staff believe that the proposed use falls under the definition of a 'Plantation'.

The Code of Practice for Timber Plantations in Western Australia (Second Edition 2014) states:

Plantation: a stand of trees of ten hectares (or as defined by the Local Government Authority), or larger, that has been established by sowing or planting of either native or exotic tree species selected and managed intensively for their commercial and/or environmental benefits. A plantation includes roads, tracks, and firebreaks.

The subject land is zoned 'Rural' in accordance with the Shire's Local Planning Scheme No.2. A 'Plantation' is defined in the Shire's Scheme as follows:

"plantation" has the same meaning as in the Code of Practice for Timber Plantations in Western Australia (2006) published by the Department of Conservation and Land Management and the Australian Forest Growers;

The Shire's Scheme classifies a 'Plantation' as an 'AA' use, meaning:

A use which Council, in exercising the discretionary powers available to it, may approve under this Scheme.

In considering applications for development in the 'Rural' zone, Council shall have regard to the need to:

1. Protect the agricultural practices of the Rural zone in light of its importance to the District's economy;
2. Preserve the rural character and rural appearance of the area.

As per the above criteria, the proposed plantation and beekeeping are considered to be agricultural practices, which provide an economic contribution to Western Australia's Gross Domestic Product and which are not expected to detrimentally impact on the rural character and appearance of the area.

Beekeeping

The keeping of bees in hives is controlled by State and local legislation. The Biosecurity and Agriculture Management (BAM) Identification and Movement of Stock and Apiaries (IMSA) Regulations 2013 administered by the Department of Primary Industries and Regional Development requires beekeepers to be registered. A person who owns, or has the charge, care or possession of, bees or any hive that contains, or has contained, bees is a beekeeper and is required to be registered as such within 14 days after becoming a beekeeper. The regulations further require every hive owned by a beekeeper to be branded with a registered brand.

The Shire of Boyup Brook Health Local Laws 2004 also prohibit a person from keeping of bees anywhere within the District unless approval to do so has been given by the local government.

As such for the applicant to keep up to 400 bee hives on the property, Council approval is required.

The Shire of Boyup Brook Health Local Laws 2004 Division 7-Bee Keeping states:

6.7.2 (1) A person shall not keep or permit the keeping of bees anywhere within the District unless approval to do so has been given by the local government.

(2) If in the opinion of an Environmental Health Officer, the approved beehives are causing a nuisance, the local government may direct any bees or approved beehives to be removed.

(3) A person shall comply with a direction within the time specified.

Of note the Health Local Laws are currently under review. The proposed new local laws provide for an authorised officer of the Shire to approve the keeping of bees in more than 2 hives on a lot with or without conditions. They also provide more prescriptive requirements for the keeping of bees, powers to deal with nuisance bees, and offences and penalties for non-compliance with the Local laws. It is recommended that conditions of approval for keeping of the bees align with the proposed new Health Local law requirements for the keeping of bees in hives.

Legislation also restricts the processing of honey onsite unless an approved facility is registered under the *Food Act 2008* and complies with the minimum requirements for processing premises. The applicant has however stated that no processing will occur on site with bees hives will be trucked offsite for the processing of honey.

It is recommended that Council approve the keeping of up to 400 bee hives (collectively) on Lots 2944, 2945, 3944, 2 and 11820 Cunningham Road, Wilga, subject to the following conditions:

1. An adequate and permanent supply of water is provided within accessible distance of the hives;
2. Hives are kept:
 - a) Outside, and at least 10 metres from, any building other than a fence;
 - b) At least 10 metres from any footpath, street, private street or public place; and
 - c) At least 5 metres from the boundary of the lot; and
3. That no honey is to be extracted from the hives on the subject sites without relevant approvals under the *Food Act 2008*, *Food Regulations 2009* and the *Australian New Zealand Food Standards Code*.

CONSULTATION

Consultation was undertaken with the Department of Biodiversity, Conservation and Attractions, the Department of Primary Industries and Regional Development and landholders in and around Wilga.

No outstanding issues were raised as a result of consultation.

This report item recommends that the Council impose conditions and include advice notes to ensure that the proponent:

1. Complies with various development and operational plans;
2. Registers beehives with the Department of Primary Industries and Regional Development;
3. Complies with the Biosecurity and Agriculture Management Act; and
4. Limits the number of bee hives based on nectar production. This should help ``

to minimize competition with native bees and neighbouring apiarists.

POLICY IMPLICATIONS

There are no policy implications relating to the proposed 'Plantation' and Beehives.

BUDGET/FINANCIAL IMPLICATIONS

There are no financial implications relating to the proposed 'Plantation' and Beehives.

Please note that the applicant has undertaken extensive research and investment thus far, including purchasing of land and native rootling's in preparation for development. Should the Council refuse the application and the applicant is aggrieved by this determination and reason(s), the Shire may need to defend its decision at a State Administrative Tribunal.

STRATEGIC IMPLICATIONS

There are no strategic implications relating to the proposed 'Plantation' and Beehives.

VOTING REQUIREMENTS

Simple majority.

CONCLUSION

Subject to conditions of approval, the plantation and bee-keeping operations are not expected to impact on neighbouring residents, the environment or the economic viability of neighbouring apiary sites.

It is recommended that the Council approve the 'Plantation' and Beehives, subject to conditions and advice notes, as follows (not limited to):

Conditions

Development is to occur in accordance with:

1. Plantation Establishment Plan;
2. Plantation Maintenance Plan;
3. Fire Management Plan; and
4. Apiary Operations Plan.

Advice

It is recommended that the proponent:

1. Register beehives with the Department of Primary Industries and Regional Development;
2. Comply with the Biosecurity and Agriculture Management Act; and
3. Limit the number of bee hives based on nectar production. This should also help to minimize competition with native bees.

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 6.1

MOVED: Cr Rear

SECONDED: Cr Oversby

That Council

Grants development approval for a 'Plantation' and Beehives, at Lots 2944, 2945, 3944, 2 and 11820, Cunningham Road, Wilga, subject to the following notice:

Planning and Development Act 2005

Shire of Boyup Brook

NOTICE OF DETERMINATION ON APPLICATION FOR DEVELOPMENT APPROVAL

Location: Lots 2944, 2945, 3944, 2 and 11820, Cunningham Road,

Description of proposed development:

'Plantation' and Beehives

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

Conditions:

1. Development is to occur in accordance with the approved (Appendices 1-4):
 - a) Plantation Establishment Plan;
 - b) Plantation Maintenance Plan;
 - c) Fire Management Plan; and
 - d) Apiary Operations Plan.

Advice

It is recommended that the proponent:

- 1. Register beehives with the Department of Primary Industries and Regional Development;*
- 2. Comply with the Biosecurity and Agriculture Management Act; and*
- 3. Limit the number of bee hives based on nectar production. This should help to minimize competition with native bees and neighbouring apiarists.*
2. An adequate and permanent supply of water is provided within accessible distance of the hives.
3. Hives are kept:
 - a) Outside, and at least 10 metres from, any building other than a fence;
 - b) At least 10 metres from any footpath, street, private street or public place; and
 - c) At least 5 metres from the boundary of the lot.
4. Honey is not extracted from the hives on the subject sites without relevant approvals under the Food Act 2008, Food Regulations 2009 and the Australian New Zealand Food Standards Code.
5. The approved Fire Management Plan shall be maintained on-site in a red PVC tube located at the main entry point to the subject land, to the satisfaction of the Shire of Boyup Brook.

6. Plantings are to be setback from property boundaries and from water courses, to the satisfaction of the Shire of Boyup Brook.

Advice

The 2018-19 Boyup Brook Firebreak Notice requires a 15m wide bare earth firebreak immediately inside all external boundaries to plantations. Should the owner/operator wish to develop plants closer than 15m to property boundaries, approval will need to be sought to vary from the Shire's firebreak notice.

Setbacks to watercourses are to be achieved so as not to cause environmental damage, which may include soil erosion or degradation to riparian vegetation.

7. The owner/operator shall be responsible for any undue damage to roads and verge areas caused by the development ('Plantation') and use (transporting bee-hives) of the subject land.

Date of determination: 7 February 2018

Note 1: 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.

CARRIED 7/0

Res 01/19

Mr S McLinden left the Chambers at 7.19pm

Cr Moir and Cr Walker returned to the Chambers at 7.19pm

6.2 Use of Common Seal - Local Planning Scheme No. 2, Amendment No. 20.

Location:	N/a
Applicant:	N/a
File:	
Disclosure of Officer Interest:	None
Date:	7 February 2018
Author:	Adrian Nicoll (Shire Planner)
Authorizing Officer:	Stephen Carstairs (Acting CEO)
Attachments:	Local Planning Scheme No.2 Amendment No. 20 - signing page Form 6A

SUMMARY

The Shire's Policy No.A10 prescribes the format for affixing a common seal to a document.

A common seal is a stamp that organisations use to execute documents.

The Planning Department of the Shire requires a common seal to be affixed to a document, which proposes to amend the Shire's Local Planning Scheme (Amendment No.20).

Because the Scheme amendment requires the approval of the Minister for Planning, it is the Department of Planning, Lands and Heritage that prescribes the wording to be used in the common seal. The wording is different to that prescribed by the Shire's Policy No.A10.

The purpose of this report is to seek Council approval for the Shire's Common Seal to be affixed to the Shires Amendment No. 20 document, in accordance with the Local Government Act 1995 and the Department of Planning, Lands and Heritage's Form 6A as attached.

BACKGROUND

At its 13 December 2018 ordinary meeting, Council resolved to finally support Amendment No. 20 to amend the Shire of Boyup Brook Local Planning Scheme No. 2 by undertaking 'Corrections' listed in the Amendment No.20 Report Document, and amending the Scheme maps accordingly.

The Shire is now required to execute (sign and seal) the Amendment 20 document in the presence of the President and CEO, each of whom is to sign the document to attest that the common seal was so affixed.

Council's Policy A.10 on the matter largely duplicates the legislation.

COMMENT

A common seal is like the signature of the organisation (the legal entity), and so the affixing of it to a document is to be witnessed by prescribed people associated with the organisation.

Council's Policy A.10 sets out how the document is to be completed as follows:

The common seal of Shire of Boyup Brook was hereunto affixed and signed by the authority of a resolution of the Council in the presence of:

Shire President

Chief Executive Officer

The seal imprint is placed adjacent to the two signatures.

The wording used in the Shire's policy is different to that used by the Department of Planning, Lands and Heritage as follows:

This Amendment is recommended for support by resolution of the Shire of Boyup Brook at the Ordinary Meeting of the Council held on the 21 day of June, 2018 and the Common Seal of the Shire of Boyup Brook was hereunto affixed by the authority of a resolution of the Council in the presence of:

Mayor/Shire President

Chief Executive Officer

Approval is therefore sought for the seal to be affixed to Shire's Amendment 20 document, in the manner prescribed in Form 6A of the Department of Planning, Lands and Heritage.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

The Local Government Act provides as follows:

9.49A. Execution of documents

- (1) A document is duly executed by a local government if —
 - a) the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or
 - b) it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.
- (2) The common seal of a local government is not to be affixed to any document except as authorised by the local government.
- (3) The common seal of the local government is to be affixed to a document in the presence of —
 - a) the mayor or president; and
 - b) the chief executive officer or a senior employee authorised by the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.

- (6) *A document purporting to be executed in accordance with this section is to be presumed to be duly executed unless the contrary is shown.*
- (7) *When a document is produced bearing a seal purporting to be the common seal of the local government, it is to be presumed that the seal is the common seal of the local government unless the contrary is shown.*

[Section 9.49A inserted by No. 17 of 2009 s. 43.]

9.49B. Contract formalities

- (1) *Insofar as the formalities of making, varying or discharging a contract are concerned, a person acting under the authority of a local government may make, vary or discharge a contract in the name of or on behalf of the local government in the same manner as if that contract was made, varied or discharged by a natural person.*
- (2) *The making, variation or discharge of a contract in accordance with subsection (1) is effectual in law and binds the local government concerned and other parties to the contract.*
- (3) *Subsection (1) does not prevent a local government from making, varying or discharging a contract under its common seal.*

[Section 9.49B inserted by No. 17 of 2009 s. 43.]

9.49. Documents, how authenticated

A document, is, unless this Act requires otherwise, sufficiently authenticated by a local government without its common seal if signed by the CEO or an employee of the local government who purports to be authorised by the CEO to so sign.

5.43. Limits on delegations to CEO²⁹

A local government cannot delegate to a CEO any of the following powers or duties —

- a) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;*

POLICY IMPLICATIONS

The following policy has application:

POLICY NO.	A.10
POLICY SUBJECT	Use of Common Seal and the Signatories for Contract Execution
ADOPTION DATE	17 June 2004
VARIATION DATE	22 December 2007

Objective

To set out the procedures to be followed when there is a requirement to use the common seal.

Statement

The following applies to the use of the common seal and signatures when a document requires this method of completion:-

- 1) is to be used only when Council has previously authorised the action contained within the document being signed;
- 2) be affixed in the presence of the Shire President and Chief Executive Officer.

The document is to be completed in the following manner:-

The common seal of Shire of Boyup Brook was hereunto affixed and signed by the authority of a resolution of the Council in the presence of:

Shire President

Chief Executive Officer

BUDGET/FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION - Item 6.2

MOVED: Cr Muncey

SECONDED: Cr Alexander

That Council approve the Shire of Boyup Brook common seal being affixed to the Shire's Amendment No. 20 document, in accordance with the *Local Government Act 1995* and as prescribed in the Department of Planning, Lands and Heritage's Form 6A as attached.

CARRIED 9/0

Res 02/19

6.3 Budget Amendment: Town Oval Verti-Drain Works

Location:	<i>Boyup Brook Oval</i>
Applicant:	
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>31st of January, 2019</i>
Author:	<i>Steele Alexander - Manager Works and Services and Stephen Carstairs - Acting CEO</i>
Authorizing Officer:	<i>Stephen Carstairs - Acting CEO</i>
Attachments:	<i>Boyup Brook Oval Inspection Forrest Report</i>

SUMMARY

The 2018 Forrest Report into the town oval drainage problems identified the need for verti-drain treatment as part of a ground renovation program.

Budget projections for the recreation complex indicate there will not be sufficient existing funds to undertake the works during the 2018/19 year.

This report recommends that the Council approve exceeding the original budget by the reported amount in order to have the Forrest Report recommendations in place before the 2019 winter season.

BACKGROUND

In order to address the town oval drainage issues, an analysis was undertaken by Forrest & Forrest Horticultural Consultancy Services with the results and recommendations compiled into an 11 page report (attached). The report contained 4 recommendations of which 3 & 4 are not currently being considered due to the high cost. Recommendations 1 & 2 are achievable at reasonable cost and are expected to result in a noticeable improvement to the ground.

Improving the surface drainage from the hillside and the road around the oval (Recommendation 1) is expected to cost \$2,500 and can be completed within the current recreation complex budget.

Recommendation 2, minimizing the thatch buildup on the surface has already been completed but the cost has put pressure on the budget and projections indicate the verti-drain and sand application cannot be funded this financial year.

Two quotes for the verti-draining and application of sand have been obtained, the cheapest of which is \$6135.25. The quotes exclude supply of 200 cubic metres of sand which will need to be arranged by the Shire. Soil test results from a local sand pit indicate it would be suitable for drainage however it was brought to our attention that commercial suppliers of soil are required to test for the presence of *Phytophthora dieback* (Jarrah dieback) in order to prevent the spread of the disease. For this reason, testing of samples from the pit and from the oval were undertaken and in both cases there was no *Phytophthora dieback* present.

Following the successful soil testing, it was determined that local sand could be used for the works at an estimated cost of \$3,000 bringing the total verti-draining cost to approximately \$9,135.

COMMENT

If the full scope of recommendations 1 & 2 of the report are completed before the 2019 winter season then the results will be apparent by Spring 2019. This will enable informed decisions to be made prior to the 2020-21 budget about funding additional significant works to meet community expectations.

CONSULTATION

A report on this matter has previously been presented to Council. Consultation has also been undertaken with suitably qualified Shire officers and external consultants.

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Projections indicate the project cost cannot be managed within the existing Recreation Complex budget and to avert placing pressure on other areas of the Shire's 2018-19 Budget, it is proposed that forecast savings in the *Roman Road Data Pick Up* account (COA 122120) be allocated to COA 113100 Recreation Complex to meet this \$9,135 newly recognised expense.

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

- **Environmental**
Risks regarding the spread of Phytophthora Dieback have been identified and are being managed with suitable soil testing.
- **Economic**
There is an economic expense.
- **Social**
There are no known significant social issues.

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION - Item 6.3

MOVED: Cr Kaltenrieder

SECONDED: Cr Walker

That Council:

- 1. Approve the additional unbudgeted spending of up to \$9,135 for the completion of the verti-drain town oval project as recommended by the 2018 Forrest Report.**
- 2. Reduced the expense budget in chart of account (COA) 122120 Roman Road Data Pick Up by \$9,135, and increase the expense budget in COA 113100 *Recreation Complex* by \$9,135.**

CARRIED BY ABSOLUTE MAJORITY 8/1

Res 03/19

6.4 Budget Amendment: Managing Fox, Cat and Rabbit Pests in the District

Location:	N/A
Applicant:	
File:	Budget
Disclosure of Officer Interest:	None
Date:	31 st of January, 2019
Author:	Stephen Carstairs - Acting CEO
Authorizing Officer:	Stephen Carstairs - Acting CEO
Attachments:	Yes: Schedule 1 of the Local Government (Financial Management) Regulations 1996.

SUMMARY

This report is brought to Council to consider allocating Rural Services funds toward the control of introduced fox, cat and rabbit pests in the district of Boyup Brook.

BACKGROUND

Recognising Rural Services to be a primary function of local government (LG), when legislators enacted the current LG act and regulations these types of services were included as sub-program *Rural Services* under Economic Services in Schedule 1 of the Local Government (Financial Management) Regulations 1996 (refer attached excerpt from the regulations).

Red Card for Rabbits and Foxes (refer redcard.org.au) is a coordinated community predator management activity. The idea is to make a greater impact through coordinating teams to conduct baiting and shooting activities at the same time across the landscape. In 2019 the Red Card event is to take place from 08 – 10 February, and in Boyup Brook is being coordinated by the management team at Rylington Park (but not Rylington Park *per se*).

Section 5.2.6 (2) of the *Shire of Boyup Brook Health Local Laws 2004* reads as follows:

Disposal of Dead Animals

5.2.6 (2) An owner or occupier of premises, other than a veterinary practice, on which there is a dead animal shall immediately remove the carcass for its disposal at an approved disposal site.

and in accord with the Shire's's local law it is proposed that Council consider funding and managing the disposal of the dead cat and foxes from the 2019 Red Card event at the Shire's's landfill. It's highly probable that the Shire's's landfill is the only 'approved' dead animal disposal site in Boyup Brook.

The control of rabbits in Boyup Brook was recently given a boost by the national release of Calicivirus K5 in March 2017. Available for purchase, the preferred window of opportunity to undertake virus release is late Spring to early Summer and / or Autumn (e.g. March) when there are still plenty of flies around but when there are few /no very young rabbits on the ground. It is proposed that Council consider training environmental health personnel at the Shire in the handling and release of K5, and implement a release program at strategic locations (to be determined) in autumn 2019.

COMMENT

Rural services are functions of the local government in which Council is yet to actively engage in.

CONSULTATION

Angela Hales – Environmental Health and Event Management
Dean Guja - Environmental Health
Steele Alexander – Works and Services

STATUTORY OBLIGATIONS

The *Shire of Boyup Brook Health Local Laws 2004*.

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

It is proposed that forecast savings in the *Roman Road Data Pick Up* account (COA 122120) be allocated to COA 131001 Rural Services Expenses to meet this newly recognized \$2,500 expense.

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

- **Environmental**
The environmental benefits deriving from these initiatives is well recognised.
- **Economic**
The primary sector in the district benefits directly from these initiatives.
- **Social**
Rural men’s health benefits directly from the Red Card event, as would the Boyup Brook town people from the release of the K5 Calici strain.

VOTING REQUIREMENTS

Absolute majority

COUNCIL DECISION & OFFICER RECOMMENDATION - Item 6.4

MOVED: Cr Aird

SECONDED: Cr O'Connell

That Council:

1. **Approve the unbudgeted spending of \$2,500 to support the management of fox, cat and rabbit pests in the Shire of Boyup Brook.**
2. **Reduced the expense budget in chart of account (COA) 122120 *Roman Road Data Pick Up* by \$2,500, and increase the expense budget in COA 131001 *Rural Services Expenses* by \$2,500.**

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 04/19

Declare an Interest

Cr Alexander, Cr Rear and Cr O'Connell declared a financial interest in the following item.

6.5 Regional Price Preference Policy - Notice of Proposed Policy

Location:	<i>Shire of Boyup Brook</i>
Applicant:	<i>Not applicable</i>
File:	<i>FM/9/005</i>
Disclosure of Interest:	<i>Nil</i>
Date:	<i>04 January 2019</i>
Author:	<i>Stephen Carstairs - Acting CEO</i>
Authorizing Officer:	<i>Stephen Carstairs – Acting CEO</i>
Attachments:	<i>Yes: Newly Proposed Finance Policy – F.13 Regional Price Preference</i>

PURPOSE

Council is requested to consider the giving of at least four (4) weeks Statewide public notice of its intention to adopt newly proposed policy F.13 *Regional Price Preference*, as attached.

BACKGROUND

At its 13 December 2018 meeting Council resolved to:

That Council adopts newly drafted finance policy F0.12 Regional Price Preference, as presented.
CARRIED 9/0 *Res 240/18*

Further scrutiny of *Local Government (Functions and General) Regulations 1996* (the Regulations) identified Regulations 24 E & 24F as follows:

24E. Regional price preference policies for local governments

(4) A policy cannot be adopted by a local government until the local government has considered all submissions that are received in relation to the proposed policy and, if that consideration results in significant changes to the proposed policy, then the local government must again give Statewide public notice of the altered proposed regional price preference policy.

24F. Adoption and notice of regional price preference policy

(1) A policy cannot be adopted by a local government until at least 4 weeks after the publication of the Statewide notice of the proposed policy.

COMMENT

As resolution Res 240/18 is at variance with Regulations 24E and 24F of the Regulations i.e. its adopts the policy prior to public notice being given, a procedural error has been caused to

occur by the Acting CEO and this would need to be addressed. Section 16.20 of the Shire's Local Law No. 1 - Standing Orders (refer below) provides the means by which this procedural error to be addressed.

16.20 Revoking Decisions - When This Can Occur

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

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Functions and General) Regulations 1996 and Local Law No. 1 - Standing Orders.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENT

Simple Majority required: Yes.

COUNCIL DECISION & OFFICER RECOMMENDATION - Item 6.5

MOVED: Cr Oversby

SECONDED: Cr Kaltenrieder

That Council:

1. In accord with section 16.20 of Local Law No. 1 - Standing orders, Council rescinds resolution Res 240/18 as follows:

That Council adopts newly drafted finance policy F0.12 Regional Price Preference, as presented.

CARRIED 9/0

Res 240/18

2. In accord with Regulation 24 F of the *Local Government (Functions and General) Regulations 1996* Council directs the Acting CEO to give Statewide public notice of proposed policy F.13 Regional Price Preference, as attached.

CARRIED 9/0

Res 05/19

6.6 Annual Report – 2017-18

Location:	<i>Shire of Boyup Brook</i>
Applicant:	<i>Shire of Boyup Brook</i>
File:	<i>N/A</i>
Disclosure of Officer Interest:	<i>Nil</i>
Date:	<i>08 February 2018</i>
Author:	<i>Stephen Carstairs - Acting Chief Executive Officer</i>
Authorizing Officer:	<i>Stephen Carstairs – Acting Chief Executive Officer</i>
Attachments:	<i>Yes – Draft Annual Report 2017/18</i>

SUMMARY

The purpose of this report is to present to Council the Annual Report for the year 2017- 18 for their acceptance, and to set the date for the annual elector's meeting.

BACKGROUND

The *Local Government Act 1995* sets out the requirement for the preparation of Annual Reports and the information to be included:

- A report from the mayor or president;
- A report from the CEO;
- An overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year;
- The financial report for the financial year;
- Such information as may be prescribed in relation to the payments made to employees;
- i) the number of employees of the local government entitled to an annual salary of \$100 000 or more;
- ii) the number of employees with an annual salary entitlement that falls within each band of \$10 000 over \$100 000;
- the auditor's report for the financial year;
- a matter on which a report must be made under section 29(2) of the *Disability Services Act 1993*;
- details of entries made under section 5.121 during the financial year in the register of complaints; and
- such other information as may be prescribed.

Council is required to accept the Annual Report when presented, with or without modification:-

- (1) Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.
* *Absolute Majority required.*
- (2) If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.

Local Government Act 1995 Section 5.27. Electors' general meetings

- (1) A general meeting of the electors of a district is to be held once every financial year.
- (2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.
- (3) The matters to be discussed at general electors' meetings are to be those prescribed.

Local Government Act 1995 Section 5.29. Convening electors' meetings

- (1) The CEO is to convene an electors' meeting by giving —
 - (a) at least 14 days' local public notice; and
 - (b) each council member at least 14 days' notice, of the date, time, place and purpose of the meeting.
- (2) The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.

CONSULTATION

Shire President, Director of Corporate Services and Director of Works & Services

STATUTORY OBLIGATIONS

Local Government Act 1995 Sections 5.53 & 5.54 Annual Report, Sections 5.27 & 5.29 Electors Meeting.

Local Government (Administration) Regulations 1996 Section 19B

COMMENT

The report presented has been prepared as it has in past formats, and also in accordance with statutory requirements.

It is recommended that Council accept the report as presented.

POLICY IMPLICATIONS

There are no specific policy items in relation to the Annual Report and or the Annual Electors Meetings.

BUDGET/FINANCIAL IMPLICATIONS

The costs associated with producing the Annual Report are provided for in the current year's budget.

STRATEGIC IMPLICATIONS

The Annual Report provides information about activities which occurred in the Shire for 2017-18, and the pursuit of items contained in the Council's adopted Plan for the Future.

SUSTAINABILITY IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute Majority Item 1 below.

Simple Majority Item 2 below.

Cr Oversby left the Chambers at 8.14pm

Cr Oversby returned to the Chambers at 8.15pm

COUNCIL DECISION & OFFICER RECOMMENDATION - Item 6.6

MOVED: Cr Walker

SECONDED: Cr Alexander

1. That allowing for non-significant changes for presentation or contextual purposes, Council accepts the Annual Report for the 2017-18 financial year, as presented.
2. That the Annual meeting of Electors relating to the year 2017-18 be held in the Council Chambers on Thursday, 7th March 2019 at 7.00pm.

CARRIED 9/0

Res 06/19

Mr Carstairs left the Chambers at 8.42pm

6.7 Confidential Item - Appointment of Acting Chief Executive Officer

MOVED INTO COMMITTEE

MOVED: Cr Walker

SECONDED: Cr Rear

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

CARRIED 9/0

Res 07/19

Mrs Lane left the Chambers at 9.04pm

Mr Carstairs returned to the Chambers at 9.21pm

Mrs Lane returned to the Chambers at 9.21pm

Mr Carstairs left the Chambers at 9.41pm

MOVED OUT OF COMMITTEE

MOVED: Cr Oversby

SECONDED: Cr Alexander

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

CARRIED 9/0

Res 08/19

COUNCIL DECISION & OFFICER RECOMMENDATION - Item 5.7

MOVED: Cr Kaltenrieder

SECONDED: Cr Walker

That Council:

- 1. From 04 December 2018 Council retrospectively appoints the Director of Corporate Services, Mr Stephen Carstairs to the position of Acting Chief Executive Officer for a period of not more than 12 months.**
- 2. Subject to (1) above the Acting Chief Executive Officer's remuneration is to be set in accordance with Mr Carstairs' letter of appointment.**

CARRIED 9/0

Res 09/19

Mr Carstairs returned to the Chambers at 9.58pm

5. MEETING CLOSED

There being no further business the Shire President, Cr Aird thanked all for attending and declared the meeting closed at 10.09pm.