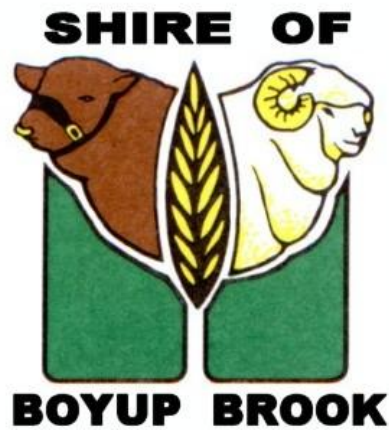


Minutes



SPECIAL COUNCIL MEETING

held

MONDAY 28 October 2019

Commenced AT 5.15PM

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
Cr S Alexander
Cr P Kaltenrieder
Cr K Moir
Cr H O'Connell
Cr T Oversby
Cr A Price
Cr E Rear
Cr R Walker

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

1.2 Apologies

1.3 Leave of Absence

2 PUBLIC QUESTION TIME

2.1 Response to Previous Public Questions Taken on Notice

3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

4 ELECTION OF PRESIDENT AND DEPUTY PRESIDENT, AND APPOINTMENT OF COMMITTEES AND DELEGATES

4.1 Election of Shire President and Deputy Shire President

Election of President

Division 1 of Schedule 2.3 - *When and how ... presidents ... and deputy presidents are elected by the council of the Local Government Act 1995* (the Act) provides that Council will elect a Councillor as President at the first meeting after an ordinary election, as follows:

2. When council elects mayor or president

(1) The office is to be filled as the first matter dealt with —

- (a) at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and

- (2) If the first ordinary meeting of the council is more than 3 weeks after an extraordinary vacancy occurs in the office, a special meeting of the council is to be held within that period for the purpose of filling the office.

Section 2.8 *Role of mayor or president* of the Act sets out the role of the shire's President, as follows:

2.8. Role of mayor or president

- (1) The mayor or president —
 - (a) presides at meetings in accordance with this Act; and
 - (b) provides leadership and guidance to the community in the district; and
 - (c) carries out civic and ceremonial duties on behalf of the local government; and
 - (d) speaks on behalf of the local government; and
 - (e) performs such other functions as are given to the mayor or president by this Act or any other written law; and
 - (f) liaises with the CEO on the local government's affairs and the performance of its functions.

and note that s.2.8.(1)(f) establishes: the nexus between the shire's President and its CEO; and a framework through which the other Councillors may liaise with the administration about the local government's affairs and the performance of its functions.

The President's term of office begins after this election and in accord with item 11 in the table to s.2.28.(2) *Days on which terms begin and end* of the Act, continues until:

"When the ... president is next elected at or after the local government's next ordinary elections "

Division 1 of Schedule 2.3 of the Act also provides that the Chief Executive Officer will take the position of Presiding Person at this meeting for the purpose of electing a Shire President, as follows:

3. CEO to preside

The CEO is to preside at the meeting until the office is filled.

Nominations for the position of President must be in writing and given to the Chief Executive Officer before the meeting or at the meeting itself after the Chief Executive Officer calls for nominations. Councillors may nominate themselves or be nominated by another Councillor, however when being nominated by someone else the Councillor nominated must accept the nomination either in writing or orally at the meeting.

If more than one nomination is received, ballot papers will be prepared and Councillors are to vote by secret ballot. The votes will be counted and the outcome will be decided on a first past the post system, in accordance with the Act. The Chief Executive Officer will advise those present of the result of the election and declare the successful Councillor elected.

The person elected will be required to make a declaration of office as President. The newly elected Shire President, once the declaration is made, will then take the chair for the next part of the proceedings and the remainder of the meeting.

NOMINATIONS
Councillor Aird
Councillor Walker
Councillor Rear

ELECTION

Position on ballot paper determined by drawing of lots

Councillor Rear
Councillor Aird
Councillor Walker

Secret ballot conducted by the CEO.

DECLARATION OF ELECTION

The CEO declared Councillor Aird elected as Shire President.

DECLARATION OF OFFICE

Councillor Aird made his declaration as Shire President before the CEO.

SHIRE PRESIDENT ASSUMES THE CHAIR

Councillor Aird took the chair and conducted the meeting from this point.

Election of Deputy President

Council is required by the Act to elect a Councillor as Deputy President at the first meeting after the Bi Annual Elections.

Section 2.9 *Role of deputy mayor or deputy president* of the Act sets out the role of the shire's Deputy President, as follows:

2.9. Role of deputy mayor or deputy president

The deputy mayor or deputy president performs the functions of the mayor or president when authorised to do so under section 5.34.

Division 3 — Acting for the mayor or president

5.34. When deputy mayors and deputy presidents can act

If —

- (a) the office of mayor or president is vacant; or
- (b) the mayor or president is not available or is unable or unwilling to perform the functions of the mayor or president,

then the deputy mayor may perform the functions of mayor and the deputy president may perform the functions of president, as the case requires.

The term of office for the Deputy President begins after this election and in accord with item 12 in the table to s.2.28.(2) *Days on which terms begin and end* of the Act, continues until:

" ... the start of the first meeting of the council after the local government's next ordinary elections "

Nominations for the position of Deputy President must be in writing and given to the Chief Executive Officer before the meeting or at the meeting itself after the Shire President calls for nominations. Councillors may nominate themselves or be nominated by another Councillor, however when being nominated by someone else the Councillor nominated must accept the nomination either in writing or orally at the meeting.

If more than one nomination is received, ballot papers will be prepared and Councillors are to vote by secret ballot.

The votes will be counted and the outcome will be decided on a first past the post system, in accordance with the Act. The Shire President will advise those present of the result of the election and declare the successful Councillor elected.

The person elected will be required to make a declaration of office as Deputy President.

NOMINATIONS
Councillor Walker
Councillor Rear

ELECTION

Position on ballot paper determined by drawing of lots

Councillor Walker
Councillor Rear

Secret ballot conducted by the CEO

DECLARATION OF ELECTION

The Shire President declared Councillor Walker elected as Deputy Shire President.

DECLARATION OF OFFICE

Councillor Walker made his declaration as Deputy Shire President before the Shire President.

MOVED INTO COMMITTEE

MOVED: Cr O'Connell

SECONDED: Cr Walker

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 261/19

Cr Alexander left the Chambers at 6.18pm.

Cr Alexander returned to the Chambers at 6.21pm.

4.2 Appointment of Committees and Delegates

Committees and Representatives

The local Government Act provides as follows:

5.11. Tenure of committee membership

- (1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —
 - (a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be;
 - (b) the person resigns from membership of the committee;
 - (c) the committee is disbanded; or
 - (d) the next ordinary elections day,

whichever happens first.

In accordance with Section 5.11 the term of office for all committees and delegations ceased 21 October 2019 and so Council is now prompted to appoint Committees for the next two years. Council has also made a practice of dealing with delegates to other bodies at the same time and in a similar fashion to how it deals with committee membership. The recommendation

In dealing with the matter of committees, Council will need to determine if it requires committees, their role, responsibilities and delegation if any. Similarly, Council needs to consider what representatives are required for community organizations for the next two years. It is important that there is a clear understanding of the purpose and role of either committees or representatives.

Council is a decision making body and so any committee appointed by Council should be for the purpose of assisting Council to make a decision. The Local Government Act sets out the following:

2.7. *Role of council*

(1) *The council —*

- (a) *governs the local government's affairs; and*
- (b) *is responsible for the performance of the local government's functions.*

(2) *Without limiting subsection (1), the council is to —*

- (a) *oversee the allocation of the local government's finances and resources; and*
- (b) *determine the local government's policies.*

[Section 2.7 amended by No. 17 of 2009 s. 4.]

2.8. *Role of mayor or president*

(1) *The mayor or president —*

- (a) *presides at meetings in accordance with this Act; and*
- (b) *provides leadership and guidance to the community in the district; and*
- (c) *carries out civic and ceremonial duties on behalf of the local government; and*
- (d) *speaks on behalf of the local government; and*
- (e) *performs such other functions as are given to the mayor or president by this Act or any other written law; and*
- (f) *liaises with the CEO on the local government's affairs and the performance of its functions.*

(2) *Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor.*

2.9. *Role of deputy mayor or deputy president*

The deputy mayor or deputy president performs the functions of the mayor or president when authorised to do so under section 5.34.

2.10. *Role of councillors*

A councillor —

- (a) *represents the interests of electors, ratepayers and residents of the district; and*
- (b) *provides leadership and guidance to the community in the district; and*
- (c) *facilitates communication between the community and the council; and*
- (d) *participates in the local government's decision-making processes at council and committee meetings; and*

- (e) *performs such other functions as are given to a councillor by this Act or any other written law.*

5.2. Administration of local governments

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

There are several committees that Council is required by legislation to appoint or may appoint, these include:-

- * Audit Committee (Local Government Act)
- * LEMC Committee (Emergency Management Act)
- * Bush Fire Advisory Committee (Bush Fires Act)

The following sections of the Local Government Act have relevance to the Audit committee

Division 1A — Audit committee

[Heading inserted by No. 49 of 2004 s. 5.]

7.1A. Audit committee

- (1) *A local government is to establish an audit committee of 3 or more persons to exercise the powers and discharge the duties conferred on it.*
- (2) *The members of the audit committee of a local government are to be appointed* by the local government and at least 3 of the members, and the majority of the members, are to be council members.*
** Absolute majority required.*
- (3) *A CEO is not to be a member of an audit committee and may not nominate a person to be a member of an audit committee or have a person to represent him or her as a member of an audit committee.*
- (4) *An employee is not to be a member of an audit committee.*

[Section 7.1A inserted by No. 49 of 2004 s. 5.]

7.1B. Delegation of some powers and duties to audit committees

- (1) *Despite section 5.16, the only powers and duties that a local government may delegate* to its audit committee are any of its powers and duties under this Part other than this power of delegation.*
** Absolute majority required.*
- (2) *A delegation to an audit committee is not subject to section 5.17.*

[Section 7.1B inserted by No. 49 of 2004 s. 5.]

7.1C. Decisions of audit committees

Despite section 5.20, a decision of an audit committee is to be made by a simple majority.

The following section of the Emergency Management Act 2005 has relevance

38. Local emergency management committees

- (1) *A local government is to establish one or more local emergency management committees for the local government's district.*
- (2) *If more than one local emergency management committee is established, the local government is to specify the area in respect of which the committee is to exercise its functions.*
- (3) *A local emergency management committee consists of —*
 - (a) *a chairman and other members appointed by the relevant local government in accordance with subsection (4); and*
 - (b) *if the local emergency coordinator is not appointed as chairman of the committee, the local emergency coordinator for the local government district.*
- (4) *Subject to this section, the constitution and procedures of a local emergency management committee, and the terms and conditions of appointment of members, are to be determined by the SEMC.*

39. Functions of local emergency management committees

The functions of a local emergency management committee are, in relation to its district or the area for which it is established —

- (a) *to advise and assist the local government in ensuring that local emergency management arrangements are established for its district;*
- (b) *to liaise with public authorities and other persons in the development, review and testing of local emergency management arrangements; and*
- (c) *to carry out other emergency management activities as directed by the SEMC or prescribed by the regulations.*

13. State Emergency Management Committee

- (1) *The State Emergency Management Committee is established.*
- (2) *The SEMC is to consist of —*
 - (a) *a chairman appointed by the Minister;*
 - (b) *a deputy chairman appointed by the Minister;*
 - (c) *an executive officer of the SEMC appointed by the Minister;*
 - (d) *a person who is representative of local government, appointed by the Minister; and*
 - (e) *such other members as are provided for, and appointed in accordance with, the regulations.*
- (3) *The Minister is to ensure that —*
 - (a) *the chairman has expertise or experience that, in the Minister's opinion, is relevant to the functions of the SEMC and the State Emergency Coordination Group; and*

- (b) *each other member has expertise or experience that, in the Minister's opinion, is relevant to the functions of the SEMC.*
- (4) *The regulations may make provision as to the constitution and procedures of the SEMC.*
- (5) *Subject to the regulations the SEMC may determine its own procedures.*

14. Functions of the SEMC

The SEMC has the following functions —

- (a) *to advise the Minister on emergency management and the preparedness of the State to combat emergencies;*
- (b) *to provide direction, advice and support to public authorities, industry, commerce and the community in order to plan and prepare for an efficient emergency management capability for the State;*
- (c) *to provide a forum for whole of community coordination to ensure the minimisation of the effects of emergencies;*
- (d) *to provide a forum for the development of community wide information systems to improve communications during emergencies;*
- (e) *to develop and coordinate risk management strategies to assess community vulnerability to emergencies;*
- (f) *to perform other functions given to the SEMC under this Act;*
- (g) *to perform any other function prescribed by the regulations for the purposes of this section.*

15. Powers of the SEMC

- (1) *The SEMC may do all things necessary or convenient to be done for or in connection with the performance of its functions.*
- (2) *Without limiting subsection (1) and any other powers conferred on the SEMC by this Act, the SEMC may —*
 - (a) *produce and publish information on matters related to its functions; and*
 - (b) *act in conjunction with another public authority or any other person.*

The following sections of the Bush Fires Act 1954 have relevance.

67. Advisory committees

- (1) *A local government may at any time appoint such persons as it thinks fit as a bush fire advisory committee for the purpose of advising the local government regarding all matters relating to the preventing, controlling and extinguishing of bush fires, the planning of the layout of fire-breaks in the district, prosecutions for breaches of this Act, the formation of bush fire brigades and the grouping thereof under group brigade officers, the ensuring of co-operation and co-ordination of bush fire brigades in their efforts and activities, and any other matter relating to bush fire control whether of the same kind as, or a different kind from, those specified in this subsection.*

- (2) *A committee appointed under this section shall include a member of the council of the local government nominated by it for that purpose as a member of the committee, and the committee shall elect one of their number to be chairman thereof.*
- (3) *In respect to a committee so appointed, the local government shall fix the quorum for the transaction of business at meetings of the committee and may —*
 - (a) *make rules for the guidance of the committee;*
 - (b) *accept the resignation in writing of, or remove, any member of the committee; and*
 - (c) *where for any reason a vacancy occurs in the office of a member of the committee, appoint a person to fill that vacancy.*
- (4) *A committee appointed under this section —*
 - (a) *may from time to time meet and adjourn as the committee thinks fit;*
 - (b) *shall not transact business at a meeting unless the quorum fixed by the local government is present;*
 - (c) *is answerable to the local government and shall, as and when required by the local government, report fully on its activities.*

Committees set up under the Local Government Act other than the Audit Committee are controlled by the following sections of the Local Government Act.

Subdivision 2 — Committees and their meetings

5.8. *Establishment of committees*

A local government may establish committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

** Absolute majority required.*

5.9. *Committees, types of*

- (1) *In this section —*

other person *means a person who is not a council member or an employee.*

- (2) *A committee is to comprise —*
 - (a) *council members only; or*
 - (b) *council members and employees; or*
 - (c) *council members, employees and other persons; or*
 - (d) *council members and other persons; or*
 - (e) *employees and other persons; or*
 - (f) *other persons only.*

5.10. *Committee members, appointment of*

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

** Absolute majority required.*

- (2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*
- (3) *Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.*
- (4) *If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*
- (5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —*
- (a) *to be a member of the committee; or*
 - (b) *that a representative of the CEO be a member of the committee,*
- the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.*

5.11A. *Deputy committee members*

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

** Absolute majority required.*

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

- (c) *if the member of the committee is not a council member or an employee — a person who is not a council member or an employee; or*
- (d) *if the member of the committee is a person appointed under section 5.10(5) — a person nominated by the CEO.*
- (3) *A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.*
- (4) *A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member.*

[Section 5.11A inserted by No. 17 of 2009 s. 20.]

5.11. Committee membership, tenure of

- (1) *Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —*
 - (a) *the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or*
 - (b) *the person resigns from membership of the committee; or*
 - (c) *the committee is disbanded; or*
 - (d) *the next ordinary elections day,*

whichever happens first.

- (2) *Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —*
 - (a) *the term of the person's appointment as a committee member expires; or*
 - (b) *the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant; or*
 - (c) *the committee is disbanded; or*
 - (d) *the next ordinary elections day,*

whichever happens first.

5.12. Presiding members and deputies, election of

- (1) *The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule —*
 - (a) *to "office" were references to "office of presiding member"; and*
 - (b) *to "council" were references to "committee"; and*
 - (c) *to "councillors" were references to "committee members".*

- (2) *The members of a committee may elect a deputy presiding member from amongst themselves but any such election is to be in accordance with Schedule 2.3, Division 2 as if the references in that Schedule —*

- (a) to “office” were references to “office of deputy presiding member”; and*
- (b) to “council” were references to “committee”; and*
- (c) to “councillors” were references to “committee members”; and*
- (d) to “mayor or president” were references to “presiding member”.*

5.13. *Deputy presiding members, functions of*

If, in relation to the presiding member of a committee —

- (a) the office of presiding member is vacant; or*
- (b) the presiding member is not available or is unable or unwilling to perform the functions of presiding member,*

then the deputy presiding member, if any, may perform the functions of presiding member.

5.14. *Who acts if no presiding member*

If, in relation to the presiding member of a committee —

- (a) the office of presiding member and the office of deputy presiding member are vacant; or*
- (b) the presiding member and the deputy presiding member, if any, are not available or are unable or unwilling to perform the functions of presiding member,*

then the committee members present at the meeting are to choose one of themselves to preside at the meeting.

5.15. *Reduction of quorum for committees*

The local government may reduce the number of offices of committee member required for a quorum at a committee meeting specified by the local government if there would not otherwise be a quorum for the meeting.*

** Absolute majority required.*

5.16. *Delegation of some powers and duties to certain committees*

- (1) *Under and subject to section 5.17, a local government may delegate* to a committee any of its powers and duties other than this power of delegation.*

** Absolute majority required.*

- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*

- (3) *Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —*
- (a) *a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and*
 - (b) *any decision to amend or revoke a delegation under this section is to be by an absolute majority.*
- (4) *Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.*

5.17. Limits on delegation of powers and duties to certain committees

- (1) *A local government can delegate —*
- (a) *to a committee comprising council members only, any of the council's powers or duties under this Act except —*
 - (i) *any power or duty that requires a decision of an absolute majority or a 75% majority of the local government; and*
 - (ii) *any other power or duty that is prescribed;**and*
 - (b) *to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and*
 - (c) *to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of —*
 - (i) *the local government's property; or*
 - (ii) *an event in which the local government is involved.*
- (2) *A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f).*

[Section 5.17 amended by No. 49 of 2004 s. 16(2).]

5.18. Register of delegations to committees

A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.

Subdivision 3 — Matters affecting council and committee meetings

5.19. Quorum for meetings

The quorum for a meeting of a council or committee is at least 50% of the number of offices (whether vacant or not) of member of the council or the committee.

5.20. *Decisions of councils and committees*

- (1) *A decision of a council does not have effect unless it has been made by a simple majority or, if another kind of majority is required under any provision of this Act or has been prescribed by regulations or a local law for the particular kind of decision, by that kind of majority.*
- (2) *A decision of a committee does not have effect unless it has been made by a simple majority or, if another kind of majority has been prescribed by regulations or a local law for the particular kind of decision, by that kind of majority.*
- (3) *This section does not apply to elections —*
 - (a) *by a council of the local government's mayor or president under section 2.11; or*
 - (b) *by a council of the local government's deputy mayor or president under section 2.15; or*
 - (c) *by a committee of the committee's presiding member or deputy presiding member under section 5.12.*

5.21. *Voting*

- (1) *Each council member and each member of a committee who is present at a meeting of the council or committee is entitled to one vote.*
- (2) *Subject to section 5.67, each council member and each member of a committee to which a local government power or duty has been delegated who is present at a meeting of the council or committee is to vote.*
- (3) *If the votes of members present at a council or a committee meeting are equally divided, the person presiding is to cast a second vote.*
- (4) *If a member of a council or a committee specifically requests that there be recorded —*
 - (a) *his or her vote; or*
 - (b) *the vote of all members present,**on a matter voted on at a meeting of the council or the committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.*
- (5) *A person who fails to comply with subsection (2) or (3) commits an offence.*

[Section 5.21 amended by No. 49 of 2004 s. 43.]

5.22. *Minutes of council and committee meetings*

- (1) *The person presiding at a meeting of a council or a committee is to cause minutes to be kept of the meeting's proceedings.*

- (2) *The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.*
- (3) *The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify the confirmation.*

5.23. *Meetings generally open to public*

- (1) *Subject to subsection (2), the following are to be open to members of the public —*
 - (a) *all council meetings; and*
 - (b) *all meetings of any committee to which a local government power or duty has been delegated.*
- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*
 - (a) *a matter affecting an employee or employees; and*
 - (b) *the personal affairs of any person; and*
 - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*
 - (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*
 - (e) *a matter that if disclosed, would reveal —*
 - (i) *a trade secret; or*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person,*
where the trade secret or information is held by, or is about, a person other than the local government; and
 - (f) *a matter that if disclosed, could be reasonably expected to —*
 - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or*
 - (ii) *endanger the security of the local government's property; or*
 - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety;*

and

(g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and*

(h) *such other matters as may be prescribed.*

(3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

5.24.

Question time for public

(1) *Time is to be allocated for questions to be raised by members of the public and responded to at —*

(a) *every ordinary meeting of a council; and*

(b) *such other meetings of councils or committees as may be prescribed.*

(2) *Procedures and the minimum time to be allocated for the asking of and responding to questions raised by members of the public at council or committee meetings are to be in accordance with regulations.*

Council will also need to appoint (4) Councillors in accordance with the Annual Awards process policy, to consider nominations for Citizen of the Year, Young Achiever of the Year, Sports Person of the Year etc. The policy provides the panel with the authority to make the selection without any further reference to Council.

It will be noted that the officer recommendation includes the name and functions of each committee. Council should consider the need, if any, for committees, what it wants them to do and what, if any, powers it wants to give them. The following recommendation is based on the current position and it is important to note that this is a suggestion only for Council's consideration. There is no restriction on the timing of the appointment of committees or on the winding up of committees other than what Council sets (except that appointments to committee expire every two years unless Council sets an early expiry date). The following recommendation includes a similar provision.

It should be noted that Council may set the quorum for committee meetings as provided for in the local Government Act as follows;

5.15. Reduction of quorum for committees

The local government may reduce the number of offices of committee member required for a quorum at a committee meeting specified by the local government if there would not otherwise be a quorum for the meeting.*

However this option has been lost by the following clause in Council's Standing Orders Local Law;

3.1 Quorum at Meetings

In accordance with the Act, the quorum at all meetings of Council and its committees shall be a minimum of 50% of the total number of places whether vacant or not.

With respect to the Local Emergency Management Committee recommended membership that includes Council staff, it is noted that the Local Government Act (5.10) provides as follows;

- (5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —*
- (a) *to be a member of the committee; or*
- (b) *that a representative of the CEO be a member of the committee,*

the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

It should be noted that a similar provision exists for the President as is as follows (5.10);

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

There are several industry organisations that Council will need to appoint delegates for. These include:-

- * South West Zone W A Local Government Association
- * Main Roads Regional Road Group

Cr O'Connell left the Chambers at 6.55pm

Cr O'Connell returned to the Chambers at 7.00pm

MOVED OUT OF COMMITTEE

MOVED: Cr Oversby

SECONDED: Cr Moir

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 262/19

COUNCIL DECISION

MOVED: Cr Alexander

SECONDED: Cr O'Connell

That the Council adopts enbloc 4.2 which includes numbers 1 to 17.

CARRIED 9/0

Res 263/19

COUNCIL DECISION & OFFICER RECOMMENDATION - ITEM 4.2

That the following Committee/Representatives be appointed:-

1. **Audit and Finance Committee – (7) Councillors.**
The function/role of the Audit and Finance Committee be as follows:-
 - a) to provide guidance and assistance to the Council-
 - i. as to the carrying out of its functions in relation to audits;
 - ii. as to the development of a process to be used to select and appoint a person to be the auditor; and
 - b) may provide guidance and assistance to the Council as to-
 - i. matters to be audited;
 - ii. the scope of the audit;
 - iii. its functions under Part 6 of the Local Government Act 1995 that relate to financial management; and
 - iv. the carrying out of its functions relating to other audits and other matters related to financial management.
 - c) is to conduct budget reviews and report to Council.

That Cr Aird, Cr Moir, Cr O'Connell, Cr Oversby, Cr Walker, Cr Rear and Cr Alexander be appointed to Council's Audit and Finance Committee, and this appointment continues until the start of the first meeting of the council after the local government's next ordinary election.

CARRIED BY ENBLOC 9/0

2. **Annual Awards Committee – 3 Councillors, the function of the committee to be as set out in Council's Annual Awards process policy.**

That Cr O'Connell, Cr Moir and Cr Alexander be appointed to Council's Annual Awards Committee, and this appointment continues until the start of the first meeting of the council after the local government's next ordinary election.

CARRIED BY ENBLOC 9/0

3. **Local Emergency Management Committee-**

Comment

It should be noted that Council endorsed the current Emergency Management Plan in February 2010 as follows:

That Council endorse the amended Shire of Boyup Brook Recovery Plan 2008 as provided and that plan now be known as the Shire of Boyup Brook Recovery Plan 2010.

The Plan provides that "the Chairman appointed by the Shire Council is Shire President". Also at the membership of the committee is as set out in the Plan (factors such as individual's names and contact details change with staff changes but the agency representation remains static). As this committee is set up under legislation other than the

Local Government Act, and so is not bound by its provisions. The Emergency Management Act provides that the constitution and procedures of a local emergency management committee, and the terms and conditions of appointment of members, are to be determined by the LEMC.

It is recommended that, unless the Shire President does not want to be the Council representative and committee chairman, in which case we should amend the Plan, Council nominate the Shire President as its representative.

COUNCIL DECISION & OFFICER RECOMMENDATION

The roles and responsibilities of this committee are to be as set out in the Emergency Management Act 2005.

That Cr Aird (the Councillor elected as Shire President) be appointed as the Council Representative and that Cr Walker be appointed as the Deputy Delegate on the LEMC Committee, and this appointment continues until the start of the first meeting of the council after the local government's next ordinary election.

That the Chief Executive Officer, Manager of Works and the Community Emergency and Regulatory Services Manager be appointed as Council staff representatives.

CARRIED BY ENBLOC 9/0

4. Bush Fire Advisory Committee-

Comment

It is noted that the Bush Fires Act provides that the Local Government shall set a quorum and so it is recommended that this be 50% of the committee membership. The Act also does not appear to preclude the use of positions for appointment of committee membership (i.e. in the way the Local Government Act does) and the following recommendation is drafted accordingly.

COUNCIL DECISION & OFFICER RECOMMENDATION

That Cr Aird (the Councillor elected as Shire President) be appointed as the Council Representative and that Cr Walker be appointed as the Deputy Delegate on the Bush Fire Advisory Committee, and this appointment continues until the start of the first meeting of the council after the local government's next ordinary election.

That the Chief Executive Officer and Manager of Works be appointed as Council staff representatives.

That the Bush Fire Advisory Committee consist of:

- The Council representatives
- Chief Bush Fire Control Officer
- 1st Deputy Chief Fire Control Officer (X-Ray 1)
- 2nd Deputy Chief Fire Control Officer (X-Ray 2)
- Communications Officer (X-Ray 3)
- Fire Weather Officer (X-Ray 4)
- Deputy Fire Weather Officer
- Training Officer
- Two delegates from each Brigade

CARRIED BY ENBLOC 9/0

5. Infrastructure Committee- (7) Councillors

The function/role of the Finance and Infrastructure Committee be as follows:-

(The function/role be recommended by the Committee)

That Cr Aird, Cr Oversby, Cr Kaltenrieder, Cr Walker and Cr Alexander, Cr Rear and Cr O'Connell be appointed to Council's Finance and Infrastructure Committee, and this appointment continues until the start of the first meeting of the council after the local government's next ordinary election.

CARRIED BY ENBLOC 9/0

6. Community Grants Committee

COUNCIL DECISION & OFFICER RECOMMENDATION

That Council wind up the Community Grants Committee.

Note: renaming -Humanities Committee

CARRIED BY ENBLOC 9/0

7. Swimming Pool Committee

COUNCIL DECISION & OFFICE RECOMMENDATION

That Council wind up the Swimming Pool Committee.

Note: renaming -Humanities Committee

CARRIED BY ENBLOC 9/0

8. Humanities Committee- (4) Councillors

The function/role of the Humanities Committee be as follows:-

(The function role be recommended by the Committee)

That Cr O'Connell, Cr Oversby, Cr Rear and Cr Alexander be appointed to Council's Humanities Committee, and this appointment continues until the start of the first meeting of the council after the local government's next ordinary election.

CARRIED BY ENBLOC 9/0

9. Biosecurity Committee

COUNCIL DECISION & OFFICER RECOMMENDATION

That Council wind up the Biosecurity Committee.

Note: renaming Economic Development & Biosecurity Committee

CARRIED BY ENBLOC 9/0

10. Economic Development & Biosecurity Committee (8) Councillors.

The function/role of the Economic Development & Biosecurity Committee be as follows:-

(The function/role be recommended by the Committee)

That Cr Price, Cr O'Connell, Cr Moir, Cr Kaltenrieder, Cr Rear, Cr Aird, Cr Alexander and Cr Walker be appointed to Council's Economic Development & Biosecurity Committee, and this appointment continues until the start of the first meeting of the council after the local government's next ordinary election.

CARRIED BY ENBLOC 9/0

11. That Cr Aird be appointed as the Council Representative and that Cr Kaltenrieder be appointed as the Deputy Delegate on the Main Road Regional Road Group, and this appointment continues until the start of the first meeting of the council after the local government's next ordinary election.

CARRIED BY ENBLOC 9/0

12. That Cr Aird be appointed as the Council Representative and that Cr Walker be appointed as the Deputy Delegate for the South West Zone Western Australian Local Government Association, and this appointment continues until the start of the first meeting of the council after the local government's next ordinary election.

CARRIED BY ENBLOC 9/0

13. That Cr O'Connell be appointed as the Council Representatives on the Rylington Park Management Committee (inc), and this appointment continues until the start of the first meeting of the council after the local government's next ordinary election.

CARRIED BY ENBLOC 9/0

14. That Cr Price be appointed as the Council Representative on the Boyup Brook Tourism Association, and this appointment continues until the start of the first meeting of the council after the local government's next ordinary election.

CARRIED BY ENBLOC 9/0

15. That Cr Oversby be appointed as the Council Representative on the Boyup Brook Community Resource Centre Management Committee, and this appointment continues until the start of the first meeting of the council after the local government's next ordinary election.

CARRIED BY ENBLOC 9/0

16. That Cr Rear be appointed as the Council Representative on the Boyup Brook Museum Committee, and this appointment continues until the start of the first meeting of the council after the local government's next ordinary election.

CARRIED BY ENBLOC 9/0

17. That Cr Alexander be appointed as the Council Representative on the Boyup Brook District High School Board, and this appointment continues until the start of the first meeting of the council after the local government's next ordinary election.

CARRIED BY ENBLOC 9/0

Declare an Interest

Cr O'Connell declared a financial interest in the following item and departed the Chambers, the time being 7.15pm.

4.3 Blackwood Basin Group Committee

COUNCIL DECISION - ITEM 4.3

MOVED: Cr Oversby

SECONDED: Cr Alexander

**That the following Committee Representative be appointed.
That Cr Aird be appointed as the Council Representative and that Cr Price be appointed as the Deputy Delegate on the Blackwood Basin Group Committee, and this appointment continues until the start of the first meeting of the council after the local government's next ordinary election.**

CARRIED 8/0

Res 264/19

Cr O'Connell returned to the Chambers at 7.19pm.

Cr Rear left the Chambers at 7.35pm.

Cr Rear returned to the Chambers at 7.37pm.

Adjournment

That the meeting be adjourned for an afternoon tea break, the time being 7.44pm.

Resumption

That the meeting resume, the time being 8.07pm.

The meeting resumed with the following persons in attendance.

Cr G Aird

Cr S Alexander

Cr P Kaltenrieder

Cr K Moir

Cr H O'Connell

Cr T Oversby

Cr A Price

Cr E Rear

Cr R Walker

Mr Stephen Carstairs (Acting CEO)

Mrs Maria Lane (Executive Assistant)

4.4 Results of the 2019 Shire of Boyup Brook Local Government Elections

Location:	Shire Administration
Applicant:	N/A
File:	GO/19/005
Disclosure of Officer Interest:	None
Date:	24 October 2019
Authors:	Stephen Carstairs - Acting CEO
Authorizing Officer:	Stephen Carstairs - Acting CEO
Attachments:	Nil

SUMMARY

This report is for Council to receive the results of the October 2019 Shire of Boyup Brook local government ordinary elections.

BACKGROUND

In October 2019 the term of office of four (4) Boyup Brook Councillors from 4 x wards concluded as follows:

Cr Graham Aird	Scotts Brook Ward
Cr Kevin Moir	Benjinup Ward
Cr Eric Muncey	Boyup Brook Ward
Cr Lizz Rear	Dinninup Ward

At the close for nominations (12 September 2019) to fill the vacancies, five Councillor candidates nominated for the vacancies as follows:

Scotts Brook Ward	Mr Graham Aird
Benjinup Ward	Ms Glenda Moroni and Mr Kevin Moir
Boyup Brook Ward	Mr Adrian Price
Dinninup Ward	Ms Lizz Rear

COMMENT

At the close of nominations, Councillors Aird, Price and Rear were elected unopposed (refer s.4.55 *Same number of candidates as vacancies* of the *Local Government Act 1995* (the Act)).

In accordance with s.4.56 *More candidates than vacancies* of the Act, lots were drawn to determine the positions of Ms Moroni and Mr Moir on the ballot papers for the Benjinup ward vacancy, and Ms Moroni appeared first position followed by Mr Moir. Subsequently the returning officer (Acting CEO) and deputy returning officer (Executive Assistant) prepared for voting by the 261 Benjinup electors.

In accordance with s. 4.61 *Choice of methods of conducting election* of the Act the election was conducted as a **voting in person election**.

At the close of business Friday 18 October 2019 thirty four (early) Benjinup ward voters had been recorded. At the close of voting (6:00pm) on Saturday 19 October 2019 a further 10 voters had been recorded for the election, and a marked ballot paper was found at the voting place but outside of the ballot box. This ballot paper was retained in a secure place and not used in the count.

The count of ballot papers was conducted by the returning officer and deputy returning officer in Council chambers adjacent to the voting place, and no scrutineers were in attendance. The count recorded four votes for Ms Moroni and 39 votes for Mr Moir. At the conclusion of the count, and in the reception area adjoining Chambers, Mr Moir was declared elected for the Benjinup ward for a term to conclude on Saturday 21 October 2023.

CONSULTATION

Western Australian Electoral Commission and the Department of Local Government Sport and Cultural industries

STATUTORY OBLIGATIONS

Part 4 *Elections and other polls* of the *Local Government Act 1995* and the Act's associated Regulations have relevance to this report.

POLICY IMPLICATIONS - Nil

BUDGET/FINANCIAL IMPLICATIONS

Provision was made in the shire's 2019-20 Adopted Budget to cover the cost of running the October 2019 ordinary elections.

STRATEGIC IMPLICATIONS

The Governance section in the shire's *2017-27 Community Strategic Plan* has relevance to this report as follows:

Governance: Strengthen Local Leadership

Our Vision:

We will ensure our sustainability through our leadership, our regional partnerships and ensure we make informed resource decisions for the good of our community.

We will engage and listen to our community, advocate on their behalf, be accountable and manage within our governance and legislative framework.

Our objectives and priorities are built from our outcomes.

OUTCOMES	OBJECTIVES	PRIORITIES
Council and Community Leadership	Provide leadership on behalf of the community.	<ul style="list-style-type: none">✦ Lobby and advocate for improved services, infrastructure, and access to.✦ Advocate for the strengthening of health and education services.✦ Develop partnerships with stakeholders to enhance community services and infrastructure.
	Foster community participation and collaboration.	<ul style="list-style-type: none">✦ Support volunteers and encourage community involvement in community groups and organisations.✦ Partner in specific projects including community contributions.

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 4.4

MOVED: Cr Oversby

SECONDED: Cr O'Connell

That Council receive the results of the 19 October 2019 Boyup Brook ordinary elections as follows:

Scotts Brook Ward	Cr Graham Aird elected unopposed
Boyup Brook Ward	Cr Adrian Price elected unopposed
Dinninup Ward	Cr Lizz Rear elected unopposed
Benjinup Ward	Cr Kevin Moir elected defeating Ms Glenda Moroni 39 votes to 4.

CARRIED 9/0

Res 265/19

The term of these elected Councillors is to conclude 21 October 2023.

5 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Nil

7 CONFIDENTIAL MATTERS – BEHIND CLOSED DOORS

Nil

8 CLOSURE OF MEETING

There being no further business the Presiding Member thanked all for their attendance and declared the meeting closed at 8.25pm.