

Minutes

ORDINARY COUNCIL MEETING
held
THURSDAY 25 FEBRUARY 2021
COMMENCED AT 5.00PM

SHIRE OF BOYUP BROOK
CHAMBERS
ABEL STREET BOYUP BROOK

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Shire President declared the meeting open at 5.00pm.

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED

PRESENT:	Shire President	Richard F Walker
	Deputy Shire President	Helen C O'Connell
	Councillor	Sarah E G Alexander
		Steele Alexander
		Philippe Kaltenrieder
		Darren E King
		Kevin J Moir
		Adrian Price
	Chief Executive Officer	Dale Putland
	Manager of Works & Services	Wayne Butler
	Executive Assistant	Maria Lane

LEAVE OF ABSENCE: Nil

APOLOGIES: Nil

MEMBERS OF PUBLIC: Mark Brlevich
Mary-Anne Brlevich
Sonya Watmore
Eric Muncey
Hugo Bombara
Hudson Bombara
Marianne Bombara

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

*Question: Eric Muncey
What has the Shire provided to the Country Music Club in relation to donations and in-kind requests over the last 15 years.*

Response: Question taken on notice.

5. PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS

Nil

6. DISCLOSURE OF INTEREST

Name	Item No	Interest	Nature
Cr R Walker	10.3.4	Impartiality & Proximity	Agricultural land on which the development is proposed is leased to my family business
Cr A Price	10.4.1	Impartiality	Board member of the CRC
Cr H C O'Connell	10.4.1	Impartiality	Member of the CRC Committee
Cr H C O'Connell	13.4	Impartiality	Employee of Blackwood Basin Group, not related to operations of Group.

7. CONFIRMATION OF MINUTES

7.1 Ordinary Council Minutes – 17 December 2020

COUNCIL DECISION AND OFFICER RECOMMENDATION – ITEM 7.1

MOVED: Cr H C O'Connell

SECONDED: Cr P Kaltenrieder

That the minutes of the Ordinary Council Meeting held on Thursday 17 December 2020 be confirmed as an accurate record.

CARRIED 8/0

Res 21/2/4

Eric Muncey left the Chambers at 5.05pm.

7.2 Special Council Minutes – 14 January 2021

COUNCIL DECISION AND OFFICER RECOMMENDATION – ITEM 7.2

MOVED: Cr S E G Alexander

SECONDED: Cr H C O'Connell

That the minutes of the Special Council Meeting held on Thursday 14 January 2021 be confirmed as an accurate record.

CARRIED 8/0

Res 21/2/5

8. PRESIDENTIAL COMMUNICATIONS

- 14th January - Council visit to look at reservoir regarding water security.
- 16th February- District Nurse discussion regarding forming a working group, met with Elizabeth Parker, Kathryn Westphal, Deputy Shire President and CEO.
- 17th February- Attended a community meeting to discuss formation of a Business Affiliation Group held at the Lesser Hall which was organized by Peta Meredith.
- 19th February- Attended a WALGA South West Zone Meeting at the Bunbury Council Chambers.

9. COUNCILLOR QUESTIONS ON NOTICE

Nil

10.1 MANAGER WORKS AND SERVICES

Nil

10.2 FINANCE

10.2.1 List of Accounts Paid in December 2020

Location:	<i>Not applicable</i>
Applicant:	<i>Not applicable</i>
File:	<i>FM/1/002</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>29/01/2021</i>
Author:	<i>Carolyn Mallett –Senior Finance Officer</i>
Authorising Officer:	<i>Dale Putland – CEO</i>
Attachments:	<i>Yes – List of Accounts Paid in December</i>

SUMMARY

In accordance with the *Local Government (Financial Management) Regulations 1996* the list of accounts paid in December 2020 are presented to Council.

BACKGROUND

This report presents accounts/invoices received for the supply of goods and services, salaries and wages, and the like which were paid during the period 01 to 31 December 2020.

COMMENT

The attached listing represents accounts/invoices the shire paid by cheque or electronic means during the period 01 to 31 December 2020.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

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

12. *Payments from municipal fund or trust fund*

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

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

13. *Lists of accounts*

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

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

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

- (a) for each account which requires council authorisation in that month —*

- (i) the payee's name;*
 - (ii) the amount of the payment; and*
 - (iii) sufficient information to identify the transaction;*
- and*

- (b) the date of the meeting of the council to which the list is to be presented.*

- (3) *A list prepared under sub regulation (1) or (2) is to be —*

- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and*
- (b) recorded in the minutes of that meeting.*

POLICY IMPLICATIONS

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

BUDGET/FINANCIAL IMPLICATIONS

Account payments accorded with a detailed 2020-21 Annual Budget

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 10.2.1

MOVED: Cr D E King

SECONDED: Cr S Alexander

That at its February 2021 ordinary meeting Council receive as presented the list of accounts paid in December 2020, totalling \$637,198.43 from Municipal account, \$39,300.65 from Police Licensing account and \$8.91 from Boyup Brook Early Learning Centre account, as represented by:

Municipal Cheques	20468 - 20475	\$ 26,760.12
Municipal Electronic Payments	EFT10177 – EFT10337	\$402,834.78
Municipal Direct Payments		\$207,603.53
Police Licensing Payments		\$ 39,300.65
BBELC Payments		\$ 8.91

CARRIED 8/0

Res 21/2/6

10.2.2 List of Accounts Paid in January 2021

Location:	<i>Not applicable</i>
Applicant:	<i>Not applicable</i>
File:	<i>FM/1/002</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>15/02/2021</i>
Author:	<i>Carolyn Mallett –Senior Finance Officer</i>
Authorising Officer:	<i>Dale Putland – CEO</i>
Attachments:	<i>Yes – List of Accounts Paid in January</i>

SUMMARY

In accordance with the *Local Government (Financial Management) Regulations 1996* the list of accounts paid in January 2021 are presented to Council.

BACKGROUND

This report presents accounts/invoices received for the supply of goods and services, salaries and wages, and the like which were paid during the period 01 to 31 January 2021.

COMMENT

The attached listing represents accounts/invoices the shire paid by cheque or electronic means during the period 01 to 31 January 2021.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

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

12. *Payments from municipal fund or trust fund*

- (1) A payment may only be made from the municipal fund or the trust fund —*
 - (a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or*
 - (b) otherwise, if the payment is authorised in advance by a resolution of the council.*
- (2) The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.*

13. *Lists of accounts*

- (1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —*
 - (a) *the payee's name;*
 - (b) *the amount of the payment;*
 - (c) *the date of the payment; and*
 - (d) *sufficient information to identify the transaction.*
- (2) *A list of accounts for approval to be paid is to be prepared each month showing —*
 - (a) *for each account which requires council authorisation in that month —*
 - (i) *the payee's name;*
 - (ii) *the amount of the payment; and*
 - (iii) *sufficient information to identify the transaction;**and*
 - (b) *the date of the meeting of the council to which the list is to be presented.*
- (3) *A list prepared under sub regulation (1) or (2) is to be —*
 - (a) *presented to the council at the next ordinary meeting of the council after the list is prepared; and*
 - (b) *recorded in the minutes of that meeting.*

POLICY IMPLICATIONS

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

BUDGET/FINANCIAL IMPLICATIONS

Account payments accorded with a detailed 2020-21 Annual Budget

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 10.2.2

MOVED: Cr S E G Alexander

SECONDED: Cr Helen C O’Connell

That at its February 2021 ordinary meeting Council receive as presented the list of accounts paid in January 2021, totalling \$330,504.57 from Municipal account, \$64,387.05 from Police Licensing account and \$8.91 from Boyup Brook Early Learning Centre account, as represented by:

Municipal Cheques	20476 - 20480	\$ 3,419.57
Municipal Electronic Payments	EFT10338 – EFT10402	\$121,241.07
Municipal Direct Payments		\$205,843.93
Police Licensing Payments		\$ 64,387.05
BBELC Payments		\$ 8.91

CARRIED 8/0

Res 21/2/7

10.2.3 31 December 2020 Statement of Financial Activity

Location:	<i>Not applicable</i>
Applicant:	<i>Not applicable</i>
File:	<i>FM/10/003</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>29 January 2021</i>
Authors:	<i>D Long – Finance Consultant</i>
Authorizing Officer:	<i>Dale Putland – Chief Executive Officer</i>
Attachments:	<i>Shire financials</i> <i>Medical financials (10.2.3a)</i>

SUMMARY

The Monthly Financial Report for 31 December 2020 is presented for Councils consideration.

BACKGROUND

The Local Government Act 1995 and the Local Government (Financial Management) Regulations 1996 require local governments to prepare monthly reports containing the information that is prescribed.

The Regulations require local governments to prepare annual budget estimates and month by month budget estimates so that comparatives can be made to Year to Date (YTD) Actual amounts of expenditure, revenue and income, and materials variances can be commented on.

COMMENT

The Shire prepares the monthly financial statements in the statutory format along with other supplementary financial reports consisting of:

- (a) Statement of Comprehensive Income by Function/Program;
- (b) Statement of Comprehensive Income by Nature/Type;
- (c) Statement of Financial Activity;
- (d) Summary of Net Current Asset Position;
- (e) Statement of Explanation of Material Variances;
- (f) Statement of Financial Position;
- (g) Statement of Cash Flows;
- (h) Detailed Operating and Non-Operating Schedules;
- (i) Statement of Cash Back Reserves;
- (j) Loan Borrowings Statement; and
- (k) Trust Fund Statement.

At its budget meeting, Council adopted a material variance threshold of \$10,000 or 10%. For interpretation purposes, this means any variance at Function/Program level that is greater than 10% and exceeds \$10,000 in value is reported on and commentary is provided to explain the YTD budget estimate to YTD actual variance. The material variance is shown on the Statement of Financial Activity, in accordance with the *Local Government (Financial Management) Regulations 1996*.

The material variance commentary is now provided in a separate statement, called the Statement of Explanation of Material Variances. This statement categorises the variance commentary according to reporting Functions/Programs and groups the variances by Operating Revenue, Operating Expenditure, Non-Operating/Capital Revenue, and Capital Expenditure.

The Statement of Financial Activity as at 31 December shows a closing surplus of \$3,471,585.

CONSULTATION – Nil

STATUTORY OBLIGATIONS

Local Government Act 1995

Section 6.4—Specifies that a local government is to prepare such other financial reports as are prescribed.

Local Government (Financial Management) Regulations 1996:

Regulation 34 states:

- (1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d) for that month in the following detail:
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
 - (b) budget estimates to the end of month to which the statement relates;
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c);
 - (e) the net current assets at the end of the month to which the statement relates.

Sub regulations 2, 3, 4, 5, and 6 prescribe further details of information to be included in the monthly statement of financial activity.

POLICY IMPLICATIONS – Nil

BUDGET/FINANCIAL IMPLICATIONS

As presented in the attached reports.

STRATEGIC IMPLICATIONS – Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 10.2.3

MOVED: Cr S Alexander

SECONDED: Cr D E King

That Council receive the Monthly Financial Report for 31 December 2020, as presented.

CARRIED 8/0

Res 21/2/8

10.2.4 31 January 2021 Statement of Financial Activity

Location:	<i>Not applicable</i>
Applicant:	<i>Not applicable</i>
File:	<i>FM/10/003</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>1 February 2021</i>
Authors:	<i>D Long – Finance Consultant</i>
Authorizing Officer:	<i>Dale Putland – Chief Executive Officer</i>
Attachments:	<i>Shire Financials</i> <i>Medical Financials (10.2.4a)</i>

SUMMARY

The Monthly Financial Report for 31 January 2021 is presented for Councils consideration.

BACKGROUND

The Local Government Act 1995 and the Local Government (Financial Management) Regulations 1996 require local governments to prepare monthly reports containing the information that is prescribed.

The Regulations require local governments to prepare annual budget estimates and month by month budget estimates so that comparatives can be made to Year to Date (YTD) Actual amounts of expenditure, revenue and income, and materials variances can be commented on.

COMMENT

The Shire prepares the monthly financial statements in the statutory format along with other supplementary financial reports consisting of:

- (l) Statement of Comprehensive Income by Function/Program;
- (m) Statement of Comprehensive Income by Nature/Type;
- (n) Statement of Financial Activity;
- (o) Summary of Net Current Asset Position;
- (p) Statement of Explanation of Material Variances;
- (q) Statement of Financial Position;
- (r) Statement of Cash Flows;
- (s) Detailed Operating and Non-Operating Schedules;
- (t) Statement of Cash Back Reserves;
- (u) Loan Borrowings Statement; and
- (v) Trust Fund Statement.

At its budget meeting, Council adopted a material variance threshold of \$10,000 or 10%. For interpretation purposes, this means any variance at Function/Program level that is greater than

10% and exceeds \$10,000 in value is reported on and commentary is provided to explain the YTD budget estimate to YTD actual variance. The material variance is shown on the Statement of Financial Activity, in accordance with the *Local Government (Financial Management) Regulations 1996*.

The material variance commentary is now provided in a separate statement, called the Statement of Explanation of Material Variances. This statement categorises the variance commentary according to reporting Functions/Programs and groups the variances by Operating Revenue, Operating Expenditure, Non-Operating/Capital Revenue, and Capital Expenditure.

The Statement of Financial Activity as at 31 January shows a closing surplus of \$3,126,730.

CONSULTATION – Nil

STATUTORY OBLIGATIONS

Local Government Act 1995

Section 6.4—Specifies that a local government is to prepare such other financial reports as are prescribed.

Local Government (Financial Management) Regulations 1996:

Regulation 34 states:

- (1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d) for that month in the following detail:
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
 - (b) budget estimates to the end of month to which the statement relates;
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c);
 - (e) the net current assets at the end of the month to which the statement relates.

Sub regulations 2, 3, 4, 5, and 6 prescribe further details of information to be included in the monthly statement of financial activity.

POLICY IMPLICATIONS – Nil

BUDGET/FINANCIAL IMPLICATIONS

As presented in the attached reports.

STRATEGIC IMPLICATIONS - Nil

VOTING REQUIREMENTS – Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 10.2.4

MOVED: Cr H C O’Connell

SECONDED: Cr S Alexander

That Council receive the Monthly Financial Report for 31 January 2021, as presented.

CARRIED 8/0

Res 21/2/9

10.3 PLANNING

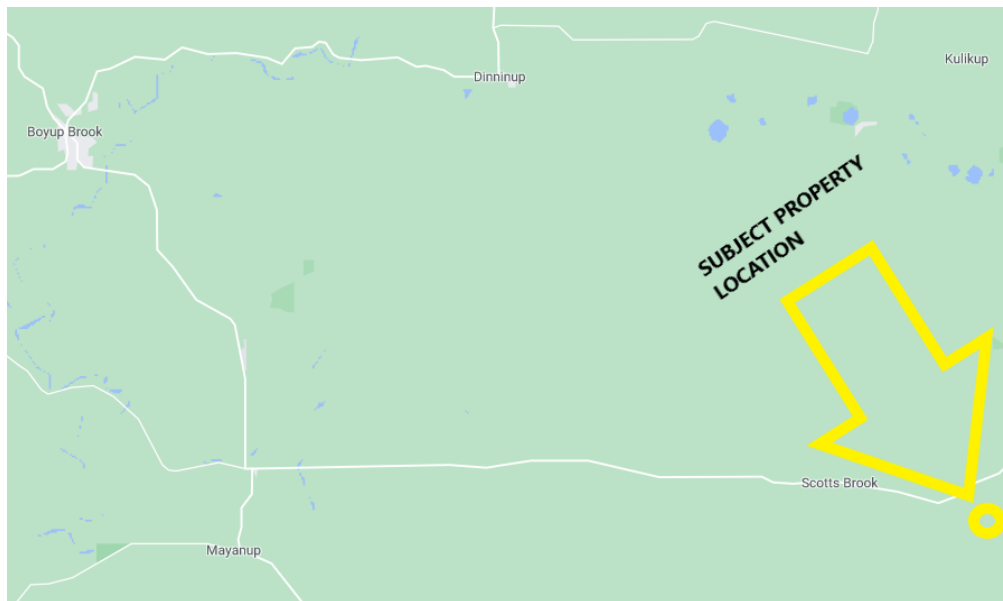
10.3.1 Development (Single House & Farm Workers Accommodation) - Lot 2435, Boyup Brook-Kojonup Rd Boyup Brook

Location:	<i>Lot 2435, Boyup Brook-Kojonup Road Boyup Brook</i>
Applicant:	<i>C Caldwell</i>
File:	<i>A7200</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>11 February 2021.</i>
Author:	<i>A. Nicoll, Town & Regional Planner.</i>
Authorizing Officer:	<i>Chief Executive Officer (Dale Putland).</i>
Attachments:	<i>Nil</i>

SUMMARY

The purpose of this report is to recommend that Council approve the development of a new 'Single House' and the conversion of an existing 'Single House' to 'Farm Workers Accommodation' at Lot 2435, Boyup Brook-Kojonup Road.

The application complies with the statutory obligations prescribed by the Shire's *Local Planning Scheme No.2*.

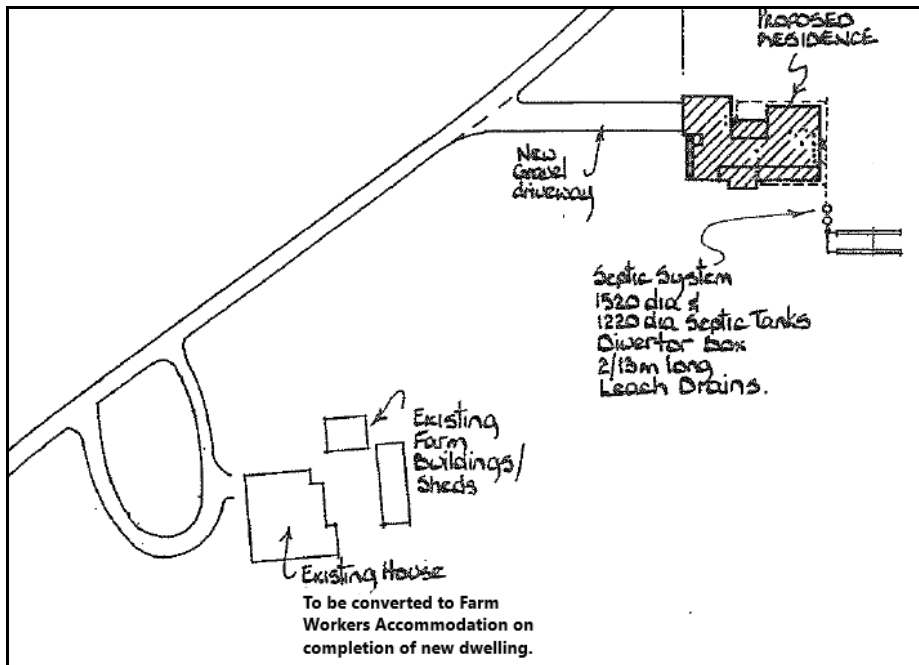


BACKGROUND

The Shire received a request to develop a new 'Single House' and to keep an existing house for use as 'farm workers accommodation'.

The subject proposal is located on a farming property, approximately 20km from the Boyup townsite towards the Shire of Kojonup (Boyup Brook-Kojonup Rd).

The following site plan was provided to show the location of development. The landholder has stated an intent to utilise an existing house for workers accommodation on completion of the development of a new single house.



COMMENT

The landholder has informed the Shire that the reason for the development of a new 'Single House' is due to an existing house being outdated and too small for the family's needs. The new house is proposed to be developed using brick-veneer (cream bricks), with a concrete floor and zinc-alume steel sheeted roof. The existing house will be maintained for use by farm workers (e.g. farm manager).

It is recommended that the Council include a planning condition to ensure that the farm workers accommodation is only to be used for persons involved in the operation of the agricultural enterprise.

STATUTORY OBLIGATIONS

The subject lot is zoned 'Rural' in accordance with the Shire's *Local Planning Scheme No.2*.

‘Farm Workers Accommodation’ is classified as an ‘AA’ use in accordance with the Shire scheme. ‘AA’ means a use which Council, in exercising the discretionary powers available to it, may approve under this Scheme.

A ‘Single House’ is identified in the Shire’s *Local Planning Scheme No.2* as use which Council, in exercising the discretionary powers available to it, may approve at a property zoned ‘Rural’.

Not more than one single dwelling house may be erected and occupied on a lot within the Rural Zone except where Council is satisfied that an additional house is necessary or desirable for the continuation of bona fide agricultural activity.

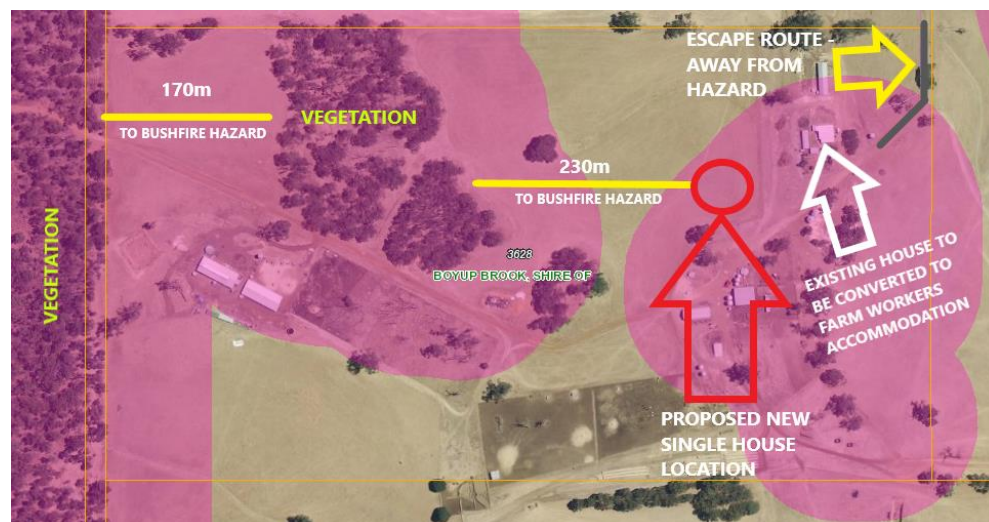
In considering applications for planning consent in the ‘Rural’ zone, Council shall have regard to:

- The need to protect the agricultural practices of the Rural zone in light of its importance to the District’s economy; and
- The need to preserve the rural character and rural appearance of the area.

POLICY IMPLICATIONS

As indicated by the pink shading in below figure, the proposed new house and farm workers accommodation are at risk from bushfire. However, due to the distance (>100) between substantial areas of vegetation (>1ha) and the distance (>100m) between a substantial area of vegetation (>1ha) and development, the application does not warrant the need to consider an alternative location for development (refer to the below figure for distances to development and vegetation).

At the building permit stage of the development of the ‘Single House’, a Bushfire Attack Level assessment will be required to identify the standard of construction that will be required to address bushfire safety requirements.



CONSULTATION

The Shire’s *Local Planning Scheme No.2*. does not require consultation be undertaken for an application for a ‘Single House’ or for ‘Farm Workers Accommodation’ at a property zoned ‘Rural’.

BUDGET/FINANCIAL IMPLICATIONS

There are no known budget implications relating to this application.

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 10.3.1

MOVED: Cr D E King

SECONDED: Cr S E G Alexander

That Council

Grants development approval for Lot 2435, Boyup Brook-Kojonup Road, for the purpose of 'Single House' and 'Farm Workers Accommodation' subject to the following notice:

Planning and Development Act 2005

Shire of Boyup Brook

NOTICE OF DETERMINATION ON APPLICATION FOR DEVELOPMENT APPROVAL

Location: Lot 2435, Boyup Brook-Kojonup Road Boyup Brook

Description of proposed development:

Single House and Farm Workers Accommodation

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

Conditions:

1. Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the Shire of Boyup Brook, all development shall occur in accordance with the approved plans.
2. On occupation of the new 'Single House', the Farm Workers Accommodation (existing house), is to be used by persons involved in the operation of the agricultural enterprise.

Date of determination: 25 February 2021

Note 1: The proposed 'Single House' is located in a Bushfire Prone Area. At the Building Permit stage, a Bushfire Attack Level assessment is required to determine the level of construction of the house.

Note 2: Prior to occupation of use, it is recommended that a roof water storage tank of approximately 92,000 litres is developed to service the proposed new Single House.

Note 3: Prior to occupation of use, an on-site wastewater system is to be developed to service the proposed new 'Single House'.

- Note 4: If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
- Note 5: Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
- Note 6: 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:

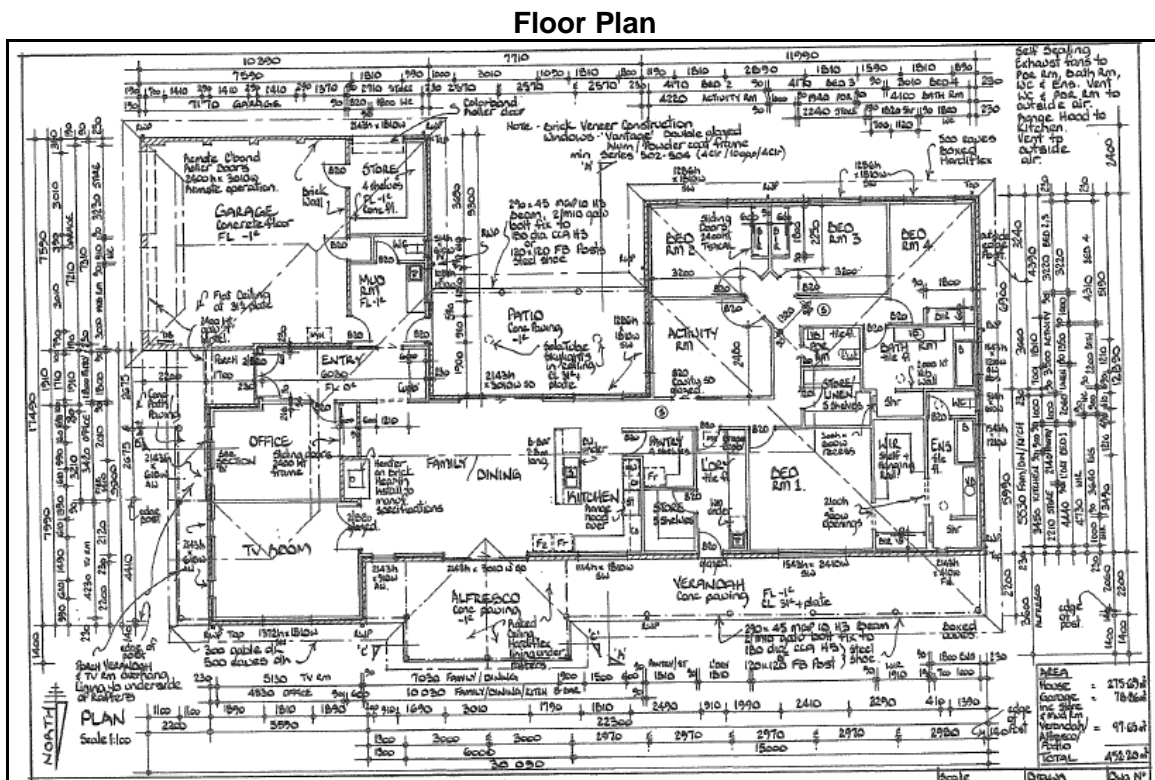
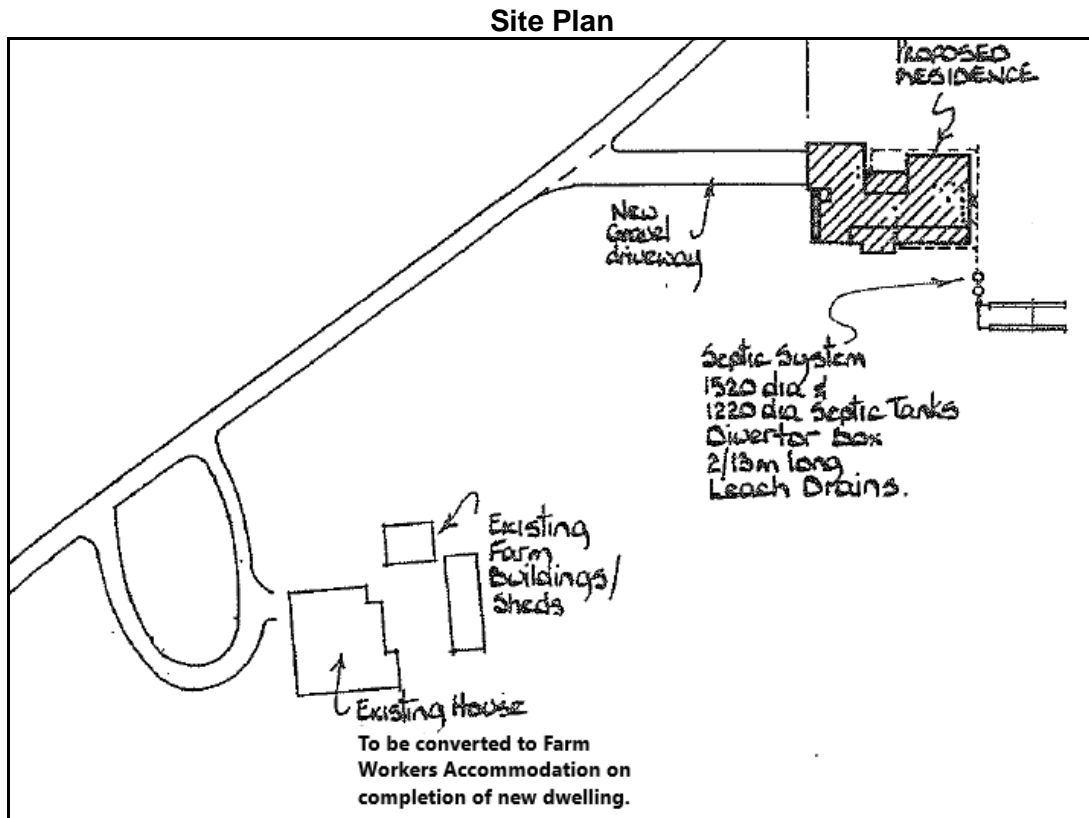
Dated:

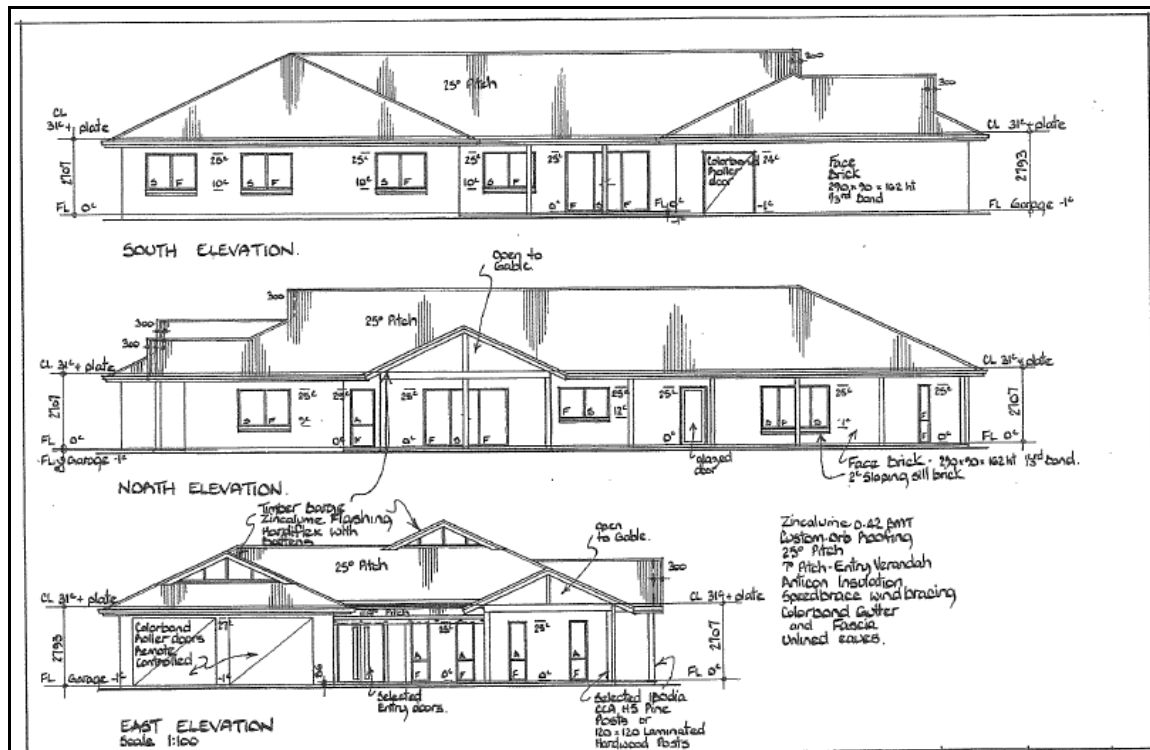
for and on behalf of the Shire of Boyup Brook.

CARRIED 8/0

Res 21/2/10

Approved Plans





10.3.2 Development Application (Bed & Breakfast) – Lot 3 Hands Close, Boyup Brook

Location:	<i>Lot 3 Hands Close, Boyup Brook.</i>
Applicant:	<i>Janene Oldham</i>
File:	<i>A4475</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>11 February 2021</i>
Author:	<i>Town Planner (Adrian Nicoll)</i>
Authorizing Officer:	<i>Chief Executive Officer (Dale Putland)</i>
Attachments:	<i>DFES Homeowners Bushfire Manual</i>

SUMMARY

Council is requested to conditionally approve the use of a Single House at Lot 3 Hands Close, for the purpose of 'Bed and Breakfast'.

Location Plan



BACKGROUND

The Shire received an application for approval to accommodate guests for short term stay at a dwelling located at Lot 3 Hands Close.

COMMENT

Lot 3 Hands Close – Subject Property

The subject property is zoned 'Special Rural' (area No.2), is approximately 2.7ha, situated approximately 1km west of the Boyup townsite and is accessed via Lee-Steere Drive and Hands Close.

Application

The application for consideration involves the use of a 'Single House', for the purpose of providing 'Bed and Breakfast' to guests on a commercial basis.

In accordance with the Shire's *Local Planning Scheme No.2*, a 'Bed and Breakfast' may be considered for approval at a property zone 'Special Rural' (Area No.2).

The 'Single House' is located within a Bushfire Prone Area, meaning the subject development and any occupants may-be at risk from bushfire. The Western Australian Planning Commission has produced a 'Position Statement' for dealing with tourism land uses in bushfire prone areas. The 'Position Statement' recommends:

- The provision of safe access/egress.
- Water supply that is sufficient for firefighting purposes; and
- Compliance with the Homeowner's Bushfire Survival Manual (DFES, 2014).

Egress is available in different directions via Hands Close and Lee-Steere Drive. The subject property is located on the fringe of the Boyup townsite, which has a sufficient water supply and a fire emergency service for firefighting purposes. Should Council approve the application, it is recommended that the owner/manager is made aware of the *Homeowner's Bushfire Survival Manual (DFES, 2014)*. The *Homeowner's Bushfire Survival Manual (DFES, 2014)* has been prepared to better inform homeowners about bushfires. It draws together the best advice available on preventing fires and preparing for them.

The proposal complies with the Shire's *Local Planning Scheme No.2* and 'Bed and Breakfast' Policy (P0.5), which require:

- Max of 6 guests.
- Maximum 3 bedrooms for guest purposes.
- Provision of fire safety equipment (e.g. smoke alarms).
- The owner/manager of the Bed and Breakfast accommodation residing on-site; and
- Suitable area for car parking.

Should Council approve the application, it is recommended that conditions are included to ensure:

- The car parking area is signposted; and
- The owner/manager of the Bed and Breakfast accommodation issues guests with an Emergency Evacuation Plan, which indicates:
 - Safe access/egress (Hands Close/Lee-Steere Drive).
 - Emergency contacts.
 - An off-site evacuation area; and

- The following notice:

'If you decide to leave for a safer place you must go early—you should never 'wait and see what happens'. Evacuation at the last minute ahead of a bushfire is dangerous due to smoke, noise, heat, flames, emergency vehicles and panic on the road. It is much safer for people to stay in their homes than flee as the fire approaches.'

CONSULTATION

N/A

STATUTORY OBLIGATIONS

The application complies with the statutory obligations prescribed by the Shire's *Local Planning Scheme No.2*.

'Bed and Breakfast' is identified in the Shire's *Local Planning Scheme No.2* as:

- Meaning a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast; and
- A use which Council, in exercising the discretionary powers available to it, may approve at a property zoned 'Special Rural No.2'.

POLICY IMPLICATIONS

The Single Dwelling is located within a bushfire prone area. In accordance with the Western Australian Planning Commission's '*Position Statement: Tourism land uses in bushfire prone areas*', the decision-maker may determine that a bed and breakfast:

- Complies with the Homeowner's Bushfire Survival Manual (DFES, 2014).
- Provides a safe operational access for emergency services personnel in suppressing a bushfire, while residents and visitors are accessing or egressing the site.
- Provides a permanent and secure water supply that is sufficient for firefighting purposes.

The Shire's has adopted a '*Bed and Breakfast*' Policy (P.05), which requires:

- A maximum of 6 guests.
- The owner/manager of the Bed and Breakfast accommodation residing on-site.
- Maximum 3 bedrooms for guest purposes (maximum of 2 guests per room).
- Bathrooms/WC to be either shared facility for exclusive use by guests only, or private en-suite facility off bedrooms, or a combination of the both.
- Preparation of meals to be the sole responsibility of the proprietor.
- Two car parking spaces being provided for permanent residential use and one additional car-parking bay provided for each guestroom.
- Smoke alarms provided as per the Building Code of Australia.
- A 2.5 kg dry powder fire extinguisher and fire blanket being supplied in the kitchen.

BUDGET/FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple majority

MOVED INTO COMMITTEE

MOVED: Cr H C O'Connell

SECONDED: Cr P Kaltenrieder

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 8/0

Res 21/2/11

MOVED OUT OF COMMITTEE

MOVED: Cr H C O'Connell

SECONDED: Cr D E King

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

CARRIED 8/0

Res 21/2/12

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 10.3.2

MOVED: Cr H O'Connell

SECONDED: Cr S E G Alexander

That Council

Grants Development Approval for a 'Bed and Breakfast' at Lot 3 Hands Close, subject to the following notice, which outlines development conditions and advice notes.

Planning and Development Act 2005

Shire of Boyup Brook

NOTICE OF DETERMINATION ON APPLICATION FOR DEVELOPMENT APPROVAL

Location: Lot 3 Hands Close, Boyup Brook.

Description of proposed development: **Bed and Breakfast**

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

Conditions:

1. Maximum of 6 guests at any one time.
2. Maximum 3 bedrooms for guest purposes (maximum of 2 guests per room).
3. The owner/manager of the Bed and Breakfast accommodation residing on-site.
4. One car-parking bay provided for each guestroom. Car parking bays are to be signposted.

5. The owner/manager of the Bed and Breakfast accommodation is to provide guests (on arrival) with an Emergency Evacuation Plan, which indicates (as a minimum):

- Safe access/egress (Hands Close/Lee-Steere Drive).
- Emergency contacts (e.g. DFES, Police).
- A suitable off-site evacuation area; and
- The following notice:

'If you decide to leave for a safer place you must go early—you should never 'wait and see what happens'. Evacuation at the last minute ahead of a bushfire is dangerous due to smoke, noise, heat, flames, emergency vehicles and panic on the road. It is much safer for people to stay in their homes than flee as the fire approaches.'

6. No processes being conducted on the property that may cause a detriment to the amenity of that area by reason of contamination, noise, vibration, smell, fumes, dust, or grit.

Date of determination: 25 February 2021

Note 1: Smoke alarms are to be provided as per the Building Code of Australia. A 2.5 kg dry powder fire extinguisher and fire blanket is to be supplied in the kitchen.

Note 2: For advice on preventing fires and preparing for them, refer to the *Homeowner's Bushfire Survival Manual* (DFES, 2014).

https://www.dfes.wa.gov.au/safetyinformation/fire/bushfire/bushfiremanualsandguides/dfes_bushfire-homeowners_survival_manual.pdf

Note 3: If the development, the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.

Note 4: Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

Note 5: 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 8/0

Res 21/2/13

10.3.3 Development Application (Single Dwelling) – Lot 57 Upper Blackwood Rd, Dinninup.

Location:	<i>Lot 57 Upper Blackwood Rd, Dinninup.</i>
Applicant:	<i>Ventura Home Group</i>
File:	<i>A12670</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>11 February 2021</i>
Author:	<i>Town Planner (Adrian Nicoll)</i>
Authorizing Officer:	<i>Chief Executive Officer (Dale Putland)</i>
Attachments:	<i>Nil</i>

SUMMARY

The Shire received an application for a 'Single House' at Lot 57 Upper Blackwood Road, Dinninup.

The application is seeking to vary from setback and excavation standards prescribed by the *State Planning Policy 7.3, Residential Design Codes (R-Codes)*.

The variations are minor and are not expected to impact the streetscape. Council is therefore requested to approve the development of the 'Single House'.

Location Plan



BACKGROUND

The Shire received an application for a 'Single House' at a property within the Dinninup townsite.

On review of the Shire's *Local Planning Scheme No.2* and the *State Planning Policy 7.3, Residential Design Codes (R-Codes)*, it was revealed that the property is zoned 'Urban' and the proposal does not satisfy 'deemed-to-comply' standards of the R-Codes.

The applicant was advised by Shire officers that variations to the R-Codes may be considered subject to compliance with 'performance criteria' defined by the R-Codes.

COMMENT

Lot 57 – Subject Property

The subject 'Urban' zone property is approximately 2304m², situated within the Dinninup townsite and is accessed via the Upper Blackwood Road.

Zoning Map - Dinninup



Application

The application for consideration involves development of a 'Single House', which seeks to vary from setback and excavation standards, prescribed by the *Residential Design Codes (R-Codes)*.

The R-Codes require a min 6m setback between a 'Single House' and the front boundary. The R-Codes also require a maximum of 0.5m fill behind a street setback line.

The application is proposing to setback the house forward of the minimum 6m as follows:

- 3.8m setback to portico.
- 4.5m setback to bedroom.
- 6m setback to garage.

The application is also proposing to undertake 0.9m of fill behind the street setback line.

In accordance with the R-Codes, the Council may consider a variation to the 'deemed to comply' standards of the R-Codes, subject to compliance with 'performance criteria'.

In accordance with 'performance criteria' defined by the R-Codes:

- The setback variation is not too dissimilar to other neighbouring developments and is therefore not expected to impact on the streetscape.
- The fill variation is minimal (0.4m) and is not expected to impact the streetscape or neighbouring properties.

Considering the minor nature of the proposed variations and minimal impact to the streetscape, Council is requested to approve the development of the 'Single House'.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

The subject property is zoned 'Urban' in accordance with the Shire's *Local Planning Scheme No.2* (Scheme).

In accordance with clause 5.2 of the Shire's Scheme:

- The primary objective for the 'Urban' zone is to encourage and foster development while protecting the residential environment from conflicting uses; and
- Council shall require each dwelling to be provided with a supply of potable water from an underground bore or a rainwater storage tank with a minimum capacity of 92,000 litres to Council's satisfaction.

Residential development within the 'Urban' zone shall be subject to the standards applicable to the *State Planning Policy 7.3, Residential Design Codes* and shall not exceed a density of 15 dwellings per hectare (R15 density).

The R15 density requires a setback of 6m between the dwelling and the front boundary. In accordance with the *Residential Design Codes*, a variation to the front setback may be considered where the development:

- Contributes to, and is consistent with, an established streetscape.
- Provides adequate open space.

All excavation or filling behind a street setback line is not to exceed 0.5m above the natural ground level. A variation to this may be considered where development responds to the natural features of the site, requires minimal excavation fill, and contributes to the streetscape.

POLICY IMPLICATIONS

There are no Policy implications.

BUDGET/FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 10.3.3

MOVED: Cr K J Moir

SECONDED: Cr P Kaltenrieder

That Council

Grants Development Approval for a ‘Single House’ at Lot 57 Upper Blackwood Road, Dinninup, subject to the following notice, which outlines development conditions and advice notes.

Planning and Development Act 2005

Shire of Boyup Brook

NOTICE OF DETERMINATION ON APPLICATION FOR DEVELOPMENT APPROVAL

Location: Lot 57 Upper Blackwood Road, Dinninup.

Description of proposed development: **Single House**

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

Conditions:

1. Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the Shire of Boyup Brook, all development shall occur in accordance with the approved plans.
2. The dwelling is to be provided with a supply of potable water from a rainwater storage tank with a minimum capacity of 92,000 litres to the satisfaction of the Shire of Boyup Brook.
3. Stormwater being managed to the satisfaction of the Shire of Boyup Brook.

Date of determination: 25 February 2021

Note 1: If the development the subject of this approval is not substantially commenced

within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.

Note 2: here an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

Note 3: 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:

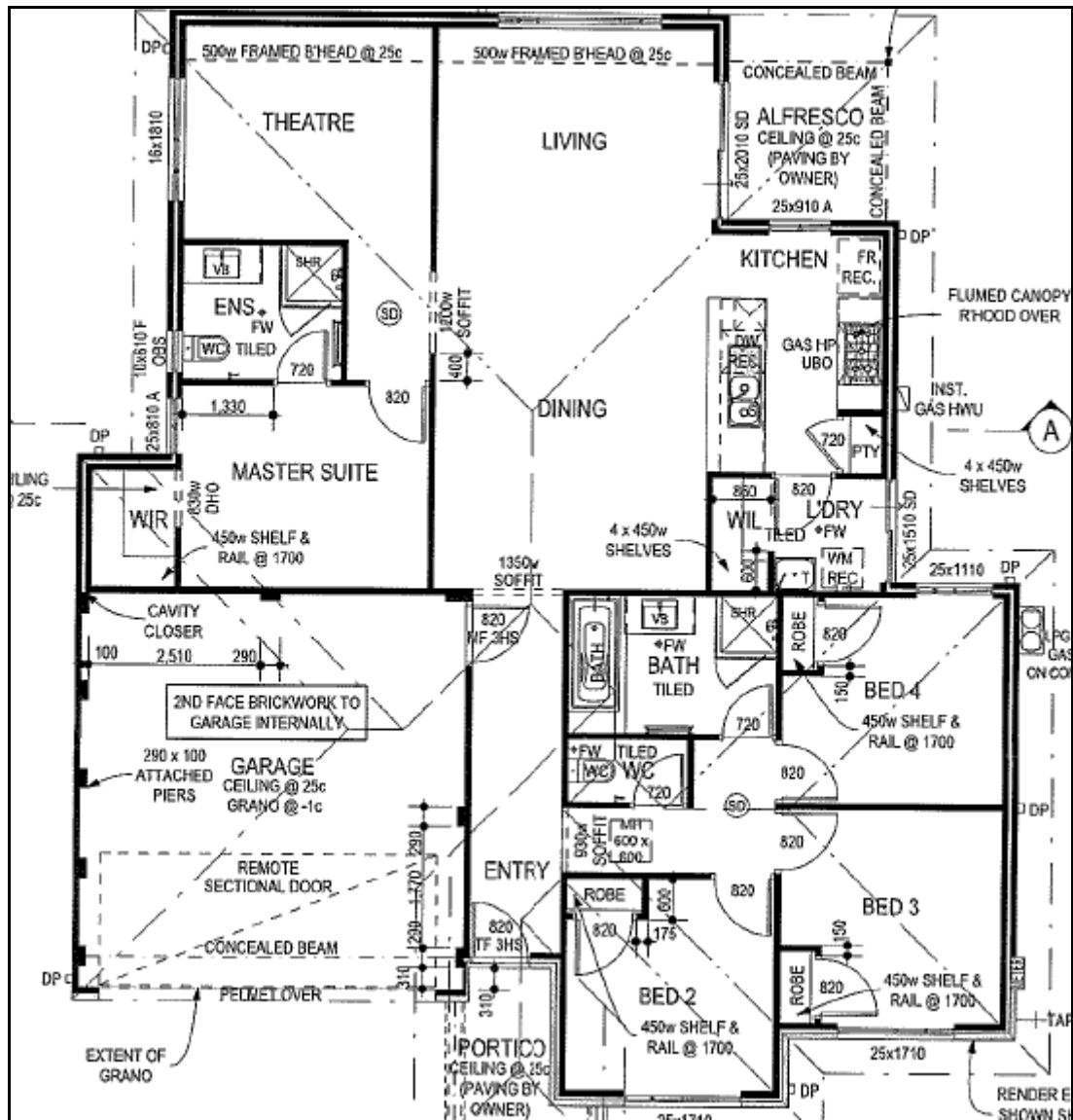
for and on behalf of the Shire of Boyup Brook.

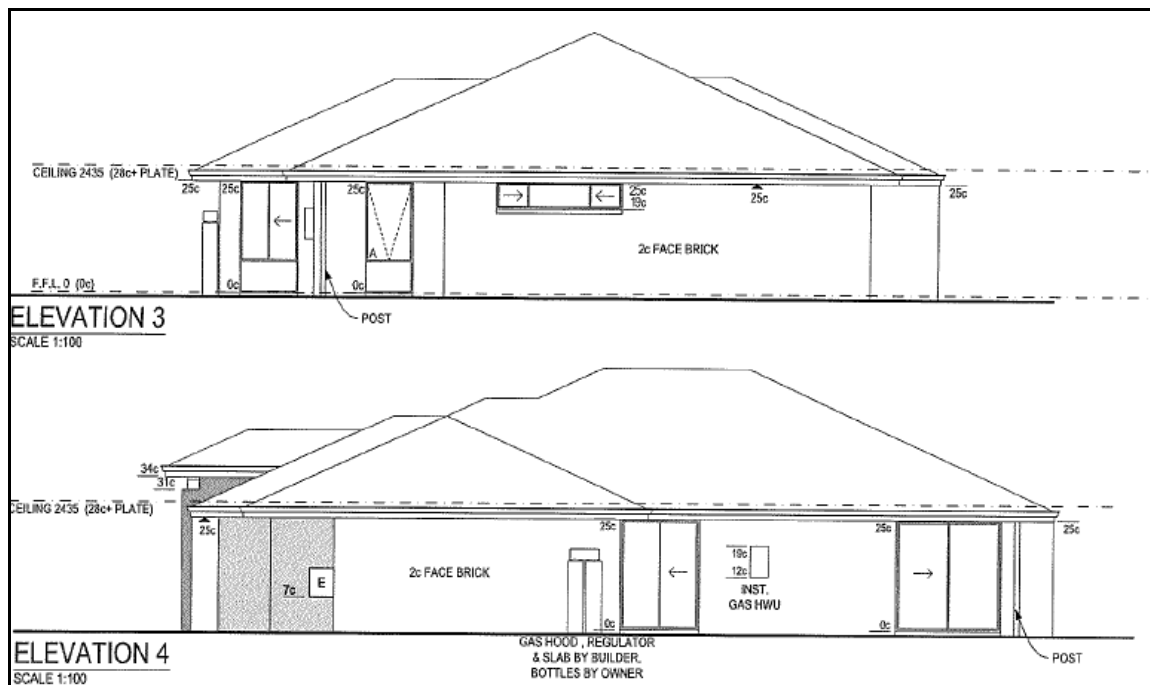
CARRIED 8/0

Res 21/2/14

[illegible]

Floor Plan





Declare an Interest

Cr R Walker declared a proximity and impartiality interest in the following item and departed the Chambers, the time being 5.12pm.

10.3.4 Development Application (Single Dwelling) – Lot 2947 Elder Road, Wilga.

<i>Location:</i>	<i>Lot 2947 Elder Road, Wilga</i>
<i>Applicant:</i>	<i>Allan Gray</i>
<i>File:</i>	<i>A948</i>
<i>Disclosure of Officer Interest:</i>	<i>None</i>
<i>Date:</i>	<i>11 February 2021</i>
<i>Author:</i>	<i>Town Planner (Adrian Nicoll)</i>
<i>Authorizing Officer:</i>	<i>Chief Executive Officer (Dale Putland)</i>
<i>Attachments:</i>	<i>Nil</i>

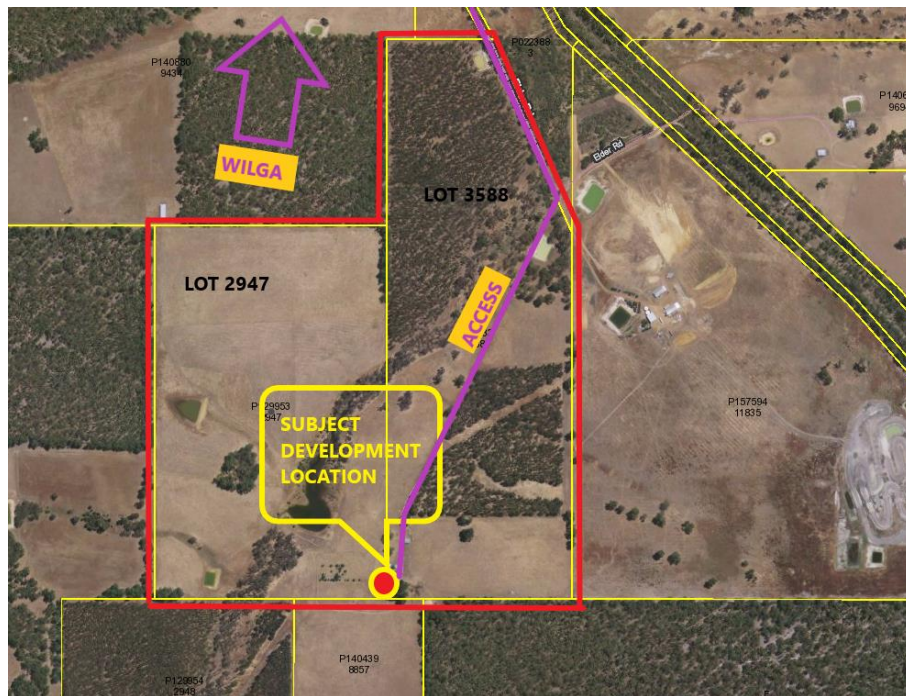
SUMMARY

Council is requested to approve the development of a 'Single House' comprising of:

1. New development area comprising of kitchen, living, bedroom, laundry, and veranda; and
2. Original development area (existing house), detached from the new development and comprising of living and garage.

Council is requested to approve the 'Single House' on the condition that the kitchen and laundry of the original development area is decommissioned (demolished).

Location Plan



BACKGROUND

The subject property is zoned 'Rural' in accordance with the Shire's *Local Planning Scheme No.2*.

The Shire received a request to keep an existing house and to develop a new single dwelling at Lot 2947 Elder Road, Wilga.

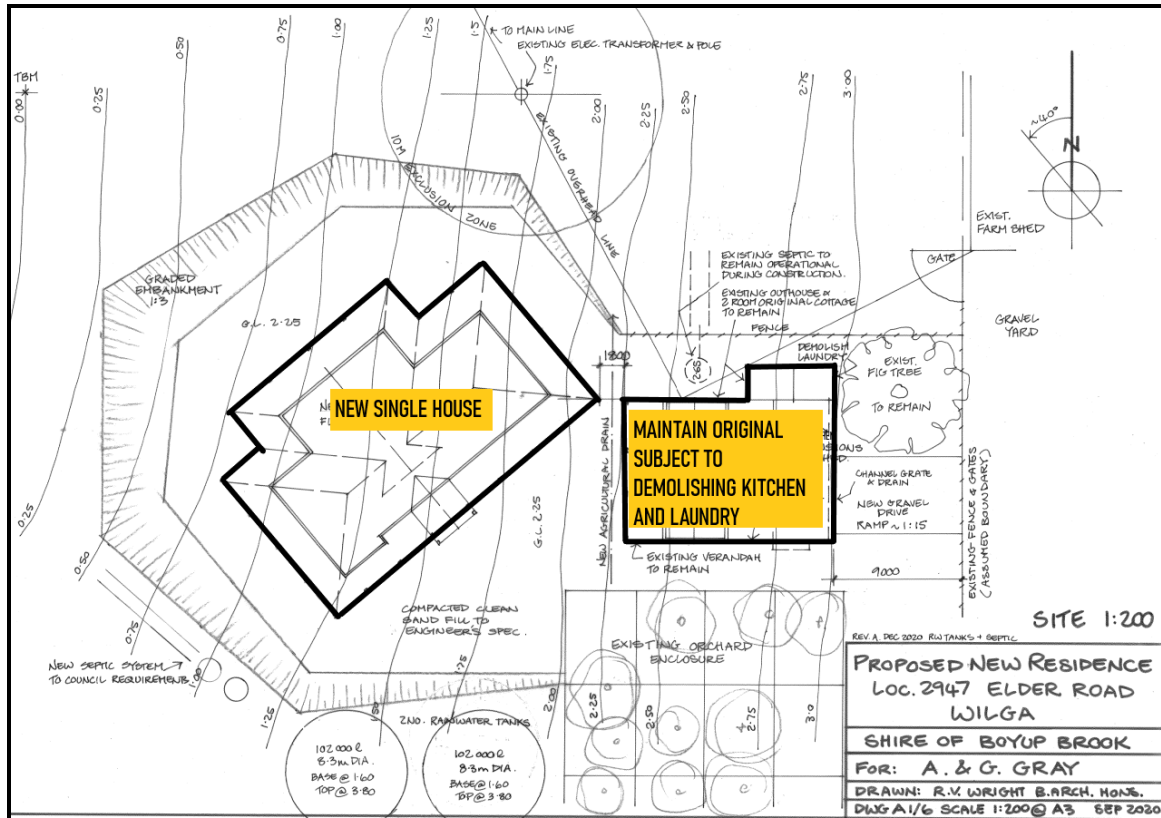
Shire officers advised the landholder that by keeping the existing house and developing a new house, this would comprise of a Grouped Dwelling (2 X Single House), which is not permitted at a property zoned 'Rural'.

Shire officers advised the landholder that two (2) houses may be considered under the following circumstances:

- 'Single House' + 'Ancillary Accommodation' (granny flat); or
- 'Single House' + 'Farm Workers Accommodation'; or
- 'Single House' + 'Chalet' (holiday accommodation).

Shire officers also advised the landholder that a new 'Single House' may be considered for approval, subject to incorporating the original house into the new and subject to decommission the kitchen and laundry of the original house.

The landholder decided to apply to develop a new 'Single House', which is designed to include a new main living, kitchen and laundry area and a detached living and garage area (original house). The landholder agreed to decommission the laundry and kitchen of the original house once the new development is completed.



COMMENT

Lot 2947 – Subject Property

The subject farming property is approximately 92ha, situated 3km south of the Wilga townsite and is accessed via Elder Road.

Application

The application for consideration involves development at Lot 2947 Elder Road, which is zoned 'Rural' in accordance with the Shire's *Local Planning Scheme No.2*.

The application involves the development of a 'Single House', which includes a new main living area (kitchen, laundry etc) and a detached living area (original building) comprising bedrooms and a garage.

While building the new main living area, the developer proposes to use the kitchen, laundry and living facilities of the original dwelling. On completion of a new main living area, the developer proposes to demolish the kitchen and laundry of the original house.

This means that the development does not fall under the category of a 'Grouped Dwelling', which is 'not permitted' at a property zoned 'Rural'.

It is recommended that the Council approve the proposed 'Single House' on the condition that the laundry and kitchen of the original building is decommissioned prior to occupancy of the 'Single House'.

CONSULTATION

N/A

STATUTORY OBLIGATIONS

The application complies with the statutory obligations prescribed by the Shire's *Local Planning Scheme No.2*.

A 'Single House' is identified in the Shire's *Local Planning Scheme No.2* as use which Council, in exercising the discretionary powers available to it, may approve at a property zoned 'Rural'.

Not more than one single dwelling house may be erected and occupied on a lot within the Rural Zone except where Council is satisfied that an additional house is necessary or desirable for the continuation of bona fide agricultural activity.

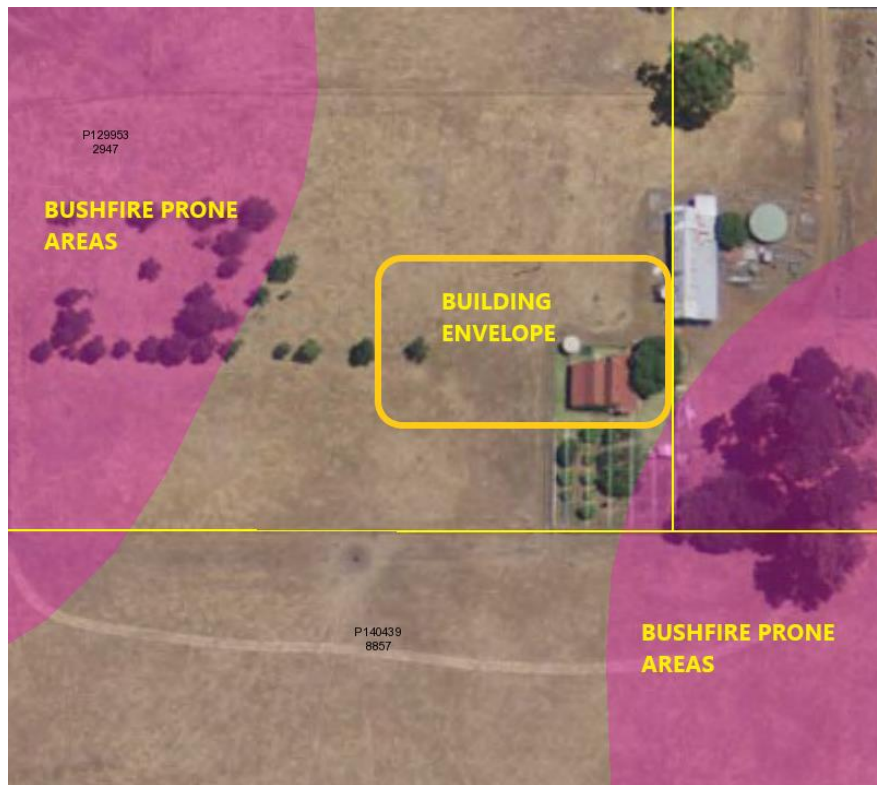
In considering applications for planning consent in the Rural zone, Council shall have regard to:

- The need to protect the agricultural practices of the Rural zone in light of its importance to the District's economy; and
- The need to preserve the rural character and rural appearance of the area.

POLICY IMPLICATIONS

There are no Policy implications.

The building envelope is located outside of bushfire prone areas.



BUDGET/FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple majority

MOVED INTO COMMITTEE

MOVED: Cr S E G Alexander

SECONDED: Cr S Alexander

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 7/0

Res 21/2/15

MOVED OUT OF COMMITTEE

MOVED: Cr S E G Alexander

SECONDED: Cr S Alexander

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

CARRIED 7/0

Res 21/2/16

OFFICER RECOMMENDATION – ITEM 10.3.4

MOVED: Cr S E G Alexander

SECONDED: Cr S Alexander

That Council

Grants Development Approval for a 'Single House' at Lot 2947 Elder Road, Wilga, which includes:

- a) New main living area (includes kitchen, living, veranda, bedrooms, and laundry); and
- b) Original detached living area (includes bedrooms, garage and decommissioning of laundry and kitchen).

The approval is subject to the following notice, which outlines development conditions and advice notes.

Planning and Development Act 2005

Shire of Boyup Brook

NOTICE OF DETERMINATION ON APPLICATION FOR DEVELOPMENT APPROVAL

Location: Lot 2947 Elder Road, Wilga

Description of proposed development: Single House

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

Conditions:

1. Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the Shire of Boyup Brook, all development shall occur in accordance with the approved plans.
2. Prior to occupancy of use of the Single House, the kitchen and laundry of the original single house being decommissioned (demolished) to the satisfaction of the Shire.
3. Stormwater being managed to the satisfaction of the Shire of Boyup Brook.
4. A minimum 20 metre low fuel zone is to be maintained around the development site to the satisfaction of the Shire of Boyup Brook.
5. No processes being conducted on the property that may cause a detriment to the amenity of that area by reason of contamination, noise, vibration, smell, fumes, dust, or grit.

Date of determination: 25 February 2021

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.

Note 2: Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

Note 3: 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.

AMENDMENT

MOVED: Cr S E G Alexander

SECONDED: Cr D E King

That condition 2 be removed from the notice.

“2. Prior to occupancy of use of the Single House, the kitchen and laundry of the original single house being decommissioned (demolished) to the satisfaction of the Shire.”

CARRIED 7/0

Res 21/2/17

The amended motion becomes the substantive motion, the motion was then put and carried.

MOVED: Cr S Alexander

SECONDED: Cr S E G Alexander

That Council

Grants Development Approval for a ‘Single House’ at Lot 2947 Elder Road, Wilga, which includes:

- a) New main living area (includes kitchen, living, veranda, bedrooms, and laundry); and**
- b) Original detached living area (includes bedrooms, garage and decommissioning of laundry and kitchen).**

The approval is subject to the following notice, which outlines development conditions and advice notes.

Planning and Development Act 2005

Shire of Boyup Brook

NOTICE OF DETERMINATION ON APPLICATION FOR DEVELOPMENT APPROVAL

Location: Lot 2947 Elder Road, Wilga

Description of proposed development: Single House

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

Conditions:

1. Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the Shire of Boyup Brook, all development shall occur in accordance with the approved plans.
2. Stormwater being managed to the satisfaction of the Shire of Boyup Brook.
3. A minimum 20 metre low fuel zone is to be maintained around the development site to the satisfaction of the Shire of Boyup Brook.
4. No processes being conducted on the property that may cause a detriment to the amenity of that area by reason of contamination, noise, vibration, smell, fumes, dust, or grit.

Date of determination: 25 February 2021

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.

Note 2: Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

Note 3: 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.

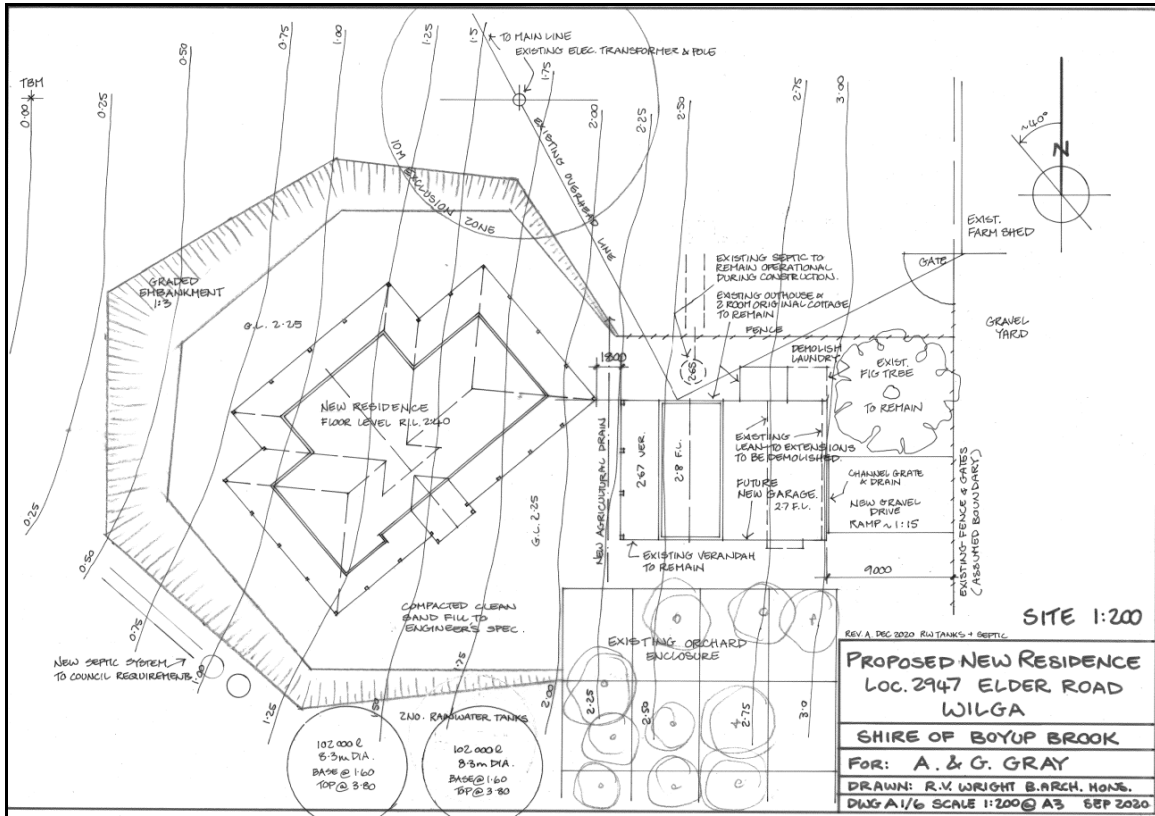
CARRIED 7/0

Res 21/2/18

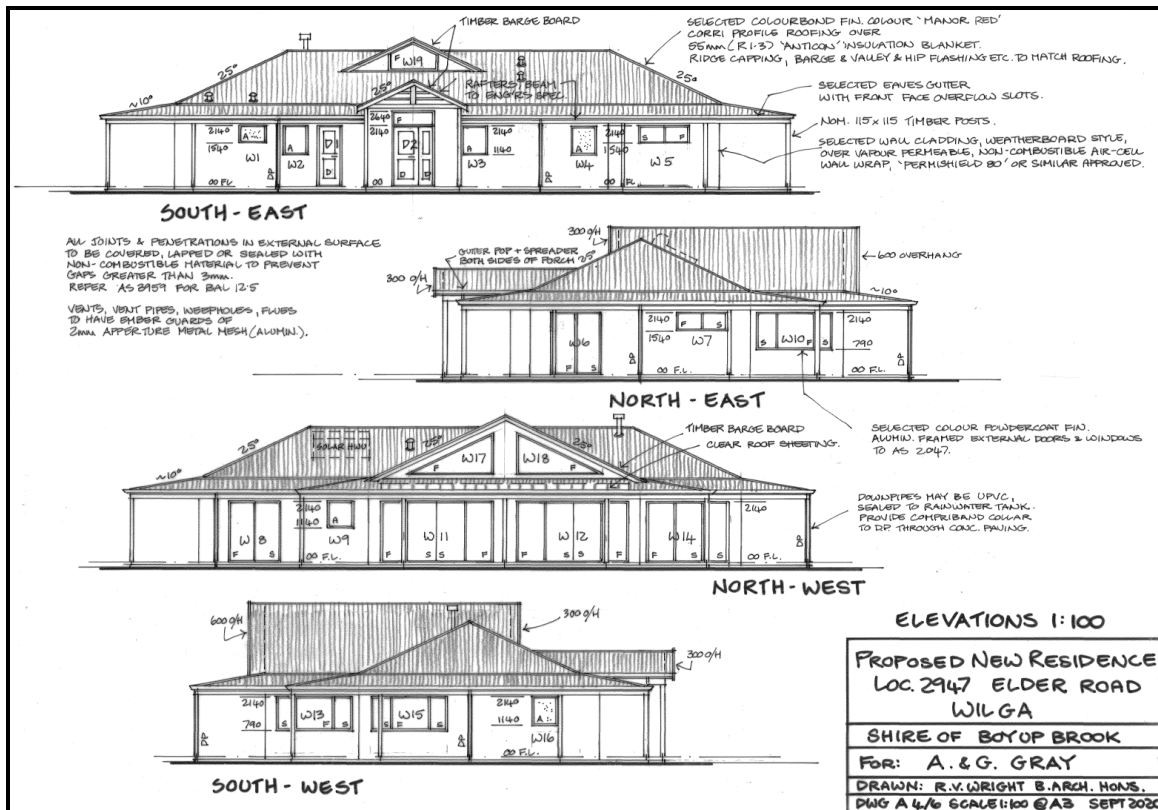
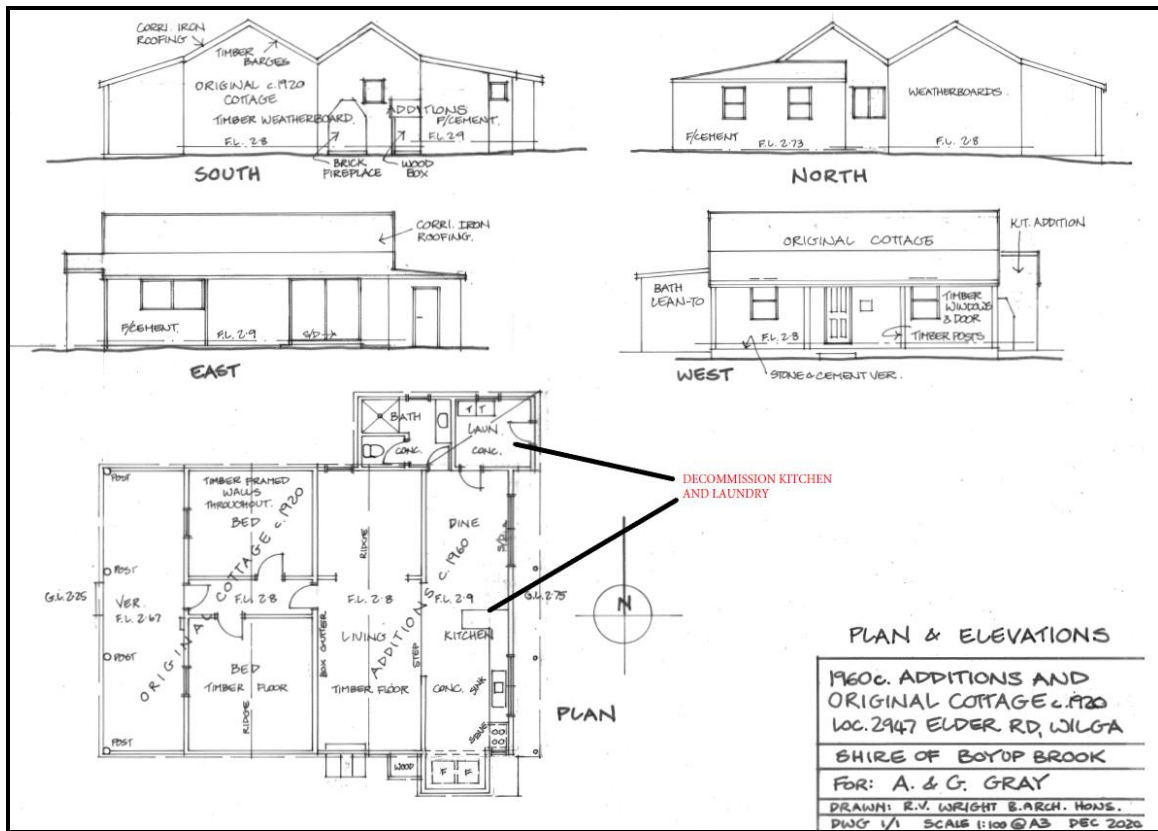
Cr Walker returned to the Chambers at 5.21pm.

APPROVED PLANS

Site Plan







10.4 CHIEF EXECUTIVE OFFICER

10.4.1 Defer Item – Library Relocation

This report be deferred pending further clarification of financial information and confirmation from the Community Resource Centre that have requested the transfer. The Shire received late advice from the State Library.

10.4.2 Invited to Partner in the Warren Blackwood Alliance of Councils

Location:	N/A
Applicant:	N/A
File:	GR/31/006
Disclosure of Officer Interest:	None
Author:	Maria Lane (Executive Assistant)
Authorizing Officer:	Dale Putland (Chief Executive Officer)
Attachments:	Letter from the Warren Blackwood Alliance of Councils

SUMMARY

Warren Blackwood Alliance of Councils (WBAC) has extended an invitation to the Shire of Boyup Brook to partner in their alliance (refer attachment), and this report is for Council to consider their invitation.

BACKGROUND

The Warren Blackwood Alliance of Councils (WBAC) is a voluntary regional organisation of Councils representing the Shires of Bridgetown-Greenbushes, Manjimup, Nannup and Donnybrook Balingup. It was formed in 2001 following the restructure of the timber industry, to work as a collective body on issues affecting those areas in the Warren and Blackwood catchments.

The WBAC exists to help develop a prosperous and sustainable region in the Warren Blackwood and to improve the quality of life for residents in the area. The WBAC acts as an advocacy group by supporting or undertaking significant projects relating to promoting economic development and diversity and encouraging regional population growth.

The WBAC aims to highlight and progress key issues that have a regional impact and to be a voice for the Warren Blackwood area. It also leads the way in partnership development, relationship building and progressing projects by establishing a respected reputation with key stakeholders

The Board of the WBAC has representatives from the three Shires and employs a part time Executive Officer. The South West Development Commission provides support funding and the Regional Coordinator attends Alliance meetings. The Board meets every two months, rotating its meetings around the three Shires.

CONSULTATION

WBAC

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Refer to O.03 Tourism.

BUDGET/FINANCIAL IMPLICATIONS

Nil this year.

STRATEGIC IMPLICATIONS

A goal in the shire's 2017-27 Community Strategic Plan (the Plan) is:

"Build the economic base through diversification and actively supporting local businesses."

An objective of the Plan is to: " ... Develop tourism industry ... "

SUSTAINABILITY IMPLICATIONS

- **Environmental**
N/A
- **Economic**
Refer to the *Strategic Implications* section in this report.
- **Social**
N/A

VOTING REQUIREMENTS

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 10.4.2

MOVED: Cr S E G Alexander

SECONDED: Cr S Alexander

That Council resolved to join the Warren Blackwood Alliance of Councils.

CARRIED 8/0

Res 21/2/19

10.4.3 Code of Conduct for Council Members, Committee Members and Candidates

Location:	<i>Not applicable</i>
Applicant:	<i>Not applicable</i>
File:	<i>CM/42/001</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>8 February 2021</i>
Author:	<i>Dale Putland – Chief Executive Officer</i>
Attachments:	<i>10.4.4a Shire of Boyup Brook Code of Conduct for Council Members, Committee Members and Candidates</i> <i>10.4.4b Draft Code of Conduct Complaint Form</i> <i>10.4.4c Local Government (Model Code of Conduct) Regulations 2021</i> <i>10.4.4d Local Government (Model Code of Conduct) Regulations 2021 – Explanatory Notes</i> <i>10.4.4e DLGSC Guidelines on the Model Code of Conduct for Council Members, Committee Members and Candidates.</i>

SUMMARY

The purpose of this report is to present the recently legislated *Local Government (Model Code of Conduct) Regulations 2021* which applies a model code of conduct applicable to Council Members, Committee Members and Candidates. The recommendations within this report seek Council adoption of the Model Code of Conduct, request Council to authorise the Chief Executive Officer as its current complaint officer to receive complaints and ensure an approved form for submitting complaints is in place.

The model Code of Conduct supersedes the current Shire of Boyup Brook Code of Conduct for Elected Members, Committee Members and Employees.

New Regulations prescribing the minimum requirements for an Employee Code of conduct were also proclaimed. The CEO will prepare and implement a code of conduct to be observed by employees accordingly.

BACKGROUND

On 27 June 2019 the *Local Government Legislation Amendment Act 2019* was passed by Parliament.

On Tuesday, 2 February 2021 the following regulations were gazetted to take effect on Wednesday, 3 February 2021:

- *Local Government (Administration) Amendment Regulations 2021*
- *Local Government (Model Code of Conduct) Regulations 2021*

- *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021.*

New sections of the Local Government Act that provided for the New Regulations were proclaimed concurrently and are also now in effect.

The Department of Local Government Sporting and Cultural Industries (DLGSC) recognises the speed with which these changes were made, providing an implementation timeframe of up to three months for local governments to operationalise the new regulations.

Local governments are required to take specific initial actions within three weeks of the regulations taking effect (by 24 February 2021) as included within the Officer Recommendation of this report.

It is further expected that local governments adopt the new regulations and any other procedures and processes required for implementation within three months from the regulations taking effect (by 3 May 2021).

COMMENT

The *Local Government (Model Code of Conduct) Regulations 2021* bring into effect sections 48-51 of the Amendment Act by introducing a mandatory code of conduct for council members, committee members and candidates.

The Model Code Regulations provide for:

- overarching principles to guide behaviour
- behaviours which are managed by local governments
- rules of conduct breaches which are considered by the Standards Panel.

The purpose of the model is to guide decisions, actions and behaviours. It also recognises that there is a need for a separate code for council members, committee members and candidates to clearly reflect community expectations of behaviour and ensure consistency between local governments. It also provides for a process to deal with complaints to ensure a consistent approach across the sector.

If a council member does not comply with any action required by the local government following a breach of the model Code, the local government may refer the matter to the Standards Panel as an alleged contravention of a rule of conduct. The Standards Panel has the authority to make binding decisions to resolve minor breaches.

To begin implementation of the model Code, as soon as practical (by 24 February 2021), local governments must:

- appoint a person to receive complaints by either affirming the current complaint officers or appoint a new or additional officer(s), and
- approve a form for complaints to be lodged as attached Appendix 10.4.4b.

While local governments may not amend Division 2 (Principles) or Division 4 (rules of Conduct), additional behaviour requirements can be included in Division 3 (Behaviours) if deemed appropriate by the local government. Any additions must be consistent with the model Code of Conduct (section 5.104(3) of the Act).

The CEO must publish the adopted Code of Conduct on the Local Government's official website as required by section 5.104(7)) *Local Government Act 1995*.

CONSULTATION

Not applicable

STATUTORY OBLIGATIONS

Local Government (Model Code of Conduct) Regulations 2021.

POLICY IMPLICATIONS

The DLGSC have provided Local Government (Model Code of Conduct) regulations 2021 Explanatory 2021 Explanatory Notes as well as Guidelines on the model Code of Conduct for Council Members, Committee Members and Candidates, which are attached.

BUDGET/FINANCIAL IMPLICATIONS

No budget implications.

STRATEGIC IMPLICATIONS

There are no strategic implications.

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Points 1 and 4 Absolute Majority; Points 2-3 and 5 Simple Majority.

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 10.4.3

MOVED: Cr D E King

SECONDED: Cr H C O’Connell

That Council:-

- 1. Revoke the current Code of Conduct for Councillors, Committee Members and Employees.**
- 2. Adopt the attached Code of Conduct for Councillors, Committee Members and Candidates as attached.**
- 3. Request the CEO to publish the adopted Code of Conduct on the Shire of Boyup Brook website in accordance with section 5.104(7) of the *Local Government Act 1995*.**
- 4. Authorise the Chief Executive Officer for the purposes of receiving complaints and withdrawal of complaints in accordance with Clause 11(3) of the *Local Government (Model Code of Conduct) Regulations 2021*.**
- 5. Delegate to the Chief Executive Officer the power to appoint one or more persons to receive complaints and withdrawals of complaints in accordance with section 5.42 of the *Local Government Act 1995*.**
- 6. Approve the Complaint form as presented at Attachment 10.4.4b in accordance with Clause 11(2)(a) of the *Local Government (Model Code of Conduct) Regulations 2021*.**
- 7. Note that the Chief Executive Officer will introduce a new Code of Conduct for employees, grievance and complaint processes as operation policies for all employees and contractors.**

CARRIED 8/0

Res 21/2/20

11 COMMITTEE MINUTES

11.1 Annual Awards Committee

COUNCIL DECISION & OFFICER RECOMMENDATION - Item 11.1

MOVED: Cr H C O’Connell

SECONDED: Cr S E G Alexander

That the minutes of the Annual Awards Committee Meeting held on Thursday 10 December 2020 be received by Council.

CARRIED 8/0

Res 21/2/21

12 MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

Hugo Bombara arrived in the Chambers at 5.23pm
Hudson Bombara arrived in the Chambers at 5.23pm
Marianne Bombara arrived in the Chambers at 5.23pm

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

13.1 Councillor Vacancy

Location:	<i>Shire of Boyup Brook</i>
Applicant:	<i>Shire of Boyup Brook</i>
File:	<i>GO/15/006</i>
Disclosure of Officer Interest:	<i>None</i>
Author:	<i>Dale Putland (Chief Executive Officer)</i>
Authorizing Officer:	<i>Dale Putland (Chief Executive Officer)</i>
Attachments:	<i>Letter from the WAEC</i>

SUMMARY

Cr Thomas Oversby provided written notice of his resignation as a Shire of Boyup Brook Councillor to the Chief Executive Officer, and Councillors, on 14 January 2021.

BACKGROUND

The Chief Executive Officer has written to the Western Australian Electoral Commission advising them that Cr Thomas Oversby had resigned from his position and requested to seek an agreement that the vacancy remain unfilled until the October 2021 ordinary elections. However, the Shire has since been advised that Council must formally resolve to apply for the position to remain vacant until the next ordinary Council election.

CONSULTATION

Western Australian Electoral Commission

STATUTORY OBLIGATIONS

Approval must be given under section 4.17 (2) of the *Local Government Act 1995* to defer filling the vacancy until the October 2021 ordinary elections.

POLICY IMPLICATIONS

N/A

BUDGET/ FINANCIAL IMPLICATIONS

There is no cost implication to leave the vacancy unfilled.

STRATEGIC IMPLICATIONS

N/A

SUSTAINABILITY IMPLICATIONS

N/A

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 13.1

MOVED: Cr P Kaltenrieder

SECONDED: Cr S E G Alexander

That Council resolved to defer filling the vacancy until the next ordinary election to be held in October 2021 and advise the Western Australian Electoral Commission accordingly.

CARRIED 8/0

Res 21/2/22

REPLACING ITEM

Note: Replacing “Funding Agreement request from the Council Music Club of Boyup Brook” with “Relaxing of Community Grant fund acquittal”.

13.2 Relaxing of Community Grant fund acquittal

Location:	N/A
Applicant:	N/A
File:	FM/25/008
Disclosure of Officer Interest:	N/A
Author:	Joanna Kaye (Research and Development Coordinator)
Authorizing Officer:	Dale Putland (Chief Executive Officer)
Attachments:	Yes

SUMMARY

The purpose of this report is for Council to consider waiving the Community Grant Acquittal Reports due in 2021 due to Covid-19.

BACKGROUND

The 20/21 Community Donations and Grants were assessed by the Humanities Committee, 7 May 2020. The below recommendation was carried at the Ordinary Meeting of Council held on 21 May 2020.

COMMITTEE RECOMMENDATION – 4.1

MOVED: Cr Rear

SECONDED: Cr Alexander

1. The existing MOUs are included in the 2% 2020/21 Community Grants Round.
2. That the Community Grants Committee directs the CEO to recommend the below 2020/21 Community Grant requests to Council.

Applicant	Project	Requested Amount	In-Kind request	Rec. Amount	Rec. In-Kind
Wilga Progress Association Inc.	Event support - Old time dance event Friday 14 November	\$700		\$700.00	
Tonebridge Country Club Inc	Operating costs	\$1,000		\$1,000	
Boyup Brook Citizen's Lodge and Croquet Club	Upgrade croquet lawn	\$1,505		\$1,505	\$1,505
Community Resource Centre	Upgrade of art boards	\$861	\$510	\$861.21	\$510
Boyup Brook Tourism Association Inc.	Promotion material - 4 town banners and outdoor poster stands	\$4,132		\$1,760	
Boyup Brook Community Mental Health Action Team (CoMHAT) Inc	Boyup Brook Community Mental Health Week Fair	\$4,800		\$4,800	
Pioneer Museum	Assistance to keep museum open	\$5,000		\$5000	
Country Music Club of Boyup Brook WA Inc	Boyup Brook Country Music Festival	\$15,000	\$6,000	\$15,000	\$6,000
	Extraordinary donations allocation	\$1,000		\$1,000	

CARRIED 9/0

Res 64/20

In addition to the above 2020/2021 Community Grant Agreements, there are also the below Memorandum of Understandings from 2018 – 2021 that are due to be acquitted by June 2021.

<u>Company Name</u>	<u>Purpose</u>	<u>Amount</u>	<u>Type</u>
Boyup Brook Tourism Association Inc	Annual Contribution (3 year MOU) for operating assistance	\$25,000 ex GST	3 year Memorandum of Understanding document 2018 -2021
Boyup Brook Community Resource Centre Inc	Boyup Brook Art Awards (3 year MOU) - Hall Hire in-kind	In-kind \$1,232 ex GST	In-kind 3 year Memorandum of Understanding document 2018-2021

St John Ambulance	Annual Contribution (3 year MOU) for ambulance	\$23,325 2018/19 increase with CPI emergency ambulance	3 year Memorandum of Understanding document 2018-2021
Boyup Brook District High School	Annual Contribution for Shire President Scholarship	\$200 ex GST	Annual Contribution - do not acquit.
Southwest Group of Affiliated Agricultural Assoc	Annual Contribution to the Perth Royal Show.	\$250 ex GST	Annual Contribution - do not acquit.

These Community Groups have signed a Funding Agreement or Memorandum of Understanding (MOU) with the Shire that provided the guidelines for the grant including the acquittal responsibilities. F.02 Guidelines for Community Grants excerpt:

- An acquittal of the project must be provided to the Shire 60 days after the project has been completed and no later than 30 June in the financial year, of the successful grant. Failure to provide an acquittal will eliminate consideration of future applications until such time as an acquittal is received.
- Any funds that have not been spent and acquitted by the 30 June shall be returned to the Shire of Boyup Brook.

COMMENT

The year 2020 was a difficult period for community groups in Boyup Brook due to Covid. It is recommended that Council consider waiving the acquittal requirements for all reports due in 20/21. Community Groups will be invited to apply for the 21/22 Community Grant round, that opens 2 March 2021, without having to supply an acquittal report for 2021.

CONSULTATION

Discussions have been held with the Boyup Brook Country Music Club, following which the Shire has received a letter from the Club requesting that the Shire pay the annual contribution (letter attached).

STATUTORY OBLIGATIONS - Nil.

POLICY IMPLICATIONS

F.02 Guidelines for Community Grants

BUDGET/FINANCIAL IMPLICATIONS - Nil.

STRATEGIC IMPLICATIONS

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

Social: Sense of Community

Our Vision:

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

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

Our objectives and priorities are built from our outcomes.

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

SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENTS

Simple majority.

COUNCIL DECISION & OFFICER RECOMMENDATION - ITEM 13.2

MOVED: Cr H C O'Connell

SECONDED: Cr D E King

That due to the impacts of the Covid-19 restrictions, Council resolves to allow payment of all Community Grants and MOU contributions listed in this report and waive the requirements for detailed acquittal reports.

CARRIED 8/0

Res 21/2/23

13.3 Tower Business Case and Budget Support

Location:	<i>N/A</i>
Applicant:	<i>N/A</i>
File:	<i>FM/25/066</i>
Disclosure of Officer Interest:	<i>N/A</i>
Author:	<i>Joanna Kaye (Research and Development Coordinator)</i>
Authorizing Officer:	<i>Dale Putland (Chief Executive Officer)</i>
Attachments:	<i>Tower Business Case Signed Summary Investment Proposal</i>

SUMMARY

The purpose of this report is for Council to:

1. receive the Centennial Tower Business Case and approve the submission of the document to the South West Development Commission, so that the grant can be acquitted.
2. consider a budget allocation in the 21/22 budget of \$100,000, dependent on the Boyup Brook Co-Operative obtaining all necessary funding for the Centennial Tower project.
3. approve the Centennial Tower project for a Building Better Regions – Tourism Related Infrastructure grant, dependent on obtaining all other funding.

BACKGROUND

The Boyup Brook Co-operative (the Co-op) was established in 1919 and it recently celebrated its centenary. Michael Wright, President of the board has spoken to Council on several occasions including providing a full power point presentation held on 27 October 2020.

Last year the project was selected to receive a grant to develop a business case. At the Ordinary Meeting of Council held 18 June 2020 Council resolved:

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr Alexander

SECONDED: Cr Kaltenrieder

That Council:

1. Approve the budget amendment of \$10,000 grant income and \$15,000 Consultant Expenditure for the development of the Business Plan being funded by way of \$10,000 State Government Grant and \$5,000 Shire contribution (consultants)
2. Authorise the President and the Chief Executive Officer to affix the common seal to the Grant Agreement document and to sign the document to attest that the common seal was so affixed.

CARRIED BY ABSOLUTE MAJORITY 8/0

Res 99/20

This \$10,000 grant must now be acquitted, and the final business case submitted as per the grant agreement details below:

2. Purpose

To develop a business case for the Boyup Brook Visitor Tower project that would be suitable for use in a funding application to the WA State Government.

3. Detailed Description of Project

3.1 Approved Project Description:

As preparatory measure for COVID 19 recovery, funding is provided to assist the Grantee in the development of a business case for the nominated shovel-ready project.

The Grantee will undertake the development of a business case using the provided template for the Boyup Brook Visitor Tower project. The resulting Business Case should be suitable for use in a funding application to the WA State Government should the opportunity arise.

The Boyup Brook Visitor Tower project proposes the construction of a 23m viewing tower for visitors and fire control/identification.

3.2. Approved Project Outcomes/Outputs:

Outcomes of funding include:

1. Submitted concept brief to the SWDC for approval prior to commencing business case
2. Completed business case to the satisfaction of the SWDC.

COMMENT

The reserve land is vested with the Shire. On the 29 October 2020 the Summary Investment Proposal was signed by the Deputy CEO and CEO and submitted to the South West Development Commission. The Development (Public Amusement – Viewing Tower) – Lot 500, R24878, Cales Street Boyup Brook was approved at the Ordinary Council meeting held on 26

November 2020. The final step is to approve the Business Case for submission and confirm the Council's financial support of \$100,000, excerpt from the Business Case:

The total project cost is \$629,820. The Co-op Board has committed \$50,000 to the project and also managed to source a further \$50,000 from a private business, as well as \$8,000 worth of transport in-kind. The Shire of Boyup Brook has also committed to provide \$100,000 (dependent on obtaining all other funding). As such, \$200,000 in funding, as well as in-kind contributions have been secured for this project. The remaining \$421,820 is being requested from State Government through this business case.

The Business Case including full budget and signed Summary Investment Proposal is attached.

Based on the Business Case, if the Shire contributes \$100,000 and the Boyup Brook Co-Operative contributes \$100,000 to a total of \$200,000, there is still a funding shortfall of \$421,820. The Boyup Brook Co-Operative is currently campaigning for an additional \$100,000 state funds to support a federal Building Better Regions Fund (BBRF) – Tourism Related Infrastructure Funding Grant Application for \$300,000 due 5 March 2021. The BBRF grant provides up to 50% of total eligible project costs and therefore if the Boyup Brook Co-Operative secures additional funding there will be \$300,000 to support a matching BBRF application of \$300,000.

It is necessary to provide formal documentation confirming all cash contributions from another source in the application. If the Boyup Brook Co-Operative is successful in obtaining additional funds, it is recommended that Council allocate \$100,000 of the 2021/22 budget to the Tower Project and submit a Building Better Regions application for matching funds for this project.

CONSULTATION

Michael Wright – President of the Boyup Brook Co-Operative

STATUTORY OBLIGATIONS - Nil.

POLICY IMPLICATIONS

BUDGET/FINANCIAL IMPLICATIONS

\$100,000 allocation in the 21/22 budget to support the Tower project, dependent on obtaining all other funding.

STRATEGIC IMPLICATIONS

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

Social: Sense of Community

Our Vision:

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

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

Our objectives and priorities are built from our outcomes.

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

Economic Development: Maximise Business and Employment Opportunities

Our Vision:

Our economy will thrive through diversified business and employment opportunities, taking advantage of our local comparative advantages.

We will endeavour to attract industrial and commercial opportunities for our growing community.

We will actively support our local businesses.

Our objectives and priorities are built from our outcomes.

OUTCOMES	OBJECTIVES	PRIORITIES
Economic Growth	Support new and existing businesses.	<ul style="list-style-type: none"> Encourage new businesses through information, incentives and land-use provision. Support existing businesses through advocating for a sewerage scheme, tailored parking controls and other initiatives
Increased Visitors and Residents	Develop tourism industry	<ul style="list-style-type: none"> Support initiatives for events, fairs, arts, and the like designed to attract visitors to the Shire . Collaborate with others on developing short stay accommodation initiatives.

SUSTAINABILITY IMPLICATIONS

- **Environmental**
Nil.
- **Economic**
Nil.
- **Social**
Nil

VOTING REQUIREMENTS

Absolute majority

MOVED INTO COMMITTEE

MOVED: Cr H C O'Connell

SECONDED: Cr S E G Alexander

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 8/0

Res 21/2/24

MOVED OUT OF COMMITTEE

MOVED: Cr H C O'Connell

SECONDED: Cr P Kaltenrieder

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

CARRIED 8/0

Res 21/2/25

COUNCIL DECISION & OFFICER RECOMMENDATION - ITEM 13.3

MOVED: Cr S E G Alexander

SECONDED: Cr P Kaltenrieder

Council authorises the CEO to:

- 1. Sign and submit the Centennial Tower Business Case and acquit the South West Development Commission Grant.**
- 2. Propose allocation of \$100,000 (comprising of \$50,000 from Rylington Park and \$50,000 from Shire funds) in the 21/22 Budget for the Centennial Tower project, dependent on the Boyup Brook Co-Operative obtaining all necessary funding from other sources.**
- 3. Apply for the Building Better Regions Fund – Tourism Related Infrastructure grant for the Centennial Tower project.**

CARRIED BY ABSOLUTE MAJORITY 8/0

Res 21/2/26

Declare an Interest

Cr H C O'Connell declared an impartiality interest in the following item due to being an employee of the Blackwood Basin Group (not related to operations of the group)

13.4 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

MOVED INTO COMMITTEE

MOVED: Cr H C O'Connell

SECONDED: Cr S Alexander

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 8/0

Res 21/2/27

MOVED OUT OF COMMITTEE

MOVED: Cr P Kaltenrieder

SECONDED: Cr S Alexander

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

CARRIED 8/0

Res 21/2/28

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 13.4

MOVED: Cr H C O'Connell

SECONDED: Cr P Kaltenrieder

That the following Committee/Representatives be appointed:-

1. Audit and Finance Committee

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 the Shire President and all current Councillors be appointed to Council's Audit and Finance Committee.

2. Annual Awards Committee – 4 Councillors, the function of the committee to be as set out in Council's Annual Awards process policy.

That Cr H C O'Connell, Cr A Price, Cr S E G Alexander and Cr A Price be appointed to Council's Annual Awards Committee.

3. Local Emergency Management Committee

That the Shire President (the Councillor elected as Shire President) be appointed as the Council Representative and that Cr D E King be appointed as the Deputy Delegate on the LEMC Committee.

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

4. Bush Fire Advisory Committee

That the Shire President (the Councillor elected as Shire President) be appointed as the Council Representative and that Cr H C O'Connell be appointed as the Deputy Delegate on the Bush Fire Advisory Committee.

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

5. Infrastructure Committee

That the Shire President and all current Councillors be appointed to Council's Finance and Infrastructure Committee.

6. Humanities Committees

That the Shire President and all current Councillors be appointed to Council's Humanities Committee.

7. Economic Development & Biosecurity Committee

That the Shire President and all current Councillors be appointed to Council's Economic Development & Biosecurity Committee.

8. Main Roads Regional Road Group

That the Shire President be appointed as the Council Representative and that Cr P Kaltenrieder be appointed as the Deputy Delegate on the Main Road Regional Road Group.

9. South West Zone Committee

That the Shire President be appointed as the Council Representative and that Cr H C O'Connell be appointed as the Deputy Delegate for the South West Zone Western Australian Local Government Association.

- 10. Rylington Park Transitional Committee**
That the Shire President and Cr H C O'Connell be appointed as the Council Representatives on the Rylington Park Management Committee (inc).
- 11. Boyup Brook Tourism Committee**
That Cr A Price be appointed as the Council Representative on the Boyup Brook Tourism Association.
- 12. Boyup Brook Community Resource Centre**
That Cr H C O'Connell be appointed as the Council Representative on the Boyup Brook Community Resource Centre Management Committee.
- 13. Boyup Brook Museum Committee**
That Cr D King be appointed as the Council Representative on the Boyup Brook Museum Committee.
- 14. Boyup Brook District High School Board**
That Cr S E G Alexander be appointed as the Council Representative on the Boyup Brook District High School Board.
- 15. Blackwood Basin Group**
That Cr A Price be appointed as the Council Representative and that Cr D King be appointed as the Deputy Delegate on the Blackwood Basin Group Committee.

CARRIED BY ABSOLUTE MAJORITY 8/0

Res 21/2/29

14 CONFIDENTIAL MATTERS – BEHIND CLOSED DOORS

Nil

15 CLOSURE OF MEETING

There being no further business the Shire President, Cr Walker thanked all for attending and declared the meeting closed at 5.59pm.