

SHIRE OF KOJONUP

Kojonup



**MINUTES**

Council Meeting

15 September 2020

UNCONFIRMED

**MINUTES FOR THE COUNCIL MEETING TO BE HELD ON 15 SEPTEMBER 2020**

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The Shire of Kojonup has a set of six guiding principles it uses when making decisions. These principles are checked and enhanced every two years; in line with the Strategic Community Plan review schedule.

**Leading community outcomes**

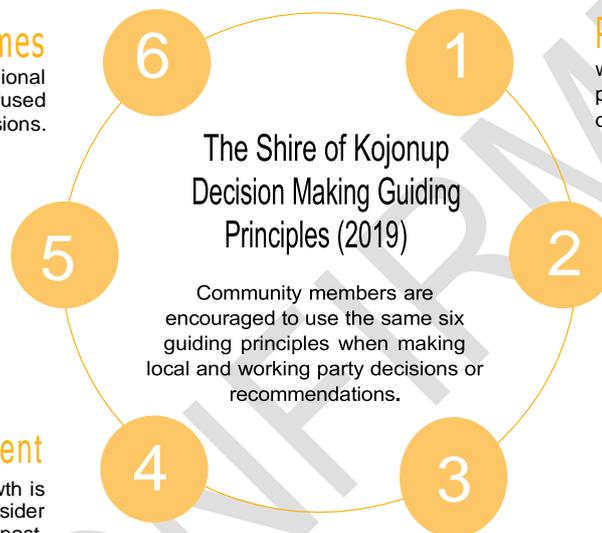
community strategic direction, plus regional impact and state-wide needs are fused together when making decisions.

**Compliance**

appropriate compliance and tolerable risk is considered, although not so much as to fatigue or delay growth.

**Past and Present**

forward-thinking growth is encouraged, whilst we consider and celebrate the past.



**People First**

when considering public spaces, people will be given precedence, over transport and business.

**Sharp Funding**

short and long term financial implications will be considered, along with collaborative ownership options

**Analysis-based**

objective and evidence-based data and insights must support decision making

## MINUTES

### 1 **DECLARATION OF OPENING AND ANNOUNCEMENT OF GUESTS**

The Shire President declared the meeting open at 3.00pm and drew the meeting's attention to the disclaimer below:

#### *Disclaimer*

*No person should rely on or act on the basis of any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting.*

*The Shire of Kojonup expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any advice or information provided by a member or officer, or the content of any discussion occurring, during the course of the meeting.*

*Where an application for an approval, a license or the like is discussed or determined during the meeting, the Shire warns that neither the applicant, nor any other person or body, should rely upon that discussion or determination until written notice of either an approval and the conditions which relate to it, or the refusal of the application has been issued by the Shire.*

#### **Acknowledgement of Country**

*The Shire of Kojonup acknowledges the first nations people of Australia as the Traditional custodians of this land and in particular the Keneang people of the Noongar nation upon whose land we meet.*

*We pay our respect to their Elders past, present and emerging*

#### **Prayer – Cr Pedler**

*Gracious Father, we acknowledge you as our Maker and Judge. We ask for wisdom for our reigning monarch Queen Elizabeth. Grant to her good health and strength in the executing of her duties.*

*We pray for all Ministers and Cabinet members of the Australian Federal and State Government. Grant to them wisdom in the welfare of Australia, so that truth and justice is established for all Australians.*

*Lastly Gracious Father, we pray for ourselves. We ask that you might grant to us the ability to speak with integrity and to work with uncompromising diligence. Grant to us the wisdom to make good decisions, remembering that we are one community. Grant to us the good humour to keep things in perspective in a community that is a diverse population.*

*We ask that we might always be mindful of the safety and welfare of the people of Kojonup. Grant to all who serve on Public Committees the ability to listen and work together with mutual respect for one another. Bless us with the personal joy of knowing that we have done our best.*

**2 ATTENDANCE and APOLOGIES**

**COUNCILLOR**

Cr Benn

Shire President

Cr Radford

Deputy Shire President

Cr Fleay

Cr Gale

Cr Pedler

Cr Singh

Cr Webb

Cr Wieringa

**STAFF**

Rick Mitchell-Collins

Chief Executive Officer

Anthony Middleton

Manager Corporate and Community Services

Craig McVee

Manager Works & Services

Michelle Dennis

Development Services Coordinator

Emily Sleight

Sport and Recreation Officer (minutes)

Judy Stewart

Senior Administration Officer

Jenny Clark

Records Administration Officer

**LEAVE OF ABSENCE**

**APOLOGIES**

Phil Shephard

Planner

Lorraine Wyatt

Executive/Human Resource Coordinator

**GALLERY**

Mr Kevin Martin

Mrs Rhonda Martin

**3 SUMMARY OF RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE**

Nil.

**4 PUBLIC QUESTION TIME**

Nil.

**5 PETITIONS, DEPUTATIONS AND PRESENTATIONS**

Presentation to Mr Kevin Martin for 26 years of service to the Shire of Kojonup.  
Mr & Mrs Martin and the Manager of Works left the meeting at 3.10pm following the presentation

**6 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.

**7 CONFIRMATION OF MINUTES**

**7.1 COUNCIL MEETING 18 AUGUST 2020**

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**114/20 Moved Cr Singh, seconded Cr Radford**

**That the Minutes of the Council Meeting held on 18 August 2020 be confirmed as a true record.**

**CARRIED 8/0**

**8 ANNOUNCEMENTS by the Presiding Member without discussion**

Nil

**9 DECLARATIONS OF INTEREST**

**Item 17.2 – Confidential Item – Disposal by Sale Lot 66 Albany Highway**

- Cr Singh declared a Direct Financial Interest in this item as he is the applicant.

**Item 17.4 – Confidential Item – Chief Executive Officer Contract**

- Rick Mitchell-Collins declared a Direct Financial Interest in this item being the Chief Executive Officer and the subject of the item.

**10**    **KEY PILLAR 1 – ‘PLACE’ REPORTS**

Nil.

UNCONFIRMED

**11**    **KEY PILLAR 2 – ‘CONNECTED’ REPORTS**

**Nil.**

UNCONFIRMED

## 12 **KEY PILLAR 3 – ‘PERFORMANCE’ REPORTS**

### 12.1 FINANCIAL MANAGEMENT – MONTHLY STATEMENT OF FINANCIAL ACTIVITY (AUGUST 2020)

<b>AUTHOR</b>	Anthony Middleton – Manager Corporate & Community Services
<b>DATE</b>	Monday, 7 September 2020
<b>FILE NO</b>	FM.FNR.2
<b>ATTACHMENT(S)</b>	<a href="#">12.1.1 – August 2020 Monthly Financial Statements</a>

<b>STRATEGIC/CORPORATE IMPLICATIONS</b>		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2021 +”
<b>Key Pillar</b>	<b>Community Outcomes</b>	<b>Corporate Actions</b>
KP – 3 Performance	3.4 – Be organised and transparent with our financial management.	3.4.1 - Increase regularity of readable financial reporting to the community. 3.4.2 – Act with sound long-term and transparent financial management and deliver residents considered value for money.

#### **DECLARATION OF INTEREST**

Nil.

#### **SUMMARY**

The purpose of this report is to note the Monthly Financial Statements for the period ending 31 August 2020.

#### **BACKGROUND**

In addition to good governance, the presentation to the Council of monthly financial reports is a statutory requirement, with these to be presented at an ordinary meeting of the Council within two (2) months after the end of the period to which the statements relate.

#### **COMMENT**

The attached Statement of Financial Activity for the period 1 July 2020 to 31 August 2020 represents two (2) months, or 17% of the year.

The following items are worthy of noting:

- Closing surplus position of \$3.64m;
- Operating results:
  - 39% of budgeted operating revenue has been received; and
  - 13% of budgeted operating expenditure spent;
- Capital expenditure achieved 2% of budgeted projects;

- Cash holdings of \$4.92m of which \$3.54m is held in cash backed reserve accounts and \$702,894 is a grant held for other parties; and
- Page 9 & 10 of the statements detail major variations from year to date (amended) budgets in accordance with Council Policy 2.1.6.

#### **CONSULTATION**

Nil.

#### **STATUTORY REQUIREMENTS**

Regulation 34 of the *Local Government (Financial Management) Regulations 1996* sets out the basic information which must be included in the monthly reports to Council.

#### **POLICY IMPLICATIONS**

Council Policy 2.1.6 defines the content of the financial reports.

#### **FINANCIAL IMPLICATIONS**

This item reports on the current financial position of the Shire. The recommendation does not in itself have a financial implication.

#### **RISK MANAGEMENT IMPLICATIONS**

There are no risk management implications for this report.

#### **ASSET MANAGEMENT IMPLICATIONS**

There are no asset management implications for this report.

#### **SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS**

Nil.

#### **VOTING REQUIREMENTS**

Simple Majority.

#### **OFFICER RECOMMENDATION**

**115/20 Moved Cr Gale, seconded Cr Fleay**

**That the monthly financial statements for the period 1 July 2019 to 31 August 2020, as attached, be noted.**

**CARRIED 8/0**

12.2 MONTHLY PAYMENTS LISTING AUGUST 2020

<b>AUTHOR</b>	Vivicka Kahn - Finance Officer
<b>DATE</b>	Friday, 4 September 2020
<b>FILE NO</b>	FM.AUT.1
<b>ATTACHMENT</b>	<a href="#">12.2.1 – Monthly Payment Listing 1/08/2020 to 31/08/2020</a>

<b>STRATEGIC/CORPORATE IMPLICATIONS</b>		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2019-2023”
<b>Key Pillar</b>	<b>Community Outcomes</b>	<b>Corporate Actions</b>
KP3 - Performance	3.4 – Be organised and transparent with our financial management.	3.4.1 - Increase regularity of readable financial reporting to the community. 3.4.2 – Act with sound long-term and transparent financial management and deliver residents considered value for money.

**DECLARATION OF INTEREST**

Nil

**SUMMARY**

To receive the list of payments covering the month of August 2020.

**BACKGROUND**

Not applicable.

**COMMENT**

The attached list of payments is submitted for receipt by the Council.

Any comments or queries regarding the list of payments is to be directed to the Manager of Corporate and Community Services prior to the meeting.

**CONSULTATION**

No consultation was required.

**STATUTORY REQUIREMENTS**

Regulation 12(1)(a) of the *Local Government (Financial Management) Regulations 1996* provides that payment may only be made from the municipal fund or trust fund if the Local Government has delegated the function to the Chief Executive Officer.

The Chief Executive Officer has delegated authority to authorise payments. Relevant staff have also been issued with delegated authority to issue orders for the supply of goods and services subject to budget limitations.

Regulation 13 of the *Local Government (Financial Management) Regulations 1996* provides that if the function of authorising payments is delegated to the Chief Executive Officer then a list of payments is to be presented to the Council at the next ordinary meeting and recorded in the minutes.

**POLICY IMPLICATIONS**

Council’s Policy 2.1.2 provides authorisations and restrictions relative to purchasing commitments.

**FINANCIAL IMPLICATIONS**

All payments made in line with Council Policy.

**STRATEGIC/CORPORATE IMPLICATIONS**

There are no strategic/corporate implications involved with presentation of the list of payments.

**RISK MANAGEMENT IMPLICATIONS**

A control measure to ensure transparency of financial systems and controls regarding creditor payments.

**ASSET MANAGEMENT PLAN IMPLICATIONS**

There are no asset management implications for this report.

**SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS**

Nil

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**116/20 Moved Cr Radford, seconded Cr Singh**

**That in accordance with Regulation 13 (1) of the *Local Government (Financial Management) Regulations 1996*, the list of payments as attached made under delegated authority:**

FROM – 1 August 2020		TO – 31 August 2020
Municipal Cheques	14254 - 14254	\$2,187.33
EFTs	26524 - 26667	\$621,808.73
Direct Debits		\$46,766.07
<b>Total</b>		<b>\$670,762.13</b>

**CARRIED 8/0**

12.3 DELEGATION REGISTER REVIEW

<b>AUTHOR</b>	Judy Stewart – Senior Administration Officer
<b>DATE</b>	Friday, 4 September 2020
<b>FILE NO</b>	PE.AUT.2
<b>ATTACHMENT(S)</b>	12.3.1 Delegation Register (current) - showing tracked changes 12.3.2 Draft Delegation Register – clean copy

<b>STRATEGIC/CORPORATE IMPLICATIONS</b>		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2021 +”
Key Pillar	Community Outcomes	Corporate Actions
KP3 - 3 Performance (part thereof)	3.4 - Be organised and transparent with our financial management. (part thereof)	3.4.2 – Act with sound long-term and transparent financial management and deliver residents considered value for money. 3.4.3 - Commit to future state-wide measurement systems testing local government performance.

**DECLARATION OF INTEREST**

Nil

**SUMMARY**

The purpose of this report is to review Council’s Delegation Register.

**BACKGROUND**

Section 5.46 (2) of the *Local Government Act 1995* requires that delegations be reviewed at least once every financial year. The Delegation Register was last reviewed by the Council in September 2019.

Council, at its August 2020 Ordinary Meeting, amended its Development Applications delegation (PLAN001) – this amendment is already incorporated within the Delegations Register.

**COMMENT**

The Council of the Shire of Kojonup has resolved to adopt and delegate the functions referred to within the attached Delegations Register to the Chief Executive Officer (CEO). Under the *Local Government Act 1995*, the Council is only able to delegate to the CEO and the CEO may then on-delegate to other Officers. When a decision is made under delegation, it is as if that decision has been made by the Council.

A review of the Delegation Register has been undertaken in accordance with the *Local Government Act 1995* to ensure that it contains the requirements for the Shire of Kojonup to function efficiently and to ensure good governance.

All managers were given the opportunity to participate in the Delegation Register review; the only changes suggested are the removal of references to Council being the Delegator (this wording is considered unnecessary as all delegations are made by Council under the *Local Government Act 1995* [please see *Statutory Requirements* below]).

### **CONSULTATION**

Chief Executive Officer  
Manager Corporate and Community Services  
Manager Works and Services  
Acting Manager Aged Care Services

### **STATUTORY REQUIREMENTS**

The *Local Government Act 1995*, sections 5.42 to 5.46 and Regulation 19 of the *Local Government (Administration) Regulations 1996* relate to delegations.

Specifically, section 5.42 of the *Local Government Act 1995* allows for the delegation of some powers and duties from the Council to the CEO. Section 5.42 states:

- (1) *A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.*  
*\*Absolute majority required.*

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

### **POLICY IMPLICATIONS**

There are no policy implications for this report.

### **FINANCIAL IMPLICATIONS**

This report or its recommendation does not in itself have a financial implication. However, a number of delegations provide the ability for officers or committees to exercise power to approve tenders or commit funding.

**RISK MANAGEMENT IMPLICATIONS**

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
3. <i>Compliance</i>	Failure to correctly identify, interpret, assess, respond and communicate laws and regulations as a result of an inadequate compliance framework.	Ineffective policies & processes; Ineffective monitoring of changes to legislation.	Nil
Risk rating: Adequate			
IMPLICATIONS			
This report ensures legislative compliance and continues a framework of delegations to ensure that the Council and staff are aware of and are undertaking their respective roles and responsibilities.			

**ASSET MANAGEMENT IMPLICATIONS**

There are no asset management implications for this report.

**SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS**

Nil

**VOTING REQUIREMENTS**

Absolute Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**117/20 Moved Cr Fleay, seconded Cr Radford**

**That the Delegation Register dated September 2020, as attached, be adopted in accordance with section 5.42 of the *Local Government Act 1995*.**

**CARRIED BY AN ABSOLUTE MAJORITY 8/0**

12.4 ELECTED MEMBERS CHARTER - REVIEW

<b>AUTHOR</b>	Judy Stewart – Senior Administration Officer
<b>DATE</b>	Friday, 4 September 2020
<b>FILE NO</b>	CM.POL.2
<b>ATTACHMENT(S)</b>	12.4.1 – Existing Elected Members Charter – copy showing changes 12.4.2 – Draft Elected Members Charter – clean copy

<b>STRATEGIC/CORPORATE IMPLICATIONS</b>		
	“Smart Possibilities – Kojonup 2027+”	“Smart Implementation – Kojonup 2021 +”
Key Pillar	Community Outcomes	Corporate Actions
KP3 - 3 Performance	3.1 - Be a continually engaged and strategic community which leads and organises throughout the entire stakeholder group.	3.1.5 – Implement strategies to improve Councillors’ role as community leaders and asset custodians.

**DECLARATION OF INTEREST**

Nil

**SUMMARY**

The purpose of this report is for Council to conduct an annual review of its Elected Members Charter.

**BACKGROUND**

The *Local Government Amendment Act 2019* requires potential candidates to complete an induction prior to nomination for Council (applicable from the October 2019 local government elections).

The Elected Members Charter (Charter) was last reviewed in August 2019, having previously been referred to as the Councillor Induction Manual. To assist newly elected members to understand their roles and responsibilities and to support current elected members, the Charter was developed with the view that the document became an enduring reference rather than simply an induction manual which had little useful reference past the induction period.

The document is planned for review annually unless requiring amendment in the interim. The document will be available via the Docs on Tap Application under the folder ‘Useful Documents’. A separate, thorough induction program, relevant to the Shire of Kojonup, is also conducted post each biennial election.

**COMMENT**

Officers have reviewed the Elected Members Charter and suggested updates (best practice focussed) appear in red font throughout the ‘showing changes’ copy.

**CONSULTATION**

Manager of Corporate and Community Services

**STATUTORY REQUIREMENTS**

In accordance with *Section 4.48 and 4.49* of the *Local Government Act 1995*, potential candidates for election to Council are required to have ‘completed the course of induction’. It is considered best practice for local governments to have policies, procedures and guidelines that provide guidance to both staff and elected members; however, there is no statutory requirement to produce this Charter in particular.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**RISK MANAGEMENT IMPLICATIONS**

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
3. Compliance	Ineffective policies & processes	Councillor/Staff Induction Process	Nil
Risk rating: Adequate			
IMPLICATIONS			
<i>Robust systems and controls, including guidance documents such as an Elected Members Charter, provide for good governance and reduce risk associated with lack of training and reference material.</i>			

**ASSET MANAGEMENT IMPLICATIONS**

Nil.

**SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS**

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**118/20 Moved Cr Singh, seconded Cr Wieringa**

**That Council endorses the updated Elected Members Charter, as presented.**

**CARRIED 8/0**

12.5 LOCAL GOVERNMENT REVIEW PANEL RECOMMENDATIONS TO MINISTER

<b>AUTHOR</b>	Rick Mitchell-Collins – Chief Executive Officer
<b>DATE</b>	Tuesday, 8 September 2020
<b>FILE NO</b>	<b>CM.MET.1</b>
<b>ATTACHMENT(S)</b>	<b>12.5.1 - WALGA Great Southern Zone Response</b>

<b>STRATEGIC/CORPORATE IMPLICATIONS</b>		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2019-2023”
<b>Key Pillar</b>	<b>Community Outcomes</b>	<b>Corporate Actions</b>
KP3 – Performance	3.1 – Be a continually engaged and strategic community which leads and organises throughout the entire stakeholder group.	3.1.4 – Implement strategies to improve Councillors role as community leaders and asset custodians.

**DECLARATION OF INTEREST**

Nil

**SUMMARY**

To present to Council for endorsement or further consideration, WALGA Great Southern Delegates comments in relation to the Local Government Review Panel recommendations for discussion by State Council on 2 September 2020. The Minister for Local Government has indicated that a ‘Green Paper’ on the new Act will be released after the State election is held in the first half of 2021.

**BACKGROUND**

In 2017 the State Government announced a review of the *Local Government Act 1995*.

- Given the breadth of matters covered by the Local Government Act, a staged approach to the review was adopted.
- Stage one: priority reforms
- Stage two: wide ranging reforms leading to a new Local Government Act
- The Department of Local Government carried out a consultation process in 2018/19 where over 3,000 submissions were received.
- The Minister for Local Government appointed an Independent Panel to consider submissions received by the Department of Local Government Sport and Cultural Industries on the review of the Local Government Act in November 2019.
- The Panel’s report has made 65 recommendations
- The Panel’s report does not represent Government policy; the Minister for Local Government has stated the report will be considered as part of the Act Review process.
- The Minister for Local Government has not considered the Panel’s recommendations at this stage and has not requested a consultation process on the report.

## COMMENT

Shire of Kojonup delegates, Cr Benn and Cr Fleay met with Great Southern Zone delegates in Woodanilling on 28 August 2020 to consider Great Southern Councils responses to recommendations contained within the report for the attention of the Minister for Local Government and State Parliament.

The existence of COVID-19 effectively changed the world from what it was in 2017 when Council lodged a submission to the Select Committee. Since March 2020 the Shire is responding to COVID-19 and the enormous economic and social challenges that will be a huge impost on future generations and how we survive, let alone plan for the future.

Australia is experiencing its biggest recession in the nation's history and the reality of second or third COVID waves affecting more residents until a vaccine is secured remains a real threat. State and Federal Governments have encouraged Local Government to stimulate economic activity by bringing forward capital projects, using reserve funds, deferring or reducing rentals of Council facilities and increasing borrowings whilst not increasing Rates, Fees and Charges for the 2020/21/ financial year.

The major disadvantage of this approach is the potential to make Councils unsustainable and therefore amalgamation is back on the State Governments agenda especially with the Premier riding a wave of support regarding border closures and Clive Palmers legal action which could easily result in State Labor being returned to Government with an increased majority allowing the Government in its second term to pass legislation without any resistance from opposition parties as they simply do not have the political numbers.

The Panel's report appears to have been influenced by indiscretions arising from the City of Perth Inquiry and events that have occurred at other Local Governments not only in WA but Eastern States resulting in Mayors, CEO's, Councillors, Developers and others being criminally convicted.

Politically the Minister is in a position of strength to ensure the new Act provides greater powers of oversight to the Minister and Government by:

- Merging the Local Government Grants Commission and the Local Government Advisory Board into a single body responsible to the Minister and named the Local Government Commission, and including the functions of the Grants Commission in accordance with Commonwealth legislation.
- A new form of 'regional authority' to enable collaboration on specific issues between governments and with other key stakeholders which could see WALGA and Development Commissions become redundant.
- The Panel recommends the role of audit committees be expanded to become Internal Audit, Risk and Improvement Committees and the majority of the Committee members, including the Chair, should be independent of the local government and should be drawn from a suitably qualified panel.
- To address the impost on small local governments, the committee could be established on a regional basis. This effectively hands Governance to an external committee and away from elected members as if to suggest Council's and Elected Members in particular are not competent enough to undertake this role with impartiality or professionalism.

Ultimately, the devil is in the detail which at this time is not comprehensive and the writer is concerned that releasing the ‘Green paper’ after the election, whilst politically a good strategy by the State Labor party does not accord well for the communities local government serves as ‘big brother’ has already decided the path the new Act will take.

Is local government going to become even more subservient to the State by operating on a regional basis?

### **CONSULTATION**

Council Meeting – 17 September 2019 Decision 113/19 Submission to Select Committee endorsed.

On-line surveys to the Select Committee via Department of Local Government undertaken by Councillors and Staff.

### **STATUTORY REQUIREMENTS**

*Local Government Act 1995*

### **POLICY IMPLICATIONS**

Major changes may be required dependent on contents of new Act.

### **FINANCIAL IMPLICATIONS**

Until COVID-19 is contained and world vaccinations prove successful, financial planning is very much a day by day, month by month proposition at the moment. People will be encouraged to move to rural areas but without employment or adequate service provision they will quickly move elsewhere. The resources sector in WA continues to be the major economic stimulus for the nation.

The Shire of Kojonup will continue to apply good governance, fiscal responsibility, integrated planning and reporting, resource sharing, risk management and service delivery that is affordable and in accordance with adopted values and principles for the community it represents regardless of the challenges as this is what our communities deserve from Local Government.

### **RISK MANAGEMENT IMPLICATIONS**

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
Business Continuity	COVID-19 has changed life as we knew it.	Life during and after COVID-19	Survival mode
Risk rating: High/Extreme			
IMPLICATIONS			
Will ‘Local’ under the new Act be retained or will the State impose more control?			

#### **ASSET MANAGEMENT IMPLICATIONS**

The Shire of Kojonup relies on external funding to undertake asset renewal even prior to COVID-19 and with so much uncertainty in the world regarding economic stability there will be a greater emphasis placed on Local Government to demonstrate that unless 'whole of life costs' and need analysis clearly provide benefit to a majority of the region, smaller shires will miss out. This is evident in the State's economic stimulus for the Great Southern Region being focused on the populated regional centre Albany, which coincidentally has a parliamentary member retiring at next year's state election.

#### **SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS**

Panel report suggests Regional Subsidiaries will finally be achieved under the new Act but a similar commitment was given by the previous State Government but has not eventuated.

#### **VOTING REQUIREMENTS**

Simple Majority.

#### **OFFICER RECOMMENDATION/COUNCIL DECISION**

**119/20 Moved Cr Radford, seconded Cr Fleay**

**That Council endorses the Chief Executive Officer comments and submits the WALGA Great Southern Zone Response without change to the Minister for Local Government.**

**CARRIED 8/0**

**13 KEY PILLAR 4 – ‘PROSPERITY’ REPORT**

**13.1 DEVELOPMENT APPLICATION FEE FOR RETROSPECTIVE APPROVAL FOR SANDPITS AT MISSION ROAD, CHERRY TREE POOL**

<b>AUTHOR</b>	Phil Shephard – Town Planner
<b>DATE</b>	Monday, 7 September 2020
<b>FILE NO</b>	A24377
<b>ATTACHMENT(S)</b>	Nil

<b>STRATEGIC/CORPORATE IMPLICATIONS</b>		
<b>“Smart Possibilities – Kojonup 2027+”</b>		<b>“Smart Implementation – Kojonup 2018-2022”</b>
<b>Key Pillar</b>	<b>Community Outcomes</b>	<b>Corporate Actions</b>
KP4 - Prosperity	4.2 Have added value to the agricultural sectors to attract new people to the region	4.2.2 Enable and advocate for new industry to set up in and around Kojonup

**DECLARATION OF INTEREST**

Nil.

**SUMMARY**

To consider the amount of development application fee to be charged on an application for retrospective approval for an extractive industry (sandpits).

**BACKGROUND**

Nil.

**COMMENT**

The proposal, which has been approved by staff under delegated authority, involved the development of several relatively small sandpits used in the construction of houses and buildings in Kojonup and surrounding districts dating back to 2005.

The sandpits range from 900m<sup>2</sup> to 2,500m<sup>2</sup> in area and utilise a low dune system crossing the property occupying approximately 5 hectares (see image below) of the 301.4 hectare farming lot. All the pits are 2m or less deep and the pits are not used continually. The sand is extracted using a front end loader and placed directly into a truck for delivery.

The pasture/topsoil is removed from the ground and the sand extracted and when the sand becomes exhausted the pit is battered and the topsoil replaced with the land returned to stock pasture or cropping activities.



The application fee for an extractive industry in Shire's List of Fees and Charges is \$739. When it involves retrospective development approval, the application fee is \$739 plus a penalty fee of \$1,478 totalling \$2,217. In addition, as the proposal was required to be advertised under the requirements of TPS3, the applicant is required to repay the direct cost of advertising the proposal which was \$281.38. The total application fee is therefore \$2,498.38.

Staff consider that the circumstances surrounding the original development of the sandpits and their operation since as outlined in the following dot points warrants consideration of the application fee to be paid:

- The applicant has acknowledged their oversight in not seeking Council development approval and have cooperated with staff.
- The applicant sought development approval immediately upon being advised by staff that this was required.
- The sandpits are small and operate within a defined area on the property.
- The pits are a valuable local resource and have been used by the Shire and select others in the past for construction activities.
- No complaints have been received by the Shire since the operations commenced in approximately 2005.
- The application fee should reflect the small-scale nature of the proposal and the processing time required to assess the application.
- The advertising costs are recouped from the applicant.

In determining staff's request, the Council has a number of options available to it, which are discussed below:

**1 Not approve the request**

The Council can choose to refuse to approve the request. If this option was chosen, the applicant will be required to pay the full development application fee of \$2,217.

2 Approve the request

The Council can choose to approve the request. If this option were chosen, the applicant would pay the normal development application fee of \$739 and Council would be waiving \$1,478 in penalty fees payable for retrospective approval for extractive industries.

3 Defer the request

The Council can choose to defer the matter for a period of time and seek additional information, if deemed necessary to complete the assessment, before proceeding to make a decision.

**CONSULTATION**

Rick Mitchell-Collins – Chief Executive Officer

Michelle Dennis – Development Services Coordinator

Craig McVee – Manager of Works and Services

Allan Sandwell - Applicant

**STATUTORY REQUIREMENTS**

*Planning and Development Act 2005 and Planning and Development Regulations 2009* - The payment of development application fees is required to comply with the requirements of the Act and Regulations. The Regulations set maximum fees for various planning services including development application fees.

Regulation 52 of the *Planning and Development Regulations 2009* allows a Council to waive or refund, in whole or in part, payment of a fee for a planning service.

**POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

The application fee for an extractive industry in Shire's List of Fees and Charges is \$739. When it involves retrospective development approval, the application fee is \$739 plus a penalty fee of \$1,478 totalling \$2,217.

Staff are requesting Council waive the penalty portion of the application fee amounting to \$1,478 which would reduce the income received from planning applications by that amount. If the request is supported, Council would still receive income of the normal application fee of \$739 plus the cost of advertising the proposal which was \$281.38 for a total application fee of \$1,020.38.

**RISK MANAGEMENT IMPLICATIONS**

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
3. Compliance	Development occurs without formal approvals being obtained	All incoming document/communications are captured and allocated	Community awareness of need to seek approvals prior to undertaking development
Risk rating: Adequate			
IMPLICATIONS			
Community must understand the need to seek Council input on process/approvals required whenever contemplating developments as consequences from non-compliance with Planning Scheme and other state authority requirements could become a costly exercise as retrospective approval not always possible which could lead to legal action by other parties.			

**ASSET MANAGEMENT IMPLICATIONS**

Nil.

**SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS**

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**120/20 Moved Cr Gale, seconded Cr Radford**

That Council, for the reasons outlined in the Comment Section of the Planners report, require the applicant pay the normal application fee of \$739 and recoup of the direct advertising costs of \$281.38 for a total application fee of \$1,020.38 and advise that it has waived the penalty fee portion of \$1,478 for the assessment and retrospective approval of the extractive industry (sandpits) on Lot 104 Mission Road, Cherry Tree Pool.

**CARRIED 8/0**

**14**    **KEY PILLAR 5 – ‘DIGITAL’ REPORTS**

Nil.

UNCONFIRMED

**15 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**16 NEW BUSINESS**

**16.1 MARRIBANK ABORIGINAL CORPORATION – REQUEST TO WAIVE RATES**

<b>AUTHOR</b>	Anthony Middleton – Manager Corporate & Community Services
<b>DATE</b>	Tuesday, 15 September 2020
<b>FILE NO</b>	A12955
<b>ATTACHMENT(S)</b>	16.1.1 – ‘The New Marribank’ Business Plan 16.1.2 – MAC Progress Report

<b>STRATEGIC/CORPORATE IMPLICATIONS</b>		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2018-2022”
<b>Key Pillar</b>	<b>Community Outcomes</b>	<b>Corporate Actions</b>
KP4 – Prosperity	4.3 - Be attracting support industries and diverse and new business sectors to the region	4.3.4 Drive population growth through the support of local industry, development of new industry and promotion of Kojonup’s point of difference.

**DECLARATION OF INTEREST**

Nil

**SUMMARY**

The purpose of this report is to consider a request from the Marribank Aboriginal Corporation (MAC) to waive the property rates on Southern Aboriginal Corporation (SAC) property that they lease.

**BACKGROUND**

A request has been received from Leon Wynne, MAC, requesting that the rates for Marribank Mission Site be waived to enable the money saved to be spent on renovations and upkeep of the Marribank Mission.

At its meeting held on 20 August 2019, the Council resolved (decision 95/19):

**That Marribank Aboriginal Corporation be advised that:**

1. The Council is unable to waive its property rate account for the Marribank Mission in the 2019/2020 financial year of \$4,200;
2. Council make a donation to the Marribank Aboriginal Corporation of \$2,100 for the 2019/2020 Financial Year to assist with associated commencement costs, with such funds being allocated from account 1912, Councillor Conference Fees to account 2008, Donations - Council Decision;

3. The 2019/2020 Annual Budget be amended by reducing account 1912 (Councillors Conference Fees) by \$2,100 and increasing account 2008 (Donations - Council Decision); and
4. Council will give consideration to further donations during the 2020/2021 and 2021/2022 budgeting process.

#### COMMENT

Lot 1 Mission Rd (otherwise known as Marribank) is owned by the SAC and is leased by the MAC. The 2020/2021 rates were \$4213.31. Considering the property is owned by a third party (SAC), if the Council were to waive the rates there is no guarantee that the MAC would receive the benefit as the property owner may not pass on this benefit.

If the Council were in agreement with the request, a more appropriate solution would be to simply make a cash donation to the MAC for an amount equivalent to the annual property rates. There is no provision in the 2020/2021 adopted budget for such a donation.

#### CONSULTATION

Chief Executive Officer  
Senior Finance Officer

#### STATUTORY REQUIREMENTS

Section 6.25 to 6.82 of the Local Government Act 1995 and Sections 52 to 78 of the Local Government (Financial Management) Regulations 1996 relate to property rating requirements and procedures.

Specifically, section 6.47 (Concessions) states:

*“Subject to the Rates and Charges (Rebates and Deferments) Act 1992, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive\* a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.*

*\* Absolute majority required.”*

#### POLICY IMPLICATIONS

Nil.

#### FINANCIAL IMPLICATIONS

Subject to the Council decision, there is the possibility of a financial loss of \$4,213.31. No such loss of revenue/expense was budgeted for in the 2020/2021 budget.

Account 2006 - ‘Donations - CEO Delegation’ has a budget of \$2,000 with \$0 expended to date.

Account 2008 - ‘Donations - Council Decision’ has a budget of \$2,000 with \$0 expended to date.

#### RISK MANAGEMENT IMPLICATIONS

Given the tightness of the current budget and the fact there is no budget provision for the waiving of rates, ‘Donations - CEO Delegation’ and ‘Donations - Council Decision’, that a donation other than cash would be prudent in this economic climate.

**ASSET MANAGEMENT IMPLICATIONS**

Nil.

**SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS**

Nil.

**VOTING REQUIREMENTS**

Simple Majority - if resolving to move officer's recommendation.

Absolute Majority - if resolving to waive the property rates or give a donation and amend the budget.

Meeting adjourned at 3.35pm to seek clarification from staff regarding rates for this portion of land – specifically size, useable land space and rate value.

Meeting reconvened at 3.45pm with clarification.

**COUNCIL DECISION**

**121/20 Moved Cr Fleay, seconded Cr Radford**

**That Council allow new business item 16.1 Marribank Aboriginal Corporation – Request to waive rates to be discussed.**

**CARRIED 8/0**

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**122/20 Moved Cr Fleay, seconded Cr Radford**

**That Marribank Aboriginal Corporation be advised that:**

- 1. The Council is unable to waive its property rate account for the Marribank Mission in the 2020/2021 financial year of \$4,213.31; and**
- 2. The request to waive property rates will be considered during the 2021/2022 budgeting process.**

**CARRIED 8/0**

**COUNCIL DECISION**

**123/20 Moved Cr Fleay, seconded Cr Gale**

**That Council donate a sum of \$2,000 to the Marribank Aboriginal Corporation from Account 2008 – 'Donations - Council Decision.**

**CARRIED 8/0**

**17 CONFIDENTIAL REPORTS**

**STATUTORY REQUIREMENTS**

*Section 5.23(2) of the Local Government Act 1995* permits the Council to close a meeting, or part of a meeting, to members of the public if 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*.

Subsection (3) requires a decision to close a meeting, or part of a meeting and the reason for the decision to be recorded in the minutes.

**OFFICER RECOMMENDATION / COUNCIL DECISION**

**124/20 Moved Cr Gale, seconded Cr Webb**

**That the meeting be closed to the public in accordance with Section 5.23(2)(a) of the Local Government Act 1995 at 3.52pm.**

**CARRIED 8/0**

17.1 CONFIDENTIAL ITEM - PART OF LOT 9999 THORNBURY CLOSE, KOJONUP – LEASE ENQUIRY

AUTHOR	Rick Mitchell-Collins, Chief Executive Officer
DATE	Friday, 4 September 2020
FILE NO	CP.LEA.1

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**125/20 Moved Cr Fleay, seconded Cr Radford**

**“That, with regard to the portion of Lot 9999 Thornbury Close, Kojonup, detailed on the presented map, the Council:**

- 1. Obtains written confirmation from Craig Mitchell that he agrees to:-**
  - a) Sublet the existing grazing lease to N & N Miotti (Area 1) and G Cavanagh (Area 2) and seek Council approval for same until the lease terminates on 28 February 2022, or**
  - b) Terminate the current lease agreement with the Shire of Kojonup, either at an earlier date than the three months’ required notice period or by three months, allowing Council to:**
    - i. Obtain a written monetary offer from Nathan and Nicole Miotti for the proposed leasing of Area 1;**
    - ii. Obtain a written monetary offer from Gary Cavanagh for the proposed leasing of Area 2.**
- 2. Dependent on the outcomes of point 1, the CEO obtain a sworn valuation for the rental value of the afore-mentioned land;**
- 3. The matter be brought back to Council for consideration of the monetary offer for Areas 1 and 2 respectively by each interested party prior to Council resolving to progress, or otherwise, list the matter via advertising in accordance with clauses 3 and 4 (a), (b) and (c) of s. 3.58 of the *Local Government Act 1995*; and**
- 4. Advise Nathan and Nicole Miotti that Council does not wish to sell Area 1 as one lot as it diminishes the ability to create additional Stage 2 Industrial Lots.**

**CARRIED 8/0**

Cr Singh declared a direct financial interest in this item and left the meeting at 3.55pm

17.2 CONFIDENTIAL ITEM - DISPOSAL BY SALE – LOT 66, 101 ALBANY HIGHWAY, KOJONUP

AUTHOR	Judy Stewart – Senior Administration Officer
DATE	Thursday, 3 September 2020
FILE NO	CP.ACD.7

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**126/20 Moved Cr Radford, seconded Cr Fleay**

**That:**

- 1. Council proposes to sell Lot 66, 101 Albany Highway, Kojonup for \$51,000 to Manj Family Trust and advertises its intention to do so as per s. 3.58 of the *Local Government Act 1995*;**
- 2. Each party is to pay its own settlement expenses; and**
- 3. The CEO discuss with Manj Family Trust, receptiveness of Council using the eastern portion of Lot 66 as public open space/off street parking aligned to the mini town square concept.**

**CARRIED 7/0**

Cr Singh returned to the chambers at 4.02pm

17.3 INDUSTRIAL LAND REQUEST.

AUTHOR	Rick Mitchell-Collins – Chief Executive Officer
DATE	Tuesday, 8 September 2020
FILE NO	A22323; LP.PLN.2

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**127/20 Moved Cr Fleay, seconded Cr Radford**

**That Council:**

- 1. Advise Syd Matthews & Co via Neville Matthews that Council has no objection to the approval of subletting under Lease Agreement Clause 4.11 to Cooperative Bulk Handling (CBH) of Lot A (3.79ha) for a maximum 3 harvest periods commencing 16 September 2020 and concluding 30 June 2023 subject to the following conditions:**
  - i. Lodgement of a Development Application for proposed CBH use on Lot A.**
  - ii. Extension of Thornbury Close – southwards by 100 metres at the cost of CBH and Syd Matthews & Co to be designed, sealed and drained to the satisfaction of the Shire.**
  - iii. Thornbury Close from Roche Street intersection to the existing cul-de-sac to be reconstructed and sealed by the Shire with contributions of 30% from Syd Matthews & Co and 20% from CBH towards same.**
  - iv. Relocation of Councils stockpiled materials presently located on Lot A to area C and/or D in accordance with Manager Works & Services directions and at CBH cost.**
  - v. Excess top soil from balance area of Lot A being stockpiled on area C and/or D in accordance with Manager Works & Services directions and at CBH cost.**
  - vi. Concrete Pads presently on Lot A to be removed by CBH and at CBH cost in accordance with Manager Works & Services directions.**
  - vii. Drainage works within Lot A to accord to the satisfaction of the Shire.**
  - viii. Any other works or civil engineering matters to be referred to the Shire CEO for determination in accordance with the Shire’s requirements.**
  - ix. Sourcing of gravel for civil works including pad preparation and road works to be the responsibility of Lessee and CBH which shall meet the Shire’s road base standards for heavy vehicles.**

**CARRIED 8/0**

All staff left the meeting at 4.07pm.

17.4 CONFIDENTIAL ITEM – CHIEF EXECUTIVE OFFICER CONTRACT

<b>AUTHOR</b>	Lorraine Wyatt – Executive/Human Resource Coordinator
<b>DATE</b>	Tuesday, 8 September 2020
<b>FILE NO</b>	Personnel

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**128/20 Moved Cr Webb, seconded Cr Radford**

**That Council receives the Chief Executive Officers report and proceed to appoint a new CEO early 2021 with Mr Mitchell-Collins retiring 23 July 2021.**

**CARRIED 6/2**

**PROCEDURAL MOTION**

**129/20 Moved Cr Gale, seconded Cr Wieringa**

**That the meeting be reopened to the public at 4.40pm.**

**CARRIED 8/0**

**18 NEXT MEETING**

Ordinary Council Meeting Tuesday, 20 October 2020 commencing at 3.00pm.

**19 CLOSURE**

There being no further business to discuss, the President thanked the members for their attendance and declared the meeting closed at 4.41pm.

**20     ATTACHMENTS (SEPARATE)**

Item 7.1	7.1.1	Minutes of the Ordinary Council Meeting held 18 August 2020
Item 12.1	12.1.1	Statement of Accounts August 2020
Item 12.2	12.2.1	Monthly Payment Listing August 2020
Item 12.3	12.3.1	Delegation Register – September 2020 review – showing changes
Item 12.3	12.3.2	Delegation Register – September 2020 review – clean copy
Item 12.4	12.4.1	Elected Members Charter – showing changes
Item 12.4	12.4.2	Draft Elected Members Charter 2020 – clean copy
Item 12.5	12.5.1	WALGA Great Southern Zone Response

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