

SHIRE OF KOJONUP



Council Minutes

21st April 2009

SHIRE OF KOJONUP**AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 21st April 2009****TABLE OF CONTENTS**

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SHIRE OF KOJONUP

MINUTES

1 DECLARATION OF OPENING AND ANNOUNCEMENT OF GUESTS

The Shire President declared the meeting open at 3.07pm and alerted the meeting of the procedures for emergencies including evacuation, designated exits and muster points and draw the meetings 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.

2 ATTENDANCE, APOLOGIES & LEAVE OF ABSENCE

Cr Jill Mathwin	Shire President
Cr Jane Trethowan	Deputy Shire President
Cr Michael Baulch	
Cr John Benn	
Cr Ernie Graham	
Cr Rosie Hewson	
Cr Greg Marsh	
Cr Frank Pritchard	
Cr Ian Pedler	

Mr Stephen Gash	Chief Executive Officer
Mr Kim Dolzadelli	Manager of Corporate Services
Mrs Heather Marland	Senior Finance Officer (<i>Left meeting at 3.20pm</i>)

APOLOGIES

Cr Will Carrington-Jones (*Leave of absence granted 17 March 2009*)

3 PUBLIC QUESTION TIME

Nil

4 SUMMARY OF RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil

5 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6 CONFIRMATION OF MINUTESORDINARY MEETING 17th March 2009

Corrections: Nil

COUNCIL DECISION

20/09 MOVED Cr Hewson seconded Cr Benn that the Minutes of the Ordinary Meeting of Council held on 17th March 2009 be confirmed as a true record.

CARRIED 9/0**7 ANNOUNCEMENTS by the Presiding Member without discussion**

The Presiding Member gave information on Council Structure Reform Workshop to be attended by the Chief Executive Officer, Cr Mathwin and Cr Pritchard.

8 PETITIONS, DEPUTATIONS & PRESENTATIONS

Nil

9 DECLARATIONS OF INTEREST

Item 12.2 Cr Benn declared an interest due to owner of land
 Item 12.2 Cr Mathwin declared an interest due to proximity interest
 Item 12.4 Cr Mathwin declared an interest due to family relationship

10 FINANCE REPORTS**10.1 FINANCIAL MANAGEMENT – MONTHLY STATEMENT OF FINANCIAL ACTIVITY**

AUTHOR: Kim Dolzadelli – Manager Corporate Services
 DATE: Thursday, 16 April 2009
 FILE NO: 06.15.01
 ATTACHMENT: Monthly Statement of Financial Activity 1st July 2008 to 31st March 2009

DECLARATION OF INTEREST

Nil

SUMMARY

To accept the Monthly Statement of Financial Activity for the period of 1st July 2008 to 31st March 2009.

BACKGROUND

Preparation and presentation to Council of monthly reports are a statutory requirement, with these to be presented to the next ordinary meeting following the close of a month, or it may be presented to the ordinary meeting in the following month after that.

The reporting requirements, as per Financial Management Regulation 34, for the Statement of Financial Activity came into force from 1st July 2005.

COMMENTS

The attached Statement of Financial Activity for the period 1 July 2008 to 31 March 2009 shows a solid position with 96.14% of rates collected to 31st March 2009 and a total amount of cash holdings of \$3,401,233 of which \$1,671,654 is held in fully cash backed Reserves.

Following on from last months budget review a further internal review has been carried out on Council's revenue streams and outstanding Sundry Debtors. As a result of these reviews I am happy to report that collection of revenue continues to be well on target. Council, under separate officer report (item 10.3), is being asked to consider the write off of bad/doubtful debts which are no longer considered realisable. These write off's are covered in Councils Balance Sheet and Operating Statement of the 2008/09 Annual Budget, as such there is no impact on Budget.

CONSULTATION

None necessary.

STATUTORY ENVIRONMENT

Financial Management Regulation 34 sets out the basic information which must now be included in the monthly reports to Council.

POLICY IMPLICATIONS

None applicable.

FINANCIAL IMPLICATIONS

Occasionally Council may be asked to authorise certain budget amendments/variations by way of separate Senior Officer Reports, but those proposed variations will be taken into account in the monthly Statements of Financial Activity when a full budget review is put before Council. Amendments are not being sought from Council in the attached reports.

STRATEGIC IMPLICATIONS

This will only occur where it involves variations to the multiple year proposals previously put forward. Impacts to the "Closing Balance" position will also occur or where a Budget Review highlights the requirement for amendments to occur.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the Monthly Statement of Financial Activity, as attached, be accepted.

COUNCIL DECISION

21/09 MOVED Cr Marsh seconded Cr Trethowan that the Monthly Statement of Financial Activity, as attached, be accepted.

CARRIED

9/0

10.2 MONTHLY PAYMENTS LISTING

AUTHOR: Kim Dolzadelli – Manager Corporate Services
 DATE: Wednesday, 15 April 2009
 FILE NO: 06.15.01
 ATTACHMENT: Monthly Payment Listing

DECLARATION OF INTEREST

Nil

SUMMARY

To receive a list of payments made since the last similar list was received.

BACKGROUND

Not applicable.

COMMENT

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

CONSULTATION

No consultation was required.

STATUTORY ENVIRONMENT

Regulations 13 (2) of the Local Government (Financial Management Regulations) 1996 requires such a list to be “presented” whenever payments have been made under a delegated authority. (Reference Delegation #18).

POLICY IMPLICATIONS

Council’s Policy F3 provides authorities and restrictions relative to purchasing commitments.

FINANCIAL IMPLICATIONS

All payments made are for items where Council has provided a budget authority.

STRATEGIC IMPLICATIONS

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

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the Payment Listing from 09/03/2009 to 16/04/2009 comprising of Municipal Cheques 10262 to 10326, EFTs 4239 to 4332 and Internal Payment Vouchers 1768 to 1805 totalling \$670,175.61 and as attached to this agenda, be received.

COUNCIL DECISION

22/09 MOVED Cr Hewson seconded Cr Marsh that the Payment Listing from 09/03/2009 to 16/04/2009 comprising of Municipal Cheques 10262 to 10326, EFTs 4239 to 4332 and Internal Payment Vouchers 1768 to 1805 totalling \$670,175.61 and as attached to this agenda, be received.

CARRIED

9/0

3.20pm Heather Marland left the Council meeting.

10.3 FINANCIAL MANAGEMENT – PROPOSED WRITE OFF OF SUNDRY DEBTORS

AUTHOR: Kim Dolzadelli – Manager of Corporate Services
 DATE: Wednesday 08 April 2009
 FILE NO 06.15.01
 ATTACHMENTS: Nil

DECLARATION OF INTEREST

Nil

SUMMARY

Following an assessment of Council's Balance Sheet and outstanding Sundry Debtors, Council is being asked to consider the write-off of several Debtor accounts where it is seen that the amount is not recoverable.

BACKGROUND

Council has previously made provision in its Balance Sheet in the amount of \$16,765.48 and also approved an amount of \$5,000 in the Operating Statement of the 2008/09 Annual Budget for the provision of Doubtful Debts. The provision of \$16,765.48 contained within Council's Balance Sheet is a Liability which effectively offsets against those Debtors, where their remains doubt over the ability to realise the debts, shown as Assets.

There are Debtors amounts which need to be written off, as it is apparent that the amounts will not be recoverable. These debts total \$5,181.71 and details are included in the Comment section below. Of the total amount being requested to be written off \$781.21 is covered in the Balance Sheet Item for Doubtful Debts and \$4,400.50 will impact on the Budgeted Operating expense approved in the 2008/09 Budget

COMMENT

The following individual Debtors amounts are being proposed to be written off:

<u>Debtor No</u>	<u>Name</u>	<u>Amount</u>
70568	M Hettner	\$665.50

Background

This invoice was raised in June 2004 for the Cleaning of Dams in May 2004.

Comment

There were 2 invoices raised for M Hettner and 1 for J Hettner, due to confusion with paperwork it was unclear which M Hettner the job was performed for Melvin or Matthew or if it was a duplicate work order. We have received payment for 2 invoices. Given the age of the debt, and the confusion with paper work this amount will not be recovered.

<u>Debtor No</u>	<u>Name</u>	<u>Amount</u>
60900	Oriental Kitchen	\$250.00

Background

This invoice was raised 10 March 2008 for Trading in a Public Place -Annual Licence 07/08.

Comment

The Oriental Van no longer comes to Kojonup and hasn't done for some months. All letters sent to the last known address have been returned with address unknown. We have also contacted the Katanning Shire for information as this is where the van was based and they have no knowledge of there whereabouts.

<u>Debtor No</u>	<u>Name</u>	<u>Amount</u>
69800	Goundrey Wines	\$3080.00

Background

This invoice was raised on 28th May 2007 for billboard advertising at the airport.

Comment

The contract expired and the billboards were removed this amount is not recoverable.

<u>Debtor No</u>	<u>Name</u>	<u>Amount</u>
60970	Wally Lenyszyn	\$781.21

Background

This amount consists of rent for 25 Vanzuilecom St from 18/11/04 to 09/01/05 and telephone reimbursements from October 2004.

Comment

This amount will not be recovered.

<u>Debtor No</u>	<u>Name</u>	<u>Amount</u>
71804	Scott A Morris	\$405.00

Background

Whipper snipper yard to fire break standard - this invoice was raised in April 2007

Comment

Mr Morris owes other debts to the Shire and searches including a skip search have been carried out by the Shires collection agency Austral Mercantile to no avail. Whilst the other debts are against land and will be recouped upon sale of the land there no expectation that this debt will ever be recovered.

CONSULTATION

None necessary.

STATUTORY ENVIRONMENT

Local Government Act 1995 section 6.12 - Power to defer, grant discounts, waive or write off debts

POLICY IMPLICATIONS

There are no known policy implications.

FINANCIAL IMPLICATIONS

The writing off of these debts is covered in Councils Balance Sheet and Operating Statement contained in the 2008/09 Annual Budget.

STRATEGIC IMPLICATIONS

There are no strategic implications from the adoption of this recommendation.

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION

That the following debts totalling \$5181.71 be written off:

70568	M Hettner	\$665.50
60900	Oriental Kitchen	\$250.00
69800	Goundrey Wines	\$3,080.00
60970	Wally Lenyszyn	\$781.21
71804	Scott Anthony Morris	\$405.00
	Total	\$5,181.71

COUNCIL DECISION

23/09 MOVED Cr Benn seconded Cr Pedler that the following debts totalling \$4,776.71 be written off:

70568 M Hettner	\$665.50
60900 Oriental Kitchen	\$250.00
69800 Goundrey Wines	\$3,080.00
60970 Wally Lenyzsyn	\$781.21
Total	\$4,776.71

CARRIED 8/1

REASON FOR CHANGE: Following feedback from the Chief Executive Officer to Councillors regarding the lawfulness of debt and recovery options Council decided not to write-off Debtor # 71804.

10.4 FINANCIAL MANAGEMENT – DEPRECIATION OF INFRASTRUCTURE ROAD ASSETS

AUTHOR: Mr Kim Dolzadelli – Manager of Corporate Services
 DATE: Thursday, 16 April 2009
 FILE NO: 06.02.01 & 01.09.14
 ATTACHMENT: No

DECLARATION OF INTEREST

Nil

SUMMARY

To consider changes to the terms of depreciation and use of residual values with respect to Infrastructure Road Assets.

BACKGROUND

The Australian Accounting Standards Board (AASB) standard AASB 108 considers the useful life of, or expected pattern of consumption of the future economic benefits embodied in, depreciable assets as an Accounting Estimate.

The Standard states the following with respect to Changes in Accounting Estimates:

“As a result of the uncertainties inherent in business activities, many items in a financial report cannot be measured with precision but can only be estimated. An estimate may need revision if changes occur in the circumstances on which the estimate was based or as a result of new information or more experience. By its nature, the revision of an estimate does not relate to prior periods and is not the correction of an error.

For example, estimates may be required for:

- (a) bad debts;*
- (b) inventory obsolescence;*
- (c) the fair value of financial assets or financial liabilities; and*
- (d) the useful lives of, or expected pattern of consumption of the future economic benefits embodied in, depreciable assets.*

Changes in accounting estimate are recognised prospectively, meaning that a change is applied to transactions, other events and conditions from the date of the change in estimate. A change in an accounting estimate may affect only the current period’s operating result, or the operating result of both the current period and future periods.

For example, a change in the estimate of the amount of bad debts affects only the current period’s operating result and therefore is recognised in the current period. However, a

change in the estimated useful life of, or the expected pattern of consumption of the future economic benefits embodied in, a depreciable asset affects depreciation expense for the current period and for each future period during the asset's remaining useful life. In both cases, the effect of the change relating to the current period is recognised as income or expense in the current period. The effect, if any, on future periods is recognised as income or expense in those future periods."

COMMENT

Depreciation is a measure of asset consumption over time. The depreciable amount of all non-current assets, excluding freehold land, need to be systematically depreciated over their useful lives which reflects the consumption of the service potential embodied in those assets.

In the past Local Government as an industry has not paid any large amount of attention to rates of depreciation or use of residual values as the general thought was that this was not a "Cash" consideration to Council operations. Since the Systemic Sustainability Study much debate has occurred in the Local Government sector with respect to appropriate rates of depreciation and use of residual values applied to Infrastructure Road Assets. The Systemic Sustainability Study (SSS) was created out of a request from the WA Local Government Association's member Councils in 2004 to investigate sustainability in the sector. Independent research carried out in 2006 found that 58% of Western Australian Councils were unsustainable given their current source revenue. The fact is that depreciation played a major part in determining whether or not a Council was sustainable.

The Department of Local Government and Regional Development have now released the Local Government Accounting Manual which contains suggested rates of depreciation and residual values for the different components of infrastructure road assets. Whilst this manual provides good guidance to the industry it can not mandate the compulsory adoption of accounting estimates.

Consultation has been undertaken with Councils' Auditor, Lincolns Accountants & Business Advisers, UHY Haines Norton Chartered Accounts, Main Roads WA, Local Government consultant Mr Ron Back and Shires of Broomehill, Cranbrook, Denmark, Dumbleyung, Gnowangerup, Jerramungup, Katanning, Kent, Plantagenet, Wagin, West Arthur and Woodanilling with respect to Accounting Estimates for depreciation and the setting of residual values on certain components of Infrastructure Road Assets. Through this consultation it has become somewhat apparent that the rates of depreciation currently used by the Shire of Kojonup are unrealistically high and that the use of residual values on construction/road base is a legitimate way of accounting for that portion of the asset which will not be fully consumed.

Council previously considered changes to the terms of depreciation and use of residual values with respect to Infrastructure Road Assets at its meeting of 15th July 2008 where for the first time it introduced residual values at a level of 20%.

The following table shows proposed rates of depreciation/useful life and residual values that are intended to be used effective from 1st July 2008. They are as per the Local Government Accounting Manual.

Asset Category	Useful Life	Residual Value
Road Works in Built up Areas (Residential Areas)		
Sealed Roads (Formation - Clearing and Earthworks)	Infinite	
Sealed Roads (Pavement under Seal)	45 to 55 years	40%
Sealed Road (Aggregate Seal)	15 to 25 years	15%
Sealed Roads (Asphalt Seal)	25 to 30 years	10%
Sheeting on Paved Roads	18 to 22 years	40%
Road Works in Built up Areas (Local Distributor and industrial Roads)		
Sealed Roads (Formation - Clearing and Earthworks)	Infinite	Infinite
Sealed Roads (Pavement under Seal)	45 to 55 years	35%
Sealed Road (Aggregate Seal)	15 to 25 years	15%
Sealed Roads (Asphalt Seal)	20 to 30 years	10%

Sheeting on Paved Roads	18 to 22 years	40%
Road Works Outside Built up Areas		
Sealed Roads (Formation - Clearing and Earthworks)	Infinite	Infinite
Sealed Roads (Pavement under Seal)	35 to 55 years	25%
Sealed Road (Aggregate Seal)	15 to 25 years	15%
Sealed Roads (Asphalt Seal)	18 to 22 years	15%
Sheeting on Paved Roads	8 to 12 years	40%
Other		
Kerbing and Channel	40 to 60 years	0%
Drains	60 to 90 years	75%
Bridges	60 to 90 years	75%

The introduction of the above rates of depreciation and residual values will lead to a reduction in the amount of depreciation expensed annually to Council's Income Statement; preliminary analysis suggests that this reduction will be in the vicinity of some \$800,000.

CONSULTATION

Councils' Auditor, Lincolns Accountants & Business Advisers, UHY Haines Norton Chartered Accounts, Main Roads WA, Local Government consultant Mr Ron Back and Shires of Broomehill, Cranbrook, Denmark, Dumbleyung, Gnowangerup, Jerramungup, Katanning, Kent, Plantagenet, Wagin, West Arthur and Woodanilling have been consulted with respect Accounting Estimates for the depreciation of Infrastructure Road Assets.

STATUTORY ENVIRONMENT

Australian Accounting Standards Board – Standard AASB 108

POLICY IMPLICATIONS

Accepting the Officer recommendation will result in the requirement for the Shire's Significant Accounting Policies to be amended.

FINANCIAL IMPLICATIONS

There are no cash financial implications; however the proposed changes will lead to significant reduction in the non-cash item of depreciation being expensed to Council's Income Statement.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council change its Significant Account Policies to reflect the following Accounting Estimates effective from 1st July 2008 for rates of depreciation and residual values with respect to the following Infrastructure Road Assets:

Asset Category	Useful Life	Residual Value
Road Works in Built up Areas (Residential Areas)		
Sealed Roads (Formation - Clearing and Earthworks)	Infinite	
Sealed Roads (Pavement under Seal)	45 to 55 years	40%
Sealed Road (Aggregate Seal)	15 to 25 years	15%
Sealed Roads (Asphalt Seal)	25 to 30 years	10%
Sheeting on Paved Roads	18 to 22 years	40%
Road Works in Built up Areas (Local Distributor and industrial Roads)		
Sealed Roads (Formation - Clearing and Earthworks)	Infinite	Infinite

Sealed Roads (Pavement under Seal)	45 to 55 years	35%
Sealed Road (Aggregate Seal)	15 to 25 years	15%
Sealed Roads (Asphalt Seal)	20 to 30 years	10%
Sheeting on Paved Roads	18 to 22 years	40%
<u>Road Works Outside Built up Areas</u>		
Sealed Roads (Formation - Clearing and Earthworks)	Infinite	Infinite
Sealed Roads (Pavement under Seal)	35 to 55 years	25%
Sealed Road (Aggregate Seal)	15 to 25 years	15%
Sealed Roads (Asphalt Seal)	18 to 22 years	15%
Sheeting on Paved Roads	8 to 12 years	40%
<u>Other</u>		
Kerbing and Channel	40 to 60 years	0%
Drains	60 to 90 years	75%
Bridges	60 to 90 years	75%

COUNCIL DECISION

24/09 MOVED Cr Hewson seconded Cr Marsh that Council change its Significant Account Policies to reflect the following Accounting Estimates effective from 1st July 2008 for rates of depreciation and residual values with respect to the following Infrastructure Road Assets:

Asset Category	Useful Life	Residual Value
<u>Road Works in Built up Areas (Residential Areas)</u>		
Sealed Roads (Formation - Clearing and Earthworks)	Infinite	
Sealed Roads (Pavement under Seal)	45 to 55 years	40%
Sealed Road (Aggregate Seal)	15 to 25 years	15%
Sealed Roads (Asphalt Seal)	25 to 30 years	10%
Sheeting on Paved Roads	18 to 22 years	40%
<u>Road Works in Built up Areas (Local Distributor and industrial Roads)</u>		
Sealed Roads (Formation - Clearing and Earthworks)	Infinite	Infinite
Sealed Roads (Pavement under Seal)	45 to 55 years	35%
Sealed Road (Aggregate Seal)	15 to 25 years	15%
Sealed Roads (Asphalt Seal)	20 to 30 years	10%
Sheeting on Paved Roads	18 to 22 years	40%
<u>Road Works Outside Built up Areas</u>		
Sealed Roads (Formation - Clearing and Earthworks)	Infinite	Infinite
Sealed Roads (Pavement under Seal)	35 to 55 years	25%
Sealed Road (Aggregate Seal)	15 to 25 years	15%
Sealed Roads (Asphalt Seal)	18 to 22 years	15%
Sheeting on Paved Roads	8 to 12 years	40%
<u>Other</u>		
Kerbing and Channel	40 to 60 years	0%
Drains	60 to 90 years	75%
Bridges	60 to 90 years	75%

CARRIED 9/0

11 ENGINEERING & WORKS REPORTS**12 ECONOMIC & ENVIRONMENTAL DEVELOPMENT REPORTS****12.1 TREE PLANTATION APPLICATION Pt. LOCATIONS 1, 6726, 7083, 6655, 6834, 6909, 7189 and 7416 BOKERUP ROAD, KOJONUP**

AUTHOR: Phil Shephard – Town Planner
 DATE: Wednesday, 8 April 2009
 FILE: 14.07.01
 OWNER: Burrandong Pastoral Co.
 LOCATION: Pt. Locations 1, 6726, 7083, 6655, 6834, 6909, 7189 and 7416 Bokerup Road
 ATTACHMENTS: Site Plan - Tree Plantation – Outhwaite, Bokerup Road, Kojonup

DECLARATION OF INTEREST

Nil.

SUMMARY

To consider an application to establish a commercial tree plantation at the above locations. The proposal is to develop a total of 113ha of trees including Eucalyptus sawlogs and some additional saline and sandalwood species on portions of the farm as outlined in that attached application.

BACKGROUND

The tree plantation is to be established by the Forest Products Commission Western Australia (FPC).

COMMENT

The application largely contains the information required to be submitted by the Shire's adopted Town Planning Scheme Policy No. 14 'Commercial Tree Plantation'. The policy contains all relevant information for applicants and Council when dealing with applications. The policy also provides standard conditions and requirements to be met by the tree planters and includes details relating to future harvesting of the trees, road upgradings and repairs etc.

All planning approvals for tree plantations are issued for a thirty (30) year period and this includes the requirement for the submission of a harvest management plan two (2) years prior to the harvesting date by the harvester.

CONSULTATION

Nil.

STATUTORY ENVIRONMENT

The property is zoned Rural under Town Planning Scheme No. 3 (TPS3). The objectives for the Rural zone are to:

- (a) The zone shall consist of predominantly rural uses.
- (b) To protect land from urban uses that may jeopardise the future use of that land for other planned purposes which are compatible with the zoning.
- (c) To protect the land from closer development which would detract from the rural character and amenity of the area.
- (d) To prevent any development which may affect the viability of a holding.
- (e) To provide for limited commercial accommodation opportunities in a rural environment consistent with the Council's Policy for 'Farmstay', 'Bed and Breakfast Accommodation' and 'Chalet' facilities.

Plantation is defined within Town Planning Scheme Policy No. 14 'Commercial Tree Plantation' as follows:

Plantation: means a stand of trees of 3 hectares or larger that has been established by sowing or planting of native or exotic tree species selected and managed intensively for their commercial and

environmental value. A plantation includes roads, tracks, firebreaks and small areas of native vegetation surrounded by plantations. Implicit in this definition is the recognition that plantations will be harvested.

In accordance with clause 5.1 of TPS3, the proposal is not exempt from approval and planning consent is required to be granted by Council. The proposal is considered consistent with the zoning of the land and approval is recommended subject to conditions to impose the scheme and policy requirements.

In considering the application, the general options available to Council are:
 Defer the application for additional information from the applicant;
 Decide to give public notice and seek comment on the proposal;
 Refuse the application and give reasons; or
 Approve the application, with or without conditions.

POLICY IMPLICATIONS

The application conforms to Town Planning Scheme Policy No. 14 'Commercial Tree Plantation'.

FINANCIAL IMPLICATIONS

There are no known financial implications. Should the applicant challenge the decision through an appeal to the State Administrative Tribunal, there would be costs in defending the appeal.

STRATEGIC IMPLICATIONS

There are no strategic implications.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council grant Planning Approval for the establishment of a 113ha Tree Plantation on Pt. Locations 1, 6726, 7083, 6655, 6834, 6909, 7189 and 7416 Bokerup Road, Kojonup subject to the following conditions:

- a) This approval is valid for 30 years.
- b) All operations are to comply with the Industry Code of Practice for Timber Plantations.
- c) The applicant provides the Shire of Kojonup with a Harvesting Management Plan at least two (2) years prior to the commencement of any harvesting activities.
- d) All operations are in compliance with the Shire of Kojonup Firebreak order.
- e) Compliance with all conditions contained within the Shire of Kojonup 'Conditions for Haulage of Plantation Timber' and relevant Town Planning Scheme Policy No. 14 'Commercial Tree Plantation'.
- f) The Shire advises that the proponents and their agents (including workers, contractors and other relevant parties) are responsible for any undue damage to local roads caused by their operations and Council will require the repair and/or reinstatement of any affected road accordingly.
- g) Any other relevant conditions determined by the Chief Executive Officer and Town Planner required to give effect to this Council decision.

COUNCIL DECISION

25/09 MOVED Cr Benn seconded Cr Pritchard that Council grant Planning Approval for the establishment of a 113ha Tree Plantation on Pt. Locations 1, 6726, 7083, 6655, 6834, 6909, 7189 and 7416 Bokerup Road, Kojonup subject to the following conditions:

- a) **This approval is valid for 30 years.**
- b) **All operations are to comply with the Industry Code of Practice for Timber Plantations.**
- c) **The applicant provides the Shire of Kojonup with a Harvesting Management Plan at least two (2) years prior to the commencement of any harvesting activities.**
- d) **All operations are in compliance with the Shire of Kojonup Firebreak order.**

- e) Compliance with all conditions contained within the Shire of Kojonup 'Conditions for Haulage of Plantation Timber' and relevant Town Planning Scheme Policy No. 14 'Commercial Tree Plantation'.
- f) The Shire advises that the proponents and their agents (including workers, contractors and other relevant parties) are responsible for any undue damage to local roads caused by their operations and Council will require the repair and/or reinstatement of any affected road accordingly.
- g) Any other relevant conditions determined by the Chief Executive Officer and Town Planner required to give effect to this Council decision.

CARRIED

9/0

The Presiding Member, Cr Mathwin declared an interest in Item 12.2 and vacated the chair.

3.56pm Cr Benn declared an interest in Item 12.2 and left the chamber.

3.56pm Cr Mathwin left the chamber.

The Deputy President, Cr Trethowan took the chair and presided over the meeting.

12.2 TREE PLANTATION APPLICATION Pt. LOCATION 4861 cnr. ALBANY HIGHWAY/NEYMERRUP ROAD, SHIRE OF KOJONUP

AUTHOR: Phil Shephard – Town Planner
 DATE: Wednesday, 8 April 2009
 FILE: 14.07.01
 OWNER: ME Benn
 LOCATION: Location 4861 cnr. Albany Highway/Neymerrup Road
 ATTACHMENTS: Site Plan - Tree Plantation – Benn, Neymerup Road, Kojonup

DECLARATION OF INTEREST

Nil.

SUMMARY

To consider an application to establish a commercial tree plantation at the above locations. The proposal is to develop a total of 14ha of Eucalyptus sawlog trees on portions of the farm as outlined in that attached application.

BACKGROUND

The tree plantation is to be established by the Forest Products Commission Western Australia (FPC).

COMMENT

The application largely contains the information required to be submitted by the Shire's adopted Town Planning Scheme Policy No. 14 'Commercial Tree Plantation'. The policy contains all relevant information for applicants and Council when dealing with applications. The policy also provides standard conditions and requirements to be met by the tree planters and includes details relating to future harvesting of the trees, road upgradings and repairs etc.

All planning approvals for tree plantations are issued for a thirty (30) year period and this includes the requirement for the submission of a harvest management plan two (2) years prior to the harvesting date by the harvester.

CONSULTATION

Nil.

STATUTORY ENVIRONMENT

The property is zoned Rural under Town Planning Scheme No. 3 (TPS3). The objectives for the Rural zone are to:

- (a) *The zone shall consist of predominantly rural uses.*
- (b) *To protect land from urban uses that may jeopardise the future use of that land for other planned purposes which are compatible with the zoning.*
- (c) *To protect the land from closer development which would detract from the rural character and amenity of the area.*
- (d) *To prevent any development which may affect the viability of a holding.*
- (e) *To provide for limited commercial accommodation opportunities in a rural environment consistent with the Council's Policy for 'Farmstay', 'Bed and Breakfast Accommodation' and 'Chalet' facilities.*

Plantation is defined within Town Planning Scheme Policy No. 14 'Commercial Tree Plantation' as follows:

Plantation: means a stand of trees of 3 hectares or larger that has been established by sowing or planting of native or exotic tree species selected and managed intensively for their commercial and environmental value. A plantation includes roads, tracks, firebreaks and small areas of native vegetation surrounded by plantations. Implicit in this definition is the recognition that plantations will be harvested.

In accordance with clause 5.1 of TPS3, the proposal is not exempt from approval and planning consent is required to be granted by Council. The proposal is considered consistent with the zoning of the land and approval is recommended subject to conditions to impose the scheme and policy requirements.

In considering the application, the general options available to Council are:

- a) Defer the application for additional information from the applicant;
- b) Decide to give public notice and seek comment on the proposal;
- c) Refuse the application and give reasons; or
- d) Approve the application, with or without conditions.

POLICY IMPLICATIONS

The application conforms to Town Planning Scheme Policy No. 14 'Commercial Tree Plantation'.

FINANCIAL IMPLICATIONS

There are no known financial implications. Should the applicant challenge the decision through an appeal to the State Administrative Tribunal, there would be costs in defending the appeal.

STRATEGIC IMPLICATIONS

There are no strategic implications.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council grant Planning Approval for the establishment of a 14ha Tree Plantation on Location 4861 cnr. Albany Highway/Neymerrup Road, Kojonup subject to the following conditions:

- a) This approval is valid for 30 years.
- b) All operations are to comply with the Industry Code of Practice for Timber Plantations.
- c) The applicant provides the Shire of Kojonup with a Harvesting Management Plan at least two (2) years prior to the commencement of any harvesting activities.
- d) All operations are in compliance with the Shire of Kojonup Firebreak order.
- e) Compliance with all conditions contained within the Shire of Kojonup 'Conditions for Haulage of Plantation Timber' and relevant Town Planning Scheme Policy No. 14 'Commercial Tree Plantation'.
- f) The Shire advises that the proponents and their agents (including workers, contractors and other relevant parties) are responsible for any undue damage to local roads caused by their

operations and Council will require the repair and/or reinstatement of any affected road accordingly.

- g) Any other relevant conditions determined by the Chief Executive Officer and Town Planner required to give effect to this Council decision.

COUNCIL DECISION

26/09 MOVED Cr Hewson seconded Cr Pritchard that Council approves Planning Approval for the establishment of a 14ha Tree Plantation on Location 4861 cnr. Albany Highway/Neymerrup Road, Kojonup subject to the following conditions:

- a) This approval is valid for 30 years.
- b) All operations are to comply with the Industry Code of Practice for Timber Plantations.
- c) The applicant provides the Shire of Kojonup with a Harvesting Management Plan at least two (2) years prior to the commencement of any harvesting activities.
- d) All operations are in compliance with the Shire of Kojonup Firebreak order.
- e) Compliance with all conditions contained within the Shire of Kojonup 'Conditions for Haulage of Plantation Timber' and relevant Town Planning Scheme Policy No. 14 'Commercial Tree Plantation'.
- f) The Shire advises that the proponents and their agents (including workers, contractors and other relevant parties) are responsible for any undue damage to local roads caused by their operations and Council will require the repair and/or reinstatement of any affected road accordingly.
- g) Any other relevant conditions determined by the Chief Executive Officer and Town Planner required to give effect to this Council decision.

CARRIED 7/0

4.00pm Cr Benn returned to the chamber and Cr Trethowan informed him of the decision of Council

Item 12.4 was discussed next while Cr Mathwin was still out of the Chambers due to declaration of interest (for both Item 12.2 and 12.4). Order of discussion – Item 12.2, 12.4, 12.3, 12.5, 12.6 and so on.

12.3 TREE PLANTATION APPLICATION Pt. LOCATIONS 7428 & 8880 FRANKLAND ROAD, SHIRE OF KOJONUP

AUTHOR: Phil Shephard – Town Planner
 DATE: Wednesday, 8 April 2009
 FILE: 14.07.01
 OWNER: M Caldwell
 LOCATION: Pt. Locations 7428 & 8880 Frankland Road
 ATTACHMENTS: Site Plan - Tree Plantation – Caldwell, Frankland Road, Kojonup

DECLARATION OF INTEREST

Nil.

SUMMARY

To consider an application to establish a commercial tree plantation at the above locations. The proposal is to develop a total of 26.2ha of trees including (22.3 ha of *E. cladocalyx* (Sugar Gum), 2.1 ha of *E. occidentalis* (Flat Top Yate) and 1.8ha of *E. saligna* (Sydney Blue Gum)) on portions of the farm as outlined in that attached application.

BACKGROUND

The tree plantation is to be established by the Forest Products Commission Western Australia (FPC).

COMMENT

The application largely contains the information required to be submitted by the Shire's adopted Town Planning Scheme Policy No. 14 'Commercial Tree Plantation'. The policy contains all relevant information for applicants and Council when dealing with applications. The policy also provides standard conditions and requirements to be met by the tree planters and includes details relating to future harvesting of the trees, road upgradings and repairs etc.

All planning approvals for tree plantations are issued for a thirty (30) year period and this includes the requirement for the submission of a harvest management plan two (2) years prior to the harvesting date by the harvester.

CONSULTATION

Nil.

STATUTORY ENVIRONMENT

The property is zoned Rural under Town Planning Scheme No. 3 (TPS3). The objectives for the Rural zone are to:

- (a) *The zone shall consist of predominantly rural uses.*
- (b) *To protect land from urban uses that may jeopardise the future use of that land for other planned purposes which are compatible with the zoning.*
- (c) *To protect the land from closer development which would detract from the rural character and amenity of the area.*
- (d) *To prevent any development which may affect the viability of a holding.*
- (e) *To provide for limited commercial accommodation opportunities in a rural environment consistent with the Council's Policy for 'Farmstay', 'Bed and Breakfast Accommodation' and 'Chalet' facilities.*

Plantation is defined within Town Planning Scheme Policy No. 14 'Commercial Tree Plantation' as follows:

Plantation: means a stand of trees of 3 hectares or larger that has been established by sowing or planting of native or exotic tree species selected and managed intensively for their commercial and environmental value. A plantation includes roads, tracks, firebreaks and small areas of native vegetation surrounded by plantations. Implicit in this definition is the recognition that plantations will be harvested.

In accordance with clause 5.1 of TPS3, the proposal is not exempt from approval and planning consent is required to be granted by Council. The proposal is considered consistent with the zoning of the land and approval is recommended subject to conditions to impose the scheme and policy requirements.

In considering the application, the general options available to Council are:

- a) Defer the application for additional information from the applicant;
- b) Decide to give public notice and seek comment on the proposal;
- c) Refuse the application and give reasons; or
- d) Approve the application, with or without conditions.

POLICY IMPLICATIONS

The application conforms to Town Planning Scheme Policy No. 14 'Commercial Tree Plantation'.

FINANCIAL IMPLICATIONS

There are no known financial implications. Should the applicant challenge the decision through an appeal to the State Administrative Tribunal, there would be costs in defending the appeal.

STRATEGIC IMPLICATIONS

There are no strategic implications.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council grant Planning Approval for the establishment of a 26.2 ha Tree Plantation on Pt. Locations 7428 & 8880 Frankland Road, Kojonup subject to the following conditions:

- a) This approval is valid for 30 years.
- b) All operations are to comply with the Industry Code of Practice for Timber Plantations.
- c) The applicant provides the Shire of Kojonup with a Harvesting Management Plan at least two (2) years prior to the commencement of any harvesting activities.
- d) All operations are in compliance with the Shire of Kojonup Firebreak order.
- e) Compliance with all conditions contained within the Shire of Kojonup 'Conditions for Haulage of Plantation Timber' and relevant Town Planning Scheme Policy No. 14 'Commercial Tree Plantation'.
- f) The Shire advises that the proponents and their agents (including workers, contractors and other relevant parties) are responsible for any undue damage to local roads caused by their operations and Council will require the repair and/or reinstatement of any affected road accordingly.
- g) Any other relevant conditions determined by the Chief Executive Officer and Town Planner required to give effect to this Council decision.

COUNCIL DECISION

28/09 MOVED Cr Hewson seconded Cr Graham that Council grants Planning Approval for the establishment of a 26.2 ha Tree Plantation on Pt. Locations 7428 & 8880 Frankland Road, Kojonup subject to the following conditions:

- a) **This approval is valid for 30 years.**
- b) **All operations are to comply with the Industry Code of Practice for Timber Plantations.**
- c) **The applicant provides the Shire of Kojonup with a Harvesting Management Plan at least two (2) years prior to the commencement of any harvesting activities.**
- d) **All operations are in compliance with the Shire of Kojonup Firebreak order.**
- e) **Compliance with all conditions contained within the Shire of Kojonup 'Conditions for Haulage of Plantation Timber' and relevant Town Planning Scheme Policy No. 14 'Commercial Tree Plantation'.**
- f) **The Shire advises that the proponents and their agents (including workers, contractors and other relevant parties) are responsible for any undue damage to local roads caused by their operations and Council will require the repair and/or reinstatement of any affected road accordingly.**
- g) **Any other relevant conditions determined by the Chief Executive Officer and Town Planner required to give effect to this Council decision.**

CARRIED 9/0

12.4 SUBDIVISION APPLICATION No. 139496 - LOT 84 CORNWALL ROAD, KOJONUP

AUTHOR: Phil Shephard – Town Planner
 DATE: Wednesday, 25 March 2009
 FILE NO: 14.06.01
 APPLICANT: Harley Survey Group
 OWNER: CA Mathwin
 ATTACHMENTS: Subdivision Plan – Lot 84 Cornwall Road, Kojonup

DECLARATION OF INTEREST

Nil.

SUMMARY

To consider a proposal to subdivide the above property into 3 lots as shown on the plan of subdivision.

It is recommended that the application be supported.

BACKGROUND

The subdivision proposal has been referred by the Western Australian Planning Commission (WAPC) to Council with a request for any information, comment or recommended conditions that Council seek to have the Commission consider in assessing the application.

Council is reminded that all applications for subdivision/amalgamation are submitted to, and determined by, the WAPC in consultation with relevant stakeholders (State Government bodies and local government). The WAPC provides forty-two (42) days for comments to be received from stakeholders. It is the WAPC's decision to act on any advice or recommendation received from Council.

COMMENT

The applicants have advised that the purpose of the subdivision is to create additional lots for residential purposes.

Under Council's adopted Town Planning Scheme Policy No. 11 'Applications for Subdivision' the requirements for subdivisions in townsite areas are:

That block size, setbacks and septic tank locations be in accordance with the prescribed Residential Planning Codes and health Act requirements.

The subject land is within an area zoned for residential development purposes and that has a density code R10/20 which allows for a minimum lot size of 500m² if the land was sewerred. The proposed subdivision is therefore consistent with the Shire's Scheme and adopted Policy requirements.

Whilst the objectives for the Residential Development zone require the preparation and adoption by Council of a Guided Development Plan for the area, it is considered that this requirement should be waived in this instance given the size of the lots to be created (2,000m² - 4,000m²) and the existence of similar applications in the zone that have previously received support. Any future subdivision of these lots will require the Development Plan to be completed in accordance with the scheme requirements and connection of the land to the Water Corporation deep sewer network.

CONSULTATION

There has been no consultation on this matter.

STATUTORY ENVIRONMENT

The land is zoned Residential Development with a density coding of R10/20 under Town Planning Scheme No. 3.

The objectives for the Residential Development zone under the scheme are as follows:

The Council will not allow any development or support subdivision in a Residential Development Zone without the preparation of, and its approval of, a Guided Development Plan for the area.

To allow for a variety of uses in the zone without the need to rezone that area where minor modifications are required to the Guided Development Plan prior to the final subdivision.

POLICY IMPLICATIONS

The proposal complies with Town Planning Scheme Policy No. 11 'Applications for Subdivision'.

FINANCIAL IMPLICATIONS

Nil. All costs in completing the subdivision conditions are to be met by the subdivider.

STRATEGIC IMPLICATIONS

There are no strategic implications relating to the proposal.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council advise the Western Australian Planning Commission that it supports the proposed subdivision of Lot 84 Cornwall Road, Kojonup into three (3) lots as proposed on WAPC File 139496 and request the following conditions be placed upon the approval:

- a) The new lots (A & B) to be provided with a vehicle crossover located, designed and constructed to the satisfaction of the Shire of Kojonup at the subdividers cost.
- b) All lots to be provided with an adequate stormwater drainage system and if necessary drainage easements and/or reserves to convey stormwater from the lots to the roadside drainage system and the maintenance of natural drainage paths to the satisfaction of the Shire of Kojonup at the subdividers cost.
- c) All lots to be connected to the Water Corporation reticulated water supply network.
- d) The new lots (A & B) to be connected to the Western Power electricity supply.
- e) The subdivider advising the prospective purchasers and successors in title in writing that:
 - i. Deep sewer is not available and all new housing developments will require the installation of an on-site alternative treatment unit (ATU's) effluent disposal system.
 - ii. The land will be required to be filled and/or drained to create suitable building and effluent disposal areas prior to construction of dwellings and associated outbuildings.
 - iii. Any further subdivision of the lots will require the preparation and adoption of a Guided Development Plan for the area to the satisfaction of the Shire of Kojonup.

COUNCIL DECISION

27/09 MOVED Cr Pritchard seconded Cr Graham that Council advise the Western Australian Planning Commission that it supports the proposed subdivision of Lot 84 Cornwall Road, Kojonup into three (3) lots as proposed on WAPC File 139496 and request the following conditions be placed upon the approval:

- a) The new lots (A & B) to be provided with a vehicle crossover located, designed and constructed to the satisfaction of the Shire of Kojonup at the subdividers cost.**
- b) All lots to be provided with an adequate stormwater drainage system and if necessary drainage easements and/or reserves to convey stormwater from the lots to the roadside drainage system and the maintenance of natural drainage paths to the satisfaction of the Shire of Kojonup at the subdividers cost.**
- c) All lots to be connected to the Water Corporation reticulated water supply network.**
- d) The new lots (A & B) to be connected to the Western Power electricity supply.**
- e) The subdivider advising the prospective purchasers and successors in title in writing that:**
 - i. Deep sewer is not available and all new housing developments will require the installation of an on-site alternative treatment unit (ATU's) effluent disposal system.**
 - ii. The land will be required to be filled and/or drained to create suitable building and effluent disposal areas prior to construction of dwellings and associated outbuildings.**
 - iii. Any further subdivision of the lots will require the preparation and adoption of a Guided Development Plan for the area to the satisfaction of the Shire of Kojonup.**

CARRIED**8/0**

4.05pm CR Mathwin returned to the Chamber

Cr Trethowan vacated the Chair and Cr Mathwin resumed the chair.

Cr Trethowan informed Cr Mathwin of the decision of Council pertaining to Items 12.2 and 12.4. The next items discussed in order where 12.3, 12.5, 12.6 and so on.

12.5 FINAL APPROVAL OF TOWN PLANNING SCHEME No. 3 – AMENDMENT No. 8 ‘DELEGATION CLAUSE’

AUTHOR: Phil Shephard
DATE: Wednesday, 15 April 2009
FILE NO: 14.04.01
ATTACHMENT: No

DECLARATION OF INTEREST

Nil.

SUMMARY

The statutory public notice period for the above scheme amendment has now been completed and no submissions were received.

Council shall now determine whether to proceed with the amendment and seek final approval from the Minister for Planning.

BACKGROUND

Scheme Amendment No. 8 to insert delegation clauses within Town Planning Scheme No. 3 was initiated by Council at its 21 October 2008 meeting (Item 13.6: Res 269/08).

In accordance with the requirements of the *Planning and Development Act 2005*, the amendment was firstly referred to the Environmental Protection Authority for their assessment. They advised that the amendment was acceptable and no formal assessment was required in correspondence dated 10 November 2008.

The amendment was then advertised for a period of 42-days to allow for comment from the public and government agencies.

COMMENTS

No submissions were received from the notice period and it is recommended that Council now seek final approval to the amendment from the WA Planning Commission and Minister for Planning.

CONSULTATION

The amendment was advertised for a period of 42-days for submission to be received.

The notice given included:

Notice of amendment in Kojonup News (21/11/2008) and Great Southern Herald (19/11/2008).

Notice of amendment placed on Shire Notice Board (12/11/2008 – 7/1/2008).

At the conclusion of the notice period, no submissions were received for consideration.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Town Planning Regulations 1967

Local Government Act 1995

Shire of Kojonup Town Planning Scheme No. 3

POLICY IMPLICATIONS

The successful completion of the amendment and future use of delegations by Council and Staff will assist achieve the target turnaround times set by the adopted Customer Service Charter.

FINANCIAL IMPLICATIONS

Advertising and amendment costs are covered within the Shire's adopted 2008/09 budget.

STRATEGIC IMPLICATIONS

The successful completion of the amendment and future use of delegations by Council and Staff will allow for a more responsive administration process.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council pursuant to section 87 of the *Planning and Development Act 2005* seek final approval to Town Planning Scheme No. 3 – Amendment No. 8 without modification from the Minister for Planning.

COUNCIL DECISION

29/09 MOVED Cr Benn seconded Cr Hewson that Council pursuant to section 87 of the *Planning and Development Act 2005* seek final approval to Town Planning Scheme No. 3 – Amendment No. 8 without modification from the Minister for Planning.

CARRIED 9/0

12.6 INITIATE TOWN PLANNING SCHEME No. 3 – AMENDMENT No. 7 'TRANSPORT DEPOT' FOR MATTHEWS TRANSPORT AT LOTS 1 & 3 ALBANY HIGHWAY, KOJONUP

AUTHOR: Phil Shephard – Town Planner
 DATE: Wednesday, 15 April 2009
 FILE NO: 14.04.08 (Amendment No. 7)
 ATTACHMENT: Town Planning Scheme No. 3 Amendment No. 7 - March 2009

DECLARATION OF INTEREST

Nil

SUMMARY

To consider the revised proposal for Matthews Transport and initiate Scheme Amendment No. 7 to the Shire of Kojonup Town Planning Scheme No. 3 to allow for the development of a transport depot as set out in the amendment document.

It is recommended the scheme amendment be initiated.

BACKGROUND

Council at its February 2008 meeting considered an approach from the Matthews to secure the above land for transport depot purposes and resolved (Item 12.3/Resolution 144/08) as follows:

That community comment be sought on the proposed change in land use for Lot 3 Albany Highway.

That the Chief Executive Officer be authorised to engage Planwest to provide advice on the appropriate zoning options for Lots 1, 2 and 3 Albany Highway.

That subject to receiving confirmation of the new zoning requirements the Chief Executive Officer be authorised to instigate Amendment 7 to the Shire of Kojonup Town Planning Scheme to change Lots 1, 2, and 3 Albany Highway from residential to commercial or special use zoning.

That the advertising and consultation commence as per the requirements of the Town Planning and Development Act 2005.

Since then, staff has been working through the decision of Council, seeking initial comment from some neighbours and relevant government agencies such as Main Roads WA etc. The amendment document has now largely been completed, although there is still some final editing of the Concept Site Plan to be undertaken.

COMMENTS

The attached amendment document contains the rationale and justification for the scheme amendment.

There are some variations in the final draft amendment document that differ from Council's February 2008 decision which are discussed below:

The amendment will now include only Lots 1 and 3 owned by Matthews within the proposed rezoning and will retain the existing residential use on Lot 2.

The land will be included within the Additional Uses rather than the Special Use. This enables the original commercial/residential mixed zones on the properties to be retained (for the long-term use of the land) with the transport depot use allowed in addition to those other uses.

The Additional Use has necessitated conditions of use be included within the scheme as set out in the amendment document to control future development and use of the land.

A Concept Site Plan has been prepared and included within the amendment document to visually show and describe the various activities are proposed for the site. This Plan is the guide with which Council will consider the various activities on the site and all development is required to be generally in accordance with this plan unless a variation has been adopted by Council.

Council is now required to initiate the scheme amendment in accordance with the *Planning and Development Act 2005* and undertake consultation process as defined in the *Town Planning Regulations 1967*.

CONSULTATION

The amendment will initially be referred to the EPA for assessment. Upon completion of the EPA assessment (and subject to a positive response), the Amendment will need to be advertised for 42 days.

Advertising will include: advertisement in local newspapers, sign on site, letters to adjoining/nearby landowners, referral to relevant Government agencies and a notice on Council's notice board.

Upon completion of the advertising period, Council is required to consider any submissions received and determine whether to seek final approval to the amendment by the WA Planning Commission/Minister.

STATUTORY ENVIRONMENT

Planning & Development Act 2005 – The Shire of Kojonup Town Planning Scheme No. 3 is an operative Local Planning Scheme under the Act.

Town Planning Regulations 1967 - The Regulations set the procedure for amending a town planning scheme.

Town Planning (Local Government Planning Fees) Regulations – sets out the amount of fees to be paid to Council for the assessment and administration of the amendment process.

Town Planning Scheme No. 3 – Land is zoned part Commercial and part Residential.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Advertising and amendments costs are covered within the Shire's adopted budget.

STRATEGIC IMPLICATIONS

The completion of the amendment that allows the land to be retained for transport depot purposes will resolve an outstanding planning issue within the Shire.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council pursuant to section 75 of the *Planning and Development Act 2005* hereby resolves to initiate Amendment No. 7 to the Shire of Kojonup Town Planning Scheme No. 3 to amend the scheme as follows:

- a) Including Lots 1 and 3 Albany Highway, KOJONUP, within the 'Additional Uses Zone' to reflect the existing land use as a Transport Depot;
- b) Modifying Schedule VII by including the following text within the existing Table;

SCHEDULE VII ADDITIONAL USES

No	Lot Description	Additional Use	Special Conditions
3.	Lots 1 and 3 Albany Highway, KOJONUP	Transport Depot	<p>All development of the premises for transport depot uses shall be generally in accordance with adopted Concept Site Plan (DWG SK1 Dated Aug08) or any minor variation approved by Council. Minor additional uses may be permitted by the Shire of Kojonup if it is satisfied that the use is incidental and ancillary to the predominant transport depot use.</p> <p>Compliance with the Main Roads WA requirements regarding the crossover and drainage of the site.</p> <p>No access/egress or use of Partridge Street for any transport depot activities is permitted.</p> <p>The transport depot operator is responsible to ensure that all activities on the premises are undertaken in such a manner that minimises any potential adverse impacts on neighbouring properties especially noise and dust to the satisfaction of the Shire of Kojonup and other relevant agencies including the Department of Environment and Department of Health. Should problems occur with the operation of the transport depot resulting in noise, dust or similar emissions adversely affecting neighbouring properties, Council will require the operator to undertake all necessary action(s) to ensure the emission is abated.</p> <p>The future use of the premises on Lot 1 and Lot 3 for commercial or residential uses will require the cessation of the transport depot activities as determined by Council.</p> <p>The use of adjoining Lot 2 for residential purposes is recognised by the Shire of Kojonup.</p> <p>No addition or expansion of the grain handling area (i.e. silos) or seed cleaning or drying is permitted without the prior written consent of the Council.</p> <p>Fuel storage shall be the subject of a separate planning consent application and shall be developed in accordance with the relevant standards and requirements.</p> <p>9 Stormwater drainage of the site shall be in accordance with an overall Drainage Management Plan prepared by the operators to show collection and disposal of stormwater to the satisfaction of the Shire of Kojonup.</p>

and

- c) Amending the face of the Scheme Map accordingly.

COUNCIL DECISION

30/09 **MOVED** Cr Marsh seconded Cr Trethowan that Council pursuant to section 75 of the *Planning and Development Act 2005* hereby resolve to initiate Amendment No. 7 to the Shire of Kojonup Town Planning Scheme No. 3 to amend the scheme as follows:

- a) Including Lots 1 and 3 Albany Highway, KOJONUP, within the 'Additional Uses Zone' to reflect the existing land use as a Transport Depot;
- b) Modifying Schedule VII by including the following text within the existing Table;

SCHEDULE VII ADDITIONAL USES

No	Lot Description	Additional Use	Special Conditions
3.	Lots 1 and 3 Albany Highway, KOJONUP	Transport Depot	<p>All development of the premises for transport depot uses shall be generally in accordance with adopted Concept Site Plan (DWG SK1 Dated Aug08) or any minor variation approved by Council. Minor additional uses may be permitted by the Shire of Kojonup if it is satisfied that the use is incidental and ancillary to the predominant transport depot use.</p> <p>Compliance with the Main Roads WA requirements regarding the crossover and drainage of the site.</p> <p>No access/egress or use of Partridge Street for any transport depot activities is permitted.</p> <p>The transport depot operator is responsible to ensure that all activities on the premises are undertaken in such a manner that minimises any potential adverse impacts on neighbouring properties especially noise and dust to the satisfaction of the Shire of Kojonup and other relevant agencies including the Department of Environment and Department of Health. Should problems occur with the operation of the transport depot resulting in noise, dust or similar emissions adversely affecting neighbouring properties, Council will require the operator to undertake all necessary action(s) to ensure the emission is abated.</p> <p>The future use of the premises on Lot 1 and Lot 3 for commercial or residential uses will require the cessation of the transport depot activities as determined by Council.</p> <p>The use of adjoining Lot 2 for residential purposes is recognised by the Shire of Kojonup.</p> <p>No addition or expansion of the grain handling area (i.e. silos) or seed cleaning or drying is permitted without the prior written consent of the Council.</p> <p>Fuel storage shall be the subject of a separate planning consent application and shall be developed in accordance with the relevant standards and requirements.</p> <p>9 Stormwater drainage of the site shall be in accordance with an overall Drainage Management Plan prepared by the operators to show collection and disposal of stormwater to the satisfaction of the Shire of Kojonup.</p>

and

- c) Amending the face of the Scheme Map accordingly.

CARRIED

9/0

13 CORPORATE & COMMUNITY SERVICES REPORTS**13.1 APPOINTMENT OF MANAGER OF REGULATORY AND COMMUNITY SERVICES**

AUTHOR: Stephen Gash – Chief Executive Officer
 DATE: Friday, 17 April 2009
 FILE NO: P/F
 ATTACHMENT: No

DECLARATION OF INTEREST

Nil

SUMMARY

To endorse the appointment the Manager of Regulatory and Community Services.

BACKGROUND:

The Manager of Regulatory and Community Services position was created to coordinate to enterprise wide risk management, emergency management, and occupational safety and health. The position is also responsible for ranger and community services directorates, including animal control, bushfire liaison, and community safety.

COMMENT

An extensive recruitment process was undertaken by the Chief Executive Officer and identified a preferred applicant, Mort Wignall, who also held desirable environmental health qualifications.

Council have previously been provided with a copy of Mort's curriculum vitae and provided support to allow the offer and acceptance of employment to progress. This report formalises the requirements of the Local Government Act for a senior employee.

CONSULTATION

The interview process was coordinated by the Chief Executive Officer. All the required referee checks have been completed.

STATUTORY REQUIREMENTS

Section 5.37 (2) of the Local Government Act reads:

The CEO is to inform the Council of each proposal to employ or dismiss a senior employee and the Council may accept or reject the CEO's recommendation but if the Council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.

POLICY IMPLICATIONS

The appointment of Manager of Regulatory and Community Services is in accordance with policy CS 25, 26, 27, 28 and other policies covering the employment of senior employees.

FINANCIAL IMPLICATIONS

The salary and conditions of employment are provided for within the 2008/09 Budget.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council endorse the Chief Executive Officers appointment of Mr Mort Wignall to the position of Manager of Regulatory and Community Services on a two (2) year contract.

COUNCIL DECISION

31/09 MOVED Cr Benn seconded Cr Marsh that Council endorse the Chief Executive Officers appointment of Mr Mort Wignall to the position of Manager of Regulatory and Community Services on a two (2) year contract.

CARRIED 9/0

13.2 GENETICALLY MODIFIED CANOLA TRIALS

AUTHOR: Stephen Gash – Chief Executive Officer
 DATE: Friday, 17 April 2009
 FILE NO: 08.03.08
 ATTACHMENT: 2009 GM Canola Trial Sites

DECLARATION OF INTEREST

Nil

SUMMARY

To note correspondence regarding the announcement of Genetically Modified (GM) canola trials in Kojonup.

BACKGROUND:

The Minister for Agriculture and Food advised in 2008 that the government would be progressing trials of GM canola. This was stated a policy taken to the last election.

The Western Australian Local Government Association provided guidance to Shires that they may wish to consider their comfort with GM trials being conducted within their Shires and advise the Minister directly if they had any issues.

The Shire of Kojonup held a public meeting on 18 February 2009, following 2 weeks public notice in the Kojonup News. The outcome of the meeting was summarised as follows and published in the Kojonup News:

“The comments on the Shire role in considering the GM trials in Kojonup stimulated good debate and the views expressed were indicative of the diversity of views that have formed part of the broader GM debate of the last few years. While there were many speakers urging caution and the need for further information there was also debate on the Shire role in being asked to comment, or reach an opinion on the matter.

Given the difficulty in forming a view on the issues and the valid queries on whether it is appropriate for the Shire to do so, Stephen Gash urged individuals with strong views to write to the Minister for Agriculture and convey their opinions directly. The Minister is the person who announced that trials would be conducted and is the authority that will be required to endorse/approve the sites within WA. The Shire office is happy to supply contact details of the Minister is required.”

During the meeting a simple show of hands was conducted to guide the Councillors and only 8 people thought the Shire should write to the Minister for Agriculture and Food to object to GM canola trials being conducted in Kojonup.

COMMENT

The Shire of Kojonup became aware of the following parliamentary question and response;

221. Hon PAUL LLEWELLYN to the minister representing the Minister for Agriculture and Food:

I refer to the Genetically Modified Crops Free Areas Exemption Order (No. 3) made to allow the cultivation of GM canola, published in the Government Gazette on 17 February 2009. In light of the widespread public concern about the issue of GM crops in Western Australia, I ask .

- (1) *Will the minister honour the right of local governments and the communities that they represent to declare their boundaries as GM-free zones?*
- (2) *If no to (1), why not?*
- (3) *Is it within the power, under the Genetically Modified Crops Free Areas Act 2003, of the minister to declare that a shire's boundary is a GM-free zone?*
- (4) *What formal steps will the minister take to ensure that such declarations by local governments are honoured?*

(5) *Is the minister aware that the Shire of Williams last night voted to declare its boundary a GM-free zone?*

Hon ROBYN McSWEENEY replied:

I thank the honourable member for the question.

Again, I will preface my answer by saying that the question is confused in the reference to the Genetically Modified Crops Free Areas Exemption Order (No. 3), which is number three of 2008 published in the Government Gazette on 28 November 2008 to allow GM cotton to be grown in the Ord River irrigation area. The question should refer to the Genetically Modified Crops Free Areas Exemption Order 2009 published in the Government Gazette on 17 February 2009 to allow limited approved trial cultivation of GM canola. With this understanding, the answer is .

- (1) *While pointing out that we are not really talking about a recognised right and that such a declaration would not have any legal effect, I can say that if a local government wishes to make such a declaration, it is free to do so. Currently, of course, the whole of Western Australia is a GM-free zone, except the Ord River irrigation area in which GM cotton may be grown. When any trial cultivations of GM canola are approved, those trial cultivations will also be excluded from the otherwise statewide prohibition on GM crops.*
- (2) *Not applicable.*
- (3) *Yes.*
- (4) *The minister does not intend to allow trial cultivations of GM crops in a local government district that he knows has declared itself GM free.*
- (5) *Yes.*

The Shire sought clarification from the Minister for Agriculture and Food in writing where the outcome of the public meeting was conveyed but also the following statements:

The Shire of Kojonup reiterates its desire for caution in the trial of this new technology and has concerns regarding cross contamination, bio-security, and the impact on other land holders within the district, such as organic certified farmers. We trust that the Minister will consider all of these issues when assessing possible sites for the trials, rather than focusing on the desire of the land holder volunteering for the trial, or the broader political debate within the specific district.

The Shire of Kojonup will continue to direct individual queries to the Ministers office, especially queries relating to compensation for adverse impacts caused by decisions taken by the State of Western Australia, and have urged individual land owners to also seek advise on base line data for their current cropping operations, and consider the risk of any contamination within supply or distribution chain as a result of the proposed trials.

The Shire of Kojonup is however confused by statements made by Paul Llewellyn MLC to individual Councillors that, in response to a Parliamentary Question, you advised that trials would not be conducted in a district where the local government has declared itself GM free. If this is correct this implies a broader role for shires in the debate and the Shire of Kojonup will consider whether it needs a broader survey of electors on the issue. This role is also different to that initially conveyed by the Department of Agriculture and Food to the Shire of Kojonup officers.

We would appreciate urgent feedback on the Shire's role and that no sites are considered for Kojonup until such advice is forwarded.

The Hon Terry Redman MLA rang the Chief Executive Officer during a Council briefing session on 7 April 2009 following advice to the Ministers office that the Shire of Kojonup would be discussing at the agenda briefing whether a GM free declaration should be made at the Council meeting on 21 April 2009.

The Minister advised:

1. He would respond to the letter in the near future
2. That officers were available to come and talk to the Council to inform them of the trial process and controls
3. The government had a mandate for the trials
4. That the response to the parliamentary question was a courtesy to the nine Shires that had advised through WALGA had strong objections
5. That it didn't change any statutory authority or enforceability of Shires to make GM free declarations.
6. That it was not a decision for the Shire and further GM free declarations by Shires would have little bearing on considerations if a proposed trial site in their area met the conditions for the trials.

Following the phone call the Council gave advice to the Chief Executive Officer in the Agenda Briefing Session, that they wished to consider the matter further in light of greater political power to ask for the Shire to remain GM free and requested that a report be prepared for the Council Meeting on 21 April 2009.

The report to Council was to reflect the need for caution and better assessment of controls for the trials and impact on other farmers within the district. Therefore the guidance to the CEO was to propose a GM free declaration of one year to receive further advice and accept the Minister for Agriculture and Foods offer of having presentations from relevant Departmental staff on the matter.

On 14 April 2009 the Director General of the Department of Agriculture and Food issued the attached letter and circular announcing the trials. The Minister for Agriculture and Food rang the Chief Executive Officer on 15 April 2009 out of courtesy to advise the announcement would happen that day. The CEO expressed his disappointment on behalf of the Council that our request for delay while the Council considered the matter further was not respected.

The Minister restated that it was not a Shire decision and reiterated the offer for staff to visit Kojonup and speak to the Council.

On 15th April 2009 the possibility of the Qualeup Bin was raised during a radio interview with CBH. The Chief Executive Officer spoke to Tim Collins from CBH and met with the Minister for Agriculture and Food on that day and received verbal assurances that given the Shires position that Qualeup would not be used for the storage or handling of GM canola from the trials.

CONSULTATION

Public Meeting was held 18 February 2009.

STATUTORY REQUIREMENTS

The Minister for Agriculture and Food has exercised his power on this issue. Officers are not aware of any legal right of appeal or other enforceable declaration / orders on this matter.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council notes the report and the correspondence from the Department for Agriculture and Food announcing the location of genetically modified canola trials in Western Australia.

COUNCIL DECISION

32/09 MOVED Cr Hewson seconded Cr Graham that Council notes the report and the correspondence from the Department of Agriculture and Food announcing the location of genetically modified canola trials in Western Australia.

CARRIED 9/0

COUNCIL DECISION

33/09 MOVED Cr Hewson seconded Cr Pedler that standing orders be suspended.

CARRIED 9/0

5.12pm Cr Pedler left the Chambers

5.14pm Cr Pedler returned to the Chambers

5.15pm Cr Hewson left the Chambers

5.17pm Cr Hewson returned to the Chambers

COUNCIL DECISION

34/09 MOVED Cr Marsh seconded Cr Pritchard that standing orders be resumed.

CARRIED 9/0

5.26pm Cr Marsh left the Chambers

5.28pm Cr Marsh returned to the Chambers

COUNCIL DECISION

35/09 MOVED Cr Trethowan seconded Cr Benn that the Shire of Kojonup inform the Minister for Agriculture and Food its preference to remain Genetically Modified free with respect to the growing, storage, handling, seed cleaning and transport of Genetically Modified canola until a meeting is held with the Minister for Agriculture and Food, and his staff, on this issue.

CARRIED 9/0

14 COMMITTEES OF COUNCIL

Nil

15 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

16 NEW BUSINESS

Nil

5.38pm The President Cr Mathwin adjourned the Council meeting.

5.45pm The President Cr Mathwin resumed the Council meeting.

17 **CONFIDENTIAL REPORTS**

- 17.1 36 VANZUILECOM ST BUILDING COMPLIANCE
 AUTHOR: Stephen Gash – Chief Executive Officer
 DATE: 16 April 2009
 ATTACHMENT: Confidential Attachments
 Legal Advice Peter Gillett – McLeods
 Report John Massey – Building Surveyor

OFFICER RECOMMENDATION

That the meeting be closed to the Public in accordance with section 5.23 (2)(d) of the Local Government Act 1995 as it relates to legal advice that has been obtained and further advice that may be obtained on the matter.

COUNCIL DECISION

36/09 MOVED Cr Marsh seconded Cr Benn that the meeting be closed to the Public in accordance with section 5.23 (2)(d) of the Local Government Act 1995 as it relates to legal advice that has been obtained and further advice that may be obtained on the matter.

CARRIED 9/0

A confidential report was provided to Councillors under separate cover.

OFFICER RECOMMENDATION

That the meeting be reopened to the public.

COUNCIL DECISION

37/09 MOVED Cr Trethowan seconded Cr Graham that the meeting be reopened to the public.

CARRIED 9/0

OFFICER RECOMMENDATION

That Council instruct McLeods Barristers and Solicitors to draft a letter of response to N & P Bilney, on behalf of the Shire of Kojonup, advising that the Shire of Kojonup will not be issuing any notice under section 401 of the Local Government (Miscellaneous Provisions) Act 1960, in relation to the dwelling constructed at 36 Vanzuilecom Street Kojonup, and outlining the reasons for that decision by 5 May 2009.

COUNCIL DECISION

38/09 MOVED Cr Marsh seconded Cr Trethowan that Council instruct McLeods Barristers and Solicitors to draft a letter of response to N & P Bilney, on behalf of the Shire of Kojonup, advising that the Shire of Kojonup will not be issuing any notice under section 401 of the Local Government (Miscellaneous Provisions) Act 1960, in relation to the dwelling constructed at 36 Vanzuilecom Street Kojonup, and outlining the reasons for that decision by 5 May 2009.

CARRIED 9/0

18 NEXT MEETING

Tuesday, 19th May 2009 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 6.07 pm.

20 APPENDICES AND TABLED DOCUMENTS

Nil

21 ATTACHMENTS

- Item 10.1 Monthly Statement of Financial Activity 1st July 2008 to 31st March 2009
- Item 10.2 Monthly Payment Listing
- Item 12.1 Site Plan - Tree Plantation - Outhwaite, Bokerup Road, Kojonup
- Item 12.2 Site Plan - Tree Plantation – Benn, Neymerup Road, Kojonup
- Item 12.3 Site Plan - Tree Plantation – Caldwell, Frankland Road, Kojonup
- Item 12.4 Subdivision Plan – Lot 84 Cornwall Road, Kojonup
- Item 12.6 Town Planning Scheme No. 3 Amendment No. 7 - March 2009
- Item 13.2 2009 GM Canola Trial Sites
- Item 17.1 Confidential Attachment – Legal Advice Peter Gillett – McLeods
Confidential Attachment – Report John Massey – Building Surveyor

Presiding Member

Date