

SHIRE OF KOJONUP



AGENDA

Ordinary Council Meeting 15 March 2016

TO: THE SHIRE PRESIDENT AND COUNCILLORS

NOTICE is given that a meeting of the Council will be held in Council Chambers, Administration Building, Albany Highway, Kojonup on Tuesday, 15 March 2016 commencing at 4:00pm.

Qualified Persons Advice, etc.

I certify that with respect to all advice, information or recommendation provided to the Council in or with this Agenda:

- i. The advice, information or recommendation is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation; and
- ii. Where any advice is directly given by a person who does not have the required qualifications or experience, that person has obtained and taken into account in that person's general advice the advice from an appropriately qualified or experienced person.

Your attendance is respectfully requested.

A handwritten signature in blue ink, appearing to read 'Rick Mitchell-Collins', is written over a horizontal dashed line.

RICK MITCHELL-COLLINS
CHIEF EXECUTIVE OFFICER

10 March 2016

SHIRE OF KOJONUP**AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 15 MARCH 2016****TABLE OF CONTENTS**

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A G E N D A

1 DECLARATION OF OPENING AND ANNOUNCEMENT OF GUESTS

The Shire President shall declare the meeting open and alert 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

Cr Ronnie Fleay
Cr Robert Sexton
Cr Frank Pritchard
Cr Ned Radford
Cr Ian Pedler
Cr Jill Mathwin
Cr Graeme Hobbs
Cr Judith Warland

Shire President
Deputy Shire President

Mr Rick Mitchell-Collins Chief Executive Officer
Mr Anthony Middleton Manager Corporate Services
Mr Mort Wignall Manager Regulatory Services
Miss Miranda Wallace Executive Assistant

APOLOGIES

3 SUMMARY OF RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE**3.1 MR WILLIAM HARVEY, MRS DEBBIE KEILLOR, MRS JENNY MATTHEWS & COMMUNITY DELEGATION – GEORGE & PATRICIA CHURCH’S BEQUEST TO COUNCIL – NEW MEDICAL CENTRE**

On Friday, 11 March 2016 the Shire of Kojonup will conduct a Health Services Precinct Workshop. The outcomes of this workshop will be made available on the Shire of Kojonup website and within the next issue of the Kojonup News (Issue 6, 15 April 2016)

4 PUBLIC QUESTION TIME**5 PETITIONS, DEPUTATIONS & PRESENTATIONS****6 APPLICATIONS FOR LEAVE OF ABSENCE****7 CONFIRMATION OF MINUTES**

ORDINARY MEETING 16 FEBRUARY 2016

COUNCIL DECISION

/16 Moved Cr , seconded Cr that the Minutes of the Ordinary Meeting of Council held on 16 February 2016 be confirmed as a true record.

CARRIED/LOST /

8 ANNOUNCEMENTS by the Presiding Member without discussion

9 DECLARATIONS OF INTEREST

Item 10.3 – The Chief Executive Officer has previously declared an interest regarding this item.

10 CORPORATE SERVICES REPORTS**10.1 FINANCIAL MANAGEMENT – MONTHLY STATEMENT OF FINANCIAL ACTIVITY (FEBRUARY 2016)**

AUTHOR: Anthony Middleton – Manager Corporate Services
 DATE: Friday, 4 March 2016
 FILE NO: FM.FNR.2
ATTACHMENT: 10.1 Monthly Statement of Financial Activity

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to note the Monthly Financial Statements for the period ending 29 February 2016.

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 2015 to 29 February 2016 represent eight (8) months, or 67% of the year. The following items are worthy of noting:

- Surplus position of \$1.34m;
- Operating results:
 - 68% of budgeted operating revenue received; and
 - 61% of budgeted operating expenditure spent;
- Capital expenditure achieved 34% of budgeted projects;
- The value of outstanding rates equates to 9.1% of 2015/2016 rates raised, which includes instalments 4, previous years arrears but excludes deferred rates (refer to page 17 of the statements);
- Cash holdings of \$4.79m of which \$3.7m is held in cash backed reserve accounts;
- Page 7 & 8 of the statements detail major variations from year to date (amended) budgets in accordance with Council Policy 2.1.6.

The following capital expenditure projects have exceeded their authorized budgets:

COA	Description	Resp. Officer	Budget	YTD Actual	% of Annual Budget
Nil.					

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

There are no policy implications for this report.

FINANCIAL IMPLICATIONS

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

STRATEGIC/CORPORATE IMPLICATIONSCommunity Strategic Plan 2013 – 2023

Outcomes:

- G1 – Being Well Governed

Corporate Business Plan 2013 – 2017

Objectives:

- G1.1.2 – Maintain a structured forward planning process in accordance with legislation and community aspirations
- G1.1.4 – Maintain robust systems and controls

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications for this report.

ASSET MANAGEMENT PLAN IMPLICATIONS

There are no asset management implications for this report.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the monthly financial statements for the period 1 July 2015 to 29 February 2016, as attached, be noted.

COUNCIL DECISION

/16 Moved Cr , seconded Cr

CARRIED/LOST /

10.2 MONTHLY PAYMENTS LISTING

AUTHOR: Christine Coldwell – Finance Officer
DATE: Monday, 8 February 2016
FILE NO: FM.AUT.1
ATTACHMENT: 10.2 Monthly Payment Listing 01/02/2015 – 29/02/2016

DECLARATION OF INTEREST

Nil

SUMMARY

To receive the list of payments covering the month of February 2016.

BACKGROUND

Not applicable.

COMMENT

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

In accordance with the previous briefing session any comments or queries regarding the list of payments is to be directed to the Manager of Corporate Services via email 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.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

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	TO	TOTAL
Date	1 February 2016	29 February 2016	
Municipal Cheques	13610	13646	\$56,628.09
EFT's	15552	15789	\$556,092.06
Direct Debits			\$336,040.91
			\$948,761.06

be received.

COUNCIL DECISION

/16 Moved Cr , seconded Cr

CARRIED/LOST /

10.3 DESIGN ELEMENTS – NEW EXECUTIVE RESIDENCE, LOTON CLOSE

AUTHOR: Anthony Middleton – Manager Corporate Services
DATE: Friday, 4 March 2016
FILE NO: FM.TND.3/A11940
ATTACHMENT: 10.3 List of Variations Proposed by Council Briefing Session

DECLARATION OF INTEREST

The Chief Executive Officer has previously declared an interest regarding this item.

SUMMARY

The purpose of this report is to endorse the decisions made regarding possible design element changes to the new executive residence being constructed in Loton Close.

BACKGROUND

At its special council meeting held on 28 January 2016, the Council resolved to:

“Accept the Offer from Prandi Builders for the design and construction of the Executive Residence at a cost of \$583,000.00 (including GST).”

And

“...that motion 3/16 be funded from the current budget allocation (C157) with the shortfall of \$90,000 (possible total cost \$620,000 less \$530,000 the remaining budget) be funded from the Staff Housing Reserve Fund and the 2015/2016 Budget be amended accordingly.”

Following the above decisions, Cr Pritchard raised matters in regards to the design of the residence at the Council Briefing Session held 3 February 2016. Minutes from this meeting summarise the following discussions:

“CEO house design queries

- 1. Roof - Council agreed that 30 degree pitch stays.*
- 2. Ceiling height - Agreed it should be 2.7m as a minimum.*
- 3. Insulation - prefer in internal walls as well as external & roof space.*
- 4. Windows – ascertain cost to fit windows with 6.38mm laminated and tinted security glass rather than proposed in design.*
- 5. Fit Security glass to external doors, fireproof internal garage door?*
- 6. Fit Stainless steel mesh to all fly screens.*
- 7. Preference to have 1 double stack door to outdoor entertaining area plus window in place of other. (allows more bench space under window)*
- 8. Suggest swinging doors in Bedroom 1 & 2 on opposite side to give better privacy to bedroom unless load bearing for roof?*
- 9. Preference to have a door on ensuite.*
- 10. Discuss benefit of changing layout of toilet to make it larger, i.e. East/West instead of North/south with door on side?*
- 11. Windows East side - First Preference to have double hung windows, 2nd Preference - Awning windows.*

12. *Discuss cost to plumb for air-con for future installation? Free standing wood heater & installation of a reverse cycle air-con to living area.*
13. *Suggest only one ceiling fan in living area (central location).*
14. *Remove skylights - not favourable to having 'holes' in roof & prefer a light switch that can be operated at each end of the passage.*
15. *Prefer swivel taps and mixer*
16. *Lights over mirror in bathrooms*
17. *Exhaust fan & light on one switch in bathrooms/toilet or price of installing pedestals that remove scent?*
18. *Paving – in principle support for paving 1m wide around house perimeter but only if funds available. Could be done later.”*

Following this 3 February 2016 Council Briefing Session, the Manager Corporate Services and the Development Services Coordinator met with the Builder and Architect to discuss these items and to request a quotation. Subsequent to this meeting, quotations were received on proposed changes and Officer's recommendations formed for each proposed variation (refer to attachment).

The attached list of variations was discussed and agreed by attendees at the Council Briefing Session held 1 March 2016 and the purpose of this report is to obtain formal Council endorsement of these variations.

COMMENT

To progress this project and meet grant funding deadlines, variations have been communicated to the Builder and have been authorised. This report seeks formal Council endorsement of the decisions made at the Council Briefing Session held on 1 March 2016.

CONSULTATION

Council Briefing Session 1 March 2016.
Prandi Builders and Leith Schmidt Architect.
Development Services Coordinator.

STATUTORY REQUIREMENTS

This project has been to tender in accordance with the *Local Government (Functions and General) Regulations 1996*.

POLICY IMPLICATIONS

Policy 2.1.2 Purchasing and Creditor Control outlines the processes to follow when purchasing goods. Due to the value of this project, tenders were called in line with this policy as well as the *Local Government (Functions and General Regulations) 1996*.

FINANCIAL IMPLICATIONS

Budget account C157 has a remaining budget allocation of \$622,052. The attachment to this item suggests variations to the contract to bring the total cost to \$604,435 and therefore the recommendation is within budget provisions.

STRATEGIC/CORPORATE IMPLICATIONSCommunity Strategic Plan 2013 – 2023

Outcomes:

- E2 – Building Prosperity
- S2 – Staying Active and Entertained
- G1 – Being Well Governed

Corporate Business Plan 2013 – 2017

Objectives:

- E2.1.5 – Support the creation of additional residential lots
- S2.1.3 – Promote Kojonup as a place to live
- G1.3.3 – Commit appropriate staff and resources to be a leader of regional planning, initiatives and services

RISK MANAGEMENT IMPLICATIONS

Should this project not continue to be progressed in a timely fashion, there is the potential that the funding acquittal deadlines will not be met and the project aim of delivering “suitable accommodation for the CEO” in accordance with Contract between Council and Mr Mitchell-Collins will not be realised.

ASSET MANAGEMENT PLAN IMPLICATIONS

The completed structure will become the responsibility of the Shire to maintain and will need to be included in the Asset Management Plan. Under the grant conditions, the property is not permitted to be sold within five years of construction.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the attached list of proposed variations to the Prandi Builders contract for the design and construction of a new executive residence in Loton Close be endorsed, in accordance with the Officer’s Recommendation and Total Cost column, showing a new contract value of \$604,435.

COUNCIL DECISION

/16 Moved Cr , seconded Cr

CARRIED/LOST /

Attachment 10.3

ITEM AS REQUESTED BY BRIEFING SESSION	QUOTE FROM BUILDER	OFFICERS RECOMMENDATION	TOTAL COST
Tendered Price as per January Special Council Meeting			\$ 583,000
Cost to insulate all internal walls – V01	\$515 including gst	Accept	\$ 583,515
Make stacking sliding door into stacking above bench window – V02	Savings of \$500 including gst	Accept	\$ 583,015
Swing bed 1 and bed 4 doors the other way – V03	no charge	Decline	\$ 583,015
Cost of re- designed bathroom and powder room – V04	\$2960 including gst	Accept	\$ 585,975
3 x remote control Sweep fans in dining/ Kitchen/ Living – V05	\$920 including gst	Accept, but only recommend 2 fans	\$ 586,575
Change French doors in bed 2 & 3 to single door and double hung window – V06	\$880 including gst	Accept	\$ 587,455
Supply and install odourvac system to cistern	\$1,310 including gst each	Decline	\$ 587,455
Driveway concrete from cross over to hard stand 25m x 3.6m	\$9,490 including gst	Accept	\$ 596,945
Reticulation system lawn area (from mains only)	\$3,850 including gst	Accept	\$ 600,795
Reverse cycle whole of house ducted airconditioning system – 3 zones (same temp)	\$15,500 including gst	Decline	\$ 600,795
2 x reverse cycle split systems to kitchen/ dining/ living room	\$2535 including gst each	Decline (wait and see)	\$ 600,795
Difference in cost between ordinary fly wires (doors and windows) and crimsafe	\$9400 including gst whole house	Decline (revisit at a later date)	\$ 600,795
To provide 6.38mm laminated glass to whole house (windows, doors already done) or	\$2025 including gst	Decline	\$ 600,795

To provide 6.38mm tinted laminated glass to doors and windows on the North, West and East sides of this house, plain laminated	\$3100 including gst	Decline	\$ 600,795
Double Hung Windows throughout	no charge	Accept	\$ 600,795
Skylights removed	saving of \$4,800 including gst	Decline	\$ 600,795
Paving around the house	\$3,640 including gst	Accept	\$ 604,435
Total			\$ 604,435

10.4 DECLARATION OF GIFTS AND TRAVEL CONTRIBUTIONS – CHANGES TO LEGISLATION

AUTHOR: Anthony Middleton – Manager Corporate Services

DATE: Tuesday, 8 March 2016

FILE NO: FM.FNR.2

ATTACHMENT: 10.4.1 Department Circular N° 04-2016
10.4.2 Shire of Kojonup Code of Conduct

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to note proposed amendments to the *Local Government Act 1995* and regulations changing disclosure requirements for employees and elected members in regards to the receipt of gifts and travel.

BACKGROUND

The Department of Local Government and Communities have advised of changes to the *Local Government Act 1995* and the ‘Administration’ and ‘Rules of Conduct’ Regulations. A copy of this advice (Circular N° 04/2016) is attached.

COMMENT

Whilst the Shire of Kojonup Code of Conduct does not permit a gift with a value greater than \$100 from being accepted, the new changes to the legislation does deal with ‘*multiple gifts made within a year by the same person, the aggregate value of which reach the prescribed amount of \$200.*’

A copy of the Code of Conduct is attached.

The register required to be maintained has already been posted to the Shire’s website and can be viewed at <http://www.kojonup.wa.gov.au/council/documents/gifts-travel-declarations-public-register/>

CONSULTATION

Chief Executive Officer.

The Code of Conduct was discussed in detail at an Administration Staff Meeting on 2 March 2016.

STATUTORY REQUIREMENTS

The purpose of this item is to not changes to key local government legislation, namely:

- The *Local Government Act 1995*;
- The *Local Government (Administration) Regulations 1996*; and
- The *Local Government (Rules of Conduct) Regulations 2007*.

POLICY IMPLICATIONS

These changes are very closely related to the Shire of Kojonup’s Code of Conduct, which has been adopted as a Council Policy. No changes are necessary to the Code of Conduct as a result of these legislative changes.

FINANCIAL IMPLICATIONS

This item does not have a financial implication, apart from minor administrative staff costs.

STRATEGIC/CORPORATE IMPLICATIONSCommunity Strategic Plan 2013 – 2023

Outcomes:

- G1 – Being Well Governed

Corporate Business Plan 2013-2017

Objectives:

- G1.1.4 – Maintain robust systems and controls

RISK MANAGEMENT IMPLICATIONS

Maximising compliance with legislation minimizes the risks to the organisation of non-compliance and any associated penalties, damage to image or reputation that may occur.

ASSET MANAGEMENT PLAN IMPLICATIONS

There are no asset management implications for this report.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the changes to elected member and employee disclosure of gifts and contributions to travel, requiring disclosure within ten (10) days of receipt and the register to be on the Shire's website, as contained within the following legislation be noted:

- ***The Local Government Act 1995;***
- ***The Local Government (Administration) Regulations 1996; and***
- ***The Local Government (Rules of Conduct) Regulations 2007.***

COUNCIL DECISION

/16 Moved Cr , seconded Cr

CARRIED/LOST /

Attachment 10.4.1

Government of **Western Australia**
Department of **Local Government and Communities**

Our Ref: 2693-15; E1604774

TO ALL LOCAL GOVERNMENTS

CIRCULAR N° 04-2016

NEW REQUIREMENTS FOR DISCLOSURE OF GIFTS AND CONTRIBUTIONS TO TRAVEL AND REMOTE ATTENDANCE AT COUNCIL MEETINGS

The *City of Perth Act 2016* received Royal Assent on 3 March 2016 and amends the gift and contributions to travel provisions within the *Local Government Act 1995* (the Act). Associated amendments have also been made to the following:

- The *Local Government (Administration) Regulations 1996*, and
- The *Local Government (Rules of Conduct) Regulations 2007*.

This circular should be distributed to elected members and designated employees of your local government as the amendments impact on them.

The Department of Local Government and Communities will be releasing a special edition of the Governance Bulletin containing various scenarios to assist with the identification and declaration of gifts.

Summary

As of 4 March 2016, the Act requires **relevant persons** who accept a gift worth more than \$200 to disclose this gift, in writing, to the chief executive officer (CEO) within 10 days of receipt. This replaces the previous process of disclosing these in the annual return. All contributions to travel over \$200 must also be disclosed as do multiple gifts or contributions from the same donor where the total value is over \$200.

The threshold for disclosures remains the same as do the other disclosures required under the Act for the annual return.

Gordon Stephenson House
140 William Street Perth WA 6000
GPO Box R1250 Perth WA 6844
Tel: (08) 6551 8700 Fax: (08) 6552 1555 Freecall: 1800 620 511 (Country only)
Email: info@dlgc.wa.gov.au Website: www.dlgc.wa.gov.au

A relevant person is defined under section 5.74 of the Act as a person who is a council member or a designated employee which includes:

- mayors
- presidents
- council members
- the CEO
- employees with delegated powers and duties under Part 5, Division 4 of the Act
- employees who are members of committees comprising elected members and employees, and
- other employees nominated by the local government to be designated employees.

Details of the major amendments are outlined below.

Local Government Act 1995 amendments

New disclosure requirements

Section 5.78(1) is amended to remove the need to disclose gifts and contributions to travel under sections 5.82 and 5.83 in the annual return.

Sections 5.82 and 5.83 are amended – From 4 March 2016, these sections require relevant persons to declare gifts and contributions to travel, in writing, to the CEO within 10 days of receipt, rather than on an annual basis. This includes multiple gifts made within a year by the same person, the aggregate value of which reach the prescribed amount of \$200.

The disclosure for a gift must include:

- a description of the gift
- the name and address of the person who made the gift
- the date on which the gift was received
- the estimated value of the gift at the time it was made, and
- the nature of the relationship between the relevant person and the person who made the gift.

For contributions to travel, the disclosure must include:

- a description of the contribution
- the name and address of the person who made the contribution
- the date on which the contribution was received
- the estimated value of the contribution at the time it was made
- the nature of the relationship between the relevant person and the person who made the contribution
- a description of the travel, and
- the date of travel.

Register of gifts and contributions to travel

A new section 5.89A requires the CEO to keep a register of gifts and contributions to travel in the form prescribed (see Form 4 attached).

The CEO is required to make the register available for public inspection and to publish it on the local government's official website.

If the person ceases to be a relevant person, the CEO is to remove from the register all records relating to that person. These records, however, must be retained for at least five years and made available for public inspection.

Offences

New section 5.89B makes it an offence if a person does not comply with sections 5.82 and 5.83 in relation to the disclosure of gifts and contributions to travel.

Section 5.89 is amended making it an offence for the person to give false or misleading information or to provide information which is likely to deceive in relation to the disclosure of gifts and contributions to travel.

The penalty for each offence is a fine of \$10,000 or imprisonment for two years.

Section 9.25(1) is amended to provide that there is no time limit for bringing a prosecution against a person who has not disclosed gifts or contributions to travel.

Local Government (Rules of Conduct) Regulations 2007 amendments**Transitional provisions for council members**

Regulations 14 and 15 require council members to disclose gifts and contributions to travel received between 1 July 2015 and 3 March 2016 within 28 days from 4 March 2016 (that is, by 31 March). This disclosure is necessary as these will no longer form part of the annual return. The disclosure needs to be in writing and to the CEO.

Regulations 14(7) and 15(7) require the CEO to maintain the register of gifts and contributions to travel received by council members during the transitional period.

Local Government (Administration) Regulations 1996 amendments**Transitional provisions for designated employees**

Regulations 34F and 34G require designated employees to disclose gifts and contributions to travel received between 1 July 2015 and 3 March 2016 within 28 days from 4 March 2016. This disclosure is necessary as these will no longer form part of the annual return. The disclosure needs to be in writing and to the CEO.

Regulation 34F(7) and 34G(7) require the CEO to maintain the register of gifts and contributions to travel received by designated employees during the transitional period.

Forms

Form 3 – Parts 4 and 5 have been deleted from Form 3 (annual return) as there is no longer a requirement to disclose gifts and contributions to travel in the annual return.

Form 4 – New Form 4 is the register the CEO is to keep which is established under section 5.89A of the Act. A copy of this form is attached.

Remote attendance at council meetings

Regulation 14A amended to enable a person with a disability to attend a meeting with fewer restrictions. 'Disability' has the same meaning as in section 3 of the *Disability Services Act 1993*.

- 1) The words 'other than a person with a disability' are inserted in regulation 14A(2) which effectively means that this class of persons will no longer be required to be physically present for at least half of the council meetings.
- 2) The existing definition of 'suitable place' is amended, allowing council to approve a place to be suitable in relation to a person with a disability without the restriction that it must be within a townsite and more than 150 kilometres from the place of the meeting.

Closely associated persons

Regulation 20 is amended to correct a drafting error. The effect is that a person that receives legal or financial professional services from an elected member or supplies those services to an elected member is a closely associated person for the purposes of section 5.62 of the Act. The elected member must disclose this if a matter comes before council in which the person has a direct or indirect interest or a proximity interest. This regulation gives effect to a recommendation by the Panel Inquiry into the City of Cockburn.

For queries relating to the legislative changes, contact the Local Government Advisory Hotline on 1300 762 511.



Jennifer Mathews
DIRECTOR GENERAL

3 March 2016

Form 4*Local Government Act 1995**Local Government (Administration) Regulations 1996***REGISTER OF GIFTS AND CONTRIBUTIONS TO TRAVEL****1. Gifts**Section 5.82 of the *Local Government Act 1995*

Name of relevant person making disclosure	Description of gift	Name of person who made gift	Address of person who made gift	Date gift was received	Estimated value of gift at time it was made	Nature of relationship between relevant person and person who made gift

2. Contributions to travelSection 5.83 of the *Local Government Act 1995*

Name of relevant person making disclosure	Description of contribution	Name of person who made contribution	Address of person who made contribution	Date contribution was received	Estimated value of contribution at time it was made	Nature of relationship between relevant person and person who made contribution	Description of travel	Date of travel

Visit the DLGC website for a Word version of [Form 4](#).

Attachment 10.4.2

3.19 CODE OF CONDUCT

Adopted or Reviewed by Council:	18/06/13	Council Minute Reference:	95/13
Reviewer:	Chief Executive Officer		
Local Law:			
Procedure:			
Delegation:			

PREAMBLE***CODE OF CONDUCT – STATUTORY ENVIRONMENT***

This Code of Conduct observes statutory requirements of the *Local Government Act 1995* (S 103 – Codes of Conduct) and *Local Government (Administration) Regulations 1996* (Regs 34B and 34C).

WHAT IS THE CODE OF CONDUCT?

The Council is the elected body responsible for the administration of the local government in accordance with the applicable legislation. It must do that in the best interests of the local community as well as the public in general. The conduct of Elected Members, Committee Members and Council employees must not only be based upon the highest ethical principles, it must be seen to be consistent with those principles.

The Code of Conduct therefore provides a *framework for behaviour* that must be observed in the wide range of interactions and scenarios experienced in the conduct of local government activities on a daily basis.

The Code of Conduct provides Elected Members, Committee Members and Council employees with consistent guidelines for an acceptable standard of professional conduct. The Code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability in individual local governments.

The Code is complementary to the principles adopted in the Local Government Act and Regulations which incorporates four fundamental aims to result in:

- a. better decision-making by local governments;
- b. greater community participation in the decisions and affairs of local governments;
- c. greater accountability of local governments to their communities; and
- d. More efficient and effective local government.

WHY HAVE A CODE OF CONDUCT?

A Code of Conduct is a significant guide to the local government, necessary due to the particular relationships and responsibilities that arise from being a public institution.

Elected Members, Committee Members and employees are custodians of public resources and trust. In order to continue the effective and efficient administration of this public institution, a set of standards is important to clearly outline these responsibilities and the behaviours that need to be observed to retain the good faith and trust of all parties involved.

AIM OF A CODE OF CONDUCT

This Code seeks to provide a framework within which Elected Members, Committee Members and employees should operate to ensure accountability to the community.

The Code compliments (and does not in any way substitute for) legislation applicable to local government. It provides guidance to parties involved in, empowered by and entrusted by public duty and public office, particularly in regard to conflicts that may arise in the performance of duties in the sphere of government and public administration.

The Code recognises local government duties, responsibilities and values in relation to access, equity and open and accountable government. Therefore, the Code purports to cultivate, advocate and develop within local government an awareness of propriety with public administration.

RULES OF CONDUCT

Council Members acknowledge their activities, behaviour and statutory compliance obligations may be scrutinised in accordance with prescribed rules of conduct as described in the Local Government Act 1995 and Local Government (Rules of Conduct) Regulations 2007.

ROLE OF ELECTED MEMBERS

A Councillor's primary role is to represent the community, and the effective translation of the community's needs and aspirations into a direction and future for the Local Government will be the focus of the Councillor's public life.

A Councillor is part of the team in which the community has placed its trust to make decisions on its behalf and the community is therefore entitled to expect high standards of conduct from its elected representatives.

In fulfilling the various roles, elected members' activities will focus on:

- achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
- achieving sound financial management and accountability in relation to the Local Government's finances;
- ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns;
- working with other governments and organisations to achieve benefits for the community at both a local and regional level;
- Having an awareness of the statutory obligations imposed on Councillors and on Local Governments.

CONFLICT AND DISCLOSURE OF INTEREST***CONFLICT OF INTEREST***

- a. Members and staff will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- b. Staff will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Local Government, without first making disclosure to the Chief Executive Officer. In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.
- c. Members and Staff will lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the municipality or which may otherwise be in conflict with the Council's functions (other than purchasing the principal place of residence).
- d. Members and Staff who exercise recruitment or other discretionary function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.
- e. Staff will refrain from partisan political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity.

An individual's rights to maintain their own political convictions are not impinged upon by this clause. It is recognised that such convictions cannot be a basis for discrimination and this is supported by anti-discriminatory legislation.

FINANCIAL INTEREST

Members and staff will adopt the principles of disclosure of financial interest as contained within the Local Government Act.

DISCLOSURE OF INTEREST

In addition to disclosure of financial interests, members and staff, including persons under a contract for services attending a council or committee meeting or giving advice to a council or committee meeting are

required to disclose any interest they have in a matter to be discussed at the meeting that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected.

Where an interest must be disclosed under (a) above, the disclosure is to be made at the meeting immediately before the matter is discussed or at the time the advice is given, and is to be recorded in the minutes of the meeting.

PERSONAL BENEFIT

USE OF CONFIDENTIAL INFORMATION

Members and staff will not use confidential information to gain improper advantage for themselves or for any other person or body, in ways which are inconsistent with their obligation to act impartially, or to improperly cause harm or detriment to any person or organisation.

INTELLECTUAL PROPERTY

The title to Intellectual Property in all duties relating to contracts of employment will be assigned to the Local Government upon its creation unless otherwise agreed by separate contract.

IMPROPER OR UNDUE INFLUENCE

Members and staff will not take advantage of their position to improperly influence other members or staff in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

GIFTS AND BRIBERY

- a. Members and staff are not to accept a gift, other than a gift of or below \$100, from a person who is undertaking, or is likely to undertake, business –
 - that requires the person to obtain any authorization from the local government;
 - by way of contract between the person and the local government; or
 - By way of providing any service to the local government.
- b. Members and staff who accept a gift of or below \$100 from a person referred to in (a) above are to record in a register of token gifts –
 - the names of the persons who gave and received the gift;
 - the date of receipt of the gift; and
 - a description, and the estimated value of the gift;
 - unless the Local Government decided that –
 - specified gifts given by way of hospitality; or
 - Specified classes of gift given by way of hospitality, need not be recorded.
- c. This clause does not apply to gifts received from a relative (as defined in section 5.74(1) of the Local Government Act) or an electoral gift (to which other disclosure provisions apply).

CONDUCT OF MEMBERS AND STAFF

PERSONAL BEHAVIOUR

Members and staff will:

- a. act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
- b. perform their duties impartially and in the best interests of the Local Government uninfluenced by fear or favour;
- c. act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the Local Government and the community;
- d. make no allegations which are improper or derogatory (unless true and in public interest) and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment;
- e. always act in accordance with their obligation of fidelity to the Local Government; and
- f. Represent and promote the interests of the Local Government, while recognising their special duty to their own constituents.

HONESTY AND INTEGRITY

Members and staff will

- a. observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
- b. bring to the notice of the Mayor/President any dishonesty or possible dishonesty on the part of any other member, and in the case of an employee to the Chief Executive Officer; and
- c. Be frank and honest in their official dealing with each other.

PERFORMANCE OF DUTIES

While on duty, staff will give their whole time and attention to the Local Government's business and ensure that their work is carried out efficiently, economically and effectively, and that their standard of work reflects favourably both on them and on the Local Government.

Members will at all times exercise reasonable care and diligence in the performance of their duties, being consistent in their decision making but treating all matters on individual merits. Members will be as informed as possible about the functions of the Council, and treat all members of the community honestly and fairly.

COMPLIANCE WITH LAWFUL ORDERS

Members and Staff will comply with any lawful order given by any person having authority to make or give such an order. Any doubts as to the propriety of an order shall be taken up with the superior of the person who gave the order and, if resolution can not be achieved, with the Chief Executive Officer.

Members and Staff will give effect to the lawful policies of the Local Government, whether or not they agree with or approve of them.

ADMINISTRATIVE AND PROCEDURES

Members and staff will ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible procedures.

CORPORATE OBLIGATIONS**Standard of Dress**

Staff are expected to comply with neat and responsible dress standards at all times. Management reserves the right to raise the issue of dress with individual staff.

Elected members will dress in a manner appropriate for the occasion and reflecting the role they have in representing the community at functions and formal meetings. The Shire President will provide guidance where required.

Communication and Public Relations

All aspects of communication by staff (including verbal, written or personal), involving Local Government's activities should reflect the status and objectives of that Local Government. Communications should be accurate, polite and professional.

As a representative of the community, Members of the Council need to be not only responsive to community views, but also to adequately communicate the attitudes and decisions of the Council. In doing so Members should acknowledge that:

- as a Member of the Council there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council;
- information of a confidential nature ought not be communicated until it is no longer treated as confidential;
- information relating to decisions of the Council on approvals, permits and so on ought only be communicated in an official capacity by a designated officer of the Council;
- Information concerning adopted policies, procedures and decisions of the Council is to be conveyed accurately.

Staff are expected to address elected members as Councillor on formal occasions. In all other instances the use of formal titles is encouraged unless the individual Councillor advises otherwise.

RELATIONSHIPS BETWEEN MEMBERS AND STAFF

An effective Councillor will work as part of the Council team with the Chief Executive Officer and other members of staff. That teamwork will only occur if Members and staff have a mutual respect and co-operate with each other to achieve the Council's corporate goals and implement the Council's strategies. To achieve that position Members need to:

- accept that their role is a leadership, not a management or administrative one;
- acknowledge that they have no capacity to individually direct members of staff to carry out particular functions;
- refrain from publicly criticising staff in a way that casts aspersions on their professional competence and credibility

APPOINTMENTS TO COMMITTEES

As part of their representative role, Members are often asked to represent the Council on external organisations. It is important that Members:

- clearly understand the basis of their appointment; and
- provide regular reports on the activities of the organisation.

LEGAL REPRESENTATION AND COSTS INDEMNIFICATION

Members and staff can become involved in a legal action in the course of their performing their official duties and functions. In such circumstances there may arise a need for legal representation and Council has adopted a policy to provide assistance where the circumstances warrant it.

CARETAKER PROVISION

Council will have regard to the implications of any decisions considered immediately preceding an election. Consideration should be given to a special electors meeting to discuss significant items which require a decision during this time.

DEALING WITH COUNCIL PROPERTY

USE OF LOCAL GOVERNMENT RESOURCES

Members and staff will:

- a. be scrupulously honest in their use of the Local Government's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
- b. use the Local Government resources entrusted to them effectively and economically in the course of their duties; and
- c. Not use the Local Government's resources (including the services of Council staff) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the Chief Executive Officer).

TRAVELLING AND SUSTENANCE EXPENSES

Members and staff will only claim or accept travelling and sustenance expenses arising out of travel related matters which have a direct bearing on the services, policies or business of the Local Government in accordance with Local Government policy and the provision of the Local Government Act.

ACCESS TO INFORMATION

- a. Staff will ensure that members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities as members.
- b. Members will ensure that information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council.

10.5 LEASE OF COUNCIL PROPERTY – 162 BLACKWOOD ROAD, KOJONUP

AUTHOR: Anthony Middleton – Manager Corporate Services
DATE: Tuesday, 8 March 2016
FILE NO: CP.LEA.1
ATTACHMENT: 10.5 Map

DECLARATION OF INTEREST

Nil.

SUMMARY

The purpose of this report is to seek approval to lease for three (3) years the farming land at 162 Blackwood Road, Kojonup under Certificate of Title Volume 1144 Folio 173.

BACKGROUND

At its meeting held on 17 February 2015, the Council resolved:

“That Council accept the tender offer from the Kojonup Football Club to lease Lot 162 Blackwood Road, Kojonup at \$4,000 plus GST per annum for the period 1st April 2015 to 31st March 2016.”

Prior to the above decision, the Shire had previously leased the land to the Kojonup Football Club and Kojonup Cricket Club for farming purposes and more particularly for the purposes of a community cropping programme to provide funding for their ongoing operations, which was outside the provisions of Section 3.58 of the *Local Government Act 1995*.

COMMENT

After a review of all the leases, contracts and agreements, it was been determined that this land should be advertised for tender *under* Section 3.58 of the *Local Government Act 1995*. The purpose of this report is to determine the terms of such a tender request. It is recommended that a longer time period of not less than three (3) years be offered, to reduce administration costs and increase certainty for the successful tenderer.

The lease of land for farming purposes has the potential to raise significant funds for the community group(s) that may be awarded the lease.

Provision needs to be made in any lease agreement to allow for the possible sinking of a dam and use of balance Water Corporation land surrounding the sewage ponds as a trade off to the successful tenderer by the Water Corporation as a part of the Shire’s Integrated Water Management Plan.

CONSULTATION

Nil

STATUTORY REQUIREMENTS

Section 3.58 of the *Local Government Act 1995* states that Council can only dispose of property (which encompasses leases) by the highest bidder at public auction or by public tender where in the opinion of the local government is the most acceptable tender, whether or not it is the highest tender.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The current lease payment for this land parcel is \$4,000 per annum.

STRATEGIC/CORPORATE IMPLICATIONSCommunity Strategic Plan 2013-2023

Outcomes:

- G1 – Being Well Governed

Corporate Business Plan 2013-2017

Objectives:

- G1.1.4 – Maintain robust systems and controls

RISK MANAGEMENT IMPLICATIONS

Nil

ASSET MANAGEMENT IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

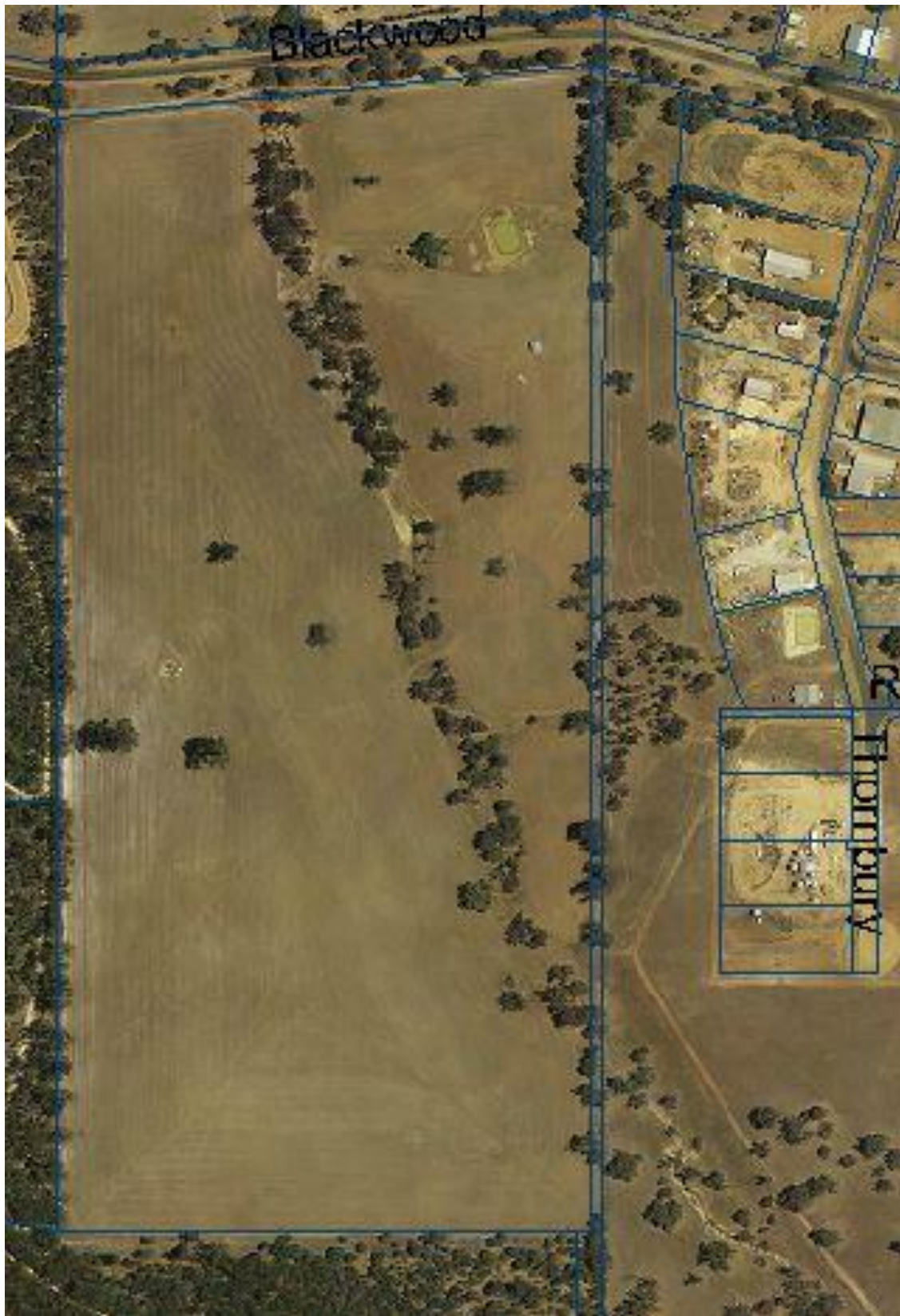
That Council offer for lease by public tender Lot 162 Blackwood Road, Kojonup for a three (3) year period.

COUNCIL DECISION

/16 Moved Cr , seconded Cr

CARRIED/LOST /

Attachment 10.5



10.6 LEASE OF COUNCIL PROPERTY – PART OF LOT 9999 THORNBURY CLOSE, KOJONUP

AUTHOR: Anthony Middleton – Manager Corporate Services
DATE: Tuesday, 8 March 2016
FILE NO: CP.LEA.1
ATTACHMENT: 10.6 Map

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to seek approval to lease for three (3) years the balance of the industrial estate land at Thornbury Close, Kojonup (part of Certificate of Title Volume 2670/ Folio 367) Lot 9999 being remainder of Lot 9 after subdivision excluding the area of land in fenced off area in the south east corner (refer to attached map)

BACKGROUND

At its meeting held on 21 April 2015, the Council resolved:

“That Council rescinds decision 7/15 from 17th February 2015 and accepts the tender from Mr Cavanagh for \$1,500 per annum for a one year lease on the following conditions:

- 1. That the lease will be for the period 1st April 2015 to 31st March 2016.*
- 2. That the lease may not be renewed after 31 March 2016.*
- 3. That Council will proceed to assess the future use of the land for possible industrial area development.*
- 4. That the current use of the land provides a reduction in risk as to potential fire hazards.”*

Prior to the above decision, the Shire had previously leased the subject land to Gary Cavanagh for farming purposes and more particularly for the purposes of grazing sheep which was outside the provisions of Section 3.58 of the *Local Government Act 1995*.

COMMENT

After a review of all the leases, contracts and agreements, it was been determined that this land should be advertised for tender under Section 3.58 of the *Local Government Act 1995*. The purpose of this report is to determine the terms of such a tender request. It is recommended that a longer time period of not less than three (3) years be offered, to reduce administration costs and increase certainty for the successful tenderer.

CONSULTATION

Nil

STATUTORY REQUIREMENTS

Section 3.58 of the *Local Government Act 1995* states that Council can only dispose of property (which encompasses leases) by the highest bidder at public auction or by public tender where in the opinion of the local government is the most acceptable tender, whether or not it is the highest tender.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The current lease payment for this land parcel is \$1,500 per annum.

STRATEGIC/CORPORATE IMPLICATIONSCommunity Strategic Plan 2013-2023

Outcomes:

- G1 – Being Well Governed

Corporate Business Plan 2013-2017

Objectives:

- G1.1.4 – Maintain robust systems and controls

RISK MANAGEMENT IMPLICATIONS

Nil

ASSET MANAGEMENT IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

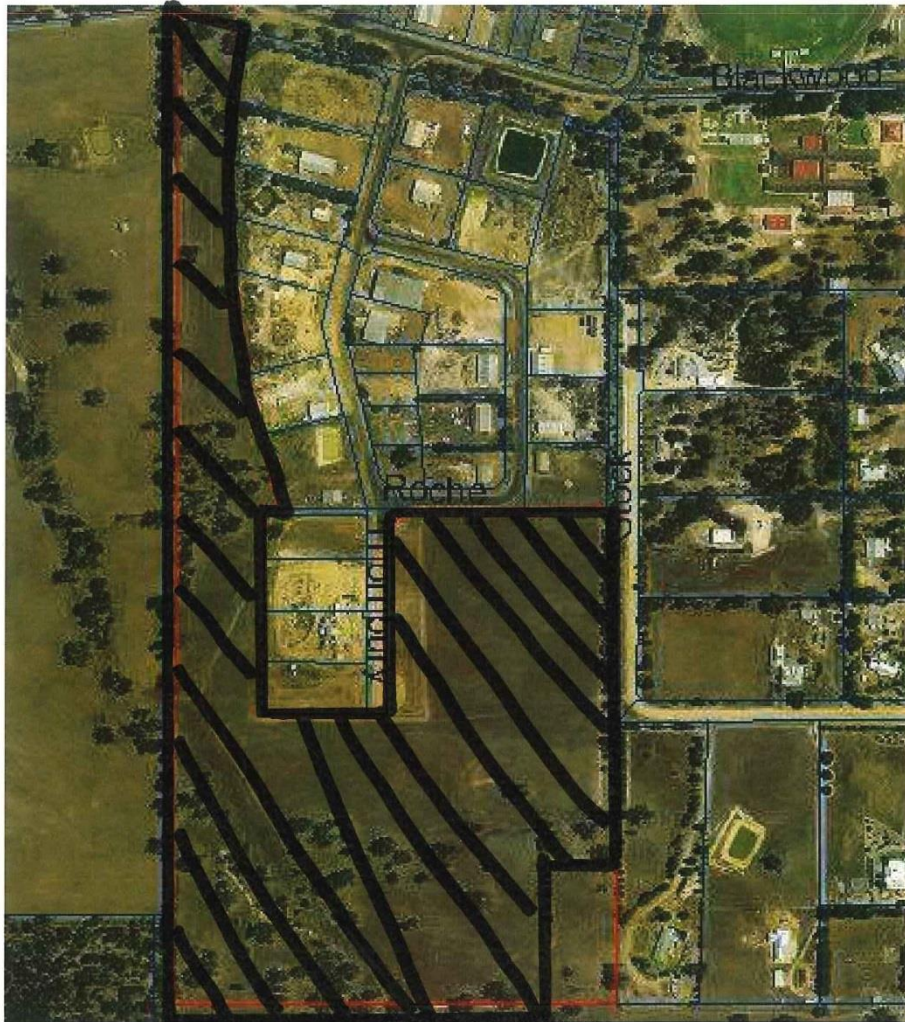
That Council offer for lease by public tender the land as marked on the attached map, Lot 9999 Kojonup (part of Certificate of Title Volume 2670 Folio 367 being remainder of Lot 9 after subdivision excluding the area of land in the fenced off area in the South East corner, for a three (3) year period.

COUNCIL DECISION

/16 Moved Cr , seconded Cr

CARRIED/LOST /

Attachment 10.6



10.7 LEASE OF COUNCIL PROPERTY – ONE (1) HECTARE PORTION OF PART LOT 9999 THORNBURY CLOSE, KOJONUP

AUTHOR: Anthony Middleton – Manager Corporate Services
DATE: Tuesday, 8 March 2016
FILE NO: CP.LEA.1
ATTACHMENT: 10.7 Map

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to seek approval to lease for three (3) years a portion of Lot 9999 Thornbury Close, Kojonup (part of Certificate of Title Volume 2670/ Folio 367) being a fenced off area approximately one (1) hectare in size on the South East corner of the lot (refer to attached map).

BACKGROUND

This subject land has had a long history with the adjoining neighbours to the east, including at one time a contract of sale being entered into between the Shire and previous owners.

A written request has been received from Colleen Matthews and Craig Mitchell (adjoining property owners to the east) to lease this portion of land, as it is directly in front of their house. Colleen Matthews and Craig Mitchell also state they have maintained the fence around this portion of land over the past eight years.

COMMENT

Considering the history of this lot with the adjoining neighbours, and the fact that it is fenced off from the remainder of lot 9999 (refer item 10.6 in this agenda), it is recommended that a lease be entered into directly with Colleen Matthews and Craig Mitchell for a five (5) year period. This lease would, of course, be subject to the disposal of property sections of the *Local Government Act 1995* (Section 3.58) and it is recommended that an annual lease fee be set by a licensed valuer (market value).

CONSULTATION

Nil

STATUTORY REQUIREMENTS

Section 3.58 of the *Local Government Act 1995* states:

- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;

and

- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

While it is anticipated that the lease fee will be minimal, the Shire has not previously received an annual payment for the lease of the land so therefore it will be additional revenue.

STRATEGIC/CORPORATE IMPLICATIONS

Community Strategic Plan 2013-2023

Outcomes:

- G1 – Being Well Governed

Corporate Business Plan 2013-2017

Objectives:

- G1.1.4 – Maintain robust systems and controls

RISK MANAGEMENT IMPLICATIONS

Nil

ASSET MANAGEMENT IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That, in accordance with Section 3.58 (3) of the *Local Government Act 1995*, the Council advertise its intention to lease the approximately one (1) hectare fenced off portion of the South East corner of Lot 9999 Kojonup (part of Certificate of Title Volume 2670 Folio 367) as per the attached map, to Colleen Matthews and Craig Mitchell, under the following conditions:

- A five (5) year period;
- Subject to the disposal of property provisions of the *Local Government Act 1995* (Section 3.58); and
- An annual lease fee be set by a licensed valuer (market value) and adjusted by CPI each year.

COUNCIL DECISION

/16 Moved Cr , seconded Cr

CARRIED/LOST /

Attachment 10.7



10.8 LEASE OF COUNCIL PROPERTY – LOT 64 HONNER STREET, KOJONUP

AUTHOR: Anthony Middleton – Manager Corporate Services
DATE: Tuesday, 8 March 2016
FILE NO: CP.LEA.1
ATTACHMENT: 10.8 Map

DECLARATION OF INTEREST

Nil.

SUMMARY

The purpose of this report is to seek approval to lease for three (3) years the industrial estate land at Dorothea Park, also known as Old Brickworks/Quin Quin Reserve, Lot 64 Honner Street, Kojonup under Certificate of Title Volume 1447 Folio 62.

BACKGROUND

At its meeting held on 17 February 2015, the Council resolved:

“That Council endorse with the existing user Brent Hope, the existing arrangement until the Council determines the future purpose of the area as part of the Shires drainage catchment plan.”

The Shire have previously leased the land at Dorothea Park, Kojonup to Brent Hope for farming purposes and more particularly for the purposes of grazing sheep which was outside the provisions of Section 3.58 of the *Local Government Act 1995*. After a review of all the leases, contracts and agreements, it was determined that in future this land should be advertised for tender under Section 3.58 of the *Local Government Act 1995*.

COMMENT

The subject land was advertised for public tender in January 2015, however, no tenders were received.

Section 3.58 of the *Local Government Act 1995* clearly states that Council can only dispose of property, including leasing, by either the highest bidder at public auction or by public tender where in the opinion of the local government is the most acceptable tender, whether or not it is the highest tender. (see full reference of s3.58 below)

As such, it is prudent to review the use of this land by private persons.

Provision needs to be made in any lease agreement to allow for the possible use of the land as part of the Shire’s Integrated Water Management Plan.

CONSULTATION

Nil

STATUTORY REQUIREMENTS

Section 3.58 of the *Local Government Act 1995* states:

- ‘(1) In this section —
dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

property includes the whole or any part of the interest of a local government in property, but does not include money.

- (2) Except as stated in this section, a local government can only dispose of property to —
 - (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;and
 - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
 - (a) the names of all other parties concerned; and
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition —
 - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
 - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.
- (5) This section does not apply to —
 - (a) a disposition of an interest in land under the *Land Administration Act 1997* section 189 or 190; or
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.’

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The Shire has not previously received an annual payment for the lease of the land.

STRATEGIC/CORPORATE IMPLICATIONSCommunity Strategic Plan 2013-2023

Outcomes:

- G1 – Being Well Governed

Corporate Business Plan 2013-2017

Objectives:

- G1.1.4 – Maintain robust systems and controls

RISK MANAGEMENT IMPLICATIONS

Nil

ASSET MANAGEMENT IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council offer for lease by public tender the land at Dorothea Park also known as Old Brickworks/Quin Quin Reserve, Lot 64 Honner Street, Kojonup for a three (3) year period.

COUNCIL DECISION

/16 Moved Cr , seconded Cr

CARRIED/LOST /

Attachment 10.8



10.9 ROAD NAME CLARIFICATION – BOYUP BROOK TO KOJONUP

AUTHOR: Anthony Middleton – Manager Corporate Services
DATE: Wednesday, 9 March 2016
FILE NO: RO.ROA.260
ATTACHMENT: 10.9.1 Map
10.9.2 Standards for Discontinuous Road through Town Site

DECLARATION OF INTEREST

Nil.

SUMMARY

The purpose of this report is to provide feedback to the State Government (Landgate) regarding some inconsistencies in the naming of the road between Boyup Brook and Kojonup.

BACKGROUND

In progressing the rural street addressing project, several road name anomalies have been identified. The Geographic Names section of Landgate have written to Council seeking clarification in the naming of the road between Boyup Brook and Kojonup (Boyup Brook - Kojonup Road), in particular as it passes through the Muradup and Kojonup town sites.

Landgate have advised and requested:

'To facilitate Rural Street Numbering the Landgate Addressing Team have asked Geographic Names to investigate the road names that runs between the town sites of Muradup and Kojonup.'

Addressing were previously advised by the Shire that the portion of road between the western end of the Muradup Townsite and Albany Highway in Kojonup is locally known as Blackwood Road. An examination of miscellaneous plans and approvals found the following:

- The approved road name applied to the road between the town sites of Boyup Brook (through Muradup) and Kojonup is Boyup Brook-Kojonup Road.*
- Within the Muradup Townsite Boundary the approved road name is Blackwood Road.*
- The western end of the Kojonup Townsite Boundary also has the approved road name of Blackwood Road (commencing at Denny Road)*

The Australian New Zealand Standard for Rural and Urban Addressing traditionally allows for a road name to be discontinuous through a town site. However this is not an ideal situation when there are two duplicated names in such close proximity, as there is the potential for confusion, not only for motorists but more importantly Emergency Services. The name Boyup Brook-Kojonup Road is a self-explanatory directional road name. This road name advises motorists, that the road runs between the towns of Boyup Brook and Kojonup.

It is therefore proposed that Blackwood Road in Muradup is renamed to Boyup Brook-Kojonup Road. This will create one continuous road name through to the Kojonup Townsite Boundary, where it (Boyup Brook-Kojonup Road) concludes at Denny Road and Blackwood Road commences.

Attached is a copy of SmartPlan showing the current portions of approved road names. A more detailed plan is being prepared and will be forward to the Shire in due course.'

COMMENT

The request detailed above from Landgate to rename “Blackwood Road” within the Muradup town site to “Boyup Brook – Kojonup Road” to avoid duplicating the road name “Blackwood Road” in both the Kojonup and Muradup town site appears to be sound. This will avoid confusion, particularly with emergency services and it is therefore recommended that it be supported.

It is also recommended that community consultation occur through the Kojonup News seeking comment before Landgate are advised of the Shire’s position.

CONSULTATION

Nil – however the recommendation suggests community consultation via the Kojonup News.

STATUTORY REQUIREMENTS

Nil

POLICY IMPLICATIONS

Council Policy 4.3 applies to this item and states: “To ensure that aspects of the District’s history are not inadvertently lost due to the changing of a name; and to provide community and public consultation. Requests to name and/or change either a road, street or place name in the District may not be approved until after Council has advertised the proposal in the local press and received written comments from the Kojonup Historical Society. Council does not favour changing a road name which would result in portions of the road having different names.”

FINANCIAL IMPLICATIONS

There are minimal financial implications for this report. There may need to be minor road signage changes but maps, etc. will be updated as they are replaced.

STRATEGIC/CORPORATE IMPLICATIONSCommunity Strategic Plan 2013 – 2023

Outcomes:

- G1 – Being Well Governed

Objectives:

- N2.3 – Liaise with public utility providers to ensure community safety

Corporate Business Plan 2013 – 2017

Objectives:

- G1.1.4 – Maintain robust systems and controls
- N2.4.1 – Maintain a community driven response to bushfire risk management

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications for this report.

ASSET MANAGEMENT PLAN IMPLICATIONS

There are no asset management implications for this report.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That “Blackwood Road” within the Muradup town site be renamed to “Boyup Brook – Kojonup Road”, subject to the following:

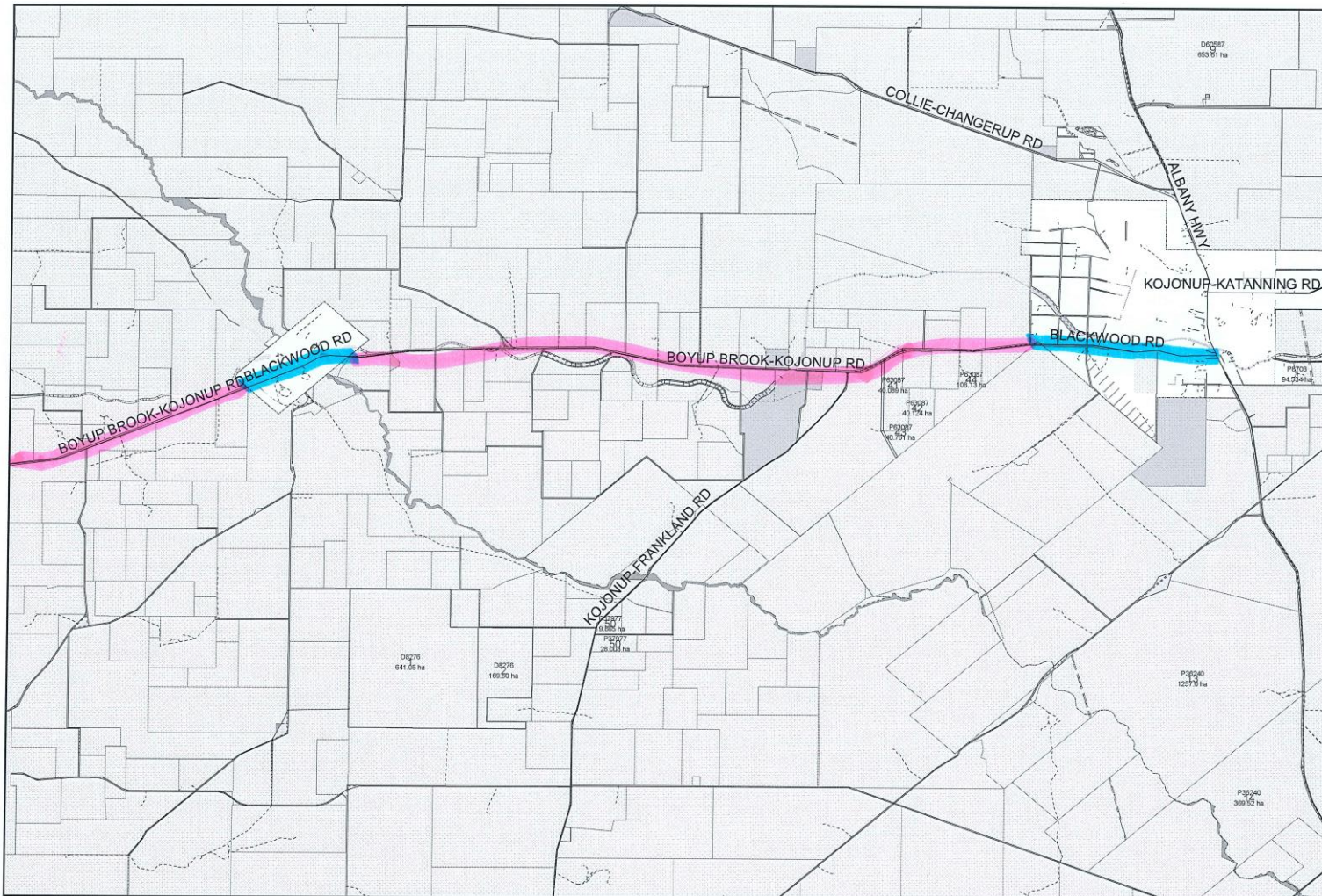
- 1. The proposed change being advertised within the Kojonup News, seeking community comments for a time not less than twenty one (21) days;**
- 2. The Kojonup St John Ambulance sub centre and local bush fire brigades be notified and their comments sought; and**
- 3. Subject to no adverse comments being received, Landgate be advised.**

COUNCIL DECISION

/16 Moved Cr , seconded Cr

CARRIED/LOST /

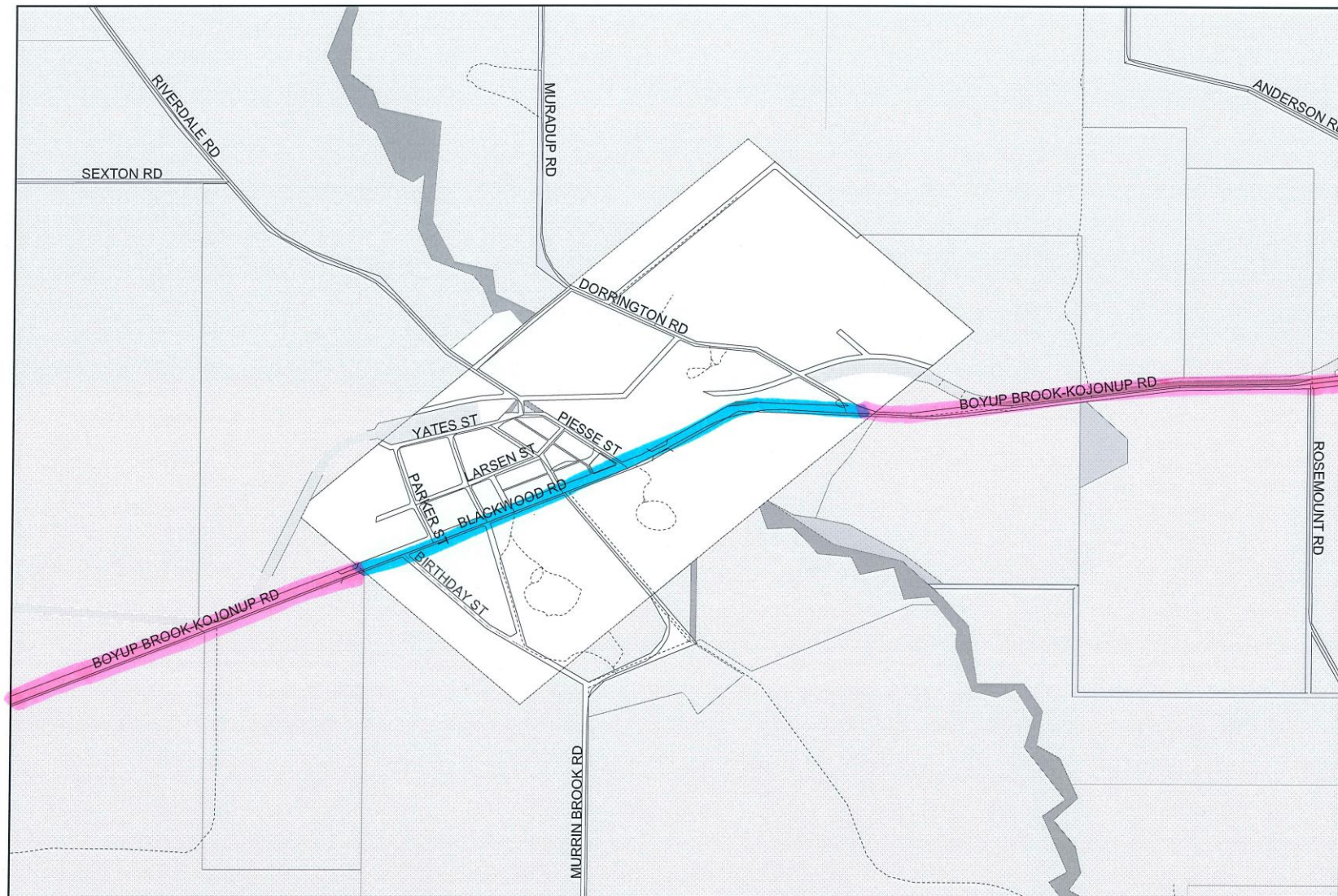
Attachment 10.9.1



Scale : 1:87564 (Geographical)
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Lat/Long : 116°55'39.613" , -33°56'39.696" / 117°11'02.428" , -33°46'20.545" H 182mm by W 271mm

Printed : 11:16 Fri 26/Feb/2016
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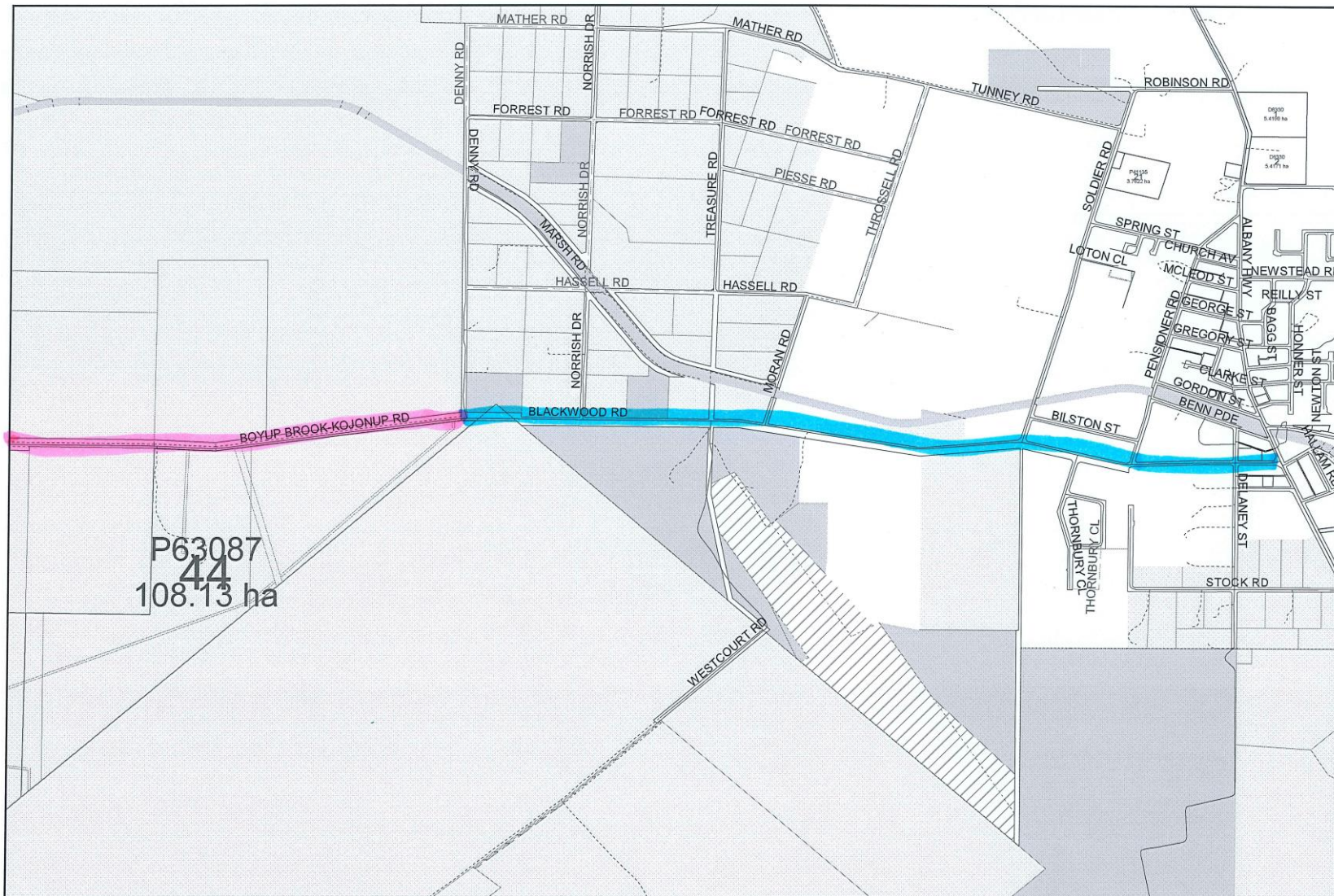
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Scale : 1:17496 (Geographical)
 MGA : SW=496313.8E,6253500.7N Zone 50 / NE=501051.8E,6257311.4N Zone 50
 Lat/Long : 116°57'36.539", -33°51'31.628" / 117°00'40.919", -33°49'27.921" H 182mm by W 271mm

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Scale : 1:19964 (Geographical)
 MGA : SW=509714.1E,6253540.9N Zone 50 / NE=515126.5E,6257880.9N Zone 50
 Lat/Long : 117°06'18.058", -33°51'30.187" / 117°09'48.432", -33°49'09.039" H 182mm by W 271mm

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Attachment 10.9.2

FIGURE 4.4 NON-CONTIGUOUS ROADS ASSIGNED SEPARATE NAMES

The above requirements do not apply where the separate sections are—

- (a) two sides of the same road separated by a median strip; or
- (b) part of a classified highway that is split by a section that is assigned a local name where it passes through a town or city (see example in Figure 4.5).

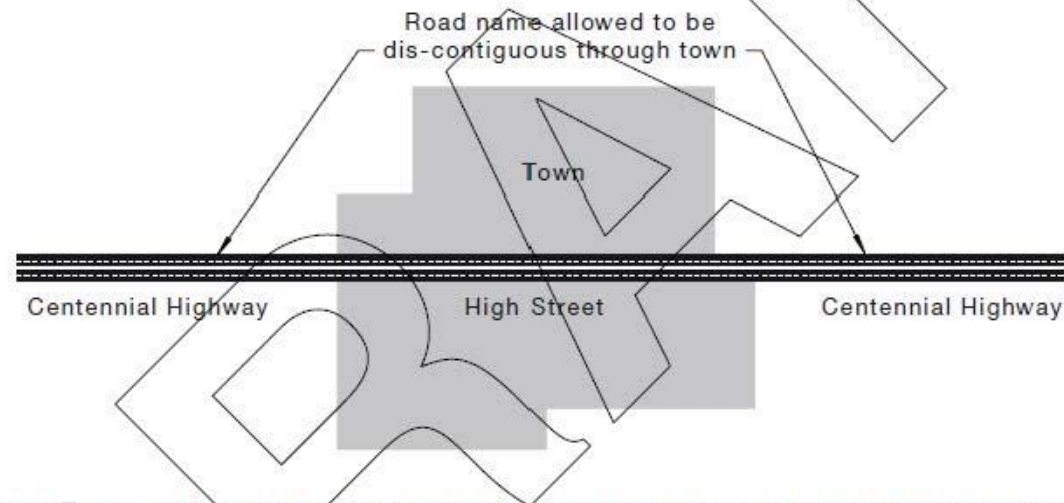


FIGURE 4.5 EXTENT OF ROAD NAME PERMITTED TO BE BROKEN THROUGH TOWN

4.2.5 Extents of named road

The extent of a road name shall be defined by the formed road, whether vehicular or pedestrian (see example in Figure 4.6).

10.10 ROAD NAME CLARIFICATION – KOJONUP-KATANNING ROAD & BROOMEHILL-KOJONUP ROAD WITHIN THE KOJONUP TOWN SITE

AUTHOR: Anthony Middleton – Manager Corporate Services
DATE: Wednesday, 9 March 2016
FILE NO: RO.ROA.270/RO.ROA.003
ATTACHMENT: Nil.

DECLARATION OF INTEREST

Nil.

SUMMARY

The purpose of this report is to provide feedback to the State Government (Landgate) regarding some inconsistencies in the naming of the Kojonup-Katanning Road and Broomehill-Kojonup Road within the Kojonup town site.

BACKGROUND

In progressing the rural street addressing project, several road name anomalies have been identified. The Geographic Names section of Landgate have written to the Shire seeking clarification in the naming of the Kojonup-Katanning Road and Broomehill-Kojonup Road within the Kojonup town site, as they are simply named “Katanning Road” and Broomehill Road” respectively.

Landgate have advised and requested:

“I’ve been asked by the Landgate Addressing Team to investigate the road name anomalies relating to Katanning Road/Kojonup-Katanning Road and Broomehill Road/Broomehill-Kojonup Road within the locality of Kojonup.

Searching through the files and miscellaneous plans it appears that the portions of these two roads that abut Albany Highway were originally approved as Katanning Road and Broomehill Road.

It’s important that road naming is consistent. Two different road names on a continuous road has the potential to create confusion, as it not only creates addressing confusion but potentially confusion for Emergency Services.

To facilitate addressing on both these roads, it’s proposed that the road names Kojonup-Katanning Road and Broomehill-Kojonup Road are carried through to meet Albany Highway, please see the attached miscellaneous plans.

I can commence formal approval (to rename these portions of road) once I receive confirmation from the Shire.”

COMMENT

It is recommended to support the request detailed above from Landgate to rename:

- “Katanning Road” within the Kojonup town site to “Kojonup-Katanning Road” to ensure consistency with the same road outside of the town site; and
- “Broomehill Road” within the Kojonup town site to “Broomehill-Kojonup Road” to ensure consistency with the same road outside of the town site.

It is considered that this will clarify any confusion that separate names may cause and may assist emergency services. It is also recommended that community consultation occur through the Kojonup News seeking comment before Landgate are advised of the Shire's position.

CONSULTATION

Nil – however the recommendation suggests community consultation via the Kojonup News.

STATUTORY REQUIREMENTS

Nil

POLICY IMPLICATIONS

Council Policy 4.3 applies to this item and states: "To ensure that aspects of the District's history are not inadvertently lost due to the changing of a name; and to provide community and public consultation. Requests to name and/or change either a road, street or place name in the District may not be approved until after Council has advertised the proposal in the local press and received written comments from the Kojonup Historical Society. Council does not favour changing a road name which would result in portions of the road having different names."

FINANCIAL IMPLICATIONS

There are minimal financial implications for this report. There may need to be minor road signage changes but maps, etc. will be updated as they are replaced.

STRATEGIC/CORPORATE IMPLICATIONS

Community Strategic Plan 2013 – 2023

Outcomes:

- G1 – Being Well Governed

Objectives:

- N2.3 – Liaise with public utility providers to ensure community safety

Corporate Business Plan 2013 – 2017

Objectives:

- G1.1.4 – Maintain robust systems and controls
- N2.4.1 – Maintain a community driven response to bushfire risk management

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications for this report.

ASSET MANAGEMENT PLAN IMPLICATIONS

There are no asset management implications for this report.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That “Katanning Road” within the Kojonup town site be renamed “Kojonup-Katanning Road” and “Broomehill Road” within the Kojonup town site be renamed “Broomehill-Kojonup Road” to ensure consistency with the same roads outside of the town site, subject to the following:

- 1. The proposed change being advertised within the Kojonup News, seeking community comments for a time not less than twenty one (21) days;**
- 2. The Kojonup St John Ambulance sub centre and local bush fire brigades be notified and their comments sought; and**
- 3. Subject to no adverse comments being received, Landgate be advised.**

COUNCIL DECISION

/16 Moved Cr , seconded Cr

CARRIED/LOST /

11 WORKS & SERVICES REPORTS

Nil

12 REGULATORY SERVICES REPORTS

12.1 RETROSPECTIVE DEVELOPMENT APPROVAL FOR NEW DWELLIGN AT LOT 1 (NO. 23) HONNER STREET, KOJONUP

AUTHOR: Phil Shephard – Town Planner
DATE: Saturday, 5 March 2016
FILE NO: A5512
ATTACHMENT: 12.1 Application

DECLARATION OF INTEREST

Nil.

SUMMARY

To consider a proposal for:

- Retrospective development approval of a new dwelling; and
- Development approval for conversion of the existing house into an ancillary accommodation unit on the above property.

There is no delegation available to staff to determine the application and it must be presented to Council for consideration. The recommendation is to grant development approval subject to conditions.

BACKGROUND

Staff were made aware that an outbuilding (subsequently converted into a dwelling) had been constructed on the land without the necessary planning and building approvals in place. The landowners were advised by staff in December 2015 that planning and building approval was required and requested they lodge the necessary applications or face possible prosecution.

The Shire subsequently received this Application for Development Approval.

COMMENT

Proposal

The unauthorised building requiring retrospective approval was originally constructed as an 12m x 15m (180m²) outbuilding using steel frames with blue coloured metal sheeting for the walls and white coloured metal sheeting for the roof, fascia's, gutters etc. and a concrete floor. This outbuilding was then converted into a new dwelling and is now used as the main residence by the landowners.

The dwelling has been constructed on a raised pad with a retaining wall around the outside with concreted apron and timber balustrade.

The applicants are also seeking approval to convert the existing old house (now vacated) on the property into an ancillary dwelling. This is not retrospective.

The new dwelling is setback:

- 150m from the front boundary to Honner Street;
- 225m from the rear boundary to rural land;
- 220m to the side (northern) boundary; and
- 60m to the side (southern) boundary.

These setbacks are substantially larger than those required in the Residential zone with a density code of R10/20 which requires setbacks between 1m – 7.5m.

Lot 1 is approximately 9.25 hectares in area and has frontage and driveway access to Honner Street which is sealed, partly kerbed and drained and an unmade portion of Newton Street. Both these roads are local roads under the care and control of the Shire of Kojonup. The application shows a new access off Newton Street.

The land and proposals are shown in the image below:



Image of Lot 1 Honner Street, Kojonup bordered in red (image Google earth)

Zoning and Land Use/Development

The land is mainly contained within the Residential Development zone with a nominated density code of R10/20 under TPS3.

Clause 3.2.2 ‘Residential Development Zone’ of TPS3 requires the use of land in the Residential Development zone shall be consistent with the following objectives:

- (a) *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.*
- (b) *To allow a variety of uses in the zone without the need to rezone the area where minor modifications are required to the Guided Development Plan prior to the final subdivision.*

There is no Guided Development Plan prepared for the area. The property was the subject of a conditional subdivision approval granted by the WA Planning Commission (File 138218) for subdivision into some 30 lots that was supported by Council in August 2008.

Council has in the past approved the development of single houses within the Residential Development zone without requiring the completion of the Guided Development Plan

where the proposal, in the opinion of the Council, would not adversely impact on the long-term planning prospects for the area.

The dwelling and proposed ancillary accommodation unit are consistent with the land use Residential - Single House definition in TPS3. This land use is a 'P' permitted land use within the Residential Development zone. The proposal is not exempt from requiring development approval because it includes works (construction of the building) and has been commenced/completed without the necessary approvals being granted.

Municipal Heritage Inventory

The property is contained on the Shire's Municipal Heritage Inventory (Place No. 40 'Quin Quin or Baggs Place'). This listing includes the old stone house, cottage, stables and well. The well is also recognised as having some Aboriginal heritage significance.

The review of the Municipal Heritage Inventory presently underway will retain the place within the proposed new inventory. It advises the place has a moderate level of significance and these places are described as important to the heritage of the locality and mostly demonstrates a moderate degree of integrity and authenticity.

The statement of significance contains the following information:

"This place is significant because of its connection with the Bagg family, in particular Elizabeth Bagg (nee Robinson) who was the first known white baby born in Kojonup. Elizabeth became well known in the district as a midwife and affectionately called Granny Bagg."

The description of the place includes the following information:

"The buildings are set in a park-like garden which is very pretty in the spring. There are three buildings on the property - a house, a cottage, and a stone stable. The house and cottage together made up the original residence. The original cottage later became the kitchen/living area. This building is made of corrugated iron with a brick extension on one side. It has a hipped corrugated iron roof, with a verandah under a broken backed roof across the front. This building is now used as a games and play room by the current tenants of the property. The house is located about 3m from the cottage. The Western wall is made of stone and the others are made of brick, corrugated iron and fibro. There is a fire place on the North West corner and a room divider separates the kitchen. The old brick flooring has been covered with timber. This building was originally the parlour and bedroom component of the residence. Now, with a kitchen, it is the main house. The stables are away from the houses, and are made of stone, with corrugated iron and brick sections. There is also a well in the property which has been fenced for safety."

The place is noted as having a fair condition and the integrity/authenticity of the place is described as:

Most of the original fabric remains intact. There have been various modifications.

The existing and proposed listing recognises the importance of the place to the development of Kojonup. The inventory identifies that the house proposed to be upgraded to ancillary accommodation forms part of the heritage of the place.

There are no design plans provided for the proposed upgrading of the house and whilst this is supported, the upgrading should respect the nominated heritage values of the place and perhaps be subject to advice from a heritage consultant, through preparation of a heritage impact statement, to ensure the alterations reinforce the significance of the place and retain the original built fabric of the house.

The applicant advises in his letter “I will do any works that may be needed to meet your approval. I have tried to maintain the integrity of the site and retain as much of the old buildings as possible.” which seems to support this approach.

Access from unmade Newton Street

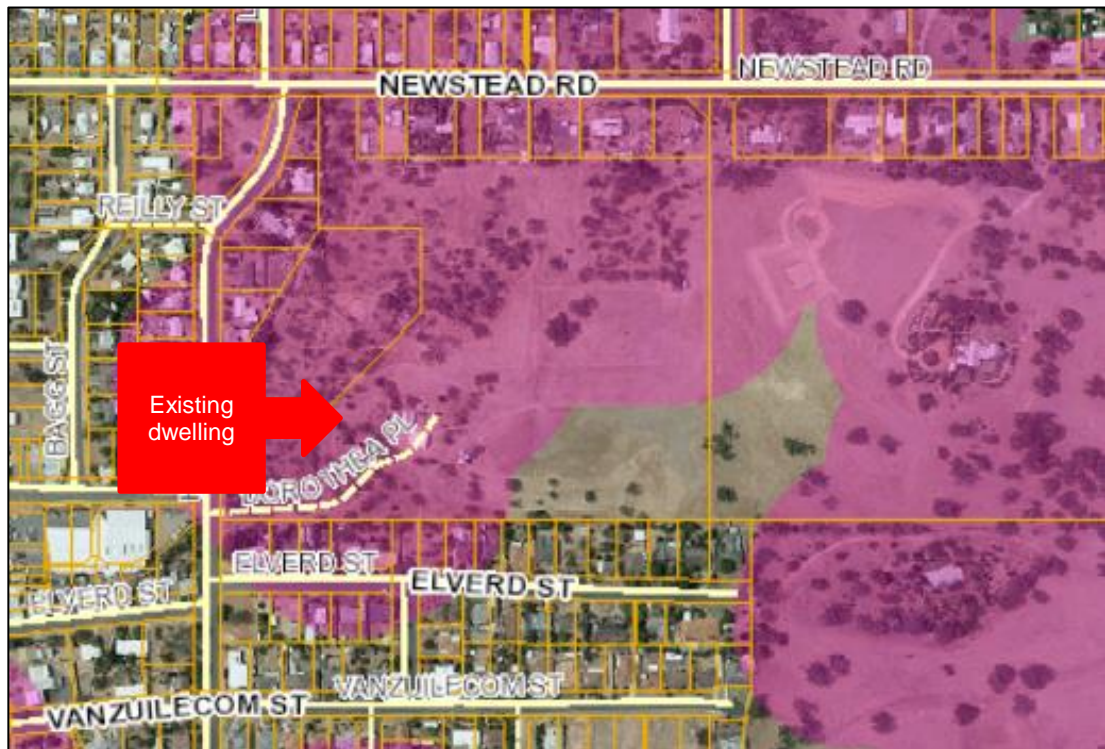
The property has historically had driveway access to Honner Street and the proposal shows access also from unmade Newton Street as seen in the image below.



Whilst the landowner may make use of Newton Street for his residence, it is unmade and its use should have been approved by the Shire. The use of this portion of Newton Street is only available to a maximum of 3 properties and does not give rise to any need for the road to be upgraded.

Bushfire Planning

The dwelling site is within the DFES bushfire prone area mapping for the property (see below).



DFES Bush Fire Prone Mapping (pink shading) showing the existing dwelling

The dwelling and alterations to the ancillary accommodation unit are both habitable buildings (Class 1A) and required to comply with SPP 3.7 Planning in Bushfire Prone Areas and AS3959 Construction of buildings in bushfire-prone areas. The construction shall incorporate the requirements applied in the Building Permit from AS3959 for any applications made after 8 April 2016.

Retrospective development approvals

The Council can grant retrospective development approval to uses or developments (s.164 of the *Planning and Development Act 2005* and Clause 65 of the *Planning and Development (Local Planning Schemes) Regulations 2015*).

The applicant has advised the reason for not obtaining the necessary approvals was “Due to misinformation and slackness on my behalf.” and seeks to rectify this. The applicant has indicated to staff that the shed was constructed around December 2014 and only recently converted into a dwelling.

The applicant has breached a number of major requirements including:

- Not obtaining planning approval for the shed or its conversion to a dwelling;
- Not obtaining a building permit for the shed or its conversion to a dwelling; and
- Connecting the dwelling to a water supply and on-site effluent disposal system without the necessary Environmental Health approvals.

Whilst the applicant sought approval from Council upon being advised this was required by staff, these are considered serious breaches of the relevant legislation by staff. In the circumstances, the onus is on the landowner and the builder, to ensure that the necessary approvals are in place and it is hard to understand that these competent parties at no stage checked that these were in place.

In considering the penalties that may apply to the landowner, given that the works were

completed without building approval, and as an outbuilding originally, the applicant will now be required to engage a building certifier to prepare plans and obtain a Building Approval Certificate and upgrade the construction standards now to meet the new classification at their cost.

The fee for this retrospective planning application is now 3x the normal fee being \$1,440 (rather than \$480) as set out in the adopted 2015/2016 Schedule of Fees and Charges requires the application fees to be the original fee (\$480) plus, by way of penalty, twice that fee again (\$960) for a total fee of \$1,440.

The options available to Council to penalise the landowner if considered necessary due to the breaches of the scheme requirements would include a fine penalty being issued for the breach of the scheme, prosecution for the non-compliance and fine penalty for the period of non-compliance or require the unauthorised development be removed and the site restored.

Ultimately the applicant did respond to staff's request and has now sought development and building approval and no further action regarding the breach of TPS3 is considered necessary or recommended. The Council should advise the landowner of the serious nature of the breaches committed and remind them of their obligations to comply with relevant legislation and that any further breaches will result in the Council considering possible prosecution.

Determination of Applications

The *Planning and Development (Local Planning Schemes) Regulations 2015* (Clause 67) requires the Council in considering an application for development approval have regard to those matters relevant to the application from the list. Those relevant matters are discussed in the table below:

Matter to be Considered	Response
(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;	The proposed dwelling and ancillary accommodation unit is considered consistent with the aims and provisions of TPS3 for the development of residential development land within Kojonup.
(b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving;	The proposed developments are considered consistent with the orderly and proper planning of the area. Although there is no adopted Guided Development Plan for the area, the proposed developments are not expected to adversely affect the long-term planning aspirations for the area.
(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and	The proposed developments are considered consistent with other similar areas in Kojonup and compatible with existing developments on land surrounding the lot. The height, bulk and scale of the dwelling, which is a converted shed, is consistent with other

appearance of the development;	similar sheds or outbuildings in Kojonup.
(n) the amenity of the locality including the following- (i) environmental impacts of the development; (ii) the character of the locality; (iii) social impacts of the development;	The proposal is not expected to have a negative impact on the amenity of the locality. The building, which is a converted shed has a plain appearance, although there is some remnant vegetation on the lot that assist screen its appearance from surrounding lots.
(p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;	The existing remnant vegetation between the dwelling and surrounding houses to the south should be retained on the site.
(q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;	The site of the dwelling is not known to be affected by any natural hazard including flood, subsidence, erosion etc. The property is within the DFES bushfire prone mapping area.
(s) the adequacy of - (i) the proposed means of access to and egress from the site; and (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;	The application shows a new access off unmade Newton Street.
(w) the history of the site where the development is to be located;	The site has a long history of being used as a small rural living style property.
<i>c.78E.(1) of the Planning and Development (Local Planning Schemes) Amendment Regulations 2015</i> In considering an application for development approval for development to which this Part applies, the local government is to have regard to the bushfire resistant construction requirements of the Building Code.	See (q) above.

Conclusion

On balance, whilst the proposal is for retrospective approval, it is considered consistent overall with those matters set out in Clause 67 and the general requirements of TPS3 and can be approved subject to conditions and advice.

Alternate Options

The Council has a number of options available to it, which are discussed below:

1 Not approve the proposal

The Council can choose to refuse to approve the proposal, giving reasons for the refusal. If this option was chosen, the dwelling would have to be removed from the site.

- 2 *Approve the proposal*
The Council can approve the proposal, with or without conditions.
- 3 *Defer the proposal*
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

Nil undertaken or recommended.

STATUTORY REQUIREMENTS

Planning and Development Act 2005 – Town Planning Scheme No. 3 is an operative local planning scheme under the Act.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The adopted 2015/2016 Schedule of Fees and Charges requires application fees for retrospective approvals to be the original fee (\$480) plus, by way of penalty, twice that fee again (\$960) for a total fee of \$1,440 plus an application fee of \$147 for the ancillary accommodation component = \$1,587.

STRATEGIC/CORPORATE IMPLICATIONS

Community Strategic Plan 2013 – 2023

Outcomes:

- G1 – Being Well Governed

Corporate Business Plan 2013 – 2017

Objectives:

- G1.2 – Maintain a structured forward planning process in accordance with legislation and community aspirations.

RISK MANAGEMENT IMPLICATIONS

The item covers several risk areas to Council including strategy and planning and services and functions. The organisational risk and proposed treatment or mitigation is summarised in the following table:

Risk Description	Risk Likelihood	Risk Consequence	Risk Classification	Risk Treatment
Council does not grant retrospective approval for the dwelling	Unlikely	Minor	Low	Manage by routine procedures, unlikely to need specific application of resources.

ASSET MANAGEMENT IMPLICATIONS

Nil applicable.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION**That Council:**

- 1) Grant retrospective development approval for the new dwelling on Lot 1 (No. 23) Honner Street, Kojonup subject to the following conditions:**
 - (a) The development to be in accordance with the attached stamped approved plans and where marked in red.**
 - (b) Obtain a Building Approval Certificate for the dwelling.**
 - (c) Connect the dwelling to a potable water supply and effluent disposal system to the satisfaction of the Shire's Environmental Health Officer.**
 - (d) Application fee retrospective of approval to be \$1,587.00 with interest to accrue in accordance with the *Local Government Act 1995* if not paid within fourteen (14) days of official notification.**
- 2) Grant development approval for the conversion of the old house into an ancillary accommodation unit on Lot 1 (No. 23) Honner Street, Kojonup subject to the following conditions:**
 - (a) The development to be in accordance with a Heritage Impact Statement prepared at the applicant's cost by a qualified heritage consultant to outline and assess the proposed alterations are in keeping with the heritage values contained within the Shire's adopted Municipal Heritage Inventory (Place No. 40).**
 - (b) Obtain a Building Permit for the alterations.**
 - (c) Upgrade the effluent disposal system to the satisfaction of the Shire's Environmental Health Officer.**
 - (d) Access to the property via the unmade portion of Newton Street to be approved subject to the applicant undertaking upgrade works as required to the satisfaction to the Shire's Manager Works & Services.**

Advice Notes:

- i) The property is shown to be within the Department of Fire and Emergency Services bush fire prone areas mapping and additional building requirements may apply to the construction under Australian Standard AS3959 Construction of buildings in bushfire-prone areas.*
- ii) The Council considers that your construction of the shed and its subsequent conversion into a new dwelling has resulted in a number of serious breaches being committed. You are reminded that it is your responsibility to ensure that all necessary approvals are in place before commencing any works including building on the land. Any further breaches will result in the Council considering possible prosecution.*

/16 Moved Cr , seconded Cr

CARRIED/LOST /

13 EXECUTIVE & GOVERNANCE REPORTS

13.1 SPORTS PRECINCT MASTER PLAN – NETBALL COURTS

AUTHOR: Rick Mitchell-Collins – Chief Executive Officer

DATE: Saturday, 5 February 2016

FILE NO: FM.TND.2

ATTACHMENTS: 13.1 ABV Sports Precinct Master Plan (July 2015) – Page 2

DECLARATION OF INTEREST

Nil

SUMMARY

To update Council on resurfacing options for the Netball Courts as applications seeking financial assistance from the Community Sport Recreations Facilities Fund (CSRFF) close 31 March 2016.

BACKGROUND

A number of workshop sessions have occurred over the past 6 months with representatives from user groups of the Kojonup Sports Precinct and Kojonup District High School following receipt of the Final Report for the Kojonup Sports Precinct Master Plan undertaken by ABV Leisure Consultancy Services and received by Council in July 2015 (Council Decision 115/15). I thank representatives for their commitment to the workshops and strategic thinking.

The workshops focussed on concept plans included in the Master Plan by ABV regarding:

- Potential sport & recreation developments that integrate and complement existing structures.
- Improved vehicular and pedestrian access.
- Improved car parking and storage provisions.
- Identified potential energy/water saving options.
- Potential for other sport & recreation/educational opportunities/programs not presently available in Kojonup such as basketball, mini soccer, outdoor or undercover gym.
- Affordability short, medium & long term (Capital as well as Life Cycle costs) recognising that ABV's report estimated total infrastructure costs of \$6M+ should a new multi-purpose indoor court, multi-use synthetic court and upgrades to the existing complex be progressed.
- Potential for increased patronage from existing users, attracting new users, human resourcing, volunteer levels, special interest groups and maximising use for the entire year including operational costs attached to hours of operation.

Considerable discussion and on ground assessments were undertaken to clearly identify:

1. If suggested site options could actually accommodate 4 netball courts as well as basketball, mini soccer, tennis etc. (present and future)
2. A resolution to the Netball Clubs concern to replace the 2 condemned courts
3. Linkages to other facilities and structures including District School
4. Potential bottle necks and accessibility issues
5. Surface types and longevity
6. Outdoor v Indoor facilities

COMMENT

There was general recognition at the workshops that the Katanning Sports Centre would continue to cater for Upper Great Southern Regional events such as netball and basketball given the State Governments emphasis on “Super Towns” as Katanning is recognised by the State as the regional hub of the upper Great Southern given its population base and proximity to neighbouring shires Broomehill-Tambellup, Cranbrook, Kojonup, Woodanilling and Gnowangerup.

There was also an acknowledgement by the Netball Club that the construction of an indoor Gymnasium did not provide enough courts for all training purposes if held in one session; however this could be offset by spreading training rosters over two days. Rostering being more a people management issue not an infrastructure issue!

New buildings and infrastructure does not address how clubs function, cooperate, market and promote their respective events and activities. Committees, players, members and supporters generally determine the success of a club on and off the field as the personalities within each club influence or determine the culture and organisational behaviours whereas a pipe or brickwork is manufactured to perform a specific task. In short – people are the biggest influence to club longevity!

There was also general recognition that the Kojonup District High School may be the predominant user of an indoor court given the length of a school year, activities that could be undertaken and that facility fees and charges would need to be substantially increased to assist offset capital and operational expenditure regardless of volunteer levels given fixed costs associated in operating and maintaining a sports precinct. Users questioned how existing Fees and Charges were calculated and were they a true reflection of cost recovery less trade-off opportunities mutually agreed with the Shire or more a reflection of the past decisions with an annual CPI increase?

There was recognition of Council’s desire to rectify past non-compliance issues at the Sports Complex which required staged works to improve vehicle and pedestrian access and parking as well as building fit-out.

Council’s site inspection demonstrated community reference of the Change Rooms as a “Rabbit Warren” however the cost to change the present layout is well beyond Council’s financial capacity and therefore has to be tolerated.

3 specific locations were identified and referenced in the Master Plan namely:

- **Site 6 – Area between Sport Complex and Hockey Club House**

Identified by ABV as a suitable site to construct a new multi-purpose indoor court and gym including storage and child minding room with small fenced playground. Site 6 provides the closest access to existing infrastructure and facilities.

The estimated cost of \$2.1M without car park/playground provision and new vehicle/pedestrian access would increase this overall cost towards \$3M which is beyond the financial capacity of the community unless jointly funded by the National Stronger Regions Fund (NSRF) and Community Sporting and Recreation Resource Fund (CSRFF) however Council/Community would need to find \$1M as our contribution. The Netball Club considered that the provision of one indoor court does not address their need for 4 courts although it would provide a total of 3 courts if the

present 2 netball courts are maintained. Cost to re surface one of the two condemned courts depending on surface type range from \$35,000 to \$80,000.

- **Site 19 – Area previously used by the Bowling Club**

Identified by ABV for use as a passive recreation area. The group investigated potential to develop 2 new courts on this area utilising outdoor surfaces such as plexipave, interlocking tiles, synthetic applications, etc. and also considered building an indoor multi-purpose indoor court and gym as an extension to the Bowls Club (Site 21). Officer consideration also given to hot mixing the old green for use by netball but also overflow parking for the Bowls Club.

The existence of a sewer main running from the Bowls Club across to the Sports Complex inhibited the available construction area for an indoor facility. Additional expense would be incurred to realign the sewer main as well as excavate the southern boundary between the Bowling Club and existing netball courts for improved pedestrian access between the Netball Club House and Site 19.

Underground piping for sewer, stormwater and water mains creates an existing “pinch point” east of the squash courts and realigning the sewer and stormwater pipes from the Bowls Club would “split” the existing load but at a cost the group believed is beyond Council’s financial capacity.

At some point in the near future Asset renewal at the Bowls Club will be required in accordance with ABV’s report to enhance the kitchen facilities as the venue is community orientated however as the Club is a licensed facility it does have the capacity to generate income towards these renewals and be a direct beneficiary.

Improving links between the Bowls Club and Sports Complex is highly regarded to prevent unnecessary duplication. What has been demonstrated is that the Sports Complex predominately caters for Football, Hockey, Netball and Squash during winter and Cricket/Swimming during summer with clubs, volunteers and committees encouraged to work collaboratively with Council and a new Management Committee to review rental agreements and operational aspects including essential capital works. The Bowls Club effectively operates all year and is willing to consider options that maximise future sharing and patronage of its facilities.

The Master Plan does not specifically focus on one clubs particular needs but attempts to maximise wherever possible multi-purpose use. Site 19 can accommodate 2 netball courts however it would then be fragmented from the existing courts and club house if the 2 condemned courts remain condemned.

The community consultation undertaken by ABV strongly suggests a preference for an indoor facility rather than a covered facility however the economic reality of outlaying in excess of \$2.1M is beyond the financial capacity of Council given the other major projects being considered by Council such as the Main Street redevelopment, the Kodja Place Precinct Master Plan, Apex Park/RSL Hall/Men’s Shed/CWA Building Precinct planning, Harrison Place Public Toilet replacement and improved parking at the Town Hall and Council Chambers, just to name a few! The reality of a small population base and need to manage the assets we presently have necessitate Council to be very mindful of whole of life costs not short term benefits that do not serve more than one user!

Site 19 for a relatively small outlay could be used as a Car Park with pathways linking to the Bowls Club, Netball Courts and Sports Complex alleviating the necessity for parking at Site 17 especially if Site 18 becomes the new access to the Oval!

Storm water drainage improvements are necessary throughout the Sports Complex and this work will need to be undertaken prior to new access and car parks are undertaken.

Consulting Engineer – Paul Robertson is assessing underground infrastructure requirements allowing a report to be considered by Council.

- **Site 22 – Area currently used by Netball Club**

Effectively this area is equivalent to sites 19 and 21 combined or sites 6, 7, 8, 9, 10, 12 and 14 combined. Realistically the Swimming Pool, Sports Complex and Bowls Club and greens are not going to be removed given effective life and enormous capital outlay.

The 2 functioning courts will require resurfacing over the next 5 years and relocating the existing netball light towers would be a costly exercise but it could improve lighting at the Hockey Ground, Bowls Club or Oval as new lighting would be incorporated in the roof over the netball courts. User groups felt that Site 22 is the best location for the retention of 4 netball courts using an outdoor polymer surface. Ideally in the Long Term - 20 Years all four courts could be roofed but in the short-medium term <10 Years, 2 courts be roofed but provision be made in the foundation preparations of Courts 3 & 4 to accommodate any roof expansion. This planned approach would provide some all-weather protection as well as allow other users such as the school to utilise the area with courts appropriately lined marked for other uses such as basketball.

Provision should also be made to ultimately put panels on the western and northern sides including a section for increased storage. The under covered roofed area could also cater for Community Markets or even as a future area for crafts and stalls associated with the Kojonup Show or School fair? The public Toilet adjacent to Site 23 suitably caters for area 22 and the Eastern half of the Oval. The existing Netball Club building could be relocated to form part of the side panel to the under covered area.

ABV provide the following costing considerations:

Item	2 courts (38 x 43m + 35 x 10 patio)	3 Courts (38 x 63m + 35 x 10 patio)	4 Courts (38 x 83m + 35 x 10 patio)
Roof Cover*	396,000	498,000	618,000
Concrete**	130,000	181,000	233,000
Polyurethane sports surface	219,151	305,981	385,211
Lighting	24,688	37,032	49,376
Equipment	23,400	34,900	46,200
Total Ex GST	\$793,239	\$1,056,913	\$1,331,787

**Roof Cover - Required for the installation of a polyurethane surface. Without it, installation costs are approximately 50% higher due to sensitivity to weather during curing.*

***Concrete – Required as a base for the polyurethane surface. Technically it can go on bitumen, but must be in very good condition. Better performance and lifespan when laid on concrete.*

A plexi-pave surface paved on top of the concrete slab will cost approximately \$12,000 per court, as advised by John Cramer from Sports Surfaces. A concrete slab base will significantly improve the performance and lifespan of any court surface. The plexi-pave option will alleviate the necessity for a roof cover if this project is to be staged.

The reinforced concrete slab price has been included at \$69m² ex GST, based on advice by Auspan.

To repair or replace the bitumen would require a geotech survey (approximately \$5,000) first to ensure a successful outcome. A cost estimate/quote could then be established from there.

Additional costs that would need to be assessed by the Shire would include drainage, new perimeter fencing, and grading of the site to achieve the correct falls.

New fencing is required because the existing courts are significantly undersized in terms of their runoff allowances, and so all existing fencing would have to be moved.

Lighting costs are based on roof mounting. If a roof cover is not put on – the existing light poles would have to be moved, and new light poles added for courts 3 and 4 if required.

Note that the roof quote includes a 250kl water tank. Perhaps that could be used to pump back into the Shire's dams after a rain event if the water is not needed during winter?

Please note any exclusion on the prices provided by the contractors. It would certainly be worthwhile considering a contingency allowance and enlisting some expert help in the detailed design and specifications of the courts if/when the Shire reaches that point. There are numerous intricacies involved in building courts that do not crack and puddle or delaminate.

- **Other Considerations**

Site 6 would be closed to vehicular traffic allowing improved Car Parking for up to 100 cars and alleviating the need for angle parking on Benn Parade. This would necessitate \$100,000 to allow hot mixing and kerbing of the total area.

Site 5 is ideal for a Nature Play area with pathways linking Site 1 with Sites 7 & 9.

The outdoor exercise equipment area (Site 3) could be adjacent to the Nature Play area of Site 5.

Site 10 would be developed into a Cul-de-sac including additional car parking for the Sports Complex. A similar Cul-de-sac above the southern end of the Hockey Ground (near the opposition football shelter) provides viewing of the Hockey Ground including any activities on the Oval however such works would also involve new/improved drainage infrastructure and kerbing at an approximate cost of \$65,000. Therefore without allocating any funds towards the Netball Court, Council is required to allocate

approximately \$165,000 for new and upgraded access (Vehicle/pedestrian), drainage, footpaths and kerbing before any improvements are undertaken on court surfaces.

Costings on various surface types dramatically affect overall price especially the need to install a solid base. Consultants and Contractors agree that concrete produces better performance and lifespan than compacted gravel/sand for an outdoor court. The recent laying of synthetic grass at the bowls club identified the affects to longevity from even a few millimetres difference in overall coverage reducing the life span of the product and resulting in an outlay of \$150,000.

- Concreting then applying plexi-pave would cost approximately \$80,000 per court
- Plastic tiles could be used over bitumen at a cost of between \$35 -\$45m² or approximately \$35,000 per court and may be slippery in wet conditions
- Hot Mixing – approximately \$35,000 per court
- Concrete with Polyurethane applied – Approximately \$175,000 per court

CONSULTATION

Briefing Sessions

Meetings of Sports User Groups and District High School

ABV Leisure Services

Department of Sport & Recreation

STATUTORY REQUIREMENTS

Local Government Act 1995

POLICY IMPLICATIONS

There will be a need for clubs and user groups to comply with any leases and user agreements with the shire.

FINANCIAL IMPLICATIONS

Fees and Charges will be reviewed to accurately reflect use by clubs and any possible “trade-offs” that can be achieved. Council does not have sufficient reserve funds at this time to allocate on a \$ for \$ basis for new courts given necessity to provide new access to the oval and complex. Given other competing Capital Work Projects, Council in accordance with the Long Term Financial Plan would need to call on loan funds or raise rates to unacceptable levels unless the community was prepared to raise at least \$500,000 towards a roofed area or indoor facility.

STRATEGIC/CORPORATE IMPLICATIONS

Community Strategic Plan 2013 – 2023

Outcomes:

- G1.2 – Maintain a structured forward planning process in accordance with legislation and community aspirations.
- S2.2 – Maintain an active, healthy and social community.

Corporate Business Plan 2013 – 2017

Objectives:

- G1.2.3 – Incorporate strategic, operational and asset management plans into a long term financial plan.
- S2.2.2 – Prepare a master plan for the Kojonup recreational precinct.

RISK MANAGEMENT IMPLICATIONS

Ensure building, grounds, amenity, public and disability access is compliant within the Sports Complex with the appropriate controls, signage, policies and agreements in place to inform users of their and the shires responsibilities.

ASSET MANAGEMENT IMPLICATIONS

Ensure where possible that funds are set aside for future maintenance and renewals at the Sports Complex in accordance with the Long Term Financial Plan projections so as not to place an unrealistic financial burden or unrealistic expectations on ratepayers or Council.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATIONS**That Council:**

- 1) **Requires additional time to ensure all engineering, surface types and infrastructure options are fully known, costed and discussed with User Groups and the Community during the 2016/2017 financial year before committing to a long term development plan for the Sports Complex;**
- 2) **In the short term hot mix Netball Court No. 3 at a cost of \$35,000.00; and**
- 3) **Make provision in the 2016/2017 Budget to provide new Vehicular/Pedestrian access via site 18 of the Sports Precinct Master Plan with associated drainage improvements and improved car parking as outlined in the Chief Executive Officer's report.**

COUNCIL DECISION

/16 Moved Cr , seconded Cr

CARRIED/LOST /

Attachment 13.1

Kojonup Recreation Complex - 300 Benn Parade, Kojonup

- LEGEND**
- 01 FACILITY
 - ★ ENTRANCE POINT
 - MULTI-USE SYNTHETIC SPORTS FIELD WITH LIGHTING
 - PATH
 - NEW BUILDING / RENOVATION / EXTENSION
 - DEMOLITION
 - NEW CAR PARK
 - NEW PLANTS
 - EXTENSIONS
 - SOLAR PV
 - REST STOPS
 - REFURBISHMENT
 - SOLAR POOL HEATING



List of Facility Developments

1. Multi-use synthetic sports field with lighting and storage (Hockey, Tennis, Netball).
2. Refurbish skate park.
3. Outdoor exercise equipment.
4. Potential future new changerooms location.
5. Retain hockey room for multi-purpose sports use.
6. New multi-use indoor court + gym, storage and child minding room with small fenced playground.
7. Upgrade Sports Complex including storage under balcony, improved changeroom configuration, disabled lift and a new family/disabled changeroom for the pool area.
8. New photovoltaic solar panel system.
9. Extend patio over uncovered balcony.
10. Passive Recreation Area 1.
11. New picnic/playground area for the pool.
12. Replace raised pool gutters with wet decks.
13. Develop road side parking along Benn Parade.
14. Solar pool heating on plant room roof.
15. Trees/vegetation plantings for aesthetics, shade & wind protection.
16. New main entrance to oval area.
17. Unsealed parking area.
18. New gated entrance to oval.
19. Passive recreation area 2.
20. New entrance and directional signage for the Kojonup Sports Precinct.
21. Upgrade Bowling Club kitchen.
22. Passive recreation area 3.
23. Remove old netball building and create connecting drive with gate for special event use.
24. Heavy renovation of oval turf to improve drainage.
25. Replace old cricket wicket.
26. Reconfigure cricket practice facility for two wider practice nets.
27. Reinstall connecting driveway.
28. Long jump pit.
29. Fitness trail / dual use paths.
30. Rest stops.

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DRAFT

CONCEPT SITE MASTER PLAN

SCALE APPROX, 1:750 @ A1 & 1:1500 @ A3

Date: 17.12.2014

Prj. No.: 14006

Drg. No:SK02

REV 2

14 AGED CARE SERVICES REPORTS

Nil

15 COMMUNITY DEVELOPMENT & TOURISM REPORTS

Nil

17 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

18 NEW BUSINESS

Nil

19 CONFIDENTIAL REPORTS

Nil

20 NEXT MEETING

Tuesday, 19 April 2016 commencing at 3:00pm.

21 CLOSURE

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

22 ATTACHMENTS (SEPARATE)

Item 10.1 Monthly Statement of Financial Activity – February 2016
Item 10.2 Monthly Payment Listing 01/02/2016 – 29/02/2016
Item 12.1 Application