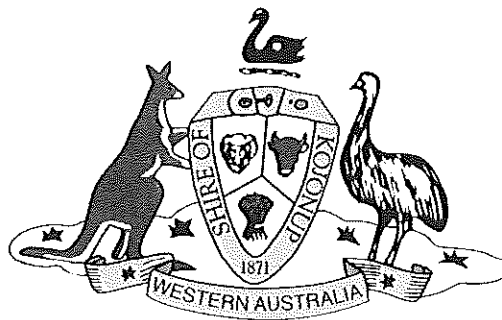


SHIRE OF KOJONUP



Council Agenda

15th June 2010

SHIRE OF KOJONUP**AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 15th June 2010****TABLE OF CONTENTS**

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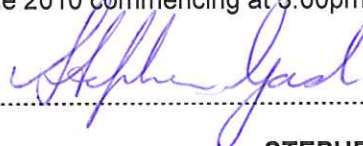
SHIRE OF KOJONUP

MEETING NOTICE AND AGENDA – 15th June 2010

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 15th June 2010 commencing at 3:00pm.

Your attendance is respectfully requested.



**STEPHEN GASH
CHIEF EXECUTIVE OFFICER**

11 June 2010

AGENDA

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 & LEAVE OF ABSENCE

Cr Jill Mathwin
Cr Jane Trethowan
Cr Ian Pedler
Cr Michael Baulch
Cr Rosemary Hewson
Cr Frank Pritchard
Cr Greg Marsh
Cr John Benn

Mr Stephen Gash	Chief Executive Officer
Mr Kim Dolzadelli	Manager of Corporate Services
Mr Mort Wignall	Manager of Regulatory and Community Services
Mr Craig McVee	Works Manager
Mrs Heather Marland	Senior Finance Officer

APOLOGIES

3 **PUBLIC QUESTION TIME**

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

5 **APPLICATIONS FOR LEAVE OF ABSENCE**

6 **CONFIRMATION OF MINUTES**

ORDINARY MEETING 18th May 2010

Corrections:

COUNCIL DECISION

/10 MOVED Cr seconded Cr that the Minutes of the Ordinary Meeting of Council held on 18th May 2010 be confirmed as a true record.

CARRIED/LOST /

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

8 **PETITIONS, DEPUTATIONS & PRESENTATIONS**

9 **DECLARATIONS OF INTEREST**

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

AUTHOR: Kim Dolzadelli – Manager Corporate Services
 DATE: Wednesday, June 09, 2010
 FILE NO: FM.FNR.2
 ATTACHMENT: 10.1 Monthly Statement of Financial Activity 1st July to 31st May 2010

DECLARATION OF INTEREST

Nil

SUMMARY

To accept the Monthly Statement's of Financial Activity for the period of 1st July to 31st May 2010.

BACKGROUND

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

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

COMMENTS

The attached Statements of Financial Activity for the period 1st July to 31st May 2010 show a solid position with 94.05% of rates collected to 31st May 2010 and a total amount of cash holdings of \$3,977,358 of which \$2,028,239 is held in fully cash backed Reserves.

CONSULTATION

None necessary.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

None applicable.

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

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

COUNCIL DECISION

/10 MOVED Cr seconded Cr

CARRIED/LOST /

10.2 MONTHLY PAYMENTS LISTING

AUTHOR: Kim Dolzadelli – Manager Corporate Services
DATE: Tuesday, June 8, 2010
FILE NO: FM.AUT.1
ATTACHMENT: 10.2 Monthly Payment Listing

DECLARATION OF INTEREST

Nil

SUMMARY

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

BACKGROUND

Not applicable.

COMMENT

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

CONSULTATION

No consultation was required.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the Payment Listing from 01/05/2010 to 31/05/2010 comprising of Municipal Cheques 11084 to 11145, EFT's 5586 to 5706 and Internal Payment Vouchers 2247 to 2279 totaling \$961,626.55 and as attached to this agenda, be received.

COUNCIL DECISION

/10 MOVED Cr

seconded Cr

CARRIED/LOST

/

11 ENGINEERING & WORKS REPORTS**11.1 DISPOSAL OF PLANT – Expression of Interest Yale Forklift**

AUTHOR: Kim Dolzadelli – Manager Corporate Services
 DATE: Wednesday, 9 June 2010
 FILE NO: PS.DIS.2
 Attachments: Expression of Interest from CGS Engineers, Warren Blackwood Waste and LJ & DK Knopka

DECLARATION OF INTEREST

Nil

SUMMARY

To dispose of Plant item P19002 being 1994 Yale Forklift.

BACKGROUND

The 1994 Yale Forklift was included in Councils 2009/2010 Annual Budget for Disposal at a price of \$5,500 excluding GST.

The Forklift was used at the Council operated Recycling/Transfer Station and since the operations have been taken over by contractors, Warren Blackwood Waste, has been utilised by them on a daily basis at the facility.

COMMENT

Expressions of Interest for the sale of the Forklift were advertised 23rd April 2010 in the Kojonup News and closed 4.00pm, Thursday 6th May 2010 with the following Expressions received:

Name	Comments	Financial Offer Ex GST
CGS Engineers	Nil	\$4,000
LJ & DK Knopka	Nil	\$1,500
Warren Blackwood Waste	Warren Blackwood Waste have spent \$600 on replacing front tyres and servicing	\$2,272.73

Warren Blackwood Waste has expressed a desire for the Forklift to remain at the Recycling/Transfer Station noting that *"It would be a valuable tool at the newly proposed Material Recovery Facility (MRF) to be built in Kojonup"*. Given the statements regarding the "proposed MRF to be built in Kojonup" and the potential that this information may have resulted in the meeting being closed to the public in accordance with section 5.23 (2) of the Local Government Act 1995 given the commercially sensitive nature of the proposal I made contact with Paul Webb of Warren Blackwood Waste. Mr Webb did not consider that the statements contained within his expression of interest need to be treated as confidential. During my phone conversation with Mr Webb he made a verbal offer to increase his original expression of interest by \$909.09 making a new total offer of \$3,181.82 excluding GST, bearing in mind he had already spent \$600 on servicing and replacing the front tyres on the Forklift.

CONSULTATION

In accordance with section 3.58 Local Government Act 1995

STATUTORY ENVIRONMENT

Section 3.58 of the Local Government Act 1995 and Regulation 30 & 31 Local Government (Functions and General) Regulations 1996.

POLICY IMPLICATIONS

There are no known Policy Implications.

FINANCIAL IMPLICATIONS

The disposal of Plant item P19002 is incorporated within Councils 2009/2010 Annual Budget at an amount of \$5,500 excluding GST or higher.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS – Simple Majority

OFFICER RECOMMENDATION

That Council consider the strategic implications when considering the Expressions of Interest received.

COUNCIL DECISION

/10

MOVED Cr

seconded Cr

CARRIED/LOST

/

11.2 DISPOSAL OF PLANT – Expression of Interest - HD 200A Autobaler

AUTHOR: Kim Dolzadelli – Manager Corporate Services
 DATE: Wednesday, 9 June 2010
 FILE NO: PS.DIS.2
 Attachments: Expression of Interest Warren Blackwood Waste

DECLARATION OF INTEREST

Nil

SUMMARY

To dispose of Plant item P20001 being HD 200A Autobaler.

BACKGROUND

The HD 200A Autobaler was included in Councils 2009/2010 Annual Budget for Disposal at a price of \$5,000 excluding GST.

The HD 200A Autobaler was used at the Council operated Recycling/Transfer Station and since the operations have been taken over by contractors, Warren Blackwood Waste, has been utilised by them on a daily basis at the facility.

COMMENT

Expressions of Interest for the sale of the HD 200A Autobaler were advertised 23rd April 2010 in the Kojonup News and closed 4.00pm, Thursday 6th May 2010 with the one Expression of Interest being received from Warren Blackwood Waste in the amount of \$2,272.73 excluding GST.

Due to there being a shortfall between the offer made and the budgeted amount of some 55% Council officers did not feel comfortable making the decision to dispose of this item without consideration by Council. It is however the officers recommendation that Warren Blackwood Waste's offer be accepted.

CONSULTATION

In accordance with section 3.58 Local Government Act 1995

STATUTORY ENVIRONMENT

Section 3.58 of the Local Government Act 1995 and Regulation 30 & 31 Local Government (Functions and General) Regulations 1996.

POLICY IMPLICATIONS

There are no known Policy Implications.

FINANCIAL IMPLICATIONS

The disposal of Plant item P20001 is incorporated within Councils 2009/2010 Annual Budget at an amount of \$5,000 excluding GST or higher. The offer received is \$2,727.27 below budget..

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS – Simple Majority**OFFICER RECOMMENDATION**

That Council accepts the offer from Warren Blackwood Waste of \$2272.73 for the HD 200A Autobaler.

COUNCIL DECISION

/10

MOVED Cr

seconded Cr

CARRIED/LOST

/

12 ECONOMIC & ENVIRONMENTAL DEVELOPMENT REPORTS**12.1 FOOD ACT 2008 – APPOINTMENT OF AUTHORISED OFFICERS**

AUTHOR: Mort Wignall- Manager Regulatory & Community Services
 DATE: 27th April 2010
 FILE NO: PH.STD.1
 ATTACHMENT: Nil

DECLARATION OF INTEREST

Nil

SUMMARY

To appoint authorised officers (previously authorised under the now repealed provisions of the Health Act 1911) under the provisions of the new Food Act 2008 and Food Regulations 2009.

BACKGROUND

The Food Act 2008 (the Food Act) came into operation on 23rd October 2009, and is the principle legislation regulating the sale of food in Western Australia, replacing and repealing the food provisions of the Health Act 1911 (the Health Act).

The Food Act stipulates who is able to assess food businesses and the conditions under which they may enter a food business. It also provides that "authorised persons" other than an environmental health officer may enter and assess a food business, and indicates the conditions under which authorised persons may be appointed.

COMMENT

An enforcement agency (Shire of Kojonup) may appoint a person to be an authorised officer for the purposes of the Food Act if –

- (a) the enforcement agency, having regard to any guidelines issued by the CEO (department of Public Service) under subsection(2), considers the person has appropriate qualifications and experience to perform the functions of an authorised officer; or
- (b) the person holds office as an environmental health officer under the Health Act 1911.

As the Shire currently has an environmental health officer appointed under the Health Act, it is considered appropriate to appoint the officer as an "authorised officer".

Where the enforceable provisions of the health Act referred to either "environmental health officers" or "local government", the Food Act refers to "authorised officers" or "enforcement agencies". Much like the Health Act, these responsibilities are able to be delegated (under Section 118 of the Food Act).

Under Sections 65, 66, 67, 110 and 112 of the Act, enforcement agencies (ie the Shire) are responsible for carrying out functions relating to the issue and clearance of prohibition notices and for food business registration. These powers are considered to be operational and therefore appropriate to be delegated to the environmental health officer.

Matters relating to the issue of infringement notices (ie Section 126) are considered to be potentially contentious, however are still operational and often need to be dealt with expediently, rather than awaiting the outcome of a Council meeting. It is recommended that a delegation to the Chief Executive Officer of the Shire of Kojonup be issued for matters relating to infringement notices and the appointment of authorised officers, as is currently the case with environmental health officers.

CONSULTATION

Nil required

STATUTORY REQUIREMENTS

Food Act 2008

Local Government Act 2005

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Under the Food Act fees may be charged for registration of food businesses. However in discussion with the Chief Executive Officer it is considered more appropriate that the matter of fees be considered as part of the budget process.

STRATEGIC IMPLICATIONS

Voting requirements- Simple majority

OFFICER RECOMMENDATION

That Council endorse the following delegations to be reviewed annually as part of the review of Council's delegations register:

- (a) Council delegates its authority and powers to the Chief Executive Officer the capacity to exercise and discharge all or any of the powers and functions of the enforcement agency in regard to the following sections of the Food Act 2008:
- Appoint authorised officers in accordance with Section 122
 - Appoint designated officers to issue infringement notices in accordance with Section 126(2)
 - Appoint designated officers to extend payment period for infringement notices or withdraw infringement notices in accordance with Sections 126(6) and 126(7)
- (b) Council delegates its authority and powers to the environmental health officer the capacity to exercise and discharge all or any of the powers and functions of the enforcement agency in regard to the following sections of the Food Act 2008:
- Issue prohibition orders in accordance with section 65
 - Clear and remove a prohibition order in accordance with Section 66
 - Provide written notification not to issue a certificate of clearance in accordance with Section 67
 - Grant, apply conditions, refuse, vary or cancel registration of a food business in accordance with sections 110 & 112

COUNCIL DECISION

/10 MOVED Cr seconded Cr

CARRIED/LOST

/

12.2 FINAL APPROVAL OF TOWN PLANNING SCHEME No. 3 – AMENDMENT No. 9 TO INCLUDE ADDITIONAL SCHEME PROVISIONS TO CONTROL RESIDENTIAL DENSITIES IN ADOPTED GUIDED DEVELOPMENT PLAN.

AUTHOR: Phil Shephard
DATE: 26th May 2010
FILE NO: LP.PLN.15
ATTACHMENT: 12.2.1 Copy of amendment document
12.2.2 Schedule of Submissions
12.2.3 Copy of EPA Submission

DECLARATION OF INTEREST

Nil.

SUMMARY

The statutory public notice period for the above scheme amendment has now been completed and 1 submission was received. Council is now required to decide whether to proceed or not with the amendment.

It is recommended that Council determine the submission received as set out in the attached Schedule of Submissions and proceed with the amendment and refer the amendment to the WA Planning Commission and Minister for Planning for final approval.

BACKGROUND

The amendment proposal is to include additional scheme controls within the existing town planning scheme to control residential densities in areas where Council has adopted a Guided Development Plan (GDP). These new clauses would also apply to any other GDP adopted by Council.

The catalyst for the amendment was the resubdivision and development of the land at Lot 101 Soldier Road, Kojonup where Council at its Special Meeting on 29 September 2009 (Item: 12.1 Resolution 100/09) resolved to require the proponents complete a scheme amendment resolved as follows:

"Advise the proponents that rezoning/recoding of the land to ensure the density matches the subdivision will be required to be completed as a matter of urgency and no clearance to the subdivision will be issued until completed and gazetted."

Council initiated the scheme amendment at its 17 November 2009 meeting (Item 12.2 Res: 124/09) as follows:

1. Pursuant to the Planning and Development Act 2005 initiate Amendment No. 9 to Town Planning Scheme No. 3 to include additional scheme provisions to control residential densities in adopted Guided Development Plans, and
2. Once authorised by the EPA, it be advertised for a period of 42 days to allow for comment from the public and government agencies.

In accordance with the requirements of the *Planning and Development Act 2005*, the amendment was firstly referred to the Environmental Protection Authority for their assessment. They advised that the amendment was acceptable and no formal assessment was required in correspondence dated 24 February 2010. The EPA did provide advice on groundwater protection which is addressed within the Schedule of Submissions.

The amendment was then advertised for a period of 42-days to allow for comment from the adjoining/nearby landowners, general public and government agencies.

COMMENTS

The submissions received raised no objection to the scheme amendment proceeding. Two verbal approaches were made seeking information on whether septic systems would be allowed, and when the previous Council advice requiring ATU's was conveyed those approaching did not submit a formal response.

CONSULTATION

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

The notice given included:

- Notice of amendment in Kojonup News and Great Southern Herald.
- Notice of amendment placed on Shire Notice Board.
- Notice and copy of amendment document referred to Environmental Protection Authority, Water Corporation and Western Power inviting them to comment.
- Notice of amendment referred to adjoining/nearby landowners inviting them to comment.

At the conclusion of the notice period, 1 submission from the EPA was received as contained within the Schedule of Submissions. The submission does not require any modifications to be made to the draft amendment document advertised.

The advice from the EPA reflects Council's previous decision to require alternative wastewater treatment units (ATU's) to service new residential development on the lot rather than standard septic tank/leach drain systems.

STATUTORY ENVIRONMENT

- *Planning and Development Act 2005*
- *Town Planning Regulations 1967*
- *Local Government Act 1995*
- Shire of Kojonup Town Planning Scheme No. 3

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

All administration and advertising costs will be recovered from the proponents.

STRATEGIC IMPLICATIONS

Nil.

VOTING REQUIREMENTS - SIMPLE MAJORITY**OFFICER RECOMMENDATION**

That Council:

- 1) Note the submission contained within the attached Schedule of Submissions, and
- 2) Pursuant to section 87 of the *Planning and Development Act 2005* seek final approval to Town Planning Scheme No. 3 – Amendment No. 9 without modification.

COUNCIL DECISION

/10 MOVED Cr seconded Cr

CARRIED/LOST

/

12.3 OVERSIZED OUTBUILDING APPLICATION – LOT 37 NORRISH ROAD, KOJONUP

AUTHOR: Phil Shephard – Town Planner
DATE: 30 April 2010
FILE: DB.BDA.4
OWNER: J & S Miotti
LOCATION: Lot 37 cnr. Blackwood and Norrish Roads, Kojonup
ATTACHMENTS: 12.3.1 Site Plan - Lot 37 Norrish Road, Kojonup
12.3.2 Drawings of Proposed Shed – Lot 37 Norrish Road, Kojonup

DECLARATION OF INTEREST

Nil.

SUMMARY

To consider the application to construct an oversize outbuilding on Lot 37 Norrish Road, Kojonup as shown on the attached plans.

It is recommended that the application be approved subject to conditions.

BACKGROUND

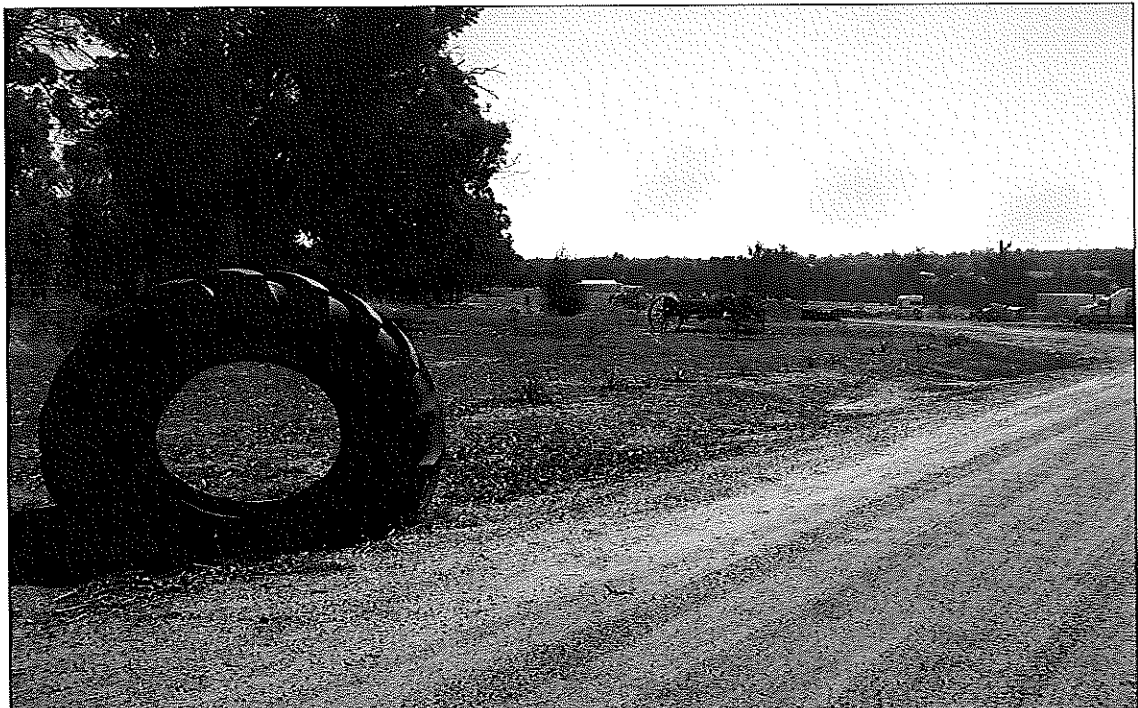
Nil.

COMMENT

The proposal is to construct a 12m x 12m (144m² floor area) outbuilding on the above property to be setback 18m from the side boundary with Norrish Road. The applicant has advised the reasons for the oversize outbuilding is to store a "... truck, trailer and ute he is doing up ...".

The property has been developed with a new dwelling and adjacent outbuilding constructed approximately in the centre of the lot. The dwelling and existing outbuilding have been constructed using cream walls and grey-toned roof. The plans show that the proposed outbuilding will have the walls clad with unspecified coloured colorbond metal sheeting and the roof clad with zincalume colorbond metal sheeting.

The proposed site for the outbuilding is shown in the attached image:



PROPOSED OUTBUILDING TO BE CONSTRUCTED BEHIND COMBINE (WHERE GRAVEL PILE IS)

The proposed site for the outbuilding has been inspected and complies with the required 15m setbacks for the special rural zone. The lot is substantially larger (3.47ha) than a traditional sized residential lot (between 600 – 1,000m²) and the outbuilding will not be out of keeping with similar proposals developed on other special rural lots in Kojonup.

Including the existing outbuilding, the total area of outbuildings on the site equates to approximately 0.52% of the lot area and the additional outbuilding area is not opposed in this instance. It is suggested that given the larger size requested Council require that the outbuilding be clad with coloured materials to match the existing dwelling and outbuilding.

CONSULTATION

Comment was sought from adjoining/nearby affected landowners for a period of 14-days and at the conclusion of this submission period, no submissions were received.

STATUTORY ENVIRONMENT

The land is zoned Special Rural under Town Planning Scheme No. 3.

Clause 5.12.3 of the Scheme states:

"No dwelling or other structure shall be permitted within 15m of a lot boundary unless the Council considers that a lesser setback will not adversely affect the amenity of the area and the neighbouring properties."

The proposed location of the outbuilding complies with the setback requirements under the Scheme.

POLICY IMPLICATIONS

The Shire has an adopted Town Planning Scheme Policy No. 9 'Sheds on Residential and Special Rural Zoned Land' that is also used to assess applications for outbuildings within these zones.

The Policy 9 requires (in summary) that:

- Sheds will not be approved on vacant lots.
- If no dwelling exists, the applicant must submit plans for the dwelling at the time of applying for the shed and the dwelling must be commenced within 12 months and completed within 24 months of the approval.
- The maximum floor area in residential areas shall be 65m².
- The Building Surveyor can approve a maximum floor area of 65m² in special rural zones, with any application for a larger shed to be referred to Council.
- The owner shall remove any approved shed if the conditions of approval are not met.

As the outbuilding is larger than 65m², the application is required to be referred to Council.

In considering the weight to be applied to the Policy requirements, Council is reminded that clause 7.6.4 of the Scheme states that the adopted town planning scheme policies:

"Shall not bind the Council in respect of any application for planning consent but the Council shall take into account the provisions of the Policy and objectives which the policy was designed to achieve before making its decision."

This means that the Council must consider what the policy is trying to achieve in regard to any application but are not bound by it. The Council can, in considering any application, place any conditions it sees fit on the approval in order to achieve the desired outcome.

FINANCIAL IMPLICATIONS

There are no known financial implications.

STRATEGIC IMPLICATIONS

There are no known strategic implications.

VOTING REQUIREMENTS - SIMPLE MAJORITY

OFFICER RECOMMENDATION

That Council grant Planning Consent for the oversize Outbuilding on Lot 37 cnr. Norrish/Blackwood Roads, Kojonup subject to the following conditions:

- a) The floor area of the outbuilding shall not exceed 144m²,
- b) That the location of the shed be at least 15 metres from the boundary of Norrish Road.
- c) The outbuilding walls to be clad in material with colours to match the existing dwelling and outbuilding to the satisfaction of the Chief Executive Officer.
- d) All building works having the necessary setbacks to the existing on-site effluent disposal system and leach drains to the satisfaction of the Shire of Kojonup Environmental Health Officer.
- e) In the event of the non-compliance of the above conditions, the shed be ordered to be demolished under the provisions of the Planning and Development Act 2005.

COUNCIL DECISION

/10 MOVED Cr

seconded Cr

CARRIED/LOST

/

12.4 TELECOMMUNICATIONS TOWER APPLICATION – LOT 6637 JAGO ROAD, LUMEAH

AUTHOR: Phil Shephard – Town Planner
 DATE: 3 June 2010
 FILE: DB.BDA.8
 OWNER: C Anderson
 LOCATION: Lot 6637 Jago Road, Lumeah
 ATTACHMENTS: 12.4 Application Form and Supporting Documentation, Site Layout & Site Photos

DECLARATION OF INTEREST

Nil.

SUMMARY

To consider the application to construct a new mobile phone base for Optus on the above property including a 70m guyed tower, antennas and equipment shed for the purpose of improving mobile telephone coverage in the local area as shown on the attached plans.

It is recommended that the application be approved subject to conditions.

BACKGROUND

Nil.

COMMENT

The proposal is to construct a new mobile phone base. The base will require the construction of access roads, power connections, 70m tower, 10 antennas (in total) and equipment shed.

The applicants have provided the attached written submission to support the application which includes details showing the proposal complies with the Industry Code on Deployment of Mobile Phone Network Infrastructure.

CONSULTATION

Nil.

STATUTORY ENVIRONMENT

The land is zoned Rural under Town Planning Scheme No. 3.

The mobile phone base falls generally within the interpretation of 'public utility' under Town Planning Scheme No. 3 which is defined as follows:

Public Utility: means any works or undertaking constructed or maintained by a public authority or the Council as may be required to provide water, sewerage, electricity, gas, drainage, communications or other similar services.

Public utility is an 'AA' land use within Town Planning Scheme No. 3 which means that the Council, may at its discretion, permit the use.

The proposed location of the tower and equipment shed complies with the setback requirements under the Scheme.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The applicants have paid the required application fee of \$450.

STRATEGIC IMPLICATIONS

There are no known strategic implications.

VOTING REQUIREMENTS - SIMPLE MAJORITY**OFFICER RECOMMENDATION**

That Council grant Planning Consent for the Public Utility (Mobile Phone Base) on Lot 6637 Jago Road, Lumeah subject to the following conditions:

- a) The development to be in accordance with the submitted plans (Aurecon Drawings P8282A-P1 & P8282A-P2: Revision A dated 29.01.10)
- b) The equipment shed to be clad in 'paperbark' colorbond metal sheeting.
- c) The base site to be fenced to the satisfaction of the Chief Executive Officer.

COUNCIL DECISION

/10 MOVED Cr seconded Cr

CARRIED/LOST /

12.5 APPROVAL OF TOWN PLANNING SCHEME No. 3 – AMENDMENT No. 7 FOR TRANSPORT DEPOT FOR MATTHEWS TRANSPORT AT LOTS 1 & 3 ALBANY HIGHWAY, KOJONUP.

AUTHORS Stephen Gash – Chief Executive Officer
Phil Shephard – Town Planner (Attachment 12.5.4)

DATE: 11 June 2010

FILE NO: LP.PLN.11

ATTACHMENT: 12.5.1 Council Resolution 123/09 Minute Extract
12.5.2 Draft WAPC Special Conditions 28/5
12.5.3 Draft WAPC Special Conditions 6/6
12.5.4 Schedule of Conditions and Variations
12.5.5 Draft WAPC Special Conditions 8/6

DECLARATION OF INTEREST

Nil.

SUMMARY

To consider preliminary advice from the Department of Planning - Albany regarding proposed special conditions for the Town Planning Scheme No 3 - Amendment No 7.

BACKGROUND

The Shire of Kojonup has been in discussions with the Department of Planning - Albany regarding recommended changes to the special conditions for the Town Planning Scheme No.3 - Amendment No 7 for the Matthews Transport Depot amendment, prior to the Department submitting it to the WAPC for final approval.

Council resolved to initiate a scheme amendment on 17th November 2009 by resolution 123/09, a copy of the resolution is attached.

COMMENTS

The proposed Special Conditions forwarded from the Department of Planning are attached. Attachment 12.5.2 reflects the draft conditions forwarded on the 28th of May 2010.

In response the Shire of Kojonup reiterated its concerns previously raised at a meeting on the 13th of April 2010, when the Department of Planning Officers raised that they thought further studies may be required despite being unable to identify which agencies required them, as no agency had requested any additional study through a submission on the amendment. Concern was also expressed at the proposed Special Condition 4(b) where the Shire would be required to conduct an audit of Environmental Management Plans and require updates where necessary.

The Department of Planning replied with the Special Conditions in attachment 12.5.3 on 6th of June 2010, and without further comment from the Shire, Attachment 12.5.5 on the 8th of June 2010, and these are compared against the conditions proposed by the Council in Attachment 12.5.4. **Council is requested to consider the variance between these proposed conditions and those resolved by Council on 17th November 2009 to determine whether the proposals significantly change Councils objectives and commitment in supporting the Scheme amendment.**

Shire officers are concerned that:

- the conditions propose unreasonable costs and processes, based on the Shires knowledge and assessment of the existing operations that have been supported as a non conforming use for over 20 years.
- the proposed conditions do not reflect the statutory processes regarding these matters and this may reduce the ability of the Council to manage the land use in accordance with statutory requirements and the wishes of the community.
- the proposed conditions seem to disregard the feedback from agencies as part of the required process for seeking and considering submissions, and
- the existing special conditions (as resolved by Council and the other stakeholders) both when initiating the amendment and further when considering the submissions are sufficient for the purpose and the proposed conditions do not reflect this.

The Council fulfilled its statutory obligations in its consideration of the issue, and went significantly further in terms of consulting with the affected landowners in the area (including inviting them to the

relevant Council meetings when the matter was to be discussed). This was undertaken before the amendment documents were produced.

Matthews Transport has advised that:

- the delays in processing the amendment have been unacceptable;
- without implying any breach, liability, or a requirement to do so, they ceased using Partridge Road as an exit;
- they have worked in a consultative manner to find a solution to perceived issues, including seeking feedback from the 2 objectors before the plan was developed;
- they are not prepared to fund any of the proposed studies given:
 - there is no justification given
 - they have previously spent significant funds on planning for Shire of Kojonup TPS Amendment 2 to relocate to a site on Broomehill Rd, and despite the amendment being initially supported by Council and complying with all planning requirements it was not progressed due to a community petition.

The Shire of Kojonup records indicate that the 2001 amendment, referred to above, had 48 written submissions and 169 signatures on a petition opposing the relocation. Therefore Matthews Transport stayed where they currently are and the current proposal is to allow further setback of their operations onto an adjacent block, hence further away from the only 2 objectors to this Scheme Amendment. There were no objections from anyone who would be closer to the operations as a result of the proposal.

At the time of the previous amendment proposal there was discussion regarding possible relocation to the industrial area but there was further concern that this would significantly increase heavy vehicle traffic past the School. The industrial estate option was raised by a Department of Planning Officer as the preferred solution; however, this would require a new subdivision of the industrial estate and is not possible for the Shire to undertake at this stage, even if the Council wished to go against the previous views of the community regarding the heavy vehicle traffic.

The Shire of Kojonup facilitated a meeting with the 2 objectors and Matthews Transport prior to making their decision, to reach the best outcome for the community of Kojonup and ensure compliance with all statutory obligations.

If the Department is to change the special conditions to the point that the future operations become burdensome to Council or the operators to conduct and manage, there seems little point in proceeding. The special conditions requested by Council adequately address all relevant planning matters and ensure that the operators are aware and acknowledge the need to conduct all operations in accordance with statutory requirements including noise and dust pollution matters. It makes little sense to make them go through the process of preparing an EMP when any breach of the requirements will require them to rectify it anyway and an EMP won't advise, forewarn or predict when a breach is going to occur in any case.

CONSULTATION

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

The notice given included:

- Notice of amendment in Kojonup News and Great Southern Herald.
- Notice of amendment placed on Shire Notice Board.
- Amendment sign placed on-site during advertising period.
- Notice and copy of amendment document referred to Environmental Protection Authority, Water Corporation, Telstra, Western Power and Main Roads WA inviting them to comment.
- Notice of amendment referred to 43 adjoining/nearby landowners inviting them to comment.

At the conclusion of the notice period, 8 submissions were received for consideration. Two of the submissions were objections and both parties attended the ordinary Council meeting in November 2009, along with a representative of Matthews Transport. The Council adjourned the Council meeting and facilitated an open discussion between all parties which resulted in the position reached in the Council resolution 123/09 once the meeting was resumed.

On two occasions the CEO of the Shire of Kojonup offered to forward a summary of the facilitated discussion between the parties to the Department of Planning and was advised that it was not required at that stage. Only after insistence by the Shire on the 4th of June 2010 the Department of Planning requested the meeting notes and therefore these have not been considered by the Department of Planning / WAPC in determining the proposed special conditions.

On the 9th of June 2010 the Shire of Kojonup CEO again met with Matthews Transport to confirm their position, that they would not fund the requested studies and it was suggested that Council should rescind the decision and they would operate as they did previously with the approved non conforming use.

An offer was made by Department of Planning for Shire of Kojonup representatives to attend a statutory Planning Committee meeting where the recommendation to the Minister on this amendment is going to be discussed. Shire Officers view that this has limited benefit, given Department of Planning / WAPC have not advised what further feedback has been received from agencies that may be relevant to the Councils support. This has been requested, along with a copy of the report but at the time of writing no response has been received. or more importantly what option is being presented to the WAPC for their consideration as staff presume it will be the Department's special conditions that are recommended not Council's.

STATUTORY ENVIRONMENT

- *Planning and Development Act 2005*
- *Town Planning Regulations 1967*
- *Local Government Act 1995*
- Shire of Kojonup Town Planning Scheme No. 3

If Council wishes to consider any proposal or conditions, other than adopted in November 2009, then it must rescind the decision to ensure these do not conflict. Further advice is being sought on how much of the process may need to be repeated if an alternative proposal is considered.

The current use on the existing lot can be maintained by Matthews as a non conforming use, but extension to the adjacent block would be limited to the approved land use under the Town Planning Scheme.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil, as Council should not be required to pay for any of the proposed studies. The proponents are required to meet scheme administration fees under the Planning and Development Regulations 2009 and Council's adopted Schedule of Fees and Charges

STRATEGIC IMPLICATIONS

If the amendment is unsuccessful, the existing Transport depot site will likely continue existing operations under non conforming use.

VOTING REQUIREMENTS - SIMPLE MAJORITY

OFFICER RECOMMENDATION

That Council advise the Department of Planning that:

- 1) It requests that Department staff hold off the finalisation of the amendment at this stage,**
- 2) It requests Department staff organise to meet with the Councillors as a matter of priority to discuss a way forward with the amendment, and**
- 3) It seeks additional information from the Department on the need for the proposed changes to the special conditions as they do not reflect the outcomes of the submissions or the matters raised which Council believes have been adequately addressed in accordance with statutory requirements.**

COUNCIL DECISION

/10 MOVED Cr seconded Cr

CARRIED/LOST /

13 CORPORATE & COMMUNITY SERVICES REPORTS**13.1 APPLICATION TO KEEP MORE THAN TWO DOGS**

AUTHOR: Mort Wignall – Manager of Regulatory and Community Services
 DATE: 3rd June 2010
 FILE: LE.REG.4 & A9894
 ATTACHMENTS: 13.1 – Letter of Application – Ryan Sutcliffe and Kim Hayes

DECLARATION OF INTEREST

Nil

SUMMARY

The applicants are seeking Council's approval to keep three dogs at their residential property No 19 Newstead Road, Kojonup.

BACKGROUND

The applicants currently keep three dogs at their residence in Newstead Road. However, the Dog Act limits the number of dogs that can be kept on any premises to not more than two, unless approved by the Local Government.

The applicants intend keeping three dogs for an indefinite period and are therefore seeking Council approval to keep the dogs on their premises.

Two of the dogs are Siberian Huskies, owned by Ms Hayes and the third dog, a Shar-pei Cross, is owned by Mr Sutcliffe.

All dogs are registered with the Shire of Kojonup.

COMMENTS

I have inspected the yard where the dogs are kept and it is secured with high colour bond fencing and a lockable gate. There is no record of any offences or issues arising from the keeping of dogs on the premises.

The Dog Act also prescribes that where a Local Government approves the keeping of more than two dogs on any premises, such approval may be conditional, i.e

- May be made subject to such approval only applying to the dogs specified in the application.
- May be revoked or varied at any time.

Based on my assessment of the application I support conditional approval being given for three dogs to be kept at the applicant's residential address.

CONSULTATION

None necessary.

STATUTORY ENVIRONMENT

Dog Act 1976 – Part V – The Keeping of Dogs, Sec 26 – Limitation as to Numbers.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the application from Ryan Sutcliffe and Kim Hayes to keep three dogs at their residential address, 19 Newstead Road, Kojonup be approved, subject to the following conditions:

- a. the approval only applies to the three dogs to which the application relates: namely
 - Siberian Husky, Registration No B57
 - Siberian Husky, Registration No 100051
 - Shar-pei Cross, Registration No 100148
- b. the approval is for the three dogs to be kept at their current registered address.
- c. the approval may be revoked or varied at any time

COUNCIL DECISION

/10 MOVED Cr

seconded Cr

CARRIED/LOST

/

13.2 BUSH FIRE ASSOCIATION – APPOINTMENT OF OFFICER 2010/11

AUTHOR: Stephen Gash – Chief Executive Officer
 DATE: Tuesday 8 June 2010
 FILE NO: ES.REG.1
 ATTACHMENT: Nil

DECLARATION OF INTEREST

Nil

SUMMARY

To endorse the appointment of statutory and representative positions for the Shire of Kojonup and Kojonup Bush Fire Association for 2010/11.

BACKGROUND

Each year the Shire of Kojonup appoints persons to undertake statutory and representative roles to perform the obligations under the Bush Fires Act 1954. Nominations are forwarded from the individual Brigades and Bush Fire Advisory Committee.

COMMENT

To allow the time to print the Fire Break Order the CEO exercised delegation number FIRE 004 which allows:

"The Chief Executive Officer is delegated authority to appoint persons to the position of Fire Control Officer, including dual Fire Control Officers with adjoining local governments as provided for under Section 38 of the Bush Fires Act 1954. "

The following persons have been appointed by the CEO under the above delegation for the 2010/11 year:

Mr B Cussons	FCO Boilup Brigade
Mr G Gale	FCO Boscabel Brigade
Mr G Marsh	FCO Changerup Brigade
Mr N O'Halloran	FCO Cherry Tree Pool Brigade
Mr J Hope	FCO Jingalup Brigade
Mr R Watson	FCO Kojonup Brigade
Mr A Bilney	FCO Lumeah Brigade
Mr R Fryer-Smith	FCO Mobrurup Brigade
Mr R Banks	FCO Muradup Brigade
Mr C Ednie-Brown	FCO Orchid Valley Brigade
Mr A Marsh	FCO Qualeup Brigade
Mr R Mason	FCO Ryan's Brook Brigade
Mr B Francis	FCO Muradup Town site
Mr J Lewis	FCO Kojonup Town site

The appointments are subject to undertaking the appropriate FCO training. The next training session is to be advised. Any conditions, restrictions, or directions placed on FCOs who are standing again from last year will be continued.

CONSULTATION

Consultation has occurred with the Brigades following call for nominations and consideration at individual Brigade AGM's. The Association AGM and Bush Fire Advisory Committee also endorsed the FCO appointments.

STATUTORY ENVIRONMENT

Section 33 of the Bushfires Act 1954 relates to Fire Break Orders
Section 38 of the Bushfires Act 1954 relates to FCO appointment

POLICY IMPLICATIONS

There are no known Shire of Kojonup policy implications.

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS – SIMPLE MAJORITY

OFFICER RECOMMENDATION

1. That Mr Ned Radford be appointed as Chief Fire Control Officer for the Shire of Kojonup for 2010/11 financial year.
2. That Mr Digby Stretch be appointed as Deputy Chief Fire Control Officer for the Shire of Kojonup for 2010/11 financial year.
3. That Mr Michael Baxter and Mr Tony Fisher be appointed as Senior Fire Control Officers for the Shire of Kojonup for 2010/11 financial year.
4. That the Chief Fire Control Officer and the Deputy Chief Fire Control Officer be appointed as Fire Weather Officer and Deputy Fire Weather Officer, respectively, for the Shire of Kojonup for 2010/11 financial year.
5. That the Chief Fire Control Officer, the Deputy Chief Fire Control Officer and the two Senior Fire Control Officers be appointed as the Officers authorised to impose Harvest and Movement of Vehicles Ban Officers for the Shire of Kojonup for 2010/11 financial year.

6. That the Chief Fire Control Officer and the Deputy Chief Fire Control Officer be appointed as authorised officers to issue permits to burn for the collection of Clover Burr in the Shire of Kojonup for 2010/11 financial year.
7. That Council endorses the appointed Fire Control Officers, as members of the Bush Fire Advisory Committee
8. That Council notes the appointment of Mr N O'Halloran as President of the Association and Presiding Member of the Bush Fire Advisory Committee.
9. That Council notes the appointment of Mrs D Berryman as Honorary Secretary for the Association.

COUNCIL DECISION

/10 MOVED Cr seconded Cr CARRIED/LOST /

13.3 FIREBREAK ORDER

AUTHOR: Stephen Gash – Chief Executive Officer
DATE: Tuesday 8 June 2010
FILE NO: LE.NOT.2
ATTACHMENT: 13.3 - Fire Break Order 2010/2011

DECLARATION OF INTEREST

Nil

SUMMARY

To consider the Firebreak order for 2010/2011.

BACKGROUND

Council issue a Firebreak order each year, under section 33 of the Bushfires Act 1954. The order requires certain things to be done with respect to fire hazard reduction/ fire prevention on land. The order is distributed with the rates notice and any other publication conducted as required by the Act.

COMMENT

The format of the Fire Break Order will be in the same format as last year that can be kept on the fridge for easy reference. The attached document will only show content, the final format will be a folded, flip chart type document approximately 10cm X 20cm with a magnet on the back page. The red dotted line on the A4 attachments indicates the fold.

Apart from an updated listing of positions the only change to the Fire Break Order is flagging that burning in the town sites will not be allowed in the prohibited and restrictive periods in the first 4 months of the New Year.

Adoption of the Fire Break Order at this meeting will allow time for printing of the notices in time for inclusion with Councils annual Rate Notice mail out scheduled for July 2010.

CONSULTATION

The Fire Break Order is a working document that has evolved with consultation with the Bush Fire Advisory Committee over the last 5 years.

STATUTORY ENVIRONMENT

Section 33 of the Bushfires Act 1954 relates to Fire Break Orders

POLICY IMPLICATIONS

There are no known Shire of Kojonup policy implications.

FINANCIAL IMPLICATIONS

The printing costs will be included in the 2010/11 budget

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS – SIMPLE MAJORITY**OFFICER RECOMMENDATION**

That Council adopts the Firebreak order for 2010/2011 as attached to this agenda.

COUNCIL DECISION

/10 MOVED Cr seconded Cr

CARRIED/LOST

/

14 COMMITTEES OF COUNCIL**15 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

15.1 MOBILE & ITINERANT VENDORS POLICY
AUTHOR: Stephen Gash – Chief Executive Officer
DATE: Friday, 11 June 2010

15.2 COMMERCIAL RECREATION & TOURISM ACTIVITY ON CROWN LAND POLICY
AUTHOR: Stephen Gash – Chief Executive Officer
DATE: Friday, 11 June 2010

Council may consider whether to give local notice, as required, for the above local planning policies following discussion on the draft at the briefing session on 15 June 2010 where it is expected any legal considerations of the policy will be available.

The process of considering these policies immediately following a briefing session is not interpreted as raising any governance concerns when the Council item / resolution will be to advertise the Town Planning Policies and therefore there is an appropriate timeframe and mechanism to consider feedback before final approval.

16 NEW BUSINESS
of an urgent nature, introduced by a decision of the meeting

17 CONFIDENTIAL REPORTS

18 **NEXT MEETING**

Tuesday, 20th July 2010 commencing at 3:00pm.

19 **CLOSURE**

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

20 **APPENDICES AND TABLED DOCUMENTS****21** **ATTACHMENTS**

- Item 10.1 Monthly Statement of Financial Activity 1st July 2009 to 31st May 2010
- Item 10.2 Monthly Payment Listing 1 May 2010 to 31 May 2010
- Item 11.1 Expression of Interest from CGS Engineers, Warren Blackwood Waste and LJ & DK Knopka
- Item 11.2 Expression of Interest from Warren Blackwood Waste
- Item 12.2.1 Copy of amendment document
- Item 12.2.2 Schedule of Submissions
- Item 12.2.3 Copy of EPA Submission
- Item 12.3.1 Site Plan - Lot 37 Norrish Road, Kojonup
- Item 12.3.2 Drawings of Proposed Shed – Lot 37 Norrish Road, Kojonup
- Item 12.4 Application Form and Supporting Documentation, Site Layout & Site Photos
- Item 12.5.1 Council Resolution 123/09 Minute Extract
- Item 12.5.2 Draft WAPC Special Conditions 28/5
- Item 12.5.3 Draft WAPC Special Conditions 6/6
- Item 12.5.4 Schedule of Conditions and Variations
- Item 12.5.5 Draft WAPC Special Conditions 8/6
- Item 13.1 Letter of Application - Ryan Sutcliffe and Kim Hayes
- Item 13.3 Fire Break Order 2010/2011