

SHIRE OF KOJONUP



Council Minutes

16th June 2015

SHIRE OF KOJONUP**MINUTES FOR THE COUNCIL MEETING HELD ON 16th June 2015****TABLE OF CONTENTS**

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MINUTES

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

The Shire President declared the meeting opened at 3:02pm and alerted the meeting of the procedures for emergencies including evacuation, designated exits and muster points and draw the meetings attention to the disclaimer below:

Disclaimer

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

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

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

2 **ATTENDANCE & APOLOGIES**

Cr Ronnie Fleay	Shire President
Cr Robert Sexton	Deputy Shire President
Cr Ian Pedler	
Cr Jane Trethowan	
Cr John Benn	
Cr Frank Pritchard	
Cr Ned Radford	
Cr Jill Mathwin	

Mr Rick Mitchell-Collins	Chief Executive Officer
Mr Anthony Middleton	Manager of Corporate Services
Mr Mort Wignall	Manager of Regulatory & Community Services
Mr Craig McVee	Manager of Works & Services
Mrs Michelle Dennis	Development Services Coordinator
Miss Dominique Hodge	Personal Assistant to the CEO

Members of the Gallery	18
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APOLOGIES

Nil

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

Nil

4 PUBLIC QUESTION TIME

4.1 Emily Hills – Farmer - Saleyards

Concerned with the minimal information provided as per the letter with the DER (Department of Environment & Regulation) Interim Response to Licence Application (Attachment 12.1.1).

The Shire President responded it was only a preliminary application that was designed to garner feedback.

Mrs Hills stated that the more information we provide DER, the better the outcome we will have.

The Shire President agreed and that is why the preliminary application process was taken.

Mrs Hills asked the question - has consideration been made with Occupational Health & Safety compliance at the truck wash bay? Does drilling have to be done at the truck wash bay? What are the signage requirements for the truck wash down bay? Is there a reason the company (LGIS – Attachment 12.1.2) did the report this way?

Shire President – No.

Mrs Hills stated the settlement ponds adjacent to the saleyards were planned not taking in to account any future saleyards improvements.

The Shire President responded saying the need for licensing of the Saleyards was unknown at the time of the planning for the settlement ponds.

The Development Services Coordinator answered that the purpose of the settlement ponds is to act as a barrier between the truck wash down bay facility and the Water Corporations' treatment facility.

4.2 Neville Matthews – Matthews Transport - Saleyards

Has been receiving numerous telephone calls regarding the Saleyards from farmers that do not have time to come in and express their feelings about the saleyards being closed. He believes there is too much pace on getting rid of the Saleyards. Mr Matthews asked the question – has the Shire of Kojonup received an offer to purchase the Saleyard land from a local manufacturing company? As this is the rumour around town. He believes there is a lot of pressure to get rid of the saleyards, and there must be another reason the community does not know about. Sad day when the saleyards go.

The Shire President responded stating that the Shire of Kojonup has not received an offer on the land, and to confirm this will print it in the next edition of The Kojonup News. The reason the item is coming to the table is for information as part of the budget process so that the Council know where they are at so the Council can ensure the costs are included in the budget process and to settle rumours. Officers come forward with their best recommendation.

4.3 Kerryn Mickle – Elders - Saleyards

Has also been receiving telephone calls regarding the saleyards. Part of the response from DER quotes the National Guidelines which are used for Feedlots. The sheep that are sold at the Kojonup Saleyards are a different class of stock. It should be recognised that the saleyards provide an important community service, and the Council should be working with them and using them as an advantage. Ms Mickle quoted Paragraph 4 on Page 17 of the Council Agenda – can't reuse the stormwater from the yards for use on the oval and asked the question is the water Council is currently using on the oval up to standard?

Ms Mickle stated that Occupation Health & Safety & Public liability are facts of life. Every organisation has processes in place, other Shire facilities not just the saleyards should have processes in place. Ms Mickle stated she thought \$17,000 was a bit excessive for perimeter fencing. Ms Mickle finished by stating the last sheep sale Elders Kojonup had at the Kojonup Saleyards on 28 November 2014, not one Shire staff member or Councillor was in attendance, she felt if they came they would gain a bit better understanding. The Kojonup community derives income from sheep. Kojonup was the first Shire with 1,000,000 sheep, and we could be this town again. Ms Mickle wants Kojonup to be leaders in the agriculture industry.

4.4 Geoff Bilney – Feedlot Business Owner - Saleyards

Mr Bilney stated that over the last 5-6 years he has had 125,000 – 130,000 lambs on his feedlot and the guidelines are for a beef feedlot, compare that to a sheep saleyard and the difference is considerable.

The Shire President responded stating that it is a Department of Environment & Regulation (DER) guideline, not Councils. Mr Bilney stated that it doesn't make it right. The Shire President agreed.

Mr Bilney stated you get more effluent from a cow and thinks it is fantastic that the Shire President has the knowledge of comparing a sheep and a cow. Mr Bilney continued by stating prices achieved at the Kojonup Saleyard last financial year were \$4 to \$5 higher than the Katanning Saleyard the previous morning and Narrogin, early that same week. There is a demand for Kojonup sheep in the area. Kojonup sheep have the ability to handle the rainfall. If Kojonup farmers had to take their sheep to Katanning, it would not happen for 5% per head less. Mr Bilney stated that the Kojonup Saleyards are used as a price discovery for sheep sold on farm.

Mr Bilney asked the question - Why do we need to have full cost recovery? Why does it have to be 3-5 years why not 20? Why couldn't it be 20 years? Will costings reduce in 5 years' time, when costs have been spent? Recovery needs to be an interest and repairs component not full cost recovery. Saleyards provide service to ratepayers. Farmers pay a lot of money in rates, important to their industry.

4.5 Steve McGuire – Blackwood Zone (Meat Representative) WA Farmers Federation - Saleyards

The Saleyards are an asset Kojonup has, once it is gone it is gone. Can't go throwing it away. Would like to meet with the Department of Environment & Regulation (DER) so he can ask questions.

Mr McGuire said don't go tearing the Saleyards down. Kojonup is one saleyard around the state, every other saleyard needs to be in the same boat. DER needs to consider new policy for saleyards in WA. Mr McGuire is very reluctant to buy out of Katanning Saleyards due to biosecurity issues. If you need a fence around the outside to keep people out then you will need to fence Apex Park. \$17,000 just to keep people out, seems ludicrous. Even if Council decide not to use it, don't pull it down. The WA Farmers Federation moved a motion at their recent meeting that local farmers wanted saleyards in the Blackwood Zone and the Kojonup saleyards be retained.

4.6 William Harvey – Farmer - Saleyards

Believes Council is acting in haste. Thinks Council should put a strong proposal to the Department of Environment & Regulation (DER) to justify Kojonup Saleyards. Council should get off the back foot and onto the front foot and thrash reasons about. There is wider ramifications, everyone is going to be impacted. Advice to Council regarding the Saleyards and Showgrounds is don't take the easy way out. As a ratepayer, Mr Harvey stated he pays officers wages.

The Shire President interrupted Mr Harvey to remind him not to attack officers in the meeting. Officers have a job to do and they are quite rightly putting their best recommendation forward and

that it is Council that will take this advice, consider all aspects of the matter and then make their decision.

Mr Harvey withdrew his comments and stated everyone should be working for the best interest of the town. Thinks Council should put up a little resistance to get the best outcome.

4.7 Derek Piesse – Farmer - Saleyards

Mr Piesse started by stating it is disappointing the Shire considers \$138,000 too much money to spend to bring the saleyards up to standard. Compare this with other things in the town money is being spent on.

Mr Piesse brought to the meetings attention that the Department of Environment & Regulation (DER) have not issued a closure date for correspondence and have committed to work with the Shire and can't believe the Shire put in a draft application without doing the soil testing.

Mr Piesse suggests that Council withdraw any saleyards report from any further agenda until testing has been done. Believes at the moment Council are putting the cart before the horse.

The Shire President explained to Mr Piesse that Officers are to bring the question to Council, before spending unbudgeted funds which includes the cost of soil testing.

4.8 Alex Cant – Farmer - Saleyards

Mr Cant believes the Department of Environment & Regulation (DER) representative should have been present at the meeting. He believes the DER representative is sitting in an office in Albany doing nothing. Council could have another 10 meetings but unless the DER representative is forced to come to Kojonup so local farmers can ask them a question or two, feels he is wasting his time? Mr Cant has taken the time to attend the meeting, why hasn't the DER representative? The DER representative is getting paid, Mr Cant is not? When someone else pays the bill they can have the say - while Mr Cant pays the bill he will have the say.

The Shire President thanked the gallery for their attendance and input.

5 PETITIONS, DEPUTATIONS & PRESENTATIONS

Nil

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 CONFIRMATION OF MINUTES

ORDINARY MEETING 19th May 2015

COUNCIL DECISION

87/15 Moved Cr Benn, seconded Cr Pritchard that the Minutes of the Ordinary Meeting of Council held on 19th May 2015 be confirmed as a true record.

CARRIED 8/0

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

Nil

9 **DECLARATIONS OF INTEREST**

Item 12.1 – Councillors Fleay, Sexton, Trethowan, Radford, Mathwin and Benn have all declared a previous interest in this item and were granted special approval from the Department of Local Government & Communities for them to be present when this item was considered and to take part in the item.

Item 17.1 – Chief Executive Officer has declared an interest in this item.

Item 12.1 was considered after Item 9 but has been recorded in the order of the agenda.

Note:

Cr Benn declared an interest as the meeting reached Item 13.3 as he is the Chair of the Kojonup Tourist Association.

Cr Benn declared an interest as the meeting reached Item 17.2 as he is the Chair of the Kojonup Tourist Association.

10 CORPORATE SERVICES REPORTS**10.1 FINANCIAL MANAGEMENT – MONTHLY STATEMENT OF FINANCIAL ACTIVITY**

AUTHOR: Anthony Middleton – Manager of Corporate Services
DATE: Sunday, 7 June 2015
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 31 May 2015.

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 2014 to 31 May 2015 represents eleven (11) months, or 92% of the year. The following items are worthy of noting:

- Surplus position of \$465,700;
- Operating results:
 - 80% of budgeted operating revenue has been received (approximately \$1.1m behind year-to-date estimates); and
 - 86% of budgeted operating expenditure has been spent (approximately \$470,000 saving on year-to-date estimates);
- Capital Expenditure sits at 41% of budgeted projects, or approximately \$3.9m less than year-to-date budgets;
- The value of outstanding rates equates to 4.75% of 2015/2016 rates raised (this figure includes previous years arrears but excludes deferred rates) (refer to page 17);
- Cash holdings of \$3.7m of which \$3.2m is held in cash backed reserve accounts; and
- Page 7 & 8 of the statements detail major variations from year to date (amended) budgets in accordance with Council Policy 2.1.6.

Additional graphs have been added to the statements to improve readability and understanding.

Several grants are currently being received or acquitted including Country Local Government Fund for the CEO's House \$346,000, VROC Country Local Government Fund for the Independent living Unit's \$870,000, Main Street Master Plan \$30,000, Sports Precinct Master Plan \$15,000, Community Pools Revitalisation Project \$30,000 and KidSport \$5,000.

CONSULTATION

Nil.

STATUTORY REQUIREMENTS

Financial Management Regulation 34 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 IMPLICATIONS

Community Strategic Plan 2013-2023 Focus Area 1 - Being Well Governed

Corporate Business Plan 2013-2017

Strategy 1.1.2 Maintain a structured forward planning process in accordance with legislation and community aspirations

Strategy 1.1.4 Maintain robust systems and controls

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications for this report.

VOTING REQUIREMENTS

Simple Majority

3:59pm Mrs Michelle Dennis re-entered the Chamber.

COUNCIL DECISION / OFFICER RECOMMENDATION

89/15 Moved Cr Pritchard, seconded Cr Trethowan that the monthly financial statements for the period 1 July 2014 to 31 May 2015, as attached, be noted.

CARRIED 8/0

10.2 MONTHLY PAYMENTS LISTING

AUTHOR: Brodie Potter – Finance Officer
DATE: Friday, 5 June 2015
FILE NO: FM.AUT.1
ATTACHMENT: 10.2 Monthly Payment Listing 01/05/2015 – 31/05/2015

DECLARATION OF INTEREST

Nil

SUMMARY

To receive the list of payments covering the period 1st May 2015 – 31st May 2015.

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 2.5 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 IMPLICATIONS

There are no asset management implications for this report.

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION / OFFICER RECOMMENDATION

90/15 Moved Cr Mathwin, seconded Cr Benn that in accordance with Regulation 13 (1) of the *Local Government (Financial Management) Regulations 1996*, the list of payments made under delegated authority from 1/05/2015 to 31/05/2015 comprising of Municipal Cheques 13420 - 13453, EFT's 13987 to 14110 and Direct Debits 17476.1 – 17584.1 totalling \$901,872.25 and as attached to this agenda, be received.

CARRIED 8/0

10.3 2015/2016 DRAFT LIST OF FEES AND CHARGES

AUTHOR: Anthony Middleton – Manager of Corporate Services
DATE: Wednesday, 3 June 2015
FILE NO: FM.FEE.1
ATTACHMENT: 10.3 List of Fees and Charges

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to consider a draft list of fees and charges to be referred to the 2015/2016 budget process.

BACKGROUND

The Council is required to adopt a list of fees and charges annually and this occurs as part of the annual budget adoption. This item is merely considering a draft to be referred to the budget process.

COMMENT

The draft list of fees and charges has undergone a review from all staff and also been the subject of both a Council briefing session and Audit Committee meeting. In addition to this feedback, amendments have been made in accordance with either:

- Consumer Price Index for Perth;
- Changes in legislation; and/or
- Rounding to simplify the handling of cash.

A copy of the draft is attached.

Considering this draft list prior to the budget enables an increased Council input and more time for changes to the charges to be investigated.

CONSULTATION

All office staff have been requested to provide input. A review was also conducted at a Council briefing session and Audit Committee Meeting.

STATUTORY REQUIREMENTS

Section 6.15 to 6.19 of the *Local Government Act (1995)* legislates the imposition of fees and charges for a local government. Section 6.19 of this Act requires a local government to advertise the imposition of fees and charges that are not included in the annual budget. This item will be completed in conjunction with the adoption of the annual budget and therefore advertising is not required.

POLICY IMPLICATIONS

There is no Council policy applicable to this item.

FINANCIAL IMPLICATIONS

The list of fees and charges, when adopted, sets the level of many revenue items contained within the budget. Significant consideration needs to be given when setting each fee and charge and the effect that it will have on the usage of that facility and the total revenue level obtained.

STRATEGIC/CORPORATE IMPLICATIONS

Community Strategic Plan 2013-2023 Focus Area 1 - Being Well Governed

Corporate Business Plan 2013-2017

Strategy 1.1.2 Maintain a structured forward planning process in accordance with legislation and community aspirations

Strategy 1.1.4 Maintain robust systems and controls

RISK MANAGEMENT IMPLICATIONS

A thorough and complete list of fees and charges assists with legislative compliance and ensures the generation of adequate revenue.

ASSET MANAGEMENT IMPLICATIONS

An appropriate list of fees and charges can assist to fund the required asset management activities.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the attached draft list of fees and charges be referred to the 2015/2016 budget.

COUNCIL DECISION

91/15 Moved Cr Benn, seconded Cr Pedler that the attached draft list of fees and charges be referred to the 2015/2016 budget, subject to the following:

- **Council Policy sets a bond at 4 weeks for staff housing - to be added;**
- **Inequity in rental paid between Newton St & Loton Close Units – to be reviewed.**
- **Memorial Hall back stage charge - Theatrical Society have their own set of key – clarification needed;**
- **Pool entry fees to be clarified by the Manager of Regulatory & Community Services.**
- **Pool Fees - Aqua aerobics needs clarifying instead of “as above”; and**
- **CWA Building – clarification needed for use by community organisations.**

CARRIED 8/0

11 WORKS & SERVICES REPORTS

11.1 POLICY - GRAVEL AND SAND EXTRACTION AGREEMENT

AUTHOR: Craig McVee, Manager of Works and Services
DATE: Thursday, 4 June 2015
FILE NO: PS.MTC.4
ATTACHMENT: [11.1.1 Gravel and Sand Extraction Policy 4.6](#)
[11.1.2 Gravel and Sand Extraction Agreement Template](#)

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to consider the new Gravel and Sand Extraction Policy and Agreement Template.

BACKGROUND

The purpose of this report is to present to Council a new policy to provide clear guidelines for the Shire of Kojonup to approach and make an agreement with a landowner for the purpose of extracting gravel or sand for road works or general use.

COMMENT

During a review of how landowners were approached regarding extracting material from private land, it was apparent that a detailed signed agreement between the Landowner and Manager of Works and Services be produced which is endorsed by the Chief Executive Officer.

CONSULTATION

Nil.

STATUTORY REQUIREMENTS

Policies have no legal status but are guidelines for staff to act on various matters without the need for continual referral to the Council. The Council may adopt, amend or waive policies under section 2.7(2)(b) of the *Local Government Act 1995*.

POLICY IMPLICATIONS

This is a new policy to ensure consistency and operational efficiency.

FINANCIAL IMPLICATIONS

Possession of the Policy and Agreement provides an Audit Trail and transparency regarding offer and acceptance.

STRATEGIC/CORPORATE IMPLICATIONS

Community Strategic Plan 2013-2023 Focus Area 1 – Being Well Governed

Corporate Business Plan 2013-2017

Strategy 1.1.4 Maintain robust systems and controls

RISK MANAGEMENT IMPLICATIONS

Agreement identifies responsibilities of Council and property owner to minimise or eliminate costs associated with the extraction of gravel and sand.

ASSET MANAGEMENT IMPLICATIONS

Possession of the Policy and Agreement ensures the removal of gravel and/or sand from private property is controlled and pit remediated as required to continue to be an asset to property owner.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the reviewed Gravel and Sand Extraction Policy 4.6, as attached, be adopted.

COUNCIL DECISION

92/15 Moved Cr Trethowan, seconded Cr Radford that the reviewed Gravel and Sand Extraction Policy 4.6, as attached, be adopted subject to the following changes:

- **The Manager of Works and the land owner to sign off on quantities; and**
- **Clause 8 to have the words “the track and” inserted after the word “rehabilitate”.**

CARRIED 8/0

4.6 GRAVEL AND SAND EXTRACTION

Adopted or Reviewed by Council:

Council Minute Reference:

Reviewer:

Local Law:

Procedure:

Delegation:

OBJECTIVE

The objective of this Policy is to provide clear guidelines for the Shire of Kojonup to approach and make an agreement with a landowner for the purpose of extracting gravel or sand for road works or general use.

POLICY

The Council will provide a written signed agreement between the landowner and Shire for the extraction of gravel or sand. The Manager of Works and Services will approach the landowner and will draw up the Gravel/Sand Agreement.

1. Agreement will detail the period of time.
2. The value of gravel or sand at a rate of \$#/ m³, not exceeding #/m³.
3. Photos of before and after extraction will be taken and logged in Synergy Records.
4. The works will be carried out on the property which materials have been extracted from and are to be carried out as soon as practicable.
5. Agreement of the area for gravel or sand extraction is to be agreed upon prior to extraction commencing. The area of the extraction site shall be pegged.
6. The topsoil (approx. 150mm) will be windrowed to the side of the area and after the excavation is complete, the floor will be ripped and the topsoil will be respread.
7. The Shire will construct a track to the extraction site and install a new gate in the boundary fences if required. Any tracks which are used by the Council staff will be maintained during use and where a new gate is fitted it will be left in place after this agreement has expired.
8. The Shire undertakes to rehabilitate the extraction site after excavation is complete to the satisfaction of the landowner and the Council's authorised officer.
9. The Shire will obtain all necessary clearances for the extraction of the required materials and be in accordance with all relevant Acts and Regulations.



This is an agreement for: (please tick)

Gravel extraction

Sand extraction

The Shire of Kojonup is committed to providing the best service in road construction and maintenance for the rate payers and residents of its community with all works being carried out for the enhancement of the Shire.

This is an agreement between the Shire of Kojonup and of for the extraction of approximately (quantity) of (type of material) for road works or general use.

1. Agreement is for the period to
2. The value of gravel is at a rate of \$/m³ or sand at a rate of \$/ m³, not exceeding/m³
3. The materials will normally be paid for (please tick)
 - a. With private works to be carried out on the property which materials have been extracted from and are to be carried out as soon as practicable.
 - b. In cases where large amounts of gravel are taken or private works are not required by the landowner supplying the gravel, the Chief Executive Officer may authorise a cash payment to the same value using the above maximum rates. A tax invoice will be required prior to payment.
4. Agreement of the area for gravel or sand extraction is to be agreed upon prior to extraction commencing. The area of the extraction site shall be pegged.
5. Photos of before and after extraction will be taken and logged into Synergy Records.
6. The topsoil (approx. 150mm) will be windrowed to the side of the area and after the excavation is complete, the floor will be ripped and the topsoil will be respread.
7. The Shire will construct a track to the extraction site and install a new gate in the boundary fences if required. Any tracks which are used by the Council staff will be maintained during use and where a new gate is fitted it will be left in place after this agreement has expired.
8. Council staff shall record the amount of material taken, e.g approximate cubic metres.
9. The Shire undertakes to rehabilitate the extraction site after excavation is complete to the satisfaction of the landowner and the Council's authorised officer.
10. The Council has exclusive use of the agreed extraction site during the term of this agreement.

Entry to the land and removal of materials is in accordance with the Local Government Act 1995, section 3.27 and schedule 3.2. Compensation for damages is in accordance with section 3.22.

The Shire will obtain all necessary clearances for the extraction of the required materials and be in accordance with all relevant Acts and Regulations.

.....
Landholders Name

.....
Landholders Signature

.....
Craig McVee, Works & Services Manager

.....
Rick Mitchell-Collins, Chief Executive Officer

12 COMMUNITY & REGULATORY SERVICES REPORTS

Item 12.1 was considered after Item 9 but has been recorded in the order of the agenda.

12.1 KOJONUP SALEYARDS

AUTHOR: Michelle Dennis – Development Services Coordinator
DATE: Sunday, 7 June 2015
FILE NO: CP.MTC.19
ATTACHMENT: [12.1.1 DER Interim Response to Licence Application](#)
[12.1.2 LGIS OSH & Public Liability Assessment of Kojonup Saleyard](#)

DECLARATION OF INTEREST

Cr's Fleay, Sexton, Trethowan, Benn, Mathwin and Radford have previously declared interests in this item.

SUMMARY

To draw Councils attention to the non-compliance aspects presently existing at the Kojonup Saleyards which require urgent Council determination.

BACKGROUND

In response to notification by the Department of Environment Regulation (DER) of the need to licence the Kojonup Saleyards, Council has previously been provided officer reports outlining the options for the site after extensive community consultation by way of surveys and stakeholder meetings. These reports considered the financial implications of operating the yards currently (i.e. up to three sales per year), without including any financial implications of likely improvements required as a part of the licence obligations, changes to animal welfare or OSH and Public Liability implications.

At its Ordinary November meeting Council resolved as follows (motion 178/14 and 179/14):

- *that a decision as to the future of the saleyards be deferred until all of the conditions and cost to operate the yards under a licence are known.*
- *that the 2014/2015 budget be amended to make a provision of up to \$18,000 to implement the previous motion, to be funded by reducing account C307 "Sports Facilities Master Plan", if required.*

Further to the Council resolution, Shire officers have lodged a Draft Licence Application with the DER and sought reports from our Regional Risk Coordinator and the Department of Agriculture's Stock Inspector. A copy of the interim response from the DER and draft report from our Risk Coordinator are attached. At the time of writing, the information from the Department of Agriculture is not available. As the site has been added to the enforcement watch list by the DER and significant risks have been identified by the Regional Risk Coordinator, it was thought prudent to provide Council with the information available to date for considerations of future budget implications.

COMMENT

While the Council resolution allowed for some costs to be allocated to the Licence Application preparation, Shire staff have to date carried out the works in-house and utilized existing contractual arrangements to access our Regional Risk Coordinator at minimal cost.

- Licence obligations

The DER's response to the Shire's Licence Application provides Council with an overview of where the Licence Application is deficient as well as the likely improvement conditions that would be applicable to a Saleyard facility. While improvement conditions can be staged over time, the ultimate

aim of the DER process is to ensure that infrastructure and management systems are in place that meet current Environmental Standards.

In respect to storm water management, the guidelines recommended by the DER, the National Guidelines for Beef Cattle Feedlots in Australia ('the guidelines') have been reviewed. The guidelines outline different methods for meeting the objectives of the National Beef Cattle Feedlot Environmental Code of Practice – a Code that was specifically introduced by industry to meet their "...social and ethical obligation to customers, communities and government to continually deliver improvements to environmental, animal welfare and food safety practices". While the guidelines specifically state that they do not apply to "recognised saleyards", the principles of design of controlled drainage areas and storm water management are considered relevant.

From the guidelines, controlled drainage systems can be summarised to incorporate:

- Catch drains to capture runoff from the saleyard area and other surfaces within the complex and convey that runoff to a collection and disposal system.
- Diversion banks or drains placed immediately upslope of the saleyard, designed to divert "clean" or uncontaminated runoff around the saleyard area.
- Sedimentation control that might include a series of terraces, basins and ponds.

As the Shire is unable to discharge any of the captured water to sewer, ponds of suitable volume to cater for a 1 in 20 year storm event, the average recurrence interval (ARI) design parameter recommended by the guidelines, would need to be available on site, or on other land available to the Shire. Excluding the cattle/horse area, the Saleyards are approximately 70m x 90m, 6,300m² in area. While officers have not had any design work carried out to date, it is considered possible that the land available on site would be of insufficient area for the construction of the required infrastructure, therefore incurring additional costs to pump the water for offsite storage or use.

While the diverted stormwater may be useful as part of the Shire's overall stormwater harvesting project, the bacterial content of sheep manure, would likely render any water falling within the yards unsuitable for reuse on the Town Oval, without additional treatment. It may however be suitable for agricultural use, though its discharge onto land would be governed by resultant DER licence conditions.

The DER have also highlighted the likely need to have the permeability of the hardstand within the holding yards tested. The guidelines make reference to the need to achieve a permeability standard of a maximum of 1×10^{-9} m/s (0.1mm/day) which is the same standard required for our current effluent ponds. This is being achieved in the effluent ponds by the placement of suitably selected, compacted clay in a 300mm layer. It could also be achieved by the use of a geosynthetic liner.

The DER assessment as well as recent survey work carried out as a part of the Truck Wash upgrades has highlighted the current use of the adjoining Railway Reserve for access and storage of disused materials. Some of this appears to be historic Shire use, while other use by nearby industrial land owners. If the Saleyards are to be retained, the Shire would need to arrange for a Management Order over the area being used, to ensure that the Shire, as well as users, are protected from any possible public liability issues.

- OSH & Public Liability

The assessment provided by the Shire's Regional Risk Coordinator (attached) has confirmed that the Shire has both an OSH obligation and Public Liability obligation for the use of the yard. Many of these issues can be resolved by implementing a saleyard safety management plan to improve safety, formalising agreements with hirer's of the facility as well as some maintenance items; many of which are currently being implemented as part of the improvements at the Truck Wash.

From a Public Liability perspective, the assessment states "... the likelihood of persons entering the saleyard, encountering hidden risks and potentially sustaining harm, may be regarded as foreseeable on the part of the Shire, particularly where access is unsupervised (e.g. outside of operating times)".

The assessor suggests that these risks could be eliminated by either closing the yards and removing the infrastructure, or alternatively "...introducing high level engineering controls such as perimeter fencing with lockable entry points".

Based on the costs associated with recent fencing work at the Turkey Nest Dam, if the Shire were to arrange for fencing of the yards, using approximate dimensions of 90m x 70m and two double gates at each of the ramps, the cost would be at least \$17,000. (Note that the dimensions used does not include the cattle/horse area or allow for a setback off the penned area – which would need to be considered to enable potential sellers and agents sufficient access around the yards on sale days i.e. the fencing cost is a conservative estimate).

While Council's previous motion requested that all of the costs associated with licencing the yards be established prior to a decision of the future of the yards being made, an assessment by the Shire's Regional Risk Coordinator has identified additional costs and additional management systems required in order to protect users of the facility from harm and ensure that the Shire is meeting its OSH and Public Liability obligations.

The previous officer report of the 18th November 2014 outlined the results of a survey that was circulated to all RMBs and rural post office box holders of the Kojonup Post Office and to the WA Farmers, Pastoralists and Graziers Association and Elders Kojonup for circulation to their membership and customers. As stated in the previous report:

*From the 68 survey respondents 23 registered that they sold sheep at the yards. Of these 23, one was a business respondent, 19 were local farmers and three stated that they did not farm within the Kojonup Shire. The majority of these respondents (ie 18 out of 23) were prepared to pay **up to \$1** for their use of the saleyards.*

Of the 45 respondents who did not use the yards to sell sheep 24 responded that they used the yards to top up loads or to drop off and pick up sheep. Of these, 16 responded that they would be prepared to pay for this use.

Based on the survey responses from farmers who were located in the Kojonup Shire and saleyard throughput figures, less than 2% of sheep within the Shire are being sold through the Saleyards which are operated at most three times per year. The November report also outlined that if fees were to be increased to a user pays basis, then fees would need to be increased to at least \$1.85 per head. This previous cost did not include additional works to meet the licensing obligations, install fencing or new safety management systems. Survey respondents have indicated that they would not be prepared to pay more than \$1 for their use of the yards.

It cannot be ignored that there is a recently completed State significant undercover sheep saleyard complex located less than 50kms from the Kojonup Saleyard who charge only \$0.75 per head offering user amenities such as toilets, a canteen and lighting. It operates as an independent business unit and is not subsidized by general rate revenue.

Should Council wish to retain the yards, there will be an ongoing obligation for continual environmental and OSH improvements. Should animal welfare standards change, there will also be additional works required to improve the facilities available for the yarding of animals.

Given the frequency of sales (i.e. at most three sales per year) and that the substantial financial investment required in meeting DER licensing, OSH and Public Liability obligations is not incorporated within the Shire's long term financial plan it is recommended that the Shire:

- Close the Kojonup Saleyards effective 30 June 2015
- Authorise that the infrastructure (ramps, panels etc) be auctioned within the upcoming (2015-2016) financial year

CONSULTATION

Since the November meeting, the author has received numerous calls from industry representatives to enquire as to the progress of Council's decision. In addition, a further meeting was held by Hon Paul Brown MLC on 9th April 2015 and farming representatives to enquire as to the possibility of lobbying changes to the Act and/or alternative options for compliance.

The Shire has received regular calls from the relevant enforcement officer of the DER to enquire as to progress and most recently received an email outlining the relevant legislation available to them for enforcement.

STATUTORY REQUIREMENTS

Environmental Protection Act 1986 – outlines the licensing requirements as well as to prevent pollution to the environment.

Animal Welfare Act 2002 – outlines the obligations for the welfare, safety and health of animals.

Biosecurity and Agriculture Management Act 2007 – outlines obligations of recording animal movement throughout the State.

Occupational Safety and Health Act 1984 – place an onus to provide safe places and systems of work with an emphasis on continual improvement.

POLICY IMPLICATIONS

Policy 2.3.4 Asset Management – Requires Council to consider the financial, economic, engineering and other practices to provide a level of service in the most cost effective manner.

FINANCIAL IMPLICATIONS

If the yards are to be retained, Council needs to consider to what level they are prepared to subsidise the provision of this facility as to require fees on a full cost recovery basis would likely result in the facility not being used, as users would have access to a lower cost facility (with increased user amenities) less than 50km from the existing site.

STRATEGIC/CORPORATE IMPLICATIONS

Community Strategic Plan 2013-2023 Focus Area 1.1 – Being Well Governed

Corporate Business Plan 2013–2017

Strategy 1.1.2 – Maintain a structured forward planning process in accordance with legislation and community aspirations.

Strategy 1.1.4 – Maintain robust systems and controls.

RISK MANAGEMENT IMPLICATIONS

The need for a licence has been identified by the DER. The need for improved management at the yards has been identified by the Shire's Regional Risk Coordinator. Failure for the Shire to take any action may result in formal enforcement action by the DER and/or exposure to liability resulting from our duty of care from workplace safety.

Both the *Environmental Protection Act 1986* and the *Occupational Safety and Health Act 1984* contain significant penalties; which if imposed, would jeopardise the Shire's ability to provide other services and carry out other functions and services to the community.

ASSET MANAGEMENT IMPLICATIONS

Section 12 of the Shire's Asset Management Plan provides information regarding buildings and associated structures and acknowledges that *renewal has regard to the ability to service current demands and be fit for purpose, with a significant component of renewal due to changing needs, expectations and regulations that can often render buildings obsolete and bring forward replacement discussions*. The Saleyards have not been identified in the long term financial plan for the Shire. The implications of Regulation on the future use of the Saleyards needs to be considered.

VOTING REQUIREMENTS

Simple Majority

The Shire President reminded the meeting that Cr's Fleay, Sexton, Trethowan, Benn, Mathwin and Radford have all declared an interest in this item and have been given special approval by the Department of Local Government and Communities to participate in and vote on this item at today's meeting.

OFFICER RECOMMENDATION

That Council:

1. Close the Kojonup Saleyards effective 30 June 2015;
2. Instruct the Chief Executive Officer to refuse any additional booking requests for use of the Saleyards; and
3. Authorise the Chief Executive Officer to arrange for the disposal of the Saleyards infrastructure (ramps, panels etc).

COUNCIL DECISION

88/15 Moved Cr Fleay, seconded Cr Mathwin that the matter be deferred to enable further lobbying of the Minister & Department of Environmental Regulation.

CARRIED 7/1

3:58pm Mrs Michelle Dennis left the chamber.

CEO COMMENTS

The Development Services Coordinator report raises a number of concerns regarding Truck Wash and Saleyard compliance which is reinforced in the LGIS Report as being in breach of current OHS legislative requirements for example:

“What was evident was the lack of an effective safety management plan or an operational plan that encompassed safety management at the saleyard, this absence of scheduled maintenance/repair has resulted in a decline of maintenance to a point where concerted effort would be required to reach a satisfactory standard of operation.

In addition to correcting the maintenance issues, a safety plan would provide direction through policy/procedure/inductions and SWMS to the workforce, regarding the activities and standards of operation the Shire of Kojonup would require at the site.”

To do nothing until all of the conditions and costs to operate the saleyards under a DER licence are known is no longer an option as Council through the possession of the LGIS Report is legally obligated under “Duty of Care” to take immediate action to eliminate or mitigate the risks/hazards identified or alternatively close the site until compliance requirements are met otherwise Council and officers are potentially liable to legal action and prosecution. Historically there appears to have been no formal relationship between Council, Agents and Farmers regarding roles and responsibilities required at the Saleyards other than mutual trust and a hire agreement at 50c per head. This approach is no longer acceptable.

The following estimates take into consideration previous reports and DER and OSH requirements and are indicative of the minimum cost of compliance:

Environmental Assessment Report to obtain Licence	\$18,650
Remedial works/Signage/Pedestrian & Vehicle segregation/Lighting	\$ 8,000
Redirect Stormwater away from saleyards area	\$ 4,000

Water treatment that comes in contact with animal waste including pump	\$50,000 minimum
Soil testing of substrate, bore drilling, drainage study and civil engineering	\$20,500
Animal welfare (feed/water troughs)	\$ 2,500
Fencing of Saleyard perimeter only	\$17,000 minimum
Internal gates, pens, walkways maintenance	\$ 5,000
Safe Work Methods/Management Plan/Operational Plan/Induction Manual	\$11,000
Ablutions – Temporary Hired in as required	\$ 1,000
Total	\$137,650

Revenue generated under the present 50c per head even at 25,000 sheep only generates \$12,500 per annum therefore as a simple example it would take council 11 years to recoup initial outlay without any allocation towards annual maintenance.

Increasing the fee to \$1.00 @ 25,000 sheep generates \$25,000 per annum and over 5 years to recoup capital. \$1.85 @ 25,000 sheep generates \$46,250 per annum and 3 years to recoup capital.

Council has to make an informed decision on the economic and social costs/benefits associated in owning and operating a saleyard that is used 2 -3 times a year and the ongoing maintenance and compliance aspects associated in providing a service that survey data suggests is not cost effective to farmers if they are required to pay more than \$1.00 per head.

The reality unfortunately is the ever changing regulatory environment in which we now live. Doing business or providing a service today may not be considered more productive or efficient by some community members but the repercussions of non-compliance certainly have an impact on the lives of Councillors, Officers, staff and users who may be subjected to legal action when things go wrong especially when they had previous knowledge of inadequacies and did not do anything to improve the situation.

Council has effectively been **“Put on Notice”** by DER and LGIS that change is required to present practices and operations at the Saleyards. Council has to determine whether or not they wish to continue to operate a saleyard which allows various farmers up to 3 sales per annum in Kojonup. The operation needs to be licenced (which comes at a cost) and the avenues available to Council to offset these costs are limited to increasing the 50c per head charge and allocating a portion of rates for any short fall.

Alternatives are selling, leasing or closing the saleyards. Selling or leasing would require the new owner or lessee to comply with DER and OSH requirements and recoup same from stock charges which appears an unlikely prospect if farmers have indicated that they are not prepared to pay more than \$1.00 per head. I therefore concur with the Officer recommendation to close the Sale yard facility until Council meets compliance and there is formal acceptance from users for per head costs to be increased immediately to \$1.85 to offset such compliance costs.

CEO RECOMMENDATION

1. Receive the LGIS Report “OSH & Public Liability Assessment of Kojonup Saleyard”;
2. Instruct the Chief Executive Officer to refuse any bookings for use of the Saleyards until non-compliance and licence conditions are met;
3. Council consider as part of 2015/2016 Budget its ability to address non-compliance and licence conditions together with any external funding opportunities;
4. As part of the 2015/2016 Budget considerations Council determine:
 - a) Base Saleyard fee being increased to no less than \$1.85 per head;
 - b) Users acceptance of the Saleyard fee increase;
 - c) Sale or Leasing options of the existing Kojonup Saleyards; or

- d) Permanent closure of the Kojonup Saleyards effective 31 July 2015 and authorise the Chief Executive Officer to arrange for the disposal of the Saleyards Infrastructure (ramps, panels etc.).

Item 10.1 was considered after Item 12.1 but has been recorded in the order of the agenda.

13 **EXECUTIVE & GOVERNANCE REPORTS**

13.1 SHOWGROUNDS AREA

AUTHOR: Rick Mitchell-Collins – Chief Executive Officer
DATE: Friday, 5 June 2015
FILE NO: CP.MTC.23
ATTACHMENT: 13.1.1 Certificate of Title 2228 Folio No: 997
13.1.2 Landgate Aerial Overlay (15 April 2015)
13.1.3 Kojonup Showgrounds - Building Assessment Report (NFN1344)

DECLARATION OF INTEREST

Nil

SUMMARY

To seek Council endorsement to undertake various actions in order to ensure legal compliance and governance requirements from a Council and User perspective for the area encompassing the Showground, Golf/Tennis Clubs and Archery/Pistol/Gun Clubs.

BACKGROUND

The most basic and fundamental management action is to ascertain what legal documentation presently exists regarding the Showgrounds Area within the Shire of Kojonup Contracts, Leases and Agreements Register.

Investigation of the documentation by the Senior Projects Officer has discovered that the Showgrounds is situated on Certificate of Title 2228 Folio No: 997 (as attached).

The Reserve is vested in the Shire for the purpose of recreation as per Gazettal Notice 8 March 1929 with the power to lease for up to 21 years **but no power to sublease**.

Any lease of the Showgrounds **must be approved by the Minister of Lands under S18 of the *Land Administration Act***.

There is no formal agreement in place for the use of the facilities however the Tennis Club and Golf Club combined have a lease for the use of the land also situated on this Reserve which expires in 2019. The Gun Club have been allocated their own area within the Reserve.

The preparation of the Pistol Club and Archery Club Lease Agreement has also highlighted the numerous land parcels currently used by the clubs as summarized below and illustrated in Landgate aerial overlay as attached.

Based on the aerial overlay:

1. The clubs currently access the facilities via a driveway located across Lot 87 (conditional freehold Land) and Lot 356 of Reserve 16076 (vested to the Shire of Kojonup for the purposes of “Recreation”) with the access traversing Reserve 36549 and Reserve 13697.
2. The Clay Target Club building is located within Reserve 36549. This Reserve is currently vested to the Shire of Kojonup for the purposes of “Rifle Range” with a power to lease.
3. The toilet building is located within Lot 312 of Reserve 13697. Reserve 13697 is Crown Land that does not have a Management Order. The listed purpose of this reserve is “Rifle Range”.
4. The Golf and Tennis Clubs are primarily located within Lots 355 and 357 of Reserve 16076. However, a number of fairways appear to be located within Lot 7317 of Reserve 13697. As a Management Order does not exist currently for Reserve 13697, the Shire does not have the power to lease.

Discussions with officers from the State Lands Department have suggested that an expedient way to affect a lease would be to request that Reserve 13697 be cancelled and the land parcels amalgamated with Reserve 36549.

As part of the review of the Showgrounds area, it may be beneficial to review the land parcels in use by other user groups and rationalise the Reserves in this area.

It appears that the P&A Society have erected some of the buildings or by others groups/organisations and have taken ownership of them. The concern is that the Reserve is vested in the Shire and therefore ultimate responsibility for the structures is vested in the Shire in the absence of any formal lease, licence or agreement. The Shire insures those structures.

The P&A Society currently have an agreement in place with the Gymnastics Club for their use of the George Jeffs Wool room and the area known as the Food Hall at the showgrounds which charges the Gymnastics club \$20.00 per week for the use of these areas. The P&A Society have no legal charge over the property and therefore cannot charge a rental for the use of the facility.

S18 of the Act is below:

18. Crown land transactions that need Minister's approval

- (1) A person must not without authorisation under subsection (7) assign, sell, transfer or otherwise deal with interests in Crown land or create or grant an interest in Crown land.
- (2) A person must not without authorisation under subsection (7) —
 - (a) grant a lease or licence under this Act, or a licence under the *Local Government Act 1995*, in respect of Crown land in a managed reserve; or *Land Administration Act 1997*
 - (b) being the holder of such a lease or licence, grant a sublease or sub licence in respect of the whole or any part of that Crown land.
- (3) A person must not without authorisation under subsection (7) mortgage a lease of Crown land.
- (4) A lessee of Crown land must not without authorisation under subsection (7) sell, transfer or otherwise dispose of the lease in whole or in part.
- (5) The Minister may, before giving approval under this section, in writing require —
 - (a) an applicant for that approval to furnish the Minister with such information concerning the transaction for which that approval is sought as the Minister specifies in that requirement; and
 - (b) information furnished in compliance with a requirement under paragraph (a) to be verified by statutory declaration.
- (6) An act done in contravention of subsection (1), (2), (3) or (4) is void.
- (7) A person or lessee may make a transaction under subsection (1), (2), (3) or (4) —
 - (a) with the prior approval in writing of the Minister; or
 - (b) if the transaction is made in circumstances, and in accordance with any condition, prescribed for the purposes of this paragraph.
- (8) This section does not apply to a transaction relating to an interest in Crown land if —
 - (a) that land is set aside under, dedicated or vested for the purposes of an Act other than this Act, and the transaction is authorised under that Act; or *Land Administration Act 1997*

When a Lease should be used:

A lease should be used when the lessee needs exclusive use of the whole or part of the reserve or a building because of the type of business or activity they will be conducting.

A lease may also be required if the lessee has invested, or proposes to invest, substantial sums of money installing or improving facilities on the reserve. This is usually likely to be a major user of the reserve, such as a sporting club.

A leaseholder has effective control of the leased area in the same way someone renting a house has sole rights to use the house. The lease document must contain all the provisions applicable to the use and occupation of the land by the lessee.

When a Licence should be used:

When the proposed user does not need exclusive use of any part of the reserve, a licence is more appropriate than a lease.

Occasional or short-term use of a reserve is usually covered by a licence; for example, the use of a showground by a show society on specific days of the year.

Licences can also provide greater flexibility of use by different users. Provided the uses don't directly conflict, licences covering the same reserve can operate at the same time. For example, a sporting club can use a playing field under licence, while food and other goods are sold on the site by a vendor under a separate licence.

A number of licences can be issued over the same area for different times or days; for example, a sporting field might have several different users on the same day or on different days.

Shire Management of the facility:

If the Shire manages the facility and the buildings situated on the land and hires out to other users, the Shire will need to ensure that the buildings are maintained in a fit and proper manner to ensure that the building is fit for purpose.

The cost of the management of the buildings and maintenance costs could exceed the ability to recoup costs through hire fees to the current users who may not have the ability to pay.

The community must determine to what extent it is prepared to subsidise the facility as presently occurs for example with the provision of a swimming pool.

COMMENT

Given that the P&A Society have assumed responsibility for conducting the Kojonup Show, it would seem reasonable to lease the facility to the P&A Society with the ability for them to sublease to other potential users. Council would need to obtain consent from the Minister for the lease agreement and the ability for the lessee to sublease. In relation to a lease fee, I would suggest given their responsibilities for maintenance of the buildings that the rental should be a peppercorn rent.

The P & A Society can then charge a fee for use given their ongoing maintenance costs.

It means that P & A Society take responsibility for the improvement of the buildings on the Reserve, however if some or all of the present committee members retire what guarantee is there for the continuation of the Kojonup Show? Council would then assume full responsibility for the area in the absence of any formal agreement and its continued use whatever form that takes!

Council may also wish to assess the practicalities of relocating the Show to the Sports Precinct/Benn Parade area subject to extensive consultation with the community and P & A Society?

CONSULTATION

Council Meetings and Briefing Sessions

P & A Society

Officers of Lands Department

On-Site inspections

STATUTORY REQUIREMENTS

Associations Incorporation Act 1987

Local Government Act 1995 Part 3 Division 3 Subdivision 5 & 6

Land Administration Act 1997

Land Administration (Land Management) Regulations 2006
Land Administration Regulations 1998
Transfer of Land Act 1893

POLICY IMPLICATIONS

Policy 1.2 – Community Funding Program (Capital & Operating) which aims to provide a framework for the provision of funding which meets Council’s Strategic objectives in facilitating community development initiatives.

Policy 3.16 – Community Consultation Charter which aims to reflect Council’s commitment to open and effective consultation with the community in the process of making important decisions about the wellbeing of the community.

FINANCIAL IMPLICATIONS

Council spent \$25,688 last financial year on showground works, building maintenance and renewals. As at 31 May 2015 Council has spent \$14,811 and ratepayers could legitimately ask has the community received “value for money” outcomes for the \$40,000 outlay?

To demolish various toilet blocks and replace with ex mining donga’s that meet health specifications would necessitate Council, P & A Society, and Community groups such as Apex, Lions and Rotary working together to achieve sustainable outcomes. New toilet/shower facilities may allow part of the Showground area to be used as caravan/camping overflow by the Kojonup Caravan Park thereby maximizing usage and income streams? Alternatively given the minimal use of toilets, temporary toilets can be hired by users to cover specific events/activities.

Council is also very conscious of the need to divert storm water runoff from the area into the Showground dam during rainfall events to increase capacity to irrigate parks and reserves in summer and therefore provision for improved drainage works will be considered as part of the 2015/2016 budget deliberations. It also appears that part of the original football oval has been developed for equestrian events but why hasn’t the balance area been completed?

The main pavilion has been used in the past for indoor cricket and with some internal work could also accommodate indoor netball training. The potential for improvement exists however the commitment from existing and potential users to realize such opportunities must be explored as part of the Development Planning process.

As a community we know the problems that exist but Council seeks community partnerships that try to provide solutions short, medium and long term that are financially and socially responsible.

STRATEGIC/CORPORATE IMPLICATIONS

Community Strategic Plan 2013-2023

Focus Area 1.1- Being Well Governed

Focus Area 1.2 – Feeling good about living in Kojonup

Focus Area 1.5 – Staying Active & Entertained

Corporate Business Plan 2013–2017

Strategy 1.1.2.3 – Incorporate strategic, operational and asset management plans onto a long term financial plan

Strategy 1.2.2.2 – Develop environmental management plans for significant shire reserves

Strategy 1.5.2.3 – Plan and develop appropriate passive recreation areas

RISK MANAGEMENT IMPLICATIONS

Progressing Governance and Compliance requirements to ensure council owned or managed property used for community activities/events/displays/functions/marketing and promotion meet regulatory, policy and reporting requirements.

The Showground is a place of public assembly and as such there are strict requirements conducting events as the potential for liability increases dramatically given the types of risks and hazards that people may be exposed. The P & A Society has to balance these risks every year to ascertain if the Show is worth the effort! Are committee members (who volunteer their time) sufficiently protected should something happen to a member of the public who then takes legal action?

Council must exercise a “Duty of Care” to the committee and public if it knows that a building or structure is not compliant. Individual views to allow continued use of buildings and facilities regardless of condition as they are only used a few days a year is not a valid excuse against a claim of negligence!

ASSET MANAGEMENT IMPLICATIONS

Whole of Life considerations, Integrated planning, Structural Integrity, “Fit for Purpose” considerations, Business continuity and Long Term Financial Planning implications.

Unfortunately community service levels for buildings and structures at the Showground does not realistically match the \$’s required to maintain same given the infrequent use, age and building standards used at the time of construction.

The following Fair Value assessment undertaken by Griffin Valuation clearly identifies a number of structures that are nearing their effective life necessitating a serious review of whether or not they are to be retained or removed.

LG IS No	Land ID	Location	Address	Suburb	Primary Description	Secondary Description	GCRC	EEWL	ERLY	Fair Value @ 6/2014
29	-	Showgrounds	Blackwood Road	Kojonup	Centenary Pavilion	Timber framed metal and metal clad pavilion on timber footings with timber floors	145,000	45	3	9,000
30	-	Showgrounds	Blackwood Road	Kojonup	Poultry Shed	Timber framed metal and metal clad shed on concrete slab	86,000	45	3	5,000
39	-	Showgrounds	Blackwood Road	Kojonup	Womens Toilet Block	Rendered brick and metal clad toilet block on concrete slab	18,000	50	3	1,000
33	-	Showgrounds	Blackwood Road	Kojonup	Office & Workshop	Jarrah weatherboard and metal clad office on timber footings with timber floors	29,000	45	3	1,000
34	-	Showgrounds	Blackwood Road	Kojonup	Bar	Jarrah weatherboard and metal clad bar on timber footings with timber floors	27,000	45	3	1,000
28	-	Showgrounds	Blackwood Road	Kojonup	150 Exhibition Hall	Steel framed metal and metal clad shed on concrete slab	205,000	45	3	13,000
37	-	Showgrounds	Blackwood Road	Kojonup	Male Toilet Block	2 x Rendered brick and metal clad toilet block on concrete slab	95,000	50	6	11,000
38	-	Showgrounds	Blackwood Road	Kojonup	Toilet Block	Brick and metal clad skillion roofed toilet block on concrete slab	80,000	50	6	9,000
40	-	Showgrounds	Blackwood Road	Kojonup	Male Toilet Block	Rendered brick and metal clad skillion roofed toilet block on concrete slab	27,000	50	6	3,000
43	-	Showgrounds	Blackwood Road	Kojonup	Stables	Timber framed metal and metal clad stables on gravel floor	36,000	40	6	5,000
31	-	Showgrounds	Blackwood Road	Kojonup	Sheep Pavilion	Steel framed metal and metal clad open sided shed on gravel floor	365,000	45	11	89,000
32	-	Showgrounds	Blackwood Road	Kojonup	Shearing Shed	Steel framed metal and metal clad shed on concrete slab with hinged wall and timber shearing deck	165,000	45	11	40,000
36	-	Showgrounds	Blackwood Road	Kojonup	Food Hall	Steel framed metal and metal clad shed on concrete slab with kitchen	365,000	45	11	89,000

A Building Assessment Report (as attached) has been prepared by the Shire's Building Surveyor and Development Services Coordinator following on-site visits accompanied by P & A Society President – Peta Zadow, Building Maintenance Coordinator and CEO.

There are a number of recommendations including the demolition of old toilet blocks to address public health and safety.

A concerted effort is required not only by the P & A Society but also sponsors/supporters of the Kojonup Show that they are prepared to work collaboratively with council in preparing a realistic Development Plan as the present underutilization of the Showground area from a cost perspective is totally unrealistic for a one day show given the need for council to maintain other buildings such as the Council Chambers, Works Depot, Springhaven, Kodja Place, Town Hall, Historical Society Buildings, Loton Close Units etc.!

Council has a responsibility to ensure ratepayer funds are spent wisely maintaining essential infrastructure such as Roads, Footpaths, Kerbing, Buildings, Parks and Reserves, Frail Aged, Waste Management and Stormwater Services – just to mention a few!

Similarly Council with the support of the community needs to clearly establish if the present annual budget allocation of \$18,000 is justified and if not what are the possible solutions?

VOTING REQUIREMENTS

Absolute Majority

COUNCIL DECISION / OFFICER RECOMMENDATION

93/15 Moved Cr Sexton, seconded Cr Radford that Council:

- 1. receives the Chief Executive Officers Report;**
- 2. establishes a Blackwood Road Precinct Advisory Committee effective 22nd October 2015 to undertake the preparation of a Development Plan during the 2015/2016 financial year that includes existing Reserves 16076, 13697, 9589, 36549 and the Showground title CT 2228/997, taking into account:-**
 - (i) Present and future uses including User Agreements to ensure improved governance and compliance**
 - (ii) Asset Management implications of existing built infrastructure and upgrades required**
 - (iii) Water harvesting and re-use opportunities**
 - (iv) Review the land parcels in use by other user groups and rationalise the Reserves in the Blackwood Road Precinct**
 - (v) Financial/Workforce planning considerations**
 - (vi) Occupational Health and Safety/Public Liability implications**
 - (vii) External funding opportunities**
 - (viii) Risk Management implications for various activities/events, etc.**
 - (ix) Pro's/Con's of relocating some/all of show activities to the Sports Complex/Benn Parade area**
- 3. Council give due consideration to non-compliant building rationalisation as part of the 2015/2016 budget deliberations.**

CARRIED BY ABSOLUTE MAJORITY 8/0

13.2 KOJONUP MAIN STREET RENEWAL STRATEGY

AUTHOR: Rick Mitchell-Collins – Chief Executive Officer
DATE: Friday, 5 June 2015
FILE NO: FM.TND.2
ATTACHMENT: **13.2 Kojonup Main Street Renewal Strategy (Hames Sharley) - Final Revision B**

DECLARATION OF INTEREST

Nil

SUMMARY

To receive the amended plans and report of the Kojonup Main Street Renewal Strategy prepared by Consultant - Hames Sharley.

BACKGROUND

Hames Sharley were appointed to undertake the development of the Main Street Master Plan following interviews conducted 24 & 25 February 2014, Refer Council Decisions 202/13 and 15/14. Council via Decision 36/15 received the Kojonup Main Street Renewal Strategy however the CEO stated that if Councillors had any suggested amendments could they be provided to him for referral to consultants.

The Renewal Strategy and Development Plan aims to provide a realistic, measured and achievable approach to not only improving the visual amenity of the Main Street, but also:-

- Enhance safety and functionality between pedestrians and vehicles;
- Develop crucial links within the commercial precinct for existing/future growth;
- Establish links with The Kodja Place, Apex Park/Potts Memorial/RSL, Shire Offices/Civic Centre;
- Define and improve off-street parking/community space;
- Enhance signage/street furniture;
- Encompass and promote Historical/Cultural values.

COMMENT

Hames Sharley in conjunction with Council undertook extensive community engagement conducting Breakfast and Public Forums, Visioning Workshops, Surveys and site visits and the outcome of these consultation events and activities has been well captured in the final document by listing Opportunities and Challenges and Concept Developments that can be addressed short, medium and long term.

Suggested amendments relating to the accuracy of buildings on the plans were received and referred to Hames Sharley which have been subsequently amended.

There are of course still some unknowns that require further consideration as listed in the section – Community Feedback. For example: Main Roads planning in respect of Heavy Vehicles. Council shares community frustration that despite years of discussion with Main Roads no definitive detour route has been forthcoming in order to assist Council with its long term planning.

Completion of the Main Street Renewal Strategy is not the end of process but the commencement of a staged approach in realising economic activation, investment attraction, spatial planning, social drivers and environmental considerations that has majority community support as the Strategy reflects community feedback.

Council can now prepare funding applications based on the Renewal Strategy for specific precincts that collectively over the next 20 years will achieve the aims of Council and the Community including investors and visitors. The funding assistance provided via the Great Southern Development

Commission has enabled Council and the community to achieve a very realistic and targeted Kojonup Main Street Renewal Strategy.

CONSULTATION

Council Meetings
Council Briefing Sessions
Senior Management
Main Street Master Plan – Public Forums
The Kojonup News
Great Southern Development Commission

STATUTORY REQUIREMENTS

Compliance with the terms and conditions of the Regional Grants Scheme Agreement.

POLICY IMPLICATIONS

Council in determining an economic development strategy will need to review existing Policy 3.2 to ascertain the appropriateness of development incentives for building, planning fees and rates.

FINANCIAL IMPLICATIONS

Financial Planning is critical in achieving short, medium and long term targets for the Main Street Renewal Strategy. The purchase of strategic properties at 101 and 133-135 Albany Highway together with the rationalisation and consolidation of other Council owned properties and accessing external funds will determine the timing of works and achievement of key strategies that form part of the Master Plan.

Council has commenced a new and exciting journey that is factored into our Integrated Planning.

STRATEGIC/CORPORATE IMPLICATIONS

Community Strategic Plan 2013-2023

Focus Area 7 – Supporting Main Street

Corporate Business Plan 2013-2017

Strategy 1.7.1.2 – Undertake a study to identify the opportunities to enhance the main street, taking into account current and future uses.

RISK MANAGEMENT IMPLICATIONS

Strategic planning, business development and problem solving will have an impact on the Shire as it currently operates.

This role is very different to the operational role which is about following the approved course once approved, and ensuring the goals and objectives are met in the most efficient and effective manner.

To be able to separate the strategic risks from operational risks Council has to determine if the issues at hand is in a planning phase or already delegated and implemented. From the implementation point, strategic risk management activities become about monitoring and review, both during the implementation process and on completion of the activity or project.

ASSET MANAGEMENT IMPLICATIONS

The objective of asset management is to meet a required Level of Service in the most cost effective manner through the integrated management of assets for present and future customers.

The benefit to both the council and the community of improved asset management are:

- Strong governance and accountability of the delivery of efficient and effective services;
- Sustainable infrastructure investment decisions through the appropriate consideration of all options and the recognition of life cycle costs;
- Improved understanding of customer requirements and the alignment of the performance of assets to community expectations; and
- Effective risk management.

Meeting the above objectives will be fundamental in any activity or project undertaken as part of the Main Street Renewal Strategy.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council receives the amended plans and report (Final Revision B) Kojonup Main Street Renewal Strategy and publicly display same at the Council Office and IGA Supermarket (subject to the business owner's permission).

COUNCIL DECISION

94/15 Moved Cr Pedler, seconded Cr Pritchard that Council receives the amended plans and report (Final Revision B) Kojonup Main Street Renewal Strategy and publicly display same at the Council Office and IGA Supermarket (subject to the business owner's permission) for public comment.

LOST 8/0

Cr Pritchard then pointed out the following errors in attachment 13.2 Kojonup Main Street Renewal Strategy (Hames Sharley) - Final Revision B:

- Page 14 – schools correction was made.
- Page 15 – old school figure 4 – have included the barracks and the post office, omitted the old school.
- Page 17 – haven't put in P for parking in Apex Park or behind the hall/shire building.
- Page 24 – figure 8 requires amendments – police station should read old post office on Spring Street, old school not mentioned.
- Page 32 – probably should have mentioned half way down just above roads thorough investigation for limestone, supposed to say granite.
- Page 33 – amend or explain Hall Street or Harrison Place???
- Page 43 – half way down creation of a town square, close Hillman Place, do they mean Harrison Place?

The Shire President is going to meet with Hames Sharley to express her disappointment and ask for changes to be made.

13.3 KODJA PLACE PRECINCT – BUSINESS PLAN

AUTHOR: Rick Mitchell-Collins – Chief Executive Officer
DATE: Thursday, 4 June 2015
FILE NO: RC.MUS.1
ATTACHMENT: [13.3 Kodja Place Business Plan 2015](#)

DECLARATION OF INTEREST

Cr John Benn – President of Kojonup Tourist Association (KTA).

SUMMARY

To seek Council endorsement of the Kodja Place Business Plan that was tabled at a meeting of the Kodja Place Advisory Committee (KPAC) on 19 February 2015 and has subsequently had some minor amendments to reflect the new management structure.

BACKGROUND

CEO reported at the above KPAC meeting that the Business Plan includes a financial analysis showing an annual average net loss of \$210,205 or the equivalent of 7.534% of the annual rate revenue.

However we should not forget the net benefits derived by Commercial/Business operators etc. as a result of visitors stopping at Kojonup.

More of the same unfortunately is not sustainable hence the new Strategic Plan and structure, appointment of Zahra Shirazee as the Manager – The Kodja Place Precinct, Margaret Robertson's appointment as Storyplace/Gallery Coordinator and Craig McVee's appointment as Noongar Cultural & Education Officer.

COMMENT

The Business Plan provides an important performance measure and benchmark moving forward for Council, Management, Staff, Community and Advisory Committee members.

The Business Plan complements The Kodja Place Strategic Plan which Council adopted at its meeting held 16 September 2014 – refer Council Decision 141/14.

CONSULTATION

Council Meetings and Briefing Sessions
Kodja Place Advisory Committee Meetings
Information Session KTA & Volunteers 20 May 2015

STATUTORY REQUIREMENTS

Associations Incorporation Act 1987
Local Government Act 1995 Division 2 Subdivision 2 (Committees)
Financial Management Regulations
ASX Corporate Governance Principles

POLICY IMPLICATIONS

Policy 1.2 – Community Funding Program (Capital & Operating) which aims to provide a framework for the provision of funding which meets Council's Strategic objectives in facilitating community development initiatives.

Policy 3.16 – Community Consultation Charter which aims to reflect Council's commitment to open and effective consultation with the community in the process of making important decisions about the wellbeing of the community.

FINANCIAL IMPLICATIONS

Maintaining this level of annual support without clear strategic objectives and resources is unrealistic, hence the need for an updated Strategic Direction and new approach to ensure “value for money” outcomes for ratepayers and users of the facility and increased patronage of businesses in Kojonup. Improving performance, reducing operational costs, increasing revenue streams and knowing the true cost of business are challenges Council and the Advisory Committee are prepared to undertake.

STRATEGIC/CORPORATE IMPLICATIONS

Community Strategic Plan 2013-2023 Focus Area 1.5 – Staying Active & Entertained

Corporate Business Plan 2013–2017

Strategy 1.5.1.1 – Establish a User Advisory Committee to make recommendations to improve the utilisation of Kodja Place.

Kodja Place Strategic Plan 2014

RISK MANAGEMENT IMPLICATIONS

Progressing Governance and Compliance requirements to ensure commercial and tourism activities/events/displays/functions/marketing and promotion meet regulatory, policy and reporting requirements.

ASSET MANAGEMENT IMPLICATIONS

Whole of Life considerations, Integrated planning, Structural Integrity, “Fit for Purpose” considerations, Business continuity and Long Term Financial Planning implications.

VOTING REQUIREMENTS

Simple Majority

4:42pm Cr Benn declared an interest as the President of the Kojonup Tourism Association and left the Chamber.

COUNCIL DECISION / OFFICER RECOMMENDATION

95/15 Moved Cr Sexton, seconded Cr Radford that Council receives the Kodja Place Business Plan 2015.

CARRIED 7/0

4:46pm Cr Benn returned to the Chamber.

14 COMMITTEES OF COUNCIL

Nil

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

Nil

16 **NEW BUSINESS**

(of an urgent nature, introduced by a decision of the meeting).

Nil

17 CONFIDENTIAL REPORTS17.1 USE OF CEO VEHICLE ABOVE 26TH PARALLEL

17.2 KOJONUP TOURIST ASSOCIATION – TRANSITIONAL ARRANGEMENTS AT THE KODJA PLACE

AUTHOR: Rick Mitchell-Collins – Chief Executive Officer
 DATE: Monday, 25 May 2015
 FILE NO: Personnel File & ED.IND.1
 ATTACHMENT: [17.1 Confidential Report](#)
 [17.2 Confidential Report](#)

SUMMARY

To seek Council approval in accordance with Council Policy 2.2.8c. for Mr Mitchell-Collins to use the CEO vehicle that forms part of his package to travel to Carnarvon on 17 June 2015 returning 22 June 2015. The 26th Parallel finishes at Denham with Carnarvon immediately north.

To update Council on the transitional arrangements given the introduction of the new Management Model commencing 1 July 2015 in accordance with Council Decision 47/14.

STATUTORY REQUIREMENTS

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

- (a) a matter affecting an employee or employees; and
- (b) the personal affairs of any person; and
- (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and
- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and
- (e) a matter that if disclosed, would reveal —
 - (i) a trade secret; or
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; and
- (f) a matter that if disclosed, could be reasonably expected to —
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or
 - (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety; and
- (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971*.

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

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION / OFFICER RECOMMENDATION

- 96/15 Moved Cr Trethowan, seconded Cr Pedler that the meeting be closed to the public in accordance with s5.23 of the *Local Government Act 1995* to discuss:**
- (a) a matter affecting an employee or employees; and**
 - (b) the personal affairs of any person.**

CARRIED 8/0

4:46pm Mr Rick Mitchell-Collins, Mr Mort Wignall, Mr Craig McVee, Mrs Michelle Dennis and all remaining members of the gallery left the Chamber.

COUNCIL DECISION / OFFICER RECOMMENDATION

- 97/15 Moved Cr Trethowan, seconded Cr Pedler that Council in accordance with Policy 2.2.8c grant approval to Mr Mitchell-Collins to use the CEO vehicle to travel to above the 26th parallel during June 2015.**

CARRIED 8/0

4:51pm Mr Rick Mitchell-Collins re-entered the Chamber.

4:52pm Cr Benn declared an interest in Item 17.2 as the President of the Kojonup Tourist Association and left the Chamber.

The Shire President advised the Chief Executive Officer that he has permission to use the CEO Vehicle above the 26th parallel during June 2015.

COUNCIL DECISION / OFFICER RECOMMENDATION

98/15 Moved Cr Sexton, seconded Cr Trethowan that Council agree to the April-June 2015 (4th quarter) payment in full as per the existing Memorandum of Understanding subject to the Kojonup Tourist Association (KTA):

- 1. Terminating the employment of the Manager's position effective 30 June 2015.**
- 2. Substantiating all employee records and meeting entitlements due as at 30 June 2015.**
- 3. Providing a full list of Stock on hand and written down values as at 30 June 2015 for Council determination on stock/furniture/fittings etc. it wishes to retain as from 1 July 2015 and to allow a formal purchase offer to be made.**
- 4. Council as from 1 July 2015 will assume responsibility and control via the Manager – TKPP with regard to all business operations within the Visitor Centre, Storyplace/Gallery and The Kodja Place Precinct.**
- 5. Ensure Council has access to or the transfer of ownership/information/records/keys/documentation/security codes/IT programs, Intellectual property etc. pertaining to the Visitor Centre, Kodja Place Precinct, Tourism, Marketing, Promotional activities, bookings, reservations and events management.**
- 6. The future need for various bank/cheque accounts presently operated by KTA to be determined following the KTA Annual General Meeting which is to be held prior to 30 June 2015.**
- 7. Upon the new role/purpose of KTA being determined and office bearers elected by financial KTA members at the Annual General Meeting, Council will prepare a new MOU as the need for volunteers at The Kodja Place for the Visitor Centre is still required.**
- 8. Executing a Deed of Termination for the 2013 - 2016 Memorandum of Understanding effective 30 June 2015.**

CARRIED 7/0

COUNCIL DECISION / OFFICER RECOMMENDATION

99/15 Moved Cr Trethowan, seconded Cr Pedler that the meeting be reopened to the public at 5.11pm.

CARRIED 7/0

5:11pm Cr Sexton left the meeting.

5:12pm Cr Sexton & Cr Benn returned to the Chamber.

18 **NEXT MEETING**

Tuesday, 21st July 2015 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 5:12pm.

20 **ATTACHMENTS (SEPARATE)**

- Item 10.1 Monthly Statement of Financial Activity
- Item 10.2 Monthly Payment Listing 01/05/2015 – 31/05/2015
- Item 10.3 List of Fees and Charges
- Item 12.1.1 DER Interim Response to Licence Application
- Item 12.1.2 LGIS OSH & Public Liability Assessment of Kojonup Saleyard
- Item 13.1.1 Certificate of Title 2228 Folio No: 997
- Item 13.1.2 Landgate Aerial Overlay (15 April 2015)
- Item 13.1.3 Kojonup Showgrounds - Building Assessment Report (NFN1344)
- Item 13.2 Kojonup Main Street Renewal Strategy (Hames Sharley) - Final Revision B
- Item 13.3 Kodja Place Business Plan 2015
- Item 17.1 Confidential Report
- Item 17.2 Confidential Report

Presiding Member

Date