

# Kojonup



**SHIRE OF KOJONUP**

## **MINUTES**

**Ordinary Council Meeting**

**20 September 2016**

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## MINUTES

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

The Shire President declared the meeting open at 3:05pm and alerted the meeting of the procedures for emergencies including evacuation, designated exits and muster points and drew the meeting's attention to the disclaimer below:

*Disclaimer*

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

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

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

### 2 **ATTENDANCE & APOLOGIES**

Cr Ronnie Fleay	Shire President
Cr Robert Sexton	Deputy Shire President
Cr Frank Pritchard	
Cr Ian Pedler	
Cr Graeme Hobbs	
Cr Ned Radford	
Cr Jill Mathwin	
Cr Judith Warland	
Mr Rick Mitchell-Collins	Chief Executive Officer
Mr Anthony Middleton	Manager Corporate Services
Mr Craig McVee	Manager Works & Services
Mr Mort Wignall	Manager Regulatory Services
Miss Miranda Wallace	Executive Assistant
Mrs Dominique Magini	Records Officer
Mr Phil Shepherd	Town Planner
Members of the Gallery	1 (Ms Kerry Mickel, Elders)

#### **APOLOGIES**

Nil

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

Nil

**4 PUBLIC QUESTION TIME****4.1 MS KERRYNN MICKLE – ELDERS, KOJONUP**

Ms Mickle thanked Council and Staff for all of their work thus far concerning the Kojonup Saleyards. Ms Mickle expressed her concern to Council regarding Council's 2016/2017 Schedule of Fees & Charges in relation to the \$1.85/head cost for sheep being processed through the Kojonup Saleyards. The public (via survey) have indicated they would prefer a price rise from 50c/head to \$1/head as opposed to a rise of \$1.85/head. Ms Mickle requested Council to consider revising the fee to \$1/head.

*On behalf of Council, the Chief Executive Officer responded to Ms Mickle's question. When the 2015/2016 Budget was set the expectation was that the Department of Environment Regulation and the Department of Health would conclude their review of the regulations for rural saleyards in short order. Council and users of the Saleyards recognise (in accordance with the joint report tabled at the 16 June 2015 Council Meeting) that additional costs will be incurred to meet OHS Legislative requirements such as a safety management plan and associated works as well as an Environmental Assessment Report – hence the setting of the \$1.85/head fee to cover these additional costs. However, as these requirements have yet to be put in place, if Ms Mickle writes to Council on behalf of Elders Rural Services Pty Ltd, Council is prepared to consider once again setting the fee at \$1/head for Elders' Sale scheduled for November 2016 as has occurred previously (Council Decision 203/15).*

*3:09pm – Ms Kerryann Mickle thanked the Chief Executive Officer for his response and departed from the Chamber.*

**5 PETITIONS, DEPUTATIONS & PRESENTATIONS**

Nil

**6 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil



**7      CONFIRMATION OF MINUTES**

ORDINARY MEETING 16 AUGUST 2016

**COUNCIL DECISION**

**114/16 Moved Cr Radford, seconded Cr Mathwin that the Minutes of the Ordinary Meeting of Council held on 16 August 2016 be confirmed as a true record.**

**CARRIED      8/0**

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

Nil

**9      DECLARATIONS OF INTEREST****Item 10.3**

- The Presiding Member and Councillors Pedler, Mathwin, Pritchard, Hobbs, Warland and Radford declared a 'Financial – Direct' interest in this item as they will be entitled to be issued with a Corporate Polo Shirt/Uniform in accordance with the Policy. Permission to participate in this item has been granted to these Councillors under section 5.69(3)(a) of the *Local Government Act 1995* by the Department of Local Government & Communities.
- Cr Sexton declared a 'Financial – Direct' interest in this item as he will be entitled to be issued with a Corporate Polo Shirt/Uniform in accordance with the Policy.

**Item 10.6**

- Cr Pedler declared a 'Financial – Indirect' interest as he is the Auditor for Kojonup Occasional Care Committee Inc. who are party to the lease for the Kojonup Day Care Centre from the Shire.

**Item 13.1**

- Cr Pedler declared a 'Financial – Indirect' interest as he has provided professional services for another business in the area with similar services.

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

AUTHOR: Anthony Middleton – Manager Corporate Services  
 DATE: Wednesday, 7 September, 2016  
 FILE NO: FM.FNR.2  
 ATTACHMENT: 10.1 Monthly Statement of Financial Activity

**DECLARATION OF INTEREST**

Nil.

**SUMMARY**

The purpose of this report is to note the Monthly Financial Statements for the period ending 31 August 2016.

**BACKGROUND**

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

**COMMENT**

The attached Statement of Financial Activity for the period 1 July 2016 to 31 August 2016 represents two (2) months, or 17% of the year. The following items are worthy of noting:

- Surplus position of \$4.04m;
- Operating results:
  - 42% of budgeted operating revenue received; and
  - 13% of budgeted operating expenditure spent;
- Capital expenditure achieved 5% of budgeted projects;
- The value of outstanding rates equates to 30.5% of 2016/2017 rates raised, which includes previous years arrears and instalments not yet due but excludes deferred rates (refer to page 17 of the statements);
- Cash holdings of \$5.67m of which \$2.92m is held in cash backed reserve accounts;
- Page 7 & 8 of the statements detail major variations from year to date (amended) budgets in accordance with Council Policy 2.1.6.

The following capital expenditure projects have exceeded their authorized budgets:

COA	Description	Resp. Officer	Original Budget	YTD Actual	% of Annual Budget
C053	Day Care Centre Car Park	MWS	\$15,000	\$16,352	109%

**CONSULTATION**

Nil.

**STATUTORY REQUIREMENTS**

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

**POLICY IMPLICATIONS**

There are no policy implications for this report.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC/CORPORATE IMPLICATIONS**Strategic Community Plan 2013 – 2023

Outcomes:

- G1 – Being Well Governed

Corporate Business Plan 2013 – 2017

Objectives:

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

**RISK MANAGEMENT IMPLICATIONS**

There are no risk management implications for this report.

**ASSET MANAGEMENT PLAN IMPLICATIONS**

There are no asset management implications for this report.

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

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**COUNCIL DECISION/OFFICER RECOMMENDATION**

**115/16 Moved Cr Pedler, seconded Cr Radford that the monthly financial statements for the period 1 July 2016 to 31 August 2016, as attached, be noted.**

**CARRIED 8/0**

## 10.2 MONTHLY PAYMENTS LISTING

AUTHOR: Christine Coldwell – Finance Officer  
DATE: Friday, 9 September 2016  
FILE NO: FM.AUT.1  
**ATTACHMENT:** 10.2 Monthly Payment Listing 01/08/2016 – 31/08/2016

### **DECLARATION OF INTEREST**

Nil

### **SUMMARY**

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

### **BACKGROUND**

Not applicable.

### **COMMENT**

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

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

### **CONSULTATION**

No consultation was required.

### **STATUTORY REQUIREMENTS**

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

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

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

### **POLICY IMPLICATIONS**

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

### **FINANCIAL IMPLICATIONS**

All payments made in line with Council Policy.

### **STRATEGIC/CORPORATE IMPLICATIONS**

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

**RISK MANAGEMENT IMPLICATIONS**

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

**ASSET MANAGEMENT PLAN IMPLICATIONS**

There are no asset management implications for this report.

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

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**COUNCIL DECISION/OFFICER RECOMMENDATION**

**116/16 Moved Cr Pritchard, seconded Cr Pedler that in accordance with Regulation 13 (1) of the *Local Government (Financial Management) Regulations 1996* the list of payments, as attached, made under delegated authority:**

	FROM	TO	TOTAL
<b>Date</b>	<b>1 August 2016</b>	<b>31 August 2016</b>	
<b>Municipal Cheques</b>	<b>13752</b>	<b>13773</b>	<b>\$61,409.91</b>
<b>EFT's</b>	<b>16825</b>	<b>16995</b>	<b>\$872,806.50</b>
<b>Direct Debits</b>			<b>\$301,223.49</b>
			<b>\$1,235,439.90</b>

be received.

**CARRIED 8/0**

### 10.3 POLICY 2.2.11 – SHIRE UNIFORMS POLICY REVIEW

AUTHOR: Dominique Magini – Records Officer  
DATE: Thursday, 4 August 2016  
FILE NO: CM.POL.2  
ATTACHMENT: 10.3.1 Existing Shire Uniforms Policy 2.2.11  
10.3.2 Proposed Shire Uniforms Policy 2.2.11

#### **DECLARATION OF INTEREST**

All Elected Members and Staff Members will benefit from the adoption of this Policy as they may be issued with a Corporate Polo Shirt/Uniform to wear in accordance with the Policy.

#### **SUMMARY**

The purpose of this report is to consider a review of the Shire Uniforms Policy.

#### **BACKGROUND**

Council reviewed Policy 2.2.11 at the 17 May 2015 Council Meeting – Decision 77/15. The reviewed Policy (attachment 10.3.2) now includes provision for corporate polo shirts following adoption of the new Corporate Logo at the 22 October 2015 Council Meeting – Decision 160/15, as well as clarification with respect to personal presentation, safety and free dress days in order to meet corporate policy objectives.

#### **COMMENT**

This Policy is to be read in conjunction with the All of Staff Agreement 2011.

#### **CONSULTATION**

Manager of Corporate Services  
Shire of Cranbrook  
Shire of Broomehill-Tambellup  
Shire of Plantagenet  
Shire of Augusta Margaret River  
Bundaberg Regional Council

#### **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**

Council policies are made to facilitate:

- Consistency and equity in decision making;
- Promptness in responding to customer needs; and
- Operational efficiency.

#### **FINANCIAL IMPLICATIONS**

Provision is made in the annual budget to cover elected member expenses and employee clothing / uniforms.

**STRATEGIC/CORPORATE IMPLICATIONS**Strategic Community Plan 2013 – 2023

## Outcomes:

- N1 – Feeling good about living in Kojonup.

Corporate Business Plan 2013 – 2017

## Objectives:

- N1.4 – Providing community support and development.

**RISK MANAGEMENT IMPLICATIONS**

Ensuring elected members and employees are provided resources which strengthens the Shire's capacity to achieve its strategic objectives and for elected members and employees to feel valued.

**ASSET MANAGEMENT PLAN IMPLICATIONS**

Ability to undertake tasks and functions in an efficient and effective manner via:

- Skilled/reliable workforce; and
- Within budget and community expectations.

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

Nil

**VOTING REQUIREMENTS**

Simple Majority

*3:11pm – Cr Sexton declared a 'Financial – Direct' interest in this item as he will be entitled to be issued with a Corporate Polo Shirt/Uniform to wear in accordance with the Policy. He departed from the Chamber.*

*The Presiding Member and Councillors Pedler, Mathwin, Pritchard, Hobbs, Warland and Radford declared a 'Financial – Direct' interest in this item as they will be entitled to be issued with a Corporate Polo Shirt/Uniform in accordance with the Policy. The Manager Corporate Services advised the Meeting that the Presiding Member and Councillors Pedler, Mathwin, Pritchard, Hobbs, Warland and Radford have been granted 'permission to participate' in this item under section 5.69(3)(a) of the Local Government Act 1995 by the Department of Local Government & Communities.*

**COUNCIL DECISION/OFFICER RECOMMENDATION**

**117/16 Moved Cr Radford, seconded Cr Pritchard that the amended Shire Uniforms Policy 2.2.11, as attached, be approved.**

**CARRIED 7/0**

*3:13pm – Cr Sexton returned to the Chamber. The Records Officer departed from the Chamber.*

**Attachment 10.3.1****2.2.11 SHIRE UNIFORMS****Adopted or Reviewed by Council:** 18/11/2014**Council Minute Reference:** 172/14**Reviewer:** Chief Executive Officer**Local Law:****Procedure:** Reworking of Policy 2.2.11 Shire Corporate Staff Uniforms reviewed by Council 18/11/2014  
Decision 172/14**Delegation:****OBJECTIVE**

To financially assist employees with the provision of a corporate uniform and compliance with Occupational Safety and Health requirements while projecting a positive team orientated corporate image to persons having dealings with the Shire of Kojonup whether working indoor or outdoor.

The shire uniform is usually worn during normal office hours, attendance at conferences, seminars and workshops, representing Council at various functions and events as well as day to day operations such as road works, swimming pool, mechanical, Kodja Place, Springhaven etc.

It is also to be noted that Council wishes to develop a new shire logo which upon adoption will replace the LG clothing logo. It is the intent of Council that predominantly indoor staff at the Council Office, Springhaven and Kodja Place will be provided a corporate uniform to the value of \$1,000 in the first year and \$450 per permanent employee thereafter.

**POLICY**

1. THIS POLICY DOES NOT APPLY TO CASUAL EMPLOYEES UNLESS AUTHORISED BY THE CEO.
2. The Shire shall contribute \$1,000 towards the initial cost of the new Shire of Kojonup corporate wardrobe per permanent employee for the first year and a further \$450 per permanent employee each subsequent financial year subject to any amount incurred above the shires contribution being repaid by the employee by 1 July in the next financial year or a longer period if agreed between the CEO and the employee.
3. Prior to a new Shire logo being adopted, the Shire will contribute \$500 towards the initial cost of a LG style uniform for the first year and \$400 per permanent employee each subsequent year subject to any amount incurred above the Shires contribution being repaid by the employee by 1 July in the next financial year or a longer period if agreed between the CEO and the employee.
4. In the event that an employee terminates their employment with the Shire within 6 months of their initial engagement the employee will be required to refund the full contribution made by the Shire to the purchase of their uniforms.
5. The Shire of Kojonup shall supply up to three sets of work clothes per annum to each operational employee who works either in the depot crew or predominately in an outside position.
6. The respective Manager(s) in conjunction with the outdoor OSH and Consultative Committee representatives will prepare an annual work clothes schedule for depot and outdoor employees that recognise the fair wear and tear of clothes.
7. Work clothes represent shirts, trousers, vests, polo tops, jumpers, jackets and shorts. A set of work clothes consists of 6 items that are interchangeable for example 2 shirts, 2 trousers and 2 jumpers = 6 items or 2 shirts and 4 trousers = 6 items.
8. An employee will be required to pay immediately in full or via agreed deductions from fortnightly pay for any item in addition to the 6 items allocated in any one financial year.
9. The Shire's Occupational Safety and Health Committee shall make input into the types of clothing and footwear issued.



## Attachment 10.3.2

**2.2.11 SHIRE UNIFORMS****Adopted or Reviewed by Council:** 19/5/2015**Council Minute Reference:** 77/15**Reviewer:** Records Officer**Local Law:****Procedure:****Delegation:****OBJECTIVE**

This policy endeavours to enhance the corporate image of the Shire and its employees. The Council recognises that a corporate wardrobe promotes a:

- Professional image;
- Strong customer focus; and a
- Safe work environment.

This policy applies to elected members, all employees in all departments (permanent and casual) and Contractors at the discretion of the Chief Executive Officer.

The objectives of this policy are to:

- a) Establish guidelines for the purchasing and wearing of Shire of Kojonup corporate uniform.
- b) Outline dress standards staff are to observe when representing the Shire in a professional capacity and provide staff with clear guidelines for accepted standards of dress and appearance during work hours.
- c) Provide senior management with clear guidelines to use in monitoring and managing the standard of dress and appearance of staff in their department.

**POLICY**Personal Presentation

A high standard of personal presentation is required from employees at all times whilst on duty. It is expected that items of personal hygiene are attended to daily and all clothing is clean, neatly pressed and in good condition.

The following list of non-exhaustive items of clothing are considered inappropriate corporate attire:

- Crop tops, backless and strapless tops and singlets;
- Jeans, denim skirts or shorts, and miniskirts or minishorts.

Body Art and Piercing

Tattoos that could be perceived as offensive should be discreetly covered where possible (eg tattoos of naked men/women, skulls or daggers dripping blood). This item is to be administered at the discretion of the Department Manager.

The Shire's image and that of the region can be affected by the presentation of our staff. Any form of body piercing, other than ear piercing, must be discreet and ensure a professional image is portrayed at all times.

Staff working around or on machinery, are not permitted to wear earrings that protrude or hang below the ear lobe, as they can become entangled in machinery.

Long hair must be worn up and back or in a hair net, when working in areas with machinery and other moving parts or during food preparation. Jewellery, including earrings and/or other items that have the potential to get caught in machinery must be removed whilst on duty.

Safety

It is the Supervisor's responsibility to ensure that appropriate Personal Protective Equipment (PPE) is supplied and worn by Employees. Employees who mistreat, abuse or fail to comply with Council's requirements for safety and PPE will be subject to disciplinary action.

Identification

The wearing of identification improves visibility with the public and friendliness within the work environment. Employees should wear a form of visible identification at all times.

Name Badges are a form of visual identification. 1 (one) name badge will be supplied to elected members, all employees in all departments (permanent and casual) and contractors at the discretion of the Chief Executive Officer. Name Badges must be kept in good condition and worn in a place that is visible to others. If allocated name badge is lost, damaged etc. the individual is responsible for purchasing a replacement at cost price, you may opt for this to be deducted from your Uniform Allowance.

Embroidery is another form of visual identification and may be more appropriate to outside staff.

Outside Staff Uniforms

1. The Shire of Kojonup shall supply up to 3 (three) sets of work clothes per annum to each operational employee who is based at the Works Depot or predominately in an outside position.
2. Work clothes represent footwear, shirts, trousers, vests, polo tops, jumpers, jackets and shorts. A set of work clothes consists of 6 items that are interchangeable for example 2 shirts, 2 trousers and 2 jumpers = 6 items or 2 shirts and 4 trousers = 6 items.
3. Part time and casual staff entitlements will be on a pro-rata basis based on standard hours of employment (e.g 0.5FTE is entitled to 1.5 sets).
4. An employee will be required to pay immediately in full or via agreed deductions from fortnightly pay for any item in addition to the 6 items allocated in any one financial year.
5. The Shire's Occupational Safety and Health Committee shall make input into the types of clothing and footwear issued.
6. In the event that an employee terminates their employment with the Shire within 6 months of their initial engagement the employee will be required to refund the full contribution made by the Shire to the purchase of their uniforms.

Inside Staff Uniforms

1. The Shire shall meet 50% of the initial cost of corporate wardrobe uniforms up to a maximum contribution of \$650 per employee (total expenditure \$1,300) in the first year of employment.
2. In each subsequent year of employment, the Shire shall provide \$450 uniform allowance per employee.
3. Part time and casual staff entitlements will be on a pro-rata basis based on standard hours of employment (e.g 0.5FTE is entitled to \$325 in year one and \$225 each subsequent year).
4. An employee will be required to pay immediately in full or via agreed deductions from fortnightly pay for any expenditure in addition to the allocation in points 1 and 2 above.
5. In the event that an employee terminates their employment with the Shire within 6 months of their initial engagement the employee will be required to refund the full contribution made by the Shire to the purchase of their uniforms.

Footwear

Shoes are the responsibility of individual staff members, unless negotiated with the Chief Executive Officer. It is recommended that covered shoes be worn at all times in conjunction with the corporate uniform.

As with clothing, Council expects all employees to wear shoes which meet a presentable standard for their particular work area. The following non-exhaustive list of items of footwear may be considered inappropriate corporate footwear:

- Thongs;
- Runners or sandshoes; and/or
- Ugg boots.

Polo Shirts

All elected members, employees and applicable contractors (at the discretion of the Chief Executive Officer) are entitled to 1 (one) corporate polo shirt. If allocated shirt is lost, damaged etc. the individual is responsible for purchasing a replacement at cost price. You may opt for this to be deducted from your uniform allowance.

Generally a corporate polo shirt will not be a day to day uniform item for staff however it can be worn on “free dress days” or at events/training days representing the Shire. The Chief Executive Officer or relevant manager may give approval to employees to incorporate the polo shirt into their uniform, where appropriate.

It is also possible that volunteers may be able to wear the corporate polo at the discretion of the Chief Executive Officer or relevant manager. This would be paid by the relevant department’s budget.

The Corporate Polo Shirt shall only be worn whilst undertaking work related activities. Consideration should be given to maintaining the image of the Shire whilst wearing the corporate polo shirt.

#### Dispute Resolution

If a Manager considers that a particular staff member’s attire is inappropriate according to the standards set in this policy, they may approach the individual and ask appropriate changes be made.

#### Free Dress Days

The first working day of the month is approved and shall be in conjunction with the fundraising and awareness activities of well-known and registered charities such as ‘Jeans for Genes’ Day. On these allocated days, staff will be permitted to wear appropriate dress that reflects the theme of the fundraising event. The Chief Executive Officer or relevant manager may allocate additional “free dress days” for inside staff.

Free dress days must not compromise safety, customer service or the perception of Council staff within the community. Staff shall be made aware of these allocated days by way of email from the Chief Executive Officer or delegated officer. Funds raised on these specific days will be presented to the relevant charity.

#### 10.4 AUDIT COMMITTEE MEMBERSHIP – COMMUNITY MEMBERS

AUTHOR: Anthony Middleton – Manager Corporate Services  
DATE: Wednesday, 7 September 2016  
FILE NO: CM.TND.1  
**ATTACHMENT:** Mr. James Hope's Resume

#### **DECLARATION OF INTEREST**

Nil.

#### **SUMMARY**

The purpose of this report is to consider a possible candidate for the vacant position on the Audit Committee.

#### **BACKGROUND**

The structure of the Council's Audit Committee is as follows:

- Four (4) Councillors; and
- Two (2) Community Members.

Following the appointment of Mr. Roger House at the Council's 19 July 2016 meeting, one (1) of the two (2) community member positions remains vacant. As such, it is appropriate that the Committee has recommended possible candidates to the Council for appointment to the Committee.

Since the July Council Meeting, the Chair of the Audit Committee, Cr Mathwin, has approached Mr. James Hope to join the Committee and Mr. Hope has accepted.

#### **COMMENT**

The Manager Corporate Services advertised for Community Members to join the Audit Committee in early 2014. One nomination was received however no appointment was made by the Council.

Having two community member positions on the Committee gives greater openness and accountability for the financial operations of the Shire and increases the diversity of this important Committee. Having said this, a minimum of four meetings per annum can be a significant voluntary time commitment for a community member.

Mr. Hope's resume is attached for the information of the Council.

#### **CONSULTATION**

Audit Committee and Cr Mathwin.

#### **STATUTORY REQUIREMENTS**

There is significant legislation covering the appointment of Committees, minimum number of members, payment to members and the Audit Committee generally. This is covered by both the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996*.

#### **POLICY IMPLICATIONS**

There are no policy implications for this report.

**FINANCIAL IMPLICATIONS**

There is no financial implication for this report.

**STRATEGIC/CORPORATE IMPLICATIONS**Strategic Community Plan 2013 – 2023

Outcomes:

- G1 – Being Well Governed

Corporate Business Plan 2013 – 2017

Objectives:

- G1.2 – Maintain a structured forward planning process in accordance with legislation and community aspirations
- G1.4 – Maintain robust systems and controls

**RISK MANAGEMENT IMPLICATIONS**

The Audit Committee is a key risk minimization strategy, having oversight of several vital administrative functions.

**ASSET MANAGEMENT PLAN IMPLICATIONS**

There are no asset management implications for this report.

**SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS**Strategic Directions 2015 – 2020

- 2.1.3 – Continue to develop and discuss options for reform and best practice in local government.

**VOTING REQUIREMENTS**

Absolute Majority

**COUNCIL DECISION/OFFICER RECOMMENDATION**

**118/16 Moved Cr Mathwin, seconded Cr Warland that Mr James Hope be appointed as a community member of the Audit Committee.**

**CARRIED BY ABSOLUTE MAJORITY**

**8/0**

**Attachment 10.4****James Hope**

585 Samson Rd Kojonup WA 6395  
Phone: 9831 1181 • Mobile: 0404 910 118 • E-Mail: jameshope@rockcliffe.com.au

**Education**

Bachelor of Commerce - UWA

Graduate Diploma in Oenology - Curtin University

**Experience**

- |   |                |
|---|----------------|
| • Research Analyst – Hogan & Partners Perth   | 1992 - 1994    |
| • Research Analyst – County Natwest Melbourne | 1995 - 1998    |
| • Farmer                                      | 1999 - Present |
| • Part owner Bridgetown IGA                   | 2009 - 2010    |
| • School Councilor - KDHS                     | 2010 – Present |
| • School Finance Committee - KDHS             | 2012 - Present |

**Details**

- Born 25/11/68
- Grew up in Kojonup
- High school in Perth
- Currently farming in Kojonup

## 10.5 SUNDRY DEBTOR CONSIDERATION FOR WRITE OFF

AUTHOR: Robert Cowie – Admin/Regulatory Officer  
 DATE: Wednesday, 12 September 2016  
 FILE NO: FM.DEB.1  
 ATTACHMENT Nil

**DECLARATION OF INTEREST**

Nil

**SUMMARY**

Council is being asked to consider the recommendation to write off Sundry Debtor accounts totaling \$1,636.20

**BACKGROUND**

The following debtors have had outstanding amounts dating back to 2011. The nature and amount of these debts makes it unlikely that any payment will be made by the Debtors.

Debtor	Name	Amount	Details	Action
72589	Albany Holiday Park	\$750	Part invoice for Billboard Signage	Current owners refuse to pay this portion of invoice as they took over ownership part way through 13/14 FY and stated that this is the previous owner's debt, I contacted previous owner via phone and he said that it was not his problem and that the new owners own the debt.
70224	Hills Ag Contractors	\$202.20	Water Charges	Debt originally from 2011. Sent letters but no response. Have not proceeded with Debt Collection as it is cost prohibitive.
72293	JK Mahi	\$338	Fire hazard work	Property owner has left state. Taken to Agenda Settlement in Aug 2015 to be written off. SMT decided not to write off. Have not proceeded with Debt Collection as it is cost prohibitive.
74921	P Stewart	\$76	Library Books Lost	Library Manager suggested that this debt be written off as Debtor is no longer living in Kojonup and unlikely to return.
71804	S Morris	\$150	Fire hazard work	Owner is deceased. SMT decided to hold debt with the view that this money could be recouped on sale of property. Sale of property is unlikely to cover all cost associated.
72334	Steve Reid	\$120	Water Charges	Debtor has moved. Unlikely to be able to recover. Have not proceeded with Debt Collection as it is cost prohibitive.

The previous write off of 'Bad Debt' was August 2015. Council usually carries a monthly debt amount of approximately \$650,000. There is an amount in the budget of \$2,000.00 for provision of bad debt. Since the 2015 write-off, there has been a new process created by the Debtor Officer in conjunction with the Ranger to eliminate any chance of Fire Hazard work being disputed. The fire hazard reduction work can be added to the property rates under Section 3338 (b) of the Bushfire Act 1954 but I, along with the Manager of Corporate Services, feel that there has been too much time passed to be able to allocate these amounts to the properties.

**COMMENT**

The officer recommends that the amounts be written off as 'bad debt'.

**CONSULTATION**

Nil

**STATUTORY REQUIREMENTS**

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

*Bush Fires Act 1954*, section 33.8 – Local government may require occupier of land to plough or clear fire-break.

**POLICY IMPLICATIONS**

No policy implications.

**FINANCIAL IMPLICATIONS**

Provision for writing off these amounts is covered in the current budget as 'doubtful debts'.

**STRATEGIC/CORPORATE IMPLICATIONS**

Community Strategic Plan 2013 – 2023

Outcomes:

- G1 – Being Well Governed.

Corporate Business Plan 2013 – 2017

Objectives:

- G1.1 – Maintain a structured forward planning process in accordance with legislation and community aspirations.

**RISK MANAGEMENT IMPLICATIONS**

Nil

**ASSET MANAGEMENT IMPLICATIONS**

Nil

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

Nil

**VOTING REQUIREMENTS**

Absolute Majority



**COUNCIL DECISION/OFFICER RECOMMENDATION**

**119/16 Moved Cr Pritchard, seconded Cr Pedler that Council approves the write off of the following Debtor accounts totalling \$1,636.20:**

<b>Debtor</b>	<b>Name</b>	<b>Amount</b>	<b>Details</b>	<b>Action</b>
<b>72589</b>	<b>Albany Holiday Park</b>	<b>\$750</b>	<b>Part invoice for Billboard Signage</b>	<b>Current owners refuse to pay this portion of invoice as they took over ownership part way through the 2013/2014 Financial Year and stated that this is the previous owner's debt, I contacted previous owner via phone and he said that it was not his problem and that the new owners own the debt.</b>
<b>70224</b>	<b>Hills Ag Contractors</b>	<b>\$202.20</b>	<b>Water Charges</b>	<b>Debt originally from 2011. Sent letters, but no response. Not worth progressing to Debt Collection as it is cost prohibitive.</b>
<b>72293</b>	<b>JK Mahi</b>	<b>\$338</b>	<b>Fire hazard work</b>	<b>Property owner has left state. Taken to Agenda Settlement in Aug 2015 to be written off. Senior Management Team decided not to write off. Not worth progressing to Debt Collection as it is cost prohibitive</b>
<b>74921</b>	<b>P Stewart</b>	<b>\$76</b>	<b>Library Books Lost</b>	<b>Library Manager suggested that this debt be written off as Debtor is no longer living in Kojonup and unlikely to return.</b>
<b>71804</b>	<b>S Morris</b>	<b>\$150</b>	<b>Yard work done</b>	<b>Owner is deceased. Senior Management Team decided to hold debt with the view that this money could be recouped on sale of property. Sale of property is unlikely to cover all cost associated.</b>
<b>72334</b>	<b>Steve Reid</b>	<b>\$120</b>	<b>Water Charges</b>	<b>Debtor has moved. Unlikely to be able to recover.</b>

**CARRIED BY ABSOLUTE MAJORITY**

**8/0**

## 10.6 DAY CARE CENTRE BUILDING – LEASE TO KOJONUP OCCASSIONAL CARE COMMITTEE INC.

AUTHOR: Anthony Middleton – Manager Corporate Services  
DATE: Monday, 12 September 2016  
FILE NO: CS.SVP.2  
**ATTACHMENT:** 10.6 Tenancy Agreement

### DECLARATION OF INTEREST

Nil

### SUMMARY

The purpose of this report is to seek endorsement of a tenancy agreement to lease for five (5) years the Day Care Centre, corner of Elverd and Honner Streets, Kojonup to Kojonup Occasional Care Committee Inc (KOCC).

### BACKGROUND

Following completion of the new Day Care Centre building, the KOCC moved their operations into the centre. Negotiations have been undertaken since this time for an agreed tenancy agreement (as attached).

### COMMENT

The attached agreement contains the following provisions:

The Tenant must pay:

- All rubbish rates for the said premises under the Local Government Act 1995;
- All gardening;
- All minor building maintenance and repairs;
- All cleaning;
- Water and electricity usage; and
- Insurance of all contents.

The Lessor must pay:

- All major building maintenance and repairs;
- Property rates and water rates; and
- Building insurance

The rent on the premises is calculated at \$50.00 per week (Annual rent of \$2,600). This is to be set aside in a Reserve Account by the Lessor for future major building maintenance items.

Rent increase will be at Perth CPI (for the 12 months to the March quarter) to take effect as at the 30 June each year.

### CONSULTATION

KOCC, Chief Executive Officer and Manager Regulatory Services.

### STATUTORY REQUIREMENTS

This lease would normally be subject to the disposal of property sections of the *Local Government Act 1995* (section 3.58) which involves inviting community comment prior to the Council making the final decision to lease. However, Local Government (Functions and General) Regulation 30 states:

**“30. Dispositions of property excluded from Act s. 3.58**

- (1) *A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.*
- (2) *A disposition of land is an exempt disposition if—“...  
“(b) the land is disposed of to a body, whether incorporated or not—  
(i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and  
(ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body’s transactions;....”*

It is considered that the KOCC meets the conditions laid out in points (i) and (ii) above and therefore section 3.58 does not apply to this item.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

While the lease fee of \$50 per week is minimal and will be offset by a corresponding transfer to reserve, the Shire has not previously received an income from this property and therefore it will be additional revenue, greatly assisting with the asset management of this substantial asset.

It is appropriate that this agenda item also include the establishment of a new reserve account for the receipt of income and expenditure of major building maintenance items.

**STRATEGIC/CORPORATE IMPLICATIONS**Strategic Community Plan 2013 – 2023

Objectives:

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

Corporate Business Plan 2013 – 2017

Actions:

- S2.2.6 – Prepare building plans, funding applications & specifications in order to call tenders for a Day Care facility to meet the future early childhood placements.
- G1.2.1 – Undertake an asset management planning process to review and rationalize Shire buildings to maximize their use and value to the community.
- G1.2.5 – Maintain an effective asset management policy that defines co-location and rationalisation.

**RISK MANAGEMENT IMPLICATIONS**

Nil

**ASSET MANAGEMENT PLAN IMPLICATIONS**

Income from rent will be placed into a reserve account and will offset major building maintenance obligations into the future. This approach will greatly assist with the asset management of this new facility, as minimal maintenance will be required in the short term

(enabling funds to grow) and a substantial reserve balance will exist when the building reaches an age requiring significant maintenance.

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

VROC Strategic Direction 2015 – 2020

Goal – Stimulate economic growth and business opportunity

S3 – Improve the provision and maintenance of infrastructure.

### **VOTING REQUIREMENTS**

Absolute Majority (creating a new reserve account).

*3:14pm – Cr Pedler declared a ‘Financial – Indirect’ interest as he is the Auditor for Kojonup Occasional Care Committee Inc. who are party to the lease for the Kojonup Day Care Centre. He departed from the Chamber.*

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

**120/16 Moved Cr Mathwin, seconded Cr Hobbs that:**

- 1. The attached tenancy agreement between the Shire of Kojonup and the Kojonup Occasional Care Committee Inc. for the lease of the Kojonup Day Care Centre building, corner of Elverd and Honner Streets, Kojonup be endorsed;**
- 2. That a new reserve account be created called “Day Care Building Maintenance” and that all rent received in accordance with this tenancy agreement be deposited into this account; and**
- 3. The purpose of this new reserve be “For the expenditure of major building maintenance items on the Kojonup Day Care Centre building, corner of Elverd and Honner Streets, Kojonup.”**

**CARRIED BY ABSOLUTE MAJORITY**

**7/0**

*3:17pm – Cr Pedler returned to the Chamber.*

**Attachment 10.6****TENANCY AGREEMENT**

**This agreement is made between:**

**LESSOR The Shire of Kojonup**

[lessor(s) contact details] ADDRESS: **93 Albany Highway, Kojonup in the State of Western Australia**

TELEPHONE: (08) 9831 2400

and

**Tenant Kojonup Occasional Care Committee Inc.**

[tenant(s) contact details] ADDRESS **10 Elverd St, Kojonup in the State of Western Australia**

TELEPHONE: (08) 9831 0031

**TERM OF AGREEMENT**

\* This tenancy agreement is **fixed -** starting on **1/2/2016**; and  
ending on **31/1/2021**.

**Note:** *The start date for the agreement should not be a date prior to the date on which the tenant is entitled to enter into occupation of the premises.*

**PREMISES**

The premises are **Day Care Centre, Corner of Elverd and Honner Streets , Kojonup in the State of Western Australia**

**RENT**

The rent is calculated at \$50.00 per week, = Annual rent of \$2600. This is to be set aside in a Reserve Account by the Lessor for future major building maintenance items.

**SECURITY BOND**

A security bond is not required.

**RENT INCREASE**

Rent increase will be at Perth CPI (for the 12 months to the March quarter) to take effect as at the 30 June each year.

**WATER SERVICES**

Is scheme water connected to the premises? Yes

**WATER USAGE COSTS (SCHEME WATER)**

The tenant is required to pay 100% of water usage.

**ELECTRICITY, GAS AND OTHER UTILITIES**

The tenant is required to pay 100% of Electricity used and is to deal directly with the electricity supplier.

**RIGHT OF TENANT TO ASSIGN OR SUB-LET**

The tenant may not assign the tenant's interest under this agreement or sub-let the premises.

**RIGHT OF TENANT TO AFFIX AND REMOVE FIXTURES**

The tenant may only affix any fixture or make any renovation, alteration or addition to the premises with the lessor's written permission.

**PROPERTY CONDITION REPORTS**

A property condition report detailing the condition of the premises must be completed by or on behalf of the lessor and 2 copies provided to the tenant within 7 days of the tenant moving into the premises.

If the tenant disagrees with any information contained in the property condition report, the tenant must note his or her disagreement on a copy of the property condition report and return this to the lessor or property manager within 7 days of

receipt of the property condition report from the lessor. If the tenant does not give a copy of the property condition report back to the lessor, the tenant is taken to accept the property condition report as a true and accurate description of the condition of the premises.

A final property condition report must be completed by or on behalf of the lessor and provided to the tenant as soon as practicable but in any event within 14 days of the termination of the tenancy. The tenant must be given a reasonable opportunity to be present at the final inspection.

## **PART B**

### **RIGHT TO OCCUPY THE PREMISES**

The tenant has the right to exclusive occupation and quiet enjoyment of the premises during the tenancy.

### **COPY OF AGREEMENT**

The lessor must give the tenant:

1. a copy of this agreement when this agreement is signed by the tenant; and
2. a copy of this agreement signed by both the lessor or the property manager and the tenant within 14 days after it has been signed and delivered by the tenant.

### **RENT**

The Tenant is responsible for rent.

### **PAYMENT OF COUNCIL RATES, LAND TAX, WATER AND OTHER CHARGES**

The Tenant must pay

- all rubbish rates, for the said premises under the *Local Government Act 1995*,
- *all gardening*
- *all minor building maintenance and repairs*
- *all cleaning*
- *water usage; and*
- *insurance of all contents.*

The Lessor must pay

- all major building maintenance and repairs
- property rates and water rates
- building insurance

### **PUBLIC UTILITY SERVICES**

1. **Public utility services** has the meaning given in the *Land Administration Act 1997* and refers to services such as gas, electricity and water.
2. If the premises are not separately metered to measure the tenant's consumption of a public utility service at the premises and the tenant is expected to pay for his or her consumption of the public utility service, the lessor and tenant must agree in writing an alternative method of calculating the charge to be paid by the tenant for the consumption of that public utility service.
3. The tenant must not be required to pay a charge in relation to a public utility service provided to the premises unless the charge is calculated by reference to the tenant's actual consumption of the public utility service at the premises and the tenant is given written notice of the charge.
4. If the premises are separately metered, the notice of the charge must specify:
  - a. the relevant meter reading or readings; and
  - b. the charge per metered unit; and
  - c. the amount of GST payable in respect of the provision of the public utility service to the residential premises.
5. If the premises are not separately metered, the notice of the charge must specify:
  - a. the calculation as per the agreed method; and
  - b. the amount of GST payable in respect of the provision of the public utility service to the residential premises.

**POSSESSION OF THE PREMISES**

6. The lessor must:
  - a. give the tenant vacant possession of the premises on the day on which the tenant is entitled to enter into occupation of the premises under the agreement; and
  - b. take all reasonable steps to ensure that, at the time of signing this agreement, there is no legal reason why the tenant cannot occupy the premises as a residence for the term of this agreement.

**TENANT'S RIGHT TO QUIET ENJOYMENT**

7. The tenant is entitled to quiet enjoyment of the premises without interruption by the lessor or any person claiming by, through or under the lessor or having superior title to that of the lessor.
8. The lessor or the property manager will not interfere with, or cause or permit any interference with, the reasonable peace, comfort or privacy of the tenant in the use of the premises. The lessor or the property manager must also take all reasonable steps to ensure that the lessor's other neighbouring tenants do not interfere with the reasonable peace, comfort or privacy of the tenant in the use of the premises.

**USE OF THE PREMISES BY TENANT**

9. The tenant must:
  - a. not use or allow the premises to be used for any illegal purpose; and
  - b. not cause or permit a nuisance; and
  - c. not intentionally or negligently cause or permit damage to the premises; and
  - d. advise the lessor as soon as practicable if any damage occurs; and
  - e. keep the premises in a reasonable state of cleanliness; and
  - f. not cause or allow to be caused injury to the lessor, property manager or any person lawfully on adjacent premises; and
  - g. not allow anyone who is lawfully at the premises to breach the terms of this agreement.
10. The tenant is responsible for the conduct or omission of any person lawfully on the premises that results in a breach of the agreement.

**LESSOR'S GENERAL OBLIGATIONS FOR PREMISES**

11. In this clause, **premises** includes fixtures and chattels provided with the premises but does not include:
  - a. any fixture or chattel disclosed by the lessor to the tenant as not functioning before the agreement was entered into; or
  - b. any other fixture or chattel that the tenant could not reasonably have expected to be functioning at the time the agreement was entered into.
12. The lessor must:
  - a. provide vacant possession of the premises and in a reasonable state of cleanliness and repair; and
  - b. maintain and repair the premises in a timely manner; and
  - c. comply with all laws affecting the premises including building, health and safety laws.

**URGENT REPAIRS**

13. **Urgent repairs** fall into 2 categories: repairs that are necessary for the supply or restoration of an essential service and other urgent repairs.

Essential services are listed as electricity, gas, a functioning refrigerator (if one is provided with the premises), waste water management treatment and water (including the supply of hot water). Arrangements for repairs that are necessary to supply or restore an essential service must be made with a suitable repairer within 24 hours. Other urgent repairs are those that are not an essential service, but may nevertheless cause damage to the premises, injure a person or cause undue hardship or inconvenience to the tenant. Arrangements for these repairs must be made within 48 hours.
14. In every tenancy, if the need for urgent major repair arises other than as a result of a breach of the agreement by the tenant:
  - a. the tenant is to notify the lessor or the property manager of the need for urgent major repairs as soon as practicable; and
  - b. the lessor is to ensure that the major repairs are carried out by a suitable repairer as soon as practicable after that notification; and
  - c. if, within 24 hours (in the case of repairs for the supply or restoration of essential services) or 48 hours (in the case of other urgent repairs), the lessor or property manager cannot be contacted, or, having notified the lessor or property manager of the need for the major repairs, the lessor fails to ensure that the major repairs will be carried out by a suitable repairer as soon as practicable after that notification, the tenant may arrange for the major repairs to be carried out by a suitable repairer to the minimum extent necessary to effect those repairs; and

- d. if a tenant arranges for major repairs to be carried out under clause 23.3, the lessor must, as soon as practicable after the major repairs are carried out, reimburse the tenant for any reasonable expense incurred by the tenant in arranging for those major repairs to be carried out and paying for those major repairs.

#### **LESSOR'S ACCESS TO THE PREMISES**

15. The lessor, property manager or person acting on behalf of the lessor, can only enter the premises in the following circumstances:
- a. in any case of emergency;
  - b. to conduct up to 4 routine inspections in a 12 month period after giving the tenant at least 7 days, but not more than 14 days', written notice;
  - c. where the agreement allows the rent to be collected at the premises where rent is payable not more frequently than once every week;
  - d. to inspect and secure the premises if there are reasonable grounds to believe that the premises have been abandoned and the tenant has not responded to a notice from the lessor;
  - e. carrying out or inspecting necessary repairs to or maintenance of the premises, at any reasonable time, after giving the tenant not less than 72 hours' notice in writing before the proposed entry;
  - f. showing the premises to prospective tenants, at any reasonable time and on a reasonable number of occasions during the period of 21 days preceding the termination of the agreement, after giving the tenant reasonable notice in writing;
  - g. showing the premises to prospective purchasers, at any reasonable time and on a reasonable number of occasions, after giving the tenant reasonable notice in writing;
  - h. if the tenant agrees at, or immediately before, the time of entry.

#### **REASONABLE TIME**

16. *Reasonable time* means:
- a. between 8.00 am and 6.00 pm on a weekday; or
  - b. between 9.00 am and 5.00 pm on a Saturday; or
  - c. at any other time agreed between the lessor and each tenant.

#### **REQUIREMENT TO NEGOTIATE A DAY AND TIME FOR A PROPOSED ENTRY BY THE LESSOR**

17. The lessor must make a reasonable attempt to negotiate a day and time that does not unduly inconvenience the tenant.

#### **REQUIREMENT TO GIVE TENANT NOTICE OF PROPOSED ENTRY**

18. Where the lessor or property manager gives a tenant notice of an intention to enter premises on a particular day, the notice must specify the day and whether it will be before or after 12.00 pm.

#### **TENANT ENTITLED TO BE PRESENT**

19. The tenant is entitled to be on the premises during the entry by the lessor, the property manager or any other person acting on behalf of the lessor.

#### **ENTRY MUST BE REASONABLE AND NO LONGER THAN NECESSARY**

20. The lessor or property manager exercising a right of entry:
- a. must do so in a reasonable manner; and
  - b. must not, without the tenant's consent, stay or permit others to stay on the premises longer than is necessary to achieve the purpose of the entry.

#### **LESSOR'S OBLIGATION TO COMPENSATE TENANT IF DAMAGE TO TENANT'S GOODS**

21. If the lessor or property manager (or any person accompanying the lessor or property manager) causes damage to the tenant's goods when exercising a right of entry, the lessor is obliged to compensate the tenant.

#### **ALTERATIONS AND ADDITIONS TO THE PREMISES**

22. If the tenancy agreement allows the tenant to affix a fixture or make a renovation, alteration or addition to the premises, then:
- a. the tenant must obtain permission from the lessor prior to affixing any fixture or making any renovation, alteration or addition to the premises; and
  - b. the tenant must obtain permission from the lessor to remove any fixture attached by the tenant and make good any damage; and



- c. notify the lessor of any damage caused by removing any fixture and, at the option of the lessor, repair the damage or compensate the lessor for any reasonable expenses incurred by the lessor in repairing the damage; and
  - d. the lessor must not unreasonably refuse permission for the installation of a fixture or an alteration, addition or renovation by the tenant.
23. If the lessor wants to make an alteration or addition or affix a fixture to the premises, then:
- a. the lessor must obtain the tenant's permission prior to affixing any fixture or making any renovation, alteration or addition to the premises; and
  - b. the tenant must not unreasonably refuse permission for the lessor to affix any fixture or make any renovation, alteration or addition to the premises.

#### **LOCKS AND SECURITY DEVICES**

- 24.
- a. the lessor must provide and maintain such means to ensure the premises are reasonably secure as prescribed in the regulations; and
  - b. any lock or security device at the premises must not be altered, removed or added by a lessor or tenant without the consent of the other; and
  - c. the lessor or the tenant must not unreasonably withhold that consent.

#### **TRANSFER OF TENANCY OR SUB-LETTING BY TENANT**

25. The tenancy agreement does not allow the tenant to assign his or her interest or sub-let the premises

#### **CONTRACTING OUT**

26. It is an offence to contract out.

#### **ENDING THE TENANCY AGREEMENT**

27. This tenancy agreement can only be terminated in certain circumstances.
28. The tenant agrees, when this agreement ends, to give vacant possession of the premises to the lessor. Before giving vacant possession to the lessor the tenant must:
- a. remove all the tenant's goods from the premises; and
  - b. leave the premises as closely as possible in the same condition, fair wear and tear excepted, as at the commencement of the tenancy; and
  - c. return to the lessor all keys, and other opening devices or similar devices, provided by the lessor.
29. The tenant may be liable for losses incurred by the lessor if the above requirements are not met.

#### **ENDING A FIXED-TERM AGREEMENT**

30. If this agreement is a fixed-term agreement it may be ended:
- a. by agreement in writing between the lessor and the tenant; or
  - b. if either the lessor or tenant does not want to renew the agreement, by giving written notice of termination. The notice must be given to the other party at least 90 days prior to the date on which vacant possession of the premises is to be delivered to the lessor. The notice may be given at any time up until the end of the fixed term but cannot take effect until the term ends.

#### **ENDING A PERIODIC AGREEMENT**

31. If this agreement is a periodic agreement it may be ended:
- a. by agreement in writing between the lessor and the tenant; or
  - b. by either the lessor or the tenant by giving written notice of termination to the other party. The notice may be given at any time. The lessor must give at least 60 days' notice and the tenant must give at least 21 days' notice.

#### **OTHER GROUNDS FOR ENDING AGREEMENT**

32. The lessor and tenant may also end this agreement on other grounds. The grounds for the lessor include sale of the premises, breach of this agreement by the tenant, where the agreement is frustrated (e.g. where the premises are destroyed or become uninhabitable) and hardship. The grounds for the tenant include breach of this agreement by the lessor, where the agreement is frustrated (e.g. where the premises are destroyed or become uninhabitable) and hardship.
33. For more information, contact the Department of Commerce on 1300 30 40 54 or visit

[www.commerce.wa.gov.au/ConsumerProtection](http://www.commerce.wa.gov.au/ConsumerProtection).

**34. Warning:**

- a. It is an offence for any person to obtain possession of the premises without an order of the Magistrates Court if the tenant does not willingly move out (a termination notice issued by the lessor or property manager is not a court order). The court may order fines and compensation to be paid for such an offence.
- b. It is an offence for a tenant to fail to provide the lessor with a forwarding address when vacating the premises.

**SECURITY BOND**

35. There is no security bond payable.

**ADVICE, COMPLAINTS AND DISPUTES**

**DEPARTMENT OF COMMERCE**

36. The Commissioner for Consumer Protection can give advice to parties to a tenancy agreement, to look into complaints and, wherever possible, help to settle them. The Department of Commerce may be contacted by telephone on 1300 30 40 54 or by visiting one of the Department's offices.
37. The tenant should generally approach the lessor or property manager to solve any problem before approaching the Department of Commerce. The Department's role is one of mediation and conciliation, it cannot issue orders or make determinations in respect of disputes.

**IF A DISPUTE CANNOT BE RESOLVED**

38. If a dispute arises between the lessor and the tenant and the dispute cannot be resolved, either party may apply to the Magistrates Court to have the dispute decided by the court. The court can make a range of orders, including:
- a. 53.1 restraining any action in breach of the agreement; and
  - b. 53.2 requiring a party to the agreement to perform a certain action under the agreement; and
  - c. 53.3 order the payment of any amount owing under the agreement; and
  - d. 53.4 order the payment of compensation for loss or injury.

**PART C**

**IMPORTANT INFORMATION**

Additional terms may be included in this agreement if:

- (a) both the lessor and tenant agree to the terms; and
- (b) they do not conflict with any other law; and
- (c) they do not breach the provisions about unfair contract terms in the *Fair Trading Act 2010*; and
- (d) they do not conflict with the standard terms of this agreement.

ADDITIONAL TERMS ARE NOT REQUIRED. HOWEVER, ONCE THE PARTIES SIGN THIS AGREEMENT, THE ADDITIONAL TERMS ARE BINDING UPON THE PARTIES UNLESS THE TERM IS FOUND TO BE UNLAWFUL.

ADDITIONAL TERMS:

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**THE LESSOR AND TENANT ENTER INTO THIS AGREEMENT AND AGREE TO ALL ITS TERMS.**Signed by the **LESSOR/PROPERTY MANAGER**

\_\_\_\_\_  
[Signature of lessor]                      Witness (name and signature)                      \_\_\_\_\_  
Date                      /                      /                      /

Signed by the **TENANT/S (strike-out non-applicable signature blocks)**

\_\_\_\_\_  
[Signature of tenant]                      Witness (name and signature)                      \_\_\_\_\_  
Date                      /                      /                      /

\_\_\_\_\_  
[Signature of tenant]                      Witness (name and signature)                      \_\_\_\_\_  
Date                      /                      /                      /

## 10.7 DELEGATION REGISTER REVIEW

AUTHOR: Anthony Middleton – Manager Corporate Services  
DATE: Wednesday, 7 September 2016  
FILE NO: PE.AUT.2  
ATTACHMENT: 10.7 DRAFT Delegation Register – September 2016

### DECLARATION OF INTEREST

Nil

### SUMMARY

The purpose of this report is to consider the annual review of the Delegation Register.

### BACKGROUND

Section 5.46 (2) of the *Local Government Act 1995* requires that delegations be reviewed at least once every financial year. The Delegation Register was last reviewed by the Council in May 2016.

### COMMENT

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

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

As it has only been a matter of months since a significant review of the Delegation Register was undertaken, the only proposed change is for Delegation ROADS003, as follows:

- The reference to the Local Government Act has been updated. It was changed from a general s5.42 (the ability to delegate) to the specific s3.50 which deals with road closures; and
- Under ‘Conditions’, the sentence “For closure in excess of five working days local public notice is to be given” has been removed as it is specifically required by sub-section (1a) for all road closures.

### CONSULTATION

Relevant staff.

### STATUTORY REQUIREMENTS

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

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

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

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

### **POLICY IMPLICATIONS**

There are no policy implications for this report.

### **FINANCIAL IMPLICATIONS**

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

### **STRATEGIC/CORPORATE IMPLICATIONS**

#### Strategic Community Plan 2013 – 2023

Outcomes:

- G1 - Being Well Governed

#### Corporate Business Plan 2013 – 2017

Actions:

- G1.1.4 Maintain robust systems and controls

### **RISK MANAGEMENT IMPLICATIONS**

This report ensures legislative compliance and continues a framework of delegations to ensure that the Council and staff are undertaking their respective roles.

### **ASSET MANAGEMENT IMPLICATIONS**

There are no asset management implications for this report.

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

Nil.

### **VOTING REQUIREMENTS**

Absolute Majority

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

**121/16 Moved Cr Sexton, seconded Cr Hobbs that the Delegation Register dated September 2016, as attached, be adopted in accordance with section 5.42 of the *Local Government Act 1995*.**

**CARRIED BY ABSOLUTE MAJORITY**

**8/0**

**11     WORKS & SERVICES REPORTS**

Nil

**12     REGULATORY SERVICES REPORTS**

Nil

**13 EXECUTIVE & GOVERNANCE REPORTS****13.1 GREAT SOUTHERN GRAINS PTY LTD – PROPOSED DEVELOPMENT APPLICATION – PORTION OF LOT 9999 THORNBURY CLOSE, KOJONUP**

AUTHOR: Rick Mitchell-Collins – Chief Executive Officer

DATE: Monday, 13 September 2016

FILE NO: A22323

ATTACHMENT: 13.1 Application for Development Approval

**DECLARATION OF INTEREST**

Nil

**SUMMARY**

To seek Council's approval to endorse a development application for the use of existing Shire owned land and commence advertising for consideration of the disposal of land.

**BACKGROUND**

Council officers have recently been approached by Great Southern Grains Pty Ltd (GSG) to ascertain any suitable land to undertake a Rural Industry Use as defined within the Shire of Kojonup Town Planning Scheme No 3. GSG have subsequently identified an area of approximately 2.68 ha, being a portion of Lot 9999 Thornbury Close, located within the existing Industrial zone that would be suitable for their proposed operations.

In order to entertain a possible Development Application from GSG it is a requirement that Council, as owner of the land, endorse the development application as well as signify its interest to "dispose" of the land to the general public whether this is by Lease or Sale.

**COMMENT**

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

- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
- (a) *it gives local public notice of the proposed disposition —*
    - (i) *describing the property concerned; and*
    - (ii) *giving details of the proposed disposition; and*
    - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*
  - and*
  - (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*

Lot 9999 Thornbury Close is the balance lot within the Kojonup Industrial Area. Given the timing of this proposal and GSG's intention to be operating for the 2016 harvest, it is their proposal to initially lease the identified land (see attachment) with a view of future purchase.

This report is not intended to circumvent the requirements of either the Shire's Town Planning Scheme or the Local Government Act but to enable the application to be lodged and for Shire officers to undertake the requisite advertising, arrange valuations of the land,

make enquiries as to likely subdivision requirements, liaise with the current lease holder, etc. Future reports on the proposed land use and activity as well as the method of land disposal will be prepared and presented to Council in due course.

## **CONSULTATION**

Shire Planner

Development Services Coordinator

Directors - Great Southern Grains Pty Ltd.

## **STATUTORY REQUIREMENTS**

*Local Government Act 1995* – section 3.58 as outlined in the body of the report

*Shire of Kojonup Town Planning Scheme No. 3*

## **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**

Advertising Council's intention to "dispose" of land and other establishment costs would be subject to negotiation and itemized accordingly in any future Lease Agreement.

## **STRATEGIC/CORPORATE IMPLICATIONS**

Strategic Community Plan 2013 – 2023

Outcomes:

- E2 – Building Prosperity
- N1 – Feeling good about living in Kojonup.
- S2 – Staying Active & Entertained

Corporate Business Plan 2013 – 2017

Objectives:

- E2.1 – Building local economic capacity to generate wealth and provide a variety of local economic opportunities.
- N1.2 – Support management of the natural environment through production based agriculture and reserve management.
- S2.1 – Promote Kojonup as a place to live and visit.

## **RISK MANAGEMENT IMPLICATIONS**

The item covers several risk areas to Council including strategy and planning, compliance and reputation functions. The organisational risk and proposed treatment or mitigation is summarised in the following table from the Shire's Risk Management Plan:

<b>Risk Description</b>	<b>Risk Likelihood</b>	<b>Risk Consequence</b>	<b>Risk Classification</b>	<b>Risk Treatment</b>
Council does not approve the "Disposal" of Land	Unlikely given proposed	Major – loss of economic development	Medium – Reputational risk of being	Manage by ensuring statutory process followed



<b>Risk Description</b>	<b>Risk Likelihood</b>	<b>Risk Consequence</b>	<b>Risk Classification</b>	<b>Risk Treatment</b>
	use is able to be considered within the zone	opportunity	seen not to support private sector investment	

### **ASSET MANAGEMENT IMPLICATIONS**

This section of land has been specifically identified for a number of years for Industrial Use and whilst not fully serviced there is an opportunity for Council to assess potential development uses on a case by case basis rather than spending significant scarce funds in the hope that investment will occur and costs outlaid will be recouped.

The unfortunate reality is that land development in rural shires is expensive and has to be subsidized in order to attract potential investors. Investors on the other hand can “shop” around for the most attractive offer as part of their Business Planning.

### **VROC IMPLICATIONS**

Southern Link VROC Strategic Directions 2015 – 2020

Regional Economic Development:

Goal One – Stimulate economic growth and business opportunity:

Regional Community Development:

Goal Five – Build capacity to enable communities to achieve.

### **VOTING REQUIREMENTS**

Simple Majority

*3:18pm – Cr Pedler declared a ‘Financial – Indirect’ interest as he has provided professional services for another business in the area with similar services. He departed from the Chamber.*

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

**122/16 Moved Cr Sexton, seconded Cr Radford that Council authorise the Chief Executive Officer to:**

- 1. Sign the Development Application form lodged by Great Southern Grains Pty Ltd;**
- 2. Arrange for an independent land valuation of approximately 2.68 ha being part of Lot 9999 Thornbury Close Kojonup; and**
- 3. In accordance with section 3.58 of the *Local Government Act 1995*, advertise Council’s consideration to ‘dispose’ of approximately 2.68 ha being part of Lot 9999 Thornbury Close Kojonup.**

**CARRIED 7/0**

*3:24pm – Cr Pedler returned to the Chamber.*

**14     AGED CARE SERVICES REPORTS**

Nil

**15     COMMUNITY DEVELOPMENT & TOURISM REPORTS**

Nil

**16     COMMITTEES OF COUNCIL**

**16.1   COMMITTEES OF COUNCIL UNCONFIRMED MINUTES**

**COUNCIL DECISION/OFFICER RECOMMENDATION**

**123/16   Moved Cr Mathwin, seconded Cr Hobbs that the attached unconfirmed minutes for the Audit Committee meeting held 2 August 2016 be received by Council.**

**CARRIED     8/0**

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

Nil

**18     NEW BUSINESS**

Nil

**19 CONFIDENTIAL REPORTS****19.1 SUPPLY OF MOTOR GRADER**

AUTHOR: Craig McVee – Manager Works and Services

DATE: Thursday, 8 September 2016

FILE NO: FM.TND.3

ATTACHMENT: 19.1 Quote for Motor Grader (VP56423)

**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**

**124/16** Moved Cr Pedler, seconded Cr Warland that the meeting be closed to the public in accordance with Section 5.23 (2) of the *Local Government Act 1995* to discuss:

- (c) A contract entered into, or which may be entered into, by the Local Government which relates to a matter to be discussed at the meeting.

**CARRIED 8/0**

*3:25pm – The Manager Regulatory Services and the Town Planner departed from the Chamber.*

**COUNCIL DECISION/OFFICER RECOMMENDATION**

**125/16** Moved Cr Sexton, seconded Cr Radford that the quote provided by Westrac for the supply of one (1) CAT 12M Motor Grader at \$338,585, with trade-in of the CAT 12H Motor Grader of \$62,500, be accepted.

**CARRIED 8/0**

**COUNCIL DECISION/OFFICER RECOMMENDATION**

**126/16** Moved Cr Warland, seconded Cr Pritchard that the meeting be reopened to the public (at 3.35pm).

**CARRIED 8/0**

**20     NEXT MEETING**

Tuesday, 18 October 2016 commencing at 3:00pm.

**21     CLOSURE**

There being no further business to discuss, the President thanked the members for their attendance and declared the meeting closed at 3:38pm.

**22     ATTACHMENTS (SEPARATE)**

- Item 10.1     Monthly Statement of Financial Activity – August 2016
- Item 10.2     Monthly Payment Listing 01/08/2016 – 31/08/2016
- Item 10.7     DRAFT Delegation Register – September 2016
- Item 13.1     Application for Development Approval
- Item 16.1     Audit Committee Minutes – 2 August 2016
- Item 19.1     Confidential Report

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*Presiding Member*

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*Date*