



MINUTES

Special Council Meeting

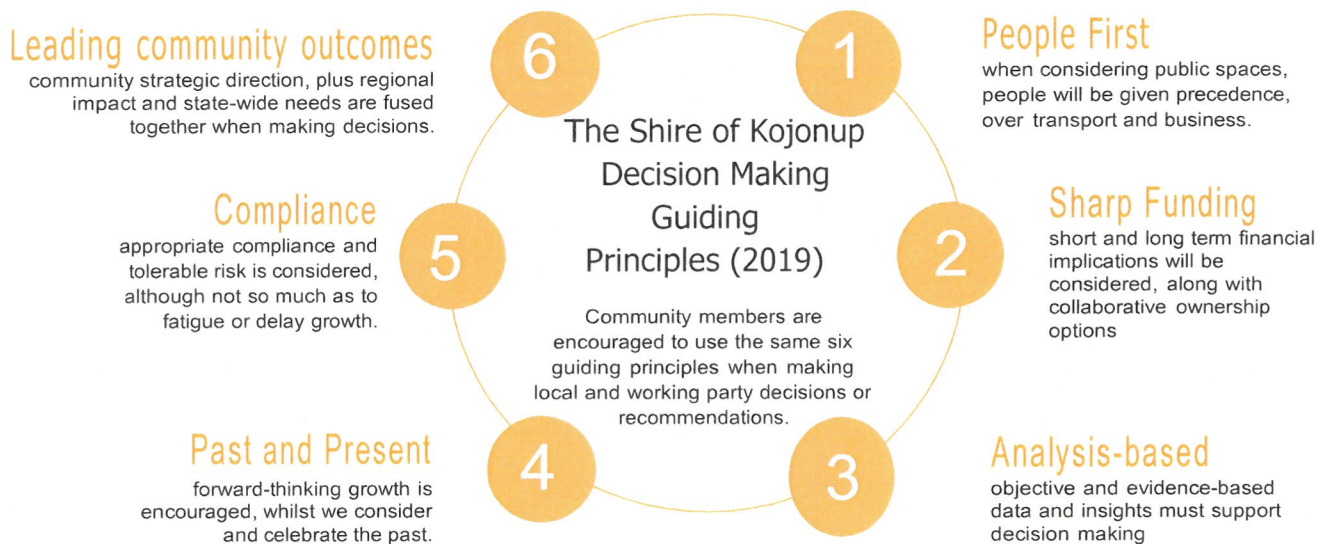
13 September 2022

MINUTES OF A SPECIAL COUNCIL MEETING HELD ON 13 SEPTEMBER 2022

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The Shire of Kojonup has a set of six guiding principles it uses when making decisions. These principles are checked and enhanced every two years in line with the Strategic Community Plan review schedule.



MINUTES

1 DECLARATION OF OPENING AND ANNOUNCEMENT OF GUESTS

The Shire President declared the meeting open at 3.03pm 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.

Acknowledgement of Country

The Shire of Kojonup acknowledges the first nations people of Australia as the Traditional custodians of this land and in particular the Keneang people of the Noongar nation upon whose land we meet.

We pay our respect to their Elders past, present and emerging.

Prayer – Cr Egerton-Warburton

Gracious Father, we acknowledge you as our Maker and Judge. We ask for wisdom for our reigning monarch King Charles. Grant to him good health and strength in the executing of his duties.

We pray for all Ministers and Cabinet members of the Australian Federal and State Government. Grant to them wisdom in the welfare of Australia, so that truth and justice is established for all Australians.

Lastly Gracious Father, we pray for ourselves. We ask that you might grant to us the ability to speak with integrity and to work with uncompromising diligence. Grant to us the wisdom to make good decisions, remembering that we are one community. Grant to us the good humour to keep things in perspective in a community that is a diverse population.

We ask that we might always be mindful of the safety and welfare of the people of Kojonup. Grant to all who serve on public committees the ability to listen and work together with mutual respect for one another. Bless us with the personal joy of knowing that we have done our best.

2 **ANNOUNCEMENTS FROM THE PRESIDING MEMBER**

3 **ATTENDANCE**

COUNCILLORS

| | |
|------------------------|------------------------|
| Cr N Radford | Shire President |
| Cr P Webb | Deputy Shire President |
| Cr F Webb | |
| Cr Wieringa | |
| Cr R Bilney | |
| Cr A Egerton-Warburton | |

STAFF

| | |
|-------------------|--|
| Grant Thompson | Chief Executive Officer |
| Robert Jehu | Manager Regulatory Services |
| Judy Stewart | Senior Administration Officer |
| Estelle Lottering | Regulatory Services Administration Officer |

CONSULTANT

| | |
|----------------|--|
| Steve Thompson | Town Planner, Edge Planning and Property |
|----------------|--|

MEMBERS OF THE PUBLIC

| | |
|--------------|----------------|
| Olivia Thorn | Enel Energy |
| Tomas Gibbs | Enel Energy |
| John Price | |
| Darryl Byatt | Solar Power WA |

3.1 **APOLOGIES**

Cr Gale
Cr Singh

3.2 **APPROVED LEAVE OF ABSENCE**

Nil

4 **DECLARATION OF INTEREST**

Cr Bilney (Financial): Item 9.4.1 – Moonies Hill Energy Pty Ltd – Assessment of Management Plans

5 **PUBLIC QUESTION TIME**

Questions may be submitted using the special email address for Council Meeting Public Question Time being cmpqt@kojonup.wa.gov.au

The Chief Executive Officer will table all correspondence received.

5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE
Not applicable

5.2 PUBLIC QUESTION TIME
Nil

6 CONFIRMATION OF MINUTES
Nil

7 PRESENTATIONS

7.1 PETITIONS
Nil

7.2 PRESENTATIONS
Nil

7.3 DEPUTATIONS
Nil

7.4 DELEGATES' REPORTS
Nil

8 METHOD OF DEALING WITH AGENDA BUSINESS
There were nil changes to the order of business.

9 REPORTS

9.1 KEY PILLAR 1 – 'PLACE' REPORTS
Nil

9.2 KEY PILLAR 2 – 'CONNECTED' REPORTS
Nil

9.3 KEY PILLAR 3 – 'PERFORMANCE' REPORTS
Nil

Cr Bilney declared a Financial Interest and left the meeting at 3.06pm.

9.4 KEY PILLAR 4 – ‘PROSPERITY’ REPORTS

9.4.1 MOONIES HILL ENERGY PTY LTD – ASSESSMENT OF MANAGEMENT PLANS

| | | |
|----------------------|---|--|
| AUTHOR | Steve Thompson - Consultant Planner, Edge Planning & Property | |
| DATE | Thursday, 8 September 2022 | |
| FILE NO | BD.BDA.8 | |
| ATTACHMENT(S) | 9.4.1.1 | Amended conditions of development approval - letter dated 5 October 2021 |
| | 9.4.1.2 | Construction Management Plan |
| | 9.4.1.3 | Bushfire Management Plan (includes Emergency Management Plan) |
| | 9.4.1.4 | Traffic Management Plan including 9.4.5 and 9.4.6 |
| | 9.4.1.5 | Pre-Construction Road Condition Report |
| | 9.4.1.6 | Route Study |

| STRATEGIC/CORPORATE IMPLICATIONS | | |
|---------------------------------------|---|---|
| “Smart Possibilities – Kojonup 2027+” | | “Smart Implementation – Kojonup 2018-2022” |
| Key Pillar | Community Outcomes | Corporate Actions |
| KP 4 - Prosperity | 4.1 – Be providing business assistance for growth in small local industry | 4.1.1 – Amend Town Planning Scheme to encourage economic development and private investment |

DECLARATION OF INTEREST

Edge Planning & Property receive payment for planning advice to the Shire and declare a Financial Interest (section 5.70 of the *Local Government Act 1995*).

SUMMARY

The applicant has submitted various management plans to the Shire of Kojonup (Shire) seeking approval.

BACKGROUND

The Council has considered matters relating to the wind farm on various occasions. Most recently, the Council on 28 October 2021 resolved the following at item 116/21:

‘That Council:

- 1) *In accordance with Regulation 77 of the Planning and Development (Local Planning Schemes) Regulations 2015 approve the amendment of the development approval issued to Moonies Hill Energy Pty Ltd for the Flat Rocks Wind Farm and issue a revised development approval including the following changes to conditions 1, 5 and 10:*
 - 1) Substantial commencement
This wind farm shall substantially commence by 30 November 2023.
 - 5) Turbine specifications
This approval is for Vestas V150 4.2MW wind turbine. Where the use of an alternative wind turbine is proposed, the Applicant must prepare and lodge with the local government a revised Noise Impact Assessment based upon the proposed

alternative turbine, which demonstrates that the alternative turbine can comply with condition 29 below.

10) Turbine specifications

The maximum height of each wind turbine shall be 200 metres, measured from the base of the tower to the rotor tip at its maximum elevation; and

- 2) *Advise the Shire of Broomehill-Tambellup of the decision to approve the amendments to the Moonies Hill Energy Pty Ltd wind farm development.'*

The Shire, on 5 October 2021, issued amended conditions of development approval (see Attachment 9.4.1.1).

The applicant has forwarded a number of management plans and documents to address the development conditions. In turn, the Shire has requested additional information on some matters including on noise impacts, the Development Layout Plan and 'micro' siting of wind turbines. Additionally, an independent/peer review is being undertaken by an acoustic consultant on the Noise Impact Mitigation Management Plan.

The development approvals propose 42 wind turbines (7 in the Shire of Kojonup and 35 in the Shire of Broomehill-Tambellup) plus supporting infrastructure and buildings.

The proponents have separately requested approval from the Shire of Broomehill-Tambellup to the management plans to reflect the development approval issued by the Great Southern Joint Development Assessment Panel.

COMMENT

The Construction Management Plan, Fire Management Plan and the Traffic Management Plan are outlined in Attachments 9.4.1.2 to 9.4.1.6. In summary:

Construction Management Plan (14 July 2022) – Condition 18

Generally no objections with the submitted document, with the exception of Appendix A (Development Layout Plan). Appendix A, within the Construction Management Plan, will be exempt from consideration for approval, as the Development Layout Plan is a separate plan requiring Council approval at a future scheduled Council Meeting. It is suggested that no additional information is required on the Construction Management Plan. There may separately be a need to obtain other approvals from other agencies including from Western Power.

Fire Management Plan (14 July 2022) – Condition 19

No objections with the submitted document and it suggested that no additional information is required. The Bushfire Management Plan, which also incorporates an Emergency Management Plan, will result in required on-the-ground mitigation measures including the proponent providing water tanks.

Traffic Management Plan (3 August 2022) – Condition 20

The Traffic Management Plan is supported by a Pre-Construction Road Condition Report (3 August 2022) and a Route Study report (19 July 2022). Modest modifications are suggested to the Traffic Management Plan to address Main Roads WA advice:

- 5.2 General Road Condition – Any reference to vegetation management (trimming and or removal of native vegetation) should reference the appropriate environmental approvals particularly within Main Roads road reserves. Note that separate approval(s) will be required to undertake any work within Main Roads road reserves.
- 5.3 Upgrades and modifications along Haulage Route currently looks at local access. It is strongly suggested that swept path analysis for all intersections be shown (including Albany Hwy/Warrenup Rd) be included.
- Table 6.1 refers to 53m road trains – RAV 7 are limited to 36.5m.
- RAV vehicle access will be limited to the current RAV network. Additional access permissions will be subject to HVS approval (i.e. most likely Permit).
- 6.4 Heavy Vehicle Management – it is suggested that travelling at night is not permitted.

There may be a need to separately obtain other approvals including from Main Roads WA and the Department of Water and Environmental Regulation.

The Route Study report mainly relates to Main Roads WA managed roads in transporting the wind turbines from Bunbury port to the wind farm site.

It is suggested that other management plans and other required information, to address the development conditions, can be brought to Council as a package.

Alternate options and their implications

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

1 Not approve the management plans

The Council can choose to not approve the management plans and advise the proponent giving reasons. If this option were chosen, the applicant would need to produce revisions of the management plan(s) which are not approved which better accord with the requirement of the technical subject matter that the management plan relates to, and Council's decision to not approve would need to be based on a lack of satisfaction that those technical requirements have been met.

2 Approve the management plans

The Council can choose to approve the management plans, in part or whole and/or with or without modifications. There are other management plans which are still in the process of being assessed by the Shire's engaged town planner, which need to also be approved by the Shire before the wind farm proposal can proceed; however, approval of the plans the subject of this report, would be a step forward towards the wind farm proceeding.

3 Defer the proposal

The Council can choose to defer the matter and seek additional information from the proponent or undertake consultation, if deemed necessary, before proceeding to make a decision.

There is not a right of merits review of Council's decision to approve or not to approve a Management Plan where it is lodged pursuant to a condition of development approval. However, the rationale for this is that the merits of the acceptability of the development have fundamentally been determined by the grant of the development approval, and what remains by way of Management Plans is an assessment of detail within the confines of specific narrow technical fields. Therefore, a Management Plan should not be refused approval if it appropriately addresses the technical subject matter that it is supposed to address.

CONSULTATION

The Shire has previously consulted on the Development Application. More recently, the Shire has advised interested stakeholders of the upcoming Council meeting.

STATUTORY REQUIREMENTS

Planning and Development Act 2005 and Planning and Development (Local Planning Schemes) Regulations 2015.

POLICY IMPLICATIONS

The proposal satisfies the WA Planning Commission Position Statement: Renewable Energy Facilities (March 2020) which replaced the former Planning Bulletin 67 Guidelines for Wind Farm Development (2004).

FINANCIAL IMPLICATIONS

The applicant has paid the Development Application fee.

RISK MANAGEMENT IMPLICATIONS

| RISK MANAGEMENT FRAMEWORK | | | |
|----------------------------------|---|---|----------------|
| Risk Profile | Risk Description/Cause | Key Control | Current Action |
| 3 – Compliance | Impulsive decision making Ineffective monitoring of changes to legislation | Professional accreditation/certification maintained | Nil |
| 6 – Engagement | Inadequate documentation or procedures | Public notices/local papers/website communication | Nil |
| 7 – Environment | Inadequate local laws/planning schemes | Environmental management compliance | Nil |
| 8 – Errors, Omissions and Delays | Complex legislation Incorrect information | Development Approval performance report | Nil |
| <i>Risk rating: Adequate</i> | | | |
| IMPLICATIONS | | | |

Applicants need to ensure that Development Applications accord with the intent of the Shire of Kojonup Town Planning Scheme. Council, in assessing applications, needs to adopt a similar approach that reflects present and future requirements without compromising amenity or establishing precedents.

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Although the Moonies Hill wind turbine project is located in two Shires, this request for approving the management plans only relates to turbines located in the Shire of Kojonup. The Shire of Broomehill-Tambellup will separately consider the management plans.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council:

- 1) Approve the following management plans for Moonies Hill Energy Pty Ltd for the Flat Rocks Wind Farm as outlined in Attachments 9.4.1.2 to 9.4.1.6:
 - Construction Management Plan (Condition 18) except for Appendix A (Development Layout Plan) within the Construction Management Plan. See point 2 below for the approval of Development Layout Plan;
 - Fire Management Plan - Bushfire Management Plan incorporating the Emergency Management Plan (Condition 19); and
 - Traffic Management Plan - incorporating the Pre-Construction Road Condition Report and the Route Study. This is subject to addressing Main Roads Western Australia advice and modifying the Traffic Management Plan to the satisfaction of the Shire's Chief Executive Officer (Condition 20).
- 2) While noting point 1, it is highlighted that approval of the management plans:
 - Does not include the Development Layout Plan included with the documents; and
 - Does not override the need to obtain any relevant approvals that may be separately required from other agencies.

Advice Notes:

- A) Advise the Shire of Broomehill-Tambellup of the decision.

COUNCIL DECISION

Moved Cr F Webb

Seconded Cr Egerton-Warburton

That Council:

- 1) Approve the following management plans for Moonies Hill Energy Pty Ltd for the Flat Rocks Wind Farm as outlined in Attachments 9.4.1.2 to 9.4.1.6:
 - Construction Management Plan (Condition 18) except for Appendix A (Development Layout Plan) within the Construction Management Plan. See point 2 below for the approval of Development Layout Plan;
 - Fire Management Plan - Bushfire Management Plan incorporating the Emergency Management Plan (Condition 19); and
 - Traffic Management Plan - incorporating the Pre-Construction Road Condition Report and the Route Study. This is subject to addressing Main Roads Western Australia advice and modifying the Traffic Management Plan to the satisfaction of the Shire's Chief Executive Officer (Condition 20).
- 2) While noting point 1, it is highlighted that approval of the management plans:
 - Does not include the Development Layout Plan included with the documents; and
 - Does not override the need to obtain any relevant approvals that may be separately required from other agencies.

Advice Notes:

- 1) Advise the Shire of Broomehill-Tambellup of the decision.

AMENDMENT TO THE MOTION

87/22 Moved Cr P Webb

Seconded Cr F Webb

The following addition be included at the 2nd dot point (Fire Management Plan - Bushfire Management Plan incorporating the Emergency Management Plan [Condition 19]) to:

- incorporate changes from a 1,000 litre fire appliance (slip on unit) to a minimum 2,400 litre unit; and
- the 2,400 litre fire appliance unit be retained at the operations building and maintenance compound to attend maintenance site works during operation at all times; and
- That fire units, with a minimum capacity of 1000 litres of water, be added as a requirement at all hot worksites (that is; one per hot worksite) located in the Shire of Kojonup during the fire season, with the 2,400 litre fire unit on standby at the main compound for all worksites located within the Shire of Kojonup during the fire season.

CARRIED 5/0

THE AMENDMENT BECAME PART OF THE MOTION AND WAS PUT

88/22 Moved Cr P Webb

Seconded Cr F Webb

That Council:

- 1) Approve the following management plans for Moonies Hill Energy Pty Ltd for the Flat Rocks Wind Farm as outlined in Attachments 9.4.1.2 to 9.4.1.6:
 - Construction Management Plan (Condition 18) except for Appendix A (Development Layout Plan) within the Construction Management Plan. See point 2 below for the approval of Development Layout Plan;
 - Fire Management Plan - Bushfire Management Plan incorporating the Emergency Management Plan (Condition 19) – amended as follows:
 - incorporate changes from a 1000 litre fire appliance (slip on unit) to a minimum 2,400 litre unit; and
 - the 2,400 litre fire appliance unit be retained at the operations building and maintenance compound to attend maintenance site works during operation at all times; and
 - That fire units, with a minimum capacity of 1000 litres of water, be added as a requirement at all hot worksites (that is; one per hot worksite) located in the Shire of Kojonup during the fire season, with the 2,400 litre fire unit on standby at the main compound for all worksites located within the Shire of Kojonup during the fire season; and
 - Traffic Management Plan - incorporating the Pre-Construction Road Condition Report and the Route Study. This is subject to addressing Main Roads Western Australia advice and modifying the Traffic Management Plan to the satisfaction of the Shire's Chief Executive Officer (Condition 20).
- 2) While noting point 1, it is highlighted that approval of the management plans:
 - Does not include the Development Layout Plan included with the documents; and
 - Does not override the need to obtain any relevant approvals that may be separately required from other agencies.

Advice Notes:

- 1) Advise the Shire of Broomehill-Tambellup of the decision.

CARRIED 5/0

10 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12 QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

13 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

Nil

Steve Thompson, Robert Jehu, Estelle Lottering and Members of the Public left the meeting at 3.15pm.

14 MEETING CLOSED TO THE PUBLIC

14.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

14.1.1 BLACK COCKATOO CAFÉ – TRANSITION PLAN

| | |
|----------------|--|
| AUTHOR | Grant Thompson – Chief Executive Officer |
| DATE | Friday, 9 September 2022 |
| FILE NO | CP.LEA.1 |

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.

PROCEDURAL MOTION

89/22 Moved Cr Wieringa

Seconded Cr Egerton-Warburton

That the meeting proceed behind closed doors in accordance with Section 5.23(2) (c) of the *Local Government Act 1995* at pm.

CARRIED 5/0

Cr Bilney re-entered the meeting at 3.15pm.

PROCEDURAL MOTION

91/22 Moved Cr P Webb

Seconded Cr Wieringa

That the meeting be re-opened to the public at 3.20pm.

CARRIED 6/0

14.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

14.2.1 BLACK COCKATOO CAFÉ – TRANSITION PLAN

| | |
|---------|--|
| AUTHOR | Grant Thompson – Chief Executive Officer |
| DATE | Friday, 9 September 2022 |
| FILE NO | CP.LEA.1 |

OFFICER RECOMMENDATION/COUNCIL DECISION

90/22 Moved Cr Wieringa

Seconded Cr Bilney

That Council:

Approve the purchase of plant, equipment and estimated stock on hand from Ian and Karen Watson, as detailed in the attached spreadsheet, for the agreed value of \$41,195 inclusive of GST; and

Approve the processing of this payment prior to Thursday, 16 September 2022 to coincide with the ending of the lease, as a special payment run.

CARRIED 6/0

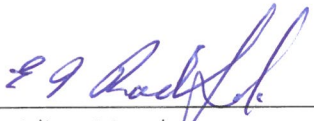
15 CLOSURE

There being no further business to discuss, the President thanked the members for their attendance and declared the meeting closed at 3.21pm.

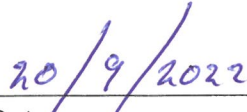
16 ATTACHMENTS (SEPARATE)

| | | |
|-------|---------|--|
| 9.4.1 | 9.4.1.1 | Amended conditions of development approval - letter dated 5 October 2021 |
| | 9.4.1.2 | Construction Management Plan |
| | 9.4.1.3 | Bushfire Management Plan |
| | 9.4.1.4 | Traffic Management Plan including 9.4.1.5 and 9.4.1.6 |
| | 9.4.1.5 | Pre-Construction Road Condition Report |
| | 9.4.1.6 | Route Study |

Confirmed on 20 September 2022 as a true record –



Presiding Member



Date