

Kojoonup



SHIRE OF KOJONUP

MINUTES

Ordinary Council Meeting

19 March 2019

MINUTES FOR THE COUNCIL MEETING HELD ON 19 MARCH 2019

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MINUTES

1 DECLARATION OF OPENING AND ANNOUNCEMENT OF GUESTS

The Shire President declared the meeting open at 3.01pm 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.

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 led by Cr S Pedler

Gracious Father, we acknowledge you as our Maker and Judge. We ask for wisdom for our reigning monarch Queen Elisabeth. Grant to her good health and strength in the executing of her 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 ATTENDANCE and APOLOGIES

Cr Ronnie Fleay	President
Cr Ned Radford	Deputy President
Cr John Benn	
Cr Graeme Hobbs	
Cr Jill Mathwin	
Cr Ian Pedler	
Cr Sandra Pedler	
Cr Judith Warland	

STAFF

Rick Mitchell-Collins	Chief Executive Officer
Anthony Middleton	Manager of Corporate and Community Services
Lorraine Wyatt	Executive Assistant

LEAVE OF ABSENCE

Cr Ned Radford had previously been granted a leave of absence for this meeting but was present.

APOLOGIES

Phil Shephard	Town Planner
Judy Stewart	Senior Administration Officer
Craig McVee	Manager Works and Services

MEMBERS OF THE GALLERY

There was 17 members of the gallery

3 SUMMARY OF RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Stuart Toll

Question:

What is the cost of the building as opposed to the fit out and how much did the consultants cost?

Response by the Shire President

Those figures would come from the builder who would be responsible for the project. Discussions with Rick Wilson MP agreed with Council figures of \$4000 per square metre for a new build. The consultant fees were part of combined projects linked with the Regional Growth Fund, Building Better Regions Fund, Capital Evaluation Framework and Asset Management Plan, so I do not have the specific amount for the George Church Bequest options with me however, I can find out and get back to you.

Response provided by Manager Corporate and Community Services

With regards to the concept plans for the extension and refurbishment of the Medical Centre currently known as St Lukes, located on Katanning Road, the cost of consultants including architectural drawings was as follows:

Consultant (Core Business Australia)	\$4,352.09
H + H Architects	\$4,989.00
Total	\$9,341.09

4 PUBLIC QUESTION TIME

Pam McGregor

Kevin Broome and I had a meeting with the CEO on 14 March 2019 at which time we were advised that the Communities, Health and Hospitals Program funding Agreement had not been received. I subsequently contacted Mr Wilsons office who advised that the recipients will get notification soon however Mr Wilsons office advised that the announcement made on 23 March 2019 was all the security needed and should be taken as assurance that the funding would be met.

I received a text message saying, "it is not an election promise and it is funded"

It is my understanding that the Shire has received an email to that effect. Will you confirm that is the case and if not, will you make contact?

The Shire President called on the Chief Executive Officer to respond

The Chief Executive Officer advised that an email had been received today (19 March 2019) to that effect.

Will you share the results with the community?

Response by the Shire President

Definitely.

Neville Mathews

I want to speak to the sale yards item and want it noted and that the sale yard is an important part of business for sheep breeders and wool producers. Give it careful thought and consider the stakeholders. I would like there to be a meeting held and to know that you are going to consult with stakeholders before you do anything. Please make sure you support the industry.

5 PETITIONS, DEPUTATIONS AND PRESENTATIONS

Nil

6 APPLICATIONS FOR LEAVE OF ABSENCE

OFFICER RECOMMENDATION/COUNCIL DECISION

21/19 Moved Cr Warland seconded Cr Radford that Cr Sandra Pedler and Cr Ian Pedler be granted a leave of absence for the Ordinary Council Meeting to be held in May and June 2019.

CARRIED 8/0

7 CONFIRMATION OF MINUTES

7.1 **ORDINARY MEETING 19 FEBRUARY 2019**

Minutes of the Ordinary Council Meeting which was held on 19 February 2019 were previously circulated under separate cover and are at **Attachment 7.1.1**

OFFICER RECOMMENDATION/COUNCIL DECISION

22/19 Moved Cr Warland seconded Cr Benn that the Minutes of the Ordinary Meeting of Council held on 19 February 2019 be confirmed as a true record.

CARRIED 8/0

8 ANNOUNCEMENTS by the Presiding Member without discussion

Nil

9 DECLARATIONS OF INTEREST

10.1 **Retrospective Development Approval Sea Container Storage Sheds Lot 50 Albany Highway, Kojonup**

Cr Sandra Pedler is an owner of the property and declared a Financial (Direct) Interest in this item.

10.1 **Retrospective Development Approval Sea Container Storage Sheds Lot 50 Albany Highway, Kojonup**

Cr Ian Pedler is an owner of the property and declared a Financial (Direct) Interest in this item.

Cr Sandra Pedler and Cr Ian Pedler Financial (Direct) Interest in this item and left the meeting at 3.09pm

10 KEY PILLAR 1 – ‘PLACE’ REPORTS

10.1 RETROSPECTIVE DEVELOPMENT APPROVAL SEA CONTAINER STORAGE SHEDS LOT 50 ALBANY HIGHWAY, KOJONUP

AUTHOR	Phil Shephard – Town Planner
DATE	Tuesday, 5 March 2019
FILE NO	A23460
ATTACHMENT(S)	10.1.1 - Application Plan

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2021 +”
Key Pillar	Community Outcomes	Corporate Actions
KP1 – Place	1.4 By enjoying a Main Street which is an inviting meeting place where we celebrate our history and heritage in a modern way.	1.1.2 Celebrate the significance of cultural, social and built heritage including indigenous and multicultural groups.

DECLARATION OF INTEREST

Nil.

SUMMARY

To consider a request from the landowners for retrospective development approval for two (2) existing sea containers used for storage sheds on the property.

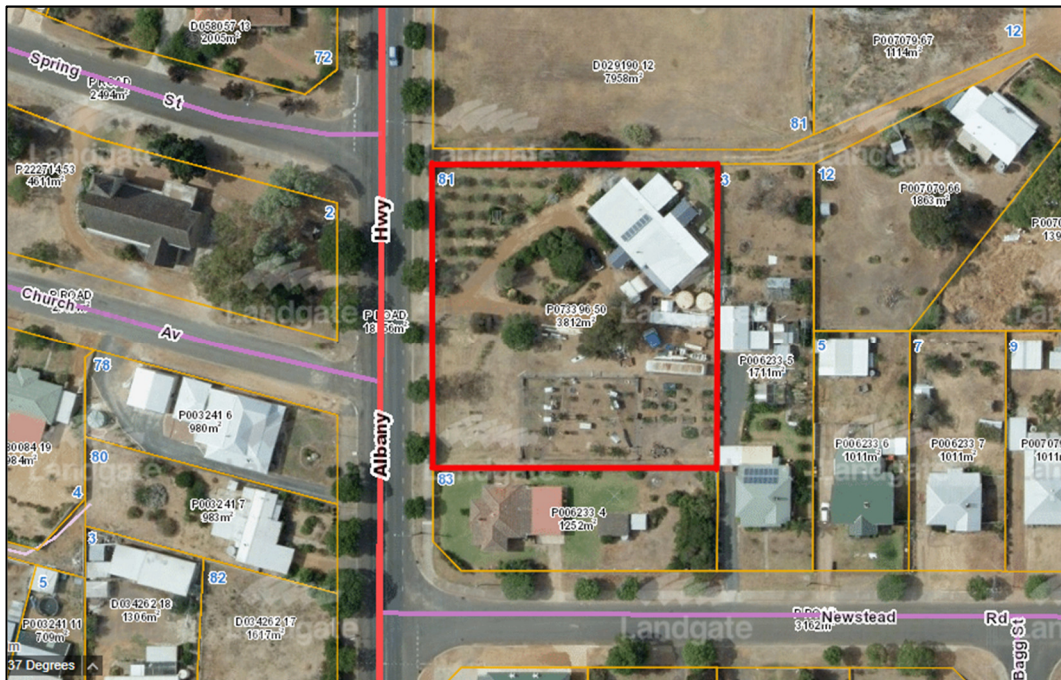
There is no delegation available to staff to determine the application and it must be presented to Council for consideration. The recommendation is to grant development approval subject to conditions.

BACKGROUND

Nil.

COMMENT

The landowners have previously placed two 40ft sea containers in the backyard of their property and now wish to retain them for storage uses. The property and sea containers are shown in the images below.



Lot 50 Albany Highway, Kojonup bordered in red (Image Landgate Map Viewer Plus)



Lot 50 Albany Highway, Kojonup showing position of sea containers (Image Landgate Map view Plus)

Zoning and Land Use/Development

The land is zoned Commercial under the Shire of Kojonup Town Planning Scheme No. 3 (TPS3) and has a residential density code of R10/20.

The use of the sea containers is consistent with the definition of warehouse/storage under the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The land use 'Warehouse' is an 'AA' discretionary land use within the Commercial zone which means that the Council, may at its discretion, permit the use.

In accordance with c.5.4, any development shall conform to the requirements for that use, specified in Table II - Development Table. There are no requirements for the use of the land for storage and these shall be determined by Council. These and the R-Codes are discussed below:

Setbacks

The sea containers achieve all of the minimum setbacks required under the R-Codes.

Plot Ratio

Including the existing dwelling, the sea containers are estimated to give a plot ratio of between 12-14% which is well below the minimum R-Code total open space requirement of 50% of the site.

Landscaping

There is no additional landscaping proposed with the application. No additional landscaping is considered necessary in this instance.

Car Parking

The site is over 1,000m² in area and there are adequate areas available on-site for this purpose.

Policy Implications

The sea containers have also been assessed against the adopted Town Planning Scheme Policy No. 5 'Outbuildings in the Residential, Residential Development and Special Rural Zones'. The relevant parts affecting this proposal are as follows:

Policy Objective

- a) *To set controls on the size of outbuildings permitted within the Residential, Residential Development and Special Rural zoned areas of the Shire.*
- b) *To achieve a balance between providing for the various legitimate needs of residents for outbuildings for storage and minimising any adverse impacts outbuildings may have on neighbours or a street/neighbourhood.*

Policy

1 Introduction and Background

Outbuildings are Class 10a non-habitable buildings under the Building Code of Australia. The Council acknowledges that landowners have varying needs for outbuildings for garaging of vehicles, storage of boats, caravans and other items, domestic workshops, games rooms, studios, stables, etc. Council accepts that as a general principle, people expect to be able to have larger outbuildings on larger lots.

The Council is also aware that in some instances outbuildings may result in problems including:

- *The use of outbuildings for unapproved commercial or industrial purposes, which can result in adverse impacts from noise and traffic for neighbours and the locality; and*
- *The illegal use of outbuildings as residences, which often incorporate inadequate health and building standards.*

With the exception of those approved for other purposes, outbuildings shall be used for domestic storage or hobby purposes.

2 Policy Requirements

Vacant Lots

An outbuilding is not permitted to be constructed on vacant lots. If there is no habitable residence existing on the lot that a person wishes to erect an outbuilding on and no house plans are submitted with the outbuilding plans, the application will be treated as a 'use not listed' for storage purposes.

If house plans are submitted for approval with the outbuilding plans, the outbuilding may be approved prior to the construction of the dwelling.

When considering a proposal for an outbuilding, Council will have regard to:

- a) Any approved land use and activities operating on the site and the need and purpose for the outbuilding;*
- b) The compatibility of the outbuilding with its surroundings and any other existing approved outbuildings in the street/area;*
- c) Whether the outbuilding complements or detracts from the dominant character of the surrounding landscape and the architectural style and character of the building, site or area; and*
- d) Whether rationalisation or reduction in the number of existing outbuildings can be achieved.*

Council will not approve any outbuilding that in its opinion will have an adverse visual or social impact on surrounding land and buildings, streetscape and/or overall locality

As the sea containers have been located on the property for some time now without complaint from neighbours regarding their position or appearance, it is considered that they are acceptable to the neighbours.

TPS3 Considerations

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

Matter to be Considered	Response
(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;	The proposal to maintain the existing sea containers used for storage purposes on the property is considered consistent with the aims and the provisions of TPS3.
(b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving;	The proposal is considered consistent with the orderly and proper planning of the locality.
(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;	The proposal is considered compatible with its setting and the adjoining developments. The sea containers have been located on the property for some time without complaint from any affected neighbours.
(n) the amenity of the locality including the following: (i) environmental impacts of the development; (ii) the character of the locality; (iii) social impacts of the development;	The sea containers are located at the rear of the property and not able to be seen from Albany Highway. They do not adversely affect the amenity of the area or locality.
(q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;	The proposal is not affected by any known risk. See bushfire comment below.
(w) the history of the site where the development is to be located;	The site has been used as a residence with the sea containers in place for many years.

Retrospective development approvals

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

The fee for a retrospective planning application is 3x the normal fee as a penalty for not obtaining approval before proceeding. In this instance that is a fee of \$441 instead of the normal \$147 fee.

The applicant has acknowledged their oversight in not seeking Council approval and they have cooperated with staff and prepared this application for Council consideration. Given the proponents have sought development approval immediately upon being advised by staff that this was required, no further action regarding the breach of TPS3 is considered necessary or recommended.

Alternate Options

The Council has several options available to it, which are discussed below:

- 1 Refuse the request
The Council can choose to refuse the proposal. If refused, the Council need to provide grounds for not supporting the request.
- 2 Approve the request
The Council can choose to approve the proposal, in part or whole, and with or without conditions.
- 3 Defer the proposal
The Council can choose to defer the matter for a period of time and seek additional information from the proponent, if deemed necessary to complete the assessment, before proceeding to make a decision.

The decision of the Council is a reviewable determination under the *Planning and Development (Local Planning Schemes) Regulations 2015* (c.76) 'Review of decisions' and the landowner may apply to the State Administrative Tribunal for a review of the decision made by the Council. An appeal must be lodged within 28-days of being notified of the decision.

CONSULTATION

Nil undertaken.

STATUTORY REQUIREMENTS

The processing of the application is required to comply with the requirements of Town Planning Scheme No. 3 which is an operative local planning scheme under the provisions of the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.

POLICY IMPLICATIONS

See comments on Town Planning Scheme Policy above.

FINANCIAL IMPLICATIONS

The fee to determine an application for retrospective development approval (including penalties) is \$441 in accordance with the Shire's adopted 2018/19 List of Fees and Charges.

RISK MANAGEMENT IMPLICATIONS

Risk Description	Risk Likelihood	Risk Consequence	Risk Classification	Risk Treatment
Council does not grant retrospective approval for the sea containers	Unlikely (D)	Minor (2)	Low	Managed by routine procedures, unlikely to need specific application of resources

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications relevant to this report.

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) STRATEGIC PLAN IMPLICATIONS

Southern Link VROC Strategic Directions 2015-2020

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL RESOLUTION

23/19 Moved Cr Radford, seconded Cr Mathwin that Council grant retrospective development approval for the two (2) sea containers used for storage on Lot 50 Albany Highway, Kojonup subject to the following conditions:

- 1) The use/development to be generally in accordance with the attached stamped approved plans and where marked in red, unless a variation has been approved in writing by the Chief Executive Officer.*
- 2) The sea containers to be used for storage purposes only.*

Advice notes:

- i) The applicant is advised that a Building Permit is required to be obtained from the Shire of Kojonup.*

CARRIED 6/0

Cr Sandra Pedler and Cr Ian Pedler returned to the meeting at 3.11pm

10.2 MEDICAL/HEALTH SERVICES - KOJONUP

AUTHOR	Rick Mitchell-Collins – Chief Executive Officer
DATE	Thursday, 7 March 2019
FILE NO	PH.SVP.1
ATTACHMENTS	10.2.1 - Letter State Solicitors Office – 13 March 2019

STRATEGIC/CORPORATE IMPLICATIONS		
Community Strategic Plan 2017 – 2027 “Smart Possibilities – Kojonup 2027+”		Corporate Business Plan 2017 – 2021 “Smart Implementation – Kojonup 2021 +”
Key Pillar	Community Outcomes	Corporate Actions
KP 1 - Place	1.2 Be a happy, healthy connected and inclusive community driven by the provision of high standard sport, recreation and open space facilities and programs.	1.2.10 Develop and adopt a Health Plan.
KP 2 – Connected	2.2 Have enhanced our aged-care and health provisions by progressing our connections with regional and state-wide groups.	2.2.1 Work with regional, state and national health providers to develop innovative health services. 2.2.2 Enhance alliances with state and local health providers to grow a sustainable and modern health system. 2.2.3 Establish formal networks between all health service providers within Kojonup. 2.2.4 Enable a sustainable aged-care service through public-private partnerships. 2.2.5 Advocate for the Department of Health to maintain the presence of existing health services and promote their availability throughout the region.

<p>KP 3 - Performance</p>	<p>3.3 Use a Building Assessment Framework and control our investment in building maintenance.</p> <p>3.4 Be organised and transparent with our financial management.</p>	<p>3.3.1 Implement an asset rationalisation process based on the Building Assessment Framework.</p> <p>3.3.2 Maximise usage of community facilities whilst reducing the financial obligation on the Shire and its people.</p> <p>3.3.3 Develop a Capital Assessment Framework for all new asset decisions. Implement a ‘Capital Evaluation’ policy and procedure to ensure all potential future projects are evaluated appropriately; and only the projects most aligned to achievement of council’s objectives and long-term sustainability are selected for implementation.</p> <p>3.3.4 Undertake an asset management planning process to review and rationalize Shire buildings to maximize their use and value to the community</p> <p>3.4.8 Update the Long-Term Financial Plan and ensure there is a mechanism in place to continuously link Asset Management to the Long-Term Financial Plan update cycle.</p>
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DECLARATION OF INTEREST

Nil

SUMMARY

To provide an update to Council on matters being progressed by officers following the Council Meeting held 19 February 2019 whereby the following resolutions were passed:

Decision 6/19

“that the George Church Gift of \$546,000, now held in trust by the Kojonup Shire Council be transferred to the George Church Community Medical Centre Inc. for the purpose of building and operating a Medical Centre to be situated on the land known as “Walkers Block” at lot 3 Spring Street, subject to legal clarification being received from the Office of the Attorney General that council can transfer the funds.

Decision 7/19

“that:

- 1. The Kojonup Shire Council lease the land known as “Walkers Block” at Lot 3 Spring Street to the George Church Community Medical Centre Inc. for the purpose of building and operating a Medical Centre.*
- 2. The lease will be at a peppercorn rental for 49 years.”*

BACKGROUND

Council is awaiting advice from the State Attorney General regarding whether the George Church bequest comes under the “Charitable Trusts Act” (Refer Council Decision 146/18) especially as Decision 6/19 now recognises Councils intent to transfer the George Church gift/donation presently held by Council to ‘The George Church Community Medical Centre Inc.’

COMMENT

Council has received correspondence from the State Solicitor’s Office on behalf of the Attorney General which advises in summary that:

- 1. If the Shire of Kojonup (Shire) wishes to use the \$500,000 gift from Mr George Church, plus interest (Church Funds) for additional rooms at an existing medical centre, this will require a scheme under the Charitable Trusts Act 1962 (WA).*
- 2. If the Shire receives a Commonwealth grant and wishes to use the Church Funds, together with this grant, to build a new medical centre, this will not require any scheme under the Charitable Trusts Act. This option could be pursued without involvement of the Attorney General.*
- 3. I confirm that as long as the gift is used for the purpose of constructing a new medical centre, it will not require a scheme under the Charitable Trusts Act. The Attorney General still has an oversight role, given his responsibilities for protecting charitable trust property. If the funds were transferred to a newly incorporated entity (as a new trustee), the Attorney General would need to be satisfied that appropriate governance processes were in place to ensure the money was properly spent on that charitable purpose. However, I can see that these issues are noted in the Council’s minutes. This is a matter of the Shire properly carrying out its duties as trustee of the funds. It would not require any formal process (in contrast to a scheme, which must be approved by the Supreme Court).*

The advice from the State Solicitor’s Office enables Decision 6/19 to be progressed by Council and provides clarity to all stakeholders.

The Shire of Kojonup in accordance with S3.58 of the *Local Government Act 1995*, when considering any sale, lease or otherwise disposal of, whether absolutely or not of any property is required to give public notice of its intentions to lease or sell and invite public submissions. Refer Statutory Requirements section of this report.

Officers are presently awaiting an updated valuation of Lot 3 Spring Street as this information forms part of the public notice requirements of the Local Government Act.

The Shire of Kojonup will undertake research in relation to the provision of essential 'headwork' charges and infrastructure, including building and planning requirements.

The Shire is also considering traffic/pedestrian layout, connectivity with Barracks Place, Kojonup Health Service, Springhaven and 'The Spring' as part of forward planning for the precinct.

It is acknowledged that the development proposal aims to build a Medical Centre that will be wholly managed and maintained by the incorporated community body including attracting and retaining tenants.

CONSULTATION

Attorney General and State Solicitor's Office

STATUTORY REQUIREMENTS

Local Government Act 1995

S3.57. Tenders for providing goods or services

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.

3.58. Disposing of property

- (1) In this section —

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

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

- (2) Except as stated in this section, a local government can only dispose of property to —
 - (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;

And

- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
- (a) the names of all other parties concerned; and
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition —
 - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
 - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.

POLICY IMPLICATIONS

The Asset Management Plan (AMP) specifically states *“The most significant recurring theme for all local government organisations is the sustainability concerns related to financing the renewal gap. Ageing community infrastructure, cumulative infrastructure renewal backlog and changing community expectations for the assets being replaced contribute to an industry wide challenge.”*

Capital Evaluation Procedure (adopted November 2017)

Objective:

To ensure that Capital Projects are evaluated against an appropriate framework so that Council attains best value for money to meet the community’s needs while complying with all other relevant Council policies and procedures. The most appropriate mix of projects will then be selected for delivery within the available budget while maximising external funding.

Policy:

The Shire shall develop and implement a ‘Capital Evaluation Framework’ to evaluate all capital projects. The framework will be documented within ‘Capital Evaluation Procedures’ and include:

- A logical, consistent process to allow all projects to be comparatively evaluated and decisions made;
- Assessment of the degree each project meets council objectives;
- Assessment of risk relating to the consequences of inaction for each project;
- Assessment of the financial viability of each project, including the level of external funding;
- Assessment of the degree of positive impact implementation of each project will have to the community and organisation; and
- Assessment of the level of ‘project readiness’ for each project.

FINANCIAL IMPLICATIONS

The Asset Management Plan in relation to Buildings lists a minimum estimated annual renewal expenditure target of 53% or in dollar terms \$580,000 per annum. Council is presently only managing to allocate 22% or \$240,000. As a result, Council has buildings that require roof/gutter replacements, have structural issues, remain vacant/underutilised/no longer “fit for purpose”, or not on separate title and therefore not capable of being sold to provide funds for new facilities.

The option of an incorporated Community Group building, leasing and operating the Medical Centre transfers the financial viability and risk of the facility to the incorporated Group not Council. Council can, with some surety, continue to strategically focus on addressing the other 91 buildings on its Building Register as well as upgrading/extending essential infrastructure services aligned with Townscape improvements.

RISK MANAGEMENT IMPLICATIONS

Minimizing risk exposure to Council and ratepayers in relation to financial costs, Internal fit out, compliance, future planning and public risk will be undertaken by the incorporated Group who will need to demonstrate the following:

- 1) Lay solid foundations for management and oversight,
- 2) Structure Agreements to add value,
- 3) Act ethically and responsibly,
- 4) Safeguard integrity in reporting,
- 5) Make timely and balanced disclosure,
- 6) Respect the rights of stakeholders,
- 7) Recognise and manage risk.
- 8) Adapts to the ever-changing Health /Medical environment

ASSET MANAGEMENT IMPLICATIONS

The Shire of Kojonup has limited resources and is the custodian of a large number of assets. Therefore, when making decisions in relation to infrastructure assets, the Shire is committed to the philosophy of renewing assets before acquiring new assets. In addition, where possible, rationalizing and consolidating assets that are no longer used or do not provide the agreed level of service.

Asset Management is the systematic process of effectively planning for, maintaining, upgrading and operating assets. The benefits to both the council and the community of improved asset management are:

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

The proposal before Council does not add any new building assets to its list but there will need to be upgrades/extensions to essential infrastructure services such as roads, footpaths, street lighting, water/sewer/power which will require careful budget considerations.

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Consolidates the provision of Health/Medical services for the Albany Highway in the Upper Great Southern Zone.

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION

That Council:

1. *Receives the State Solicitor's Office advice contained in correspondence dated 13 March 2019 regarding the George Church Gift,*
2. *Liaise with the George Church Community Medical Centre Inc., (new trustee) to ensure the appropriate governance processes as indicated by the State Solicitor's Office are in place to enable the George Church Funds (gift plus interest) to be transferred to the new trustee on or before 30 June 2019 including;*
 - *Procurement process for appointing preferred building contractor including assessment criteria.*
 - *Preparation and lodgement of building plans and specifications.*
 - *Site works required and responsibility for project management including extension of infrastructure services.*
 - *Preparation of a Business Plan that includes Financial, Risk Management, S.W.O.T analysis, pre and post construction aspects, process to be implemented to seek occupancy expression of interests, draft tenancy agreement considerations and maintenance requirements.*
 - *Reporting requirements and progress updates to the Shire of Kojonup and Kojonup community, and*
 - *Charitable Licence and Tax Deductible Gift Recipient status.*

The Chief Executive Officer advised the meeting that he wished to change his Officer's Recommendation by removing the word "ensure" in point 2 of the recommendation and replacing it with the word "consider".

OFFICER RECOMMENDATION / COUNCIL DECISION

24/19 Moved Cr Fleay, seconded Cr Ian Pedler that Council:

- 1. Receives the State Solicitor's Office advice contained in correspondence dated 13 March 2019 regarding the George Church Gift,**
- 2. Liaise with the George Church Community Medical Centre Inc., (new trustee) to consider the appropriate governance processes as indicated by the State Solicitor's Office are in place to enable the George Church Funds (gift plus interest) to be transferred to the new trustee on or before 30 June 2019 including;**
 - Procurement process for appointing preferred building contractor including assessment criteria.**
 - Preparation and lodgement of building plans and specifications.**
 - Site works required and responsibility for project management including extension of infrastructure services.**
 - Preparation of a Business Plan that includes Financial, Risk Management, S.W.O.T analysis, pre and post construction aspects, process to be implemented to seek occupancy expression of interests, draft tenancy agreement considerations and maintenance requirements.**
 - Reporting requirements and progress updates to the Shire of Kojonup and Kojonup community, and**
 - Charitable Licence and Tax Deductible Gift Recipient status.**

TIED 4/4

The Shire President then used her casting vote in the affirmative

CARRIED 5/4

Point of Order: Cr Benn referred to the requirement for an Absolute Majority as noted in the Officer Report and stated the Shire President can not use her casting vote in this instance. The Shire President and Chief Executive Officer advised that this was an error and that an Absolute Majority decision is not required under the Local Government Act 1995 in this instance and therefore the casting vote is valid.

The record should therefore reflect that the voting requirement was incorrect and that a Simple Majority was required ensuring the validity of the casting vote.

The Shire President suspended standing orders to allow some members of the gallery to leave.

11 KEY PILLAR 2 – ‘CONNECTED’ REPORTS

Nil

12 KEY PILLAR 3 – ‘PERFORMANCE’ REPORTS

12.1 FINANCIAL MANAGEMENT – MONTHLY STATEMENT OF FINANCIAL ACTIVITY (DECEMBER 2018)

AUTHOR	Anthony Middleton – Manager Corporate & Community Services
DATE	Friday, 8 March 2019
FILE NO	FM.FNR.2
ATTACHMENT(S)	12.1.1 – February 2019 Monthly Financial Statements

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2021 +”
Key Pillar	Community Outcomes	Corporate Actions
KP – 3 Performance	3.4 – Be organised and transparent with our financial management.	3.4.1 - Increase regularity of readable financial reporting to the community. 3.4.2 – Act with sound long-term and transparent financial management and deliver residents considered value for money.

DECLARATION OF INTEREST

Nil.

SUMMARY

The purpose of this report is to note the Monthly Financial Statements for the period ending 28 February 2019.

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 2018 to 28 February 2019 represents eight (8) months, or 67% of the year.

The following items are worthy of noting:

- Closing surplus position of \$1.356m;
- Operating results:
 - 74% of budgeted operating revenue has been received; and
 - 70% of budgeted operating expenditure spent;
- Capital expenditure achieved 34% of budgeted projects;

- The value of outstanding rates equates to 8.4% of 2018/2019 rates raised (includes instalments);
- Cash holdings of \$5.06m of which \$3.59m is held in cash backed reserve accounts; and
- Page 10 & 11 of the statements detail major variations from year to date (amended) budgets in accordance with Council Policy 2.1.6;

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

Council Policy 2.1.6 defines the content of the financial reports.

FINANCIAL IMPLICATIONS

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

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications for this report.

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil.

VOTING REQUIREMENTS

Simple Majority.

OFFICER RECOMMENDATION/COUNCIL DECISION

25/19 Moved Cr Hobbs seconded Cr Radford that the monthly financial statements for the period 1 July 2018 to 28 February 2019, as attached, be noted.

CARRIED 8/0

12.2 MONTHLY PAYMENTS LISTING

AUTHOR	Melissa Binning – Finance Officer
DATE	Friday, 8 March 2019
FILE NO	FM.AUT.1
ATTACHMENT	12.2.1 – Monthly Payment Listing 01/02/2019 to 28/02/2019

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2021 +”
Key Pillar	Community Outcomes	Corporate Actions
KP 3 - Performance	3.4 – Be organised and transparent with our financial management.	3.4.1 - Increase regularity of readable financial reporting to the community. 3.4.2 – Act with sound long-term and transparent financial management and deliver residents considered value for money.

DECLARATION OF INTEREST

Nil

SUMMARY

To receive the list of payments covering the month of February 2019.

BACKGROUND

Not applicable.

COMMENT

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

Any comments or queries regarding the list of payments is to be directed to the Manager of Corporate Services 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

Refer to the VROC Strategic Plan

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

26/19 Moved Cr Mathwin seconded Cr Benn that in accordance with Regulation 13 (1) of the *Local Government (Financial Management) Regulations 1996*, the list of payments as attached made under delegated authority:

FROM – 1 February 2019		TO – 28 February 2019
Municipal Cheques	14105 – 14110	\$20,400.49
EFTs	23061 – 23227	\$567,772.40
Direct Debits		\$374,448.84
Total		\$962,621.73

be received.

CARRIED 8/0

12.3 FINANCIAL MANAGEMENT – BUDGET REVIEW 2018/2019

AUTHOR	Anthony Middleton – Manager Corporate & Community Services
DATE	Tuesday, 12 March 2019
FILE NO	FM.FNR.2
ATTACHMENT	12.3 – Budget Review 2018/2019

STRATEGIC/CORPORATE IMPLICATIONS		
Community Strategic Plan 2017 – 2027 “Smart Possibilities – Kojonup 2027+”		Corporate Business Plan 2017 – 2021 “Smart Implementation – Kojonup 2021 +”
Key Pillar	Community Outcomes	Corporate Actions
KP – 3 Performance	3.4 – Be organised and transparent with our financial management.	3.4.1 - Increase regularity of readable financial reporting to the community. 3.4.2 – Act with sound long-term and transparent financial management and deliver residents considered value for money.

DECLARATION OF INTEREST

Nil.

SUMMARY

The purpose of this report is to consider a review of the Annual Budget for 2018/2019.

BACKGROUND

The *Local Government (Financial Management) Regulations 1996* state that a local government must undertake a budget review annually.

Regardless of statutory requirements, conducting a budget review at least once each year is sound financial management practice. It enables the Council to analyse the financial performance of the year to date and make changes to the authorisations that it puts in place for the performance of the local government’s functions.

COMMENT

The detailed budget review papers are attached to this agenda as a separate document. Previous years’ reviews have entailed a detailed line-by-line review process, culminating in many minor adjustments being made to numerous accounts. This budget review has been performed focussing on major changes only, with a more holistic assessment being made at a sub-program level. The items proposed for change are contained within pages 1 and 2 of the budget review document.

CONSULTATION

The Senior Management Team, Ranger/Building Maintenance Coordinator and Development Services Coordinator have assisted in the compilation of the Budget Review document.

STATUTORY REQUIREMENTS

Local Government (Financial Management) Regulation 33A states:

“Review of budget

- (1) Between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year.
- (2) Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the Council.
- (3) A Council is to consider a review submitted to it and is to determine* whether or not to adopt the review, any parts of the review or any recommendations made in the review.
**Absolute majority required.*
- (4) Within 30 days after a Council has made a determination, a copy of the review and determination is to be provided to the Department.”

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The budget review recommends changes to the adopted budget and, therefore, changes the projects previously authorised by the Council. Whilst individual projects have varying financial implications, the resulting changes maintain a balanced budget. Refer to page 8 of the Budget Review document.

RISK MANAGEMENT IMPLICATIONS

Nil.

ASSET MANAGEMENT IMPLICATIONS

Nil.

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil.

VOTING REQUIREMENTS

Absolute Majority.

OFFICER RECOMMENDATION/COUNCIL DECISION

27/19 Moved Cr Warland seconded Cr Benn that the 2018/2019 Annual Budget be amended in accordance with the proposed changes in the attached 2018/2019 Budget Review document.

CARRIED BY AN ABSOLUTE MAJORITY 8/0

12.4 COMPLIANCE AUDIT RETURN 2018

AUTHOR	Judy Stewart – Senior Administration Officer
DATE	7 February 2019
FILE NO	CM.REP.1
ATTACHMENT(S)	12.4.1 - Compliance Audit Return 2018

STRATEGIC/CORPORATE IMPLICATIONS		
Community Strategic Plan 2017 – 2027 “Smart Possibilities – Kojonup 2027+”		Corporate Business Plan 2017 – 2021 “Smart Implementation – Kojonup 2021 +”
Key Pillar	Community Outcomes	Corporate Actions
KP3 - Performance	3.4 – Be organised and transparent with our financial management	3.4.3 – Commit to future state-wide measurement systems testing local government performance

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to adopt the Compliance Audit Return for 2018.

BACKGROUND

Completion of the Compliance Audit Return (CAR) is mandatory for each local government. Regulations 14 and 15 of the *Local Government (Audit) Regulations 1996* require a local government to carry out a compliance audit for each calendar year. A local government’s audit committee must review the CAR and report same to Council to adopt after which a certified copy, together with a copy of the section of Council minutes adopting the CAR plus any other relevant information, must be submitted to the Department of Local Government, Sport and Cultural Industries (Department) by 31 March each year.

The Audit and Risk committee at its meeting held 19 February 2019 adopted the following resolution:

“That the Compliance Audit Return for 2018, as attached, be recommended to the Council for adoption.”

COMMENT

The 2018 CAR has been completed following a review of processes and documentation for each activity/area in which compliance is being assessed against the *Local Government Act 1995* and its associated regulations.

CONSULTATION

Audit and Risk Committee
Chief Executive Officer
Manager Corporate and Community Services
Development Services Coordinator/Building Surveyor
Executive Assistant

STATUTORY REQUIREMENTS

Regulation 14 of the *Local Government (Audit) Regulations 1996* states:

- “(1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.
- (2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.
- (3A) the local government’s audit committee is to review the compliance audit return and is to report to the council the results of that review.
- (3) After the audit committee has reported to the council under sub regulation (3A), the compliance audit return is to be —
- (a) presented to the council at a meeting of the council; and
 - (b) adopted by the council; and
 - (c) recorded in the minutes of the meeting at which it is adopted.”

Regulation 15 of the *Local Government (Audit) Regulations 1996* states:

1. “After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —
 - (a) a copy of the relevant section of the minutes referred to in regulation 14(3) (c); and
 - (b) any additional information explaining or qualifying the compliance audit, is to be submitted to the Departmental CEO by 31 March next following the period to which the return relates.
- (2) In this regulation —
certified in relation to a compliance audit return means signed by —
 - (a) the mayor or president; and
 - (b) the CEO.”

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

Maximising compliance with legislation minimises risk to the organisation of damage to image and reputation as well as penalties associated with non-compliance; compliance demonstrates that best practice methodology is in place.

ASSET MANAGEMENT IMPLICATIONS

Nil

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

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

28/19 Moved Cr Mathwin seconded Cr Hobbs that the Compliance Audit Return for 2018, as attached, be adopted.

CARRIED 8/0

12.5 2019 ORDINARY COUNCIL MEETING DATES – CHANGE OF DATE FOR JUNE ORDINARY COUNCIL MEETING

AUTHOR	Lorraine Wyatt – Executive Assistant
DATE	14 March 2019
FILE NO	GO.CNM.6
ATTACHMENT(S)	Nil

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2021 +”
Key Pillar	Community Outcomes	Corporate Actions
KP3 - Performance	3.2 – Be exceptional in two-way communication within our community, and market our brand outside of our community.	3.2.2 - Engage with our residents and industry members through increased use of social media. 3.2.3 - Develop and implement a formal media and two-way communications strategy 3.2.7 - Develop and Adopt a Communications Strategy 3.2.8 - Develop and Adopt a Community Engagement Plan

DECLARATION OF INTEREST

Nil.

SUMMARY

Approval is being sought from Council to change the 18 June 2019 ordinary council meeting to 11 June 2019.

BACKGROUND

In accordance with the Regulation 12 of the *Local Government (Administration) Regulation 1996*, Local Governments are required to give local public notice of the date, time and place with respect to ordinary council meetings and, committee meetings which are proposed to be open to members of the public and shall be held within the proceeding 12 month period.

COMMENT

In October 2005 it was resolved that Council meetings will be held on the third Tuesday of each month commencing at 3:00pm except where dates clash with a public holiday or internal staffing management.

At the Ordinary Council Meeting held 16 October 2018, Council resolved the following:

125/18 Moved Cr Mathwin seconded Cr Radford that:

- Ordinary Council Meetings be scheduled for the third Tuesday of each month for 2019 commencing at 3:00pm with the following exceptions:*

- *No scheduled meeting to be held in January;*
 - *The July meeting be held on the fourth Tuesday to make allowance for the Annual Budget adoption; and*
 - *The December meeting be held on the second Tuesday given timing to Christmas break period.*
2. *The following dates be approved for the 2019 year for Council Meetings:*
- *19 February 2019*
 - *19 March 2019*
 - *16 April 2019*
 - *21 May 2019*
 - *18 June 2019*
 - *23 July 2019*
 - *20 August 2019*
 - *17 September 2019*
 - *22 October 2019*
 - *19 November 2019*
 - *10 December 2019*
3. *Local public notice be given of the approved Council meeting dates for the 2019 year.*

CARRIED 8/0

Due to conflicting meeting schedules, the Shire President is seeking approval from Councillors to change the scheduled meeting date from 18 June 2019 to 11 June 2019.

CONSULTATION

Councillors were consulted by email 11 March 2019 and no negative responses were received.

STATUTORY REQUIREMENTS

Local Government Act 1995 - Section 5.25(1)(g). Regulations about council and committee meetings and committees

Local Government (Administration) Regulations 1996 - Section 12. Meetings, public notice of

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

It should be noted that the financial statements for May 2019 may not be completed prior to 11 June 2019.

RISK MANAGEMENT IMPLICATIONS

Nil

ASSET MANAGEMENT IMPLICATIONS

Nil.

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

VOTING REQUIREMENTS

Simple Majority.

OFFICER RECOMMENDATION/COUNCIL DECISION

29/19 Moved Cr Benn seconded Cr Radford that:

- 1. The Ordinary Council Meeting scheduled to be held on Tuesday 18 June be rescheduled to be held 11 June 2019 commencing at 3:00pm.*
- 2. Local public notice be given of the approved rescheduled meeting.*

CARRIED 8/0

13 KEY PILLAR 4 – ‘PROSPERITY’ REPORTS

13.1 KOJONUP SALEYARDS & SURROUNDS – LGIS PUBLIC LIABILITY RISK ASSESSMENT REPORT

AUTHOR	Rick Mitchell-Collins – Chief Executive Officer
DATE	Tuesday, 5 March 2019
FILE NO	CP.MTC.19
ATTACHMENTS	13.1.1 - LGIS – Public Risk Assessment Report 2018 13.1.2 - Saleyards Boundary

STRATEGIC/CORPORATE IMPLICATIONS		
Community Strategic Plan 2017 – 2027 “Smart Possibilities – Kojonup 2027+”		Corporate Business Plan 2017 – 2021 “Smart Implementation – Kojonup 2021 +”
Key Pillar	Community Outcomes	Corporate Actions
KP 4 – Prosperity	4.3 Be attracting support industries and diverse and new business sectors to the region.	4.3. Whilst growing business, advocate and manage for expected water, natural resources, biodiversity and waste management efficiencies to support regional and state-wide environmental standards.

DECLARATION OF INTEREST

Nil

SUMMARY

To receive the Local Government Insurance Scheme (LGIS) Public Risk Assessment Report on the Kojonup Saleyards and surrounds including implications/issues and compliance aspects.

BACKGROUND

The Kojonup Saleyards (the Site) is located on the corner of Blackwood and Soldier Road. The Site is unfenced and bounded by Blackwood Road to the south, Soldier Road to the east, a railway line/reserve to the north and private property to the west.

Within the Site are fenced holding pens, loading ramps and a truck wash facility with an associated water treatment reservoir. Approximately three (3) Sheep sales are conducted (predominantly between October and March) by livestock sales agents. The truck wash is accessed by users as required and operates via a card holder (AVDATA) system. A local business stores equipment on the northern perimeter of the Site which forms part of the Kojonup Tourist Railway Reserve.

The Site is openly accessible and in addition to the arrangements mentioned above, it is suspected there are other unofficial uses of the site, such as the temporary holding of livestock. None of the known usage arrangements is subject to formal agreements with the Shire. People use the saleyards at regular intervals outside the nominated livestock sales without council knowledge or payment of any fees. The Shire and Users are exposed to substantial risk without formal conditions of use and responsibilities.

In reality, the Site is essentially unmanaged with the Saleyard component receiving minimal use, and when used, the Shire is not involved and has little if any knowledge of the measures taken by livestock sales agents to ensure the safety of persons on site. The Site receives little attention from the Shire, including no formalised maintenance and inspection regime. It is also unknown if the Site is fit for its current purpose.

The Shire has expressed concerns regarding the potential liability risk exposure the Site presents, along with the safety of persons who access and use the Site in its current form, and how these risks can be managed.

In response to notification by the Department of Environment Regulation (DER) of the need to license the Kojonup Saleyards, Council has previously been provided officer reports outlining the options for the site after extensive community consultation by way of surveys and stakeholder meetings.

These reports considered the financial implications of operating the yards currently (i.e. up to three sales per year), without including any financial implications of likely improvements required as a part of the licence obligations, changes to animal welfare or OH&S and Public Liability implications.

Since June 2015 the DER has reviewed its licensing methods and has been developing a comprehensive risk-based approach to its regulatory functions. In October 2015 the Shire was invited to lodge a Licence Application using the new application forms and guidance statements developed by the DER. A revised application was subsequently lodged in February 2016 and accepted.

OSH & Public Liability

It is important to note that the licence obligations are only part of the costs associated with the operation of the Saleyards. The assessment report from the Shire's Regional Risk Coordinator from 2015, outlined in the officer report (16 June 2015) has confirmed that the Shire has both an OH&S obligation and Public Liability obligation for the use of the yard.

Many of these issues can be resolved by implementing a Saleyard Safety Management Plan to improve safety, formalising agreements with hirers of the facility as well as some maintenance items; many of which have since been repaired as part of the improvements at the Truck Wash.

From a Public Liability perspective, the assessment states “... *the likelihood of persons entering the Saleyard, encountering hidden risks and potentially sustaining harm, may be regarded as foreseeable on the part of the Shire, particularly where access is unsupervised (e.g. outside of operating times)*”. The assessor suggests that these risks could be eliminated by either closing the yards and removing the infrastructure, or alternatively “...*introducing high level engineering controls such as perimeter fencing with lockable entry points*”.

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

Now that the licence conditions are known, illustrating minimal costs for compliance (i.e. locks for ramps; logbooks for recording inspection; updated signage) further detailed costings are considered necessary to establish to what extent Council is prepared to subsidise (if any) the operation of the Saleyards over and above net income received from hire fees.

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

Council Decision 102/16 . . . that Council instruct the Chief Executive Officer to:

1. *Inform the Department of Environment Regulation that Council supports the draft licence L8961/2016/1 generally;*
2. *Request that the Department of Environment Regulation reconsider the inspection frequency of the Saleyard pens (item 1) from weekly to six monthly and before each sale;*
3. *Commend the Department of Environment Regulation on their risk-based approach for considering licence conditions; and*
4. *Obtain costings for remedying Occupational Health and Safety and Public Liability items outlined within the assessment report prepared by the Shire’s Regional Risk Coordinator for presentation to Council for further consideration.*

The CEO in accordance with point 4 above asked LGIS to undertake a current Assessment Report to allow officers to cost items that were regarded as an extreme risk.

COMMENT

The 2018 Public Liability Assessment Report raises a number of extreme risks that cannot be ignored and is far more reaching than setting a per head of livestock fee for sales held at the facility or relying on the ‘trust’ factor of users. The report critically examines the extent of exposure to the Shire, Councillors, CEO, Management, Staff, General Public and Users.

Reference to photographs, liability considerations and Risk Matrix contained within the Assessment Report highlights the lack of corrective maintenance, numerous access points, poor or non-existent signage/fencing/lighting, inadequate stormwater management, lack of formalised agreements, encroachments and overall condition of the area.

Duty of Care:

‘Whilst a person entering the Saleyards may willingly assume risks, in general, entrants are entitled to expect that its condition is as safe as reasonable care on the part of the Shire can make it. This means that the Shire can be held liable for lack of care not only of itself and persons for whom it would ordinarily be vicariously liable, but also in some instances for negligence.’

Council must again answer the following questions –

1. What is the projected ‘Cost of Compliance?’
2. What are the annual costs and is the present fee able to recoup annual outlay required to bring the facility up to standard over the next 3 – 5 years?
3. Will similar compliance aspects apply to the Ram Shed located at the Showground given this facility is located on Shire land?
4. Will agreements reduce/transfer/eliminate Council’s risk exposure?
5. Should the Truck Wash Bay be fenced with locked gated access?
6. Should part of the Railway Reserve be used by local industry or others and if so will an agreement or MOU suffice?
7. Would livestock agents who use the Saleyards be prepared via written lease/agreement to manage a fenced Saleyard facility and set their own per head fee which includes adherence to compliance and risk requirements?
8. Does the Shire of Kojonup wish to own and hire out a Saleyard that is aged, spasmodically used and subject to rigorous compliance?
9. What is Council’s position if a Truck Wash user or person unloading/transferring sheep or cattle presently suffers injury, even death?

CONSULTATION

Public Liability Site Risk Assessment Report – Kojonup Saleyards - LGIS, August 2018

STATUTORY REQUIREMENTS

Local Government Act 1995

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

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

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

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

Local Law – Part 7 Saleyards was published in the Government Gazette 23 March 2000 and focusses more on the use of the facility by external users not the owner's obligations in relation to Occupation Safety and Health/Workplace Legislation.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

If the yards are to be retained, upgraded and maintained, Council needs to apply fees on a full cost recovery basis. If the facility is not being used in preference to a lower cost facility (with increased user amenities) less than 50km from the existing site, then arguments about the 'differentiation' factors are not justified and upgrading a facility in the hope that sales will be held and sheep numbers maintained is an unsustainable approach to effective asset/risk and financial management.

Previous survey feedback from regular facility users is that they are only prepared to pay up to \$1/head for their use of the Saleyards. However, please note the current fee is \$1.85/head which in the current economic climate for sheep prices represents less than 1.25% of total revenue. Agent Fees presently incorporate Council charges and therefore each User makes an informed decision that if charged for example a 7% fee per head by the Agent and the sale price per head is say \$125 then the Agent receives \$8.75 per sheep of which \$1.85 is payable to the Shire leaving \$6.90 per head retained by the Agent. The Sheep owner will no doubt incur transport costs etc. which is taken from the \$116.25 per head they still retain.

Users may also factor into their Gross Profit margins the 'prestige or bio security' factors that having sales at Kojonup provide to the overall purchase price as a differentiation factor from neighbouring Saleyards. Is this 'differentiation' factor worth paying \$1.85 per head, whereas Council's financing arrangements focus on providing and maintaining a facility that meets annual license/OSH and Workplace Safety requirements for selling over 30,000 sheep between October and March with net costs of the hire fee being specifically allocated annually towards same.

The old adage – 'If you don't use it, you lose it' certainly applies in respect of the Saleyards as it constitutes a specific purpose facility. The Assessment report lists a number of considerations that Council must address as they constitute an extreme risk.

RISK MANAGEMENT IMPLICATIONS

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

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

ASSET MANAGEMENT IMPLICATIONS

Section 12 of the Shire's Asset Management Plan provides information regarding buildings and associated structures and acknowledges that *renewal has regard to the ability to service current demands and be fit for purpose, with a significant component of renewal due to changing needs, expectations and regulations that can often render buildings obsolete and bring forward replacement discussions.*

The Saleyards have not been identified in the long-term financial plan for the Shire. The implications of Regulatory/Risk compliance on the future use of the Saleyards is now critical and cannot be delayed as the facility and surrounds are not 'Fit for Purpose.'

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

The Shire of Plantagenet actively promotes the Mt Barker cattle saleyards. Kojonup Sales have been a long-standing arrangement with local farmers and therefore have no formal impacts on VROC arrangements or duplication of facilities.

Discussions with farmers when Council reviewed Fees and Charges in the 2015/16 financial year indicated that the name 'Kojonup' when applied to sales implied a point of difference.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council:

- 1. Receives and adopts the recommendations and actions contained within the 2018 LGIS - Public Liability Site Risk Assessment Report – Kojonup Saleyards,***
- 2. Re-affirms the per head hire fee of \$1.85 for the 2019/20 financial year,***
- 3. Requests the CEO to prepare a staged upgrade schedule for the Kojonup Saleyards for the next three (3) financial years commencing 2019/20 with an annual budget allocation of \$35,000,***
- 4. Review and amend as required Local Government Property Local Law – Part 7 Saleyards which was published in the Government Gazette 23 March 2000,***
- 5. Update the Shire of Kojonup's Risk Management Profile to include the Kojonup Saleyards and Ram Shed,***
- 6. Review arrangements in relation to the Ram Shed at the Kojonup Showground, and***
- 7. Review title boundaries to more accurately separate uses within the Saleyard, Truck Wash, Railway Reserve, Soldier Road and Blackwood Road area including 2019/20 budget allocation for re-subdivision.***

COUNCIL DECISION

30/19 Moved Cr Benn seconded Cr Mathwin that Council:

- 1. Receives and adopts the recommendations and actions contained within the 2018 LGIS - Public Liability Site Risk Assessment Report – Kojonup Saleyards,*
- 2. Re-affirms the per head hire fee of \$1.85 for the 2019/20 financial year,*
- 3. Requests the CEO to prepare a staged upgrade schedule for the Kojonup Saleyards for the next three (3) financial years commencing 2019/20 with an annual budget allocation of \$35,000,*
- 4. Review and amend as required Local Government Property Local Law – Part 7 Saleyards which was published in the Government Gazette 23 March 2000,*
- 5. Update the Shire of Kojonup’s Risk Management Profile to include the Kojonup Saleyards and Ram Shed,*
- 6. Review arrangements in relation to the Ram Shed at the Kojonup Showground, and*
- 7. Review title boundaries to more accurately separate uses within the Saleyard, Truck Wash, Railway Reserve, Soldier Road and Blackwood Road area including 2019/20 budget allocation for re-subdivision.*
- 8. That Council establish a workgroup consisting of two Councillors, two community representative and two industry representatives.*

CARRIED 8/0

14 KEY PILLAR 5 – ‘DIGITAL’ REPORTS

Nil

15 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

16 NEW BUSINESS

17 CONFIDENTIAL REPORTS

18 NEXT MEETING

Tuesday, 16 April 2019 commencing at 3:00pm.

19 CLOSURE

There being no further business to discuss, the President thanked the members for their attendance and declared the meeting closed at 3.41pm.

20 ATTACHMENTS (SEPARATE)

Item 7	7.1.1	Minutes of the Ordinary Council Meeting held 19 February 2019
Item 10.1	10.1.1	Application Letter and Plan
Item 12.1	12.1.1	Financial Management – Monthly Statement of Financial Activity (February 2019)
Item 12.2	12.2.1	Monthly Payments Listing 1/2/2019 to 28/2/2019
Item 12.3	12.3.1	Budget Review 2018/2019
Item 12.4	12.4.1	Compliance Audit Return 2018
Item 13.1	13.1.1	LGIS – Public Risk Assessment Report 2018
	12.1.2	Saleyards Boundary

Presiding Member

Date