

Kojonup



One community, many choices

SHIRE OF KOJONUP

MINUTES

Ordinary Council Meeting

21 May 2019

MINUTES FOR THE COUNCIL MEETING HELD ON 21 MAY 2019

TABLE OF CONTENTS

| | | |
|-----------|--|-----------|
| 1 | DECLARATION OF OPENING AND ANNOUNCEMENT OF GUESTS | 4 |
| 2 | ATTENDANCE AND APOLOGIES | 5 |
| 3 | SUMMARY OF RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE | 5 |
| 4 | PUBLIC QUESTION TIME | 5 |
| 5 | PETITIONS, DEPUTATIONS AND PRESENTATIONS | 7 |
| 6 | APPLICATIONS FOR LEAVE OF ABSENCE | 7 |
| 7 | CONFIRMATION OF MINUTES | 7 |
| 8 | ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION | 7 |
| 9 | DECLARATIONS OF INTEREST | 8 |
| 10 | KEY PILLAR 1 – ‘PLACE’ REPORTS | 9 |
| 10.1 | KOJONUP GOLF CLUB – LEASE OF RESERVE 16076 | 9 |
| 11 | KEY PILLAR 2 – ‘CONNECTED’ REPORTS | 13 |
| 11.1 | BUSHFIRE ADVISORY COMMITTEE RECOMMENDATIONS AND MINUTES | 13 |
| 11.2 | 2019-2020 FIRE BREAK ORDER | 16 |
| 11.3 | FIRE BREAK ORDER - COMPLIANCE | 18 |
| 11.4 | NO. LOT 3 SPRING STREET, KOJONUP – PROPOSED LEASE TO THE GEORGE CHURCH COMMUNITY MEDICAL CENTRE INCORPORATED (TGCCMC) | 29 |
| 12 | KEY PILLAR 3 – ‘PERFORMANCE’ REPORTS | 40 |
| 12.1 | FINANCIAL MANAGEMENT – MONTHLY STATEMENT OF FINANCIAL ACTIVITY (APRIL 2019) | 40 |
| 12.2 | MONTHLY PAYMENTS LISTING | 42 |
| 12.3 | MINUTES FROM THE AUDIT AND RISK COMMITTEE MEETING HELD 19 FEBRUARY 2019 AND 7 MAY 2019 | 44 |
| 12.4 | LEAVE PROVISION ADEQUACY – ANNUAL UPDATE | 46 |
| 12.5 | THIRD PARTY FUNDING AGREEMENT – GREAT SOUTHERN AGED ACCOMMODATION PROJECT | 50 |
| 12.6 | RISK MANAGEMENT FRAMEWORK REVIEW | 52 |
| 12.7 | RISK MANAGEMENT POLICY REVIEW | 56 |
| 12.8 | BUSINESS CONTINUITY AND DISASTER RECOVERY PLAN – ANNUAL REVIEW | 58 |
| 13 | KEY PILLAR 4 – ‘PROSPERITY’ REPORTS | 61 |
| 13.1 | INDUSTRIAL LAND REQUEST. | 61 |
| 14 | KEY PILLAR 5 – ‘DIGITAL’ REPORTS | 68 |
| 15 | MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN | 69 |
| 16 | NEW BUSINESS | 69 |

| | | |
|------|------------------------|----|
| 17 | CONFIDENTIAL REPORTS | 69 |
| 17.1 | LIQUID WASTE FACILITY | 69 |
| 18 | NEXT MEETING | 71 |
| 19 | CLOSURE | 71 |
| 20 | ATTACHMENTS (SEPARATE) | 72 |

MINUTES

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

The Shire President declared the meeting open at 3.00pm and alerted the meeting of the procedures for emergencies including evacuation, designated exits and muster points and draw 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 J Warland

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.

In addition, the Annual Report of the Shire of Kojonup for the 2017 – 2018 year, on page 60, there were two entries relating to G & P Church:

| | |
|---------------------------------------|--------------|
| G & P Church Medical Centre Donations | \$546,247.00 |
| G & P Church Medical Centre | \$18,876.00 |

Will you please advise the current levels on 20 May 2019 of these two accounts?

Response from the Shire President

(Information provided by the Corporate and Community Services Manager)

As at 30 April 2019, the status of these two reserve accounts was:

- G & P Church Medical Centre (Donation) - \$546,994
- G & P Church Medical Centre (Shire Funds) - closed

Council Policy 2.1.8 – ‘Financial Governance’ requires the Manager of Corporate and Community Services to conduct an annual review for the Council addressing the appropriateness of each reserve account purpose, suitability of current balances, and deficiencies for the funding of future projects as identified in adopted forward plans.

When assessing the objectives of the Council’s Community Strategic Plan, the 2017 reserve appropriateness review required under this policy identified future funding requirements for the following three issues:

- RSL Building;
- Benn Parade Multi-facility; and
- Townscape Improvements

On the other hand, the G & P Church Medical Centre (Shire Funds) reserve account had, in numerous consecutive years’ reviews, required a defined strategic direction to determine its long term future.

As such, in setting the 2018/2019 Annual Budget, the allocation of resources required to reach a balanced budget included the closing of the “*G & P Church medical Centre (Shire Funds)*” reserve account, as highlighted on page 21 of the budget document. This closure enabled funds to be placed into three newly created reserve accounts for:

- RSL Building Reserve Account;
- Benn Parade Multi-facility Reserve Account; and
- Townscape Reserve

Lastly, I can advise that your Chairman was notified of the closure of this reserve via email from the Shire President on 18 February 2019

2. Leah Wood

Question

Does it include interest?

Response from the Shire President

Yes

3. William Harvey

The balance of \$546,994 was nearly a year ago. With interest, what is the current balance? Can you tell me what interest has accumulated up to today?

Response provided by Heather Marland

I am unable to provide an exact amount at this time. Reserve account allocations are invested in term deposits and do not mature until 30 June 2019 at which time, the interest will be divided between the appropriate reserve pro-rata.

5 PETITIONS, DEPUTATIONS AND PRESENTATIONS

The CEO and Shire President presented a Certificate of Service to Kevin Martin in recognition of 25 years of continuous loyal service to the Shire of Kojonup

Kevin Martin left the meeting with Craig McVee at 3.04pm

6 APPLICATIONS FOR LEAVE OF ABSENCE

COUNCIL RESOLUTION

39/19 Moved Cr Benn seconded Cr Mathwin

“That Cr Hobbs be granted a leave of absence for the 20 August 2019 Ordinary Council Meeting.”

CARRIED 5/0

7 CONFIRMATION OF MINUTES

7.1 ORDINARY MEETING 16 APRIL 2019

Minutes of the Ordinary Council Meeting which was held on 16 April 2019 were previously circulated under separate cover and are at [Attachment 7.1.1](#)

OFFICER RECOMMENDATION/COUNCIL RESOLUTION

40/19 Moved Cr Warland, seconded Cr Hobbs:

“That the Minutes of the Ordinary Meeting of Council held on 16 April 2019 be confirmed as a true record.”

CARRIED 5/0

8 ANNOUNCEMENTS by the Presiding Member without discussion

Nil

9 DECLARATIONS OF INTEREST

Item 10.1 - Kojonup Golf Club – Lease Of Reserve 16076

- Chief Executive Officer (CEO) declared an Impartiality Interest as Secretary of the Kojonup Golf Club Inc.

The Chief Executive Officer declared an interest in this item and left the meeting at 3.12pm

10 KEY PILLAR 1 – ‘PLACE’ REPORTS

10.1 KOJONUP GOLF CLUB – LEASE OF RESERVE 16076

| | |
|----------------------|---|
| AUTHOR | Judy Stewart – Senior Administration Officer |
| DATE | 06 May 2019 |
| FILE NO | RC.LIA.2; PR.RES.16076 |
| ATTACHMENT(S) | 10.1.1 - Draft Lease (showing changes to existing lease) 10.1.2 - Aerial map showing Reserves 16076, 13697 and 36549 and the Westcourt Road reserve 10.1.3 - Reserve Management Order – Reserve 16076 |

| STRATEGIC/CORPORATE IMPLICATIONS | | |
|---------------------------------------|---|---|
| “Smart Possibilities – Kojonup 2027+” | | “Smart Implementation – Kojonup 2021 +” |
| Key Pillar | Community Outcomes | Corporate Actions |
| KP1 - 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. | 1.2.3 – Provide community infrastructure that attracts outsourced or privately run facilities and programs. |

DECLARATION OF INTEREST

Chief Executive Officer (CEO) as Secretary of the Kojonup Golf Club Inc.

SUMMARY

Council to consider a new lease agreement with Kojonup Golf Club Inc. for the use of the land and premises located on Reserve 16076 (excluding the area of land occupied by the tennis courts) for which the Shire of Kojonup (Shire) has a management order, the purpose being ‘Recreation’.

BACKGROUND

The existing lease agreement with the Kojonup Golf Club Inc. (Club) expires on 31 July 2019.

COMMENT

All parties to the lease are aware that golf fairways encroach on neighbouring Reserve 13697 and that Westcourt Road (running through Reserve 16076) is not entirely within the designated road reserve and may be encroached by the tennis court structure.

A surveyor has been engaged to prepare a drawing, suitable to open a case with the Department of Planning, Lands and Heritage (Department), illustrating the alignment of Westcourt Road from Blackwood Road through Reserve 16076, including proposed new road reserve details that delineate where the road is actually located. Assuming a Crown survey instruction is subsequently issued by the Department (based on the drawing), a surveyor will then be engaged to mark the new road reserve leaving any sections of the currently unused road reserve to be closed and amalgamated into Reserve 16076. The attached map shows the road placement in pink and the actual road reserve and other boundaries in red; fairways can be seen within Reserve 13697. The Shire has been advised by the Department that rectifying anomalies relating to boundary issues within the neighbouring reserves should be delayed until a South West Native Title Settlement claim is complete. The Department has estimated this process could take in excess of 2 years.

Due to the possibility of road and boundary re-alignments occurring within the life of the new Club lease, the above has been factored into the draft lease as presented. An increase in the amount of public liability insurance required, in line with the Shire's insurer's recommendation, is also included.

Following a recent Club committee meeting, the Chief Executive Officer has advised that the Club is satisfied with the content of the draft lease, as presented. Changes to the existing lease are shown in red font.

CONSULTATION

Kojonup Golf Club Committee

Mark Anderson – Licensed Surveyor, 35 Degrees South

Department of Planning, Lands and Heritage

Local Government Insurance Services

STATUTORY REQUIREMENTS

18. *Crown land transactions that need Minister's approval*

- (1) *A person must not without authorisation under subsection (7) assign, sell, transfer or otherwise deal with interests in Crown land or create or grant an interest in Crown land.*
- (2) *A person must not without authorisation under subsection (7) —*
 - (a) *grant a lease or licence under this Act, or a licence under the Local Government Act 1995, in respect of Crown land in a managed reserve; or*
 - (b) *being the holder of such a lease or licence, grant a sublease or sublicense in respect of the whole or any part of that Crown land.*
- (3) *A person must not without authorisation under subsection (7) mortgage a lease of Crown land.*
- (4) *A lessee of Crown land must not without authorisation under subsection (7) sell, transfer or otherwise dispose of the lease in whole or in part.*
- (5) *The Minister may, before giving approval under this section, in writing require —*
 - (a) *an applicant for that approval to furnish the Minister with such information concerning the transaction for which that approval is sought as the Minister specifies in that requirement; and*
 - (b) *information furnished in compliance with a requirement under paragraph (a) to be verified by statutory declaration.*

- (6) *An act done in contravention of subsection (1), (2), (3) or (4) is void.*
- (7) *A person or lessee may make a transaction under subsection (1), (2), (3) or (4) —*
- (a) with the prior approval in writing of the Minister; or*
 - (b) if the transaction is made in circumstances, and in accordance with any condition, prescribed for the purposes of this paragraph.*
- (8) *This section does not apply to a transaction relating to an interest in Crown land if —*
- (a) that land is set aside under, dedicated or vested for the purposes of an Act other than this Act, and the transaction is authorised under that Act; or*
 - (b) that interest may be created, granted, transferred or otherwise dealt with under an Act other than —*
 - (i) this Act; or*
 - (ii) a prescribed Act;*
- or*
- (c) an agreement, ratified or approved by another Act, has the effect that consent to the transaction was not required under section 143 of the repealed Act;*
- or*
- (d) the transaction is a lease, sublease or licence and the approval of the Minister is not required under section 46(3b).*

[Section 18 amended: No. 59 of 2000 s. 8(1)-(5) ⁵.]

30. Dispositions of property excluded from Act s. 3.58

- (1) *A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.*
- (2) *A disposition of land is an exempt disposition if —*
- (a) the land is disposed of to an owner of adjoining land (in this paragraph called the transferee) and —*
 - (i) its market value is less than \$5 000; and*
 - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;*
- or*
- (b) the land is disposed of to a body, whether incorporated or not —*
 - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and*
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;*

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The presented lease maintains the status quo with regard to the obligations of each party (with the exception of public liability insurance for the Club increasing by \$5 million to \$10 million to better reflect contemporary requirements and meet the recommendation of the Shire's insurers).

RISK MANAGEMENT IMPLICATIONS

Risk Profile 10: Management of Facilities, Venues and Events (Key Control – Lease agreements for Shire facilities).

A formal lease details the responsibilities of each party and meets the requirements of the Department from whom the Shire has a management order for Reserve 16076.

ASSET MANAGEMENT IMPLICATIONS

The lease agreement outlines the responsibilities of both parties including the maintenance obligations of the lessee.

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL RESOLUTION

41/19 *Moved Cr Mathwin, seconded Cr Benn:*

“That Council:

- 1. Lease Reserve 16076 to the Kojonup Golf Club Incorporated for the use of the land and premises, for a period of 21 years commencing 1 August 2019 subject to the approval of the Minister for Lands.*
- 2. Acknowledges that part of Reserve 13697 may form part of the lease if the boundary between Reserves 16076 and 13697 is re-aligned to absorb part and/or all of holes 3, 7, 8 and 9 of the golf course into Reserve 16076”.*

CARRIED 5/0

The Chief Executive Officer returned to the meeting at 3.14pm

11 KEY PILLAR 2 – ‘CONNECTED’ REPORTS

11.1 BUSHFIRE ADVISORY COMMITTEE RECOMMENDATIONS AND MINUTES

| | | |
|--|---|---|
| AUTHOR | Robert Cowie, Administration/Regulatory Officer | |
| DATE | Tuesday 7 May 2019 | |
| FILE NO | ES.CIR.2 | |
| ATTACHMENT | 11.1.1 – Minutes for the Bushfire Advisory Committee Meeting held 10 April 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 2 - Connected | 2.3 – Be providing for a safe and secure environment by working with State and Federal authorities. | 2.3.1 - Maximise community safety through safe urban design and advocate for enhanced emergency service provisions. |

DECLARATION OF INTEREST

Nil.

SUMMARY

To receive the minutes of the Kojonup Bushfire Advisory Committee meeting held 10 April 2019 and appoint officers for the 2019/2020 bushfire season.

BACKGROUND

The Kojonup Bushfire Advisory Committee is established under Section 67 of the *Bush Fires Act 1954* and plays an important role in the Council’s decision making process. The Kojonup Volunteer Bushfire Association (KVBA), at its AGM held on Wednesday 3 April 2019, made the following recommendation to the Bushfire Advisory Committee.

that:

- a) Tony Fisher be recommended for the Chief Bushfire Control Officer for the 2019/2020 year
- b) Roger House be recommended for the Deputy Chief Bushfire Control Officer for the 2019/2020 year
- c) Ross Fryer-Smith and Myles Reid be recommended for the Senior Bushfire Control Officers for the 2019/2020 year
- d) The CBCO and the DCBCO are recommended for the Fire Weather Officer and Deputy Fire Weather Officer respectively for the 2019/2020 year
- e) The CBCO and the DCBCO are recommended to appointed as authorised officers to issue permits to burn for the collection of clover seed in the Shire for the 2019/2020 year
- f) The CBCO, DCBCO and the two Senior FCO’s be authorised to advise the CEO of the Shire of Kojonup on the imposition of Harvest and Vehicle Movement Bans for the 2019/2020 year

COMMENT

The Kojonup Bushfire Advisory Committee via resolution 4/19 recommends to the Council appointment to the various roles included in the Officer Recommendation in this agenda item.

CONSULTATION

Kojonup Volunteer Bushfire Association AGM – 3 April 2019

Kojonup Bushfire Advisory Committee – 10 April 2019

STATUTORY REQUIREMENTS

Section 67 of the *Bush Fires Act 1954*

POLICY IMPLICATIONS

Policy 6.1 Fire Management Plan

Policy 2.3.5 Risk Management

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

Risk Profile: Business and Community Disruption

Key Control - Community Fire and Emergency Education

Current Rating: Adequate

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/COUNCIL RESOLUTION

42/19 *Moved Cr Hobbs, seconded Cr Benn:*

“That Council:

- “1. Receive the Kojonup Bushfire Advisory Committee minutes for the meeting held 10 April 2019; and*
- 2. Appoint to the following positions for the 2019/2020 year as per decision 4/19 of the Kojonup Bushfire Advisory Committee meeting held 10 April 2019:*
 - a) Tony Fisher - Chief Bushfire Control Officer and Fire Weather Officer*
 - b) Roger House - Deputy Chief Bushfire Control Officer and Deputy Fire Weather Officer*
 - c) Ross Fryer-Smith and Myles Reid - Senior Bushfire Control Officers*
 - d) The Chief Bushfire Control Officer and the Deputy Chief Bushfire Control Officer be appointed as authorised officers to issue permits to burn for the collection of clover seed in the Shire; and*
 - e) The Chief Bushfire Control Officer, Deputy Chief Bushfire Control Officer and the two Senior Bush Fire Control Officer’s be authorised to advise the Chief Executive Officer of the Shire of Kojonup on the imposition of Harvest and Vehicle Movement Bans.”*

CARRIED 5/0

11.2 2019-2020 Fire Break Order

| | |
|----------------------|--|
| AUTHOR | Rob Cowie – Regulatory/Admin Officer |
| DATE | Tuesday 7 May 2019 |
| FILE NO | LE.NOT.02 |
| ATTACHMENT(S) | 12.2.1 - Fire Break Notice 2019/2020 |

| 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 2 - Connected | 2.3 – Be providing for a safe and secure environment by working with State and Federal authorities. | 2.3.1 - Maximise community safety through safe urban design and advocate for enhanced emergency service provisions. |

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to seek Council endorsement to produce the Fire Break Order as per Attachment 12.2.1.

BACKGROUND

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

COMMENT

The format of the Fire Break Order will be the same as previous years. The attached document will only show content; the final format will be a folded, flip chart type document approximately 10cm X 20cm with a magnet on the back page so that it can be placed on the fridge for easy reference as required.

Adoption of the Fire Break Order at this meeting will allow time for printing of the notices for inclusion with the Council annual Rate Notice mail out scheduled for July 2019.

CONSULTATION

Kojonup Bushfire Advisory Committee – 10 April 2019

STATUTORY REQUIREMENTS

Bush Fires Act 1954, section 33

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The production of these Notices are budgeted for each financial year.

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 RESOLUTION

43/19 Moved Cr Mathwin, seconded Cr Warland:

“That Council adopt the 2019/2020 Fire Break Order as presented at Attachment 12.2.1.”

CARRIED 5/0

1.1 FIRE BREAK ORDER – COMPLIANCE

| | |
|----------------------|---|
| AUTHOR | Rick Mitchell-Collins – Chief Executive Officer |
| DATE | 8 May 2019 |
| FILE NO | LE.NOT.02 |
| ATTACHMENT(S) | Nil |

| STRATEGIC/CORPORATE IMPLICATIONS | | |
|---|---|--|
| “Smart Possibilities – Kojonup 2027+” | | “Smart Implementation – Kojonup 2021 +” |
| Key Pillar | Community Outcomes | Corporate Actions |
| KP3 – Connected | 2.3 – Be providing for a safe and secure environment by working with State and Federal Authorities. | 2.3.1 – Maximise community safety through safe urban design and advocate for enhanced emergency service provision. |

DECLARATION OF INTEREST

Nil.

SUMMARY

Council is being asked by the Kojonup Volunteer Bushfire Association to consider imposing additional burning restrictions on a property owner including the issuing an infringement notice for non-compliance with the 2018/19 Fire Break Order.

BACKGROUND

The following motion was passed 14/4 at the Kojonup Volunteer Bushfire Association AGM held 3 April 2019:

“That the Heggaton family of Evergreen Grazing Company not be granted burning permits during the restricted burning period and that their burning season end on the 15 August. The ban to be reviewed after a period of three years.”

The matter was discussed at the Kojonup Bushfire Advisory Committee meeting held 10 April 2019 whereby it was resolved that *“Zulu’s address the Shire of Kojonup Briefing Session on Tuesday, 16 April 2019.”*

As a result of the 16 April 2019 Briefing Session the CEO was asked to prepare an agenda item for Council’s consideration at the 21 May 2019 Council Meeting.

Bushfire is arguably the largest threat to all those who live in the Shire of Kojonup. The Council and residents continue to take a proactive approach to minimising fire risk with our volunteer network. The Shire of Kojonup Fire Break Order captures the requirements of the State Legislation and local conditions as set out below and included on the Shire Web site.

Long serving residents within the Shire of Kojonup, particularly those living in the rural areas, are very aware of the valuable role played by our Bushfire Volunteers. No doubt they have spent many an hour on the fire ground or providing back up support. However, for newer residents the sight of smoke from December to March may instil a sense of fear, anxiety or conversely apathy that the “System” will take care of the emergency as it always has! Fires within the Kojonup town site are dealt with by the Kojonup Voluntary Fire & Rescue Service (VFRS), who are all local volunteers.

So, what is the Bush Fire structure for the Shire of Kojonup?

Twelve Brigades form the “on ground” bushfire support for the Shire, namely:

- Boilup
- Boscabel
- Changerup
- Cherry Tree Pool
- Jingalup
- Kojonup
- Lumeah
- Moberup
- Muradup
- Orchid Valley
- Qualeup
- Ryan’s Brook

Each Brigade has volunteer member fire fighters (usually all landholders and tenants) who prevent, control and extinguish bushfires. The brigades have an extensive radio network which consists of a “signing in” schedule each morning during the fire season. The radio network provides feedback to the Chief Bush Fire Control Officer (CBFCO) from the whole Shire on weather conditions and other factors that may influence firefighting decisions or the declaration of a Harvest & Vehicle Movement (HVMB) Ban (not to be confused with a Total Fire Ban which is enacted by the Department of Fire & Emergency Services (DFES). Monitors for the bushfire radio network can be purchased locally.

Brigade members may be called upon to assist other community emergencies such as search and rescue, flood clean up or a personal disaster to an individual. The Brigade and its members are independent to a large degree for the area they cover and do not hesitate to provide assistance to other Brigade areas as requested.

The Brigades elect their own office bearers, conduct meetings and training sessions and even maintain their own income/expenditure for items not covered by the Emergency Services Levy or are in addition to minimum standard requirements.

In a bushfire the Brigade(s) will endeavour to provide as many members as the CBFCO and other Captains and Fire Control Officers (FCOs) deem necessary. The members will invariably turn out in their own privately owned and maintained fire units. As a whole, members are very competent fire fighters with a good knowledge of the district and its geography and they are tremendous volunteers in the full sense of the word.

The Kojonup Bush Fire Association comprises the 12 Brigades and its members. The Association meets at least once a year to elect its own office bearers, President, Vice President, Secretary and Treasurer. The Association recommends to Council the names of members for consideration to the positions of:

- Chief Bushfire Control Officer (CBFCO or Zulu Base),
- Deputy Bush Fire Control Officer (DBFCO or Zulu 2),
- Two Senior Bush Fire Control Officers (SBFCO's or Zulu 3 & Zulu 4), and
- Brigade Captains following the Association's AGM.

Once officially appointed by Council the CBFCO, DBFCO, SBFCO's and Association President become representatives on the Kojonup Bush Fire Advisory Committee (also known as BFAC). The Association provides a public forum for the discussion of fire matters at a district level with all members having a right to speak and vote. The Association does not have executive powers however an executive decision will be presented to the Shire Council of Kojonup.

ADVISORY COMMITTEE

The Kojonup Bush Fire Advisory Committee is established in accordance with *Section 67 of the Bush Fires Act 1954*. The Committee's membership and terms of reference as adopted at the 22 October 2015 Council Meeting are:

S67. Advisory committees

- (1) A local government may at any time appoint such persons as it thinks fit as a bush fire advisory committee for the purpose of advising the local government regarding all matters relating to the preventing, controlling and extinguishing of bush fires, the planning of the layout of fire breaks in the district, prosecutions for breaches of this Act, the formation of bush fire brigades and the grouping thereof under group brigade officers, the ensuring of cooperation and coordination of bush fire brigades in their efforts and activities, and any other matter relating to bush fire control whether of the same kind as, or a different kind from, those specified in this subsection.
- (2) A committee appointed under this section shall include a member of the council of the local government nominated by it for that purpose as a member of the committee, and the committee shall elect one of their number to be chairman thereof.
- (3) In respect to a committee so appointed, the local government shall fix the quorum for the transaction of business at meetings of the committee and may;
 - (a) make rules for the guidance of the committee; and
 - (b) accept the resignation in writing of, or remove, any member of the committee; and

© where for any reason a vacancy occurs in the office of a member of the committee, appoint a person to fill that vacancy.
- (4) A committee appointed under this section —
 - (a) may from time to time meet and adjourn as the committee thinks fit;
 - (b) shall not transact business at a meeting unless the quorum fixed by the local government is present;

© is answerable to the local government and shall, as and when required by the local government, report fully on its activities.

CHIEF BUSH FIRE CONTROL OFFICER

The CBFCO heads the operations team and has the legal authority under the *Bushfires Act 1954* to direct resources and personnel to control and extinguish bush fires.

The CBFCO makes the determination in consultation with team members how:

- A bush fire may be attacked,
- How many Brigades to deploy or have on standby,
- To request other agencies' assistance or Council resources, etc.

The CBFCO is ably assisted by fellow Zulu's and this very important position demands a high level of commitment and Bush Fire knowledge and the cooperation of Brigades and members.

SHIRE OF KOJONUP (COUNCIL)

The Shire is the statutory body with the power and responsibility to administer the various legal requirements regarding the *Bush Fires Act 1954*, *Fire Brigades Act 1942* and *Local Government Act 1995*. As previously indicated, Council appoints members to the Advisory Committee upon receipt of recommendations from the Association.

Council creates, via the Firebreak Order, rules designed to keep residents safe by mitigating the accumulation of flammable items on residential properties or requiring fire breaks and other safety precautions around rural buildings/equipment, etc.

In the event of a bushfire (wildfire) the Chief Executive Officer has the power to commit Council resources at the request and advice of the CBFCO.

Council has the power to impose bans on the lighting of fires or restrict the movement of vehicles such as Harvesters, also at the request and advice of the CBFCO. This type of ban is known as a 'Harvest & Vehicle Movement Ban' (HVMB). It differs to a 'Total Fire Ban' (TFB) which may only be imposed by DFES as previously mentioned.

POWERS of FIRE AND EMERGENCY SERVICES COMMISSIONER

(1) *The FES Commissioner shall —*

- (a) *report to the Minister as often as the FES Commissioner thinks expedient so to do on the best means to be taken for preventing or extinguishing bush fires;*
- (b) *perform and undertake such powers and duties as may be entrusted to the FES Commissioner by the Minister;*
- © *subject to the general control of and direction by the Minister, be responsible for the administration of this Act;*
- (d) *recommend to the Minister the prohibited burning times to be declared for the whole or any part of the State;*
- © *carry out such fire prevention measures as the FES Commissioner considers necessary;*
- (f) *carry out research in connection with fire prevention and control and matters pertaining to fire prevention and control;*
- (g) *conduct publicity campaigns for the purpose of improving fire prevention measures.*

FIRE PERMITS

Zulus and Fire Control Officers are responsible during Restricted Burning Periods to issue conditional Fire Permits to property owners which are counter signed by the property owner.

PROHIBITED BURNING TIME: 5 November – 13 February

Permits may be issued between 5 November – 15 December for protective burning only. Between 16 December – 13 February no fires may be lit without the express permission of the Chief Bush Fire Control Officer. The Shire Council has authority to extend this date and you should consult with your local Fire Control Officer or ring the hotline on 9831 0145.

RESTRICTED BURNING TIME: 1 October – 4 November and 14 February – 14 April

Permits are required for all fires lit during these Restricted Burning times and must be obtained from your local Fire Control Officer who will explain the conditions under which fires may be lit. Permits will not be issued for townsite burning between 14 February – 14 April. Please note restricted burning times may be extended by the CBFCO, you should consult with your local Fire Control Officer or ring the hotline on 9831 0145.

NON-RESTRICTED BURNING TIME: 14 April – 30 September

Landholders must still take necessary precautions to keep their fires under control and on their own properties.

SPRAYING REMINDER:

Chemical spraying of firebreaks on land within a gazetted townsite is to be completed to the Shire's satisfaction by the 15 September.

FIREBREAK INSPECTION WARNING:

- 1 December – All firebreaks and fire hazard reduction measures to be completed on land within the gazetted townsite.
- 4 December – Council will conduct its annual firebreak inspection of all land within the gazetted townsite.
- 11 December – All protective burning and firebreak precautions to be completed on land outside the gazetted townsite.
- 13 December – Council will commence its aerial and ground inspection process of all land outside the gazetted townsite.

BURNING RULES

2. Patrolling of all fires is the responsibility of the landowner or occupier for as long as the fire poses a risk. These include clearing fires as well as protective burning.
3. All adjoining landowners must be notified on the morning of the intended burn whether clearing grass or protective burning is carried out.
4. No fire to be lit before 1300 hours (1pm). As from the 1st April, lighting times may be at the discretion of the Chief Bush Fire Control Officer.
5. For all grass and stubble fires, no trees or heaps of logs are to be burning within 40 metres of the outside of the perimeter break.
6. All stubble/grass burns conducted within the restricted burning period must have a 2.4-metre-wide perimeter break cleared of all flammable material.
7. All other conditions on a WRITTEN PERMIT to burn must be complied with.

NON-COMPLIANCE WITH THE ABOVE MAY LEAD TO PROSECUTION.

The above rules are to be observed in all cases unless your Fire Control Officer gives special approval to any alternative provisions.

Do you require a Permit to Burn?

If so, the person who takes out the permit is solely responsible for all conditions agreed to on the permit. Any damage or injuries that are caused due to negligence, are the permit holder's responsibility and may result in penalties being lodged.

There have been too many fires caused by permit burns in the Great Southern. Please take care and ensure all burns are monitored until they are extinguished.

PENALTIES

Section 28 Occupier of land to extinguish bush fire occurring on own land

(1) Where a bush fire is burning on any land —

(a) at any time in any year during the restricted burning times; or

(b) during the prohibited burning times,

and the bush fire is not part of the burning operations being carried on upon the land in accordance with the provisions of this Act, the occupier of the land shall forthwith, upon becoming aware of the bush fire, whether he has lit or caused the same to be lit or not, take all possible measures at his own expense to extinguish the fire.

(1B) Where he requires assistance for the purpose he shall if practicable, without leaving the fire unattended, inform or cause to be informed the nearest available bush fire control officer, or bush fire brigade officer, of the existence and locality of the fire.

(2) For the purposes of this section, a fire lit before the commencement of a period of prohibited burning times relating to the district where the fire is situated, and which is still burning at the commencement of those prohibited burning times, is to be regarded as being a bush fire which is not part of the burning operation being carried on upon the land in accordance with the provisions of this Act.

Penalty: \$10 000

(3) Where the occupier of the land upon which a bush fire is burning fails to take measures to extinguish it as required by subsection (1), a bush fire liaison officer, a bush fire control officer of any local government or an authorised CALM Act officer employed in connection with any forest land which is within 3 km of the land where the fire is burning may enter upon the land where the fire is burning and take all proper measures to extinguish it.

(4) In so far as the measures taken by the bush fire liaison officer, bush fire control officer or authorised CALM Act officer are necessitated by reason of the failure of the occupier of the land to comply with subsection (1), any expenses incurred by the bush fire liaison officer, bush fire control officer or authorised CALM Act officer, in taking measures to extinguish the fire, shall be a debt owing by the occupier of the land to the State, local government or CALM Act CEO, respectively.

(5) The FES Commissioner (on behalf of the State), local government, or CALM Act CEO, as the case may be, may recover the expenses from the occupier in any court of competent jurisdiction.

Section 35. Permit may be refused if danger of escape

The authorised officer may refuse to issue or grant a permit where he is satisfied that, notwithstanding that all the precautions required to be taken under these regulations in connection with the proposed burning are taken, the proposed burning may nevertheless be or become a source of danger by escaping from the land on which it is intended to carry out the burning.

Bush Fires (Infringements) Regulations 1978:

Section 28(1) Failure of occupier of land to extinguish a bush fire burning on that land \$250

Prescribed officers:

For the purposes of section 59A(5) of the Act a prescribed officer is —

- (a) in the case of an infringement notice issued by a local government, or at the request of a local government, or by a person acting pursuant to a delegation made by a local government pursuant to section 59(3) of the Act — the chief executive officer, mayor or president of the local government;*
- (b) in the case of an infringement notice issued by a person authorised by the Minister or issued by a person employed in the Department for the purposes of this Act — the FES Commissioner or a person employed in the Department authorised by the FES Commissioner;*
- © in the case of an infringement notice issued by a member of the Police Force — any commissioned officer of the Police Force;*
- (d) in the case of an infringement notice issued by an authorised CALM Act officer — the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of the Conservation and Land Management Act 1984.*

COMMENT

The above background is very extensive and ultimately the onus of responsibility for fire management rests with the land owner 365 days, 24/7 including exercising a 'Duty of Care', appropriate Risk Management measures and Occupational Health and Safety principles to reduce or diminish negligence.

The Fire Break Order clearly articulates types of burning periods and rules which apply regardless of who owns/manages/occupies a property. The *Bush Fires Act 1954* stipulates compliance requirements and the hierarchy of responsibility from the Minister, Commissioner down.

Council relies heavily on its volunteer brigades and Zulu's to first and foremost respond and mitigate the fire threat in our shire. If a fire is beyond our volunteer capacity then the fire ground is ultimately handed to DFES. This occurrence is rare which speaks volumes for Kojonup's ability to provide immediate response and support to property owners.

Unfortunately, some fires for whatever reason whether during open burning periods or permit periods escape fire breaks. The Fire Break Order and Act makes it very clear that all fires need to be contained within the property and extinguished prior to the prohibited burning period. To not do so should automatically result in the Shire of Kojonup issuing an Infringement Notice to the property owner for \$250 in accordance with the current regulation.

The DFES Commissioner may also seek to impose a maximum penalty through the courts of \$10 000 as per Section 28 of the *Bush Fires Act 1954* although the costs of prosecution and defence may exceed the penalty amount.

We must also remember that Permit Officers (Authorised Officers) are volunteers and are no doubt under enormous pressure from landowners/Managers, etc., to issue permits to meet farming schedules. Past Councils and administration have had the authority to issue infringement notices and decisions should not be the sole responsibility of one person such as the Chief Bushfire Control Officer (Zulu 1). It must be a majority decision made by the Shire of Kojonup based on the requirements of legislation, adopted Council Policies and Fire Break Order.

Section 35 of the *Bush Fires Act 1954* allows some protection:

“The 25 authorized officer may refuse to issue or grant a permit where he is satisfied that, notwithstanding that all the precautions required to be taken under these regulations in connection with the proposed burning are taken, the proposed burning may nevertheless be or become a source of danger by escaping from the land on which it is intended to carry out the burning.”

Permit Officers are not obliged to issue a permit because a landowner seeks to burn and may also apply other conditions/restrictions to the ‘Burning Rules’ listed above. These conditions/restrictions are applied to minimize risk not only to the property owner but the community in general as fire can be a catastrophic risk placing community member and volunteer fire brigade volunteer lives at risk and possible death.

CONSULTATION

Volunteer Bushfire Brigade – Annual General Meeting Minutes – 3 April 2019

Bushfire Advisory Committee meeting – 10 April 2019

Council Briefing Session – 16 April 2019

Stuart Tohl (correspondence)

John Binns (correspondence)

Murray Gibbs

STATUTORY REQUIREMENTS

Local Government Act 1995

Bush Fires Act 1954

Bush Fires (Infringements) Regulations 1978

POLICY IMPLICATIONS

7.1 Fire Management Plan – The Wheatbelt Regional Fire Management Plan 2012-2017 is adopted in its entirety to be policy for the Council.

Extract from Robert Sexton, precis August 2017:

The Regional Fire Management Plan (RFMP) is a comprehensive document of more than one hundred pages, it was first prepared by DEC in 2012 with a major review in 2017. Coupled with annual reviews the next major review is scheduled for 2022. The RFMP covers all aspects of Fire management, vegetation, Cultural values, prescribed burning, bushfire suppression, biodiversity conservation, fire knowledge, management objectives, fire modelling just to name a few aspects.

Although the document is primarily prepared for DEC officers as a guideline for the management of reserves, the principles discussed are applicable to the management of fire in all areas including privately owned land, road reserves and other reserves controlled by other agencies both State and Federal.

Some of the key parts from the strategy development should be stated here.

- *“...protect and promote biodiversity and natural values whilst also providing for protection of human life and community assets...” P6*
- *“...identify bushfire threat to the community assets...” P7*
- *“...fire management will be planned and implemented in partnership with other landowners, land managers, fire authority’s and the community...” P6*
- *“... Prescribed burns planned to achieve ecological outcomes have the potential to achieve protection outcomes...” “...create a mosaic of fuel age classes across reserves will in turn minimise the movement of bushfire through land...” P24*
- *“... This plan provides guidance to fire managers...” P6*
- *“... the plan will be used to establish principles, objectives and success criteria for fire management activities...” P6*
- *“... The plan will be reviewed annually to encompass new knowledge...” P6*

It soon becomes apparent that the plan prepared by DEC addresses in a very comprehensive manner the issues surrounding fire management that Kojonup has been discussing and trying to set a policy that will take into account all of the community concerns and aspirations.

An important theme of the plan is that the plan is meant as a guideline of principle for managers, it is not absolute and recognises that fire management is a dynamic and not a fixed regime.”

It is important to note that the effectiveness of Fire Management Planning is the relationship and attitudes of community members collectively striving to achieve common goals and outcomes which extends beyond harvest periods.

FINANCIAL IMPLICATIONS

As previously stated, the *Bush Fires (Infringements) Regulations 1978*, Section 28(1) has a \$250 fine attached for the failure of occupier of land to extinguish a bush fire burning on that land. Processing and issuing the infringement notice would absorb most of the fine and therefore the question to be asked is this a suitable financial deterrent?

The DFES Commissioner may also seek to impose a maximum penalty through the courts of \$10 000 as per Section 28 of the *Bush Fires Act 1954* although the costs of prosecution and defence may exceed the penalty amount.

The Shire of Kojonup 2018/19 Annual Budget includes \$183,167 operating costs towards Emergency Management, Fire Hazard Reduction, Ground and Aerial Inspections, Shire Fire Fighting Resources, Brigade expenses and administration/depreciation less \$42,186 retained from the Emergency Services Levy.

The community cost of fires can be enormous for example as occurred at Yarloop and what price do we place on the loss of life?

RISK MANAGEMENT IMPLICATIONS

DFES undertake extensive marketing and media promotions requesting Landowners and the general community to have Fire Management Plans prepared ready for activation, especially during summer. Protection of human life is foremost in DFES risk management planning as insurance cover does not bring back loved ones. Farmers plan to harvest crops without any fires but should they occur, minimising the economic loss by extinguishing the fire as soon as practicable is paramount. Residents within rural townships plan to minimise the likelihood of fire embers igniting their properties by reducing fuel loads and cleaning gutters.

Council as part of its emergency management planning is required to have evacuation plans established for Springhaven residents and staff, the activation of Community Evacuation Centres/Communication Headquarters and business continuity plans for IT backups, loss of power and community assets.

ASSET MANAGEMENT IMPLICATIONS

The Shire of Kojonup has two (2) DFES supplied fire trucks situated at Kojonup and Muradup with volunteers predominantly using small tanks on the back of 4WD as fast fill attack units. Ideally, it would be preferable to double the number of DFES supplied fire trucks to expand coverage of our area, including neighbouring shires. Communication is vital in any emergency management situation as is the planned resourcing and functions of emergency personnel and community volunteers, hence the need for training of personnel, volunteers and latest equipment including radios.

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Each neighbouring shire faces similar issues with responsible fire and emergency management and the allocation of scarce resources.

VOTING REQUIREMENTS

Simple Majority.

OFFICER RECOMMENDATION/COUNCIL RESOLUTION

44/19 Moved Cr Benn, seconded Cr Hobbs:

“That the Shire of Kojonup:

- 1. Reaffirm the Fire Break Order requirements with any non-compliance by landowners and/or occupiers incurring an automatic infringement notice in accordance with the Bush Fires (Infringements) Regulations 1978, Section 28(1), and*
- 2. Fully supports Zulu’s and Fire Control Officers issuing or not issuing permits with/without additional restrictions/conditions in accordance with the adopted Fire Break Order on a case by case, property by property, fire index and prevailing/forecast weather conditions basis.”*

CARRIED 5/0

- 11.4 NO. LOT 3 SPRING STREET, KOJONUP – PROPOSED LEASE TO THE GEORGE
CHURCH COMMUNITY MEDICAL CENTRE INCORPORATED (TGCCMC)

| | |
|----------------------|---|
| AUTHOR | Judy Stewart – Senior Administration Officer |
| DATE | 15 May 2019 |
| FILE NO | CP.ACD.7; PH.SVP.1 |
| ATTACHMENT(S) | <p>11.4.1 - TGCCMC Business Plan submitted to the Shire 18 February 2019</p> <p>11.4.2 - Correspondence to the TGCCMC regarding Community Health and Hospital Program (CHHP) funding</p> <p>11.4.3 - Copy of Public Notice (proposal to lease Lot 3 Spring Street, Kojonup)</p> <p>11.4.4 - Draft Lease</p> |

| STRATEGIC/CORPORATE IMPLICATIONS | | |
|--|---|---|
| “Smart Possibilities – Kojonup 2027+” | | “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. | <p>2.2.1 Work with regional, state and national health providers to develop innovative health services.</p> <p>2.2.2 Enhance alliances with state and local health providers to grow a sustainable and modern health system.</p> <p>2.2.3 Establish formal networks between all health service providers within Kojonup.</p> <p>2.2.4 Enable a sustainable aged-care service through public-private partnerships.</p> <p>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> |

| | | |
|----------------------------|--|--|
| <p>KP3 - 3 Performance</p> | <p>3.1 - Be a continually engaged and strategic community which leads and organises throughout the entire stakeholder group.</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>3.1.7 – Determine responsibilities for all assets and review and update lease conditions where other entities have partial or full responsibility for assets on Council managed land.</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> |
|----------------------------|--|--|

DECLARATION OF INTEREST

Nil

SUMMARY

Council to consider a draft lease for Lot 3 Spring Street, Kojonup.

BACKGROUND

In February 2019 Council resolved as follows:

Decision 7/19

“ 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.”

In accordance with s 3.58 of the *Local Government Act 1995* (see statutory requirements) a sworn valuation for Lot 3, Spring Street, Kojonup was obtained and a public notice placed in the Great Southern Herald, Koji News, the Shire e-News, and on the Shire’s website and public noticeboards advertising the details of the Shire’s proposed disposal of property (lease).

COMMENT

Nil submissions were received during the required public notice timeframe advertising the proposed lease of Lot 3 Spring Street, Kojonup to The George Church Community Medical Centre Incorporated (TGCCMC) and Council can now progress with a lease for Lot 3, Spring Street, Kojonup in accordance with Council Decision 7/19.

As of the date of this report the following is established:

- a. As per its Business Plan (attached and as forwarded by the TGCCMC to the Chief Executive Officer on 18 February 2019), TGCCMC intends to use funds gifted to the Shire by George Church for the purposes of building, managing and maintaining a medical centre at Lot 3 Spring Street, Kojonup, being Objects 1 and 2 of the entity and of which a required action to achieve is the transferral of the George Church gift from the Shire of Kojonup (Shire) to TGCCMC.
- b. The Office of the Attorney General has agreed to the Shire transferring the George Church funds to TGCCMC provided that the Shire carries out its duties as trustee of the funds; that is, there are appropriate governance processes in place to ensure that the money is properly spent on the charitable purpose (being the building of a new medical centre). Council resolved accordingly at its March 2019 Ordinary Meeting, as follows:

Decision 24/19

“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.*
- c. An application submitted by the Shire of Kojonup in February 2019 for CHHP funding towards a new medical centre culminated in Mr Rick Wilson announcing, on 1 March 2019 at Lot 3 Spring Street, Kojonup, Federal Government funding of \$750,000 towards a new Medical Centre.*

If the afore-mentioned CHHP funding is forthcoming and an Agreement is executed, Council will be required to manage the funding as well as the acquittal of the George Church funds and interest, as per the Chief Executive Officer’s (CEO) advice to the GCCMC Committee on 08 May 2019 regarding CHHP funding (attached).

The officer recommendation carries out the instructions of Council Decision 7/19 following the statutory requirements being met for the disposal of land; that is, a draft lease has been drawn up and is attached for Council consideration.

MANAGER CORPORATE & COMMUNITY SERVICES COMMENT

The Senior Administration Officer has presented a thorough item based on the Council’s previous decisions surrounding this issue, whilst following the requirements of the *Local Government Act 1995*.

It is considered prudent at this time to revisit possible alternative courses of action that may better meet the objectives of SMART Possibilities, SMART Implementation, Long Term Financial Plan and the Council’s Asset Management process (including the adopted Asset Management Plan 2017, Building Assessment Framework and Capital Evaluation Framework.)

The Council has an established goal of asset rationalization. Entering into an arrangement whereby additional built assets will be placed on land owned by the Shire for a purpose that is clearly not a core local government service delivery area is considered contrary to this goal. In addition, it was evident at a meeting between TGCCMC Inc., and the Council held 15 May 2019 that the future ownership and control of a building placed on land owned by the Shire is ambiguous and unclear to both parties.

As such, it is recommended that consideration be given to selling lot 3 Spring Street to TGCCMC Inc. for a nominal fee. Not only would this give all ownership and control of any building placed on Council land to the group responsible for its creation, but would also give a substantial asset to this incorporated group that may assist with security for funding into the future.

TGCCMC Inc. is a Kojonup community based organization, established and operated by volunteers from within the Kojonup community, and therefore there should be no concern that the land would not be available for the community in perpetuity.

Any proposed sale would not need to occur immediately, but could be enacted upon receipt of the Financial Assistance Agreement with the Commonwealth Government at such time when exact grant conditions are known, and the future requirements of this project becomes clearer. Section 3.58 provisions of *the Local Government Act 1995* will need to be met in regards to disposal (by sale) as the process undertaken to date focused on disposal by rental. This is not an onerous task.

Alternate Recommendation:

That:

- 1. Lot 3 Spring Street, Kojonup be offered for sale to the George Church Community Medical Centre Committee Inc. for \$1.00; and***
- 2. If an offer and acceptance agreement is reached with the George Church Community Medical Centre Committee Inc., the disposal process required under Section 3.58 of the Local Government Act 1995 be undertaken.***

CEO COMMENT

Officers have complied with Council Decision 7/19 in accordance with the 'Public Notice' provisions of the *Local Government Act 1995* for the 'disposal' of land and preparation of a draft lease. However, what Elected Members may have considered a straight forward process at the 19 February 2019 has been somewhat complicated by the welcomed announcement on 1 March 2019 by Federal Member for O'Connor, Rick Wilson that the Shire of Kojonup would receive \$750 000 as part of the Commonwealth's Community Health and Hospital Program (CHHP).

Mr Robert Sexton in his inaugural address to community members at the community meeting of The George Church Community Medical Centre Inc. held 5 March 2019 at the RSL Hall stated:

“A group of citizens, frustrated at the indicated cost and time constraints, then made their own investigations and with great good fortune were able to consult with a builder who had delivered similar buildings to the Western Australian Government. That builder has said that a building of the type and size meeting our criteria can be delivered on site in Kojonup for about \$750k with a build time of twenty eight weeks.

The group sought the assistance of Rick Wilson MP to ascertain if Federal funds were available to help in the creation of the Centre. Rick Wilson advised that funds had been allocated in mid-December but was uncertain if a Capital Works component would be included. Mr Wilson agreed to provide assistance but advised that the application must come from the Shire Council.

Three members of the group met with the Shire President, Deputy President and CEO on 14th January who agreed that the application for funds would be made if the opportunity arose.

The group applied in early February to form an incorporated body The George Church Community Medical Centre Inc (TGCCMC) to be the entity to build and operate a Medical Centre. The clear intention of that entity was to approach the Shire Council with a plan for the entity to establish a standalone Medical Centre. The Certificate of Incorporation was received on 18th February 2019.

The TGCCMC representatives made a presentation to the Shire Councilors at their Briefing Session on Tuesday 5th February asking that the George Church gift be transferred to the incorporated entity for the specific purpose of providing a Medical Centre and that the land known as Walkers block be leased to the entity for a peppercorn rental also for the specific purpose of building and operating a medical centre.

The group provided a business plan that shows a Medical Centre that meets the Councils criteria will need a budget of about \$1.1m and can be delivered late in 2019.

On 6th February, a Capital Works component was included in the Federal Fund and Mr. Wilson so advised the Shire Council; the Council lodged an application for funding through Mr. Wilson’s office.

The Shire Council in a subsequent meeting on Tuesday 19th February have agreed to transfer the George Church gift and lease Walkers block to The George Church Community Medical Centre with certain conditions attached.

Last Friday 1st March, Rick Wilson MP announced in Kojonup that the Minister for Health has approved a grant of \$750k to the Kojonup Shire Council for the specific purpose of providing a Medical Centre on Walker’s block. . . .”

The following points are listed clarifying how the process became complicated:

1. The group of citizens made contact with a builder who could deliver on-site for about \$750 000, with a build time of 28 weeks.

Complication:

If the Shire receives CHHP funding, legislation requires any project over \$150 000 to go to public tender. The Shire does not presently possess any of the design criteria or specifications nor has any concept plan of the intended building been displayed for community interest. Designs and specifications may not be received until the Commonwealth Financial Agreement terms and conditions are received as both Council and TGCCMC Inc., can then deal with factual detail.

2. The proposed Business Plan states an amount of about \$1.1M is required to deliver a building by late 2019.

Complication:

As the Commonwealth's terms and conditions attached to the CHHP financial agreement are not yet known, the Shire is not in a position to call for public tenders. Development of detailed tender specifications, public tender time frames, assessment of building plans and availability/extension of infrastructure/headworks such as power, water, sewer as required is unlikely to see the building delivered late 2019. Until these terms and conditions of the financial agreement are known and the actual Commonwealth funding received it would be very unwise to pre-empt any commencement of the build (including design specifications etc.) as retrospective claims are not generally permitted for State and Commonwealth grants unless it has been classified as a 'Natural Disaster' fund. The delay caused by waiting for the Financial Agreement may effectively increase the cost of the build and associated works envisaged requiring a readjustment to the Business Plan.

3. The Business Plan also mentions:

- *"A sum of at least \$300,000 will need to be raised by public subscription. . .*
- *A further sum of \$220,000 will need to be raised from other sources. . . "*

Complication:

If the CHHP funding is forthcoming, it presumably addresses the need for funds to be sourced by other grant sources recognising that the CHHP has been the only funding source available to Council specifically for a Medical Centre over the past five years.

The complication here is that the Commonwealth's funding agreement will likely require the Shire of Kojonup to manage and acquit the funds for the total project which includes the George Church funds presently held in reserve as the Shire is the present trustee as advised in correspondence from the State Solicitors Office tabled at the Council Meeting held 19 March 2019. This will necessitate a legal agreement between the Shire and TGCCMC Inc. that clearly (without ambiguity or bias) addresses various procurement, reporting, project management, building etc., compliances and authorisations. It is vital that this agreement can be achieved *"for the specific purpose of building and operating a medical centre."*

Legal advice and input is a necessary but costly exercise.

4. Lease Agreement v Sale

The Shire of Kojonup by virtue of possessing a 'Certificate of Title' owns 'Walkers Block' and anything placed thereon that cannot be removed. The Shire could as an example only, if the Commonwealth Funding is not received, sell the land to TGCCMC Inc., for \$1 subject to undertaking the necessary 'Public Notice' period, etc., required by the *Local Government Act* and outlined above by the Manager for Corporate and Community Services, which includes a covenant that the land is sold for the sole purpose of building and operating a Medical Centre in accordance with the provisions of the Shire of Kojonup Town Planning Scheme.

TGCCMC Inc. then has ownership and can appoint any building contractor it requires to build the Medical Centre without the need for a public tender or lengthy/complicated Lease Agreement with the Shire.

The Shire would also transfer the George Church funds and interest to TGCCMC Inc. (as the new trustee) which satisfies the Attorney General's requirements.

TGCCMC Inc., would then be required to source funds or undertake 'In-Kind' works to realise the building of the Medical Centre as well as the Centres ongoing maintenance, tenancy, operation and asset renewal.

Shire involvement is minimal other than issuing statutory approvals. This option was contained in the Officer Recommendation presented to Council on 19 February 2019 however Council voted 5/3 against the motion at that time.

If the Commonwealth Funding is received an agreement between the Shire and TGCCMC Inc., will still be required regarding project management, procurement process/authorisations and acquittal of funds but once the building aspect is complete so will the Shires involvement once final sign off and acquittal has been received from the Commonwealth.

5. Investigate an Agreement based on Darwinia Cottages Committee Inc./Shire of Cranbrook example

In the above example, the land is owned by the Darwinia Cottages Committee Inc. The Shire of Cranbrook has obtained a grant for the construction of ILUs on Darwinia's land. There is an agreement that sets out the responsibilities of each, requiring the buildings to be used in accordance with the funding agreement.

This example may be worth considering given TGCCMC Inc. purpose is to build and operate a Medical Centre.

Unfortunately, the regulatory framework in which Local Government operates is complex and no doubt frustrating externally but a necessary requirement.

Procedural Recommendation:

That this matter lay on the table until the Shire of Kojonup receives the formal Terms and Conditions attached to the Commonwealths Community Health and Hospital Program Financial Agreement allocation of \$750 000 and has had an opportunity to workshop same with the George Church Community Medical Centre Inc.

CONSULTATION

McLeods Barristers and Solicitors

Chief Executive Officer

Manager Corporate and Community Services

STATUTORY REQUIREMENTS

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.

- (5) This section does not apply to —
- (a) a disposition of an interest in land under the *Land Administration Act 1997* section 189 or 190; or
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

[Section 3.58 amended: No. 49 of 2004 s. 27; No. 17 of 2009 s. 10.]

POLICY IMPLICATIONS

Policy 2.3.5 – Risk Management – as per Risk Management Implications

FINANCIAL IMPLICATIONS

- Council currently maintains Lot 3, Spring Street, Kojonup
- Council has determined to lease Lot 3, Spring Street, Kojonup, as per Council Decision 7/19, for a peppercorn rental for 49 years to TGCCMC.

The leasing to TGCCMC of Lot 3, Spring Street, Kojonup for the purposes of building, managing and maintaining the premises places responsibility for maintenance and upkeep with the TGCCMC. The draft lease agreement includes insurance clauses stating that TGCCMC is responsible for obtaining and keeping appropriate levels of contents (property) and public liability insurance.

RISK MANAGEMENT IMPLICATIONS

Risk Profile 10 – Facilities, Venues and Events (Key Control - Lease Agreements for all Shire facilities)

As the management and maintenance of the facility as a medical centre will be the responsibility of the lessee, the lessee takes on financial viability and associated risks rather than the Shire (as lessor of the premises).

ASSET MANAGEMENT IMPLICATIONS

The Shire currently maintains the land at 3 Spring Street, Kojonup.

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL RESOLUTION

45/19 Moved Cr Benn, seconded Cr Mathwin:

“That this matter lay on the table until the Shire of Kojonup receives the formal Terms and Conditions attached to the Commonwealths Community Health and Hospital Program Financial Agreement allocation of \$750 000 and has had an opportunity to workshop same with the George Church Community Medical Centre Inc.”

CARRIED 5/0

12 KEY PILLAR 3 – ‘PERFORMANCE’ REPORTS

12.1 FINANCIAL MANAGEMENT – MONTHLY STATEMENT OF FINANCIAL ACTIVITY (APRIL 2019)

| | |
|----------------------|--|
| AUTHOR | Anthony Middleton – Manager Corporate & Community Services |
| DATE | Thursday, 16 May 2019 |
| FILE NO | FM.FNR.2 |
| ATTACHMENT(S) | 12.1.1 – April 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 30 April 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 30 April 2019 represents ten (10) months, or 83% of the year.

The following items are worthy of noting:

- Closing surplus position of \$289,589;
- Operating results:
 - 76% of budgeted operating revenue has been received; and
 - 85% of budgeted operating expenditure spent;
- Capital expenditure achieved 44% of budgeted projects;
- The value of outstanding rates equates to 5.7% of 2018/2019 rates raised;
- Cash holdings of \$4.44m of which \$3.59m is held in cash backed reserve accounts; and

- Page 9 & 10 of the statements detail major variations from year to date (amended) budgets in accordance with Council Policy 2.1.6. Attention is raised to the road maintenance sub program on page 31, currently running at 97% of total year's budget or \$191,000 above year-to-date budget estimates;

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 RESOLUTION

46/19 Moved Cr Warland, seconded Cr Mathwin:

"That the monthly financial statements for the period 1 July 2018 to 30 April 2019, as attached, be noted."

CARRIED 5/0

12.2 MONTHLY PAYMENTS LISTING

| | |
|-------------------|---|
| AUTHOR | Melissa Binning – Finance Officer |
| DATE | Friday, 10 May 2019 |
| FILE NO | FM.AUT.1 |
| ATTACHMENT | 12.2.1 – Monthly Payment Listing 01/04/2019 to 30/04/2019 |

| 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 April 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/COUNCIL RESOLUTION

47/19 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 April 2019 | | TO – 30 April 2019 |
|---------------------|---------------|---------------------|
| Municipal Cheques | 14117 – 14120 | \$3,313.08 |
| EFTs | 23390 – 23578 | \$333,743.82 |
| Direct Debits | | \$431,848.99 |
| Total | | \$768,905.89 |

be received.”

CARRIED 5/0

12.3 MINUTES FROM THE AUDIT AND RISK COMMITTEE MEETING HELD 19 FEBRUARY 2019 AND 7 MAY 2019

| | |
|-------------------|--|
| AUTHOR | Heather Marland – Senior Finance Officer |
| DATE | Wednesday 15 May 2019 |
| FILE NO | GO.CNM.96 |
| ATTACHMENT | <p style="color: red;">12.4.1 – Confirmed Minutes from the Audit and Risk Committee Meeting held 19 February 2019</p> <p style="color: red;">12.4.2 – Unconfirmed Minutes from the Audit and Risk Committee Meeting held 7 May 2019.</p> |

| 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. | 3.4.2 – Act with sound long term and transparent financial management and deliver residents considered value for money. . |

DECLARATION OF INTEREST

Nil.

SUMMARY

The minutes of the Audit and Risk Committee meetings held 19 February 2019 and 7 May 2019 are presented with subsequent recommendations arising, for Council consideration.

BACKGROUND

The Audit and Risk Committee is established under Section 71A of *the Local Government Act 1995* ensuring transparency in Councils financial management and decision making process. In accordance with Section 71.A of the Local Government Act 1995, the Audit and Risk Committee was established with defined terms of reference and a membership consisting of six (6) committee members being, four (4) Councillors; and two (2) Community Members. A decision of the Audit and Risk Committee is to be made by a simple majority.

COMMENT

The Audit and Risk Committee typically meets at least quarterly, or as required, and has held two meetings since the commencement of the calendar year being 19 February 2019 and 7 May 2019.

CONSULTATION

Members of the Audit and Risk Committee.

STATUTORY REQUIREMENTS

Sections 71.A to 7.1C of the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil.

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 RESOLUTION

48/19 *Moved Cr Mathwin, seconded Cr Warland:*

“That Council receive the minutes from the Audit and Risk Committee meetings held 19 February 2019 and 7 May 2019.”

CARRIED 5/0

12.4 LEAVE PROVISION ADEQUACY – ANNUAL UPDATE

| | |
|----------------------|--|
| AUTHOR | Anthony Middleton – Manager Corporate & Community Services |
| DATE | Friday, 9 May 2019 |
| FILE NO | FM.FNR.1 |
| ATTACHMENT(S) | Nil |

| 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. | 3.4.2 – 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 review the Shire’s employee leave provisions in accordance with the goals set in Council Policy 2.1.8 (Financial Governance).

BACKGROUND

During 2016, the Audit Committee undertook considerable work into setting appropriate levels of funding for leave liability provisions, culminating in the Council amending its Policy 2.1.8 (Financial Governance) to include the following:

‘Specifically, the following goals are set for individual reserve account balances:

- **Employee Leave** – As a minimum, the level of this reserve should meet both the EBA sick leave liability (clause 29) and the current portion of the long service leave liability. This funding goal is to be implemented over four financial years up to 2019/2020 to manage the financial impact.’

The Audit & Risk Committee considered this item at its meeting held 7 May 2019 and resolved:

- 1 *The Officer’s report on leave provision adequacy be received; and*
- 2 *It be recommended to the Council that Council Policy 2.1.8 (Financial Governance) be amended as follows:*

Delete the following paragraph:

- *“Employee Leave – As a minimum, the level of this reserve should meet both the EBA sick leave liability (clause 29) and the current portion of the long service leave liability. This funding goal is to be implemented over four financial years up to 2019/2020 to manage the financial impact.”*

And replacing it with the following:

- “Employee Leave – As a minimum, the level of this reserve should meet both:
 - The EBA sick leave liability (clause 29); and

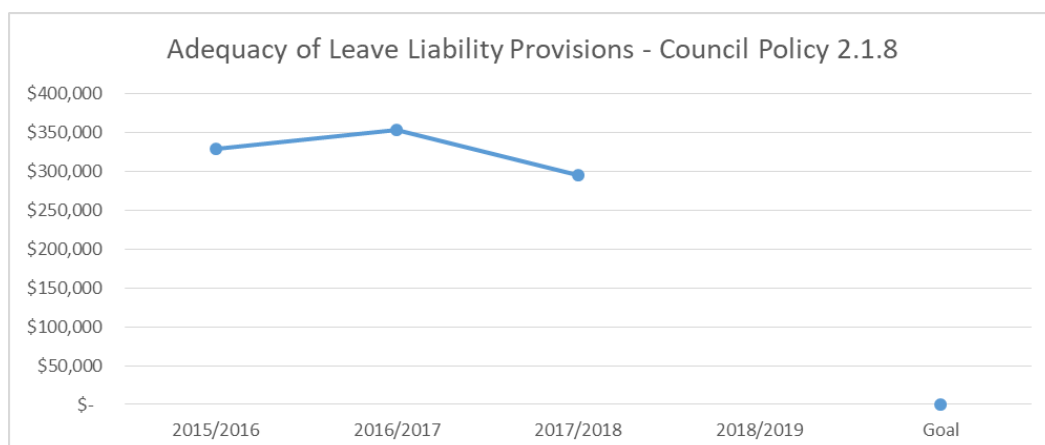
- The current portion of the long service leave liability for staff with seven (7) years or more service.

This funding goal is to be implemented over several financial years up to 2021/2022 to manage the financial impact.”

COMMENT

An update on our progress against this goal within Council Policy 2.1.8 is as follows:

| | 2015/2016 | 2016/2017 | 2017/2018 |
|----------------------------|-------------------|-------------------|-------------------|
| Liability: | | | |
| EBA Sick Leave | \$ 150,000 | \$ 199,941 | \$ 125,793 |
| CURRENT Long Service Leave | \$ 278,794 | \$ 271,946 | \$ 309,076 |
| | \$ 428,794 | \$ 471,887 | \$ 434,869 |
| Cash Backing: | | | |
| Leave Reserve Account | -\$ 99,810 | -\$ 117,649 | -\$ 140,063 |
| DEFICIENCY | \$ 328,984 | \$ 354,238 | \$ 294,806 |



Relevant commentary on the above figures includes:

- The above figures show that the gap between provision and liability has reduced, albeit less than required to meet the target;
- This is predominately as a result of a reduction in the Enterprise Bargaining Agreement (EBA) Sick Leave accrual;
- Since 30 June 2018, significant attention has been given to reducing the leave liability. One retirement alone has reduced the EBA sick leave by over \$23,000 while other staff are taking increased amounts of annual leave (albeit not part of the calculation above);
- Long Service Leave accruals are difficult to control as Officer’s are not entitled to take this leave until after ten (10) years of service, however, it is accrued in the Annual Financial Statements from day 1. It is recommended that a more relevant policy goal could be ‘long service leave accruals for staff with seven (7) years or more service’, as any staff terminating employment after seven years are paid out their long serve leave on a pro-rata basis.
- The 2018/2019 Annual Budget contains a \$40,000 transfer to the Leave Liability Reserve account, further improving the situation for next year’s analysis.

CONSULTATION

Audit & Risk Committee meeting – 7 May 2019

STATUTORY REQUIREMENTS

Reserve accounts and the recording of employee leave liabilities is tightly governed through the *Local Government (Financial Management) Regulations 1996*, *Australian Accounting Standards* and *International Financial Reporting Standards*.

POLICY IMPLICATIONS

This report is an assessment of a goal set within Council Policy 2.1.8 (Financial Governance) and the Author is recommending a slight amendment to that policy as follows:

CURRENT POLICY WORDING:

- **Employee Leave** – As a minimum, the level of this reserve should meet both the EBA sick leave liability (clause 29) and the current portion of the long service leave liability. This funding goal is to be implemented over four financial years up to 2019/2020 to manage the financial impact.'

PROPOSED POLICY WORDING:

- **Employee Leave** – As a minimum, the level of this reserve should meet both:
 - The EBA sick leave liability (clause 29); and
 - The current portion of the long service leave liability for staff with seven (7) years or more service.

This funding goal is to be implemented over ~~four~~ several financial years up to ~~2019/2020~~ 2021/2022 to manage the financial impact.'

FINANCIAL IMPLICATIONS

The liability exposure of staff entitlements has a significant impact on the Shire's financial position. This policy aims to ensure a practical cash provision is made that balances both responsible financial management with reducing locking funds away unnecessarily

RISK MANAGEMENT IMPLICATIONS

This process of assessing the provision adequacy of the leave liability each year is a primary tool in minimizing financial risk exposure for this category of liability.

ASSET MANAGEMENT IMPLICATIONS

Nil.

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil.

VOTING REQUIREMENTS

Simple Majority.

OFFICER RECOMMENDATION/COUNCIL RESOLUTION

49/19 Moved Cr Benn, seconded Cr Warland:

“That:

- 1 *The Officer’s report on leave provision adequacy be received; and*
- 2 *Council Policy 2.1.8 (Financial Governance) be amended as follows:*

Delete the following paragraph:

- *“Employee Leave – As a minimum, the level of this reserve should meet both the EBA sick leave liability (clause 29) and the current portion of the long service leave liability. This funding goal is to be implemented over four financial years up to 2019/2020 to manage the financial impact.”*

And replacing with the following:

- *“Employee Leave – As a minimum, the level of this reserve should meet both:*
 - *The EBA sick leave liability (clause 29); and*
 - *The current portion of the long service leave liability for staff with seven (7) years or more service.*

This funding goal is to be implemented over several financial years up to 2021/2022 to manage the financial impact.”

CARRIED 5/0

12.5 THIRD PARTY FUNDING AGREEMENT – GREAT SOUTHERN AGED ACCOMMODATION PROJECT

| | |
|----------------------|---|
| AUTHOR | Judy Stewart – Senior Administration Officer |
| DATE | Wednesday, 1 May 2019 |
| FILE NO | GS.PRG.13 |
| ATTACHMENT(S) | 12.5.1 - Great Southern Aged Accommodation Project – Financial Assistance Agreement 12.5.2 - Great Southern Aged Accommodation Project – Third Party Funding Agreement |

| STRATEGIC/CORPORATE IMPLICATIONS | | |
|---------------------------------------|---|---|
| “Smart Possibilities – Kojonup 2027+” | | “Smart Implementation – Kojonup 2021 +” |
| Key Pillar | Community Outcomes | Corporate Actions |
| KP3 - 3 Performance | 3.1 - Be a continually engaged and strategic community which leads and organises throughout the entire stakeholder group. | 3.1.3 - Encourage interaction and input to the Shire of Kojonup, particularly through contemporary working party teams. |

DECLARATION OF INTEREST

Nil

SUMMARY

Council to endorse Third Party Funding Agreements with the Shires of Broomehill-Tambellup, Cranbrook, Jerramungup, and Katanning for the Great Southern Aged Accommodation Project (GSAAP) ‘Regional Aged Accommodation Program’.

BACKGROUND

The Shire of Kojonup is acting as the Recipient for State Financial Assistance Agreement funding to undertake the GSAAP ‘Regional Aged Accommodation Program’ (RAAP) in which the afore-mentioned Shires are involved. The funding relates to the construction of Independent Living Units, the break up for which is as follows:

- Shire of Broomehill-Tambellup - 4
- Shire of Cranbrook - 5
- Shire of Jerramungup - 5
- Shire of Katanning - 4
- Shire of Kojonup - 3

COMMENT

Clause 12 of the Royalties for Regions Financial Assistance Agreement (Agreement) signed by the Shire of Kojonup (Shire) as the Recipient for the RAAP funding, requires the Shire to enter into third party agreements (that mirror the terms of the Shire's Agreement) with each of the other councils (third parties). McLeods Barristers and Solicitors were engaged to formulate a suitable Agreement to meet the requirements of Clause 12, a copy of which is attached for Council endorsement.

CONSULTATION

McLeods Barristers and Solicitors

STATUTORY REQUIREMENTS

Nil.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

\$2,707 has been incurred in the formulating of this Agreement which is covered by the Grant. There are no further finance implications.

RISK MANAGEMENT IMPLICATIONS

An Agreement, as attached, stipulates third party requirements and enables the Shire to comply with Clause 12 of its own Financial Assistance Agreement. Risk is mitigated by having such an Agreement professionally drawn up.

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL RESOLUTION

50/19 Moved Cr Mathwin, seconded Cr Hobbs:

"That the attached Third Party Funding Agreement – Great Southern Aged Accommodation Project:

- 1. Be adopted; and*
- 2. Be forwarded to the Shire's of Broomehill-Tambellup, Cranbrook, Jerramungup and Katanning for their consideration and execution."*

CARRIED 5/0

12.6 RISK MANAGEMENT FRAMEWORK REVIEW

| | |
|----------------------|---|
| AUTHOR | Judy Stewart – Senior Administration Officer |
| DATE | 15 May 2019 |
| FILE NO | CM.PLN.1; RM.POL.1 |
| ATTACHMENT(S) | <p>12.6.1 - Existing Risk Management Plan - March 2017</p> <p>12.6.2 - Proposed Risk Management Framework - May 2019 (showing modifications to suit the Shire of Kojonup)</p> <p>12.6.3 - Risk Profile sample: Safety and Security Practices</p> <p>12.6.4 - Existing Measures of Consequence and Matrix tables</p> <p>12.6.5 - New Measures of Consequence, Risk Matrix and other tables</p> |

| STRATEGIC/CORPORATE IMPLICATIONS | | |
|---|---|---|
| "Smart Possibilities – Kojonup 2027+" | | "Smart Implementation – Kojonup 2021 +" |
| Key Pillar | Community Outcomes | Corporate Actions |
| KP3 - 3 Performance | <p>3.4 Be organised and transparent with our financial management.</p> <p>Delivered Activity: Provision of Risk Management processes and systems.</p> | <p>3.4.9 – Purchase/develop and implement a suitable and robust risk management software program to improve the management and reporting of the Shire’s risk process.</p> |

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is for Council to consider, via the Audit and Risk Committee, a new Risk Management system created using a Local Government Insurance Services’ (LGIS) framework based on AS/NZS ISO 31000:2018 and adapted to the Shire of Kojonup’s (Shire) risk management requirements.

BACKGROUND

Previous enquiries around risk management specific software have indicated that available products are not, at this point in time, best fit for purpose with regard to local government risk management requirements (Smart Possibilities: Corporate Action 3.4.9).

The Shire’s existing Risk Management Plan, based on AS/NZS ISO 31000: 2009, was last reviewed on 21 March 2017. The Shire of Kojonup was one of four regional shires to recently engage LGIS in the reviewing of their existing Risk Management Plan (Plan), the aim being to ensure contemporary best practice in risk management.

The Audit and Risk Committee considered the reviewed Risk Management Framework and recommended that Council adopt the attached Framework in replacement of its existing Risk Management Plan 2017.

COMMENT

The aim of Risk Management is to recognise and manage risks in order to minimise negative consequences while optimising potential opportunities. The Risk Management process involves many facets including identification, defining levels of risk (based on consequence and likelihood), analysis, prioritisation, action/treatment, and recording, monitoring and reporting. A Risk Management Plan/Framework details that process, assigns responsibilities and is fundamental to good governance in local government.

The Chief Executive Officer, Senior Management Team and author attended two LGIS conducted workshops held across late February/early March concentrating on common risks, controls, actions, responsibilities/accountabilities, and priorities in line with the new Framework. The review process has delivered an updated Risk Management Policy and Framework along with a working document that identifies fifteen (15) risk profiles generic to local governments and also encompasses risks unique to the Shire of Kojonup such as those associated with the Springhaven aged care facility.

On a comparative level (existing Plan vs new Framework):

- Updates (different wording/similar values in many cases) are evident within risk impact areas of the new Framework's Measures of Consequence table with Financial Impact being an exception, Property being an additional risk area, Operation being defined as Service Interruption and Project divided into two areas (Time and Cost). Rating level terminology has changed for the higher three rating levels with Major now being referred to as Moderate, Critical as Major and Extreme as Catastrophic. Measures of Likelihood are the same within both documents. Risk Acceptance Criteria is similar (once again, slightly different wording is used to explain the risk rankings of Low, Moderate, High and Extreme). The tables within the new Framework attachment are highlighted where changes have occurred. The corresponding changes also show in the attached Existing Measures of Consequence and Matrix tables.
- The Risk Matrix has changed with a scoring system having been applied to consequence and likelihood ratings (multiplying consequence score x likelihood score) e.g.; something with a consequence rating of 'Insignificant' (1) multiplied by 4 (if it is 'Likely' to occur) equals a score of 4 and is, therefore, deemed to be a Low risk in accordance with the Risk Matrix (the Risk Acceptance Criteria table gives definition to the four risk rankings in the Risk Matrix (Low, Moderate, High and Extreme). Likewise, Moderate ranking equals a score between 5 and 9, High a score between 10 and 16 and Catastrophic a score of 20 or 25. Priority for treatment of a risk is applied in accordance with the ranking established by the Risk Matrix table.
- Existing Controls Ratings is an additional tool within the new Framework (found within the Risk Profile templates) applying an efficacy rating to the controls already in place and alerting staff to ratings that are effective (little scope for improvement), adequate (some scope for improvement) and inadequate (requiring corrective action/s).

- The new Risk Management Framework document, whilst similar in many aspects, is a more succinct, overarching document compared to the existing Plan that contains quite detailed appendices. Much of the information contained in the existing Plan's appendices (particularly 1 and 3) is available to staff in or as a requirement of other documentation such as the WA Accounting Manual, Audit Regulation 17 review (see Statutory Requirements below), the Business Continuity Plan, and employment practices as well as other corporate documents. Each risk area in the new Framework's working document (Risk Profiles) captures much of the action related information referred to in Appendices 2 of the existing Plan.
- Risk areas within the existing Risk Register are 'locality' (e.g.; Springhaven, Depot, Kodja Place etc.) and 'type' based (e.g.; operational, strategic, financial etc.) compared with a more overall corporate/business categorised approach in the new Framework's Risk Profiles (e.g.; asset sustainability, compliance, environment etc.) that apply across the organisation. Risk Profiles include: Asset Sustainability, Business Disruption, Compliance, Document Management, Employment Practices, Engagement, Environment, Errors and Omissions and Delays, External Theft and Fraud/Facilities – Venues, IT and Communications, Misconduct, Project – Change Management, Safety & Security/Supplier – Contract.
- The Risk Profile templates of the new Framework capture more comprehensive detail than the existing Risk Register can and contain and address more 'across the board' local government risks. The new Framework allows risk causes to be identified (expanding understanding on the origin of particular risks) as well as indicators that assist in tracking progress, establishing benchmarks and determining trends. More information around the efficacy of controls is also able to be captured and monitored in the Risk Profiles of the new Framework under the 'Controls Assurance' section (to a larger extent than within the existing Risk Register document).
- Staff will be working towards ensuring that any outstanding risks identified in the existing Risk Register are captured within the Risk Profiles of the new Framework as well as forming a manual of Risk Management Procedures as outlined in the Framework's Document Structure.
- In recognition of Council's strategic role in Risk Management, additional wording (in green font) is suggested for addition into the new Framework under Council's 'Roles and Responsibilities' being '*Responsible for strategic decision making and ensuring adequate resources to meet the requirements of the Risk Management Framework*'.
- Other minor changes (to reflect correct titles) within the new LGIS Framework document are in green font and relate to the Audit and Risk Committee, Senior Management Team and Manager of Corporate and Community Services.
- A new Risk Management Policy aligned with AS/NZS ISO 31000:2018 is presented separately within this agenda for the Council's and Committee's consideration.

CONSULTATION

Michael Sparks, Senior Risk Consultant - Local Government Insurance Services
Chief Executive Officer
Senior Management Team
Audit and Risk Committee – 7 May 2019

STATUTORY REQUIREMENTS

Whilst a Risk Management Plan is not required specifically under legislation, regulation 17 of the *Local Government (Audit) Regulations 1996* requires:

- (1) *The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to*
 - a. **Risk management**; and
 - b. *Internal control*; and
 - c. *Legislative compliance*.
- (2) *The review may relate to any or all of the matters referred to in sub-regulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years.*

POLICY IMPLICATIONS

Council Policy 2.3.5 'Risk Management' (for review in this agenda) is central to the Risk Management Framework.

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

The Risk Management Framework underpins all risk management aspects pertaining to the Shire.

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL RESOLUTION

51/19 Moved Cr Warland, seconded Cr Benn:

"That:

- 1. The new Risk Management Framework dated May 2019, as attached, be adopted; and***
- 2. It be noted that this Framework replaces previous "Risk Management Plans".***

CARRIED 5/0

12.7 RISK MANAGEMENT POLICY REVIEW

| | |
|----------------------|--|
| AUTHOR | Judy Stewart – Senior Administration Officer |
| DATE | 15 May 2019 |
| FILE NO | CM.POL.2 |
| ATTACHMENT(S) | 12.7.1 - New Policy 2.3.5 – Risk Management (showing changes to existing Policy & based on LGIS Policy) 12.7.2 - Draft reviewed Policy 2.3.5 – Risk Management 12.7.3 - LGIS Risk Management Policy template |

| STRATEGIC/CORPORATE IMPLICATIONS | | |
|---|---|---|
| “Smart Possibilities – Kojonup 2027+” | | “Smart Implementation – Kojonup 2021 +” |
| Key Pillar | Community Outcomes | Corporate Actions |
| KP3 - 3 Performance | 3.1 - Be a continually engaged and strategic community which leads and organises throughout the entire stakeholder group. | Delivered Activity – Provision of Risk Management processes and systems |

DECLARATION OF INTEREST

Nil

SUMMARY

To seek Council endorsement of a replacement Risk Management Policy based on a Local Government Insurance Services (LGIS) template that aligns with AS/NZS ISO 31000:2018 Risk Management - Guidelines.

BACKGROUND

Shire staff have recently engaged in Risk Management workshops conducted by LGIS in order to update the Shire’s Risk Management documentation and ensure practices meet current standards and follow best practice. As a result of the consultation with LGIS, a separate item is presented to the Committee within this agenda seeking endorsement of a new Risk Management Framework provided by LGIS and modified to suit the Shire of Kojonup’s requirements. As part of the Risk Management review process, it is appropriate to also review Council’s Risk Management Policy 2.3.5.

COMMENT

Council’s existing Risk Management policy refers to AS/NZS ISO 31000:2009, a standard that was superseded in 2018. The Policy was last reviewed in November 2018 as part of Council’s annual Policy Manual review.

Whilst wording is similar between Council’s existing Risk Management policy and the policy provided by LGIS, the new Risk Management Framework also being presented to Council aligns with the LGIS policy and the latest standard (AS/NZS ISO 31000:2018). It is, therefore, recommended that the Council updates its Risk Management policy to meet current standards.

It is proposed to retain the paragraph from the existing policy that makes reference to compliance with the Integrated Planning requirements of the *Local Government Act (1995)* s. 5.56 (2), in recognition of those requirements.

Much of the information contained within the previous policy under the headings of ‘Principles – Framework – Process’, ‘Responsibilities’ and ‘Monitor and Review’ is captured either within the new Risk Framework document, the Framework’s Risk Profiles or the LGIS policy. In the attachment showing changes, red font represents LGIS policy wording, black font represents wording retained from Council’s existing Policy and green font represents suggested additional wording by the author that further describes how the monitoring and review process will be reported on.

The Audit and Risk Committee considered the reviewed Risk Management Policy and recommended that Council adopt the amended version, as attached.

CONSULTATION

Audit and Risk Committee – 7 May 2019

STATUTORY REQUIREMENTS

s.5.56 (2) *Local Government Act (1995)* – Planning for the future
r. 19C *Local Government (Administration) Regulations 1996* - Strategic community plans, requirements for

POLICY IMPLICATIONS

Policy 2.3.5 ‘Risk Management’ is updated in line with LGIS’s Risk Management Policy.

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

Updating Council’s Risk Management Policy will bring it into line with contemporary best practice and the new Risk Management Framework.

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL RESOLUTION

52/19 Moved Cr Mathwin seconded Cr Hobbs:

“That Council adopt the amended Risk Management Policy 2.3.5 as attached.”

CARRIED 5/0

12.8 BUSINESS CONTINUITY AND DISASTER RECOVERY PLAN – ANNUAL REVIEW

| | |
|----------------------|--|
| AUTHOR | Judy Stewart – Senior Administration Officer |
| DATE | 15 May 2019 |
| FILE NO | CM.PLN.1; RM.POL.1 |
| ATTACHMENT(S) | 12.8.1 - Business Continuity and Disaster Recovery Plan showing changes 12.8.2 - Draft reviewed Business Continuity and Disaster Recovery Plan May 2019 |

| STRATEGIC/CORPORATE IMPLICATIONS | | |
|---------------------------------------|--|---|
| “Smart Possibilities – Kojonup 2027+” | | “Smart Implementation – Kojonup 2021 +” |
| Key Pillar | Community Outcomes | Corporate Actions |
| KP3 - 3 Performance | 3.1 – Be a continually engaged and strategic community which leads and organises throughout the entire stakeholder group 3.4 – Be organised and transparent in our financial management | Delivered Activity – Provision of Risk Management processes and systems |

DECLARATION OF INTEREST

Nil

SUMMARY

To seek Council endorsement, via the Audit Committee, of an updated Business Continuity and Disaster Recovery Plan.

BACKGROUND

The Council last reviewed its Business Continuity and Disaster Recovery Plan (Plan) in May 2018.

The Audit and Risk Committee considered the reviewed Business Continuity and Disaster Recovery Plan and recommended that Council adopt the amended version, as attached.

COMMENT

A Business Continuity and Disaster Recovery Plan provides guidance at a time when an organisation may be under considerable duress following a disaster that has affected the ability to provide essential or required services. Such a plan identifies priorities and the resources required to return services in as quick and efficient manner as possible, aiming to minimise negative impact. Due to the upheaval that may be caused by such events, including dealing with the confusion that may accompany them, a well thought out Plan containing current, up to date information is a vital resource.

Changes to the existing Plan are tracked and shown in red font.

CONSULTATION

Senior Management Team

Audit and Risk Committee – 7 May 2019

STATUTORY REQUIREMENTS

Local Government Act (1995)

5.56. Planning for the future

- (1) A local government is to plan for the future of the district.
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

Local Government (Audit) Regulations 1996”:

17. CEO to review certain systems and procedures

- (1) The CEO is to review the appropriateness and effectiveness of a local government’s systems and procedures in relation to —
 - (a) **risk management**; and
 - (b) internal control; and
 - (c) legislative compliance.
- (2) The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review not less than once in every 3 financial years.
- (3) The CEO is to report to the audit committee the results of that review.

POLICY IMPLICATIONS

The Plan is completed in accordance with Council’s Risk Management Policy 2.3.5.

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

The Plan represents part of its Risk Management documentation. It is vital, from a business continuity and disaster recovery perspective, that details within such a Plan are as current as possible and regular reviews are undertaken.

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL RESOLUTION

53/19 Moved Cr Benn, seconded Cr Warland:

“That the updated Business Continuity and Disaster Recovery Plan dated May 2019 as attached, be adopted.”

CARRIED 5/0

13 **KEY PILLAR 4 – ‘PROSPERITY’ REPORTS**

13.1 INDUSTRIAL LAND REQUEST.

| | |
|----------------------|---|
| AUTHOR | Phil Shephard – Town Planner |
| DATE | Friday, 10 May 2019 |
| FILE NO | A22323; LP.PLN.2 |
| ATTACHMENT(S) | 13.1.1 - Kojonup Industrial Estate Stage 2 plan |

| STRATEGIC/CORPORATE IMPLICATIONS | | |
|---|---|---|
| “Smart Possibilities – Kojonup 2027+” | | “Smart Implementation – Kojonup 2021 +” |
| Key Pillar | Community Outcomes | Corporate Actions |
| KP4 - Prosperity | 4.3 Be attracting support industries and diverse and new business sectors to the region | 4.2.2 Enable and advocate for new industry to set up in and around Kojonup 4.3.4 Drive population growth through the support of local industry, development of new industry and promotion of Kojonup’s point of difference |

DECLARATION OF INTEREST

Nil.

SUMMARY

To consider a request to release an additional lot within the Kojonup Industrial area. The request includes taking over the previous grain cleaning lease area operated by Great Southern Grains.

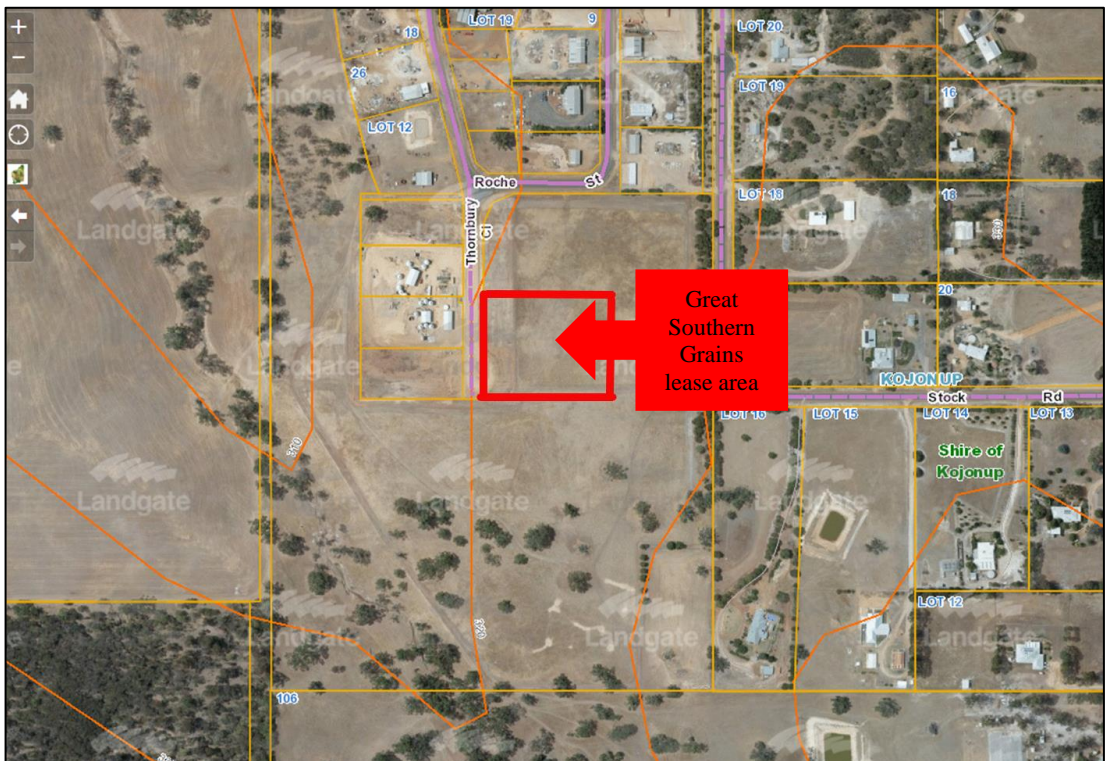
BACKGROUND

Mr Neville Matthews recently met with Councillors and Staff to discuss acquiring the leased land to Great Southern Grains and some additional land within the Kojonup Industrial area to create a new lot of between 1.2 – 1.6ha’s (3-4 acres).

COMMENT

Proponent’s request

The proponent has advised Councillors he seeks a new serviced lot within the existing Kojonup Industrial area for grain cleaning/storage and transport activities. The proponent has been offered the previous leased area from Great Southern Grains, who have advised the Shire that they seek to cancel the present lease arrangement. In addition to this land, the proponent has requested Council consider including the existing land (north of the leased area) used by the Shire to store bulk materials (see images below).



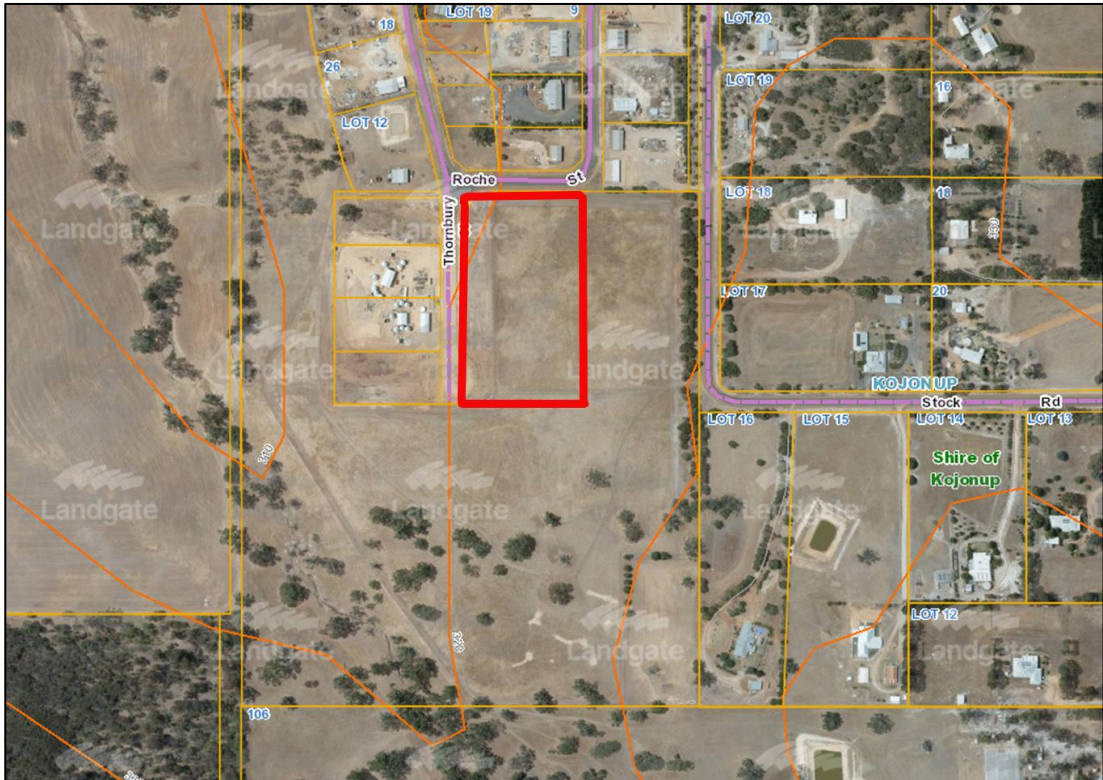
The Kojonup Industrial area consists of some 28 lots ranging from 1,700m² to 1.1 hectares. 19 lots have been developed for a range of industrial activities including rural merchandise, transport depots, grain cleaning, panel beating, mechanical repairs, builder's yards etc.

The Shire has a design plan for the Kojonup Industrial Estate Stage 2 (copy attached) prepared in 1998 by RAS Machin (Surveyor) that has guided land developments within the area. Whilst the plan has no statutory powers, it has been useful to Council when previously considering industrial land releases.

The proponent has advised Council he wishes to purchase, rather than lease, the new lot and that the future activities will require electricity and the local roads to be upgraded to suit truck traffic. The Council requested staff identify options available for Mr Matthews.

Initial options

Three initial options are shown in the images below:

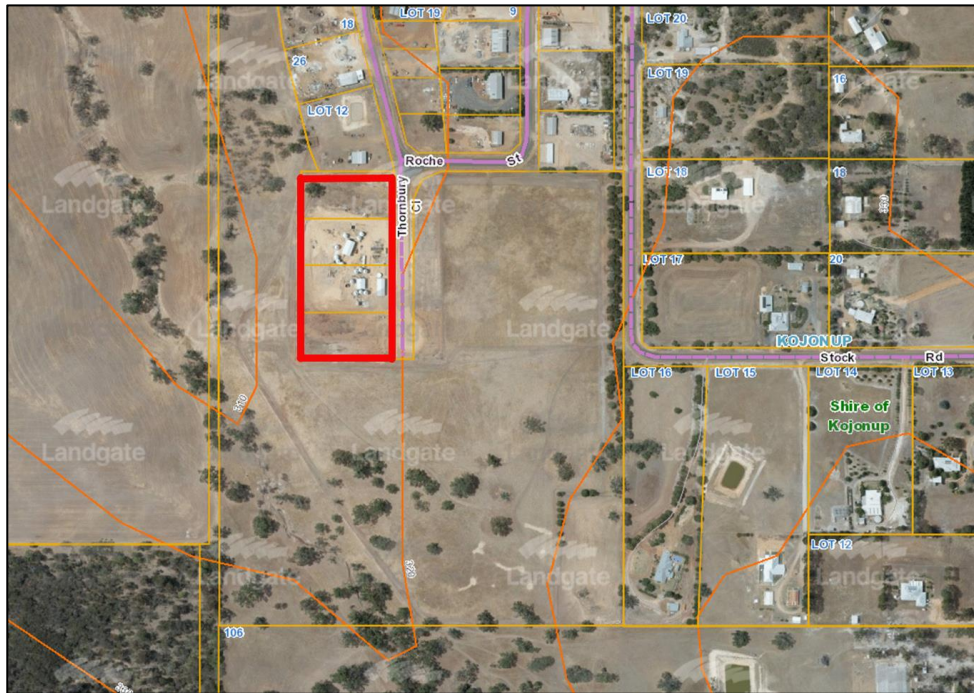


Option 1

This option is the proponent's preferred option which includes the Shire storage area and previous Great Southern Grains lease. It creates a lot of approx. 1.8 hectares and there are no services currently connected to the lot. Thornbury Close and/or Roche Street would need to be upgraded to a sealed and drained standard road.

It would require the Shire to remove the present materials to another site which could be achieved on the remaining land.

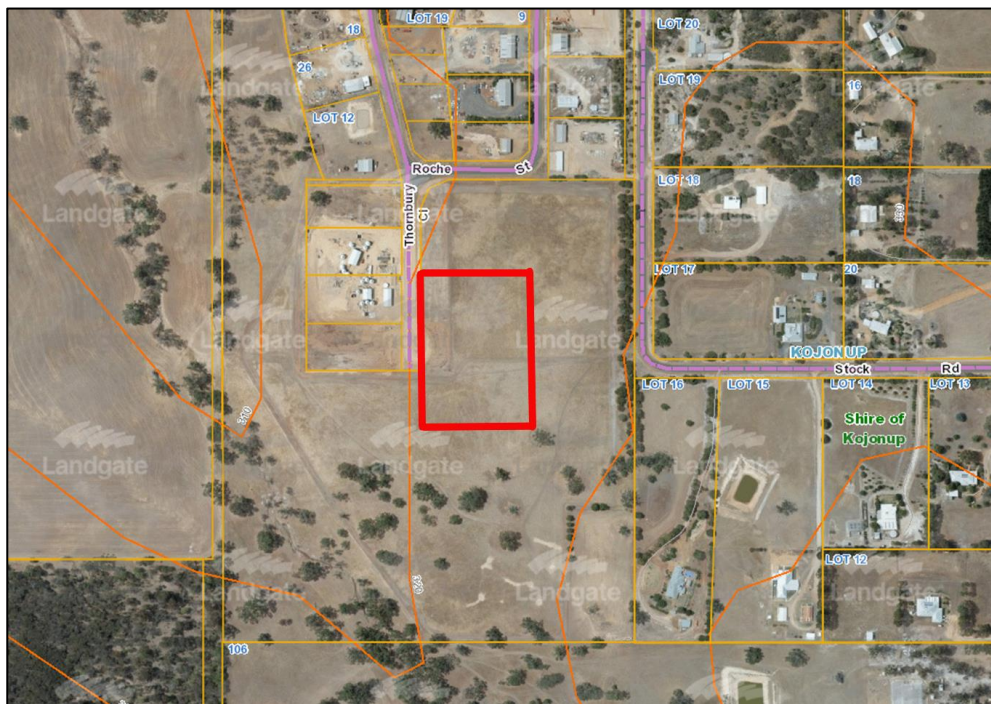
The new lot would need approval from the WA Planning Commission.



Option 2

This option includes the existing grain cleaning business, an additional privately owned property and 1 Council owned lot. The 4 lots total 1.9 hectares in area and some services (water, electricity) are available. Thornbury Close already provides access to the former grain cleaning business.

The sale/purchase of the closed grain cleaning business cannot be determined by Council and the amalgamation of the lots (if required) would need approval from the WA Planning Commission.



Option 3

This option creates a new lot which includes the previous Great Southern Grains lease area and retains the Shire storage area. It creates a lot of approx. 1.9 hectares and there are no services currently connected to the lot. Thornbury Close would need to be upgraded to a sealed and drained standard road.

This option would enable the Shire to consider creating a formal lot for the Shire storage area for potential disposal into the future. The new lot(s) would need approval from the WA Planning Commission.

Town Planning Scheme Policy Implications

The proposed new lot is within the Council's adopted Town Planning Scheme Policy No. 8 'Kojonup Industrial Buffer Area'.

The Policy states:

Objective

To set a buffer area around the Kojonup Industrial area and control land use and development within the buffer area.

All of the options locate the new lot within the central area of the industrial area as recommended in the Policy. The development of the new lot will require development approval to be granted by the Shire and this will require the proponent to address any expected emissions or impacts from the activity.

Summary

There are other design versions of the new lot that could be achieved. Importantly from the proponent's request, the new lot must have truck access and an electricity supply suitable for their proposed grain cleaning/storage and transport depot business.

From the above options, only Option 2 has some existing servicing available. All other options will require subdivision approval from the WA Planning Commission and connection of the new lot(s) to water, electricity and telecommunications supply. The access road will also be required to be upgraded to accommodate truck traffic.

Initially, Council has requested that some options be provided for consideration before seeking a formal request from the proponent. Any new lot will require approval from the Government and their agencies for servicing and staff recommend Council seek quotations from consulting surveyors and engineers to assist with creation of the new lot, once the preferred option has been chosen by the proponent.

The sale of the new lot will need to comply with section 3.58 'Disposing of property' of the *Local Government Act 1995*.

Conclusion

The Council should now determine its preference the creation of the new lot for consideration by the proponent and authorise staff to seek quotes from consultants to assist complete the subdivision process.

CONSULTATION

Nil required.

STATUTORY REQUIREMENTS

Planning and Development Act 2005 – Town Planning Scheme No. 3 is an operative local planning scheme under the Act.

Local Government Act 1995 - The disposal of any land owned by the Shire must comply with section 3.58 'Disposing of property' of the Act.

POLICY IMPLICATIONS

The Council has an adopted Town Planning Scheme Policy No. 8 'Kojonup Industrial Buffer Area'. The proposed new lot achieves the Policy requirements.

In considering the weight to place upon the Policy, c.7.6.4 of TPS3 advises:

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

FINANCIAL IMPLICATIONS

The cost of creating a new lot has not been determined to date. Upon the proposal proceeding, staff will seek quotes on the estimated costs of completing the subdivision process including provisions of services to the lot and upgrading of the road to a suitable standard. These costs and the land value component would ordinarily be paid for by the purchaser of the lot.

Given Council's aims to attract new business to Kojonup, the proportion of these costs to be charged to the proponent will need to be determined by the Council at a future date.

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

Nil.

RISK MANAGEMENT IMPLICATIONS

| Risk Description | Risk Likelihood | Risk Consequence | Risk Classification | Risk Treatment |
|---|-----------------|------------------|---------------------|---|
| Council does not support the creation of the new industrial lot | Unlikely (D) | Minor (2) | Low | Manage by routine procedures, unlikely to need specific application of resources. |

ASSET MANAGEMENT IMPLICATIONS

The sale of Council owned land would reduce any costs associated with managing the present land.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council:

- *Select Option 1, 2 or 3 as its preferred option and request Mr Matthews’s feedback to enable the final area for the new lot to be determined.*
- *Upon the final design being agreed, authorise staff to seek quotes from consultants to assist complete the subdivision process and ascertain headworks charges.*

COUNCIL RESOLUTION

54/19 Moved Cr Benn, seconded Cr Hobbs

“That Council:

- 1. Forward all three options shown in the report and request Mr Matthews’s feedback to enable the final area for the new lot to be determined.*
- 2. Upon the final design being agreed, authorise staff to seek quotes from consultants to assist complete the subdivision process and ascertain headworks charges.*

CARRIED 5/0

14 KEY PILLAR 5 – ‘DIGITAL’ REPORTS

Nil

15 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

16 NEW BUSINESS

17 CONFIDENTIAL REPORTS

17.1 LIQUID WASTE FACILITY

AUTHOR: Michelle Dennis – Development Services Coordinator
DATE: Tuesday, 7 May 2019
FILE NO: CP.DAC.15
ATTACHMENT: Nil

STATUTORY REQUIREMENTS

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

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

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

VOTING REQUIREMENTS

Simple Majority

PROCEDURAL MOTION OFFICER RECOMMENDATION/COUNCIL RESOLUTION

*55/19 Moved Cr Mathwin, seconded Cr Warland:
"That the meeting move behind closed doors."*

CARRIED 5/0

Senior Administration Officer, Regulatory Administration Officer, Senior Administration Officer, Planner, and members of the gallery left the meeting at 3.30pm and did not return.

PROCEDURAL MOTION OFFICER RECOMMENDATION/COUNCIL RESOLUTION

*56/19 Moved Cr Benn, seconded Cr Warland:
"That the meeting be reopened to the public."*

CARRIED 5/0

The Shire President read aloud the resolution made while behind closed doors for inclusion into the record.

OFFICER RECOMMENDATION/COUNCIL RESOLUTION

*56/19 Moved Cr Benn seconded Cr Warland
"That Council:*

- 1. Instruct the Chief Executive Officer to cease all works regarding the establishment of the liquid waste pond at the Kojonup Landfill site, pending the outcome of the investigation of the Department of Water and Environmental Regulation.*
- 2. Acknowledge, with great disappointment, that works have been undertaken at the Kojonup Landfill Site without the necessary approvals being obtained from the Department of Water and Environmental Regulation.*
- 3. Instruct the Chief Executive Officer to arrange for an application for a licence of the liquid waste pond, based on the design capacity, as a matter of priority."*

CARRIED 5/0

18 NEXT MEETING

Tuesday, 11 June 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 3.48pm.

20 ATTACHMENTS (SEPARATE)

| | | |
|-----------|--------|--|
| Item 7 | 7.1.1 | Minutes of the Ordinary Council Meeting held 16 April 2019 |
| Item 10.1 | 10.1.1 | Draft Lease (showing changes to existing lease) |
| | 10.1.2 | Aerial map showing Reserves 16076, 13697 and 36549 and the Westcourt Road reserve |
| | 10.1.3 | Reserve Management Order – Reserve 16076 |
| Item 11.1 | 11.1.1 | Minutes for the Bushfire Advisory Committee Meeting held 10 April 2019 |
| Item 11.4 | 11.4.1 | TGCCMC Business Plan submitted to the Shire 18 February 2019 |
| | 11.4.2 | Correspondence to the TGCCMC regarding Community Health and Hospital Program (CHHP) funding |
| | 11.4.3 | Draft Lease |
| Item 11.2 | 11.2.1 | Firebreak Notice 2019/2020 |
| Item 12.1 | 12.1.1 | Financial Management – Monthly Statement of Financial Activity (April 2019) |
| Item 12.2 | 12.2.1 | Monthly Payments Listing 1/4/2019 to 30/4/2019 |
| Item 12.3 | 12.3.1 | Confirmed Minutes from the Audit and Risk Committee Meeting held 2 February 2019 |
| | 12.3.2 | Unconfirmed Minutes from the Audit and Risk Committee Meeting held 7 May 2019. |
| Item 12.5 | 12.5.1 | Great Southern Aged Accommodation Project – Financial Assistance Agreement |
| | 12.5.2 | Great Southern Aged Accommodation Project – Third Party Funding Agreement |
| Item 12.6 | 12.6.1 | Existing Risk Management Plan - March 2017 |
| | 12.6.2 | Proposed Risk Management Framework - May 2019 (showing modifications to suit the Shire of Kojonup) |
| | 12.6.3 | Risk Profile sample: Safety and Security Practices |
| | 12.6.4 | Existing Measures of Consequence and Matrix tables |
| | 12.6.5 | New Measures of Consequence, Risk Matrix and other tables |
| Item 12.7 | 12.7.1 | New Policy 2.3.5 – Risk Management (showing changes to existing Policy & based on LGIS Policy) |
| | 12.7.2 | Draft reviewed Policy 2.3.5 – Risk Management |
| | 12.7.3 | LGIS Risk Management Policy template |
| Item 12.8 | 12.8.1 | Business Continuity and Disaster Recovery Plan showing changes |
| | 12.8.2 | Draft reviewed Business Continuity and Disaster Recovery Plan May 2019 |
| Item 13.1 | 13.1.1 | Kojonup Industrial Estate Stage 2 plan |

Presiding Member

Date