

SHIRE OF KOJONUP



MINUTES

Ordinary Council Meeting

16 April 2024

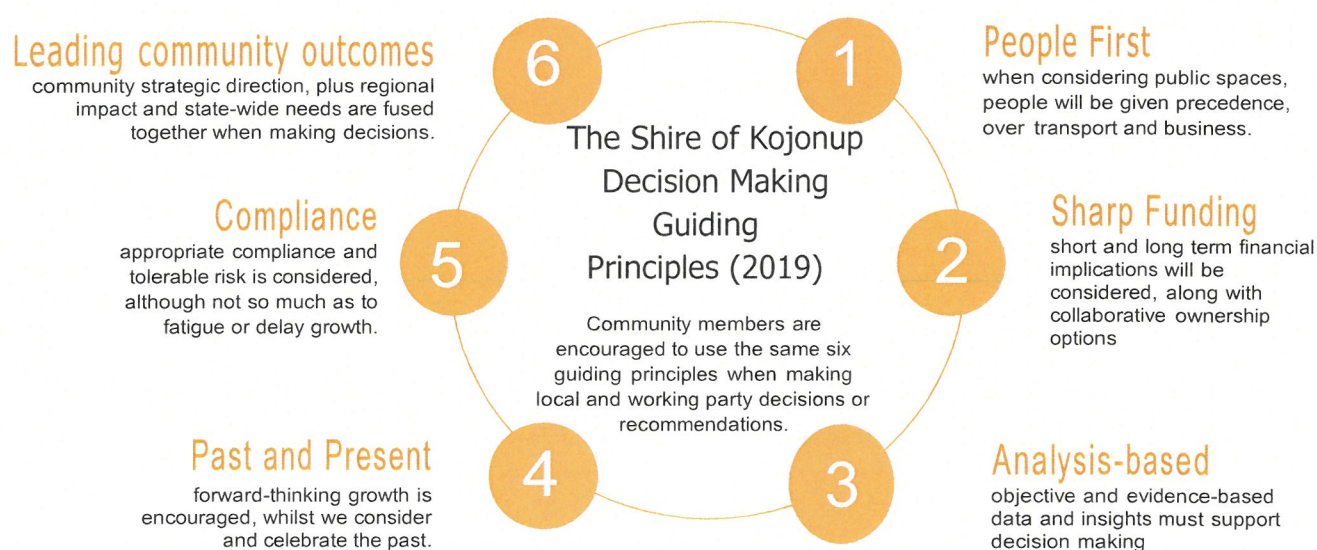
MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 16 APRIL 2024

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



MINUTES

1 DECLARATION OF OPENING AND ANNOUNCEMENT OF GUESTS

The Shire President declared the meeting open at 3.00pm and drew the meeting's attention to the disclaimer below:

Disclaimer

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

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

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

Acknowledgement of Country

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

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

Prayer

Almighty God, we pray for wisdom for our reigning monarch King Charles.

We ask for guidance in our decision making and pray for the welfare of all the people of Kojonup.

Grant us grace to listen and work together as a Council to nurture the bonds of one community.

Amen

2 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Nil

**3 ATTENDANCE
COUNCILLORS**

Cr Bilney	Shire President
Cr Wieringa	Deputy Shire President
Cr Radford	
Cr Webb	
Cr Egerton-Warburton	
Cr Mathwin	
Cr Mickle	

STAFF

Grant Thompson	Chief Executive Officer
Judy Stewart	Manager Governance and Administration
Estelle Lottering	Project Manager/Community Services

CONSULTANT

GUESTS

Hide Shigeyoshi	GHD
Sunny Rutherford	GHD
Jack Day	Enel Green Power

3.1 APOLOGIES

Steve Thompson	Consultant Planner, Edge Planning & Property
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3.2 APPROVED LEAVE OF ABSENCE

Nil

4 DECLARATION OF INTEREST

7.2.1 Hide Shigeyoshi, GHD – Flat Rocks Wind Farm
Cr Bilney - Financial and Proximity Interests

9.4.4 Proposed Amendment to Shire of Kojonup Town Planning Scheme No. 3
Cr Bilney – Financial and Proximity Interests

14.1.1 Chief Executive Officer – Contract Review
Grant Thompson – Financial Interest

5 PUBLIC QUESTION TIME

5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Not applicable

5.2 PUBLIC QUESTION TIME

Nil

6 CONFIRMATION OF MINUTES

6.1 ORDINARY COUNCIL MEETING 19 MARCH 2024

Unconfirmed Minutes of an Ordinary Council Meeting held 19 March 2024 are at **Attachment 6.1.1.**

OFFICER RECOMMENDATION/COUNCIL DECISION

31/24 Moved Cr Radford

Seconded Cr Mathwin

That the Minutes of an Ordinary Council Meeting held 19 March 2024 be confirmed as a true record.

CARRIED 7/0

For: Cr Bilney, Cr Wieringa, Cr Radford, Cr Webb, Cr Egerton-Warburton, Cr Mathwin, Cr Mickle

Cr Bilney declared financial and proximity interests and left the meeting at 3.02pm.

Cr Wieringa took the chair at 3.02pm.

7 PRESENTATIONS

7.1 PETITIONS

Nil

7.2 PRESENTATIONS

7.2.1 HIDE SHIGEYOSHI – GHD – FLAT ROCKS WIND FARM

Hide Shigeyoshi, GHD, presented a paper (attachment 7.2.1.1) relating to a requested amendment to the Shire of Kojonup Town Planning Scheme No. 3 (Scheme), as lodged by GHD and Enel Green Power and to be considered by Council later in this meeting.

Councillors were invited to ask questions regarding the amendment request.

Question

How would this amendment change the Development Application to the Shire?

Answer

It is requesting a process where Development Applications would be referred to the wind farm operator for advisement?

If building more than one dwelling on a property, there is currently no trigger for a Development Application – landowner may locate a building within proximity of noise or wind turbine impact.

A Special Control Area allows identification of an area of impact from noise or amenity perspective and allows the Shire to provide technical information such as noise level. The onus is still on the wind farm operator to provide noise data and whether that location is suitable. The wind farm operator works with the landowner to identify an area that is suitable for noise.

Question

Has there been consultation with near neighbours?

Answer

Have consulted with Stage 1 near neighbours receiving some or no comments – it was varied.

Question

Any negative comments?

Answer

Submitted before end of last year – have reached out to neighbours for separate neighbour agreements; some far neighbours have come onboard, others haven't.

Question

If the Shire of Broomehill-Tambellup decides not to proceed, does it cancel it out from the Shire of Kojonup as well – both or nothing?

Answer

No, it doesn't.

The Shire of Broomehill-Tambellup did consider and voted not to initiate resulting in a unique situation where areas do cross shire boundaries. If the Shire of Kojonup does say yes, it means we can keep pursuing the process through the Shire of Kojonup Scheme. Another option that can be pursued in the Shire of Broomehill-Tambellup includes initiation through the Minister for Planning, requesting the Shire to initiate the amendment process – that will be done in line with planning initiatives (State/Federal/Local).

Question

If Minister overrides the Shire of Broomehill-Tambellup, can the Minister override the Shire of Kojonup?

Answer

Yes.

8 METHOD OF DEALING WITH AGENDA BUSINESS

COUNCIL DECISION

32/24 Moved Cr Egerton-Warburton Seconded Cr Webb
That the meeting consider Item 9.4.5 forthwith.

CARRIED 6/0

For: Cr Wieringa, Cr Radford, Cr Webb, Cr Egerton-Warburton, Cr Mathwin, Cr Mickle

9 REPORTS

9.4.5 PROPOSED AMENDMENT TO SHIRE OF KOJONUP TOWN PLANNING SCHEME NO. 3

AUTHOR	Steve Thompson - Consultant Planner, Edge Planning & Property
DATE	Saturday, 6 April 2024
FILE NO	BD.BDA.8
ATTACHMENT(S)	9.4.4.1 – Letter from GHD 9.4.4.2 - Scheme Amendment document (including Special Control Area boundary) 9.4.4.3 – Latest development conditions and advice from Shire of Kojonup

STRATEGIC/CORPORATE IMPLICATIONS		
"Smart Possibilities – Kojonup 2027+"		"Smart Implementation – Kojonup 2020 - 2024"
Key Pillar	Community Outcomes	Corporate Actions
KP 4 - Prosperity	4.1 – Be providing business assistance for growth in small local industry	4.1.1 – Amend Town Planning Scheme to encourage economic development and private investment

DECLARATION OF INTEREST

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

SUMMARY

The Council to consider a requested amendment to the *Shire of Kojonup Town Planning Scheme No. 3* (TPS3) lodged by GHD on behalf of Enel Green Power Australia (EGPA).

The amendment proposes to:

- Introduce a Special Control Area (SCA) on various lots surrounding the wind farm. Some lots are owned by participating stakeholders (host landowners) whose land is subject to the existing wind farm approval. Some lots are near the Flat Rocks Wind Farm development (non-host landowners).
- The SCA is proposed to be superimposed onto the existing TPS3 map over land zoned 'Rural'.
- Specific SCA provisions are proposed to be introduced into the TPS3 text.
- A new land use definition for 'agriculture-extensive' is proposed to be introduced into TPS3.

The applicant has also prepared a draft *Local Planning Policy – Flat Rocks Wind Farm*.

BACKGROUND

The letter from the applicant and the scheme amendment document are included in Attachments 9.4.1 and 9.4.2.

The requested scheme provisions for TPS3 are on pages 8 - 9 of the scheme amendment document and in Appendix D of the document (Attachment 9.4.2). The SCA boundary reflects

the 35dB noise contour – see page 13 of the scheme amendment document. This is also separately shown in Attachment 9.4.3.

The applicant has included a draft *Local Planning Policy - Flat Rocks Wind Farm* as Appendix E to the scheme amendment document.

The Council has considered matters relating to the wind farm on a number of occasions. The Shire of Kojonup first approved the wind farm (30 turbines) on 23 November 2011. Since 2011, there have been several amendments to the approvals, the last being on 9 November 2022. The most recent development approvals permit up to 9 turbines in the Shire of Kojonup and 35 turbines in the Shire of Broomehill-Tambellup.

The most recent approval from the Shire of Kojonup, dated 2 December 2022 (outlined in Attachment 9.4.4) consolidated recent Council decisions. It also included:

- a) Condition 29 which limits noise levels at dwellings to 35dB(A) (LA90, 10 minutes) or levels that do not exceed background noise by more than 5dB(A).
- b) Advice notes which set out that vacant lots may be further developed with dwellings, the need to comply with the *Environmental Protection (Noise) Regulations 1997*, and the applicant takes a commercial risk to continue to comply with noise limitations.

The Council, at its Special Council Meeting on 6 June 2023, considered an item relating to the Development Application lodged with the Western Australia Planning Commission (WAPC).

In addition to the development approval, wind farms are required to continue to comply with the *Environmental Protection (Noise) Regulations 1997* at all times. If a dwelling on an adjacent lot (including non-host land) is constructed following construction of a wind farm, the wind farm is still required to comply with the permissible noise limits that apply to that dwelling as a 'sensitive premises'. The most stringent assigned noise levels are applied within 15 metres of any dwelling, and there is a need to address noise levels in other parts of a property.

The applicant separately submitted a similar scheme amendment request to the Shire of Broomehill-Tambellup. The Shire of Broomehill-Tambellup Council, at its Ordinary Council Meeting on 21 March 2024, refused to amend its Town Planning Scheme for various reasons.

COMMENT

The amendment request as proposed is recommended not to be adopted (initiated) at this stage by Council.

The scheme amendment proposes to introduce a SCA over several lots in the Shire of Kojonup through changes to TPS3 that have implications on statutory rights of non-host landowners and resourcing implications on the Shire. The SCA boundary aligns with the 35dB(A) noise level from Figure 17 in the scheme amendment document, so it captures all lots where the noise impacts of the wind farm could be considered.

The scheme amendment report (page 42) recognises that 'noise impact mapping suggests some lots within the SCA will be potentially affected by the approved Flat Rocks Wind Farm. Figure 17 Noise Level Contour Mapping – December 2021 Approved Turbine Layout (Herring Storer Acoustics, December 2023) indicates the scope of potential impact'.

The SCA is proposed be overlaid on the Scheme map and be accompanied by new development control provisions in the TPS3 text. The amendment proposes to control future development not only for host landowners involved in the wind farm, but for non-host landowners who own lots near the wind farm.

Key considerations with the requested scheme amendment and the associated local planning policy include:

1. The amendment needs to be balanced for EGPA and non-host landowners.
2. The amendment provisions provide too much weight on protection of the wind farm operation versus statutory rights and development opportunities for neighbours.
3. There is a need for the applicant to suitably demonstrate that surrounding neighbours will not be unduly penalised by the proposed SCA provisions.
4. There are some non-host landowners whose lots are completely within the proposed SCA.
5. There is a need to recognise that all landowners, including non-host landowners, have a right to build a single house on an existing lot.
6. Whilst the amendment does not expressively prohibit a dwelling on any neighbouring lot, it is suggested it would give EGPA input into the planning process and try to limit the location of dwellings on lots affected by the 35dB(A) noise level. It is suggested that an objective is added to not limit a single house on any lot (unless agreed to by the landowner) but seek where possible and practical to minimise noise impacts.
7. Unless EGPA enter into a private neighbour agreement with the landowner (such as compensating them to move the single house to an agreed location or to not construct a dwelling), the Shire will require the statutory ability to be retained for each lot to have a single house.
8. Portions of some lots, which include areas outside of the proposed SCA, may not be suitable for development for reasons including distance to roads and services, physical features, bushfire risk etc.
9. The amendment seeks to expand on the type and number of developments that will require development approval. This would mean there is a need to obtain approval for all development including a single house, ancillary dwelling, rural sheds, dams, fencing and home occupation within the SCA. The only exemption proposed is for 'extensive agriculture'. No justification is provided in the amendment for requiring almost all development in the SCA to go through a development application process.
10. The amendment proposes that the Shire refer all development applications in the SCA to the wind farm operator, owners of land subject of the wind farm and owners/occupiers within 200 metres of the development.
11. It is onerous to require all development, except extensive agriculture, to obtain development approval and be advertised for public comment including rural sheds.
12. It will create considerable new resourcing demands on the Shire of Kojonup. There are concerns the amendment and the local planning policy will impact on limited Shire of Kojonup resources. This includes an imposition on Shire officers in facilitating meetings between the wind farm operator and non-host landowners who want to develop. The Shire does not have a planning officer based in Kojonup to undertake the work. In any event, if there is a dispute between the parties, a professional mediator may be better suited to the task.
13. The wind farm developer/operator has taken a commercial risk by placing wind turbines close to lot boundaries, and having noise contours that go beyond the development/host lots onto non-host land.

14. Although a SCA is a valid statutory instrument, the requested provisions and draft local planning policy have various implications for the Shire including resourcing, likely legal costs and likely costs in addressing matters at the State Administrative Tribunal.

15. It is the local government's role to determine development applications, and the local government decision making process should not be unduly fettered by the proposed scheme provisions. The amendment proposes to give 'weight' to submissions by the wind farm operator (which may change during the life of the development). The proposed provisions, if approved, would require the Shire to give 'due regard' to any wind farm operator advice.

16. Possible noise mitigation measures are a private arrangement between the wind farm operator and non-host landowners. It is suggested it may not be appropriate to include private arrangements in a local planning policy which cannot be enforced by the Shire.

17. EGPA could review and expand its range of mitigation measures for non-host landowners to mitigate noise impacts. This could include seeking to acquire the lot, compensating for development rights with relevant restrictions (such as a restrictive covenant) a notification lodged on the certificate of title, and meeting the cost difference between standard glazing and double glazing in dwellings. There may be scope to identify a 'building envelope' which is suitable for both the non-host landowner and EGPA. There may also be scope for boundary realignments and property rationalisation with a view of seeking a building envelope on all lots outside of the SCA.

The Council is responsible for managing TPS3 and subsequently is under no obligation to adopt a scheme amendment lodged for consideration. Additionally, there is no statutory requirement under the *Planning and Development Act 2005* or the *Planning and Development (Local Planning Schemes) Regulations 2015* for Council to agree to adopt a scheme amendment.

There is no right of review of Council's decision to not adopt (initiate) a scheme amendment request. Only the Minister for Planning can order the Shire to adopt an amendment.

If the Council resolved to not adopt (initiate) the scheme amendment, the applicant could separately seek to address matters raised in this report, modify the proposed TPS3 provisions and local planning policy, and undertake consultation with non-host landowners in the proposed SCA. Separately EGPA could review and expand its range of mitigation measures for non-host landowners. This could be with a view of lodging a different scheme amendment request and a different local planning policy to the Shire of Kojonup (and also to the Shire of Broomehill-Tambellup).

Alternate options and their implications

The Council has a number of options available to it as summarised below:

- Adopt (initiate) the scheme amendment without modification - to facilitate advertising of the amendment;
- Adopt the scheme amendment with modification(s) - to facilitate advertising of the amendment;
- Not adopt the scheme amendment - this would mean the scheme amendment could not proceed; or
- Defer the scheme amendment - request and seek additional information from the applicant and/or require the applicant to undertake pre-consultation with non-host landowners.

If the Council adopted (initiated) the scheme amendment, the next steps are assessment by the Environmental Protection Authority (EPA) and the WAPC. Subject to their assessments, the scheme amendment would then be publicly advertised.

CONSULTATION

No consultation has been undertaken by the applicant on the scheme amendment request to non-host landowners.

At this stage, the Shire has not undertaken consultation on the scheme amendment request. Should the Council adopt the scheme amendment, and subject to the decisions of the EPA and WAPC, a 'complex' amendment is publicly advertised for at least 60 days.

STATUTORY REQUIREMENTS

Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.

The Council is responsible in managing its local planning scheme and subsequently is under no obligation to adopt (initiate) a scheme amendment lodged for consideration. There is no statutory requirement under the *Planning and Development Act 2005* or the Regulations for Council to agree to adopt an amendment.

If this amendment request is not adopted by Council, it is open to the applicant to request that the Minister for Planning order the Shire to initiate a scheme amendment. Clause 77A(1) of the *Planning and Development Act 2005* sets out that the Minister may, on the recommendation of the WAPC, order a local government to prepare and submit for the approval of the Minister, an amendment to a local planning scheme for the purpose of rendering the local planning scheme consistent with a State planning policy.

The land within the requested SCA is zoned 'Rural' under TPS3.

There are limited circumstances where a single house within the Rural zone requires development approval in the Shire of Kojonup. The circumstances are if the single house proposes a setback less than 20 metres from the front boundary, 10 metres from other boundaries or if the Bushfire Attack level is BAL-40 or BAL-FZ.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
3 – Compliance	Impulsive decision making Ineffective monitoring of changes to legislation	Professional accreditation/certification maintained	Nil
6 – Engagement	Inadequate document or procedures	Public notices/local papers/website communication	Encourage the applicant to undertake upfront consultation with non-host landowners.
7 – Environment	Inadequate local laws/planning schemes	Environmental management compliance	Noise regulations
8 – Errors, Omissions and Delays	Complex legislation Incorrect information	Development Approval performance report	Nil
<i>Risk rating: Adequate</i>			
IMPLICATIONS			
Applicants proposing a scheme amendment request should ensure it addresses the planning framework, does not limit statutory rights of other landowners, ensures it does not compromise amenity and ensures it does not place unreasonable on-going resourcing burdens on the Shire.			

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

The Shire of Broomehill-Tambellup has separately considered a scheme amendment request for a SCA.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

33/24 Moved Cr Webb

Seconded Cr Egerton-Warburton

That Council:

- 1) Not adopt (initiate) the Complex Amendment set out in Attachment 9.4.2 to amend the *Shire of Kojonup Town Planning Scheme No. 3*, pursuant to Clause 35 of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:
 - a) There are vacant lots within the requested Special Control Area, including those owned by non-host landowners, that have a statutory right for a single house on the lot. The Council will retain the statutory right for each lot to have a single house unless there is suitable written agreement with non-host landowners.
 - b) There is a need for a far more extensive range of exemptions to works and uses where no development application is required.
 - c) There is a need for pre-consultation with non-host landowners with consultation outcomes provided in writing to the Shire.
 - d) It raises on-going resourcing risks to the Shire.
- 2) Should the applicant wish to submit a new scheme amendment request, the applicant should appropriately address point 1, update the document and provisions, update their draft local planning policy and brief Councillors pre-lodgement on the changes.
- 3) Suggest the applicant and Enel Green Power Australia expand the mitigation packages (neighbour agreements), and increased consultation, that may be offered by the wind farm operator to non-host landowners related to reducing the impacts of any proposed SCA.
- 4) Encourage Enel Green Power Australia to acquire non-host land within the noise buffer or gain a suitable written agreement for an appropriate location for a single house.
- 5) Advise the applicant and landowners within the requested Special Control Area (host and non-host within the Shire of Kojonup) of the Council's decision.

CARRIED 6/0

For: Cr Wieringa, Cr Radford, Cr Webb, Cr Egerton-Warburton, Cr Mathwin, Cr Mickle

Cr Webb left the meeting at 3.37pm and re-entered at 3.38pm.

The Project Manager/Community Service officer left the meeting at 3.38pm.

Hide Shigeyoshi, Sunny Rutherford, and Jack Day left the meeting at 3.38pm.

Cr Bilney re-entered the meeting at 3.38pm and took the chair.

The Project Manager/Community Service officer re-entered the meeting at 3.39pm.

7 PRESENTATIONS CONTINUED

7.3 DEPUTATIONS

Nil

7.4 DELEGATES' REPORTS

Nil

9 REPORTS CONTINUED...

9.1 KEY PILLAR 'LIFESTYLE' REPORTS

Nil

9.2 KEY PILLAR 'ECONOMICS' REPORTS

Nil

9.3 KEY PILLAR 'VISITATION' REPORTS

Nil

9.4 KEY PILLAR 'PERFORMANCE' REPORTS

9.4.1 FINANCIAL MANAGEMENT – MONTHLY STATEMENT OF FINANCIAL ACTIVITY (FEBRUARY 2024)

AUTHOR	Jill Johnson – Manager Financial and Corporate Services
DATE	Thursday, 4 April 2024
FILE NO	FM.FNR.2
ATTACHMENT(S)	9.4.1.1 – Monthly Financial Statements - 1 to 29 February 2024

'PLACEMAKING' STRATEGIC COMMUNITY PLAN JULY 2023 TO JUNE 2033 To be <i>"The Cultural Experience Centre of the Great Southern"</i> STRATEGIC/CORPORATE IMPLICATIONS		
Key Strategic Pillar/s	Community Goal/s	Corporate Objective/s
Performance	12. A High Performing Council	12.2 SoK monitoring and reporting

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to note the Monthly Financial Statements for the month ending 29 February 2024.

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 Statements of Financial Activity for the period 1 July 2023 to 29 February 2024 represents eight (8) months, or 67% of the year.

The following items are worthy of noting:

- Closing surplus position of \$2,702,570.
- Capital expenditure achieved 50.3% of budgeted projects.
- Cash holdings of \$7,792m of which \$4,387m is held in cash backed reserve accounts and \$3,405m is unrestricted cash.
- Rates debtors outstanding equate to 16% of total rates raised for 2023/2024.
- Page 11 of the statements detail major variations comparing year to date (amended) budgets to year to date actuals in accordance with Council Policy 2.1.6.

CONSULTATION

Darren Long, DL Consulting – Monthly Financial Statements

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 of Kojonup. The recommendation does not in itself have a financial implication.

RISK MANAGEMENT IMPLICATIONS

Nil

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

34/24 Moved Cr Mathwin

Seconded Cr Mickle

That the monthly financial statements for the period ending 29 February 2024, as attached, be noted.

CARRIED 7/0

For: Cr Bilney, Cr Wieringa, Cr Radford, Cr Webb, Cr Egerton-Warburton, Cr Mathwin, Cr Mickle

9.4.2 MONTHLY PAYMENTS LISTING – FEBRUARY 2024

AUTHOR	Tonya Pearce – Finance and Rates Officer
DATE	Friday, 05 April 2024
FILE NO	FM.AUT.1
ATTACHMENT	9.4.2.1 – Monthly Payments Listing - 1 to 29 February 2024

'PLACEMAKING' STRATEGIC COMMUNITY PLAN JULY 2023 TO JUNE 2033 To be <i>"The Cultural Experience Centre of the Great Southern"</i> STRATEGIC/CORPORATE IMPLICATIONS		
Key Strategic Pillar/s	Community Goal/s	Corporate Objective/s
Performance	12. A High Performing Council	12.2 SoK monitoring and reporting

DECLARATION OF INTEREST

Nil

SUMMARY

To receive the list of payments covering the month of February 2024.

BACKGROUND

Nil

COMMENT

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

Any comments or queries regarding the list of payments are to be directed to the Chief Executive Officer prior to the meeting.

CONSULTATION

Nil

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 are made in line with Council Policy.

STRATEGIC/CORPORATE IMPLICATIONS

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

RISK MANAGEMENT IMPLICATIONS

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

ASSET MANAGEMENT PLAN IMPLICATIONS

There are no asset management implications for this report.

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

35/24 Moved Cr Wieringa

Seconded Cr Egerton-Warburton

That, in accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, the list of payments as attached made under delegated authority:

FROM – 1 February 2024		TO – 29 February 2024
Municipal Cheques	14377-14377	\$684.18
EFTs	33506 - 33696	\$837,308.60
Direct Debits		\$773,419.03
Total		\$1,611,411.81

be received.

CARRIED 7/0

For: Cr Bilney, Cr Wieringa, Cr Radford, Cr Webb, Cr Egerton-Warburton, Cr Mathwin, Cr Mickle

**9.4.3 ADVISORY COMMITTEES OF COUNCIL – APPOINTMENT OF COMMUNITY REPRESENTATIVES
– DISABILITY ACCESS AND INCLUSION COMMITTEE AND KOJONUP AGING IN PLACE COMMITTEE**

AUTHOR	Judy Stewart, Manager Governance and Administration
DATE	Tuesday, 9 April 2024
FILE NO	GO.CNM.9
ATTACHMENT(S)	<p>9.4.3.1 – Terms of Reference – Disability Access and Inclusion Committee</p> <p>9.4.3.2 – Terms of Reference – Kojonup Aging in Place Committee UNDER SEPARATE COVER</p> <p>9.4.3.3 - Community Representative Nomination for Disability Access and Inclusion Committee</p> <p>9.4.3.4 – Community Representative Nomination for Kojonup Aging in Place Committee</p>

‘PLACEMAKING’ STRATEGIC COMMUNITY PLAN JULY 2023 TO JUNE 2033 To be “The Cultural Experience Centre of the Great Southern” STRATEGIC/CORPORATE IMPLICATIONS		
Key Strategic Pillar/s	Community Goal/s	Corporate Objective/s
Performance	12. A High Performing Council	12.2 SoK monitoring and reporting

DECLARATION OF INTEREST

Nil

SUMMARY

To endorse community representatives for membership on Council’s Disability Access and Inclusion Committee (DAIC) and Council’s Kojonup Aging in Place Committee (KAIP).

BACKGROUND

Following the local government elections held in October 2023, Council advertised for community representatives to nominate for membership of Council Committees.

Further advertising, subsequent to the initial advertising via flyer, noticeboards, Shire of Kojonup (Shire) website and social media and as requested by Council, was placed in the Kojonup News, on noticeboards, the Shire website and social media platforms.

The current Terms of Reference (ToR) for Council’s DAIC and KAIP are at attachments 9.4.3.1 and 9.4.3.2. As per the ToRs, membership of the DAIC constitutes two community members and two community organisation members and membership of the KAIP is external independent person/s with relevant expertise in aged care, as appropriate.

COMMENT

Council has received one community representative nomination for its DAIC and another for its KAIP Committee – please see attachments 9.4.3.3 and 9.4.3.4 (under separate cover).

CONSULTATION

Chief Executive Officer

STATUTORY REQUIREMENTS

The appointment of members to Committees and their operation is set out in *Sections 5.8 to 5.25 of the Act and Regulations 14 to 14B of the Local Government (Administration) Regulations, 1995*.

A local government may, by absolute majority, establish Committees comprising of 3 or more persons, be it elected members, employees and/or other persons, to exercise the powers and discharge the duties of the local government that can be delegated to committees.

Individual Councillors are entitled to be members of at least one committee, which comprises elected members only or elected members and employees.

Section 5.10 allows the Shire President to be a member on any Committee that has an elected member and also the CEO (or their representative) to be on any Committee that has an employee as a member.

POLICY IMPLICATIONS

There are no known policy implications.

FINANCIAL IMPLICATIONS

There are no known financial implications.

RISK MANAGEMENT IMPLICATIONS

Nil

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

36/24 Moved Cr Wieringa

Seconded Cr Radford

That Council appoints Lorenzo Prandi as a community member of its Disability Access and Inclusion Committee and Cathrine Ivey as a community member of its Kojonup Aging In Place Committee.

CARRIED 7/0

For: Cr Bilney, Cr Wieringa, Cr Radford, Cr Webb, Cr Egerton-Warburton, Cr Mathwin, Cr Mickle

9.4.4 ESTABLISHMENT OF CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW COMMITTEE AND TERMS OF REFERENCE FOR SAME

AUTHOR	Judy Stewart – Manager Governance and Administration
ATE	Wednesday, 10 April 2024
FILE NO	GO.CNM.6
ATTACHMENT(S)	9.4.4.1 – Chief Executive Officer Performance Review Committee – proposed Terms of Reference

'PLACEMAKING' STRATEGIC COMMUNITY PLAN JULY 2023 TO JUNE 2033 To be <i>"The Cultural Experience Centre of the Great Southern"</i> STRATEGIC/CORPORATE IMPLICATIONS		
Key Strategic Pillar/s	Community Goal/s	Corporate Objective/s
Performance	12. A High Performing Council	12.2 SoK monitoring and reporting

DECLARATION OF INTEREST

Nil

SUMMARY

Council to consider establishing a Chief Executive Officer (CEO) Performance Review Committee with relevant Terms of Reference (ToR).

BACKGROUND

Councillors have expressed a desire to form a CEO Performance Review Committee.

COMMENT

Establishment of a Committee is dealt with in sections 5.8 to 5.25 of the *Local Government Act 1995*; attachment 9.4.3.1 contains proposed ToR for a new CEO Performance Review Committee.

CONSULTATION

Western Australian Local Government Association

Briefing Session – 19 March 2024

Chief Executive Officer

STATUTORY REQUIREMENTS

Local Government Act 1995 – sections 5.8 to 5.25: Council meetings, committees and their meetings and electors' meetings -

5.8. Establishment of committees

A local government may establish* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

* Absolute majority required.

5.11. Committee membership, tenure of

- (1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —
- (a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or
 - (b) the person resigns from membership of the committee; or
 - (c) the committee is disbanded; or
 - (d) the next ordinary elections day,
- whichever happens first.

5.12. Presiding members and deputies, election of

- (1) The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule —
- (a) to "office" were references to "office of presiding member"; and
 - (b) to "council" were references to "committee"; and
 - (c) to "councillors" were references to "committee members".

5.19. Quorum for meetings

The quorum for a meeting of a council or committee is at least 50% of the number of offices (whether vacant or not) of member of the council or the committee.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
5 – Employment Practices	Ineffective Performance Management	Performance Appraisals/Review Processes	Nil
<i>Risk rating - Adequate</i>			
IMPLICATIONS			
Formation of a CEO Performance Review Committee with full Councillor membership will allow for structured, recorded discussion of matters relating to CEO performance reviews.			

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute Majority - establishing a committee

OFFICER RECOMMENDATION/COUNCIL DECISION

37/24 Moved Cr Mickle

Seconded Cr Egerton-Warburton

That Council establishes a Chief Executive Officer Performance Review Committee with Terms of Reference, as presented.

CARRIED BY ABSOLUTE MAJORITY 7/0

For: Cr Bilney, Cr Wieringa, Cr Radford, Cr Webb, Cr Egerton-Warburton, Cr Mathwin, Cr Mickle

10 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12 QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

Nil

14 MEETING CLOSED TO THE PUBLIC

14.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

The Chief Executive Officer declared a Financial Interest and left the meeting at 3.41pm.
The Project Manager/Community Services officer left the meeting at 3.41pm.

14.1.1 CHIEF EXECUTIVE OFFICER – CONTRACT REVIEW

AUTHOR	Judy Stewart – Manager Governance and Administration
DATE	Tuesday, 9 April 2024
FILE NO	PE.HMR.116
ATTACHMENT(S)	CONFIDENTIAL 14.1.1.1 – Current Contract 14.1.1.2 – Correspondence – Grant Thompson, Chief Executive Officer

STATUTORY REQUIREMENTS

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

- (a) a matter affecting an employee or employees; and
- (b) the personal affairs of any person; and
- (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and
- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and
- (e) a matter that if disclosed, would reveal —
 - (i) a trade secret; or
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; and
- (f) a matter that if disclosed, could be reasonably expected to —

- (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or
- (ii) endanger the security of the local government's property; or
- (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety; and
- (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971*.

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

PROCEDURAL MOTION

38/24 Moved Cr Radford

Seconded Cr Webb

That the meeting proceed behind closed doors in accordance with Section 5.23(2) (e) of the *Local Government Act 1995* at 3.41pm.

CARRIED 7/0

For: Cr Bilney, Cr Wieringa, Cr Radford, Cr Webb, Cr Egerton-Warburton, Cr Mathwin, Cr Mickle

PROCEDURAL MOTION

40/24 Moved Cr Wieringa

Seconded Cr Mickle

That the meeting be reopened to the public at 3.51pm.

CARRIED 7/0

For: Cr Bilney, Cr Wieringa, Cr Radford, Cr Webb, Cr Egerton-Warburton, Cr Mathwin, Cr Mickle

The Chief Executive Officer and Project Manager/Community Services officer re-entered the meeting at 3.52pm.

14.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

14.2.1 CHIEF EXECUTIVE OFFICER – CONTRACT REVIEW

OFFICER RECOMMENDATION/COUNCIL DECISION

39/24 Moved Cr Mathwin

Seconded Cr Mickle

That Council receives the Chief Executive Officer's (CEO) request for renewal of the CEO's Contract of Employment (Contract) and advises the CEO that it is Council's intention to renew the Contract in due course and alongside the CEO's upcoming Performance Review process.


CARRIED BY ABSOLUTE MAJORITY 7/0

For: Cr Bilney, Cr Wieringa, Cr Radford, Cr Webb, Cr Egerton-Warburton, Cr Mathwin, Cr Mickle

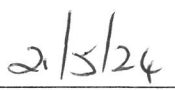
15 CLOSURE

There being no further business to discuss, the President thanked the members for their attendance and declared the meeting closed at 3.54pm.

Confirmed on 21 May 2024 as a true record –



Presiding Member



Date

16 ATTACHMENTS (SEPARATE)

(USC – Under Separate Cover)

6.1	6.1.1	Unconfirmed Minutes of an Ordinary Meeting of Council held on 19 March 2024
7.2.1	7.2.1.1	GHD - TPS 3 Amendment Request Presentation - Flat Rocks Wind Farm
9.4.1	9.4.1.1	Monthly Financial Statements – 1 to 29 February 2024
9.4.2	9.4.2.1	Monthly Payments Listing – 1 to 29 February 2024
9.4.3	9.4.3.1	Terms of Reference – Disability Access and Inclusion Committee
	9.4.3.2	Terms of Reference – Kojonup Aging in Place Committee
	9.4.3.3 USC	Community Representative Nomination for Disability Access and Inclusion Committee
	9.4.3.4 USC	Community Representative Nomination for Kojonup Aging in Place Committee
9.4.4	9.4.4.1	Chief Executive Officer Performance Review Committee – proposed Terms of Reference
9.4.5	9.4.5.1	Letter from GHD
	9.4.5.2	Scheme Amendment document (including Special Control Area boundary)
	9.4.5.3	Latest development conditions and advice from Shire of Kojonup

CONFIDENTIAL

14.1.1	14.1.1.1	Current Contract
	14.1.1.2	Correspondence – Grant Thompson, Chief Executive Officer