

SHIRE OF KOJONUP

Kojonup



MINUTES

ORDINARY COUNCIL MEETING

21 MARCH 2023

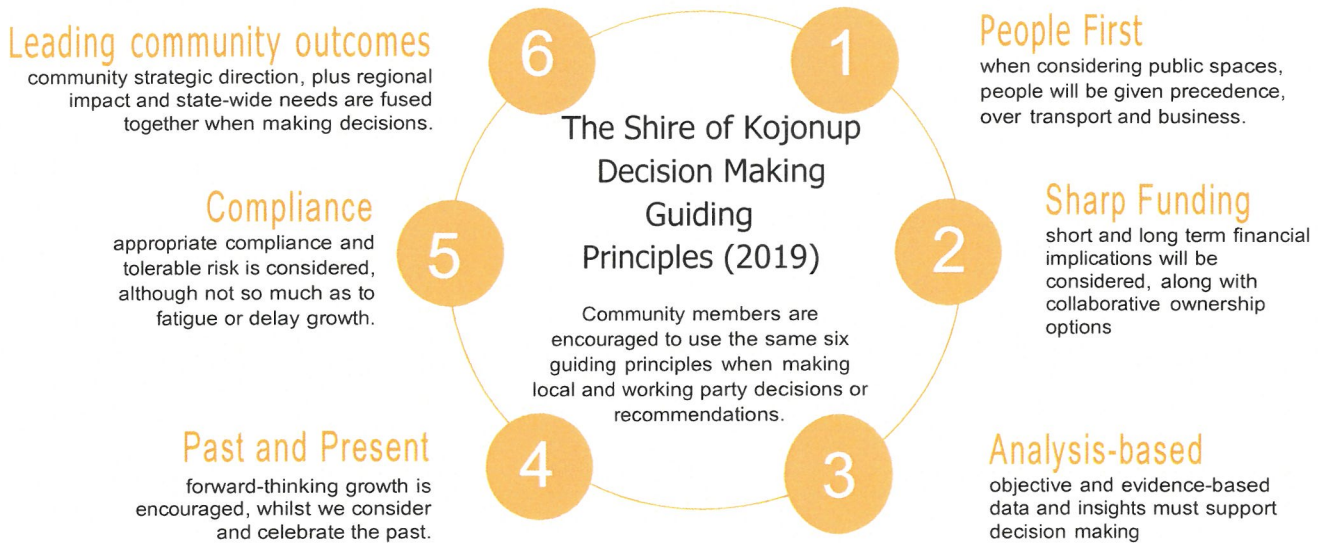
MINUTES OF A COUNCIL MEETING HELD ON 21 MARCH 2023

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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 N Radford

Shire President

Cr P Webb

Deputy Shire President

Cr F Webb

Cr Wieringa

Cr Gale

Cr Singh

Cr R Bilney

Cr A Egerton-Warburton

STAFF

Grant Thompson

Chief Executive Officer

Robert Jehu

Manager Regulatory Services

Emily Sleight

Sport and Recreation Officer

Estelle Lottering

Regulatory Services Administration Officer

Judy Stewart

Senior Administration Officer

3.1 **APOLOGIES**

Nil

3.2 **APPROVED LEAVE OF ABSENCE**

Nil

4 **DECLARATION OF INTEREST**

Nil

5 **PUBLIC QUESTION TIME**

5.1 **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

5.2 **PUBLIC QUESTION TIME**

Nil

6 **CONFIRMATION OF MINUTES**

6.1 ORDINARY COUNCIL MEETING 7 FEBRUARY 2023

Minutes of the Ordinary Council Meeting held on 7 February 2023 are at [attachment 6.1.1.](#)

6.2 SPECIAL COUNCIL MEETING 28 FEBRUARY 2023

Minutes of the Special Council Meeting held on 28 February 2023 are at [attachment 6.1.2.](#)

OFFICER RECOMMENDATIONS/COUNCIL DECISION

18/23 Moved EN BLOC Cr Gale

Seconded Cr Egerton-Warburton

That the Minutes of the Ordinary Council Meeting held on 7 February 2023 be confirmed as a true record.

That the Minutes of the Special Council Meeting held on 28 February 2023 be confirmed as a true record.

CARRIED 8/0

7 **PRESENTATIONS**

7.1 PETITIONS

Nil

7.2 PRESENTATIONS

Nil

7.3 DEPUTATIONS

Nil

7.4 DELEGATES' REPORTS

Nil

8 **METHOD OF DEALING WITH AGENDA BUSINESS**

There was nil change to the order of business.

9 REPORTS

9.1 KEY PILLAR 1 – ‘PLACE’ REPORTS

9.1.1 REVOCATION OF PREVIOUS COUNCIL MOTION 49/20 – PROPOSED AMALGAMATION OF RESERVES 24160, 24161, 22994, 21026 AND 1006 INTO NEW RESERVE FOR CONSERVATION AND RECREATION

AUTHOR	Grant Thompson – Chief Executive Officer Judy Stewart – Senior Administration Officer
DATE	Wednesday, 14 March 2023
FILE NO	GO.CNM.2
ATTACHMENT(S)	9.1.1.1 – Notice of Motion – revocation of Council Motion 49/20 9.1.1.2 – 19 May 2020 - Item 10.3 – proposed amalgamation of reserves 24160, 24161, 22994, 21026 and 1006 into new reserve for conservation and recreation 9.1.1.3 – DMIRS comments 9.1.1.4 – DPLH email

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2018-2022”
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.	1.2.4 – Plan and develop appropriate passive recreation facilities. 1.2.6 – Develop environmental management plans for significant Shire reserves.

DECLARATION OF INTEREST

Nil

SUMMARY

Council, having received a Notice of Motion pursuant to the *Local Government (Administration) Regulations 1996*, to consider the revocation of Council Motion 49/20 as follows, in order to maintain the noted reserves for their current purposes:

“That Council:

1. Request the Minister for Lands/Department of Planning, Lands and Heritage amalgamate Reserves 21460, 24161, 22994, 21026 and 1006 to create a new reserve for the purposes of Conservation and Recreation with the Management Order in favour of the Shire of Kojonup.

2. *Include Reserves 22994, 24160 and 21026 as Recreation Local Scheme Reserves in the new draft local planning scheme”.*

BACKGROUND

Council resolved the following at its 19 May 2020 Ordinary Council:

“That Council:

1. *Request the Minister for Lands/Department of Planning, Lands and Heritage amalgamate Reserves 21460, 24161, 22994, 21026 and 1006 to create a new reserve for the purposes of Conservation and Recreation with the Management Order in favour of the Shire of Kojonup.*
2. *Include Reserves 22994, 24160 and 21026 as Recreation Local Scheme Reserves in the new draft local planning scheme”.*

The purpose of amalgamating the reserves at the time was to reflect future potential value to add to the conservation and recreation activities being undertaken within the Myrtle Benn Flora and Fauna Sanctuary (Reserve 26159) and surrounding reserves.

At the time the proposed changes were supported by the Shire of Kojonup’s (Shire) Natural Resource Management Advisory Committee and it was recommended that Council support the amalgamation of the reserves to create a new reserve for the purposes of Conservation and Recreation.

COMMENT

The above resolution was sent to the Minister for Lands/Department of Planning, Lands and Heritage (DPLH).

The Shire was requested, in correspondence received by the Town Planner in March 2021, to provide answers and information to the following:

Does the Shire have any documentation to support their statement that they don’t believe there is any useable gravel resources left on any of the reserves identified?

Does the Shire have a long term gravel strategy in place? One that identifies other sources of gravel should these reserves change tenure?

Also to ensure DMIRS has full understanding, can you also please advise what environmental values have been identified within these reserves that require conservation?

Has DPLH or the proponent sought comments from MRWA and whether they hold an interest in the BRM resources?

At the time no input was sought from Main Roads WA (MRWA) and no response was given to the questions asked of the Shire.

As a result, the DPLH has requested we either respond or close the case file.

The author is recommending Council revoke Council Motion 49/20 and close the case file under the circumstance where the Shire doesn't fully understand the value of merging the reserves or the impact cost, or value lost of merging related reserves, to accessing the reserves for future usage.

As time is now of the essence, it is recommended that Council revoke the motion and withdraw the request to merge the reserves giving the Council time to analyse and review the requirements for these reserves and keeping the option open for future merging.

CONSULTATION

Councillors - Briefing Session – 7 March 2023
Manager Regulatory Services

STATUTORY REQUIREMENTS

Local Government Act 1995 (Act) – s. 5.25 (1) (e) and (f):

5.25. Regulations about council and committee meetings and committees

(1) Without limiting the generality of section 9.59, regulations may make provision in relation to –

(e) the circumstances and manner in which a decision made at a council or a committee meeting may be revoked or changed (which may differ from the manner in which the decision was made); and

(f) the content and confirmation of minutes of council or committee meetings and the keeping and preserving of the minutes and any documents relating to meetings;

Local Government (Administration) Regulations 1996 – r.10 provides:

10. Revoking or changing decisions (Act s. 5.25(1)(e))

(1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported –

(a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or

(b) in any other case, by at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.

(1a) Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.

- (2) *If a decision is made at a council or committee meeting, any decision to revoke or change the decision must be made by an absolute majority.*
- (3) *This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
8 – Errors, Omissions and Delays	Historical decisions/advice	Nil	Nil
<i>Risk rating – Adequate</i>			
IMPLICATIONS			
Following correct legislative processes mitigates non-compliance risk.			

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

19/23 Moved Cr Radford Seconded Cr Bilney Third Cr P Webb
That Council, following a Notice of Motion pursuant to r.10 of the *Local Government (Administration) Regulations 1996*, and given that the contents of motion 49/20 have not been actioned, revokes Council Motion 49/20 as follows:

“That Council:

- 1. Request the Minister for Lands/Department of Planning, Lands and Heritage amalgamate Reserves 21460, 24161, 22994, 21026 and 1006 to create a new reserve for the purposes of Conservation and Recreation with the Management Order in favour of the Shire of Kojonup.*
- 2. Include Reserves 22994, 24160 and 21026 as Recreation Local Scheme Reserves in the new draft local planning scheme.”*

in order to retain the separate reserves.

CARRIED BY ABSOLUTE MAJORITY 8/0

9.1.2 SPORTING CLUBS ANNUAL FEE REVIEW

AUTHOR	Emily Sleight – Sport and Recreation Officer
DATE	Thursday, 9 March 2023
FILE NO	RC.ARR.2
ATTACHMENT(S)	Nil

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2018-2022”
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	1.2.3 – Provide community infrastructure that attracts outsourced or privately run facilities and programs

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to consider the waiving of annual fees for all sporting groups that utilise the Kojonup Sports Precinct.

BACKGROUND

A request was made from the Kojonup Cougars Football Club (Football Club) to review the requirements of their use of the Sports Precinct, and the fees associated with this. Council, at its 7 March 2023 Briefing Session, requested officers to investigate the possibility of waiving annual fees for all local Community Sporting Groups who utilise the Kojonup Sports Precinct for seasonal use.

COMMENT

As part of the Annual Budget, the Football Club, Kojonup Netball Association, Kojonup Hockey Club, Kojonup Squash Club, Kojonup Cricket Club and the Croquet Club pay an annual fee to the Shire of Kojonup (Shire) for the use of facilities at the Kojonup Sports Precinct. The annual fees do not cover the cost incurred by the Shire for upkeep, but are seen as an achievable financial contribution for all six clubs.

The Football Club pay an annual fee of \$4,800.00. This is to assist with oval mowing, line marking for all home games (7-10 per season), the use of the Sports Complex for home games and training evenings, and the use of the oval lights for trainings and evening games.

The Kojonup Netball Association is currently required to pay an annual fee of \$420.00. This is to assist with the twice-yearly surface clean of the court facility.

The Kojonup Hockey Club pay an annual fee of \$1,150.00. This is to assist with oval mowing, line marking for home games (2-4 per season) and the use of oval lights for training.

The Kojonup Squash Club pay an annual fee of \$1,700.00. This fee is intended to contribute to future resurfacing of the court facility, as the club receives no assistance with cleaning or other costs from the Shire.

The Kojonup Cricket Club pay an annual fee of \$100.00, given they are predominantly juniors with low numbers. This is to assist with the once-a-year cost of uncovering and recovering the bowling pitch, and oval mowing.

The Croquet Club pay an annual fee of \$100.00. This is to assist with oval mowing costs.

The combined annual fee income of all clubs comes to \$8,270.00. While this is a minor amount in comparison to the actual cost of running and maintaining the Sports Precinct, it is a valid contribution.

An annual bond of 50% of the current fee per club is recommended to cover any damage or incidental costs. This ensures the Shire has some contingency in the event that the Agreements are not upheld. This would need to be agreed in individual usage agreements negotiated with each club, and should also include a detailed list of responsibilities for both the Shire and each club moving forward; for example, club responsibility for provision of a professional standard of cleaning.

It is expected that the Shire will continue to maintain the grounds, the maintenance of the Sports Complex, costs of consumables (such as utilities), and the line marking as per the current schedule.

It is recommended, if Council waive annual fees for all clubs using the Kojonup Sports Precinct, that this forms part of the 2023/2024 Annual Budget, not the current budget. Clubs with 2022/2023 fees outstanding would still be required to settle their accounts because the revenue has already been budgeted.

CONSULTATION

Kojonup Cougars Football Club
Council Briefing Sessions 7 February 2023 and 7 March 2023

STATUTORY REQUIREMENTS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The removal of annual fees for the six (6) clubs utilising the Kojonup Sports Precinct would see a reduction in income for the Shire of \$8,270.00 per year.

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
Asset Sustainability	Insufficient budget to maintain or replace assets	Routine maintenance schedule - buildings	Nil
Engagement	Inadequate involvement with or support of community groups	Community based committees, forums and workshops	Nil
Facilities & Venues	Lack of lease, contract, agreement, MOU, license documentation	Lease agreements for Shire facilities	Develop lease agreement register for all Shire facilities
<i>Risk rating - Low</i>			
IMPLICATIONS			
It is suggested that, as a priority, usage agreements are created and endorsed with all clubs that currently pay an annual usage fee, to ensure the Shire is not increasing their obligations while decreasing their revenue.			

ASSET MANAGEMENT IMPLICATIONS

By formalising the responsibility of clubs to clean the facilities following use, there is always the potential that cleaning standards may not be met, with the consequence of the asset declining.

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

20/23 Moved Cr P Webb

Seconded Cr Singh

That:

1. The annual fees for the Kojonup Cougars Football Club, Kojonup Netball Association, Kojonup Hockey Club, Kojonup Cricket Club, Kojonup Squash Club and the Croquet Club not be included in the 2023/2024 Annual Budget unless a club requests to maintain its current arrangement;
2. A bond, equivalent to 50% of the 2022/2023 fee schedule, be paid and maintained by each sporting club and be escalated by Perth, Western Australia yearly Consumer Price Index unless a club requests to maintain their current arrangement; and
3. The Chief Executive Officer proceed with the creation and endorsement of usage agreements with the above listed Clubs, where applicable, for their use of the facilities at the Kojonup Sports Precinct.

CARRIED BY ABSOLUTE MAJORITY 8/0

9.2 KEY PILLAR 2 – ‘CONNECTED’ REPORTS

9.2.1 LOCAL EMERGENCY MANAGEMENT COMMITTEE (LEMC) MEETING MINUTES – 6 FEBRUARY 2023

AUTHOR	Estelle Lottering – Regulatory Services Administration Officer
DATE	Monday, 13 March 2023
FILE NO	ES.MET.1
ATTACHMENT(S)	9.2.1.1 – Unconfirmed LEMC meeting minutes - 6 February 2023

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2018-2022”
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 - Maximize 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 receive the unconfirmed minutes of a LEMC meeting held 9 November 2022.

BACKGROUND

The LEMC is established under Section 38 of the *Emergency Management Act 2005* and plays an important role in the Council’s decision-making process. Minutes of these meetings are presented to Council to be received.

COMMENT

All matters contained within the minutes are considered in this agenda item.

CONSULTATION

Nil

STATUTORY REQUIREMENTS

Section 38 of the *Emergency Management Act 2005*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
2 - Business Disruption	Lack of (or inadequate) emergency response/business continuity plans. Lack of training for specific individuals or availability of appropriate emergency response.	Regular LEMC, DEMC Meetings	Nil
<i>Risk Rating - Adequate</i>			
IMPLICATIONS			
Local governments are legislated to establish and maintain a LEMC. The risk of not having a LEMC would include lack of guidance for Staff, Councillors and relevant Community members who need to be able to work together under pressure in times of extreme stress should an emergency situation arise.			

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

21/23 Moved Cr Gale
That the unconfirmed minutes of a Local Emergency Management Committee Meeting held 6 February 2023 be received.

Seconded Cr Bilney

CARRIED 8/0

9.2.2 BUSH FIRE ADVISORY COMMITTEE (BFAC) MEETING MINUTES – 8 FEBRUARY 2023

AUTHOR	Estelle Lottering – Regulatory Services Administration Officer
DATE	Monday, 13 March 2023
FILE NO	ES.CIR.2
ATTACHMENT(S)	9.2.2.1 – Unconfirmed BFAC meeting minutes - 8 February 2023

STRATEGIC/CORPORATE IMPLICATIONS		
Community Strategic Plan 2017-20217 “Smart Possibilities – Kojonup 2027+”		Corporate Business Plan 2017 - 2021 “Smart Implementation – Kojonup 2018-2022”
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 receive the unconfirmed minutes of a Bush Fire Advisory Committee meeting held 8 February 2023.

BACKGROUND

The Bush Fire 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. Minutes of these meetings are presented to Council to be received.

COMMENT

Nil

CONSULTATION

Bush Fire Advisory Committee

STATUTORY REQUIREMENTS

Section 38, 40 & 67 of the *Bush Fires Act 1954*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
2) Business Disruption	Lack of (or inadequate) emergency response/business continuity plans. Lack of training for specific individuals or availability of appropriate emergency response.	Regular LEMC, DEMC Meetings	Nil
<i>Risk Rating - Adequate</i>			
IMPLICATIONS			
Under legislation, the Shire may establish and maintain a BFAC. The risk of not having a BFAC is that staff and Councillors do not necessarily possess the relevant knowledge or experience regarding bushfires. The Shire is reliant on the advisory committee to be able to provide this knowledge and to support volunteer bushfire efforts, training and resourcing requirements in protecting community safety and assets.			

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

22/23 Moved Cr P Webb Cr Egerton-Warburton
 That the unconfirmed minutes of a Bush Fire Advisory Committee meeting held 8 February 2023 be received.

CARRIED 8/0

9.2.3 SHIRE OF KOJONUP PARKING LOCAL LAW 2022 – UNDERTAKING TO MAKE AMENDMENTS

AUTHOR	Robert Jehu – Manager Regulatory Services
DATE	Tuesday, 14 March 2023
FILE NO	LE. LCL.1
ATTACHMENT(S)	9.2.3.1 - Report from Joint Standing Committee on Delegated Legislation (JSCDL) regarding the Shire of Kojonup Parking Local Law 2022 9.2.3.2 – Letter of response to be completed and returned to JSCDL

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2018-2022”
Key Pillar	Community Outcomes	Corporate Actions
2 - Connected	2.3 – Be providing for a safe and secure environment by working with State and Federal authorities.	2.3.2 – Support appropriate initiatives to improve safety and reduce crime (N2.4.2).

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to consider creating an amendment to the Shire of Kojonup Parking Local Law 2022 after a report from the Joint Standing Committee on Delegated Legislation (JSCDL) advised of inconsistencies, procedural and typographical errors.

BACKGROUND

On 14 December 2021, the Shire of Kojonup Parking Local Law 2022 (Local Law) was proposed to Council for consideration. During the advertising and community consultation period after this meeting, the initial proposed Local Law underwent changes that were outlined in the Council meeting minutes of 21 June 2022.

The Local Law, including changes, was adopted by Council on 21 June 2022 and was gazetted on 31 October 2022. The explanatory memorandum and statutory checklist was provided to both the Minister for Local Government, Sport and Cultural Industries (DLGSC) and the JSCDL on 9 November 2022.

COMMENT

Shire officers are seeking support to amend the Local Law in response to the JSDCL requesting the Shire agree to complete the following undertakings:

1. Within 6 months:

Amend clause 4.5 to:

- define 'particular event'
- specify a reasonable and defined time limit for the use of parking stations (please include the proposed time limit in your response for the Committee's approval)
- include a requirement for the local government to provide sufficient public notice of particular events, including details of the events the Shire wishes for the clause to cover and a proposed time for public notice for the Committee's consideration (i.e. 4 weeks - please include a proposed time period for public notice in your response for the Committee's approval)
- Correct the typographical errors in clauses 3.7(2)(b); 3.11 (a); 3.20(1); 4.8(2); 4.11 and 6.2(a).

2. The local law will not be enforced in a manner contrary to undertaking 1.

3. All consequential amendments arising from undertaking 1 will be made.

4. Where the local law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertakings.

The changes to the Local Law, which had been undertaken, presented to, and adopted by Council on 21 June 2022, had been made under the direction of the Senior Legislation Officer for the DLGSC.

After its Gazettal, the Local Law was referred, along with the Explanatory Memorandum and Statutory Checklist, to the JSCDL.

On Tuesday, 21 February 2023 the Shire of Kojonup (Shire) received the report from the JSCDL which specifies the following required changes to the Local Law:

Clause 4.5

Clause 4.5 governs event parking. It states:

Event parking

(1) Subject to clause 2.1, a temporary sign may indicate that all or part of a parking facility, thoroughfare or public place is set aside, during the period indicated in the sign, for the parking of motor vehicles by persons attending a particular event.

(2) The local government may issue to a person a permit in respect of all or part of a parking facility, thoroughfare or public place for an event referred to in subclause (1).

(3) A person must not park or stop a motor vehicle, or permit a motor vehicle to remain parked, in any area that is set aside under subclause (1) unless the permit issued under subclause (2) for the relevant event is displayed inside the motor vehicle so that it is clearly visible to an authorised person examining the ticket from outside the motor vehicle.

Clause 2.1 regulates or prohibits various parking related matters. It states:

Powers of the local government

(1) The local government may, by resolution, prohibit or regulate by signs or otherwise, including but not limited to-

- (a) the stopping or parking of any motor vehicle or any class of motor vehicles;
- (b) parking bays;
- (c) parking facilities;
- (d) permitted time and conditions of parking in parking bays and parking facilities which may vary with the locality;
- (e) permitted classes of motor vehicles which may park in parking bays and parking facilities;
- (f) permitted classes of persons who may park in specified parking bays or parking facilities; and
- (g) the manner of parking in parking bays and parking facilities.

(2) Where the local government makes a resolution under this clause, it shall erect signs to give effect to the determination or resolution.

The Committee has identified the following issues with this clause:

- There is no requirement to give sufficient public notice of the areas subject to event parking so the public is adequately informed in advance. A sign could be erected on the day of the event, which would be unreasonable.
- There is no requirement to provide reasonable, defined time limits for which parking stations may be set aside for events.
- The term 'particular event' is not defined, so there is no objective criteria to identify what exactly a 'particular event' is.

Failing to make provision for these matters renders clause 4.5, in its application, **uncertain and unreasonable and in breach of the 'good government' power in section 3.1 of the LGA**. The Shire could, in theory, set aside unlimited space for an unlimited period of time for an event.

Clause 4.5 should be amended to:

- define 'particular event'
- specify a reasonable and defined time limit for the use of parking stations
- include a requirement for the local government to provide sufficient public notice of particular events.

Typographical errors

Clause 3.7(2)(b)

Clause 3.7(2)(b) states:

Restrictions on parking in particular areas

(2) The driver may park a vehicle in a thoroughfare or a part of a thoroughfare or part of a parking station, except in a thoroughfare or a part of a thoroughfare or part of a parking station to which a disabled parking sign relates for twice the period indicated on the sign, if -

(b) a disabled person to which the valid disability parking permit relates is either the driver of motor vehicle

Subclause (b) appears to be missing some text. The following re-draft may assist in conveying what the clause means:

(b) a disabled person to which the valid disability parking permit relates is either the driver or a passenger in ~~of~~ the motor vehicle.

I note clause 4.7(3)(b), which uses similar wording.

Clause 3.11 (a)

Clause 3.11 states:

No parking

A driver shall not stop on a length of carriageway or in an area to which a "no parking" sign applies, unless the driver is -

(a) is dropping off, or picking up, passengers or goods;

(b) does not leave the vehicle unattended; and

(c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.

The word 'is' should be deleted from the start of subclause (a).

Clause 3.20(1)

Clause 3.20(1) states:

Pre-existing signs

A sign is deemed for the purposes of this local law to have been erected by the local government under the authority of this local law that where that sign –

The word 'that' appearing before 'where' should be deleted.

Clause 4.8(2)

Clause 4.8(2) states:

Angle parking

(2) Where a sign associated with a parking area is inscribed with the words "angle parking", or with an equivalent symbol depicting this purpose, a person stopping or parking a motor vehicle stop or shall park the motor vehicle at an angle and in the position indicated by the inscription on the parking sign or by marks on the carriageway.

The words 'stop or' in the 3rd line should be deleted.

Clause 4.11

Clause 4.11 states:

Stopping on verge

(1) A person shall not stop so that any portion of the following is on or projects over a verge –

(a) stop a motor vehicle (other than a bicycle);

(b) stop a commercial motor vehicle or any combination of motor vehicles that exceeds 4.5 tonnes GVM, a public bus, a trailer or caravan unattached to a motor vehicle; or

(c) stop any motor vehicle (other than a bicycle) during any period when the stopping of motor vehicles on that verge is prohibited by a sign adjacent and referable to that verge.

This clause is poorly drafted due to the presence of the word 'stop' at the beginning of subclauses (a),(b) and (c). These should be deleted.

Clause 6.2(a)

Clause 6.2(a) states:

Emergency and special purpose motor vehicles

Notwithstanding anything to the contrary in this local law, the driver of—

(a) an emergency motor vehicle may, in the course of their duties and when it is expedient and safe to do so or where they believes that it is expedient and safe to do so, stop, or park the motor vehicle at any place, at any time;

The word 'believes' in the second line of subclause (a) should be 'believe'.

Should the Shire of Kojonup not comply with the JSCDL's request for an undertaking, the JSCDL may, as a last resort, resolve to report to the Parliament recommending the disallowance of the instrument in the Legislative Council.

A disallowed local law will cease to have effect from the date on which it is disallowed. If the disallowed local law had amended or repealed another local law, these changes will be reversed on the day of disallowance.

The JSCDL has provided the Shire until 27 March 2023 to respond and advise of its intentions to undertake the required actions as mentioned in its report.

CONSULTATION

Joint Standing Committee on Delegated Legislation

Chief Executive Officer

STATUTORY REQUIREMENTS

Local Government Act 1995 - section 3.12 - Procedure for making local laws:

3.12. *Procedure for making local laws*

(1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*

(2A) *Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.*

(2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*

(3) *The local government is to —*

(a) *give local public notice stating that —*

(i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and

(ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and

(iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;

and

(b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and

(c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

[(3a) deleted]

(4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*

** Absolute majority required.*

(5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*

(6) *After the local law has been published in the Gazette the local government is to give local public notice —*

(a) *stating the title of the local law; and*

(b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and

(c) advising that the local law is published on the local government’s official website and that copies of the local law may be inspected at or obtained from the local government’s office.

(7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.

(8) In this section —
making in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Advertising costs are associated with the re-advertising of the Local Law and its gazettal for which there is provision within the budget at Chart of Account code 1922 - Advertising.

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
3. Failure to Fulfil Compliance Requirements (Statutory/Regulatory)	Inadequate compliance framework	Nil; however, governance calendar reminder system is in place	Nil
<i>Risk rating – Adequate</i>			
IMPLICATIONS			
Maximising compliance with legislation mitigates risk of damage to image and reputation as well as penalties associated with non-compliance; compliance demonstrates that best practice methodology is in place.			

ASSET MANAGEMENT IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

23/23 Moved Cr Wieringa

Seconded Cr Singh

That Council responds to the Joint Standing Committee on Delegated Legislation agreeing to the required undertakings as listed below:

1. Within six (6) months the Shire of Kojonup (Shire) shall amend clause 4.5 of the Shire of Kojonup Parking Local Law 2022 to:
 - define 'particular event';
 - specify a reasonable and defined time limit for the use of parking stations (*defined time limit for parking stations will be four [4] hours*);
 - include a requirement for the local government to provide sufficient public notice of particular events, including details of the events the Shire wishes for the clause to cover and a proposed time for public notice for the Committee's consideration (*public notice shall be undertaken no less than four (4) weeks prior to particular events*)
 - Correct the typographical errors in clauses 3.7(2)(b); 3.11 (a); 3.20(1); 4.8(2); 4.11 and 6.2(a);
2. The local law will not be enforced in a manner contrary to undertaking point 1 above;
3. All consequential amendments arising from undertaking point 1 above will be made;
4. Where the Shire of Kojonup Parking Local Law 2022 is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of these undertakings.

The above undertakings will be given in the form of a letter (as per attachment 9.2.4.2) which is to be signed by the Shire President in accordance with s. 2.8(1)(d) of the *Local Government Act 1995* (where the Mayor or President speaks on behalf of the local government to the Parliament of Western Australia).

CARRIED 8/0

9.2.4 SHIRE OF KOJONUP CAT LOCAL LAW 2022 – UNDERTAKING TO REPEAL

AUTHOR	Robert Jehu – Manager Regulatory Services
DATE	Monday, 13 March 2023
FILE NO	LE. LCL.1
ATTACHMENT(S)	9.2.4.1 - Report from Joint Standing Committee on Delegated Legislation (JSCDL) on the Shire of Kojonup Cat Local Law 2022 9.2.4.2 - Letter of response to be completed and returned to JSCDL

STRATEGIC/CORPORATE IMPLICATIONS		
"Smart Possibilities – Kojonup 2027+"		"Smart Implementation – Kojonup 2018-2022"
Key Pillar	Community Outcomes	Corporate Actions
2 - Connected	2.3 – Be providing for a safe and secure environment by working with State and Federal authorities.	2.3.2 – Support appropriate initiatives to improve safety and reduce crime (N2.4.2).

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to consider accepting the undertaking requested by the JSCDL to repeal the Shire of Kojonup Cat Local Law 2022 and to incorporate recommended changes into any future Cat Local Law.

BACKGROUND

On 14 December 2021, the Shire of Kojonup Cat Local Law 2022 (Local Law) was proposed to Council for consideration. During its advertising and community consultation period after this meeting, the initial proposed Local Law underwent changes that were outlined in the Council meeting minutes of 21 June 2022.

The Local Law was adopted by Council on 21 June 2022 and was gazetted on 31 October 2022. The explanatory memorandum and statutory checklist was provided to both the Minister for Local Government, Sport and Cultural Industries and the JSCDL on 9 November 2022.

The changes to this Local Law, that had been undertaken and presented to Council on the 21 June 2022, had been made under the direction of the Senior Legislation Officer for the Department of Local Government, Sport and Cultural Industries.

After these changes had been made, it was under the advice from the DLGSC that they were unlikely to be significant and, therefore, the Local Law did not require re-advertising for public comment.

COMMENT

The report subsequently received from the JSCDL advised that the above-mentioned changes were indeed significant and the Local Law should have been re-advertised for public comment before Council adoption.

The JSCDL has requested the Shire agree to complete the following undertakings:

1. *Within 6 months, repeal the local law and make a new local law, complying with all requirements in section 3.12 of the Local Government Act 1995 which:*
 - *Does not contain a provision equivalent to 4.1(1)(b)*
 - *Inserts the following definition of nuisance in clause 1.4:*
 - (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;*
 - (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or*
 - (c) interference which causes material damage to land or other property on the land affected by the interference;*
 - *Does not contain the words 'in the opinion of an authorised officer' in a provision equivalent to clause 3.8(2)*
 - *Does not contain the typographical errors identified in clauses 1.4, 2.1(6) and Schedule 3.*
2. *The local law will not be enforced in a manner contrary to undertaking 1.*
3. *All consequential amendments arising from undertaking 1 will be made*
4. *Where the local law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertakings*

The report outlines other required changes to the Local Law, including:

Clause 4.1 (1)(b) - inconsistency with Cat Act 2011 - Committee term of reference 10.6(a)
When scrutinising local laws, the Committee inquires whether a local law is within power.

Clause 4.1(1)(b) states:

4.1 Conditions applicable to all permits

(1) Every permit is issued subject to the following conditions-

(b) each cat shall be contained on the premises unless under the effective control of a person;

Clause 3.3 states:

3.3 Cats for which a permit is required

Subject to clause 3.4 an occupier is required to have a permit to-

- (a) keep more than two cats over the age of six months and the young of those cats under that age if the premises are zoned other than for the purposes of general agriculture under a local planning scheme;*
- (b) keep more than four cats over the age of six months and the young of those cats under that age if the premises are zoned for the purposes of general agriculture under a local planning scheme.*
- (c) use any premises as a cat management facility; or*
- (d) be an approved cat breeder.*

Clause 3.4 states:

3.4 Permits not required

A permit is not required under clause 3.3 if the premises concerned are —

- (a) a refuge of the RSPCA or of any other animal welfare organisation;*
- (b) a veterinary surgery;*
- (c) a pet shop;*
- (d) premises with two or less cats; or*
- (e) the subject of an exemption granted by the local government.*

Effective control is defined in clause 1.4 as:

Effective control *in relation to a cat means any of the following methods —*

- (a) held by a person who is capable of controlling the cat;*
- (b) securely tethered;*
- (c) secured in a cage; or*
- (d) any other means of preventing escape.*

Section 79 of the Cat Act 2011 (Act) empowers local governments to make local laws for the management of cats. Section 79(1) states:

(1) A local government may make local laws prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.

Section 79(3) contains a number of specific local law making powers, including:

- *Section 79(3)(f), which provides that a local law may be made:*
 - (f) specifying places where cats are prohibited absolutely*
- *Section 79(3)(g), which provides that a local law may be made:*
 - requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats.*

By sections 79(3)(f) and 79(3)(g), the Parliament has delineated the scope of valid local laws concerning the prohibition of cats on public land and the confinement of cats. Any local laws which place conditions on cats being on public land beyond those provided for in the Act are inconsistent with the Act and not authorised.

Clause 4.1(1)(b), in requiring cats to be 'under effective control' in public represents a further step in policy beyond that authorised by the Act and infringes Committee term of reference 10.6(a).

Clause 3.8 - no definition of 'nuisance' - inconsistency with Cat Act 2011 - Committee term of reference 10.6(a)

Clause 3.8 states:

3.8 Cats creating a nuisance

- (1) The keeper of a cat shall not allow a cat to create a nuisance.*
- (2) Where, in the opinion of an authorised officer, a cat is creating a nuisance, the local government may give written notice to the keeper of the cat requiring that person to abate the nuisance.*
- (3) When a nuisance has occurred and a notice to abate the nuisance is given, the notice remains in force for the period specified by the local government on the notice or until the notice is withdrawn by the local government.*
- (4) A person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.*

The local law does not define 'nuisance'. Other cat local laws have defined nuisance to mean:

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;*
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or*
- (c) interference which causes material damage to land or other property on the land affected by the interference;*

Accordingly, there is no objective criteria in the local law governing any decision by an authorised person whether a cat is creating a nuisance. This could result in the officer determining that a cat is a nuisance based on personal opinion, which could include the mere fact that a cat is in a public or other place without being a nuisance under the above definition.

Any effect of clause 3.8 resulting in a cat being treated as a nuisance merely by being in a public or other place would make it inconsistent with the Cat Act 2011 and infringe Committee term of reference 10.6(a).

The Committee, therefore, requests the above definition of 'nuisance' be inserted in clause 1.4 and the words 'in the opinion of an authorised officer' are deleted from clause 3.8(2).

Compliance with section 3.12(4) of the Local Government Act 1995

Section 3.12(4) provides:

- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed. * Absolute majority required.*

Section 3.13 of the Local Government Act 1995 states:

Procedure where significant change in proposal

If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.

A comparison of the proposed and adopted local laws reveals the following clauses where changes were made:

Clauses deleted

3.8 Cats in other than public places

A cat shall not be in any place that is not a public place unless -

- (a) consent to its being there has been given by the occupier, or a person apparently authorised to consent on behalf of the occupier; and*
- (b) it is under effective control.*

5.1 Cats in public places

A cat shall not be in a public place unless the cat is, in the opinion of an authorised officer, under effective control.

5.2 Places where cats are prohibited absolutely

A cat shall not be in the following places at any time, whether or not under effective control -

- (a) an enclosed public place; or*
- (b) any nature reserve.*

Clauses added

5.1 Cat prohibited areas

(1) A cat shall not be in the places specified in Schedule 4 at any time, whether or not under effective control.

(2) If a cat is in a Cat Prohibited Area in contravention of subclause (1), then the owner of the cat commits an offence unless the owner of the cat has first obtained written authorisation from the local government.

The Committee is of the view these changes made the adopted local law significantly different from the proposed local law that was publically advertised, in breach of section 3.12(4).

This is because the prohibition of cats from public and other places is a material aspect of the local law and has received significant media and other public commentary. Shire residents were not consulted on the removal of these clauses prior to the adoption of the local law.

Typographical errors

Cause 1.4 - definition of Enclosed public space'

Clause 1.4 defines 'Enclosed public space' as:

Enclosed public space means a public place which is enclosed by walls, whether solid materials or glass, and includes attached or adjoining areas not permitted to the public, unless airflow between the areas is prevented, but does not include a cat management facility or veterinary clinic or hospital; industrial lot means a lot zoned under a local

planning scheme as industry;

The phrase is not used anywhere else in the local law and should be deleted.

Clause 2.1(6) - minor typographical error

Clause 2.1 (6) states:

(6) A cat must not be release to a person until the person obtains the necessary permit or the cat is registered where —

*(a) a person wishes to reclaim a cat within the period stated in a notice of impounding;
and*

(b) a permit is required for the keeping of the cat, but the person does not have the necessary permit and/or the cat is not registered.

The word 'release' should be 'released'.

Schedule 3 - Modified penalties - various errors Items 8 and 9 - Modified penalties - incorrect reference to clause 3.8

Schedule 3 repeats some penalties twice, with the first list containing incorrect references, in items 8 and 9, which should be clauses 3.8(1) and 3.8(4), not 3.9(1) and 3.9(4).

Items 1 to 9 should be deleted and items 10 to 26 re-numbered accordingly (which contain correct references to clauses 3.8(1) and 3.8(4)).

Should the Shire of Kojonup not comply with the JSCDL's request for an undertaking, the JSCDL may, as a last resort, resolve to report to the Parliament recommending the disallowance of the instrument in the Legislative Council.

A disallowed local law will cease to have effect from the date on which it is disallowed. If the disallowed local law had amended or repealed another local laws, these changes will be reversed on the day of disallowance.

The JSCDL has provided the Shire of Kojonup until the 27 March 2023 to respond to the JSCDL advising of the Shire's intentions to undertake the required actions as mentioned in its report.

CONSULTATION

Joint Standing Committee on Delegated Legislation

STATUTORY REQUIREMENTS

Local Government Act 1995 - section 3.12 - Procedure for making local laws:

3.12. Procedure for making local laws

(1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.

(2A) *Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.*

(2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*

(3) *The local government is to —*

(a) *give local public notice stating that —*

(i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and

(ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and

(iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;

and

(b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and

(c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

[(3a) deleted]

(4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*

** Absolute majority required.*

(5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*

(6) *After the local law has been published in the Gazette the local government is to give local public notice —*

(a) *stating the title of the local law; and*

(b) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and

(c) advising that the local law is published on the local government's official website and that copies of the local law may be inspected at or obtained from the local government's office.

(7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*

(8) *In this section —
making in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Advertising costs are associated with the re-advertising of the local law and its gazettal for which there is provision within the budget at Chart of Account code 1922 - Advertising.

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
3. Failure to Fulfil Compliance Requirements (Statutory/Regulatory)	Inadequate compliance framework	Nil; however, governance calendar reminder system is in place	Nil
<i>Risk rating – Adequate</i>			
IMPLICATIONS			
Maximising compliance with legislation mitigates risk of damage to image and reputation as well as penalties associated with non-compliance; compliance demonstrates that best practice methodology is in place.			

ASSET MANAGEMENT IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

24/23 Moved Cr Bilney

Seconded Cr Singh

That Council resolves to undertake to the Joint Standing Committee on Delegated Legislation that:

1. Within six (6) months, it will repeal the Shire of Kojonup Cat Local Law 2022 and make a new Shire of Kojonup Cat Local Law, complying with all requirements in section 3.12 of the *Local Government Act 1995*, which:
 - Does not contain a provision equivalent to 4.1(1)(b)
 - Inserts the following definition of nuisance in clause 1.4:
 - (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
 - (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
 - (c) interference which causes material damage to land or other property on the land affected by the interference;
 - Does not contain the words 'in the opinion of an authorised officer' in a provision equivalent to clause 3.8(2)
 - Does not contain the typographical errors identified in clauses 1.4, 2.1(6) and Schedule 3;
2. The local law will not be enforced in a manner contrary to undertaking point 1 above;
3. All consequential amendments arising from undertaking point 1 above will be made;
4. Where the local law is made publicly available by the Shire of Kojonup, whether in hard copy or electronic form, it ensures that it is accompanied by a copy of these undertakings.

The above undertakings will be given in the form of a letter (as per attachment 9.2.5.2) which is to be signed by the Shire President in accordance with s. 2.8(1)(d) of the *Local Government Act 1995* (where the Mayor or President speaks on behalf of the local government to the Parliament of Western Australia).

CARRIED 8/0

9.2.5 PROPOSED SHIRE OF KOJONUP BUSH FIRE BRIGADES LOCAL LAW 2023

AUTHOR	Robert Jehu – Manager Regulatory Services
DATE	Monday, 13 March 2023
FILE NO	LE. LCL.1
ATTACHMENT(S)	<p>9.2.5.1 - Proposed Shire of Kojonup Bush Fire Brigades Local Law 2023</p> <p>9.2.5.2 - Email correspondence from Manager Governance and Procurement, Western Australian Local Government Association (WALGA), advising of requirements for local governments to implement Bush Fire Brigades Local Laws</p> <p>9.2.5.3. – Commissioner, Department of Fire and Emergency Services correspondence</p>

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2018-2022”
Key Pillar	Community Outcomes	Corporate Actions
2 - Connected	2.3 – Be providing for a safe and secure environment by working with State and Federal authorities.	2.3.2 – Support appropriate initiatives to improve safety and reduce crime (N2.4.2).

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to consider the proposal of a Shire of Kojonup Bush Fire Brigades Local Law 2023 (Local Law).

BACKGROUND

On 11 January 2023 the Shire of Kojonup (Shire) received correspondence from the Commissioner of the Department of Fire and Emergency Services (DFES) requesting to view the Shire’s Bush Fire Brigades Local Law (attachment 9.2.5.3).

Under the *Bush Fires Act 1954 (Act)* a local government may establish and maintain one or more bush fire brigades for the purpose of carrying out normal brigade activities.

The Shire of Kojonup (Shire) has approximately 493 volunteers across twelve (12) bush fire brigades.

COMMENT

Local government is required to establish, organise and maintain, administer and fund bush fire brigades under a bush fire brigades local law (see advice at attachment 9.2.5.2).

The Shire of Kojonup consulted the matter with WALGA's Manager Governance and Procurement. WALGA has advised that it obtained its own separate, independent legal advice and that the Shire is required to adopt a Bush Fire Brigades Local Law. A copy of this correspondence is attached (attachment 9.2.5.2).

The proposed Local Law is recommended to address the current absence of a local law for the Shire's bush fire brigades. The Shire's proposed Local Law has been created by utilising the Model Local Law (provided by WALGA) which is currently implemented in various surrounding Shires including Shire of Cranbrook, Shire of Broomehill-Tambellup and Shire of Boyup-Brook.

A copy of the proposed Shire of Kojonup Bush Fire Brigades Local Law 2023 (Local Law) will be available to inspect on the Shire's website and the Administration and Library noticeboards. Copies of the proposed Local Law will also be provided to any person requesting it.

Public notices shall be published as follows:

- Great Southern Herald
- Kojonup Newsletter
- Direct notification to Kojonup Bush Fire Advisory Committee
- Other – includes social media and eNewsletters.

The *Local Government Act 1995* requires local governments to give public notice of the proposed local law. A period of 'not less than six weeks after the notice is given' for submission is required. It is proposed to advertise the local law for a two month period.

An extension to this period may be considered, if the Shire experiences an incident which impacts bush fire brigades' capacity to make a submission.

A copy of the proposed Local Law will also be provided to the Minister for Local Government and Minister for Emergency Services for comment.

At its 8 February 2023 meeting, the Bush Fire Advisory Committee was presented with the model Shire of Kojonup Bush Fire Brigades Local Law 2023 and endorsed the presentation of the model Local Law to Council (see attachment 9.2.2.1 of Item 9.2.2 within this agenda).

CONSULTATION

Western Australian Local Government Association
Kojonup Bush Fire Advisory Committee

STATUTORY REQUIREMENTS

Local Government Act 1995 - section 3.12 - Procedure for making local laws

3.12. Procedure for making local laws

(1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.

(2A) Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.

(2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.

(3) The local government is to —

(a) give local public notice stating that —

(i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and

(ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and

(iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;

and

(b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and

(c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

[(3a) deleted]

(4) After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law* that is not significantly different from what was proposed.*

** Absolute majority required.*

(5) After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.

(6) *After the local law has been published in the Gazette the local government is to give local public notice –*

(a) *stating the title of the local law; and*

(b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*

(c) *advising that the local law is published on the local government’s official website and that copies of the local law may be inspected at or obtained from the local government’s office.*

(7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*

(8) *In this section –*

***making** in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

Summary of the legislative requirements to make a local law:

- The Presiding Member is to give notice to a meeting of the purpose and effect of the proposed local law.
- A copy of the proposed local law, together with the public notice, must be given to the Minister for Local Government.
- The proposed local law is required to be advertised for a period of at least six weeks. During the advertising period, Councillors and members of the public can make comment or seek clarification on any of the provisions of the draft local law.
- Once the public submission period concludes, any submissions received will be analysed.
- A report will be presented to Council to 'make' the local law. At this time Council, after considering feedback from the public, may resolve to make amendments to the initial draft.
- If changes to the local law make it substantially different to that previously advertised, further public comment is to be undertaken.
- Once Council resolves to make the local law, the Shire will arrange for the gazettal of the local law, which will come into effect 14 days after the date of gazettal.

Bush Fires Act 1954 (Act) - sections 41, 43 and 62

Section 43 of the Act provides that a local government which establishes a bush fire brigade shall, by its local laws:

“provide for the appointment or election of a captain, a first lieutenant, a second lieutenant, and such additional lieutenants as may be necessary as officers of the bush fire brigade, and prescribe their respective duties.”

Sections of the Act where a local government may make local laws are:

Section 62(1):

- the appointment, employment, payment, dismissal and duties of bush fire control officers; and
- the organisation, establishment, maintenance and equipment with appliances and apparatus of bush fire brigades to be established and maintained by the local government; and
- any other matters affecting the exercise of any powers or authorities conferred and the performance of any duties imposed upon the local government by this Act.

Section 41:

- the local government may, in accordance with its local law, establish and maintain one or more bush fire brigades and equip each bush fire brigade with appliances, equipment and apparatus.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Advertising costs are associated with the advertising of local laws and their gazettal for which there is provision within the budget at Chart of Account code 1922 - Advertising. For an indication of costings, the Shire of Kojonup Cat and Parking Local Laws were published in a special gazette on 31 October 2022 incurring a cost of \$3,600.00.

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
3. Failure to Fulfil Compliance Requirements (Statutory/Regulatory)	Inadequate compliance framework	Nil; however, governance calendar reminder system is in place	Nil
<i>Risk rating – Adequate</i>			
IMPLICATIONS			
Maximising compliance with legislation mitigates risk of damage to image and reputation as well as penalties associated with non-compliance; compliance demonstrates that best practice methodology is in place.			

ASSET MANAGEMENT IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

25/23 Moved Cr Gale

Seconded Cr Egerton-Warburton

That Council proposes to make the Shire of Kojonup Bush Fire Brigades Local Law 2023 (Local Law), as presented, with the following purpose and effect:

Purpose: The purpose of this local law is to provide for the establishment, organisation and maintenance, administration and funding of bush fire brigades;

Effect: The effect of this local law is that bush fire brigades will be organised and ensure they align with changes in the law and operational practices; and

advertises the proposed Local Law for a period of not less than six weeks, in accordance with section 3.12 of the *Local Government Act 1995*.

CARRIED 8/0

9.2.6 SHIRE OF KOJONUP ELECTRIC VEHICLE (EV) DRIVE-THROUGH CHARGING STATION

AUTHOR	Grant Thompson – Chief Executive Officer
DATE	Wednesday, 10 February 2022
FILE NO	
ATTACHMENT(S)	9.2.6.1 – Map of recommended site location – Reserve 6171

STRATEGIC/CORPORATE IMPLICATIONS		
"Smart Possibilities – Kojonup 2027+"		"Smart Implementation – Kojonup 2018-2022"
Key Pillar	Community Outcomes	Corporate Actions
KP – 2 Connected	2.1 - Be growing our state-wide and local tourism and shopping capabilities through regional alliances.	2.1.2 – Promote and facilitate Kojonup as a short term tourism destination to and from Albany

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to inform Council on updates to the EV charging station location, to ratify the Shire of Kojonup (Shire) changing the location of the Charging Station, and to enter into a licence agreement with Synergy and Tesla to proceed in jointly developing a charging station.

BACKGROUND

Contact was made with the Shire, by Synergy, in late 2021 seeking in principle support from the Shire to expand the current EV charging stations to include a drive-through option with an upgrade to the charging stations from the current 50KWH to 150 KWH.

The Council resolved, at its 15 February 2022 Ordinary Meeting, as follows:

"That:

- 1. the Synergy Drive Through Charger project be supported, understanding that it will incur civil works costs, yet to be determined.*
- 2. explicit approval is given to proceed with the Network Connection Application that Synergy requires and the Shire gives in principle agreement to proceed with the project.*
- 3. delegated authority is given to the Chief Executive Officer (CEO) to provide written approval and commitment to the project being delivered, subject to the execution of a Licensing Agreement with Synergy.*
- 4. delegated authority is given to the CEO to negotiate the options, and negotiate the Licensing Agreement and outcomes with Synergy.*
- 5. the Shire of Kojonup's (Shire) preferred outcome regarding the Shire Owned Charger is that Synergy buy back the charger from the Shire and own and maintain this. Synergy would install an additional 150kW charger."*

COMMENT

The Shire has recently received correspondence from Tesla requesting six (6) EV charging stations to be incorporated into the Shires current plan with Synergy.

This now means that the Kodja Place location is not practical for an expansive charging station.

As a result, the author is seeking support to change location to the Sports Complex Reserve 6171 which has enough unused land to provide a charging location as the attached concept plan outlines and any additional parking as required.

Furthermore, the Shire will enter into separate licence agreements with Tesla and Synergy.

Draft agreements are being negotiated; however, to progress the design and agreements, the Council is being requested to ratify the change in location.

CONSULTATION

Councillor Briefing Session – March 2023

Manager Works and Services

Manager Regulatory Services

STATUTORY REQUIREMENTS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Civil works at the new location need to be costed and fully considered once the design is completed.

As it now involves Synergy and Tesla, additional costs will be expended by the Shire to provide earthworks over a larger area. These will be proposed in the 2023/24 budget. The current budget (2022/23) was \$15,000, the new budget (2023/24) item is forecast to be higher. At this stage, additional parking spaces are expected to be budgeted in the 2023/24 budget.

Tesla and Synergy are providing all funds for the development of the actual charging stations and the footprint they are established on.

The Shire will be required to provide any bitumen or other works outside the footprint of the charging station including any approved additional carparks and other costs associated with lighting and other accessories for the area.

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
1. Asset Sustainability	Insufficient budget to maintain or replace assets	Routine maintenance schedule Asset replacement schedule	Nil
11. IT & Communications	Power outage on site or at service provider Failure of vendor	Maintenance program Service level agreement with vendor	Negotiate agreements with vendor Negotiate agreements with vendor
15. Supplier and Contract Management	Limited availability of suppliers	Tender/procurement process	Nil
<i>Risk rating - Low</i>			
IMPLICATIONS			
Synergy & Tesla take on risk of asset replacement and removal.			

ASSET MANAGEMENT IMPLICATIONS

The currently owned Shire charging station will potentially become redundant and sold.

There has been interest in the purchase of the charging unit from external sources.

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

26/23 Moved Cr Singh

Seconded Cr Wieringa

That Council approve:

1. that the drive-through electric vehicle charger project include Tesla as a service provider;
2. the Sports Complex Reserve 6171, as outlined in the attached plan, as the preferred electric vehicle charging station location; and
3. delegated authority to the Chief Executive Officer to negotiate the options and sign the Licensing Agreements with Synergy and Tesla ensuring it complies with all the reserve conditions.

CARRIED 8/0

9.3 KEY PILLAR 3 – ‘PERFORMANCE’ REPORTS

9.3.1 FINANCIAL MANAGEMENT – MONTHLY STATEMENT OF FINANCIAL ACTIVITY (JANUARY 2023)

AUTHOR	Grant Thompson – Chief Executive Officer
DATE	Thursday, 16 March 2023
FILE NO	FM.FNR.2
ATTACHMENT(S)	9.3.1.1 – Monthly Financial Report 1 to 31 January 2023

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 31 January 2023.

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 2022 to 31 January 2023 represents seven (7) months, or 58% of the year.

The following items are worthy of noting:

- Closing surplus position of \$1.15m;
- Capital expenditure achieved 40.6% of budgeted projects;
- Cash holdings of \$5.95m of which \$3.78m is held in cash backed reserve accounts and \$2.17m is unrestricted cash;

- Rates debtors outstanding equate to 13% of total rates raised for 2022/2023 with the fourth instalment payment being due on 22 March 2023; and
- Page 12 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

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 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

27/23 Moved Cr Gale

Seconded Cr Bilney

That the monthly financial statements for the period ending 31 January 2023, as attached, be noted.

CARRIED 8/0

9.3.2 MONTHLY PAYMENTS LISTING – JANUARY 2023

AUTHOR	Vivicka Kahn - Finance and Payroll Officer
DATE	Sunday, 12 March 2023
FILE NO	FM.AUT.1
ATTACHMENT	9.3.2.1 – Monthly Payments Listing 1 to 31 January 2023

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2019-2023”
Key Pillar	Community Outcomes	Corporate Actions
KP3 - 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 January 2023.

BACKGROUND

Nil

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 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

28/23 Moved Cr Singh Seconded Cr Egerton-Warbuton
 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 January 2023		TO – 31 January 2023
Municipal Cheques	14351 - 14351	\$26,152.05
EFTs	31471 - 31604	\$506,570.63
Direct Debits		\$482,986.80
Total		\$1,015,709.48

be received.

CARRIED 8/0

9.3.3 STRATEGIC COMMUNITY PLAN – JULY 2023 to JUNE 2033 “PLACEMAKING STRATEGY”

AUTHOR	Grant Thompson – Chief Executive Officer
DATE	Monday, 13 March 2023
FILE NO	CM.CIR.1
ATTACHMENT(S)	9.3.3.1 - Strategic Community Plan July 2023 to June 2033 “Placemaking Strategy”

STRATEGIC/CORPORATE IMPLICATIONS		
Integrated Planning Requirement		
Key Pillar	Community Outcomes	Corporate Actions
	Create New Strategic Community Plan	<i>Placemaking</i> is a replacement Strategic Community Plan and, therefore, will set the strategic direction and implications for all future activities.

DECLARATION OF INTEREST

Nil

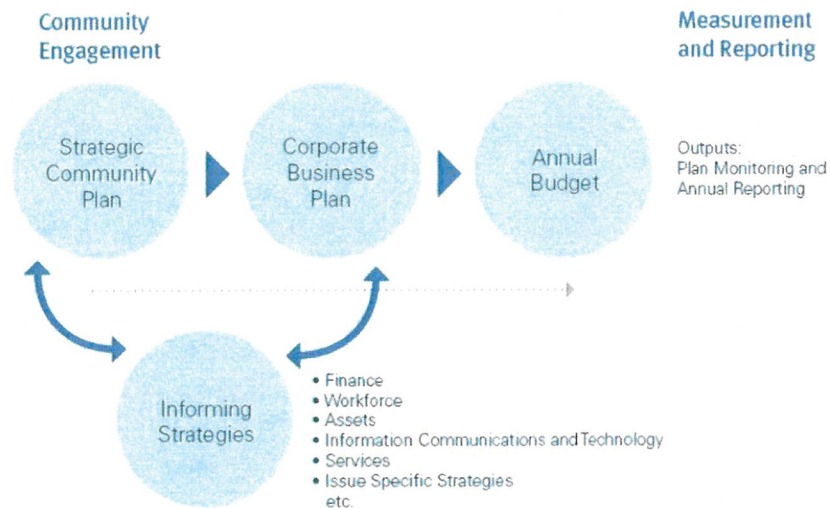
SUMMARY

The purpose of this report is to consider for adoption the Shire of Kojonup’s (Shire) new (updated and revised) Strategic Community Plan 2023-2033 (Plan).

BACKGROUND

The Shire of Kojonup’s first Strategic Community Plan was adopted in 2013. This plan had a desktop review undertaken in 2015, a SMART strategy created in 2017 and has now been the subject of a major re-write in 2023, now titled “*Placemaking Strategy*”.

The Strategic Community Plan is the cornerstone of the integrated planning and reporting process for local government in Western Australia. This process can be summarised as follows:



Elements of Integrated Planning and Reporting Framework

COMMENT

Kojonup’s Strategic Community Planning results in a four-year business plan, with a ten-year vision and four-year actions.

There is global research that has assisted the Shire in realising how to sustain, and even grow, a region just like Kojonup.

Placemaking sets the strategic direction for the Community for the next ten (10) years.

It is the Community’s plan and is based primarily on the feedback obtained through surveys, workshops and interactive voting sessions.

As a result of this consultation, the vision for the Shire of Kojonup is to be:

“THE CULTURAL EXPERIENCE CENTRE OF THE GREAT SOUTHERN”

Placemaking sets out four (4) ‘key pillars’ or areas of focus for the community. These are as follows:

1. Lifestyle;
2. Visitation;
3. Economics; and
4. Performance.

These key pillars, and the re-aligned strategic goals, give the Shire direction on investment, services, and management of assets over the next ten (10) years. The next step is to build the Corporate Business Plan focusing on achieving these strategic outcomes; this will flow into future financial and budget decisions. The Corporate Business Plan will be presented at the next Ordinary Council meeting.

It is envisaged that decisions the Shire ratifies and executes will be measured against achieving these strategic goals. The Strategic Community Plan directs all of the Shire's decision making.

There is also a shared responsibility by the Community of Kojonup, the Shire of Kojonup, and key stakeholders and agencies, to action the Strategic Community Plan.

The attached SCP '*Placemaking*' contains challenging goals and, if implemented effectively, may grow Kojonup as a population and a hub for a cultural experience in the Great Southern Region. It is recommended that it be adopted by the Council.

CONSULTATION

Community consultation was undertaken to formulate this *Placemaking Strategy*.

Development of Kojonup's Strategic Community Plan was undertaken over a six month period in 2022. The Shire held a range of community engagement sessions, Shire workforce sessions, Shire Elected Member sessions, and conducted a community survey.

The most common held views amongst the responses included:

- A desired population growth, with most people thinking that 2250 people by 2032 is achievable.
- Kojonup's point-of-difference is its central (north, south, east, west) location and its historical and cultural diversity; the Shire needs to leverage these strengths.
- The general desires for improvement are accommodation, safety, maintaining and improving education, and performance of the Shire.

Specific examples of feedback provided by the community are contained within the Strategic Community Plan itself.

STATUTORY REQUIREMENTS

As part of the integrated planning and reporting process for local governments in WA, Local Government (Administration) Regulations 1996 require:

'19C. Strategic community plans, requirements for (Act s. 5.56)

- (1) A local government is to ensure that a strategic community plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.*
- (2) A strategic community plan for a district is to cover the period specified in the plan, which is to be at least 10 financial years.*
- (3) A strategic community plan for a district is to set out the vision, aspirations and objectives of the community in the district.*
- (4) A local government is to review the current strategic community plan for its district at least once every 4 years.*

- (5) *In making or reviewing a strategic community plan, a local government is to have regard to —*
- a) *the capacity of its current resources and the anticipated capacity of its future resources; and*
 - b) *strategic performance indicators and the ways of measuring its strategic performance by the application of those indicators; and*
 - c) *demographic trends.*
- (6) *Subject to subregulation (9), a local government may modify its strategic community plan, including extending the period the plan is made in respect of.*
- (7) *A council is to consider a strategic community plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.*
**Absolute majority required.*
- (8) *If a strategic community plan is, or modifications of a strategic community plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.*
- (9) *A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a strategic community plan and when preparing modifications of a strategic community plan.*
- (10) *A strategic community plan for a district is to contain a description of the involvement of the electors and ratepayers of the district in the development of the plan or the preparation of modifications of the plan.'*

Long term planning will also be completed as an essential measure of good governance as a part of the Corporate Business Plan.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Placemaking guides the future direction and vision for the Shire. The Corporate Business Plan will be primarily based on the contents of the Strategic Community Plan and this will then flow into future budget and financial considerations. *Placemaking* strategies have an unforeseen financial impact that, until the strategies have been developed further, cannot be forecast at this stage. The adoption of the report by the Council does not have a direct financial impact.

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
<i>Risk rating – Nil</i>			
IMPLICATIONS			
The Strategic Community Plan is a vital document guiding the future direction and actions of the Shire; legislation requires timely review of this document and this item is in accordance with said legislation thereby mitigating risk of non-compliance.			

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

29/23 Moved Cr Singh

Seconded Cr Wieringa

That the Shire of Kojonup’s Strategic Community Plan 2023-2033 “*Placemaking Strategy*”, as attached, be adopted.

CARRIED BY ABSOLUTE MAJORITY 8/0

9.3.4 LEASE OF COUNCIL PROPERTY – 162 BLACKWOOD ROAD, KOJONUP – EXPRESSION OF INTEREST

AUTHOR	Judy Stewart – Senior Administration Officer
DATE	Tuesday, 14 March 2023
FILE NO	CP.LEA.1
ATTACHMENT(S)	9.3.4.1 – Map showing 162 Blackwood Road, Kojonup 9.3.4.2 - Expression of Interest – Kojonup Tennis Club 9.3.4.3 - 162 Blackwood Road Lease Expression of Interest 2022 Public Notice 9.3.4.4 - Info Pack - 162 Blackwood Road

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2021 +”
Key Pillar	Community Outcomes	Corporate Actions
KP3 - 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 with our financial management.	3.1.1 – Build partnerships with WA recreation, business and tourism. 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.

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to consider an Expression of Interest received for the lease of Lot 162 Blackwood Road, Kojonup.

BACKGROUND

Lot 162 Blackwood Road, Kojonup, represents approximately 34 hectares of agricultural land situated between Kojonup’s industrial estate and the Showgrounds/Sporting Precinct on Blackwood Road. Previously, this land has been leased by the Kojonup Football and Cricket Clubs for farming purposes to provide funding for the Clubs’ ongoing operations.

The most recent lease over this land expired on 28 February 2023.

At its 29 November 2022 Ordinary Meeting, Council resolved as follows:

“That Council:

1. *calls for public expressions of interest for the lease of lot 162 Blackwood Road, Kojonup with the following conditions applying:*
 - a) *Term of lease to be for a period of three (3) years;*
 - b) *The lessee accepts the property on an ‘as is’ basis;*
 - c) *The lessee is to maintain perimeter fences at the current standards;*
 - d) *The Shire of Kojonup will not be liable for any issues arising from fencing and/or containment of stock;*
 - e) *The lessee is responsible for managing and minimising any fire hazard and complying with any relevant conditions of the annual fire break order; and*
 - f) *Any stocking rates will be agreed by both parties on an ‘as needs’ basis to respond to any animal welfare, fire hazard reduction, and land quality preservation issues that may arise.*
- and*
2. *applies the following grading criteria to each expression of interest for this lease:*
 - *Community Value Creation 50%*
 - *Price 40%*
 - *Proposed Property Improvements 10%”*

A call for Expressions of Interest (EOI) was subsequently advertised at the end of last year for the leasing of 162 Blackwood Road, Kojonup, and closed on 20 January 2023.

COMMENT

At the close of EOIs on 20 January 2023 nil EOIs had been received.

Since this date; however, an EOI has been received from the Kojonup Tennis Club (please see attachment 9.3.4.2). Under regulation 30 (2) (b) (i) and (2a) (b) of the *Local Government (Functions and General) Regulations 1996*, it is not necessary to re-advertise for Expressions of Interest.

The Kojonup Tennis Club has stated, in its EOI, that it wishes to lease 162 Blackwood Road, Kojonup for a period of two years for \$2,550 per year and in accordance with the advertised conditions of lease (please see attachments 9.3.4.3 and 9.3.4.4).

It is recommended that Council resolve to lease 162 Blackwood Road, Kojonup to the Kojonup Tennis Club.

CONSULTATION

Nil

STATUTORY REQUIREMENTS

Local Government Act 1995 s. 3.58:

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.

Local Government (Functions and General) Regulations 1996 r. 30:

30. Dispositions of property excluded from Act s. 3.58

(1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.

(2) A disposition of land is an exempt disposition if —

(b) the land is disposed of to a body, whether incorporated or not —

(i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and

(ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;

(2a) A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been —

(a) put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government; or

(b) the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable;

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The most recent annual lease payments for this parcel of land were \$4,182 for a three year period. If Council resolves to award the lease to the Kojonup Tennis Club, this represents a decrease of \$1,632 per annum for one less year, in comparison to the previous lease.

This also represents \$2,550 per annum for two years that Council may not otherwise receive given nil EOIs were received by the closing date.

There will also be a cost reduction in fire hazard control for the Shire as the lessee is responsible for this task.

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risks Description/Cause	Key Controls	Current Action
10 – Management of Facilities, Venues and Events	Lack of Lease/Contract/Agreement/MOU/Licence documentation	Lease agreements for Shire facilities	Develop Lease agreements register for all Shire facilities
<i>Risk Rating - Adequate</i>			
IMPLICATIONS			
<p>The formation of leases for Shire owned or managed land defines the terms that apply to all parties and lessens the ambiguity if an issue arises during the term of the lease.</p> <p>Due diligence in the use/maintenance of the land by another party (e.g.; a lessee) provides for fire hazard risk reduction.</p>			

ASSET MANAGEMENT IMPLICATIONS

Leasing of 162 Blackwood Road, Kojonup, ensures the use, maintenance and fire hazard reduction of this land asset whilst also providing revenue to the Shire and the community.

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

30/23 Moved Cr Gale

Seconded Cr P Webb

That the Expression of Interest from the Kojonup Tennis Club for \$2,550.00 per annum for the lease of 162 Blackwood Road, Kojonup, for a two (2) year period commencing 28 March 2023 and concluding 27 March 2025, for cropping purposes, be accepted.

That Council delegates authority to the Chief Executive Officer to negotiate and execute the above-mentioned lease agreement for 162 Blackwood Road, Kojonup with the Kojonup Tennis Club.

CARRIED 8/0

9.3.5 ARRANGEMENTS FOR THE UPCOMING OCTOBER 2023 ORDINARY ELECTIONS

AUTHOR	Judy Stewart – Senior Administration Officer
DATE	Tuesday, 14 March 2023
FILE NO	GO.ELE.12
ATTACHMENT(S)	<p>9.3.5.1 - Memorandum to Local Government Chief Executive Officers (CEO) on Election Arrangements</p> <p>9.3.5.2 – Scheduler and checklist 2021</p> <p>9.3.5.3 – Western Australian Electoral Commission (WAEC) agreement to conduct postal election if requested by Council</p> <p>9.3.5.4 - WAEC quotation correspondence – In-house Election</p>

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2018-2022”
Key Pillar	Community Outcomes	Corporate Actions
KP – 3	3.1 – Be a continually engaged and strategic community which leads and organises throughout the entire stakeholder group.	3.1.4 – Implement strategies to improve Councillors role as community leaders and asset custodians.

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is for Council to consider whether it wishes to appoint its CEO as Returning Officer (in-person voting) or the WAEC Commissioner (postal voting) for its 2023 local government election.

BACKGROUND

On 3 July 2022 the Minister for Local Government announced a final package of proposed local government reforms following a review of public submissions.

New requirements will provide for:

- The introduction of optional preferential voting for electors;
- Directly elected Mayors and Presidents for band 1 and 2 local governments;
- Councillor numbers based on population; and
- The removal of wards for band 3 and 4 local governments.

It is anticipated that the Bill to amend the *Local Government Act (1995)* (Act) will be introduced into Parliament in early 2023.

As a band 3 local government, the Shire is not affected by reforms to the method of election of Mayors and Presidents nor is it affected by the requirement to remove

wards, the latter being an action effected in 2003 when Shire of Kojonup Council membership also reduced from ten to eight members.

The Shire of Kojonup (Shire), at its 7 February 2023 Ordinary Meeting, resolved to reduce its number of Council members, under the proposed reforms, to seven (7) by 2023.

COMMENT

For many years the Shire of Kojonup has undertaken in-person elections where the CEO, as Returning Officer, is responsible for conducting all facets of an election and staff are appointed as electoral officers to action the election process.

The in-person election process is highly regulated and an onerous task involving several staff, commencing in July of an election year and culminating in the election of new members on the third Saturday of October in that year. This year's election process now includes the introduction of optional preferential voting for electors, adding another layer of complexity to the election process, and it is not yet known the level of impact this may have on staff undertaking electoral duties. As an example, calculating preferential votes incorrectly poses a significant risk and, currently, the Shire does not have that capability or skills in house.

Alternatively, Council may change to appoint the Electoral Commissioner to conduct the election with minimal involvement of Shire staff. The Electoral Commissioner is responsible for conducting a postal vote which allows electors the flexibility to post their votes over a greater length of time rather than having to present to a polling booth on a particular day. Council's 2021 local government election saw an elector turnout of 457 representing 35% of people eligible to vote.

Whilst the in-house option represents a reduced cost to Council, the author is recommending that the Shire outsource the election process to the WAEC due to experienced staff numbers having reduced and also not having the skills of conducting preferential voting elections, significantly increasing the risk of error in a highly regulated environment.

Both options have costs attached and these are covered under *Financial Implications*.

CONSULTATION

Nil

STATUTORY REQUIREMENTS

Local Government Act (1995)

Proposed Amendment Act

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

If Council resolves, as per the Officer Recommendation, to engage the Western Australian Electoral Commission (WAEC) to conduct a postal election on the Shire's behalf, the estimated cost of \$18,000 inc GST is based on:

- 1,350 electors
- Response rate of approximately 50%
- 4 vacancies
- Count to be conducted at the offices of the Shire of Kojonup
- Appointment of a local Returning Officer
- Regular Australia Post delivery service to apply for the lodgement of the election packages.

Costs not incorporated in the above estimate include:

- Any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission incurred as part of an invalidity complaint lodged with the Court of Disputed Returns
- The cost of any casual staff to assist the Returning Officer on election day or night (it is estimated that employment of casual staff to assist a WAEC Returning Officer would be minimal).
- Any unanticipated costs arising from public health requirements for the COVID-19 pandemic.

The cost of employing staff for the 2021 Election Day and count at night was \$2,559.01. It is anticipated that the 2023 Election Day and count at night cost would be in this vicinity for the 2023 local government election for an in-house election. The cost for new CountWA software for an in-house election has been quoted at \$5,300 plus additional costs not specified (for helpdesk support and couriers - see WAEC quotation correspondence at attachment 9.3.5.4).

Advertising costs for the 2021 ordinary election were \$2,700; it is anticipated that costs would be similar, if not slightly higher, in 2023.

Catering costs for the count are also expected to be similar to 2021 - \$132.73.

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
3 – Compliance	Failure to correctly identify, interpret, assess, respond and communicate laws and regulations as a result of an inadequate compliance framework. This includes new or proposed regulatory and legislative changes.	Staff training	Nil
<i>Risk rating – Adequate</i>			
IMPLICATIONS			
Council is required to choose a method by which it will conduct its 2023 local government election and advise the WAEC; local governments have been requested to determine this method at a March 2023 Council meeting to allow the WAEC time to either provide the new software or to prepare to deliver the election on the Shire's behalf.			

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute Majority

The Sport and Recreation Officer left the meeting at 3.31pm.

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr Singh

Seconded Cr Wieringa

That Council:

1. Declare, in accordance with section 4.20 (4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2023 ordinary elections together with any other elections or polls which may be required;
2. Decide, in accordance with section 4.61 (2) of the *Local Government Act 1995*, that the method of conducting the election will be as a postal election; and
3. That an amount of \$23,000 be allocated in the 2023/2024 annual budget for election expenses.

LAPSED

31/23 Moved Cr Gale

Seconded Cr Egerton-Warburton

That the meeting be adjourned to seek clarification, from the Western Australian Electoral Commission, of financial implications should a postal election be planned and an election not be necessary and re-convene when the information is presented.

CARRIED 8/0

The meeting adjourned at 3.32pm and re-convened at 3.43pm.

32/23 Moved Cr Singh

Seconded Cr Wieringa

That Council:

1. Declare, in accordance with section 4.20 (4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2023 ordinary elections together with any other elections or polls which may be required;
2. Decide, in accordance with section 4.61 (2) of the *Local Government Act 1995*, that the method of conducting the election will be as a postal election; and
3. That an amount of \$23,000 be allocated in the 2023/2024 annual budget for election expenses.

CARRIED BY ABSOLUTE MAJORITY 8/0

9.3.6 CHIEF EXECUTIVE OFFICER – INTERNAL FINANCIAL MANAGEMENT REVIEW - 2022

AUTHOR	Grant Thompson – Chief Executive Officer
DATE	Thursday, 16 March 2023
FILE NO	FM.FNR.2
ATTACHMENT(S)	Nil

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 for Council to consider an internal Financial Management Review (FMR) undertaken by the Chief Executive Officer (CEO) of the appropriateness and effectiveness of the Shire of Kojonup’s financial management systems controls and procedures.

BACKGROUND

The Audit and Risk Committee requested that, for this cycle, the CEO complete an internal FMR.

This report is in no way a forensic review of the accounts and was not searching for anomalies or fraud but rather looking at the appropriateness of controls and systems in place. It is not an independent report and does not offer any assurance whether limited or otherwise. It is not possible for the CEO, in practice, to examine every activity and procedure or transaction.

This report is prepared solely for the Audit and Risk Committee of the Shire of Kojonup (Shire) for the purpose of the CEO reporting under Local Government (Financial Management) Regulations 5(2) (c).

The objective of the review is to assist the CEO discharge their responsibilities in respect to Regulation 5(2) (c) of the Local Government (Financial Management) Regulations 1996 (as amended). The Chief Executive Officer is to review the financial systems and procedures at least every three financial years.

Internal Control Policy & Procedures

Regulation 5(1) of the Local Government (Financial Management) Regulations 1996 require that the Chief Executive Officer establish efficient systems and procedures:

- (a) for the proper collection of all money owing to the local government;
- (b) for the safe custody and security of all money collected or held by the local government;
- (c) for the proper maintenance and security of the financial records of the local government (whether maintained in written form or by electronic or other means or process);
- (d) to ensure proper accounting for municipal or trust:
 - (i) income received or receivable;
 - (ii) expenses paid or payable; and
 - (iii) assets and liabilities;
- (e) to ensure proper authorisation for the incurring of liabilities and the making of payments;
- (f) for the maintenance of payroll, stock control and costing records; and
- (g) to assist in the preparation of budgets, budget reviews, accounts and reports required by the Act or these regulations.

Further, Regulation 5(2)(a) of the Local Government (Financial Management) Regulations 1996 requires that the CEO is to ensure that the resources of the local government are effectively and efficiently managed.

Internal control is the whole system of controls, financial and otherwise, established by the management in order to carry on the business of the organisation in an efficient and orderly manner.

The Audit and Risk Committee considered this report at its 28 February 2023 meeting and resolved as follows:

OFFICER RECOMMENDATION/COMMITTEE RECOMMENDATION

*Moved Cr Bilney, seconded Cr Egerton-Warburton
That the attached Financial Management Review report prepared by the Chief Executive Officer on the appropriateness and effectiveness of the financial management systems and procedures of the Shire of Kojonup, dated October 2022:*

- 1. Be received;*
- 2. Be recommended to the Council for adoption; and*
- 3. The recommendations and observations raised within the report be reported back to the Audit and Risk Committee for monitoring.*

Carried 5/0

COMMENT

Based on this internal review of the financial systems there is nothing that stands out as a major red flag at this point. However, there are a number of areas that require significant improvement and are deemed higher risks for the Shire if not addressed. These risks should be addressed in the short to medium term (within a two (2) year timeframe, some more immediate).

For those aspects of the Shire of Kojonup's Financial Management systems and procedures which were assessed as having opportunities for improvement, a table of outcomes and recommendations are embedded in this report.

The CEO makes the observation that the Shire of Kojonup has generally sound financial controls, albeit some are extremely manual and could be considered high risk due to human error. The Auditors have also commented on this in the past 12 months.

The Shire is in a reasonable financial position; however, debt management needs to be a strong focus over the coming period, with a higher but currently manageable debt level, and with a lower level of reserves due to being accessed recently for their specific projects. Debt has to be paid from Council's own funding sources which, with current inflationary variables, puts pressure on cashflow.

In the interests of promoting a culture of continuous improvement and self-managed discipline, emphasis on procedural and regulatory compliance, it will be important that Team Members participate in continuous improvement projects, particularly as we move to implement new systems.

The Shire management also needs to promote and manage attention to detail with regulatory and compliance matters.

The following table highlights the report outcomes by the CEO and recommendations:

S C E	Systems and Process Compliance & Governance Efficiency/Cost Savings	H M L	High Risk Medium Risk Low Risk	Comments/Recommendations
FINDINGS		NATURE		RISK
BANK RECONCILIATION AND PETTY CASH				
S	Bank reconciliations have been a primary focus and improved over the past year; however, scarce resources do put pressure on timeframes. The CEO has observed that bank reconciliations are being prepared on a monthly basis and reviewed by a responsible officer at this stage. Must continue to focus on verification controls and timing of reconciliations.	S	E	Systemising the financial system will support a greater level of productivity and time to do the important tasks of reconciliations. Currently have manual processes that require streamlining and open the Shire up to human error risk with data entry, processing etc Officers responsible for the approval of monthly reconciliations should ensure that a detailed review of the reconciliations is performed during the process.
C	ASSET MANAGEMENT Assets being rented on a wet hire as a private works basis to Community and Team Members needs to be reviewed. Anomalies and transparency of this service has been found to be vague at best.	C	M	Anomalies in the Policy and Process for utilising Shire Assets as private works needs a total overhaul. Recommend CEO to develop new Policy and procedures and present to Council
E	RECEIPTS AND RECEIVABLES Debtors focus for following up outstanding debts.	S	L	The Shire needs to continue to follow up on outstanding debts. Recommend regular monitoring of reports by the CEO and followed up more regularly.

<p>Managing Cash Business Swimming Pool</p>		<p>It was noted that there may be opportunity here for reconciliations with actual sales to be incorrect. Recommend that an Electronic Point of Sale be implemented as to require better reconciliation between stock and cash takings. This would also increase the ability of the Swimming Pool Manager to manage procurement more effectively.</p>
<p>RATES UV Rates run at last period was not backed up and due to error of wrong rate in the dollar used to raise rates, the journals were raised to remove the error so the right rateable value was posted. This is a system issue as much as it was human error.</p> <p>PURCHASES, PAYMENTS AND PAYABLES (INCLUDING PURCHASE ORDERS)</p> <p>Previously Purchase orders were not properly raised and authorised in accordance with standard practice. The Shire has been monitoring this process carefully.</p> <p>SALARIES AND WAGES</p>		<p>Recommend updating new rates system within the Enterprise Resource Programme (ERP) framework. Review process for rates and ensure backups are done prior to running the rates. Create a two step verification process for running the rates process.</p> <p>Happy to report that due to constant reinforcing Purchase Orders have improved significantly. No anomalies found. Further controls such as Two points of authorisation for PO's is being investigated by the CEO.</p>

<p>EBA Award Payment classifications. An anomaly where Team Members had received an allowance that they weren't eligible due to changes in their roles and classifications. Employees' files not always updated with changes in employee's pay rate.</p>	<p>S</p>	<p>Recommend Systemising Payroll and HR, new system to be implemented, will allow controls in this space.</p> <p>Also recommend the CEO review and monitor written contracts, EBA and payroll variables on a regular basis. New EBA requires negotiating once the Shire has been transferred to the West Australian Industrial Relations Commission framework. 2nd Quarter next year.</p> <p>The Shire should review employee entitlement calculations and update the worksheets to ensure correct data is being used. Regular review of these calculations should also be carried out.</p>
<p>Reviewed segregation of duty surrounding payroll system and changes in employees' details.</p> <p>CREDIT CARD PROCEDURES</p> <p>Credit card transactions reported monthly and monitored through financial reporting.</p> <p>Documentation for Invoices, receipts etc.</p>	<p>S</p> <p>L</p> <p>M</p>	<p>Have made significant improvement in this area and clear separation of duties is being undertaken. And an audit report run every cycle.</p> <p>CEO to maintain vigilance over all credit card expenditure. Review monthly with the Council.</p> <p>Made improvements and reinforcing the behaviours. Receipt collection has improved.</p>

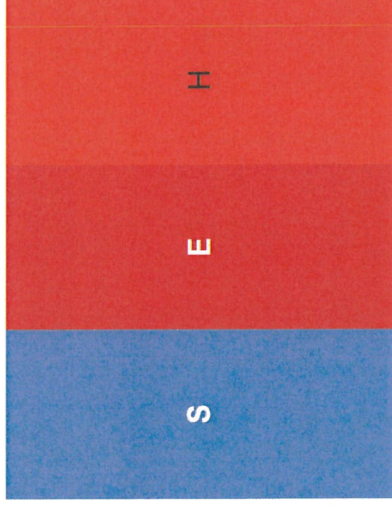
Current Manual Processes for collection of information is time consuming and every transaction has to be filed under a separate manual form



Automation of credit card receipting should be investigated, minimum recommendation to move to an electronic spreadsheet batch reporting of receipts for individuals to consider.

SYSTEM AND DATA MANAGEMENT

General data and information management is always in default due to time and resources. Updating data such as fixed Asset register remaining useful lives residual values other financial data is not always timely and has been noted by the auditors as a discipline and resource issue in the Shire



Fixed assets have been recorded in an asset register, which reconciles to the general ledger but notes some data takes time to update and not a systemised process.

Employ qualified accountant to help build the processes and controls according to the Accounting standards.

Systemise the ERP and financial management including updating asset management module.

FINANCIAL REPORTS

Auditing process is lengthy related to AOG



Not in our control

Monthly statements of financial activity do not break the budget into monthly, quarterly reporting.

Recommend a review of financial reports and evolve the current monthly reports to fit this expectation. Further systemise reporting in any new ERP system that is implemented.

REGISTERS

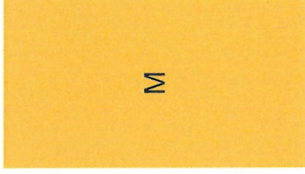
The records for the Registers of Gifts, Tenders, Financial Interests and Delegations, required are being maintained.



Note that registers are now published on website.
Good - no recommendation

INTEGRATED PLANNING AND REPORTING

Long Term Financial Plan overdue - reason Strategic Plan has not been completed



Long Term Financial Plan has been adopted by Council and reviewed by the Department of Local Government. With noted improving trends of debt service ratio, own source revenue coverage, current ratio and operating surplus ratios. Recommend update and create a new Long Term Financial Plan immediately the Community Strategic Plan has been developed

STORAGE OF DOCUMENTS/RECORD KEEPING

Strong rooms are not fire resistant and historical documents not in an environmentally controlled room.



This is a compliance issue with State Records Act regarding our obligation to record and protect records. No environmentally controlled storage facility. Recommendation is to install an air conditioner in the records room where the historical records are kept to ensure the ambient temperature is controlled. The Shire to investigate a suitable alternative that is fire resistant to store records in Kojonup.

Records Management in general is not at the standard it should be for the size of Kojonup Shire. Somewhat disorganised and the new records management system has caused some angst and is difficult to use.

Reviewing technology system to improve training, usage and functionality. Also reviewing new system for use. Records to be digitised and destroyed as a matter of priority as per the State Records Act.

Councillor Records Management is virtually non-existent

IT GENERAL ENVIRONMENT

Systems misaligned, Hardware Architecture not adequate enough for requirements. Licencing going to be re-licenced April 2023, requires new operating system and security upgrade. It is clear that systems in Kojonup have developed in a modularized manner, specifically that the architecture and design of the systems needs modernizing and a new ERP system is required to manage all end to end transactions. Payroll is a good example where all timesheets are done manually and verifying times and authorisations are difficult to achieve as data is not on hand related to the tasks. I would recommend that the Shire immediately updates its ERP system or as a minimum updates its payroll system and time management systems.

This an area of both improving productivity and controls for time management and payroll.



State Records Act obliges Councillors to store and record records, could be a breach and non-compliance. Training of Councillors required as a matter of urgency, systems and processes need review to support Elected Members in recording information and records.



Recommend a complete end to end ERP system, ICT review and new implementation in 2023/24. Currently sourcing vendors to present and express interest in implementing an ERP.

GENERAL JOURNALS

General errors in accruals, timing of uploads, consistency of running reports on time



Needs monitoring and improving. Procedural discipline and timing issues require monitoring.

Reserves Interest batches need to be aligned to storage and recording same as all ledger batches



Minor issue but Procedural change required to align and standardise storage of reserve interest transactions for recording purposes.

RISK MANAGEMENT PLAN

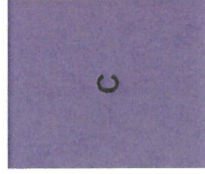
Appropriateness and effectiveness of systems and procedures to be adequately addressed in the Plan.



CEO has noted the Risk Framework and controls need a review over the next 12 months to update controls for relevance to changes in the environment.

RESOURCING

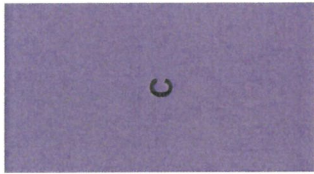
Resourcing and Skill Set



Auditors have raised an issue that there is no qualified accounting competency/capability in the Shire. With the SFO retiring at year's end, it will be important to attract the right person to the finance team. Recommend seeking qualified personnel to fill a financial role in the Shire Administration.

AUDIT AND RISK COMMITTEE

The Audit and Risk Committee meets regularly (4 times a year) and has a set agenda addressing general financial matters.



The Audit and Risk Committee's understanding of Council operating activities could be enhanced by ensuring the Committee has more time to consider particular higher risk items at meetings and discuss these risks in greater detail. It is incumbent on the CEO to make sure the meeting schedule is adhered to. This year has been disrupted by the ongoing issues with timing of the Annual Audits and reports not being available.

RECORDS AND COMPLAINTS: COMMUNITY FEEDBACK

The CEO has observed that the records management system of managing complaints is not as streamlined nor is it as functional as required. Several complaints and correspondence from the Community has either been delayed, not responded to or lost due to the way correspondence comes into the Shire. It makes the process extremely manual and reliant on individuals to own the issue and follow up. High risk of human error.



The process for receiving and delegating complaints and community correspondence needs review. It is interdependent on the fact our older customer service system does not integrate with the new records management system. Recommend a full process and system review for customer service and records management.

FINANCIAL RATIOS

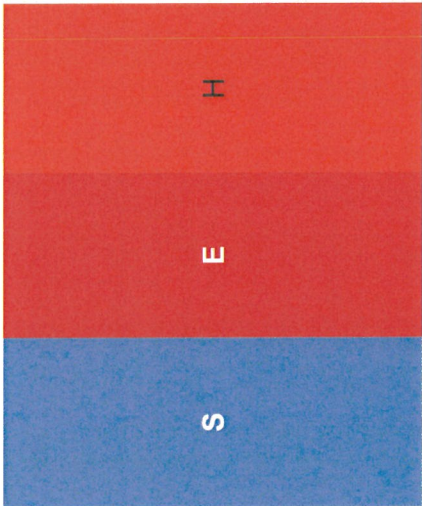
Financial reporting is changing as per local government reforms.



Do nothing now and wait for reforms to be directed by the Department. Believe this will improve our financial reporting as a middle tier Shire.

MANAGEMENT OPERATING SYSTEM

In the CEO's opinion an area of concern that requires further review is rostering, scheduling of resourcing, activity based costing and jobs/work orders management, to ensure the effective management of resources.



Recommend the Shire investigate a management operating system (MOS) for scheduling, rostering and executing jobs. Currently works and resources are being allocated manually and by individual managers. Risk for human error and limited reporting of asset utilisation and performance. Also key person risk is high that is Intellectual Property and knowledge held with one person.

6 Key High risks were identified from review for discussion by the Audit and Risk Committee

1. Human Resource and Qualification of Accountant– with SFO retiring at year’s end it will be incumbent on the CEO to attract the right skilled person into that role.
2. Records and Complaints – needs a systemized process to respond to Community.
3. Strong rooms are not fire resistant and historical documents not in an environmentally controlled room.
4. General data and information management appears at times in default i.e. data is not timely or recorded in the right manner, mainly due to time and resources.
5. ERP System requires updating.
6. Swimming pool cash business risk.

CONSULTATION

Briefing Sessions

Ordinary Council Meeting September 2022

STATUTORY REQUIREMENTS

Local Government (Financial Management) Regulation 5(2) (c) requires the Chief Executive Officer to:

‘undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 3 financial years) and report to the local government the results of those reviews.’

POLICY IMPLICATIONS

This report has been completed in accordance with Council Policy 2.1.8 – ‘Financial Governance’.

FINANCIAL IMPLICATIONS

This item reports on the financial systems and procedures in place within the organisation, to ensure good governance and accountability with recommendations to improve certain aspects of the systems. The recommendation does not in itself have a financial implication.

All recommendations are considered as part of the budget process.

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
3 – Compliance	Ineffective policies & processes Ineffective monitoring of changes to legislation	Financial management reviews Compliance Audit Return (DLGC) Councillor/Staff Induction Process Councillor/Staff training Disability Access and Inclusion plan Industry Standards maintained (LIWA/Royal Life, AIBS)	Nil
8 – Errors, Omissions and Delays	Complex legislation Human error	Staff training (mentoring, formal & on-the-job) Peer Review process Complaints Register Customer Service Charter Delegations register Planning Approval performance report Policies and Procedures	Implement a formal peer review process
<i>Risk rating: Adequate</i>			
IMPLICATIONS			
The risk rating from this review is pointing toward a high probability the Shire’s system and controls are at the end of their life and require an upgrade.			

ASSET MANAGEMENT IMPLICATIONS

Recommendations to upgrade the Enterprise Resource Planning System (ERP), which includes the end to end financial management processes of the Shire.

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COMMITTEE RECOMMENDATION/COUNCIL DECISION

33/23 Moved Cr Egerton-Warburton

Seconded Cr P Webb

That the attached Financial Management Review report prepared by the Chief Executive Officer on the appropriateness and effectiveness of the financial management systems and procedures of the Shire of Kojonup, dated October 2022, be adopted.

CARRIED 8/0

9.3.7 MINUTES OF THE AUDIT AND RISK COMMITTEE MEETING HELD 28 FEBRUARY 2023

AUTHOR	Judy Stewart – Senior Administration Officer
DATE	Thursday, 16 March 2023
FILE NO	GO.CNM.96
ATTACHMENT(S)	9.3.7.1– Unconfirmed minutes of the Audit and Risk Committee Meeting held 28 February 2023

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2018-2022”
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 receive the unconfirmed minutes of the Audit and Risk Committee meeting held 28 February 2023.

BACKGROUND

The Audit and Risk Committee is established under Section 71A of the *Local Government Act 1995* ensuring transparency in the Shire of Kojonup’s financial management and decision making process. 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.

COMMENT

This item is solely the Council receiving the minutes of its Audit and Risk Committee meeting held 28 February 2023.

CONSULTATION

Nil

STATUTORY REQUIREMENTS

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

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
3. Failure to Fulfil Compliance Requirement's	3 rd party adverse findings against Shire	Audit and Risk Committee	4 Meetings held per annum
<i>Risk rating: Low</i>			
IMPLICATIONS			
As per s.7.1A of the <i>Local Government Act 1995</i> , a local government is to establish an audit and risk committee of 3 or more persons to exercise the powers and discharge the duties conferred on it.			

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

34/23 Moved Cr Gale

Seconded Cr Singh

That Council receive the unconfirmed minutes of the Audit and Risk Committee meeting held 28 February 2023.

CARRIED 8/0

9.3.8 COMPLIANCE AUDIT RETURN 2022

AUTHOR	Judy Stewart – Senior Administration Officer
DATE	Thursday, 16 March 2023
FILE NO	CM.REP.1
ATTACHMENT(S)	9.3.8.1 - Compliance Audit Return 2022

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2018-2022”
Key Pillar	Community Outcomes	Corporate Actions
KP3 - Performance	3.4 – Be organised and transparent with our financial management	3.4.3 – Commit to future state-wide measurement systems testing local government performance

DECLARATION OF INTEREST

Nil

SUMMARY

The purpose of this report is to consider the adoption of the Compliance Audit Return for 2022.

BACKGROUND

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

Items of note in the 2021 CAR included the following:

- the need to publish an up-to-date version of the gift register on the Shire of Kojonup’s (Shire’s) website;
- the need to publish a Code of Conduct for employees on the Shire’s website; and
- the need to publish an up-to-date register of the complaints on the Shire’s website.

All of the above requirements have been actioned.

This item has been recommended for Council’s adoption by the Audit and Risk Committee at its 28 February 2023 meeting for subsequent submission to the Department by 31 March 2023:

OFFICER RECOMMENDATION/COMMITTEE RECOMMENDATION

AR2/23 Moved Cr Bilney

Seconded Cr Egerton-Warburton

“That it be recommended to the Council that the Compliance Audit Return for 2022, as attached, be adopted.”

CARRIED 5/0

COMMENT

The 2022 CAR has been completed following a review of processes and documentation for each activity/area in which compliance is being assessed against the *Local Government Act 1995* and its associated regulations.

Items of note in the 2022 CAR include the following:

- all relevant persons to have lodged an annual return by 31 August annually;
- delayed receipt of the Shire's Audit Report;
- the need to complete a report on the training completed by Council members in the 2021/2022 year, by 31 July 2022; and
- the need for Council to adopt and publish a policy dealing with attendance of Council members and the Chief Executive Officer (CEO) at events.

A reminder system has been put into place to encourage timely provision of annual returns and website publishing of Councillor training undertaken within financial years. A policy dealing with Councillor and CEO attendance at events will be formulated for Council consideration.

CONSULTATION

Chief Executive Officer

STATUTORY REQUIREMENTS

14. ***Compliance audits by local governments***

(1) *A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.*

(2) *After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.*

(3A) *The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.*

(3) *After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —*

(a) presented to the council at a meeting of the council; and

(b) adopted by the council; and

(c) recorded in the minutes of the meeting at which it is adopted.

[Regulation 14 inserted: Gazette 23 Apr 1999 p. 1724-5; amended: Gazette 30 Dec 2011 p. 5580-1.]

15. ***Certified copy of compliance audit return and other documents to be given to Departmental CEO***

(1) *After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —*

(a) a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and

(b) any additional information explaining or qualifying the compliance audit,

is to be submitted to the Departmental CEO by 31 March next following the period to which the return relates.

(2) *In this regulation —*

certified *in relation to a compliance audit return means signed by —*

(a) *the mayor or president; and*

(b) *the CEO.*

[Regulation 15 inserted: Gazette 23 Apr 1999 p. 1725; amended: Gazette 26 Jun 2018 p. 2386.]

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
3. Failure to Fulfil Compliance Requirements (Statutory/Regulatory)	Inadequate compliance framework	Compliance Audit Report	Nil (key control being undertaken)
<i>Risk rating - Adequate</i>			
IMPLICATIONS			
Maximising compliance with legislation mitigates risk of damage to image and reputation as well as penalties associated with non-compliance; compliance demonstrates that best practice methodology is in place.			

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COMMITTEE RECOMMENDATION/COUNCIL DECISION

35/23 Moved Cr Egerton-Warburton

Seconded Cr Singh

That the Compliance Audit Return for 2022, as attached, be adopted.

CARRIED 8/0

9.4 KEY PILLAR 4 – ‘PROSPERITY’ REPORTS

9.4.1 PROPOSED TELECOMMUNICATION INFRASTRUCTURE

AUTHOR	Steve Thompson - Consultant Planner
DATE	Friday, 27 January 2023
FILE NO	CM.PRL.57
ATTACHMENT(S)	<p>9.4.1.1 - Location Plan</p> <p>9.4.1.2 – Planning Permit Application – Proposed Telecommunications Facility at 167 Eight Mile Road, Ryansbrook</p> <p>9.4.1.3 - Plans from Applicant – Appendix B</p> <p>9.4.1.4 - State Planning Policy 5.2 Telecommunications Infrastructure</p> <p>9.4.1.5 - Extract from <i>Planning and Development (Local Planning Scheme) Regulations 2015</i></p>

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2018-2022”
Key Pillar	Community Outcomes	Corporate Actions
KP 4 - Prosperity	4.1 – Be providing business assistance for growth in small local industry	4.1.1 – Amend Town Planning Scheme to encourage economic development and private investment
KP 5 – Digital	5.4 – Have used technology to become a smart, safe, collaborative and informed region.	5.1.2 - Improve technology to enable 24 hour two-way digital communication strategy with, within, and outside of the Shire.

DECLARATION OF INTEREST

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

SUMMARY

To consider an application for development approval to construct telecommunications infrastructure at Lot 1 (No. 167) Eight Mile Road, Ryansbrook.

BACKGROUND

The applicant, Acquirecomm Pty Ltd for Amplitel Pty Ltd (part of the Telstra group), seeks development approval for telecommunications infrastructure (mobile phone base station) to improve telecommunication coverage and access to enhanced services for Ryansbrook. This is part of the Government funded ‘Black Spot’ Program. The applicant proposes to install a 60-metre-high lattice tower, with associated antennas, plus ground mounted equipment shelters, fencing and ancillary items.

The site’s location is outlined in attachment 9.4.1.1 which is approximately 26 kms south of the Kojonup townsite. The property is 529.66 hectares in area.

Details submitted by the applicant are set out in attachment 9.4.1.2. This provides extensive background information including the site selection process, the proposal, subject site and

regulatory framework. Plans and elevations are in Appendix B, while Appendix C sets out the Environmental Electromagnetic Energy (EME) Report.

The Shire has reproduced the applicant's plans in Attachment 9.4.1.1.

The Shire administration invited comment on the Development Application for a 28 day period through:

- Sending letters to adjoining/nearby landowners;
- Having details on the Shire website, e-News and Facebook; and
- Placing a notice on the Shire noticeboard.

The Shire received nil submissions on the Development Application.

COMMENT

Following assessment against the planning framework, it is recommended that Council approve the Development Application subject to conditions. It is noted, for instance, that:

- There are no significant environmental, cultural heritage or social impacts;
- The nearest residence is approximately 690 metres to the north of the telecommunication infrastructure;
- The Development Application complies with *State Planning Policy 5.2 Telecommunications Infrastructure* (see Attachment 13.1.4);
- The Development Application is considered consistent with the *Shire of Kojonup Town Planning Scheme No. 3 (TPS3)*; and
- The required mobile telecommunication service provided by this proposed infrastructure is important to the local community and to the district.

While noting the above, some considerations with the Development Application include:

1. The proposed telecommunications infrastructure will have some localised visual impacts.
2. It is acknowledged that some people are concerned about the possible health effects of electromagnetic energy from mobile phone base stations. The Australian Communications and Media Authority requires all telecommunications providers to strictly adhere to Commonwealth legislation and associated regulations regarding mobile phone facilities and equipment. The submitted EME report states that the maximum calculated electromagnetic energy level from the site will be 0.17% of the public exposure limit which is substantially within the allowable limit under the standard.
3. Given the telecommunication infrastructure is proposed to be constructed in a bushfire prone area, the Shire suggests the development approval includes a condition requiring establishment and maintenance of an asset protection zone (low fuel area) around the infrastructure and to include an advice note that the infrastructure is located in a bush fire prone area.

Zoning and Land Use/Development

The property is zoned 'Rural' in TPS3. TPS3 objectives for the Rural zone include:

- (a) The zone shall consist of predominantly rural uses.
- (b) To protect land from urban uses that may jeopardise the future use of that land for other planned purposes which are compatible with the zoning.
- (c) To protect the land from closer development which would detract from the rural character and amenity of the area.
- (d) To prevent any development which may affect the viability of a holding.
- (e) To provide for limited commercial accommodation opportunities in a rural environment consistent with the Council's policy for 'Farmstay', 'Bed and Breakfast Accommodation' and 'Chalet' facilities.

'Telecommunications infrastructure' is not listed or defined in TPS3. The *Planning and Development (Local Planning Schemes) Regulations 2015* require consultation for at least 28 days including giving notice to landowners within 200m of the proposed development. The required consultation has been undertaken.

The closest use to telecommunication infrastructure in TPS3 is 'Radio & TV Installation' which is defined as:

Radio or T.V. Installation - means land, buildings, devices or structures for the transmission or receiving of signals or pictures or both but does not include domestic radio and television receivers;

Radio & TV Installation is an 'AA' discretionary land use within the Rural zone.

Bushfire Planning

The proposed telecommunication infrastructure is located within the designated bushfire prone area.

Town Planning Scheme Policy Implications

Nil

Matters to be considered

Attachment 13.1.5 is an extract from the *Planning and Development (Local Planning Schemes) Regulations 2015* which sets out matters to be considered by local government in assessing a Development Application. In summary, the Development Application:

- Is considered consistent with the aims and provisions of TPS3;
- Is consistent with the orderly and proper planning of the area;
- Is consistent with SPP 5.2 Telecommunication Infrastructure; and
- Raises limited environmental issues given no clearing of native vegetation is proposed.

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

1 Not approve the proposal

The Council can choose to not approve the application and advise the proponent giving reasons. If this option were chosen, the telecommunication infrastructure would not be able to be constructed.

2 Approve the proposal

The Council can choose to approve the application, in part or whole and with or without conditions. If this option were chosen, the telecommunication infrastructure can proceed.

3 Defer the proposal

The Council can choose to defer the matter and seek additional information before proceeding to make a decision.

This is a discretionary decision and the applicant has a right to request a review of any decision and/or condition made by the Local Government, to the State Administrative Tribunal, if aggrieved by the decision and/or any condition.

CONSULTATION

The Shire has undertaken consultation on the Development Application as outlined above.

STATUTORY REQUIREMENTS

Planning and Development Act 2005 and *Planning and Development (Local Planning Schemes) Regulations 2015* - the processing of the Development Application is required to comply with the requirements of TPS3 which is an operative local planning scheme under the provisions of the Act/Regulations.

The planning framework is extensive relating to telecommunication facilities and this Development Application including:

- *Telecommunications Act 1997;*
- *Planning and Development Act 2005;*
- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- *State Planning Policy 2.5 Rural Planning;*
- *State Planning Policy 5.2 Telecommunications Infrastructure;*
- *Shire of Kojonup Town Planning Scheme No. 2;* and
- The area proposed for the telecommunications infrastructure is classified as a Bush Fire Prone Area as set out at <https://maps.slip.wa.gov.au/landgate/bushfireprone/>.

POLICY IMPLICATIONS

Nil as covered by State Planning Policy 5.2 Telecommunication Infrastructure.

FINANCIAL IMPLICATIONS

The applicant has paid the Development Application fee.

RISK MANAGEMENT IMPLICATIONS

RISK MANAGEMENT FRAMEWORK			
Risk Profile	Risk Description/Cause	Key Control	Current Action
3 – Compliance	Impulsive decision making Ineffective monitoring of changes to legislation	Professional accreditation / certification maintained	Nil
6 – Engagement	Inadequate documentation or procedures	Informing neighbours / website communication	Nil
7 – Environment	Inadequate local laws / planning schemes	Environmental management compliance	Nil
8 – Errors, Omissions and Delays	Complex legislation Incorrect information	Development Approval performance report	Nil
<i>Risk rating: Adequate</i>			
IMPLICATIONS			
Applicants need to ensure that development applications accord with the intent of the Shire of Kojonup Town Planning Scheme 3. Council, in assessing applications, needs to adopt a similar approach that reflects present and future requirements without compromising amenity or establishing precedents.			

ASSET MANAGEMENT IMPLICATIONS

Nil

SOUTHERN LINK VROC (VOLUNTARY REGIONAL ORGANISATION OF COUNCILS) IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

36/23 Moved Cr Egerton-Warburton

Seconded Cr Singh

That Council grant Development Approval for telecommunication infrastructure at Lot 1 on Diagram 32256 (No. 167) Eight Mile Road, Ryansbrook, as presented, subject to the following conditions:

1. The development hereby approved must be carried out in accordance with the plans submitted with the application, addressing all conditions, or otherwise amended by the local government and shown on the approved plan and these shall not be altered and/or modified without the prior knowledge and written consent of the local government.
2. This development approval shall lapse and be of no further effect if the development hereby permitted has not been substantially commenced within 2 years of the date hereof. Where the Development Approval has lapsed, no further development is to be carried out.
3. Any lighting devices are to be positioned and shielded so as not to cause any direct, reflected or incidental light to encroach beyond the property boundaries, in accordance with Australian Standard AS4282/1997.
4. The operator/owner establishes an asset protection zone around the telecommunication infrastructure prior to the infrastructure being operational, which is then suitably maintained to the satisfaction of the local government.

Advice Notes:

- A) This is not a Building Permit. A Building Permit must be obtained before any building works commence.
- B) All operations must be carried out in accordance with the separate requirements of the Australian Communications and Media Authority and Australian Radiation Protection and Nuclear Safety Agency pertaining (but not limited) to electromagnetic energy.
- C) The property is located in a Bush Fire Prone Area as set out at <https://maps.slip.wa.gov.au/landgate/bushfireprone/>.
- D) If the applicant is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

CARRIED 8/0

9.5 KEY PILLAR 5 – ‘DIGITAL’ REPORTS
Nil

10 APPLICATIONS FOR LEAVE OF ABSENCE

11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12 QUESTIONS FROM MEMBERS WITHOUT NOTICE

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

14 MEETING CLOSED TO THE PUBLIC

14.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

14.1.1 QUOTATION FOR THE SUPPLY AND SPRAY OF BITUMEN
QUOTATION FOR EDGE LINE MARKING AND AUDIBLE LINE

AUTHOR	Craig McVee, Manager Works and Services
DATE	Monday, 13 March 2023
FILE NO	GS.PRG.9 AND GR.LRL.4
ATTACHMENT(S)	14.1.1 - Quote summary

14.1.2 SPRINGHAVEN AGED CARE FACILITY – EXPRESSION OF INTEREST

AUTHOR	Grant Thompson – Chief Executive Officer
DATE	Wednesday, 23 November 2022
FILE NO	CP.LEA.1
ATTACHMENT(S)	UNDER SEPARATE COVER

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

37/23 Moved Cr Gale

Seconded Cr Bilney

That the meeting proceed behind closed doors in accordance with Section 5.23(2) (e) of the *Local Government Act 1995* at 3.48pm.

CARRIED 8/0

The Manager Regulatory Services and the Regulatory Services Administration Officer left the meeting at 3.48pm.

PROCEDURAL MOTION

40/23 Moved Cr Gale

Seconded Cr Singh

That the meeting be reopened to the public at 3.50pm.

CARRIED 8/0

14.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

14.2.1 QUOTATION FOR THE SUPPLY AND SPRAY OF BITUMEN
QUOTATION FOR EDGE LINE MARKING AND AUDIBLE LINE

OFFICER RECOMMENDATION/COUNCIL DECISION

38/23 Moved Cr Gale

Seconded Cr Bilney

That:

1. Council accepts a quote submitted by RoadTech for supply and spray (full service) of 180,000 litres of bitumen to shoulder seal Kojonup-Darkan Road for \$571,500, as per the Black Spot Mass Action Program 2022/23; and
2. Due to not receiving any quotes for the audible edge line marking, Council delegates authority to the Chief Executive Officer (CEO) to seek external quotes and authorises the CEO to approve the most suitable quote for audible edge line marking.

CARRIED BY ABSOLUTE MAJORITY 8/0

14.2.2 SPRINGHAVEN AGED CARE FACILITY – EXPRESSION OF INTEREST

OFFICER RECOMMENDATION/COUNCIL DECISION

39/23 Moved Cr Bilney

Seconded Cr Gale

That Council:

1. Note the only conforming respondent to the Springhaven Expression of Interest, as presented;
2. Approve the only respondent as the preferred respondent;
3. Support the Chief Executive Officer (CEO) in the operational capacity to enter into a service agreement with the respondent in the immediate term to remedy the resource requirements of Springhaven and where it does not require structural change to Springhaven;
4. Authorise the CEO to:
 - a. commence discussions with the respondent identifying different pathways and options to make Springhaven sustainable, including options for structural changes and/or management of Springhaven; and
 - b. report back to Council the outcomes from these discussions for further deliberation and direction by the Council.

CARRIED 8/0

15 CLOSURE

There being no further business to discuss, the President thanked the members for their attendance and declared the meeting closed at 3.51pm.

16 ATTACHMENTS (SEPARATE)

Item 6.1	6.1.1	Unconfirmed Minutes of an Ordinary Council Meeting held on 7 February 2023
	6.1.2	Unconfirmed Minutes of a Special Council Meeting held on 28 February 2023
Item 9.1.1	9.1.1.1	Notice of Motion – revocation of Council Motion 49/20
	9.1.1.2	19 May 2020 - Item 10.3 – proposed amalgamation of reserves 24160, 24161, 22994, 21026 and 1006 into new reserve for conservation and recreation
	9.1.1.3	DMIRS comments
	9.1.1.4	DPLH email
Item 9.2.1	9.2.1.1	Unconfirmed LEMC meeting minutes - 6 February 2023
Item 9.2.2	9.2.2.1	Unconfirmed BFAC meeting minutes – 8 February 2023
Item 9.2.3	9.2.3.1	Report from Joint Standing Committee on Delegated Legislation (JSCDL) regarding the Shire of Kojonup Parking Local Law 2022
	9.2.3.2	Letter of response to be completed and returned to JSCDL
Item 9.2.4	9.2.4.1	Report from Joint Standing Committee on Delegated Legislation (JSCDL) on the Shire of Kojonup Cat Local Law 2022
	9.2.4.2	Letter of response to be completed and returned to JSCDL
Item 9.2.5	9.2.5.1	Proposed Shire of Kojonup Bush Fire Brigades Local Law 2023
	9.2.5.2	Email correspondence from James McGovern - Manager Governance and Procurement – WALGA advising of requirements for local governments to implement Bush Fire Brigades Local Laws
	9.2.5.3	Commissioner, Department of Fire and Emergency Services correspondence
Item 9.2.6	9.2.6.1	Map of recommended site location – Reserve 6171
Item 9.3.1	9.3.1.1	Monthly Financial Report – 1 to 31 January 2023
Item 9.3.2	9.3.2.1	Monthly Payments Listing 1 to 31 January 2023
Item 9.3.3	9.3.3.1	Strategic Community Plan July 2023 to June 2033 “Placemaking Strategy”

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Item 9.3.4	9.3.4.1	Map showing 162 Blackwood Road, Kojonup
	9.3.4.2	Expression of Interest – Kojonup Tennis Club
	9.3.4.3	162 Blackwood Road Lease Expression of Interest Public Notice
	9.3.4.4	Info Pack - 162 Blackwood Road
Item 9.3.5	9.3.5.1	Memorandum to Local Government CEOs on Election Arrangements
	9.3.5.2	Scheduler and checklist 2021
	9.3.5.3	WAEC agreement to conduct postal election if requested by Council
	9.3.5.4	WAEC quotation correspondence – In-house Election
Item 9.3.7	9.3.7.1	Unconfirmed minutes of the Audit and Risk Committee Meeting held 28 February 2023
Item 9.3.8	9.3.8.1	Compliance Audit Return 2022
Item 9.4.1	9.4.1.1	Location Plan
	9.4.1.2	Planning Permit Application – Proposed Telecommunications Facility at 167 Eight Mile Road, Ryansbrook
	9.4.1.3	Plans from Applicant – Appendix B
	9.4.1.4	State Planning Policy 5.2 Telecommunications Infrastructure
	9.4.1.5	Extract from <i>Planning and Development (Local Planning Scheme) Regulations 2015</i>


CONFIDENTIAL

Item 14.1.1	14.1.1.1	Quote Summary
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UNDER SEPARATE COVER

Item 14.1.2	14.1.2.1	Respondent's FY22 Annual Report
	14.1.2.2	Respondent's Group Brief
	14.1.2.3	Respondent's Principal's CV
	14.1.2.4	Respondent's news issue - issue 37
	14.1.2.5	Respondent – Letter of Intent – Shire of Kojonup – Springhaven
	14.1.2.6	Other party correspondence

Confirmed on 18 April 2023 as a true record –



Presiding Member



Date