

SHIRE OF KOJONUP

# Kojonup



## MINUTES

Ordinary Council Meeting

21 JUNE 2022

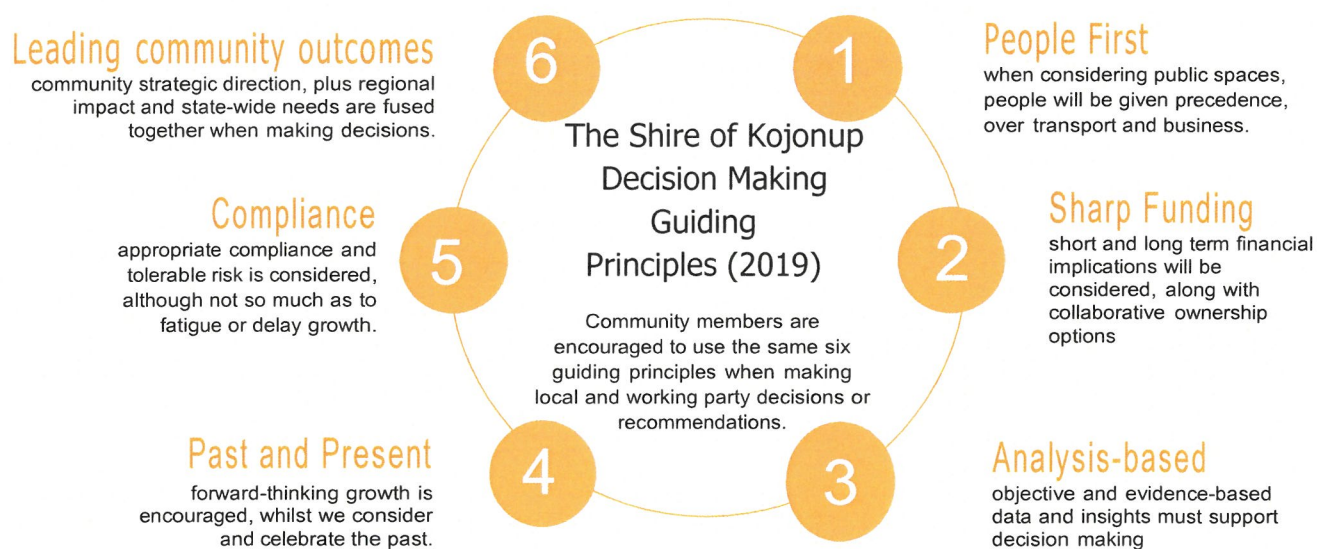
MINUTES OF THE COUNCIL MEETING HELD ON 21 JUNE 2022

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





## MINUTES

### 1 DECLARATION OF OPENING AND ANNOUNCEMENT OF GUESTS

The Shire President declared the meeting open at 3.00pm 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 – Cr Gale**

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

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

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

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

2 **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

Jill Watkin

Manager The Kodja Place and Tourism Marketing

Judy Stewart

Senior Administration Officer

**MEMBERS OF THE PUBLIC**

Cathy Wright

Wendy Thorn

Robert Greef (3.07pm)

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**

Not applicable

5.2 **PUBLIC QUESTION TIME**

Nil

6 **CONFIRMATION OF MINUTES**

6.1 **COUNCIL MEETING 17 MAY 2022**

Minutes of the Council Meeting held on 17 May 2022 are at [Attachment 6.1.1.](#)

OFFICER RECOMMENDATION/COUNCIL DECISION

47/22 Moved Cr Gale

Seconded Cr Singh

That the Minutes of the Council Meeting held on 17 May 2022 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 were nil changes to the order of the meeting.

9

REPORTS

9.1 KEY PILLAR 1 – ‘PLACE’ REPORTS

9.1.1 HARRISON PLACE AMENITIES UPGRADE – COSTING AND SCOPE CHANGE UPDATE

|                      |   |
|----------------------|---|
| <b>AUTHOR</b>        | Robert Jehu - Manager Regulatory Services   |
| <b>DATE</b>          | Friday, 17 June 2022  |
| <b>FILE NO</b>       | CP.DAC.3  |
| <b>ATTACHMENT(S)</b> | <p>9.1.1.1 - Original quote supplied by Southwest Civil</p> <p>9.1.1.2 - Amended quote supplied by Southwest Civil</p> <p>9.1.1.3 - Original drawings – marked up</p> <p>9.1.1.4 - Paving quote supplied by Southwest Civil</p> <p>9.1.1.5 - Original architectural drawings showing 1 brick</p> <p>9.1.1.6 - Updated Civil Drawings showing 4 bricks</p> |

| STRATEGIC/CORPORATE IMPLICATIONS      |   |   |
|---------------------------------------|---|---|
| “Smart Possibilities – Kojonup 2027+” |   | “Smart Implementation – Kojonup 2020-2024”  |
| <b>Key Pillar</b>                     | <b>Community Outcomes</b>   | <b>Corporate Actions</b>  |
| 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 for Council to receive advice of scope changes resulting in material cost increases for the Harrison Place amenities project.

**BACKGROUND**

At its 14 July 2021 Ordinary Meeting, Council resolved, in its 2021/2022 annual budget, to build new Harrison Place amenities for an amount of \$627,387.

The original project was segregated into separate work phases utilising different contractors for each phase of the works. The phases were compartmentalised to manage the mutually independent work streams required by different contractors.

The four phases included:

1. Civil Works and foundation brick work
2. Prefabricated toilet block, plumbing and electricals
3. Roof and Mural
4. Landscaping

An architect firm was duly appointed as the project manager. The architects had difficulty sourcing contractors to undertake this project from the outset as can be seen by their Requests for Quotes (RFQ) - please see table below. Southwest Civil was the only organisation to quote on Phase 1 - Civil Works and foundation brick work.

Through the Request for Quotation (RFQ) process, Southwest Civil was the successful respondent and was contracted to undertake Phase 1, inclusive of bricklaying and design. The original quoted amount was \$173,962.30 and was raised via purchase order number 25656.

Attached are the original architectural drawings (Attachment 9.1.1.5) and quote from Southwest Civil (Attachment 9.1.1.1). Southwest Civil's original quote was based on the attached drawings printed on 30 July 2021 and received soon thereafter.

**Table 1.0** Initial Request for Quote responses from Contractors - *Phase 1 - Civil Works and foundation brick work.*

|                                   |  |
|-----------------------------------|--|
| <b>Civil Works:</b>               |  |
| SW Civil - Darrell Scott, Kojonup | Yes, Please see attached                                   |
| Kojonup Light Civil               | No, too busy   |
| AD Contractors, Albany            | No, but send through anyway. We have not received a reply. |
| Palmer Earthmoving, Albany        | No, out of their scope & too busy                          |
| Healeys, Mt Barker                | No, too far away. Only work in Mt. Barker                  |
| Albany Industrial Services        | No, too busy   |
|                                   |  |

Variations and scope changes from the original quote included:

- 1 The foundations in the updated Engineering Drawings (ED) were twice as wide as in Original Drawings (OD) resulting in additional excavation work.
- 2 The walls in the OD are one brick wide. In effect, the final design and scope provided to Southwest Civil directly by the architects, required a base of four brick construction.
- 3 The walls in the ED are bolstered. The levels to top of foundation in the OD are mostly to -1400 mm. When Southwest Civil took levels on site, many of the walls had to be -1950 mm which meant an additional two extra blocks. The number of blocks required for the change was more than three times the original specification.
- 4 Subsoil drain supplier changed resulting in lower price.
- 5 Original price based on standard cement. Specified materials in ED more expensive.
- 6 Universal Accessible Toilet and Store slabs - no longer required.
- 7 OD had original stairs with concrete slab only, remainder was in timber by another contractor. ED included these in blocks and cement.
- 8 Handrails for stairs in OD were in timber by other contractor. ED included these in metal.
- 9 Line marking slightly different.
- 10 Lower level of paving originally not included in scope of work.
- 11 Concrete was found under the ground that had to be removed and was not in the original engineering report; the site was not a green field site as originally thought.
- 12 Storage shed changes required foundations to be extended to manage the load base.

#### **COMMENT**

The alterations to the scope resulted in a material cost increase for Southwest Civil who were required to amend their original quote.

The new updated quote by Southwest Civil is based on the engineering drawings provided by the architect on 3 November 2021. A change to the engineering specifications is evident; the contractor is not liable for material scope changes.

Officers received an updated costing (quote) from Southwest Civil on 31 January 2022. At this time the Shire terminated its relationship with the Project Manager (architect) and took the project management of the job back in house.

The final updated quote provided by Southwest Civil to complete the required work, with scope changes, increased to \$272,962.03 after negotiations with the Shire; a copy of this quote is attached to this item (Attachment 9.1.1.2).

Southwest Civil also provided a quote for an amount of \$29,711.00 for the completion of the paving works associated with additional landscaping which would have been requested in Phase 4 of the project. This is the only quote that the Shire was able to obtain for this task due to limited contractor availability in the district. A copy of this quote is attached to this item (Attachment 9.1.1.4). The total amount expected to be paid to Southwest Civil for the completion of this project will now be \$302,673.03.

Due to the scarcity of contractors, the fact that Southwest Civil had already been contracted and along with time constraints on the project regarding grant acquittals, an operational decision was made that Southwest Civil should continue with the task to complete the project. Southwest Civil has genuinely been the only source of supply for limestone blocks on this project in the past 12 months as can be seen by the RFQ process.

#### **Key Learnings**

Ideally, scope and cost changes should have been formally tabled with the Council earlier in the process for decision on fiscal and scope management. Decisions that were made at the onset of this project should have been reviewed on a regular basis for any scope or cost creep. This was not the case. Regular project meetings with the Project Manager should have been scheduled on a regular basis and will be in future projects.

A Project Management Framework needs to be implemented across the Shire for all projects. The Chief Executive Officer will create and implement an effective Project Management structure for all future projects. This is currently in the budget awaiting approval.

Project updates and reporting are now in place for controlling all aspects of projects. Any future jobs or projects that are close to the threshold should be placed out for tender, as per the Shire's procurement policy and regulations, to cater for contingency scope and cost creep.

Project management contracts should have clearer Key Performance Indicators for performance and accountability related to cost and scope creep including Council being informed of all material changes and variances.



## CONSULTATION

Chief Executive Officer (CEO)  
Council Briefing discussions

## STATUTORY REQUIREMENTS

Nil

## POLICY IMPLICATIONS

2.1.2 - Purchasing & Creditor Control

A new Framework and procedures for Project Management are required.

## FINANCIAL IMPLICATIONS

At this stage, it is forecast that the total cost of the project will be circa \$690,000. While Phase 1 costs have increased due to the scope change, other savings throughout Phases 2, 3 and 4 have been identified for a net cost increase of approximately \$80,000.

Any expenditure outside of the current approved budget will be firmed up prior to, and considered by Council, through the 2022/2023 budget process.

## RISK IMPLICATIONS

| MANAGEMENT FRAMEWORK  |  |  |                |
|---|--|--|----------------|
| Risk Profile  | Risk Description/Cause                   | Key Control  | Current Action |
| 13 - Supplier and Contract Management   | Inadequate contract management practices | Regular monitoring of delivery of contracts                  | Nil            |
| 13 - Supplier and Contract Management   | Ineffective monitoring of deliverables   | Ongoing reviews of supplier/contractor contract arrangements | Nil            |
| <i>Risk rating – Adequate</i>   |  |  |                |
| IMPLICATIONS  |  |  |                |
| An adequate Project Management Framework needs to be implemented to mitigate the risk of future non-compliance. |  |  |                |

## ASSET MANAGEMENT IMPLICATIONS

Ideally, the completion of the Harrison Place project should not be impacted.

## VOTING REQUIREMENTS

Simple majority

## OFFICER RECOMMENDATION/COUNCIL DECISION

48/22 Moved Cr Singh

Seconded Cr Wieringa

That Council approves the scope changes for Phase 1 of the Harrison Place amenities project, as attached, and considers the associated cost increase of approximately \$80,000 in its 2022/2023 budget process.

CARRIED 8/0



### 9.1.2. KODJA PLACE ROSE MAZE SCHEMATIC DESIGN

|                      |  |
|----------------------|--|
| <b>AUTHOR</b>        | Jill Watkin - Manager The Kodja Place and Tourism Marketing  |
| <b>DATE</b>          | Friday, 17 June 2022   |
| <b>FILE NO</b>       | CP.DAC.9   |
| <b>ATTACHMENT(S)</b> | 9.1.2.1 - Realm Studios - Kodja Place Schematic Design to create new entrance into the Rose Maze<br>9.1.2.2 - Drainage diagram |

| STRATEGIC/CORPORATE IMPLICATIONS      |  |  |
|---------------------------------------|--|--|
| "Smart Possibilities – Kojonup 2027+" |  | "Smart Implementation – Kojonup 2020 – 2024"   |
| Key Pillar                            | Community Outcomes   | Corporate Actions  |
| 1 - Place                             | 1.1 Will maximise our 'One Community' programme through specific events, celebration of the built form and enhancement of our environment. | 1.1 Develop and grow an annual calendar of events where community and visitors celebrate diversity, history & place.<br>1.2 Celebrate the significance of cultural, social, and built heritage including local indigenous and multicultural groups.<br>1.3 Grow The Kodja Place to become an iconic WA attraction. |

### DECLARATION OF INTEREST

Nil

### SUMMARY

The purpose of this report is for Council to consider the initial Kodja Place Rose Maze Schematic Design (Plan) to attract additional visitors into the Rose Maze from both The Kodja Place Precinct and eventually from Apex Park.

### BACKGROUND

At a Briefing Session held on 3 May 2022, Councillors discussed that a plan be produced to illustrate the potential entrance changes from The Kodja Place courtyard into the Rose Maze as part of an overarching long term plan to later include an entrance from Apex Park via the Broomehill-Kojonup Road. Councillors requested that any plan produced should maintain the integrity of the existing Rose Maze.

### COMMENT

The initial phase to which this Plan refers will open the line of sight from The Kodja Place Precinct, gallery and shop, and facilitate the opportunity to hold larger events in the heart of the Rose Maze, attracting more footfall and additional revenue for The Kodja Place Precinct.

This initial Schematic Plan maintains the integrity of the Rose Maze as it currently exists.

### **CONSULTATION**

Various Community Members  
Kodja Place Community Fund Inc (KPCF)  
Realm Studios  
Councillors  
Chief Executive Officer

### **STATUTORY REQUIREMENTS**

Nil

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

The initial concept plan (\$3,100), designed by Realm Studios, will be funded from underspent funds in Chart of Account 8364 - Tour Guide Expenses.

The implementation of the design (Attachment 9.1.2.1) is expected to cost approximately \$6,000. KPCF is providing this funding through a combination of volunteer time and expense. If an entrance from the Kojonup-Broomehill Road goes ahead in the future, this will be the Shire of Kojonup's (Shire) responsibility.

Shire officers are looking at grant funding possibilities to cover or contribute to the cost of the final overall plan for the Rose Maze. The future overall plan for the rose maze is envisaged to cost in the vicinity of \$10,000 and will need to be considered in a future budgetary process along with grant co-funding. Other road works in the area and any future grant funding for the Kodja Place Master Plan may assist future development of the Rose Maze.

Volunteers will carry out the necessary renovations and members of the community will be asked to purchase the six (6) trees required with KPCF responsible for funding hard-landscaping.

The creation of the new entrance from The Kodja Place courtyard would provide the opportunity for increased revenue streams by enhancing direct access for events to be held in the heart of the Rose Maze without damaging its overall integrity.

## RISK MANAGEMENT IMPLICATIONS

| RISK MANAGEMENT FRAMEWORK   |  |   |  |
|---|--|---|--|
| Risk Profile  | Risk Description/Cause   | Key Control   | Current Action   |
| 10 - Management of Facilities, Venues and Events  | Inadequate staff/volunteer training;<br>Lack of PPE equipment. | Safe Work Practices<br>Volunteer Induction;<br>Provision of PPE | Prior to volunteer work commencing induction to safe work practices;<br>Will provide relevant PPE. |
| <i>Risk rating – Adequate/Adequate</i>  |  |   |  |
| IMPLICATIONS  |  |   |  |
| Identifying future expenses and matters associated with this project prior to its inception (such as event management requirements, ongoing maintenance/other whole of life considerations, and stakeholder consultation) lessens the likelihood of reputational and financial risk associated with not taking these matters into consideration from the beginning. |  |   |  |

## ASSET MANAGEMENT IMPLICATIONS

Nil

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

Nil

## VOTING REQUIREMENTS

Simple Majority

## OFFICER RECOMMENDATION/COUNCIL DECISION

49/22 Moved Cr Singh

Seconded Cr Wieringa

That Council approves the Schematic Concept Plan and Design from Realm Studios, as attached, for an additional entrance to the Rose Maze, at The Kodja Place precinct, to enable Kodja Place Community Fund Inc volunteers to complete the works required, at no cost to Council.

CARRIED 8/0

*Robert Greef entered the meeting at 3.07pm.*

9.2 KEY PILLAR 2 – ‘CONNECTED’ REPORTS

9.2.1 CAT LOCAL LAW 2022 ADOPTION

|               |   |
|---------------|---|
| AUTHOR        | Stephanie Swain – Senior Ranger   |
| DATE          | Tuesday, 1 June 2022  |
| FILE NO       | LE. LCL.1   |
| ATTACHMENT(S) | <p>9.2.1.1 - Proposed Cat Local Law 2022</p> <p>9.2.1.2 - s. 79 - Cat Act 2011</p> <p>9.2.1.3 - Email correspondence from Steven Elliott, Senior Legislation Officer, Department of Local Government, Sport and Cultural Industries (Department)</p> <p>9.2.1.4 - Joint Standing Committee on Delegated Legislation Report (JSCDL) - Cat Local Law review for Shire of Dardanup</p> <p>9.2.1.5 - Email correspondence from Steven Elliott, Senior Legislation Officer, Department, outlining advice on changes being unlikely to be significant</p> |

| STRATEGIC/CORPORATE IMPLICATIONS      |   |  |
|---------------------------------------|---|--|
| “Smart Possibilities – Kojonup 2027+” |   | “Smart Implementation – Kojonup 2020-2024”   |
| 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 adoption of the Shire of Kojonup Cat Local Law 2022 (Local Law).

BACKGROUND

At its 14 December 2021 Ordinary Meeting, Council resolved to propose the Cat Local Law 2022:

*‘That the following local laws be endorsed for proposal, as presented, and advertised for public comment in accordance with s. 3.12 (3) of the Local Government Act 1995 prior to them being brought back to Council for consideration of submissions or amendments, if any, and subsequent adoption:*

- *Parking Local Law 2022*

*Purpose: To enable better parking practices and to remedy parking anomalies in the Shire of Kojonup.*

*Effect: Effective and consistent parking practices within the Shire of Kojonup.*

- *Cat Local Law 2022*

*Purpose: To address the impounding of cats, requirements and limitations on the keeping of cats, and the requirements of approved kennel establishments within the Shire of Kojonup.*

*Effect: To provide for consistent and effective management of the cat population within the Shire of Kojonup.'*

## COMMENT

The required advertising for public comment has been undertaken. Nil responses were received from the community. As required, the proposed Local Law was also presented to the Department for comment. On 9 May 2022, the Department responded and provided feedback on areas that required amendment, as follows:

1. *Definition of nuisance*

*The Cat Act 2011 currently uses the term “nuisance”. As the term is not formally defined, the term is given to have the meaning given to it in common law.*

*While the Act allows local governments to make local laws about cats causing nuisance, it is uncertain whether the Act allows local governments to redefine “nuisance” to have a meaning other than what it currently has for the purposes of the Act.*

*The definition of nuisance in the Shire’s local law appears to be broader than the normal meaning of nuisance and seems to include things that would not necessarily constitute a nuisance in common law (e.g. urination on private property, or behaving “contrary to the interests of the community”).*

*It is suggested that the definition for nuisance be deleted or changed to “has the same meaning as it has in the Act”.*

2. *Banning cats from public areas*

*The Parliament’s Delegated Legislation Committee has formed the view that while the Cat Act permits local laws that prohibit cats absolutely from specified areas, it does not contemplate local laws that:*

- *ban cats from all public areas;*
- *place conditions on when a cat may be permitted in a public area; or*
- *attempts to restrict all cats in the district to their owner’s premises, either explicitly or by creating restrictions which roaming cats are unlikely to comply with.*

*A copy of the Committee’s reasons are attached to this email.*

*It is suggested that clause 3.8 and clause 5.1 be deleted along with the corresponding modified penalties. If they are retained, it is likely the Committee will request an undertaking that the clause be removed.*



3. *Cat prohibited areas*

*The Act allows local laws to specify an area where cats are prohibited absolutely. In the past, local laws have generally implemented this power by listing specific lots or reserves.*

*Clause 5.2 appears to prohibit cats from all nature reserves and all enclosed public spaces. It is possible that the Committee may view this as too broad and an attempt to ban cats from public areas.*

4. *Clause 3.4 – Permit not required in certain cases*

*Clause 3.3(d) provides that a permit is needed to breed cats.*

*Clause 3.4 provides that a permit under clause 3.3 is not required in certain situations, such as when there are two or less cats on the premises.*

*When read together, these clauses may confuse cat breeders and lead to them believe that in certain situations, they won't require approval to breed cats. This would be incorrect, since section 37 of the Cat Act provides that all cat breeders require local government approval without exception.*

*The Shire may wish to reword these clauses to avoid confusion. Alternatively, if clause 3.4 was not intended to apply to clause 3.3(d), the Shire may wish to revise the clause to ensure the wording matches the Shire's intentions.'*

The Department also provided the Shire with a report that was produced by the JSCDL. The JSCDL had conducted a review on a Cat Local Law proposed by the Shire of Dardanup, whom also used the same local law the Shire of Kojonup had proposed. The JSCDL report outlined a lot of the above recommendations made by the Department and is attached to this item for information (Attachment 9.2.1.4).

All the amendments suggested by the Department have been undertaken. Further correspondence received by the Department, when questioned if the proposed Local Law required re-advertising due to the changes, gained the following response:

*'Ultimately, the Parliament's delegated legislation committee determines whether a local law has become "significantly different" to what was proposed.*

*As a general guide, the Department follows the rules that:*

- The correction of typos/errors are unlikely to be significant;*
- The removal of potentially invalid clauses is unlikely to be significant.*
- Any change which impacts legal rights, responsibilities or liabilities will very likely be significant.*

*The majority of the Department's comments related to the removal of potentially invalid clauses and minor drafting issues. As such, my view is that they are unlikely to be significant. However, as mentioned this will be for the Committee to decide.'*

A copy of this email has been attached (Attachment 9.2.1.5).

## CONSULTATION

Steven Elliott – Senior Legislation Officer - DLGSCI

## STATUTORY REQUIREMENTS

The Shire has the ability to create a local law under s.3.5 and s.3.10 of the *Local Government Act 1995* and to create a Cat Local Law under s.79 of the *Cat Act 2011* (Attachment 9.2.1.2).

## 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 1922 - Advertising.

| RISK MANAGEMENT IMPLICATIONS   |                                 |   |                |
|--|---------------------------------|---|----------------|
| 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

Absolute Majority

## OFFICER RECOMMENDATION/COUNCIL DECISION

50/22 Moved Cr Gale

Seconded Cr Singh

That the Shire of Kojonup Cat Local Law 2022, inclusive of the Department of Local Government, Sport and Cultural Industries' suggested amendments (as attached), be adopted:

Purpose: To address the impounding of cats, requirements and limitations on the keeping of cats, the requirements of approved kennel establishments and the establishment of cat prohibited areas within the Shire of Kojonup.

Effect: To provide for consistent and effective management of the cat population within the Shire of Kojonup.

CARRIED BY ABSOLUTE MAJORITY 8/0



## 9.2.2 PARKING LOCAL LAW 2022 ADOPTION

|               |   |
|---------------|---|
| AUTHOR        | Stephanie Swain – Senior Ranger   |
| DATE          | Friday, 27 May 2022   |
| FILE NO       | LE. LCL.1   |
| ATTACHMENT(S) | <p>9.2.2.1 - Proposed Parking Local Law 2022</p> <p>9.2.2.2 - s. 3.5 and s. 3.10 - <i>Local Government Act 1995</i></p> <p>9.2.2.3 - Email correspondence from Steven Elliott, Senior Legislation Officer, Department of Local Government, Sport and Cultural Industries (Department)</p> <p>9.2.2.4 - Email correspondence from Steven Elliott, Senior Legislation Officer, Department, outlining advice on changes being unlikely to be significant</p> |

| STRATEGIC/CORPORATE IMPLICATIONS      |   |  |
|---------------------------------------|---|--|
| “Smart Possibilities – Kojonup 2027+” |   | “Smart Implementation – Kojonup 2020-2024”   |
| 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 adoption of the Shire of Kojonup Parking Local Law 2022 (Local Law).

## BACKGROUND

At its 14 December 2021 Ordinary Meeting, Council resolved to propose the Shire of Kojonup Parking Local Law 2022:

*‘That the following local laws be endorsed for proposal, as presented, and advertised for public comment in accordance with s. 3.12 (3) of the Local Government Act 1995 prior to them being brought back to Council for consideration of submissions or amendments, if any, and subsequent adoption:*

- *Parking Local Law 2022*

*Purpose: To enable better parking practices and to remedy parking anomalies in the Shire of Kojonup.*

*Effect: Effective and consistent parking practices within the Shire of Kojonup.*

- *Cat Local Law 2022*

*Purpose: To address the impounding of cats, requirements and limitations on the keeping of cats, and the requirements of approved kennel establishments within the Shire of Kojonup.*

*Effect: To provide for consistent and effective management of the cat population within the Shire of Kojonup.'*

## COMMENT

The required advertising for public comment has been undertaken. Nil responses were received from the community. As required, the proposed Local Law was also presented to the Department for comment. On 9 May, 2022, the Department responded and provided feedback on areas that required amendment, as follows:

### 1. *Definition of taxi*

*The Department is aware that recent amendments have occurred to taxi legislation.*

*Several definitions in the Shire's local law refer to taxi legislation and the Shire should ensure that these definitions are still suitable for the Shire's purposes.*

### 2. *Clause 2.1 – Signage*

*In previous years, the Delegated Legislation Committee has expressed concerns about clauses which allow a local government to change parking rules by resolution.*

*The Committee's primary concern is that rules might be changed without adequate signage, resulting in the public breaching parking rules they were not aware of.*

*While clause 2.1 of the Shire's local law states that the Shire can regulate an area by signs, the word "may" would indicate the use of signage is discretionary. It is suggested that clause 2.1 include an additional subclause as follows:*

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

*While the Shire has a similar subclause in clause 5.2, this only applies to timed parking rather than the local law in general. As such, it might be insufficient to alleviate the committee's concerns.*

### 3. *Infringement notices – Clause 7.5*

*Recently, the Government made amendments to the infringement notices prescribed in the Regulations to ensure the wording was consistent with the current version of the Fines, Penalties and Infringement Notices Enforcement Act 1994.*

*It appears that the template form included in the local law's schedule is using an old form of wording. It is suggested that the wording be updated. Alternatively, clause 7.5 could be amended so it only refers to the template in the Regulations.*

### 4. *Clause 4.5 – Event parking*

*Clause 4.5 provides that the local government can impose special parking rules in relation to special events.*

*The Committee has expressed concerns regarding clauses as it could potentially be used to change parking rules without direct authorization of council.*

*It is suggested that the phrase "Subject to clause 2.1" be added to the beginning of clause 4.5(1) so that it is clear that the council still has to make resolutions in relation to this power.*

All the amendments suggested by the Department have been undertaken. Further correspondence received by the Department when questioned if the proposed Local Law required re-advertising due to the changes, gained the following response:

*'Ultimately, the Parliament's delegated legislation committee determines whether a local law has become "significantly different" to what was proposed.*

*As a general guide, the Department follows the rules that:*

- The correction of typos/errors are unlikely to be significant;*
- The removal of potentially invalid clauses is unlikely to be significant.*
- Any change which impacts legal rights, responsibilities or liabilities will very likely be significant.*

*The majority of the Department's comments related to the removal of potentially invalid clauses and minor drafting issues. As such, my view is that they are unlikely to be significant. However, as mentioned this will be for the Committee to decide.'*

A copy of the above mentioned email has been attached (Attachment 9.2.2.4).

## **CONSULTATION**

Steven Elliott – Senior Legislation Officer - Department of Local Government, Sport and Cultural Industries

## **STATUTORY REQUIREMENTS**

The Shire has the ability to create a local law under s.3.5 and s.3.10 of the *Local Government Act 1995*.

## **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 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

Absolute Majority

#### OFFICER RECOMMENDATION/COUNCIL DECISION

51/22 Moved Cr Gale

Seconded Cr F Webb

That the Shire of Kojonup Parking Local Law 2022, inclusive of the Department of Local Government, Sport and Cultural Industries suggested amendments (as attached), be adopted:

**Purpose:** To enable better parking practices and to remedy parking anomalies in the Shire of Kojonup.

**Effect:** Effective and consistent parking practices within the Shire of Kojonup.

**CARRIED BY ABSOLUTE MAJORITY 8/0**

*Cathy Wright and Wendy Thorn left the meeting at 3.09pm.*

*The Manager Kodja Place and Tourism Marketing left the meeting at 3.10pm.*

### 9.2.3 BUSH FIRE COMMUNICATIONS

|                      |  |
|----------------------|--|
| <b>AUTHOR</b>        | Grant Thompson – Chief Executive Officer   |
| <b>DATE</b>          | Thursday, 16 June 2022   |
| <b>FILE NO</b>       | ES.CIR.2/ES.COM.1  |
| <b>ATTACHMENT(S)</b> | <p>9.2.3.1 - Email - outcome from meeting with DFES March 2022</p> <p>9.2.3.2 - Consulting Great Southern – Shire of Kojonup Communications Tower Study (V1.6) August 2021 (Kojonup Tower Study)</p> <p>9.2.3.3 - Radio Shadow Map – Current Samson Road Site</p> <p>9.2.3.4 - Radio Shadow Map – Jingalup/Balgarup Road site</p> <p>9.2.3.5 - DFES Internal Memorandum - Kojonup WAERN Coverage Review 2020</p> |

| STRATEGIC/CORPORATE IMPLICATIONS      |   |   |
|---------------------------------------|---|---|
| “Smart Possibilities – Kojonup 2027+” |   | “Smart Implementation – Kojonup 2020-2024”  |
| 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. | 2.3.1 - Maximise community safety through safe urban design and advocate for enhanced emergency service provisions.   |
| 5 - Digital                           | 5.4 – Have used technology to become a smart, safe, collaborative and informed region               | <p>5.4.1 - Enable and advocate for public access to National Broadband Network for all residents.</p> <p>5.4.6 - Technology provisions to ensure all residents have instant access to innovative health provisions.</p> |

### DECLARATION OF INTEREST

Nil

### SUMMARY

For Council to consider and receive the Kojonup Tower Study previously commissioned by Council and, in light of Department of Fire and Emergency Services (DFES) declining a co-funding arrangement, agree a pathway to progress the construction of a new bushfire radio communications tower.

### BACKGROUND

Council, at its 5 November 2019 Special Meeting, resolved as follows:

*“That Council defer a decision on the Communications Tower replacement until the CEO has undertaken the following actions:*

1. Ascertain DFES Capital funding criteria in respect of the Local Government Grant Scheme (LGGs) for the construction of a new Communications Tower which has the ability to accommodate the Shire of Kojonup’s Radio Communications Network including but not limited to:



- a) *The Shire's Mid-Band radio network;*
- b) *The WA Emergency Radio Network;*
- c) *The Shire's Works and Services department radio network;*
- d) *CB radio;*
- e) *Community FM Radio; and*
- f) *Internet;*
2. *Cost to erect a new Communications Tower and associated radio network at the Jingalup Site situated at Jingalup/Balgarup Road given the improved coverage achieved from Shadow Testing undertaken by DFES Communications;*
3. *Land tenure requirements given Jingalup site is currently a road reserve;*
4. *New tower design considerations such as height, structural integrity especially if utilising the tower on offer from WAPOL;*
5. *Costs to relocate the Muradup Shed which permits all weather protection for new batteries and installation of new solar panels to the Jingalup site;*
6. *Costs for security fencing, improved road access to the new tower and costs of shifting/replacing the WAERN system or installation of new aerials to the Jingalup site;*
7. *Costs of dismantling and/or selling the Samson Road Tower and rehabilitating the site;*
8. *Advice to be sourced from DFES Communications as required;*
9. *Lodge an application seeking LGGS Capital Funding based on the above information; and*
10. *Council give due consideration to borrowing the appropriate funds in order for the new Jingalup Tower to be operational by Mid-2020."*

*Note: "Reason for change – Shadow casting trials had indicated Jingalup as a better location for a Communications Tower and bearing this in mind what funding assistance may be available from DFES towards capital works required to erect a new tower at this new location."*

At a previous Bush Fire Advisory Committee (BFAC) meeting held 15 October 2019, the following recommendation was made:

*'that it be recommended to Council that Council urgently commit to building a new communications tower to the maximum height possible on the current midband site, pending an agreement with DFES to move the WAERN repeater to the new tower.'*

The radio shadow maps are included as attachments 9.2.4.3 and 9.2.4.4.

Other previous motions of relevance to this issue are as follows:

At its Ordinary Meeting held on 21 October 2014, the Council resolved:

*'that Kojonup Shire retain the mid band channel 41 radios for bush fire use as high band do not provide total coverage of the Shire on bad day.'*

At its Ordinary Meeting held on 21 February 2017, the Council resolved:

*‘that the attached unconfirmed minutes for the Kojonup Bush Fire Advisory Committee meeting held 13 February 2017 be received and recommendations requiring Council approval as follows be approved by Council:*

*BUSHFIRE ADVISORY COMMITTEE DECISION 3/17*

*That the Bushfire Advisory Committee recommends that the Shire of Kojonup establishes a Technical Work Group consisting of the Presiding Member – Bushfire Advisory Committee, Chief Bushfire Control Officer, Manager Corporate Services, Building Maintenance Coordinator, Digby Stretch and Cr Ned Radford to prepare and present a formal report addressing the following terms of reference:*

- 1. Assess the current and future communications requirements for fire coverage of the Shire.*
- 2. The communication tower should be so sited that the land the tower stands on is either owned or controlled by the Shire Council.*
- 3. That unrestricted access to the tower must be available at all times. This is necessary for maintenance purposes and for defence of the Tower in a wild fire.*
- 4. The Communications Tower must be a stand-alone system. This may mean a combination of battery/solar/backup generator. It is an advantage in general usage to be connected to the power grid, however in a wildfire it is usual for the power grid to become inoperative and cannot be relied upon. Therefore, a stand-alone system is considered an imperative.*
- 5. The tower must be capable of carrying different types of antennae that may be required to operate simultaneously: e.g., The Bushfire Network, Shire Network and possibly Telstra or other users.*
- 6. The type of radio, the frequency bands allocated and any alternative means of communications should all be examined. The expectation is; “that as effective a communication system as can be afforded will be in place for the 2017/2018 fire season”.*

#### **COMMENT**

Council is aware that staff have been researching the construction and location for the installation of a new bush fire communication tower for some years now.

Council has previously deferred decisions to invest in a new tower based on seeking further information and verification of the tower communications “shadow” as well as trying to secure funding from DFES to co-fund the construction of a new tower.

Radio communications is old but reliable technology that, when associated with managing an emergency in the Shire of Kojonup (Shire), is a viable investment based on it being an open communication line with all Volunteers and Bush Fire Brigades in the Shire.

Shire officers met with DFES on 17 March 2022 requesting co-funding of the tower. The response to this request is attached for your information (Attachment 9.2.4.1).

In its response to the Shire’s request for co-funding, the DFES radio communications team claim they have conducted extensive analysis and service improvement works to the WAERN network during the project and more recently in 2019 and 2020.



The Shire's proposal and request for financial assistance to address the aging tower problem by transferring services to a new tower was rejected by DFES.

DFES confirmed it will provide the cost of relocating WAERN (Western Australian Emergency Radio Network) 234 infrastructure to the new tower but, due to the tower primarily hosting the Shire's mid-band radio networks, Community FM Radio and internet services, DFES will not allocate funds to the construction of a new tower.

DFES stated that, *"under the provisions of the Emergency Services and Bushfires Acts, DFES can only expend Emergency Services Levy funds relating to the provision of prescribed emergency services, and accordingly, the DFES Commissioner has no authority to allocate funds for the new Tower."*

The Shire will work with DFES, given the Work Health and Safety legislative requirements that have now taken effect, to create a clear operational model and ensure our teams are properly trained so they understand how to communicate at all times regardless of the network.

DFES is committed to the WAERN network and new technology that they are researching.

Effective radio communications capability in emergency response times at a local level is a critical community asset. Clearly, the combination of technology and different radio solutions as well as new technology coming online, will enhance our response to emergencies and create a safety net for the Shire.

There have been numerous requests to "get on with building a new tower" from the community and Brigade volunteers.

There are issues that still need to be considered with regard to the construction of a new tower for bush fire radio communications in the Shire of Kojonup as outlined in the Consulting Great Southern (CGS) study attached.

They mainly include:

- Impact on communications coverage. Will new black spots be created by choosing a new site?
- Access and perpetuity of private land (to be negotiated).

According to the Kojonup Tower Study by CGS (attachment 9.2.4.2) there are three options the Council has to consider to progress this matter:

**Option 1 – Co-locate**

Co-locate to an existing structure such as the WAPOL (Western Australian Police) tower in town where DFES has the high band repeater installed, for a budgetary spend of circa \$50,000 plus an annual rent circa \$3,000.

Preliminary investigation with WAPOL indicates that the Shire's current needs could be met through co-location of the Samson Road radios onto this structure where the DFES WAERN is already located.

This is a low capital option but is not recommended due to the Shire not having control over access to the tower and the site, and additional hardware could not be utilised if required.

Furthermore, CGS viewed the tower in question: *“We observe that it is incomplete and would not be suitable for the needs of the Shire. 4 sections are on site and it appears other sections have been removed”*.

NBN has been consulted and to date no solution is forthcoming regarding co-location access to their infrastructure; therefore, this is not an option in the short term.

### **Option 2 – Construct a New Tower on the Existing Site**

According to the attached study from Consulting Great Southern, the Samson Road structure is overloaded for the Shire’s current needs and is not recommended for refurbishment.

Accepting and receiving the Kojonup Tower Study means that the “Do nothing” and “Refurbishment” options are closed and the Shire needs to consider other options evaluating co-location and new tower build.

Previous Bush Fire Advisory Committee recommendations state that Council commit to building a new communications tower to the maximum height possible on the current midband site, pending an agreement with DFES to move the WAERN repeater to the new tower.

Option 2 is, therefore, not recommended at this time as there are too many issues with the current site and infrastructure. The Samson Road tower does not meet the applicable standard for climbing and is not suitable for refurbishment.

### **Option 3 – Build new Tower at New Site**

Construct a new tower on a green field site, yet to be determined, which will house both the WAERN and the Mid-Band radio network infrastructure.

Officers will use the current Kojonup Tower Report to design and cost a ‘shovel ready’ plan for construction of the tower as soon as practicable.

Using the information on shadow mapping, identify the best site within the Shire to locate this infrastructure for full coverage of the Shire of Kojonup and negotiate access in perpetuity.

The construction of a new tower could total between \$350,000 and \$500,000; it is currently difficult to establish the exact costs at this time without a fully designed tower.

It is recommended that Council pursues Option 3 with further clarity to be given on outstanding points related to coverage risk and tower design and costings.

This option will provide confidence that the placement and operation of communications equipment is in the best interests of the residents within the Shire of Kojonup and surrounding Shires.

## CONSULTATION

Kojonup Bush Fire Advisory Committee

DFES Staff:

- Richard Burnell, Executive Director Corporate Services, DFES
- Wayne Green, Superintendent Great Southern, DFES

NBN

Mark Toohey - Consulting Great Southern

Chief Executive Officer

Manager Regulatory Services

## STATUTORY REQUIREMENTS

Nil

## POLICY IMPLICATIONS

Nil

## FINANCIAL IMPLICATIONS

The Shire of Kojonup currently has a cash backed reserve account to be utilised for this project.

The construction of a new tower could total between \$350,000 and \$500,000; it is currently difficult to establish the exact costs at this time without a fully designed option.

Any additional gap funding will require a loan from the Western Australian Treasury Corporation.

## RISK MANAGEMENT IMPLICATIONS

| RISK MANAGEMENT FRAMEWORK          |   |  |                |
|------------------------------------|---|--|----------------|
| Risk Profile                       | Risk Description/Cause  | Key Control                                  | Current Action |
| 1 - Asset Sustainability Practices | Inadequate design (not fit for purpose)<br><br>Outputs not meeting expectations;            | Asset Replacement Schedule<br>Asset Register | N/A            |
| 6 - Engagement Practices           | Infrastructure Projects   | Advisory committees/groups                   | N/A            |
| 8 - Errors, Omissions & Delays     | Incorrect planning, development, building, community safety and Emergency Management advice | Policies and procedures                      | N/A            |

|  |  |                        |     |
|--|--|------------------------|-----|
| 11 – IT & Communications   | Failures or disruptions caused by hardware, software or networks | Performance Monitoring | N/A |
| <i>Risk Rating: Adequate</i>   |  |                        |     |
| IMPLICATIONS   |  |                        |     |
| The risk of investing in technology that could be made redundant over a short asset life time has negative implications both with the cost of finance related to the return on asset and the balance sheet as well as the risk to quality of communications. |  |                        |     |

#### ASSET MANAGEMENT IMPLICATIONS

The current communications tower is included in our Asset Register.

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

Nil

#### VOTING REQUIREMENTS

Simple majority

#### OFFICER RECOMMENDATION/COUNCIL DECISION

52/22 Moved Cr P Webb

Seconded Cr Singh

That Council:

1. receives the report from Mark Toohey, Consulting Great Southern (CGS), titled 'Shire of Kojonup Communications Tower Study – (V1.6)';
2. commits to self-funding and building a new communications tower to the maximum height possible on an appropriate new mid-band site yet to be determined;
3. accepts the CGS recommendation that the Shire should source its own Radio Frequency coverage data if contemplating a material capital spend;
4. authorises the Chief Executive Officer (CEO) to engage an independent consultant to carry out a comprehensive investigation to verify the best site option within the Shire to locate new communications infrastructure enabling full coverage of the Shire of Kojonup and eliminating the risk of black spots; and
5. authorises the CEO to engage the appropriate expertise and consultants to plan, design and cost a new communications tower build and table the design and costings at a future Council meeting for further consideration on tender and financing options.

CARRIED 8/0

**9.2.4 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA) - ARRANGEMENTS FOR MANAGEMENT OF VOLUNTEER BUSH FIRE BRIGADES: PROPOSED ADVOCACY POSITION**

|                      |   |
|----------------------|---|
| <b>AUTHOR</b>        | Grant Thompson CEO  |
| <b>DATE</b>          | Thursday, 16 June 2022  |
| <b>FILE NO</b>       | ES.CIR.2  |
| <b>ATTACHMENT(S)</b> | <p>9.2.4.1 - WALGA INFOPAGE: Proposed Advocacy Position on Arrangements for Management of Volunteer Bushfire Brigades 20 May 2022</p> <p>9.2.4.2 - WALGA: Arrangements for Management of Volunteer Bush Fire Brigades – Proposed Advocacy Position May 2022</p> |

| STRATEGIC/CORPORATE IMPLICATIONS      |   |   |
|---------------------------------------|---|---|
| “Smart Possibilities – Kojonup 2027+” |   | “Smart Implementation – Kojonup 2020-2024”  |
| 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. | 2.3.1 - Maximise community safety through safe urban design and advocate for enhanced emergency service provisions. |

**DECLARATION OF INTEREST**

Nil

**SUMMARY**

Council to consider and formalise a response on the Proposed Advocacy Position on Arrangements for Management of Volunteer Bush Fire Brigades (BFBs), as proposed by WALGA.

**BACKGROUND**

Western Australian Local Governments have extensive roles and responsibilities embedded in the State Emergency Management Framework across the emergency management spectrum of prevention, preparedness, response, and recovery.

Under the *Bush Fires Act 1954*, Local Governments have responsibility for bush fires and the management of volunteer Bush Fire Brigades (BFBs). 111 Local Governments manage 563 BFBs involving approximately 20,000 volunteers.

The Fire and Emergency Services Authority (now the Department of Fire and Emergency Services [DFES]) was established in 1999 for the purpose of improving coordination of Western Australia’s (WA) emergency services, replacing the Fire Brigades and Bush Fires Boards. DFES provides strategic leadership for emergency services across WA. DFES manages the career fire and rescue service, as well as a number of volunteer emergency services: Volunteer Fire and Emergency Services (VFES); Volunteer Fire and Rescue Service (VFRS); State Emergency Services (SES); and Marine Rescue Western Australia.

Around Australia:

- WA is the only State in Australia in which Local Governments manage bush fire volunteers (pursuant to the *Bush Fire Act 1954*).
- In New South Wales, the NSW Rural Fire Service, which makes up the world's largest firefighting volunteer services, is managed by the NSW Government.
- Similarly, the Victorian Government manages the Country Fire Authority which manages regional fire services in Victoria.
- In South Australia, the *Fire and Emergency Services Act 2005 (SA)* provides for the South Australian Country Fire Service (SACFS) being established as a body corporate, currently managing 14,000 volunteers. The SACFS is responsible to the Minister for Emergency Services.
- In Queensland, the *Fire and Emergency Services Act 1990 (Qld)* provides for the establishment of rural fire brigades, with the Commissioner responsible for the efficiency of rural fire brigades.
- The Tasmanian Fire Service sits under the State Fire Commission, established under the *Fire Service Act 1979*, with more than 200 fire brigades across Tasmania, 350 career firefighters and 5000 volunteers.
- The ACT Rural Fire Service sits under the ACT Emergency Services Agency and is responsible for all bush and grass fires in rural ACT areas, through 450 volunteers in eight brigades.
- Bushfires NT is a division of the Department of Environment, Parks and Water Security, which is responsible for administration of the *Bushfires Management Act 2016*. The Minister appoints members of the Bushfires Council and regional bush fires committees.

Current Arrangements in WA:

In Western Australia 111 Local Governments manage 563 BFBs involving approximately 20,000 volunteers. The Bush Fire Service is the largest volunteer emergency service by a significant margin:

- Bush Fire Service: 19,639 volunteers
- Fire and Rescue Service: 2,486 volunteers
- State Emergency Services: 2001 volunteers
- Volunteer Fire and Emergency Services: 926 volunteers
- Emergency Services Cadet Corps: 2,261 volunteers
- Marine Rescue Service: 1,559 volunteers.
- The number of BFBs managed by Local Governments varies from one up to 20. For example, the Shire of Cranbrook, which has a population of 1000 people, annual revenue of \$8 million and 29 employees, manages 11 BFBs. The City of Mandurah, population 88,000, annual revenue of \$116 million and 678 employees, manages one BFB.

DFES currently manages a number of BFBs in its own right. This includes seven bushfire brigades within the Kimberley and seven bushfire brigades within the Pilbara regions. Under this arrangement, Local Governments maintain responsibility for administering the *Bush Fires Act 1954* and carry out activities such as inspecting fire breaks and issuing burning permits.

In 2021 WALGA undertook a comprehensive Local Government Emergency Management Survey to ascertain the sector's sentiment with respect to their emergency management



responsibilities. It is important to read the survey results (104 local governments responded) and realise support for volunteer BFBs is not consistent across Local Governments in WA.

As part of the survey, Local Governments were asked about their level of satisfaction with current arrangements for managing BFBs. 92 Local Governments (69 of which manage BFBs) provided the following feedback:

- 93% were not wholly satisfied with the current arrangements for the management of BFBs; and
- 51% expressed that their Local Government does not support the requirements for Local Governments to manage BFBs.

#### COMMENT

The State Government is currently drafting the Consolidated Emergency Services Act (CES Act) which consolidates the *Fire Brigades Act 1942*, *Bush Fires Act 1954* and *Fire and Emergency Services Act 1998* into a single piece of legislation, anticipated to be released as a Green Bill for consultation in early 2023.

WALGA is forming an advocacy position on the creation of the CES Act and, in particular, the management of BFBs and has requested that each local government provide input by way of a formal motion supporting its position.

The development of the CES Act represents a timely opportunity for the Shire of Kojonup to express its position on the management of volunteer BFB's.

Responses to the proposed Advocacy Position Paper are requested by 8 July 2022 and sector feedback will inform the WALGA State Council's final position (in September 2022) and guide WALGA in its engagement with the State Government on this issue.

#### Volunteer Bush Fire Service Culture in Kojonup:

Kojonup BFBs operate independently and in a self-sufficient manner, which the Shire supports; this assists in creating community resilience.

Kojonup has historically had a significant interest in volunteering and BFBs; this is reflected in the strength of the BFBs and the number of volunteers. This stability has been threatened recently with changes to Work Health and Safety legislation and the COVID-19 pandemic public health mandates stipulated by the State Government. The introduction of the *Work Health and Safety Act 2020* has highlighted Local Government and Responsible Officer liabilities in managing volunteer BFBs.

It is essential that the integrity of the Bush Fire Service is maintained, whatever the arrangements for the management of BFBs evolves into.

#### Options for future management of BFBs:

WALGA has offered four options for the future management of BFBs:

1. **Status quo** - continue with the current arrangements for management of BFBs whereby the majority are managed by Local Government and transfer arrangements are negotiated on an ad hoc basis between DFES and Local Governments (or their BFBs).



2. **Improvements** - continue with the current arrangements for Local Government management of BFBs with additional support provided by the State Government with respect to increased funding and better access to training resources and other support.
3. **Hybrid Model** - Local Government continues to manage BFBs where they have the capacity, capability and resources to do so; however, where they do not have the capacity, capability and resources, responsibility for management of BFBs is transferred to DFES.
4. **Transfer** - Responsibility for management of all BFBs is transferred to the State Government, consistent with the arrangements in other States and Territories.

#### Proposed Position

Based on the feedback received from Local Governments in the WALGA Emergency Management Survey 2021 and other considerations, WALGA is leaning toward supporting a hybrid model for the management of BFBs.

A hybrid model allows the continued management of BFBs by those Local Governments with capacity, capability and resources to do so, while providing a framework for the transfer of the management of BFBs to the State Government where a Local Government cannot/does not wish to manage emergency services.

This position should not materially affect the manner in which the Shire of Kojonup currently operates its BFBs and, if implemented, may increase the resources to manage more effectively. However, it does open up the option for a framework to be developed for DFES to transition and manage emergency services and BFBs in regional Shires.

WALGA is also proposing that Local Governments with responsibility for management of BFBs require additional support and resourcing which should be provided by the State Government, including:

- development of a suite of guidelines and resources to assist Local Governments in their management of BFBs, particularly with respect to the discharge of obligations under the *Work Health and Safety Act 2020*;
- expansion of the Community Emergency Services Manager Program (Program) so that every Local Government with responsibility for managing BFBs has access to the Program if they wish to participate;
- universal access to DFES training for BFBs; and
- development of mandatory and minimum training requirements including recognition of competency for volunteers.

#### **CONSULTATION**

Manager Regulatory Services

WALGA INFOPAGE: Proposed Advocacy Position on Arrangements for Management of Volunteer Bushfire Brigades 20 May 2022

WALGA: Arrangements for Management of Volunteer Bush Fire Brigades – Proposed Advocacy Position May 2022

#### **STATUTORY REQUIREMENTS**

Nil

#### **POLICY IMPLICATIONS**

Nil

## FINANCIAL IMPLICATIONS

Nil (to propose a model)

## RISK MANAGEMENT IMPLICATIONS

| RISK MANAGEMENT FRAMEWORK   |   |  |  |
|---|---|--|--|
| Risk Profile  | Risk Description/Cause  | Key Control  | Current Action   |
| 2. Business Disruption  | Cyclone, storm, fire, earthquake  | Emergency Resources and Support Budget                               | Review and Test LEMA Plan; Bushfire Risk Management Plan |
| 6. Engagement Practices   | Relationship breakdowns with community groups; Leadership inattention to current issues; Budget/funding issues; Miscommunication/poor communication; Inadequate involvement with or support of community groups; Media attention. | Advisory committees/groups; Support local community Volunteer groups | Review and assess Community Engagement Strategy and Plan |
| <i>Risk Rating: Adequate</i>  |   |  |  |
| IMPLICATIONS  |   |  |  |
| Implications of not advocating a consensus position may contribute to the State Government transfer responsibility for BFBs to DFES in the new CES Act. |   |  |  |

## ASSET MANAGEMENT IMPLICATIONS

Nil

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

Nil

## VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION

1. That Council supports the hybrid model proposed by the Western Australian Local Government Association in its Arrangements for Management of Volunteer Bush Fire Brigades – Proposed Advocacy Position May 2022, as attached, that enables the continued management of Volunteer Bush Fire Brigades by Local Governments with additional funding and support from State Government directly to Local Governments.
2. That, as a part of the above mentioned hybrid model, the State Government provides:
  - a. additional funding, support and resources to individual local governments to ensure they have the capability to manage Volunteer Bush Fire Brigades (BFBs) and thus emergencies;
  - b. a suite of relevant and co-designed guidelines and materials to assist Local Governments in managing BFBs;
  - c. a pathway for training and promotion requirements for BFB Volunteers supported by a universally accessible training program;
  - d. the recognition of prior learning, experience and competency of BFB Volunteers;
  - e. a support and recognition statement in the proposed Consolidated Emergency Services (CES) legislation that Volunteer BFBs are a critical component of the overall emergency management framework, as the agile first line of defence in emergency response and management throughout rural and regional WA; and
  - f. relief and protection in the proposed CES Act for Local Governments, Local Government Responsible Officers, Councils, and Volunteer BFBs, from Work and Health and Safety requirements where management of the community BFBs is on a voluntary basis.

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr Bilney

Seconded Cr Egerton-Warburton

1. That Council supports the hybrid model proposed by the Western Australian Local Government Association in its Arrangements for Management of Volunteer Bush Fire Brigades – Proposed Advocacy Position May 2022, as attached, that enables the continued management of Volunteer Bush Fire Brigades by Local Governments with additional funding and support from State Government directly to Local Governments.

2. That, as a part of the above mentioned hybrid model, the State Government provides:

- a. additional funding, support and resources to individual local governments to ensure they have the capability to manage Volunteer Bush Fire Brigades (BFBs) and thus emergencies;
- b. a suite of relevant and co-designed guidelines and materials to assist Local Governments in managing BFBs;
- c. a pathway for training and promotion requirements for BFB Volunteers supported by a universally accessible training program;
- d. the recognition of prior learning, experience and competency of BFB Volunteers;
- e. a support and recognition statement in the proposed Consolidated Emergency Services (CES) legislation that Volunteer BFBs are a critical component of the overall emergency management framework, as the agile first line of defence in emergency response and management throughout rural and regional WA; and
- f. relief and protection in the proposed CES Act for Local Governments, Local Government Responsible Officers, Councils, and Volunteer BFBs, from Work and Health and Safety requirements where management of the community BFBs is on a voluntary basis.

AMENDMENT TO THE MOTION

53/22 Moved Cr P Webb

Seconded Cr Egerton-Warburton

That the words 'paid for by the State' be added at the end of clause 2 c.

CARRIED 8/0

THE AMENDMENT BECAME PART OF THE MOTION AND WAS PUT

54/22 Moved Cr Bilney

Seconded Cr Egerton-Warburton

1. That Council supports the hybrid model proposed by the Western Australian Local Government Association in its Arrangements for Management of Volunteer Bush Fire Brigades – Proposed Advocacy Position May 2022, as attached, that enables the continued management of Volunteer Bush Fire Brigades by Local Governments with additional funding and support from State Government directly to Local Governments.

2. That, as a part of the above mentioned hybrid model, the State Government provides:

- a. additional funding, support and resources to individual local governments to ensure they have the capability to manage Volunteer Bush Fire Brigades (BFBs) and thus emergencies;
- b. a suite of relevant and co-designed guidelines and materials to assist Local Governments in managing BFBs;

- c. a pathway for training and promotion requirements for BFB Volunteers supported by a universally accessible training program paid for by the State;
- d. the recognition of prior learning, experience and competency of BFB Volunteers;
- e. a support and recognition statement in the proposed Consolidated Emergency Services (CES) legislation that Volunteer BFBs are a critical component of the overall emergency management framework, as the agile first line of defence in emergency response and management throughout rural and regional WA; and
- f. relief and protection in the proposed CES Act for Local Governments, Local Government Responsible Officers, Councils, and Volunteer BFBs, from Work and Health and Safety requirements where management of the community BFBs is on a voluntary basis.

CARRIED 8/0

Reason for change to Officer Recommendation:

To propose that a universally accessible training program be paid for by the State.

### 9.3 KEY PILLAR 3 – ‘PERFORMANCE’ REPORTS

#### 9.3.1 FINANCIAL MANAGEMENT – MONTHLY STATEMENT OF FINANCIAL ACTIVITY (MAY 2022)

|                       |  |
|-----------------------|--|
| <b>AUTHOR</b>         | Anthony Middleton – Manager Corporate & Community Services |
| <b>DATE</b>           | Wednesday, 8 June 2022                                     |
| <b>FILE NO</b>        | FM.FNR.2   |
| <b>ATTACHMENT (S)</b> | 9.3.1.1 - May 2022 Monthly Financial Statements            |

| STRATEGIC/CORPORATE IMPLICATIONS      |   |  |
|---------------------------------------|---|--|
| “Smart Possibilities – Kojonup 2027+” |   | “Smart Implementation – Kojonup 2020 – 2024”   |
| Key Pillar                            | Community Outcomes  | Corporate Actions  |
| 3 - Performance                       | 3.4 – Be organised and transparent with our financial management. | 3.4.1 - Increase regularity of readable financial reporting to the community.<br>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 May 2022.

#### 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 2021 to 31 May 2022 represents eleven (11) months, or 92% of the year.

The following items are worthy of noting:

- Closing surplus position of \$301,810;
- Operating results:
  - 93% of budgeted operating revenue has been received; and
  - 93% of budgeted operating expenditure spent;
- Capital expenditure achieved 67% of budgeted projects;
- Cash holdings of \$4.27m of which \$3.87m is held in cash backed reserve accounts and \$237,239 is a grant held for other parties;
- Rates debtors outstanding equate to 8% of total rates raised for 2021/2022; and



- Page 9 & 10 of the statements detail major variations from year to date (amended) budgets in accordance with Council Policy 2.1.6 – concern has been raised regarding the 'Road Maintenance' sub-program over expenditure of 104% of total year budget.

#### CONSULTATION

Nil

#### STATUTORY REQUIREMENTS

Regulation 34 of the *Local Government (Financial Management) Regulations 1996* sets out the basic information which must be included in the monthly reports to Council.

#### POLICY IMPLICATIONS

Council Policy 2.1.6 defines the content of the financial reports.

#### FINANCIAL IMPLICATIONS

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

#### RISK MANAGEMENT IMPLICATIONS

Nil

#### ASSET MANAGEMENT IMPLICATIONS

Nil

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

Nil

#### VOTING REQUIREMENTS

Simple Majority

#### OFFICER RECOMMENDATION

54/22 Moved Cr Gale

Seconded Cr Wieringa

That the monthly financial statements for the period ending 31 May 2022, as attached, be noted.

CARRIED 8/0

### 9.3.2 MONTHLY PAYMENTS LISTING – MAY 2022

|            |   |
|------------|---|
| AUTHOR     | Vivicka Kahn - Finance and Payroll Officer          |
| DATE       | Sunday, 12 June 2022                                |
| FILE NO    | FM.AUT.1  |
| ATTACHMENT | 9.3.2.1 – Monthly Payments Listing 1 to 31 May 2022 |

| STRATEGIC/CORPORATE IMPLICATIONS      |   |  |
|---------------------------------------|---|--|
| “Smart Possibilities – Kojonup 2027+” |   | “Smart Implementation – Kojonup 2020-2024”   |
| Key Pillar                            | Community Outcomes  | Corporate Actions  |
| 3 - Performance                       | 3.4 – Be organised and transparent with our financial management. | 3.4.1 - Increase regularity of readable financial reporting to the community.<br>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 May 2022.

#### BACKGROUND

Not applicable

#### COMMENT

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

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

55/22 Moved Cr Wieringa

Seconded Cr F Webb

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 May 2022 |               | TO – 31 May 2022 |
|-------------------|---------------|------------------|
| Municipal Cheques | 14335 - 14337 | \$27,759.24      |
| EFTs              | 30025 - 30152 | \$1,014,803.80   |
| Direct Debits     |               | \$414,677.83     |
| Total             |               | \$1,457,240.87   |

be received.

CARRIED 8/0

9.4 KEY PILLAR 4 – ‘PROSPERITY’ REPORT

**9.4.1 PROPOSED SINGLE HOUSE AND (THREE) 3 CABINS - LOT 5 (No. 4631) SCOTTS BROOK ROAD, MOBRUP**

|                      |  |
|----------------------|--|
| <b>AUTHOR</b>        | Steve Thompson - Consultant Planner, Edge Planning & Property  |
| <b>DATE</b>          | Monday, 13 June 2022   |
| <b>FILE NO</b>       | A14100   |
| <b>ATTACHMENT(S)</b> | <p>9.4.1.1 - Location plan</p> <p>9.4.1.2 - Plans and original letter from applicant</p> <p>9.4.1.3 - Extract from <i>Planning and Development (Local Planning Scheme) Regulations 2015</i></p> <p>9.4.1.4 - Letter from neighbour</p> <p>9.4.1.5 - Response from applicant</p> <p>9.4.1.6 - Tourist Accommodation in Rural Zoned Areas Policy</p> |

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

**DECLARATION OF INTEREST**

Nil

**SUMMARY**

To consider an application for development approval for a single house and three (3) cabins.

**BACKGROUND**

The application site is located approximately 44 kms south-west of the Kojonup townsite (Attachment 9.4.1.1). The property is 323.8396 hectares in area and contains a machinery shed. Parts of the property have been used as a tree plantation.

The surrounding and nearby lots are zoned ‘Rural’ and are used for farming purposes including cereal cropping and livestock production.

Proposal

The applicant seeks approval for a single house and three (3) cabins (holiday accommodation) in the north-east section of the property. Details provided by the applicant are set out in Attachment 9.4.2.

The plans show the proposed buildings will be setback over 1500m from the front boundary to Scotts Brook Road, over 280m from the northern property boundary, over 275m from the eastern property boundary and over 1340m from the western boundary.

The proposed modular, single storey house is around 265m<sup>2</sup> in floor area. The walls will be clad in a combination of vertical weatherboards and unspecified coloured colorbond metal sheeting. The roofs will be an unspecified coloured colorbond metal sheeting.

Each cabin is 49.5m<sup>2</sup> in area plus there is a porch. The cabins contain a single bedroom, main living area, utility, bathroom and toilet. The cabins will be single-storey and of modular steel construction.

#### COMMENT

Following an assessment of the Development Application against the planning framework, the submission, and information provided by the applicant, the Development Application is considered to be generally consistent with Shire of Kojonup Town Planning Scheme No. 3 (TPS3) and policies. It is recommended that Council conditionally approve the Development Application given:

- It is overall consistent with the planning framework;
- The Council has expressed a desire to support increased tourism;
- The proposed cabins support a greater range of accommodation, contribute to diversifying the local economy and support tourism;
- The cabins have generous setbacks from off-site agricultural operations;
- No clearing of native vegetation is proposed;
- There are expected to be minimal environmental impacts;
- There are no objections from other Shire officers;
- There are manageable bushfire risks noting the buildings are not within the designated bushfire prone area; and
- Development conditions can assist to control the use and management of the development.

While noting the above, the application raises some matters which are outlined below.

#### Management of guests

A key issue is ensuring that guests are respectful of neighbours' farming operations and their 'right to farm'. The objection from a neighbour raises this, along with security, biosecurity and other matters. The applicant has, in part, responded to this matter.

A recommended development condition includes the preparation and implementation of a Management Plan. It is suggested the Management Plan should address matters including:

- Acknowledging that the property is situated in a rural area where agricultural land uses and rural activities should be expected and tolerated;
- Recognising existing farming operations have a 'right to farm' without interruption;
- Advising guests of expectations relating to rural activities and impacts;
- Addressing the responsibility for guest/visitor behaviour and management measures to be implemented to minimise adverse impact on the amenity of the locality;
- Seeking the operation to be a 'good neighbour' and to be considerate including relating to noise, litter and the approach to reducing fire risks;
- Considering and addressing impacts from guests/visitors including amplified music and other noise;
- Biosecurity;
- Fencing and addressing trespass;
- Restricting and/or managing pets;
- Not lighting any outside fires during periods of restricted and prohibited burning and bushfire warnings of any level;

- Adhering to all fire risk regulations with terms and conditions stipulating that no candles, sparklers, fireworks, flame-based décor or open fires are to be used during the restricted fire season;
- Fire equipment to be provided on site; and
- Outlining the approach to maximise the safety and security of guests and visitors including to dam(s).

#### Zoning and Land Use/Development

The property is zoned 'Rural' in the TPS3. The objectives for the Rural Zone are stated in clause 3.2.7 as:

- 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.

The single house land use, under TPS3, is a 'P' (permitted) use in the Rural zone. The single house complies with TPS3 development standards including setbacks.

Clause 5.13 Rural Development of TPS3 requires development within the Rural zone to comply with the zone objectives and such requirements as determined by Council. The proposed cabins (holiday accommodation) are not included in Table II – Development Table.

*Holiday Accommodation* - means accommodation comprising two or more cabins, apartments, chalets, cottages, or flats which, by way of trade or business, or for the purpose of any trade or business, is held out as being available or is made available for holiday purposes for occupation by persons other than the proprietor.

The proposal satisfies the definition of the 'holiday accommodation' land use which is an 'AA' (discretionary) land use within the Rural zone.

#### Setbacks

TPS3 provides limited guidance relating to setbacks in the Rural zone. While noting this, any impact of the proposed development should be contained on-site. This is to ensure that the development does not adversely affect agricultural pursuits occurring or potentially occurring on surrounding land.

Given the proposed buildings are setback at least 275m or greater from property boundaries, the development is unlikely to result in land use conflict with surrounding agricultural operations.



### Bush fire planning

The proposed house and cabins are located off the designated bush fire prone area. While noting this, the driveway to the proposed house and the cabins are largely through a designated bush fire prone area. Accordingly, it is suggested the driveway should meet the Western Australian Planning Commission's *Guidelines for Planning in Bushfire Prone Areas*.

### Future commercial activities

Should the applicant propose future development and/or events (such as 'safari' tours) and/or additional development, this may trigger the requirement for a new Development Application and the requirement for other Shire approvals.

### Town Planning Scheme Policy Implications

Tourist Accommodation in Rural Zoned Areas Policy (see attachment 9.4.1.6).

### Matters to be considered

Attachment 9.4.1.3 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. The following assesses the application against key matters from the Regulations:

| Matter to be Considered   | Response  |
|---|---|
| (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;  | The proposed development is considered consistent with the aims and provisions of TPS3.   |
| (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving; | The proposal is considered consistent with the orderly and proper planning in a rural area noting TPS3 objectives and that holiday accommodation is a discretionary land use within the Rural zone.   |
| (c) any approved State planning policy;   | State Planning Policy (SPP) 3.7 Planning in Bushfire Prone Areas does not apply other than the driveway. SPP 2.5 Rural Planning sets out various objectives including avoiding and minimising land use conflict. The proposed cabins are well setback from property boundaries. |
| (g) any local planning policy for the Scheme area;  | The application is consistent with Tourist Accommodation in Rural Areas.  |
| (m) the compatibility of the development with its setting including the relationship of the   | Noting the generous setbacks to property boundaries, it is suggested the development is compatible in its setting.  |

| Matter to be Considered   | Response  |
|---|---|
| development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;   |   |
| (n) the amenity of the locality including the following-<br>(i) environmental impacts of the development;<br>(ii) the character of the locality;<br>(iii) social impacts of the development;                | Subject to being a 'good neighbour' and managing guest activities, the proposal is not expected to negatively impact on the amenity or character of the rural locality. |
| (p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;                    | No clearing of native vegetation is required.   |
| (q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk; | The house and cabins are not within the bushfire prone area.  |
| (r) the suitability of the land for development, taking into account the possible risk to human health or safety;   | The proposal is not considered to increase risk to human health or safety subject to on-going effective management of guests/visitors.                                  |
| (s) the adequacy of -<br>(i) the proposed means of access to and egress from the site; and<br>(ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;                            | The proposed access/egress is appropriate and traffic generation can be readily accommodated on Scotts Brook Road.  |
| (w) the history of the site where the development is to be located;   | The development will not impact heritage values.  |
| (y) any submissions received on the application;  | One submission objects to the Development Application.  |

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 single house and the holiday accommodation 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 development can proceed.

3. *Defer the proposal*

The Council can choose to defer the matter and seek additional information from the applicant 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 consulted for 14 days on the Development Application through writing to adjoining/nearby landowners along with other stakeholders. The Shire received one submission on the Development Application as outlined in Attachment 9.4.1.4. The submission objects to the application for a range of reasons including:

- Impacts from the existing mixed enterprise farming business on the proposed development e.g.; chemicals, livestock odour, safety, dust, noise, lights, smoke, pest control, professional kangaroo shooters, beehives;
- Risk to farm security and biosecurity; and
- Fire risks.

In response to the submission, the applicant has provided a letter as set out in Attachment 9.4.1.5.

### **STATUTORY REQUIREMENTS**

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

### **POLICY IMPLICATIONS**

See comments in Town Planning Scheme Policy Implications above.

### **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;<br>Ineffective monitoring of changes to legislation | Professional accreditation/ certification maintained | Nil            |
| 6 – Engagement   | Inadequate documentation or procedures.  | Public notices/ local papers/ website communication  | Nil            |
| 7 – Environment  | Inadequate local laws /planning schemes  | Environmental management compliance                  | Nil            |
| 8 – Errors, Omissions and Delays   | Complex legislation;<br>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 No.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

56/22 Moved Cr Singh

Seconded Cr Wieringa

That Council grant Development Approval for a single house and three (3) cabins (holiday accommodation) at Lot 5 on Diagram 31359 (No. 4631) Scotts Brook Road, Mobrup, subject to the following conditions:

1. The development to be carried out and fully implemented in accordance with the attached stamped approved plans unless a variation has been approved by the local government in writing.
2. The operator is to ensure that noise levels are considerate of adjoining/nearby properties and are to be especially low in volume between 9.00pm and 8.00am.
3. The development is connected to an approved wastewater disposal system(s) to the satisfaction of the local government prior to occupation.
4. The development is connected to a potable water supply to the satisfaction of the local government prior to occupation.
5. Prior to lodgement of a Building Permit, a schedule of materials and colours shall be submitted for approval and implemented to the satisfaction of the local government.
6. The driveway serving the house and cabins is constructed prior to occupation of the cabins and maintained to a minimum all-weather standard to facilitate access to the development by 2-wheel drive vehicles. The driveway is to meet Table 6 - Vehicular access technical requirements of the Western Australian Planning Commission's Guidelines for Planning in Bushfire Prone Areas.
7. No person is permitted to stay in the cabins for a period of more than 3 months in any 12 month period.
8. A hard-wired smoke alarm must be installed in the cabin on or near the ceiling:
  - i) in every corridor or hallway associated with a bedroom or, if there is no corridor or hallway, in an area between the bedrooms and the remainder of the subject building;
  - ii) between each part of the cabin containing bedrooms and the remainder of the dwelling; and
  - iii) where bedrooms are served by a hallway, in that hallway.
9. A system of emergency lighting must be installed in the cabins to assist evacuation of occupants in the event of fire and this lighting must:
  - i) be activated by a smoke alarm(s) (required by the previous Condition); and
  - ii) consist of:
    - a) a light incorporated within the smoke alarm(s) itself; or
    - b) lighting located within the corridor, hallway or area served by the required smoke alarm(s).
10. A Bushfire Emergency Evacuation Plan (Plan) is to be prepared to the satisfaction of the local government and then implemented prior to occupation of the cabins. All measures contained in the Plan are to be maintained to the satisfaction of the local government. The Bushfire Emergency Evacuation Plan is to be displayed in the cabins at all times.
11. The landowner is to submit and gain local government approval for a Management Plan, prior to occupation of the cabins, which addresses the responsibility for the behaviour of guests/visitors and the management measures to be implemented to minimise adverse impacts on the amenity

of the locality. The submitted management details shall be implemented on an ongoing basis to the satisfaction of the local government.

12.No habitation (temporary or permanent) is permitted in the machinery storage shed.

Advice Notes:

A) This is not a Building Permit. A Building Permit must be obtained before any building works commence.

B) With regard to Condition 6, the driveway is to meet Table 6 - Vehicular access technical requirements of the Western Australian Planning Commission's Guidelines for Planning in Bushfire Prone Areas including:

- All sections of the driveway to have a minimum constructed trafficable surface (i.e. gravel/ crushed rock) with a width of 4 metres and horizontal clearance of 6 metres.
- All vegetation overhanging the driveway/accessway should be trimmed to maintain a minimum vertical clearance of 4.5 metres.
- Passing bays should be located every 200 metres with a minimum length of 20 metres and a minimum width of two metres (i.e. the combined trafficable width of the passing bay and constructed driveway to be a minimum six metres) and constructed to a suitable standard (e.g. gravel, crushed rock).

C) In relation to Condition 11, the Management Plan will address matters including:

- Acknowledging that the property is situated in a rural area where agricultural land uses and rural activities should be expected and tolerated;
- Recognising existing farming operations have a 'right to farm' without interruption;
- Advising guests of expectations relating to rural activities and impacts;
- Addressing the responsibility for guest/visitor behaviour and management measures to be implemented to minimise adverse impact on the amenity of the locality;
- Seeking the operation to be a 'good neighbour' and to be considerate including relating to noise, litter and the approach to reducing fire risks;
- Considering and addressing impacts from guests/visitors including amplified music and other noise;
- Biosecurity;
- Fencing and addressing trespass;
- Restricting and/or managing pets;
- Not lighting any outside fires during periods of restricted and prohibited burning and bushfire warnings of any level;
- Adhering to all fire risk regulations with terms and conditions stipulating that no candles, sparklers, fireworks, flame-based décor or open fires are to be used during the restricted fire season;
- Fire equipment to be provided on site; and
- Outlining the approach to maximise the safety and security of guests and visitors including to dam(s).



D) The applicant is to retain appropriate Public Liability Insurance to cover the entire area the subject of this approval to the satisfaction of the local government.

E) If food is proposed to be supplied to guests/visitors, there is initially a requirement to obtain a food registration from the local government.

F) Further development and/or intensification on the property, including events and tours, may result in a need for a new Development Application and the requirement for other Shire approvals.

G) If the applicant or owner 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 13. 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

Nil

11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12 QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

Nil

14 MEETING CLOSED TO THE PUBLIC

14.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil

14.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

Not applicable

15 CLOSURE

There being no further business to discuss, the President thanked the members for their attendance and declared the meeting closed at 3.25 pm.

16 ATTACHMENTS (SEPARATE)

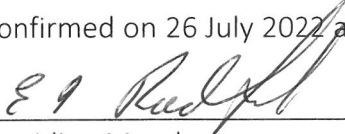
|            |         |  |
|------------|---------|--|
| Item 6.1   | 6.1.1   | Minutes of the Council Meeting held on 17 May 2022   |
| Item 9.1.1 | 9.1.1.1 | Original quote supplied by Southwest Civil   |
|            | 9.1.1.2 | Amended quote supplied by Southwest Civil  |
|            | 9.1.1.3 | Original drawings – marked up  |
|            | 9.1.1.4 | Paving quote supplied by Southwest Civil   |
|            | 9.1.1.5 | Original architectural drawings showing 1 brick  |
|            | 9.1.1.6 | Updated Civil Drawings showing 4 bricks  |
| Item 9.1.2 | 9.1.2.1 | Realm Studios - Kodja Place Schematic Design to create new entrance into the Rose Maze   |
|            | 9.1.2.2 | Drainage diagram   |
| Item 9.2.1 | 9.2.1.1 | Proposed Cat Local Law 2022  |
|            | 9.2.1.2 | s. 79 - <i>Cat Act 2011</i>  |
|            | 9.2.1.3 | Email correspondence from Steven Elliott, Senior Legislation Officer, Department of Local Government, Sport and Cultural Industries (Department) |
|            | 9.2.1.4 | Joint Standing Committee on Delegated Legislation Report (JSCDL) - Cat Local Law review for Shire of Dardanup                                    |
|            | 9.2.1.5 | Email correspondence from Steven Elliott, Senior Legislation Officer, Department, outlining advice on changes being unlikely to be significant   |
| Item 9.2.2 | 9.2.2.1 | Proposed Parking Local Law 2022  |
|            | 9.2.2.2 | s. 3.5 and s. 3.10 - <i>Local Government Act 1995</i>  |
|            | 9.2.2.3 | Email correspondence from Steven Elliott, Senior Legislation Officer, Department of Local Government, Sport and Cultural Industries (Department) |
|            | 9.2.2.4 | Email correspondence from Steven Elliott, Senior Legislation Officer, Department, outlining advice on changes being unlikely to be significant   |
| Item 9.2.3 | 9.2.3.1 | Email - outcome from meeting with DFES March 2022  |
|            | 9.2.3.2 | Consulting Great Southern – Shire of Kojonup Communications Tower Study (V1.6) August 2021 (Kojonup Tower Study)                                 |
|            | 9.2.3.3 | Radio Shadow Map – Current Samson Road Site  |
|            | 9.2.3.4 | Radio Shadow Map – Jingalup/Balgarup Road site   |
|            | 9.2.3.5 | DFES Internal Memorandum - Kojonup WAERN Coverage Review 2020  |
|            |         |  |

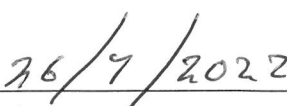
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16 ATTACHMENTS (SEPARATE) cont...

|            |         |  |
|------------|---------|--|
| Item 9.2.4 | 9.2.4.1 | WALGA INFOPAGE: Proposed Advocacy Position on Arrangements for Management of Volunteer Bushfire Brigades 20 May 2022 |
|            | 9.2.4.2 | WALGA: Arrangements for Management of Volunteer Bush Fire Brigades – Proposed Advocacy Position May 2022             |
| Item 9.3.1 | 9.3.1.1 | May 2022 Monthly Financial Statements  |
| Item 9.3.2 | 9.3.2.1 | Monthly Payments Listing 1 to 31 May 2022  |
| Item 9.4.1 | 9.4.1.1 | Location plan  |
|            | 9.4.1.2 | Plans and original letter from applicant   |
|            | 9.4.1.3 | Extract from <i>Planning and Development (Local Planning Scheme) Regulations 2015</i>                                |
|            | 9.4.1.4 | Letter from neighbour  |
|            | 9.4.1.5 | Response from applicant  |
|            | 9.4.1.6 | Tourist Accommodation in Rural Zoned Areas Policy  |

Confirmed on 26 July 2022 as a true record –

  
\_\_\_\_\_  
Presiding Member

  
\_\_\_\_\_  
Date