



## MINUTES

### Ordinary Council Meeting

18 April 2023

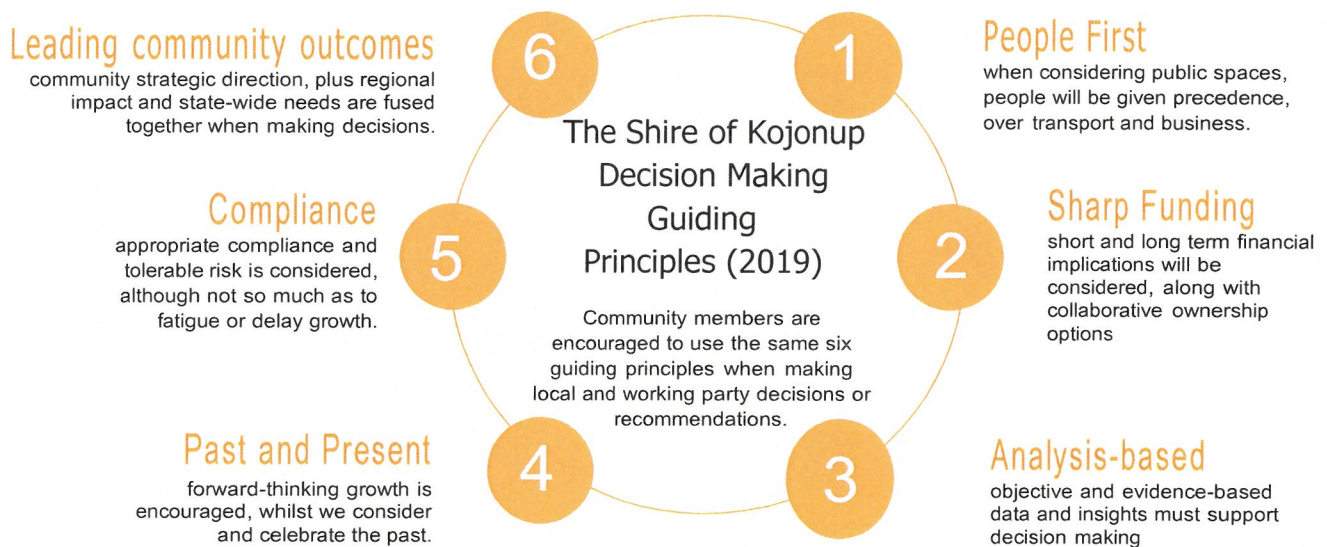
MINUTES OF A COUNCIL MEETING HELD ON 18 APRIL 2023

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





MINUTES

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

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

*Disclaimer*

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

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

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

**Acknowledgement of Country**

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

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

**Prayer**

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

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

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

*Amen*

**2     ANNOUNCEMENTS FROM THE PRESIDING MEMBER**

Nil

**3     ATTENDANCE**

**COUNCILLORS**

Cr N Radford

Shire President

Cr P Webb

Deputy Shire President

Cr F Webb

Cr Wieringa

Cr Gale

Cr Singh

Cr R Bilney

**STAFF**

Grant Thompson

Chief Executive Officer

Robert Jehu

Manager Regulatory Services

Judy Stewart

Senior Administration Officer

**MEMBERS OF THE PUBLIC**

Susanne Bilney

**3.1     APOLOGIES**

Cr Egerton-Warburton

**3.2     APPROVED LEAVE OF ABSENCE**

Nil

**4     DECLARATION OF INTEREST**

Cr Paul Webb – Item 9.2.3 - Proximity

Cr Felicity Webb – Item 9.2.3 - Proximity

**5     PUBLIC QUESTION TIME**

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

Nil

**5.2     PUBLIC QUESTION TIME**

**5.2.1     Susanne Bilney – Kojonup Historical Society**

- **The Barracks - security grills progress**

The Chief Executive Officer (CEO)/Manager Regulatory Services (MRS) advised that the installation of security grills is planned at The Barracks; however, the grills cannot be secured into the stonework and a new framework is required. The

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## Shire of Kojonup – Ordinary Council Meeting – Minutes – 18 April 2023

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CEO/MRS will arrange for the Shire's Building Maintenance Officer to liaise with Arthur Collins from the Kojonup Historical Society.

- **Memorial Hall Area**  
Susanne Bilney wished her thanks to be passed on to the Shire staff responsible for tidying the Memorial Hall area ahead of the upcoming 100 years Anniversary Kojonup District Hospital exhibition.
- **Pigeons – Memorial Hall**  
Approximately six pigeons are frequenting the area that leads into the walkway between the Memorial and Lesser Halls. The Manager Regulatory Services will investigate removal options.

*Susanne Bilney left the meeting at 3.05pm.*

### 6 CONFIRMATION OF MINUTES

- 6.1 ORDINARY COUNCIL MEETING 21 MARCH 2023  
Minutes of the Ordinary Council Meeting held on 21 March 2023 are at **attachment 6.1.1.**

#### OFFICER RECOMMENDATION/COUNCIL DECISION

41/23 Moved Cr Gale

Seconded Cr Singh

That the Minutes of the Ordinary Council Meeting held on 21 March 2023 be confirmed as a true record.

CARRIED 7/0

### 7 PRESENTATIONS

- 7.1 PETITIONS  
Nil
- 7.2 PRESENTATIONS  
Nil
- 7.3 DEPUTATIONS  
Nil
- 7.4 DELEGATES' REPORTS  
Nil

### 8 METHOD OF DEALING WITH AGENDA BUSINESS

There was nil change to the order of business.

9 REPORTS

9.1 KEY PILLAR 1 – ‘PLACE’ REPORTS  
Nil

9.2 KEY PILLAR 2 – ‘CONNECTED’ REPORTS

9.2.1 SHIRE OF KOJONUP PARKING (AMENDMENT) LOCAL LAW 2023

<b>AUTHOR</b>	Stephanie Swain – Senior Ranger
<b>DATE</b>	Tuesday, 28 March 2023
<b>FILE NO</b>	LE. LCL.1
<b>ATTACHMENT(S)</b>	<p>9.2.1.1 - Shire of Kojonup Parking Local Law 2022 - as gazetted</p> <p>9.2.1.2 - Report from Joint Standing Committee on Delegated Legislation (JSCDL) on the Shire of Kojonup Parking Local Law 2022</p> <p>9.2.1.3 - Response from Shire President to JSCDL advising of Council's intention to agree to requested undertaking</p> <p>9.2.1.4 - Response from JSCDL advising of accepted undertaking dated 30 March 2023</p> <p>9.2.1.5 - Proposed Parking (Amendment) Local Law 2023</p> <p>9.2.1.6 - Proposed Parking Local Law 2022 – with amendments</p> <p>9.2.1.7 - Flow chart of Local Law making process</p>

STRATEGIC/CORPORATE IMPLICATIONS		
"Smart Possibilities – Kojonup 2027+"		"Smart Implementation – Kojonup 2018-2022"
<b>Key Pillar</b>	<b>Community Outcomes</b>	<b>Corporate Actions</b>
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 for Council to consider making amendments to the Shire of Kojonup Parking Local Law 2022 (Local Law) as agreed in the undertakings to the Joint Standing Committee on Delegated Legislation (JSCDL) on the 21 March 2023.

**BACKGROUND**

The Shire of Kojonup Parking Local Law 2022 was proposed on 14 December 2021, adopted by Council on 21 June 2022 and gazetted on 31 October 2022. A copy of the Local Law as gazetted is attached.

Upon gazettal of the Local Law, a copy was forwarded to the JSCDL in accordance with the statutory local law process provided in the *Local Government Act 1995*.

The JSCDL presented a report to the Shire of Kojonup (Shire) on this Local Law which outlined inconsistencies and procedural and typographical errors. The JSCDL has

provided the Shire of Kojonup (Shire) until the 27 September 2023 to action the aforementioned undertakings.

The JSCDL requested changes to the Local Law, primarily on the basis that:

- The Local Law did not define the term 'particular event' in Clause 4.5 (*Event parking*);
- The Local Law did not specify a reasonable and defined time limit for the use of parking facilities for the purpose of Clause 4.5;
- The Local Law does not outline a requirement for the local government to give sufficient public notice of the areas subject to event parking mentioned in Clause 4.5 so that the public is adequately informed in advance; and
- That typographical errors in clauses 3.7(2) (b); 3.11 (a); 3.20(1); 4.8(2); 4.11 and 6.2(a) are to be corrected.

On 21 March 2023 Council determined, at its Ordinary Meeting, to provide undertakings to the JSCDL to amend the Local Law in light of the advice received:

23/23

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

1. *Within six (6) months the Shire of Kojonup (Shire) shall amend clause 4.5 of*

*the Shire of Kojonup Parking Local Law 2022 to:*

- *define 'particular event';*
- *specify a reasonable and defined time limit for the use of parking stations (defined time limit for parking stations will be four [4] hours);*
- *include a requirement for the local government to provide sufficient public notice of particular events, including details of the events the Shire wishes for the clause to cover and a proposed time for public notice for the Committee's consideration (public notice shall be undertaken no less than four (4) weeks prior to particular events)*
- *Correct the typographical errors in clauses 3.7(2)(b); 3.11 (a); 3.20(1); 4.8(2); 4.11 and 6.2(a);*

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

3. *All consequential amendments arising from undertaking point 1 above will be made;*

4. *Where the Shire of Kojonup Parking Local Law 2022 is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of these undertakings.*

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

In return, the JSCDL advised on 30 March 2023 that it had accepted the Shire's undertakings.

#### **COMMENT**

After reviewing the report received by the JSCDL, a Shire of Kojonup Parking (Amendment) Local Law 2023 (attached) has been developed. The amendments contained within the Shire of Kojonup (Amendment) Local Law 2023 have been incorporated into the original Shire of Kojonup Parking Local Law 2022.

The Advisory Officer for the Legislative Council Committee Office of Western Australia has advised that the relevant drafts (as attached) can be sent to the JSCDL for comment *after* having been proposed at a Council meeting and *before* being advertised under section 3.12 of the *Local Government Act 1995*.

The JSCDL will advise whether the undertakings have been sufficiently addressed after which the ongoing procedures for advertising, adopting and gazetting the Local Law, as per section 3.12(3) onwards of the *Local Government Act 1995*, can be followed.

It should be noted that when amending or repealing a local law, the process required to be undertaken is in accordance with section 3.12 of the *Local Government Act 1995*, which is the same procedure for 'making' a Local Law. That is; amendment or repeal local laws are new local laws in their own right and must follow the full statutory process.

Attachment 9.2.1.7 shows a flow chart, provided by the Department of Local Government, Sport and Cultural industries, that explains the local law implementation process governed by Section 3.12 of the *Local Government Act 1995*.

The proposed Shire of Kojonup Parking (Amendment) Local Law 2023 and amended Shire of Kojonup Parking Local Law 2022 are attached at 9.2.1.5 and 9.2.1.6 respectively.

#### **CONSULTATION**

Joint Standing Committee on Delegated Legislation  
Chief Executive Officer  
Senior Administration Officer



## STATUTORY REQUIREMENTS

*Local Government Act 1995 – Section 3.12. Procedure for making Local Laws:*

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

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

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

*(3) The local government is to —*

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

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

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

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

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

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

*[(3a) deleted]*

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

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

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

*(a) stating the title of the Local Law; and*

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

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

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

*(8) In this section —*

*making in relation to a Local Law, includes making a Local Law to amend the text of, or repeal, a Local Law.*

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

Advertising costs are associated with the advertising of local laws and any subsequent gazettal, for which there is provision within the budget at Chart of Account code 1922 – Advertising.

<b>RISK MANAGEMENT IMPLICATIONS</b>			
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>			
<b>IMPLICATIONS</b>			
Maximising compliance with legislation mitigates risk of damage to image and reputation as well as penalties associated with non-compliance; compliance demonstrates that best practice methodology is in place.			

#### **ASSET MANAGEMENT IMPLICATIONS**

Nil

#### **VOTING REQUIREMENTS**

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

42/23 Moved Cr Singh  
That Council:

Seconded Cr Bilney

1. endorses the proposed Shire of Kojonup Parking (Amendment) Local Law 2023 (Amendment Local Law), as presented, with the following purpose and effect:

Purpose: To amend certain provisions within the Shire of Kojonup Parking Local Law 2022

Effect: To provide further clarity of the requirements specified in Clause 4.5 (Event Parking) for the Shire of Kojonup to provide public notice of upcoming events and implement time limits on parking facilities utilised under this clause, as well as corrected typographical errors

for consolidation of amendments into the Shire of Kojonup Parking Local Law 2022;

2. after final approval of the proposed Amendment Local Law from the Joint Standing Committee on Delegated Legislation, advertises the proposed Shire of Kojonup Parking (Amendment) Local Law 2023 for a period of not less than six (6) weeks and forwards the proposed Amendment Local Law to the Minister for Local Government, in accordance with s. 3.12 (3) of the *Local Government Act 1995*, for the Minister's comment; and

3. following the public submission period and consideration of comments received, if any, considers adopting the Amendment Local Law.

CARRIED 7/0

9.2.2 SHIRE OF KOJONUP CAT (REPEAL) LOCAL LAW 2023  
SHIRE OF KOJONUP CAT LOCAL LAW 2023

<b>AUTHOR</b>	Stephanie Swain – Senior Ranger
<b>DATE</b>	Tuesday, 28 March 2023
<b>FILE NO</b>	LE. LCL.1
<b>ATTACHMENT(S)</b>	<p>9.2.2.1 - Shire of Kojonup Cat Local Law 2022 - as gazetted</p> <p>9.2.2.2 - Report from Joint Standing Committee on Delegated Legislation (JSCDL) on the Shire of Kojonup Cat Local Law 2022</p> <p>9.2.2.3 - Response from Shire President to JSCDL advising of Council's intention to agree to requested undertakings</p> <p>9.2.2.4 - Response from JSCDL advising of accepted undertakings dated 30 March 2023</p> <p>9.2.2.5 - Proposed Shire of Kojonup Cat (Repeal) Local Law 2023</p> <p>9.2.2.6 - Proposed Shire of Kojonup Cats Local Law 2023</p> <p>9.2.2.7 - Flow chart of local law making process</p>

STRATEGIC/CORPORATE IMPLICATIONS		
"Smart Possibilities – Kojonup 2027+"		"Smart Implementation – Kojonup 2018-2022"
<b>Key Pillar</b>	<b>Community Outcomes</b>	<b>Corporate Actions</b>
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 for Council to consider repealing the Shire of Kojonup Cat Local Law 2022 (Local Law) and proposing a new cat local law, after a report from the Joint Standing Committee on Delegated Legislation (JSCDL) advised of inconsistencies and procedural and typographical errors.

**BACKGROUND**

The Local Law was proposed on 14 December 2021, adopted by Council on 21 June 2022 and gazetted on 31 October 2022. A copy of the Local Law, as gazetted, is attached.

Upon gazettal of the Local Law, a copy was forwarded to the JSCDL in accordance with the statutory local law process provided in the *Local Government Act 1995*.

The JSCDL did not support the Local Law, and provided a request that the Local Law be repealed, primarily on the basis that:

- The permit condition in Clause 4.1(1)(b) that states *'each cat shall be contained on the premises unless under the effective control of a person'* was not acceptable and that in requiring cats to be 'under effective control' in public represents a further step in policy beyond that authorised by the Act and infringes Committee term of reference 10.6(a);
- The Local Law did not contain a definition of Nuisance, and –
- The changes made in the adopted local law were significantly different from the proposed local law that was publically advertised, in breach of section 3.12(4) of the *Local Government Act 1995*.

Council determined on 21 March 2023 to provide undertakings to the JSCDL to repeal and replace the Local Law:

24/23

*That Council resolves to undertake to the Joint Standing Committee on Delegated*

*Legislation that:*

*1. Within six (6) months, it will repeal the Shire of Kojonup Cat Local Law 2022 and make a new Shire of Kojonup Cat Local Law, complying with all requirements in section 3.12 of the Local Government Act 1995, which:*

- *Does not contain a provision equivalent to 4.1(1)(b)*
- *Inserts the following definition of nuisance in clause 1.4:*
  - (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;*
  - (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or*
  - (c) interference which causes material damage to land or other property on the land affected by the interference;*

- *Does not contain the words 'in the opinion of an authorised officer' in a provision equivalent to clause 3.8(2)*

- *Does not contain the typographical errors identified in clauses 1.4, 2.1(6) and Schedule 3;*

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

*3. All consequential amendments arising from undertaking point 1 above will be made;*

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

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

Subsequently, the JSCDL advised on 30 March 2023 that it had accepted the Shire of Kojonup's (Shire) undertakings.

The JSCDL has provided the Shire of Kojonup until the 27 September 2023 to action the aforementioned undertakings.

#### COMMENT

After reviewing the report received by the JSCDL, a new cat local law has been drafted ensuring that all comments and requirements mentioned in the JSCDL report have been addressed.

The proposed new Shire of Kojonup Cats Local Law 2023 also contains other changes not outlined in the JSCDL report such as the removal of making of a clause penalising breaking and entering into a cat management facility, as this goes beyond the scope of the *Cat Act 2011* and the powers provided to the Shire for local laws.

In order to repeal the current Local Law, a Shire of Kojonup Cat (Repeal) Cat Local Law 2023 is also for proposal, in addition to the proposed new Shire of Kojonup Cats Local Law 2023.

It should be noted that when amending or repealing a local law, the same process is required to be undertaken as for 'making' a local law; that is, in accordance with section 3.12 of the *Local Government Act 1995*. This is because amendment or repeal local laws are new local laws in their own right and must follow the full statutory process to be made within power.

Attached is a flow chart provided by the Department of Local Government, Sport and Cultural Industries explaining the local law implementation process governed by Section 3.12 of the *Local Government Act 1995*.

The Advisory Officer for the Legislative Council Committee Office of Western Australia has advised that the draft Shire of Kojonup Cat (Repeal) Local Law 2023 can be sent to the JSCDL for comment *after* it has been proposed by Council and *before* it is advertised under section 3.12 of the *Local Government Act 1995*.

The proposed purposes and effects of the Shire of Kojonup Cat (Repeal) Local Law 2023 and the new Shire of Kojonup Cat Local Law 2023 are as follows:

Shire of Kojonup Cat (Repeal) Local Law 2023 -

Purpose: To repeal the Shire of Kojonup Cat Local Law 2022

Effect: The Shire of Kojonup Cat Local Law 2022 will be revoked and abrogated

Shire of Kojonup Cats Local Law 2023 -

Purpose: To provide additional controls and management of matters relating to cats that are not specified in the *Cat Act 2011* and to further promote and encourage responsible cat ownership.

Effect: To provide a framework for the control of nuisance cats, cat management facilities and limits on the number of cats permitted to be kept, in line with the provisions contained within the *Cat Act 2011* and the *Local Government Act 1995*.

The adoption of a new cat local law will ensure that the Shire has the adequate statutory authority to ensure the regulation of responsible cat ownership within the Shire of Kojonup.

The proposed Shire of Kojonup Cat (Repeal) Local Law 2023 and proposed Cats Local Law 2023 are attached for Council to consider.

### CONSULTATION

Joint Standing Committee on Delegated Legislation (JSCDL)  
Chief Executive Officer  
Senior Administration Officer

### STATUTORY REQUIREMENTS

*Local Government Act 1995* – Section 3.12. Procedure for making local laws:

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

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

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

*(3) The local government is to —*

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

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

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

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

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

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

*[(3a) deleted]*



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

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

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

- (a) stating the title of the local law; and*
- (b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
- (c) advising that the local law is published on the local government's official website and that copies of the local law may be inspected at or obtained from the local government's office.*

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

*(8) In this section —*

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

#### **Cat Act 2011 - Section 79 - Local Laws**

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

*(2) A local law made under this Act does not apply outside the local government's district unless it is made to apply outside the district under section 80.*

*(3) Without limiting subsection (1), a local law may be made as to one or more of the following —*

- (a) the registration of cats;*
- (b) removing and impounding cats;*
- (c) keeping, transferring and disposing of cats kept at cat management facilities;*
- (d) the humane destruction of cats;*
- (e) cats creating a nuisance;*
- (f) specifying places where cats are prohibited absolutely;*
- (g) requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats;*
- (h) limiting the number of cats that may be kept at premises, or premises of a particular type;*

- (i) *the establishment, maintenance, licensing, regulation, construction, use, record keeping and inspection of cat management facilities;*
- (j) *the regulation of approved cat breeders, including record keeping and inspection;*
- (k) *fees and charges payable in respect of any matter under this Act.*

#### POLICY IMPLICATIONS

Nil

#### FINANCIAL IMPLICATIONS

Costs are associated with advertising and gazettal of both the Shire of Kojonup (Repeal) Cat Local Law 2023 and the new Shire of Kojonup Cat Local Law 2023 for which there is provision within the budget at Chart of Account code 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

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

43/23 Moved Cr Gale

Seconded Cr F Webb

That Council:

1. endorses the proposed Shire of Kojonup Cat (Repeal) Local Law 2023, as presented, with the following purpose and effect:

Purpose: To repeal the Shire of Kojonup Cat Local Law 2022

Effect: The Shire of Kojonup Cat Local Law 2022 will be revoked and abrogated.

2. endorses the proposed Shire of Kojonup Cats Local Law 2023, as presented, with the following purpose and effect:

Purpose: To provide additional controls and management of matters relating to cats that are not specified in the *Cat Act 2011* and to further promote and encourage responsible cat ownership.

Effect: To provide a framework for the control of nuisance cats, cat management facilities and limits on the number of cats permitted to be kept, in line with the provisions contained within the *Cat Act 2011* and the *Local Government Act 1995*.

3. after approval of the proposed Shire of Kojonup Cat (Repeal) Local Law 2023 by the Joint Standing Committee on Delegated Legislation, advertises same for a period of not less than six (6) weeks and forwards same to the Minister for Local Government, in accordance with s. 3.12 (3) of the *Local Government Act 1995*, for the Minister's comment.
4. after approval of the proposed Shire of Kojonup Cat Local Law 2023 by the Joint Standing Committee on Delegated Legislation, advertises same for a period of not less than six (6) weeks and forwards same to the Minister for Local Government, in accordance with s. 3.12 (3) of the *Local Government Act 1995*, for the Minister's comment.
5. following the public submission period and consideration of comments received, if any, considers adopting the Shire of Kojonup Cat (Repeal) Local Law 2023 and the Shire of Kojonup Cat Local Law 2023.

CARRIED 7/0

*Councillor F Webb and Councillor P Webb declared a proximity interest and left the meeting at 3.09pm.*

- 9.2.3 REQUEST FOR TENDER 03 OF 2022/2023 – CONSTRUCTION OF COMMUNICATIONS TOWER – JINGALUP ROAD, KOJONUP  
REQUEST FOR TENDER 02 OF 2022/2023 – DECONSTRUCTION OF OLD COMMUNICATIONS TOWER – SAMSON ROAD, KOJONUP

<b>AUTHOR</b>	Robert Jehu – Manager Regulatory Services
<b>DATE</b>	Tuesday, 14 March 2023
<b>FILE NO</b>	ES.CIR.2/ES.COM.1
<b>ATTACHMENT(S)</b>	<p>9.2.3.1 – Agenda item Bush Fire Communications – 5 June 2022</p> <p>9.2.3.2 – Consulting Great Southern – Shire of Kojonup Communications Tower Study August 2021</p> <p>9.2.3.3 – Radio Shadow Map – Jingalup Balgarup Site – 60m</p> <p>9.2.3.4 – Radio Shadow Map – Current Samson Road Site – 60m</p> <p><b>UNDER SEPARATE COVER</b></p> <p>9.2.3.5 - Request for Tender (RFT03 of 2022-23) – Construction of Communications Tower – Jingalup Road, Kojonup</p> <p>9.2.3.6 - Request for Tender (RFT02 OF 2022-23) – Deconstruction of Tower – Samson Road, Kojonup</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

The purpose of this report is for Council to consider two separate requests for tenders to be called for the construction of a new Communications Tower on Jingalup Road, Kojonup (RFT03 of 2022/2023) and deconstruction of the existing Communications Tower on Samson Road, Kojonup (RFT02 of 2022/2023), as previously commissioned by Council.

## 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:*

- The Shire’s Mid-Band radio network;*
- a) The WA Emergency Radio Network;*
  - b) The Shire’s Works and Services department radio network;*
  - c) CB radio;*
  - d) Community FM Radio; and*
  - e) Internet;*
- 1. Cost to erect a new Communications Tower and associated radio network at the Jingalup Site situated at Jingalup/Balgarup Road on land to be reserved for Shire’s continual use as gifted by Paul and Felicity Webb.*
  - 2. New tower design considerations such as height, structural integrity especially if utilising the tower on offer from WAPOL;*
  - 3. 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;*
  - 4. Costs of dismantling the Samson Road Tower and rehabilitating the site;*
  - 5. Advice to be sourced from DFES Communications as required.”*

*Reason for change to Officer Recommendation – Shadow casting trials had indicated Jingalup as a better location for a Communications Tower.*

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 9.2.3.3 and 9.2.3.4.

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:*

*BUSH FIRE ADVISORY COMMITTEE DECISION 3/17*

*That the Bush Fire Advisory Committee recommends that the Shire of Kojonup establishes a Technical Work Group consisting of the Presiding Member – Bush Fire 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.”*

At its Ordinary Meeting held on 21 June 2022, the Council resolved:

*“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."*

#### **COMMENT**

Council is aware that Shire officers have been researching the construction and location for the installation of a new bush fire communications tower.

An offer has been received from Paul and Felicity Webb to allow the Shire of Kojonup (Shire) to site the proposed Communications Tower on their property on Jingalup Road. The land that is being offered has a significant height advantage over other sites that were proposed and also over the existing site. An access and use of land agreement will be negotiated and finalised prior to construction.

The landowner of the current tower site has agreed that the building that houses communication equipment can remain on the property and, therefore, will not be included in the deconstruction tender.

This report is recommending the following requests for tenders, as per attachments 9.2.3.5 and 9.2.3.6, be advertised:

RFT03 of 2022/2023 for the construction of a new Bush Fire Communications Tower to be located on the Jingalup Road site; and

RFT02 of 2022/2023 for the deconstruction of the existing Samson Road Bush Fire Communications Tower.

The tenders will be advertised in accordance with s. 3.58 of the *Local Government Act 1995* and be brought to Council for consideration.

#### **CONSULTATION**

Chief Executive Officer

#### **STATUTORY REQUIREMENTS**

s. 3.58 of the *Local Government Act 1995*

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

Requests for Tenders – Nil

The Council has approved funding options through the budget for construction and de-construction.



#### 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)  Outputs not meeting expectations;	Asset Replacement Schedule 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 the Shire's Asset Register.

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

Nil

#### VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/COUNCIL DECISION

44/23 Moved Cr Gale

Seconded Cr Singh

That Council:

1. authorises the Chief Executive Officer (CEO) to call for tender, in accordance with s. 3.58 of the *Local Government Act 1995*, to construct new communications infrastructure, using the Request for Tender as presented (attachment 9.2.3.5);
2. delegates authority to the CEO to negotiate the required access and use of the proposed site on Jingalup Road, Kojonup with Paul and Felicity Webb for construction of the new communications tower;
3. authorises the CEO to call for tender, in accordance with s. 3.58 of the *Local Government Act 1995*, to deconstruct the existing communications tower on Samson Road, Kojonup, using the Request for Tender as presented (attachment 9.2.3.6); and
4. proposes to dispose of the communications building (in an empty state) located on Samson Road, Kojonup, that is associated with the current housing of communication tower equipment, to the landowner whose land the building is situated on, for nil cost, in accordance with s.3.58 of the *Local Government Act 1995*, upon the completion of the new communications tower to be located at Jingalup Road, Kojonup.

CARRIED 5/0

*Councillor P Webb returned to the meeting at 3.10pm.*

*Councillor F Webb returned to the meeting at 3.11pm.*

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

#### 9.3.1 FINANCIAL MANAGEMENT – MONTHLY STATEMENT OF FINANCIAL ACTIVITY (FEBRUARY 2023)

<b>AUTHOR</b>	Grant Thompson – Chief Executive Officer
<b>DATE</b>	Tuesday, 11 April 2023
<b>FILE NO</b>	FM.FNR.2
<b>ATTACHMENT(S)</b>	9.3.1.1 – Monthly Financial Statements 1 to 28 February 2023

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

#### DECLARATION OF INTEREST

Nil

#### SUMMARY

The purpose of this report is to note the Monthly Financial Statements for the period ending 28 February 2023.

#### BACKGROUND

In addition to good governance, the presentation to the Council of monthly financial reports is a statutory requirement, with these to be presented at an ordinary meeting of the Council within two (2) months after the end of the period to which the statements relate.

#### COMMENT

The attached Statement of Financial Activity for the period 1 July 2022 to 28 February 2023 represents eight (8) months, or 66% of the year.

The following items are worthy of noting:

- Closing surplus position of \$1.65m.
- Capital expenditure achieved 44.7% of budgeted projects.
- Cash holdings of \$5.92m of which \$3.79m is held in cash backed reserve accounts and \$2.13m is unrestricted cash.
- Rates debtors outstanding equate to 11% of total rates raised for 2022/2023 with the fourth instalment payment being due on 22 March 2023.

- Page 12 of the statements detail material variations comparing year to date (amended) budgets to year to date actuals in accordance with Council Policy 2.1.6.

#### CONSULTATION

Nil

#### STATUTORY REQUIREMENTS

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

#### POLICY IMPLICATIONS

Council Policy 2.1.6 defines the content of the financial reports.

#### FINANCIAL IMPLICATIONS

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

#### RISK MANAGEMENT IMPLICATIONS

Nil

#### ASSET MANAGEMENT IMPLICATIONS

Nil

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

Nil

#### VOTING REQUIREMENTS

Simple Majority

#### OFFICER RECOMMENDATION/COUNCIL DECISION

45/23 Moved Cr Gale

Seconded Cr Wieringa

That the monthly financial statements for the period ending 28 February 2023, as attached, be noted.

CARRIED 7/0

9.3.2 MONTHLY PAYMENTS LISTING – FEBRUARY 2023

<b>AUTHOR</b>	Tonya Pearce - Finance Officer
<b>DATE</b>	Tuesday, 11 April 2023
<b>FILE NO</b>	FM.AUT.1
<b>ATTACHMENT</b>	9.3.2.1 – Monthly Payments Listing - 1 to 28 February 2023

STRATEGIC/CORPORATE IMPLICATIONS		
“Smart Possibilities – Kojonup 2027+”		“Smart Implementation – Kojonup 2019-2023”
<b>Key Pillar</b>	<b>Community Outcomes</b>	<b>Corporate Actions</b>
KP3 - Performance	3.4 – Be organised and transparent with our financial management.	3.4.1 - Increase regularity of readable financial reporting to the community. 3.4.2 – Act with sound long-term and transparent financial management and deliver residents considered value for money.

**DECLARATION OF INTEREST**

Nil

**SUMMARY**

To receive the list of payments covering the month of February 2023.

**BACKGROUND**

Nil

**COMMENT**

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

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

**CONSULTATION**

Nil

**STATUTORY REQUIREMENTS**

Regulation 12(1)(a) of the *Local Government (Financial Management) Regulations 1996* provides that payment may only be made from the municipal fund or trust fund if the Local Government has delegated the function to the Chief Executive Officer.

The Chief Executive Officer has delegated authority to authorise payments. Relevant staff have also been issued with delegated authority to issue orders for the supply of goods and services subject to budget limitations.

Regulation 13 of the *Local Government (Financial Management) Regulations 1996* provides that if the function of authorising payments is delegated to the Chief

Executive Officer then a list of payments is to be presented to the Council at the next ordinary meeting and recorded in the minutes.

#### POLICY IMPLICATIONS

Council's Policy 2.1.2 provides authorisations and restrictions relative to purchasing commitments.

#### FINANCIAL IMPLICATIONS

All payments are made in line with Council Policy.

#### STRATEGIC/CORPORATE IMPLICATIONS

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

#### RISK MANAGEMENT IMPLICATIONS

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

#### ASSET MANAGEMENT PLAN IMPLICATIONS

There are no asset management implications for this report.

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

Nil

#### VOTING REQUIREMENTS

Simple Majority

#### OFFICER RECOMMENDATION/COUNCIL DECISION

46/23 Moved Cr Gale

Seconded Cr Singh

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

FROM – 1 February 2023		TO – 28 February 2023
Municipal Cheques	14353-14355	\$2,891.48
EFTs	31605 - 31716	\$449,034.83
Direct Debits		\$420,124.04
Total		\$872,050.35

be received.

CARRIED 7/0

9.4 KEY PILLAR 5 – ‘PROSPERITY’ REPORTS  
Nil

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

13.1 PAVEMENT RE-SURFACE REQUEST – 122 AND 124 ALBANY HIGHWAY

COUNCIL DECISION

47/23 Moved Cr Bilney

Seconded Cr F Webb

That Council item ‘*Pavement Re-Surface Request – 122 and 124 Albany Highway*’, presented to Council as item 10.2 at its 16 November 2021 Ordinary Meeting with the following resolution:

*126/21 Moved Cr Gale*

*Seconded Cr Wieringa*

*That Council lay this matter on the table.*

*CARRIED 7/0*

be re-presented to Council’s 16 May 2023 Ordinary Meeting recommending that the matter be actioned.

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  
Nil



15 CLOSURE

There being no further business to discuss, the President thanked the members for their attendance and declared the meeting closed at 3.20pm.

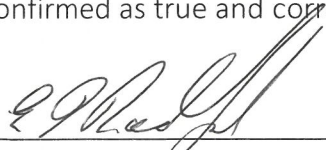
16 ATTACHMENTS (SEPARATE)

Item 6.1	6.1.1	Unconfirmed Minutes of an Ordinary Council Meeting held on 21 March 2023
Item 9.2.1	9.2.1.1	Shire of Kojonup Parking Local Law 2022 - as gazetted
	9.2.1.2	Report from Joint Standing Committee on Delegated Legislation (JSCDL) on the Shire of Kojonup Parking Local Law 2022
	9.2.1.3	Response from Shire President to JSCDL advising of Council's intention to agree to requested undertaking
	9.2.1.4	Response from JSCDL advising of accepted undertaking dated 30 March 2023
	9.2.1.5	Proposed Parking (Amendment) Local Law 2023
	9.2.1.6	Proposed Parking Local Law 2022 – with amendments
	9.2.1.7	Flow chart of Local Law making process
Item 9.2.2	9.2.2.1	Shire of Kojonup Cat Local Law 2022 - as gazetted
	9.2.2.2	Report from Joint Standing Committee on Delegated Legislation (JSCDL) on the Shire of Kojonup Cat Local Law 2022
	9.2.2.3	Response from Shire President to JSCDL advising of Council's intention to agree to requested undertakings
	9.2.2.4	Response from JSCDL advising of accepted undertakings dated 30 March 2023
	9.2.2.5	Proposed Shire of Kojonup Cat (Repeal) Local Law 2023
	9.2.2.6	Proposed Shire of Kojonup Cats Local Law 2023
	9.2.2.7	Flow chart of local law making process
Item 9.2.3	9.2.3.1	Agenda item Bush Fire Communications – 5 June 2022
	9.2.3.2	Consulting Great Southern – Shire of Kojonup Communications Tower Study August 2021
	9.2.3.3	Radio Shadow Map – Jingalup Balgarup Site – 60m
	9.2.3.4	Radio Shadow Map – Current Samson Road Site – 60m
Item 9.3.1	9.3.1.1	Monthly Financial Report – 1 to 28 February 2023
Item 9.3.2	9.3.2.1	Monthly Payments Listing 1 to 28 February 2023

**UNDER SEPARATE COVER**

- |            |         |  |
|------------|---------|--|
| Item 9.2.3 | 9.2.3.5 | Request for Tender 03 of 2022-23 –<br>Construction of Communications Tower –<br>Jingalup Road, Kojonup |
|            | 9.2.3.6 | Request for Tender 02 of 2022-23 –<br>Deconstruction of Tower – Samson Road,<br>Kojonup                |

Confirmed as true and correct on 16 May 2023

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

16/5/2023  
Date