



SHIRE OF KONDININ

MINUTES OF MEETING

KONDININ SHIRE COUNCIL

Held on Wednesday 20th April, 2022 at the
Kondinin Council Chambers

11 Gordon Street, KONDININ WA 6367 Tel (08) 98891006
All communications to be addressed to the CHIEF EXECUTIVE OFFICER
ceo@kondinin.wa.gov.au

Order of Business

1. DECLARATION OF OPENING /ANNOUNCEMENT OF VISITORS

The Cr Gangell (Deputy President) read the Statement of Commitment to Indigenous Australians, welcomed those present and declared the meeting open at 3:21pm.

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

Councillors:	Cr Paul Green	Cr Kerrie Green	Cr Darren Pool
	Cr Beverley Gangell (Deputy President)		Cr Murray James
	Cr Brett Smith	Cr Bruce Browning	Cr Thomas Mulcahy
Staff:	David Burton (CEO)		Mark Burgess (MoW)
	Tory Young (MPA)		Leandré Genis (Minute Taker)
Apologies:	Cr Kent Mouritz (President)		Vince Bugna (MCS)

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4. PUBLIC QUESTION TIME

5. APPLICATIONS FOR LEAVE OF ABSENCE

Cr P. Green noted that he may need leave, however as dates were not confirmed for appointments it was left to be an apology if required.

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS/INFORMATION REPORT

7.1 MINUTES OF COUNCIL MEETING – 16th March 2022

RESOLUTION #3906

Moved: Cr T. Mulcahy

Seconded: Cr B. Smith

That the minutes of the Council Meeting held on the 16th March, 2022 be confirmed.

Carried: 8/0

7.2 INFORMATION REPORT – April 2022

RESOLUTION #3907

Moved: Cr P. Green

Seconded: Cr D. Pool

That the Council receive and accept the Information Report prior to this meeting.

Carried: 8/0

8. ANNOUNCEMENTS BY PRESIDING MEMBERS WITHOUT DISCUSSION

NIL

9. ITEMS

9.1 MANAGER OF PLANNING & ASSETS

9.1.1 Water Matters- Karlgarin

9.1.2 PTA Land Marshall Street

9.2 MANAGER OF CORPORATE SERVICES

9.2.1 List of Accounts

9.2.2 Financial Reports

9.3 MANAGER OF WORKS

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 Pet Sterilization Program

9.4.2 Strategic Community Plan

9.4.3 Public Health Plan

9.4.4 Proposed Repeal Local Law

9.4.5 Proposed Public Places and Local Government Property Law

9.4.6 Proposed Fencing Local Law

9.4.7 Proposed Dogs Local Law

9.4.8 Proposed Cemeteries Local Law

9.4.9 Proposed Bush Fire Brigades Local Law

9.4.10 CEO Annual Performance Review

9.5 ENVIRONMENTAL HEALTH OFFICER

9.1 MANAGER OF PLANNING & ASSETS

9.1.1 KARLGARIN WATER SUPPLIES

REPORTING OFFICER: Tory Young, Manager Planning and Assets
AUTHORIZING OFFICER: David Burton, Chief Executive Officer
DATE: 12th April 2022
ATTACHMENTS: 01 – Letter from local resident

RESOLUTION #3908

Moved: Cr M. James

Seconded: Cr B. Smith

That Council:

RECEIVES the letter attached relating to Karlgarin Water Supplies dated 3rd February 2022; and

SUPPORTS the Shire's Administration to continue to liaise with the Department of Water and the Water Corporation to develop initiatives to improve water supply and management in Karlgarin subject to funding and report back to Council accordingly.

Carried: 8/0

Summary

This report is to present to Council a response to issues raised by a local resident in the letter attached regarding water supplies and management in Karlgarin.

Background

The Shire of Kondinin have actively maintained regular dialogue with the Department of Water and the Water Corporation, and where possible applied for grant funding to improve the management of water resources across the Shire.

Through partnerships and grant funding opportunities with the Department of Water, the Shire has developed community water supplies with associated tanks and standpipe controllers at King Rocks, Allen Rocks, Mc Canns Rock, Karlgarin Dam and The Humps. Apart from The Humps tanks which now draw from scheme water, all these locations are supplied by water from local water supplies either through dam / weir and/or bore water. These locations provide water free of charge for stock and emergency purposes.

Through Local Roads and Community Infrastructure grant funding the Shire has recently installed swipe card controllers at significant scheme water access points, namely Bending Road, Aylmore Road, Kondinin Lake Road and Tolland Road, providing a system in which the Shire can charge and monitor water use at these locations.

The Shire is currently working with both the Water Corporation and the Department of Water on the following key projects to improve water management across the Shire.

1. Yeerakine Rock Dam – the Shire has secured a lease arrangement with the Water Corporation to access 20ML per year from Yeerakine Dam. Whilst the access and recording of water use is currently been finalized, this agreement took effect in September 2021.
2. King Rocks – the Department of Water have approved the installation of 3 x 250KL additional tanks to store water from King Rocks weir which are scheduled to be installed by the end of May 2022, fully paid for by the Department of Water.

3. Karlgarin Dam – the Department of Water have secured an arrangement with the Water Corporation to manage and increase this catchment to assist in increasing supply at the tank outlet.
4. Karlgarin CBH site – the Department of Water are currently in discussions to seek approval from the PTA to install tanks to capture water from the CBH site that can be accessed for community water use. Currently awaiting approval from PTA. The Department of Water will fully fund this infrastructure.
5. The Humps – the Department of Water are currently organizing bore testing in the vicinity of The Humps as an alternative source of water to top up the tanks that are currently linked back into the Water Corporation Scheme.
6. McCann’s Rock – the Shire have asked the Water Corporation to undertake an assessment to access water from the scheme pipe along McCann Rocks Road to connect to a tank at the former cricket oval site. This would need to be funded by the Shire of Kondinin as not something that the Department of Water would support.

The Shire is also working with the Department of Water to apply for grant funding to install a tank at the former cricket oval site that is filled from the weir via a pipe from the current standpipe point. This would be fully funded by the Department of Water.

The Shire was liaising with the Department of Water about accessing bore water from local land owners to the west of Spurr Road to top up water at a proposed tank on the former cricket oval site, however this has not received much traction, particularly with a change in landowner. The Department of Water are still looking into some potential bore options in the vicinity, however not confident that this will come to fruition.

7. Karlgarin C site – the Department of Water have advised the Shire that they are reviewing this site to ascertain if this water can be made more accessible and if the site is working to its full potential. The Shire’s Administration have visited this site and took water samples of this tank back in December 2020 confirming that the water was suitable for stock.

Comment

The Shire’s Administration acknowledge the points made in the letter attached, and make the following comments to the points raised.

Karlgarin C Site

This tank is filled by rain water only and the taps are located down a gravel road/track from the tank. Following discussions with concerned residents about the contamination of the water from this tank back in 2020, the Shire’s Administration and one of the Shire’s Councillors visited the site. A water sample was taken at the time, and the water was tested deeming it suitable for stock.

The Shire’s Administration acknowledge that the access to this site is limited, resulting in the water being underutilized. However given there is no significant water source such as a dam or bore connected to the tank, meaning that once emptied it would rely on a heavy rainfall to fill, it presented limited opportunities to warrant an upgrade.

Notwithstanding this, the Shire will continue to liaise with the Department of Water for their suggestions to improve the site, and will provide the suggestions made in the letter attached to this Agenda Report for consideration by the Department of Water.

McCann’s Rock

The community standpipe located in the McCann Rocks car park receives water from the former Water Corp dam managed by the Department of Water for community emergency/stock use. The location of the standpipe controller in relation the location of the dam means there is a good steady flow from the tap. Additional pruning along McCann’s Rock Road is regularly undertaken to improve access. A semi-trailer can access water from this site but not a road train.

As noted in the letter attached, one option is to pipe the water from the dam to the old cricket oval which would improve vehicle access. This is a matter that has been discussed with the Department of Water who have confirmed that the Shire can apply for grant funding to cover the costs of the pipe, pump if required and tank infrastructure. Whilst this is an option, the Shire's Administration did have some reservations in encouraging road – train access to this community water supply site to warrant proceeding with this.

As also noted in the letter attached, there is a Water Corporation scheme connection at the entrance to McCann's Rock Road in which a pipe extends under the road to service the toilets and tap at McCann's Rock picnic area. The Shire's Administration have spoken to and written to the Water Corporation seeking feedback on whether a connection to this water main would be supported. This option would not be eligible for Department of Water funding and therefore costing estimated upwards of \$50,000 for connection fees, tanks, standpipe controller would need to be budgeted by Council. The Shire's Administration are currently waiting on the Water Corporation for feedback on this matter.

In light of the above, over the last 18 months the Shire's Administration have been actively working with the Department of Water and the Water Corporation to improve access and management of water supplies in Karlgarin and across the Shire the whole, whilst also actively seeking to improve its own water resources through the clearing of catchment areas and upgrading its infrastructure.

In relation to the C Site, the Shire's Administration will make further contact with the Department of Water for options to improve this site and report back to Council accordingly.

In relation to McCann's Rock, the Shire's Administration will follow up with obtaining costing and feedback from the Water Corporation, as well as more feedback from the Department of Water to consider the best option for this site and report back to Council accordingly.

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

Costings will be dependent on the scope of works that is finalized for improvements to access to water at Karlgarin C site and McCann's Rock.

Strategic Implications

The project supports the following sections of the Shire's Strategic Community Plan 2016 – 2026

"3.2 Integrated approach to resource management and sustainability

3.2.1 Plan for water conservation, reuse and efficiency, water catchment and storage

3.2.2 Sustainable waste management focusing on waste minimisation, infill sewerage in all three communities and resource recovery

3.2.3 Encourage the community to participate in programs that enhance the environment

3.2.4 Minimise waste, maximise recycling and educate the community on sustainable environments."

Voting Requirement

Absolute Majority

9.1 MANAGER OF PLANNING & ASSETS

9.1.2. DEVELOPMENT PLAN FOR PTA RESERVE – HYDEN

REPORTING OFFICER: Tory Young, Manager Planning and Assets
AUTHORIZING OFFICER: David Burton, Chief Executive Officer
DATE: 13th April 2022
ATTACHMENTS: Development Plans

RESOLUTION #3909

Moved: Cr P. Green

Seconded: Cr K. Green

That Council:

APPROVES in principle the attached Development Plan to guide the development of the PTA reserve on Marshall Street, Hyden;

SUPPORTS the Shire's Administration to continue to liaise with the Public Transport Authority, the lease agency Burgess Rawson and the Hyden Progress Association to develop the site; and

NOTES that the Shire has commenced works on the pedestrian pathway on the east of the site as per the development plan attached, intended to be used as a guide to position the CORTEN steel signs installed by the Hyden Progress Association.

Carried: 8/0

BACKGROUND

The Shire have been in regular contact with the Public Transport Authority (PTA), the lease managers of the site Burgess Rawson and the Hyden Progress Association on proposed options for this area. The Shire have regularly reported this matter to Council with the latest report being to the 16th February 2022 Ordinary Meeting, where Council approved to proceed with the structural engineering report for the Railway Barracks.

Through liaison with the abovementioned parties, the Development Plan has been prepared as attached to guide the development of this site in future, subject to any required approvals. A site visit was undertaken on the 24th March 2022 with representatives from the Shire's Administration, Councillors and Hyden Progress Association as summarized below.

Key points from the Meeting:

- Gravel path route to be amended to extend from the eastern entrance of the information bay and loop around the site and into the seating area. See updated plan attached shown in purple hash. Western pathway dependent on outcome of relocation of the Railway Barracks.
- Some of the CORTEN steel signs to be moved back from the road to follow the gravel pathway. See updated plan attached shown in green boxes.
- Car / Light vehicle access and parking to the eastern area of the PTA land and Trucks / Heavy Vehicles to the western side of the area

Actions from the Meeting:

1. Shire to cost, source gravel and budget permitting arrange the 2m width gravel pathways by July 2022 – IN PROGRESS
2. HPA to mark out and install signs posts and attach signs after paths are in – BY JULY 2022

3. Shire to cost and budget permitting arrange parking signage by July 2022 – QUOTES OBTAINED
4. Shire to contact PTA about fixing the platforms at the Goods Shed and permission for Shire to engage contractor to undertake works – EMAIL SENT. AWAITING RESPONSE

Other matters discussed at the Meeting;

- Sealing of whole area – to be fully costed, the scope confirmed and levels to be undertaken and reported to Council for future budget considerations
- Drainage towards the south east of the site to reduce current pooling of water – scope of this undefined. Levels need to be undertaken and scope and cost confirmed and budgeted prior to any works being undertaken. Consideration of full seal of area is recommended before doing this.
- Additional gravel for truck parking area - – scope of this undefined. Levels need to be undertaken and scope and cost confirmed and budgeted prior to any works being undertaken. Consideration of full seal of area recommended before doing this.

Since the matter of the Railway Barracks was presented to Council in September 2021, the Shire have been advised in an email from the Property Managers (Burgess Rawson) that the PTA have re-considered their position and have advised that they now support the relocation of the Railway Barracks to another location subject to the proper approval process, in particular the submission of a structural engineer report and the removal of all asbestos from the building.

In terms of the asbestos removal, PTA engaged ERC Consultancy to remove the asbestos, which was undertaken during the week beginning the 31st January 2022.

In terms of the structural engineering report, the Shire have arranged for a structural engineering report to be undertaken and submitted to the Shire. To date the inspection has been undertaken and the Shire's Administration are awaiting the report. Once the outcome of the structural engineer report is received, the matter can be reported back to Council with a view of confirming a way forward on this matter.

It is to be noted that the Hyden Progress Association have provided the Shire with contractor details to undertake the demolition and reconstruction of the Railway Barracks building, however the Shire cannot take action on this until receiving the structural engineer report and approval from the PTA.

CONCLUSION

In light of the above, it is recommended that the Council support the Officer's Recommendation to endorse the Development Plan attached to this Agenda Report and continue to liaise with the relevant parties to develop this site.

STATUTORY ENVIRONMENT

Lease L7363 (barracks lease area)

Lease Area 3553 (remainder of site)

POLICY IMPLICATIONS

Nil

PUBLIC CONSULTATION

The Shire's Administration have been in regular contact with the Hyden Progress Association on this matter.

FINANCIAL IMPLICATIONS

\$6,000 - Consultancy Services Account # 1042300

STRATEGIC IMPLICATIONS

Supports the following section of the Shire's Strategic Community Plan 2016 – 2026

“2.4 Encourage, promote and support tourism experiences and businesses in the Shire of Kondinin

2.4.1 Collaborate with key stakeholders and local networks to develop and promote our tourism experiences across the entire Shire

2.4.2 Add value to current tourism experiences and facilities as well as creating additional tourism experiences and facilities.”

CULTURAL IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple majority required

Mr Mark Burgess left the meeting at 4pm and did not return.

9.2 MANAGER OF CORPORATE SERVICES

9.2.1 LIST OF ACCOUNTS

Applicant: Shire of Kondinin
Author: Manager Corporate Services - Vince Bugna
Disclosure of Interest: Nil
Date: 5th April 2022
Attachment(s): List of Accounts 01/03/2022 to 31/03/2022

RESOLUTION #3910

Moved: Cr M. James

Seconded: Cr B. Browning

That Council receive the attached report – List of Accounts Due & Submitted to Council for the month of March 2022:

• Municipal Fund payment cheque numbers 19148 to 19165	= \$ 57,681.71
• Municipal EFT14864 to 15058	= \$1,254,880.60
• Direct Debit – NAB Credit Cards – DD18472.1	= \$ 804.76
• Direct Debits – Transport – Kondinin Office	= \$ 16,807.05
• Direct Debits – Transport – Hyden Office	= \$ 65,112.85
• Direct Debits – Other	= \$ 57,003.51
• EFTPOS Merchant Fees	= \$ 1,379.62
• Bank Fees – NAB Connect & Tyro	= \$ 146.27
• Payroll	= \$ 122,630.56
TOTALS :	= \$1,576,446.93

Carried: 8/0

SUMMARY

To present to Council a list of accounts paid from Municipal and Trust Funds under the delegated authority to the CEO.

BACKGROUND

The Chief Executive of a local government has delegated authority to make payments from Municipal and Trust Fund accounts pursuant to Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.

As required by sub regulation (1), a list of accounts paid by the CEO each month should show –

- (a) the payee's name;
- (b) the amount of the payment;
- (c) the date of the payment;
- (d) sufficient information to identify the transaction

Sub regulation (3), a list prepared under sub regulation (1) and (2) is to be –

- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
- (b) recorded in the minutes of that meeting.

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations 1996

POLICY IMPLICATIONS

Nil

PUBLIC CONSULTATION

Nil

FINANCIAL IMPLICATIONS

All payments made to the Shire creditors have been in accordance with the 2021/22 Adopted Budget.

STRATEGIC IMPLICATIONS

Shire's Strategic Community Plan 2016 – 2026

4. Provide good strategic decision making, governance, leadership and professional management
- 4.2 Manage the organisation in a responsible and accountable manner

VOTING REQUIREMENTS

Simple Majority

9.2 MANAGER OF CORPORATE SERVICES

9.2.2 FINANCIAL REPORTS

Applicant:	Shire of Kondinin
Author:	Manager Corporate Services - Vince Bugna
Disclosure of Interest:	Nil
Date:	7th April 2022
Attachment(s):	Monthly Financial Report for the period ended 31 March 2022

RESOLUTION #3911

Moved: Cr P. Green

Seconded: Cr T. Mulcahy

That Council receive the attached reports entitled Monthly Financial Report (Containing the Statement of Financial Activity) for the period ended 31 March 2022.

Carried: 8/0

SUMMARY

To present to Council the Monthly Financial Report for the period ended 31 March 2022.

BACKGROUND

The monthly Financial Report (Containing the Financial Activity) is presented in accordance with the Local Government Act 1995 and the Local Government (Financial Management) Regulation 1996.

Regulation 4(4) states that, *a statement of financial activity, and the accompanying documents (notes) referred to in sub regulation (2), are to be –*

- (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
- (b) recorded in the minutes of the meeting at which it is presented.*

The Statement of Financial Activity summarizes the Shire's financial activities for the period at which it relates.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Financial Management) Regulation 1996

POLICY IMPLICATIONS

Nil

PUBLIC CONSULTATION

Nil

FINANCIAL IMPLICATIONS

In accordance with the approved material variances of 10% or \$10,000 whichever is the greater within the monthly Statement of Financial Activity during the 2021/22 financial year.

STRATEGIC IMPLICATIONS

Shire's Strategic Community Plan 2016 – 2026

4. Provide good strategic decision making, governance, leadership and professional management

4.2 Manage the organisation in a responsible and accountable manner

4.3 Deliver services that meet the current and future needs and expectations of the community, whilst maintaining statutory compliance.

REPORTING OFFICER'S COMMENT

The highlights of the March 2022 financial reports are as follows:

Item	Reference
<ul style="list-style-type: none"> • Receivables – Rates and Rubbish Collection – is 8% higher collected compared with last year of the same period. 	Page 14 – Note 6 Receivables
<ul style="list-style-type: none"> • Cash Backed Reserves – actual transfers-in per 2021/22 amended budget is \$1,046,892. Actual year to date balance including earned interest is currently at \$2,796,368. 	Page 15 – Note 7 Cash Backed Reserve
<ul style="list-style-type: none"> • Cash at Bank – the Shire's total cash as at 31st March 2022 was \$5,494,560 which includes \$2,796,368 in cash backed reserves (restricted), \$16,300 in Trust account (restricted), \$47,095 LCDC funds and \$1,000,340 term deposit investments. 	Page 11 – Note 3 Cash and Financial Assets
<ul style="list-style-type: none"> • Closing Funding Surplus (Deficit) – YTD actual is \$2,205,659 – composed of \$5,786,474 Current Assets less \$816,950 Current Liabilities and \$2,763,866 Net Adjustments to Net Current Assets. 	Page 10 – Note 2 Net Current Funding Position Page 6 – Statement of Financial Activity (Statutory Reporting Programs) Page 8 – Statement of Financial Activity (By Nature or Type)
<ul style="list-style-type: none"> • Significant Capital Projects: <ol style="list-style-type: none"> 1. Roadworks having \$3.5M budget is 83% completed to 31 March and expected to finish by the end of June. 2. Land & Buildings of \$1.7M budget is 39% completed. Except for x4 Aged Care Housing that have been completed, other projects funded by LRCI Program grants are expected to be carried forward in the next financial year's budget. 3. Plant and Equipment replacement of \$1.4M budget is 68% completed as supply of motor vehicles has been affected by pandemic. 	Page 2 – Monthly Information Summary Page 21 to 24 – Note 12 Capital Acquisitions

In relation to material variances, "timing difference are due to the monthly spread of the budget not matching in comparison to the actual spread of revenue or expenditure.

Timing difference will not result in a forecast adjustment. Where the material variance is flagged as "permanent", this indicates that a forecast adjustment to the annual budget is required. – Page 9, Note 1 – Explanation of Material Variances.

VOTING REQUIREMENTS

Simple Majority

Mrs Tory Young left the meeting at 4:18pm and did not return.

9.3 MANAGER OF WORKS

Nil

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 Pet Sterilization Program

Applicant: Shire of Kondinin / RSPCA
Author: David Burton – Chief Executive Officer
Date: 11th April 2022
Disclosure of Interest: Nil
Attachments: Letter from RSPCA

RESOLUTION #3912

Moved: Cr T. Mulcahy

Seconded: Cr K. green

That the Shire of Kondinin participate in the Sterilization program of the RSCPA with the CEO and be able to grant free lifetime licenses for all animals participating as per Delegated Authority.

Carried: 8/0

SUMMARY

For Council to consider the request for participation in a reduced cost sterilization program for animals for qualified applicants within the Shire.

BACKGROUND

The Shire has received a request from the RSPCA for participation in a reduced cost sterilization program to encourage residents to sterilize their pets with a free lifetime Licence for animals.

The Program is to encourage responsible ownership of animals in light of the new Puppy Farming legislation, which will be released later this year. By encouraging people to sterilize their pets for a reduced cost and free lifetime license fee, more will take up the offer reducing compliance costs and fees for the new legislation.

COMMENT

The reduce cost sterilization program is only open to those who are able to apply for the benefits, which includes those on Senior Cards, Pension Cards and Health Care Cards. While this does not enable all community members to gain the benefits, it may assist with those who may find it difficult to get an animal sterilized and thus having issues with unwanted litters.

The revenue lost in allowing free lifetime licenses for any animal that is treated under this scheme will have a financial impact for the Shire, however the benefits gained of ensuring that the pets are licensed for the remainder of their life will make it easier from an administrative point of view as staff will not need to chase up on licensing the animals or be looking after unknown pets as they will be microchipped and able to be checked for the owner.

The benefits of the sterilization program will be of assistance to those who take up the offer and also the Shire as it may reduce the number of offences against the new 'Puppy Farming' legislations which will be coming into effect soon. By the animals being sterilized, they will be compliant with the new legislation.

Under Delegated Authority 4.1.1, the CEO is authorised to waive fees for Cat Licence and under Delegated Authority 5.1.2, the CEO is authorised to waive dog registration fees.

The lost income from the registrations will be \$100 per dog or cat.

STATUTORY IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The implications of participation of this scheme will reduce the income from licensing of pets that are given the free license in exchange of the sterilization. This is likely to be limited, but may also be seen as a long term saving in administrative costs of chasing up licenses and unlicensed pets as well as unwanted litters.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2016-2026

- 4. *Provide good strategic decision making, governance, leadership and professional management*
 - 4.2 *Manage the organisation in a responsible and accountable manner;*
 - 4.3 *Deliver services that meet the current and future needs and expectations of the community, whilst maintaining statutory compliance.*

VOTING REQUIREMENTS

Simple Majority

9.4 CHIEF EXECUTIVE OFFICER

9.4.2 Strategic Community Plan

Applicant: Shire of Kondinin
Author: David Burton – Chief Executive Officer
Date: 13 April 2022
Disclosure of Interest: Nil
Attachments: Draft Strategic Community Plan

RESOLUTION #3913

Moved: Cr T. Mulcahy

Seconded: Cr B. Smith

That Council, by Absolute Majority, adopt the Strategic Community Plan for 2022-2032.

Carried: 8/0

SUMMARY

For Council to consider adoption of the Strategic Community Plan for 2022-2032.

BACKGROUND

The Shire engaged 150 Squared to assist in the development of the reviewed Strategic Community Plan as part of our ongoing commitment to the Integrated Planning and Reporting as required under the Local Government Act 1995.

Over the past 6 months, the Shire has engaged the community through workshops held in Hyden and Kondinin as well as a community survey to establish the desires and directions the Community would like the Shire to proceed with regards to key strategic items for the future of the Shire. This information has been put together in the draft Strategic Community Plan for 2022-2032.

COMMENT

At the final workshop held in Karlgarin recently, there were two amendments requested from the draft Strategic Community plan. This included support for the Bush Fire Brigades and also the Shire continuing advocate for improved communications through the Shire. These concerns have been included in the final Strategic Community Plan for Council adoption.

The Strategic Community Plan gives an indication to the Shire about the needs and desires of the local community to ensure that the Shire is supporting our locals and the requirements of the community from current to future concerns. From here, the Shire will draft a Corporate Business Plan as well as review other Plans to map a path for the Shire as to how we will deliver outcomes on the strategic items in the Community Plan.

STATUTORY IMPLICATIONS

Local Government Act 1995

5.56. Planning for the future

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

Local Government (Administration) Regulation 1996

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

- (1) A local government is to ensure that a strategic community plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.

- (2) A strategic community plan for a district is to cover the period specified in the plan, which is to be at least 10 financial years.
- (3) A strategic community plan for a district is to set out the vision, aspirations and objectives of the community in the district.
- (4) A local government is to review the current strategic community plan for its district at least once every 4 years.
- (5) In making or reviewing a strategic community plan, a local government is to have regard to —
 - (a) the capacity of its current resources and the anticipated capacity of its future resources; and
 - (b) strategic performance indicators and the ways of measuring its strategic performance by the application of those indicators; and
 - (c) demographic trends.
- (6) Subject to sub regulation (9), a local government may modify its strategic community plan, including extending the period the plan is made in respect of.
- (7) A council is to consider a strategic community plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.
*Absolute majority required.
- (8) If a strategic community plan is, or modifications of a strategic community plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.
- (9) A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a strategic community plan and when preparing modifications of a strategic community plan.
- (10) A strategic community plan for a district is to contain a description of the involvement of the electors and ratepayers of the district in the development of the plan or the preparation of modifications of the plan.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The adoption of the report will have a financial impact for the Shire, but these will be considered as part of the budgeting process and Long Term Financial Plans for the Shire.

The actions and outcomes from the Strategic Community Plan and Corporate Business Plan will be considered as part of the Long Term Financial Plan which will show how outcomes can be achieved and the financial impacts to the Shire as it delivers the outcomes. Staff are currently working in information for the financial plans.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2016-2026

4. Provide good strategic decision making, governance, leadership and professional management

4.2 Manage the organisation in a responsible and accountable manner

4.3 Deliver services that meet the current and future needs and expectations of the community, whilst maintaining statutory compliance

VOTING REQUIREMENTS

Absolute Majority

9.4 CHIEF EXECUTIVE OFFICER

9.4.3 Public Health Plan

Applicant: Shire of Kondinin
Author: David Burton – Chief Executive Officer
Date: 12th April 2022
Disclosure of Interest: Nil
Attachments: Public Health Plan

RESOLUTION #3914

Moved: Cr B. Browning

Seconded: Cr K. Green

That Council adopt the Shire of Kondinin Public Health Plan.

Carried: 8/0

SUMMARY

For Council to consider adoption of the Shire of Kondinin Public Health Plan.

BACKGROUND

Recent changes to the Public Health Act 2016 have required Local Governments to have a Public Health Plan that will be an informing document for the Strategic Community Plan and Corporate Business Plan but with a focus in Public Health and Wellbeing.

The RoeROC Shires engaged Mr. Llew Withers (former employee of the Health Department of WA) to draft the Public Health Plans of the Shires. This does have the advantage of ensuring that the plans are similar which can allow a regional focus.

COMMENT

The Public Health Plan is another strategic document that can be fed into the Corporate Business Plan with outcomes as to how we can address the concerns of our local residents and work towards creating a healthier environment for our residents. This also fit in the Strategic Community Plan 2022-2032 with Community Strategy 1.2 - Facilitate and advocate for quality health services, health facilities and programs in the Shire.

Many of the areas highlighted in the Health Plan will be ongoing with some program being more about providing information to the general public and other about providing services and facilities.

The photographs in the current draft are only suggestions and these will be replaced with local photos to ensure that it is more appropriate for our Shire. The data will not change though.

STATUTORY IMPLICATIONS

Public Health Act 2016

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The adoption of the Public Health Plan does not have a financial implication for the Shire, however delivering the outcomes of the Plan will have to be factored into future budgets with funding to delivery programs, information and facilities. Most of this would have been part of the Shires normal expenditure and expectations of the community.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2016-2026

1.3 A safe, healthy and active Shire

1.3.1 Facilitate a consistent presence and high standard of medical services and allied health in the Shire

1.3.2 Embrace lifelong learning, social interaction and creativity

1.3.3 Provide a variety of quality sport, recreation and leisure services and facilities for all life stages across the three communities

1.3.4 Attract regular cultural events and activities to the Shire

4. Provide good strategic decision making, governance, leadership and professional management

4.2 Manage the organisation in a responsible and accountable manner

4.3 Deliver services that meet the current and future needs and expectations of the community, whilst maintaining statutory compliance

VOTING REQUIREMENTS

Simple Majority

PROCEDURAL RESOLUTION #3915

Moved: Cr T. Mulcahy

Seconded: Cr. Browning

That items 9.4.4 to 9.4.9 be considered en-bloc.

Carried: 8/0

9.4 CHIEF EXECUTIVE OFFICER

9.4.4 Proposed Repeal Local Law

Applicant: Shire of Kondinin
Author: David Burton – Chief Executive Officer
Date: 4th April 2022
Disclosure of Interest: Nil
Attachments: Proposed Repeal Local Law.

RESOLUTION #3916

Considered en-bloc

Moved: Cr P. Green

Seconded: Cr. James

That –

1. in accordance with the Local Government Act s.3.12(2) and (3) and all other legislation enabling it, local public notice be given that Council intends to make a Repeal Local Law, and inviting submissions for a minimum 6 week period –
Purpose – to revoke old local laws no longer having relevance.
Effect – revocation of outdated requirements and local laws.
2. in accordance with the Local Government Act s.3.12(3), copies of the proposed local law be –
 - sent to the Minister for Local Government and Minister for Agriculture,
 - made available to any other person requesting a copy.

Carried: 8/0

SUMMARY

To commence the statutory process for adoption of a local law in accordance with the Local Government Act s.3.12.

BACKGROUND

The Local Government Act requires the following statements to be made in the agenda and minutes of the meeting –

Purpose – to revoke old local laws no longer having relevance.

Effect – revocation of outdated requirements and local laws.

This proposed local law repeals –

- a number of bylaws now inconsistent with legislation (eg: Appointment of Employees, Long Service Leave),
- several that have been superseded by other legislation (eg: Brick Areas, Pounds), or
- no longer are relevant (eg: Distribution of Water, Pest Plants).

The statutory process is the same for making, amending or revoking a local law –

- Local public notice inviting public comment – minimum of 6 weeks;
- During this time, submit to Dept of Local Government and Dept of Fire and Emergency Services;
- At the end of public comment, summary of public comments and any changes recommended by the departments to Council for decision regarding those comments, and consideration of any changes to the draft local law;
- final adoption of the amendment local law by Council;
- publication in the Government Gazette;
- local public notice to be given of the adoption, publication and commencement date of the local law;
- submission of all necessary documents to Parliamentary Joint Standing Committee on Delegated Legislation for their review.

The JSCDL reviews the local law, its effects and may recommend to Parliament that it be amended and request an undertaking, or that it be disallowed. The JSCDL will not review the local law until after it has been formally adopted, Gazetted etc.

COMMENT

The Repeal Local Law will remove all old Bylaws and Local Laws that will be superseded with the new Local Laws.

STATUTORY IMPLICATIONS

Local Government Act 1995

- *s 3.12 – Procedure for making local laws*
- *s.3.13 – Significant changes require recommencement of proposal*
- *s.3.14 – Unless otherwise provided for, local laws come into effect 14 days after Gazettal*
- *s.3.15 – local public notice of the final adoption/making of a local law to be given*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Advertising of local laws, publication in Government Gazette etc on final adoption.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2016-2026

- 4. Provide good strategic decision making, governance, leadership and professional management*
 - 4.2 Manage the organisation in a responsible and accountable manner.*

VOTING REQUIREMENTS

Simple Majority

9.4 CHIEF EXECUTIVE OFFICER**9.4.5 Proposed Public Places and Local Government Property Law**

Applicant: Shire of Kondinin
Author: David Burton – Chief Executive Officer
Date: 4th April 2022
Disclosure of Interest: Nil
Attachments: Proposed Public Places and Local Government Property Law

RESOLUTION #3916**Considered en-bloc****Moved: Cr P. Green****Seconded: Cr. James****That –**

1. in accordance with the Local Government Act s.3.12(2) and (3) and all other legislation enabling it, local public notice be given that Council intends to make a Repeal Local Law, and inviting submissions for a minimum 6 week period –
Purpose – to revoke old local laws no longer having relevance.
Effect – revocation of outdated requirements and local laws.
2. in accordance with the Local Government Act s.3.12(3), copies of the proposed local law be –
 - sent to the Minister for Local Government and Minister for Agriculture,
 - made available to any other person requesting a copy.

Carried: 8/0**SUMMARY**

To commence the statutory process for adoption of a local law in accordance with the Local Government Act s.3.12.

BACKGROUND

The Local Government Act requires the following statements be made in the agenda and minutes of the meeting –

Purpose – to make provisions for the management of public places, thoroughfares and all local government property.
Effect – to repeal existing local laws, establish necessary controls for public places, thoroughfares and local government property, provide for permitted and prohibited use and activities, and create offences for non-compliance.

This proposed local law repeals 6 local laws.

There are a number of matters that Council should be aware of –

- (1) the local law applies to the whole of the district, but some aspects are limited to townsites.
- (2) street trading or trading within a reserve, will still require approval, but will now be from an authorised person, not necessarily a Council resolution, but under conditions and requirements set by policy adopted by Council;
 - approval for street trading under this local law, and subject to any conditions that may be imposed by staff, does not set aside the requirements of either Public Health Act and Regulations or the Food Act and Regulations.
- (3) permits fees and charges to be set by resolution of Council in accordance with the Local Government Act;
 - in particular, these fees and charges will apply to the areas specified such as at Wave Rock, giving a clear head of power for Council to do so.
- (4) permits activities to be authorised or prohibited by sign at the public place or local government property.
- (5) allows for Council to delegate many matters to the CEO.

- (6) allows for the appointment of authorised persons, either by Council or by the CEO under delegated power, to manage and enforce the requirements of the local law.
- (7) Definitions –
- (a) Council, CEO or other specific position – the function, role or power cannot be removed from that position or role, nor over-ridden.
 - (b) Authorised person – an authorised person’s function and actions are defined by the local law and is not to be confused with a delegation. A delegation relates to decision, whereas an authorisation relates to an action. The CEO may delegate power to a senior staff member to make decisions, but this does not include acting as an authorised person to issue infringements (as an example).

The statutory process is the same for making, amending or revoking a local law –

- Local public notice inviting public comment – minimum of 6 weeks.
- During this time, submit to Dept of Local Government and Dept of Fire and Emergency Services.
- At the end of public comment, summary of public comments and any changes recommended by the departments to Council for decision regarding those comments, and consideration of any changes to the draft local law.
- final adoption of the amendment local law by Council.
- publication in the Government Gazette.
- local public notice to be given of the adoption, publication and commencement date of the local law.
- submission all necessary documents to Parliamentary Joint Standing Committee on Delegated Legislation for their review.

The JSCDL reviews the local law, its effects and may recommend to Parliament that it be amended and request an undertaking, or that it be disallowed. The JSCDL will not review the local law until after it has been formally adopted, Gazetted etc.

COMMENT

The proposed Public Places and Local Government Property Law will enable the Shire to regulate activities in public places and at Shire owned locations.

Policies will need to be developed for some matters to give clarity in approved activities for the administration.

STATUTORY IMPLICATIONS

Local Government Act 1995

- *s.3.12 – Procedure for making local laws*
- *s.3.13 – Significant changes require recommencement of proposal*
- *s.3.14 – Unless otherwise provided for, local laws come into effect 14 days after Gazetted*
- *s.3.15 – local public notice of the final adoption/making of a local law to be given*

POLICY IMPLICATIONS

Future adoption of policies for Street trading and other matters will be required once the Local Laws are enacted.

FINANCIAL IMPLICATIONS

Advertising of local laws, publication in Government Gazette etc. on final adoption.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2016-2026

4. *Provide good strategic decision making, governance, leadership and professional management*
- 4.2 Manage the organisation in a responsible and accountable manner.

VOTING REQUIREMENTS

Simple Majority

9.4 CHIEF EXECUTIVE OFFICER**9.4.6 Proposed Fencing Local Law**

Applicant: Shire of Kondinin
Author: David Burton – Chief Executive Officer
Date: 4th April 2022
Disclosure of Interest: Nil
Attachments: Proposed Fencing Local Law.

RESOLUTION #3916**Considered en-bloc****Moved: Cr P. Green****Seconded: Cr. James****That –**

1. **in accordance with the Local Government Act s.3.12(2) and (3) and all other legislation enabling it, local public notice be given that Council intends to make a Repeal Local Law, and inviting submissions for a minimum 6 week period –**
Purpose – to revoke old local laws no longer having relevance.
Effect – revocation of outdated requirements and local laws.
2. **in accordance with the Local Government Act s.3.12(3), copies of the proposed local law be –**
 - **sent to the Minister for Local Government and Minister for Agriculture,**
 - **made available to any other person requesting a copy.**

Carried: 8/0**SUMMARY**

To commence the statutory process for adoption of a local law in accordance with the Local Government Act s.3.12.

BACKGROUND

The Local Government Act requires the following statements be made in the agenda and minutes of the meeting –

Purpose – to prescribe a sufficient fence and the standard for construction of fences and create offences for non-compliance.

Effect – to establish the minimum requirements for fencing, provide for permitted and prohibited fencing, and create offences for non-compliance.

This proposed local law repeals the 1979 Bylaw, which –

- lists asbestos as an approved fencing material,
- limited capacity to approve a non-specified fence that may otherwise be appropriate,
- no capacity for Council to delegate to CEO or for authorised persons to be appointed,
- is limited to townsites of Kondinin, Hyden and Karlgarin.

There are a number of matters that Council should be aware of –

- (8) the local law applies to the whole of the district, however, certain types of fencing are restricted to particular land uses as defined by the Local Planning Scheme,
- (9) Definitions –
 - (c) Council, CEO or other specific position – the function, role or power cannot be removed from that position or role, nor over-ridden.

- (d) Authorised person – an authorised person’s function and actions are defined by the local law and is not to be confused with a delegation. A delegation relates to decision, whereas an authorisation relates to an action. The CEO may delegate power to a senior staff member to make decisions, but this does not include acting as an authorised person to issue infringements (as an example).

The statutory process is the same for making, amending or revoking a local law –

- Local public notice inviting public comment – minimum of 6 weeks.
- During this time, submit to Dept of Local Government and Dept of Fire and Emergency Services.
- At the end of public comment, summary of public comments and any changes recommended by the departments to Council for decision regarding those comments, and consideration of any changes to the draft local law.
- final adoption of the amendment local law by Council.
- publication in the Government Gazette.
- local public notice to be given of the adoption, publication and commencement date of the local law.
- Submission of all necessary documents to Parliamentary Joint Standing Committee on Delegated Legislation for their review.

The JSCDL reviews the local law, its effects and may recommend to Parliament that it be amended and request an undertaking, or that it be disallowed. The JSCDL will not review the local law until after it has been formally adopted, Gazetted etc.

COMMENT

The proposed Fences Local Law will regulate fencing requirements through different areas of the Shire and also place some controls over materials used, etc.

STATUTORY IMPLICATIONS

Local Government Act 1995

- *s 3.12 – Procedure for making local laws*
- *s.3.13 – Significant changes require recommencement of proposal*
- *s.3.14 – Unless otherwise provided for, local laws come into effect 14 days after Gazetted*
- *s.3.15 – local public notice of the final adoption/making of a local law to be given*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Advertising of local laws, publication in Government Gazette etc on final adoption

STRATEGIC IMPLICATIONS

Strategic Community Plan 2016-2026

4. *Provide good strategic decision making, governance, leadership and professional management*
- 4.2 Manage the organisation in a responsible and accountable manner

VOTING REQUIREMENTS

Simple Majority

9.4 CHIEF EXECUTIVE OFFICER**9.4.7 Proposed Dogs Local Law**

Applicant: Shire of Kondinin
Author: David Burton – Chief Executive Officer
Date: 4th April 2022
Disclosure of Interest: Nil
Attachments: Proposed Dogs Local Law.

RESOLUTION #3916**Considered en-bloc****Moved: Cr P. Green****Seconded: Cr. James****That –**

1. **in accordance with the Local Government Act s.3.12(2) and (3) and all other legislation enabling it, local public notice be given that Council intends to make a Repeal Local Law, and inviting submissions for a minimum 6 week period –**
Purpose – to revoke old local laws no longer having relevance.
Effect – revocation of outdated requirements and local laws.
2. **in accordance with the Local Government Act s.3.12(3), copies of the proposed local law be –**
 - **sent to the Minister for Local Government and Minister for Agriculture,**
 - **made available to any other person requesting a copy.**

Carried: 8/0**SUMMARY**

To commence the statutory process for adoption of a local law in accordance with the Local Government Act s.3.12.

BACKGROUND

The Local Government Act requires the following statements be made in the agenda and minutes of the meeting –

Purpose – to make provisions about the impounding, the number that may be kept on premises, the manner of keeping dogs and create offences for non-compliance.

Effect – to repeal existing Dogs Local Law 1995 and provide for the controls of dogs within the district and impose penalties for non-compliance.

There are a number of matters that Council should be aware of –

(10) Definitions – the draft local law uses the following definitions that need some explanation –

- (e) Council, CEO or other specific position – the function, role or power cannot be removed from that position or role, nor over-ridden.
- (f) Authorised person – an authorised person’s function and actions are defined by the local law and is not to be confused with a delegation. A delegation relates to decision, whereas and authorisation relates to an action. The CEO may delegate power to a senior staff member to make decisions, but this does not include acting as an authorised person to issue infringements (as an example).

(11) Use of policy to specify standards and activities. In accordance with the Local Government Act s.2.7, policies are to be set by Council. Care needs to be exercised since policy should be seen as instructions to employees on what they may approve, or when to act. They should not be seen as a direct control of the public, unless the necessary processes are undertaken. Where policies may be applied –

- Conditions for permitting additional dogs
- Conditions, requirements and standards to be applied for staff to approve kennels

The statutory process is the same for making, amending or revoking a local law –

- Local public notice inviting public comment – minimum of 6 weeks.
- During this time, submit to Dept of Local Government and Dept of Fire and Emergency Services.
- At the end of public comment, summary of public comments and any changes recommended by the departments to Council for decision regarding those comments, and consideration of any changes to the draft local law.
- final adoption of the amendment local law by Council.
- publication in the Government Gazette.
- local public notice to be given of the adoption, publication and commencement date of the local law.
- submission of all necessary documents to Parliamentary Joint Standing Committee on Delegated Legislation for their review.

The JSCDL reviews the local law, its effects and may recommend to Parliament that it be amended and request an undertaking, or that it be disallowed. The JSCDL will not review the local law until after it has been formally adopted, Gazetted etc.

COMMENT

The proposed Dogs Local Law will complement the Dog Act and assist with requirements of the Shires requirements for dog control in our area.

STATUTORY IMPLICATIONS

Local Government Act 1995

- *s 3.12 – Procedure for making local laws*
- *s.3.13 – Significant changes require recommencement of proposal*
- *s.3.14 – Unless otherwise provided for, local laws come into effect 14 days after Gazettal*
- *s.3.15 – local public notice of the final adoption/making of a local law to be given*

Dog Act 1976 –

49. Local laws

A local government may make local laws —

(a) for its district and any other area that is to be regarded, for the purposes of this Act, as being within that district;

POLICY IMPLICATIONS

Future adoption of Council policy for control and approval of kennels etc as provided in the proposed local law.

FINANCIAL IMPLICATIONS

Advertising of local laws, publication in Government Gazette etc on final adoption.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2016-2026

4. *Provide good strategic decision making, governance, leadership and professional management*
 - 4.2 Manage the organisation in a responsible and accountable manner.

VOTING REQUIREMENTS

Simple Majority

9.4 CHIEF EXECUTIVE OFFICER

9.4.8 Proposed Cemeteries Local Law

Applicant: Shire of Kondinin
Author: David Burton – Chief Executive Officer
Date: 4th April 2022
Disclosure of Interest: Nil
Attachments: Proposed Cemeteries Local Law

RESOLUTION #3916

Considered en-bloc

Moved: Cr P. Green

Seconded: Cr. James

That –

1. in accordance with the Local Government Act s.3.12(2) and (3) and all other legislation enabling it, local public notice be given that Council intends to make a Repeal Local Law, and inviting submissions for a minimum 6 week period –
 Purpose – to revoke old local laws no longer having relevance.
 Effect – revocation of outdated requirements and local laws.
2. in accordance with the Local Government Act s.3.12(3), copies of the proposed local law be –
 - sent to the Minister for Local Government and Minister for Agriculture,
 - made available to any other person requesting a copy.

Carried: 8/0

SUMMARY

To commence the statutory process for adoption of a local law in accordance with the Local Government Act s.3.12.

BACKGROUND

The Local Government Act requires the following statements be made in the agenda and minutes of the meeting –

Purpose – to provide for the management of cemeteries within the district and create offences for non-compliance.

Effect – to provide for the management and control of cemeteries.

Council has three cemeteries for which they have responsibility –

- Reserve 18128 – several kilometers west of Kondinin, on Kondinin Lake Road,
 - established in Government Gazette of 2 October 1925
 - bylaws in Government Gazette of 11 December 1925
 - the bylaws do not cover Reserve 22608
- Reserve 21253 - Hyden cemetery,
 - established in Government Gazette of 17 December 1990
 - no local laws apply to this cemetery
- Reserve 22608 - about half way along Wilkins Road between Hyden Rd and Notting-Karlgarin Rd,
 - established in Government Gazette of 14 Feb 1947
 - no local laws apply to this cemetery
 - a number of attempted but invalid amendments, eg: Government Gazette 22 May 1972

There are a number of matters that Council should be aware of –

- (12) Definitions – the term “Board” is used since the Cemeteries Act applies not just to local governments that have responsibilities for cemeteries but also to a number of independent Boards such as the Metropolitan Cemeteries Board and others. Accordingly, the Act and the draft local law use the following definitions that need some explanation –
- (g) Board – used the same way as the term “local government” is in other local laws. It means the organisation, so that where a matter must be reported on it means hand it in at the front counter or submit by email etc. However, where a decision is required, consistent with Dept of Local Government Guidelines, it should be read as being the highest possible decision making level, which is the Council, and in line with the Guidelines these decisions can be delegated to the CEO unless specified. This is consistent with clause 1.3 of the draft local law where all matters have been delegated to the CEO unless specified, or otherwise instructed by Council.
 - (h) By resolution of the Board – in effect, this term means the Council at a meeting, and the decision cannot be delegated to the CEO, since it requires a resolution. This is consistent with the Department’s interpretation of the term “Council” to mean the elected members in session, and is not to be interpreted as being able to be delegated to CEO, nor to mean the organisation.
 - (i) Council, CEO or other specific position – the function, role or power cannot be removed from that position or role, nor over-ridden.
 - (j) Authorised person – an authorised person’s function and actions are defined by the local law and is not to be confused with a delegation. A delegation relates to decision, whereas an authorisation relates to an action. The CEO may delegate power to a senior staff member to make decisions, but this does not include acting as an authorised person to issue infringements (as an example).
- (13) Use of policy to specify standards and activities. In accordance with the Local Government Act s.2.7, policies are to be set by Council. Care needs to be exercised since policy should be seen as instructions to employees on what they may approve, or when to act. They should not be seen as a direct control of the public, unless the necessary processes are undertaken.
- (14) Penalties – the level of both general penalty and modified penalties permitted under the Act are pathetic and constitute next to no level of deterrent at all. The draft local law suggests the maximum penalties allowed under the Act, with the exception of the daily penalty upon conviction. This could be increased from a maximum of \$20 per day to a maximum \$50 per day if desired. Following prosecution, this could amount to a sizeable sum if non-compliance continues for an extended period. The daily penalty would be set by the Council in the event of a successful prosecution.
- (15) Liability for damage, notice to correct and undertaking remedial works – clauses 9.11, 9.12 and 9.13 are the real power of the Council where damage has occurred. Similar to an infringement notice or a prosecution, these also rely on knowing the identity of the offender. These clauses allow Council, where the offender is known to –
- (a) Issue a notice to repair, pay for repairs or carry out works needed for compliance with the local law. Generally, if there is damage, it is suggested that paying for reinstatement or repairs is most appropriate as Council would then control the standard of works, but if in the case of a non-complying headstone or plaque, there is no reason why Council needs to be involved.
 - (b) If the recipient of the notice does not comply with the notice, they can be infringed or prosecuted.
 - (c) Council may carry out the works and recover the cost as a debt, applying interest to the outstanding amount if necessary, or taking legal action. This is consistent with the provisions of the Local Government Act s.3.25 and 3.26 in relation to notices issued concerning Schedule 3.1 matters.

The statutory process is the same for making, amending or revoking a local law –

- Local public notice inviting public comment – minimum of 6 weeks.
- During this time, submit to Dept of Local Government and Dept of Fire and Emergency Services.
- At the end of public comment, summary of public comments and any changes recommended by the departments to Council for decision regarding those comments, and consideration of any changes to the draft local law.
- final adoption of the amendment local law by Council.
- publication in the Government Gazette.
- local public notice to be given of the adoption, publication and commencement date of the local law.

- submission of all necessary documents to Parliamentary Joint Standing Committee on Delegated Legislation for their review.

The JSCDL reviews the local law, its effects and may recommend to Parliament that it be amended and request an undertaking, or that it be disallowed. The JSCDL will not review the local law until after it has been formally adopted, Gazetted etc.

COMMENT

The proposed Cemeteries Local Law will enable the Shire to regulate use of the Cemeteries to ensure controls and requirements are in place.

Some policies will be required to be drafted to give guidance to staff on activities such as monumental works.

STATUTORY IMPLICATIONS

Local Government Act 1995

- *s 3.12 – Procedure for making local laws*
- *s.3.13 – Significant changes require recommencement of proposal*
- *s.3.14 – Unless otherwise provided for, local laws come into effect 14 days after Gazettal*
- *s.3.15 – local public notice of the final adoption/making of a local law to be given*

Cemeteries Act 1986 –

- s.55 (1) – a Board may make local laws ... as are necessary or convenient for the purposes of this Act ...*
(r) generally for the doing of all such acts and things as are necessary or may necessary or convenient for the effective administration of a cemetery.

POLICY IMPLICATIONS

Future adoption of Council policy for approval of memorial works etc, as provided for in the local law.

FINANCIAL IMPLICATIONS

Advertising of local laws, publication in Government Gazette etc on final adoption

STRATEGIC IMPLICATIONS

Strategic Community Plan 2016-2026

- 4. Provide good strategic decision making, governance, leadership and professional management*
4.2 Manage the organisation in a responsible and accountable manner.

VOTING REQUIREMENTS

Simple Majority

9.4 CHIEF EXECUTIVE OFFICER

9.4.9 Proposed Bush Fire Brigades Local Law

Applicant: Shire of Kondinin
Author: David Burton – Chief Executive Officer
Date: 4th April 2022
Disclosure of Interest: Nil
Attachments: Proposed Bush Fire Brigades Local Law

RESOLUTION #3916

Considered en-bloc

Moved: Cr P. Green

Seconded: Cr. James

That –

1. in accordance with the Local Government Act s.3.12(2) and (3) and all other legislation enabling it, local public notice be given that Council intends to make a Repeal Local Law, and inviting submissions for a minimum 6 week period –
 Purpose – to revoke old local laws no longer having relevance.
 Effect – revocation of outdated requirements and local laws.
2. in accordance with the Local Government Act s.3.12(3), copies of the proposed local law be –
 - sent to the Minister for Local Government and Minister for Agriculture,
 - made available to any other person requesting a copy.

Carried: 8/0

SUMMARY

To commence the statutory process for adoption of a local law in accordance with the Local Government Act s.3.12.

BACKGROUND

The Local Government Act requires the following statements be made in the agenda and minutes of the meeting –

Purpose – to make provisions for establishment, management and administration of Bush Fire Brigades in accordance with the *Bush Fires Act 1954*.

Effect – to align the requirements for Bush Fire Brigades with legislation and local practice.

The Bush Fires Act a local government to adopt a local law –

s.43 – Election and duties of officers of bush fire brigades

A local government which establishes a bush fire brigade shall by its local laws provide for appointment or election of captain, a first lieutenant and other officers, and shall prescribe their duties.

The proposed local law–

- recognises that brigades are not independent, but are ultimately responsible to the local government;
- includes provision for appointment of brigade officers directly by Council if considered necessary or appropriate, similar to appointment of fire control officers (which are required to be by Council, and are not an elected position);
- while preserving the Council’s legal capacity to manage and control brigades, it allows brigades as much autonomy as possible.

The local law does not address fire hazards, fire breaks etc. It is suggested that this be done by the preparation and adoption of a formal notice in accordance with the Bush Fires Act s.33 as a matter of priority. A notice has all the effect and weight of a local law, and is actionable through infringements or court action if necessary.

Since brigades are to be established, named and have their geographic area of responsibility determined by Council in accordance with the Bush Fire Act and the local law, it is suggested that Council consider the adoption of a policy naming the brigades and with a map of the area of each brigade. This does not affect in any way, the ability for brigades to cross the defined areas of responsibility, but does impact the chain of command within the specified area of responsibility.

The statutory process is the same for making, amending or revoking a local law –

- Local public notice inviting public comment – minimum of 6 weeks.
- During this time, submit to Dept of Local Government and Dept of Fire and Emergency Services.
- At the end of public comment, summary of public comments and any changes recommended by the departments to Council for decision regarding those comments, and consideration of any changes to the draft local law.
- final adoption of the amendment local law by Council.
- publication in the Government Gazette.
- local public notice to be given of the adoption, publication and commencement date of the local law.
- submission of all necessary documents to Parliamentary Joint Standing Committee on Delegated Legislation for their review.

The JSCDL reviews the local law, its effects and may recommend to Parliament that it be amended and request an undertaking, or that it be disallowed. The JSCDL will not review the local law until after it has been formally adopted, Gazetted etc.

COMMENT

The proposed Bush Fire Brigades Local Law will assist in establishing formal guidelines for the control of the Bush Fire Brigades in line with legislation.

STATUTORY IMPLICATIONS

Local Government Act 1995

- *s 3.12 – Procedure for making local laws*
- *s.3.13 – Significant changes require recommencement of proposal*
- *s.3.14 – Unless otherwise provided for, local laws come into effect 14 days after Gazettal*
- *s.3.15 – local public notice of the final adoption/making of a local law to be given*

Bush Fires Act 1954 –

- s.35A – volunteer fire fighter means a bush fire control officer, a person who is a registered member of a bush fire brigade established under this Act or a person working under the direction of that officer or member,*
- s37 – local government to insure “volunteer fire fighters”, plant and appliances etc.*
- s.41 – local government may establish brigades, and equip them in accordance with those local laws*
- s.43 – a local government which establishes a bush fire brigade shall by its local laws provide for appointment or election of captain, a first lieutenant and other officers, and shall prescribe their duties*
- s.62 – may make local law for –*
 - *appointment, duties etc. of fire control officers*
 - *organisation etc. of bush fire brigades*
 - *matters affecting the exercise of any powers or duties conferred by the Act*

POLICY IMPLICATIONS

Future adoption of Council policy for the names and areas of Brigades consistent with Bush Fires Act s.41 and the proposed local law.

FINANCIAL IMPLICATIONS

Advertising of local laws, publication in Government Gazette etc. on final adoption.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2016-2026

4. Provide good strategic decision making, governance, leadership and professional management

4.2 Manage the organisation in a responsible and accountable manner.

VOTING REQUIREMENTS

Simple Majority

9.4 CHIEF EXECUTIVE OFFICER**9.4.10 CEO Annual Performance Review**

Applicant: Shire of Kondinin
Author: David Burton – Chief Executive Officer
Date: 4th April 2022
Disclosure of Interest: Nil
Attachments: Nil

RESOLUTION #3917**Moved: Cr T. Mulcahy****Seconded: Cr P. Green**

That Council engage John Phillips Consulting to assist with the Annual Performance Review of the Chief Executive Officer.

Carried: 8/0**SUMMARY**

To commence the statutory process for adoption of a local law in accordance with the Local Government Act s.3.12.

BACKGROUND

The current CEO Contract started from early May 2021. As such, the annual performance review of the CEO will be required to be completed soon after the completion of the 12 month period.

COMMENT

At the current time, there is no requirement for Council to engage an outside consultant to assist with the performance review of the CEO, however, as it is likely to be required in the reforms currently being considered, it may be preferable for Council to continue with this practice.

The CEO is currently seeking availability and quotes from HR professionals who can assist Council with this process. This information will be presented at the meeting for Council to consider.

New Regulations came into place in early 2021 with regards to CEO performance appraisals and introducing standards for the reviews. These Regulations have been included for information.

STATUTORY IMPLICATIONS

Local Government Act 1995

5.39A. *Model standards for CEO recruitment, performance and termination*

(1) *Regulations must prescribe model standards for local governments in relation to the following*

—

- (a) *the recruitment of CEOs;*
- (b) *the review of the performance of CEOs;*
- (c) *the termination of the employment of CEOs.*

(2) *Regulations may amend the model standards.*

Local Government (Administration) Regulations

Division 3 — Standards for review of performance of CEOs

[Heading inserted: SL 2021/14 r. 7.]

15. Overview of Division

This Division sets out standards to be observed by the local government in relation to the review of the performance of CEOs.

[Clause 15 inserted: SL 2021/14 r. 7.]

16. Performance review process to be agreed between local government and CEO

- (1) *The local government and the CEO must agree on —*
- (a) the process by which the CEO’s performance will be reviewed; and*
 - (b) any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.*

- (2) *Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses 17, 18 and 19.*

- (3) *The matters referred to in subclause (1) must be set out in a written document.*

[Clause 16 inserted: SL 2021/14 r. 7.]

17. Carrying out a performance review

- (1) *A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.*

- (2) *The local government must —*

- (a) collect evidence regarding the CEO’s performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and*
- (b) review the CEO’s performance against the contractual performance criteria and any additional performance criteria, based on that evidence.*

[Clause 17 inserted: SL 2021/14 r. 7.]

18. Endorsement of performance review by local government

Following a review of the performance of the CEO, the local government must, by resolution of an absolute majority of the council, endorse the review.

[Clause 18 inserted: SL 2021/14 r. 7.]

19. CEO to be notified of results of performance review

After the local government has endorsed a review of the performance of the CEO under clause 18, the local government must inform the CEO in writing of —

- (a) the results of the review; and*
- (b) if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The cost of the Review with an outside consultant is estimated at \$3-7,000 pending on the consultant and process.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2016-2026

4. *Provide good strategic decision making, governance, leadership and professional management*
4.2 Manage the organisation in a responsible and accountable manner.

VOTING REQUIREMENTS

Simple Majority

9.5 ENVIRONMENTAL HEALTH OFFICER

Nil

10. BUSINESS OF AN URGENT NATURE

Cr Mulcahy:

That the Shire give consideration of writing a letter to the Shires of Narembeen and Bruce Rock for a unified permit issue date.

11. CLOSURE

Meeting closed at 5:22pm.