



ORDINARY MINUTES (UNCONFIRMED)

DATE: Wednesday 16 October 2024

TIME: 5.30pm

VENUE: Council Chambers
Nyabing Administration Office
24-26 Richmond Street
NYABING WA 6341

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Christie Smith

CHIEF EXECUTIVE OFFICER

MINUTES
16 October 2024

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1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Shire President declared the meeting opened at 5:41pm.

2. RECORD OF ATTENDANCE/APOLOGIES AND APPROVED LEAVE OF ABSENCE**ATTENDANCE****Elected Members:**

Cr K Johnston	Shire President
Cr D Gray	Deputy Shire President
Cr S Crosby	Member
Cr D Harris	Member
Cr G Hobley	Member
Cr S Reid	Member

Staff:

C Smith	Chief Executive Officer
G Mathewson	Manager Infrastructure

APOLOGIES

Nil

APPROVED LEAVE OF ABSENCE

Nil

ABSENT

Nil

3. DISCLOSURES OF INTEREST

Section 5.65 and 5.70 of the *Local Government Act 1995*

Declaration of Financial Interests:

Nil

Declarations of Proximity Interests

Nil

4. PUBLIC QUESTION TIME**5. APPLICATIONS FOR LEAVE OF ABSENCE**

Section 5.25 *Local Government Act 1995*

6. CONFIRMATION AND RECEIVING OF MINUTES/BUSINESS ARISING

6.1 ORDINARY MEETING OF COUNCIL HELD 18 SEPTEMBER 2024

OCM2425/038 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr D GRAY/Cr D HARRIS

That the minutes of the Ordinary Council Meeting of the Shire of Kent held at the Nyabing Council Chambers, on Wednesday 18 September 2024 be CONFIRMED.

CARRIED 6/0

For:

Cr K Johnston, Cr D Gray, Cr S Crosby, Cr G Hobley, Cr S Reid, Cr D Harris

Against:

Nil

6.2 SPECIAL MEETING OF COUNCIL HELD 19 SEPTEMBER 2024

OCM2425/039 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr G HOBLEY/Cr S REID

That the minutes of the Special Council Meeting of the Shire of Kent held at the Nyabing Council Chambers, on Thursday 19 September 2024 be CONFIRMED.

CARRIED 6/0

For:

Cr K Johnston, Cr D Gray, Cr S Crosby, Cr G Hobley, Cr S Reid, Cr D Harris

Against:

Nil

6.3 OUTSTANDING COUNCIL RESOLUTIONS OCTOBER 2024

The outstanding Council Resolutions Register for October 2024 is provided as attachment 6.2 for your information.

7. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

8. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

9. OFFICER REPORTS

9.1 MONTHLY FINANCIAL REPORTS TO 30 SEPTEMBER 2024

PROPOSED MEETING DATE:	16 October 2024
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Christie Smith – Chief Executive Officer
REPORTING OFFICER:	Christie Smith – Chief Executive Officer
FILE NO:	FIN.221
ASSESSMENT NO:	N/A
ATTACHMENTS:	Attachment 1 - Monthly Financial Reports to 30 September 2024
DISCLOSURE OF INTEREST:	Nil

PURPOSE

In accordance with the *Local Government (Financial Management) Regulations 1996*, to follow is the presentation of the Monthly Financial Reports to Council.

BACKGROUND

Monthly Financial Reports are to be presented to Council and are to be received by Council resolution.

COMMENT

The Monthly Financial Reports as presented indicate that Council continues to be in a sound financial position.

STATUTORY IMPLICATIONS

Local Government Act 1995 – Section 6.4

Local Government (Financial Management) Regulations 1996 – Clause 34 and 35

POLICY IMPLICATIONS

Policy 4.1 Accounting Policies

Objective: To provide the basis for Council’s accounting concepts and reporting guidelines.
To maintain accounting reporting procedures which comply with Statutory Requirements and to demonstrate Council’s financial position.

FINANCIAL IMPLICATIONS

Ongoing management of Council funds

STRATEGIC IMPLICATIONS

Community Strategic Plan 2023 - 2033

Civic Leadership Strategic Priorities – Proactive and well governed Shire

RISK IMPLICATIONS

N/A

VOTING REQUIREMENT

Simple Majority

OCM2425/040 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr S CROSBY/Cr G HOBLEY

That Council receive the following Monthly Financial Reports as presented:

- **Monthly Financial Reports to 30 September 2024**

CARRIED 6/0

For:

Cr K Johnston, Cr D Gray, Cr S Crosby, Cr G Hobley, Cr S Reid, Cr D Harris

Against:

Nil

9.2 SCHEDULE OF ACCOUNTS PAID 30 SEPTEMBER 2024

PROPOSED MEETING DATE:	16 October 2024
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Jess Dolan – Finance / Admin Officer
REPORTING OFFICER:	Christie Smith – Chief Executive Officer
FILE NO:	FIN.226
ASSESSMENT NO:	N/A
ATTACHMENTS:	Attachment 1 - Schedule of accounts paid Attachment 2 – List of credit card payments
DISCLOSURE OF INTEREST:	Nil

PURPOSE

Council endorsement of payment to Creditors under CEO Delegated Authority 2.1.2.

BACKGROUND

Details payments made to creditors since last Council Meeting.

COMMENT

The Schedule of Accounts Reports as presented, indicate that Council continues to be in a sound financial position.

Regulation 13 of the *Local Government (Financial Management) Regulations 1996* states that only the following information is to be reported to Council and form part of the public minutes:

- a) the payee’s name;
- b) the amount of the payment;
- c) the date of the payment; and
- d) sufficient information that identifies the payment.

STATUTORY IMPLICATIONS

Local Government Act 1995 – Section 6.4;

Local Government (Financial Management) Regulations 1996 – Part 2 – Regulation 11, 12 and 13.

POLICY IMPLICATIONS

Policy 4.1 Accounting Policies

Objective: To provide the basis for Council’s accounting concepts and reporting guidelines.

To maintain accounting reporting procedures which comply with Statutory Requirements and to demonstrate Council’s financial position.

FINANCIAL IMPLICATIONS

Ongoing management of Council funds

STRATEGIC IMPLICATIONS

Community Strategic Plan 2023 - 2033

Civic Leadership Strategic Priorities – Proactive and well governed Shire

RISK IMPLICATIONS

N/A

VOTING REQUIREMENT

Simple Majority

OCM2425/041 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr D GRAY/Cr D HARRIS

That Council endorse the payments from the Municipal Fund and Trust Fund for the period ending 30 September 2024.

Municipal Fund (EFT)	\$366,111.19
Municipal Fund (CHQ)	\$ 1,140.00
Trust Fund	\$ 0.00
Direct Debits	\$ 23,595.45
<u>TOTAL</u>	<u>\$390,846.64</u>

CARRIED 6/0

For:

Cr K Johnston, Cr D Gray, Cr S Crosby, Cr G Hopley, Cr S Reid, Cr D Harris

Against:

Nil

9.3 STATE GOVERNMENT ELECTIONS – REVIEW OF WALGA ADVOCACY POSITIONS

PROPOSED MEETING DATE:	16 October 2024
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Christie Smith – Chief Executive Officer
REPORTING OFFICER:	Christie Smith – Chief Executive Officer
FILE NO:	GOV.261
ASSESSMENT NO:	N/A
ATTACHMENTS:	Nil
DISCLOSURE OF INTEREST:	Nil.

PURPOSE

This report presents a review of the Western Australian Local Government Association's (WALGA) current and proposed Local Government Election Advocacy Positions. The purpose is to seek Council's recommendation for WALGA's upcoming State Council meeting in December 2024, following significant electoral reforms introduced by the *Local Government Amendment Act 2023*.

Council's decision will contribute to shaping WALGA's advocacy on key electoral matters, including voting methods, participation, and the election of Mayors and Presidents.

BACKGROUND

The *Local Government Amendment Act 2023* introduced several reforms, effective before the 2023 Local Government elections. These reforms included:

- Optional Preferential Voting (OPV)
- Extended election periods due to postal service delays
- New candidate information publication rules
- Provisions for backfilling extraordinary vacancies
- Public election of Mayors or Presidents for larger Local Governments
- Abolishing wards for smaller Local Governments
- Alignment of council sizes with population sizes.

Following the 2023 elections, WALGA conducted an analysis of five election cycles, focusing on postal elections run by the WA Electoral Commission (WAEC). The report highlighted rising costs and a reduction in service quality. In response, WALGA has requested Council's review and provide feedback on its current advocacy positions to guide its State Council deliberations.

Following requests from several Zone's, WALGA undertook a comprehensive review and analysis of 5 ordinary election cycles up to and including the 2023 Local Government election against the backdrop of these legislative reforms. The review and report focused on postal elections conducted exclusively by the Western Australian Electoral Commission (WAEC), with the analysis finding evidence of the rising cost and a reduction in service of conducting Local Government elections in Western Australia.

COMMENT

The Elections Analysis Review and Report was presented to State Council 4 September 2024, with State Council supporting a review of WALGA's Local Government Elections Advocacy Positions.

WALGA is requesting Councils consider the current and alternative Elections Advocacy Positions and provide a response back to WALGA for the December 2024 State Council meeting.

To inform an item for the December meeting of State Council, Council decisions are requested by Monday, 28 October 2024.

Local Governments will also be able to provide feedback through the November round of Zone meetings.

The following is a summary of WALGA's current Advocacy Positions in relation to Local Government Elections:

2.5.15 ELECTIONS

Position Statement:

The Local Government sector supports:

1. Four year terms with a two year spill;
2. Greater participation in Local Government elections;
3. The option to hold elections through:
 - Online voting;
 - Postal voting; and
 - In-person voting.
4. Voting at Local Government elections to be voluntary; and
5. The first past the post method of counting votes.

The Local Government sector opposes the introduction of preferential voting, however if 'first past the post' voting is not retained then optional preferential voting is preferred.

Background:

The first past the post (FPTP) method is simple, allows an expression of the electorate's wishes and does not encourage tickets and alliances to be formed to allocate preferences.

State Council Resolutions:

February 2022 – 312.1/2022;

December 2020 – 142.6/2020;

March 2019 – 06.3/2019;

December 2017 – 121.6/2017; and

October 2008 – 427.5/2008.

Supporting Documents:

[Advocacy Positions for a New Local Government Act](#)

[WALGA submission: Local Government Reform Proposal \(February 2022\)](#)

2.5.16 METHOD OF ELECTION OF MAYOR

Position Statement:

Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community.

State Council Resolutions:

February 2022 – 312.1/2022;

March 2019 – 06.3/2019; and

December 2017 – 121.6/2017.

2.5.18 CONDUCT OF POSTAL ELECTIONS

Position Statement: The Local Government Act 1995 should be amended to allow the Australian Electoral Commission (AEC) and any other third party provider including Local Governments to conduct postal elections.

Background:

Currently, the WAEC has a legislatively enshrined monopoly on the conduct of postal elections that has not been tested by the market.

State Council Resolutions

May 2023 – 452.2/2023;

March 2019 – 06.3/2019;

December 2017 – 121.6/2017; and

March 2012 – 24.2/2012.

WALGA has requested the following advocacy positions be considered by Councils:

1. PARTICIPATION

- a) The sector continues to support voluntary voting at Local Government elections.

OR

- b) The sector supports compulsory voting at Local Governments elections.

2. TERMS OF OFFICE

- a) The sector continues to support four-year terms with a two year spill;

OR

- b) The sector supports four-year terms on an all in/all out basis.

3. VOTING METHODS

- a) The sector supports First Past the Post (FPTP) as the preferred voting method for general elections. If Optional Preferential Voting (OPV) remains as the primary method of voting, the sector supports the removal of the 'proportional' part of the voting method for general elections

OR

- b) The sector supports Optional Preferential Voting (OPV) as the preferred voting method for general elections.

4. INTERNAL ELECTIONS

- a) The sector supports First Past the Post (FPTP) as the preferred voting method for all internal elections.

OR

- b) The sector supports Optional Preferential Voting (OPV) as the preferred voting method for all internal elections.

5. VOTING ACCESSIBILITY

The sector supports the option to hold general elections through:

- a) Electronic voting; and/or
b) Postal voting; and/or
c) In-Person voting.

6. METHOD OF ELECTION OF MAYOR

The sector supports:

- a) As per the current legislation with no change – Class 1 and 2 local governments directly elect the Mayor or President (election by electors method), with regulations preventing a change in this method.
b) Return to previous legislated provisions – all classes of local governments can decide, by absolute majority, the method for electing their Mayor or President.

- c) Apply current provisions to all Bands of Local Governments – apply the election by electors method to all classes of local governments.

STATUTORY IMPLICATIONS

The *Local Government Act 1995* and *Local Government Amendment Act 2023* governs the conduct of local government elections, including the introduction of OPV, changes to election periods, and other provisions that affect local electoral processes. WALGA's advocacy positions aim to influence future legislative amendments that could affect these statutory requirements.

POLICY IMPLICATIONS

The review and feedback on WALGA's advocacy positions may influence future policy directions concerning election processes in local governments, including voting methods, terms of office, and the method of electing Mayors or Presidents.

FINANCIAL IMPLICATIONS

There are no immediate financial implications for the Council resulting from this review.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2023-2033

Civic Leadership- 4.2 Proactive and well governed Shire

RISK IMPLICATIONS

Failure to provide input on WALGA's advocacy positions may result in missed opportunities to influence legislative and procedural changes that could impact local government elections. Additionally, changes in voting methods and the election of Mayors/Presidents could create governance risks if not carefully considered.

VOTING REQUIREMENT

Simple Majority.

OCM2425/042 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr D HARRIS/Cr S REID

That the Council recommends that WALGA adopt the following Local Government Election Advocacy Positions:

1. Participation: Council supports voluntary voting at Local Government elections.
2. Terms of Office: Council supports four-year terms with a two-year spill.
3. Voting Methods: Council supports Optional Preferential Voting for general local government elections.
4. Internal Elections: Council supports First Past the Post for internal elections.
5. Voting Accessibility: Council supports the option for elections to be held through electronic, postal, or in-person voting.
6. Method of Election of Mayor/President: Council supports returning to the previous provisions where all Local Governments decide by absolute majority decision.

CARRIED 6/0

For:

Cr K Johnston, Cr D Gray, Cr S Crosby, Cr G Holey, Cr S Reid, Cr D Harris

Against:

Nil

9.4 PROPOSED AMENDMENT TO LOCAL LAW 2024 – FINAL ADOPTION

PROPOSED MEETING DATE:	16 October 2024
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Niel Mitchell – Consultant
REPORTING OFFICER:	Christie Smith – Chief Executive Officer
FILE NO:	GOV.238
ASSESSMENT NO:	N/A
ATTACHMENTS:	Attachment 1 – Proposed Amendment Local Law 2024
DISCLOSURE OF INTEREST:	Nil

PURPOSE

To consider the final adoption of the Amendment Local Law 2024 in accordance with the *Local Government Act 1995* s.3.12, the *Cat Act 2011* and the *Cemeteries Act 1986*.

BACKGROUND

The Joint Standing Committee on Delegated Legislation (JSCDL) advised of a number of matters that needed amendment and requested undertakings that these be attended to within 6 months. These undertakings were resolved by Council on 17 April 2024, and acceptance by the JSCDL was received on 9 May 2024.

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

- Purpose – to amend the Animals, Environment and Nuisance Local Law 2023, Cemeteries Local Law 2023, Fencing Local Law 2023 and Public Places & Local Government Property Local Law 2023 in accordance with the undertakings given to the Joint Standing Committee on Delegated Legislation.
- Effect – to align the local laws with these undertakings.

The proposed local law repeals the local law made in 2023.

COMMENT

Public notice was given by four methods as required by the Local Government Administration Regulations r.3A, for public comment on the proposed local law –

- on the Shire’s website on 10 July August 2024 (mandatory)
- Shire notice boards and social media on 9 August 2024
- in Great Southern Herald and Pingrup Post both on 4 July 2024

At the close of the submission period, comment had been received from –

1. Dept of Local Government, Sport and Cultural Industries –
 - No suggested amendments were received.
2. No other submissions were received.

Should significant amendments be made at time of final adoption, the statutory public comment period must be recommenced.

Once formally adopted by Council, the –

- the local law is to be published in the Government Gazette,

- local public notice given of adoption of the local laws (separate to previous advertising of proposals),
- signed copies are to be sent to relevant Ministers, and
- copies sent to the Parliamentary Joint Standing Committee on Delegated Legislation together with other required documentation, within 10 days of publication in the Government Gazette.

Once published in the Government Gazette, a consolidation (updated) version of each local law is to be placed on the website, in accordance with the Local Government Act s.5.96A.

Please note –

- disallowance of the local law may be made by Parliament, and could take some time depending on sitting days,
- if a provision is not considered to be critical, the JSCDL may require an undertaking from Council to make an amendment,
- the local law takes effect on the day stipulated in the local law, generally 14 days after publication in the Government Gazette.

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.

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

Cat Act 2011 –

- s.79 – local laws

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

Nil

FINANCIAL IMPLICATIONS

Advertising of adoption of the local law, and publication in the Government Gazette.

STRATEGIC IMPLICATIONS

Community Strategic Plan 2023 - 2033

Civic Leadership Strategic Priorities – Proactive and well governed Shire

RISK IMPLICATIONS

The perceived level of risk is considered low-moderate.

VOTING REQUIREMENT

Absolute Majority

OCM2425/043 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr S REID/Cr G HOBLEY

That Council –

- 1. Resolves to make the Amendment Local Law 2024 as per the attached draft;**
- 2. Authorise the President and Chief Executive Officer to sign and affix the Common Seal to the Local Law;**
- 3. Authorise the Chief Executive Officer to –**
 - publish the Local Law in the Government Gazette and provide copies of the local law to the Minister for Local Government; and**
 - forward a copy of the Gazetted Local Law, explanatory memoranda and associated documentation to the Parliamentary Joint Standing Committee on Delegated Legislation for review.**

CARRIED BY ABSOLUTE MAJORITY 6/0

For:

Cr K Johnston, Cr D Gray, Cr S Crosby, Cr G Hobley, Cr S Reid, Cr D Harris

Against:

Nil

9.5 FINAL ADOPTION LOCAL PLANNING POLICY NO. 2 WIND FARMS

PROPOSED MEETING DATE:	16 October 2024
PROPONENT:	N/A
LOCATION:	Shire of Kent
AUTHOR:	Christie Smith – Chief Executive Officer
REPORTING OFFICER:	Christie Smith – Chief Executive Officer
FILE NO:	LAN.31
ASSESSMENT NO:	N/A
ATTACHMENTS:	Attachment 1 –Local Planning Policy No. 1 – Wind Farms
DISCLOSURE OF INTEREST:	Nil

PURPOSE

This report seeks Council's resolution for final adopt the draft Local Planning Policy No. 2 for Wind Farms. The policy aims to provide clear guidelines for the development and management of wind farms within the Shire, balancing the benefits of renewable energy with community and environmental considerations.

BACKGROUND

The Shire of Kent has significant potential for wind energy development due to its favourable wind conditions. Wind farms present an opportunity to contribute to sustainable energy generation and economic development. However, it is crucial to manage these developments to minimise impacts on the environment, landscape, and local communities.

The draft Local Planning Policy for Wind Farms has been prepared to address these issues comprehensively.

The final part to this process is to prepare a Local Planning Policy in accordance with the procedural requirements of clause 4 in Part 2 of the *Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015*.

The draft Local Planning Policy No. 2 Wind Farms were previously considered by Council at the July Ordinary Meeting of Council.

COMMENT

The draft Local Planning Policy No. 2 Wind Farms was advertised for public comment for a twenty five (35 days) period from 26 July 2024 with submissions closing 30 August 2024. Under s 4(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* the minimum period for public notice is twenty one (21) days.

No submissions were received.

In accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*, the Council must now review the proposed policy and resolve to either:

- *proceed with the policy without modification;*
- *proceed with the policy with modification; or*
- *not proceed with the policy.*

Given no submissions were received it is recommended that the Council adopt the draft Local Planning Policy No. 2 Wind Farms without modification

STATUTORY IMPLICATIONS

The draft policy has been prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*. It aligns with state and federal legislation regarding

renewable energy and environmental protection, including the *Environmental Protection Act 1986* and complies with the requirements set out in the Shire's Local Planning Scheme No. 3.

POLICY IMPLICATIONS

Once adopted, the policy will inform future development applications and planning decisions, ensuring that wind farm projects are developed responsibly and sustainably.

FINANCIAL IMPLICATIONS

There are minimal financial implications associated with the adopting the policy.

STRATEGIC IMPLICATIONS

Community Strategic Plan 2023 - 2033

4. Civic Leadership Strategic Priorities

4.1 Forward planning and implementation of plans to achieve community priorities

RISK IMPLICATIONS

Without a comprehensive policy in place, there is a risk of wind farm development leading to negative impacts on the environment and local communities. The adoption of this policy will mitigate these risks by providing clear guidelines for the assessment and management of wind farm projects.

VOTING REQUIREMENT

Simple Majority

OCM2425/044 - COUNCIL RESOLUTION (Officer Recommendation)
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MOVED Cr S CROSBY/Cr D HARRIS

That Council adopt the Local Planning Policy No. 2 Wind Farms, as presented.

CARRIED 6/0

For:

Cr K Johnston, Cr D Gray, Cr S Crosby, Cr G Hoble, Cr S Reid, Cr D Harris

Against:

Nil

9.6 PROPOSED BUSH FIRE BRIGDES LOCAL LAW – FINAL ADOPTION

PROPOSED MEETING DATE:	16 October 2024
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Niel Mitchell – Consultant
REPORTING OFFICER:	Christie Smith – Chief Executive Officer
FILE NO:	GOV.238
ASSESSMENT NO:	N/A
ATTACHMENTS:	Attachment 1 – Proposed Bush Fire Brigades Local Law Attachment 2 – Department of Fire & Emergency Services comment
DISCLOSURE OF INTEREST:	Nil

PURPOSE

To consider the final adoption of the Bush Fire Brigades Local Law 2024 in accordance with the *Local Government Act 1995* s.3.12 and the *Bush Fires Act 1954* s.62.

BACKGROUND

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

- ⇒ Purpose – to revoke the Bush Fire Brigades Local Law 2023 and make provisions for establishment, management and administration of Bush Fire Brigades in accordance with the *Bush Fires Act 1954* in accordance with the undertakings given to the Joint Standing Committee on Delegated Legislation (JSCDL).
- ⇒ Effect – to align the local laws with legislation and these undertakings.

The proposed local law repeals the local law made in 2023.

COMMENT

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).

Public notice was given by four methods as required by the Local Government Administration Regulations r.3A, for public comment on the proposed local law –

- on the Shire’s website on 14 August 2024 (mandatory)
- Shire notice boards and social media on 13 August 2024
- in Great Southern Herald and Pingrup Post both on 15 August 2024

At the close of the submission period, comment had been received from –

3. Dept of Local Government, Sport and Cultural Industries –

- No suggested amendments were received.
- 4. Department of Fire and Emergency Services
 - Minor comments as per attached letter, not affecting operation or intention of the local law
- 5. No other submissions were received.

Should significant amendments be made at time of final adoption, the statutory public comment period must be recommenced.

Once formally adopted by Council, the –

- the local law is to be published in the Government Gazette,
- local public notice given of adoption of the local laws (separate to previous advertising of proposals),
- signed copies are to be sent to relevant Ministers, and
- copies sent to the Parliamentary Joint Standing Committee on Delegated Legislation together with other required documentation, within 10 days of publication in the Government Gazette.

Please note –

- disallowance of the local law may be made by Parliament, and could take some time depending on sitting days,
- if a provision is not considered to be critical, the JSCDL may require an undertaking from Council to make an amendment,
- the local law takes effect on the day stipulated in the local law, generally 14 days after publication in the Government Gazette.

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.

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

Bush Fires Act 2011 –

- s.42 – local governments may establish joint brigades by agreement
(comment – local law not required)
- s.43 local government shall make a local law for the appointment or election of captain, lieutenant etc, and prescribe duties
(comment – support positions such as secretary, treasurer etc are not prescribed)
- s.62 – local laws may be made for organisation etc of bush fire brigades

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Advertising of adoption of the local law, and publication in the Government Gazette.

STRATEGIC IMPLICATIONS

Community Strategic Plan 2023 - 2033

Civic Leadership Strategic Priorities – Proactive and well governed Shire

RISK IMPLICATIONS

The perceived level of risk is considered low-moderate.

VOTING REQUIREMENT

Absolute Majority

OCM2425/045 - COUNCIL RESOLUTION (Officer Recommendation)**MOVED Cr S CROSBY/Cr G HOBLEY**

That Council –

1. Resolves to make the Bush Fire Brigades Local Law as per the attached draft;
2. Authorise the President and Chief Executive Officer to sign and affix the Common Seal to the Local Law;
3. Authorise the Chief Executive Officer to –
 - publish the Local Law in the Government Gazette and provide copies of the local law to the Minister for Local Government and Minister for Emergency Services; and
 - forward a copy of the Gazetted Local Law, explanatory memoranda and associated documentation to the Parliamentary Joint Standing Committee on Delegated Legislation for review.

CARRIED BY ABSOLUTE MAJORITY 6/0**For:****Cr K Johnston, Cr D Gray, Cr S Crosby, Cr G Hobley, Cr S Reid, Cr D Harris****Against:****Nil**

9.7 PERMISSION TO COLLECT NATIVE PLANT SEED FROM ROADSIDES AND SHIRE RESERVES – FORMOSA FLORA

PROPOSED MEETING DATE:	16 October 2024
PROPONENT:	Formosa Flora
LOCATION:	Shire of Kent Vested Reserves and Roadsides
AUTHOR:	Christie Smith – Chief Executive Officer
REPORTING OFFICER:	Christie Smith – Chief Executive Officer
FILE NO:	ENV.65
ASSESSMENT NO:	N/A
ATTACHMENTS:	Nil
DISCLOSURE OF INTEREST:	Nil

PURPOSE

This report seeks to address the request by Formosa Flora for permission to access reserves vested in the Shire of Kent for native seed collection for a period commencing 16 October 2024 to 30 June 2025.

The proposed activity aligns with conservation efforts and supports local biodiversity objectives, provided that it is conducted under specific conditions to ensure minimal impact on the local ecosystem.

BACKGROUND

Formosa Flora currently operates from Torbay, near Albany WA, and fulfils seed revegetation requirements for landcare orders across multiple catchment groups.

Council have provided Formosa Flora with permission for native seed collection since March 2020. Continuing to grant access for seed collection can enhance regional biodiversity efforts, provided that appropriate measures are implemented to protect these natural resources.

COMMENT

Collection of native plant seed requests are received annually from organisations such as Department of Parks and Wildlife (DBCA), Greening Australia and Emu Australia.

Granting permission to Formosa Flora to access reserves for native seed collection has the potential to foster biodiversity and contribute to the ecological health of the Shire of Kent. By implementing strict conditions and policy guidelines, the Shire can ensure that this initiative proceeds responsibly and sustainably.

Formosa Flora has advised that all seed is harvested by hand and is a requirement to not remove more than 20% of the available seed for a year from the plant or jeopardise the survival of a plant or population.

The group hold personal accident and public liability insurance, and collectors are Accredited Collectors, Processors and Suppliers of Native Seed.

STATUTORY IMPLICATIONS

Local Government Act 1995

Biodiversity Conservation Act 2016

Biodiversity Conservation Regulations 2018

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2023-2033

Environment

Outcome 3.2 Conservation of our natural environment and resources

Allowing access for seed collection aligns with the Shire's strategic goals of enhancing biodiversity and promoting sustainable environmental practices. The partnership with Formosa Flora could bolster the Shire's reputation as a leader in conservation efforts, attracting further funding and investment for ecological initiatives.

RISK IMPLICATIONS

There are potential risks associated with granting access, including the risk of over-collection or disruption of local ecosystems. To mitigate these risks, strict conditions on the collection process will be enforced, such as limits on the quantities collected and monitoring of collected areas to ensure sustainable practices.

VOTING REQUIREMENT

Simple Majority

OCM2425/046 - COUNCIL RESOLUTION (Officer Recommendation)
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MOVED Cr S CROSBY/Cr D GRAY

That Council grant Formosa Flora permission to access reserves vested in the Shire of Kent for the purpose of native seed collection subject to the following conditions:

- (i) All persons collecting native seed are licensed according to the *Biodiversity Conservation Act 2016* and *Biodiversity Conservation Regulations 2018* and will abide by the conditions of this license**
- (ii) Permission is for the period commencing 16 October 2024 to 30 June 2025.**
- (iii) This letter allows for collection only by Formosa Flora staff members and supervised affiliates.**
- (iv) No declared rare flora seeds will be collected**
- (v) Appropriate hygiene measures will be followed at all times to prevent the spread of plant disease and weeds.**
- (vi) All care will be taken to avoid the disturbance of flora and fauna habitat.**
- (vii) All care will be taken to avoid any disturbance that may lead to soil degradation.**

- (viii) A report detailing shire reserves accessed and seed collected be provided once the annual collection period is complete.**

CARRIED 6/0

For:

Cr K Johnston, Cr D Gray, Cr S Crosby, Cr G Hobley, Cr S Reid, Cr D Harris

Against:

Nil

- 10. **ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
- 11. **NEW BUSINESS OF AN URGENT NATURE AGREED TO BY A RESOLUTION OF COUNCIL**

OCM2425/047 - COUNCIL RESOLUTION (Procedural Motion)

MOVED Cr S CROSBY/Cr D GRAY

That the Council deal with new business of an urgent nature.

CARRIED 6/0

For:

Cr K Johnston, Cr D Gray, Cr S Crosby, Cr G Hobley, Cr S Reid, Cr D Harris

**Against:
Nil**

11.1 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION SUBMISSION REGARDING REVIEW OF THE STATE HAZARD PLAN FIRE

PROPOSED MEETING DATE:	16 October 2024
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Ryan Sutherland – Community Emergency Services Manager Christie Smith – Chief Executive Officer
REPORTING OFFICER:	Christie Smith – Chief Executive Officer
FILE NO:	SAFE.21
ASSESSMENT NO:	N/A
ATTACHMENTS:	Attachment 1 – DRAFT State Hazard Plan – Fire Submission (WALGA) Attachment 2 - Emergency Management Advocacy Attachment 3 – DRAFT SEMC Review of State Hazard Plan – Fire
DISCLOSURE OF INTEREST:	Nil

PURPOSE

The Shire of Kent to consider and provide any feedback to the Western Australian Local Government Association (WALGA) regarding the draft State Hazard Plan Fire (SHP Fire, September 2024).

BACKGROUND

Department of Fire and Emergency Services (DFES) has undertaken a comprehensive review of the SHP and are currently consulting the amended draft SHP Fire (attachment 3).

In accordance, with SHP Fire, the Shire of Kent is the Controlling Agency responsible for responding to (all incidents reported as involving) fire within the local government district and outside Department of Biodiversity, Conservation and Attractions (DBCA) managed land. There is no Gazetted Fire Districts within the Shire, meaning that Department of Fire and Emergency Services is not a primary Controlling Agency within the Local Government district.

The Shire of Kent six operates six Bush Fire Brigades (BFB), consisting of two Settlement Brigades and four Farmer Response Brigades. The total number of people registered with the Shire of Kent's BFBs is 196 volunteer firefighters. In accordance with the *Work Health and Safety Act 2020 (WA)*, the Shire and its officers owe a primary duty of care to volunteer firefighters under the Shire's control and are responsible for assessing risk and determining adequate safety control measures for volunteer BFB firefighters.

On 30 September 2024, WALGA requested consultation from Local Governments in regard to the review of the SHP Fire. WALGA has also provided an Advocacy Positions Manual which addresses the management of Bush Fire Brigades under 8.10 Management of Bush Fire Brigades (attachment 2).

COMMENT

WALGA has prepared a draft submission on behalf of the local government sector (attachment 1), feedback from Councils on this submission is due by 25 October 2024. The draft submission will then be considered by WALGA Zones and State Council prior to being submitted to as a formal submission from the local government sector to DFES.

Particular areas of focus in the draft submission by WALGA is around resourcing responsibilities, transfer of control, funding arrangements and roles and responsibilities.

In consultation with Council's Community Emergency Services Manager (CESM), it is recommend that Council support the draft submission prepared by WALGA and also provide the following feedback:

Communication of Risk

- ⇒ A unified and standardised approach is required with specific consideration for the risk exposure of BFBs.
- ⇒ Reform or standardisation of training requirements ought to also adopt an integrated approach underpinned by risk management principles. The Draft SHP Fire does not emphasise this.
- ⇒ Currently, unless independently conducted, Local Governments have minimal access to standardised risk assessment tools for the operation of BFBs or volunteer firefighters.
- ⇒ Increased transparency and risk communication will encourage a common understanding of firefighting risks and safety control measures, including training requirements. A standardised risk assessment (e.g. risk matrix) ought not to be entrenched in the State Hazard Plan Fire, but available to local government as a subordinate document.

Training and Recognition of Competency

- ⇒ The establishment of minimal training standards and the uniform application of such standards across Western Australian local governments ought to apply the Emergency Risk Management Process. A standardised risk assessment tool, including risk matrixes, ought to universally communicate risk and adequate controls to provide an integrated and standardised approach. This approach would connect individual local governments, WALGA and DFES.
- ⇒ Anecdotal evidence received from Shire volunteer firefighters indicates a high-level of concern about the changing of minimum training standards and training pathways. The Shire acknowledges that minimum training standards may evolve as understanding or risks, equipment and technology, firefighting strategies and tactics develop. However, the Shire strongly encourages that minimum standard of training be complementary and adapted upon previous minimum standards.
- ⇒ In February 2024, DFES's Bush Fire Service Training Program was amended to recommend a revised "minimum standard for all [emphasis added] personnel". The recommended

training were the courses Bushfire Safety Awareness and Firefighting Skills, which are also the “minimal skills” prescribed by the LGIS Manual Tasks Risk Assessment (2022) (p. 4). Previously, under the 2022 version of the DFES Training Program, for volunteer firefighters who were members of a Farmer Response Brigade, the “recommended minimum standard” of training was the course Rural Fire Awareness.

Regarding Farmer Response Brigade volunteers, the amendment in February 2024 has had a “stranding” effect. In 2022 and 2023, Farmer Response Brigade volunteers, at the recommendation of DFES, completed the course Rural Fire Awareness which now, under the revised DFES Training Program, does not achieve the “recommended minimum standard”. This is despite the curriculums for courses Rural Fire Awareness and Bushfire Safety Awareness sharing common training content.

Rather than recognise the existing skills trained under the Rural Fire Awareness course, there is currently no pathway provided by DFES to bridge volunteers who have completed that course to the courses Bushfire Safety Awareness. Rather, such volunteers are now recommended to complete both Bushfire Safety Awareness and Firefighting Skills courses in entirety. Anecdotally, this has had a significantly demoralising effect for volunteers, and provided grounds for distrust of local government and DFES.

Reference to Safety Control Measures

- ⇒ The draft SHP Fire prescribes specific regulation of training (an administrative control) as a safety control measure and, alone, directly links this control measure with the WHS Act 2020 (WA). While other safety controls can be identified in the draft State Hazard Plan Fire, only training is uniquely identified as such a control.
- ⇒ By contrast, protective clothing requirements are not addressed or outlined in the draft SHP Fire. However, PPE is a common safety control measure implemented by DFES. This is reflected in DFES Standard Operating Procedure 3.02.01 - Personal Protective Equipment (PPE). The Work Health and Safety (General) Regulations 2022 (WA) outlines duties about the provision and management of personal protective equipment.

STATUTORY IMPLICATIONS

Bush Fires Act 1954 (WA)

Emergency Management Act 2005 (WA)

Work Health and Safety Act 2020 (WA)

Work Health and Safety Regulations 2022 (WA)

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Costs associated with the provision of firefighting training and equipment.

STRATEGIC IMPLICATIONS

Shire of Kent Strategic Community Plan 2023 – 2033

Strategic Priority 1. Community

1.4 Support emergency services planning, risk mitigation, response and recovery

Emergency services Volunteers are resourced and feel supported

RISK IMPLICATIONS

Statutory and procedural non-compliance.

VOTING REQUIREMENT

Simple Majority

OCM2425/048 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr G HOBLEY/ Cr D GRAY

That Council motion to:

- 1) To accept and support the WALGA’s Draft State Hazard Plan – Fire Submission (as attached); and
- 2) Provide further feedback to WALGA as outlined in the comment of this report.

Council requested to include further commentary around minimum standard training needs that are ‘fit for purpose’ as every Shire has different needs. The approach should be based upon individual risk assessments with a more tiered approach.

CARRIED 6/0

For:

Cr K Johnston, Cr D Gray, Cr S Crosby, Cr G Hobley, Cr S Reid, Cr D Harris

Against:

Nil

12. MATTERS BEHIND CLOSED DOORS

13. MEETING CLOSED

There being no further business the Shire President Cr Kate Johnston, closed the meeting at 6.20pm.

I certify these minutes were confirmed at the Ordinary Meeting of Council held 20 November 2024.

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Cr Kate Johnston – Shire President

.....
Date