



Avon Regional Organisation of Councils

AROC Governance Group Meeting

13 March 2023

MINUTES

To: AROC Members

Here within are the Minutes of the AROC Governance Group (President's & CEO's) meeting, held in Council Chambers at the Shire of Toodyay on the abovementioned date and commencement time.


Suzie Haslehurst
CHIEF EXECUTIVE OFFICER
AROC Secretariat

27 March 2023

MINUTES – AROC GOVERNANCE GROUP
AVON REGIONAL ORGANISATION OF COUNCILS
13 MARCH 2023

Preface

These Minutes will remain "Unconfirmed" until the next AROC Meeting, where the Minutes will be tabled and confirmed subject to any amendments.

The "Confirmed" Minutes are then signed off by the Chairperson.

Attachments that formed part of the Agenda, in addition to those tabled at the Meeting are incorporated into a separate attachment to these Minutes

Distribution

These minutes were approved for distribution on *27 March 2023*
2023.

Suzie Haslehurst
Suzie Haslehurst
CHIEF EXECUTIVE OFFICER

Confirmation

These minutes of meeting were confirmed at a meeting held on

..... *8 May* 2023.

Signed: *R. Manders*

Note: The Presiding Member at the meeting at which the minutes were confirmed is the person who signs above.

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ATTACHMENTS with separate index follows item 5.

1. DECLARATION OF OPENING

The AROC in-person meeting will commence at 11.02 am.

1.1. Announcement of Visitors

Mr James McGovern Manager Governance and Procurement, WALGA
(via zoom)

1.2. Record of Attendance and Apologies

Cr R Madacs	Chair, Shire of Toodyay
Ms S Haslehurst	CEO, Shire of Toodyay
Cr P Bantock	Shire of Victoria Plains
Mr S Fletcher	CEO Shire of Victoria Plains
Mr J Whiteaker	CEO, Shire of Northam
Mr P Bentley	CEO, Shire of Goomalling
Cr B Haywood	Shire of Goomalling
Mr C Linnell	CEO, Shire of York (via Zoom)
Cr D Smythe	Shire of York (via Zoom)
Mrs K Murray	Executive Officer, AROC
Cr B Ruthven	Shire of Toodyay (via Zoom)
Cr C Antonio	Shire of Northam (via Zoom 11-11.46am)

Apologies

Nil

2. MINUTES AND ADDITIONAL INFORMATION

2.1 Confirmation of Minutes

RECOMMENDATION/AROC RES. NO.01/03/23

MOVED Cr Bantock **SECONDED** Cr Haywood

That the Unconfirmed Minutes of the Avon Regional Organisation of Councils meeting held on 21 November 2022 be accepted as a true and correct record.

MOTION CARRIED

2.2 Review of Status Report

Review of actions and progress arising from previous meetings and decisions.

Points raised as follows:

Climate change initiatives

- EO advised of establishment of LG Sustainability Officers Network to share information and support climate initiatives.

Corella Management

- Discussions identified that member Councils have allocated, or recommended different allocation amounts for corella management in the current budget and in forward years.
- Discussion agreed that member contributions should be equal, therefore, individual member allocations would be set at \$5,000 per annum in addition to a combined amount of \$25,000 per annum to be funded by AROC for three years.

RECOMMENDATION/AROC RES. NO.02/03/23

MOVED J Whiteaker	SECONDED Cr Madacsi
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That AROC members individually commit \$5,000 per annum in 2023, 2024 and 2025, and commit \$25,000 pa from AROC funds for three years, towards corella management activities.
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MOTION CARRIED

Water

- EO to forward information received from enquiries regarding funding for river health projects to the Officer's Group.
- S Fletcher - The Shire of Victoria Plains will receive \$89,667 to refurbish a reverse osmosis plant in the town of Piawaning, which has been designed to provide emergency farm and firefighting water to the local community.
- Cr Madacsi - Shire of Toodyay will receive funding of \$73,897 to increase its emergency firefighting water supplies through new rainwater tanks at the Toodyay Recreation Centre.

Road clearing permits

- Meeting to be held at the Shire of York on 16 March with representatives from DWER, WALGA, Shire of York and Shire of Toodyay on behalf of AROC members.
- Cr Madacsi – suggested that incentives could be offered to landowners to sell land where it is required for an offset, for e.g. a rate incentive.
- Discussion noted barriers such as the requirement for offsets having to adjoin the road reserve approved for clearing; and local government having ownership or a management order over land to make it an offset for conservation purposes.

Housing

- C Linnell – Minister for Housing has indicated support for Shire of York’s proposal to develop business case with Development WA for worker housing.
- Cr Madacs – Shire of Toodyay strongly needs worker accommodation.
- Cr Bantock - Shire of Victoria Plains has a concept plan for staff housing and a new caravan park.
- J Whiteaker – Shire of Northam has developed a Housing Strategy and is waiting for feedback from the Minister.
- Shire of Goomalling – Native title claim over Main Roads depot has resulted in the land being withdrawn for development; local businesses need worker accommodation.

2.3 Inward / Outward Correspondence

2.3.1 **In** – Letters of response from the Hon Rita Saffioti MLA, Minister for Transport; Planning; Ports; Ms Michelle Andrews, Director General, DWER; and the Hon Reece Whitby MLA Minister for Environment; Climate Action.

2.3.2 Financial Report

RECOMMENDATION/AROC RES. NO.03/03/23

MOVED Cr Haywood **SECONDED** Cr Bantock

That the financial report, as forwarded, be received.

MOTION CARRIED

3. OTHER BUSINESS / NEW BUSINESS OF AN URGENT NATURE

3.1 Submissions, presentations or representations from third parties:

3.2 Matters referred by the Officer’s Group for consideration or decision:

3.2.1 Bush Fire Brigade Local Law

Cr Madacsi invited Mr James McGovern, Manager Governance and Procurement, WALGA, to address the meeting.

- J McGovern provided an overview of legal advice relating to the validity of bush fire brigade activities where a local law is not in place, as required by

section 41 of the Bush Fires Act 1954 (BF Act) i.e., the appropriate appointment of sufficient Bushfire Control Officers (BFCO) gives validity to the activities of bush fire brigade volunteers in the short term.

- Legal advice also provided assurance that volunteers will be covered for compensation and protected from liability if conducting normal brigade activities under the direction of a BFCO.
- Legal advice notes that local laws made under the Bush Fires Act 1937 are technically valid but likely to be practically obsolete.
- J McGovern advised that in the short term, Local Governments should ensure that enough BFCOs are appointed; and in the intermediate term, it is recommended that Local Governments adopt a bush fire brigade local law to ensure its bush fire brigades are properly registered and empowered.
- C Linnell – asked if it is worth developing a local law or if Local Governments can wait for the Emergency Services Bill 2022 to be enacted?
- J McGovern advised that whilst drafting of the Emergency Services Bill 2022 is underway, it is expected to be at least two years before the new act is introduced; WALGA has developed a template bush fire brigade local law which is available on request.
- S Haslehurt – sought confirmation that the appointment of sufficient BFCOs provides immediate validity and cover until the new act is in place; J McGovern confirmed that it does.
- J McGovern offered to forward the DFES Commissioner, Darren Klemm's recent presentation to the Great Eastern Country Zone Conference, and a summary of the legal advice WALGA distributed to Local Governments in January when informing the sector of responsibilities relating to bush fire brigades.

3.2.2 AROC Executive Officer Contract Expiry Purpose

To request that the Governance Group consider the annual performance review for the Executive Officer and

determine to renew the contract of employment for a further two years.

Background

AROC Resolution No. 09/11/21 approved the appointment of an Executive officer to support the activities and progress of the AROC noting that:

1. The costs of the Executive Officer will be covered by the annual contributions paid by member local governments.
2. The Shire of Toodyay will continue to host the AROC on an in-kind basis.
3. The Shire of Northam will continue to administer the finances of AROC on an in-kind basis.

A recruitment process was undertaken, and an Executive Officer was appointed under the following conditions:

Term: 1 year with an option of two-year renewal
Hours of work: 10-12 hours per week to a maximum of 500 hours per year
Hourly Rate: \$50 per hour
Travel allowance: \$1,000 per annum

Ms Kelly-Anne Murray commenced in the role in April 2022. She is located at the Shire of Toodyay Administration Office and generally works in the office on Wednesdays and Thursdays. Her initial contract of employment expires on 28 April 2023.

At the Officers Group meeting held in February this year, it was agreed that a performance review process should be undertaken to inform the decision as to whether the role ought to be continued and the contract of employment renewed.

The CEOs of the Shires of Toodyay and Victoria Plains agreed to lead the process. Ms Murray was asked to provide comment against the approved requirements of the role prior to a meeting being held with her on 8 March 2023. Her responses were discussed, and further comment added by the panel.

Officer comment

The panel agreed that Ms Murray has successfully achieved the intended objectives of the role of Executive Officer for the AROC. Detailed responses to the

requirements of the position are provided in Attachment 1 to this report which has been reviewed by the Officers' Group and by Ms Murray.

During the year, Ms Murray worked a total of 287.5 hours. Under the direction of the Shire of Toodyay CEO, a flexible approach has been maintained to ensure the most effective use of the hours available. This has included times when it was agreed that there was no benefit to be gained from attendance at the office (e.g. during the December/January period) and that hours should be 'banked' for more busy periods. It is agreed that Ms Murray has nevertheless met the requirements of the job and actioned resolutions in a timely manner. It is recommended that a flexible approach to hours of work be maintained.

Financial implications

Below is a summary of the expenses incurred from April 2022 to February 2023:

Salaries & Wages:	\$14,175
Travel Allowance:	\$298
Superannuation:	\$2,211
Phone costs:	\$464
Other:	\$2,960 (<i>Phone, laptop, Zoom subscription</i>)
Total:	\$20,108

This is well within the original approved budget for the first year of the role.

RECOMMENDATION/AROC RES.NO./04/03/23

MOVED Cr Haywood
Madacsi

SECONDED Cr

That the AROC:

1. Receives and notes the Performance Review for the AROC Executive Officer as attached to this report;
2. Determines to offer an employment contract to Ms Murray for a further two-year term under the same conditions as contained in the initial contract;
3. Thanks and congratulates Ms Kelly-Anne Murray for her work as the inaugural Executive Officer for the Avon Regional Organisation of Councils.

MOTION CARRIED

3.3 Matters raised by individual member local governments for consideration;

- Cr Madacsi referred to a report produced by the WA Biodiversity Science Institute following a workshop she attended on Strategic Restorations and Offsets in the WA Wheatbelt. Cr Madacsi reported that Local Government was underrepresented at the workshop and that conversations between State Government agencies demonstrated that the Local Government voice was missing.

ACTION: EO to circulate report to AROC members.

4. CONFIRMATION OF NEXT MEETING

The 2023 meeting schedule is provided:

2023	Officer's Group (CEO) Meetings	Governance Group (President's) Meetings
	11.00 am	11.00 am
	Zoom Meetings	Council Chambers
APR	3/04/2023	
MAY		8/05/2023
JUNE	12/06/2023	
JULY		10/07/2023
AUG	14/08/2023	
SEPT		11/09/2023
OCT	16/10/2023	
NOV		13/11/2023
DEC	No meeting	No meeting

5. CLOSURE OF MEETING

The meeting closed at 12.29pm.



AROC Governance Group Meeting

Attachments to Minutes – Monday 13 March 2023

Minutes and additional information

2.2 Status report

2.3 Inward / outward correspondence

2.3.1 Financial report to 28 February 2023

Other business / new business of an urgent nature

3.2.1 Bush Fire Brigade Local Law – notes supplied by James McGovern

- WALGA Great Easter Country Zone Meeting presentation slides
- Summary of WALGA's legal advice to Local Governments

3.2.2 Executive Officer annual review

AROC STATUS REPORT

Avon Regional Organisation of Councils

Secretariat

CEO - Shire of Toodyay

Meeting Date	Purpose	Resolution	Target date for completion	Actioned by	Completion Date	Meeting Commentary
12/09/2022	2.1 Confirmation of Minutes	That the Unconfirmed Minutes of the Avon Regional Organisation of Councils meeting held on 21 November 2022 be accepted as a true and correct record.	30/11/2022	EO	30 March 2023	13.3.23: Minutes confirmed and signed at the 13 March 2023 meeting.
12/07/2021	Climate Change Initiative	AROC CEOs to work together to identify a project we could apply for funding on a regional level.	ASAP	ALL	Ongoing	13.3.23: EO advised of establishment of LG Sustainability Officers Network to share information and support climate initiatives.
10/05/2021	Corella Management	That AROC authorise the CEO Officer Group to expend up to \$30,000 from AROC Funds to have Wheatbelt NRM undertake field work on behalf of the member shires to develop strategies for Corella management.	ASAP	J Whiteaker, CEO, Northam Shire ALL	February 2023	13.3.23: GG discussions identified that member Councils have allocated, or recommended different allocation amounts for corella management in the current budget and in forward years. Agreed that member contributions should be equal, therefore, individual member allocations would be set at \$5,000 per annum in addition to a combined amount of \$25,000 per annum to be funded by AROC for three years.
10/05/2021	Water Sustainability	Workshop on water issues is required to identify local/regional project priorities and opportunities for local/regional funding.	12/09/2022	EO	February 2023	13.3.23: EO to forward feedback about funding for river health projects to the Officer's Group. S Fletcher - The Shire of Victoria Plains will receive \$89,667 to refurbish a

Meeting Date	Purpose	Resolution	Target date for completion	Actioned by	Completion Date	Meeting Commentary
						reverse osmosis plant in the town of Piawaning. Cr Madacsi - Shire of Toodyay will receive funding of \$73,897 for new rainwater tanks at the Toodyay Recreation Centre.
16/05/2022	Road clearing permits and pre-funding for road projects.	AROC to write to the relevant Ministers and Director Generals to outline and address issues associated with road clearing permits and funding for road projects.	30/09/22	EO	Complete	13.3.23: Cr Madacsi, Chris Linnell, EO and Renata Zenilova, WALGA, to meet with DWER Director Native Vegetation Protection and Deputy DG Strategy & Performance on 16 March.
16/05/2022	Housing shortage	AROC to advocate to relevant Ministers and Shadow Ministers (Housing & Local Government) to address a critical shortage of housing in the Avon Region.	Ongoing	EO	Ongoing	13.3.23: C Linnell reported that the Minister for Housing has indicated support for Shire of York's proposal to develop business case with Development WA for worker housing.

AVON REGIONAL ORGANISATION OF COUNCILS

Statement of Comprehensive Income

Administered by Shire of Northam

WALGA Great Eastern Country Zone Meeting

Bushfire Risk Management and Mitigation Funding and Consolidated Emergency Services Acts

FES Commissioner Darren Klemm AFSM

28 February 2023



1

BUSHFIRE RISK MANAGEMENT PROGRAM

The Department of Fire and Emergency Services' (DFES) Bushfire Risk Management (BRM) Program supports local governments in developing and implementing BRM Plans.

- Factors influencing BRM program roll-out:
 - LGs' capacity to undertake work with current resources
 - Availability of resources to support the BRM program, including DFES officers and LG Bushfire Risk Mitigation Coordinators
 - Size, location and complexity of bushfire risks within the LG
 - Availability of mitigation funding/resources



2

BUSHFIRE RISK MANAGEMENT PLANS

- BRM Program support is provided to the 16 Local Governments in the Great Eastern Zone by DFES Bushfire Risk Management Officers and is also assisted by DFES regional staff.
- A Bushfire Risk Management Coordinator supports the Shire of Kellerberrin.
- The Shires of Kellerberrin, Kondinin and Tammin have a BRM plan endorsed by the Office of Bushfire Risk Management (OBRM).
- The Shire of Cunderdin has a BRM plan in draft.
- The 12 remaining Local Governments do not have an OBRM-endorsed BRM Plan.

Local Government	OBRM endorsed Plan
Bruce Rock	No
Cunderdin	QA Complete
Dowerin	No
Kellerberrin	Yes
Kondinin	Yes
Koorda	No
Merredin	No
Mt Marshall	No
Mukinbudin	No
Narembeen	No
Nungarin	No
Tammin	Yes
Trayning	No
Westonia	No
Wyalkatchem	No
Yilgarn	No
Grand Total	

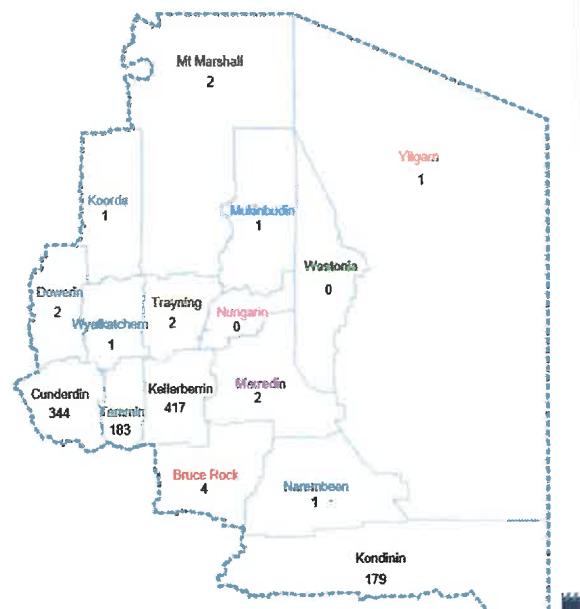
DFES

3

LOCAL GOVERNMENT ASSETS RECORDED

As of 16 February 2023, 1140 assets have been identified and recorded in the Bushfire Risk Management System across the 16 Great Eastern Zone Shires.

Local Government	Number of assets identified and recorded
Bruce Rock	4
Cunderdin	344
Dowerin	2
Kellerberrin	417
Kondinin	179
Koorda	1
Merredin	2
Mt Marshall	2
Mukinbudin	1
Narembeen	1
Nungarin	0
Tammin	183
Trayning	2
Westonia	0
Wyalkatchem	1
Yilgarn	1
Grand Total	1140



4

MITIGATION ACTIVITY FUND

- The MAF Grants Program was established to build the resilience and preparedness of communities and to proactively treat bushfire risks on Crown Land vested to LG.
- LGs must have an OBRM-endorsed BRM Plan to apply for funding.
- Shires of Kellerberrin Kondinin, and Tammin are eligible for MAF Grants.
- No applications for Mitigation Activity Funding from 16 other Local Governments in the Great Eastern Zone.
- \$43 million allocated to 62 LGs for 5600+ bushfire mitigation treatments since 2017.



Image of a contractor doing a gentle burn in coastal heath fuel

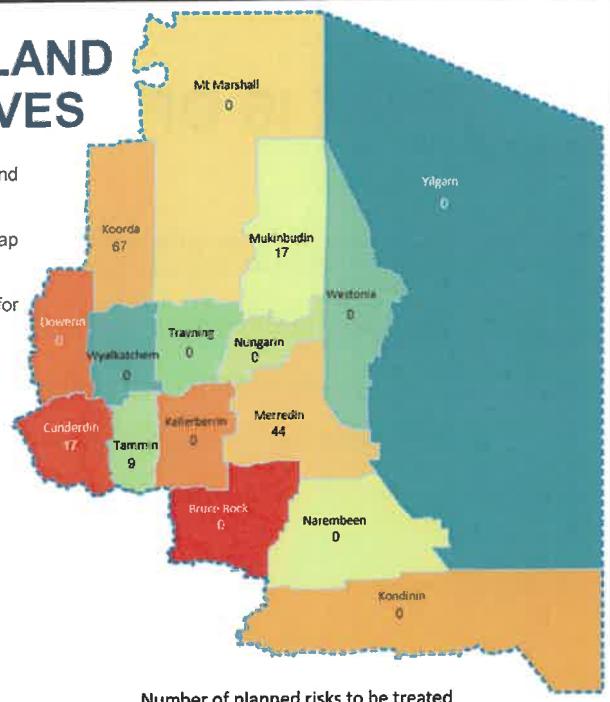


5

UNALLOCATED CROWN LAND & UNMANAGED RESERVES

- DFES manages bushfire risk on Unallocated Crown Land (UCL) and Unmanaged Reserves (UMR) in Western Australia.
- UCL/UMR program allocation for 2022/23 shown on displayed map and table.
- DFES has been allocated \$48,796 by the State Government for mitigation activities on UCL/UMR across the 16 LGs in 2022/23.

Local Government	UCL/UMR Allocated Budget
Bruce Rock	\$0
Cunderdin	\$14,500.00
Dowerin	\$0
Kellerberrin	\$0
Kondinin	\$0
Koorda	\$3000
Merredin	\$9,796.16
Mt Marshall	\$0
Mukinbudin	\$1000
Narembeen	\$0
Nungarin	\$0
Tammin	\$20,500
Trayning	\$0
Westonia	\$0
Wyalkatchem	\$0
Yilgarn	\$0
Grand Total	\$48,796



6

CHALLENGES FACED

- DFES understands the challenges associated with the planning and implementation of BRM Programs. These challenges are further compounded when moving away from major population centres. Some of these include:
 - Finding and recruiting staff with the required knowledge and backgrounds in a very competitive market
 - Limited physical and financial resources
 - Appropriately trained and equipped contractors that are able to undertake the various types of treatments
 - Competing priorities on our volunteers' time which can affect their availability to assist with prescribed burning programs at the appropriate times of year. For example, seeding is generally occurring when conditions are correct for burning
 - Climatic conditions



7

WHAT IS DFES DOING?

- DFES has recognised these challenges and is implementing a number of programs to assist Local Governments with the planning and implementation of their BRM Programs;
 - Expansion of the BRMC Grants Program: From 6 to 20 positions jointly funded in the next financial year.
 - Ongoing development of prescribed burning training for volunteers and staff.
 - Coordinating Regional Fire Working Group meetings to discuss mitigation programs and share resources.
 - Assistance through the regional BRMOs: Advice and training on BRM and Mitigation Activity Funding applications.



8

EMERGENCY SERVICES ACTS

Since 2012, DFES has conducted an extensive review of the suite of Emergency Services Acts:

- *Fire Brigades Act 1942*
- *Bush Fires Act 1954*
- *Fire and Emergency Services Act 1998*.

The State Government has committed to consolidating these three Acts into one Emergency Services Act.



9

WHY CONSOLIDATE?

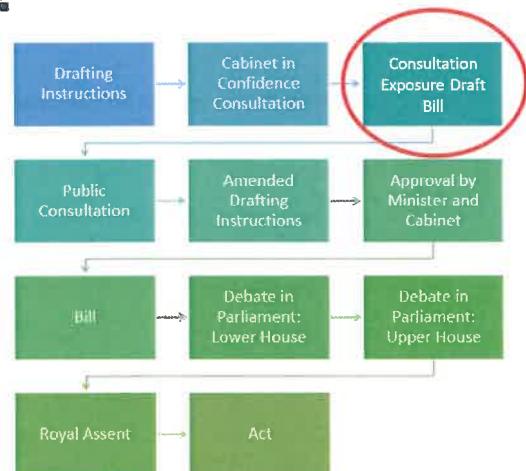
- The combined Emergency Services Act will:
 - remove ambiguities and inconsistencies between the current Acts;
 - better reflect current emergency services practices; and
 - lay a strong and integrated foundation for the future.
- This will ensure that WA has legislation that:
 - better reflects the integrated nature of emergency services work; and
 - presents a model to support the efforts of career firefighters, volunteers, State Government agencies, Local governments and organisations who contribute to making WA a safer State.
- The *Emergency Management Act 2005* is not part of this review.



10

WHERE ARE WE AT?

- The Emergency Services Bill 2022 received a higher drafting priority in late April 2021 as part of the State Government response to the coronial inquest into the Esperance fires.
- The first version of the Consultation Exposure Draft Bill - the Consultation Bill - has been developed by the Parliamentary Counsel's Office based on the drafting instructions provided and with support from DFES.
- DFES is liaising with selected stakeholders to refine the Consultation Bill.



11

WHAT HAPPENS NEXT?

- When the Consultation Bill has been finalised and approved by Cabinet, DFES will undertake public consultation.
- All stakeholders will be able to provide feedback on the Bill during the consultation period for at least three months in 2023.
- Feedback from public consultation will be used to further refine drafting instructions for the development of the final Bill to be introduced into State Parliament.
- The new Act will be supported by regulations that will provide guidance of how it is to be applied.
- Extensive stakeholder consultation will also occur during the development of the regulations.

12

Bush Fire Brigades – Local Laws and Operations

WALGA was recently contacted by the Dept of Fire and Emergency Services, who informed of State Solicitor's Office advice questioning the legality of Bush Fire Brigades established by Local Governments in the absence of an associated Bush Fire Brigades Local Law.

WALGA obtained its own separate, independent legal advice that confirmed the same; having established a Bush Fire Brigade, it is a requirement that the Local Government also adopt an associated Bush Fire Brigades Local Law.

WALGA has identified your Local Government as potentially falling into this category, following a search of your Local Government website for a BFB Local Law.

The Issues

1. DFES and WALGA have received separate, independent legal advice on the establishment of Bush Fire Brigades (BFB) by Local Governments under s.41 of the *Bush Fires Act 1954* (BF Act);
2. The consistent legal position is that a Local Government, having exercised discretion to establish a BFB, must do so by making a Local Law – ref s.41(1) of the BF Act;
3. The head of power to make a BFB Local Law is under s.62 of the BF Act.
4. The Parliamentary Joint Standing Committee on Delegated Legislation has reported a similar requirement: '*Where a local government elects to establish a bush fire brigade it must do so in accordance with local laws it has made for that purpose*' (Ref: Report 16, June 2019 at 2.2)

Relevant Consequences

- a) Where a BFBs has been established in the absence of a Local Law, WALGA's legal advice indicates that the registration of the Brigade and Brigade membership under s.41(2) is likely to be invalid;
- b) In the absence of a Local Law, the election and duties of BFB officers under s.43 is likely to be invalid.
- c) In the absence of a Local Law, the powers of BFB officers relevant to preventing, controlling and extinguishing a bush fire under s.44 is likely to be invalid.

WALGA's requested legal advice on other matters that we believe will provide some reassurances in the short term.

Although not having adopted a BFB Local Law will mean that Brigades are not properly constituted, we have been advised that the appointment of Bush Fire Control Officers will mean that Local Governments can effectively ensure the conduct of normal brigade activities, including responding to bush fires and directing firefighting assets and volunteers.

Our legal advice provides further reassurances that volunteers will be covered for compensation and protected from liability if conducting normal brigade activities under the direction of a BFCO.

Arrangements – Short Term

1. In the short term, Local Governments should ensure that a sufficient number of bush fire control officers (BFCO) are appointed under s.38(1) of the BF Act:

'A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it';

2. BFCO's special powers are set out in s.39 of the BF Act and this appointment will also ensure the proper direction of Brigades in responding to a bush fire, as set out in s.44(4) of the BF Act:

'(4) Subject to the provisions of sections 13(6) and 45, where a bush fire control officer of a local government is present at a fire which is burning in the district of the local government, he has supreme control and charge of all operations, and the officers and members of all bush fire brigades present at the fire are subject to and shall act under his orders and directions.'
3. WALGA's legal advice notes that a BFCO could manage a BFB established without a Local Law however this is not recommended as a permanent solution as BFBs will not have direct authority and powers otherwise provided under the BF Act.

Protections

4. WALGA sought legal advice on the application of Part 6B And Part 7 of the Fire and Emergency Services Act 1998 (FES Act);
5. Part 6B applies to compensation entitlements for volunteers engaged in emergency response activities including firefighting;
6. Legal advice is that the compensation provisions will cover a person who engages in volunteer activities by participating in 'normal brigade activities' under the direction of a BFCO;
7. Part 7 applies to protection of persons acting in good faith when performing functions under emergency services Acts, including volunteer firefighters;
8. Similarly, legal advice confirms that a volunteer acting under the direction of a BFCO when carrying out 'normal brigade activities' will be able to rely upon the statutory protection under s.37 of the FES Act.

Arrangements – Intermediate Term

9. The Local Government is required to adopt a BFB Local Law to ensure its Bush Fire Brigades are properly established and Brigade officers are properly registered and empowered.
10. WALGA has developed a template BFB Local Law addressing the BF Act local law-making requirements. This can be made freely available upon request.
11. WALGA can also provide general advice on the local law-making process and the development of a Council agenda item for this purpose;
12. Alternatively, the Local Government can obtain its own legal advice for the purpose of drafting a BFB Local Law.

Validity of Bush Fire Brigades Local Laws (Bylaws)

Introduction

WALGA is assisting the Department of Fire and Emergency Services with communications to Local Governments regarding Bush Fire Brigade Local Laws (BFB LL). WALGA has previously sought and distributed independent legal advice on the contemporary operation of Bush Fire Brigades and the role of appointed Bush Fire Control Officers, in the absence of a Bush Fire Brigades Local Law.

Questions have since been raised by Local Government that adopted, and have not repealed, a BFB LL prior to the commencement of the current *Bush Fires Act 1954*.

WALGA sought specific legal advice on the following question: “*...whether local laws (bylaws) which validly established Bush Fire Brigades under Bush Fires Act 1937 (WA) validly survive the repeal of that Act and the commencement of the Bush Fires Act 1954 (WA) specifically via the operation of section 36 of the Interpretation Act 1984.*

Summary of Legal Advice

1. Section 6 of the *Bush Fires Act 1954* ‘as passed’ expressly declared that the “repealing and re-enacting of a provision” section of the *Interpretation Act* (s.15 of the *Interpretation Act 1918* (reprinted in 1953) and s.36 of the *Interpretation Act 1984* (WA)) applies to the *Bush Fires Act 1954*.
2. Legal advice is that it is apparent at the time of passing the *Bush Fires Act 1954*, Parliament intended for local laws (formerly ‘bylaws’) establishing Bushfire Brigades under the *Bush Fires Act 1937*, to continue to have effect and therefore for those Brigades to continue. However, it is extremely unlikely that the Parliament would have intended those local laws to have continued in place for an extended period.
3. Attention then turns to whether the other requirements of the *Bush Fires Act 1954* have been complied with, namely have there been any substantive changes to s.36(d) following the ‘as passed’ Act.
4. Legal advice confirms that the clear and ordinary meaning of s.36(d) of the *Bush Fires Act 1954* has not changed in a manner relevant to the issue of establishment of Bush Fire Brigades between 1954 and 2023. Therefore, a local law made under the *Bush Fires Act 1937* which has not been repealed and where a Local Government does not have a local law to a similar effect made under the *Bush Fires Act 1954*, **is likely to still be in force**.
5. Legal advice notes that a local law made under the *Bush Fires Act 1937*, whilst valid, may well not be fit for purpose now.

Note: For the purposes of the legal advice obtained, it was assumed that the local laws which established the Bush Fire Brigade under the *Bush Fires Act 1937*, did so validly at the time they came into effect.

Good Governance Considerations

From the perspective of the legal advice received, it might be said that a BFB LL made under the *Bush Fires Act 1937* is technically valid but likely to be practically obsolete.

In accordance with our previous legal advice, it is therefore recommended that Local Governments with a local law established under the *Bush Fires Act 1937*:

- a. ensure there are an adequate number of appointed Bush Fire Control Officer to conduct 'normal brigade activities' and manage fires in its district in the short term; and
- b. consider making a local law to establish the Bush Fire Brigade under the *Bush Fires Act 1954* and to repeal the local law made under the *Bush Fires Act 1937*.

Bush Fire Brigade Local Laws – 1954 to 1996

Further investigation of the Government Gazette has identified that many Local Governments have adopted a BFB LL since the commencement of the *Bush Fires Act 1954* and there is no doubt as to the validity of these local laws.

However it is clear that many Local Governments were until recently, unaware of the existence of a BFB LL (for example, the local law is not published on the Local Government's website) and the *Local Government Act 1995* requirement to conduct an 8 year review of local laws has not been applied to BFB LLs. (Please note that the lack of an 8 year review does not invalidate any local law).

WALGA therefore suggests that Local Governments with BFB LLs adopted as bylaws prior to the commencement of the *Local Government Act* in 1996 give similar consideration as to whether this local law remains fit for purpose to the contemporary operation of Bush Fire Brigades within the district.

WALGA Local Laws Service

If you require assistance with any aspect of the local law-making process relating to Bush Fire Brigades, please contact WALGA's Governance & Procurement team at governance@walga.asn.au or call 9213 2514.



ANNUAL REVIEW CONDUCTED 8 MARCH 2023

Executive Officer
Avon Regional Organisation of Councils (AROC)

Purpose	Officer Comment
<ul style="list-style-type: none">• Be the principal point of contact for the AROC;• Increase the effectiveness of the AROC;• Assist in achieving the objectives of the AROC MOU;• Encourage greater participation by member local governments; and• Build the brand of the AROC as a collective voice for the Avon region and lead to greater advocacy for the benefit of all AROC local government members.	<ul style="list-style-type: none">• I have provided direct phone and email contact; and have been responsive outside of work hours if necessary.• Progressing - via improved communications with officers and elected members; I have prepared meeting documentation, circulated information, and undertook follow-up actions and research, relieving Shire officers of these tasks.• Updated MOU to include EO role and schedule of strategic priorities. Progress made on some actions within the plan.• Met with each LG CEO and Shire President to understand local situation and aims for AROC collaboration; Follow-up/contact with CEOs as required to progress agreed actions.• Contact with key stakeholders on a variety of issues has raised the profile of AROC as a voice for the Avon region e.g., advocacy on clearing permits has resulted in AROC being invited to participate in State government stakeholder engagement initiatives (re native vegetation policy). <p><i>Agreed that Kelly-Anne has provided clarity and has been proactive in helping AROC to become more effective. Her efforts have made it easier for members to be involved and meetings are more fruitful. She has helped raise the profile of AROC as a body that represents the interests of its members.</i></p>
General Requirements	Comment
<ul style="list-style-type: none">• Act in a professional and ethical manner and in the best interests of the AROC at all times.• Maintain confidentiality.• Work safely and in accordance with all Work Health and Safety requirements.• Comply with relevant legislation as required.• Attend out of hours meetings as required.• Provide equipment and materials necessary for the role.• Be responsible for the key responsibilities and duties as outlined below.	<ul style="list-style-type: none">• I have met the general requirements for the role. <p><i>Agreed - Kelly-Anne is highly professional and understands and demonstrates the general requirements of the role.</i></p>

Annual Review – March 2023

AROC Executive Officer

KEY RESPONSIBILITIES AND DUTIES

Executive Officer Services	Comment
<ul style="list-style-type: none"> • Liaise with AROC members as required. • Liaise with WALGA and the Avon-Midland Country Zone of WALGA and other agencies on relevant AROC issues. • Facilitate appointment of specialists and consultants for AROC business or projects as directed. • Maintain good communication with all stakeholders as required. 	<ul style="list-style-type: none"> • Achieved as required. • Achieved as required e.g., advocacy on clearing permits; regional climate change alliance. • Has not been required yet. • Achieved as required. <p><i>Maintains regular contact with members and is pro-active in following up when members fail to respond.</i></p>
Meeting responsibilities	Comment
<ul style="list-style-type: none"> • Coordinate all meetings of the AROC Officers' Group and Governance Group. • Issue timely notice of meetings to members. • Issue timely invitations to meetings to speakers, visitors and guests, and appropriate agencies. • Call for agenda items from Member shires well in advance of the cut off time for the finalisation of agendas. • Collate correspondence and agenda items from Member shires and compile and issue agendas for meetings. • Organise catering for meeting attendees, as required. • Liaise as required, with the President or Chair when preparing the agenda and brief him/her on any aspects associated with the agenda and meetings. • Attend meetings in a secretarial capacity and record minutes. • Travel to other meetings may be required from time to time to represent the interests of AROC. • Compile and circulate minutes to members promptly after the meetings. • Follow up all issues formally raised at meetings. • Maintain the Minute Book/s. 	<ul style="list-style-type: none"> • All responsibilities have been achieved as required. <p><i>Kelly-Anne is highly organised and administers all meetings to a high standard. Members regard meeting as more productive as evidenced by consistent attendance. Provides clarity to members and is skilled in respectfully holding members accountable for agreed outcomes.</i></p> <p><i>Effectiveness in the area could be improved by more timely response by CEO's to requests for information, advice and response.</i></p>

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AROC Executive Officer

Finance	Comment
<ul style="list-style-type: none"> Monitor the AROC finances in collaboration with the Shire of Northam which provides financial services to the AROC on an in-kind basis. Maintain financial records and provide evidence to the Shire of Northam as required. 	<ul style="list-style-type: none"> Achieved as required. Achieved as required. <p><i>Works well with both the Shire of Toodyay and Shire of Northam finance teams to process and monitor expenses and invoices. Provides assistance to clarify issues as required. Reporting is complicated by the fact that her annual contract spans two financial years.</i></p>
Project Work	Comment
<ul style="list-style-type: none"> Undertake special projects as resolved by the AROC Governance Group with operational direction provided by the AROC Officers' Group. Apply for, administer and acquit funding for AROC projects. Prepare submissions relating to matters affecting AROC, in line with direction provided at meetings. 	<ul style="list-style-type: none"> I have carried out all actions directed by the Officer and Governance groups. Not yet required; I have researched grant opportunities and provided information about relevant grants to members. Achieved as required e.g., regional housing issues paper; letters to Ministers & Officers advocating changes to clearing permits. <p><i>Kelly-Anne has undertaken research in a range of areas and actioned items as directed by the Governance and Officer's Group with clarity and attention to detail, making it easier for members to engage with their elected members on relevant matters.</i></p>

Internal Liaison	External Liaison	Comment
<ul style="list-style-type: none"> Member Chief Executive Officers Member Councillors Member Shire staff Secretariat: Shire of Toodyay Finance: Shire of Northam 	<ul style="list-style-type: none"> WALGA and Avon-Midland Country Zone of WALGA State and Federal Government Departments; Private Sector Organisations; Regional Development Australia (RDA) Wheatbelt 	<ul style="list-style-type: none"> Regional Organisations and community bodies; Stakeholders in the community; Members of State and Federal Parliament; Associated Industry Bodies; Wheatbelt Development Commission (WDC)
<p>To date, I have liaised with those in blue, and not for profits, Wheatbelt Natural Resources Management, Cities Power Partnership.</p> <p><i>Agreed and discussed that there is likely to be crossover with the Avon Midland Country Zone in future regarding issues such as corella management and housing.</i></p>		

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AROC Executive Officer

Required Competencies		
<ul style="list-style-type: none">Advanced organisational and time management skills.Diligence and accuracyAbility to work within a team environment and autonomouslyIntegrity and professionalismAbility to effectively deal with sensitive, political and confidential dutiesAdvanced interpersonal skillsAbility to effectively research and analyse information		
Comment		
<p>I believe I have demonstrated each of the required competencies.</p> <p>Agreed to a high degree.</p>		
Summary comments		
Outputs/outcomes: <ul style="list-style-type: none">Advocacy on issues with native vegetation clearing permits – letters sent, responses lead to invitation for DG DWER and colleague to meet with AROC reps.Presentations/Speakers/Representations to Governance Group on road clearing permits; corella management; and regional housing issues.Updated MOU to include Executive Officer role and AROC Strategic Priorities to guide AROC's actions.Housing: established connection with Alex MacKenzie (WDC Senior Regional Development Officer), potential for partnership with WDC, regional, industry and government stakeholders; prepared background paper on regional housing issues for the Governance Group.Investigated activities of climate change stakeholders including Regional Climate Alliances, and resources/funding available to local governments to support climate change initiatives at a regional level.Progress towards agreement on Corella Management Proposal.Progressed discussions on local and regional water priorities; supporting agreed collaboration between York, Toodyay and Northam on accessing funding to improve river health.		
Questions for AROC: <ul style="list-style-type: none">What's working well from the Governance Group and Officer's Group perspectives?What could improve the effectiveness of the role?Does AROC support an extension of the current incumbent's contract/conditions for the role?		
<p><i>The panel observed that since taking on this new role, Kelly-Anne has established good working relationships, she is easy to work with and provides great clarity to members. Within the limited hours available, she has made good progress and improved the effectiveness and awareness of the AROC. She is flexible and adaptable and pro-active in utilising the time available in the most effective way possible while always being available to respond to issues out of hours if required.</i></p>		

Signed: Kelly-Anne Murray



Date: 9-3-23

Recommendation: That the Avon Regional Organisation of Councils determines that Kelly Anne Murray has successfully fulfilled the role of AROC Executive Officer during 2022/23 and approves the renewal of the contract for a further term.

Suzie Haslehurst – CEO, Shire of Toodyay

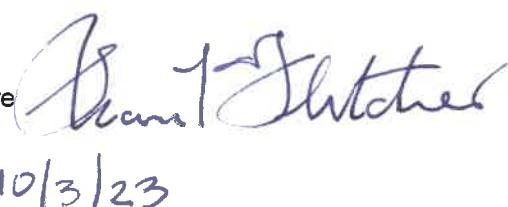


Signature

Date: 10/3/2023

Sean Fletcher – CEO, Shire of Victoria Plains

Signature



Date:

10/3/23