



Office of the Commissioner for Kangaroo Island

## Terms of Reference

### Local Advisory Board for Native Vegetation Management on Kangaroo Island

#### Background

The functions of the Commissioner for Kangaroo Island, as set out in Section 8 of the *Commissioner for Kangaroo Island Act*<sup>1</sup> (the Act), includes improving the management and delivery of services and infrastructure by government agencies, to provide assistance to businesses and residents dealing with government agencies, and to assist in improving the local economy of Kangaroo Island.

In carrying out these functions, the Commissioner may prepare a management plan pursuant to Part 4 of the Act. In addition, Section 16 of the Act states that a Local Advisory Board may be established to:

*“... provide advice to the Commissioner in relation to any matter referred to the board by the Commissioner (and in particular in relation to any management plan or proposed management plan referred to the board).”*

The Commissioner has identified through discussions with Kangaroo Island’s primary producers, Natural Resources Kangaroo Island, the Native Vegetation Council, Agriculture KI, local PIRSA staff, members of the Road Safety Committee and the Council that the protection and value of the Island’s native vegetation remains critically important to the Island’s environment, economy and community.

In discussions with a range of stakeholders there are a number of long term issues regarding the management of native vegetation on the Island that have been raised, as follows:

- The application of the *Policy for Significant Environmental Benefit*<sup>2</sup> with respect to the unique characteristics of the Island’s significant levels of existing remnant native vegetation;
- Communication and clear expectations of the application of the *Native Vegetation Act 1991 and the Native Vegetation Regulations 2003*<sup>3</sup> on the Island;
- Management of the process for the removal, and the conditions taken into consideration, in relation to single paddock trees;
- The management of native vegetation for road safety and road maintenance purposes;
- The potential to development of a “landscape approach” to the application of the *Native Vegetation Act* on Kangaroo Island putting equal weighting on achieving enhanced environmental, economic and social outcomes.

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<sup>1</sup> Parliament of South Australia (2014) [Commissioner for Kangaroo Island Act 2014](#)

<sup>2</sup> State of South Australia through the Department of Environment, Water and Natural Resources (2015) [Policy for Significant Environmental Benefit](#)

<sup>3</sup> Parliament of South Australia (2003) [Native Vegetation Regulations 2003](#)

The Commissioner considers that the formation of a Kangaroo Island Native Vegetation Management Advisory Board would assist her to ascertain priority issues and for the membership structure of the board to facilitate a cross section of those affected to be part of these conversations.

## 1. Functions and responsibilities

The Function of a Local Advisory Board, as set out in Section 16 of the Act is to provide advice to the Commissioner in relation to any matter referred to the board by the Commissioner.

As such, the role of the Local Advisory Board will be to:

- a. Identify and scope the issues that are impacting on the management of native vegetation on the Island;
- b. Clarify the legislative and policy frameworks that support the management of the issues identified in point 1 (above) with input from representatives of PIRSA, DEWNR and the Native Vegetation Council, including timelines for any established consultation processes that are currently being undertaken by government;
- c. Identify opportunities for enhancing the communication and understanding within the community about these roles and responsibilities;
- d. Identify opportunities for environmental credit trading on Kangaroo Island and issues associated to the establishment of a trading regime;
- e. Come together at least every 8 weeks.

## 2. Reporting arrangements

The Local Advisory Board for Native Vegetation Management on Kangaroo Island is required to provide a *Key Outcomes Statement* to the Commissioner following each meeting that includes:

- Recommendations and advice pursuant to the Board's functions and responsibilities;
- Where consensus is unable to be reached on a matter, advice or recommendations an outline of the various views expressed.

## 3. Sunset date

The Local Advisory Board was initially appointed for a period of 6 months, however in June 2017 the Commissioner determined that additional work still needed to be undertaken by the Board. The Board's term was extended until 31 October 2017.

## 4. Membership

Section 15 of the Act includes provisions relating to the establishment of a Local Advisory Board:

- 2) *The Commissioner may appoint such members of a local advisory board as the Commissioner thinks fit.*
- 3) *The Commissioner must undertake consultation (in such manner as the Commissioner thinks fit) with the Kangaroo Island Council in relation to any proposed appointment under this section.*
- 4) *The Commissioner must not appoint a person as a member of a local advisory board unless the Commissioner is of the opinion that the person*

*has qualifications, knowledge or experience relevant to the functions of the board.*

- 5) *The Commissioner will determine who will be the presiding member of a local advisory board.*

#### **4.1 Board Composition**

The Local Advisory Board for Native Vegetation Management on Kangaroo Island will be comprised of representatives from government agencies and bodies involved in regulating the management of native vegetation on the Island and industry and community organisations effected.

Agencies and individuals that will be approached join the Advisory Board are:

- Chairperson of Kangaroo Island NRM (or nominee)
- Chairperson of Native Vegetation Council (or nominee)
- Primary Industries and Regions South Australia (one nominee)
- Department of Environment, Water, and Natural Resources (one nominee)
- Department of Infrastructure, Planning and Transport (one nominee)
- Chairperson of the Kangaroo Island Road Safety Committee (or nominee)
- Chairperson of Ag KI (or nominee)
- Chairperson of Eco Action (or nominee)

In addition, 1 community person will be appointed following a public call for nominations placed in The Islander newspaper.

The Commissioner may appoint additional members to the Local Advisory Board if the Commissioner determines that additional expertise is required on the Board. Such an appointment will be in consideration of the candidate's qualifications, knowledge or experience relevant to the functions of the board. The Kangaroo Island Council Consultation Panel will be consulted with on such an appointment as per section 4.3. The Commissioner will have regard to the gender composition of the Board in order to ensure a balanced gender mix.

The Commissioner for Kangaroo Island will hold an ex-officio position on the Board as will the CEO and Mayor of the Kangaroo Island Council.

#### **4.2 Selection Process**

The selection process for the Local Advisory Board is as follows:

- 1) Nominations will be sought from relevant government and community agencies and organisations with interest in the management of native vegetation on the Island.
- 2) Nominations will be sought from members of the public by placing an advertisement in Kangaroo Island's local paper, *The Islander*.
- 3) The Commissioner will utilise the Kangaroo Island Council Consultation Panel to consult on the appointment of nominees as set out in [4.3](#).
- 4) The Commissioner will appoint board members, and a presiding member from the selection of nominated candidates, based on their suitability for appointment and in consideration of the consultation with the Council. Suitability may be determined by the candidate's qualifications, knowledge or experience relevant to the functions of the board.

### **4.3 Consultation on Appointment of Local Advisory Board Members**

Section 15(3) requires that the Commissioner “must undertake consultation (in such manner as the Commissioner sees fit) with the Kangaroo Island Council in relation to any proposed appointment of Advisory Board members. The Commissioner has determined that to satisfy this provision she will form a “Kangaroo Island Council Consultation Panel”. The Panel will comprise:

- Mayor
- Deputy Mayor
- One Councillor determined by the Council
- CEO

The Panel will consider the nominations received by the Commissioner following invitations to the public, government agencies and departments, industry and community organisations on the Island and other relevant sources and provide advice on appointments.

Nomination forms will be provided to the Panel on a confidential basis.

The Commissioner will determine the final appointments to the Local Advisory Board having regard to the outcomes of the consultation process with the Panel.

### **4.4 Representation of Board Members by Proxy**

At the first meeting of the Board, on Thursday 9 February 2017, the Board determined that standing members should be able to be represented by proxy. Each standing Board member would need to nominate a proxy from their agency / organisation to the Commissioner. Public representatives on the Board, would nominate a proxy who they believed to have the interest, knowledge and experience to participate in the Board’s activities. The Commissioner would then consult with the Kangaroo Island Council as per the selection process set out in 4.2 on the appointment of the proxies.

Proxies from non-government organisations would receive sitting fees for the meetings they attended.

### **4.5 Managing Vacancies**

Should a vacancy arise on the Local Advisory Board, the Commissioner will determine whether the vacancy will be filled. In making this determination consideration will be given to the proximity of the vacancy to the proposed conclusion of the Advisory Board’s work. If it is determined to fill the vacancy, a nomination will be sought from the agency or organisation that the member represents, or from the public. This nomination will be reviewed by the Commissioner as per the selection process outlined in section 4.2 of these terms of reference.

### **4.6 Removal of advisory board members**

Removal of advisory board members may occur pursuant to Section 13 of the *Public Sector (Honesty and Accountability) Act 1995*.<sup>4</sup>

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<sup>4</sup> Parliament of South Australia (1995) [Public Sector \(Honesty and Accountability\) Act 1995 \(South Australia\)](#)

In addition, the Commissioner may suspend or remove a member of the Local Advisory Board at the Commissioner's discretion pursuant to Section 36 of the *Acts Interpretation Act 1915*.<sup>5</sup>

Grounds for removal of a member from the Local Advisory Board could include:

- non-attendance at three or more meetings without seeking leave;
- change or termination of a member's professional role if the member is appointed to the Local Advisory Board as a representative of a government or community service agency.

## 5. Meeting procedures

In regards to meeting procedures, Section 15 of the Act states that:

- (6) The procedures to be observed in relation to the conduct of the business of a local advisory board will be—*
- a) as determined by the board; and*
  - b) insofar as a procedure is not determined under paragraph (a)—as determined by the Commissioner.*

The Local Advisory Board will determine the procedures of meeting to conduct its business. The Commissioner will prepare guidelines for meeting procedures for the Board's consideration.

## 6. Budget, Resources and support

### 6.1 Budget

A budget will be allocated to the Local Advisory Board by the Commissioner for sitting fees, administrative costs and other operational expenses. A budget report will be provided at each meeting by the Office of the Commissioner for Kangaroo Island. Should an additional budget allocation be required by the Board, a request must be made in writing to the Commissioner outlining the need for additional expenditure.

### 6.2 Sitting Fees

Sitting fees will be provided to Board Members of non-government agencies and members of the public. Such Members will receive a sitting fee of \$103.00 for each meeting attended.

### 6.3 Resources

An Induction Pack will be provided to Local Advisory Board Members that will include:

- The Terms of Reference for the Local Advisory Board
- Information on any relevant legislation and subordinate legislation:
  - [Native Vegetation Act 1991](#)
  - [Native Vegetation Regulations 2003](#)
  - [Policy for Significant Environmental Benefit under the Native Vegetation Act 1991 and Native Vegetation Regulations 2003](#)
- Kangaroo island Council Roadside Vegetation Management Plan 2007
- Kangaroo Island Council Draft Roadside Vegetation Management Plan 2017

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<sup>5</sup> Parliament of South Australia (1915) [Acts Interpretation Act 1915 \(South Australia\)](#)

- Council / DPTI Roadside Vegetation Management Program – 2011-2016 – record of works carried out
- [Paradise Girt by Sea Report](#), prepared for the Economic Development Board of South Australia (2011)
- [Kangaroo Island First](#), prepared for the Kangaroo Island Futures Authority (2015)
- Conflict of Interest Guidance Material
- Guidelines for Procedures of Local Advisory Boards
- Other relevant resources for the Local Advisory Board to conduct their responsibilities.

#### **6.4 Support**

All administrative support for the conduct of the business of the Local Advisory Board will be provided by the Office of the Commissioner for Kangaroo Island. This will include liaising with stakeholders to obtain information, liaising with guests / presenters at meetings and managing travel arrangements, financial management, organising meeting venues, distributing meeting papers, executive support during meetings, provision of technical equipment etc.

### **7. Compliance with Legislation Regarding Board Membership**

It is necessary that Members of the Local Advisory Board for Native Vegetation Management on Kangaroo Island are aware of their obligations under the *Public Sector (Honesty and Accountability) Act 1995* pursuant to Section 15(7) of the *Commissioner for Kangaroo Island Act*.

### **8. Civil liability**

It is expected that the members of the Local Advisory Board familiarise themselves with their duties as set out in the *Public Sector (Honesty and Accountability) Act 1995*.

In regards to liability of Local Advisory Board members, section 74 of the *Public Sector Act 2009* applies to all members of the Board and outlines the provisions for immunity from liabilities.<sup>6</sup> However, it should be noted that civil liabilities exist for Division 2 of the *Public Sector (Honesty and Accountability) Act*, which applies to all members of the Local Advisory Board. Should a member breach duties imposed in Part 2, Division 2 of the *Public Sector (Honesty and Accountability) Act* immunity from civil liability under section 74 of the *Public Sector Act 2009* would not be available.

### **9. Conflicts of Interest**

Section 12 of the *Public Sector (Honesty and Accountability) Act* applies to all members of the Local Advisory Board.

For operational reasons, Local Advisory Board members disclose any conflicts of interest to the Commissioner pursuant to Section 12 of the *Public Sector (Honesty and Accountability) Act*, who will then make the disclosure to the relevant Minister(s).

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<sup>6</sup> Parliament of South Australia (2009) [Public Sector Act 2009 \(South Australia\)](#)

## **10. Review of Terms of Reference**

The Commissioner will review, and if necessary amend, the Terms of Reference after six months of the Local Advisory Board's formation.