



**WESTERN AUSTRALIAN
LOCAL GOVERNMENT ASSOCIATION
North Metropolitan Zone**

MINUTES

Meeting Date: 24 July 2008

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MINUTES OF MEETING OF THE NORTH METROPOLITAN ZONE OF THE WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION HELD AT THE CITY OF STIRLING, 25 CEDRIC STREET, STIRLING (PARMELIA ROOM) ON THURSDAY 24 JULY 2008

1. ATTENDANCE

City of Joondalup

Committee Members:

Mayor Troy Pickard (Chairperson)
Cr Trona Young *from 1805 hrs*
Cr Russ Fishwick
Cr Tom McLean

Officers:

Mr Garry Hunt, Chief Executive Officer
Mr Ian Cowie, Director Governance & Strategy

City of Wanneroo

Committee Members:

Cr Frank Cvitan (Deputy Chairperson)
Cr Tracey Roberts
Cr Laura Gray
Cr Paul Miles *- Deputising for Cr Maureen Grierson*

Officers:

Ms Karen Caple, Director Governance & Strategy
Ms Fiona Bentley, Acting Director Planning and Development

City of Stirling

Committee Members:

Cr David Boothman
Cr Bill Stewart
Cr Terry Tyzack
Cr Elizabeth Re *from 1832 hrs*

Officers:

Mr Stuart Jardine, Chief Executive Officer
Mr Aaron Bowman, Manager Council Support/Compliance

WA Local Government Association

Ms Ricky Burges, CEO
Mr James McGovern, Manager Local Government Advisory Services

Secretariat

Mrs Janet Foster, Administrative Services Coordinator (City of Joondalup)

APOLOGIES:

City of Wanneroo Cr Maureen Grierson

DECLARATION OF OPENING

The Chairperson declared the meeting open at 1804 hrs.

2. ANNOUNCEMENTS

Nil.

Cr Young entered the Room at 1805 hrs.

3. CONFIRMATION OF MINUTES

MOVED Cr Boothman SECONDED Cr Cvitan that the Minutes of the meeting of the North Metropolitan Zone held on Thursday 22 May 2008 be confirmed as a true and accurate record of the proceedings.

The Motion was Put and

CARRIED UNANIMOUSLY

4. BUSINESS ARISING FROM MINUTES

Meeting held on 22 May 2008 - 8.1 - Status Report on Matters Referred to WALGA State Council for Action.

In discussion on “29 November 2007 - Zone Agenda Item 7.4 – Reimbursement of Local Government Costs incurred in the Administration and Operations of Citizenship Ceremonies”, a query was raised as to why no response has been received to the correspondence sent to ALGA in January 2008. This question was taken on notice by Mr McGovern.

A revised response has now been provided – refer Page 9 in the agenda.

No comments made.

5. DEPUTATIONS/PRESENTATIONS

Ms Ricky Burges, CEO of WALGA provided an overview of the President’s Report.

Cr Fishwick spoke in relation to libraries and raised concern at the dissolution of the Joint Advisory Committee.

6. MATTERS REFERRED TO WALGA

6.1 Status Report on Matters referred to WALGA State Council for Action.

As a means of increasing communication and providing feedback to the North Metropolitan Zone, a schedule has been prepared on matters referred to WALGA State Council for action.

20 March 2008 – Zone Agenda Item 7.2 – Energy Efficient Street Lighting

Discussion ensued. Information was sought on the length of the street lighting trial being undertaken by Western Power, and whether the City of Armadale currently has all-night lighting. Ms Burges undertook to investigate and raise the matter with Mr Mark Batty, Executive Manager – Environment and Waste of WALGA.

29 November 2007 – Zone Agenda Item 7.4 – Reimbursement of Local Government Costs Incurred in the Administration and Operation of Citizenship Ceremonies.

Discussion ensued.

MOVED Cr Stewart SECONDED Cr Gray that the Status Report be RECEIVED.

The Motion was Put and

CARRIED

7. REPORTS FROM MEMBER COUNCILS

7.1 EXTENSION OF NORTHERN SUBURBS RAILWAY TO BRIGHTON AND BUTLER

Report submitted by City of Wanneroo

<p style="text-align: center;">IN BRIEF</p>

<p>To consider the need for the early extension of the Northern Suburbs Railway and construction of the Brighton Boulevard (Jindalee) and Butler train stations.</p>

BACKGROUND

At its Council meeting of 31 January 2006, the City of Wanneroo resolved to make a submission to the Department of Treasury and Finance on the State Infrastructure Strategy seeking, amongst other things, the early extension of the Northern Railway.

As a result of Council pre-funding the Hester Avenue road bridge in 2003, the Minister for Planning and Infrastructure in July 2003 agreed to the establishment of a committee to oversee planning and economic development issues in the North West Corridor. The North West Corridor Coordinating Committee was eventually established in October 2006 for a limited period of 12 months, with a prime responsibility for overseeing the preparation and implementation of economic development and transport strategies for the region, as well as a review of the North West Corridor Structure Plan. The Committee has sponsored two recent workshops on Economic Development and Transport Infrastructure needs to help

the City of Wanneroo and the Department for Planning and Infrastructure (DPI) to assess the impacts of District Structure Plans for Alkimos/Two Rocks and Yanchep/Two Rocks.

Current congestion of the Northern Rail Line suggests that additional rolling stock is required to meet passenger demand. In addition, the creation of jobs in the North West Corridor is required to encourage passenger flow in the opposite direction to the Perth CBD.

COMMENT

The coastal corridor north of Mindarie is one of the fastest, if not the fastest, growing areas in Australia. In 2008 the coastal area has a population of 47,000, which is predicted to reach 60,000 by 2011 and 120,000 by 2021. Having a good quality railway and integrated bus system is essential to reduce car dependence through the provision of viable alternatives for access to work, shopping, education and recreation centres.

To be truly effective, the railway needs to integrate with development and not leave it on the Freeway to be built at a later stage. The City of Wanneroo has been working with the State Government to plan for the railway to run up the middle of the Corridor, to allow a much higher level of walk-on patronage than currently exists at the Freeway stations.

The early extension of rail to Jindalee is an essential part of an overall strategy that will see the rail eventually extended to Yanchep/Two Rocks. Yanchep is planned to be a significant employment node in the North West corridor. Rail will provide an effective and sustainable system of mass transport to support this economic development area and reduce the requirement on transport into the Perth CBD and surrounds.

The rail infrastructure is a key element to support more intense land use in key locations in the metropolitan area. This is essential to check uncontrolled urban sprawl and the attendant inefficiencies in services and community infrastructure. In short it is an essential element in the creation of an efficient urban centre. A Council funded economic impact study on the early construction of the railway indicates that with a greater density of development, there could be a reduction in the rate of urban sprawl by up to one year for each station built.

At a recent meeting hosted by the Chair of the Corridor Coordinating Committee the following preliminary options were suggested for the extension of the railway:-

Option 1.

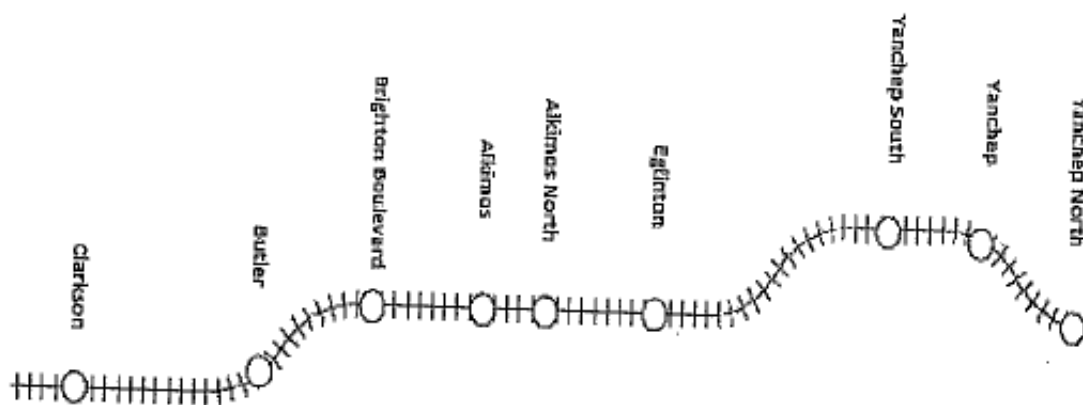
Extend the railway line from Clarkson station to:

- Butler station by 2011;
- Alkimos town centre by 2014;
- Eglinton by 2017; and
- Yanchep (St Andrews City Centre) by 2020

Option 2.

Extend the railway line from Clarkson station to:

- Butler station by 2011;
- Yanchep (St Andrews City Centre) by 2017 to build up contra-flow patronage; and
- Provide stations between Butler and Yanchep when justified in partnership with developers to keep pace with and to shape urban development



Whilst the business cases for these options have yet to be prepared, it would seem that Option 2 best supports the development of Yanchep as the next major employment hub in accordance with the existing State Development Agreement. Neither option provides for the early development of the Brighton Boulevard Station as a Transit Orientated Development (TOD) project.

In May of this year the Satterley Property Group (SPG) wrote to the State Government seeking their assistance and support to achieve early construction of the Brighton Boulevard (Jindalee) and Butler Stations, with a priority being given to Brighton ahead of the Butler station.

The SPG commissioned Sinclair Knight Mertz (SKM) to provide advice on potential rail patronage at Butler and Brighton Boulevard stations, and as a result of their patronage analysis and planning considerations relating to sustainable development of the area, recommendations were provided on potential rail staging and timing options. (**Attachment 1**).

The SKM report supports the early development of the Brighton Boulevard Station and argues that by 2020 when the areas of Brighton and Jindalee are fully developing, about 42,000 people are likely to be living within the overall catchment of the Butler and Brighton Boulevard stations. By 2012, around 31,000 people are likely to be resident in the overall catchment of the Butler and Brighton Boulevard stations (approximately 74% of full development).

The SPG is proposing a form of development with higher density mixed use development in the walking catchment of stations (**Attachment 2**). Travel to destinations by train will become a more attractive option in the future if a string of TODs are developed around stations along the northern suburbs railway and the cost of car travel continues to increase. The higher yield development detailed in the SKM report is consistent with the sustainable strategic planning discussed in Network City and Wanneroo's Smart Growth Strategy. By providing a rail link to Brighton Boulevard, there are excellent opportunities to develop the walkable catchment around the station into a genuinely dense, mixed use and vibrant precinct.

Well-designed TODs will benefit residents throughout the North West Corridor by improving access to jobs and services. The report recommends that Butler be developed with park and ride to service short car linkage trips, whilst at Brighton Boulevard, park and ride should be minimal. Together, these factors should contribute to the important objective of the various State and local government sustainable transport strategies to reduce car dependence. These strategies recognise that for transport and associated land use and development to be sustainable it must be robust. A rail station and TOD at Brighton Boulevard and a rail station and park and ride at Butler will reflect this need.

It is recommended that if the early development of the Brighton Boulevard Station is supported, then strict controls need to be placed on future development to ensure that optimal levels of employment and higher density development occur to support walk on rail patronage. A minimum density for development should be set as part of the State Planning exercise.

MOVED Cr Cvitan SECONDED Cr Roberts that the Western Australian Local Government Association North Zone Committee RECOMMENDS to State Council that it:

- 1. SEEKS a meeting with the Minister for Planning and Infrastructure in order to advocate the case for the construction by 2011 of the Jindalee Boulevard Railway Station as part of the first stage extension of the railway;**
- 2. WRITES to all local Members of Parliament seeking their support for the early construction of the Jindalee Boulevard Railway Station;**
- 3. SEEKS commitment from the Government to further staging of the railway including its extensions to Yanchep/Two Rocks by 2017.**

Discussion ensued. Ms Burges advised that WALGA will consider this important issue.

The Motion was Put and

CARRIED UNANIMOUSLY

7.2 LANDCORP – NON PAYMENT OF LOCAL GOVERNMENT RATES

Report submitted by City of Wanneroo

IN BRIEF

A request for the North Metropolitan Zone of WALGA to lobby the State Government to amend the Western Australian Land Authority Act 1992, requiring LandCorp to pay property rates to Local Government rather than State Government.

BACKGROUND

Prior to 1998, LandCorp was exempt from payment of Local Government rates in respect to land owned by LandCorp.

With a view to placing LandCorp on a more even footing with the private developers in the land development industry (as part of the National Competition Policy initiative), the State Government amended the Western Australian Land Authority Act 1992 (WALA Act) in 1998 to provide that LandCorp was to pay an amount equal to that which would have otherwise been payable to Local Governments as Local Government Rates. However, rather than paying this amount to Local Governments, the Act requires that it be paid to the State Government (through the Treasurer).

In August 2002, the City prepared a report for the Western Australian Local Government Association (WALGA) North Zone meeting, seeking consideration for the amendment of the WALA Act, to require that Local Government rates for LandCorp land is paid to Local Governments. The resulting Motion which was carried from the WALGA North Zone meeting was:

“That the Western Australian Local Government Association be requested to lobby the State Government to amend the Western Australian Land Authority Act to require that Local Government rates for LandCorp land are paid to Local Government.”

In checking with WALGA as to any outcome from this Motion, no response has been received to date.

COMMENT

LandCorp owns a substantial amount of land in the City of Wanneroo, including Alkimos, Eglinton, Yanchep, Clarkson, Wangara and Neerabup. As LandCorp is currently not rateable, the City does not have a record of relevant land valuations, however generally based on valuations in the vicinity of each LandCorp land holding, an estimate can be developed. Based on this approach, if LandCorp paid local government rates to this City for each of its broadacre properties, the amount involved could be in excess of \$400,000. LandCorp has strategic land holdings across the metropolitan area, therefore, a number of Local Governments are missing this essential rating income source.

The Local Government rating system is of course a property based taxing system and if a Local Government is unable to receive rates from some properties, then the shortfall must be made up by the other rateable properties. This is considered inequitable and can be seen as LandCorp getting a “free ride” in respect to Council services at the expense of all other ratepayers.

As there was no outcome from the initial report to WALGA, the City of Wanneroo seeks endorsement for further lobbying of the State Government seeking an amendment to the WALA Act so that LandCorp property rates are paid directly to the Local Government concerned.

Clause 32 of the WALA Act states:

“32. Liability of Authority for duties, taxes, rates etc.

[(1) repealed]

- (2) Subject to subsection (3), land vested in or acquired by the Authority is not rateable land for the purposes of the Local Government Act 1995.*
- (3) If the Authority leases or lets land vested in or acquired by the Authority, or holds land jointly with another person who is not a public authority, the land is, by reason of the lease, tenancy or joint holding, rateable land for the purposes of the Local Government Act 1995 in the hands of the lessee, tenant or joint holder.*
- (4) The Authority is to pay to the Treasurer in respect of each financial year an amount equivalent to the sum of all local government rates and charges that, but for subsection (2) and section 6.26(2)(a)(i) of the Local Government Act 1995, the Authority would have been liable to pay in respect of that financial year.*
- (5) Subsection (4) does not apply in relation to land that is rateable under subsection (3).*

- (6) *An amount payable under subsection (4) —*
(a) *is to be determined in accordance with such principles; and*
(b) *is to be paid at such time or times,*
as the Treasurer may direct.
- (7) *The first payment under subsection (4) is to be in respect of the next full financial year after the commencement of the Western Australian Land Authority Amendment Act 1998.”*

Amendment to the WALA Act is required.

MOVED Cr Cvitan SECONDED Cr Gray that the North Metropolitan Zone assists the City of Wanneroo in lobbying the State Government to amend the Western Australian Land Authority Act 1992 (WALA) so that LandCorp is required to pay property rates to Local Government rather than State Government.

Discussion ensued.

Cr Re entered the Room at 1832 hrs.

The Motion was Put and

CARRIED UNANIMOUSLY

7.3 LEGAL REPRESENTATION FOR ELECTED MEMBERS

This report was considered after Item 7.4 – Councillor(s) Roles and Responsibilities.

7.4 COUNCILLOR(S) ROLES AND RESPONSIBILITIES

Report submitted by City of Stirling

IN BRIEF

- **This report relates to a proposal for the Local Government Act 1995 to include elected member legal representation issues.**
- **The City of Stirling is seeking support from the North Metropolitan Zone Committee for this proposal and subsequent consideration at the WALGA AGM on Saturday 2 August 2008.**

BACKGROUND

A notice of motion was passed at the City of Stirling's Ordinary Council meeting held 20 May 2008 as follows:

"The increasing complexity of the Local Government Act 1995 regarding Councillor(s) roles and responsibilities require Councillors to have ready access to independent legal representation in order for procedural fairness and equity with members of staff and that the Local Government Act 1995 BE AMENDED to address such issues at the next WALGA North Zone meeting and that this matter be LISTED by the City of Stirling for discussion at the WALGA AGM to be held on 2 August 2008."

At the North Metropolitan Zone meeting held on 22 May the following Motion was moved:

MOVED Cr Re SECONDED Cr Tyzack that:

- 1 the Western Australian Local Government Association LOBBY for an inclusion of independent legal representation for elected members issues in the Local Government Act 1995 and associated legislation;*
- 2 the North Metropolitan Zone ENDORSE submission of this proposal for consideration at the Western Australian Local Government Association's Annual General meeting to be held on Saturday, 2 August 2008.*

Following discussion, the following Motion was then carried:

MOVED Cr Miles SECONDED Cr Cvitan that consideration of this matter be DEFERRED to the next meeting of the North Metropolitan Zone pending the receipt of further advice from individual member Councils.

A report providing the position of the City of Joondalup is included in this agenda – Item 7.3 refers.

The City of Stirling is seeking the support of the North Metropolitan Zone Committee to lobby WALGA for an amendment to the Local Government Act 1995 to address issues relating to Councillor(s) roles and responsibilities and the requirement of legal representation. Should the North Metropolitan Zone Committee support this proposal, it is requested that this be listed for consideration at the WALGA AGM on Saturday, 2 August 2008.

COMMENT

It would be inconsistent with fundamental governance principles, on which the *Local Government Act 1995* is based, for individual Councillors to have direct access to independent legal representation, funded by the City, in respect of matters that are within their statutory functions.

The CEO is responsible under the *Local Government Act* for advising the Council, including advice about the functions of Councillors and the Council, under the *Local Government Act* and other written laws (see sections 5.41(a) and (b)). If legal advice is required, the CEO is able to arrange for the City's legal advisers to provide that advice.

Nevertheless, if an individual Councillor wishes to obtain independent legal advice, there are some circumstances in which the funding for that may be approved by the Council under the City's funding of legal representation policy.

MOVED Cr Re SECONDED Cr Tyzack that:

- 1 the Western Australian Local Government Association LOBBY for an inclusion of independent legal representation for elected members issues in the Local Government Act 1995 and associated legislation;**

- 2 the North Metropolitan Zone ENDORSE submission of this proposal for consideration at the Western Australian Local Government Association's Annual General meeting to be held on Saturday, 2 August 2008.**

Discussion ensued.

The Motion was Put and

LOST

The meeting then considered Item 7.3.

7.3 LEGAL REPRESENTATION FOR ELECTED MEMBERS

Report submitted by City of Joondalup

IN BRIEF

The City of Joondalup does not support an amendment to the Local Government Act 1995 in relation to Elected Member legal representation.

BACKGROUND

At the last meeting of the North Metropolitan Zone, a motion that the Zone lobby WALGA for the inclusion of independent legal representation for Elected Members in the Local Government Act 1995 was deferred to the July meeting, pending receipt of further advice from individual member Councils (refer Item 9.3 – Councillor(s) Roles and Responsibilities.)

COMMENT

The City of Joondalup considered this matter at its meeting of 10 June 2008. At this meeting, Council resolved to not support the City of Stirling's proposal to lobby the State Government for the inclusion of independent legal representation for Elected Members in the Local Government Act 1995.

This position was taken as the City has a current policy which covers this matter and this generally aligns with departmental guidelines. (A copy of the report to the Council of the City of Joondalup is included as Attachment 1 to this Report.)

MOVED Cr Fishwick SECONDED Cr Young that the North Metropolitan Zone NOTES the City of Joondalup's position of non-support for an amendment to the Local Government Act 1995 in relation to independent legal representation for Elected Members.

The Motion was Put and

CARRIED

7.5 CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT

Report submitted by City of Joondalup

IN BRIEF

- To inform the North Metropolitan Zone of the City of Joondalup's position on constitutional recognition of local government.
- To seek the North Metropolitan Zone's support for this position.

BACKGROUND

In April 2008, a letter was received from the Chief Executive Officer of the West Australian Local Government Association (WALGA) requesting that each local government conduct a "Council Conversation" with respect to Constitutional Recognition. The outcome of each 'conversation' should be a defined local position on the matter.

The Council of the City of Joondalup considered constitutional recognition at its meeting of 15 July 2008. (The report presented on this item as at Attachment 1 to this Report.) At this meeting, Council resolved to support both symbolic and financial recognition for local government.

COMMENT

Symbolic recognition of local government in the Australian Constitution is considered valuable as a statement of local government's importance. Financial recognition is considered important to facilitate local government sustainability into the future.

MOVED Cr Young SECONDED Cr McLean that the North Metropolitan Zone NOTES the City of Joondalup's position on the constitutional recognition of local government and supports both symbolic and financial recognition.

Discussion ensued.

AMENDMENT MOVED Cr Stewart SECONDED Cr Re that the Motion be AMENDED by the deletion of the words "*and supports both symbolic and financial recognition.*"

PROCEDURAL MOTION

MOVED Cr Stewart that consideration of Item 7.5 - Constitutional Recognition of Local Government be DEFERRED to the next meeting of the North Metropolitan Zone pending comment from the City of Joondalup.

There being no Secunder, the Procedural Motion **LAPSED**

The Amendment as Moved by Cr Stewart Seconded by Cr Re was Put and **LOST**

The Motion as Moved by Cr Young Seconded by Cr McLean was Put and **CARRIED**

8. WALGA STATE COUNCIL AGENDA – MATTERS FOR DISCUSSION

(Zone delegates to consider the Matters for Decision contained in the WALGA State Council Agenda and put forward resolutions to Zone Representatives on State Council)

Matters of Particular Interest on State Council Agenda

4.2 – PROPOSED STAND DOWN PROVISIONS

Updated information was tabled in relation to survey returns received to 21 July 2008 – Appendix 1 refers.

MOVED Cr Stewart SECONDED Cr Re that Report 4.2 Proposed Stand Down Provisions, Recommendation 2, dot point 1 be amended to read:

“That the Department of Local Government and Regional Development ensure established principles of natural justice and procedural fairness are embodied in all aspects of the proposed Stand Down Provisions, as detailed in the comments on Items 1 to 7; and”

Discussion ensued.

With the approval of the meeting, the Motion Moved by Cr Stewart and Seconded by Cr Re was
WITHDRAWN

MOVED Cr Stewart SECONDED Cr Tyzack that:

- 1 the North Metropolitan Zone and the WALGA State Council not support the proposed Stand Down Provisions;**
- 2 should further policy development occur, then the Department of Local Government and Regional Development be advised that it must involve active consultation with the Association and specific consideration of the following issue of concern to the sector:**
 - That the Department of Local Government and Regional Development endeavour to ensure established principles of natural justice and procedural fairness are embodied in all aspects of the proposed Stand Down Provisions.**

The Motion was Put and

CARRIED UNANIMOUSLY

6.1 – PLANNING BULLETIN 90 – PLANNING REQUIREMENTS FOR THE PROSTITUTION AMENDMENT ACT 2008

Discussion ensued on the need for this item to be held over.

MOVED Cr Young SECONDED Cr McLean that the North Metropolitan Zone REQUESTS that a report be prepared for the next State Council Meeting in relation to Planning Bulletin 90.

The Motion was Put and

CARRIED

9. WALGA STATE COUNCIL MEMBERS' REPORTS

The WALGA President's Report for July/August 2008 is attached.

The Chairperson commented on the potential State Election "bids" of WALGA that were presented to the Minister.

10. GENERAL BUSINESS

Nil

11. DATE, TIME & PLACE OF NEXT MEETING

The next meeting of the North Metropolitan Zone will be held at the City of Joondalup on Thursday 18 September 2008, commencing at 6.00 pm.

12. CLOSURE

The Chairperson declared the meeting closed at 1935 hrs.

Appendix 1

The following information is provided as an update to the State Council Agenda Item 4.2, collating Survey returns received to 21 July 2008.

ITEM 1. SURVEY RESPONSE : YES = 32 NO = 4

Provide for an Elected Member to voluntarily stand down, thereby relinquishing their powers and duties as an elected member, where that person is under investigation or has been charged by a statutory authority.

Comment For : The proposal –

- allows the individual to assess the suitability of temporarily discontinuing Council involvement.

Comment Against : This proposal –

- may lead to a public perception the Elected Member is a disruptive influence on Council. This perception would be magnified in the event the non-voluntary standing down of Elected Members receives even a moderate level of media coverage.

ITEM 2. SURVEY RESPONSE : YES = 28 NO = 8

Provide for the Standards Panel to forcibly stand down (Note : this is not a suspension) an elected Council member, thereby relieving them of their powers and duties as an Elected Member, to protect the institution and integrity of local government :

- where that person has not voluntarily stood down; and
- where that person is under investigation or has been charged by a statutory authority; and
- whose continued presence as a member :
 - a) prevents a Council from properly discharging its functions; and
 - b) affects the reputation and integrity of the local government as an institution; or
 - c) is not in the public interest.

Comment For : This proposal –

- supports the Stand Down Proposal intent of removing an Elected Member who is a disruptive to the effective functioning of Council.

Comment Against : This proposal –

- has capacity to further agitate a situation that has already been found to be a disruption to the effective functioning of a Council.
- by including 'c) *is not in the public interest*' is potentially divisive, particularly if the standing down of the Elected Member is not requested by the council.

ITEM 3. SURVEY RESPONSE : YES = 30 NO = 6

Provide for the Standards Panel to consider standing down an Elected Member where a complaint or a request to stand a member down has been made to the Standards Panel by:

- the Council (absolute majority) in which the member holds office;
- a statutory authority that is undertaking an investigation into or prosecution of the member; or
- the Department of Local Government and Regional Development.

Comment For : This proposal –

- provides a mechanism for Council to direct their concerns regarding disruptive behaviour to the Standards Panel
- provides a set procedure for complaints and requests to be directed to the Standards Panel.

Comment Against : This proposal –

- at face value, lacks provision for transparency to inform the community why a Council, statutory authority or Department of Local Government and Regional Development made the request to the Standards Panel
- imposes additional responsibility and duties on the Standards Panel, potentially stalling progress on inquiries and investigations.

ITEM 4. SURVEY RESPONSE : YES = 25 NO = 11

Provide for it to be an offence for a person to knowingly give false or misleading information which may lead to the standing down of an elected member.

Comment For : This proposal –

- aligns with S. 5.124 of the *Local Government Act 1995*, making it an offence to give false or misleading information under prescribed circumstances.

Comment Against : This proposal –

- although providing for it to be an offence, does not detract from the fact the Stand Down provisions creates another avenue for false and misleading information or allegations to be made against an Elected Member for political advantage or to satisfy a personal resentment.

ITEM 5. SURVEY RESPONSE : YES = 26 NO = 10

Provide for a member to be “stood down” for a period of 3 to 6 months with subsequent 6 month extensions where necessary.

Comment For : This proposal –

- will permit an Elected Member whose’ behaviour is found to be disruptive, to be removed from the affairs of the Council.

Comment Against : This proposal –

- appears to acknowledge the procedure for investigations into the conduct of an Elected Member is a lengthy process, despite the very recent introduction of the Rules of Conduct Regulations and appointment of the first Standards Panel.
- is likely to keep the issue of Elected Member behaviour in the public eye, and may compound negative perceptions about the Councils reputation and integrity.

ITEM 6. SURVEY RESPONSE : YES = 21 NO = 15

Provide for the member who has voluntarily stood down or who has been required to stand down, to be paid meeting fees and allowances for the duration of the standing down.

Comment For: This proposal –

- supports elected members who make a voluntary decision to stand down;
- ensures Elected Member who are stood down are not unfairly treated nor face peremptory punishment through loss of fees and allowances.

Comment Against: This proposal –

- does not distinguish between voluntary and required standing down, thus denying any incentive for those who stand down voluntarily;
- raises questions as to the entitlement of elected members to be paid fees and allowances at a time when they cease to incur costs and expenses normally attributed to activities of elected members

ITEM 7. SURVEY RESPONSE : YES = 32 NO = 4

Provide for the stand down period to cease :

- At the end of the period specified by the Standards Panel; or
 - At any time earlier as determined by the Standards Panel.
- Note : The order would automatically cease to apply at the end of the member's term of office. Further, it is not intended that a member be prevented from renominating for Council.

Comment For : This proposal –

- permits a stand down period be brought to an end swiftly.

Comment Against : The proposal –

states that it is not intended that a member be prevented from renominating for Council. Section 5.123 of the *Local Government Act 1995* contains the a specific confidentiality protection clause in relation to complaints about the conduct of elected members

Comment

The responses indicates general support for the concepts proposed under Stand Down Provisions.

A number of respondents voiced opinion and concern on a number of topics. The subject matter of the comments is consolidated below :

- Item 1: An Elected Member under investigation should not be considered under this proposal, only those who have been charged; It is the preference that Elected Members stand down voluntarily.
- Item 2: This goes against the principles of natural justice and could give the impression of guilt, no matter how sensitively the stand down is handled.
- Item 3: Standards Panel needs to be suitably resourced to deal with referrals expeditiously.
- Item 4: The CEO rather than the Council should be empowered to refer a matter to the Standards Panel, consistent with existing powers under S 28 of the *Corruption and Crime Commission Act 2003*.
- Item 5: There should be a mandatory period for dealing with a decision to stand down, with the Elected Member re-instated on expiry of that period; What period applies to an Elected Member voluntarily standing down, if any?
- Item 6: Continued payment of fees and allowances should continue if standing down voluntarily.
- Item 7: It is considered that this matter is adequately covered in the Local Government Act 1995.

General Comments

- If the proposed standing down provisions are meant to directly deal with disruptive behaviour, then the most appropriate action, would appear to be, to amend the *Local*

Government Act 1995 to include reference to and definition of 'disruptive behaviour' as a separate rule of conduct, managed under the *Local Government (Rules of Conduct) Regulations 2007* and not be limited to Elected Members under investigation or charged by a statutory authority.

- The Department's proposals appear unfocused and there are questions about whether the proposals are designed to deal with disruptive behaviour by Elected Members or Elected Members who bring the sector into disrepute. This matter needs to be resolved to enable appropriate provisions to be established.
- It is unclear how the proposal would work in relation to complaints before the Crime and Corruption Commission.