



WALGA

North Metropolitan Zone

Minutes



31 March 2011





North Metropolitan Zone WALGA

Hosted by the City of Stirling
25 Cedric Street Stirling Phone 9345 8555
Thursday 31 March 2011 - Commenced at 6:00 pm

Minutes

ATTENDANCE 4 Voting Delegates from each Member Council

City of Joondalup	Cr Tom McLean Cr Christine Hamilton-Prime - Deputy Cr Liam Gobbert - Deputy Ms Michelle Noble, Manager Governance & Marketing
City of Stirling	Mayor David Boothman (Chair) Cr David Michael (SC) Mr Stuart Jardine, Chief Executive Officer – non voting delegate
City of Wanneroo	Cr Tracey Roberts (DSC) Cr Brett Treby (SC) Cr Dot Newton Cr Bob Smithson Mr Daniel Simms, Chief Executive Officer – non voting delegate
WALGA Representatives	Ms Ricky Burges, WALGA Chief Executive Officer Ms Allison Hailes, Executive Manager Planning & Community Development
Guest Speakers	Grace Jones Telstra Leanna Everet - Australian Bureau of Statistics

APOLOGIES

DLG Representative City of Joondalup	Apology Cr Geoff Amphlett JP (SC) Cr John Chester (DSC) Cr Russ Fishwick Mr Jamie Parry, Director Governance and Strategy - non voting delegate Mr Garry Hunt, Chief Executive Officer – non voting delegate
City of Stirling	Cr Giovanni Italiano JP (DSC) Cr Bill Stewart Mr Aaron Bowman, Manager Governance & Council Support – non voting delegate
City of Wanneroo	Mayor Jon Kelly (Deputy Chair) Cr Glynis Monks

ANNOUNCEMENTS

Zone Delegates are requested to provide sufficient written notice, wherever possible, on amendments to recommendations within the State Council or Zone agenda prior to the Zone meeting to the Chair and Secretariat.

Confirmation of Attendance an attendance sheet was circulated prior to the commencement of the meeting to record your attendance at the meeting for the minutes.

ATTACHMENTS TO THE AGENDA

1. Minutes of previous meeting
2. State Council Composite Resolutions to the February 2011 State Council meeting for your information
3. WALGA President's Report
4. Director General's Report
5. Zone Status Report
6. Standing Orders

1. DEPUTATIONS

1.1 Telstra Presentation

Ms Tracey Jones Customer Service Manager provided a 15 minute presentation on Telstra's new devices / products, infrastructure and community programs for within the Zone.

A number of questions were raised with Telstra, with respect to availability and pricing of services in the Zone. Telstra committed to taking the issues back to the relevant corporate area.

Noted

1.2 Presentation by Australian Bureau of Statistics

A representative from The Australian Bureau of Statistics gave a short 10 minute awareness talk about the 2011 Census and the need for volunteers and support from Local Governments

Noted

2. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the meeting of the North Metropolitan Zone held on 30 September 2010 be confirmed as a true and accurate record of the proceedings.

Moved Cr David Michael / Seconded Cr Tracey Roberts

CARRIED

3. DECLARATION OF INTEREST

Pursuant to our Code of Conduct, Councillors must declare to the Chairman any potential conflict of interest they have in a matter before the Zone as soon as they become aware of it. Councillors and deputies may be directly or indirectly associated with some recommendations of the Zone and State Council. If you are affected by these recommendations, please excuse yourself from the meeting and do not participate in deliberations.

NIL

4. BUSINESS ARISING

5. REPORTS FROM MEMBER COUNCILS

5.1 Local Government Reform – Elected Member Numbers

By City of Joondalup

In Brief

In 2009, all Local Governments were required to respond to the Minister for Local Government's package of reform strategies.

The principle strategies in the package focused on voluntary structural reform of Local Government, including:

- Encouraging Local Governments to take steps to voluntarily amalgamate and form larger local governments.
- Reducing the total number of Elected Members to between six and nine.
- Local Governments forming appropriate regional groupings of Councils to assist with the efficient delivery of services.

The Minister's Local Government Reform Steering Committee Report (dated May 2010) provides that the Government remains committed to considering legislative amendments to include changing the number of prescribed Elected Members to between six and nine. It is apparent that no consideration has been given to the impact of such legislative change on large Local Governments such as those within the WALGA North Metropolitan Zone.

It is recommended that WALGA advise the Minister for Local Government that the North Metropolitan Zone does not support the proposed legislative amendment to reduce Elected Member numbers without further advice from the Minister on the research that has been undertaken by the Department of Local Government on:

1. The ratios of Elected Members per population in other states both prior to and after Local Government reform, and the effect that this had on the community;
2. Approaches intended to ensure the ongoing sustainability of Elected Member roles given their voluntary nature and obligations to engage and represent local communities.

Background

The Council of the City of Joondalup adopted the following position in relation to the proposal to reduce the number of Elected Members as follows:

That the City of Joondalup resolves to advise the Minister for Local Government that it does not intend to reduce its number of Elected Members from 12 Councillors and a Mayor elected by electors.

The City adopted the following position in its Reform Submission:

That:

1. *The Minister for Local Government's recommendation to reduce the number of Councillors to between six and nine for all Local Governments be rejected, and that Local Governments, having a residential population exceeding 100,000, be permitted to have a Council comprising not less than 5*

nor more than 14 Councillors if the Mayor is elected by electors, as per the current arrangements permitted under Section 2.17 of the Local Government Act 1995.

2. *The City of Joondalup propose that its number of elected representatives be retained at 12 Councillors and a Mayor elected by electors.*
3. *The Minister for Local Government be requested to research the ratios of Elected Members per population in other States both prior to and after Local Government reform, and the effect that this may have had on the community, prior to making any legislative amendments regarding Elected Member representation.*
4. *The Minister for Local Government be requested to review the remuneration provided to Elected Members should the number of elected representatives be reduced.*

The City's argument for this position is provided in the excerpt from its reform submission.

The Cities of Wanneroo and Stirling took similar positions in relation to the proposal to reduce Elected Member numbers:

City of Wanneroo – August 2009

The City of Wanneroo resolved inter alia at its August Council meeting that it *advise the Minister for Local Government of the City of Wanneroo's intention to:-*

2. *NOT REDUCE the current total number of Elected Members given the current ratio of 5,388 electors per Elected Member which will increase to in excess of 8,500 electors to Elected Member by 2018 and which is considered effective from a community engagement perspective.*

City of Stirling – September 2009

The City of Stirling resolved inter alia at its September Council meeting that it *does not support a reduction in the numbers of elected representatives, but if required to choose then at least 9 Elected Members are preferred, with the retention of a ward system of representation, providing support such as paid positions and/or support staff is also permitted, and which could be based on a tiered arrangement of Local Governments depending on their size, population or other relevant factors.*

WA Local Government Association

The issue of Elected Member representation has been raised through the WALGA Zone process as one that Local Governments feel needs further research. WALGA reported that a number of larger Local Governments had expressed concern at the prospect of reducing the number of Elected Members when considering the impact of future population growth for metropolitan Councils and the impact upon community representation and the role of connection played by Elected Members.

WALGA requested the DLG Subcommittee looking at this issue to research the ratios of Elected Members per population in other states both prior to and after Local Government reform, and the effect that this may have had on the community.

Advice from WALGA is that the DLG has not responded to the request to research this matter further.

Comment

The significant change in Councillor/resident and Councillor/elector ratios is considered to be unsustainable given the voluntary nature of the Elected Member role and the significant level of community engagement large Local Governments such as those within the WALGA North Zone has with its constituents.

Each of the Local Governments within the WALGA North Zone has expressed its concern to the Minister in their submissions and WALGA has requested this matter be further examined, however, it appears

that the Minister is intent on amending the legislation without giving consideration to the impact on large local governments.

RECOMMENDATION

That WALGA advise the Minister for Local Government that member Local Governments of the North Metropolitan Zone do not support the proposed legislative amendment to reduce Elected Member numbers without further advice from the Minister on the research that has been undertaken by the Department of Local Government on:

- 1. The ratios of Elected Members per population in other states both prior to and after Local Government reform, and the effect that this had on the community;**
- 2. Approaches intended to ensure the ongoing sustainability of Elected Member roles given their voluntary nature and obligations to engage and represent local communities.**

Moved Cr Tom McLean / Seconded Cr Christine Hamilton-Prime

CARRIED

Community Comments

Residents were asked:

Do you think the City of Joondalup is:

Too small	(12)
The right size	(186)
Too large	(16)
No response	(6)

The vast majority (186 respondents or 84.5% of respondents) believed that the City was the right size). Comments included:

- *If it works leave it alone (9).*
- *The City already has a large population base compared to other local governments (5).*
- *The Cities of Wanneroo and Joondalup are the result of a previous split and should not be adjusted again (5).*

Should the City review any of its current local government boundaries?

Yes	(35)
No	(178)
No response	(7)

81% of respondents did not believe that the City should review its current boundaries.

Council Position

That the City of Joondalup believes there is little to be gained in creating larger Local Governments in the northern metropolitan area. In fact, amalgamating Local Governments in this area may result in additional costs that may not be offset by significant economies of scale.

2. Reducing the total number of Elected Members to between six and nine

Australian Bureau of Statistics data provides that the estimated resident population of the City of Joondalup at 30 June 2008 was 159,986, making it the second largest local government by population in Western Australia, and one of the largest local governments by population in Australia.

With twelve Councillor positions there is a ratio of 1:13,332 (where one Councillor represents 13,332 residents). If an elector ratio were to be examined, the City, at October 2007, had 102,563 electors, providing for a Councillor/elector ratio of 1:8,547, with Ward Councillor/elector representation (October 2007) as follows:

Ward	Electors	Councillor/Elector Ratio
North	17,706	1:8,853
Central	16,896	1:8,848
North Central	17,099	1:8,550
South	15,738	1:7,869
South East	16,797	1:8,399
South West	18,327	1:9,164

As required by the Local Government Act 1995, the City of Joondalup undertook a comprehensive review in 2005 and at the Council meeting held on 13 December 2005 (C73-12/05) resolved to reduce the number of Elected Members and wards to the current arrangement of 12 Councillors representing six wards plus a Mayor elected at large by the community.

If the City of Joondalup were to reduce its Elected Member representation in accordance with the Minister's proposal the following ratios would occur:

Number of Councillors	Councillor Elector ratio	Councillor Resident Ratio
Six Councillors	1:17,093	1:26,684
Nine Councillors	1:11,395	1:17,776

The significant change in Councillor/resident and Councillor/elector ratios is considered to be unsustainable given the voluntary nature of the Elected Member role and the significant level of community engagement the City of Joondalup Council has with its constituents, and as such it is suggested that the Minister's recommendation to reduce the number of Councillors to between six and nine for all local governments be rejected. Instead, it is proposed that local governments having a residential population exceeding 100,000 be permitted to have a Council comprising not less than 5 nor more than 14 Councillors if the Mayor is elected by electors, as per the current arrangements permitted under Section 2.17 of the Local Government Act 1995.

During the recent reform process, discussions amongst larger metropolitan local governments have raised concern at the proposal for a reduction in Elected Member representation. The argument against a reduction in Elected Members has been based around the following:

- Councils are not a board of directors but are an elected representative body.
- That it is a fundamental change to the nature of local government to unilaterally change the role of Councillors to remove the focus on community representation.
- There will be significant expense to replace the voluntary community connection role undertaken by Councillors. To give any semblance of connection, Councils may require community officers and citizen committees (which have to be serviced by paid officers).
- Future population growth of some metropolitan local governments needs to be considered.
- The possible effect of potential candidates being dissuaded from standing for election given the commitment required to fulfil Council duties and community expectations.
- The increase in Councillor representation ratios will be significant for those local governments with large populations.
- The level of community engagement a Council has with its constituents has an impact on the ability of elected representatives to sufficiently represent the community.

Arguments for reduced Elected Member representation include the following:

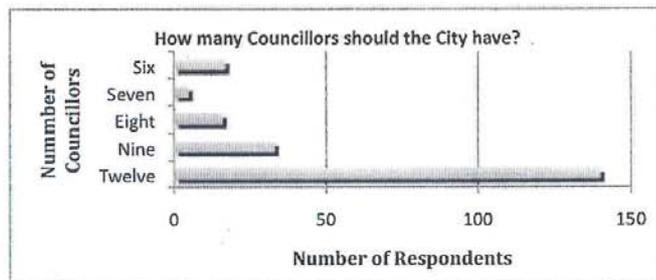
- Better governance provided by a reduced number and a greater focus on strategic direction.
- Fewer Elected Members are more readily identifiable to the community.
- Fewer positions on Council may lead to greater interest in elections with contested elections and those elected obtaining a greater level of support from the community.
- More scope for team spirit and cooperation amongst a smaller number of people.

- A reduction in the number of Elected Members may result in an increased commitment from those elected, reflected in greater interest and participation in Council affairs. It is suggested that should there be a reduced number of elected representatives the remuneration provided to Elected Members should be reviewed to attract quality candidates that are able to commit the time and resources to governing the district.
- Consultation with the community can be achieved through a variety of means in addition to individuals and groups contacting their local Elected Member.

WALGA has requested the Local Government Reform Subcommittee look at this issue to research the ratios of Elected Members per population in other States both prior to and after local government reform, and to identify the impact that this may have had on the community. The City is not aware whether the Minister has given any undertaking at this time that the request will be examined.

Community Comments

Residents were asked how many Councillors the City should have. The results can be seen below. Over 80% of respondents supported the current number of Councillors (12). The comments from respondents were varied with no singular theme other than it was considered the more Elected Members the better the representation and sharing of responsibilities.



Council Position:

That:

1. The Minister for Local Government's recommendation to reduce the number of Councillors to between six and nine for all local governments be rejected, and that local governments, having a residential population exceeding 100,000, be permitted to have a Council comprising not less than 5 nor more than 14 Councillors if the Mayor is elected by electors, as per the current arrangements permitted under Section 2.17 of the Local Government Act 1995.
2. The City of Joondalup propose that its number of elected representatives be retained at 12 Councillors and a Mayor elected by electors.
3. The Minister for Local Government be requested to research the ratios of Elected Members per population in other States both prior to and after local government reform, and the effect that this may have had on the community, prior to making any legislative amendments regarding Elected Member representation.

4. The Minister for Local Government be requested to review the remuneration provided to Elected Members should the number of elected representatives be reduced.

3. Local Governments forming appropriate regional grouping of Councils to assist with the efficient delivery of service

As part of the reform process the Mayors and CEOs of the Cities of Wanneroo, Stirling and Joondalup discussed matters related to amalgamation, boundary amendments and regional sharing and cooperation. It was agreed that whilst it was viewed there was no immediate requirement for structural reform at this time the Cities have given a firm commitment to ongoing cooperation for the benefit of the region.

In the City of Joondalup's Local Government Reform Checklist (adopted by the Council at its April 2009 meeting), the City indicated that it currently worked effectively as part of a group of local governments, comprising the north-west corridor of metropolitan Perth, delivering services regionally.

The regional approach provides an opportunity to extend beyond local government boundaries and to facilitate cooperation between all local governments, businesses and community networks.

The City has the following formal regional sharing arrangements in place:

- Mindarie Regional Council (recycling).
- Tamala Pak Regional Council (recycling and land development).
- WALGA North Metropolitan Zone.

The City was an integral member of the North West Corridor Coordinating Committee, which considered the future growth need of the corridor, including regional governance models for economic development. It is recognised that this Committee is no longer operating, however, at the time it was an important catalyst for regional cooperation.

The north corridor of local governments retains similar interests and utilise both formal and informal networks/agreements to benefit the group through projects including, though not limited to:

- Regional resource sharing with the objective of enhancing economic, tourism and employment development opportunities within the region (including employment of shared officers).
- Lake Yellagonga Integrated Catchment Management Plan (included employment of a shared officer in 2008/09).
- Local Emergency Management Plan established with the City of Wanneroo.
- Joint funding of the Small Business Centre North West Metro in association with the City of Wanneroo.
- Regional infrastructure planning needs.
- Benchmarking.
- Australia Day activities (with the 2009 function being the largest ever held in Australia).
- Refuse collection contract with the City of Wanneroo.
- Establishment of a joint Working Group with the Cities of Wanneroo and Stirling to participate in the Local Government Alcohol Management Project.

6. STATE COUNCIL AGENDA - MATTERS FOR DECISION

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

Item 5.6 Priority Plan for Investment in the Swan Canning Catchment

The Zone withdrew item 5.6 for discussion

RESOLUTION:

That the State Council endorse the Draft Priority Plan for Investment in the Swan and Canning Catchment subject to the following amendments:

It is ensured the definition of 'waterways' in the Plan includes wetland systems.

The State Government fund the additional investment needs from the @\$550m dividend paid by the Water Corporation to the State Government each year, rather than through the introduction of a new tax; In the event that such funding is not provided, the 'healthy catchment rate' model is adapted so that it is only initially charged to all assessable properties (inc business) within the actual drainage catchment (not the entire PMR).

Once expanded to the entire PMR, the rate should be available for improvements to all receiving bodies in the PMR that require water quality improvement, not only those bodies draining into the Swan and Canning catchment.

Moved Cr Brett Treby / Seconded Cr Tracey Roberts

CARRIED

RESOLUTION

That the North Metropolitan Zone endorses all remaining items of the April 2011 State Council Agenda 'En-bloc'.

Moved Cr Dot Newton / Seconded Cr Brett Treby

CARRIED

7. EXECUTIVE REPORTS

Ms Ricky Burges highlighted the following matters in the President's Report

- Constitutional recognition; TELSTRA; NGA; Review of State Council structure and zones

Noted

7.1 State Councillor's report to the Zone

WALGA State Councillor presented on the previous State Council meeting.

Noted

7.2 Department of Local Government Representative Update Report.

The Department of Local Government representative was an apology to the meeting. An update report was attached to the Agenda.

Noted

8. BUSINESS

8.1 Zone Roundtable Forum 2011

By Margaret Degebrodt Zone Executive Officer

Background

A Zone Roundtable Forum has traditionally been held annually during the Local Government Convention in August each year. The Zone Roundtable Forum brings together Zone Presidents/Chairs, State Councillors and Executive Officers from all Zones in Western Australia to meet strategically with the WALGA President, Deputy President and Chief Executive Officer.

The Roundtable Forum is aimed at identifying strategic issues for Local Government over the coming 12 months and to align the strategic direction of Zones and the Association.

As with previous years, the Zone Roundtable Forum is by invitation only to Zone Presidents/Chairs, Zone Executive Officers and State Councillors, with no cost to the attendees.

The 2011 Zone Roundtable Forum will be held Wednesday 3 August from 5:30pm – 7:00pm at the Perth Convention Exhibition Centre, followed by dinner.

Items for discussion should be submitted with the relevant background information and proposed recommendation to Margaret Degebrodt by 9 May 2011 for inclusion in the May Zone agenda for endorsement by the Zone, before inclusion in the Zone Roundtable agenda.

Please email your Zone Roundtable Agenda items to Margaret at mdegebrodt@walga.asn.au by 4:00pm 9 May 2011.

Noted

8.2 Presentation on the Carbon Emissions Reporting Platform

Ms Melanie Bainbridge, Climate Change Coordinator WALGA, would like to make a 15-20 minute presentation to the North Metropolitan Zone meeting on 26 May 2011 to be held at the City of Joondalup.

Background

To ensure that Local Governments have a robust and consistent reporting framework with which they can meet their mandatory or voluntary reporting requirements the Association has commissioned Greensense, one of WALGA's climate change consultancy preferred suppliers, to develop a Corporate Greenhouse Gas Reporting and Abatement Platform for Local Government. The platform is cost effective and competitive with other emissions inventory frameworks, easy to navigate, and covers all of the emissions sources that Local Governments are required to report on.

It will also undergo consistent upgrade to meet Local Government emissions reporting needs over time, with expected changes in legislation, thresholds and community expectations taken into account. Capacity is built into a yearly subscription fee to ensure that the tool is 'ahead of the game' with respect to future developments or reporting requirements. The platform meets the specific reporting

requirements of the National Greenhouse and Energy Reporting Scheme and ISO 14064, for those Local Governments with mandatory reporting obligations, as well as being easily applicable to voluntary reporting requirements under the NCOS framework.

The development of a sector wide set of energy and carbon accounts is considered instrumental in better positioning the sector in relation to future climate change policy instruments developed by other spheres of government.

RECOMMENDATION

That Ms Melanie Bainbridge be invited to the North Metropolitan Zone meeting to be held 26 May to present on the Carbon Emissions Reporting Platform.

Moved Cr Tracey Roberts / Seconded Cr Brett Treby

CARRIED

8.3 Presentation by Western Power

Mr Mike Read from Western Power would like to present to the North Metropolitan Zone meeting to be held 26 May 2011 at the City of Joondalup.

The 15-20 minute presentation will cover Western Power's Local Government consultation process and where to go for assistance.

RECOMMENDATION

That Mr Mike Read from Western Power be invited to present to the North Metropolitan Zone at their meeting to be held 26 May 2011 at the City of Joondalup.

Members were asked to forward questions to Margaret Degebrod, WALGA prior to the meeting to enable Western Power to prepare responses.

Moved Cr Tracey Roberts / Seconded Cr Brett Treby

CARRIED

8.4 Use of Glass Drinking Containers in Licensed premises and Liquor Outlets

From the City of Joondalup

For your information the correspondence below was received from WALGA as a result of a Zone resolution in 2009. The WALGA response should close off the item.

Noted

20 September 2010

Our Ref: 06-045-01-0001/RS

Mr Jamie Parry
Secretariat
North Metropolitan Zone
c/- City of Joondalup
PO Box 21
JOONDALUP WA 6919

Dear Mr Parry

**RESOLUTION 7.10 USE OF GLASS DRINKING CONTAINERS
IN LICENSED PREMISES AND LIQUOR OUTLETS.**

I refer to your correspondence of 20 May 2009 and our subsequent reply on 31 August 2009 with regard to the use of glass drinking containers in licensed premises and liquor outlets.

Your resolution requested that the WA Local Government Association:

1. EXAMINE strategies for local government to work with the hospitality industry to better manage glass in licensed premises and liquor outlets.
2. PREPARE an application to The Criminal Confiscation Act 2000 Grants Program to fund resources to support this initiative.

Within our reply on 31 August 2009 it was indicated that WALGA would advise the Zone of the proposed strategies for their consideration. It would appear that this advice has to date not been formally provided to the Zone

In November 2009, the issue was considered by the Local Government Alcohol Reference Group that consists of representatives of the twelve pilot Local Governments (including the City of Joondalup), the WA Local Government Association, Department of Health and the Drug and Alcohol Office WA. The WA Police Liquor Enforcement Division were also consulted on this issue.

The results and some strategies from this investigation included:

1. Industry and Local Government Liquor Accords that self regulate and provide best practice guidelines to members may best be able to impact in this area.
2. The possibility of imposing restrictions on liquor licenses to require alternative drinking containers to glass after certain times during trading hours.
3. Strengthening of the training of Security Guards – An Injury Control Council of WA Project that is currently underway touches on this area. This project falls under the Safer Bars project. It is anticipated that pending positive evaluation a second round of training will be made available to interested premises
4. By-laws to ban the use of glass drinking containers in licensed premises – this is an international strategy and was not found to be an attractive alternative for Australia

WALGA also met industry representatives, the Australian Hotels Association late last year who advised that they would not endorse a blanket ban on glass drinking containers in any format. They did indicate some interest in working with us on some Voluntary Guidelines for licensees. This was not progressed due to a conclusion that a voluntary guideline in itself would not be likely to be taken up by licensees at that point, and thus would not be a feasible use of resources.

The second resolution was in regard to seeking funding to support the work to examine strategies for Local Government to work with the hospitality industry to better manage glass. The Alcohol and Crime Management Project Coordinator approached The Criminal Confiscation Act 2000 Grant Program Grants Administrator. Their advice was although a grant application could be put forward this type of initiative was not under the current guidelines for approval. Investigations were also made to several other funding organisations with a similar result.

In bringing this issue up to date, it has been noted by WALGA that although several States have now legislated against service in glass containers, or regulated glass containers to certain hours of operation, these moves have not been implemented in WA. Recent media reports however, indicate that the State Government is interested in progressing this discussion, although a mandatory ban was not supported. The Australian Hotels Association indicated through a media release in August 2010 that they were working on a set of criteria for a national standard for glass replacement products. This is supported by a number of licensed premises, however this is likely to take some time before a feasible standard can be introduced. Several Perth licensed premises have already moved to voluntarily ban glass during certain hours of operation.

In conclusion the research and anecdotal evidence supports working individually with licensed premises rather than a blanket approach. This issue has now attracted a higher profile across the community, and certain steps are underway within Government and the AHA to address this. WALGA acknowledges that

the health and safety issues of broken glass can be a significant concern for members, and will continue to keep a watching brief on developments.

Should you require any further information, please do not hesitate to contact Richard Struik, Community Policy Officer on 9213 2082 or rcstruik@walga.asn.au

Yours sincerely

Allison Hailes
Executive Manager
Planning and Community Development

8.5 Disclosure to Potential Purchasers

By City of Wanneroo

IN BRIEF

Consideration be given to requesting WALGA to write to REIWA & UDIA seeking support to highlight to potential purchasers their legal rights and responsibilities in respect of developer imposed covenants and impositions and disclosing other matters of potential interest.

BACKGROUND

A City of Wanneroo Elected Member has raised an issue of concern with potential purchasers of property not being fully informed of the status and enforceability of developer introduced covenants.

Developer covenants generally relate to colour choice and architectural style controls for new housing. Local Government has no statutory responsibility whatsoever for enforcing such covenants, although there are some peculiar exceptions to this rule in some local government areas, where legal arrangements have been entered into between the Council and the developer to enforce compliance with said covenants.

Additionally, in some rare instances, developers will also impose restrictive covenants on properties, which seek to restrict the nature of development that can occur on a particular lot(s). In those instances, local government planning schemes do possess the legal power to extinguish restrictive covenants where they purport to preclude development that would otherwise be permitted under the scheme.

It is worth noting that in almost all instances where a developer has imposed design or restrictive covenants, they will also make it a condition in the contract of sale for the prospective purchaser to adhere to the restrictive covenants and to agree to penalties for not doing so. Hence, although the covenant may have no effect on the local government's decision making powers, if the land owner breaches the covenant they may (in doing so) invite legal action by the developer for breach of contract.

The City of Wanneroo also receives complaints from residents who have purchased property without being aware that there is imminently going to be development adjoining or near enough to their property to cause them concern and which once they become aware of they often want to stop, because they disapprove of the nature of the development (which may be for instance public facilities, parks, or commercial development across the road, an adjoining public sector development across the road, or adjoining their property or very near to them).

Whilst the legal onus is on the resident to undertake their own research into land use issues prior to purchase, often the land developer is aware of these types of developments and could proactively brief prospective buyers.

COMMENT

In light of the above it is difficult to identify the role that local government could play. One option may be for the WALGA North Metro Zone to recommend to WALGA to write to REIWA and UDIA seeking their support to highlight to potential purchasers their legal rights and responsibilities in respect of developer imposed covenants and land use activities within the development.

RECOMMENDATION

That WALGA writes to REIWA & UDIA seeking support to highlight to potential purchasers their legal rights and responsibilities in respect of developer imposed covenants and impositions and land use activities within the development.

Moved Cr Bob Smithson / Seconded Cr Tracey Roberts

CARRIED

9. OTHER BUSINESS

Nil

10. DATE, TIME AND PLACE OF NEXT MEETING

RESOLUTION

That the next meeting of the North Metropolitan Zone to be held at 6:00pm, Thursday 26 May 2011 at the City of Joondalup.

Moved Cr Brett Treby / Seconded Cr Tracey Roberts

CARRIED

11. CLOSURE

There being no further business the Chair declared the meeting closed at 7:15pm