



MINUTES

Annual General Meeting

Perth Convention Exhibition Centre
Perth

7 AUGUST 2013



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Annual General Meeting – Order of Proceedings

1. Record of Attendance and Apologies

Apologies received from:

Shire of West Arthur

Shire of Augusta-Margaret River

Shire of Cocos (Keeling) Islands

Shire of Leonora

Shire of Upper Gascoyne

Shire of Wongan-Ballidu

The Rt Hon Lord Mayor of the City of Perth Lisa Scaffidi – City of Perth

Mayor Ron Yuryevich – City of Kalgoorlie Boulder

1.1 Announcements

There were no announcements

2. Confirmation of Minutes

Minutes of the 2012 WALGA Annual General Meeting are contained within this AGM Agenda.

Moved: Cr G Pule (Bassendean)

Seconded: Cr Julie Brown (Gosnells)

That the Minutes of the 2012 Annual General Meeting be confirmed as a true and correct record of proceedings.

CARRIED

3. Adoption of President's Annual Report

The President's Annual Report for 2012/2013 is contained within this AGM Agenda.

Moved: Cr L Short (Dandaragan)

Seconded: President Cr Eileen O'Connell (Nungarin)

That the President's Annual Report for 2012/2013 be received.

CARRIED

4. WALGA 2012/2013 Financial Statements

The audited 2012/2013 WALGA Financial Statements will be distributed to all members prior to the meeting.

Moved: Cr M Norman (Joondalup)

Seconded: President Cr W Barrett (Murray)

That the WALGA Financial Statements for 2012/2013 be received.

CARRIED

5. Consideration of Executive and Member Motions

As per motions listed:

6. Closure

There being no further business, the President declared the meeting closed at 5.41pm

5.0 Consideration of Executive and Member Motions

5.1A MATTER OF SPECIAL URGENT BUSINESS: Local Government Metropolitan Reform

Shire of Cottesloe

Absolute Majority required

MOTION

Moved: Cr J Walsh (Cottesloe)
Seconded: Cr G Boland (Cottesloe)

That the Members agree that the item of Special Urgent Business, relating to Local Government Metropolitan Reform be considered.

CARRIED BY ABSOLUTE MAJORITY

5.1B MATTER OF SPECIAL URGENT BUSINESS: Local Government Metropolitan Reform

Town of Cottesloe:

MOTION

Moved: Cr J Walsh (Cottesloe)
Seconded: Cr G Boland (Cottesloe)

That WALGA condemns the removal of the “poll provisions” for the metropolitan area from Schedule 2.1 of the *Local Government Act 1995* and the forced amalgamations of Local Government Councils.

IN BRIEF

- Sector position is to retain the Poll Provisions of the *Local Government Act 1995*.
- State Government announcement on Metropolitan Reform states that the Poll Provisions will be removed for the Metropolitan area.

AMENDMENT

Moved: President Cr W Barrett (Murray)
Seconded: President Cr P Blight (Wagin)

That WALGA condemns the removal of the “poll provisions” from Schedule 2.1 of the *Local Government Act 1995* and the forced amalgamations of Local Government Councils.

The Amendment was put and

CARRIED

The Amendment became the Motion and was put and

CARRIED

MEMBER COMMENT

WALGA has previously voted to support amalgamation only if it was voluntary and supported the retention of the Dadour provisions of the Local Government Act without change. We are now being told there will be forced amalgamations and therefore, removal of the Dadour provisions. That means amalgamation to the State Government model in 2 years for city councils and in 5 years for country councils.

Brendon Grylls says he has an agreement with Colin Barnett to exempt country councils while Colin Barnett says he has made no such agreement. It is time to get the attention of state government members of parliament particularly the Nationals.

We have been told that the compelling reason for amalgamation is economic, with economies of scale and big savings on excess salaries of CEO's, mayors and councillors being paramount. Colin Barnett said 'many would be surprised that 13 CEO's are paid more than him and 23 CEO's are paid more than ministers'. An accurate comparison would be to compare CEO's salaries with those of government department heads, and mayors and councillors with members of parliament. What can charitably be described as misrepresentation is a common approach for this government. Incidentally most of the well-paid CEO's are successfully balancing their budgets unlike those running the state government.

I noted the Premier's comments that Melville ratepayers paid average rates of \$1233 versus East Fremantle rates of \$1681. To make a fair comparison, you need to look at the services provided and importantly, the average rateable value of properties. It's a specious argument. Comparisons were previously made between Mosman Park and Joondalup. Their property values are very different and the argument is clearly unreasonable.

Minister Simpson told us that another reason for amalgamation is that the developers want it to happen in order to remove red tape and speed-up approvals for their projects. He didn't point out that conforming applications are rubber-stamped by council officers within days. It is only those which do not conform or which are inappropriate which are put to councils for deliberation and may take extra time.

The unproven, economic benefits promised with these forced amalgamations are not supported by evidence from the Eastern States where large councils formed by forced amalgamations are the norm. In Queensland, where amalgamations were forced at great cost to local councils, a number have opted to go to the expense of de-amalgamation now that they have that option with a new government. In NSW, councils are fighting hard against amalgamations. Professor Dollery, foremost expert on local government from the University of New England, stated last week that any savings were problematic at best and were not borne out by the Australian experience.

The WA Liberal Party was not prepared to test a reaction to forced amalgamations at the recent state election. In fact both Colin Barnett and Tony Simpson stated there would be no forced amalgamations. Now we are given a blueprint for the metropolitan area and told if this has not been supported by councils by July 1, 2015 with perhaps some minor tinkering, then the State will enforce it!

What we see here is the final nail in the emasculation of local government in Western Australia. With only large councils in place, most candidates will need the backing of a political party to be elected, ensuring local governments becoming tools of the state government.

Planning approval for developments costing over \$3 million has already been taken away from local councils and is now decided by DAP's.

An ever-increasing number of basic costs are being passed to local governments while decision-making powers are being removed.

For those of you who may support amalgamation of councils, what we are looking at here is the democratic right of Local Government to decide it's future not to have a future forced upon it, particularly one that has no verifiable benefits.

I ask that you support this Motion to show that we councillors stood for election to act independently for the good of our communities, not to act as puppets for the state government.

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We are now being told there will be forced amalgamations and therefore, removal of the Dadour provisions. That means amalgamation to the State Government model in 2 years for city councils and in 5 years for country councils.

Brendon Grylls says he has an agreement with Colin Barnett to exempt country councils while Colin Barnett says he has made no such agreement. It is time to get the attention of state government Members of Parliament particularly the Nationals.

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SECRETARIAT COMMENT

State Council last directly considered the poll provisions in October 2010 in response to the Local Government Reform Steering Committee's Final Report. State Council resolved to oppose Recommendation 3 of the Steering Committee's Report, which stated:

Recommendation 3

Consider the following legislative options to facilitate the implementation of recommendation 2:

- a) Remove the poll provisions from the Local Government Act 1995;*
- b) Retain the poll provisions but amend so that the poll is of all affected districts and votes combined;*
- c) Retain the poll provisions, but amend so that poll is of all affected districts and votes averaged;*
- d) Introduce specific restructuring legislation.*

The poll provisions were also considered by State Council during the Metropolitan Local Government Review process.

The poll provisions formed a part of WALGA's response to the Metropolitan Local Government Review Panel's Recommendation 14:

Panel Recommendation 14

The Local Government Advisory Board be dissolved and its operating and process provisions in the Local Government Act 1995 be rescinded, with the Local Government Commission taking over its roles, including consideration of representation reviews.

WALGA's response to this recommendation follows:

Panel Recommendation 14 is CONDITIONALLY SUPPORTED, subject to:

- The 'poll provisions' in Schedule 2.1 of the Act not being repealed; and,***
- The Local Government Commission having a substantial capacity building role.***

Further, in commentary, page 22 of WALGA's Submission to the Draft Findings – May 2012 – stated:

A recommendation to remove or significantly alter the rights of communities to self-determination expressed through the poll provisions contained in schedule 2.1 of the Local Government Act 1995 would be opposed.

WALGA's current position is to oppose any move to repeal or amend the poll provisions contained in Schedule 2.1 of the *Local Government Act 1995*.

5.1 Association Constitution – Impacts of Amalgamations (01-001-01-0001TB)

Special Majority required

RESOLUTION

Moved: Cr J Amphlett (Joondalup)
Seconded: Cr L Short (Murray)

1. That the Constitution be amended as follows:

- a. In clause 2:
Insert a new definition of Commissioner –

“Commissioner means a Commissioner appointed to a Local Government under sections 2.6(4) or 2.36A(3) of the *Local Government Act 1995*.”
- b. In clause 2 amend the definition of Councillor by inserting after the words “elected by electors” –
“and includes a Commissioner appointed under section 2.6(4) or section 2.36A(3) of the *Local Government Act 1995*.”
- c. Amend the definition of Member by inserting after the words “sub-clause 14(2)” –
“; or
 - A new Council created pursuant to a merger or amalgamation of existing Councils that were Ordinary Members of the Association prior to the merger or amalgamation.”
- d. Amend the definition of Ordinary Member by inserting after “provisions of this Constitution” -
“and includes a new Council created pursuant to a merger or amalgamation of existing Councils that were Ordinary Members of the Association prior to the merger or amalgamation.”
- e. In clause 5 insert a new clause (3) as follows –
“Ordinary Membership shall be immediately conferred upon any new Council created by the merger of existing Councils that were Ordinary Members of the Association prior to the merger, provided that all membership fees and subscriptions owed to the Association up to the date of merger by the predecessor Councils of that new Council have been paid.”
All subsequent subclauses are renumbered.
- f. In clause 14 paragraph (4a)(b) delete the words “who elected or appointed the person as its delegate.”

g. Clause 20(b) delete the words “who elected or appointed the person as its delegate.”

CARRIED BY SPECIAL MAJORITY

SECRETARIAT COMMENT

There are seven amendments proposed to the Constitution. The majority of these amendments are minor.

These amendments seek to clarify the issue of WALGA membership where two or more councils amalgamate, thereby creating a new Local Government entity and the need for Commissioners in the interim.

The issue was initially raised by a Zone Member who queried whether they would have a continuing right to sit as a Zone Delegate if their Local Government merged with a neighbouring Local Government. They would no longer be the Mayor of the previous entity but a Commissioner of the new Local Government until a date was set for the inaugural elections of that new entity.

The amendments deal with inserting a new definition of Commissioner into the WALGA Constitution as follows.

“Commissioner means a Commissioner appointed to a Local Government under sections 2.6(4) and 2.36A(3) of the Local Government Act 1995.”

This allows for a Commissioner appointed by the Governor to a newly created Local Government to sit as a Zone Delegate and possibly as a State Councillor.

The definition of a Commissioner does not include a Commissioner appointed as a result of a suspension of Council. It was thought that this situation was significantly different from the appointment of Commissioners arising from an amalgamation.

The definitions of a Councillor, Member and an Ordinary Member also needed amending in order to accommodate a Commissioner and confer membership on the newly created entity.

The final amendment simply clarifies the termination of a role.

The proposed amendments were unanimously endorsed by State Council at their Special State Council meeting held on 30 May 2013 and a copy of the marked up version of the Constitution showing these amendments are marked in red. This is attached and follows agenda Item 5.2 Proposed Amendments to the Western Australian Local Government Association Constitution – State Council Commencement Date.

5.2 Proposed Amendments to the Western Australian Local Government Association Constitution – State Council Commencement Date (01-001-01-0001TB)

Special Majority required

RESOLUTION

Moved: President Cr Eileen O’Connell (Nungarin)
Seconded: Mayor H Henderson (Subiaco)

1. That the Constitution be amended as follows:

In clause 9, amend the commencement and conclusion date for State Councillors’ term of office by amending sub-clause (3) to read:

“Representatives and deputy representatives to the State Council shall be elected by Zones of the metropolitan and country constituencies from amongst the delegates to the Zones for a term commencing on the day of the first Ordinary Meeting of State Council immediately following the biennial Local Government elections and concluding on the day before the first Ordinary Meeting of State Council of the following biennial Local Government elections.”

- 2. That a motion be submitted to the 2013 Annual General Meeting seeking to amend the Constitution as per State Council’s resolution.**
- 3. If this proposed amendment is successful at the August 2013 Annual General Meeting, the current term of State Council be reduced to end on 3 December 2013.**

CARRIED BY SPECIAL MAJORITY

SECRETARIAT COMMENT

Contemplation of this amendment must also take into account any unintended consequences or Zone-specific issues that may affect the State Council delegate election occurring in time for a December commencement.

A review of Zone Minutes from 2011 indicates that the majority of Zones conducted their State Council delegate election in November, and those that did not, simply deferred the election until the next Zone meeting prior to the March round of State Council. One Zone did not conduct a meeting leading up to the December round of State Council.

From WALGA’s perspective, considerable effort is devoted to the induction of State Council delegates elected for the first time. However, this process can be reviewed and managed administratively.

The only hindrance that exists, is the need for all Local Governments to elect their delegates to the Zones prior to the Zone meetings commencing in late November (in 2013 Zone meetings commence on 22 November).

To assist State Council with consideration of this issue, the secretariat canvassed Local Governments by conducting a quick survey on the issue. There was not a lot of time given for feedback, so a number of the responses were administrative responses and did not have the Councils formal position.

47 responses were received with 39 Local Governments supporting the proposal and 8 opposing.

If this amendment is supported it would effectively reduce the current term of State Councillors by 3 months from March 2014 to December 2013.

The proposed amendments were unanimously endorsed by State Council at their Special State Council meeting held on 30 May 2013 and a copy of the marked up version showing these amendments of the Constitution, relating to this item are marked in blue. This is attached and follows this agenda item.

5.3 Election of Shire President or Mayor (05-034-01-0001 TB)

Shire of Dardanup

RESOLUTION

Moved: Cr P Robinson (Dardanup)

Seconded: Cr M Bennett (Dardanup)

“Election of Shire Presidents or Mayors

That the Western Australian Local Government Association lobby the State Government not to amend the Local Government Act 1995 with regard to election of Shire Presidents or Mayors”

CARRIED

MEMBER COMMENT

This matter was included in the Metropolitan Review report at recommendation 18. The expert panel recommended to the community that Mayors and Presidents should be elected by the community at large.

The Shire of Dardanup contends that the person who leads the Council at meetings and in the public arena should be a leader that is appointed by the people whom they are to lead.

This position is advocated on the premise that a person who is a part of the Council will align themselves more closely with the views and policies of the Council, views that have been debated and arrived at through the Council planning for the future of their communities. A community elected President may run their election campaign on a platform that is at odds with the Council as a group, therefore being tempted to promote their own personal views at every opportunity rather than promoting the views of the elected Council.

A Council elected President is considered more likely to accept challenges from the Council, whereas a community elected President may hold the view that the people within the community have mandated them to pursue the agenda they canvassed during their campaign. They may also be strongly influenced by those supporters, being aloof to the majority of the other elected Councillors to follow a different path and therefore use their new found influence and access to government bureaucrats and politicians to tread a path that is not supported by the majority of the Council.

Election of Presidents from amongst the elected members reflects the current Westminster system employed by both state and federal government levels. It seems to be anachronistic to have the State legislate for Local Government a practice that itself is unwilling to adopt.

This recommendation has been put forward in good faith to reduce the risk of creating an environment whereby dysfunctional Local Governments evolve through public disagreements between the elected Councillors and the Shire President or Mayor. Unity in leadership is considered to be more likely if the leader is appointed by the people they are to lead.

SECRETARIAT COMMENT

As stated above, Recommendation 18 of the Metropolitan Local Government Review Panel's final report stated that: *"All Mayors and Presidents be directly elected by the community"*.

WALGA developed a comprehensive and detailed submission in response to the Panel's Final Report, including the Panel's 30 recommendations.

Following feedback from Local Governments, WALGA opposed recommendation 18 in its submission to the Government:

"Panel Recommendation 18 is OPPOSED. Local Governments should be able to determine the election method of their Mayor or President."

Further, in commentary, WALGA's submission stated:

"In line with the principle of 'general competence', the Association supports Local Governments being able to determine the method of electing their Mayor or President as per current arrangements."

At the time of writing, the State Government has not provided its response to the Metropolitan Local Government Review Panel's Final Report and it remains unclear whether the State Government intends to require all Mayors and Presidents to be popularly elected as the Panel recommended. Nevertheless, the Shire of Dardanup's motion is in line with WALGA's existing advocacy position.

5.4 Proposed Local Government Act Amendment – Exemption from Liability (05-034-01-0001 MB/JMc)

City of Mandurah

RESOLUTION

Moved: Mayor P Creevey (Mandurah)
Seconded: Cr G Brown (Mandurah)

That WALGA prepare a position paper to support the lobbying of the Minister of Local Government to amend the Local Government Act (1995) to allow Local Governments an exemption from liability on flood liable land, land subject to bushfire and land in coastal zones where that Council has acted in good faith in relation to its decision on the land in question.

CARRIED

MEMBER COMMENT

The New South Wales Local Government Act (1993) includes Section 733 which states:

733 Exemption from liability-flood liable land, land subject to risk of bush fire and land in coastal zone

(1) A council does not incur any liability in respect of:

(a) any advice furnished in good faith by the council relating to the likelihood of any land being flooded or the nature or extent of any such flooding, or

(b) anything done or omitted to be done in good faith by the council in so far as it relates to the likelihood of land being flooded or the nature or extent of any such flooding.

(2) A council does not incur any liability in respect of:

(a) any advice furnished in good faith by the council relating to the likelihood of any land in the coastal zone being affected by a coastline hazard (as described in a manual referred to in subsection (5) (b)) or the nature or extent of any such hazard, or

(b) anything done or omitted to be done in good faith by the council in so far as it relates to the likelihood of land being so affected.

(2A) A council does not incur any liability in respect of:

- (a) any advice furnished in good faith by the council relating to the likelihood of any land being subject to the risk of bush fire or the nature or extent of any such risk, or
 - (b) anything done or omitted to be done in good faith by the council in so far as it relates to the likelihood of land being subject to the risk of bush fire.
- (3) Without limiting subsections (1), (2) and (2A), those subsections apply to:
- (a) the preparation or making of an environmental planning instrument, including a planning proposal for the proposed environmental planning instrument, or a development control plan, or the granting or refusal of consent to a development application, or the determination of an application for a complying development certificate, under the Environmental Planning and Assessment Act 1979, and
 - (b) the preparation or making of a coastal zone management plan, or the giving of an order, under the Coastal Protection Act 1979, and
 - (c) the imposition of any condition in relation to an application referred to in paragraph (a), and
 - (d) advice furnished in a certificate under section 149 of the Environmental Planning and Assessment Act 1979, and
 - (e) the carrying out of flood mitigation works, and
 - (f) the carrying out of coastal management works, and
 - (f1) the carrying out of bush fire hazard reduction works, and
 - (f2) anything done or omitted to be done regarding beach erosion or shoreline recession on Crown land, land within a reserve as defined in Part 5 of the Crown Lands Act 1989 or land owned or controlled by a council or a public authority, and
 - (f3) the failure to upgrade flood mitigation works or coastal management works in response to projected or actual impacts of climate change, and
 - (f4) the failure to undertake action to enforce the removal of illegal or unauthorised structures that results in erosion of a beach or land adjacent to a beach, and
 - (f5) the provision of information relating to climate change or sea level rise, and
 - (f6) anything done or omitted to be done regarding the negligent placement or maintenance by a landowner of temporary coastal protection works, and
 - (g) any other thing done or omitted to be done in the exercise of a council's functions under this or any other Act.

- (4) Without limiting any other circumstances in which a council may have acted in good faith, a council is, unless the contrary is proved, taken to have acted in good faith for the purposes of this section if the advice was furnished, or the thing was done or omitted to be done, substantially in accordance with the principles contained in the relevant manual most recently notified under subsection (5) at that time.
- (5) For the purposes of this section, the Minister for Planning may, from time to time, give notification in the Gazette of the publication of:
- (a) a manual relating to the management of flood liable land, or
 - (b) a manual relating to the management of the coastline, or
 - (c) a manual relating to the management of land subject to the risk of bush fire.

The notification must specify where and when copies of the manual may be inspected.

- (6) A copy of the manual must be available for public inspection, free of charge, at the office of the council during ordinary office hours.
- (7) This section applies to and in respect of:
- (a) the Crown, a statutory body representing the Crown and a public or local authority constituted by or under any Act, and
 - (b) a councillor or employee of a council or any such body or authority, and
 - (c) a public servant, and
 - (d) a person acting under the direction of a council or of the Crown or any such body or authority,

in the same way as it applies to and in respect of a council.

- (8) In this section:

"coastal management works" includes the placement and maintenance of temporary coastal protection works.

"coastal zone" has the same meaning as in the Coastal Protection Act 1979, and includes land previously in the coastal zone under that Act and land that adjoins the tidal waters of the Hawkesbury River, Sydney Harbour and Botany Bay, and their tributaries.

"manual" includes guidelines.

A similar provision in the WA Local Government Act would allow Local Governments to act with confidence in their decision making on land potentially vulnerable to flood erosion or fire, and would suitably protect the Council and the decision makers.

SECRETARIAT COMMENT

The amendment requested above refers to the imposition of an exemption clause similar to that of section 733 of the *Local Government Act 1993 (NSW)*. This section seeks to make exempt from liability Local Governments where advice is furnished in good faith that relates to the likelihood of any land being flooded or the nature or extent of any flooding; or anything done or omitted to be done in good faith by the Council in so far as it relates to the likelihood of land being flooded or the nature or extent of any such flooding. There is similar provision in relation to bush fire risks and land in a coastal zone.

The City of Mandurah has requested a position paper be prepared by WALGA to support the lobbying of the Minister in order for an amendment to be made to the *Local Government Act 1995*. The *Local Government Act 1995 (WA)* already makes provision for protection from liability in specific instances. Section 9.56 provides protection for defined persons from liability for wrongdoing as follows –

- (2) *An action in tort does not lie against a protected person for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act or under any other written law.*
- (3) *The protection given by this section applies even though the thing done in the performance or purported performance of a function under this Act or under any other written law may have been capable of being done whether or not this Act or that law had been enacted.*
- (4) *This section does not relieve the Local Government of any liability that it might have for the doing of anything by a protected person.*
- (5) *In this section —*
 - (a) *a reference to the doing of anything includes a reference to the omission to do anything;*
 - (b) *a reference to the doing of anything by a protected person in the performance or purported performance of a function under any written law other than this Act is limited to a reference to the doing of anything by that person in a capacity described in subsection (1)(a), (b) or*
 - (c) *as the case may be.*

While an amendment similar to s. 733 of the *Local Government Act 1993 (NSW)* may facilitate confidence when making decisions in relation to climate change, it does not provide any further assurances than the current section 9.56 of the *Local Government Act 1995*.

Furthermore, it does not negate the Local Government's possible liability to pay compensation to a landowner for injurious affection. Under s. 173 of the *Planning and Development Act 2005*, any person whose land is injuriously affected by the making or amendment of a planning scheme is entitled to obtain compensation in respect of the injurious affection from the responsible authority.

Section 174 denotes when land is injuriously affected. Therefore, an amendment to a local planning scheme reserving land for a public purpose may attract a claim for injurious affection compensation. The compensation payable is effectively treated as the reduction in value of land caused by its reservation/development prohibition.

Section 733 of the *Local Government Act 1993 (NSW)* affords limited protection to Local Governments if they carry out their statutory power in good faith in relation to such land. It is not an ideal remedy and neither is it an exhaustive solution. Local Governments are afforded a defence in cases where they have acted in good faith and where they have not been negligent.

It should be noted that s. 733 has not as yet been rigorously tested judicially. Furthermore, as changes in climate become more certain, it is likely that Local Government will become more conservative in adopting development approvals. Developers will need to provide more stringent adaptation strategies and measures or attract contributory negligence.

The preferred approach to address climate change would be a coordinated national approach. If this is not forthcoming, it would then be prudent for Local Government to lobby the State Government to develop a coordinated approach to land use planning. This would be appropriate given the potential exposure of the WAPC in respect of injurious affection claims and that where region planning schemes operate they must guide local planning schemes

Local Governments would be protected from liability in coastal areas under the *Climate Change Readiness (Coastal Planning and Protection) Bill 2012*. This Bill specifies planning and development in the coastal zone, and the management of the coastal zone. The Bill has been tabled in Parliament, and the second reading was on 20 June 2013. Section 74 protects Local Governments from liability.

74. Protection from liability

- (1) In this section —
coastal management works includes the placement and management of emergency coastal protection works;

protected person means any of the following —
(a) a public authority;
(b) a member or employee of a public authority;
(c) a public service officer;
(d) a person acting under the direction of a public authority or the State;
(e) a member of the council, or of a committee of the council, of a local government.*
- (2) In this section a reference to the doing of anything includes a reference to the omission to do anything.*
- (3) A civil action does not lie against a protected person for —
(a) anything that the protected person has done, in good faith, in the performance or purported performance of a function under this Act; or
(b) any advice furnished in good faith by the protected coastal zone being adversely affected by a coastal hazard or the nature or extent of a coastal hazard; or
(c) anything that the protected person has done, in good faith, insofar as it relates to the likelihood of land in the coastal zone being adversely affected by coastal processes.*
- (4) The State and the Minister are also relieved of any liability that either of them might otherwise have had for another person having done anything as described in subsection (3).*
- (5) Without limiting subsection (3), that subsection applies to the following —*

- (a) *the preparation or making of a scheme;*
 - (b) *the grant or refusal of approval of development;*
 - (c) *the imposition of a condition in relation to an approval of development;*
 - (d) *the preparation or making of the WA coastal plan;*
 - (e) *the giving of a coastal protection notice;*
 - (f) *the carrying out of coastal management works in the coastal zone;*
 - (g) *the failure to upgrade coastal management works in the coastal zone in response to projected or apparent actual person relating to the likelihood of any land in the impact of climate change;*
 - (h) *anything done regarding beach erosion or shoreline recession;*
 - (i) *the failure to take action to enforce the removal of illegal or unauthorised structures in the coastal zone that results in erosion of a beach or land adjacent to a beach;*
 - (j) *the provision of information relating to projected impacts of climate change, including mean sea level rise.*
- (6) *Without limiting any other circumstances in which a protected person may have acted in good faith, a protected person is, unless the contrary is proved, taken to have acted in good faith for the purposes of this section if the advice was furnished, or the thing was done, substantially in accordance with the WA coastal plan and any local coastal adaptation plan or local coastal management plan for the relevant area.*
- (7) *The protection given by this section applies even though the thing done as described in subsection (3) may have been capable of being done whether or not this Act had been enacted.*

There is a possibility that this Bill will not be passed. In response, the Western Australian Local Government Association will lobby the Minister for Planning, John Day, to include the above section of the *Climate Change Readiness (Coastal Planning and Protection) Bill 2012* (section 74 – protection from liability) into the *Planning and Development Act 2005*. The Association will be meeting with Minister Day shortly to discuss this option.

5.5 Impacts of Climate Change (05-028-03-0015 MB)

City Rockingham

RESOLUTION

Moved: Cr J Stewart (Rockingham)

Seconded: Cr A Prince (Rockingham)

That WALGA seek a more committed and coordinated approach through the Western Australian State Government, Western Australian Local Government Association and Western Australian Local Governments in addressing the impacts of Climate Change on coastal infrastructure management, development control, land use planning and other potentially affected functions and activities.

CARRIED

MEMBER COMMENT

The City of Rockingham has for some time been undertaking extensive research and establishing a range of networks in the area of climate change adaptation and mitigation, central to which emerges the issue of sea level rise and extreme storm events which will have a significant impact of the City's coastal infrastructure management, development control and land use planning efforts. Whilst some good work has been done at an isolated Local Government level in Western Australia and at a state / Local Government level in New South Wales and Queensland, there is a very real absence of a truly coordinated approach across all tiers of government throughout the nation.

The issue of climate change and sea level rise is real and a major strategic risk and should be a significant influence in coastal management throughout Australia.

There is currently a lack of consistency between the approach to coastal policy and implementation adopted by the Australian, State and Territory governments. There is also, as identified by the recent Productivity Commission report into *Barriers to effective climate adaptation*, a need to clarify the roles, responsibilities and legal liability of Local Governments in relation to climate adaptation, and to improve their capacity to manage climate risks.

Coastal councils face significant challenges in dealing with a range of pressures affecting the coastal zone, including coastal erosion and projected climate risks such as sea level rise, and gaining resources to address the impact of population growth and seasonal tourism peaks.

The recent Productivity Commission inquiry into *Barriers to effective climate adaptation* has identified several barriers to effective service delivery by Local Governments in the current climate.

The roles and responsibilities of Local Government are not always clear. These include responsibilities for managing the risks of climate change, especially in the areas of emergency management and existing areas of settlement at risk from climate change, but also extend to many areas beyond adaptation.

Local Governments have capacity constraints. Shortages of professional and technical expertise, and financial constraints, are preventing some Local Governments from planning for climate change and implementing effective adaptation actions. There is also inadequate information and guidance to support Local Government decision making. It is the responsibility of state and territory governments to ensure that councils have the capacity to fulfill their regulatory functions, including those that relate to climate change adaptation.

There is a need for a mechanism such as a Council of Australian Governments (COAG) Standing Council on Coasts and Climate Change to enable the federal, state and Local Government to achieve effective collaboration on coastal management and climate change matters. Such a mechanism needs to define the roles and responsibilities of the three tiers of government involved in coastal zone management, as recommended in the 2009 Coastal Inquiry report of the House of Representatives Standing Committee on Climate Change, Water, Environment and the Arts.

SECRETARIAT COMMENT

Over the past six years, the Association has provided a broad range of support to the Local Government sector in the area of Climate Change Management. This has been done through the delivery of policy advice, policy development, targeting mitigation project, inventory support projects (Emission Reporting Platform), the development of a web based adaptation management toolkit, communication projects, educational road-shows, policy/ legislative analysis and a suite of other services.

In September 2007, the Association's Climate Change survey highlighted the sectors increased need for policy, advocacy and project support on climate change risks, liability and opportunities and in April 2008, created the Climate Change Coordinator position as a strategic response. In June 2009, the Association Local Government Climate Change Policy was endorsed by State Council.

The Association Climate Change Policy

This policy position outlines a series of high level acknowledgement and commitments for climate change management. It was developed through consultation from WA Local Governments, State and Territory Local Government Associations and the State Office of Climate Change (now the Climate Change Unit). The Association Local Government Climate Change Policy was the first climate change policy endorsed by a State Association within Australia.

Association Climate Change Declaration

The Association has also developed the Local Government Climate Change Declaration and held a signing ceremony in May 2012. To date, twenty-eight Local Governments have formally signed the Declaration, which is a voluntary opportunity for Local Governments to reiterate their political commitment to climate change management and participate in a leadership approach across the entire sector. In many circumstances the Declaration merely consolidates the ongoing work already being undertaken by Local Government.

Association Climate Change Management Toolkit

In partnership with the then Office of Climate Change, the Association developed a web based Climate Change Management Toolkit to assist Local Governments to adapt to the challenges that climate change will bring. As well as housing a large database of information including Local Government contacts, policy and project information and a communication portal for events and

changing legislation and funding opportunities, the Toolkit provides essential resources to Local Government in developing their adaptation responses.

Local Government Project Map

The Association's 'searchable map' details climate change projects, programs and policies being developed by proactive Local Governments across the State. The map will provide a complete picture of the depth and breadth of Local Government's vital contribution to the climate change management space, and is a visual tool for advocacy on future funding and support needs for the sector.

The map details specifics of the projects allowing Local Governments to communicate with their neighbours and colleagues across the sector to ensure that successful projects are shared, celebrated and efforts not duplicated.

Local Government Emission Reporting Platform

To assist Local Governments monitor and set reduction targets on their greenhouse gas emissions, the Association and Greensense Climate Change Consulting developed the Emissions Reporting Platform.

The Platform enables the 22 participating Local Governments (as well as the Association) to track and monitor greenhouse gas emissions, energy use, providing a simple to use interface to input raw data such as electricity consumed or fuel purchased. The platform then completes all required calculations to determine the greenhouse gas emissions resulting from Local Government activities.

These calculations are based around methodologies prescribed by National frameworks and allow Local Governments to meet any mandatory or voluntary commitment through the National Greenhouse and Energy Reporting Scheme (NGER), the National Carbon Offset Standard (NCOS) and the Greenhouse Gas Protocol (ISO14061.1).

A steering committee of subscribed Local Governments meets quarterly to determine functional upgrades to the Platform and to discuss any issues or concerns relating to reporting and data uploading.

The Associations Climate Change and Planning Policy Guideline

The Association developed a resource package to assist Local Government Planners, Elected Members and other senior officers to access relevant resources, recommendations, policy guidance, template policy frameworks and information.

The final guideline was developed by the Association as a joint initiative with the Department of Planning and the Department of Environment and Conservation to service the needs of the Local Government Sector. The Guidelines for incorporating climate change impacts into the Local Government Planning framework was sent out to each Local Government earlier in 2013 and is available for download on the Association Climate Change Management Toolkit website.

Stakeholder Engagement

The Association facilitates a number of stakeholder groups to ensure a committed and coordinated approach to climate change management.

The Association meets with representatives of other State and Territory Associations a number of times annually, to share information and discuss important climate change issues that have

implications across Australia. The Association also attended information sessions held by other States (such as South Australia's Climate Change Adaptation workshop), to investigate opportunities for a coordinated approach.

The Climate Change Councillors Group meets quarterly and provides policy input to the Association. The group's main role is to share understanding on climate change issues and priorities from the perspective of Elected Members, raise issues with the Association. The group also provides advice on the best response to these issues.

The Climate Change Senior Officers Group meets quarterly and is an advisory group that ensures that the Association is meeting the needs of Local Government state-wide in the development of further resources, useful events and consideration of strategic advocacy. This group can also highlight issues for noting at the upcoming Councillors meeting, which provides a link between officers and elected members.

COAG

The Select Council on Climate Change indicated that its term is now complete and has recommended that ongoing adaptation tasks and recommendations from the Productivity Commission's final report "Barriers to Effective Climate Change" now be delegated to COAG's Standing Council on Environment and Water. It should be noted that ALGA has representation on this Standing Council.

The abovementioned measures and commitments are just a few examples of the Association's commitment to providing ongoing support to the WA Local Government sector in the area of climate change. The Association understands that there is still a range of work to undertake in this field and is committed to working alongside the sector to provide valuable support, management tools, policy and advocacy in the climate change adaptation and mitigation endeavours.

At the 2013 ALGA National General Assembly the following motion was considered and supported:

That the National General Assembly calls on the Australian Government to initiate a coordinated approach, involving all three levels of government, to planning and managing the Australian coast for the benefit of future generations.

5.6 Proposed Local Government Amendment – Council Controlled Organisations (05-034-01-0015 TB)

City of Greater Geraldton

RESOLUTION

Moved: Cr R Hall (Greater Geraldton)
Seconded: Cr N Messina (Greater Geraldton)

That the proposed amendments to the Local Government Act 1995 in relation to Council Controlled Organisations prepared by WALGA in October 2011 be endorsed and resubmitted to the State for consideration.

CARRIED

MEMBER COMMENT

Local governments in WA have been advocating for the ability to establish corporate entities (called Local Government Enterprises) as vehicles for greater efficiency and improved partnering practices for Local Government involvement in a range of commercial activities that are distinct from the commonly understood “core functions” of local government.

WALGA has for a number of years been developing a proposal for corporate entities which is based on the New Zealand model and termed “Council Controlled Organisation”.

The Council Controlled Organisation model can be used for activities including urban regeneration projects, measures to address economic decline in regional centres, public private partnerships to develop Local Government assets and measures to enhance the income-generating asset base of Local Governments.

The benefits of establishing arms-length entities to undertake these activities include:

- the ability to employ professional directors/trustees and management with experience specific to the commercial objectives of the entity;
- removal of detailed investment decisions from day-to-day political processes while retaining political oversight of the broad strategy;
- the ability to quarantine the ratepayers from legal liability and financial risk arising from commercial or investment activities; and
- greater flexibility to enter into joint venture and partnering relationships with the private sector on conventional commercial terms.

SECRETARIAT COMMENT

The Association has been advocating for Council Controlled Organisations since the Systemic Sustainability Study (SSS) in 2008 (referred to as ‘Local Government Enterprises’). As part of the SSS, the report “Achieving Best Practice in Urban Regeneration: A Review of Statutory Constraints to Local Government Guided Outcomes” was adopted.

This was followed by the discussion paper “Local Government Enterprises as a Means of Improving Local Government Efficiency” which was adopted by the WALGA State Council in October 2010 with the following resolution;

That;

1. **WALGA endorse the ability for Local Governments to establish Local Government Enterprises through the creation of arms-length corporate subsidiaries.**
2. **The comprehensive approach as identified in the discussion paper be the preferred approach.**
3. **WALGA advocate to the Minister for Local Government for the Local Government Act to be amended to permit Local Government Enterprises to be established and for the creation of a Working Group comprising of WALGA, LGMA and the Department of Local Government to implement the proposal.**
4. **WALGA coordinate the following for further input to the advocacy and implementation process;**
 - a. **Development of guidelines and best practice resources.**
 - b. **Further development of legal, technical and accountability issues associated with the Local Government Act amendment proposals in line with Sector feedback.**
 - c. **Development of educational and informational support.**

Local Government Enterprises was based on the New Zealand model and termed “Council Controlled Organisation”. In 2011, as there had been some misinterpretation of the proposal, WALGA re-wrote the proposal to align more closely with the New Zealand model and to incorporate the same name being “Council Controlled Organisation”

WALGA had been advocating this proposal to the former Minister for Local Government the Hon John Castrilli and recently raised the proposal with the new Minister for Local Government, the Hon Tony Simpson. The discussion paper that includes proposed legislative amendments is being updated to provide more current examples of the type of proposal that would utilise a Council Controlled Organisation model and also highlight examples where the current Act has restricted certain Council activity.

5.7 Effects of Structural Reform On WALGA (05-034-01-0015 TB)

Shire of Dardanup

PROPOSED MEMBER MOTION

“Possible WALGA Power Base Diminishment

Members of WALGA discuss and consider the implications to the organisation, if as a result of the amalgamation of Local Governments in the Perth metropolitan area, the power base and need for WALGA as the voice for Local Government for the proposed new larger mega sized Councils is diminished and largely not required by those Local Governments.”

REVISED MEMBER MOTION – Shire of Dardanup

That State Council advise the membership of WALGA if and how State Council has considered the possible impacts on the organisation as a result of the amalgamation of Local Governments on the ability of WALGA to maintain the purchasing, lobbying power and what are currently well resourced services supplied at better than competitive rates to the membership if new larger Local Governments prefer to manage their affairs in-house separate from WALGA.

Moved: Cr M Bennett (Dardanup)
Seconded: Cr P Robinson (Dardanup)

CARRIED

MEMBER COMMENT

This recommendation is designed to have the membership discuss whether the new larger Local Governments will have increased capacity to influence state and federal government policy making due to the larger populations that they will represent. The implication being that these new Councils won't have a need for the collective voice of WALGA as they may be in a more powerful position independent of WALGA and each other.

As a member of the organisation located outside the metropolitan area it is a concern that loss of a large number of metropolitan members to the organisation would lessen the ability of WALGA to influence government policy.

The Shire of Dardanup encouraged the State President and State Council to share with the members whether they have considered the implications as outlined; and if they have, what conclusion have they come to and what is the basis of that conclusion?

The question of financial viability is also a concern if larger metropolitan Local Governments form the view that their new found power makes WALGA obsolete and they consider withdrawing their membership.

SECRETARIAT COMMENT

The State Government is currently considering the Metropolitan Local Government Review Panel's final report on metropolitan reform. The State Government's pre-election commitment was for no forced amalgamations in country areas and also that it believed that the State Government could work with metropolitan Councils on reform and that forced reform would not be required.

Based on this, it is likely that the number of Local Governments in WA would not reduce to less than 122. The impact of reducing Local Governments to this number will not have a significant effect on WALGA's representative or service delivery functions. Notwithstanding this, the Association is continuously monitoring the effect of any changes to the sector on WALGA's operating environment.

WALGA believes that a structure has been created that provides great value for Local Governments in terms of policy advice and representation together with significant savings through the use of WALGA's Business Solutions products and services. Strategic and contingency planning assures that the quality and value of WALGA to its members will not be impacted by the current structural reform proposals. Also it is worth noting that despite the potential changes in the metropolitan area, there will be no change to the composition of the WALGA State Council.

The current composition comprises of 12 country and 12 metropolitan representatives, ensuring balance between the metropolitan and rural constituencies on State Council. It's a formula that has worked successfully since the inception of WALGA. It has worked well in representing the broad issues of the Local Government Sector over the past 12 years and there will be no change to this successful formula regardless of the outcomes in metro reform.

5.8 Eradication of Cotton Bush (05-046-03-0010 MB)

Shire of Dardanup

RESOLUTION

Moved: Cr P Robinson (Dardanup)

Seconded: Cr S Dilley (Donnybrook-Balingup)

That WALGA:

- 1. Raises with the Minister for Agriculture and all local Members of Parliament Local Government urgent concerns in relation to the infestation of Cotton Bush in the south west and the lack of attention to this and other weed and pest control by DAFWA.**
- 2. Seeks a commitment from the State Government to adequately resource DAFWA to enable it to address weed and pest control in the state.**
- 3. Advises the state government of the ongoing concerns with the lack of management of pest and weed control of other government agencies on their controlled lands.**

CARRIED

MEMBER COMMENT

The Shire of Dardanup raised this matter at the South West Zone meeting and with the Zones support the matter is now presented to the Annual General Meeting for support.

The Dardanup Shire wishes to bring to your attention the matter of Cotton Bush and the impact it is having on the rural areas in the Shire.

Cotton Bush is a declared weed, which has rapidly spread in recent years and is now posing a significant threat to rural and agricultural properties. A reduction in Department of Agriculture and Food (DAFWA) resources in the region combined with recent weather conditions has seen the prolific spread of the weed.

The Shire is under increasing pressure from the community to address the issue, but do not have the resources or the power to take action. Cotton Bush is classified under the Biosecurity and Agricultural Management (BAM) Act, which gives powers to the DAFWA to take action on landowners that allow the invasive weed to propagate on their property.

However, the level of resources allocated to the problem by the DAFWA is significantly below that needed to halt and control the spread of the weed.

We are therefore seeking the support of WALGA in this matter and request that WALGA petition the DAFWA to:

- Actively address the spread of Cotton Bush and to develop a program to halt its spread; or
- Requests that the DAFWA change the status of Cotton Bush to be declassified, which would allow Local Government to legislate for it, whilst providing Local Governments with the necessary financial and scientific support in order for it to be able to effectively do so.
- WALGA are requested to take immediate action on this matter on behalf of the South West member shires as this is becoming an increasingly alarming problem.

SECRETARIAT COMMENT

The President and senior Association staff raised the issue with the Minister for Agriculture at a meeting on Wednesday 12th June 2013. The Minister was both aware of, and is sympathetic to the concerns and agreed to the issues being presented to and discussed with the State Government interagency Biosecurity Senior Officers Group at the earliest opportunity.

The Association raised the concern in relation to funding for DAFWA to carry out its statutory functions, and this was acknowledged in the context of the overall state budget situation. The Biosecurity and Agricultural Management Act (2007) does require the State Government to co-fund 50% of an approved plan developed by a Recognised Biosecurity Group.

The Association cautions against calls for the immediate delisting of Cotton Bush as a declared species, as under the Act, any Recognised Biosecurity Group will receive 50% funding from the State Government. There is a concern that by requesting a delisting of Cotton Bush, a greater liability may befall the sector, as in effect it would be seeking a complete cost shift in Cotton Bush management to Local Government. With the regulations required to enable the Act finally coming into effect as of 1st May 2013, it is recommended that affected Shires await the outcome of the Association meeting with the Biosecurity Senior Officers Group before taking further action.

5.9 Political Advertising (06-024-01-0001 JMc)

City of Mandurah

RESOLUTION

Moved: Mayor P Creevey (Mandurah)
Seconded: Cr G Brown (Mandurah)

That WALGA prepares a position paper to lobby the relevant State Government ministers to ensure that all Local Governments have certainty with respect to their local laws and local planning requirements in relation to political signage and the protection of the amenity of local areas, without unduly restricting the principle of freedom of political expression.

CARRIED

MEMBER COMMENT

There appears to be a level of uncertainty with respect to political signage and when Local Government local laws and planning requirements have effect. Local Governments have a responsibility to ensure that there is adequate protection of local amenity. Our local laws and planning scheme do this. Local Governments also understand the value and importance of political expression and the role that this plays in a democracy. What is required is a uniform approach across Western Australia to the issue of local amenity and political expression in relation to political signage.

SECRETARIAT COMMENT

The Australian Constitution contains within it an implied freedom of political communication; this implied freedom was essentially conceptual in nature until it was first judicially considered in the 1992 Australian Capital Television Pty Ltd v. Commonwealth Case.

This case concerned the constitutional validity of Part IIID of the Broadcasting Act 1942, which regulated political advertising during election campaigns, and required broadcasters to broadcast political advertisements free of charge at other times. The High Court found the laws to be invalid, since they contravened an implied right to freedom of political communication in the Australian Constitution.

The implied freedom of political communication is therefore a constitutional freedom. Consequently, the implied freedom of political communication is neither a State matter nor one that the State is able to influence or change.

Notwithstanding, it would be a misconception to construe from the aforementioned judgement that the implied freedom of political communication contained within the Australian Constitution is unfettered.

The High Court in *Lange v Australian Broadcasting Corporation* (1997) said that laws which affect communication on political matters can still be valid if the law is reasonably appropriate and adapted to serve a legitimate end, the fulfilment of which is compatible with the maintenance of the constitutionally prescribed system of representative and responsible Government.

This allows Local Government the ability to deal with political advertising on private property on the basis of form rather than content. For example, a Local Government may deal with a sign on private property under its Local Planning Scheme based on issues of amenity and safety.

The most recent example of the application of the implied right of political communications was the recent City of Armadale case, brought by the Liberal Party of Australia (WA Division) as the Plaintiff in relation to certain restrictions on election signage under the City's Local Planning Policy. The Court found in favour of the Plaintiff.

Under the City's Local Planning Policy for signage it specifically mentions that certain types of signage are not permitted, and includes a category of 'election sign', as follows:

"A sign erected to encourage persons to vote for a candidate, political party or issue which may be for a forthcoming election of the Parliament of the Commonwealth or State or Local Government or a referendum unless erected within the grounds of a polling place on the voting day and removed within 24 hours of the close of polls on the voting day."

In his judgement, Justice Martin explained that "there may, in proper circumstances based say, on health or safety considerations, a legitimate justification for some degree of constraint against temporary electoral signage" (Paragraph 20 page 6). However, it was not considered legitimate for 'amenity' provisions of the Local Planning Scheme to be used exclusively in the control of the temporary signage, as "amenity must give way to the democratic process" in the lead up to the election.

The underlying premise of the Court's decision is that the City's planning provisions offend the implied freedom of political communication in the Australian Constitution. A number of preceding High Court and State Jurisdiction Court decisions regarding the freedom of political communication informed Justice Martin's decision.

Local Governments need to be aware that limits exist in relation to local signage control and compliance regimes by the implied freedom of political communication in the Australian Constitution, and to be cautious when formulating or acting upon restrictions on political communication during election periods. It may be prudent to review and assess current practices relating to election signage to minimise the prospect of similar action.

WALGA is currently formulating a political signage guideline for Local Governments that meets legal and public amenity issues.

5.10 Rate Exemption (05-034-01-0007 JMc)

Shire of Dardanup

RESOLUTION

Moved: Cr M Bennett (Dardanup)
Seconded: Cr G Robinson (Dardanup)

Rate Exemptions Charitable Bodies

That the Western Australian Local Government Association continues to lobby the State and Federal governments for:-

1. The rate exemption status for Not for Profit organisations to be removed; and
2. If the rate exemption status is not removed that all Local Governments be compensated for loss of revenue associated with the area of land used for independent living units on estates operated by registered charities and religious bodies, and that the compensation be an annual direct payment to the Local Governments on the production of an invoice to the State Revenue Department and Federal Treasury.”

CARRIED

MEMBER COMMENT

This matter was last raised at the 2008 and the 2011 state convention and has been an issued raised during the debate on the structural reform of Local Government.

Members are aware, property owners that are registered as a charity by the Australian Taxation Office are eligible to claim a rate exemption for their property under section 6.26 (2) (g) of the Local Government Act 1995.

The Shire of Dardanup has two properties that qualify for this exemption, as a result of an appeal against paying rates to the State Administrative Tribunal (SAT), the SAT upheld the appeal based on precedents set by the Uniting Church versus the City of Stirling, subsequently Council had to comply with the ruling.

During 2006, 2007, 2008, 2010 and 2011 this Council was a party to a lobbying effort by the WALGA to the Minister for Local Government to amend the Local Government Act to empower Local Governments to rate only the Independent Living Units (ILUs) within estates owned and operated by groups registered as charities.

Residents (owners/life time leaseholders) of ILUs continue to enjoy the quality of life as a land owner owning and living in a residential area of the Shire, that is, they continue to be mobile, use the Local Government facilities such as footpaths, roads, libraries, parks and reserves, enjoy life as much as they did prior to entering their ILU. It is a widely held view that these residents are taking an unfair advantage of the law by not making a contribution to the provision of services by Local Government when they continue to enjoy the benefits of the services. (Readers should not misconstrue the officers or the elected members views toward helping the aged, widows, widowers, the injured and the disabled, the Shire of Dardanup has a powerful testimony of making provision for all of the members of the community in the way of services and facilities by improving buildings, disability access and other services, including mobile library visits to homes and to the aged care facility and more recently expending over \$60,000 on construction of guard rails on local roads to protect the residents of aged care facilities. Council has a strongly held view and sound record for helping the disadvantaged, this report and the objective is about equity and fairness).

Council is on the record as not opposing the rate exemption status for the value of the property that is the Aged Person Hostel.

Previous Ministers holding the Local Government portfolio have rejected the lobbying effort by this Shire, WALGA and others, stating that the Local Government Act did not preclude Local Governments from negotiating a contribution toward rates from the charities. What the Ministers have not acknowledged is that negotiation requires cooperation from both parties, it is a voluntary process.

The Shire of Dardanup has foregone an estimated revenue total of \$351,960 between 2010 and 2012. The loss of revenue represents opportunity lost for the community to benefit from new services and investment in facilities, or at minimum a reduction in the rates raised.

Council continues to provide the following as direct benefit to the residents of the aged facilities:

- Visiting library service.
- Keep fit programs and social interaction at the Eaton Recreation Centre.
- Construction of bus stop and dual use path on Eaton Drive.
- Construction of dual use path on Edith Cowan Avenue.
- Reconstruction of dual use path access at the intersection of Glen Huon Boulevard and Eaton Drive.
- Construction of dual use path on Eaton Drive from the village to the Shopping Centre on the South Side of Eaton Drive.
- Intersection improvements to alleviate the fear of vehicles crashing into the boundary fence and adjacent residence.
- Installation of two guardrails to protect brick walls and residence at aged care facilities.

(Note: This list does not include general services enjoyed by the community at large.)

The Shire of Dardanup seeks member support to have WALGA lobby the State and Federal government through the Minister for Local Government and the Treasurer, for the rate exemption status on independent living units to be removed or for Local Government to be compensated for the loss in revenue that is forgone when a body registered as a charity or religious body owns land and claims the rate exemption under Section 6.26 (2) (d) (e) and (g) of the Local Government Act 1995 as Amended.

Council believes that the presentation of this item for debate at the State Convention is relevant and timely as it has been in previous years given the ongoing focus on Local Government sustainability and the obvious trend and need for more aged accommodation for our aging population and because we have a new Minister for Local Government.

The government, State and Federal, run the risk of creating a situation where Local Governments may not approve re-zonings of their Town Planning Schemes to allow for development of aged persons accommodation. This will lead to a shortfall in facilities that would have to be considered by government to be a potential catastrophe, notwithstanding that the government has the power to take away Local Governments planning powers if they are not happy with decisions made.

Both tiers of government ought to be lobbied as the Federal Government is responsible for accommodation for the aged and provide funding for them and the Australian Taxation laws, and the State government is responsible for the Local Government Act.

It is important to note that such charitable bodies are not exempt from the State Government imposed Emergency Service Levy that is raised on behalf of the State by Local Governments.

This was highlighted in the inquiry by the Local Government Advisory Board into the operation of the provisions of the Local Government Act relating to rating of land used for charitable purposes in November 2005.

The matter of rate exemptions for charitable bodies goes directly to the question of financial sustainability. The state and federal government are aware of the impacts of cost shifting on Local Government yet choose to do nothing to increase Local Governments share of revenue, the states themselves cry foul and seek compensation when the federal government considers making a decision to reduce goods and services tax revenue to the states. This is nothing short of double standards and an issue that the Shire of Dardanup believes the Association can use to demonstrate the impacts that government decisions have on Local Government revenue.

Local Government cannot accept the do nothing option, the two options are:-

1. Amend the Local Government Act to enable the rating of Independent Living Units that are located within not for profit aged accommodation estates; or
2. That State and Federal Government compensate Local Governments for the loss of revenue that would otherwise be raised if the independent living units were rated.

SECRETARIAT COMMENT

The Association's current advocacy position is:

1. Amend the Local Government Act to clarify that Independent Living Units should only be exempt from rates where they qualify under the Commonwealth Aged Care Act 1997;
2. Either
 - a) amend the charitable organisations section of the Local Government Act 1995 to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations;or
 - b) establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of Local Government rates.
3. Provide support by approaching the Minister for Planning and the State Treasurer, seeking an amendment to the WALA Act so that LandCorp is required to pay property rates to Local Government or alternatively, provide for a compensatory scheme.

It is the long-held view of the Association that the rate exemption provision under Section 6.26(2)(g) of the Local Government Act 1995, which has been the subject of much correspondence with the State Government, is in urgent need of review. WALGA is concerned that the purpose for which Section 6.26(2)(g) was intended by State Parliament when making the Local Government Act 1995 is now exceeded beyond its intended scope and is subject to ever-broadening interpretation, particularly through decisions of the State Administrative Tribunal.

It is the view of WALGA State Council that State Parliament should urgently assess the scope and purpose of rate exemptions for land used exclusively for charitable purposes as they are currently applied, and enact appropriate legislative amendments to ensure alignment with Parliament's intended principles. This view was most recently expressed in correspondence to the Premier in June 2013.

5.11 Weed Management and Administration of the Biodiversity and Agriculture Management Act 2007 (05-046-03-0011 MB)

Shire of Murray

RESOLUTION

Moved: President Cr Wally Barrett (Murray)
Seconded: Cr M Bessant (Murray)

That WALGA lobby the Minister for Agriculture and Director General of the Department of Agriculture and Food to ensure that the Department accepts its responsibility for the management of invasive species classified under the Biosecurity and Agriculture Management Act 2007. This should be through either direct action or funding to establish and maintain Recognised Biosecurity Groups to directly manage this increasingly important issue.

CARRIED

MEMBER COMMENT

- **Invasive weeds and animals are becoming a serious management issue.**

Invasive weeds are among the most serious threats to Western Australia's natural environment and primary production industries. Weeds have major economic, environmental and social impacts in Australia, causing damage to natural landscapes, agricultural lands, waterways and coastal areas.

In recent years following two wet summers this issue has become much more pressing with huge uncontrolled outbreaks of Narrow-Leaf Cotton Bush (*Gomphocarpus fruticosus*) the length of the Darling Scarp.

- **DAFWA not currently equipped to manage this**

It is the responsibility of the Department of Agriculture and Food (DAFWA) to control declared weeds under the Biosecurity in Agriculture Management (BAM) Act and this precludes Local Government preparing its own local laws to control such weeds. DAFWA however do not appear to be sufficiently resourced to deal with the spread of weeds and this lack of action is threatening our natural areas.

On Friday the 17th May, Shire of Murray officers attended a meeting with representatives from twelve other Local Governments throughout the South-West and Peel regions, the Southwest Catchments Council (SWCC) and members of the DAFWA including the Director of the Invasive Species Programme, Mr Viv Read. Mr Read stated that it is the DAFWA intention not to declassify Cotton Bush until all avenues had been used within the remit of the BAM Act as it considers the BAM Act to be a more powerful piece of legislation than a Local Government local law and that its

preferred method for future management of biosecurity and implementation of the BAM Act is therefore through a Recognised Biosecurity Group (RBG) established under this Act.

- **RBG set up needs to be state led/funded.**

The establishment of any potential RBG will incur significant resources. The funding model recommended by the DAFWA was a regional levy matched by the state treasury. This will require extensive initial investment and public consultation. The Shire of Murray is of the opinion that if this is the preferred method of management of invasive weeds then this should be led and funded by DAFWA and not on already stretched Local Governments, this is especially significant given the cross regional nature of invasive species.

SECRETARIAT COMMENT

The President and senior Association staff raised the issue with the Minister for Agriculture at a meeting on Wednesday 12th June 2013. The Minister was both aware of, and is sympathetic to the concerns and agreed to the issues being presented to and discussed with the State Government interagency Biosecurity Senior Officers Group at the earliest opportunity.

The Association raised the concern in relation to funding for DAFWA to carry out its statutory functions, and this was acknowledged in the context of the overall state budget situation. The Biosecurity and Agricultural Management Act (2007) does require the State Government to co-fund 50% of an approved plan developed by a Recognised Biosecurity Group.

The Association cautions against calls for the immediate delisting of Cotton Bush as a declared species, as under the Act, any Recognised Biosecurity Group will receive 50% funding from the State Government. There is a concern that by requesting a delisting of Cotton Bush, a greater liability may befall the sector, as in effect it would be seeking a complete cost shift in Cotton Bush management to Local Government. With the regulations required to enable the Act finally coming into effect as of 1st May 2013, it is recommended that affected Shires await the outcome of the Association meeting with the Biosecurity Senior Officers Group before taking further action.

5.12 Presidential Public Comments (01-002-01-0001 TB)

Town of Claremont

MOTION

Moved: Cr B Haynes (Claremont)
Seconded: Mayor J Barker (Claremont)

- 1 The President of WALGA is censured for his public comments as President of WALGA about Local Government reform which purport to represent the WALGA position although he knows (or should know) that they do not reflect the adopted position of WALGA, and in particular where such comments are, or can be reasonably be interpreted to be) a disrespectful attack on some members of the association.**
- 2 State Council is reminded that it should act and be seen to act in the interests of its members and not the perceived interests of a majority of a sub-set of members.**
- 3 No association funds are to be expended on advertorials of any other form of publicity that does not accurately and clearly represent the adopted position of WALGA.**

LOST

MEMBER COMMENT

1. The President confuses his personal preferences and his position as Mayor of the City of Joondalup and his role and responsibility as president of a membership based organisation, WALGA.
2. His responsibility it is to accurately and consistently represent the adopted positions of WALGA and show proper respect for all members of the Association.
3. The President and State Council appear to have interpreted the WALGA submission to the Metropolitan Local Government Review Panel (framed within the terms of reference of the inquiry) as WALGA policy on Local Government amalgamation. There has been no Association position developed which takes the unequivocal position of supporting abolition of smaller Local Governments though a pro amalgamation policy.
4. The President, in advertorials and other press comment, has denigrated small councils in an attempt to justify State Government imposed change on metropolitan Local Government. He has used the advertorial paid for by members to advocate positions not adopted by WALGA and which are adversarial to some members.
5. State Council has not considered motions from Zones that questioned or challenged the position adopted re metropolitan Local Government amalgamation or abolition.
6. State Council has adopted a position accepted by the majority of a sub-set of members, viz. larger metropolitan Councils, against the interests of the majority of members (Councils over 50,000 population 13, 20,000 – 50,000 population 18, under 20,000 population 107) and to the identified detriment and opposition of some smaller metropolitan Councils.

SECRETARIAT COMMENT

State Council Process

The process that State Council utilises to determine sector policy positions is as follows;

- State Council Agenda Item prepared with recommendations on 'Items for Decision'
- Consideration at the 17 WALGA Zones, where the Zones can put forward their position i.e. support, amendment or opposition.
- Following the Zone meetings, State Council is presented with a Consolidated Recommendations paper which includes the WALGA Officer recommendation and the position of every Zone.
- The WALGA secretariat reviews the Zone positions with the aim of including these in the recommendation, if it is a majority view or an amendment that adds to the recommendation and is consistent with the position.
- The Consolidated recommendation is then presented to State Council together with all Zone recommendations and any State Councillor can move a recommendation or any amendment.

The State Council process is very transparent and accountable.

Metropolitan Reform Position

WALGA's submission on metropolitan reform was developed utilising a Policy Forum and the above State Council/Zone decision making process. A position was developed on the 30 recommendations and the sector position adopted on the structure for the metropolitan area is as follows;

"WALGA supports a Governance Model for the Perth metropolitan region consisting of approximately 15-20 Local Governments, and will work towards achieving this objective, based on sustainability principles, with reference to Directions 2031, using existing Local Government boundaries as a starting point".

State Council at its May 2013 meeting resolved the following in regard to the issue of advocacy in respect to Local Government Reform;

"State Council reinforces and endorses the sectors position on reform as presented by the President and WALGA staff – Carried Unanimously"

Advertorial

WALGA has utilised advertorial space in the West Australian for a number of years. The President is empowered to make public comments that reflect the Association's Policy.

Over the previous 12 months the following topics have been reported on;

Tuesday, 21 August

Community Planning: We Need to Talk

Emphasised the need for all stakeholders involved in planning and development to adopt a more collaborative approach.

Tuesday, 18 September

Who Cares for Your Community Election Campaign

Outlined the sector's upcoming State Election campaign

Tuesday, October 16

Tragedy Shines Light on local CCTV Failings

Challenged the State Government and WA Police for action on closed circuit television systems

Tuesday, 13 November

Community Could Clean Up with Cash 4 Containers

Highlighted the sector's campaign for container deposit legislation

Tuesday, December 11

Risk Reform Will Be In One Year And Out The Other

Outlined the risk in the Local Government reform process losing inertia with the delay to the State Government declaring its position on the Robson Review.

Tuesday, February 26

Councils Reform Now About Making it Work

Provided commentary on the reform process and the sector's response.

Tuesday, April 9

New Opportunities for Councils with New Minister

Highlighted the potential for the sector to re-engage the State Government on metropolitan reform given the election result and change in Local Government Minister.

Tuesday, May 14

Imagine Going Eight Years with No Pay Adjustment

Support for SAT review of determining Elected Member fees and allowances



LOCAL EMERGENCY MANAGEMENT COMMITTEE MINUTES

**City of Wanneroo and City of Joondalup
Local Emergency Management Committee Meeting**

**City of Wanneroo and City of Joondalup
Local Emergency Management Committee
City of Joondalup, Civic Centre, Conference Room 2
Boas Avenue, Joondalup
10:00am, 8 August 2013**

1. ATTENDANCES AND APOLOGIES

ATTENDANCES:		
Name	Position	Organisation
Cr Dot Newton, JP	LEMC Chairperson	City of Wanneroo
Ian McDowell	Coordinator Community Safety	City of Wanneroo
Resmie Greer	Senior Emergency Management and Community Safety Officer	City of Wanneroo
Phil Hay	Community Emergency Services Manager (CESM)/Chief Bush Fire Control Officer (CBFCO)	City of Wanneroo/DFES
Cr John Chester	Elected Member	City of Joondalup
Derek Fletcher	Emergency Management Officer	City of Joondalup
Charles Slavich	Principal Environmental Health Officer	City of Joondalup
Wayne Dohmen	Inspector – Assistant District Officer	WA Police
Joanne Cramp	Emergency Management Officer NW Metro	WA Police
Alex Ryan	OIC – Hillarys	WA Police
Chris Ruck	OIC – Wanneroo	WA Police
Jason Macander	OIC – Yanchep	WA Police
Bill Hansen	Local Manager	SES
Merveen Cross	Community Emergency Management Officer	SEMC Secretariat
Jo-Anne Bennett	Senior District Emergency Services Officer	DCPFS
Helen Barrett	Disaster Management Coordinator	Ramsay Health
Allan Daw	District Officer – North Coastal	DFES- BFS
Peter Jones	A/Superintendent – North Coastal	DFES
Steve Pethick	Primary Response Coordinator	Western Power
Glenda Britton	Lead School Psychologist	Education Department

Visitor: Stephen MacCarthy	Security Program Manager	Water Corporation
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APOLOGIES:		
Name	Position	Organisation
Cr Norm Hewer	Deputy Chairperson	City of Wanneroo
Charlie Carver	Superintendent NW Metro District	WA Police
Alan McColl	Manager Regulatory Services	City of Wanneroo
Wayne Harris	Coordinator Health Services	City of Wanneroo
Charlie Reynolds	Manager Asset Management	City of Joondalup
Mal Jones	OIC – Clarkson	WA Police
Ken Walker	OIC – Warwick	WA Police
Darryl Welsby	Manager Business Risk & Resilience	ECU
Geoff DeSanges	Inspector Assistant District Officer	WA Police
Craig Wanstall	OIC – Joondalup	WA Police
Mary-Ann Jackson	Local Welfare Coordinator	DCPFS
Stuart Palmer	District Officer – West Coastal	DFES
Mary McConnell	Disaster Management Coordinator	Ramsay Health
Ruth Lane	State Manager Emergency Services	Red Cross
Steve Pethick	Primary Response Coordinator	Western Power
Sam Hurd	Fire Operations Officer	DEC
Leigh Sage	Fire Protection Officer	DEC
Chris St Roas	Hillarys Boat Harbour	Department of Transport

Cr Dot Newton opened the meeting at 10:05am and welcomed those members in attendance.

2. PRESENTATION

2.1 Cr Newton welcomed Jo-Anne Bennett, Senior District Emergency Services Officer from the Department for Child Protection and Family Support (CPFS). Jo-Anne provided an excellent overview of the role of CPFS in the provision of welfare support services to people affected by an emergency or disaster. The following areas were covered in the presentation:

- Legislation;
- Coordinating welfare support;
- Activation of CPFS;
- CPFS process when activated;
- What staff do/key local CPFS roles;
- Local Welfare Plans;
- Recovery; and
- Transition from welfare to recovery

Cr Newton thanked Jo-Anne Bennett for the comprehensive presentation and for explaining welfare support services provided by the CPFS during emergency disasters.

3. CONFIRMATION OF PREVIOUS MINUTES (2 May 2013)

Moved Ian McDowell, **Seconded** Wayne Dohmen

That the Minutes of the Local Emergency Management Committee meeting held on 2 May 2013 be confirmed as a true and accurate record.

CARRIED

4. BUSINESS ARISING

Item	LEMC Meeting	Subject	Responsible Agency/Person
2.1	7 February 2013	D Fletcher advised City of Joondalup still working with the Risk Management Task Force on minor changes.	City of Joondalup Completed - April 2013
7	2 May 2013	Contact Education Department requesting representation at future LEMC meetings.	City of Wanneroo Confirmation received that a representative from the Department of Education will NOT attend future LEMC meetings, however representation will be provided at DEMC Meetings. Completed – August 2013

5. CORRESPONDENCE

The Inwards and Outwards correspondence was tabled at the meeting for reviewing and comments.

Resmie Greer reported on the following items for particular noting:

- Item 1 – Revised Department for Child Protection and Family Support Welfare Support Plans. It was requested by Jo-Anne Bennett that:

"The revised version of the Department for Child Protections' and Family Support (CPFS) Local Welfare Emergency Management Support (LWEMS) Plan on behalf the Joondalup/Wanneroo LEMC and the revised versions of the Welfare Centres for the Cities of Joondalup and Wanneroo Welfare Centres Sub Plans be tabled for endorsement".

Moved Cr John Chester, **Seconded** Resmie Greer
That the Committee Members:

(a) ENDORSE the revised CPFS Joondalup District "Local Welfare Emergency Management Support Plan";

(b) ENDORSE the revised CPFS Joondalup District Welfare Centres Sub Plans for the City of Joondalup and the City of Wanneroo; and

(c) **FORWARD** any future amendments, comments, changes direct to Ms Bennett via email at joanne/bennett@cpfs.wa.gov.au or on 0429 693 948.

CARRIED

- Item 2 - State Emergency Management Policy SEMP 2.0 – Management of Risk was endorsed by SEMC on 5 March 2013.

6. STANDING ITEMS

- **District Agency Updates:**

- **City of Wanneroo**

Resmie Greer reported on the following:

(a) Education Department Representation:

Contrary to Glenda Britton's comments concerning her willingness to attend future LEMC meetings, a decision has been made by the Department of Education Director for the North Metropolitan District, that staff will only attend future DEMC meetings;

(b) Bushfire Mitigation:

The City of Wanneroo Fire Protection Officers assisted the Montessori School situated within the City of Joondalup by conducting a controlled burn in bush land surrounding the school. Accolades were received from the School Principal on a job well done.

To date the Fire Protection Officers have completed 10 prescribed burns (a total of 19 burns have been identified in the indicative burning program). The most recent burn was conducted at Countryside Park, Two Rocks and with the recent rainfall, conditions were suitable to light grass trees to achieve a mosaic burn, maintaining biodiversity;

(c) Correspondence received by the City of Wanneroo's Chief Executive Officer, from Roger Underwood, Chairman of the Bushfire Front Inc commending the Fire Protection Officers on the system adopted to develop the "Indicative Fuel Reduction Burning Plan", ranking the areas in terms of most serious to least serious threat to the community, preparation of an annual works program and budget, preparation of prescriptions for each burn, burns preparation and monitoring of fuel moisture levels/soils dryness index and daily weather to ensure the burn is done under prescribed conditions;

(d) NAMN (Natural Area Management Network) Local Biodiversity Program Forum (Bushfire Risk and Post Fire Management) will be held at the City of Wanneroo on 22 August 2013. Local Government representatives will be in attendance. If LEMC members wish to attend, please contact Resmie Greer.

Phil Hay reported on the following:

(a) On-going fire fighting training is being conducted for both Volunteers and Fire Crews;

(b) Bushfire Management Planning Consultation Workshop will be conducted by DFES on 22 August 2013 at the City of Swan. (Response to and mitigation towards future bushfire planning). Attendance will include other local governments, officers from the Department of Planning, DFES;

(c) WA Sporting Car Club - Powercruise Event – Phil Hay will meet with the WA

Sporting Club as safety concerns were raised following last year's event. Will be stipulating more stringent conditions for this year's event.

- **City of Joondalup**

Derek Fletcher reported that unspent SES funds from 2012/13 will be used to enclose the back area of the SES building and install air-conditioning units. Additionally, waiting on quotes for the provision of a local area network.

- **WA Police**

Wayne Dohmen – nothing to report.

- **Department of Fire and Emergency Services (DFES)**

Nothing to report.

- **Department of Parks and Wildlife (DPaW)**

No one in attendance.

- **State Emergency Service (SES)**

Bill Hansen reported two SES vehicles are due for replacement.

- **Department for Child Protection and Family Support (CPFS)**

Jo-Anne Bennett reported on the following:

(a) Name incorrect in the agenda should reflect "Department for Child Protection and Family Support (CPFS). R Greer to amend.

(b) CPFS has been conducting a number of State Welfare Emergency Exercises (SWEET) in the Goldfields, Wheatbelt, South West and Metropolitan locations. It is anticipated that a local exercise will be held in November 2013;

- **Western Power**

Steve Pethick reported on the following:

(a) Feedback from officers who attended the recent AIMS Awareness training arranged by WALGA and facilitated by DFES in May 2013 advised that the course content was rewarding;

(b) S Pethick has been conducting presentations to other metropolitan LEMC's on how Western Power networks operate during emergencies.

Other Key Stakeholders:

- **State Emergency Management Committee (SEMC) Secretariat:**

Merveen Cross reported on the following:

(a) Attended recent training provided by WALGA on "Manage Recovery Activities for Local Government". M Cross advised the training was excellent and encouraged members to attend if the opportunity arises.

(b) SEMC conducted a centralised state exercise coordination workshop to examine the frequency, adequacy and appropriateness of emergency management exercises and the need for the robust evaluation of major exercises. Investigation into developing a possible model framework template to use for exercises. SEMC will also contact other states for exercise frameworks that may have already been developed.

(c) AWARE funding – it is intended that the AWARE program will be launched with new guidelines that will enable a wider range of uses to be considered for AWARE funds. These could include:

- Emergency risk management assessment;

- Development of a recovery plan;
- Debrief or post incident analysis of recovery;
- Development and conduct of exercises;
- Research to provide a more detailed understanding of a particular risk or hazard

Refer to attachment for SEMC Secretariat report provided electronically by Merveen Cross, Community Emergency Management Officer.

- **Edith Cowan University**
No one in attendance.
- **Joondalup Health Campus**
Helen Barrett reported this week is "Emergency Awareness Week" for all public hospitals. Joondalup Health Campus will be conducting a "Code Purple" drill next Wednesday, 14 August 2013 and will focus on internal emergency procedures and test escalations within the Health Campus. Once internal procedures have been tested, an exercise may be planned within the next few months and will include LEMC stakeholders.
- **Red Cross**
No one in attendance.
- **Hillarys Boat Harbour:**
No one in attendance.
- **Department of Education:**
Glenda Britton reported that the Department of Education (DoE) is in the process of re-engagement with Emergency Management in the district and informed the meeting that her current role within DoE is the management of psychology services across the region.
- **Coastal Emergency Group:**
No one in attendance.
- **Police Academy:**
No one in attendance.
- **West Coast Institute of Training (Joondalup):**
No one in attendance.
- **Visitor – Water Corporation:**
Stephen MacCarthy reported on the following:
 - (a) Water Corporation will be conducting a HAZMAT exercise in conjunction with DFES at the Wanneroo Ground Water Treatment Plant on 30 August 2013. LEMC members are invited to attend to observe a chlorine/gas incident (HAZMAT) emergency response situation;
 - (b) Water Corporation is working towards bushfire compliance, however will not be able to achieve bush fire protection around water assets due to the inability to obtain environmental clearances. Contact is currently being made with the Department of Premier and Cabinet in an attempt revise the decisions to provide clearances;
 - (c) Water Corporation works closely with the Department of Education and in the event of a school running out of water or burst pipes, a simple phone call is all that is required to commence activation for emergency assistance; and.

(d) S MacCarthy advised of the usefulness of receiving the Events Register which details all events occurring in the region which enables better disaster preparedness.

- **LEMC Arrangements:**

- ***Risk Register/Mitigation Treatments:***

- The City of Wanneroo continues to conduct controlled burns as weather conditions permit.

- ***Training Activities/Simulations:***

- Phil Hay reported that a State Bushfire Exercise will be conducted by DFES on Wednesday 21 August 2013. The exercise will commence from 0600hrs to 1800hrs. The exercise component will involve both a Level 3 bushfire scenario within the Shire of Kalamunda (Perth Hills) and a Level 2 incident within the Coastal Region. LEMC stakeholders are invited to attend.

The Level 3 incident will include CPFS activating and running an evacuation centre. Approximately 240 people and several local governments will be involved in this incident.

The Level 2 incident will be a simulation and will test local emergency management arrangements.

Email Phil Hay with details if you wish to attend.

- ***Other Emergency Activations for mention:***

- Nil to report within the Cities of Wanneroo and Joondalup.

- ***Review/Outcomes/Lessons Learnt:***

- Nil to report.

7. GENERAL BUSINESS

- Derek Fletcher mentioned that the Recovery Coordinator from City of Armadale will be providing a presentation at the District Emergency Management Committee (DEMC) meeting on 22 August 2013, commencing 9:00am at the Fleur Freame Pavilion, 11 MacDonald Avenue, Padbury. The presentation relates to experiences and lessons learnt during the 2011 Rolystone and Kelmscott bushfires. Anyone wishing to attend, please advise Derek Fletcher.
- Merveen Cross mentioned SEMC Secretariat sent all Local Governments a Capability Framework Feedback Template requesting information and providing feedback to assist the Minister for Emergency Services with an assessment of the State's preparedness to combat emergencies. M Cross advised that the SEMC Secretariat acknowledged the comprehensive report completed by Resmie Greer.
- Cr Newton made mention of the Local Government elections which are scheduled to take place on 19 October 2013 and that she would not be presiding the next LEMC meeting. As per the Terms of Reference, the position of chair is for a two year period and is aligned with Local Government elections. Therefore, commencing November 2013, the chair will transfer over to the City of Joondalup for the next two year period.

Cr Newton thanked all officers for attending the LEMC meetings over the past two years and in particular thanked Resmie Greer, Ian McDowell and Phil Hay for their support. Cr Newton also advised that she appreciates and has a far better understanding of the

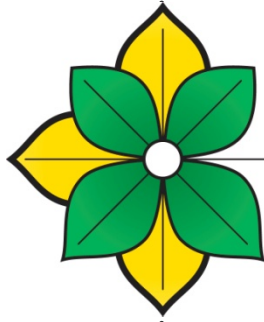
functions of the Local Emergency Management Committee and in particular, the member delegates. Cr Newton wished members good luck in their future endeavors.

8. NEXT MEETINGS

The next City of Wanneroo/City of Joondalup Local Emergency Management Committee meeting will be held on Thursday 7 November 2013 at the City of Wanneroo.

9. CLOSE

There being no further business, the meeting was closed at 11:20am.



TAMALA PARK
Regional Council

Ordinary Meeting of Council

MINUTES

Thursday 22 August 2013
City of Stirling, 6.00pm

TAMALA PARK
REGIONAL COUNCIL
(TPRC)
COMPRISES THE
FOLLOWING
COUNCILS:

Town of Cambridge
City of Joondalup
City of Perth
City of Stirling
Town of Victoria Park
City of Vincent
City of Wanneroo

MEMBERSHIP

OWNER COUNCIL	MEMBER	ALTERNATE MEMBER
Town of Cambridge	Cr Corinne MacRae	
City of Joondalup	Cr Geoff Amphlett Cr Tom McLean	
City of Perth	Cr Jim Adamos	
City of Stirling	Cr Giovanni Italiano (CHAIRMAN) Cr David Michael Cr Terry Tyzack Cr Rod Willox	Cr Stephanie Proud
Town of Victoria Park	Mayor Trevor Vaughan (DEPUTY CHAIRMAN)	Cr David Ashton
City of Vincent	Cr Joshua Topelberg	
City of Wanneroo	Cr Frank Cvitan Cr Dianne Guise	Cr Bob Smithson Cr Stuart Mackenzie

NB: Although some Councils have nominated alternate members, it is a precursor to any alternate member acting that a Council carries a specific resolution for each occasion that the alternate member is to act, referencing Section 51 of the Interpretation Act. The current Local Government Act does not provide for the appointment of deputy or alternate members of Regional Councils. The DLGRD is preparing an amendment to rectify this situation.

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PRESENT

Chairman	Cr Giovanni Italiano
Councillors	Cr Jim Adamos Cr Geoff Amphlett Cr Frank Cvitan Cr Dianne Guise Cr David Michael Cr Joshua Topelberg Cr Terry Tyzack Cr Rod Willox
Alternate Members	Nil
Staff	Mr Tony Arias (Chief Executive Officer) Mr Wayne Burns (Senior Projects Officer) Mrs Kylie Jeffs (Executive Assistant)
Apologies Councillors	Cr Corinne MacRae Cr Tom McLean Cr Trevor Vaughan
Leave of Absence	Nil
Absent	Nil
Consultants	Mr Brenton Downing (Satterley Property Group) Mr Aaron Grant (Satterley Property Group) Mr Nigel Satterley (Satterley Property Group)
Apologies Participant Councils' Advisers	Mr Garry Hunt (City of Joondalup) Mr Stuart Jardine (City of Stirling)
In Attendance Participant Councils' Advisers	Mr Said Hafez (City of Joondalup) Mr Jason Lyon (Town of Cambridge) Mr Len Kosova (City of Wanneroo) Mr Ross Povey (City of Stirling) Cr Stephanie Proud (City of Stirling)
Members of the Public	Nil
Press	Nil

1. OFFICIAL OPENING

At 6.08pm the Chairman declared the meeting of the Tamala Park Regional Council open.

DISCLOSURE OF INTERESTS

Disclosure of Interest forms were received as follows:

Satterley Property Group	Items 9.8 & 9.12	Impartial Interest
All 9 TPRC elected members present at meeting	Item 9.9	Impartial Interest
Cossill & Webley	Item 9.12	Impartial Interest

2. PUBLIC STATEMENT/QUESTION TIME

Nil

3. APOLOGIES AND LEAVE OF ABSENCE

Apologies were received from the following elected members:

- Cr Tom McLean
- Cr Corinne MacRae
- Cr Trevor Vaughan

4. PETITIONS

Nil

5. CONFIRMATION OF MINUTES

Ordinary Meeting of Council – 20 June 2013

Moved Cr R Willox, Seconded Cr D Michael

That the minutes of the Ordinary Meeting of Council of 20 June 2013 be confirmed, and signed by the Chairman, as a true and correct record of proceedings.

The Motion was put and declared CARRIED (9/0).

5A. BUSINESS ARISING FROM THE MINUTES

Nil

6. ANNOUNCEMENTS BY CHAIRMAN (WITHOUT DISCUSSION)

Nil

7. MATTERS FOR WHICH MEETING MAY BE CLOSED

Item 9.13 – Lot 1 Built Form Project Development Agreement

8. REPORTS OF COMMITTEES

The Chairman congratulated Cr Frank Cvitan on being elected to the role of Chairman of the TPRC Management Committee.

9. ADMINISTRATION REPORTS

9.1 BUSINESS REPORT – PERIOD ENDING 15 AUGUST 2013

Moved Cr R Willox, Seconded Cr D Guise

[The recommendation in the agenda]

That the Council RECEIVE the Business Report to 15 August 2013

The Motion was put and declared CARRIED (9/0).

9.2 STATEMENTS OF FINANCIAL ACTIVITY FOR THE MONTHS OF MAY & JUNE 2013

Subject to a modified balance sheet summary (as at 30 June 2013) being included in Item 9.2 on the agenda of the next meeting of Council scheduled for 17 October 2013.

Moved Cr F Cvitan, Seconded Cr G Amphlett

[The recommendation in the agenda]

That Council RECEIVE and NOTE the Statement of Financial Activity for the months ending:

- **31 May 2013; and**
- **30 June 2013.**

The Motion was put and declared CARRIED (9/0).

9.3 LIST OF MONTHLY ACCOUNTS SUBMITTED FOR THE MONTHS OF JUNE & JULY 2013

Moved Cr D Guise, Seconded Cr R Willox

[The recommendation in the agenda]

That the Council RECEIVE and NOTE the list of accounts paid under Delegated Authority to the CEO for the months of June and July 2013:

- **Month ending 30 June 2013 (Total \$3,213,783.76)**
- **Month ending 31 July 2013 (Total \$1,096,522.83)**
- **Total Paid - \$4,310,306.59**

The Motion was put and declared CARRIED (9/0).

9.4 PROJECT FINANCIAL REPORT – JUNE 2013

Moved Cr T Tyzack, Seconded Cr F Cvitan

[The recommendation in the agenda]

That the Council RECEIVE the Project Financial Report (June 2013) submitted by the Satterley Property Group.

The Motion was put and declared CARRIED (9/0).

9.5 SALES AND SETTLEMENT REPORT – PERIOD ENDING 1 AUGUST 2013

Mr Nigel Satterley (Satterley Property Group) provided an update on market conditions, lot sales and settlements and the status of the NBN.

Moved Cr D Michael, Seconded Cr J Adamos

[The recommendation in the agenda]

That the Council RECEIVE the Sales and Settlements Report to 1 August 2013.

The Motion was put and declared CARRIED (9/0).

9.6 REVIEW OF PURCHASER TERMS AND CONDITIONS

Note: Typographical error in 1(i), have been changed to 1(e), 1(f), 1(g) and 1(h).

Moved Cr D Guise, Seconded Cr R Willox

[The recommendation in the agenda]

1. APPROVE the following sales terms/conditions and incentives for all public release lots:-

- a) Use of the 2011 REIWA Offer and Acceptance Contract with Special Conditions and Annexures.
- b) A \$5,000 deposit to be used in the Sales Contracts.
- c) A 28 day finance approval period.
- d) A 21 day settlement period from finance approval or the issue of titles, whichever is the later.
- e) Waterwise front landscaping packages.
- f) A \$2,000 rebate for all homes constructed with a minimum 1.5kW capacity photovoltaic solar power system.
- g) Side and rear boundary fencing (behind the building line).
- h) A non-potable water supply to all front loaded lots within Stages 4, 5 & 7 of Catalina.
- i) Sales incentives (items 1e, 1f, 1g and 1h) being subject to homes being constructed in accordance with the approved Catalina Design Guidelines within 18 months of settlement for single storey homes and 24 months of settlement for two storey homes.

2. RESOLVE not to proceed with the Shared Bore Trial for front loaded lots within Stages 8 and 9 and not to extend to the trial to future stages until a review of the Shared Bore Trial has been completed.

3. APPROVE the following sales terms/conditions and incentives for all builders allocation lots after Stage 8:-

- a) Use of the 2011 REIWA Offer and Acceptance Contract with Special Conditions and Annexures.
- b) A \$5,000 deposit to be used in the Sales Contracts.
- c) A 28 day finance approval period.

- d) A 21 day settlement period from finance approval or the issue of titles, whichever is the later.
 - e) Provision of a \$2,000 rebate for all homes constructed with a minimum 1.5kW capacity photovoltaic solar power system.
 - f) Provision of a \$2,000 cash rebate to builders, that provide side and rear boundary fencing and front landscaping with house and land packages.
 - g) Sales incentives (items 3e and 3f) being subject to homes being constructed in accordance with the approved Catalina Design Guidelines within 18 months of settlement for single storey homes and 24 months of settlement for two storey homes.
4. **REQUEST the SPG to review the sales terms/conditions and incentives for public release and builder allocation lots in twelve months and provide a report to Council.**

The Motion was put and declared CARRIED (9/0).

9.7 TPRC DRAFT BUDGET FOR THE FINANCIAL YEAR 2013/2014

Moved Cr G Amphlett, Seconded Cr J Adamos

1. **ADOPT the Budget for the Tamala Park Regional Council for the year ending 30 June 2014, incorporating:**
 - a. **Statement of Comprehensive Income, indicating an operating deficit of \$518,884.**
 - b. **Statement of Financial Activity, showing cash at end of year position of \$15,639,627.**
 - c. **Rate Setting Statement, indicating no rates levied.**
 - d. **Notes 1 to 27 forming part of the Budget.**
2. **ADOPT the Significant Accounting Policies as detailed in pages 14 -20.**
3. **ADOPT a percentage of 10% or \$5,000 whichever is the greater for the purposes of the reporting of material variances by Nature and Type monthly for the 2012/13 financial year, in accordance with Regulation 34(5) of the Local Government (Financial Management) Regulations 1996.**
4. **Authorise the CEO to arrange a finance facility for the purpose of ensuring that the TPRC has sufficient cash holdings to fund the proposed subdivision works for subsequent presentation to Council.**

The Motion was put and declared CARRIED (9/0).

9.8 STAGE 8 BUILDERS ALLOCATION LOTS TENDER

Satterley Property Group declared an impartial interest in this item.

Moved Cr D Guise, Seconded Cr F Cvitan

That the Council APPROVE the allocation of the Stage 8 Builder Allocation Lots in accordance with the terms and conditions of Tender 10/2013 as follows:-

- a. Lot Parcel A (exclusive of optional corner lots) to Homebuyers Centre,
- b. Lot Parcel B and Lots 475 and 482 to Platinum Homes.
- c. Lot Parcel C (inclusive of optional corner lots) to Affordable Living.
- d. Lot Parcel D (inclusive of optional corner lots) to Content Living.

The Motion was put and declared CARRIED (9/0).

9.9 ELECTED MEMBER ALLOWANCES

All nine elected members declared an impartial interest in this item.

Moved Cr D Guise, Seconded Cr R Willox

1. **An Annual Allowance for the Chairman of the Council to be \$19,000 per annum.**
2. **An Annual Attendance fee for the Chairman of the Council to be \$15,000 per annum.**
3. **An Annual Allowance for Deputy Chairman be 25% of the amount paid to the Chairman per annum.**
4. **An Attendance fee for Council members be an amount of \$10,000 per annum.**
5. **Council members do not claim separate telecommunications, IT allowances or travelling allowance to meetings.**
6. **A per meeting fee of \$140 for alternate Council members.**
7. **Fees to be reviewed following the next ordinary Council elections (next scheduled for October 2013) for the intent that the Council in place sets the fees that will apply in its tenure of office and is responsible for the budget allocations that will be needed to facilitate the payments.**
8. **Elected member allowances are to be made quarterly in arrears.**

The Motion was put and declared CARRIED BY ABSOLUTE MAJORITY (8/1).

For: Cr J Adamos, Cr G Amphlett, Cr F Cvitan, Cr D Guise, Cr G Italiano, Cr D Michael, Cr T Tyzack and Cr R Willox.

Against: Cr J Topelberg

9.10 SPONSORED CHARITY HOME PROPOSAL

Moved Cr G Amphlett, Seconded Cr J Adamos

1. **NOT PROCEED with tender number 03_2012 dated 30 June 2012 Charity Home proposal.**
2. **APPROVE Lot 192 Elsbury Approach for sale by public release, based on the public release sales process contained within the Lot Sale and Release Strategy, February 2013.**
3. **APPROVE the disposal of Lot 192 Elsbury Approach by Private Treaty in accordance with Section 3.58(3) and (4) of the Local Government Act 1995.**

4. **RECOMMEND** that the SPG investigate alternative locations and parameters for a charity home in the future consistent with the Council's Charity Home Sponsorship Policy (May 2012) .

The Motion was put and declared CARRIED (9/0).

9.11 TPRC INVESTMENTS - INTERNAL CONTROL PROCEDURES

Moved Cr F Cvitan, Seconded Cr T Tyzack

That the Council APPROVE the Internal Control Procedures (dated 22 August 2012) for the management of direct investments by the TPRC.

The Motion was put and declared CARRIED (9/0).

9.12 STAGE 9 - 11 BULK EARTHWORKS CONTRACT AWARD

Satterley Property Group and Cossill & Webley declared an impartial interest in this item.

Moved Cr T Tyzack, Seconded Cr R Willox

1. **ACCEPT** the Catalina Stage 9 - 11 bulk earthworks pricing submitted by R J Vincent for the lump sum value of \$4,068,334 (excluding GST), subject to the receipt of all necessary approvals.
2. **AUTHORISE** the Chairman and CEO to sign and affix the TPRC common seal to the Contract.

The Motion was put and declared CARRIED (9/0).

Moved Cr R Willox, Seconded Cr D Michael

That the meeting move behind closed doors at 6.25pm to allow confidential item 9.13 to be discussed.

The Motion was put and declared CARRIED (9/0).

9.13 LOT 1 BUILT FORM PROJECT DEVELOPMENT AGREEMENT - CONFIDENTIAL

1. **ACCEPT** the terms and conditions of the Development Agreement for the Lot 1 Built Form Project and **AUTHORISE** the CEO and Chairman to sign and seal the Development Agreement, subject to satisfactory advice being received from the Council's legal representatives.
2. **AGREE** to the appointment of the Senior Project Officer as the TPRC representative to the Project Control Group.
3. **DELEGATE** to the CEO authority to implement and manage the Development Agreement for the Lot 1 Built Form Project in accordance with the approved Project Budget and Program and the design concepts, commercial terms and administrative arrangements set out in the ABN Group's correspondence dated 31st May 2013.

Moved Cr T Tyzack, Seconded Cr F Cvitan with an amendment to recommendation 1 as follows:

1. **ACCEPT the terms and conditions of the Development Agreement with the ABN Group for the Lot 1 Built Form Project and AUTHORISE the CEO and Chairman to sign and seal the Development Agreement, subject to satisfactory advice being received from the Council's legal representatives.**
2. **AGREE to the appointment of the Senior Project Officer as the TPRC representative to the Project Control Group.**
3. **DELEGATE to the CEO authority to implement and manage the Development Agreement for the Lot 1 Built Form Project in accordance with the approved Project Budget and Program and the design concepts, commercial terms and administrative arrangements set out in the ABN Group's correspondence dated 31st May 2013.**

The Motion was put and declared CARRIED BY ABSOLUTE MAJORITY (9/0).

Moved Cr G Amphlett, Seconded Cr J Topelberg

That standing orders be reopened and the meeting doors be opened at 6.29pm.

The Motion was put and declared CARRIED (9/0).

The Chairman read aloud the recommendations for item 9.13 as follows:

1. ACCEPT the terms and conditions of the Development Agreement with the ABN Group for the Lot 1 Built Form Project and AUTHORISE the CEO and Chairman to sign and seal the Development Agreement, subject to satisfactory advice being received from the Council's legal representatives.
2. AGREE to the appointment of the Senior Project Officer as the TPRC representative to the Project Control Group.
3. DELEGATE to the CEO authority to implement and manage the Development Agreement for the Lot 1 Built Form Project in accordance with the approved Project Budget and Program and the design concepts, commercial terms and administrative arrangements set out in the ABN Group's correspondence dated 31st May 2013.

10. ELECTED MEMBERS MOTIONS OF WHICH NOTICE HAS BEEN GIVEN

Nil

11. QUESTIONS BY ELECTED MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

12. URGENT BUSINESS APPROVED BY THE CHAIRMAN

Nil

13. MATTERS BEHIND CLOSED DOORS

Item 9.13 – Lot 1 Built form Project Development Agreement

14. GENERAL BUSINESS

Nil

15. FORMAL CLOSURE OF MEETING

The Chairman declared the meeting closed at 6.30pm.

These minutes were confirmed at a meeting on

SIGNED this day of 2013

as a true record of proceedings.

CHAIRMAN