



ATTACHMENT BOOKLET FOR ORDINARY COUNCIL MEETING

18 November 2020 at 4:30pm

INDEX

7.1 Ordinary Council Meeting held 21 October 2020 Minutes	1
11.1.1 Local Government (Model Code of Conduct) Regulations 2020 Consultation Draft	23
11.1.2 2016 Consultation Paper on Local Government Rules of Conduct and Minor Breaches	39
11.1.3 Draft Shire of Mingenew comments on proposed Local Government (Model Code of Conduct) Regulations 2020	160
11.2.1 WALGA InfoPage on Draft Local Government (Administration) Amendment Regulations (No.2) 2020	167
11.2.2 Draft Shire of Mingenew comments on proposed Local Government (Administration) Regulations (No. 2) 2020	170
11.3.1 Inquiry into the City of Perth Report Overview	181
11.3.2 Shire of Mingenew response to Inquiry Report Recommendations	208
11.4.1 State Election Priorities – Key Strategic Issues and Projects for Shire of Mingenew	232
11.5.1 WALGA State Council Agenda – 2 December 2020	236
11.6.1 Copy of submitted application (provided as separate attachment)	334
11.6.2 Copy of received submissions (provided as separate attachment)	349
11.7.1 Copy of submitted application (provided as separate attachment)	354
12.1.1 Monthly Financial Report for period ending 31 October 2020	365
12.1.2 Accounts for Payment for the period 1 October 2020 to 31 October 2020	392



MINUTES OF THE ORDINARY COUNCIL MEETING

21 OCTOBER 2020

TABLE OF CONTENTS

1.0	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS.....	3
2.0	RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE	3
3.0	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	3
4.0	PUBLIC QUESTION TIME / PUBLIC STATEMENT TIME.....	3
5.0	APPLICATIONS FOR LEAVE OF ABSENCE	3
6.0	PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS	3
7.0	CONFIRMATION OF PREVIOUS MEETING MINUTES.....	4
7.1	ORDINARY COUNCIL MEETING HELD 16 SEPTEMBER 2020	4
8.0	ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION	4
9.0	DECLARATIONS OF INTEREST	4
10.0	RECOMMENDATIONS OF COMMITTEES	4
10.1	BUSHFIRE ADVISORY COMMITTEE MEETING HELD 14 SEPTEMBER 2020	4
11	CHIEF EXECUTIVE OFFICER REPORTS	5
11.1	YANDANOOKA WATER RESERVE 18110 – WATER USE AGREEMENTS.....	5
11.2	VARIATION OF PTA LICENCE TO OCCUPY L4235 YANDANOOKA TO INCLUDE ASTROTOURISM PROJECT	10
11.3	LOCAL GOVERNMENT ACT REVIEW PANEL REPORT RESPONSE.....	13
12.0	FINANCE AND ADMINISTRATION MANAGER REPORTS	16
12.1	FINANCIAL REPORT FOR THE PERIOD ENDED 30 SEPTEMBER 2020.....	16
12.2	LIST OF PAYMENTS FOR THE PERIOD 1 SEPTEMBER 2020 TO 30 SEPTEMBER 2020	19
12.3	BUDGET AMENDMENT – OCTOBER 2020.....	20
13.0	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN/FOR CONSIDERATION AT.....	22
	FOLLOWING MEETING	22
14.0	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	22
15.0	CONFIDENTIAL ITEMS.....	22
16.0	TIME AND DATE OF NEXT MEETING	22
17.0	CLOSURE.....	22



MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD IN THE COUNCIL CHAMBERS AT 21 VICTORIA STREET, MINGENEW ON 21 OCTOBER 2020 COMMENCING AT 4.30PM

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 4:30pm.

2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

COUNCILLORS

GJ Cosgrove	Shire President	Town Ward
RW Newton	Deputy President	Rural Ward
HR McTaggart	Councillor	Rural Ward
HM Newton	Councillor	Town Ward
AR Smyth	Councillor	Town Ward
CV Farr	Councillor	Town Ward

MEMBERS OF THE PUBLIC

Nil.

STAFF

N Hay	Chief Executive Officer
J Clapham	Finance Manager
E Greaves	Governance Officer

APOLOGIES

JD Bagley	Councillor	Rural Ward
-----------	------------	------------

3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4.0 PUBLIC QUESTION TIME / PUBLIC STATEMENT TIME

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6.0 PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

Nil.

7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES

7.1 ORDINARY COUNCIL MEETING HELD 16 SEPTEMBER 2020

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 7.1 – RESOLUTION# 21102001

MOVED: Cr AR Smyth SECONDED: Cr CV Farr

That the Minutes of the Ordinary Council Meeting of the Shire of Mingenew held in the Council Chambers on 16 September 2020 be confirmed as a true and accurate record of proceedings.

VOTING:

CARRIED BY SIMPLE MAJORITY 6/0

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

Nil.

9.0 DECLARATIONS OF INTEREST

Cr RW Newton declared a Proximity Interest in Item 12.3 Budget Amendment – October 2020, as a landowner owner of property neighbouring to the land to be purchased (32 William Street) that requires a budget allocation.

10.0 RECOMMENDATIONS OF COMMITTEES

10.1 BUSHFIRE ADVISORY COMMITTEE MEETING HELD 14 SEPTEMBER 2020

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 10.1 – RESOLUTION# 21102002

MOVED: Cr HM Newton SECONDED: Cr AR Smyth

That the Minutes of the Bushfire Advisory Committee Meeting held on 14 September 2020 be received.

VOTING:

CARRIED BY SIMPLE MAJORITY 6/0

11 CHIEF EXECUTIVE OFFICER REPORTS

11.1 YANDANOOKA WATER RESERVE 18110 – WATER USE AGREEMENTS

Location/Address:	Reserve 18110, Yandanooka, Shire of Mingenew
Name of Applicant:	D & M Bagley Ikewa Grazing Company Beattie Peta SMSF Pty Ltd L Cocking
Disclosure of Interest:	Nil
File Reference:	ADM0256
Date:	24 June 2020
Author:	Erin Greaves, Governance Officer
Authorising Officer:	Nils Hay, Chief Executive Officer
Voting Requirements:	Simple Majority

Summary

To consider the renewal of Water Use Agreements that permit neighbouring landowners to access water from Yandanooka Reserve 18110 and authorise the preparation and execution of new water use agreements with the current property owners.

Key Points

- The Shire's current Water Use Agreements were last presented to Council in August 2015 for a 5-year term and expire 30 June 2020 (noting that RA Campbell's agreement was transferred to L Cocking in 2018).
- The Water Use Agreements were established to allow landowners neighbouring the Yandanooka spring located on Reserve 18110 to access water for certain purposes.
- The Agreements provide for prioritising water usage should the water availability or capacity diminish.
- Those who currently hold an agreement with the Shire have indicated they wish to continue under the same arrangements and propose no changes.

OFFICER RECOMMENDATION – ITEM 11.1

That Council;

1. Takes from the table Item 11.1 Yandanooka Water Reserve 18110 – Water Use Agreements, as presented at the 16 September 2020, to resume consideration of the item; and
2. Notes that s25(2) of the *Rights in Water and Irrigation Act 1914* outlines the conditions under which a Licence is not required for extracting water and that, should an alternative purpose such as activities of a commercial nature be required, the Grantee would need to obtain an appropriate Licence from the Department of Water and Environmental Regulation (DWER).

OFFICER RECOMMENDATION – ITEM 11.1

That Council:

1. Approves the 2020-2025 Water Use Agreement, as presented in attachment: 15.1.1- 15.1.4, for the purposes of regulating the drawing of water from the Yandanooka spring located on Reserve 18110;
2. Authorises the CEO and Shire President to execute the 2020-2025 Water Use Agreements on behalf of the Shire of Mingenew with the following landowners:
 - a) D & M Bagley as landowners of neighbouring land parcels
 - Victoria Location 9995
 - Victoria Location 9996
 - Victoria Location 9997
 - Victoria Location 9998;

- b) Ikewa Grazing Company Pty Ltd as landowners of neighbouring land parcels
Lot 104 Yandanooka North East Road
Lot 107 Yandanooka North East Road
Lot 16, Victoria Location 1929
Lot 17, Victoria Location 1929;
- c) Beattie Peta SMSF Pty Ltd as landowners of neighbouring land parcels
Lot 61, Victoria Location 1910;
- d) L Cocking as the landowner of neighbouring land parcels
Lot 18, Victoria Location 1929
Lot 19, Victoria Location 1929.

OFFICER RECOMMENDATION AND EN BLOC COUNCIL DECISION - ITEM 11.1 – RESOLUTION# 21102003

MOVED: Cr AR Smyth **SECONDED:** Cr HR McTaggart

That Council;

1. Takes from the table Item 11.1 Yandanooka Water Reserve 18110 – Water Use Agreements, as presented at the 16 September 2020, to resume consideration of the item; and
2. Notes that s25(2) of the *Rights in Water and Irrigation Act 1914* outlines the conditions under which a Licence is not required for extracting water and that, should an alternative purpose such as activities of a commercial nature be required, the Grantee would need to obtain an appropriate Licence from the Department of Water and Environmental Regulation (DWER).
3. Approves the 2020-2025 Water Use Agreement, as presented in attachment: 15.1.1- 15.1.4, for the purposes of regulating the drawing of water from the Yandanooka spring located on Reserve 18110;
4. Authorises the CEO and Shire President to execute the 2020-2025 Water Use Agreements on behalf of the Shire of Mingenew with the following landowners:
 - a) D & M Bagley as landowners of neighbouring land parcels
Victoria Location 9995
Victoria Location 9996
Victoria Location 9997
Victoria Location 9998;
 - b) Ikewa Grazing Company Pty Ltd as landowners of neighbouring land parcels
Lot 104 Yandanooka North East Road
Lot 107 Yandanooka North East Road
Lot 16, Victoria Location 1929
Lot 17, Victoria Location 1929;
 - c) Beattie Peta SMSF Pty Ltd as landowners of neighbouring land parcels
Lot 61, Victoria Location 1910;
 - d) L Cocking as the landowner of neighbouring land parcels
Lot 18, Victoria Location 1929
Lot 19, Victoria Location 1929.

VOTING:

CARRIED BY SIMPLE MAJORITY 6/0

Attachment

- 15.1.1 2020 – 2025 Water Use Agreement – D & M Bagley
- 15.1.2 2020 – 2025 Water Use Agreement – Ikewa Grazing Pty Ltd
- 15.1.3 2020 – 2025 Water Use Agreement – Beattie Peta SMSF Pty Ltd
- 15.1.4 2020 – 2025 Water Use Agreement – L Cocking [demonstrates tracked changes for Council to evidence the expired contract's content]

Background

The *Rights in Water and Irrigation Act 1914* provides the legislative basis for the planning, regulation, management, protection and allocation of water resources in Western Australia. The objectives of the legislation include providing for the management, sustainable use and development of water resources to meet the needs of current and future users, and for the protection of their ecosystems and the environment in which water resources are situated.

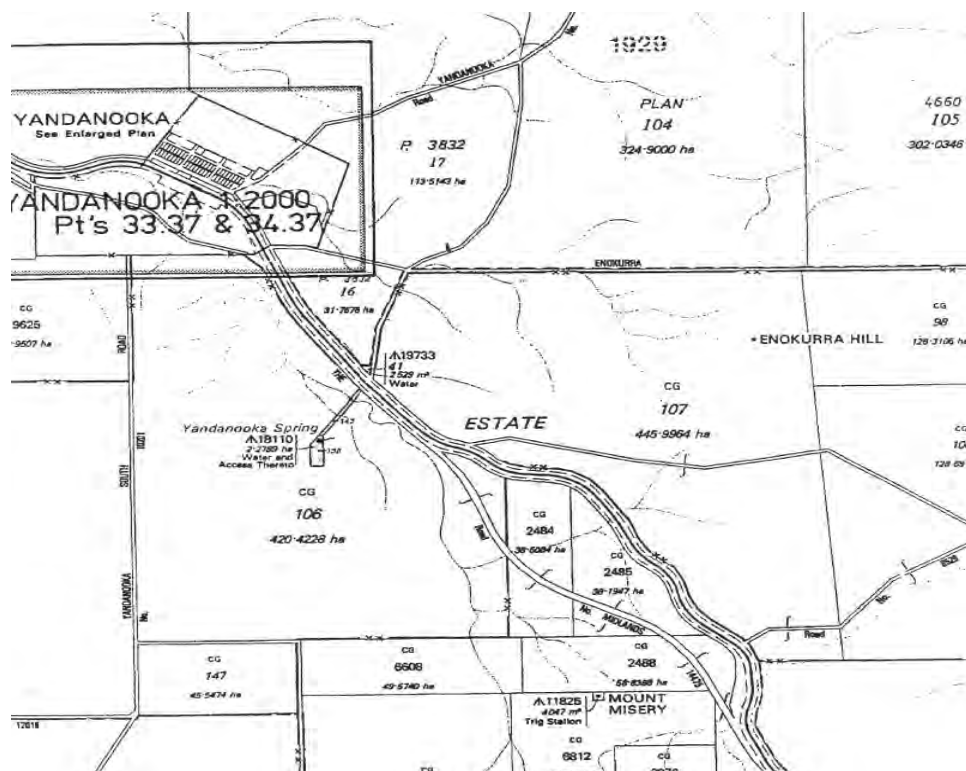
Whilst the *Rights in Water and Irrigation Act 1914* requires that a licence be obtained through the Department of Water and Environment Regulation (DWER) for the use of groundwater and the construction of a bore, the use / purpose for extracting water in these circumstances is exempt in accordance with s25(2), if the use meets the following criteria:

- (a) for domestic and ordinary use; and
- (b) for firefighting; and
- (c) for watering cattle or other stock, other than those being raised under intensive conditions as defined in section 21(4); and
- (d) for any other purpose that is prescribed by a local by-law referred to in subsection (1).

The Yandanooka Reserve 188110 was originally vested with the Shire (formerly as the Mingenew Road Board) in 1938 for the public purpose of water supply. The spring has historically fed the Bundanoon area and Yandanooka townsite, and more recently neighbouring properties.

The 2015 – 2020 Water Use Agreements were considered and renewed by Council at the August 2015 Ordinary Council meeting which originally included RA Campbell for Lots 18 & 19, Victoria Location 1929. The Water Use Agreement with RA Campbell was then transferred to the new property owner (L Cocking) as a result of a Council decision at the November 2018 Council meeting (Resolution# 17101810).

The below map outlines the spring location and neighbouring land parcels:



Comment

All agreements, existing and proposed are identical in content. Attachment 15.1.4 demonstrates the proposed changes in the contract document whilst the other agreements (attachment 15.1.1-15.1.3) have the proposed changes incorporated and are the finalised version.

Changes to the existing contract proposed-

1. Amendment to clause 3.3

To accurately reflect the "Last On, First Off" concept, the priority of allocation / usage is to be amended to read as follows:

Priority Status	Grantee
1- First on	D & M Bagley
2- Second on	Ikewa Trading Company
3- Third on	Beattie Peta SMSF Pty Ltd
4- Last on	J. Cocking

It is worth noting that whilst the current agreement provides for the protection of water allocation in the case of natural diminution as above, there is no formal monitoring of water reserve levels being undertaken by, or required of, the Shire to provide oversight on water quantity levels.

2. Amendment to clause 6.1 & inclusion of clause 6.2

The permitted use under Clause 6.1 of the now expired agreement outlines "The Grantee may use the water from the Spring to water livestock, and for domestic, and commercial purposes." DWER have provided the following advice regarding water usage and licences:

"No licences are required if water is only taken from the water table aquifer and is used for:

- Domestic purposes*
- A garden up to 0.2 hectares*
- Stock raised under non-intensive conditions*
- Fire fighting*

Only if the neighbouring landowners are considering doing something else with the land that needs water, then they would need licencing, or an agreement clause added to the Shire of Mingenew's existing groundwater licence."

Therefore, to provide clarity around acceptable water use under the agreement, the word 'commercial' has been removed and the criteria as provided by DWER inserted.

Additional Comments

Clause 6.2 has been amended to reflect the advice that a change to the usage of water (from the Reserve), could result in licensing requirements and additional conditions / monitoring requirements for the Grantee, and the Agreements require that the Shire be notified of any changes to water use. Clause 6.3 indemnifies the Shire from any costs associated with a Licence being granted / conditions imposed and protects other licence holders from being adversely affected.

Consultation

David and Justin Bagley
Peter Mills, Ikewa Grazing
Leonard Cocking
Rodney Beattie

Mick Major, Department of Water and Environment Regulations
Gary Little, WALGA – Environmental Division

Statutory Environment

Local Government Act 1995

Rights in Water and Irrigation Act 1914

Policy Implications

Nil.

Financial Implications

No fee has historically been collected for the Water Use Agreements.

The Shire incurs a minimal administration cost in the review and execution of the documents. If Council were to consider establishing a fee, it is recommended that the fee be paid upon renewal.

Strategic Implications

Strategic Community Plan 2019-2029

Strategy 1.4.1 Manage and protect water resources and infrastructure

11.2 VARIATION OF PTA LICENCE TO OCCUPY L4235 YANDANOOKA TO INCLUDE ASTROTOURISM PROJECT

Location/Address: Lot 249 and 250, Yandanooka, Shire of Mingenew
Name of Applicant: Public Transport Authority (PTA) Western Australia
Disclosure of Interest: Nil
File Reference: ADM0278
Date: 1 October 2020
Author: Erin Greaves, Governance Officer
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

To consider a variation to the Shire's Licence to Occupy L4235 with the Public Transport Authority (PTA) that would extend the licence area that currently incorporates a small portion of Lot 250 Yandanooka to the north-west incorporating both L249 and the entire L250 to allow for public parking access and activities associated the Shire's proposed Astrotourism Project.

Key Points

- A project to install a stargazing platform and interpretive signage opposite the Yandanooka townsite was included in the Shire's submission for grant funding under the Drought Communities Programme (DCP)
- A request was made to the PTA to vary the current Licence to accommodate community use for the Shire's Astrotourism Project
- PTA have provided a letter to the Shire indicating agreeance to extend the Licence area of L4235 and Council endorsement is sought

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.2 – RESOLUTION# 21102004

MOVED: Cr HM Newton **SECONDED:** Cr HR McTaggart

That Council:

1. Endorses the variation of the Licence to Occupy L4235 Yandanooka with the Public Transport Authority to extend the licence area currently incorporating the siding shed on L250 on DP156168 (32m²) to the north-west incorporating both L249 and the whole of L250 (9,408m²) to allow for public parking access and activities associated with the Shire's proposed Astrotourism Project; and
2. Authorises the Shire President and Chief Executive Officer to execute the licence variation by signing and submitting the Letter of Variation provided by the Public Transport Authority.

VOTING:

CARRIED BY SIMPLE MAJORITY 6/0

Attachment

11.2.1 Letter of Variation and new PTA Plan for L4235 Yandanooka

Background

Lot 249 and Lot 250 Yandaooka form part of the Railway Reserve managed by ARC Infrastructure Pty Ltd and licensing of the land for community purposes is managed by the Public Transport Authority (PTA).

At the 20 June 2018 Ordinary Council meeting, Council renewed the lease L4235 for the portion of Lot 250 Yandanooka that incorporates the siding shed that has been used as the Yandanooka Post Office / Mail Delivery Building (as labelled "Shed Area" in the image below).



The Licence to Occupy is a 5-year licence commencing in 2019, with an option to renew for a further 5 year period (expiring in September 2029).

Prior to the licence being issued, the proposal to consider the renewal of this Licence (L4235) and another Licence (L5846) relating to a loading ramp on the railway reserve, community consultation occurred to ascertain community interest in the area. At that time feedback (from two sources) was received indicating support to maintain interest in the land for community purposes due to historic and tourism value. No objections to the licence renewals were received at that time.

Comment

The Shire of Mingenew has been involved with Astrotourism WA since 2018 and to build on the success of that campaign to-date, the Shire is proposing to install new interpretive signage at the Yandanooka townsite (to the north-west of the siding shed shown in the image above, within the green rectangle indicating the new licenced area) and allocate space for parking and access. Signage will further promote stargazing and astrophotography at this key rest stop and will be enhanced with the provision of a telescope platform to be used by locals and visitors to enjoy. This is just one project that has been funded through the federal Drought Communities Program to contribute to increased economic activity within the Shire and region.

This proposed variation also provides appropriate Shire control over the current caravan parking area, and gives the Shire security of tenure over land for community purposes in Yandanooka following the recent Yamatji Land Settlement, which will see much of the vacant crown land in Yandanooka transferred to Native Title Holders.

In order for this project to proceed in this location, permission needs to be sought through the Public Transport authority to vary the Licence to Occupy. The project aligns with the PTA's definition of community purposes and they have indicated no objection to the proposal.

Consultation

Jim Mullins, Senior Property Manager (PTA) – Burgess Rawson

Statutory Environment

Local Government Act 1995

Policy Implications

Nil.

Financial Implications

The licence is provided under a “peppercorn lease” arrangement, therefore the direct financial implication for the change is nil. However, an increase to the size of the licence area and new infrastructure at the site may increase minor administrative costs over the span of the licence term.

Strategic Implications

Strategic Community Plan 2019-2029

Strategy 4.3.3 Capture more value from tourism – build local experiences and products, including Astrotourism, farm tourism and food tourism

Corporate Business Plan 2019 – 2023

Project 2.3.2c Engage with tourism industry to support and encourage development of new local tourism products

Project 4.3.3b Maintain relationship with Astrotourism WA to assist to grow market in Mingenew

11.3 LOCAL GOVERNMENT ACT REVIEW PANEL REPORT RESPONSE

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0059
Date: 13 October 2020
Author: Erin Greaves, Governance Officer
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

To consider the Shire's response to the Local Government Act Review Panel report, and feedback provided by Western Australian Local Government Association (WALGA) and Local Government Professionals WA.

Key Points

- As part of the review of the Local Government Act, the WA Government constituted a review panel to provide a report on legislative reform
- At the most recent WALGA State Council Meeting, it was resolved that Local Governments prepare responses to the report recommendations by end of October
- Both WALGA and LG Professionals have prepared feedback on the Panel report and distributed to the sector
- The Panel recommendations were provided to Councillors at the September 2020 Council Forum, and during the meeting implications of the Panel recommendations were discussed. Feedback at that meeting has assisted in formulating the proposed responses that are presented

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.3 – RESOLUTION# 21102005
MOVED: Cr HR McTaggart SECONDED: Cr AR Smyth

That Council endorses the prepared Shire of Mingenew response to the Local Government Act Review Panel Report, as presented in Attachment Booklet – October 2020, to be submitted as Council's formal feedback to the Western Australian Local Government Association (WALGA).

VOTING: CARRIED BY SIMPLE MAJORITY 6/0

Attachment

11.3.1 Prepared submission in response to Panel Report

11.3.2 Local Government Act Review Panel Report (Full Report)

Background

Following the announcement in 2017, that a review of the *Local Government Act 1995* would be commenced, a significant course of consultation and reform has been undertaken to establish a more modern and relevant suite of legislation to better deliver for WA communities. The Government's vision is for local governments to be "agile, smart and inclusive".

Given the breadth of matters covered by the Local Government Act, a staged approach to the review has been adopted:

- Stage one: priority reforms
- Stage two: wide ranging reforms

The majority of the stage one priority reforms are now in place following the passage of the *Local Government Legislation Amendment Act 2019*. These reforms include:

- A new gift framework for elected members;
- A mandatory online induction for all candidates;
- Universal training for elected members;
- Changes to the Standards Panel; and
- Easier access to information to provide greater transparency to the community.

The remaining priority reforms which are expected to be implemented later this year include:

- New mandatory code of conduct for elected members, committee members and candidates;
- Best practice standards for Chief Executive Officer (CEO) recruitment, performance review and early termination; and
- Further transparency measures.

Extensive community consultation was conducted on stage two topics between September 2018 and March 2019 by the Department of Local Government, Sport and Cultural Industries (the Department) with contributions from community members, ratepayer associations, industry groups, local governments, elected members, and peak bodies.

Since the 2019 consultations, a panel of experts have been formed to provide more detailed consideration and to develop policy responses to guide the development of the new Act. The role of the Panel was to guide the review's strategic direction and to consider and recommend high level guiding principles of the new Act. The attached Local Government Act Review Panel Report is a culmination of the work they have undertaken in reviewing the Act and feedback provided by stakeholders, with detailed recommendations now presented to the sector for further feedback.

The Panel proposes that in changing the Act to ensure it is relevant, fresh and reflects the objectives it set out to achieve, the following should be considered:

- Start with an introductory section that sets the tone, modelled on the Northern Territory Act
- Structure the new Act around strategic issues and the ways in which local government relates to its communities and partners, rather than the mechanics of local administration.
- Include sets of principles that offer guidance on how key objectives of the new Act should be pursued.
- Shorten the main text considerably (aim for at least a 50% reduction) by consigning regulatory detail to schedules or a separate 'operations' Act (the Panel was advised that extensive use of schedules may be inconsistent with current drafting practice).
- Incorporate new measures to expand self-regulation (notably independent Audit, Risk and Improvement Committees) as part of a flexible regulatory regime that can respond quickly to unexpected circumstances (such as COVID-19).
- Minimise the use of Regulations (which tends to enable more extensive and detailed oversight and intervention, and which requires time-consuming parliamentary drafting) by providing standardised guidelines and model codes, charters and local laws. Local governments could modify these 'minimum' provisions but would have to justify significant departures from them to the Joint Standing Committee on Delegated Legislation.

How the changes are to be structured and rolled out is still to be determined.

A copy of the Local Government Act Review Panel Report (Panel Report) and a proposed response was prepared and presented to Councillors for general comment and feedback at the September 2020 Council Forum in order to establish some guidance in preparing a final response for Council consideration.

Comment

Each prepared response has had consideration of the Panel's findings/comments, recommendations by WALGA and LG Professionals WA, and implications specific to the Shire of Mingenew.

Whilst each recommendation has been responded to individually within the prepared response, there are a number of recommendations that could have negative implications for the Shire of Mingenew in terms of resourcing and capacity should requirements increase the administrative burden. The Panel Report outlines difficulty in applying a size and scale approach to obligations and requirements and instead recommends setting minimum standards that provide some flexibility in application.

Consultation

WA Local Government Association (WALGA)
Local Government Professionals WA

Statutory Environment

Local Government Act 1995

Policy Implications

Nil.

Financial Implications

Nil.

Strategic Implications

Strategic Community Plan 2019-2029

Strategy 1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner.

12.1 FINANCIAL REPORT FOR THE PERIOD ENDED 30 SEPTEMBER 2020

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	ADM0304
Attachment/s:	Monthly Financial Report – September 2020
Disclosure of Interest:	Nil
Date:	8 October 2020
Author:	Helen Sternick, Senior Finance Officer
Authorised by:	Jeremy Clapham, Finance & Administration Manager
Voting Requirement:	Simple Majority

This report recommends that the Monthly Financial Report for the period ending 30 September 2020 as presented to the Council be received.

MOVED: Cr RW Newton SECONDED: Cr AR Smyth

That the Monthly Financial Report for the period 1 July 2020 to 30 September 2020 be received.

VOTING: CARRIED BY SIMPLE MAJORITY 6/0

Monthly Financial Report for period ending 30 September 2020

The Monthly Financial Report to 30 September 2020 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

- Summary Information
- Statement of Financial Activity by Program
- Statement of Financial Activity by Nature & Type
- Statement of Financial Activity Information
- Cash and Financial Assets
- Receivables
- Other Current Assets
- Payables
- Rating Revenue
- Disposal of Assets
- Capital Acquisitions
- Borrowings
- Cash Reserves
- Other Current Liabilities
- Grants and Contributions
- Bonds and Deposits
- Explanation of Material Variances

Comment

Summary of Funds as per bank statements – Shire of Mingenew as at 30 September 2020	
Municipal Funds	\$2,149,382.20
Cash on Hand	\$100
Restricted Funds – 6 Month Term Deposit @ 0.9%	\$164,613
Trust Fund	\$1
Reserve fund - 6 Month Term Deposit @ 0.9%	\$427,012

Debtor's accounts continue to be monitored with all efforts being made to ensure that monies are recovered.

The Statement of Financial Activities Report contains explanations of Councils adopted variances for the 2020/21 financial year.

The Financial Report for the year ending 30 June 2020 has not yet been audited and is subject to change. The Opening Funding Surplus on 1 July 2020 is different to the Closing Funding Surplus at 30 June 2020. The reason for this is that the Closing Funding Surplus at 30 June 2020 was estimated in order to prepare the budget, due to the June 2020 accounts not yet being finalised. There were a number of adjustments made after year end, mainly to do with legislation changes (the treatment of income, the treatment of leases and the treatment of loss allowances). The largest of these adjustments was to do with the Bridge Funds received in 2016/17 but not yet spent, amounting to \$146,667. An adjustment was required as the funds received needed to be shown as a liability rather than as income. When the funds get paid to MRWA for the work done, they will be transferred back to income and increase the Funding Surplus once more.

Consultation

Nil

Statutory Environment

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

34. Financial activity statement required each month (Act s. 6.4)

(1A) In this regulation —

committed assets means revenue unspent but set aside under the annual budget for a specific purpose.

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
- (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - (b) budget estimates to the end of the month to which the statement relates; and
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.

- (2) Each statement of financial activity is to be accompanied by documents containing —
 - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
 - (b) an explanation of each of the material variances referred to in sub regulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity may be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —
 - (a) Presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) Recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Policy Implications

Nil

Financial Implications

No financial implications are indicated in this report.

Strategic Implications

Nil

12.2 LIST OF PAYMENTS FOR THE PERIOD 1 SEPTEMBER 2020 TO 30 SEPTEMBER 2020

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0042
Attachment/s: List of Payments – September 2020
Disclosure of Interest: Nil
Date: 8 October 2020
Author: Helen Sternick, Senior Finance Officer
Authorised by: Jeremy Clapham, Finance & Administration Manager
Voting Requirement: Simple Majority

Summary

This report recommends that Council receive the list of payments for period 1 September 2020 to 30 September 2020 in accordance with r 13(1) Local Government (Financial Management) Regulations 1996.

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 12.2 – RESOLUTION# 21102007
MOVED: Cr HM Newton SECONDED: Cr CV Farr

That Council receive the attached list of payments for the period of 1 September 2020 to 30 September 2020 as follows:

\$208,320.20 Municipal EFT's;
\$29,532.75 Municipal Direct Debit Department of Transport (Licencing) Payments;
\$72,986.78 Municipal Direct Debit Other;
\$2,476.31 Municipal Other Charges;
\$101,234.81 Net Salaries

Totalling \$414,550.85 as per attached list of payments.

VOTING:

CARRIED BY SIMPLE MAJORITY 6/0

Background

Financial Regulations require a schedule of payments made through the Council bank accounts to be presented to Council for their inspection. The list includes details for each account paid incorporating the payee's name, amount of payment, date of payment and sufficient information to identify the transaction.

Comment

Invoices supporting all payments are available for inspection. All invoices and vouchers presented to Council have been certified as to the receipt of goods and the rendition of services and as to prices, computations and costings, and that the amounts shown were due for payment.

Statutory Environment

Local Government Act 1996, Section 6.4

Local Government (Financial Management) Regulations 1996, Sections 12, 13 and 15

Policy Implications

Payments have been made under delegation.

Financial Implications

Funds available to meet expenditure.

Strategic Implications

Nil

Prior to discussion of Item 12.3, Cr RW Newton disclosed a Proximity Interest as a landowner neighbouring the Catholic church property proposed to be purchased, and therefore did not participate in voting or discussions, and left the meeting at 4:39pm.

12.3 BUDGET AMENDMENT – OCTOBER 2020

Location/Address: Shire of Mingenew – 21 Victoria Street Mingenew 6522
Name of Applicant: Shire of Mingenew
File Reference: ADM0130
Disclosure of Interest: Nil
Date: 5 October 2020
Author: Jeremy Clapham – Finance & Administration Manager
Authorised by: Nils Hay – Chief Executive Officer
Voting Requirements: Absolute Majority

Summary

Consideration is requested to amend the budget to cover the increase in cost of the replacement of the roof on the MIG Building and the purchase (and related costs) of a portion of land on 32 William St from the Catholic Church, to be offset by savings achieved in the replacement of plant.

Key Points

- It is estimated that an extra \$10,000 is required to replace the roof on the MIG Building;
- The purchase of the portion of land on 32 William St from the Catholic Church was not budgeted for and the price (including related costs) is estimated at \$5,000;
- The total amount of the above items will be offset by savings achieved in the replacement of the backhoe.

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 12.3 – RESOLUTION# 21102008

MOVED: Cr HM Newton **SECONDED:** Cr AR Smyth

That Council authorises the reallocation of funds between accounts as listed below to amend the Budget for 2020/21:

<u>Details</u>	<u>A/C #</u>	<u>Amount</u>
Extra costs to be incurred:		
Roof replacement on MIG building - costs above estimated - capital	BC054	-\$10,000
Purchase of land - not budgeted for - capital	New	-\$2,000
Costs associated with purchase of land - not budgeted for - operating	2040285	-\$3,000
Total		-\$15,000
To be funded by:		
Savings achieved in the replacement of the backhoe	PE262	\$15,000
Total		\$15,000

VOTING:

CARRIED BY ABSOLUTE MAJORITY 5/0

Background

The budgeted amount to replace the roof on the MIG building was estimated at \$20,000 at the time that the budget was compiled. An accurate estimate has now been obtained, with the amount being approximately \$10,000 more than the amount that was budgeted for.

Consultation was entered into in regard to purchasing the portion of land on 32 William St containing a Shire owned leach drain from the Catholic Church in the 2018/19 financial year. This item was not budgeted for.

It is proposed that the expected savings from the backhoe replacement be utilised to fund this increase.

Comment

The quotes obtained for the replacement of the MIG building roof are \$29,778 and \$29,875 respectively. This is approximately \$10,000 more than the amount budgeted for. The amount of \$20,000 provided in the budget is an estimate only, as there was not enough time to get anybody to inspect the roof and provide an accurate quote. The quotes were received in August 2020.

The portion of 32 William St currently owned by the Catholic Church that contains the leach drain which is owned by the Shire and connected to 34 William St measures 350m² and is valued at \$2,000 (plus an estimated amount of \$3,000 for transfer, survey and other costs – the Shire will cover the costs of the Catholic Church).

Initial discussions with the Catholic Church were entered into in August 2019, and concluded in January 2020. An oversight, the cost was not taken into account when the budget for 2020/21 was prepared.

To offset the additional funds required for these two items, there will be savings on the replacement of the backhoe. The changeover for the backhoe replacement will be \$15,000 less than budgeted for (cost of approximately \$169,000 less trade in of \$29,000 instead of a cost of \$170,000 less trade in of \$15,000).

Consultation

CEO

Statutory Environment

Local Government Act 1995, Local Government (Financial Management) Regulations 1996

Policy Implications

Nil

Financial Implications

Funds will be reallocated between general ledger accounts, as outlined above, with the net effect on the budget bottom line being nil.

Strategic Implications

Community Strategic Plan

- Strategy 1.2.1 Manage organisation in a financially sustainable manner
- Strategy 1.2.4 Seek innovating ways to improve organisational efficiency and effectiveness.

Cr RW Newton returned to the meeting at 4:40pm.

13.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN/FOR CONSIDERATION AT FOLLOWING MEETING
Nil.

14.0 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING
Nil.

15.0 CONFIDENTIAL ITEMS
Nil.

16.0 TIME AND DATE OF NEXT MEETING
Next Ordinary Council Meeting to be held on Wednesday 18 November 2020 commencing at 4:30pm.

17.0 CLOSURE
The Presiding Member thanked everyone for their attendance and closed the meeting at 4:40pm.

These minutes were confirmed at an Ordinary Council meeting on 18 November 2020.

Signed _____
Presiding Officer

Date: _____

Local Government (Model Code of Conduct) Regulations 2020

Contents

Part 1 — Preliminary		
1.	Citation	1
2.	Commencement	1
Part 2 — Model code of conduct		
3.	Model code of conduct (Act s. 5.103(1))	2
Part 3 — Repeal and consequential amendments		
Division 1 — Repeal		
4.	<i>Local Government (Rules of Conduct) Regulations 2007</i> repealed	3
Division 2 — Other regulations amended		
5.	<i>Local Government (Administration) Regulations 1996</i> amended	3
Part 9A — Minor breaches by council members		
34D.	Contravention of local law as to conduct (Act s. 5.105(1)(b))	3
6.	<i>Local Government (Audit) Regulations 1996</i> amended	4
7.	<i>Local Government (Constitution) Regulations 1998</i> amended	4
Schedule 1 — Model code of conduct		
Division 1 — Preliminary provisions		
1.	Citation	5
2.	Terms used	5

Contents

	Division 2 — General principles	
3.	Overview of Division	5
4.	Personal integrity	5
5.	Relationships with others	6
6.	Accountability	6
	Division 3 — Behaviour	
7.	Overview of Division	7
8.	Personal integrity	7
9.	Relationships with others	7
10.	Complaints about alleged breach	8
11.	Local government to deal with complaints	9
12.	Other provisions about complaints	10
	Division 4 — Rules of conduct	
13.	Overview of Division	10
14.	Misuse of local government resources	10
15.	Securing personal advantage or disadvantaging others	10
16.	Prohibition against involvement in administration	11
17.	Relations with local government employees	11
18.	Disclosure of information	12
19.	Disclosure of interests	13

Local Government (Model Code of Conduct) Regulations 2020

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Local Government (Model Code of Conduct) Regulations 2020*.

2. Commencement

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Local Government Legislation Amendment Act 2019* sections 48 to 51 come into operation.

Part 2 — Model code of conduct

3. Model code of conduct (Act s. 5.103(1))

The model code of conduct for council members, committee members and candidates is set out in Schedule 1.

Consultation Draft

Part 3 — Repeal and consequential amendments

Division 1 — Repeal

**4. *Local Government (Rules of Conduct) Regulations 2007*
repealed**

The *Local Government (Rules of Conduct) Regulations 2007* are repealed.

Division 2 — Other regulations amended

**5. *Local Government (Administration) Regulations 1996*
amended**

- (1) This regulation amends the *Local Government (Administration) Regulations 1996*.
- (2) Delete regulation 29(1)(baa).
- (3) After regulation 34C insert:

Part 9A — Minor breaches by council members

34D. **Contravention of local law as to conduct
(Act s. 5.105(1)(b))**

- (1) In this regulation —
local law as to conduct means a local law relating to the conduct of people at council or committee meetings.
- (2) The contravention of a local law as to conduct is a minor breach for the purposes of section 5.105(1)(b) of the Act.

6. *Local Government (Audit) Regulations 1996* amended

- (1) This regulation amends the *Local Government (Audit) Regulations 1996*.
- (2) In regulation 13 in the Table:
- (a) under the heading “***Local Government Act 1995***” delete “s. 5.103” and insert:

s. 5.104

- (b) delete:

<i>Local Government (Rules of Conduct) Regulations 2007</i>		
r. 11		

7. *Local Government (Constitution) Regulations 1998* amended

- (1) This regulation amends the *Local Government (Constitution) Regulations 1998*.
- (2) In Schedule 1 Form 7 delete “*Local Government (Rules of Conduct) Regulations 2007*.” and insert:

code of conduct adopted by the ³ under section 5.104 of the *Local Government Act 1995*.

Schedule 1 — Model code of conduct

[r. 3]

Division 1 — Preliminary provisions

1. Citation

This is the *[insert name of local government]* Code of Conduct for Council Members, Committee Members and Candidates.

2. Terms used

(1) In this code —

Act means the *Local Government Act 1995*;

candidate means a candidate for election as a council member;

publish includes to publish on a social media platform.

(2) Other terms used in this code that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

Division 2 — General principles

3. Overview of Division

This Division sets out general principles to guide the behaviour of council members, committee members and candidates.

4. Personal integrity

(1) A council member, committee member or candidate should —

(a) act with reasonable care and diligence; and

(b) act with honesty and integrity; and

(c) act lawfully; and

(d) identify and appropriately manage any conflict of interest, including by the refusal of gifts that may give the appearance of a conflict of interest or an attempt to corruptly influence behaviour; and

(e) avoid damage to the reputation of the local government.

- (2) A council member or committee member should —
- (a) act in accordance with the trust placed in council members and committee members; and
 - (b) participate in decision-making in an honest, fair, impartial and timely manner; and
 - (c) actively seek out and engage in training and development opportunities to improve the performance of their role; and
 - (d) attend and participate in briefings, workshops and training sessions provided or arranged by the local government in relation to the performance of their role.

5. Relationships with others

- (1) A council member, committee member or candidate should —
- (a) treat others with respect, courtesy and fairness; and
 - (b) respect and value diversity in the community.
- (2) A council member or committee member should maintain and contribute to a harmonious, safe and productive work environment.

6. Accountability

A council member or committee member should —

- (a) base decisions on relevant and factually correct information; and
- (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
- (c) read all agenda papers given to them in relation to council or committee meetings; and
- (d) be open and accountable to the public and represent all constituents.

Division 3 — Behaviour

7. Overview of Division

This Division sets out —

- (a) requirements relating to the behaviour of council members, committee members and candidates; and
- (b) the mechanism for dealing with alleged breaches of those requirements.

8. Personal integrity

- (1) A council member, committee member or candidate —
 - (a) must ensure that their use of social media and other forms of communication complies with this code; and
 - (b) must only publish material that is factually correct.
- (2) A council member or committee member —
 - (a) must not be impaired by alcohol or drugs in the performance of their official duties; and
 - (b) must comply with all policies, procedures and resolutions of the local government.

9. Relationships with others

A council member, committee member or candidate —

- (a) must not bully or harass another person in any way; and
- (b) must deal with the media in a positive, informative and appropriate manner and in accordance with any relevant policy of the local government; and
- (c) must not use offensive or derogatory language when referring to another person; and
- (d) must not disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and
- (e) must not impute dishonest or unethical motives to another council member, committee member or candidate or a local

government employee in connection with the performance of their official duties; and

- (f) when attending a council or committee meeting —
 - (i) must not act in an abusive or threatening manner towards another person; and
 - (ii) must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and
 - (iii) must not repeatedly disrupt the meeting; and
 - (iv) must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and
 - (v) must comply with any direction given by the person presiding at the meeting; and
 - (vi) must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting;
- and
- (g) must direct to the CEO any request for a query or complaint to be dealt with, or other work or action to be undertaken, by a local government employee.

10. Complaints about alleged breach

- (1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.
- (2) A complaint must be made —
 - (a) in writing in the form approved by the local government; and
 - (b) to a person authorised under subclause (3); and
 - (c) within 1 month after the occurrence of the alleged breach.
- (3) The local government must, in writing, authorise 1 or more persons to receive complaints made under subclause (1).

11. Local government to deal with complaints

- (1) After considering a complaint, the local government must, unless it dismisses the complaint under subclause (2), make a finding as to whether the alleged breach the subject of the complaint has occurred.
- (2) The local government must dismiss the complaint if it is satisfied that —
 - (a) the behaviour to which the complaint relates occurred at a council or committee meeting; and
 - (b) either —
 - (i) the behaviour was dealt with by the person presiding at the meeting; or
 - (ii) the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.
- (3) Before making a finding in relation to the complaint, the local government must give the person to whom the complaint relates a reasonable opportunity to be heard.
- (4) A finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.
- (5) If the local government makes a finding that the alleged breach has occurred, the local government may —
 - (a) decide to take no further action; or
 - (b) in consultation with the person to whom the complaint relates, develop and implement a plan to address the person's behaviour.
- (6) A plan under subclause (5)(b) may include requirements for the person to participate in training, mediation or counselling or to take any other action the local government considers appropriate.
- (7) The local government must give written notice to the complainant and to the person to whom the complaint relates of —
 - (a) its finding in relation to the complaint under subclause (1) or its decision to dismiss the complaint under subclause (2); and
 - (b) its reasons for the finding or decision.

12. Other provisions about complaints

- (1) A complaint made under clause 10(1) about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as a council member.
- (2) The procedure for dealing with complaints made under clause 10(1) may be determined by the local government to the extent that it is not provided for in clause 11.

Division 4 — Rules of conduct

13. Overview of Division

- (1) This Division sets out rules of conduct for council members and candidates.
- (2) A reference in this Division to a council member includes a council member when acting as a committee member.

14. Misuse of local government resources

- (1) In this clause —
electoral purpose means the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the *Electoral Act 1907* or the *Commonwealth Electoral Act 1918*;
resources of a local government includes —
 - (a) local government property; and
 - (b) services provided, or paid for, by a local government.
- (2) A council member must not, directly or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.

15. Securing personal advantage or disadvantaging others

- (1) A council member must not make improper use of their office —
 - (a) to gain, directly or indirectly, an advantage for the council member or any other person; or

- (b) to cause detriment to the local government or any other person.

- (2) Subclause (1) does not apply to conduct that contravenes section 5.93 of the Act or *The Criminal Code* section 83.

16. Prohibition against involvement in administration

- (1) A council member must not undertake a task that contributes to the administration of the local government.
- (2) Subclause (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

17. Relations with local government employees

- (1) In this clause —

local government employee means a person —

- (a) employed by a local government under section 5.36(1) of the Act; or
- (b) engaged by a local government under a contract for services.

- (2) A council member or candidate must not —

- (a) direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or
- (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or
- (c) act in an abusive or threatening manner towards a local government employee.

- (3) Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

- (4) If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event at which members of the public are present, the council member or candidate must not orally, in writing or by any other means —

- (a) make a statement that a local government employee is incompetent or dishonest; or
 - (b) use an offensive or objectionable expression when referring to a local government employee.
- (5) Subclause (4)(a) does not apply to conduct that is unlawful under *The Criminal Code* Chapter XXXV.

18. Disclosure of information

- (1) In this clause —
 - closed meeting** means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;
 - confidential document** means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;
 - document** includes a part of a document;
 - non-confidential document** means a document that is not a confidential document.
- (2) A council member must not disclose information that the council member —
 - (a) derived from a confidential document; or
 - (b) acquired at a closed meeting other than information derived from a non-confidential document.
- (3) Subclause (2) does not prevent a council member from disclosing information —
 - (a) at a closed meeting; or
 - (b) to the extent specified by the council and subject to such other conditions as the council determines; or
 - (c) that is already in the public domain; or
 - (d) to an officer of the Department; or
 - (e) to the Minister; or
 - (f) to a legal practitioner for the purpose of obtaining legal advice; or
 - (g) if the disclosure is required or permitted by law.

19. Disclosure of interests

- (1) In this clause —

interest means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.

- (2) A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must disclose the nature of the interest —

- (a) in a written notice given to the CEO before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

- (3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.

- (4) Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —

- (a) that they had an interest in the matter; or
- (b) that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.

- (5) If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then —

- (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
- (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.

- (6) Subclause (7) applies in relation to an interest if —

- (a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or
- (b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.

- (7) The nature of the interest must be recorded in the minutes of the meeting.

Clerk of the Executive Council

Consultation Draft

A decorative blue geometric pattern consisting of various shades of blue triangles and squares, located on the left side of the page.

Consultation Paper

A Review of the Local Government (Rules of Conduct) Regulations 2007 and Minor Breach Disciplinary Framework

November 2015

Contents

1. Executive Summary	1
2. Introduction	9
2.1. Background	9
2.2. Previous review	10
2.3. Current situation	11
3. Methodology	12
4. Analysis of Complaints Received	13
4.1. Use of minor breach system	13
4.2. Processing times	14
4.3. Outcomes	16
4.4. System utilisation and effectiveness in targeting dysfunctional conduct	18
4.5. Costs	19
5. Matters Raised in Preliminary Consultation	21
6. Clarity and Scope of Regulations	23
7. Regulations - Specific Proposals	25
7.1. Reform principle for regulatory amendment	25
7.2. Regulation 3 – General principles of behaviour	27
7.3. Regulation 4 – Contravention of certain local laws	27
7.4. Regulation 6 – Unauthorised disclosure of information	28
7.5. Regulation 7 – Securing personal advantage or disadvantaging others	33
7.6. Regulation 8 – Misuse of local government resources	36
7.7. Regulation 9 – Prohibition against involvement in administration	38
7.8. Regulation 10 – Relations with local government employees	39
7.8.1 Narrow conditions of application do not reflect intent	41
7.8.2 Inadequate protection against bullying or harassing behaviour	43
7.8.3 Council members directly reprimanding employees	44
7.8.4 Covert conduct to disadvantage CEO	45
7.8.5 No protection for former local government employees	46
7.9. New regulation – Public statements	48
7.10. New regulation – Interactions with council members	49

7.11.	Regulation 11 – Disclosure of interest	51
7.12.	Regulation 12 – Gifts	55
7.13.	Application of Rules of Conduct to election candidates	59
7.14.	Improving understanding of regulations.....	60
8.	Standards Panel Procedure and Practice	60
8.1.	Improving processing times	61
8.2.	Improving efficiency	63
8.3.	Improving transparency.....	64
8.4.	Improving effectiveness	67
8.5.	Materiality.....	69
8.6.	Improving educational value	70
9.	Supplementing the State-Based Complaints Process	71
9.1.	Independent conduct review panels.....	72
9.2.	Mediation and conciliation.....	73
9.3.	Support for council members	75
10.	Matters requiring legislative amendments	76
10.1.	Time limits for submitting complaint (sections 5.107(4), 5.108(3), s.5.109(2))	77
10.2.	Confidentiality (section 5.123)	78
10.3.	Review of minor breach decisions (section 5.125)	79
10.4.	Improper use of information (section 5.93).....	80
10.5.	Public censure motions (new)	80
10.6.	Records of meetings (new).....	81
11.	Next Steps	82

Consultation on Proposed Changes to Local Government Minor Breach System

Submissions are invited on the observations and proposals put forward in this paper to assist the Government to decide which of the proposed changes are necessary or desirable. Comment is also invited on specific issues raised in initial consultation where balancing benefits and risks may be complex and broader consequences need to be considered. These issues are shown in blue boxes in the text.

Public consultation is an important part of transparent decision making. Submissions will be published on the Department of Local Government and Communities website. A person making a submission may request that their identity or parts of their submission be treated as confidential. The submission must clearly identify the information that is the subject of the claim for confidentiality and a non-confidential version of the submission must be provided.

Submissions close on Friday 4 March 2016, and should be sent to legislation@dlgc.wa.gov.au

For more information, please contact:

Department of Local Government and Communities
Gordon Stephenson House, 140 William Street, Perth WA 6000
GPO Box R1250, Perth WA 6844
Telephone: (08) 6551 8700 Fax: (08) 6552 1555
Freecall: 1800 620 511 (Country only)
Email: info@dlgc.wa.gov.au Website: www.dlgc.wa.gov.au
Translating and Interpreting Service (TIS) – Tel: 13 14 50

1. Executive Summary

Since 2007, the *Local Government Act 1995* (the Act) has provided for a disciplinary framework to deal with minor, recurrent and serious breaches of conduct by individual council members. This review considers only the minor breach element. The minor breach system is separate to and different from the minor and serious misconduct reporting framework that operates under the *Corruption, Crime and Misconduct Act 2003* (CCM Act).

The minor breach system is intended to provide a mechanism to deter inappropriate conduct by individual council members that may lead to council dysfunction, loss of trust between council and administration, impairment of the local government's integrity and operational performance, and consequent reduction in public confidence. The minor breach system complements local government codes of conduct with enforceable standards for specified conduct focused on governance and integrity.

The foundation of the minor breach system is the *Local Government (Rules of Conduct) Regulations 2007* (regulations), enforced through the complaints process set out in Part 5 Division 9 of the Act which provides for the reporting of contraventions of the regulations to the Local Government Standards Panel (the Panel) appointed by the Minister.

The minor breach system is strongly supported in principle by the local government sector, but there is some dissatisfaction among those who have had dealings with it that it is not meeting the sector's pre-commencement expectation. This expectation was that it would be quick, transparent, informal and non-technical, and focused on the general interests of local government. The issues being raised in 2015 are very similar to the issues raised during the previous review by the Standards Panel Review Committee in 2011: specifically the length of the process, a perceived lack of transparency, and a sense that the focus is on legal process rather than addressing the effects of council member conduct on local government.

It is important to recognise that the minor breach system is based on regulatory contravention, unlike minor misconduct under the CCM Act or the code-of-conduct-based misconduct management systems in other jurisdictions. These are generally focused on types of conduct (abuse of power/position, breach of trust, dishonesty, bias) rather than the breaking of prescriptive rules governing specified activities.

It is not feasible for a rule-based disciplinary model, such as the Western Australian minor breach system, to capture all dysfunctional conduct or exclude all minor lapses that might result in vexatious complaints. More flexible outcome-based misconduct management models may have greater focus on the impact, intent and context of the conduct. However, the investigation and evidentiary interrogation required is considerably more resource intensive than the WA minor breach system, which uses a challenge-response approach usually determined solely on the documents provided.

Given the support of the local government sector for the current minor breach system, and lack of support for locally-driven disciplinary systems, this document assumes that the existing minor breach system will continue.

The purpose of this review was therefore to examine the local government sector's concerns with the current minor breach system, identify the likely causes of that concern and consider whether the Rules of Conduct regulations and current complaints processes can be reformed to improve operational efficiency and effectiveness.

The initial stage of this review undertook targeted consultation with the local government sector, particularly local governments with significant experience with the minor breach process and individual stakeholders who had expressed specific concerns. It also involved a technical analysis of the issues, the regulations, past complaints and determinations, and consideration of models in use in other jurisdictions to develop options for reform. This next stage widens the consultation process.

In addition to reiterating the process issues raised in the 2011 review about timeframes, transparency and technical focus, the sector has raised concern about the extent to which the Panel's decisions align with the policy objective to deter dysfunctional conduct. Some local governments are concerned that the impact that a persistently disruptive council member can have on a local government is given insufficient weight in decisions, and that the process is not communicating a clear, effective message about reasonable standards of conduct.

Specific reported concerns and perceptions in 2015 include:

- The length of the complaints process and lack of a complaints tracking mechanism exacerbates tensions and uncertainty within councils, contrary to the intended role of the process as a "circuit-breaker".
- There is need to better balance the intent of the regulations, the rights of the accused council members, and the interests of local government. Some findings have been seen as overly tolerant of serious wrong-doing and others as overly punitive of inconsequential behaviour which would have been quickly forgotten but for the complaint.
- The sanctions available to the Panel are seen as having little deterrent effect, especially since the local government rather than the council member bears the associated financial cost of sanctions such as training or public censure notices.
- The system is not seen to be addressing certain conduct with serious disruptive and dysfunctional consequences for local government: specifically bullying and harassment of councillors and employees, and use of the media to publicly disparage local government functions and local government employees to gain personal or political advantage.
- There is poor understanding of the regulations or what constitutes a minor breach, and the existing training and guidance material does not specifically

focus on interpreting the Rules of Conduct or explain acceptable and unacceptable behaviour by example.

The processing time for complaints has improved significantly since 2012, although there are opportunities for further efficiencies, largely related to reducing system congestion caused by unsound, trivial and vexatious complaints, and prioritising matters with significant implications for the functioning of the local government over those with negligible operational consequences.

Given that the minor breach system is a contravention-based model, it is inevitable that determinations of whether a minor breach occurred will rely more on technical interpretations of the written law than on considering the context and consequences of the conduct. Better defining the regulations to embed the intent within them, and publishing the Panel's positions and policies on interpretation, may improve alignment between the system's intent and its implementation.

The Panel does have a legislated obligation to have regard to the general interests of local government in the State, which influences its decisions on how to deal with a minor breach once found. Documentation of the factors that the Panel must take into account when considering local government interests, and specific reference to those matters in Panel reports may link outcomes more clearly with the purpose of the minor breach system.

In practice, most local governments and most council members have little or no contact with the minor breach system. Between the commencement of the system in late 2007 and August 2015, 68 per cent of the total minor breach allegations (343 allegations out of 507 in total) have been generated from just twelve local governments involving complaints against 74 council members. Eighty local governments have not used the system at all.

A high number of complaints from a particular local government generally correlates with overt tension either centred on an individual or on the relationship between two factions. Departure of one of the parties usually results in the complaint frequency rapidly subsiding.

Despite the intent of the minor breach system, most allegations of minor breach received since 2007 appear to have arisen from personal disputes rather than being reports of significant matters of misconduct affecting local government integrity and good governance. Approximately forty percent of allegations of minor breach related to conduct with potential to cause serious operational consequences, although about one-fifth of these concern conduct that is currently not captured by the regulations. Of the sixty percent of allegations that related to inconsequential behaviour, about half complained about conduct which is not actually prohibited by the cited regulation and therefore cannot be a contravention (unsound complaints).

Amendments are currently before Parliament to allow the Panel to refuse to consider frivolous, vexatious and misconceived complaints and those without substance, and to allow withdrawal of complaints. If enacted, this reform is expected to reduce the

number of inconsequential and unsound complaints considered by the Panel. However, the assessment of these will still require publicly-funded resources. Preferably, unsound and low value complaints should not reach the Panel at all.

This directions paper sets out findings and proposed regulatory and process amendments to address opportunities that have been identified for improved efficiency and effectiveness in the system. Acknowledging the general and specific concerns summarised above, the proposals put forward are based on the following principles:

1. The minor breach system should be driven by the policy objective: early intervention to address inappropriate behaviour by individual council members which may otherwise impair local government integrity and performance, bring local government into disrepute, or escalate to serious council dysfunction.
2. To the extent possible, the Rules of Conduct should capture significant dysfunctional, disruptive or deceptive conduct (unless dealt with in other legislation) which poses an organisational risk to local government.
3. A finding of minor breach is an over-reaction to trivial and inconsequential behaviour, which is better dealt with in other ways.
4. Clearly worded and well-defined regulations should unambiguously specify required and proscribed conduct, with no overlap or duplication between regulations.
5. Standards Panel processes, practice and reporting should be simple, quick, transparent, and as informal and practical as feasible while being consistent with procedural fairness and legal requirements.
6. Council members and prospective complainants should have access to guidance about types of behaviour that do or do not constitute a minor breach for each regulation, clear requirements for a complaint of minor breach, and information about the way in which the Standards Panel conducts its business.
7. Alternatives to the use of the complaints system need to be encouraged.
8. Where regulatory prohibition of specific types of dysfunctional conduct is not feasible, training, coaching, enforcement of local codes of conduct and peer feedback will be necessary to bring about attitudinal change.

Three key problems were identified:

1. The current regulations do not adequately address some significantly dysfunctional conduct that harms local government performance;
2. A very high proportion of unsound, unsupported and trivial complaints that increase system congestion and cost, and impose unnecessary stress on council members, and

3. Relatively poor understanding of the system and low penetration of “lessons learned” from the Panel’s determinations.

The proposed directions encompass four key elements:

1. Amending the regulations to improve clarity and alignment with policy intent;
2. Improving guidance material and complaint documentation;
3. Encouraging mediation and conciliation as an alternative to complaints about interpersonal disputes; and
4. Codifying Standards Panel procedures and practice and simplifying reporting.

Where issues raised can only be fully addressed through legislative change, amendments to the Local Government Act have been suggested for the Government’s consideration in order to reduce red tape, increase responsiveness and improve the effectiveness of outcomes.

Proposed regulatory changes

Regulation 3 (general principles to guide behaviour – not a Rule of Conduct) Add a principle concerning compliance with local government codes and policies. Link Regulation 3 to codes of conduct required under s.103(1) of the Act and the proper use of office.

Regulation 4 (contravention of local laws relating to conduct at meetings) Delete regulation 4 and capture seriously dysfunctional meeting conduct in a new regulation.

Regulation 6 (use of information) Include personal information, information subject to a confidentiality or non-disclosure agreement, legal advice, and commercially sensitive information. Extend application to include confidential parts of otherwise non-confidential documents. Make resolutions that are made in closed meetings explicitly exempt from the regulation.

Regulation 7 (improper use of office to secure personal advantage or disadvantage others) Define key terms to make intent more explicit and focus on matters of integrity, honesty and impartiality; exclude conduct that is the subject of other regulations or local laws and where it is unlikely that significant harm would be sustained as a result of the conduct.

Regulation 8 (misuse of local government resources) Clarify by defining key terms.

Regulation 9 (prohibits involvement in administration) Clarify by defining key terms.

Regulation 10 (relations with local government employees) Define and amend key terms to clarify intent and conditions of application. Add provisions related to CEO employment, threatening or abusive behaviour, unreasonable demands, chastisement of employees and protection of former local government employees. Recognise

technological advances through which the public may have access to livestreamed meeting proceedings and audio/video records.

Regulation 11 (disclosure of interest) Define key terms to clarify meaning – remove or clarify anomalies with Act provisions on interest disclosure; address lobbying by proponents; provide for enduring interest register.

Regulation 12 (gifts) Add definition of “nominal gift” and exempt these from notifiable gifts. Prohibit acceptance of travel contributions from person seeking or intending to undertake an activity involving a local government discretion, and provide for situations where council member accepted a gift unaware that the giver was such a person. Include provisions to cover gifts to council made available to councillors and ceremonial gifts¹. (Note that there are broader issues around appropriate gift value thresholds, consistency of legislative requirements, and gifts from entities likely to benefit from a local government discretion exercised in favour of a separate entity.)

Proposed new regulations

1. Interactions between council members (replaces Regulation 4): Prohibit disparagement, adverse reflection and abusive language during council and committee meetings and public events. Prohibit threatening or abusive behaviour. Requirement to comply with directions of presiding member (except if dissent motion passed).
2. Notification of public statements: Require council members who make comments to the media about the local government administration or council decisions to notify the CEO, who will record the notice in a media contact register available for public inspection.

Concern has been expressed that the Rules of Conduct regulations provide only limited protection to local government employees from public disparagement by council members in the mainstream and social media. The current prohibition in Regulation 10(3) is limited to council/committee meetings/organised events attended by members of the public, and 60 per cent of complaints received about derogatory or offensive comments did not meet these regulatory pre-requisites. Civil defamation action is not available to local governments and tends to be cost prohibitive for most people.

Regulatory options to address this issue were investigated. However, the implied freedom of political communication under the Commonwealth Constitution as well as implementation considerations, make such an approach impractical. The requirement to notify the CEO of comments made to the media has been suggested to improve accountability, but in general non-regulatory measures are likely to be a more practical approach.

¹ NB: The Local Government Governance Roundtable has initiated a separate review into legislative provisions relating to receipt of gifts. These proposals will contribute to that work.

Regular re-assessment of the regulations in light of the types of complaints received and monitoring of behavioural standards will ensure the Rules of Conduct remain relevant to the needs of local government.

Policy, education and process improvements

1. Encourage local governments to offer alternative resolution options to prospective complainants, and further encourage this through complaint documents.
2. Provide greater guidance on how the Rules of Conduct are applied, the intent of the minor breach system and the complaints process to inform complainants, and establish a training program for Complaints Officers.
3. Amend the complaints form to specify the information to be provided in support of allegations of contraventions resulting in a minor breach (this could potentially be regulated under section 5.107(2)(d) of the Act).
4. Take a stricter approach to complaints that are not in accordance with the requirements of the Act, and enforce timeframes for responses to the Department's requests for information on behalf of the Panel.
5. Introduce a mechanism to prioritise complaints that relate to conduct posing the greatest potential risk of impairing the local government's efficient and effective performance, working environment or its public reputation.
6. Ensure that local governments are promptly informed of policy and risk implications arising from the Panel's determination of a complaint or interpretation of the regulations.
7. Include a module on the interpretation of the Rules of Conduct in council member induction and professional development training.
8. Include in council member training, information about the impact of member conduct on organisational risks, particularly conduct associated with negative publicity, damaging working relationships or affecting workplace health and safety.
9. Where inappropriate conduct has occurred but is found not to be a minor breach, clearly advise the respondent that the conduct is not condoned.
10. (Longer term) If the State is to retain the current centralised complaints system, then consider an on-line, centralised, automated "self-serve" complaint lodgement system similar to that used by the State Administrative Tribunal to improve efficiency, reduce red tape, automate compliance checking and notifications, and facilitate complaint tracking.

Potential Act amendments (for future consideration by Government)

1. Reduce the time limit for submitting a complaint from two years after the incident to three months, with provision for an extension up to 12 months to be granted in exceptional circumstances.
2. Align the minor breach process more closely with the serious breach process by providing for complaints of minor breach to be sent to the Departmental CEO, who will decide whether to make an allegation to the Standards Panel that a council member committed a minor breach. This will permit the Departmental CEO to exclude unsound, frivolous, vexatious, trivial and inconsequential complaints, request that dispute resolution processes be engaged before action is taken, and ensure that contraventions are appropriately described and supported before being sent to the Panel.
3. Increase the range of actions available to the Panel after it has found that a minor breach has occurred, including actions appropriate to a technical breach with negligible consequences for the local government, and stronger sanctions for minor breaches involving deliberate conduct with significant consequences for the local government.

Longer term measures to enhance standards of conduct

This document assumes that the current rule-based minor breach system will continue, and focuses on improving the efficiency and effectiveness of that system. In the longer term, consideration could be given to a disciplinary framework that is less prescriptive and more outcome-based. Such a scheme would require council members to refrain from conduct likely to impair the integrity, operational performance or reputation of the local government, and hold them accountable should they fail to do so. The focus would be on demonstrable abuse of position, breach of trust, dishonesty and bias. However, examples and training to assist council members to make those judgements would take the place of regulatory prohibitions relating to specific actions.

Minor breaches as defined through the Rules of Conduct do not cover all forms of minor misconduct. It is not practical for a prescriptive rule-based system to do so. Following recent amendments to the CCM Act, there is no longer an agency with statutory responsibility for dealing with elected members who engage in minor misconduct which does not contravene a specific regulation or legislative provision. If this gap needs to be addressed, there would be advantages in a single misconduct management system for elected members, subject to resolving responsibility, resource and other implementation considerations.

Local governments have a duty to safeguard employees' wellbeing and support those with health conditions. A similarly supportive environment for elected council members, including access to counselling, may better address dysfunctional conduct arising from stress or mental health disorders than an inherently adversarial reporting and penalty system.

2. Introduction

2.1. Background

The Local Government (Official Conduct) Amendment Act 2007 amended the *Local Government Act 1995* (the Act) to provide a framework to deal with minor, recurrent and serious breaches by individual council members. A minor breach is a contravention of a Rule of Conduct or a specified local law prescribed in the *Local Government (Rules of Conduct) Regulations 2007* (the regulations). The minor breach system comprises the regulations, the Local Government Standards Panel (the Panel) appointed by the Minister, and the complaints process set out in Part 5 Division 9 of the Act.

There are significant differences between this system and the management of serious and minor misconduct under the *Corruption, Crime and Misconduct Act 2003* (CCM Act). “Misconduct” under the CCM Act refers to conduct that is corrupt, criminal, intentionally dishonest, lacking integrity, breaches the public trust and which indicates unfitness for office. Minor misconduct is thus defined in terms of intent and consequences rather than contravention of specific legislation. Following recent amendments, there is no longer a State agency with statutory responsibility for dealing with minor misconduct by elected council members (Figure 1).

Elected Council Members	Local Government Employees
Serious misconduct – intentional corruption and serious criminal behaviour Corruption and Crime Commission	
Serious breaches – offences under Local Government Act or other laws where being a councillor is a key element (including electoral offences) – CEO of DLGC/State Administrative Tribunal	Minor misconduct – conduct contrary to honest and impartial performance, breach of trust, misuse of information, AND is an offence that is grounds for termination of employment – Public Sector Commissioner
Minor breaches – contravention of the Local Government (Rules of Conduct) Regulations – Local Government Standards Panel	Disciplinary matters that are not grounds for termination of employment – Employer (Local Government)
Disciplinary matters that are not minor breaches – Local Government	
Code of Conduct contraventions – Local Government	Code of Conduct contraventions – Employer (Local Government)
Grievances and disputes – Local Government	Grievances and disputes – Employer (Local Government)

Figure 1. Integrity protection framework for local government. Serious and minor misconduct are covered by the *Corruption, Crime and Misconduct Act 2003*. Serious and minor breaches are covered by the *Local Government Act 1995*.

The minor breach system previously supplemented the management of minor misconduct under the CCM Act. It aimed to regulate specified types of conduct by individual council members likely to impair the integrity, efficiency and effectiveness of the local government or bring the local government into disrepute, but which were not otherwise dealt with under the Act or other legislation. Conduct classified as a minor breach is more narrowly defined and generally less serious than minor misconduct as defined by the CCM Act. However, if not checked, it may cause deterioration in the working environment and act as a catalyst for more serious local government dysfunction eventually requiring State intervention.

The minor breach system was intended to provide a quick, informal and non-technical mechanism to discourage target conduct by imposing sanctions on council members found to have committed a minor breach by “breaking the rules of conduct”. The Panel may require the member to undertake mandatory training or impose the sanctions of a public censure and/or a public apology. The Panel’s decisions are reviewable by the State Administrative Tribunal (SAT). Any further minor breach by a council member already found to have committed two minor breaches may be referred by the Panel to the Departmental CEO who may refer it to the SAT as an allegation of recurrent breach. The SAT has the power to impose more significant sanctions including suspension or disqualification.

There is generally strong support for the minor breach system, but there is a persistent perception, in those parts of the local government sector that have dealings with it, that neither the process nor the outcomes are meeting the expectations that stakeholders had of the system at commencement.

2.2. Previous review

The Standards Panel Review Committee established in 2010 by the then Minister for Local Government engaged in extensive stakeholder consultation, finding significant concern “about the efficiency of the Panel, and, as a result of the way local government members use the Panel and the Panel’s own processes, concerns over its effectiveness”. The Review Committee reported to Government in 2011, forming two central conclusions:

“...the current disciplinary framework of a single State-wide Panel, supported by the Department:

- Provides for an independent and informal mechanism to resolve minor inappropriate conduct allegations promptly, that is valued and supported by industry bodies, is a relatively less expensive model to operate from the perspective of local governments, and provides for sitting members who are knowledgeable in local government matters; and

- That it has not been implemented in the way that was originally intended (for reasons unknown), particularly in relation to utilising mediation and/or conciliation services as a preliminary step.”

The Review Committee made 43 recommendations to address anomalies in the Regulations, simplify and streamline processes, provide for greater local management of minor inappropriate conduct, provide for greater transparency, improve public information, standardise policies and terminology, and establish mechanisms to monitor and continuously improve the system.

2.3. Current situation

Many of the Review Committee’s administrative recommendations have been, or are in the process of being, implemented by the Department. The time taken to deal with complaints has been reduced and the Panel has been focusing on clearing the backlog. Legislative amendments are currently before Parliament which will permit the withdrawal of complaints and grant the Panel the power to refuse to deal with complaints that are frivolous, vexatious, misconceived or lacking in substance. These amendments, if approved, will assist in reducing the Panel’s workload, discouraging trivial and mischievous complaints and allowing priority to be given to substantive complaints.

However, the local government sector continues to express similar concerns about the efficiency and effectiveness of the minor breach system as were raised with the Review Committee in 2011. The minor breach mechanism continues to be seen to be as too slow, insufficiently transparent and legalistic.

Following discussions at the Local Government Governance Roundtable², the Department has undertaken another review. This has been focused on whether the regulations could be amended to address unintended consequences that hinder the effectiveness of the system in achieving its objectives, and whether other non-legislative mechanisms might be available to streamline the process.

The scope of this review is restricted to the part of the disciplinary framework that deals with minor breaches, defined as a contravention of a rule of conduct prescribed under section 5.104(1) of the Act or a local law specified in the regulations.

In this report, the type of dysfunctional conduct that is the target of the minor breach system will be referred to as inappropriate, dysfunctional or target conduct, to avoid confusion with “minor misconduct” which is dealt with under the *Corruption , Crime and Misconduct Act 2003* (CCM Act).

² The Local Government Governance Roundtable comprises representatives of the WA Local Government Association, the Local Government Managers Association and the Department of local Government and Communities who meet regularly to discuss governance issues of concern to the sector.

3. Methodology

The Standards Panel Review Committee consulted widely in 2010 and 2011. Initial targeted consultation undertaken at the commencement of the current review revealed that the issues were largely unchanged from 2011.

Key additional concerns raised in preliminary consultation included:

- Some types of dysfunctional conduct are not effectively covered by the regulations. Instances of these types of conduct are believed to be becoming more prevalent as a result of such conduct being found not to constitute a minor breach and not attracting any sanctions.
- Technical legal interpretations of the regulations are permitting some councillors to escape a finding of minor breach despite clearly inappropriate conduct, while penalising other council members for trivial or inconsequential conduct.

Given these preliminary findings, this review has not replicated the broad-scale consultation undertaken in 2011.

An analysis was undertaken of 507 allegations of minor breach (contained in 298 separate complaints) made between November 2007 and August 2015, of which 455 have been determined by the Standards Panel and the findings notified to participants.

Informed by targeted consultation with local government peak bodies, CEOs and some presiding members, and the analysis of previous complaints, proposals have been developed to improve the efficiency and effectiveness of the minor breach system.

Some of these are aimed at reducing the high proportion of minor breach allegations that are unsound, are not in accordance with the requirements of the Act, or involve conduct with no significant consequences for local government integrity, performance or reputation. A substantial element of this report describes proposed amendment of the regulations to address problems arising from lack of coverage of seriously dysfunctional conduct and from apparent ambiguity, duplication, and misalignment between the letter of the law and its intent.

There are limitations to the extent of reform to the existing system that can be undertaken without amendments to the Act, some of which were also identified by the Standards Panel Review Committee. These have been identified for future consideration by the Government.

Comment is invited on each of the proposals shown in boxes in the relevant sections, and on the supplementary questions where included.

The initial consultation raised a number of issues and suggestions that have broader policy or practical implications. Specific proposals have not been made on these matters, which appear in blue boxes, but comment is invited to determine whether the potential benefits of the options are likely to outweigh the risks.

Following consideration of stakeholder comments, advice will be finalised for the consideration of the Minister for Local Government, and subject to his approval, regulatory amendments and process changes will be implemented.

4. Analysis of Complaints Received

4.1. Use of minor breach system

Most allegations of minor breach have been received from relatively few local governments, with 343 (68%) of all the allegations received between November 2007 and August 2015 coming from 12 local governments, involving 71 complainants and 74 council members. Five were local governments in regional areas and seven were metropolitan. Twenty-three council members in these local governments both made complaints and were the subject of complaints.

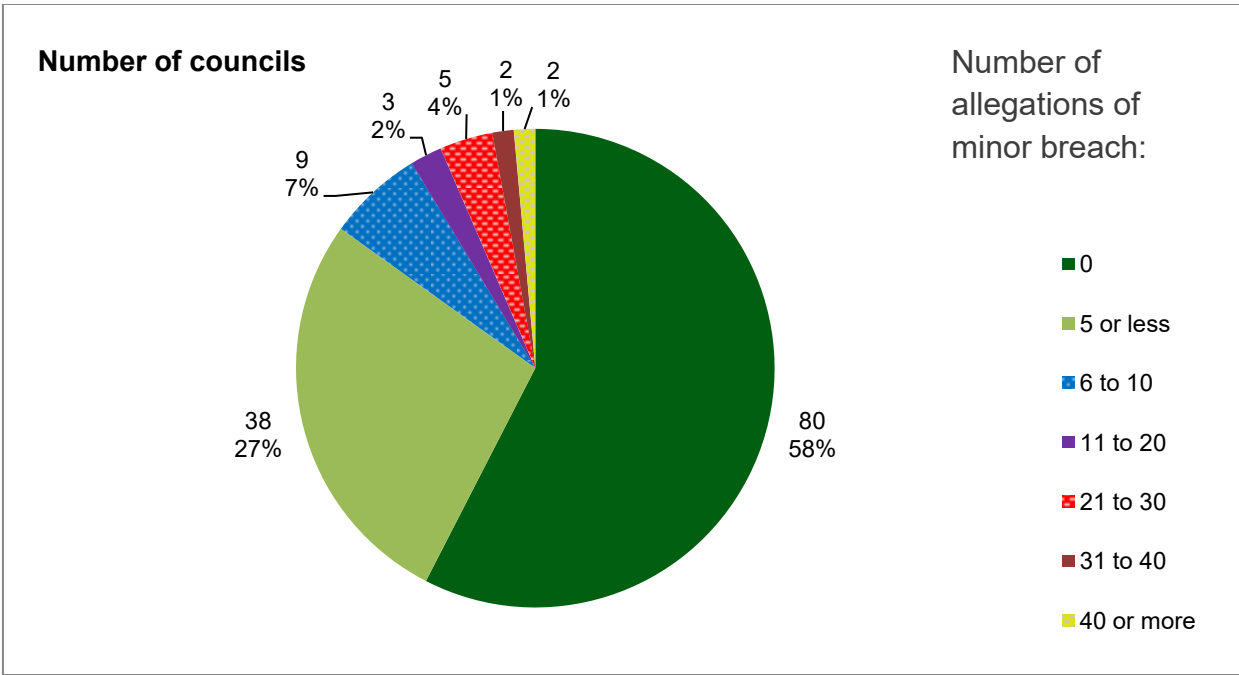


Figure 2. Distribution of allegations of minor breach across local governments.

There is no obvious commonality between local governments with high numbers of minor breach complaints. In most cases the majority of complaints were received over a one to two year period, and appeared to correlate with overt tension either within a local government or between one or more members of the council and a section of the local community. A spike in complaints frequently involves one or two particularly active complainants and one or two councillors who are the focus of their attention. The departure of one of the parties (e.g. a council member ceases to hold office or a complainant leaves the area) usually sees a rapid reduction in the number of complaints.

Council members have made most use of the minor breach complaints system, followed by members of the public (fewer individual complainants but more allegations per complainant) and complaints officers/CEOs.

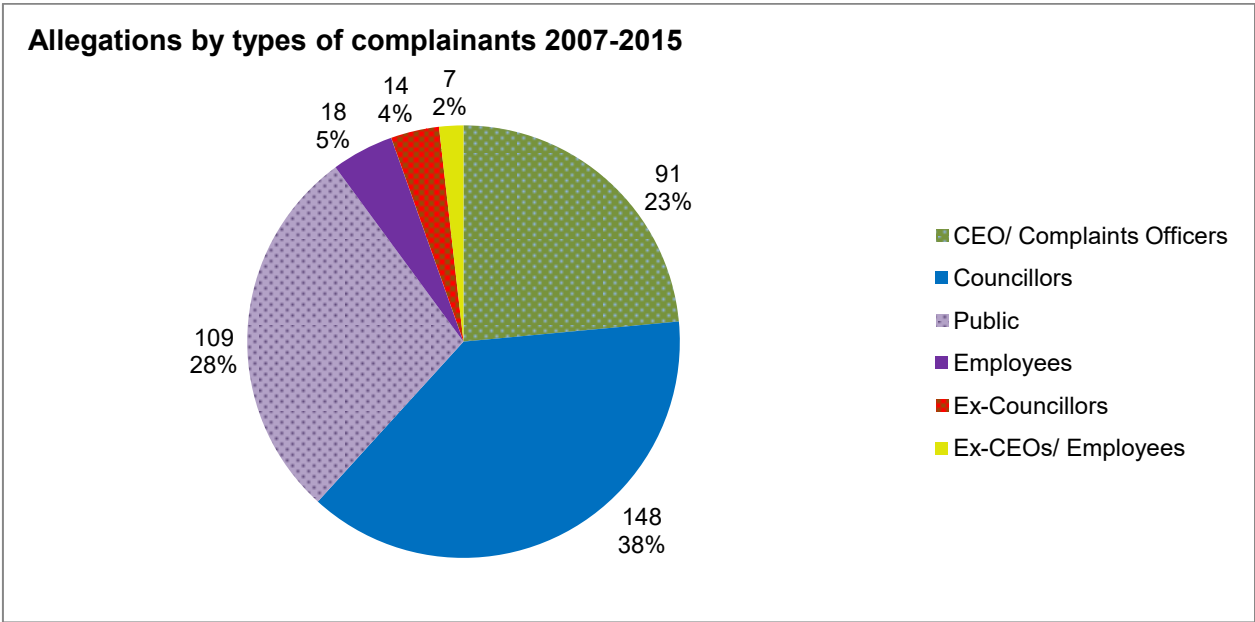


Figure 3. Distribution of allegations of minor breach across classes of complainants.

4.2. Processing times

There is a perception in the sector that the minor breach complaints process takes too long. The lengthy period of uncertainty between the lodgement of a complaint and notification of the Standards Panel’s findings is considered to exacerbate tensions within local government rather than the system acting as a circuit-breaker as intended.

In 2010/11 and 2011/12, timeframes were very long, with the average time from complaint to notification exceeding 400 days and some complaints taking more than two years. However, as Figure 4 shows, the streamlining of processes introduced after the 2011 review started to have a significant impact almost immediately, with the average time from complaint to notification in 2014/15 being 187 days (range 134 to 272 days).

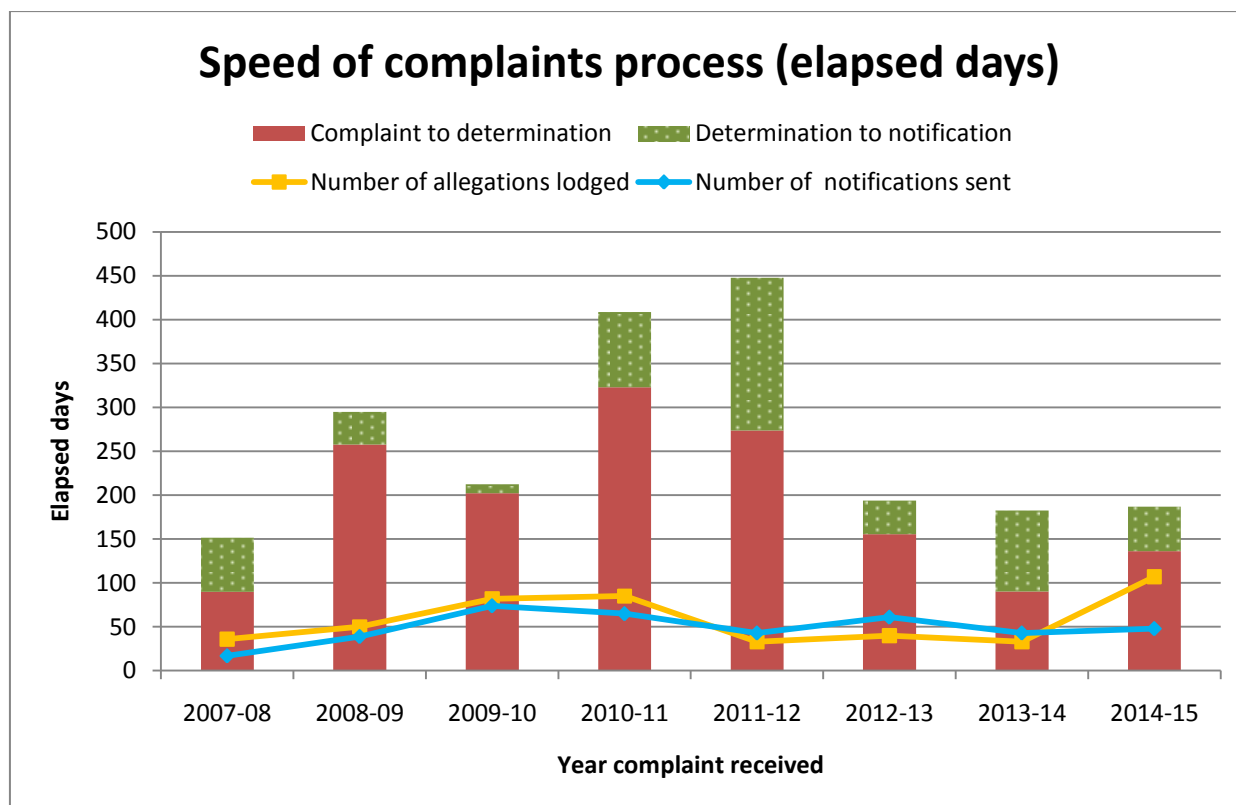


Figure 4. Complaint processing time trends from date of complaint to notification of findings.

However, it should also be noted that the number of determinations per year has tended to be relatively stable in recent years, while the number of allegations received may vary significantly.

The Panel generally meets monthly, and typically deals with three or four complaints per meeting depending on complexity, although some complaints may contain two or more allegations. The chart in Figure 4 shows that the number of minor breach allegations rose sharply in 2014/15, with more than twice as many received as determined. Most of the increase occurred in the first six months of 2015, and a further 31 allegations were made between July and October 2015.

The number of minor breach complaints is used by the Department as a risk indicator for local governments to assist it to allocate resources where most needed, but the intervention may not have an immediate influence on the number of complaints.

While the Department has some flexibility to reallocate resources to meet increasing demand for processing complaints and preparing advice, the capacity of the Panel itself is less elastic, relying as it does on very few individuals with other full-time responsibilities in senior roles.

In addition, current practice is that the legal member of the Panel writes all the findings and decision reports. There is an inherent risk when a single individual is responsible for a major component of a process, and a significant increase in workload will impose substantial pressure on the legal member.

Complaints received by the Panel are broadly handled in order of receipt and availability of supporting information. Particularly when the rate of receipt of complaints exceeds the rate at which they can be finalised, this can lead to resources being expended on trivial matters at the expense of matters with major impacts on, or implications for, local governments.

As at 31 August 2015, 39 allegations received in 2014/15 were yet to be determined or notified. Unless external factors lead to a reduction in the volume of complaints, then intervention to manage demand is needed to avoid timeframes lengthening during 2015/16. A mechanism to give high value complaints priority over inconsequential matters is needed to manage the risk that delays in dealing with more serious issues may have significant impacts on the affected local governments.

4.3. Outcomes

An analysis of 455 allegations of minor breach made and finalised in the period November 2007- August 2015 revealed that 61% resulted in a finding of no breach and 22% resulted in a finding of breach. In 17% of cases, the Panel found that it did not have jurisdiction (Figure 5).

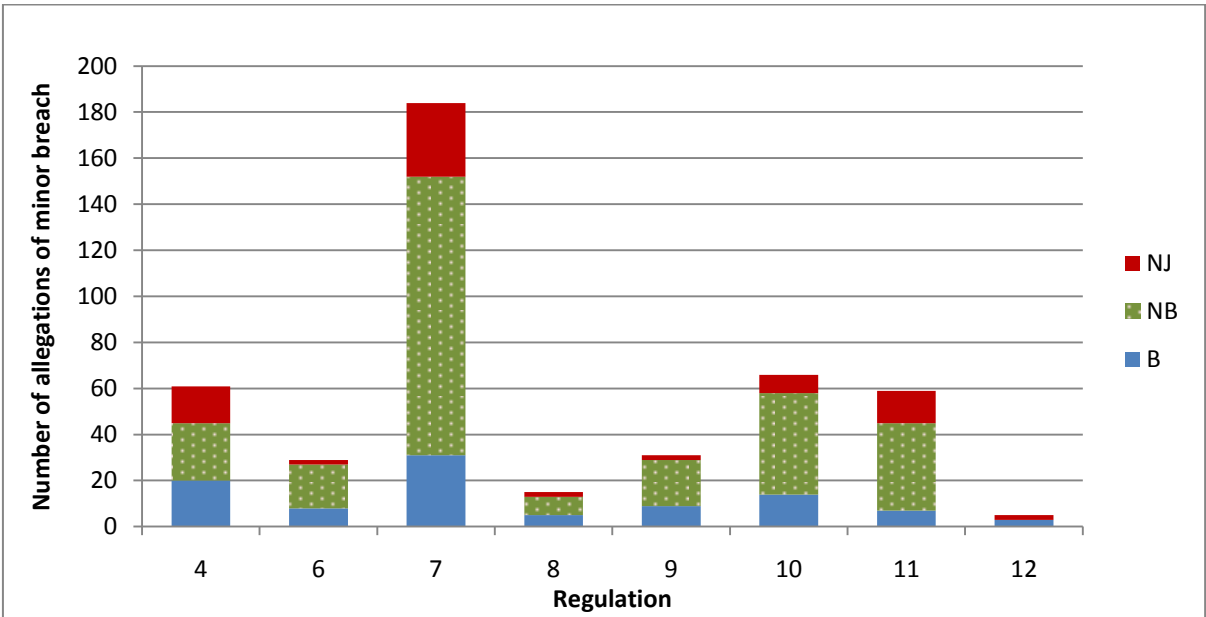


Figure 5. Findings of the Standards Panel relating to 450 allegations determined in the period 2007-2015, by regulation number. NJ = no jurisdiction; NB = no breach; B = breach

Council members found to have committed a minor breach sought review of the Panel’s decision from the SAT in 18 cases covering 24 allegations. The SAT affirmed both the Panel’s finding and sanction order for 11 allegations, affirmed the finding but varied the sanction order for eight allegations, and set aside the Panel’s finding of breach for five allegations. The right of review (section 5.125 of the Act) is restricted to the Panel’s decision to dismiss a complaint or make an order. This decision is only made by the Panel following its finding that a breach was committed, so a complainant has no right to apply to SAT to review a finding of “no breach”.

In the majority of cases where the Panel had no jurisdiction, the council member accused of the minor breach had ceased to hold office before the complaint was finalised. The remainder found not to be within jurisdiction were primarily complaints that did not relate to a minor breach (e.g. complaints about contravention of local codes of conduct or serious breach matters).

Analysis of the complaints and findings revealed that a significant number of findings of “no breach” were made because the complainant alleged that a council member contravened a regulation when the regulation did not in fact prohibit the reported conduct or did not apply to the circumstances in which it occurred. Almost forty percent of allegations of minor breach made since 2007 fall into this category.

Many complainants do not appear to have a good understanding of the limited application of the regulations, and there is little non-technical guidance available to help them confirm whether an allegation of contravention is credible. This is essential because:

1. Section 5.107(1) is a conditional right – only a person who has reason to believe that a council member has committed a minor breach may make a minor breach complaint;
2. There are only two ways in which a council member can commit a contravention resulting in a minor breach:
 - a) Do something that is expressly prohibited by a rule of conduct regulation or a specified local law; or
 - b) Fail to do something that is expressly required by a rule of conduct regulation or a specified local law
3. If the cited regulation is not applicable to the conduct, then it is not possible for the conduct to have contravened that regulation, so:
 - a) an allegation of a contravention resulting in a minor breach must be false;
 - b) details of a valid contravention cannot be provided as required by section 5.107(2)(c) of the Act; and
 - c) there is no valid reason for a person to believe that the council member committed a minor breach, as required by section 5.107(1), and no justification for making a complaint.

If the complaint is not (and cannot be) made in accordance with section 5.107(2), then section 5.107(3) concerning the processing of the complaint and referral to the Panel does not apply. However, complaints that have not been made in accordance with the Act (“unsound complaints”) continue to be sent to the Panel, possibly because the complaints officer has not been trained to determine whether the regulation applies to the alleged conduct, or because they are unsure of their right to refuse to accept a complaint that is not made in accordance with the Act.

In other cases where the Panel has found that no minor breach occurred, the complainant has failed to provide adequate details to prove that the essential elements of the alleged contravention exist. For example, 34% of the minor breach allegations examined related to Regulation 7(1)(b). An essential element of this regulation is that the council member acted with the specific intent of causing detriment to a person and belief that such detriment would occur as a result. If a legitimate and equally (or more) plausible alternative explanation for the conduct exists, then the essential element of intent cannot be proven to the required standard.

The prevalence of unsound complaints and inadequately supported allegations causes unproductive congestion in the complaints system and strains the resources of the Standards Panel, contributing to pressure on the timeframes for dealing with complaints. More guidance for complainants is needed about the conduct to which the regulations apply and the information that they need to provide to support a valid allegation of contravention.

The prevalence of complaints about inconsequential conduct that has a negligible effect on the local government's performance or reputation is another source of system congestion. In contrast to the reporting of misconduct under the CCM Act, reporting a minor breach is not a paramount duty for a principal officer. Even if the pre-requisites and essential elements of a contravention are met, if the conduct is trivial and the actual or likely impact on the local government is insignificant, there may be little or no net public benefit associated with making a minor breach complaint. More efficient and effective ways may be available to handle the matter.

Even using a very inclusive definition, less than 40% of all the allegations of minor breach received by the Panel have related to conduct that could reasonably be considered to pose an appreciable risk to local government integrity, performance (including long term working relationships) or reputation.

This proportion declines to less than 12% of the allegations of minor breach made by members of the public (including ex-councillors). Among this group of complainants, about half of all allegations of minor breach relate to perceived insults or personal disputes between the council member and the complainant, with a significant number having the characteristics of vexatious or frivolous complaints.

4.4. System utilisation and effectiveness in targeting dysfunctional conduct

A few individual participants dominate the use of the system. Thirteen council members have each had ten or more allegations of minor breach made against them, collectively accounting for 38% of all allegations received. Four of these councillors were the subject of 59 complaints comprising 75 separate allegations. Of these allegations, 61 (81%) related to target conduct (conduct that appeared to negatively affect local government integrity, performance or reputation). However, the other nine

councillors in this group collectively attracted 53 complaints comprising 117 allegations of which only ten involved target conduct, with the other 107 allegations relating either to conduct to which the regulations did not apply and/or to conduct with no appreciable impact on the integrity, performance or reputation of the local government.

Over 25% of all minor breach allegations (130 out of a total of 507) were submitted by just eight complainants against 18 council members. In some local governments council members notified of a minor breach complaint against them by a fellow council member submitted their own minor breach complaint against the complainant shortly thereafter. Had the complaints system not been so readily accessible, it is likely that many of these incidents would have been resolved locally or settled down over time.

The process of submitting a complaint is free and intentionally simple, which appears to have inadvertently provided an opportunity for a few people to use it as a tool of harassment in pursuit of personal or political objectives. There appears to be a misapprehension among some people that a minor breach complaint is equivalent to a service or process complaint.

Such people use the minor breach system to protest against conduct to which they have taken personal exception or against a councillor they dislike. This behaviour fails to respect the seriousness of accusing a person of breaking a rule that has the force of law. Such personally-motivated behaviour is encountered in most complaints systems, which need to be designed to minimise the public resources consumed by it.

Complaints driven by a sense of personal offence would be more productively addressed through an alternative dispute resolution mechanism.

Some local governments do offer independent mediation to prospective complainants, but once a complaint has been made in accordance with section 5.107(2) of the Act, the complaints officer has no option but to send it to the Panel.

After this point the process is inflexible: the Panel does not have the option of referring the matter to mediation but must determine whether the council member has contravened the regulation as alleged. By contrast, in Victoria an application to deal with alleged misconduct of this nature may be dismissed if insufficient reasons are given to explain why the matter has not been resolved by internal dispute resolution processes.

4.5. Costs

No fee is charged to complainants, and council members found to have committed a breach are not required to reimburse the local government, which must also pay any costs associated with a sanction order requiring training or public censure.

Local governments are charged a fee by the Department for the processing of minor breach complaints. The fee is related to the time spent by Panel members on the

complaint, but only the time of the privately employed Panel member is charged and none of the cost of State-employed officers is recovered.

The average fee per complaint paid by local governments in 2014/15 was about \$1,000 (with an average of 1.6 allegations per complaint), but the real cost to the public is likely to be several times this amount, including the State and local government administrative component. This does not include intangible costs such as reduced local government productivity or distress to participants.

Processing complaints that are unsound, unsupported by adequate evidence, or which relate to conduct with no significant consequences for local government, is currently incurring a significant net public cost.

Amendments to the Act currently before Parliament will, if approved, permit the Panel to refuse to consider frivolous, vexatious and misconceived complaints and those lacking in substance. However, this assessment will still require resources, and it would be preferable that such complaints are not lodged at all. The amendments to the Act will also allow complainants to withdraw complaints, an option that is not currently available.

Comment invited: Price signals to deter improper, unsound and trivial complaints

An effective mechanism for managing demand is to apply a price signal – whether monetary or in terms of effort expended for reward obtained.

The SAT charges a non-refundable application lodgement fee of \$411. It has been suggested that people wishing to make minor breach complaints under section 5.107 could be charged an application fee for each allegation to discourage complaints made for improper purposes. Is there a risk that this would also discourage complaints about serious matters?

Note that full cost recovery for the complaints process would not be feasible, and that the collection and processing of the charge would incur an administrative cost. The benefit would lie in the influence on complainant behaviour and increased productivity through a reduction in low value complaints.

Alternatively, would there be benefit in requiring complainants to make their complaints as statutory declarations, to make it clear that accusing a council member of committing a minor breach should not be undertaken lightly and require them to make additional effort to do so?

Complaints initiated by Complaints Officers under section 5.109 would be exempted.

The analysis of the allegations received to date suggest that the users of the minor breach system need to be better informed, a stricter approach needs to be taken to unsound and unsupported complaints, and more serious complaints need to be prioritised to maximise the value for money provided by the minor breach system.

5. Matters Raised in Preliminary Consultation

Concerns were expressed primarily about the length of time taken to process complaints, the lack of transparency of the process and the Panel's perceived approach to making its determinations.

The following general concerns and perceptions were expressed:

1. The length of the complaints process may exacerbate tensions and uncertainty within councils, contrary to the intended role of the process as a "circuit-breaker", with the eventual finding sometimes reigniting tension about an issue that had been resolved in the intervening period.
2. There is no complaints tracking process, and no advice is provided about a given complaint's place in the "queue" or the likely timeframe in which a decision can be expected, which makes it difficult for the local government to decide how to deal consistently with repeated occurrences of the conduct.
3. There is some frustration about outcomes that have been seen as having resulted in the perpetuation of inappropriate conduct seriously affecting the local government or alternatively that have penalised council members for trivial and commonplace conduct and exacerbated harassment by vexatious complainants. Specific examples include:
 - a. Apparent over-estimation of the gravity of a finding of minor breach and consequent perceived over-weighting of a respondent's denial compared with opposing evidence of deliberate conduct that contravened the regulation.
 - b. Regulatory terms do not clearly reflect the policy intent, which has resulted in interpretations that in some instances unnecessarily capture trivial, commonplace conduct with negligible consequences, and in other instances exempt deliberate inappropriate behaviour that causes wilful or reckless harm to the interests of the local government.
 - c. The current system does not provide for adequate weight to be given to:
 - i. the effect of the dysfunctional conduct on the affected local government;
 - ii. history of unsuccessful action taken at a local level to address escalating patterns of dysfunctional behaviour in persistently disruptive council members;
 - iii. the amount of harm that can be done by a persistently disruptive council member in a relatively short time (in reference to the practice of not counting a breach towards a recurrent breach unless it post-

dates notification of the previous breach - a particular problem when processing times are long).

- iv. the context of complaints or the motivation, intent and behaviour patterns of complainants;
4. There is a tendency for a “no breach” finding to be interpreted as the Panel deeming the dysfunctional conduct acceptable, with no incentive for the council member to desist. Council members who have behaved inappropriately need to be advised that their conduct is unacceptable by expected standards, even if the Panel has found that no technical contravention occurred.
 5. The range of sanctions available to the Panel needs to be broadened to allow for graduated penalties to suit the severity of the conduct and its consequences, and to reflect the context of the conduct.
 - a. The most serious sanctions available to the Panel are public censure notices and public apologies, to which the community is believed to pay little attention and which some media-savvy council members have used to generate publicity to their advantage. The local government bears the financial cost of publishing censure notices, which are seen as having little deterrent effect on unrepentant council members.
 - b. There is no power for the Panel (or the SAT) to choose not to apply a sanction in cases where neither dismissing the complaint nor a sanction is appropriate.
 6. It has been pointed out that in most civil law matters where one person takes action against the conduct of another person, either party may seek review, but there is no provision in the Act to apply to the SAT for a review of a finding that a breach has not occurred. Minor breach complaints are in effect an accusation that a person has contravened a specific regulation and the review rights of the parties more closely resemble those in a prosecution scenario than a civil law dispute.
 7. There is no current training and guidance material that specifically focuses on interpreting the Rules of Conduct or explains by example what is unacceptable behaviour.
 8. There is little public information available to help stakeholders understand how the Panel operates or how it comes to its conclusions, or to inform all local governments of the implications of Panel findings for their operations and council members.

6. Clarity and Scope of Regulations

It is important to acknowledge that unlike minor misconduct under the CCM Act, which is defined in terms of intent and consequences; a minor breach is only committed if a council member contravenes a specific rule of conduct or local law prescribed in the regulations. A complaint of minor breach explicitly accuses a council member of having done something prohibited (or having not done something required) by a particular regulation.

The Panel is a quasi-judicial disciplinary body charged with looking at the evidence provided and deciding, on balance, whether the allegation is proven. It has no power to investigate, call witnesses or compel information, and it has limited discretion other than in its interpretation of regulatory terms and the weight of evidence it requires to draw a reasonable and definite inference that a breach occurred. Its statutory role is to determine whether a minor breach has been committed, not to address the problems that caused the conduct that led to the complaint or problems caused by that conduct.

In such circumstances, it is probably inevitable that the Panel's determinations will rely more on technical interpretations of the written law than on weighing alternatives, considering policy objectives or determining competing public interests.

This may be an inherent limitation of the regulatory contravention model, for which contributing factors and actual consequences are secondary considerations in determining whether the contravention occurred, although they may be considered in determining penalties. The Panel has a duty to have regard to the interests of local government (clause 8(6), Schedule 5.1 of the Act), which it primarily exercises in making a decision on the application of sanctions. If it is important that these matters be considered by the Panel in determining whether a rule of conduct was broken, the

Regulations will need to make explicit provision for the Panel to do so.

The current regulations appear to:

- contain terms that are not defined for the purposes of the regulations;
- overlap in their application (especially regulations 4, 7 and 10);
- be overly prescriptive in some cases;
- be insufficiently precise about the proscribed conduct in other cases;
- not address some dysfunctional conduct with potential to cause significant harm;
- be inadequately differentiated from Act provisions in other matters; and
- make no provision for considering the materiality of the consequences of the conduct.

These characteristics are likely to have contributed to the perception that the minor breach system does not align well with its policy objectives.

Identifying a contravention

Subsections 5.107(1) and (2)(c) of the Act refer to “the breach” and “the contravention”, which are interpreted as requiring the complainant to identify the specific regulation that has allegedly been contravened by the conduct. The complainant is currently required to tick a box on the complaint form to select the relevant regulation. Under section 5.110(2), the Panel may only consider the breach specified in the complaint referred to it and may not amend the complaint³.

Complainants can usually clearly describe the conduct which they believe is inappropriate and the consequences as they perceive them. They are often less clear about how (or whether) the regulations relate to the conduct or what constitutes a contravention. Such confusion is evident even in some complaints initiated by local government complaints officers. As a result, complainants may cite an inapplicable regulation in their complaint, leading to the perverse outcome of the Panel finding that no breach occurred even if the alleged conduct contravened a different regulation.

Alternatively, some complainants tick multiple boxes if they are unsure which (if any) regulation applies, regardless of whether the regulations selected apply to either the conduct or the circumstances in which it occurred. This obliges the Panel to make a finding about each alleged breach. Both scenarios detract from the efficiency and effectiveness of the process.

The minor breach system is a regulatory contravention model with a high degree of prescription and a binary choice for the regulator: a rule was broken or it was not, based on the balance of probability. Intent may be relevant to the decision, depending on the regulation concerned, but the actual consequences of the conduct are not. While the disciplinary mechanism was intended to be a quick, informal and “common-sense” approach to determine whether a breach is more likely than not, the Panel has no power to conduct investigations or to compel or challenge information.

In order for the Panel to operate effectively under these conditions, the Rules of Conduct need, as far as practicable, to:

1. explicitly capture significantly inappropriate conduct with potential to cause local government dysfunction;
2. clearly differentiate between the types of conduct covered by each rule without overlap or duplication;
3. exclude from the application of the regulations commonplace and inconsequential conduct, situationally appropriate conduct, and conduct that contravenes other legislation;

³ Confirmed in *Re v Local Government Standards Panel* [2015] WASC 51 by Corboy, J.

4. be easily understood and provide certainty of meaning to council members, local government employees and the public, and
5. achieve a practical balance between certainty in legal compliance and discretion to consider consequence and context.

The local government sector has expressed concern that council members are not currently subject to any disciplinary action through the minor breach system for the following potentially damaging conduct:

1. bullying and harassment (of employees and other council members);
2. disparaging comments about employees, council members and council decisions in the mainstream media, on social media and private websites and at (non-council) public forums;
3. disparaging comments about former employees who have recently left the local government's employ, which may significantly affect their future employment prospects;
4. disclosure of confidential material not captured by the narrow definition in the regulations; and
5. participating in discussion and decision making on matters in which they have serious impartiality interests to the benefit of those interests.

At the same time, it is important to the sector that the disciplinary system is not misused to harass and intimidate council members who have a responsibility to act in the public interest, which is occasionally going to conflict with somebody's private interests. A decision made properly and responsibly may not be popular. There is concern that the regulations may not adequately safeguard council members against victimisation or intimidation by complainants making improper use of the complaints system or against the actions of serial complainants.

7. Regulations - Specific Proposals

7.1. Reform principle for regulatory amendment

The underlying principle used in developing the proposed regulatory amendments is alignment with the policy intent of the minor breach system. On this basis, minor breaches would only apply to the types of conduct likely to impair the integrity or efficient and effective performance of local government, or bring it into disrepute, by causing or increasing the risk of:

- real or reasonably perceived lack of impartiality in decision-making;

- disruption or unnecessary delay to council business;
- internal division or damage to working relationships;
- loss of trust between the council and local government staff;
- compromising the efficient operations of local government;
- loss of public confidence in local government integrity or competence;
- financial loss or diversion of public resources.

Council member behaviour that is less than exemplary, but does not pose such a risk, does not justify the public cost of being dealt with by the Panel, and should be dealt with at the local level. Conduct that displeases another individual but is otherwise inconsequential should not be referred to the Panel but dealt with in more appropriate ways.

This review has taken the position that the system should not be used as a tool of harassment or retaliation, or for the purpose of intimidating or influencing council members in the legitimate performance of their duties, or to unreasonably restrict freedom of political expression.

In order to improve clarity, remove duplication, effectively capture all target conduct and mitigate the risk of misuse of the minor breach system, it is broadly proposed to make the following regulatory changes:

- As far as practicable ensure that the wording of each regulation accurately reflects the policy intent, clearly defines the conduct and circumstances covered, and minimises the scope for complaints about matters of no consequence to the public interest.
- Insert explicit definitions of all significant terms used in the Regulations, so that the Panel will not need to interpret them by reference. Where a regulatory definition is impractical, the definitions that the Panel will use should be public.
- Rationalise the regulations to minimise duplication and overlapping application.
- Amend or insert regulations, where feasible, to cover conduct not currently addressed but which has the potential to result in significant council dysfunction or loss of public confidence.
- Make use of advisory standards and policies to provide more extensive guidance as to the intended use of the regulations.

7.2. Regulation 3 - General principles of behaviour

Regulation 3 is not a Rule of Conduct, and failure to observe it does not result in a minor breach, but it does not explicitly indicate how it is intended to be implemented. Most council codes of conduct prepared under section 5.103 of the Act broadly reflect the principles, although codes have the status of policies and are not enforceable for elected members. Previous attempts to give codes of conduct the status of local laws have been unsuccessful.

The Standards Panel uses the principles in Regulation 3 as a guide when determining whether “improper use of office” has occurred when considering an alleged breach of Regulation 7. It is proposed to make these links explicit in the regulation, and include an expectation of council member compliance with council codes and policies.

Proposal 7.2 – Regulation 3:

1. Amend Regulation 3 by specifically linking the principles to the concept of “proper use of office”.
2. Add a principle: “act in accordance with council policies, codes and resolutions”.
3. Add a new subregulation requiring the principles to be used to inform the preparation of a code of conduct prepared under section 5.103(1) of the Act.

7.3. Regulation 4 - Contravention of certain local laws

Section 5.105(1)(b) of the Act provides for the contravention of a local law to be specified as a minor breach under the Regulations. Regulation 4 currently specifies that contravention (by a council member) of a local law “relating to conduct of people at council or committee meetings” is a minor breach. In practice, this generally refers to a council’s **Standing Orders or Meeting Procedures** local law or the equivalent, although not all local governments have such an instrument.

If a council member persistently disrupts council or committee meetings, rejects the authority of the presiding member, attacks the credibility of other council members, employees or the council’s decision-making process, and undermines good working relationships, then impairment of the operations of the council and the performance of the local government is a likely result. This in turn potentially brings the local government into disrepute and reduces public confidence in it.

It is therefore appropriate for such conduct to be addressed by the Rules of Conduct, whether or not it is also addressed under the relevant local law. Regulation 10(3) already does this in part with reference to comments about local government employees. This duplication has often led to confusion about whether a complaint about such conduct should be considered under Regulation 4 or Regulation 10(3). In a number of cases, Regulation 7 has also been invoked.

Local laws relating to meetings vary widely around the State, and in addition to the conduct described above, usually cover matters such as simple courtesy, the rules of debate and the roles of certain council members, with some going into extensive detail. These are not matters that the State intended to deal with through the minor breach process and it is not efficient to deal with them at State level several months after the meeting occurred. Regulation 4 has been problematic for the Panel in considering complaints as it must first examine the particular local law and determine whether the provisions alleged to have been contravened are within its jurisdiction as “conduct” envisaged by Regulation 4.

Regulation 4 permits a complaint of minor breach to be made against a council member who contravenes a local law relating to conduct at a council or committee meeting, regardless of whether the transgression has already been dealt with under the local law at the time of the incident. If the presiding member responded promptly at the meeting, and directed withdrawal of the offending comment, an apology and cessation of the offending conduct, there is no public benefit in also finding a minor breach for the same incident but the Panel has little discretion to do otherwise if it receives a complaint.

If significant dysfunctional meeting conduct were to be specifically addressed in the Regulations, there would be no value in retaining Regulation 4. The deletion of Regulation 4 would remove current duplication with other regulations and the unfairness of double penalties. Discourtesy and procedural matters covered by Standing Orders do not merit State attention, and can be appropriately dealt with under local laws as the council deems fit.

Proposal 7.3 – Regulation 4:

1. Insert new Rules of Conduct to cover persistent, inappropriate, council and committee meeting conduct with significantly dysfunctional potential consequences such as disparagement and disruption (see section 7.9 for inclusions).
2. Delete regulation 4 which effectively duplicates local laws and potentially reduces the incentive to make effective use of local laws relating to meeting conduct.

Supplementary Question (Proposal 7.3 – Regulation 4):

1. Are there any risks in repealing Regulation 4?

7.4. Regulation 6 - Unauthorised disclosure of information

The improper use of confidential information by council members to gain advantage or cause detriment is prohibited by section 5.93 of the Act and section 83 of the *Criminal*

Code. Improper use of information is a serious breach, rather than a minor breach, and may be serious misconduct.

Regulation 6 exists in recognition that irresponsible disclosure of confidential information can potentially result in significant financial, legal and reputational damage to a local government even if neither advantage nor detriment was intended. Regulation 6 prohibits disclosure by a council member of confidential information acquired at a closed meeting or obtained from a council document marked as confidential by the CEO. Previous Panel decisions have limited these definitions by interpreting them to exclude confidential parts of otherwise non-confidential documents (such as agendas) and resolutions made in closed meetings. Regulation 6 does not cover other types of information.

Confidential reports in agendas

For administrative convenience, some local governments may distribute a single agenda to council members including reports on both non-confidential and confidential items, but publish the agenda with the confidential reports excised. The Panel has previously interpreted the definition of “confidential document” in Regulation 6(1) to include only a document marked in its entirety as confidential by the CEO. This has implications for local governments relying on Regulation 6(1) to protect confidential reports relating to agenda items, and it is proposed to clarify Regulation 6 to explicitly allow parts of documents to be marked by the CEO as confidential.

Personal information

Since the Regulations came into effect in 2007, community expectations about protection of personal information have increased. The release of personal information to unauthorised people may have serious consequences for the person to whom it refers and for others. Personal information or opinion about an identified individual, or an individual who is reasonably identifiable, includes official correspondence between an individual and the local government concerning that individual’s affairs, debts owed by an individual to the local government and private information provided in confidence by employees and job applicants. The accuracy of the information is irrelevant to confidentiality requirements. Personal information, however obtained by a council member, should not be disclosed to a third party without the permission of the individual concerned, their legal guardian, or as provided for by law.

Legal advice

Advice provided by a legal practitioner to a local government may be relied upon in commercial negotiations or in legal proceedings. Untimely disclosure of that advice may significantly weaken the local government’s position. Legal advice is protected from disclosure in most circumstances while it remains the subject of legal professional privilege. However, that privilege may be lost if the advice is not kept confidential.

Contractual obligations of confidentiality

Council members are bound by applicable confidentiality agreements and non-disclosure agreements whether these have been entered into by them as individuals or by the local government as an entity. Disclosure of information that the local government has contracted to keep confidential may expose the local government to litigation.

Commercially sensitive information

Council members may have access to information and intellectual property with significant commercial value. Careless or improper disclosure may cause financial or legal detriment to commercial entities and potentially result in breaches of corporate law obligations, particularly for listed companies. This in turn may expose the local government to litigation or other liabilities.

Resolutions made at closed meetings

Section 5.95(4) requires the record of a decision made at a closed meeting to be available for inspection as part of confirmed minutes, but neither the Act nor the associated regulations specify immediate disclosure when the meeting is re-opened. Most local governments deal with the matter in their *Standing Orders or Meeting Procedures* local laws, but the approach varies from full disclosure immediately to disclosure after the need for confidentiality has passed (limited by the requirement for the resolution to be in the confirmed minutes).

WALGA and the Department advise local governments to read out the resolution immediately. In order to protect confidentiality when premature disclosure would be detrimental, local governments taking this approach usually word such resolutions in a way that ensures no significant information is actually revealed, although this seems to negate the value of the revelation. Some local governments that do not automatically and immediately read out resolutions made in closed meetings may have relied on confidentiality requirements rather than coded resolutions to manage the risk of premature disclosure.

In interpreting Regulation 6, the Panel has taken the position that a resolution made at a closed meeting should be considered in the public domain immediately the closed meeting ends, whether or not the local law requires that it be read out. This raises uncertainty about the interpretation of the relationship between subsections 5.94(n), 5.95(3)(a) and 5.95(4)(a) of the Act, and the validity of various local laws provisions. Clarity is needed for the purposes of subregulation 6(2)(b) and information risk management practices in local governments.

Proposal 7.4 – Regulation 6

1. Include “parts of documents” in the definition of confidential document in subregulation 6(1).
2. Amend subregulation 6(2) to include personal information acquired in the person’s capacity as a council member, with the definition of personal information consistent with that used in existing Australian legislation.
3. Amend subregulation 6(2) to include professional legal advice, information that is subject to a confidentiality or non-disclosure agreement to which the local government is a party, and commercially sensitive information provided in confidence to the local government.
4. Amend subregulation 6(3) to add a provision that allows personal information to be disclosed to the extent permitted by the informed consent of the person to whom the information relates, or a person nominated by them, or their legal guardian.

Supplementary Questions (Proposal 7.4 – Regulation 6)

1. Is the above proposal relating to personal information sufficiently flexible to allow council members to assist their constituents while adequately protecting the privacy of individuals?
2. Should disclosure of other types of confidential information be prohibited?
3. Should resolutions made at closed meetings be explicitly excluded from the application of subregulation 6(2)(b)?

“Private” correspondence

Several minor breach complaints (often submitted as alleged contraventions of Regulation 7) have related to council members who have sent emails with sensitive content to trusted correspondents, which a recipient has then chosen to distribute more widely without the author’s knowledge or permission.

In dealing with disclosure of “unofficial” confidential information, a balance needs to be struck between ensuring that:

- council members are able to feel safe in exchanging views freely and frankly between themselves and with the CEO on council matters;
- council members are able to seek confidential advice on sensitive issues without their concerns being made public;
- council members are held accountable for statements they make to others, and

- genuine “whistle-blowing” about matters of public interest is not inadvertently disallowed.

Despite the detriment that can be caused when a council member breaches the trust of a colleague, it is recommended that regulation 6 not be expanded to include correspondence sent between council members. However, council member training should include the importance of discretion in both sending and receiving correspondence about sensitive matters, of maintaining trust between council members, and of clearly marking correspondence that is confidential and not to be copied or forwarded.

As a matter of respect and courtesy, this also applies to correspondence sent by external parties when it is marked as confidential. If the council member believes that disclosure is genuinely in the public interest, the author should be notified before disclosure.

Accidental disclosure

While not explicitly stated, Regulation 6 has been interpreted as referring to deliberate disclosure. It has been suggested that disclosure as a result of a council member failing to securely store confidential information should also be a minor breach. While council members should behave responsibly to keep confidential information secure, the minor breach process is targeted at inappropriate conduct arising from deliberate action. It seems unreasonable to extend it to deal with carelessness or lack of technical training. Secure storage of confidential information by council members is considered to be better dealt with through training, technology, or through restricting access other than under circumstances where information security can be effectively managed.

Comment invited: deterring “leaking” of sensitive information to provoke controversy or gain political advantage

It has been argued that a person who chooses to “leak” an email containing sensitive material, whether to the subject of the comments, other people, or the media, is as responsible for any detriment or controversy arising from wider distribution of the statements as the original author, who at least has the defence that the communication was intended for a restricted audience of trusted recipients.

Comment is invited on the merits of prohibiting a council member from copying or forwarding, other than to a disciplinary or investigatory agency as evidence of misconduct, any non-public correspondence received in confidence from another council member, unless with the permission of the author. An essential element would be that it was done with intent to gain an advantage for themselves or another person, or to cause a detriment to another person or the local government. (Note that this point refers to disclosure of information, rather than improper use of that information).

7.5. Regulation 7 - Securing personal advantage or disadvantaging others

Regulation 7 is cited in more complaints than any other regulation, accounting for 42% of all allegations received by the Panel – more than the next three most frequently cited regulations (Regulations 4, 10 and 11) combined.

Regulation 7 specifically excludes conduct that would contravene the Criminal Code section 83 (corrupt behaviour to gain a benefit or cause detriment) or section 5.93 of the Act (improper use of information to gain a benefit or cause a detriment). It does not specifically exclude conduct that would contravene the Criminal Code Chapter XXXV (criminal defamation) or conduct against which civil action could be taken under the *Defamation Act 2005*, and neither does it exclude conduct that contravenes another Rule of Conduct. Regulation 7 is frequently cited in complaints that make multiple allegations about the same conduct and complaints of a personal dispute nature.

A significant number of Regulation 7 complaints received by the Panel relate to comments made by council members during debate in council meetings. The SAT has previously found⁴ that Regulation 7(1) applies to conduct at council meetings despite that conduct being covered by local laws and partially covered by Regulation 10(3), partly basing this interpretation on the absence of a specific exemption in Regulation 7. There is therefore an overlap between Regulations 4, 7 and 10(3) in application to conduct at council meetings.

Regulation 7 is the least well-defined of the Rules of Conduct. The terms “improper use of office”, “advantage” and “detriment” are not defined in the regulation or in other legislation, a deficiency on which SAT judges have commented on several occasions.

In considering Regulation 7 complaints, the Panel and the SAT have come to rely on the interpretations set out in 2010 by Judge Pritchard, then Deputy President of the SAT, in reviewing a Panel decision against two council members⁵. In considering whether to find that the condition of “improper use of office” was met, Judge Pritchard listed five elements of impropriety, based on a variety of legal references. Judge Pritchard’s interpretation may be summarised as applying the following criteria in determining an improper use of office:

1. Breaches the standards of conduct expected of a council member by reasonable, informed observers;
2. Includes abuse of power or exceeding authority;
3. Does not depend on the member being conscious of, or intending, the improper use of their office;

⁴ Treby and Local Government Standards Panel [2010] WASAT 81 (DR238 and 289 of 2009).

⁵ Treby and Local Government Standards Panel [2010] WASAT 81 (DR 238 and 289 of 2009).

4. Is relevant to the member's knowledge of the extent of their power and their purpose in exercising it; and
5. Can be found to have occurred even if the council member genuinely believed they were acting in the interests of the local government (i.e. undertaking their role as set out in section 2.10(a) of the Act).

The Panel considers a further criterion in finding whether a council member made improper use of their office: "that the conduct was so wrongful and inappropriate in the circumstances that it calls for the imposition of a penalty"⁶ which recognises that "improper use of office" is dependent on context and is a charge that should not be made lightly.

The last essential element of Regulation 7(1) is satisfied only if the council member acts with the intent and belief that the result of their actions would be the claimed advantage or detriment and that such was their purpose or aim.

A number of the Panel's findings of "no breach" have rested on lack of sufficient evidence to support a finding that the council member more likely than not acted with the intent and belief that their action would result in the advantage or detriment, regardless of whether any actual advantage or detriment occurred. If there is a legitimate, plausible alternative explanation for the conduct, the essential element of "intent and belief" is unlikely to be proven to the required standard.

The most frequently alleged contravention of Regulation 7 concerns a comment or remark to which the complainant has taken offence and which they allege has either caused them detriment because unspecified people "may think less of them" or that has gained a reputational advantage for the council member, or both.

While there are exceptions, few of these incidents could reasonably be considered by an impartial observer to affect the integrity, performance or reputation of the local government. Viewed objectively, the circumstances are usually such that the complainant is very unlikely to sustain significant or lasting harm attributable to the conduct, but Regulation 7(1) provides a tool for retaliation.

The *Defamation Act 2005* contains numerous safeguards to prevent overly sensitive individuals from unreasonably fettering other people's freedom of expression, but

Regulation 7 contains no checks and balances of this nature.

In addition, the Panel has applied a wide interpretation of "detriment" encompassing any kind of "loss" with no clear threshold of materiality or probability. These factors appear to have encouraged allegations of Regulation 7 contravention relating to comments for which the council member would have had a legitimate defence had the complainant brought civil proceedings for defamation.

⁶ Hipkins and Local Government Standards Panel [2014] WASAT 48 at [9], quoting O'Bryan J in *Robbins v Harness Racing Board* [1984] VR 641 at [646].

An additional danger in allowing Regulation 7 to be used as a substitute for defamation law is that a finding of breach involves a finding that the council member has improperly used their office in undertaking their core role of engaging in debate at council meetings or communicating on council business. Within the Australian democratic system, elected members have traditionally been free to express controversial opinions and to challenge the positions of opponents, even robustly, although in the cause of orderly and productive meetings, a case may be made for restricting invective, vilification and the impugning of character.

The imprecision of Regulation 7 in its current form is open to misuse by individuals seeking to hinder council members in performing the responsibilities conferred on them by section 2.10 of the Act and the role expected of them by their constituents. Regulation 7 complaints may also be used by parties seeking to influence an outcome to their advantage through harassment and intimidation of an individual council member in an attempt to restrict the member's freedom of expression during public debate.

A new regulation is proposed later in this report to address interactions between council members, which would include seriously disparaging and abusive statements and other dysfunctional conduct at council and committee meetings.

That proposed new regulation and amendments to Regulation 10 to strengthen protections for local government employees will provide an opportunity to refocus Regulation 7 on non-trivial inappropriate conduct with implications for the ethical, honest and impartial performance of a council member's role, similar to the matters covered within the meaning of minor misconduct under the CCM Act.

Proposal 7.5 – Regulation 7

1. Amend regulation 7 to clearly define “improper use of office” in the context of the interpretation currently used by the SAT and the Panel (as summarised above), with reference to the local government’s code of conduct and regulation 3 principles of behaviour.
2. Amend sub-regulation 7(1) to clarify that it applies only when the action is taken with the primary intent and belief that it will result in gaining an advantage or causing detriment.
3. In addition to the current exemptions, specify that sub-regulation 7(1) does not apply to:
 - a. advantage or detriment that is trivial, negligible or hypothetical; or
 - b. conduct of council members at council or committee meetings; or
 - c. a matter to which another Rule of Conduct in the Regulations applies; or
 - d. a remark, comment, statement or implication if:
 - i. it was clearly expressed as the council member’s personal opinion rather than as a statement of fact, and that opinion was based on factual material and related to a matter of public interest; or
 - ii. the circumstances were such that no harm attributable to the conduct was likely to be sustained.

Supplementary Question (Proposal 7.5 – Regulation 7):

1. These changes will make Regulation 7 less of a “catch-all” for matters relating to personal disputes and trivial matters. Is there a need to focus this regulation on any specific issues related to improper use of office?

7.6. Regulation 8 - Misuse of local government resources

Regulation 8 does not clearly define what constitutes a local government resource for the purposes of the regulation, or even what constitutes “use” in the regulatory context. The Panel and the SAT have resorted to generic dictionary definitions which are very broad and of limited relevance in achieving the policy intent of the regulation.

Local government resources consist of the tangible assets of the local government such as money, property, plant and equipment, stationery and other consumables; and intangible assets paid for by the local government including staff time, intellectual property, licences, and third party utilities and services.

The common factor is that these resources are owned by or have been paid for by the local government on behalf of the community in general, whether or not the council member's use deprives the local government of use, access or revenue. The relevance is less clear when extended to intangible concepts like the "position of councillor", reputation, public events or images, as occasionally claimed.

The term "any other purpose" in sub-regulation 8(2)(b) is also overly broad. The key point is that public resources should be used for the public benefit. Council members have a right to use the public resources that are necessary for them to carry out their duties, and to use publicly available resources under the same conditions of access that apply to everyone else. Any other use of resources to which a council member has privileged access by reason of holding office must be both transparent and accountable, and must not mislead observers into wrongly assuming official local government support for the purpose. Clear definitions would provide more certainty and discourage misguided and trivial complaints.

It has been suggested that the exemption for authorised use offers insufficient protection as it does not restrict the uses that can be authorised by the council, but it is unclear whether this is a significant issue for local government.

Proposal 7.6 – Regulation 8:

1. Define the term "resource" in Regulation 8 to cover tangible and intangible assets, services and other means of supporting the functions of the local government, and that are owned or paid for by the local government from public money, but excluding intangible concepts without monetary value (such as an address or title).
2. Define the term "use" to include both consumption and deriving a benefit not associated with consumption, including misrepresenting local government support for the purpose.
3. Clarify the term "any other purpose" in sub-regulation 8(2)(b) to refer to any purpose other than fulfilling the legal obligations and duties of the council member's office.

Supplementary Questions (Proposal 7.6 – Regulation 8):

1. Are these definitions of "resources" and "use" sufficiently comprehensive and unambiguous?
2. Should authorisation be restricted to purposes that contribute to performing the functions of the council and local government as set out in the Act?
3. Is it necessary to explicitly exempt the use of publicly available local government resources where the council member's use occurs under the same conditions as any other person?

7.7. Regulation 9 - Prohibition against involvement in administration

Clear separation of the roles of the council and of the administration is fundamental to the *Local Government Act* but remains a cause of friction. Blurring of these lines of separation diminishes accountability, increases risk and reduces efficiency. The intrusion of council members into operational matters and disputes about end-of-line responsibility are common themes in inquiries into dysfunctional local governments.

Since 2007, the Panel has received 35 allegations (<7%) of minor breach for contravention of Regulation 9, but only four were made by CEOs, which suggests that matters of this type are generally handled professionally and in-house by CEOs. Members of the public (including ex-councillors) made 15 allegations (none of which related to significant conduct), council members made 13 allegations and employees/ex-employees made three (of which two later sought to withdraw the complaint).

The Act makes the council responsible for the performance of the local government but simultaneously limits its autonomy by directly allocating very broad powers and responsibilities to the CEO. These are supplemented by whatever level of delegation the council approves. However, as the Corruption and Crime Commission found⁷, this does not absolve the council from its obligation to scrutinise the CEO's actions and to ensure proper accountability and risk management concerning public assets, as part of being responsible for local government performance.

The challenge is in determining the point at which scrutiny and due diligence becomes interference. The variations in the size and capacity of local government organisations, and in the nature of the working relationships between the CEO and the presiding member, mean that the boundary between strategic oversight and operational activities may vary between local governments and over time in the same local government. The regulation is not intended to hamper effective and mutually agreed local arrangements.

However, the proportion of trivial complaints received from complainants external to local government operations suggests that the regulation needs to be clarified, if only to specify what it does not cover and preclude allegations based on misunderstanding.

For the purposes of the regulation, it is proposed to define "administration" in terms of the legislated functions reserved to the CEO and the management of his or her legislated or delegated responsibilities.

The complexity of the interaction between the council and the local government operational arm, and recent concerns raised about accountability and risk management, suggest there may be merit in developing an advisory standard.

⁷ Corruption and Crime Commission (WA) (2015) Report on Misconduct Risk in Local Government Procurement.

This would explain how to differentiate between strategic and operational matters, when specific authorisation should be considered for efficient operations (for example to facilitate the provision of administrative assistance to a presiding member), and suggests the level of reporting that council members may legitimately expect to enable them to comply effectively with their fiduciary obligations.

Proposal 7.7 – Regulation 9:

1. Define “administration” in Regulation 9 to mean the functions of the CEO as described in section 5.41 of the Act, CEO delegations under section 5.42 of the Act, the executive functions of local government as described in Part 3 Division 3 of the Act, and other functions specifically reserved to the CEO under the Act or any other written law.
2. Define “task” to exclude the transmittal of non-confidential information provided by the CEO, and to exclude the expression of an opinion, comment, objective or intent.
3. Extend the exemption in sub-regulation 9(2) to apply to tasks related to the legislated and undelegated functions of the council, in addition to tasks done as part of deliberations at a council or committee meeting.
4. Develop and publish an advisory standard to assist council members in determining the boundaries of their roles and the level of reporting that they may expect

Supplementary Questions (Proposal 7.7 – Regulation 9):

1. Is the proposed definition of “administration” sufficiently clear about where council members should not take an active and uninvited role?
2. Should authorisation be by both the council and the CEO, rather than either, or should it be initiated by the CEO?

7.8. Regulation 10 - Relations with local government employees

Mutual trust and respect between council members and local government employees, based on realistic expectations and a professional working relationship, is essential to a high performing local government and the retention of skilled and experienced employees. Regulation 10 addresses the asymmetry of power that exists between council members and local government employees.

Regulation 10 focuses on achieving a balanced and productive relationship between the council members and the employees through whom they achieve their objectives

for the local government, recognising that sometimes there may be conflicting objectives or priorities. The proposals in this section are based on a set of assumptions about what is or is not reasonable council member behaviour, and comment is invited on whether these assumptions are realistic and appropriate.

It is considered reasonable for council members to:

- seek assurance from the CEO that the local government is performing satisfactorily against appropriate agreed criteria, and specify the information needed to provide that assurance;
- expect to be kept informed about matters that affect the local government's performance, financial position, corporate risk profile and reputation;
- raise, with the CEO through council process, matters concerning the allocation of resources to local government priorities;
- request timely, accurate, relevant advice on matters requiring a council decision;
- rationally and respectfully challenge the accuracy or appropriateness of employees' advice, decisions, reports or actions, for which employees should expect to be held accountable;
- respectfully raise and discuss concerns about the operational performance of the local government, which may sometimes reflect on the performance of individual employees;
- express any concerns or criticism respectfully and constructively through established channels.

It is considered unreasonable for council members to:

- seek excessively frequent or detailed operational reporting irrelevant to strategic decision-making or to council's legal governance and fiduciary responsibilities;
- demand that employees undertake extensive research or retrieval of records that are accessible by the member themselves or for a purpose other than the council member's legislated duties;
- seek to influence the enforcement of local laws, implementation of policies, allocation of resources, prioritisation of work or other operational decisions through directly communicating with operational level employees;
- conduct discussions or make comments that reflect negatively on employees in the presence of their co-workers or in a public forum;
- impugn an employee's character or impute dishonest motives to them rather than objectively critique the outcome or activity;
- make assumptions, theorise or allege wrong-doing without knowing all the facts, or use a single incident to attack an employee's credibility;
- be disrespectful or abusive towards, or seek to humiliate or hurt an employee;

- seek favourable public attention by disparaging local government employees in the community.

Regulation 10 is cited in about 14% of minor breach complaints, but a high proportion (more than 60%) of these allegations are found not to be a breach, frequently because the conduct complained about occurred outside the narrowly defined set of circumstances to which Regulation 10 applies, and therefore the conduct was not prohibited by the regulation. Such a finding should not be misinterpreted as the Panel's endorsement of the conduct as being acceptable or appropriate.

Regulation 10 is perceived by some local government managers as dealing inadequately with certain types of inappropriate conduct and misuse of power by council members in relation to local government employees, either because of the restricted application of existing provisions or because the conduct is not addressed at all. The specific reported shortcomings of Regulation 10 are dealt with below.

7.8.1 Narrow conditions of application do not reflect intent

The current provisions of Regulation 10 narrowly limit the application of some provisions, allowing for seriously dysfunctional conduct to occur without technically being in breach, but in other cases inadvertently proscribe conduct associated with normal working relationships. Particular issues related to the sub-regulations are:

Sub-regulation 10(1)(a) - direction

This sub-regulation is intended to prohibit a council member making wrongful use of their position to interfere with enforcement of local laws, implementation of policies, or to vary operational decisions, priorities and resource allocation. Imprecision of key terms ("anything") has allowed allegations of minor breach to be made about normal professional interactions that contribute to local government outcomes (e.g. between a presiding member and an employee assigned to provide them with administrative assistance, or members responding to invitations from officers for comment on documents).

Sub-regulation 10(1)(b) – influence through threats and promises

This prohibition has been interpreted to apply only to threats made in relation to a future specific action, and not to extend to retaliatory or generic threats intended to generally intimidate an employee or generic promises intended to elicit favourable consideration of a member's future requests. It does not appear to apply to a perceived threat by a council member to punish an employee for a completed action, or to harassment through non-specific threatening behaviour, regardless of the distress such conduct may cause.

Sub-regulation 10(3)(a) – accusations of incompetence or dishonesty

This sub-regulation refers only to dishonesty and incompetence, not to other types of disparagement that impugn the character of employees (e.g. accusations of negligence, bias or laziness).

Application is restricted to council and committee meetings and other organised events where members of the public are actually present (interpreted not to include local government employees). This does not recognise the effects on staff morale, trust, and working relationships of witnessing a colleague or manager being treated disrespectfully by a council member.

The sub-regulation does not provide for the “virtual” presence of members of the public through communications technology (e.g. live-streaming), nor for the potential for the accusations to be witnessed after the event through publicly accessible recordings.

This sub-regulation also does not require council members to refrain from denigrating employees in the mainstream or social media, on public websites, or in newsletters or written correspondence sent to multiple recipients including members of the public.

There are potential consequences for the local government of council members expressing overt disrespect for employees. These include: loss of trust and staff morale, reduced productivity, occupational safety and health risks (including workers’ compensation liability), difficulty in attracting and retaining talented staff, loss of public confidence in the local government, and the diversion of resources from productive work to manage the negative publicity.

While the Act provides that only the mayor or president speaks on behalf of the local government, it does not explicitly prohibit council members from making public statements on their own behalf. Some local government stakeholders expressed a desire for regulatory change to protect local government employees from defamation by council members in broader public forums, including mainstream and social media, publicly accessible blogs, newsletters and other publications.

However, the implied freedom of political communication under the Commonwealth Constitution as well as implementation considerations make regulating this conduct problematic, and deterring such behaviour through non-regulatory measures is a more feasible approach. One alternative option for holding council members accountable for their public statements is explored and offered for comment in subsection 7.9, below.

Regulation 10(3)(b) – offensive or objectionable expressions

As with sub-regulation 10(3)(a), application is restricted to council and committee meetings and other organised events where members of the public are present, and similar concerns have been expressed about the regulation not capturing offensive references in social media and other public forums.

The application of this sub-regulation is open to broad interpretation. The usual intent when the word “offensive” is used in legislation concerning freedom of speech is to prohibit the use of inflammatory language⁸ directed against a person. The focus is on

⁸ Inflammatory language may involve invective, abuse, expletives, vilification or derogatory epithets with negative discriminatory overtones (racial, sexual, cultural, or relating to physical or mental characteristics) directed against the character, personal attributes, values, background or motives of a

the disrespectful way in which a view is expressed rather than on the view itself. The intent appears to be the deterrence of behaviour that impedes communication by causing emotion to overcome rational thinking. In extreme cases this may lead to physical altercation but in the current context it is more likely to disrupt the rational consideration of local government matters.

Minor breach complaints have alleged contraventions of Regulation 10(3)(b) for comments ranging from insensitive or distasteful to mildly critical to clearly abusive. Regulation 10(3)(b) is also cited in complaints about disparaging statements that could not be captured by the term “incompetent or dishonest” in sub-regulation 10(1)(a). Almost all of these allegations have been made on the basis of the underlying connotation of the alleged remark rather than its actual expression, which effectively treats this sub-regulation as an extension of sub-regulation 10(1)(a).

The Panel and SAT have not challenged this use of the sub-regulation, but have then needed to debate and explain at some length how they decided whether what was said was an “offensive or objectionable expression”, with extensive reference to dictionary definitions of the individual words used. However, in everyday interactions, it is rarely necessary for most people to consult a dictionary to decide whether an expression is offensive or objectionable.

Response to concerns

Amendments are proposed to change, clarify or define terms to ensure the words of the regulation align with the intent, and include appropriate exemptions. This is intended to ensure that severely dysfunctional conduct is prohibited without compromising the practical and efficient operations of local government and to remove restrictions on regulatory application that act against the intent.

7.8.2 Inadequate protection against bullying or harassing behaviour

Bullying and harassment are serious issues with significant occupational health and safety implications where they occur. The Commonwealth *Fair Work Act 2009* defines elected council members as “workers” for the purposes of the legislation, with the responsibilities and obligations consistent with that status in regard to preventing bullying. However, many local governments in Western Australia are not subject to the *Fair Work Act*. The *WA Occupational Safety and Health Act 1984* is based on the use of employment contracts for implementation. It does not provide a mechanism to deal with elected local council members who are not defined as either employers or employees.

The actions of a small minority of council members who are disrespectful or abusive towards local government employees potentially place local government CEOs in a dilemma. CEOs are expected under the *Occupational Safety and Health Act* to provide

person. It is interpreted in the context of a reasonable adult’s understanding of contemporary community standards, but generally the term is not applied to childish taunts or non-emotive factual descriptions.

a safe workplace for the employees under their care, but may have limited real power to prevent bullying of those employees by representatives of the CEO's own employer.

Employees who are repeatedly bullied or harassed may suffer distress to the extent that both their wellbeing and their productivity are compromised. The effects extend to other parts of the workplace and work culture, and overall organisational performance may suffer. Bullying-related staff resignations reflect poorly on a local government, reducing its competitiveness in attracting and retaining high quality staff.

Response to concerns

Workplace bullying allegations are emotionally charged, rarely straightforward and require the power to investigate and the capacity to query evidence. The Standards Panel has neither the power nor the resources to undertake such work. There is no current intention to amend the *Occupational Safety and Health Act 1984* to address the unclear status of elected council members, and no enforcement mechanisms in local codes of conduct.

To suggest that bullying or harassment is equivalent to a "minor breach" unacceptably trivialises a serious issue, but the Rules of Conduct are currently the only readily available enforceable mechanism to deter conduct by council members that could be perceived as bullying or harassment.

It is proposed to introduce new sub-regulations in Regulation 10 prohibiting abusive or threatening behaviour by council members, and prohibiting council members from making repeated and unreasonable demands of local government employees. While this is certainly not an ideal solution, this amendment may reduce the incidence of distress caused by conduct that is thoughtless and insensitive rather than intentionally malicious. A stronger State response to the issue would require substantial policy development and legislative change to either the *Local Government Act* or the *Occupational Safety and Health Act*, which is beyond the scope of this review.

It must be acknowledged that vexatious bullying complaints are themselves a form of abuse with the capacity to cause reputational and psychological harm to those unfairly accused. If this proposal is adopted, this risk will need to be managed by local government CEOs in relation to complaints against council members with the same diligence with which it is managed in relation to complaints against local government employees.

7.8.3 Council members directly reprimanding employees

The CEO, through the management structure, is responsible to the council for the performance of the organisation and its staff. A council member's criticism of an activity for which an employee is responsible may have an exaggerated impact on an employee, particularly a junior employee, because of the perceived power of the member to affect their employment and reputation. The consequences include distress to the employee, undermining the manager's relationship with the employee, and eroding the work environment. Feedback from council members on services or

performance of local government functions, or on any employee's performance, should be directed through the CEO.

Response to concerns

A new sub-regulation is proposed for Regulation 10 to prohibit council members from personally chastising or reprimanding an employee for a perceived deficiency in a local government service or the employee's performance.

7.8.4 Covert conduct to disadvantage CEO

The appointment, performance appraisal and dismissal of the CEO is a council responsibility. However, there is an inherent conflict created by the CEO's responsibilities to ensure good governance at the council level, effectively requiring CEOs to "police" the behaviour of the people who will assess their performance and determine their employment conditions and tenure. This contrasts with the situation at State level where the Public Sector Commissioner ensures some separation between agency CEO employment arrangements and elected members.

The local government CEO's governance responsibilities may occasionally lead to a difference of opinion between the CEO and individual council members about the boundaries between the strategic and operational functions of the local government, the power of the council to direct the local government in certain matters, and the extent to which councillors are constrained by legislation from acting as they think best. This may result in ill-feeling by the council member, which occasionally manifests in overt disrespect, publicly or privately undermining the CEO's reputation, open threats to "get rid of" the CEO, and colluding with others in attempts to bring about the premature termination of the CEO's employment outside legitimate disciplinary processes.

Regardless of the council member's stated justification, this conduct is highly damaging to the local government. It can erode trust between the council and the CEO, affect local government performance and reputation as a fair employer, and lead to operational dysfunction, but the rules of conduct do not specifically address this issue.

Response to concerns

It is the council's role to recruit, select, manage the performance of, and if necessary dismiss the CEO, but it is essential that these processes be transparent, impartial, fair and lawful.

A new sub-regulation is proposed for Regulation 10 to prohibit a council member seeking to influence the performance appraisal or dismissal of a CEO other than through an authorised process consistent with legal requirements and natural justice.

In the longer term, it may be desirable for the Government to minimise the potential for this kind of conflict by considering a more independent process for appointing CEOs and managing any termination action, while retaining the day to day accountability arrangements between the council and the CEO. A variation of the model currently used for State Government agency CEO employment might be appropriate.

7.8.5 No protection for former local government employees

Local government employees, particularly CEOs and senior managers, sometimes have little choice but to resign as a result of a breakdown in their working relationship with council members. These individuals should not have their future career prospects unfairly blighted by derogatory comments made by council members upon their departure. Ex-employees are particularly vulnerable, because they have limited access to forums where they can refute untrue or unfair allegations, and may have signed an agreement as part of their separation arrangement which prohibits them from making comment on the circumstances that led to their departure.

Response to concerns

Amendments are proposed to Regulation 10 to extend the protection of local government employees from reputational detriment to former local government employees who have separated from the local government in the previous six months.

Proposal 7.8 – Regulation 10

1. Amend sub-regulation 10(1) by:
 - a. In sub-regulation 10(1)(a), replacing “to do or not to do anything” with a reference to taking action related to local government functions such as enforcement of local laws, implementation of approved policies and procedures, or varying of decisions, priorities or resource allocation.
 - b. Providing for the CEO to authorise a limited exemption to subregulation 10(1)(a), at the CEO’s discretion, for individual council members for specified operational purposes.
 - c. Adding a prohibition against behaving in an abusive or threatening manner towards any local government employee, including the CEO (the exemption for meetings is not to apply to this rule).
 - d. Adding a prohibition against making repeated or unreasonable demands for information or assistance from a local government employee to an extent that impairs the employee’s capacity to complete their designated work responsibilities.
 - e. Adding a prohibition against attempting to influence the performance appraisal or dismissal of a CEO other than through an authorised process consistent with legal requirements and procedural fairness.
 - f. Adding a prohibition against personally chastising or reprimanding any local government employee for matters related to the administration of the local government.
2. For the purposes of sub-regulation 10(2) and other regulations where the term is used, “council or committee meeting” should be defined as a formally constituted meeting of the council or a committee established under section 5.8 of the Act. Informal meetings such as site meetings or information forums would not be included in the exemption.
3. Amend sub-regulation 10(3) by:

- a. Replacing the condition “members of the public are present” with a condition specifying that the sub-regulation applies if any person other than council members and the CEO is present, or if the meeting or event is being broadcast, or if an audio or video record is being made of the meeting or event and that record will be publicly available.
 - b. Clarifying that the term “attending” covers the periods immediately before and after the meeting or event and during any period in which proceedings are suspended.
 - c. In sub-regulations 10(3)(a) and 10(3)(b), extending the protection to former local government employees for a period of 6 months after separation from the local government.
 - d. In sub-regulation 10(3)(a), replacing the current reference to “statement...is incompetent or dishonest” with a reference to disparaging or impugning the character of a local government employee or former local government employee. This to be defined as stating or implying deficiency in the person’s honesty, integrity, competence, diligence, impartiality or loyalty; or imputing dishonest or unethical motives to them in the performance of their duties.
 - e. In sub-regulation 10(3)(b), replacing the term “offensive or objectionable expression” with “abusive or offensive language”, defined as inflammatory words likely to incite ridicule or contempt and which would offend a reasonable adult applying contemporary community standards.
4. In sub-regulation 10(4), extend the exemption to statements made to an authority responsible for regulating the conduct of public officers and to statements made under oath or affirmation to a body authorised by Parliament to conduct an inquiry or during judicial proceedings.

Supplementary Questions (Proposal 7.8 – Regulation 10)

1. Do the proposals listed above address to a practical extent the types of conduct relating to local government employees that may cause disruption to the orderly operation of the local government and impair its efficiency and effectiveness?
2. Are any of the proposals likely to be impractical or negatively affect the efficient and effective operations of the local government?
3. Is there a more appropriate definition for “unreasonable demands” in the proposed amendment to sub-regulation 10(1)?
4. Should the condition about meeting attendees in proposal 7.8 3(a) above include an official record taker in addition to council members and the CEO?
5. Are any other explicit definitions or exemptions needed to prevent ambiguity?

7.9. New regulation - Public statements

Provided they do not claim to be speaking on behalf of the council or the local government, council members' rights to publicly air their views about local government functions and employees or about council decisions should not be fettered by Rules of Conduct regulations.

Negative published comments and lack of council solidarity potentially cause dissension and detriment to the local government's performance and reputation, and result in employee resources being diverted from productive activities to managing that risk. Council members who are concerned that council decisions or local government operations do not serve the public interest should in the first instance attempt to resolve these concerns with the mayor/president and/or the CEO. However, if they feel they must make a public statement, council members must be prepared to openly take responsibility for what they say. This is particularly important for attributed views and comments published in the mass and local media, although other forms of mass communication, such as on social media or in e-newsletters, also have potential to cause harm and should be used judiciously.

It has been suggested that greater accountability could be achieved by a requirement for council members to notify their local government of comments that they make to the media in their capacity as council members.

This would not interfere with a council member's right to express personal opinions, but would improve transparency in local government. It would also ensure accurate record-keeping and facilitate risk management by the local government, and provide some protection for councillors who are misquoted. This proposal would enable a local government to:

- maintain a record of public statements made by council members about the local government;
- more effectively manage its response to the publication (including preparing for any subsequent media interest and managing any staff impacts); and
- provide assistance to a council member in seeking a retraction should the council member be misquoted, misinterpreted or have comments wrongfully attributed to them.

Proposal 7.9 – New Regulation (Public statements)

1. Insert a new regulation that:
2. Requires a council member to notify the CEO in writing of any comments or written material that the council member provides to a representative of the mass or local media concerning the performance or administration of the local government, the actions or performance of local government employees, or a council decision.
3. Requires the CEO to maintain a register of media contact in which details of such notices are kept, and to make this register available for public inspection.
4. This regulation would not apply to anything that a council member does as a part of the deliberations at a council or committee meeting, or to any authorised communication by or on behalf of the mayor or president in their official capacity.

Supplementary Questions (Proposal 7.9 – Regulation on public statements):

1. Will the proposed regulation provide a practical mechanism for council members to take responsibility for their public statements without fettering their right to make them?
2. Is there a need to more closely define the circumstances requiring notification?
3. Should the requirement for notification be extended to social media, blogs, e-newsletters, etc.?
4. What is a reasonable time limit for notification given the likely immediacy of the consequences of the conduct?
5. What could be the disadvantages for council members or local governments if such notification is required?
6. Should this regulation apply all the time or only during campaign periods?

7.10. New regulation - Interactions with council members

Proposal 7.3 suggests deleting Regulation 4, which has proven to be problematic in terms of coverage, consistency and duplication. However, some common provisions in local laws relating to conduct at meetings are appropriate for inclusion in consistent, State-wide standards of conduct that council members are expected to meet in relation to fellow council members.

The provisions of the proposed new regulation have been drawn primarily from existing local laws, but have been limited to conduct that is considered to be significantly

disruptive, likely to impair the effective performance of the local government or likely to bring the council and local government into disrepute and undermine public confidence.

This proposed regulation is not intended to stifle robust debate, including rebuttal of the opinions and arguments of opponents, but to ensure that such debate is conducted in a respectful, orderly, constructive and reasonable manner and is focused on issues and facts.

Proposal 7.10 – New regulation (Interactions with council members)

Insert a new regulation that:

1. Prohibits a council member from behaving in an abusive or threatening manner towards any other council member or the CEO.
2. Prohibits a council member from stating or implying that a council decision or decision process was incompetent, dishonest, corrupt, negligent or unlawful (but does not prohibit expressing disagreement with a decision).
3. Prohibits a council member, when attending a council or committee meeting or other organised event, and if any person other than council members, the CEO and an official record taker is present, or if the meeting or event is being broadcast, or if an audio or video record is being made of the meeting or event and that record will be publicly available, from:
 - a. Disparaging or impugning the character of any council member (to be defined as stating or implying deficiency in the person's honesty, integrity, competence, diligence, impartiality or loyalty), or imputing dishonest or unethical motives to them in the performance of their duties.
 - b. Using abusive or offensive language to, or in reference to, any council member (to be defined as inflammatory words likely to incite ridicule or contempt or which would offend a reasonable adult applying contemporary community standards).
4. Requires a council member, when attending a council meeting or committee meeting, to:
 - a. Comply with a direction given by the presiding member at that meeting; and
 - b. Cease any conduct that has been ruled out of order by the presiding member,

unless the majority of council members who are present vote to dissent from the presiding member's ruling.

5. Sub-regulation (2) is not to prevent a council member from reporting suspected dishonest, corrupt, negligent or unlawful council decisions or processes to a regulatory agency with responsibility for overseeing any aspect of the performance of local governments or the conduct of public officials.

6. This regulation is not to prevent a council member from making a statement under oath in a hearing conducted by Parliament, before a judicial body or as otherwise required by law.

Supplementary Questions (Proposal 7.10 – Regulation on interaction with council members):

1. If Regulation 4 is repealed, and Regulation 7 no longer applies to conduct in council and committee meetings, will the proposals above adequately capture the key provisions in local laws related to conduct of council members in meetings?
2. Is there a need for rules of conduct in relation to any other interactions between council members that may impair the integrity, performance or reputation of local governments?

7.11. Regulation 11 - Disclosure of interest

There appears to be some confusion⁹ about the intent and scope of Regulation 11, which specifically excludes financial interests and proximity interests, disclosure of which is provided for by Part 5 Division 6 of the Act. Further clarification has been requested on the kinds of impartiality interest that should be declared.

This confusion arises in part because disclosure of an impartiality interest has no practical consequences for the outcome of the matter being deliberated, in that the disclosing council member is not required to be absent for either the discussion or the vote, and under section 5.21(2) of the Act is required to vote if present. A disclosing member who participates in the deliberations may declare that they will act impartially, but realistically there is no way to confirm that they do so.

Regulation 11 complainants frequently appear to have interpreted the examples in the definition (kinship, friendship or membership of an association) as an alternative definition rather than a clarification of the primary condition (that the interest could, or could reasonably be perceived to, adversely affect the impartiality of the person having it). This has led to allegations of non-disclosure of very tenuous and insignificant connections unlikely to bias the judgement of any reasonable person. Regulation 11 is silent on the interests of closely associated persons and it is unclear whether these should be disclosed.

The extent of significant practical public benefit achieved by Regulation 11 in its current form may be debatable:

⁹ Even the Panel has expressed “great difficulty in arriving at a considered view as to what circumstances regulation 11 is intended to address” (Standards Panel Findings SP 36 of 2008 – unpublished).

- The interests most likely to adversely affect a person's impartiality are those associated with beliefs, values, ideology, passion for a cause or election commitments, yet these interests are not required to be disclosed under Regulation 11. The rationale is that most council members are elected on a particular platform, set of promises or firmly stated beliefs, and it is to be expected that these will affect the way in which they consider related matters. If there is no requirement to disclose interests almost certain to affect impartiality, then the value of disclosure of lesser impartiality interests seems questionable.
- Fear of contravening Regulation 11 has led to some council members assuming a very broad interpretation of "impartiality interest", with anecdotes about councillors disclosing their membership of council committees, former patronage of closed businesses and their own retirement function. Recording these kinds of interests is little more than red tape with no real benefit.
- Formal disclosure is not the only source of information about interests, particularly regarding "enduring" interests such as employment, association membership or familial relationships. Impartiality interests may also be known from previous statements or be public knowledge, and a number of allegations of minor breach have concerned interests that are so widely known as to be unremarkable, or that had been previously disclosed on other matters, but the council member had neglected to disclose the interest on a particular occasion. A more efficient approach to enduring interests would be to have a permanent (on-line) register to eliminate the need for multiple disclosures of the same interests. Associating the interest with a relevant matter could then be automated and managed as an administrative function.
- Most allegations of contravention of Regulation 11 involve interests that are so trivial (sometimes even hypothetical) that no reasonable person would believe that they prevented the council member from acting impartially. Allegations of minor breach have even been made for alleged non-disclosure concerning administrative agenda items with no consequences external to the council's own processes. The regulation in its current form is vulnerable to frivolous complaints because it does not require justification for a complainant's claimed perception that the interest affects impartiality, and does not consider materiality.
- The benefit associated with processing a minor breach complaint about non-disclosure of an impartiality interest after the event appears negligible. Since disclosure would not have restricted the councillor from contributing to the discussion or the decision, the non-disclosure is unlikely to have adversely affected the quality or outcome of council decisions and the public cost of processing a complaint is difficult to justify.

Transparency is improved by disclosure of a close association with a community organisation likely to receive a significant direct benefit (such as a grant, lease or authorisation of an activity) from the council's decision, although if the council member still participates in the decision, the benefit is more academic than practical. One

intangible benefit of disclosure of impartiality interests may be more productive debate as a result of better mutual understanding, but this is difficult to measure.

Assuming that there is general local government support to retain a rule of conduct requiring disclosure of impartiality interests, the following proposals focus on attempting to reduce red tape and focusing the rule on significant interests.

There has also been some public debate about whether council members should disclose whether they have been lobbied by or held discussions with persons seeking local government authorisation of an activity involving local government discretion. Such disclosure would also improve transparency.

Proposal 7.11 – Regulation 11

1. Amend sub-regulation 11(1) to clearly restrict the definition of interest to one that could or could reasonably be expected to adversely affect impartiality of the person having the interest, deleting the “inclusions”.
2. Include examples of significant impartiality interests in an advisory standard rather than in the regulation.
3. Define “matter to be discussed” to mean substantive matters to be determined by council and exclude administrative matters where the effect is limited to the council itself.
4. Amend sub-regulation 11(3) to add a provision that Regulation 11 does not apply to trivial, negligible or non-current interests.
5. Add a sub-regulation permitting a disclosing member to elect to leave the meeting while the council discusses and makes a decision on the matter, but if the member elects not to leave the meeting, the council member must vote as required by under section 5.21(2) of the Act.
6. Add a sub-regulation providing for council members to register, at their discretion, enduring interests that may be perceived as affecting their impartiality.
 - a. Enduring interests may include, but are not limited to, familial relationships, employment or board membership, membership of associations, election commitments and public statements of position on specific matters.
 - b. The CEO is to maintain a register of enduring interests that is available for public inspection.
 - c. Council members may request the CEO to make amendments to their recorded enduring interests as necessary.
 - d. Sub-regulation 11(2) would not apply to interests that are recorded in the register of enduring interests.

Supplementary Questions (Proposal 7.11 – Regulation 11):

1. Would a register of enduring interests provide adequate transparency?
2. Should Regulation 11 provide for the situation where a council member wishes to contribute to the discussion but feels that they may be unable to vote impartially and wishes to leave the meeting before the vote?
3. Should council members be required to disclose, prior to discussion on a matter concerning an activity involving a local government discretion (as defined in Regulation 12), whether they have been in communication with the person seeking the local government authorisation or commercial dealing? This would not include merely receiving unsolicited correspondence and promotional material.

Comment invited – impartiality interests and participation in discussion and decision making

In focusing solely on the disclosure of impartiality interests without the declaration having any practical effect, Regulation 11 is perceived to provide inadequate protection against decision making conduct that is not impartial. This is a controversial issue.

One option to strengthen this protection would be to align the management of impartiality interests and financial interests, permitting councils to make the decision about whether the impartiality interest is so trivial that it is unlikely to affect the council member's impartiality, and to resolve that the member either should or should not participate in the discussion and decision. This would require amendment to the Act to provide an exemption to section 5.21(2) and provide for the council to have the power to make such a resolution.

There are two potential disadvantages to this approach:

- Particularly in smaller communities, a majority of the council members may share the same impartiality interest, and if they are prevented from participating in discussion and decision making, the council may fail to achieve a quorum.
- It seems contrary to a democratic system to prevent a council member from debating and voting on a matter about which they are not impartial if they have been elected to the council on the basis of that stated position.

Another option is to specify a clear materiality threshold for the kinds of significant impartiality interests that must be disclosed, but leave it to council members' discretion whether to disclose more trivial non-financial, non-proximity interests.

How can the community be assured that non-financial, non-proximity interests do not affect the perceived integrity of the council's decision, while not restricting participation

on matters where a council member's interest is unlikely to bias their decision? Should a strong personal opinion, previous public statements or ideological position on a matter be clearly declared as an impartiality interest prior to debate?

7.12. Regulation 12 - Gifts¹⁰

Relatively few complaints have been received concerning alleged breaches of Regulation 12, but there are anecdotal reports of some confusion among council members about the scope, application and practicality of the regulation, and its consistency with other legislation covering receipt of gifts.

The CCC recently released an investigation report¹¹ which highlighted a potential ambiguity in the regulatory requirements, particularly when an entity closely associated with the donor, but not the donor themselves, is seeking or likely to be seeking local government approval of an activity or some other benefit within the local government's power to grant.

In the public's perception, a council member's impartiality may be questioned if they accept a gift from a party that will benefit from a local government's discretionary approval, even if it is not the entity seeking that approval. However, a council member may not always be aware that a relationship exists between the donor and an applicant for approval, particularly if a commercial relationship between them is contemplated but not yet in place or if no application from the third party has yet been received.

The CCC's report also illustrated some potential complexity in acceptance and disclosure mechanisms for donation packages that include both a contribution to travel (excluded from the definition of a gift for the purposes of Regulation 12) and non-travel components (which may be notifiable or prohibited gifts). This has resulted in proposed amendments to the Act that are currently being considered by Parliament (as at November 2015). For the purposes of Regulation 12, if accepting a gift from a particular person is prohibited, then logically a contribution to travel from the same person should also be prohibited.

Regulation 12 has a notifiable gift value range of \$50-\$300 and a prohibited gift threshold of \$300. By comparison, Regulation 30B of the *Local Government(Elections) Regulations 1997* has a disclosure threshold of \$200 for electoral gifts; the *Local Government (Administration) Regulations 1996* prescribes an annual return (section 5.82 of the Act) gift disclosure threshold of \$200 (Regulation 25) and also requires that codes of conduct mirror Regulation 12 including value thresholds (Regulation 34B).

¹⁰ NB: The Local Government Governance Roundtable has initiated a separate review into legislative provisions relating to receipt of gifts. These proposals will be coordinated with that work.

¹¹ Corruption and Crime Commission - [Report on an Investigation into Acceptance and Disclosure of Gifts and Travel Contributions by the Lord Mayor of the City of Perth](#) (5 October 2015).

The Local Government Operational Guidelines No. 12 refer to nominal gifts, but these are not recognised in the regulations. Rationally, a council member's decision in a significant matter is unlikely to be swayed by the receipt of a nominal gift (e.g. flowers, confectionery, bottle of wine) offered as a token of appreciation. It is proposed to define token or nominal gifts which do not need to be included in the cumulative value of notifiable or prohibited gifts. This will reduce the administrative burden of monitoring these small items, the donation of which poses minimal risk to local government integrity.

It is unclear from the definition as to when hospitality should be classified as a gift. Some council members have reportedly become reluctant to accept invitations to community events, particularly when the community group may have hired a council property or sought some other kind of authorisation for the event. They are unsure whether the associated hospitality may be construed as a gift. This is rarely the intention of the inviting organisation, which in many cases hopes to achieve additional status and publicity by the presence of one or more council members at their event. It is an important part of a council member's role to support local community groups. Discouragement of community participation is not an intended outcome of this regulation.

Some council members, particularly mayors/presidents, may be presented with a ceremonial gift with the intent of it being a gift to the council or to the community. The regulation does not explicitly limit its application to gifts received for personal benefit and complaints have been received alleging a contravention of Regulation 12 relating to such gifts.

Other concerns have been reported relating to:

- the threshold gift values being perceived as impractically low, and no provision to readily adjust the threshold gift values to keep pace with the values of common gifts such as meals and tickets for entertainment or sporting events;
- the difficulty of establishing a value for some gifts, particularly when the gift is not readily purchasable (e.g. an art work or private event) so independent valuation is unreliable, or the amount paid by the giver is commercially confidential;
- the practicality of the 10 day rule, and clarification about whether the 10 days commences from the actual receipt of the gift or the (sometimes provisional) indication that the member will accept the gift. In the case of events, several weeks may elapse between the issuing of the invitation and the event itself, and the member's attendance may not be confirmed until shortly before the event.
- a council member accepting a gift in good faith, and becoming aware some time later that the giver is seeking, or intending to seek, a decision from the council, rendering the gift prohibited or notifiable;
- a person offering to make a donation to a third party, such as a community group, which a council member is known to hold in high esteem;

- a council member making private use of part of a gift provided to the council as a whole (such as a block of event tickets);
- perceived soliciting of gifts or benefits by council members; and
- gifts or benefits provided in ways that avoid the definitional boundaries of the regulation.

Proposal 7.12 – Regulation 12

1. Insert a new definition of “nominal gift” in Regulation 12(1), to include the following:
 - a) occasional hospitality of a modest nature received in the course of performing the role of council member, such as:
 - b) meetings to discuss official business concerning the local government,
 - c) information sharing and professional development events (such as forums, seminars or workshops),
 - d) an event at which the council member has been invited to speak or present,
 - e) social events organised by the council, a government body or a community group;
 - f) attendance at a function as an invited representative of the local government or council; or
 - g) single small promotional items of no commercial value; or
 - h) modest, “one-off” expressions of gratitude or appreciation such as confectionery, flowers or single bottles of moderately priced alcohol.
2. In subregulation 12(1), exclude nominal gifts from the definitions of “notifiable gift” and “prohibited gift”.
3. In subregulation 12(2), add “financial or other contribution to travel” to the things that a council member must not accept from a person undertaking, seeking to undertake or likely to be intending to undertake an activity involving a local government discretion.
4. Insert a new subregulation to provide for the situation of council members who have accepted a gift in the belief that the giver was not undertaking, seeking to undertake or intending to undertake an activity involving local government discretion, and who become aware within six months of accepting the gift that their assumption was inaccurate. Council members would be required to rescind their acceptance (if the gift had not yet been received) or return (if practical) a prohibited gift or to notify the CEO of a notifiable gift or a non-returnable prohibited gift, as soon as practicable.

5. Provide for the CEO, at the request of a council member, to record declined or returned gifts.
6. Insert a new subregulation to clarify that this regulation does not apply to ceremonial gifts received by a council member on behalf of the council. A ceremonial gift is an item presented to the local government as a mark of respect, commemoration or appreciation, usually from another government entity or an organisation, and ownership is held by the local government.
7. Clarify that when a gift is presented to the council, and that gift or part of the gift is then provided to a council member for their personal benefit, it is to be treated as though the council member had accepted the gift directly from the giver. If the gift meets the definition of a notifiable gift, then Regulation 12(3) applies.

Supplementary Questions (Proposal 7.12 – Regulation 12):

1. Is there a need to amend or clarify the “10 day rule” and the date from which it should be calculated? If so, what would be a practical provision?
2. Is there a need to address the issue of a donor seeking to influence a council member by making a gift or donation to a person, group, organisation or cause in which the council member has a significant interest? If so, how should this be managed?

Comments invited - Gifts

1. Value thresholds and consistency between legislative requirements

Comment is invited on what criteria should be used to establish value thresholds for notifiable and prohibited gifts. How can a balance be struck between practicality in light of standard business practice and acknowledging public concerns about “buying favours”?

Should the disclosure/notification threshold for gifts to council members be set at the same value in all local government regulations? Should there be an automatic (e.g. CPI) escalator for thresholds or alternatively, how and how often should thresholds be reviewed?

2. Gifts from persons likely to benefit from a local government discretion exercised in favour of another person

Comment is invited on whether regulatory controls are necessary or practical concerning the acceptance and disclosure of gifts offered to council members by entities which are closely associated or in a commercial relationship with a person undertaking, seeking to undertake or likely to undertake an activity involving a local

government discretion. Such associations or relationships may not be immediately apparent. If regulatory controls are not appropriate, is there a need for policy guidance for council members in such situations?

3. Hospitality

Is monetary value the most appropriate indicator for gifts involving hospitality? Using hospitality to facilitate informal discussion of business matters and encourage networking is a common business practice, and community groups who wish to have a council member present at their events do not consider the associated hospitality as a gift. Unless it is a public, ticketed event, monetary value can be difficult to estimate. Should thresholds for notification of hospitality invitations be based on factors other than the estimated value (e.g. composition of the guest list, whether it is a public (ticketed) event or invitation-only, the primary purpose of the invitation, whether the member is being invited as a representative of council/local government, or to make a speech/presentation)?

4. Cash gifts

A special significance applies in the public mind to gifts of cash to public figures. Cash donations are often perceived as less acceptable than non-cash gifts even when the monetary value of the non-cash gift is greater. Comment is invited on whether Regulation 12 should contain a specific reference to cash gifts (or cash equivalents such as gift vouchers) and whether receipt of cash gifts should be prohibited regardless of the amount.

7.13. Application of Rules of Conduct to election candidates

Concern has been expressed that council members who nominate for re-election are constrained by the Rules of Conduct, whereas candidates who are not currently council members are not held to the same standards. This is particularly apparent in relation to statements made that disparage local government employees or other council members, with intent to gain an electoral advantage for the candidate making the statements.

For practical purposes, a complaint made during the campaign period is treated in the same way as any other complaint. Should a council member be re-elected, they may be found to have committed a minor breach for their conduct during the campaign period. The same conduct by a non-sitting candidate, even if that person was then elected, would not be penalised as a minor breach.

It should also be noted that in considering conduct occurring during election periods, the Panel has found on occasion that the accused council member was acting as an election candidate rather than making use of their office as a council member.

Comment invited: Application of Rules of Conduct to candidates in local government elections

Comment is invited on the merits of amending the Act to apply selected Rules of Conduct (particularly regulations 7, 10 and the proposed new regulation concerning relations with council members) to all local government election candidates during the campaign period.

Complaints of minor breach would be able to be made against any candidate, but would be progressed only if the candidate was successful in being elected to the council.

7.14. Improving understanding of regulations

It has become clear through the analysis of complaints of minor breach that there is a high level of misunderstanding of the regulations and how they apply, or even of the purpose of the minor breach system. In part this is due to ambiguity in the regulations themselves, but there may be a need to provide more guidance to council members, prospective complainants and complaints officers. In particular, complaints of minor breach used as a way of escalating personal disputes to an “independent authority” is an inappropriate use of public funds and should be actively discouraged.

Proposal 7.14 – improving understanding

1. The Panel, with the assistance of the Department, is advised to publish advisory standards to assist in the interpretation of the Rules of Conduct and describe the types of conduct that would or would not be found to be a minor breach by way of examples drawn from Panel determinations.
2. Training materials for Complaints Officers need to be developed under the auspices of the Local Government Governance Roundtable (Department, Local Government Managers Association and WA Local Government Association), and offered to all local governments through existing training providers and products.

8. Standards Panel Procedure and Practice

It appears that the processes and practices of the Panel are not well known or understood. Stakeholders commonly express the view that they perceive the process as slow, non-transparent and legalistic, contrary to the intent of the legislators or the expectations of the sector when it commenced. There is also some perception that the Panel focuses too much on the letter of the law and gives insufficient regard to the interests of local government when making its findings.

In part, these perceptions may be a result of a mismatch between original local government sector expectations, which envisaged standards panels as roving

independent investigators and mediators, with a strong on-the-ground role, and the rule-based, contravention-focused system which was enacted with the Panel as a quasi-judicial disciplinary body with no investigatory or mediating powers.

8.1. Improving processing times

The length of the process of dealing with complaints is still perceived to be excessive relative to the seriousness of the conduct and the sanctions, although it has improved markedly since 2012 and in 2014/15 the average time was about six months between the date of complaint and the notification of findings. Long timeframes between complaint submission and notification of findings may lead to:

1. Loss of jurisdiction if a respondent ceases to be a councillor before the Panel has completed its process;
2. Continued or exacerbated tension within the local government;
3. Repeated incidents of the inappropriate conduct;
4. Inability of the Panel to invoke the recurrent breach provisions for multiple transgressions within a short timeframe.

The causes of the delays in determining minor breach complaints include:

1. System congestion caused by a combination of:
 - a. High proportion of complaints (almost 40 per cent of all allegations) not made in accordance with section 5.107(2) of the Act, most of which allege contraventions for conduct not proscribed by the regulations or specified local law; and
 - b. High proportion of complaints (about 60 per cent) which relate to trivial or inconsequential conduct that poses negligible risk to the integrity, performance or reputation of local government. Many of these could be considered vexatious or frivolous.
2. Under-prepared complaints with insufficient or irrelevant supporting information that does not adequately address the essential elements of a contravention;
3. Time taken to obtain responses to requests for clarification (complainants) and responses to the complaints (respondents);
4. Undefined terms in regulations requiring research into possible meanings;
5. The time taken to prepare complex Panel reports, and the sole reliance on the legal practitioner Panel member for the preparation of all Panel reports;
6. Variable rate of complaints received and relatively limited elasticity in Panel capacity.

It has been suggested that a statutory timeframe be imposed on Standards Panel decisions. However, a statutory timeframe necessitates a statutory default decision should the decision-making body fail to issue its determination within that time. This may provide incentives for some parties to engage in behaviour to delay the process because they perceive the default decision to be more favourable to their own interests. A statutory time limit for a body responsible for making disciplinary decisions is not considered practicable.

Proposal 8.1 – improving processing times

1. Provide mechanisms to help prospective complainants determine whether they have valid grounds for alleging a contravention resulting in a minor breach and guidance on describing a contravention.
2. Replace the current complaint form with a more structured version that requests the specific information needed to demonstrate the essential elements of a contravention for each regulation, and to advise the outcome of any dispute resolution processes undertaken. There is potential to regulate information requirements under section 5.107(2)(d) of the Act.
3. Provide guidance material to complaints officers.
4. Develop guidance for local governments concerning treatment of complaints that are not made in accordance with the Act.
5. Establish and enforce timeframes for receipt of responses of parties to information requests.
6. Introduce a prioritisation system for complaints received by the Panel, based on the significance of the potential consequences for local government, the extent to which the conduct indicates deliberate intent rather than poor judgement, and whether there has been a pattern of inappropriate behaviour and complaints made against that council member
7. Further simplify and streamline Panel reports on findings and decisions, consistent with the needs of the audience.

Supplementary Questions (Proposal 8.1):

1. How should complaints of minor breach be ranked so that matters significant to the good operation of the local government are prioritised over inconsequential matters?
2. What information do complainants, council members and Complaints Officers require in Panel reports on findings of whether a minor breach has occurred and decisions about the sanction to be applied?

8.2. Improving efficiency

The resources available to the minor breach system are limited. The current model of a single Panel to which all complaints of minor breach are directed can be challenging when demand for the function is unpredictable or increasing.

The value added to the process by directing complaints through the local government complaints officer is unclear. Section 5.107(3) of the Act only requires the complaints officer to receive and acknowledge minor breach complaints, send a copy to the accused council member and send the complaint to the Panel. The requirement to advise the Panel of previous breach findings against the council member is redundant since the Panel already has this information. The local governments consulted to date are reluctant to have their complaints officers take a more proactive role in filtering unsound complaints, and removing this administrative “post box” function could potentially save up to 14 days at the beginning of the process.

Given the reluctance to expand the complaints officer role, and the high proportion of low value minor breach complaints that would be more appropriately dealt with through alternative mechanisms, a longer term option to obtain better value from the Panel’s time and expertise may be to extend the application of the serious breach process under the Act to minor breaches.

Under section 5.116 of the Act, serious breach complaints are sent by the complaints officer or directly by the complainant to the CEO of the Department. On the advice of the Department, the CEO decides whether to make an allegation of serious breach to the SAT. This ensures the SAT is only asked to consider valid, substantive and well-supported complaints and that other matters are dealt with in more appropriate ways.

Adopting a similar model for all breach complaints would allow the Department to deal with the majority of time consuming but straightforward matters, and advise the CEO whether further action was warranted. Should the Act amendments currently before Parliament be approved, the Department could also assess complaints to screen those that are frivolous, vexatious, misconceived or lacking in substance.

Under a single pathway system, the CEO would make a decision whether to refer the matter for determination to the SAT (serious breaches), the Standards Panel (minor breaches) and either the SAT or the Panel for recurrent breaches depending on the seriousness of the issue. A single entry pathway for all complaints would also allow the Department to streamline and harmonise practices and procedures, which may provide opportunities for further efficiency benefits, potentially including a centralised, automated, on-line complaints lodgement system similar to the model used by the SAT.

In conjunction with other initiatives to reduce the number of low value minor breach complaints received, this approach could relieve pressure on the Panel and timeframes and potentially reduce costs for both local and State government. Since the Department already separately acknowledges complaints received, communicates with the complainant and the respondent, and develops advice for the Panel, resource

implications for the Department should be minimal. However, this change would require amendments to the Act.

Proposal 8.2 – Improving efficiency

1. In the longer term, consider amending the Act to align the handling of minor breach complaints with the current serious breach complaint process to create a single pathway for receipt of breach complaints.
2. Under this model, complaints of minor breach would initially be sent by complaints officers to the CEO of the Department, who, on the advice of the Department, would decide whether to make an allegation of minor breach to the Standards Panel.

Supplementary Question (Proposal 8.2):

1. Would a single centralised pathway for receiving both minor and serious complaints result in any risks for local government that would need to be managed?

Comment invited: Automated centralised complaints lodgement process

Comment is invited on the merits of developing a central, automated, on-line complaints lodgement process, similar to that used by the State Administrative Tribunal. This would reduce administrative costs for local government and offer opportunities to avoid the lodgement of complaints about conduct to which the regulations are not applicable. It could automate notification to relevant parties and potentially be linked to a complaints tracking system.

At present, the role of the complaints officer role involves little more than acknowledging receipt of complaints, copying them to the accused council member and sending them on to the Panel. The information required from the complaints officer under section 5.107(3) about previous breaches is already held by the Department on behalf of the Panel, so this is an unnecessary step.

Although there would be establishment costs, a single automated on-line system is likely to deliver ongoing administrative savings and the benefits of centralised record keeping.

8.3. Improving transparency

Clause 8(10) of Schedule 5.1 of the Act provides that to the extent that it is not prescribed by regulation, the Panel may determine its own meeting procedure and

other procedure and practice. No such regulations currently exist, and the Panel's practice manual is not public. By contrast, the way in which the SAT operates is largely codified in the *State Administrative Tribunal Act 2004*, which provides greater transparency to users, as does the routine publication of the SAT decisions.

Codifying and publishing the key elements of the Panel's procedures and practice would provide more transparency and certainty to stakeholders, and facilitate consistency as new Panel members are appointed. Supplemented by simple explanatory guides, this would also remove the necessity for much of the explanatory and background material currently included in each Panel report.

Current practice is that no information is provided concerning the progress of a complaint received by the Panel until the formal notification of findings is sent. This can be frustrating for both the parties to the complaint and to the local government, particularly if the circumstances that led to the complaint recur and the outcome is relevant to how these circumstances are managed, or if a particular outcome is likely to necessitate a review of processes or policies.

A complaints tracking system, even in a relatively unsophisticated form indicating the stage of the process reached, would reduce uncertainty for stakeholders and provide comfort that progress was being made. If, for example, delay was being experienced because the Department was awaiting requested information, the local government may be able to assist.

The prioritisation of complaints according to the seriousness of the effect of the conduct on the local government would lead to faster resolution of more important matters. It would potentially permit the Panel to establish target timelines for at least the highest priority complaints, further improving certainty if the local government and parties to the complaint were notified of the priority ranking.

Proposal 8.3 – Improving transparency

1. Publish standards panel procedures, practices and basis for making decisions, setting out or providing for:
 - a) The main objectives of the Panel: resolve complaints quickly, fairly, with as little formality and technicality as practicable and to minimise costs;
 - b) The ways in which the Panel will ensure procedural fairness, including timeframes for responses to requests for information;
 - c) The way in which the Panel will have regard to the general interests of local government in WA, and the matters it will take into account;
 - d) Criteria used to prioritise complaints;
 - e) The Panel's privacy policy;
 - f) The nature and weight of the evidence that the Panel requires from complainants to determine the standard of proof as required by section 5.106 of the Act;
 - g) How the Panel will treat frivolous, vexatious and trivial complaints;
 - h) Key regulatory terms and how the Panel interprets them in making its findings; and
 - i) Circumstances under which hearings will be held, and processes for requesting a hearing.

Supplementary Questions (Proposal 8.3):

1. Should the Panel's practices and procedures be regulated under Schedule 5.1 of the Act, such as a simplified version of Part 4, Divisions 1 and 2 of the State Administrative Tribunal Act 2004, or is it sufficient to publish these on the website as an information document?
2. Should local governments and parties to a complaint be able to track the progress of a complaint to provide more certainty about timelines and manage expectations?

8.4. Improving effectiveness

Penalties

When it finds that a council member has committed a minor breach, the Panel has a very limited selection of actions open to it and little ability to adjust its response according to the seriousness of the consequences of a breach. It must either dismiss the complaint or apply one or more of three sanctions: training, public apology or public censure. The SAT has observed¹² that there are cases where even when a breach is found, none of these options is appropriate and there would be merit in an option such as that no sanction should be imposed.

For more serious conduct, there is a perception that public censures and public apologies, the most severe sanctions available to the Panel, are ineffective as deterrents. In practice, few members of the public appear to be aware of them and there is no indication that the public considers them noteworthy.

Censure notices are published at the expense of the local government, which must use the publication medium prescribed by the Panel in the order. This may not be cost effective for the local government in the circumstances. In these circumstances, no financial penalty is borne by the council member.

Apologies and public censure notices impose a transitory embarrassment, which for some council members is sufficient to make them determined never to repeat the conduct. However, other council members appear to regard the sanctions as unimportant, and some have used the opportunity to attract free media attention and generate public sympathy. There is little benefit in a patently insincere apology, particularly if it is publicly repudiated later. There are no powers for the Panel or Department to take action in such cases.

A council member's refusal to comply with an order may be referred by the CEO of the local government to the SAT, which may impose further sanctions, including suspension or disqualification. This power has rarely been exercised.

Other sanctions used at State agency level for inappropriate conduct of local government councillors in Australian jurisdictions provide for more flexibility to match the sanction with the seriousness of the breach. These include various combinations of:

- applying no sanction,
- mandatory counselling,
- professional coaching,
- written reprimands,
- a direction to cease the conduct,

¹² Comment by Parry J in *Yates and Local Government Standards Panel* [2012] WASAT 23 [43-44].

- a direction to engage in mediation,
- a direction to take leave of absence,
- suspension from executive or committee positions,
- forfeiture of an allowance, benefit, payment or privilege,
- suspension of the right to remuneration (while remaining in office),
- suspension from office for up to three months,
- monitoring of the individual for compliance for a specified period,
- reimburse the local government, and
- pay the local government a specified amount.

Tribunals equivalent to SAT have the power to impose longer suspensions or to disqualify a person from office, or in some cases to recommend that the Minister dismiss the person.

Some jurisdictions are providing local councils with greater powers to discipline their own members for misconduct, with escalation to the State if the council member refuses to comply with the penalty. This is often paired with the use of local independent conduct panels drawn from a register of qualified people as discussed later in this document.

Having regard to the interests of local government

Another concern raised by the sector is the extent to which the Panel has “regard to the general interests of local government in the State” (clause 8(6), Schedule 5.1 of the Act). As a quasi-judicial body charged with enforcing regulations in a disciplinary context, the Panel has limited discretion. It cannot find that a council member committed a minor breach if the conduct was not prohibited by a regulation, or if the complainant has provided insufficient evidence to show that a contravention was more probable than not. Neither can the Panel find that a breach has not occurred, regardless of the triviality of the matter, if the conduct is admitted or undisputed by the council member and the regulatory provision is so well-defined that a high probability of contravention is a matter of observation rather than interpretation.

The Panel has discretion over the weight of evidence its members require to make a finding of breach, its interpretation of undefined regulatory terms and the penalty it applies for a breach.

It is in these arenas that the Panel’s obligation to “have regard to the general interests of local government in the State” may take effect. However, the Act gives no guidance to the Panel on how it is to determine those interests, the matters it is to take into account, or to what extent it is to give regard to them. The Panel’s reports do not specifically indicate the way in which regard to the interests of local government influenced its deliberations or address the implications of the finding or decision for local government in WA.

Proposal 8.4 – Improving effectiveness:

1. Provide discretion for the local government to decide how to publish a **public** censure notice or public apology ordered by the Panel, within the parameters of reasonable public exposure and audience reach.
2. In future, consider amending the Act to provide the Panel with a greater range of actions following a finding that a minor breach was committed, including an option to impose no sanction.
3. The Standards Panel specifically make reference in its reports to how it has given regard to the interests of local government in its deliberations on minor breach allegations.

Supplementary Questions (Proposal 8.4):

1. Should the local government be permitted to recoup the cost of implementing a sanction from the council member on whom the sanction was imposed?
2. What matters should be taken into account by the Standards Panel in having regard to the general interests of local government when deliberating on minor breach complaints?

8.5. Materiality

Comment has been made previously about the high proportion of allegations of minor breach that have related to trivial and inconsequential conduct, and that a number of such complaints appear to be made with improper intent.

Frequently, complaints have been made about conduct that is inconsequential, relatively common and generally considered unremarkable by the community, but a regulation could be read in a way that makes it a contravention. An example may be negative remarks made during robust council debate on a matter about which some people feel strongly.

On occasion, council members may engage in this behaviour and most will variously be ignored, rebuked, responded to in kind or called to order by the presiding member. Most such incidents will be forgotten by most witnesses shortly afterward. In a few cases, a person will see an opportunity to cause detriment to a council member with whom they have a dispute and lodge a minor breach complaint for the behaviour. The council member concerned must respond to the complaint and may face a sanction several months after the incident, regardless of the actual impact of the conduct or how it was dealt with at the time.

There is no materiality threshold for a minor breach, in contrast to the definition of minor misconduct in the CCM Act, which requires not only that the characteristics of misconduct be present, but that the conduct is sufficiently serious to give grounds for termination of employment.

Comment invited: Complaints about commonplace behaviour

Comment is invited on the situation of some council members being the subject of minor breach complaint for conduct that other council members (perhaps in the same council) engage in freely. Does this affect the organisational culture, sense of fairness and freedom of expression in local governments. Are allegations of minor breach appropriate for behaviour that is, while unseemly, relatively common in the circumstances and of no real consequence?

If a materiality threshold should be applied to minor breaches, should this be linked to the significance of the effect of the conduct on the performance or reputation of the local government, and should the complainant provide evidence to demonstrate this impact?

8.6. Improving educational value

The Panel publishes its reports of findings and decisions only in cases where a minor breach has been found and a sanction(s) imposed under section 5.110(6)(b) and (c), consistent with the requirements of clause 11(2) of Schedule 5.1 of the Act for its annual reports. These constitute a very small proportion of the complaints.

All other Panel reports effectively have an intended audience of three people: the complainant, the respondent and the complaints officer, which means the opportunity for others to learn from the case are minimal unless the information is published in another way.

The Department publishes de-identified case studies based on some minor breach findings. However, these appear in the Governance Bulletin which is published quarterly, and are also drawn from the relatively small number of cases that resulted in a breach finding and sanctions. No information is published about any other allegations or why they were found not to be a breach or why, if a breach, they did not merit an order for censure, apology or training. However, there is no legislative prohibition against publishing information about these cases provided the council member cannot be identified from the information.

In interpreting the Regulations, the Panel has also sometimes taken a position that can have significant implications for common local government practices, but there is no formal mechanism for the Panel to disseminate these implications, or policy advice related to them, to local government generally.

Common practices, for example, may either inadvertently place council members at risk of committing a minor breach for behaviour that is considered quite usual and acceptable; or expose the local government to increased risk because the assumed

protection of regulatory prohibition of certain behaviour is found not to exist. The Panel's own reports generally do not identify or address these policy implications for local government, and a mechanism is needed to determine when these arise and if so to prepare and disseminate advice to local government.

De-identified case studies would generally protect confidentiality while being informative. If a particular case with unique features is well-known locally, then the council member may be identifiable by people familiar with the case, and in such circumstances a composite case study may be necessary to remove the unique elements.

Proposal 8.5 – Improving educational value

1. A simple on-line searchable database of anonymised summaries of findings should be established, demonstrating common complaints, formatted as “frequently asked questions” or case studies, and keep it updated as new issues arise for use in training.
2. Establish a process to identify implications arising from Panel or SAT determinations of minor breach complaints involving common local government practices, and ensure that local government is alerted to those implications.

Comment invited – Rules of Conduct and risk management

To what extent do local governments consider the Rules of Conduct as part of their risk management process for operational practices, including the risk of inadvertently placing council members at risk of committing a minor breach?

9. Supplementing the State-Based Complaints Process

Most other Australian jurisdictions provide for inappropriate councillor conduct to be handled firstly at the local level. This is usually through enforcement of the council's code of conduct, which may be supported by legislation establishing a model code of conduct and sanctions that may be applied by local councils to their members. Referral to the State agency is usually limited to more serious or repeated wrongdoing or refusal to comply with orders made by the council.

Previous attempts by some WA local governments to give their codes of conduct the status of local laws have been unsuccessful, limiting their capacity to enforce their codes through formal mechanisms (although Regulations 11 and 12 are required to be duplicated in codes of conduct under *the Local Government (Administration) Regulations 1996*). Informal mechanisms involving counselling of elected members about breaches of the code of conduct and mediation of interpersonal disputes appear

to be effective in some local governments, but success depends on the culture of the local government and the willingness of council members to comply.

9.1. Independent conduct review panels

Some other Australian jurisdictions have systems of independent conduct review panels that can be called on by local governments to investigate allegations of misconduct and advise the council on appropriate action. In NSW, qualified people are appointed to panels by councils or regional council organisations in a common user contract arrangement. In Queensland and Victoria, the State appoints people to panel pools, and then convenes panels to investigate allegations as requested by councils. In South Australia, the Local Government Association provides this service.

These independent conduct review panels appear similar in concept to the sector's original vision of standards panels that visited local governments to investigate complaints, except for the final step of the council determining breach and penalty.

A number of local government representatives in WA have explained the risks to workplace relationships in conducting in-house investigations into council member conduct, but have also expressed doubt about whether councils would be prepared to implement the recommendations of an independent investigator or conduct reviewer.

Local governments cannot expect to abrogate their responsibility to forge a collective culture capable of dealing with local conflicts, but to do so they need the tools, the training and the power to take effective action, backed by State enforcement where necessary.

Certainly the introduction of a system of independent conduct review reporting to the council itself on the conduct of a council member may create tensions initially. In other jurisdictions there appears to have been a long term adjustment of attitudes, supported by scrupulously maintaining the independence of the investigations and conclusions. However, it has been suggested that the greater presence of organised political parties with their own disciplinary systems in those jurisdictions is a key success factor for local disciplinary mechanisms that is generally not present in WA.

Comment invited: Independent conduct review panels

Comment is invited on the option of introducing a system to establish panels of independent investigators to advise councils on alleged breaches and appropriate action, along with legislated sanctions that councils may impose on councillors who breach the rules. The council's role would be to decide whether to accept the independent conduct reviewer's findings and implement their recommendations, a decision that must be made impartially.

This system, like those in other jurisdictions, would permit matters to be referred to the Standards Panel in cases where the council was unable to make a decision on the

independent conduct reviewer's report, or the council member refused to comply with the orders made by the council.

Specified types of misconduct with serious consequences could still be referred directly to the Panel, but the State would not deal with trivial matters or those arising from personal disputes. This is a similar approach to that being taken by the Public Sector Commission in relation to minor misconduct of local government employees.

With appropriate legislative changes and training would this assist local governments to manage most forms of non-serious misconduct at a local level without the disadvantages and conflicts of conducting in-house investigations?

A crucial pre-requisite to the success of a locally-based system is that council members would need to have confidence that it would not be used for factional or retribution purposes and that all decision-makers were strictly impartial. Would this be difficult to achieve under the current WA system?

9.2. Mediation and conciliation

A formal mediation and conciliation process was originally expected to operate to filter out resolvable disputes at the local level before a complaint was lodged. This is not incorporated into the legislation, but there is no legal barrier to the local operation of such a process prior to a complaint being made.

It is understood that most local governments do try to resolve issues with councillor behaviour internally before initiating or receiving a complaint. Some have more formal internal procedures that provide for prospective complainants to be offered mediation before they lodge a complaint.

Similarly to the local investigation and enforcement option, the local governments consulted to date do not consider it practical or desirable to undertake in-house mediation between complainants and council members. However, a centralised, State-funded mediation framework is unlikely to be cost effective, particularly for the number and nature of most minor breach complaints.

Professional mediation services are available and used by councils for other matters, although access may be more difficult in some regional and remote areas. WALGA and LGMA have in the past offered such a service, although as member-driven organisations, disputes between members may be challenging. Greater use of mediation services would provide a quicker and less formal resolution of complaints arising from interpersonal disputes, particularly if other measures proposed in this document reduced the appeal of submitting minor breach complaints for grievance matters.

Greater acceptance of mediation opportunities by complainants may be encouraged by requiring complainants to explain what action they have taken to resolve the matter

before lodging the complaint. This approach would be consistent with most other State government complaints mechanisms, and would emphasise that the lodgement of a complaint should be regarded as a last resort to address inappropriate council member behaviour. In Victoria, insufficient reason given for failure to resolve the matter through local dispute resolution processes is grounds to refuse to consider an allegation of misconduct.

Regardless of the action taken before the complaint is made, once a minor breach complaint has been formally lodged in accordance with section 5.107(2) of the Act, the legislation currently provides no further scope for mediation. While the CEO of the Department is required to consider whether a complaint of serious breach would be more appropriately dealt with in an alternative way, the Act does not give the Panel that discretion.

The Panel has only two options after receiving a complaint: it must refer it to the CEO of the Department as a suspected recurrent breach, or it must make a finding on the complaint (as received) whether it is more likely than not that a minor breach has occurred.

There is currently no provision in the Act for a complaint to be withdrawn¹³ should resolution outside the complaints process be successful. There have been cases where a complainant has unsuccessfully sought to withdraw a complaint because the matter had been resolved, and then the Panel made a finding of minor breach against the council member several months later on the basis that the resolution did not change the fact that a regulation had been contravened. This outcome delivers no benefit to any of the stakeholders and may potentially reignite tensions in the local government that had been alleviated by the local solution.

There is no formal process for the Panel to be informed of any developments in the matter after receiving the complaint but before making a finding. Inability to withdraw a complaint may be a disincentive to further mediation action at local level due to uncertainty about the impact of the finding on any agreement reached.

Proposal 9.2 - Mediation

1. All local governments with access to professional mediation services are encouraged to offer mediation opportunities to people contemplating a complaint under the minor breach framework.
2. Amend the complaint form to require complainants to advise what action they have taken to resolve their concerns, and the outcome of that action, or alternatively to explain why they have not made use of alternative resolution processes.

¹³ An amendment is currently before Parliament to allow for the withdrawal of a complaint.

Supplementary Questions (Proposal 9.2):

1. Do local governments find mediation processes involving council members useful for matters other than minor breach complaints?
2. What are the implications of diverting some prospective minor breach complainants to alternative resolution processes?
3. Would there be benefits in having a centralised pool of suitably qualified mediators selected through a competitive merit process and remunerated at a standard rate, possibly managed through bodies such as WALGA or regional councils?

Comment invited: Panel option to order mediation as an alternative to making a finding

A significant number of complaints of minor breach relate to a personal dispute between the complainant and a council member. Local governments have concerns about their power to direct the parties to mediate, but it has been suggested that if the direction came from the State, they would be happy to facilitate it.

Comment is invited on whether consideration should be given to amending the Act to provide the option of ordering mediation as an alternative to making a finding about whether a minor breach occurred. This order could be made by the Panel, or, if a single breach pathway is implemented, by the Departmental CEO on the advice of the Department.

9.3. Support for council members

While training is available to elected members, including “personal development” such as conflict resolution and leadership, not all council members choose to take advantage (and may not recognise the benefits) of the training opportunities available. The local government sector and the Department are currently working on a mandatory training model, although the initial focus is likely to be governance and skill related.

Council members are as diverse as the communities that elect them, and become council members for a variety of reasons. Most have a very positive experience, but others may experience frustration if they feel unable to achieve the outcomes that inspired them to nominate for local government, or if they feel that fellow councillors or sections of the community do not appreciate the value of their contribution or do not support their views. This situation may result in stress that affects a council member’s health, behaviour, and their ability to manage their emotions and maintain productive interpersonal relationships with people who disagree with them.

Dysfunctional conduct arising from stress, frustration or mental health disorders is unlikely to be addressed effectively by legalistic disciplinary measures. Such a response may even result in a negative feedback spiral that increases the person's sense of isolation and misunderstanding and may exacerbate the tensions in the work environment.

The *Occupational Safety and Health Act 1984* imposes a duty on local governments to safeguard employees' wellbeing and support those with health conditions. Many employers provide access to an external Employee Assistance Program for employees seeking confidential help in managing work stress. There is currently no equivalent legislative requirement to provide a similarly supportive environment for council members.

Mayors, presidents and CEOs generally try to offer coaching and support to council members who are struggling with the stresses associated with their role, but however well-intentioned, few of these people are trained counsellors. If the council member feels that the mayor, president or CEO is one of the people thwarting their aspirations and objectives, they may not be receptive to the advice given.

Comment invited: Support for council members

Comment is invited on whether there is a need to establish formalised support mechanisms for council members, similar to those available for employees, including access to confidential professional counselling and coaching services.

Could this reduce the incidence of dispute-related conduct currently leading to minor breach complaints against council members? If so, is this an initiative that the sector can undertake collaboratively or would it be more effective for individual local governments to extend the reach of systems already in place for their employees?

10. Matters requiring legislative amendments

This document has focused primarily on regulatory and procedural changes, which offer opportunities to streamline the existing system and improve its efficiency and effectiveness.

Further opportunity exists to amend some provisions within the Act that inhibit efficiency, add administrative complexity, or are unnecessarily rigid. Where relevant to the issue discussed, these have been raised in previous sections.

Act amendments that were identified by the 2011 review are currently before Parliament. If approved, these will allow refusal of complaints that are frivolous, vexatious, misconceived or lacking in substance, and will allow for complaints to be withdrawn after lodgement. They have been initiated as a result of specific situations experienced by the Panel, and will improve efficiency by filtering some complaints that are unsound or made with improper intent. This process will still incur some

administrative cost as the complaints must be received by the system in order to be dealt with under the system, and it would be preferable to minimise the incidence of them through some of the proposals previously described.

Other potential amendments to the Act that could be considered in future are canvassed below.

10.1. Time limits for submitting complaint (sections 5.107(4), 5.108(3), s.5.109(2))

Given the nature of the minor breaches, allowing people to make a complaint up to two years after the incident appears disproportional to the seriousness of the conduct. Figure 6 indicates that most complaints are made within three months of the incident, and very few more than six months after the incident.

Provision for an extension of time in exceptional circumstances would address the possibility that inappropriate conduct was not revealed until several months after it occurred.

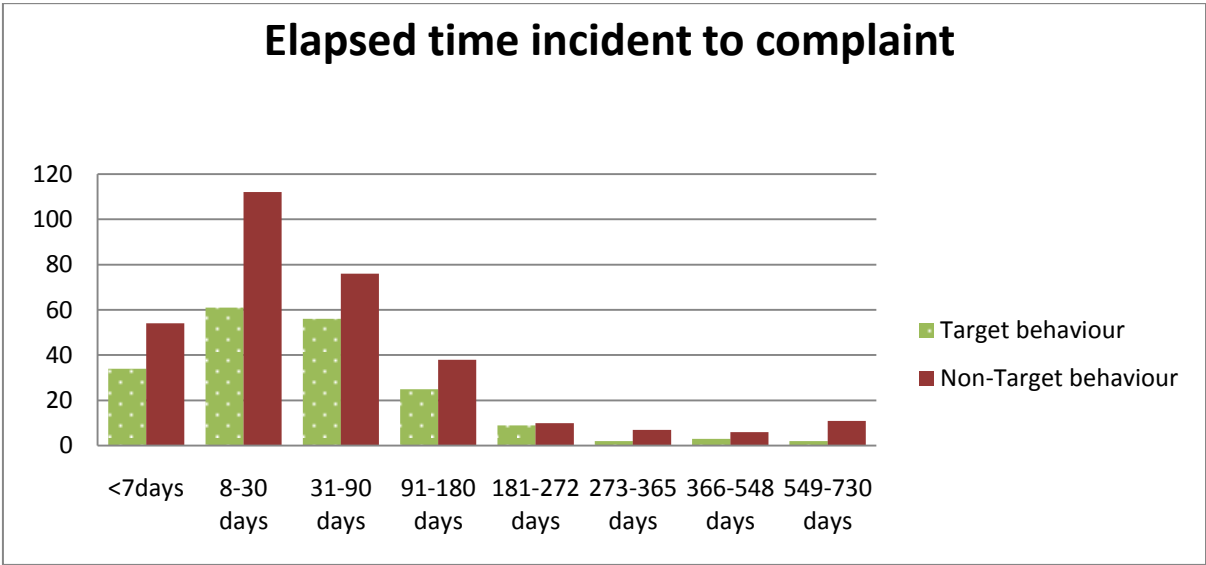


Figure 6. Average time taken after an incident for a complaint of minor breach to be lodged. Target behaviour is that which has significant potential consequences for local government integrity, performance or reputation. Non-target behaviour has no significant consequences for the local government.

Proposal 10.1 Amendments for future consideration - time limit for minor breach complaints:

Amend sections 5.107(4) and 5.109(2) to reduce the time limit for complaints to be made from two years to three months after the alleged breach, with provision for extension at the Department CEO's discretion.

Amend s.5.108(3) to reduce the time limit to 12 months, to recognise that it may not be clear that the breach is minor rather than serious until an investigation has been undertaken.

Supplementary Question (Proposal 10.1):

1. Should the time limit for submitting a complaint of minor breach be three or six months?
2. On what basis should an extension of the time limit be granted?

10.2. Confidentiality (section 5.123)

It has been suggested that the requirement for confidentiality under section 5.123 should apply at all times, rather than be limited to election campaign periods. This would better shield a council member's reputation while the complaint was being determined and protect council members found not to have committed a minor breach.

Extending the requirement for confidentiality may be difficult to enforce and incur significant prosecution costs if enforcement was to be effective. Without a commitment to enforce the requirement and prosecute offenders, little is likely to change.

There may also be potential disadvantages for council members. Strict confidentiality requirements would prevent a respondent or local government addressing inaccurate rumours about the existence or nature of complaints. Unless an exemption was allowed, or a time limit applied, they would also prevent a council member from publicising a finding that they had not committed a breach, which is important to some council members who wish to clear their name.

Comment invited: Confidentiality

Section 5.123(1) of the Act makes it an offence to disclose the existence of, or any detail about, a complaint made during a campaign period. Comment is invited on the benefits and risks of extending the effect of this provision to apply to complaints made at any time, including comment on the practical challenges and resource implications of enforcing such a requirement and prosecuting offences.

10.3. Review of minor breach decisions (section 5.125)

Section 5.125 of the Act restricts applications for review by the SAT to the Panel's decisions to dismiss a complaint or to make an order under section 5.110(6)(b) and (c). This effectively prevents any application for a review of a case that resulted in a finding that no breach occurred.

It has been suggested that the right to apply for a review should be available to either party, as it is in most civil law matters. A complainant could then seek a review of a "no breach" finding. However, the Panel is a disciplinary body, not a dispute resolution body, and the right of a complainant to seek a review of a "no misconduct" decision by a disciplinary body is less common.

Review rights vary among other jurisdictions, but it must be noted that these are primarily systems that are based on codes of conduct and the focus is on determining whether the alleged misconduct was inappropriate in the circumstances, not on whether a prescribed regulatory provision was contravened.

In Queensland, decisions by regional conduct review panels are not subject to review or appeal at all. In New South Wales, a person subject to a sanction imposed by the local government on advice from the independent conduct reviewer may seek a review by the Department. In Victoria, either the complainant or the respondent may apply to the Victorian Civil and Administrative Tribunal for a review of a councillor conduct panel decision, but the application to have the alleged misconduct dealt with by a councillor conduct panel in the first place may only be made by the council or a councillor(s).

The WA minor breach system has no restrictions on who may make a complaint. Analysis of complaints since 2007 has revealed that the system is overloaded with a high proportion of unsound and trivial complaints apparently arising from personal disputes. In these circumstances, permitting complainants to seek reviews is likely to add significantly to the cost of the system without delivering a net public benefit.

A suggestion was made that a complainant should be permitted to challenge a council member's response to their complaint of minor breach. This fails to recognise the point that this is not an adversarial system, but an accusation made to a disciplinary body that a person has done something contrary to regulation. The onus is on the accuser to provide sufficient evidence to demonstrate that the contravention has occurred.

Following amendments to the *Corruption, Crime and Misconduct Act 2003* in July 2015, the Corruption and Crime Commission's responsibility for dealing with alleged misconduct by local government public officials, including elected members, is restricted to serious misconduct. The Public Sector Commission is responsible for dealing with minor misconduct by local government employees. There is no clear mechanism or responsibility for dealing with council member misconduct that may be "corrupt, criminal, intentionally dishonest, lacking integrity, breach the public trust and indicate unfitness for office", but which neither meets the criteria for serious misconduct nor specifically contravenes a Rule of Conduct regulation.

Comment invited: Inappropriate conduct that is not a minor breach

Comment is invited on options that could be considered for dealing with minor misconduct that does not constitute a minor breach under the Rules of Conduct Regulations.

10.4. Improper use of information (section 5.93)

Section 5.93 of the Act makes it an offence for a person who is a council member, committee member or an employee to make improper use of any information acquired in their performance of their functions under the Act to gain an advantage or cause detriment.

It has been suggested that councillors may retain copies of sensitive information after they leave office, and the Act does not prohibit them from then making use of the information for any purpose. Most such information would have limited currency, but the consequences of its misuse during that time could potentially be significant.

Comment invited: Improper use of information by former councillors or local government employees

Comment is invited on the merits and risks of amending section 5.93 to extend its application to persons who were formerly council members, committee members or employees.

10.5. Public censure motions (new)

There is no specific provision governing censure motions within the WA legislation, although this option is available to local governments as a local disciplinary measure. The mechanism has been used by some Western Australian local governments for councillor conduct considered damaging to the local government. Unlike a public censure order made by the Panel, a censure motion is a judgement of the member's peers and is moved and debated within a council meeting open to the public, which may make it more effective as a deterrent, and almost certainly allows a more prompt response to the incident that caused concern.

The NSW local government legislation¹⁴ prescribes a process for local governments to resolve to formally censure a council member for inappropriate conduct. This provision ensures the mechanism is used consistently and transparently by all local governments. Notice must be given of a censure motion, which must specify the grounds on which the council is satisfied that the council member should be censured,

¹⁴ NSW Local Government Act 1993, section 440G.

and the resolution is to be passed only if the council is satisfied that the council member has engaged in inappropriate conduct on one or more occasions.

Relevantly, the NSW legislation specifically refers to contravention of the council's code of conduct. Several WA local governments have complained that the effectiveness of their codes of conduct is limited by their inability to apply sanctions for contravention by elected members.

Comment invited: Formal censure motions by councils

Comment is invited on the merits of amending the *Local Government Act 1995* to provide for a clear and consistent process to be followed by local government councils to resolve to formally censure a council member for misconduct, such as a significant contravention of the council's code of conduct, similar to section 440G of the *NSW Local Government Act 1993*. Would this encourage councils to use this mechanism to discipline their own members?

10.6. Records of meetings (new)

Not all councils choose to make an electronic record of their meetings, and some council members may feel uncomfortable about such recording. These recordings, if made, must be kept according to the requirements of the *State Records Act*. Under current requirements, access may be requested under the *Freedom of Information Act 1992*.

The existence of an electronic recording and a verbatim transcript has been of significant value to the Panel in determining the precise nature of incidents in council meetings, which may not be captured by the formal minutes of the meeting. Such records have also been of value in other fora, including investigations conducted by the Corruption and Crime Commission.

There is a wide range of approaches among WA local governments for recording meetings, with some councils live-streaming meetings through the internet, others relying on written notes taken at the meeting and others making use of various forms of technology. The extent to which any meeting records other than the formal Minutes are made public is at the discretion of individual local governments.

With increasing demand in the community for transparency at all levels of government, it seems likely that the trend will increase towards both broadcasting and electronic recording of council and committee meetings that are open to the public. Pressure for public access to recordings is also likely to increase. This would have an impact on assumptions about whether the meeting and conduct at the meeting was witnessed, or could be witnessed after the event, by people other than those physically present at the meeting. It may also affect meeting behaviour.

While broadcasting or recording public council meetings is unlikely to affect whether any specific comment made at a meeting is likely to be found to be defamatory or in

breach of a Rule of Conduct, increasing the size of the potential audience may affect the probability of a claim of defamation or allegation of minor breach being made.

There may be merit in establishing consistent standards, including the extent to which such records are made accessible to the public after the meeting and the legal status of such records of proceedings in relation to the confirmed minutes.

Comment invited: Mandatory recording of council and committee meetings

A number of minor breach complaints relate to incidents that occur at council meetings. Where the parties are in dispute about what was said or the manner in which it was said, the availability of an audio recording and verbatim transcript can be invaluable to establish the facts, with a video record providing additional depth through being able to see the body language of the participants.

Comment is invited on the merits, disadvantages and risks of mandating the electronic (video and/or audio) of council meetings and committee meetings, and establishing common standards for quality of product and for management and disclosure of the information.

Is it likely that the behaviour of individuals will be affected by the knowledge that a public recording is being made, and how might this influence overall standards of conduct at meetings?

11. Next Steps

Comment is invited on the proposals and issues explored in this directions paper, and on any other relevant matters pertaining to the minor breach system. Submissions are requested by 4 March 2016, and should be sent to the Department of Local Government and Communities at legislation@dlgc.wa.gov.au and marked Rules of Conduct Review.

Public consultation is an important part of transparent decision making. Submissions will be published on the Department of Local Government and Communities website. A person making a submission may request that their identity or parts of their submission be treated as confidential. The submission must clearly identify the information that is the subject of the claim for confidentiality and a non-confidential version of the submission must be provided.

Following consideration of submissions, the report and recommendations will be finalised and submitted for the Minister's approval.

Regulatory amendments that are supported by the Minister will be drafted as soon as possible for the Government's consideration. Improvements to Standards Panel processes will be implemented by the Department in collaboration with the Standards

Panel, and public guidance documents will be progressed by the Department within the constraints of existing resources.

Proposed legislative amendments will be considered by Government at an appropriate time.

For more information, please contact:

Department of Local Government and Communities
Gordon Stephenson House, 140 William Street, Perth WA 6000
GPO Box R1250, Perth WA 6844
Telephone: (08) 6551 8700 Fax: (08) 6552 1555
Freecall: 1800 620 511 (Country only)
Email: info@dlgc.wa.gov.au Website: www.dlgc.wa.gov.au

Translating and Interpreting Service (TIS) – Tel: 13 14 50



Western Australia

Local Government Act 1995

Local Government (Rules of Conduct) Regulations 2007

As at 21 Oct 2007

Version 00-b0-06

Extract from www.slp.wa.gov.au, see that website for further information

Local Government (Rules of Conduct) Regulations 2007

Contents

Part 1 — General

1.	Citation	1
2.	Commencement	1
3.	General principles to guide the behaviour of council members	1
4.	Contravention of certain local laws	2

Part 2 — Rules of conduct

5.	Rules of conduct	3
6.	Use of information	3
7.	Securing personal advantage or disadvantaging others	4
8.	Misuse of local government resources	4
9.	Prohibition against involvement in administration	4
10.	Relations with local government employees	5
11.	Disclosure of interest	5
12.	Gifts	7

Notes

	Compilation table	9
--	-------------------	---

Local Government (Rules of Conduct) Regulations 2007

Part 1 — General

1. Citation

These regulations are the *Local Government (Rules of Conduct) Regulations 2007*¹.

2. Commencement

These regulations come into operation as follows:

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Local Government (Official Conduct) Amendment Act 2007* section 11 comes into operation.

3. General principles to guide the behaviour of council members

- (1) General principles to guide the behaviour of council members include that a person in his or her capacity as a council member should —
 - (a) act with reasonable care and diligence; and
 - (b) act with honesty and integrity; and
 - (c) act lawfully; and
 - (d) avoid damage to the reputation of the local government; and
 - (e) be open and accountable to the public; and
 - (f) base decisions on relevant and factually correct information; and

r. 4

- (g) treat others with respect and fairness; and
 - (h) not be impaired by mind affecting substances.
- (2) The general principles referred to in subregulation (1) are for guidance of council members but it is not a rule of conduct that the principles be observed.

4. Contravention of certain local laws

- (1) In this regulation —
local law as to conduct means a local law relating to conduct of people at council or committee meetings.
- (2) The contravention of a local law as to conduct is a minor breach for the purposes of section 5.105(1)(b) of the Act.

Part 2 — Rules of conduct

5. Rules of conduct

- (1) This Part contains the rules of conduct referred to in section 5.104(1) of the Act.
- (2) The rules of conduct apply to a council member whether or not acting as a committee member.

6. Use of information

- (1) In this regulation —
closed meeting means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;
confidential document means a document marked by the CEO to clearly show that the information in the document is not to be disclosed;
non-confidential document means a document that is not a confidential document.
- (2) A person who is a council member must not disclose —
 - (a) information that the council member derived from a confidential document; or
 - (b) information that the council member acquired at a closed meeting other than information derived from a non-confidential document.
- (3) Subregulation (2) does not prevent a person who is a council member from disclosing information —
 - (a) at a closed meeting; or
 - (b) to the extent specified by the council and subject to such other conditions as the council determines; or
 - (c) that is already in the public domain; or
 - (d) to an officer of the Department; or
 - (e) to the Minister; or

r. 7

- (f) to a legal practitioner for the purpose of obtaining legal advice; or
- (g) if the disclosure is required or permitted by law.

7. Securing personal advantage or disadvantaging others

- (1) A person who is a council member must not make improper use of the person's office as a council member —
 - (a) to gain directly or indirectly an advantage for the person or any other person; or
 - (b) to cause detriment to the local government or any other person.
- (2) Subregulation (1) does not apply to conduct that contravenes section 5.93 of the Act or *The Criminal Code* section 83.

8. Misuse of local government resources

A person who is a council member must not either directly or indirectly use the resources of a local government —

- (a) for the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the *Electoral Act 1907* or the *Commonwealth Electoral Act 1918*; or
- (b) for any other purpose,

unless authorised under the Act, or authorised by the council or the CEO, to use the resources for that purpose.

9. Prohibition against involvement in administration

- (1) A person who is a council member must not undertake a task that contributes to the administration of the local government unless authorised by the council or by the CEO to undertake that task.
- (2) Subregulation (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

10. Relations with local government employees

- (1) A person who is a council member must not —
 - (a) direct or attempt to direct a person who is a local government employee to do or not to do anything in the person's capacity as a local government employee; or
 - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a person who is a local government employee in the person's capacity as a local government employee.
- (2) Subregulation (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.
- (3) If a person, in his or her capacity as a council member, is attending a council meeting, committee meeting or other organised event and members of the public are present, the person must not, either orally, in writing or by any other means —
 - (a) make a statement that a local government employee is incompetent or dishonest; or
 - (b) use offensive or objectionable expressions in reference to a local government employee.
- (4) Subregulation (3)(a) does not apply to conduct that is unlawful under *The Criminal Code* Chapter XXXV.

11. Disclosure of interest

- (1) In this regulation —

interest means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.
- (2) A person who is a council member and who has an interest in any matter to be discussed at a council or committee meeting

r. 11

attended by the member must disclose the nature of the interest —

- (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.
- (3) Subregulation (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subregulation (2) does not apply if —
 - (a) a person who is a council member fails to disclose an interest because the person did not know he or she had an interest in the matter; or
 - (b) a person who is a council member fails to disclose an interest because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person disclosed the interest as soon as possible after the discussion began.
- (5) If, under subregulation (2)(a), a person who is a council member discloses an interest in a written notice given to the CEO before a meeting then —
 - (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
 - (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before a matter to which the disclosure relates is discussed.
- (6) If —
 - (a) under subregulation (2)(b) or (4)(b) a person's interest in a matter is disclosed at a meeting; or
 - (b) under subregulation (5)(b) notice of a person's interest in a matter is brought to the attention of the persons present at a meeting,

the nature of the interest is to be recorded in the minutes of the meeting.

12. Gifts

(1) In this regulation —

activity involving a local government discretion means an activity —

- (a) that cannot be undertaken without an authorisation from the local government; or
- (b) by way of a commercial dealing with the local government;

gift has the meaning given to that term in section 5.82(4) of the Act except that it does not include —

- (a) a gift from a relative as defined in section 5.74(1) of the Act; or
- (b) a gift that must be disclosed under regulation 30B of the *Local Government (Elections) Regulations 1997*; or
- (c) a gift from a statutory authority, government instrumentality or non-profit association for professional training;

notifiable gift, in relation to a person who is a council member, means —

- (a) a gift worth between \$50 and \$300; or
- (b) a gift that is one of 2 or more gifts given to the council member by the same person within a period of 6 months that are in total worth between \$50 and \$300;

prohibited gift, in relation to a person who is a council member, means —

- (a) a gift worth \$300 or more; or
- (b) a gift that is one of 2 or more gifts given to the council member by the same person within a period of 6 months that are in total worth \$300 or more.

r. 12

- (2) A person who is a council member must not accept a prohibited gift from a person —
 - (a) who is undertaking or seeking to undertake; or
 - (b) who it is reasonable to believe is intending to undertake,an activity involving a local government discretion.
- (3) A person who is a council member and who accepts a notifiable gift from a person —
 - (a) who is undertaking or seeking to undertake; or
 - (b) who it is reasonable to believe is intending to undertake,an activity involving a local government discretion must, within 10 days of accepting the gift, notify the CEO of the acceptance in accordance with subregulation (4).
- (4) Notification of the acceptance of a notifiable gift is to be in writing and is to include —
 - (a) the name of the person who gave the gift; and
 - (b) the date on which the gift was accepted; and
 - (c) a description, and the estimated value, of the gift; and
 - (d) the nature of the relationship between the person who is a council member and the person who gave the gift; and
 - (e) if the gift is a notifiable gift under paragraph (b) of the definition of “notifiable gift” (whether or not it is also a notifiable gift under paragraph (a) of that definition) —
 - (i) a description; and
 - (ii) the estimated value; and
 - (iii) the date of acceptance,of each other gift accepted within the 6 month period.
- (5) The CEO must maintain a register of gifts in which details of notices received under subregulation (4) are recorded.

Notes

- ¹ This is a compilation of the *Local Government (Rules of Conduct) Regulations 2007*. The following table contains information about those regulations.

Compilation table

Citation	Gazettal	Commencement
<i>Local Government (Rules of Conduct) Regulations 2007</i>	21 Aug 2007 p.4203-16	r. 1 and 2: 21 Aug 2007 (see r. 2(a)) Regulations other than r. 1 and 2: 21 Oct 2007 (see r. 2(b) and <i>Gazette</i> 21 Aug 2007 p. 4173)

Local Government (Rules of Conduct) Regulations 2007 and Minor Breach Disciplinary Framework Review

Introduction

The City of Joondalup supports the general intent of the Consultation Paper „*A Review of the Local Government (Rules of Conduct) Regulations 2007 and Minor Breach Disciplinary Framework*“, released for local government comment by the Department of Local Government and Communities, and the proposed changes to the current disciplinary framework intended to:

- empower local governments to better manage the risk of misconduct
- establish a more pro-active complaints management culture
- streamline and simplify the process of dealing with complaints that allege low-level misconduct or that are trivial or vexatious.

City of Joondalup Comment and Recommendations

The City of Joondalup provides the following comments and recommendations in relation to the *Local Government (Rules of Conduct) Regulations 2007 and Minor Breach Disciplinary Framework Review*, as endorsed by Council at its meeting held on 16 February 2016.

Regulation 3 - Proposal 7.2 (page 27)

Proposed Amendment:

1. Amend Regulation 3 by specifically linking the principles to the concept of “proper use of office”.
2. Add a principle: “act in accordance with council policies, codes and resolutions”.
3. Add a new subregulation requiring the principles to be used to inform the preparation of a code of conduct prepared under section 5.103(1) of the Act.

Comment:

While it is noted that Regulation 3 is not a rule per se but a general principle to guide the behaviour of elected members, it is considered that the discussion points raised by the DLGC in relation to this regulation will improve clarity regarding its application.

It is however, questioned whether the words “act in accordance with Council policies...” dilute/restrict an elected member’s ability to consider policies in their decision-making processes as a guide. It is suggested that “act in accordance” be replaced with “observe”, similar to the wording used in section 5.103 of the Act in relation to observing a local government’s code of conduct.

The proposed amendments to Regulation 3 are supported subject to the above amendment.

It is noted that the City of Joondalup’s code of conduct provides, among other things, that elected members are to always act in accordance with their obligations to the City and in line with any relevant policies, protocols and procedures. This intent is that they are to consider the policies of the City to guide them in their decision-making processes. Further, the

principles of Regulation 3 of the *Local Government (Rules of Conduct) Regulations 2007* are contained within the City's code of conduct.

Regulation 4 (breach of local laws related to meeting behaviour) - Proposal 7.3 (page 28)

Proposed Amendment:

1. Insert new Rules of Conduct to cover persistent, inappropriate, council and committee meeting conduct with significantly dysfunctional potential consequences such as disparagement and disruption (see section 7.9 for inclusions).
2. Delete regulation 4 which effectively duplicates local laws and potentially reduces the incentive to make effective use of local laws relating to meeting conduct.

Comment:

It is considered that the discussion points raised by the DLGC in relation to this regulation will improve clarity regarding its application. As such, the proposed amendments to Regulation 4 are supported.

It is noted that the City of Joondalup's *Meeting Procedures Local Law 2013* contains a range of procedural matters, that are of a minor nature, that can be adequately dealt with at the time by the Presiding Member of the meeting. Where meeting conduct is significantly dysfunctional then such matters should be referred to the Standards Panel.

Regulation 6 (unauthorised disclosure of information) - Proposal 7.4 (page 31)

Proposed Amendment:

1. Include "parts of documents" in the definition of confidential document in subregulation 6(1).
2. Amend subregulation 6(2) to include personal information acquired in the person's capacity as a council member, with the definition of personal information consistent with that used in existing Australian legislation.
3. Amend subregulation 6(2) to include professional legal advice, information that is subject to a confidentiality or non-disclosure agreement to which the local government is a party, and commercially sensitive information provided in confidence to the local government.
4. Amend subregulation 6(3) to add a provision that allows personal information to be disclosed to the extent permitted by the informed consent of the person to whom the information relates, or a person nominated by them, or their legal guardian.

Comment:

It is considered that the discussion points raised by the DLGC in relation to this Regulation will generally improve clarity regarding its application. As such, the proposed amendment:

- to Regulation 6(1) is supported

- to Regulation 6(2) is supported subject to consideration being given to including disclosure of other types of confidential information related to any of the matters referred to in section 5.23(2) of the Act being prohibited
- to Regulation 6(3) is not supported as there is an inherent risk associated with the release of personal information even to the extent permitted by the informed consent of the person to whom the information relates, or a person nominated by them, or their legal guardian. Consent may be thought to be given when in actual fact no consent was actually forthcoming. There would need to be adequate record-keeping of such consent in these circumstances.

It is noted that the City of Joondalup's *Meeting Procedures Local Law 2013* contains provisions related to making public the resolution, including the details of any voting, of matters considered behind closed doors, following the meeting being reopened. It is considered that in the interests of accountability and transparency this should be standard practice and any amendment to the Act and Regulations is supported.

As detailed in the DLGC commentary, while not explicitly stated, Regulation 6 has been interpreted as referring to *deliberate disclosure* and has not been expanded to include correspondence sent between council members. It is agreed that much care needs to be taken with regard both sending and receiving correspondence about sensitive matters, and to regulate the prohibition of such would be difficult. As detailed by the DLGC council member training should include the importance of discretion in both sending and receiving correspondence about sensitive matters, of maintaining trust between council members, and of clearly marking correspondence that is confidential and not to be copied or forwarded.

Regulation 7 (gaining advantage or causing detriment) - Proposal 7.5 (page 36)

Proposed Amendment:

1. Amend regulation 7 to clearly define "improper use of office" in the context of the interpretation currently used by the SAT and the Panel, with reference to the local government's code of conduct and regulation 3 principles of behaviour.
2. Amend sub-regulation 7(1) to clarify that it applies only when the action is taken with the primary intent and belief that it will result in gaining an advantage or causing detriment.
3. In addition to the current exemptions, specify that sub-regulation 7(1) does not apply to:
 - a) advantage or detriment that is trivial, negligible or hypothetical
 - b) conduct of council members at council or committee meetings
 - c) a matter to which another Rule of Conduct in the Regulations applies
 - or
 - d) a remark, comment, statement or implication if:
 - (i) it was clearly expressed as the council member's personal opinion rather than as a statement of fact, and that opinion was based on factual material and related to a matter of public interest
 - or
 - (ii) the circumstances were such that no harm attributable to the conduct was likely to be sustained.

Comment:

It is considered that the discussion points raised by the DLGC in relation to this regulation will improve clarity regarding its application. As such, the proposed amendments to Regulation 7 are supported.

Regulation 8 (misuse of local government resources) - Proposal 7.6 (page 37)**Proposed Amendment:**

1. Define the term “resource” in Regulation 8 to cover tangible and intangible assets, services and other means of supporting the functions of the local government, and that are owned or paid for by the local government from public money, but excluding intangible concepts without monetary value (such as an address or title).
2. Define the term “use” to include both consumption and deriving a benefit not associated with consumption, including misrepresenting local government support for the purpose.
3. Clarify the term “any other purpose” in sub-regulation 8(2)(b) to refer to any purpose other than fulfilling the legal obligations and duties of the council member’s office.

Comment:

The proposed amendments to Regulation 8 are supported, subject to retaining the exemption for authorised use (being either the CEO or the Council) which provides a degree of flexibility recognising that any authorisation must be in accordance with legislative obligations and a local government’s governance responsibilities.

Regulation 9 (involvement in administration) - Proposal 7.7 (page 39)**Proposed Amendment:**

1. Define “administration” in Regulation 9 to mean the functions of the CEO as described in section 5.41 of the Act, CEO delegations under section 5.42 of the Act, the executive functions of local government as described in Part 3 Division 3 of the Act, and other functions specifically reserved to the CEO under the Act or any other written law.
2. Define “task” to exclude the transmittal of non-confidential information provided by the CEO, and to exclude the expression of an opinion, comment, objective or intent.
3. Extend the exemption in sub-regulation 9(2) to apply to tasks related to the legislated and undelegated functions of the council, in addition to tasks done as part of deliberations at a council or committee meeting.
4. Develop and publish an advisory standard to assist council members in determining the boundaries of their roles and the level of reporting that they may expect.

Comment:

It is considered that the discussion points raised by the DLGC in relation to this regulation will improve clarity regarding its application. As such, the proposed amendments to

Regulation 9 are supported, including the development of an Advisory Standard regarding elected member and CEO roles.

It is noted that the City of Joondalup's *Governance Framework* aims to assist elected members, employees and the community understand the separation of roles.

Regulation 10 (relations with local government employees) - Proposal 7.8 (page 46)

Proposed Amendment:

1. Amend sub-regulation 10(1) by:
 - a) In sub-regulation 10(1)(a), replacing "to do or not to do anything" with a reference to taking action related to local government functions such as enforcement of local laws, implementation of approved policies and procedures, or varying of decisions, priorities or resource allocation.
 - b) Providing for the CEO to authorise a limited exemption to subregulation 10(1)(a), at the CEO's discretion, for individual council members for specified operational purposes.
 - c) Adding a prohibition against behaving in an abusive or threatening manner towards any local government employee, including the CEO (the exemption for meetings is not to apply to this rule).
 - d) Adding a prohibition against making repeated or unreasonable demands for information or assistance from a local government employee to an extent that impairs the employee's capacity to complete their designated work responsibilities.
 - e) Adding a prohibition against attempting to influence the performance appraisal or dismissal of a CEO other than through an authorised process consistent with legal requirements and procedural fairness.
 - f) Adding a prohibition against personally chastising or reprimanding any local government employee for matters related to the administration of the local government.
2. For the purposes of sub-regulation 10(2) and other regulations where the term is used, "council or committee meeting" should be defined as a formally constituted meeting of the council or a committee established under section 5.8 of the Act. Informal meetings such as site meetings or information forums would not be included in the exemption.
3. Amend sub-regulation 10(3) by:
 - a) Replacing the condition "members of the public are present" with a condition specifying that the sub-regulation applies if any person other than council members and the CEO is present, or if the meeting or event is being broadcast, or if an audio or video record is being made of the meeting or event and that record will be publicly available.
 - b) Clarifying that the term "attending" covers the periods immediately before and after the meeting or event and during any period in which proceedings are suspended.
 - c) In sub-regulations 10(3)(a) and 10(3)(b), extending the protection to former local government employees for a period of 6 months after separation from the local government.
 - d) In sub-regulation 10(3)(a), replacing the current reference to "statement...is incompetent or dishonest" with a reference to disparaging or impugning the character of a local government employee or former local government employee. This to be

defined as stating or implying deficiency in the person's honesty, integrity, competence, diligence, impartiality or loyalty; or imputing dishonest or unethical motives to them in the performance of their duties.

- e) In sub-regulation 10(3)(b), replacing the term "offensive or objectionable expression" with "abusive or offensive language", defined as inflammatory words likely to incite ridicule or contempt and which would offend a reasonable adult applying contemporary community standards.
4. In sub-regulation 10(4), extend the exemption to statements made to an authority responsible for regulating the conduct of public officers and to statements made under oath or affirmation to a body authorised by Parliament to conduct an inquiry or during judicial proceedings.

Comment:

It is considered that the discussion points raised by the DLGC in relation to this regulation will improve clarity regarding its application. As such, the proposed amendments to Regulation 10 are generally supported, subject to:

- consideration being given to including the influencing of the decision-making process; and implementation of decisions, in Regulation 10 (1)(a) given that it is proposed to include a reference related to „varying of decisions"
- consideration being given to rephrasing of Regulation 10 (1)(a) to being about "varying of operational decisions" as opposed to "varying decisions", which could be interpreted as the governing role of Council (see pp. 41 of consultation paper). This would be in line with the intent of the regulation
- consideration being given to the deletion of Regulation 10 (2) in its entirety rather than amending it, as the rules stated in sub-regulation (1) should apply in all situations an elected member is undertaking their role and performing their duties, including during the meeting deliberations of Council and any established committees.

New Regulation (public statements) - Proposal 7.9 (page 49)

Proposed Amendment:

Insert a new regulation that:

1. Requires a council member to notify the CEO in writing of any comments or written material that the council member provides to a representative of the mass or local media concerning the performance or administration of the local government, the actions or performance of local government employees, or a council decision.
2. Requires the CEO to maintain a register of media contact in which details of such notices are kept, and to make this register available for public inspection.
3. This regulation would not apply to anything that a council member does as a part of the deliberations at a council or committee meeting, or to any authorised communication by or on behalf of the mayor or president in their official capacity.

Comment:

It is considered that the discussion points raised by the DLGC in relation to this proposed new Regulation do not provide anything constructive to the *Local Government (Rules of Conduct) Regulations 2007* framework, and add an administrative burden on elected members and the CEO which is considered unnecessary.

The Act already provides clarity with regard who may speak on behalf of the local government, and there is the ability for elected members to express personal opinions. It is suggested that if clarity is required regarding who can make public statements and under what circumstances a guideline be developed.

It is noted that the City has developed social media guidelines for elected members and adopted an *Elected Member Communications Policy* that meets the intent of the proposed new Regulation. Further, other clauses within the *Local Government (Rules of Conduct) Regulations 2007* are considered to meet the intent of the proposed new Regulation.

As such, the proposed new Regulation is not supported.

New regulation (Interactions with council members) - Proposal 7.10 (page 50)**Proposed Amendment:**

Insert a new regulation that:

1. Prohibits a council member from behaving in an abusive or threatening manner towards any other council member or the CEO.
2. Prohibits a council member from stating or implying that a council decision or decision process was incompetent, dishonest, corrupt, negligent or unlawful (but does not prohibit expressing disagreement with a decision).
3. Prohibits a council member, when attending a council or committee meeting or other organised event, and if any person other than council members, the CEO and an official record taker is present, or if the meeting or event is being broadcast, or if an audio or video record is being made of the meeting or event and that record will be publicly available, from:
 - a) disparaging or impugning the character of any council member (to be defined as stating or implying deficiency in the person's honesty, integrity, competence, diligence, impartiality or loyalty), or imputing dishonest or unethical motives to them in the performance of their duties.
 - b) Using abusive or offensive language to, or in reference to, any council member (to be defined as inflammatory words likely to incite ridicule or contempt or which would offend a reasonable adult applying contemporary community standards).
4. Requires a council member, when attending a council meeting or committee meeting, to:
 - a) Comply with a direction given by the presiding member at that meeting; and
 - b) Cease any conduct that has been ruled out of order by the presiding member, unless the majority of council members who are present vote to dissent from the presiding member's ruling.

5. Sub-regulation (2) is not to prevent a council member from reporting suspected dishonest, corrupt, negligent or unlawful council decisions or processes to a regulatory agency with responsibility for overseeing any aspect of the performance of local governments or the conduct of public officials.
6. This regulation is not to prevent a council member from making a statement under oath in a hearing conducted by Parliament, before a judicial body or as otherwise required by law.

Comment:

It is considered that the discussion points raised by the DLGC in relation to this proposed new regulation will improve clarity regarding interactions with elected members. As such, the proposed new regulation is supported.

Regulation 11 (disclosure of impartiality interests) - Proposal 7.11 (page 51)

Proposed Amendment:

1. Amend sub-regulation 11(1) to clearly restrict the definition of interest to one that could or could reasonably be expected to adversely affect impartiality of the person having the interest, deleting the “inclusions”.
2. Include examples of significant impartiality interests in an advisory standard rather than in the regulation.
3. Define “matter to be discussed” to mean substantive matters to be determined by council and exclude administrative matters where the effect is limited to the council itself.
4. Amend sub-regulation 11(3) to add a provision that Regulation 11 does not apply to trivial, negligible or non-current interests.
5. Add a sub-regulation permitting a disclosing member to elect to leave the meeting while the council discusses and makes a decision on the matter, but if the member elects not to leave the meeting, the council member must vote as required by under section 5.21(2) of the Act.
6. Add a sub-regulation providing for council members to register, at their discretion, enduring interests that may be perceived as affecting their impartiality.
 - a) Enduring interests may include, but are not limited to, familial relationships, employment or board membership, membership of associations, election commitments and public statements of position on specific matters.
 - b) The CEO is to maintain a register of enduring interests that is available for public inspection.
 - c) Council members may request the CEO to make amendments to their recorded enduring interests as necessary.
 - d) Sub-regulation 11(2) would not apply to interests that are recorded in the register of enduring interests.

Comment:

It is considered that the discussion points raised by the DLGC in relation to this regulation will not substantially improve clarity regarding its application. It is acknowledged that the definition of impartiality interests requires review, however, there are concerns with regard other proposed amendments including the following:

- Allowing disclosing members to elect to leave the meeting, and as such, allow discretion with regard voting on items before Council. It is considered to be an obligation of elected members to vote on matters before Council with the exception of matters in which a direct or indirect financial, non-financial; or proximity interest, as per the Act, is declared. Having an option to vote may have an unintended consequence of elected members declaring impartiality interests for sensitive or controversial items in order that they do not have to vote.
- Allowing for enduring interests. It is considered all interests should be individually considered and publicly declared at the meeting where the interest occurs to meet transparency and accountability obligations. It is not considered the proposed enduring interests proposal adequately provides for this. It also creates an administrative burden to ensure such enduring interests are appropriately recorded and maintained. It is an elected member's responsibility to ensure a declaration is made each and every time a matter of significance is discussed at a meeting as opposed to a standing declaration that no one may know about.

It is suggested that the proposed amendments to Regulation 10 not be supported other than reviewing the definition of what constitutes an impartiality interests, and further clarity also being provided through an Advisory Standard or Guideline regarding impartiality interests and when they should apply.

Regulation 12 (gifts) - Proposal 7.12 (page 57)**Proposed Amendment:**

1. Insert a new definition of "nominal gift" in Regulation 12(1), to include the following:
 - a) occasional hospitality of a modest nature received in the course of performing the role of council member, such as:
 - b) meetings to discuss official business concerning the local government,
 - c) information sharing and professional development events (such as forums, seminars or workshops),
 - d) an event at which the council member has been invited to speak or present,
 - e) social events organised by the council, a government body or a community group;
 - f) attendance at a function as an invited representative of the local government or council; or
 - g) single small promotional items of no commercial value; or
 - h) modest, "one-off" expressions of gratitude or appreciation such as confectionery, flowers or single bottles of moderately priced alcohol.
2. In subregulation 12(1), exclude nominal gifts from the definitions of "notifiable gift" and "prohibited gift".

3. In subregulation 12(2), add “financial or other contribution to travel” to the things that a council member must not accept from a person undertaking, seeking to undertake or likely to be intending to undertake an activity involving a local government discretion.
4. Insert a new subregulation to provide for the situation of council members who have accepted a gift in the belief that the giver was not undertaking, seeking to undertake or intending to undertake an activity involving local government discretion, and who become aware within six months of accepting the gift that their assumption was inaccurate. Council members would be required to rescind their acceptance (if the gift had not yet been received) or return (if practical) a prohibited gift or to notify the CEO of a notifiable gift or a non-returnable prohibited gift, as soon as practicable.
5. Provide for the CEO, at the request of a council member, to record declined or returned gifts.
6. Insert a new subregulation to clarify that this regulation does not apply to ceremonial gifts received by a council member on behalf of the council. A ceremonial gift is an item presented to the local government as a mark of respect, commemoration or appreciation, usually from another government entity or an organisation, and ownership is held by the local government.
7. Clarify that when a gift is presented to the council, and that gift or part of the gift is then provided to a council member for their personal benefit, it is to be treated as though the council member had accepted the gift directly from the giver. If the gift meets the definition of a notifiable gift, then Regulation 12(3) applies.

Comment:

It is considered that the discussion points raised by the DLGC in relation to this proposed new regulation will improve clarity regarding its application.

Two matters that are not considered to be addressed include:

- where a gift is received by an elected member or employee under and in accordance with the terms of a sponsorship or other commercial arrangement with the local government.
- why gift provisions are inconsistent between different spheres of government.

The proposed amendments to Regulation 12 are supported subject to:

- clarity regarding gifts provided with the terms of a sponsorship or other commercial arrangement with the local government
- review of value thresholds to be consistent between legislative requirements and different spheres of government
- clarity regarding the definition of travel and the limitations of who can, and cannot, contribute to travel, similar to the current provisions under section 5.83 of the Act.
- the definition of nominal gift, particularly around the part of “moderate acts of hospitality”. This could lead to wide interpretation and possible non-disclosure when disclosure would be appropriate. Moderate acts of hospitality could fall under the “notifiable gift” limit. It could be possible to raise the notifiable gift base level from \$50 to \$100
- review of Proposed Point 4 above which appears overly complicated and may be open to abuse. Further, it is considered such an amendment would unlikely improve disclosure.

Improving understanding of Rules of Conduct - Proposal 7.14 (page 60)

Proposal:

1. The Panel, with the assistance of the Department, is advised to publish advisory standards to assist in the interpretation of the Rules of Conduct and describe the types of conduct that would or would not be found to be a minor breach by way of examples drawn from Panel determinations.
2. Training materials for Complaints Officers need to be developed under the auspices of the Local Government Governance Roundtable (Department, Local Government Managers Association and WA Local Government Association), and offered to all local governments through existing training providers and products.

Comment:

It is considered that the discussion points raised by the DLGC in relation to improving understanding of the Rules of Conduct will improve clarity regarding its application. As such, the proposal is supported.

Improving processing times - Proposal 8.1 (page 62)

Proposal:

1. Provide mechanisms to help prospective complainants determine whether they have valid grounds for alleging a contravention resulting in a minor breach and guidance on describing a contravention.
2. Replace the current complaint form with a more structured version that requests the specific information needed to demonstrate the essential elements of a contravention for each regulation, and to advise the outcome of any dispute resolution processes undertaken. There is potential to regulate information requirements under section 5.107(2)(d) of the Act.
3. Provide guidance material to complaints officers.
4. Develop guidance for local governments concerning treatment of complaints that are not made in accordance with the Act.
5. Establish and enforce timeframes for receipt of responses of parties to information requests.
6. Introduce a prioritisation system for complaints received by the Panel, based on the significance of the potential consequences for local government, the extent to which the conduct indicates deliberate intent rather than poor judgement, and whether there has been a pattern of inappropriate behaviour and complaints made against that council member
7. Further simplify and streamline Panel reports on findings and decisions, consistent with the needs of the audience.

Comment:

It is considered that the discussion points raised by the DLGC in relation to improving processing times will improve clarity regarding its application. As such, the proposal is supported.

Improving efficiency - Proposal 8.2 (page 63)**Proposal:**

1. In the longer term, consider amending the Act to align the handling of minor breach complaints with the current serious breach complaint process to create a single pathway for receipt of breach complaints.
2. Under this model, complaints of minor breach would initially be sent by complaints officers to the CEO of the Department, who, on the advice of the Department, would decide whether to make an allegation of minor breach to the Standards Panel.

Comment:

It is considered that the discussion points raised by the DLGC in relation to improving efficiency will improve clarity regarding its application. As such, the proposal is supported.

With regard to the suggestion that a central, automated, on-line complaints lodgement and tracking process be developed, the proposal is supported.

Other issues related to efficiency:**Proposal:****1. Price signals to deter improper, unsound and trivial complaints**

An effective mechanism for managing demand is to apply a price signal – whether monetary or in terms of effort expended for reward obtained.

It has been suggested that people wishing to make minor breach complaints under section 5.107 could be charged an application fee for each allegation to discourage complaints made for improper purposes. Is there a risk that this would also discourage complaints about serious matters?

Comment:

It is considered that the proposal to implement an application fee for each allegation not be supported should:

- this become a deterrent in making a complaint that warrants investigation
- an elected member request that the CEO make the complaint on their behalf in order to avoid personal payment.

2. Automated centralised complaints lodgement process

It is proposed that the DLGC develop a central, automated, on-line complaints lodgement process, similar to that used by the State Administrative Tribunal. This would reduce administrative costs for local government and offer opportunities to avoid the lodgement of complaints about conduct to which the regulations are not applicable. It could automate notification to relevant parties and potentially be linked to a complaints tracking system.

Comment:

It is considered that the proposal to implement an automated centralised complaints lodgement process is supported, subject to consideration also being given to extending the on-line process to complaint tracking.

Improving transparency - Proposal 8.3 (page 64)

Proposal:

1. Publish standards panel procedures, practices and basis for making decisions, setting out or providing for:
 - a) The main objectives of the Panel: resolve complaints quickly, fairly, with as little formality and technicality as practicable and to minimise costs;
 - b) The ways in which the Panel will ensure procedural fairness, including timeframes for responses to requests for information;
 - c) The way in which the Panel will have regard to the general interests of local government in WA, and the matters it will take into account;
 - d) Criteria used to prioritise complaints;
 - e) The Panel's privacy policy;
 - f) The nature and weight of the evidence that the Panel requires from complainants to determine the standard of proof as required by section 5.106 of the Act;
 - g) How the Panel will treat frivolous, vexatious and trivial complaints;
 - h) Key regulatory terms and how the Panel interprets them in making its findings; and
 - i) Circumstances under which hearings will be held, and processes for requesting a hearing.

Comment:

It is considered that the discussion points raised by the DLGC in relation to improving transparency will improve clarity regarding its application. It is not considered necessary, however, to regulate the practices and procedures of the Panel. As such, the proposal is supported with this exception.

As referred to above it is considered that the tracking of complaints should be included in the development of an on-line complaints process.

Improving effectiveness - Proposal 8.4 (page 67)

Proposal:

1. Provide discretion for the local government to decide how to publish a public censure notice or public apology ordered by the Panel, within the parameters of reasonable public exposure and audience reach.
2. In future, consider amending the Act to provide the Panel with a greater range of actions following a finding that a minor breach was committed, including an option to impose no sanction.
3. The Standards Panel specifically make reference in its reports to how it has given regard to the interests of local government in its deliberations on minor breach allegations.

Comment:

It is considered that the discussion points raised by the DLGC in relation to improving effectiveness will improve clarity regarding its application. As such, the proposal is supported.

With regard the supplementary question as to whether a local government should be permitted to recoup the cost of implementing a sanction from the elected member on whom the sanction was imposed, it is considered that this should be permissible; however, it must be a reasonable recoup of cost, particularly if the local government is granted discretion to decide on how to publish a public censure notice or public apology, as is proposed.

Comment invited on other issues related to improving effectiveness:

1. Application of Rules of Conduct to candidates in local government elections (page 60)

The DLGC queries whether it is worth examining the merits of amending the Act to apply selected Rules of Conduct (particularly regulations 7, 10 and the proposed new regulation concerning relations with council members) to all local government election candidates during the campaign period.

It is queried whether complaints of minor breach should be able to be made against any candidate, but would be progressed only if the candidate was successful in being elected to the council.

Comment:

It is considered that there is much merit in further examining the application of relevant sections of the Rules of Conduct, or other regulatory mechanisms, to all local government election candidates during the campaign period whether or not they are successful in being elected, although it is questioned how such provisions would practically be enforced.

2. Complaints about commonplace behaviour (page 70)

The DLGC suggests it is aware of situations of some council members being the subject of minor breach complaints for conduct that other council members (perhaps in the same council) engage in freely. It is questioned whether this affects the organisational culture, sense of fairness and freedom of expression in local governments. Further, whether allegations of minor breach appropriate for behaviour that is, while unseemly, relatively common in the circumstances and of no real consequence?

It is queried whether a materiality threshold should be applied to minor breaches, and should this be linked to the significance of the effect of the conduct on the performance or reputation of the local government, and should the complainant provide evidence to demonstrate this impact?

Comment:

A local government's Code of Conduct, and the *Local Government (Rules of Conduct) 2007* establish the principles and standards of behaviour elected members, committee members and employees must observe when performing their duties and is intended to promote accountable and ethical decision-making. A poor culture should not be an excuse for poor behaviour.

It is considered that a materiality threshold not be applied to minor breaches and that the DLGC provide improved guidance in relation to building governance capacity.

3. Independent conduct review panels (page 72)

The DLGC is giving consideration to introducing a system to establish panels of independent investigators to advise councils on alleged breaches and appropriate action, along with legislated sanctions that councils may impose on councillors who breach the rules. The council's role would be to decide whether to accept the independent conduct reviewer's findings and implement their recommendations, a decision that must be made impartially.

This system, like those in other jurisdictions, would permit matters to be referred to the Standards Panel in cases where the council was unable to make a decision on the independent conduct reviewer's report, or the council member refused to comply with the orders made by the council.

Specified types of misconduct with serious consequences could still be referred directly to the Panel, but the State would not deal with trivial matters or those arising from personal disputes. This is a similar approach to that being taken by the Public Sector Commission in relation to minor misconduct of local government employees.

With appropriate legislative changes and training it is queried whether this would assist local governments to manage most forms of non-serious misconduct at a local level without the disadvantages and conflicts of conducting in-house investigations.

A crucial pre-requisite to the success of a locally-based system is that council members would need to have confidence that it would not be used for factional or retribution purposes and that all decision-makers were strictly impartial.

Comment:

It is considered that the discussion points raised by the DLGC in relation to independent conduct review panels would be of benefit. It is noted that the City of Joondalup has previously indicated its support for the referral of low-level complaints to a Peer Review Panel, however, this not include a Mayor or President. As such, the proposal is supported.

Further, it is suggested that the Minister for Local Government and Communities review the original disciplinary framework established in 2007 which proposed introducing a mediation and/or conciliation function as a preliminary step to attempt to resolve low-level misconduct complaints locally.

Improving educational value - Proposal 8.6 (page 70)**Proposal:**

1. A simple on-line searchable database of anonymised summaries of findings should be established, demonstrating common complaints, formatted as “frequently asked questions” or case studies, and keep it updated as new issues arise for use in training.
2. Establish a process to identify implications arising from Panel or SAT determinations of minor breach complaints involving common local government practices, and ensure that local government is alerted to those implications.

Comment:

It is considered that the discussion points raised by the DLGC in relation to improving educational value will improve clarity regarding its application. As such, the proposal is supported.

Mediation and conciliation - Proposal 9.2 (page 73)**Proposal:**

1. All local governments with access to professional mediation services are encouraged to offer mediation opportunities to people contemplating a complaint under the minor breach framework.
2. Amend the complaint form to require complainants to advise what action they have taken to resolve their concerns, and the outcome of that action, or alternatively to explain why they have not made use of alternative resolution processes.

Comment:

It is considered that the discussion points raised by the DLGC in relation to mediation and conciliation mechanisms being made available to elected members should assist in dealing with matters more promptly and professionally in a local context, with the objective of reaching a mutual resolution. The proposed requirement to demonstrate action taken to resolve complaints should mean complainants have heightened responsibility for taking action to resolve their issues, thereby reducing the „need“ to progress complaints to the Standards Panel. It is considered that individual local governments should bear some responsibility for trying to resolve matters through mediation prior to considering the formal complaints process. As such, the proposal is supported.

It is noted that the City of Joondalup's *Governance Framework* provides, among other things, guidance on the important aspects of elected member relationships which includes the Mayor being a source of assistance for Councillors and also having the responsibility for facilitating resolution of any disputes between Councillors.

Comment invited on a related issue: Panel option to order mediation as an alternative to making a finding (page 75)

Proposal:

The DLGC provide that a significant number of complaints of minor breach relate to a personal dispute between the complainant and a council member. Local governments have concerns about their power to direct the parties to mediate, but it has been suggested that if the direction came from the State, they would be happy to facilitate it.

Comment is invited on whether consideration should be given to amending the Act to provide the option of ordering mediation as an alternative to making a finding about whether a minor breach occurred. This order could be made by the Panel, or, if a single breach pathway is implemented, by the Departmental CEO on the advice of the Department.

Comment:

It is considered that the panel option to order mediation as an alternative to making a finding is appropriate. As such, the proposal is supported.

Time limit for minor breach complaints - Proposal 10.1 (page 77)

Proposal:

1. Amend sections 5.107(4) and 5.109(2) to reduce the time limit for complaints to be made from two years to three months after the alleged breach, with provision for extension at the Department CEO's discretion.
2. Amend s.5.108(3) to reduce the time limit to 12 months, to recognise that it may not be clear that the breach is minor rather than serious until an investigation has been undertaken.

Comment:

It is considered that the proposal to establish reduced time limits would be of benefit to the complaints process. The City has previously endorsed timeframes for all actions associated with complaints being made to ensure there is timeliness in assessing and concluding investigations. As such, the proposal is supported.

Other matters not addressed elsewhere in the review

1. Rules of Conduct and risk management (page 71)

Question:

To what extent do local governments consider the Rules of Conduct as part of their risk management process for operational practices, including the risk of inadvertently placing council members at risk of committing a minor breach?

Comment:

It is considered integral to local government risk management frameworks that risks related to the Rules of Conduct be incorporated.

It is noted that the City of Joondalup's *Risk Management Framework* identifies Rules of Conduct matters and misconduct in general as corporate risks and has ensured that risk controls are in place and assessed on a regular basis.

2. Comment invited on the issue of support for council members (page 76)

Question:

Comment is invited on whether there is a need to establish formalised support mechanisms for council members, similar to those available for employees, including access to confidential professional counselling and coaching services.

Could this reduce the incidence of dispute-related conduct currently leading to minor breach complaints against council members? If so, is this an initiative that the sector can undertake collaboratively or would it be more effective for individual local governments to extend the reach of systems already in place for their employees?

Comment:

It is considered that in order to assist elected members in performing their duties of office, the availability of support mechanisms, particularly in relation to access to mediation, may assist in the resolution of conflict and ensure their duties are able to be carried out effectively.

It is suggested that as the majority of local governments will have a policy or protocol related to elected member training and professional development, access to support mechanisms be included. While local governments should be encouraged to incorporate local counselling and support access in their policies it may be beneficial for WALGA or the DLGC to establish a professional counselling and coaching service which may be independently accessed by local government elected members (on a cost recovery basis).

It is noted that the City of Joondalup's *Governance Framework* and comprehensive *Elected Members' Entitlements Policy* provides for training and professional development that assists elected members in fulfilment of their roles.

3. Confidentiality (page 78)

Question:

Section 5.123(1) of the Act makes it an offence to disclose the existence of, or any detail about, a complaint made during a campaign period. Comment is invited on the benefits and risks of extending the effect of this provision to apply to complaints made at any time, including comment on the practical challenges and resource implications of enforcing such a requirement and prosecuting offences.

Comment:

It is considered that the extension of section 5.123(1) of the Act to apply to complaints made at any time is appropriate in order to protect an elected member's reputation while a complaint is being determined. With regard risks, if the DLGC and Standards Panel are able to determine complaints in a timelier manner then the perceived need to respond to confidentiality breaches would be reduced. It is not considered appropriate for either the local government or elected member against whom a complaint is made to respond publicly regarding the complaint during a complaints process.

4. Inappropriate conduct that is not a minor breach (page 80)

Question:

Comment is invited on options that could be considered for dealing with minor misconduct that does not constitute a minor breach under the Rules of Conduct Regulations.

Comment:

It is considered that the DLGC's comments that the Standards Panel is a disciplinary body, not a dispute resolution body; and a review of findings is unlikely to deliver a net public benefit, is a sound argument. As such, a review mechanism for minor breach decisions is not supported.

5. Improper use of information by former councillors or local government employees (page 80)

Question:

Comment is invited on the merits and risks of amending section 5.93 to extend its application to persons who were formerly council members, committee members or employees.

Comment:

It is considered that the proposed amendment to section 5.93 to extend its application to persons who were formerly elected members, committee members or employees, is appropriate as misuse of sensitive/confidential information may well be detrimental to the local government, however, it is queried how such a provision would be managed and any time limits that might apply. Given the significance of the matter, the proposal is supported.

6. Formal censure motions by councils (page 81)

Question:

Comment is invited on the merits of amending the Local Government Act 1995 to provide for a clear and consistent process to be followed by local government councils to resolve to formally censure a council member for misconduct, such as a significant contravention of the council's code of conduct, similar to section 440G of the NSW Local Government Act 1993. Would this encourage councils to use this mechanism to discipline their own members?

Comment:

It is considered that a consistent process to be followed by local government councils to resolve to formally censure an elected member for misconduct would be of benefit to the sector. There is nothing to currently prevent such practices occurring, however, an equitable and consistent process or guideline, rather than legislation, that might be followed would provide assistance. As such the proposal is supported.

7. Mandatory recording of council and committee meetings (page 82)

Question:

A number of minor breach complaints relate to incidents that occur at council meetings. Where the parties are in dispute about what was said or the manner in which it was said, the availability of an audio recording and verbatim transcript can be invaluable to establish the facts, with a video record providing additional depth through being able to see the body language of the participants.

Comment is invited on the merits, disadvantages and risks of mandating the electronic (video and/or audio) of council meetings and committee meetings, and establishing common standards for quality of product and for management and disclosure of the information.

Is it likely that the behaviour of individuals will be affected by the knowledge that a public recording is being made, and how might this influence overall standards of conduct at meetings?

Comment:

It is considered that the proposal to audio record (only) council meetings can be supported.

It is noted that the City of Joondalup has been broadcasting council meetings live online and recording its council meetings for many years to assist in ensuring transparency; accountability; and ease of access to the public, in the decision-making process.

Other Matters – City of Joondalup

It is suggested that the DLGC be requested to give consideration to the following matters in drafting a framework for the resolution of misconduct complaints at the local level:

- Development of a simple complaint handling procedure for assessment of complaints, which might include, but not be limited to:
 - how allegations are received and assessed
 - how to prepare, plan and undertake any investigation required to clarify allegations
 - documentation of allegations and recording of any investigation and findings
 - dealing with conflicts of interest.
- Ensuring all persons involved in investigations are aware of the principles of natural justice and are required to adhere to these principles.

These regulations will bring into effect **sections 48 to 51** of the *Local Government Legislation Amendment Act 2019*.

In particular, the following will take effect: sections 5.102A, 5.103, 5.104 and 5.105.

	Regulation	Explanation	Comment
3	Model Code of Conduct	These regulations provide for the model code of conduct for council members, committee members and candidates in Schedule 1.	NOTED.
4	<i>Local Government (Rules of Conduct) Regulation 2007</i> repealed.	The new Local Government (Model Code of Conduct) Regulations repeal the Rules of Conduct regulations as the rules now form part of the Model Code.	SUPPORTED. It should be noted however that Local government should be able to adopt codes of conduct which uphold the model Code but are tailored for individual operating environments and circumstances.
5	<i>Local Government (Administration) Regulations 1996</i> amended	<p>This clause amends Administration Regulation 29 (Information to be available for public inspection) to delete the requirement to keep a register maintained under regulation 12(5) of the Rules of Conduct. This regulation was deleted when the new gifts framework was introduced in 2019.</p> <p>This clause also inserts new Part 9A – Minor breaches by council members. It replaces regulation 4 of the existing Rules of Conduct Regulations (Contravention of certain local laws) and inserts it into the Administration Regulations.</p> <p>It provides that a contravention of a local law that relates to the conduct of people at council or committee meetings is a minor breach for the purposes of section 5.105(1)(b) of the Act. This is not a rule of conduct, which is why it is separate to the provisions in the Model Code.</p>	<p>SUPPORTED.</p> <p>SUPPORTED. The clause is supported as it is consistent with the current provision within the Rules of Conduct Regulations (r. 4).</p> <p>SUPPORTED.</p>
6	<i>Local Government (Audit) Regulations 1996</i> amended	This clause amends the statutory requirements for the compliance audit return to capture the adoption of the Model Code under section 5.104 and deletes the reference to the Rules of Conduct Regulations.	SUPPORTED.

	Regulation	Explanation	Comment
7	<i>Local Government (Constitution) Regulations 1998</i> amended	This clause amends Schedule 1 Form 7 (Declaration by elected member of council) of the Constitution Regulations, to reference the code of conduct adopted by the relevant local government, rather than Rules of Conduct Regulations.	The clause is SUPPORTED should it be decided that the Rules of Conduct Regulations are repealed. See above for general comments on this item.
	Schedule 1 – Model code of conduct		
1	Citation	<p>New section 5.104 of the Local Government Act will require local governments to adopt the model code of conduct within three months of these Regulations coming into operation.</p> <p>The Model Code, as drafted, provides a template for local governments to adopt the code as their own by inserting their local government name.</p> <p>In accordance with section 5.104(3), local governments can include additional behaviours under Division 3 that are not inconsistent with the Code, which may not currently be represented.</p> <p>To adopt the code, a resolution needs to be passed by an absolute majority. Once the code is adopted, it must be published on the local government's website.</p>	<p>NOTED.</p> <p>OPPOSED. The Schedule should not be a template Code for local governments to use. Rather it should set out what local governments must include in their respective codes (similar to the drafting used for codes of conduct under the Administration Regulations). The Schedule that local governments are required to adopt will make a local government's Code read like a piece of legislation.</p> <p>SUPPORTED.</p> <p>SUPPORTED.</p>
2	Terms Used	This clause defines Act, candidate and publish. All other terms used that are also in the Act have the same meaning, unless the contrary intention appears.	NOTED. Greater clarity is requested as to when a person is actually considered a candidate. It might be worth expanding the definition of candidate to mean "a person that has submitted a nomination as a candidate for an upcoming election as a council member which has been accepted by the Returning Officer".

	Division 2 – General principles		
3	Overview of Division	<p>As per new section 5.103(2)(a), the Model Code is to contain general principles to guide behaviour. These are set out in Division 2.</p> <p>Throughout the Model Code, where appropriate, the principles, behaviours and rules of conduct are separated into three categories; personal integrity, relationships with others and accountability.</p>	<p>SUPPORTED for Council members/candidates, but OPPOSED for Committee Members. The Model Code should not apply to committee members as many of the provisions would not apply to committee members, and behavioural matters (in particular at meetings) should/would be covered in a local government's meeting procedures / standing orders local law.</p>
4	Personal Integrity	<p>This clause outlines specific personal integrity principles, including the need to:</p> <ul style="list-style-type: none"> • act with reasonable care, diligence, honesty and integrity • act lawfully • avoid damage to the reputation of the local government • act in accordance with the trust placed in council members and committee members, and • participate in decision-making in an honest, fair, impartial and timely manner. 	<p>SUPPORTED. Although the intent of clause 4(1)(d) is understood, it may be in conflict with the new gift provisions inserted into the Act where a council member can accept gifts from certain persons, but needs to exercise disclosure requirements at meetings. It may be better to redraft the clause as "identify and appropriately manage any conflict of interest in accordance with the Code, the Act or any written law".</p> <p>In the explanatory note to this clause it is suggested that there is "the need to" comply with these principles, however the clauses read "should". It is suggested that consideration needs to be given as to whether these general principles are optional or are to be adhered to and wording reflect accurately the intent.</p>
5	Relationships with others	<p>This clause outlines principles for relationships with others, including the need to treat others with respect and maintain and contribute to a harmonious, safe and productive work environment.</p>	<p>SUPPORTED. In the explanatory note to this clause it is suggested that there is "the need to" comply with these principles, however the clauses read "should". It is suggested that consideration needs to be given as to whether these general principles are optional or are to be adhered to and wording reflect accurately the intent.</p>
6	Accountability	<p>This clause outlines principles for accountability, including the need for decisions to be based on relevant and factually correct information, and to make decisions on merit.</p>	<p>SUPPORTED. In the explanatory note to this clause it is suggested that there is "the need for" compliance with these principles, however the clauses read "should". It is suggested that consideration needs to be given as to whether these general principles are optional or are to be adhered to and wording reflect accurately the intent.</p>

	Division 3 - Behaviour		
7	Overview of Division	<p>As per new section 5.103(2)(b), the Model Code is to contain requirements relating to behaviour.</p> <p>This division sets the standards of behaviour which enable and empower council members to meeting the principles outlined in Division 2. Division 3 behaviour breaches are managed by local governments, and so the division also includes provisions about how to manage complaints. The emphasis should be on an educative role to establish sound working relationships and avoid repeated breaches, rather than punishment.</p>	SUPPORTED.
8	Personal Integrity	<p>This clause provides behaviours for council members, committee members and candidates, as well as behaviours specific to council and committee members.</p> <p>It includes a behaviour that the use of social media and other forms of communication complies with the code.</p>	SUPPORTED. It should be noted though that not all policies or procedures of the local government apply to those bound by the Code (especially candidates). In relation to clause 8(2)(b) "must comply" should be replaced with "must observe".
9	Relationships with others	<p>This clause provides for behaviours related to relationships with others, including the requirement to:</p> <ul style="list-style-type: none"> • deal with the media in a positive, informative and appropriate manner • not disparage the character of another council member, committee member, candidate or local government employee • not impute dishonest or unethical motives to another council member, committee member, candidate of local government employee • not make a statement that the member of candidate knows, or could reasonably be expected to know, is false or misleading. 	<p>SUPPORTED, except for the following:</p> <p>Clause 9(b) is OPPOSED. It potentially confuses the President/Mayor's statutory role in speaking on behalf of the local government and may give rise to a false belief for other council members. It is also unclear how such policies can be held to apply to candidates who are not currently council members.</p> <p>Clause 9(f) is OPPOSED as the provisions should be accounted for in a local government meeting procedures / standing orders local law.</p> <p>Clause 9(g) is OPPOSED as it limits how elected member requests are handled through the administration. Individual local governments may manage this process differently to avoid placing an excessive administrative burden on the CEO.</p>

10	Complaints about alleged breach	<p>This clause provides that a person may make a complaint alleging a breach of Division 3 by submitting the complaint in writing (in a form approved by the local government) within one month of the alleged breach occurring.</p> <p>The local government is to authorise at least one person to accept the complaints.</p>	SUPPORTED.
11	Local government to deal with complaints	<p>The process for consideration of a complaint is at the discretion of the local government, however, the Code requires that after considering the complaint, the local government must make a finding as to whether the breach occurred.</p> <p>A local government is also required to dismiss a complaint if it is satisfied that the complaint relates to behaviour which occurred at a council or committee meeting that has already been dealt with or the person responsible for the behaviour has taken remedial action in accordance with the meeting procedures local law.</p> <p>It is a requirement, in accordance with 11(3), that before making a finding, the person to whom the complaint relates, is given a reasonable opportunity to be heard.</p> <p>A finding about whether the breach has occurred should be based on whether it is more likely than not that the breach occurred. This is the same premise used by the Standards Panel in its decision making.</p> <p>After a finding has been made, written notice of the outcome should be given to the complaint and the person to whom the complaint relates.</p> <p>If a finding of breach is made, the local government can choose to take no further action or develop a plan to address the person's behaviour. This could include training, mediation, counselling or any other action considered appropriate.</p>	<p>OPPOSED. The suggested approach could result in deteriorated relationships between the elected body and the administration, especially where there are adverse findings. There could potentially be a lack of consistency in findings and outcomes, and if a complaint is made by a member of the community (of which the result is not to the community member's desired outcome) criticism of the approach and investigation method could arise, in terms of bias, favouritism or lack of thorough investigative procedure. This in itself could also create dysfunction during Council meetings and inappropriate public questions or statements being raised, should it be required that such matters are reported through to Council, and therefore subject to debate.</p> <p>Local governments spend considerable internal effort and resources in resolving potential disputes and issues for employees and having local governments to attend to elected member conduct issues, would place additional burden on those internal resources, particularly a CEO's time and effort, as it would be more likely than not be the CEO having to deal with such matters. Noting also the additional complexity this introduces into the CEO/Councillor employee/employer relationship.</p> <p>One option is for local government to engage the services of an external investigator or mediator; however, this would be a cost to the local government. An alternative option would be for an independent Departmental/Government body to manage this process.</p>

12	Other provisions about complaints	<p>Clause 12 provides that the procedure for dealing with complaints is a matter for the local government (to the extent it is not inconsistent with clause 11).</p> <p>If a complaint is made about a candidate, the alleged breach cannot be dealt with unless the candidate is elected as a council member.</p>	<p>NOTED. This clause should be incorporated into clause 10 so that it forms one point of reference.</p> <p>OPPOSED. Action under the Code can only be taken against a candidate that becomes a council member and therefore standards of behaviour do not apply to those candidates that are not elected. This lack of accountability is a concern.</p>
	Division 4 – Rules of conduct		
13	Overview of Division	<p>As per section 5.103(2)(c), the Code contains specific rules of conduct. The rules of conduct are specific rules, for which alleged breaches are referred to the Standards Panel.</p> <p>A reference to a council member in this division includes a council member acting as a committee member.</p>	<p>NOTED. It is unclear as to why a reference has to be made to a “council member when acting as a committee member”. It does not serve any purpose as ultimately they are council members.</p>
14	Misuse of local government resources	This is based on current regulation 8 of the <i>Local Government (Rules of Conduct) Regulations 2007</i> , Misuse of local government resources.	NOTED.
15	Securing personal advantage or disadvantaging others	This is based on current regulation 7 of the <i>Local Government (Rules of Conduct) Regulations 2007</i> , Securing personal advantage or disadvantaging others.	<p>NOTED. The 2016 <i>Review of the Local Government (Rules of Conduct) Regulations 2007 and Minor Breach Review</i> made suggestions in relation to improving the operation of regulation 7 (Proposal 7.5). These should be revisited as the new clause is the same as the current regulation 7.</p>
16	Prohibition against involvement in administration	This is based on current regulation 9 of the <i>Local Government (Rules of Conduct) Regulations 2007</i> , Prohibition against involvement in administration.	<p>NOTED. The 2016 <i>Review of the Local Government (Rules of Conduct) Regulations 2007 and Minor Breach Review</i> made suggestions in relation to improving the operation of regulation 9 (Proposal 7.7). These should be revisited as the new clause is the same as the current regulation 9.</p>
17	Relations with local government employees	<p>This is based on current regulation 10 of the <i>Local Government (Rules of Conduct) Regulations 2007</i>, Relations with local government employees.</p> <p>This regulation also applies to candidates.</p>	<p>NOTED. The 2016 <i>Review of the Local Government (Rules of Conduct) Regulations 2007 and Minor Breach Review</i> made suggestions in relation to improving the operation of regulation 10 (Proposal 7.8). These should be revisited as the new clause is the same as the current regulation 9.</p>

18	Disclosure of information	This is based on current regulation 6 of the <i>Local Government (Rules of Conduct) Regulations 2007</i> , Use of information.	NOTED. The 2016 <i>Review of the Local Government (Rules of Conduct) Regulations 2007 and Minor Breach Review</i> made suggestions in relation to improving the operation of regulation 6 (Proposal 7.4). These should be revisited as the new clause is similar to the current regulation 6.
19	Disclosure of interest	This is based on current regulation 11 of the <i>Local Government (Rules of Conduct) Regulations 2007</i> , Disclosure of interest.	SUPPORTED.

To: All Local Governments

From: Tony Brown
Executive Manager Governance &
Organisational Services

Date: 2 November 2020

Priority: High



Subject: **UPDATE:** Draft *Local Government (Administration) Amendment Regulations (No.2) 2020* – Model standards for CEO recruitment, performance and termination

Operational Area:	Governance
Key Issues:	<ul style="list-style-type: none">Amendments to the <i>Local Government Act 1995</i> to provide for mandatory model standards for CEO recruitment, performance and termination were passed in 2019 but are yet to come into effect.Consultation on draft <i>Local Government (Administration) Amendment Regulations (No.2) 2020</i> prescribing the proposed model standards is open until Friday 13 November.Local Governments are requested to provide a response to WALGA by 13 November.
Action:	Council Consideration Required: Feedback Requested – 13 November 2020

Background

The *Local Government Legislation Amendment Act 2019* introduced numerous amendments to the *Local Government Act 1995*, including the yet to commence insertion of new sections introducing mandatory Model Standards for CEO recruitment, performance and termination.

In March 2019 the Department of Local Government, Sport and Cultural Industries invited WALGA and other parties to participate in the CEO Recruitment, Performance Review and Termination Working Group to develop Model Standards. The Department discontinued the Working Group in May 2019 and released a Consultation Paper without endorsement by the Working Group in October 2019.

At the WALGA State Council meeting held in December 2019, based on sector feedback, State Council resolved to request that the Working Group be reconvened to develop and endorse Model Standards for further sector consultation, and identified several concerns with the proposals in the Consultation Paper. Throughout 2020, WALGA sought advice from the Department on the progress of draft regulations and a sector consultation process. The Department has now released the draft *Local Government (Administration) Amendment Regulations (No.2) 2020* (Draft Regulations), to prescribe the Model Standards, together with Explanatory Notes. Both documents are available via the [Department's website](#). A short consultation period will close on Sunday 6 December 2020, following WALGA's advocacy for further time to enable Councils to consider this matter.

WALGA notes that the Working Group was not reconvened, and the Draft Regulations include several elements that were highlighted as matters of concern by the sector. Due to the short time frame WALGA provides the following information as our initial concerns;

1. Requirement to re-advertise CEO positions after 10 years of continuous service

Section 5.39(2)(b) of the *Local Government Act* already limits CEO contracts to a maximum of 5 years and Councils have general competence powers to consider whether to renew the incumbent's contract or advertise the position. Suggesting that a Council must re-advertise the position of a CEO after 10 years is likely to prove unworkable or counterproductive in any case as:

- Councils conducting a selection process known to involve an incumbent CEO will risk allegations of non-compliance with Section 5.40 of the Local Government Act '*Principles affecting Local Government employees*' due to actual or perceived bias, nepotism and lack of merit and equity in relation to other applicants;
- May result in CEOs actively seeking alternative employment as the 10 year horizon approaches, meaning that a CEO that has provided satisfactory or perhaps exemplary service will be unnecessarily lost to the local government;
- Where a CEO is re-employed as a consequence of re-advertising after the 10 year period, this process has incurred unnecessary costs and time waste for the LG, distracting from achieving its strategic objectives and may further entrench perceptions that contracts are for life, thus negating the very purpose of this proposal.

Further, Division 3 of the Draft Regulations seeks to improve the capacity of local governments to effectively manage CEO employment. This is a far more appropriate and adapted mechanism to address a perceived issue of 'contracts for life', by ensuring that the performance of CEOs, whether long serving or newly appointed, is appropriately assessed and managed.

2. Independent panel member

Clause 8 of the Draft Regulations requires the selection panel to include at least one person who is neither a council member nor an employee of the local government. There is no guidance on the skills, experience or knowledge of the independent person, or their role on the panel. This has the potential to pose significant risk to the local government, as there are inadequate controls on the conduct of such a person (i.e. they will not be captured by a Code of Conduct as Panel is not a committee of Council). WALGA supports the ongoing use of an independent qualified and licensed recruitment consultant to provide guidance (as opposed to active participation) in both the recruitment process and to assist with obligations to finalise the employment of a CEO.

3. Transparency and procedural fairness – Schedule 2

The consultation draft emphasised that it is essential that the recruitment process is transparent and appropriately documented. Similar commentary featured in the *Report of the Inquiry into the City of Perth*, however the Draft Regulations fail to address these issues.

The selection panel is 'established' under cl.8 of Schedule 2 of the Draft Regulations, with no reference to the formation of a committee of Council under Sec. 5.8 of the Act. Cl. 9(4) of Schedule 2 includes a reference to the selection panel acting in accordance with the principles of s.5.40 of the Act. Similarly, cl.14 requires the local government to ensure confidentiality of information provided, rather than imposing this responsibility equally on the selection panel, or individual panel members.



If the selection panel were established as a committee in accordance with s.5.8 of the Act, the requirements relating to the calling and convening of meetings, keeping of minutes and agendas, confidentiality, declaration of conflicts of interest and application of the Code of Conduct would apply.

The Draft Regulations will delete current r.18C, requiring a local government to approve a process for the selection and appointment of a CEO. Schedule 2 does not include a similar requirement for the selection panel to follow a process decided upon by the Council. This removes Council from important input in, or oversight of, the process by which the selection panel assesses the candidates and makes recommendations.

4. Council decision making authority

Schedule 2, Cl. 9(2)(a) requires the selection panel to recommend one or more applicants it considers suitable, with Cl. 9(2)(b) requiring that it advise Council if it considers no applicants are suitable. In the second event, Cl. 10 requires the local government to carry out a new recruitment process. Bypassing Council in this decision-making process appears to directly conflict with Sec. 5.36(2) of the Act, where it is the Council that determines if a person is or is not suitably qualified to be employed as CEO.

WALGA is seeking to coordinate a sector response and seeks feedback from Member Local Governments on the Draft Regulation. Please provide any comments by **4pm Friday 13th November 2020** to governance@walga.asn.au.

For further information please contact:

Executive Manager Governance & Organisational Services, Tony Brown
on 9213 2051 or email tbrown@walga.asn.au or Manager Governance, James McGovern on 9213 2093
or email jmcgovern@walga.asn.au

Regulation 18A – Vacancy in position of CEO or senior employee to be advertised (Act s.5.36(4) and 5.37(3))	18A <i>Local Government (Administration) Regulations 1996</i>	<p>Regulation 18A(1) is being amended to align with the new State-wide public notice provisions. If the position of CEO, or of a senior employee, becomes vacant the local government must give State-wide public notice of the position in accordance with the requirements of the Local Government Act (sections 5.36(4) and 5.37(3)).</p> <p>Regulation 18A(2)(da) provides that the State-wide public notice must include a website address where the job description form (JDF) for the position can be accessed.</p>	<p>SUPPORTED.</p> <p>SUPPORTED. It would be appreciated if the Department could provide either a template for, or detail required contents of the JDF to ensure consistency and compliance.</p>
Regulation 18C – Selection and appointment process for CEOs.	18C <i>Local Government (Administration) Regulations 1996</i> – Repealed	<p>Regulation 18C is being repealed. The prescribed model standards for CEO recruitment and appointment outlined at Division 2 (Clauses 3-14) of the <i>Local Government (Administration) Amendment Regulations 2020</i> replace 18C.</p> <p>Local governments are required to determine the selection criteria for the position of CEO prior to a recruitment process being undertaken. The local government must approve by a resolution of an absolute majority of council, a job description form which sets out the duties and responsibilities of the position (5(2)(a)) and details the selection criteria (5(2)(b)).</p> <p>A position vacancy must be advertised in accordance with 5.36(4) of the <i>Local Government Act</i> and 18A of the <i>Local Government (Administration) Regulations 1996</i>.</p> <p>A JDF form must also be made available on the local government's official website.</p> <p>As part of the process of selection, a panel must be established to conduct the recruitment and selection process. The selection panel must be made up of council members and at least one independent person who is not a current councillor or employee of the local government.</p>	<p>NOTED.</p> <p>SUPPORTED.</p> <p>SUPPORTED.</p> <p>OPPOSED. It is the role of Council to recruit and select the CEO. Whilst they should have the right to include an independent member in the selection panel should they wish, this should not be mandatory. To do so would also force local governments to incur an additional cost in an already potentially expensive exercise.</p>

		<p>The independent person should have experience in the recruitment and selection of CEO's and / or senior executives. It is the role of the selection panel to recommend one or more suitable applicants to the position of CEO based on the selection criteria outlined in the JDF.</p> <p>A final decision to make an offer of appointment to the position of CEO must be made by an absolute majority of council. The resolution must also approve the proposed terms of the contract.</p> <p>Appointment of the successful applicant to CEO must also be made by an absolute majority decision of council after negotiation of the final contract terms between the successful applicant and the local government and following the applicant's acceptance of the offer.</p>	<p>Only SUPPORTED in the situation where Council choose to include an independent member on the selection panel. Broadly, it should be held desirable that any member of the selection panel have some relevant selection/interviewing/recruitment skills.</p> <p>SUPPORTED. Noting that (as per below) this step should also include the step below.</p> <p>OPPOSED. it is questioned why the Council is required to approve an offer to appoint and then also endorse the appointment. This is considered to be unnecessarily bureaucratic to have the Council consider the matter twice.</p> <p>It is suggested that the Council should be able to approve or resolve to appoint the preferred candidate in accordance with an offer, which may or may not have some endorsed flexibility for negotiation, once only. It would be assumed that as per any employment process there would be some negotiation on acceptable terms and conditions with the preferred applicant prior to Council resolution.</p>
Regulation 18D – Performance review of CEO, local government's duties as to	<i>Local Government (Administration) Regulations 1996 - 18D Repealed</i>	<p>Regulation 18D is being repealed. The prescribed model standards for performance review outlined at Division 3 of the of the <i>Local Government (Administration) Amendment Regulations 2020</i> (clauses 15-19) replace 18D.</p> <p>Local governments are required to review the performance of a CEO annually in accordance with section 5.38 of the Act. Division 3 sets out the process for performance review, including establishing the performance criteria upon which to base the review and the requirement to endorse the performance review by absolute majority on its completion.</p> <p>The CEO must be notified of the results of the performance review, including any issues identified in relation to the performance of the CEO, and how the local government proposes to address and manage those issues.</p>	<p>NOTED.</p> <p>SUPPORTED.</p> <p>SUPPORTED.</p>

Regulation FA – Prescribed model standards for CEO recruitment, performance and termination (Act s.5.39A(1)).	<i>Local Government (Administration) Regulations 1996</i> – 18FA is a new clause.	Regulation 18FA sets out the model standards for local governments in relation to the recruitment, performance review and termination of employment of a local government CEO.	NOTED.
Regulation 18FB – Certification of compliance with adopted standards for CEO recruitment (Act s.5.39B(7))	<i>Local Government (Administration) Regulations 1996</i> – 18FB is a new clause.	<p>Regulation 18FB requires local governments to certify that they have adopted the standards under section 5.39B of the Act. 18FB applies in relation to the recruitment and appointment of a local government CEO.</p> <p>A copy of the resolution to appoint the CEO in accordance with the adopted standards must be provided to the Department of Local Government, Sport and Cultural Industries within 14 days of the decision to appoint.</p>	<p>SUPPORTED.</p> <p>SUPPORTED.</p>
Regulation 18FC – Certification of compliance with adopted standards for CEO termination (Act s.5.39B(7)).	<i>Local Government (Administration) Regulations 1996</i> – 18FC is a new clause	<p>Regulation FC requires a local government to certify that they have adopted the standards under section 5.39B of the Act. 18FC applies in relation to the termination of a CEO's employment contract.</p> <p>If a local government makes the decision to terminate the employment of the CEO, it must certify that the CEO's employment contract was terminated in accordance with the adopted standards for termination as outlined in regulations.</p>	<p>SUPPORTED.</p> <p>SUPPORTED.</p>

<p>Division 2 – Standards for recruitment of CEOs</p> <p>Regulation 4 – Application of Division</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 4 replaces 18C.</i></p>	<p>Regulation 18C of the <i>Local Government (Administration) Regulations 1996</i> is repealed. Instead, Regulation 4 applies in relation to Division 2 - the recruitment and selection process of a local government CEO.</p> <p>Division 2 does not apply in the event that the position of CEO is to be filled by a person in a prescribed class or in relation to the renewal of the CEO's contract, unless the CEO has been employed for a period of 10 or more consecutive years and a period of 10 or more years has elapsed since a selection and recruitment process was carried out</p> <p>For the purposes of 5.36(5)(a), a person in a prescribed class includes a person who is and will continue to be employed by another local government and is contracted for a period of less than five years, or the person will be acting in the position of CEO for a period of less than one year.</p>	<p>NOTED.</p> <p>NOTED. It is not clear why a CEO's position must be renewed after 10 years. Councils have general competence powers to consider whether to renew the incumbent's contract or advertise the position. This is discussed in more detail below.</p> <p>NOTED. As above.</p>
<p>Regulation 5 – Determination of selection criteria and approval of job description form.</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 5 is a new clause.</i></p>	<p>Regulation 5 deals with determining the selection criteria for the position of CEO. It is a requirement that the local government base the selection criteria on the necessary skills, knowledge, experience and qualifications necessary to effectively perform the role and responsibilities associated with the position.</p> <p>The local government must approve (by absolute majority) a job description form (JDF) that sets out the duties and responsibilities of the position and the selection criteria.</p>	<p>NOTED.</p> <p>SUPPORTED. It is recommended that the DLGSCI develop guidelines related to:</p> <ul style="list-style-type: none"> • Template of a JDF for local government CEO positions, which might be band related. • Terms and conditions of the recruitment process to be considered. • Determination of the key elements of any contract of employment. • Determination of the key principles of the key performance indicators for the position.

Regulation 6 – Advertising Requirements	<i>Local Government (Administration) Regulations 1996</i> – Reg 6 is a new clause.	Regulation 6 deals with advertising the position of CEO where the position becomes vacant or the incumbent has held the position for 10 or more consecutive years. It is a requirement of the Local Government Act (s 5.36(4)) that upon the position of CEO becoming vacant, it must be advertised in a manner prescribed. Regulation 18A of the <i>Local Government (Administration) Regulations 1996</i> sets out the requirements for State-wide advertising.	SUPPORTED.
Regulation 7 – Job description form to be made available by local government.	<i>Local Government (Administration) Regulations 1996</i> – Reg 7 is a new clause.	Regulation 7 requires a local government to provide a copy of the JDF to a person upon request. The local government must either provide the web address where the JDF can be downloaded or alternatively if the person is unable to access the website, email a copy, or send a hard copy in the post.	SUPPORTED. It should be noted though that this regulation does not appear to fully consider a situation where the Local Government has contracted the recruitment process out to a third party (e.g. recruitment consultant), who would be responsible for managing this process.
Regulation 8 – Establishment of selection panel for appointment of CEO.	<i>Local Government (Administration) Regulations 1996</i> – Reg 8 is a new clause.	<p>Regulation 8 requires a local government to establish a selection panel to conduct the selection and recruitment process for appointment of a person to the position of CEO.</p> <p>The selection panel must comprise of council members and at least one independent person who is not a councillor nor an employee of the local government.</p> <p>It is recommended that the independent person or persons have relevant experience in the recruitment and selection of CEO's and / or senior executives. It is the role of the selection panel to recommend one or more suitable applicants to the position of CEO based on the selection criteria outlined in the JDF.</p>	<p>NOTED. The selection panel is 'established' under cl.8 of Schedule 2 of the Draft Regulations, with no reference to the formation of a Committee of Council under Sec. 5.8 of the Act. Cl. 9(4) of Schedule 2 includes a reference to the selection panel acting in accordance with the principles of s.5.40 of the Act. Similarly, cl.14 requires the local government to ensure confidentiality of information provided, rather than imposing this responsibility equally on the selection panel, or individual panel members.</p> <p>OPPOSED. This should remain the province of Council. Whilst providing the option to engage an independent person is supported, making it mandatory diminishes the role of Council and imposes an additional cost upon the local government.</p> <p>Only SUPPORTED in the situation where Council choose to include an independent member on the selection panel. Broadly, it should be held desirable that any member of the selection panel have some relevant selection/interviewing/recruitment skills.</p>

		It is at the discretion of the local government to determine the number of people on the selection panel.	SUPPORTED.
Regulation 9 – Recommendation by selection panel.	<i>Local Government (Administration) Regulations 1996 – Reg 9 is a new clause.</i>	<p>It is the role of the selection panel to recommend a preferred applicant or applicants for appointment to the position of CEO. Regulation 9 requires the selection panel to make an assessment of each applicant's ability to perform the role of CEO based on their knowledge, experience, qualifications and skills as measured against the selection criteria outlined in the JDF.</p> <p>If the selection panel considers none of the applicants suitable for appointment to the position, they must advise the local government of that fact.</p> <p>If the selection panel considers none of the applicants suitable for appointment to the position of CEO, they may recommend changes be made to the duties and responsibilities of the position or the selection criteria.</p> <p>The selection panel must act in an impartial and transparent manner and in accordance with the principles set out in section 5.40 of the Act.</p> <p>The selection panel is responsible for ensuring that any applicant or applicants they recommend for appointment have demonstrated they meet the selection criteria and have had their qualifications verified.</p> <p>The selection panel must exercise due diligence in verifying referees, work history, skills and any other claims made by the applicant.</p>	<p>NOTED. Schedule 2, Cl. 9(2)(a) requires the selection panel to recommend one or more applicants it considers suitable, with Cl. 9(2)(b) requiring that it advise Council if it considers no applicants are suitable. In the second event, Cl. 10 requires the local government to carry out a new recruitment process. Bypassing Council in this decision-making process appears to directly conflict with Sec. 5.36(2) of the Act, where it is the Council that determines if a person is or is not suitably qualified to be employed as CEO.</p> <p>NOTED. See above.</p> <p>SUPPORTED.</p> <p>SUPPORTED.</p> <p>SUPPORTED.</p> <p>SUPPORTED.</p>

Regulation 10 – New process to be commenced if no suitable applicants.	<i>Local Government (Administration) Regulations 1996 – Reg 10 is a new clause.</i>	<p>If the selection panel finds that none of the applicants are suitable to be appointed to the position of CEO, they must advise the local government in accordance with 9(2)(b).</p> <p>Regulation 10 requires the recruitment and selection process to be undertaken again if the selection panel advises the local government it considers none of the applicants to be suitable for appointment to the position of CEO.</p> <p>Unless the selection panel recommends changes be made to the duties and responsibilities of the position or the selection criteria, clause 5 does not apply. In this instance, the original JDF previously approved by the local government (under clause 5) is the JDF form for the purposes of the new recruitment and selection process.</p>	<p>NOTED. As above, it should ultimately be Council who determine if a person is/is not suitable to be CEO.</p> <p>OPPOSED. Council should have the opportunity (by absolute majority) to note, but not accept the panel recommendation. Bypassing Council in this decision-making process appears to directly conflict with Sec. 5.36(2) of the Act, where it is the Council that determines if a person is or is not suitably qualified to be employed as CEO.</p> <p>NOTED.</p>
Regulation 11 – Offer of appointment to position of CEO.	<i>Local Government (Administration) Regulations 1996 – Reg 11 is a new clause.</i>	<p>Regulation 11 requires the decision to make an offer of employment to an applicant to the position of CEO to be made by an absolute majority of council.</p> <p>The council must approve making the offer of employment to the preferred applicant and the proposed terms of the contract to be entered into.</p>	<p>SUPPORTED.</p> <p>SUPPORTED.</p>
Regulation 12 – Appointment to position of CEO	<i>Local Government (Administration) Regulations 1996 – Reg 12 is a new clause.</i>	<p>Regulation 12 deals with the appointment of the successful applicant to the position of CEO subsequent to the offer of appointment having been made, the final terms of the contract agreed to and the applicant accepting the offer of employment.</p> <p>The appointment of the successful applicant to the position of CEO by the local government must be made by an absolute majority of council. Council must endorse the appointment and approve the terms of the negotiated contract.</p>	<p>SUPPORTED.</p> <p>SUPPORTED.</p>
Regulation 13 – Recruitment to be	<i>Local Government (Administration)</i>	Regulation 13 applies if a local government CEO has held the position for a period of 10 or more consecutive years upon expiry of	OPPOSED. Council's currently possess the general competency powers to renew or advertise a CEO contract upon its completion,

undertaken on expiry of certain CEO contracts.	<i>Regulations 1996 – Reg 13 is a new clause.</i>	<p>the CEO's contract. Regulation 13 also applies if a period of 10 or more consecutive years has elapsed since a recruitment and selection process for the position has occurred and the incumbent CEO has notified the local government that they wish to have their contract of employment renewed upon its expiry.</p> <p>Subclause 13(2)(a)(ii) is drafted to allow for the possibility that a CEO who has, for example, held office for 10 years and has their contract renewed for another 5-year term following the recruitment and selection process. In that case, clause 13(2)(a)(ii) will operate to ensure that another 10 years can pass before another recruitment process is required.</p> <p>In the absence of clause 13(2)(a)(ii), when the renewed term came to an end, the CEO would have held the position for 15 consecutive years and clause 13(2)(a)(i) would operate to require a process to be undertaken.</p> <p>The local government must carry out the recruitment and selection process before expiry of the incumbent CEO's contract.</p> <p>The incumbent CEO may have their contract of employment renewed upon expiry if they are selected in accordance with the recruitment and selection process at subclause (3).</p>	<p>regardless of the length of service. Forcing local governments to readvertise after an arbitrary time period places an unnecessary cost burden on those which would prefer to keep their CEO. There is also risk that CEOs approaching the ten-year mark, who may be excellent performers, may simply apply for another position rather than face the ignominy of having to reapply for their role and perhaps not be appointed.</p> <p>Whilst grandfathering of this process to protect incumbent long-serving CEOs is SUPPORTED, again we emphasise that the entire rationale of this regulation is OPPOSED.</p> <p>NOTED.</p> <p>NOTED.</p> <p>NOTED.</p>
Regulation 14 – Confidentiality of information	<i>Local Government (Administration) Regulations 1996 – Reg 14 is a new clause.</i>	Regulation 14 requires confidentiality to be observed by the local government as part of the process of recruitment and selection. Information obtained as part of this process must only be used for, or in connection with, recruitment and selection.	SUPPORTED.
Division 3 – Standards for review of	<i>Local Government (Administration) Regulations 1996 –</i>	Regulation 18D is repealed. Division 3 effectively deals with the requirement to consider the performance review of the CEO in accordance with section 5.38 of the Act.	NOTED.

<p>performance of CEOs</p> <p>Regulation 15 sets out the standards to be observed by the local government in relation to the review of the performance of CEOs.</p>	<p>Reg 15 replaces regulation 18D which is repealed.</p>		
<p>Regulation 16 – Performance review process to be agreed between local government and CEO.</p>	<p><i>Local Government (Administration) Regulations 1996</i> – Reg 16 is a new clause.</p>	<p>Regulation 16 requires the local government and the CEO to agree on the process for performance review and any performance criteria that are additional to those specified in the contract. For example, the local government and the CEO may wish to include additional performance criteria after 1 or 2 years into a contract term as circumstances and priorities change.</p> <p>The process for performance review must be consistent with clauses 17 (Carrying out a performance review), 18 (Endorsement of the performance review) and 19 (CEO to be notified of the results of the performance review).</p> <p>The process for performance review and the selection criteria upon which the review will be based must be set out in a written document.</p>	<p>SUPPORTED.</p> <p>SUPPORTED.</p> <p>SUPPORTED.</p>
<p>Regulation 17 – Carrying out a performance review</p>	<p><i>Local Government (Administration) Regulations 1996</i> – Reg 17 is a new clause</p>	<p>Regulation 17 deals with how a review of a CEO's performance must be carried out. A performance review must be carried out in an impartial and transparent manner. It must also be comprehensive, and evidence based. The CEO's performance must be measured against the performance criteria as specified in the CEO's contract and any other performance criteria as agreed and set out in the documented performance review process.</p>	<p>SUPPORTED. It may be beneficial for the Department to provide clarity with regard whether it is the role of the Council, a Committee of Council, the CEO and/or another party to collect and review evidence regarding key result areas (being thorough and comprehensive).</p>
<p>Regulation 18 – Endorsement of</p>	<p><i>Local Government (Administration)</i></p>	<p>Regulation 18 requires that a performance review is endorsed by an absolute majority of council upon completion.</p>	<p>SUPPORTED.</p>

performance review by local government	<i>Regulations 1996 – Reg 18 is a new clause</i>		
Regulation 19 – CEO to be notified of results of performance review	<i>Local Government (Administration) Regulations 1996 – Reg 19 is a new clause</i>	<p>Regulation 19(a) requires a local government to notify the CEO of the results of the performance review in writing. If the review identifies any performance issues, the local government must outline how it proposes to address and manage those issues.</p> <p>The local government must notify the CEO of the results of the performance review after it has been endorsed by an absolute majority of council.</p>	<p>SUPPORTED. The process is silent on any right of response the CEO may have on performance issues/claims raised; this should be addressed.</p> <p>SUPPORTED.</p>
<p>Division 4 – Standards for termination of employment of CEOs.</p> <p>Regulation 20 – sets out the standards to be observed by the local government in relation to the termination of the employment of CEOs.</p>	<i>Local Government (Administration) Regulations 1996 – Reg 20 is a new clause</i>	Regulation 20 provides an overview of Division 4 – Standards for termination of employment of CEOs.	NOTED.
Regulation 21 – General principles applying to any termination.	<i>Local Government (Administration) Regulations 1996 – Reg 21 is a new clause</i>	<p>Regulation 21 outlines the general principles that must apply to any termination of a CEO's employment contract. Decisions relating to termination of employment must be made in an impartial and transparent manner.</p> <p>A CEO must be afforded procedural fairness in relation to the process for termination of employment. This includes:</p> <ul style="list-style-type: none"> a) being informed of their rights, entitlements and responsibilities; 	<p>NOTED. It is not clear what is meant by 'transparent'. Further, it should be clarified if it is 'the local government' or 'Council' making this decision.</p> <p>SUPPORTED.</p>

		b) notification of any allegations against the CEO; c) being given a reasonable opportunity to respond to the allegations; d) and genuinely considering any response provided by the CEO to the allegations.	
Regulation 22 – Additional principles applying to termination for performance related reasons.	<i>Local Government (Administration) Regulations 1996</i> – Reg 22 is a new clause	<p>Regulation 22(1) applies if the local government proposes to terminate the employment of a CEO based on the CEO's work-related performance.</p> <p>Subclauses 22(2)(a)-(d) and 22(3) require that a CEO's employment must not be terminated unless the local government has:</p> <ul style="list-style-type: none"> • previously identified any issues with the CEO's performance as part of the performance review process; • informed the CEO of the performance issues; • given the CEO reasonable opportunity to address and implement a plan to remedy the performance issues; • determined that the CEO has not remedied the performance issues to the satisfaction of the local government; and • 22(3) reviewed the performance of the CEO within the preceding 12 months in accordance with 5.38(1) of the Local Government Act. 	SUPPORTED. It is suggested that Regulation 22 should also consider those circumstances where the concerns or issues relate to problematic working relationships or dysfunctional behaviour. In such instances it can be recommended that a Council consider engagement of an independent accredited mediator.
Regulation 23 – Decision to terminate.	<i>Local Government (Administration) Regulations 1996</i> – Reg 23 is a new clause	Regulation 23 requires that a decision to terminate the employment of a CEO must be made by an absolute majority of council.	SUPPORTED.
Regulation 24 – Notice of termination of employment.	<i>Local Government (Administration) Regulations 1996</i> – Reg 24 is a new clause	Regulation 24 requires that a local government must provide notice in writing of the decision to terminate the employment of a CEO. Written notice must include the local government's reasons for termination.	SUPPORTED.



Report of the Inquiry into the City of Perth

An Inquiry under Part 8, Division 2
Local Government Act 1995

Inquiry Panel
Mr Anthony (Tony) Power
30 June 2020



Acknowledgment of Country

The Western Australian Government proudly acknowledges the Traditional Owners and recognises their continuing connection to their lands, families and communities.

We pay our respects to Aboriginal and Torres Strait Islander cultures and to Elders past, present and emerging.

The first step in living alongside and working with the Aboriginal community is built upon establishing respectful relationships. Crucial to these respectful relationships is acknowledging the history of Aboriginal people and recognising the importance of connection to family, culture and country.

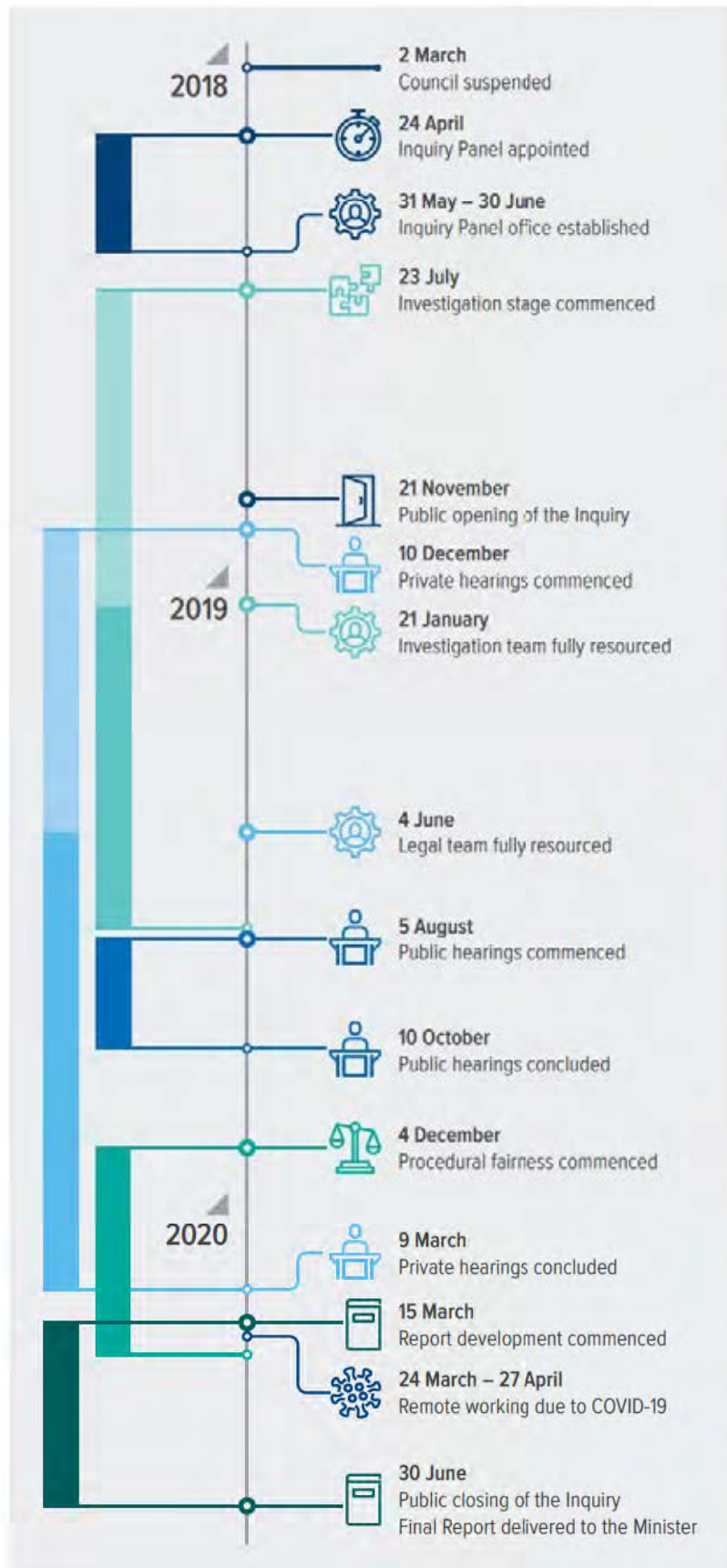
© State of Western Australia.

Published by the Department of Local Government, Sport and Cultural Industries, Western Australia, 30 June 2020.

This document has been published by the Department. Any representation, statement, opinion or advice expressed or implied in this publication is made in good faith and on the basis that the government, its employees and agents are not liable for any damage or loss whatsoever which may occur as a result of action taken or not taken, as the case may be, in respect of any representation, statement, opinion or advice referred to herein.

Inquiry timeline

Between 24 April 2018 and 30 June 2020, the Inquiry investigated, heard and reported on the governance of the City of Perth.



30

Investigations prepared for hearings

4.3m

Records collected

125

Hearing days

104

Witnesses

547

Hours of evidence

135+

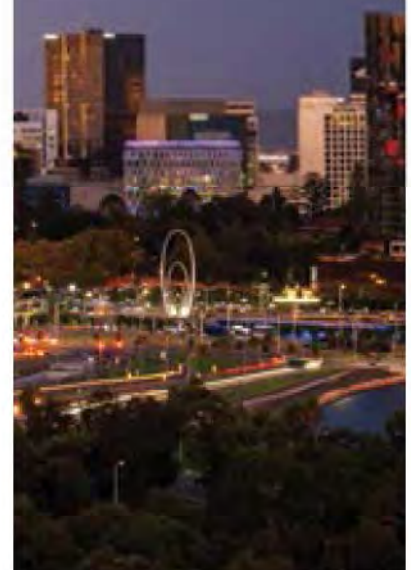
Matters referred

250+

Findings

320+

Recommendations





A local government, as the term suggests, should fairly and faithfully represent the community it governs. It should do so in the best interests of the community as a whole, not just a part of it.

Mr Anthony (Tony) Power
Inquiry Panel



Inquiry Panel's Preface



The Inquiry Panel (Inquiry) into the City of Perth (City) is the largest, most complex and most extensive inquiry so far conducted in Western Australia under the *Local Government Act 1995* (LG Act) or its predecessors.

Like similar inquiries which have preceded it, this Inquiry is concerned with the failure to provide good government, the reasons for that failure and what can and should be done in the future to ensure good government.

The Inquiry's reporting obligations require it to make findings on the matters in its Notice of Appointment of an Inquiry Panel (Terms of Reference). Those Terms of Reference are broad and far reaching.

As the State's capital city, the local government of the City should be a model of good government. It should set the benchmark for other local governments in the State.

Unfortunately, the suspension of the City of Perth Council (Council), the establishment of this Inquiry and this Inquiry's findings tell a very different story.

A local government, as the term suggests, should fairly and faithfully represent the community it governs. It should do so in the best interests of the community as a whole, not just a part of it.

The LG Act recognises the importance of the demarcation between a local government's Council and its Administration.

In broad terms, the former should decide what should be done for the community as a whole and the latter is responsible for implementing those decisions in a practical and day-to-day sense.

This essential separation of roles ensures that the community as a whole has a say in how the local government represents its interests. It does so through its council members, who form the Council which makes decisions and sets the direction of the local government.

The Administration of a local government is made up of a variety of skilled and experienced employees, who are best equipped to ensure that the community gets what it needs and deserves. The Administration implements the decisions of the Council and provides services to the community.

Each of these two groups of people which comprise a local government, the Council and the Administration, have different skills, mandates, powers and functions. Their roles are different and should not be confused. The employees in the Administration should not try to usurp the decision-making role of the Council, and council members should not interfere in the day-to-day work of the Administration.

The conduit or connection between the Council and the Administration is the Chief Executive Officer (CEO). This pivotal and sometimes difficult role, if done well, should maintain that important separation and ensure that the employees of the local government properly implement the decisions of the Council. It should also ensure that good governance is applied to the functioning of both the Council and the Administration.

Essential to good government is a set of clearly articulated, understood and accepted rules governing its affairs. If the rules are properly understood and adhered to, as a result of being accepted by those which they govern, the scope for ignoring and breaching them is considerably reduced. The result is good governance.

The City, its council members and its employees have in recent times been no strangers to controversy. The City has for a number of years been criticised as being dysfunctional, inward-looking and often not serving the best interests of its community. Its aspirations are described in the *City of Perth Act 2016* (CoP Act), but it has not in truth measured up to the objectives in that Act.

It is clear from the information and materials considered by this Inquiry that many of the problems which beset the City, its Council and its Administration stemmed from an inappropriate and unhealthy culture.

Regrettably, the culture of the City has been characterised by self-interest, complacency, lack of accountability, lack of transparency and a lack of effective leadership. These traits have provided fertile ground for greed, incompetence and mismanagement to flourish. Some council members and some employees alike have been allowed to put their own interests ahead of the interests of those who they should be serving, namely, the community of the City.

It is this dysfunctional culture, which in large part caused the decline in the way in which the City was governed, and which ultimately led to the suspension of the Council of the City on 2 March 2018 and the establishment of this Inquiry.

In order to report on the matters in its Terms of Reference, the Inquiry has had regard to the evidence given in the private and public hearings it has conducted and the other materials which it has been provided with, and obtained, during the course of its work.

In investigating the matters within its Terms of Reference, the Inquiry has obtained and examined over four million documents and held private and public hearings with 104 witnesses over 125 days. Those investigations and examinations have enabled the Inquiry to make over 250 findings.

It is important to note that the Inquiry has the powers of a Royal Commission, but it is not a Royal Commission. Nor is it a Court of law. It is an administrative body whose task is to inquire into and report on those matters in its Terms of Reference.

The powers and processes of this Inquiry are different to those of a Court of law. It has extensive coercive powers and its ability to inquire into matters without some of the usual protections afforded to persons in a Court of law are an important point of distinction.

With the exception of those matters where the Inquiry is permitted by its Terms of Reference to make findings about unlawful conduct, it is not the role of this Inquiry to make findings about whether any particular conduct contravenes the law, or act in a way which would prejudice subsequent legal proceedings of that kind. It is an administrative body, not a judicial one.

The Inquiry cannot decide whether evidence given in its hearings would support a finding of a contravention of law if the same evidence was later adduced in criminal or civil proceedings.

The findings made by the Inquiry have no binding or enforceable effect.

The Inquiry does, however, have the power to refer any matter it has investigated to another agency for it to consider whether or not criminal or civil proceedings should be brought.

It has been important for this Inquiry to rigorously examine the matters in its Terms of Reference. Notwithstanding, it has at all times sought to strike the right balance between a proper and robust examination of those issues and fairness to those who were the subject of examinations.

While it is not bound by the rules of evidence, the Inquiry has in its inquisitorial and reporting roles adhered to the principle of treating all who have appeared before it fairly and without fear or favour.

In reaching its findings, the Inquiry has been guided by the *Briginshaw* principles. In forming its conclusions about what has happened or not happened, what has been done or not done, it has adopted the following approach:

"The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal".^a

One of the main functions of this Inquiry is to inquire into and report on matters in its Terms of Reference for the purpose of making recommendations aimed at restoring and ensuring the future good government of the City. This will be achieved by its recommendations.



Mr Anthony (Tony) Power
Inquiry Panel

^a *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 362 (Dixon J).



AT A GLANCE

City of Perth

The City of Perth is the local government for the capital city of Western Australia. It is a statutory entity constituted under the LG Act and the CoP Act.

Special features of the City

The City is unusual among local governments in Western Australia in several respects. The bulk of the people it serves do not live in the City and are not electors. They include people who work in the City but live elsewhere, business operators and visitors.



27,432

Resident
population



205,750

Daytime
population



14,716

Enrolled
electors



147,474

Workforce
population



\$40bn

Gross regional
product



\$75bn

Economic
output

As illustrated by the statistics above, the daytime population is approximately seven and a half times the size of the resident population and 14 times the number of electors.



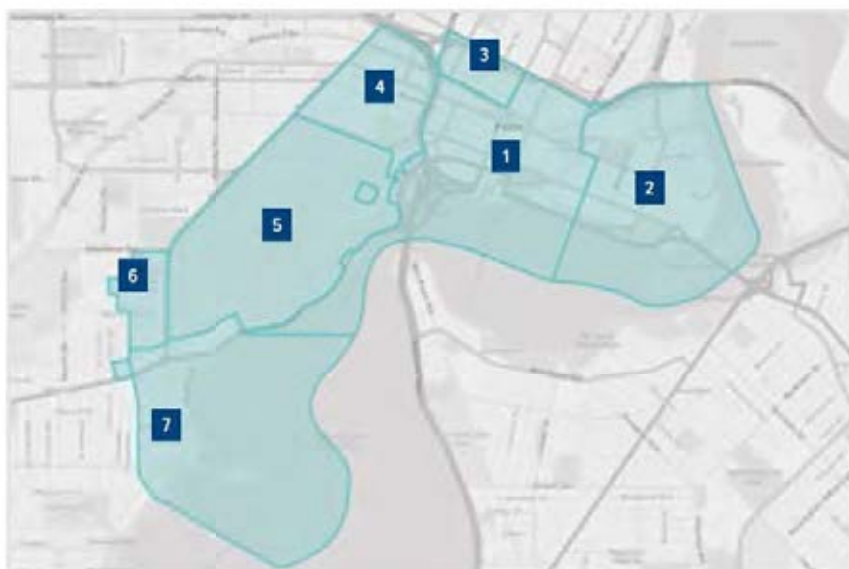
Vibrant, connected, progressive; a friendly and beautiful place to be.

Mr Murray Jorgensen
CEO

Geography

The City of Perth covers a geographical area of 26.93km².

- 1 Central Perth
- 2 East Perth
- 3 Northbridge
- 4 West Perth
- 5 Kings Park
- 6 Nedlands
- 7 Crawley



Finances and workforce

In the 2017/2018 financial year, the City had the second highest operating revenue and third highest operating expenditure of any local government in the State. The City also had the highest employee costs of any local government in the State and the third highest number of Full Time Equivalent (FTE) positions.



\$201.9m

Total operating revenue



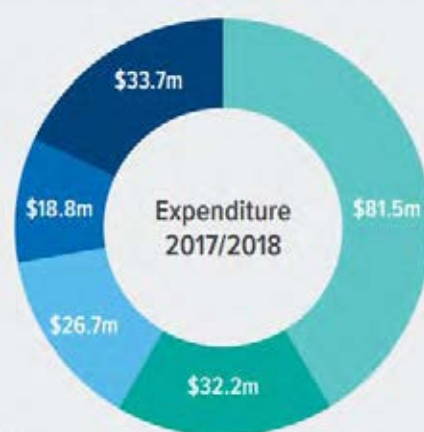
Key

- Fees and charges
- Rates
- Grants
- Other



\$192.9m

Total expenditure



Key

- Transport
- Recreation and culture
- Economic services
- Community amenities
- Other*



\$100m

Cash reserves



\$1.2bn

Total assets



735

Employees



\$74.7m

Employee costs

* Other includes: Governance (\$10.5m), Law, order and public safety (\$6.1m), Education and welfare (\$3.9m), Other property services (\$8.7m), Health (\$1.5m), General purpose funding (\$2.2m) and Housing (\$0.70m).

The Council and Administration

Section 9 of the CoP Act states that the City of Perth Council consists of a mayor, who is called the Lord Mayor, and eight councillors.

Council member (Lord Mayor), City of Perth



Ms Lisa-Michelle (Lisa) Scaffidi

Lord Mayor – 20 October 2007 to 19 October 2019

Councillor – 8 July 2000 to 19 October 2007

Council members (councillors), City of Perth



Mr Jimmy (Jim) Adamos

15 October 2011 to 19 October 2019



Ms Alexis (Lexi) Louise Foster Barton

21 October 2017 to 30 January 2020



Mr Robert (Rob) John Butler

3 May 2003 to 17 October 2015

Deputy Lord Mayor – 22 October 2013 to 17 October 2015



Ms Lily Chen

15 October 2011 to 19 October 2019



Ms Janet Elizabeth Davidson OAM

14 February 1998 to 27 May 2019

Deputy Lord Mayor – 2009 and 2011 to 2013



Dr Jemma Marie Green

17 October 2015 to 19 October 2019

Deputy Lord Mayor – 24 October 2017 to 19 October 2019



Mr Reece James Harley

19 October 2013 to 30 January 2020



Mr Steven (Steve) Jeffrey Hasluck

21 October 2017 to 30 January 2020



Mr Dimitrios Athanasios (James) Limnios

17 October 2009 to 30 January 2020

Deputy Lord Mayor – 22 October 2015 to 21 October 2017



Ms Judith (Judy) Sabina McEvoy

3 May 1997 to 21 October 2017



Mr Yit-Kee (Keith) Yong

19 October 2013 to 21 October 2017

Chief Executive Officers (CEO), City of Perth



Mr Gary John Stevenson
29 October 2012 to 20 January 2016



Mr Martin Nicholas Mileham
20 January 2016 to 29 October 2018
substantive from 3 October 2016

Executive Leadership Group (ELG), City of Perth



Ms Erica Margaret Barrenger
Director, Planning and Development
2 May 2016 to 21 December 2018



Ms Annaliese Maria Battista
Director, Economic Development
and Activation
16 May 2016 to 22 June 2018



Mr Michael James Carter
Director, Economic Development
and Activation
21 September 2015 to 26 February 2016



Mr Luciano Paola (Paul) Crosetta
Director, Construction and Maintenance
11 August 2015 to 5 July 2019



Mr Robert David Mianich
Director, Corporate Services
7 November 2005 to 1 July 2019



Ms Rebecca Therese Moore
Director, Community and
Commercial Services
7 September 2015 to 5 July 2019



Photo: www.istockphoto.com/au/portfolio/leerogers

Suspension of the City of Perth Council

On 2 March 2018, the Minister for Local Government, the Hon David Templeman MLA (Minister), took the unusual step of deciding to suspend the Council.

He said that his intervention was required by:

"... ongoing and serious governance issues at the City ...".

Establishment of the Inquiry Panel

On 24 April 2018, the Minister established this Inquiry Panel to investigate and report on, among other things:

- whether there had been a failure to provide good government for the City;
- whether good government could be provided in the future, including whether the Council and the Administration of the City had the ability to and was likely to do so; and
- the steps which may need to be taken to ensure future good government of the City.

The Inquiry's role was to investigate all of the matters within its Terms of Reference, make findings in relation to them, and provide recommendations to the Minister in connection with those matters.

In establishing the Inquiry, the Minister made it clear that he was:

"... seeking to restore confidence in the people of Perth of the City's ability to provide good governance for its community ...".

The Terms of Reference for this Inquiry are comprehensive and have required a rigorous examination of government at the City in the period between 1 October 2015 and 1 March 2018.



The situation at the City of Perth has become untenable and I have formed a view that if I do not intervene, I am failing in my responsibilities as Minister and not fulfilling my obligations under the Local Government Act.

Hon David Templeman MLA



Local Government Act 1995

Notice of Appointment of an Inquiry Panel (Section 8.16)

Pursuant to Section 8.16 of the *Local Government Act 1995* (**the Act**), I hereby appoint an Inquiry Panel consisting of one person, Anthony Power, Legal Practitioner, to inquire into and report on the aspects, operations and affairs of the City of Perth in accordance with the terms as to the scope and duration of that inquiry set out hereunder:

A Nature of the Inquiry to be Conducted

1. The Inquiry Panel is to inquire into and report on those aspects, operations and affairs of the City of Perth (including of the Council and the Administration) during the period between 1 October 2015 and 1 March 2018 inclusive, which may be necessary, in order to determine:

- (i) whether there has been a failure to provide for the good government of persons in the City of Perth's district;
- (ii) the prospect of such good government being provided in the future (including by reference to whether the Council and Administration has the ability to, and is likely to, do so); and
- (iii) any steps which may need to be taken to ensure that such good government does happen in the future.

2. The Inquiry Panel may inquire into and report on a period, or periods, before 1 October 2015, if it considers that to be necessary, or that it may be necessary, for the purpose of properly discharging its function under paragraph 1 above, and placing the matters inquired into within a relevant context in the circumstances.

3. The Inquiry Panel is (and without limiting the generality of paragraph 1 above) to give due consideration to, and inquire into and report on, the following matters:

- i. whether there was improper or undue influence by any member, as defined by section 1.4 of the Act (**member**) of the Council of the City of Perth in administrative tasks, such as recruitment, employee management and grants administration;
- ii. whether any member engaged in improper or unlawful conduct in relation to the performance by the Council or the members of any of their functions and obligations;
- iii. the relationships between the Council, members, the Chief Executive Officer and other employees of the City and the effect of those relationships on the performance of the City's functions and obligations;

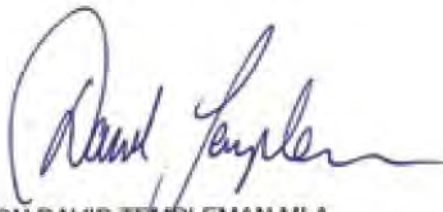
- iv. sponsorship arrangements between organisations and the City and the acceptance of gifts in the form of tickets to events by members from those organisations;
- v. governance practices, including adherence to the financial interest provisions of the *Local Government Act 1995*;
- vi. adequacy and competency of Council decision making.

B. Functions of the Inquiry Panel

The functions of the Inquiry Panel are as set out in A. above, and for the avoidance of doubt, include to inquire into, report on, and then make the recommendations in relation to the matters the subject of the Inquiry that it considers appropriate (in accordance with its duty under section 8.22 of the *Local Government Act 1995*).

C. Duration of Inquiry

The Inquiry is to commence on 1 May 2018 and shall present its report and recommendations no later than 2 May 2019.



HON DAVID TEMPLEMAN MLA
**MINISTER FOR LOCAL GOVERNMENT;
HERITAGE; CULTURE AND THE ARTS**

DATE: 24 APR 2018

Events leading to the suspension of the City of Perth Council

On 27 February 2018, three days before the Minister suspended the Council, several things happened. These were the culmination of problems which had been brewing in the City for a long time.

On that date, the City was without a CEO. The CEO, Mr Mileham, was on personal leave from 16 February 2018 following his receipt of the report of a confidential investigation about him and the Lord Mayor, Ms Scaffidi, conducted by a private legal firm, known as 'Project Percy'.

A few days before taking leave, on 12 February 2018, Mr Mileham had, with the support of the City's ELG, written to the Department of Local Government, Sport and Cultural Industries (Department) about and requesting assistance in relation to, among other things, dysfunction in the Council and interference by council members.

On taking leave, Mr Mileham appointed Mr Mianich, the Director, Corporate Services, as Acting CEO. On the afternoon of 26 February 2018, Mr Mianich took medical leave from the role. In his short tenure in the Acting CEO position, Mr Mianich had, among other things, finalised and lodged complaints with the Local Government Standards Panel (LGSP). The complaints were about alleged interference in the Administration by Deputy Lord Mayor Dr Green and council member Mr Harley. Mr Mianich also wrote to council member Mr Limnios, about concerns with aspects of his conduct.

In the interim on 24 February 2018, a Special Council Meeting was requested by five council members. The purpose of that meeting was to permit Council to vote on a motion amending a Council policy to allow them to appoint an Acting CEO whenever the substantive CEO was absent, and to appoint someone to that acting position.

The Special Council Meeting was scheduled by Mr Mianich for the late afternoon of 27 February 2018. At that meeting, the Council by a majority resolved to approve the amendment to the policy and to appoint Ms Battista to the role of Acting CEO.

On the morning of 27 February 2018, three directors in the ELG activated the City's Crisis Management Plan and declared a priority 1 crisis.

The Crisis Management Plan was something intended to be activated at priority 1 when the City was facing a serious crisis which would disrupt the functioning of the City or cause harm to people, such as a fire, flood or explosion. Significantly, the declaration of a priority 1 crisis, unlike priority 2 or 3 declarations, empowered one of the director members of the ELG, Ms Rebecca Moore, to take over the leadership of the Administration of the City in the role of Crisis Manager. At the time the declaration was made, the directors who executed the Crisis Management Plan were aware that Ms Battista was likely to be appointed the Acting CEO at the Special Council Meeting scheduled for that afternoon.

The following day, Deputy Lord Mayor Dr Green requested advice from the Department about the agenda for a further Special Council Meeting, to be held on 5 March 2018, at which the suspension of Mr Mileham was to be considered. Before that meeting could take place, the Minister suspended the Council.

The events of, and leading up to, 27 and 28 February 2018 were indicative of the divisions within Council, within the ELG, and between the Council and the ELG, which by this stage were not new, but which had become entrenched and were affecting the proper governance of the City.

Key events

On 2 March 2018, the Minister for Local Government; Heritage; Culture and the Arts, Hon David Templeman MLA announced the suspension of the Council of the City of Perth. This timeline sets out the key events leading to the suspension of the Council.

2015



30 April

Council endorsed an organisational restructure programme called *The New City of Perth* initiated by the Chief Executive Officer (CEO), Mr Gary Stevenson.



26 August

The CEO, Mr Stevenson referred a *Report on Gifted Travel* to the Corruption and Crime Commission (CCC).



5 October

The CCC issued a *Report on an Investigation into Acceptance and Disclosure of Gifts and Travel Contributions by the Lord Mayor of the City of Perth*.



17 October

Ordinary Local Government election.



Elected Lord Mayor

Ms Lisa Scaffidi

Elected Councillors



Mr Jim
Adamos



Ms Janet
Davidson



Ms Lily
Chen



Dr Jemma
Green



22 October

Ordinary Council Meeting.



Elected Deputy Lord Mayor

Mr James Limnios

2016



14 January

Mr Stevenson provided Ms Scaffidi with his *Report on Gifted Travel*.



20 January

Special Council Meeting.



CEO employment terminated

Mr Gary Stevenson



Appointed Acting CEO

Mr Martin Mileham



4 March

The *City of Perth Act 2016* came into operation.



11 May

A report by the Department of Local Government, Sport and Cultural Industries (Department) into receipt of gifts and travel by Ms Scaffidi found that she had committed 44 breaches of the LG Act for failing to disclose gifts and contributions to travel, and one breach for failing to lodge an annual return by the required date.



3 October

Mr Mileham commenced as CEO of the City on a five-year contract.



31 October

The Local Government Standards Panel (LGSP) found that council members Ms Scaffidi, Ms Davidson and Ms Judy McEvoy breached regulations relating to a vote of no confidence against the Deputy Lord Mayor, Mr Limnios, at a Council Meeting on 17 May 2016.



It is now untenable for the council to continue. This is a serious matter and the recent events including those over the last eight days has confirmed to me that a line needs to be drawn in the sand.

Hon David Templeman MLA

2017



9 May

State Administrative Tribunal (SAT) found that Ms Scaffidi "committed 45 serious breaches of her reporting obligations under the Local Government Act 1995".



4–7 September

SAT disqualified Ms Scaffidi from office for 18 months from midnight 7 September 2017. Ms Scaffidi appealed to the Supreme Court. The Court of Appeal stayed the SAT disqualification of Ms Scaffidi until the determination of her appeal. Ms Scaffidi stood aside as Lord Mayor pending the decision.



21 October

Ordinary Local Government election.

Elected Councillors



Mr Steve Hasluck



Ms Lexi Barton



Mr James Limnios



Mr Reece Harley



24 October

Ordinary Council Meeting.



Elected Deputy Lord Mayor
Dr Jemma Green



9 November and 28 November

Dr Green met with representatives from Herbert Smith Freehills Lawyers (HSF) and provided information containing allegations that Mr Mileham and Ms Scaffidi had offered an inducement to Mr Adrian Fini, a property developer. The HSF investigation was called 'Project Percy'.



1 December

The Court of Appeal dismissed 26 of the 45 breaches alleged against Ms Scaffidi, and found that 19 breaches were established.

2018



8 January

Ms Scaffidi resumed the duties of Lord Mayor.



An Authorised Inquiry was commenced by the Department into gifts and benefits received by council members at the City.



29 January

HSF provided its investigation report on 'Project Percy' to the City.



12 February

The CEO, Mr Mileham, supported by the Executive Leadership Group (Group), wrote to the Director General of the Department, expressing concerns about dysfunction in the City, including council members' involvement in administration of the City.



16 February

Mr Mileham took personal leave, citing health issues caused by the Council.



Appointed Acting CEO
Mr Robert Mianich



22 February

Mr Mianich sent complaints about council members, Dr Green and Mr Harley to the LGSP alleging interference in the administration of the City.



24 February

Mr Mianich was requested by a group of council members to convene a Special Council Meeting on 27 February 2018 for the purpose of changing Council policy so that the Council could appoint an Acting CEO.



26 February

Mr Mianich took personal leave for health reasons and also said "... the environment at work is not safe at present".



27 February

Three directors activated the City's Crisis Management Plan.



Special Council Meeting.
Appointed Acting CEO
Ms Annaliese Battista

What did the Inquiry find?

The primary finding of this Inquiry is that in the period between 1 October 2015 and 1 March 2018, there was a gross failure to provide good government at the City.

As this Report makes clear, the City was wracked by widespread cultural and systemic failings in both the Council and the Administration. It was plagued by poor governance practices and was, as a consequence, poorly governed and dysfunctional.

This failure was the direct result of poor governance and poor decision-making at many levels, a lack of integrity and teamwork in the City's leadership, and widespread cultural and systemic failings in both the Council and the Administration of the City.

When the Council was suspended on 2 March 2018, the situation had deteriorated to the point where neither it nor the Administration had the capacity to provide good government into the foreseeable future.

The conclusions reached by the Inquiry are based on the evidence it has obtained through its comprehensive investigations and programme of hearings. The evidence is set out in full in the chapters which make up **Volume 2: Case Studies** of this Report. The following is a summary.



This Report describes what the Inquiry did, what it found and how similar issues might be prevented from arising in the future. The Report of the Inquiry into the City of Perth consists of four volumes.

Community Leadership

The Inquiry considers the community leadership demonstrated, or not, by the Council over the period covered by the Inquiry's Terms of Reference. This is a significant part of the Inquiry's consideration of the matters within its Terms of Reference, as it directly engages with Terms of Reference, Part A.1 and A.3(ii)-(vi), and addresses the obligations imposed on council members by section 11(2) of the CoP Act.

As described in summary below, and in more detail in **Volume 2: Case Studies**, a number of council members failed in various ways and at various times to discharge their obligations to provide leadership to the community of the City of Perth. As described in **Volume 3: Restoring Good Government**, much of that failure can be attributed to systemic issues relating to poor leadership, governance and culture, and questionable decision-making practices.

Local government elections

Elections are the foundation of the democratic process. That is as true of local government as for other levels of government. The Council of the City is an elected body, accountable to and elected by the electors of the City of Perth. The Inquiry investigated a number of situations in which information received suggested election processes may have been undermined by improper manipulation.

A number of examples of this type of conduct were identified. Sham leases were used to enfranchise a candidate or a voter. Corporate nominee processes were falsified to entitle people to vote who were not otherwise eligible. False complaints were made to the City to have legitimate corporate nominees struck from the electoral roll. One candidate used his family's post office boxes as the postal address for voters, raising a suspicion that the candidate intended to falsify votes.

Manipulation of the electoral process strikes at the heart of the democratic system of local government representation. The City's oversight and supervision of that process was, therefore, also something which the Inquiry examined. However, as set out in this part of the Report, it transpired that the City's processes were not up to the task set and failed to adequately identify and deal with issues of electoral manipulation.

Decision-making

Good government in a local government context is significantly affected by the quality and accountability of council decision-making. It is a matter the Inquiry was specifically empowered to inquire into by its Terms of Reference, Part A.3(vi). One measure of good decision-making in this context is whether the decisions made by a council reflect, consider and where possible balance, the interests of the whole community, and not just a segment of it.

In this Section of the Report, the Inquiry examined situations in which the evidence suggested that decisions made by the Council, relating to properties in the City of Perth, either did not reflect the interests of the community, or were affected by personal interests being put ahead of community interests.

These included:

- a development application for a shop at the Adagio apartment complex, which appears to have been refused by some council members not on any proper planning basis, but in the apparent expectation that the decision to refuse the application would result in votes from the objectors to the application at a forthcoming election; and
- a decision to reject a sponsorship proposal to rejuvenate the Piccadilly Theatre premises in the City of Perth in circumstances where there was lobbying against the proposal by local businessmen and in respect of which the Council did not give reasons for its decision.

Disclosure, personal interest and entitlements

Council members must avoid, or at least properly manage, conflicts between their own interests and the interests of the community, and between their own interests and the duties they owe their constituents as council members, in respect of decisions or actions they take. This is critical to maintaining confidence in, and the transparency and accountability of, local governments. Similarly, it is important to the community's confidence in representative government that those whose roles it is to represent their community do so without taking advantage of the trappings and entitlements of office for personal rather than community benefit. An examination of these critical matters is directly within Terms of Reference, Part A.3(iv) and A.3(v).

In this Section of the Report, the Inquiry describes situations it identified in which some council members failed to disclose their financial or other interests as required by the LG Act, leading to the decision-making of council being undermined. The Inquiry also describes situations in which some council members misused, for their own purposes, the trappings and entitlements of office which were available to assist them in their official role. Those entitlements, at various times, included the use of the Council dining room, and the capacity to be reimbursed for costs associated with restaurants, the purchase of clothes, and drycleaning. In addition to these matters, one council member also misused her official title, office, business cards and email for private business purposes.

Grants and sponsorship

Each year the Council of the City allocates millions of dollars to community associations and events through partnerships, sponsorships, grants and donations. In large part that is to be commended. It reflects a proper engagement by the City with community matters.

However, the Inquiry identified as part of its consideration under Terms of Reference, Part A.3(iv), risks associated with this process including:

- gifts, especially tickets to events, which were routinely given by sponsored organisations and accepted by council members, imperilling the independence of their decision-making; and
- some council members attempting to ensure that the City allocated money to organisations and events with which they had a personal connection.

As with the Inquiry's consideration of electoral manipulation, the Inquiry was also concerned to understand whether the City's governance practices were sufficient to identify misconduct, or the potential for misconduct, in this area. The evidence obtained suggests governance practices in this area were lacking, which permitted significant deficiencies to arise in respect of gifts and disclosures.

Administrative Leadership

Whereas the previous **Part of Volume 2: Case Studies** was principally concerned with the leadership, or its lack of demonstrated by the Council, this Part considers the leadership, or its lack thereof, demonstrated by the executive leadership of the Administration, and factors which affected the capacity of the executive to deliver effective leadership.

The Administration delivers the services, facilities and programmes of the local government. To do this it must manage the local government's resources, including its people, physical assets and finances. The Administration is headed by the CEO. The CEO is employed and managed by the Council and provides advice to the Council and implements its decisions. The CEO employs and leads the Administration and is responsible for managing the resources of the local government. The CEO is instrumental in setting the workplace culture.

Administrative leadership of the City was, as the Report makes plain, an area of significant complexity and an area where a lot went wrong. Much of what went wrong comes down to systemic failings in leadership, culture and process. Some of that is, as described, inexcusable. Some of it is not surprising.

The Administration of the City is large and complex. It has been, until recently at least, poorly serviced by disparate and somewhat antiquated systems of governance and financial management. Furthermore, the position occupied by the CEO is an unenviable one, caught between the demands of a council that can be politicised and fractured, and the obligations owed to rank and file staff. The LG Act is in many respects uncompromising in respect of what it demands from a local government CEO. A system of this type, while having certain advantages, inevitably invites tension and discord between the governing organs of local government.

Chief Executive

In January 2016, the employment of the then CEO, Mr Stevenson, was terminated by the Council. The Director, Planning and Development, Mr Mileham, was appointed as Acting CEO in his place. Later, in September 2016, he was appointed substantively to the role of CEO. Both matters are expressly contemplated by Terms of Reference, Part A.3(iii) as subjects of the Inquiry's investigation.

The Inquiry sets out its consideration of the circumstances in which Mr Stevenson was terminated from his employment, and Mr Mileham was elevated. In the course of that consideration, the Inquiry critically reviewed the Council's CEO performance review processes, to examine whether the reviews of Mr Stevenson's performance were properly conducted, and whether the termination of his employment was based on complete and accurate information. In both respects, the Inquiry finds that proper process was not fairly accorded to Mr Stevenson.

Mr Mileham's appointment to the roles of Acting CEO and then CEO are also examined in this Section, with a view to determining whether the process of appointment was transparent and capable of review. Ultimately, the Inquiry finds that it was not. The Inquiry also considered whether the Lord Mayor, Ms Scaffidi, sought to influence how Mr Mileham was to conduct his role as CEO, and finds that she did.

People management

The Inquiry considered a number of people management matters during the course of its examinations, in accordance with Terms of Reference Part A.3(iii). In particular, the Inquiry describes its review of the recruitment, promotion, probation and termination of employment of employees; complaints and grievance processes; human resource related record-keeping; and disciplinary processes.

Within that umbrella of matters for consideration, the Inquiry focussed on the participation, and possible interference, in various human resource matters by council members; the appropriateness of the involvement of Mr Mileham in respect of some of those human resource matters; performance management of employees; and the City's processes for terminating the employment of employees, including its use of deeds and substantial termination payments.

There were a number of failings, or areas for improvement, across these issues. For example, there was involvement by some council members in recruitment and termination processes for certain staff, the inappropriate use of deeds of mutual separation in circumstances where misconduct was suspected and dismissal from employment was arguably warranted, and the making of generous termination payments which were inconsistent with relevant Award or contract provisions or policies.

Financial management and planning

A local government controls significant finances on behalf of its community. The City had an operating revenue of approximately \$200 million per year during the Inquiry period. This included approximately \$70 million generated by the City of Perth Parking business. The adequacy of the management of those funds, and the potential for future improvement in respect of them, goes directly to the questions posed for the Inquiry by Terms of Reference, Part A.1.

The Inquiry conducted an in-depth examination of the financial management and strategic planning for the City. The Inquiry identified a number of significant weaknesses in the City's systems and processes, and examined how those are being, and can in the future be, addressed.

The principal finding of the Inquiry in respect of financial management and planning was that the systems for undertaking those measures were separate and siloed within business units. While the City had a finance section which was intended to be centralised, each directorate and some business units had their own accountants and finance staff who operated independently of central oversight. The consequences of this fractured system of financial management were significant. There was a lack of information sharing, poor record-keeping and decentralised control of financial matters.

A further significant finding arising from this part of the Inquiry's investigations was the deficient way in which the City of Perth Parking business was managed. There was no business plan for that business, despite that being a requirement of the LG Act. The principles of competitive neutrality were not applied. Internal costs allocated to the parking business were not properly identified or recorded, with the result that it is possible that other costs, not relating to the parking business, were allocated to it. There is no reliable way to tell.

The siloed nature of the City's finances, and the issues with the City of Perth Parking business, point up systemic failings within the City's systems for the management of financial matters. There was an insufficient integration of the City's strategic and financial planning documents, and the City did not have appropriate systems and governance regimes in place to manage and monitor its financial performance. An example is that the City could not state with any certainty how many staff it employed.

The problems caused by these deficiencies were compounded by the lack of an effective audit process. The City and its financial management are complex. It is not a straightforward business proposition. Despite this, its audit processes were immature. There was no assurance map or strategic internal audit plan. The City's audit programme was limited to compliance audits. Audit reports did not reflect the risks of the audit or provide for better practice audit report structure and content elements.

While, in an organisation of the size and complexity of the City, resourcing constraints are real, more can and should have been done to ensure the proper management of the City's finances. In this, the leadership failed. Systemic failures developed and were allowed to embed themselves.

Procurement and contracting

The City, like many local governments, undertakes a significant amount of procurement activity. Throughout the period of the Inquiry's Terms of Reference, for example, it spent approximately \$50 million per year on procurement.

Poor procurement practice is a well-known fraud and corruption risk. Recent events in Western Australia, uncovered by the CCC, speak loudly to that, and it has been recognised time and again, including most recently and emphatically by a committee of the Legislative Council. Local governments are not immune to these issues. On the contrary, local governments generally have high risks of fraud and corruption, because of the large volume of goods and services they buy and the usually devolved nature of decision-making and delegated authorities to commit funds. In consequence, it is important that the City, and local governments generally, understand these risks and actively manage them with appropriate controls.

Against this background, and in pursuit of Terms of Reference, Part A.1 and A.3(v), the Inquiry investigated five specific procurement exercises conducted by the City, in which the consequences of failing to follow appropriate procedures ranged from unauthorised expenditure to possible fraud and corruption.

The first of those five matters concerned the tender process for irrigation services to be supplied to the City. The process was riddled with flaws ranging from a failure by the evaluation panel to properly apply compliance criteria to the tenders they were evaluating, to possible misconduct by the project officer in connection with the conduct of a pricing analysis that, in the event, turned out to be decisive in the decision to award the contract.

A complaint was made by a competing tenderer to the City and the CCC about the potential influence of one of the City's staff in relation to the tender. The investigation of that complaint by the City was poorly done. The point in issue, namely, whether a benefit had been improperly gained, was not dealt with as part of the investigation. Consideration of possible bias and misconduct were, inexplicably, removed from the final report. The City's response to the CCC was misleading.

The second of the five matters concerned the engagement of a private business to provide culture and values training, and associated services, to the City's leadership. The Inquiry's principal concerns in relation to that matter were twofold. First, was the tender process transparently conducted? Secondly, did the CEO, Mr Mileham, properly declare a gift he received from the eventually successful tenderer? In the event, the Inquiry considered that the tender process was free of improper influence, but that Mr Mileham failed to accurately declare the gift he received and in so doing contravened the City's Code of Conduct.

The third matter concerned the handling by the City of a complaint made by an unsuccessful tenderer for certain street and path works. As with the matter involving the irrigation tender, the complaints process was initially poorly managed by the City. Most critically, and surprisingly, the CEO referred the complaint to the head of the directorate responsible for the tender and that director involved the subject of the complaint in the preparation of the City's response.

Unsurprisingly, the complainant was dissatisfied with the City's handling of the matter and referred the complaint to the CCC. Following that referral, the City engaged an independent investigator and the complaint was appropriately considered. Much of it was substantiated, including concerns about misconduct by City employees connected with the tender award. Despite this, the City permitted the employees involved to resign by way of a deed of settlement, rather than terminating their employment as appears to have been open on the findings of the independent investigation.

The fourth matter concerned the engagement of a service provider to supply leadership coaching to the CEO and the members of the ELG, and the decision to engage that provider under a sole supplier arrangement, and in the absence of other procurement controls, in circumstances where engagement on that basis was not justified. This case study demonstrates that, even when processes were in place to guide the exercise of decision-making, they were not always followed.

The final matter concerned the refurbishment of the ground floor of Council House. In this case, an unrealistic timeframe for completion appears to have been motivated by reasons other than the proper and orderly planning of a construction project. The effects of this failing were compounded by further failings within the City to properly manage the exercise. Those with responsibility for the project had limited training in matters related to planning, which was highlighted when they failed to obtain planning approval, heritage advice or a building permit for works on the City's own flagship Council building. Also considered in connection with this case study, was the subversive effect that the City's unwritten policy on carry-forward had on the proper and orderly planning of, and expenditure on, capital works projects.

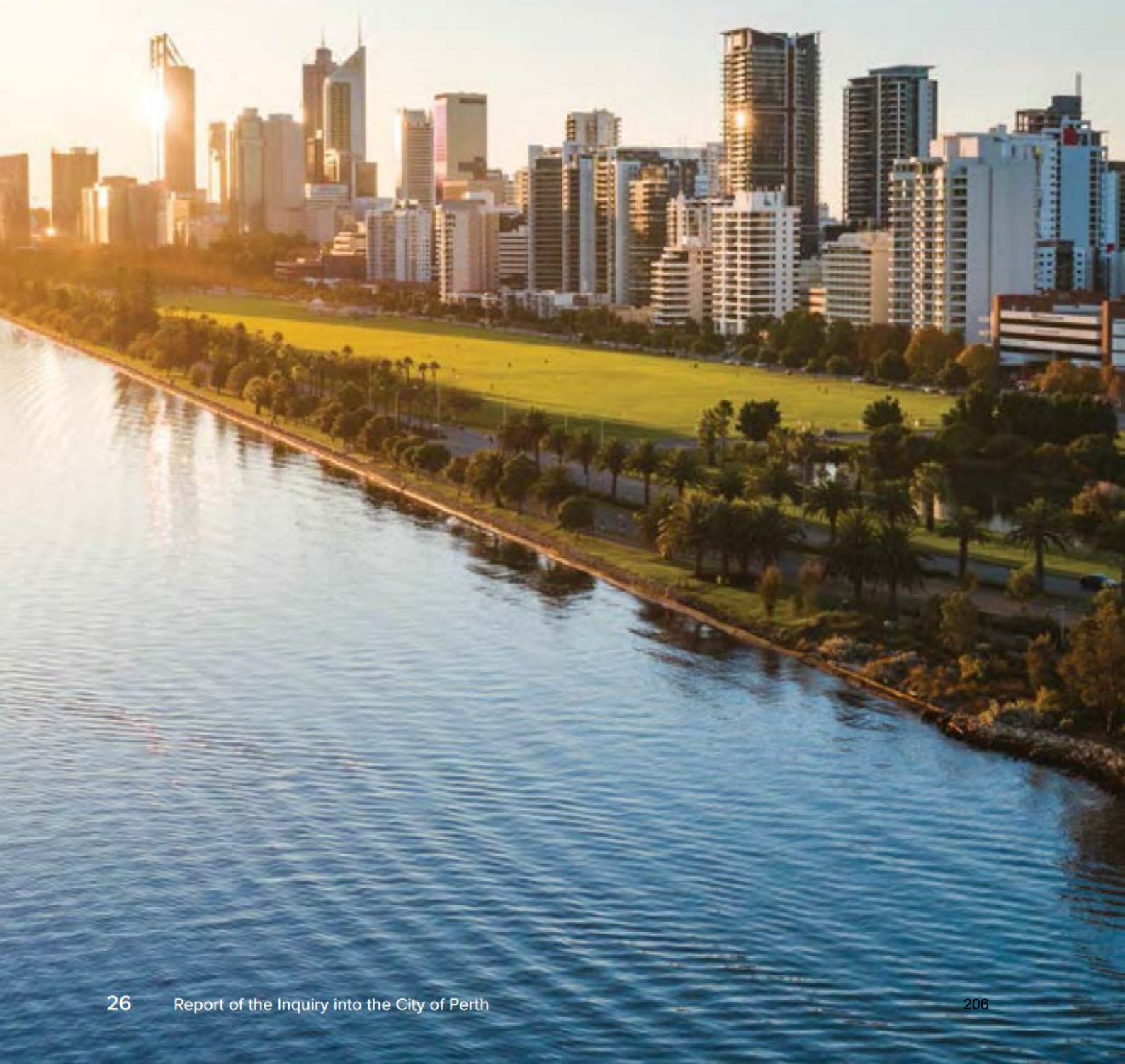
Final days

In broad terms, in this Part, the Inquiry dealt with those matters and events leading to the suspension of the Council, in accordance with Terms of Reference, Part A.1 and A.3(iii). They concern 'Project Percy', and the effect that had on Mr Mileham in February 2018, the steps taken by some council members to appoint an Acting CEO of their choosing, and the apparent response to that by some members of the ELG when they activated the Crisis Management Plan. As described above, this part of the Volume highlights the growing dysfunction, and distrust, within and between the Council and the ELG in the closing days of February 2018.



As an inquiry into what many would regard as the flagship local government in this State, it is not surprising that it has been the largest, most complex and most significant Inquiry of its kind.

Mr Anthony (Tony) Power
Inquiry Panel



**Department of Local Government,
Sport and Cultural Industries**

Perth office

Gordon Stephenson House
140 William Street
Perth WA 6000

Leederville office

246 Vincent Street
Leederville WA 6007

GPO Box 8349
Perth Business Centre WA 6849

Email: info@dlgsc.wa.gov.au

Website: www.dlgsc.wa.gov.au

Alternative formats of this Report
are available on request.



**SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE**

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
6	Any newly appointed CEO of a local government undertake an independent course of education established by the Department (CEO Induction Programme), with an assessment component, on the role, functions and duties and responsibilities of local government CEOs. The CEO Induction Programme should be required regardless of whether the new appointee has been previously employed as a CEO, but with some provision for advanced standing, where appropriate.	✓			The CEO induction program could be developed and delivered by/in conjunction with industry bodies such as WALGA or LG Professionals.
7	The CEO Induction Programme include instruction as to obligations under, including but not limited to, the <ul style="list-style-type: none"> Local Government Act 1995 and regulations; Corruption, Crime and Misconduct Act 2003; State Records Act 2000; Equal Opportunity Act 1984; and Occupational Safety and Health Act 1984. 	✓			
8	A panel of independent training providers be established by the Department to deliver the CEO Induction Programme, including all training and assessment components, and report on the outcomes of compliance with the programme to the council of the local government.	✓			As noted above, the current capacity of the Department to deliver this is in question. It may be appropriate for them to oversee a process delivered by a third party.
20	The Local Government Act 1995 be amended to provide for the Director-General of the Department to prescribe a single mandatory Code of Conduct (Code) for all council members, members of council committees (committee members) and employees of a local government, which will set minimum standards to comprehensively regulate all conduct engaged in by council members, committee members and employees in the discharge of their duties and functions, including, but not limited to, the disclosure of conflicts of interest, financial interests and gifts.			?	Given the difference in requirements of the roles, it may be appropriate to maintain separate Codes for Elected Members and Officers. Whilst there will certainly be a number of principles applicable to both (which could be captured in a single document), there will likely also be some role-specific areas that – in all contained within the same document – will need to be clearly delineated to avoid role confusion.
21	The provisions of the Code be principles-based and incorporate the principles of integrity, diligence, fairness, service, transparency and accountability.	✓			
22	The Code should mandate compliance with the standards that the community expects from public officers, namely, to act in the best interests of the community, with reasonable care and diligence and with honesty, integrity and transparency, having regard to relevant and factually correct information.	✓			

**SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE**

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
23	The Code deal with the matters in Part 5, Division 6 of the Local Government Act 1995 and the Local Government (Rules of Conduct) Regulations 2007, with those provisions to be repealed			?	Whilst the general principles of a code of conduct would be shared between Elected Members and Officers, some aspects of the role will be unique to one group or the other. Depending upon the level of specificity intended in the new Code, it may be appropriate to maintain separate documents for the two groups, perhaps underpinned by a shared set of principles.
24	A local government may, in addition to the Code, regulate other aspects of the conduct of council members, committee members and employees, or impose greater constraints on conduct than those regulated by the Code, but cannot do so in a way which derogates from or is in conflict with the Code's minimum requirements.	✓			
25	The Department arrange for an independent review of the Code, at three-yearly intervals, to determine whether it remains effective and relevant and whether it should be updated and amended.	✓			Supported however LGAs should be able to provide comment on any recommended changes
26	Any breach of the Code be subject to the imposition of a sanction commensurate with the breach.	✓			It will be important to address the process by which breaches are reported, investigated and sanctions determined. Key to this will be the parties/bodies responsible for each of those steps.
28	Local governments be required to provide newly elected council members, elected committee members and employees with training on the Code including an assessment component, as part of the induction process.	✓			Universal training is now a requirement under the existing LG Act, but not mandatory (in any way that can be enforced).
29	All Council members and employees undergo training on the Code when it is introduced and refresher training on the Code, including and assessment component at no less than 12-month intervals.		X		Support the premise, but 12-month intervals are considered too frequent. Biennially, coinciding with the election cycle, would be more suitable.
30	The Department establish the training programmes described in Recommendations 28-29 and publish comprehensive training materials on its website, for use by internal and external facilitators, in delivering the programme to council members and employees.	✓			Again, this is supported, contingent to the Department being adequately resourced to deliver upon this. WALGA and/or LG Professionals WA could deliver this on behalf of the Department if required
31	The Department consider establishing a standardised method for the assessment component of the training programme which is low burden, for both the facilitator and recipients of the training, and to allow the content to be easily updated.	✓			Note comments relating to #30. Both WALGA and LG Professionals WA already have established training arms.
32	The training programmes and materials be reviewed annually by the Department, and where possible, include recent examples and case studies which are relevant to the training content	✓			Any review should incorporate feedback from the sector and elected members/employees who have completed the training

SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
33	The Department to consider the inclusion of reporting against compliance with the code training requirement in a local government's compliance audit return, split by category, namely, council members, committee members, candidates, the CEO, "senior employees" or equivalent and employees.	✓			This is supported, noting that it will constitute an additional compliance burden upon Local Governments. The training and Code must be truly meaningful to justify this, or it simply becomes another box-ticking exercise.
34	Local governments be required to publish in their Annual Report their percentage of compliance for the financial year with the Code training requirement, according to the specified categories (as described in Recommendations 33).	✓			Supported, echoing the comments of #33
38	The Department establish a Mayoral Leadership Coaching Programme for newly elected mayors and presidents, delivered by accredited coaching providers, to support mayors and presidents build their non-technical and leadership skills as part of continuing professional development.	✓			In the past, training for Presidents and Deputy Presidents used to be undertaken by WALGA and formed part of the Local Government Week Training and this could be re-instated to reduce costs
39	An independent accredited executive coach, with formal experience in leadership coaching, be appointed to support and mentor a newly elected mayor or president in their transition into the role and for continuing professional development particularly the development of skills necessary to provide effective community leadership and manage relationships with the local government and the CEO. Coach to be selected by the mayor or president from a panel of suppliers provided by the Department .	✓			<p>Whilst supported, Council recommend this not be mandatory.</p> <p>There are concerns about the cost impost – particularly for smaller, regional and remote local governments.</p> <p>There are also questions about the value for experienced mayors/presidents.</p> <p>It would also be proposed that any coach have at least a basic level of familiarity with the local government sector.</p>
42	The Department establish a CEO Professional Leadership Coaching Programme for CEOs of local governments, delivered by accredited coaching providers, to support CEOs to build their non-technical and leadership skills both in their transition into the role and for continuing professional development	✓			<p>It is noted that LG Professionals WA already operate a long-running Executive Leadership Program which addresses these items; this recommendation could build from that.</p> <p>Again, the Department's capacity to deliver on items like this is currently a concern.</p>

**SHIRE OF MINGENOW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE**

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
43	An independent accredited executive coach, with formal experience in leadership coaching, be appointed, to support and mentor a CEO (including new and current CEOs) in his or her role and continuing professional development, particularly the development of skills necessary to provide effective community leadership and manage relationships within and between the council and the CEO. The coach to be selected by the CEO from a panel of suppliers provided by the Department.	✓			As with #39, suggestion is that it not be mandatory and that cost implications are considered, along with the value experienced CEOs will derive.
47	<p>To the extent these matters are not sufficiently dealt with in the Council Member Essentials training, regulation 35(2) of the Local Government (Administration) Regulations 1996 be amended to require council members to undergo training on:</p> <ul style="list-style-type: none"> • the statutory roles and functions of, and the relationships between, the council, Mayor or President, council members, the CEO and other employees of the local government, including: <ul style="list-style-type: none"> ○ council's role as the governing body of the local government and the administration's role in managing the local government's operations; ○ decision-making processes of local governments, including council and committee meeting procedures; ○ how council, the CEO and the administration can and should work constructively; and ○ how council can and should monitor and manage the CEO's and the local government's performance; • conduct and integrity in decision-making, including declaring and managing conflicts of interests; • financial management and the Integrated Planning and Reporting Framework; and • leadership, including council members' role as elected representatives of the community 		X		<p>The Universal Training for elected members currently considers these items, but is not mandatory.</p> <p>Consider a tiered system that is realistic and affordable.</p> <p>Also propose incorporating it into the accreditation pathway.</p>

**SHIRE OF MINGENOW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE**

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
49	The State Government consider amending section 5.128 of the Local Government Act 1995 and prescribing regulations to require local governments, in preparing and adopting policy on continuing professional development: <ul style="list-style-type: none"> to extend the policy to committee members and senior employees; to consider the individual training and professional development needs of council members, committee members and senior employees; and to require training and professional development courses to be delivered by independent and qualified training providers who are members of a panel of training providers established by DLGSC, with assessment undertaken as part of the course. 	✓			The financial impact on small, regional and remote local governments of such a policy will need to be considered.
50	Committee members, including those who are council members, as part of their continuing professional development, receive training in respect of the specialised skills and knowledge required to competently carry out that committee function.		X		For Council Members this is already provided for. This requirement comes with a price tag and could be otherwise managed by having suitably qualified independent committee members. It also raises the question as to whether this will lead to a situation where there will be a basic level of skill/competency in a given area to be selected for a committee, and whether that is reasonable.
51	The training described in Recommendation 50 be received before the committee member serves on the relevant committee or, if that is not practicable, as soon as practicable after the appointment of the committee.		X		As per recommendation 50
52	Local governments to report all continuing professional development compliance to the Department.			?	Would like clarification as to the degree of reporting required/expected, noting the potential administrative burden this could create (versus the perceived benefit)
53	The Salaries and Allowances Tribunal consider whether the hours undertaken for continuing professional development be provided for under council members' sitting fees or whether a further allowance be granted for this purpose.			?	It is noted that this could require a serious review of the sitting fees for smaller local government elected members
57	Part 2 of the Local Government (Administration) Regulations 1996 be amended to require all council meetings and committee meetings of Council be audio-visually recorded in their entirety, which recordings should be kept in compliance with the State Records Act 2000.	✓			Will have cost impact, particularly on smaller, regional and remote local governments. Should consider support / grants to allow local governments to be technologically equipped to provide this.

**SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE**

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
58	Audio-visual recordings of all parts of meetings of a council or a committee of the council that were open to members of the public be prescribed pursuant to section 5.96A(1)(i) of the Local Government Act 1995 as information which the CEO must publish on a local government's official website	✓			As per #57. Will have cost impact, particularly on smaller, regional and remote local governments. Will cause particular challenges for local governments with limited internet bandwidth.
59	Audio-visual recordings of all parts of meetings of a council or a committee of the council that were open to members of the public be prescribed pursuant to section 5.94(u)(ii) of the Local Government Act 1995 as information which a person attending the office of a local government during business hours may inspect.	✓			Should 58 be adopted, this will require local governments to have a computer/tablet available for this purpose. As per #57.
60	Regulation 11(da) of the Local Government (Administration) Regulations 1996 be amended to require the reasons for all decisions of council or a committee of council be recorded in writing in the minutes of the meeting in sufficient detail to explain why the decision was made.	✓			Supported, on the assumption that the officer-prepared business paper serves this purpose in and of itself when the officer recommendation is passed and that no additional detail is required in these instances.
61	Local governments ensure that their policies make clear that all communications sent or received by any council member relating to any decision of a council or a committee of the council (Decision-Making Correspondence) are records which must be forwarded to the CEO and stored in accordance with the State Records Act 2000 and the State Records Commission's guidance on local government elected members' records.		X		State Records Act 2000 and policies within local government Recordkeeping Plans already provide for this to be addressed
62	The Code require all council members, committee members and employees of a local government, where information technology facilities are provided by the local government, to use those facilities for any matter relating to the business of the local government or the performance of the duties or functions of their office or employment.		X		This removes flexibility for Council to meet individual needs. The local government should set in place appropriate processes, policies and procedures through risk assessment to protect access, privacy and other risks
69	The Code require council members, committee members and employees of a local government to disclose any actual or perceived conflicts of interest (conflict of interest) that arise in the discharge of their duties and functions; and in sufficient detail so as to: <ul style="list-style-type: none"> • identify what the conflicting interest is and the reason why it gives rise to an actual or perceived conflict; and • enable a third-party to assess the nature and extent of the conflict. 	✓			The final bullet point requirement is a little subjective. It would be proposed that the Department prepare a template and guidance material to assist with compliance.

SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
70	Where a council member, committee member or employee has a conflict of interest in relation to a matter before a council or committee meeting, the Code require the council member, committee member or employee to disclose that conflict: <ul style="list-style-type: none"> to the CEO in writing and as soon as practicable prior to that meeting; or if that is not practicable, orally at the commencement of the meeting and then in writing to the CEO as soon as practicable after the conclusion of the meeting. 	✓			
71	The Code prohibit council members, committee members and employees who declare a conflict of interest from discharging any of their duties or functions in relation to that conflict, unless: <ul style="list-style-type: none"> i) in the case of a council member at a council meeting or a committee member at a committee meeting, <ul style="list-style-type: none"> at the meeting the council member or committee member discloses the conflict orally and in sufficient detail; and the council or committee, having regard to the disclosure, the nature and extent of the conflict and the advice of the CEO, resolves by absolute majority vote: <ul style="list-style-type: none"> that it is appropriate to permit that council member or committee member to participate in discussions or decision-making processes at the meeting in relation to that matter; and the extent to which it is appropriate for that council member or committee member to participate in discussions or decision-making processes at the meeting in relation to that matter; and the council member or committee member only participates in discussions or decision-making processes at the meeting to the extent of the council's or the committee's resolution; 	✓			In principle, this seems reasonable. There will need to be clear guidelines/policy in place however to ensure that any decision-making is as objective and consistent as possible. All instances should be clearly recorded (as per 73-74).

**SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE**

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
	<p>ii) in the case of a council member who declares a conflict of interest in relation to any other aspect of their role, for example, in relation to their attendance at a council briefing session:</p> <ul style="list-style-type: none"> the CEO, having regard to the council member's disclosure and the nature and extent of the conflict, decides: <ul style="list-style-type: none"> that it is appropriate to permit that council member to discharge his or her duties and functions in the matter; and the extent to which it is appropriate for that council member to discharge his or her duties and functions in the matter; and the council member or committee member only discharge his or her duties and functions in the matter to the extent decided by the CEO; 		X		<p>This has the potential to place the CEO in an awkward situation if their advice runs counter to the Elected Member's view. The power may be better sitting with the Mayor/President. When the Mayor/President has the conflict, it may be better adjudicated by Council through a process similar to i)</p> <p>Again, with the same caveat as i) regarding the need for clear guidance to ensure fair and consistent decision-making.</p>
	<p>iii) in the case of an employee:</p> <ul style="list-style-type: none"> the employee's line manager, having regard to the employee's disclosure and the nature and extent of the conflict, decides: <ul style="list-style-type: none"> that it is appropriate to permit that employee to discharge his or her duties and functions in the matter; and the extent to which it is appropriate for that employee to discharge his or her duties and functions in the matter; and the employee only discharges his or her duties and functions in the matter to the extent decided by his or her line manager; <ul style="list-style-type: none"> In the case of the CEO, this would be a designated "senior employee". 	✓			<p>Again, the comments relating to item i) apply.</p>

SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
	iv) in the case of an employee at a council or committee meeting: <ul style="list-style-type: none"> the CEO, having regard to the employee's disclosure and the nature and extent of the conflict, decides: <ul style="list-style-type: none"> that it is appropriate to permit that employee to discharge his or her duties and functions in the matter; and the extent to which it is appropriate for that employee to discharge his or her duties and functions in the matter; and the employee only discharges his or her duties and functions in the matter to the extent decided by the CEO. 	✓			Again, the comments relating to item i) apply.
72	Where the council, a committee, the CEO or an employee makes a decision in relation to a disclosure of a conflict of interest, including a decision that it is not appropriate for a council member, committee member or employee to participate in discussions or decision-making processes or to exercise duties and functions, detailed reasons for that decision or determination must be given.	✓			
73	All disclosures of conflicts of interest and any decision or determination in Recommendation 71 on that conflict, including the reasons for that decision or determination, be recorded in full in an Expenditure, Interests and Gifts Register.	✓			
74	Where a disclosure of a conflict of interest is made in relation to a council or committee meeting, the disclosure and any decision or determination in Recommendation 71 on that conflict, including the reasons for that decision or determination, be recorded in full in the minutes of the meeting	✓			
75	The Department is to provide examples of, and the Code is to provide guidance on, what constitutes a conflict of interest, what information and level of detail a disclosure of a conflict of interest should contain and how conflicts of interest are to be managed.	✓			This guidance material will be critical to ensure consistency and clarity.
76	The Code incorporate section 5.69 of the Local Government Act 1995.			?	Presumably it will be expected that all officers and members comply with the provisions of the Act. In the interest of making the Code a concise document, it's suggest that the relevant sections be referenced, but not necessarily reproduced verbatim.

SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
77	Council members, committee members and employees should consult the Expenditure, Interests and Gifts Register as soon as practicable after receipt of an agenda for a council or committee meeting and notify the CEO of any interests which may be required to be declared in relation to any items before the meeting.	✓			Sensible advice, but it would be expected that the vast majority of those with a conflict of interest would be aware of such without needing to consult the Register.
78	The Code incorporate the current obligations in Part 5, Division 6, Subdivision 2 of the Local Government Act 1995 and require council members, the CEO and designated employees to disclose their financial interests in a primary and annual returns.			?	As per 76
79	The Code require council members, the CEO and senior employees to disclose all financial interests in the primary and then each subsequent annual return and not permit information to be excluded because it was recorded in a previous return	✓			Supported, on the condition that it is sufficient for those completing the returns to simply state "as per previous return" if nothing has changed for a particular item of interest
80	The Code require the use of the current forms for primary and annual returns (Form 2 and Form 3, Schedule 1, Local Government (Administration) Regulations 1996) with the following amendments: i) the forms specifically identify the common types of income required to be disclosed, namely, "income from an occupation", "income from a trust", "rent", "share dividends and other income from investments", "bank interest", "commissions" and "sources of other income", with a separate disclosure space for each income type; and ii) the Code and the forms require the person completing the form to provide the name and address of the person or body corporate providing each income source and a description of the relationship between the person completing the form and the person or body corporate providing the income	✓			Supported, with the suggestion that forms undergo broader review to further simplify the disclosure process. It is noted that the onerous nature of completing the documentation can serve as a barrier to compliance.
81	The financial interests disclosed in primary and annual returns be disclosed in an Expenditure, Interests and Gifts Register.	✓			Supported, again noting the administrative work required to collate and maintain such registers. It is suggested that the system of capturing return information be improved to allow for simple copy-paste actions to populate this register.
82	If Recommendations 78-80 are not adopted, the Local Government Act 1995 and associated regulations be amended to give effect to the specific changes proposed in those recommendations.	✓			

SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
83	The Department give consideration to further amending the regulated forms for primary and annual returns to require council members and “designated employees” to disclose the names of close family members and entities that they or their close family member control or jointly control, in compliance with Australian Accounting Standard AASB 124 Related Party Disclosures.		X		ASB124’s definition of “close members of the family of a person” places no geographical limitation on this requirement. A narrower definition should be chosen.
84	The Department provide guidance to local governments in relation to the disclosure requirements of financial interests in primary and annual returns, consistently with Recommendation 79.	✓			That guidance should be clear and easy to follow.
85	The CEO of a local government or his or her nominee is to be involved, in a substantive way, and responsible for maintaining an Expenditure, Interests and Gifts Register (Recommendation 97), maintaining the local government’s conflicts of interest framework (including policies, procedures and training) and identifying potential risks to the integrity of decision-making within the local government.	✓			Reasonable, but consider the administrative work required to do this. In smaller, regional and remote local governments there is less capacity for delegation of this work (and many other duties) by the CEO.
88	The Code require: <ul style="list-style-type: none"> council members, committee members and employees; and any person or entity who: <ul style="list-style-type: none"> requires, or who it is reasonable to believe may require, a decision from the local government; and or has, or who it is reasonable to believe may have, directly or indirectly, commercial dealings or a commercial relationship with the local government to disclose in full any gift that a council member, committee member or employee receives from that person.			?	<p>If no threshold is being included, what constitutes a gift needs to be very clearly defined.</p> <p>Is a potential supplier giving away a pen at a conference a gift? Is taking a free coffee from a sponsored coffee cart a gift?</p> <p>The desire to remove the financial threshold is understood, but will require clear guidance to prevent it becoming unreasonably burdensome from an administrative perspective</p>
89	Alternatively, if Recommendation 88 is not adopted: <ul style="list-style-type: none"> i) the State Government consider lowering the prescribed minimum value for gifts that must be declared pursuant to regulation 20A(1) of the Local Government (Administration) Regulations 1996 from \$300.00 to \$0.00; 			?	As above.
	<ul style="list-style-type: none"> ii) local governments adopt policies requiring any person declaring a gift to take reasonable steps to ascertain the actual value of the gift and to attach evidence of the value of the gift to the declaration; and 	✓			

**SHIRE OF MINGENOW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE**

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
	iii) the declaration form be prescribed by the Local Government (Administration) Regulations 1996; and	✓			
	iv) all gift declarations be recorded on the Expenditure, Interests and Gifts Register.	✓			Again, noting the potential administrative implications of reducing the threshold to zero.
90	Specific information from the Expenditure, Interests and Gifts Register be published on the local government's website, comprising: <ul style="list-style-type: none"> conflicts of interest, or impartiality, financial and proximity interests, if Recommendation 69 is not adopted, declared by council members, committee members, the CEO and senior employees; interests disclosed in primary and annual returns by council members, the CEO and senior employees; and any failures by council members, committee members, the CEO and senior employees to declare gifts or interests, together with the explanation given by that person for the failure. 			?	Given the administrative implications of this, it would be simpler to make the Register itself available.
91	The Expenditure, Interests and Gifts Register be independently audited by an independent auditor once each financial year, with the results of the audit published on the local government's website as soon as they become available.		X		Rather than creating a new audit process, surely this could instead be incorporated into one of the existing independent audit processes.
92	That section 5.62(1B)(a) of the Local Government Act 1995 be repealed.			?	Again, the administrative effort required to comply, versus the actual outcomes of that compliance, need to be considered. If Council's policy (as per 5.90) is reasonably drafted and adhered to, is there significant risk in 5.62(1B)(a)(ii)?
93	Section 5.98 of the Local Government Act 1995 and Part 8 of the Local Government (Administration) Regulations 1996 be amended to enable the Salaries and Allowances Tribunal to set categories of, and caps on, permissible council member allowances or entitlements.	✓			Supported, provided there is a degree of flexibility which considers the varied environments elected members find themselves in across the WA sector.
104	The Local Government (Administration) Regulations 1996 be amended to provide for the contract of employment for a CEO to be based on a model contracts to be developed by the Department.		X		Model contracts are already in place developed by WALGA and LG Professionals. If the goal is standardisation, there is no need to reinvent the wheel here.
105	The Department establish standardised professional leadership competencies for local government CEOs in each classification band.	✓			

**SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE**

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
106	The Department adopt guidelines for the use of those standardised professional leadership competencies of a CEO (Recommendation 105) in respect of: <ul style="list-style-type: none"> the CEO's initial recruitment; and His or her ongoing performance and the review of that performance (including termination of employment) 	✓			
107	The CEO model standards prescribed pursuant to section 5.39A of the Local Government Act 1995 require local governments to develop and use criteria for the selection and employment of a CEO and the review of a CEO's performance that, at a minimum, include the professional leadership competencies articulated by the Department pursuant to Recommendation 105.	✓			Supported, noting that some smaller, region and remote local governments may require assistance to effectively manage this process (and such assistance generally has a cost attached).
108	Section 5.39B of the Local Government Act 1995 be amended to require local governments to comply with the requirements of the CEO model standards.	✓			Again, maintaining awareness of the cost of compliance
109	The up-to-date version of the professional leadership competencies and the most recent CEO selection criteria used by the local government, as adopted by the local government, be publicly available on the local government's website.		X		If it is a Departmental set of competencies, it does not seem appropriate for it to be put and maintained on each individual Local Government's website.
110	The Department consider requiring local governments to publish in their annual reports the details related to the employment of a CEO, including the total value of the annual remuneration, the term of the contract and the documented reasons for the decision on the salary to be paid		X		Not supported, the remuneration established between the employer and employee is those entities concern and no others. In smaller, regional and remote local governments in particular, the publicization of this information can create both professional and social challenges for the CEO.
111	The Department establish a panel of professionals with demonstrated expertise in the recruitment and selection and management of performance of executive employees, to assist local governments to recruit, establish key performance indicators for and manage the performance of the CEO.	✓			Supported, again noting the cost impost it may create, and the comments regarding Council representation at 116.

SHIRE OF MINGENEE
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
116	<p>The CEO model standards require the recruitment and selection process for a local government CEO be undertaken by a panel (CEO Recruitment Panel) which shall make a recommendation to the council of a local government on the candidate to be appointed as CEO. The CEO Recruitment Panel is to comprise of:</p> <ul style="list-style-type: none"> • A member of the council, appointed to the panel by the council; • An independent third party, with demonstrated expertise in local government; and <p>a member of the panel described in Recommendation 111, appointed by the Department, with experience in the recruitment and selection and managing the performance of executive employees, who shall provide guidance and advice to the CEO Recruitment Panel.</p>		X		<p>Council does not support mandatory requirement to establish a CEO Recruitment Panel as per recommendation. Adds mandatory cost in potentially attracting an appropriate independent member and limiting Panel to one Council member reduces Council's involvement (which is a key function for Council to perform)</p> <p>If imposed, suggest there be at least one, but option to have more (up to three perhaps) Council members on the committee.</p>
117	<p>The CEO model standards prescribe that the council of a local government:</p> <ul style="list-style-type: none"> • must not employ a CEO in the absence of a recommendation from a CEO Recruitment Panel; • must allow the members of the CEO Recruitment Panel to be present during discussions of the Panel's recommendation; • may accept the CEO Recruitment Panel's recommendation; • may reject the CEO Recruitment Panel's recommendation and appoint another person as CEO, but must provide detailed reasons for doing so; and <p>may require further information before deciding whether to accept or reject the CEO Recruitment Panel's recommendation.</p>		X		As per #116
118	The appointee of the Department to a CEO Recruitment Panel prepare the report to council on the recruitment and selection process for a local government CEO, including the decision of council to accept or reject the Panel's recommendation and the reasons given by the Council for that decision.		X		As per #116. This could just as easily be carried out by the independent third party, or any other suitably skilled or qualified member of the committee.
119	The appointee of the Department to raise any probity concerns, with the Department, including potential breaches of the legislation.		X		<p>Probity concerns can be raised by independent member.</p> <p>Concern that the Department is not appropriately resourced to address these issues.</p>
120	The Department monitor trends in CEO recruitments and selections and provide advice to local governments on areas for improvement.	✓			Suggest that any advice of that nature also be communicated to industry bodies as well
121	The Department consider developing a sector-wide standard format for the CEO Performance and Development Agreements and Assessments	✓			Supported, provided that the model is flexible enough to deal with diversity in the role between local governments

**SHIRE OF MINGENEE
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE**

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
122	<p>The CEO model standards require the review of the performance of a local government CEO be facilitated by a panel (CEO Performance Advisory Panel), which shall make a recommendation and provide a report to the council of a local government on the outcome of that review. The CEO Performance Advisory Panel is to comprise:</p> <ul style="list-style-type: none"> • a member of the council, appointed to the committee by the council; • an independent third party with demonstrated expertise in local government, and/or the recruitment and selection and managing the performance of executive staff, appointed by the council; and <p>one of whom is a member of the panel described in Recommendation 111 nominated by the Department, who shall be experienced in the recruitment and selection and managing the performance of executive employees and provide guidance and advice to the CEO Performance Advisory Panel.</p>		X		As with #116, Council does not support mandatory Panel establishment as recommended.
123	<p>The CEO model standards to prescribe the council of a local government:</p> <ul style="list-style-type: none"> • review a CEO's performance guided by a recommendation from a CEO Performance Advisory Panel; • must allow the members of the CEO Performance Advisory Panel to be present during council's discussions of the Panel's recommendation; • may accept the CEO Performance Advisory Panel's recommendation with or without modifications, but if the Panel's recommendation is modified must provide detailed reasons for doing so; • may reject the CEO Performance Advisory Panel's recommendation and adopt an alternative outcome for the review, but must provide detailed reasons for doing so; and <p>may require further information before deciding whether to accept or reject the CEO Performance Advisory Panel's recommendations.</p>		X		As per #166 and 122
124	<p>The appointee of the Department to a CEO Performance Advisory Panel prepare the report to council on the local government CEO's performance review assessment and outcome, including the decisions of council, the reasons for them and the process undertaken.</p>		X		As per 118

**SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE**

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
125	The council is to afford to the CEO procedural fairness by providing: <ul style="list-style-type: none"> The CEO Performance Advisory Panel's report to the CEO prior to the council meeting at which council will decide the outcome of the review; and Sufficient time for the CEO to respond to any adverse statements in the report.		X		Replace 'CEO Performance Advisory Panel' with reference to any Council-appointed independent consultant
126	The report to council is to include the report of the CEO Performance Advisory Panel and any response provided by the CEO, as described in recommendation 125.	✓			
127	Immediately following the council meeting where the report described in Recommendation 126 is considered, the CEO be provided with written advice from the council on the decision and any reasons for that decision and any areas for improvement.	✓			"Immediately" can sometimes be a challenging deadline to meet.
128	All records related to Recommendations 124-127 are to be recorded in accordance with the requirements of the State Records Act 2000.	✓			
129	The appointee of the Department to raise any probity concerns with the Department, including potential breaches of the legislation.		X		As per #119
130	The Department monitor trends in CEO recruitments and provide advice to local governments on areas for improvement.				Suggest any such advice be made to the sector as a whole (WALGA & LG Professionals, as well as local governments)

SHIRE OF MINGENEE
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
133	<p>The CEO model standards require that before a local government terminates a CEO's employment, the Council of the local government must record in writing, and provide to the CEO, the reasons for the termination, including:</p> <ul style="list-style-type: none"> • The date on which the decision is made; • If the termination was by consent, the reasons given by the council and the CEO for consenting to the termination; • If the termination was for serious misconduct or other conduct justifying summary dismissal, the precise conduct said to give rise to the termination; and • If the termination was for poor performance or non-performance of the CEO's duties or functions: <ul style="list-style-type: none"> ○ the precise way in which the CEO's performance was poor, expressed by reference to the criteria for performance described in recommendation 107; ○ the impact that performance had on the good government of the local government; ○ the steps which were taken by the council to remedy the poor performance; and <p>any comment or response provided by the CEO in respect of his or her performance, which comment or response the Council must seek.</p>	✓			
134	<p>The written statement of reasons described in Recommendation 133:</p> <ul style="list-style-type: none"> • where it concerns termination of the CEO's employment other than with the CEO's consent, be prepared with the professional assistance of an independent third party described in Recommendation 111; and <p>be kept as a record of the local government in accordance with the State Records Act 2000.</p>	✓			
135	<p>The Local Government (Administration) Regulations 1996 be amended to provide that no decision to terminate the employment of a CEO may be made within three months after a local government election, except in the case of serious misconduct or mutual agreement.</p>	✓			
136	<p>The State Government consider amending section 7A of the Salaries and Allowances Act 1975 to replace the words "paid or provided" with the words "offered, paid or provided".</p>	✓			

SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
137	The State Government consider amending regulation 18F of the Local Government (Administration) Regulations 1996 to replace the word "paid" with the words "paid or offered".	✓			
140	Section 4.31(1G) of the Local Government Act 1995 be amended so that a body corporate owning or occupying rateable property can only nominate officers of the body corporate to vote on its behalf.	✓			
141	The Local Government (Elections) Regulations 1997 be amended so that ballot papers can only be sent to the elector's address as shown on the State electoral roll and or the Commonwealth electoral roll	✓			
142	Section 4.32(3) of the Local Government Act 1995 and the Local Government (Elections) Regulations 1997 be amended to prescribe that an occupier must either: i) pay a minimum amount of rent; or ii) have the right to occupy a minimum amount of floor space, in relation to a property, in order to be eligible to be enrolled on the owners and occupiers roll by reason of the occupation of that property	✓			
143	Section 4.31(1C) of the Local Government Act 1995 be amended to add, as an additional criterion of eligibility to enrol to vote as a non-resident occupier, that the person uses and intends to continue to use the relevant rateable property for a genuine purpose.	✓			Support the principle, but note that there is a degree of subjectivity involved
144	If Recommendations 142-143 are not adopted, the State Government consider whether to amend the Local Government Act 1995, so non-resident occupiers of property are not eligible to vote or nominate as candidates in elections			?	Is it appropriate that non-resident occupiers are denied the right to nominate or vote? As a rural local government where this issue doesn't exist it's unclear to what degree this presents a threat to democracy
145	Before each biennial local government election cycle, the Department audit the eligibility of candidates and electors across local governments.		X		Will this represent an additional cost to the local government? Is it not something the CEO or administration could carry out? Again, a tiered approach may be appropriate.
146	The Western Australian Electoral Commission (WAEC) consider and review the adequacy of its practices and procedures regarding to the handling and investigation of electoral complaints.	✓			Noting that, currently at least, the WAEC does not conduct all local government elections
147	Section 4.98 of the Local Government Act 1995 be repealed and section 94 of the Criminal Code be amended so that Chapter XIV of the Criminal Code applies to local government elections.	✓			

**SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE**

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
162	Section 5.37(2) of the Local Government Act 1995 be repealed	✓			As noted in the inquiry report, this removes potential confusion regarding Council's role in administration
163	The State Records Office give consideration to whether the requirement to retain recruitment records of "other staff" for 12 months is sufficient or whether recruitment records should be retained for a greater time of period to enable better scrutiny of the process.	✓			Councils will act in accordance with the SRO's decisions, but would hope to be consulted in the process.
188	The State Government consider amendments to the Local Government Act 1995 to provide for better practice financial management through the establishment of Local Government Financial Management Instructions (similar to the Treasurer's Instructions for State Government) that establish a minimum set of standards and requirements for the financial administration of local government (Financial Management Instructions).	✓			It is noted that Local Government has been calling for reviews and updates to a range of elements, particularly ratios, for some time.
189	The "WA Accounting Manual" be reviewed, updated and promulgated by the Department within the next 12 months.	✓			
190	The Minister for Local Government consider prescribing the format of the annual budget and financial report to provide consistency across local government.	✓			Supported with the expectation that the format be developed in consultation with the sector, including the major financial software providers to the sector to ensure the finished product is fit for purpose and can be readily implemented on existing software platforms
191	The Department consider issuing a better practice guide for business plans for major trading undertakings required under regulation 10 of the Local Government (Functions and General) Regulations 1996.	✓			
192	The Department increase its regulatory role in the oversight of compliance audit returns and the issuing of directions to local governments who have not established business plans for major trading undertakings required under regulation 10 of the Local Government (Functions and General) Regulations 1996.	✓			
193	The Department consider an amendment to the annual compliance return for the declaration of the date of the last review of the appropriateness and effectiveness of the City's financial management systems and procedures, as required by regulation 5(2)(c) of the Local Government (Financial Management) Regulations 1996.		X		This could simply be checked by auditors during annual audit processes to ensure compliance.

**SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE**

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
194	Regulation 13 of the Local Government (Audit) Regulations 1996 be amended to require a local government to report on whether the CEO has complied with regulation 5(2)(c) of the Local Government (Financial Management) Regulations 1996.		X		As above
195	The Department publish better practice examples of plans required under the integrated planning and reporting framework.	✓			Ensuring consideration is given to the diversity of Local Governments across WA
196	The Department develop a guide on better practice cost allocation models for the allocation of internal costs within financial budgeting, planning and reporting.	✓			
197	The Department consider developing sector professional capabilities for local government finance employees	✓			Such capability frameworks may also be of value in other areas of Local Government (e.g. planning, community engagement, ICT, works and services etc.)
244	The Department review, update and promulgate its publication "Risk Management Resources", including the "Model Risk Management Policy", having regard to current industry standards and best practice.	✓			Support, with suggestion that the Department consult with the sector, including LGIS, who provide risk management services to most local governments
292	Local governments be required to develop a complaints resolution procedure based on the Australian/New Zealand Guidelines for complaint managements in organisations AS/NZS 10002:2014.		X		This is not going to be realistic for all smaller, regional and remote local governments. It would be helpful if a template procedure could be developed by the Department to provide a starting point.
293	The Department establish better practice guidelines for councils and CEOs on complaint handling in local government.	✓			
294	All council members and employees of local governments be trained and assessed on the complaints handling process, as part of any training on the Code, by an industry-accredited provider on the commencement of the policy.		X		Whilst training on complaints handling is supported, the cost and difficulty of finding an industry-accredited provider who can deliver this for small, regional and remote local governments has not been considered in this recommendation. There should be consideration given to either the use of template departmental training, or the ability to deliver this training in-house (e.g. as part of employee induction).
323	An office of Inspector of Local Government (Inspector) be established as an independent statutory office, responsible to the Minister for Local Government	✓			Supported, noting concerns around whether the cost of an investigation will be borne by the local government

**SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE**

325	<p>The inspector be conferred with powers to:</p> <ul style="list-style-type: none"> i) issue Standards establishing minimum standards that local governments must comply with, for example, in relation to procurement and contracting, governance, human resources and strategic planning; ii) require, by notice in writing, a person to produce any record or thing relating to the Inspector's investigations, audits or examinations; iii) require, by notice in writing, a local government, council member or employee to produce a written statement of information relating to the Inspector's investigations, audits or examinations; iv) require a person to attend and be examined on oath or affirmation; v) conduct examinations in public or private, as the Inspector thinks fit, having regard to the public interest and the matter before the Inspector; vi) prohibit any person examined in private from disclosing the requirement to attend for the examination or the content of that examination to any other person without the Inspector's express prior written authorisation; vii) to issue improvement notices on local governments, requiring local governments to remedy any failures to comply with the Local Government Act 1995 or other statutory instruments or any matter which, in the reasonable opinion of the Commissioner, amounts to a failure to provide good government or good governance; viii) require parties to a complaint, an allegation of breach, or referred matter, to attend a mediation of the complaint, breach or matter, or to undertake another form of alternative dispute resolution that, in the opinion of the Inspector, is best suited to the matter before him or her; ix) refer suspected contraventions of the law to an appropriate external agency, such as the Corruption and Crime Commission or the Western Australia Police Force; x) delegate any of his or her functions to officers holding prescribed offices within the office of the Inspector; and 	✓			<p>It is noted that, at times, information sharing between the CCC and Department is imperfect when it comes to the carrying out of investigations. It would be prudent to seek to address this as part of the establishment of the inspectorate.</p>
-----	---	---	--	--	---

**SHIRE OF MINGENEW
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE**

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
	do all things that are necessary for or incidental to the discharge of the Inspector's duties and functions.				
326	The Inspector be a legal practitioner of at least 10 years' experience, with sufficient skills and experience in local government to properly discharge the roles and duties associated with the office.	✓			
327	The office of the Inspector be appropriately resourced and staffed with personnel having the necessary skills and experience to support the Inspector to carry out his or her statutory duties and functions, including investigative, regulatory and legal expertise.	✓			
328	The office of the Inspector be independently audited at no less than three-year intervals to assess whether he or she is meeting his or her objectives and properly discharging his or her duties and functions.	✓			Support; assuming the Office of the Auditor General will assume responsibility for this audit and suggest relevant outcomes of the audit be public.
329	The Inspector report to the Minister for Local Government annually, and otherwise on request by the Minister, on the performance of the Inspector's functions or the discharge of his or her duties.	✓			
330	Consequential amendments be made to Part 8 of the Local Government Act 1995 to give effect to Recommendations 323-329.	✓			
331	If Recommendations 323-329 are not adopted: <ul style="list-style-type: none"> the proposed functions of the Inspector be conferred on the Department; and/or the State Government consider alternative models used in other States and Territories in Australia for regulating the local government sector	✓			Supported, again noting the importance of recommendation 327 regardless of how the office of the inspector is constituted
332	The Local Government Act 1995 be amended to: <ul style="list-style-type: none"> abolish the Local Government Standards Panel; and give the State Administrative Tribunal jurisdiction to deal with alleged failures by council members to comply with their obligations under the Code.	✓			
333	On a finding that a council member has failed to comply with his or her obligations under the Code, the State Administrative Tribunal have the power to make an order that the council member be publicly censured, be made to apologise publicly, undertake training, be suspended for a period of not more than six months, be disqualified for a period of not more than five years and/or be made to pay a fine.	✓			

**SHIRE OF MINGENEE
INQUIRY INTO THE CITY OF PERTH RECOMMENDATION RESPONSE**

#	RECOMMENDATION	SUPPORT	OPPOSE	UNSURE	COMMENTS
334	The Magistrates Court be given jurisdiction to deal with serious failures of council members and employees of local governments to comply with designated obligations under the Code, including, for example, serious failures to disclose conflicts of interest or financial interests	✓			
335	On a finding that there has been a serious failure by a council member or employee of a local government to comply with a designated obligation under the Code, the Magistrates Court have the power to order a term of imprisonment or that the council member or employee be made to pay a fine	✓			
336	In the event that Recommendations 323-324 are not adopted, the State Government consider appointing a suitably qualified person or panel of persons to prepare and publish a 'bench book' for inquiries conducted by Inquiry Panels under Part 8, Division 2 of the Local Government Act 1995 to provide guidance to inquiries of that type and to provide model documentation including, for example, model practice directions, model notices to produce documents, and the like.	✓			
337	The Royal Commissions Act 1968 be amended to: <ul style="list-style-type: none"> clarify the Royal Commission's power to make orders of non-disclosure; and enable a Royal Commission, when issuing a summons or a notice to produce, to prohibit the recipient from disclosing the summons or the notice to any other person.	✓			
338	The Royal Commissions Act 1968 be amended to give a Royal Commission the power to examine documents over which legal professional privilege is claimed for the purposes of verifying the claim of privilege.	✓			

Our Ref: ADM0349

XXXX XXXX November 2020

Hon Alannah MacTiernan MLC
Minister for Regional Development; Agriculture and Food; Ports;
Minister Assisting the Minister for State Development, Jobs and Trade
11th Floor, Dumas House
2 Havelock Street
WEST PERTH WA 6005

Dear Minister

Re: Shire of Mingenew State Election Priorities

With the 2021 State Government Election approaching, I am writing to you on behalf of Shire of Mingenew to identify a number of our key priorities for the coming year and express our desire for you to consider them as part of your election platform – and beyond.

These projects and initiatives have been developed out of the extensive community consultation that led to the Shire's Strategic Community Plan 2019-2029 and subsidiary Corporate Business Plan 2019-2023.

They have been further endorsed by Council at its Ordinary Meeting on XX XXXX 2020.

I would be happy to discuss further and provide additional details to help you to form your position. Please feel free to contact me on (08) 9928 1102 or email ceo@mingenew.wa.gov.au if you would like to discuss this matter further.

Yours sincerely

Nils Hay
Chief Executive Officer

KEY STRATEGIC ISSUES:

Issue	Details	Outcomes Sought
Declining Population	As with many small, rural communities, our population continues to decline. Whilst the Shire has a multifaceted approach to somewhat addressing this issue, this matter is heavily impacted on by the support (or lack of) and initiatives of State Government. Feedback is sought on any specific policy positions and/or strategies that are proposed to address this issue.	<ul style="list-style-type: none"> • Feedback from political parties on proposed policy positions / strategies that address population decline
Housing and Land	<p>The Shire is actively seeking to stimulate housing growth and development, particularly in the Mingenew townsite. There is currently a very limited rental market in Mingenew and – whilst there is low demand for social housing – there is demand for housing in general.</p> <p>In particular there is currently a vacant (in need of repair) Department of Education house, and demand from the Mingenew Primary School for housing. We have raised the need for this property to be repaired over the last year with no action to date.</p> <p>We are also in the process of planning for some future rural residential development on crown land (L11976) north of the Mingenew Townsite; the Shire will be seeking State Assistance in terms of provision of the land.</p>	<ul style="list-style-type: none"> • Repair of the vacant Department of Education-allocated house at 9 Fogarty Street • Transfer of L11976 to the Shire to allow for future rural residential land development
Heavy Vehicle Traffic via Mingenew townsite	<p>There are currently limitations moving some heavy vehicle traffic (RAV5 and larger) across the rail line bisecting Mingenew due to stacking distance issues at the western (Mingenew-Morawa Rd) crossing and the propensity for the eastern (Boolinda Rd) crossing to be blocked by trains servicing the CBH facility.</p> <p>Mingenew-Morawa Road crossing can only accept vehicles up to RAV4 in size. Due to its current design, longer vehicles do not have sufficient stacking distance to be able to safely turn. Addressing this will require a redesign of the whole intersection with Midlands Road (both roads being Main Roads). As a result of the Mingenew-Morawa Road limitations, Boolinda Rd is the only means for the increasing number of RAV5+ vehicles to traverse the rail line and access CBH from the north. Due to its proximity to the CBH facility, Boolinda Rd can be blocked relatively easily for half an hour as a time by regular train movements, and longer periods when loading</p> <p>The Shire has engaged with CBH who are in the process of redesigning their site to accommodate future growth, and have raised the issue with the regional office of Main Roads WA who have committed some resources to assist. In the medium-term this will become a significant infrastructure project requiring external funding assistance to address.</p>	<ul style="list-style-type: none"> • Ongoing project design support from Main Roads WA • Future funding assistance to implement agreed-upon solution
Space Industry Profile and Development Support	The Shire of Mingenew is seeking to bolster its existing (40-year-old) Space sector. By virtue of a unique radio quiet zone, geological stability and easily serviceable location, we are perfectly positioned to offer a range of ground control and satellite tracking services. The Shire is working with the Mid West Development Commission to develop a business case	<ul style="list-style-type: none"> • State Government support and advocacy to Federal Government (Australian Space Agency) for sector

Issue	Details	Outcomes Sought
	<p>(see below) for further infrastructure development but is generally seeking support from relevant State Departments to promote and grow this segment of our economy.</p> <p>We believe Mingenew's existing capacity can be leveraged to make the Mid West a leading region, nationally, for satellite tracking and ground control operations and would like additional support to attract new proponents and help our existing operators thrive.</p>	<ul style="list-style-type: none"> • Greater consideration for future space industry developments in WA
Support for Regional State Employment	<p>As part of its wider efforts to increase the local population, the Shire of Mingenew is seeking private and public sector employers to consider utilising Mingenew as the base of their operations in the Mid West on either a permanent or casual basis. Given its strategic and connected location in the central Mid West, we believe we represent an attractive location for investment – particularly in the Agricultural and Space sectors.</p> <p>While the "Work and Wander out Yonder" initiative has provided much needed to support in addressing labour shortages in WA during the COVID-19 pandemic, there are still shortages within the hospitality and agricultural industry that could be addressed through support of the childcare sector and extending the Workers Regional travel and accommodation support scheme</p>	<ul style="list-style-type: none"> • Consideration of Mingenew for future relevant State agency roles in relevant industries. • Consideration for amendments to the Work and Wander Out Yonder Campaign to further address shortages in the hospitality and agricultural sectors
Volunteerism	<p>In regional WA, many core and support services are provided by volunteer-based boards and committees. However, lack of governance support, training and the increased administrative requirements on these organisations are contributing, along with COVID-19, to volunteer burnout.</p> <p>It is proposed that funding support for regionally-based organisations to initiate and/or participate in suitable training related to governance and strategic/business planning programs and funding for regional communities to better engage with vulnerable and isolated community members would increase volunteer numbers and community well-being.</p>	<ul style="list-style-type: none"> • Funding support for volunteer-based community organisations to improve skills and better engage with at-risk community members
Digital Farms	<p>The Digital Farms initiative has been effective in providing an increasing number of farm businesses with access to better quality broadband services. However, for the majority, adoption has been limited to the farm office, sheds and homesteads. There is little consistent and reliable extension of information and level of investment required to extend this broadband access into the paddock and at a whole farm scale (where technology potential can truly be embraced).</p> <p>It is suggested that further funding be provided to regionally based grower group organisations to develop and extend practical information to farm businesses about digital infrastructure (e.g. Wi-Fi mesh) and their service requirements and</p>	<ul style="list-style-type: none"> • Extension to Digital Farms initiative to support development and installation of technology on-farm which have been enabled by the new fixed wireless infrastructure

Issue	Details	Outcomes Sought
	return on investment to encourage farm-scale adoption. Subsidies for farm businesses may also assist with infrastructure costs of adopting Wi-fi-mesh or other farm-scale adoption infrastructure.	
Health Services	Like many regional communities, the Shire of Mingenew has difficulty in attracting and retaining doctor services on a permanent basis and at the desired service level. Incentives and support for small regional communities to attract visiting GP and specialist services and paid paramedics (and incentives for paramedics to be based regionally) is strongly needed. The consideration of paid ambulance transfer staff, servicing small regional communities, would also provide much needed incentives and support to ambulance services that are experiencing burnout and/or reduced volunteer numbers due to burden.	<ul style="list-style-type: none"> • Greater support for regional health services
Cultural, arts and sport/recreation for young people	<p>Incentives and funding for not-for-profit (NFP) arts, cultural and sporting organisation to provide interaction, engagement and experiences for children and young people in their own regional communities. Initiatives could include:</p> <ul style="list-style-type: none"> • Funding for NFP professional arts, cultural and sporting organisations to tour to small regional communities and undertake one-off or Residency-based programs that have strong community outcomes. • Funding for NFP professional arts, cultural and sporting organisations to create content/ experiences that are relevant and engage children and young people from small regional communities. • Funding for schools in small regional communities to engage arts, cultural and sporting specialists and incursions. 	<ul style="list-style-type: none"> • Greater funding support for Not-for-profit organisations that support culture, arts and sport and recreation

KEY REGIONAL STRATEGIC PROJECTS:

Project	Description	Value	Source	Outcome Sought
Mingenew Space Precinct Business Case	<p>Mingenew has a thriving space sector, thanks to a nationally unique and internationally significant radio quiet zone. The Space sector represents a significant opportunity for Mingেনew and the Mid West to diversify its economy, however existing proponents are currently unable to expand, and actively turning down business, due to limited telecommunications capacity.</p> <p>A Leverage Fund application has been submitted to fund business case development for the upgrade of telecommunications, power and road infrastructure to allow further growth of Space Industry in and around the WA Space Centre at Yarragadee.</p>	~\$130,000 for business case	State Leverage Fund application pending for business case	Mingenew Space Precinct Business Case Funded to allow for future infrastructure development
Secondary Grain Freight Route Project	<p>This extensive road upgrade program in WA's Mid West will support our critical grain freight network. The scope of works has been developed and lead by Mid West Regional Roads Group in conjunction with the Mid West office of Main Roads WA.</p> <p>It is designed to complement and build upon the previously announced Wheatbelt Secondary Freight Network project.</p>	\$80m	Federal Government, Main Roads WA, Local Governments	Major infrastructure funding sought to support this initiative from Federal and State governments
Regional Fibre Project – Three Springs to Tenindewa	To be investigated by the Space Precinct Business Case outlined above, this proposed fibre line would use existing Western Power dark fibre from Three Springs to provide a redundant link to the Square Kilometre Array project in the Murchison, and run via the Mingেনew Space Precinct – providing much-needed connectivity for it to grow and flourish	Business Case required. Estimated \$3-5m	TBD.	Infrastructure funding. Federal Regional Connectivity Program would be ideally suited, but timing unlikely to work.
Smart Enabled Street Light Retrofit Program	<p>This Western Power-led project seeks to replace existing streetlights in a number of Mid West towns, including Mingেনew, with LED lights. The new lights would be cheaper to operate and more environmentally friendly.</p> <p>Western Power would remain asset owner, but there would be savings to local governments in the form of their power bills.</p>	\$90,000+ (Mingenew only); total project cost TBC	TBD – Western Power are currently working on business case	Infrastructure or Energy Efficiency funding to assist with delivery.

State Council Agenda

2 December 2020

NOTICE OF MEETING

Meeting of the Western Australian Local Government Association State Council to be held at WALGA, on Wednesday 2 December commencing at 4pm.

1. ATTENDANCE, APOLOGIES & ANNOUNCEMENTS

1.1 Attendance

Members	President of WALGA - Chair Deputy President of WALGA, Northern Country Zone Avon-Midland Country Zone Central Country Zone Central Metropolitan Zone East Metropolitan Zone East Metropolitan Zone Goldfields Esperance Country Zone Gascoyne Country Zone Great Eastern Country Zone Great Southern Country Zone Kimberley Country Zone Murchison Country Zone North Metropolitan Zone North Metropolitan Zone North Metropolitan Zone Peel Country Zone Pilbara Country Zone South East Metropolitan Zone South East Metropolitan Zone South Metropolitan Zone South Metropolitan Zone South Metropolitan Zone South West Country Zone	Mayor Tracey Roberts JP President Cr Karen Chappel JP President Cr Ken Seymour President Cr Phillip Blight Cr Paul Kelly Cr Catherine Ehrhardt Cr Cate McCullough President Cr Malcolm Cullen President Cr Cheryl Cowell President Cr Stephen Strange Cr Ronnie Fleay Cr Chris Mitchell JP Cr Les Price Cr Frank Cvitan JP Mayor Mark Irwin Cr Russ Fishwick JP President Cr Michelle Rich Mayor Peter Long Cr Julie Brown Mayor Ruth Butterfield Cr Doug Thompson Mayor Carol Adams OAM Mayor Logan Howlett JP President Cr Tony Dean
Ex Officio	Lord Mayor – City of Perth Local Government Professionals WA	Lord Mayor Basil Zempilas Mr Jamie Parry
Guests		
Secretariat	Chief Executive Officer EM Commercial and Communications EM Governance & Organisational Services EM Infrastructure Manager Strategy & Association Governance Intergovernmental Relations and Risk Chief Financial Officer Manager Governance Executive Officer Governance	Mr Nick Sloan Mr Zac Donovan Mr Tony Brown Mr Ian Duncan Mr Tim Lane Ms Joanne Burges Mr Rick Murray Mr James McGovern Ms Margaret Degebrodt

1.2 Apologies

Central Metropolitan Zone	Cr Jenna Ledgerwood
---------------------------	---------------------

1.3 Announcements

- 1.3.1 WALGA acknowledges the Whadjuk Nyoongar people who are the Traditional Custodians of this land we meet on today and pays respects to their Elders past, present and future.

2. MINUTES

2.1 Minutes of Meeting Held 2 September 2020

Recommendation

That the Minutes of the State Council meeting held Wednesday [2 September 2020](#) be confirmed as a true and correct record of proceedings.

2.2 Minutes of Special State Council Meeting 2 November 2020

Recommendation

That the Minutes of the Special State Council meeting held Monday 2 November be confirmed as a true and correct record of proceedings.

2.3 Flying Minute – Interim Review – State Planning Policy 3.1 Residential Design Codes – 9 September 2020

Recommendation

That the [Flying Minute – Interim Review – State Planning Policy 3.1 Residential Design Codes](#) be confirmed as a true and correct record of proceedings.

2.4 Flying Minute – Draft Amendments to the Planning and Development (Local Planning Scheme) Regulations 2015 – 16 September 2020

Recommendation

That the [Flying Minute – Draft Amendments to the Planning and Development \(Local Planning Scheme\) Regulations 2015](#) be confirmed as a true and correct record of proceedings.

3. DECLARATIONS OF INTEREST

Pursuant to our Code of Conduct, State Councillors must declare to the Chair any potential conflict of interest they have in a matter before State Council as soon as they become aware of it.

4. EMERGING ISSUES

Notification of emerging issues must be provided to the Chair no later than 24 hours prior to the meeting.

- As per matter listed

5. MATTERS FOR DECISION

- As per matter listed
- Items Under Separate Cover to State Council only

6. MATTERS FOR NOTING / INFORMATION

- As per matters listed.

7. ORGANISATIONAL REPORTS

7.1 Key Activity Report

- 7.1.1 Commercial and Communications
- 7.1.2 Governance and Organisational Services
- 7.1.3 Infrastructure
- 7.1.4 Strategy, Policy and Planning

7.2 Policy Forum Reports

- 7.2.1 Policy Forum Reports

7.3 President's Report

Recommendation

That the President's Report for December 2020 be received.

7.4 CEO's Report

Recommendation

That the CEO's Report for December 2020 be received.

7.5 Ex Officios

- 7.5.1 LG Professionals President, Jamie Parry, to provide LG Professionals Report to the meeting.
- 7.5.2 Lord Mayor Basil Zempilas to provide City of Perth Report to the meeting.

8. ADDITIONAL ZONE RESOLUTIONS

To be advised following Zone meetings.

9. DATE OF NEXT MEETING

The next meeting of the WALGA State Council will be held at WALGA on Wednesday 3 March 2021.

9.1 Remaining State Council Meeting Dates for 2021

- Wednesday 5 May – Regional Meeting South Metropolitan Zone, City of Cockburn
- Wednesday 2 June – Special Meeting Budget Adoption
- Wednesday 7 July – WALGA
- Friday 3 September – Regional Meeting, Kimberley Country Zone, Shire of Broome
- Wednesday 1 December – WALGA

10. CLOSURE

Agenda Items

5.	MATTERS FOR DECISION.....	5
5.1	Local Government Act Review Advocacy Paper – Key Issues From Recent Inquiries into Local Government (05-034-1-0001 TL)	5
5.2	Submission – Registration of Building Engineers in WA (05-015-02-0010 VJ)	40
5.3	Family and Domestic Violence and the Role of Local Governments (05-086-03-0004 MM)	42
5.4	Underground Power (05-049-02-0001 ID).....	45
6.	MATTERS FOR NOTING / INFORMATION	51
6.1	Submission to the Infrastructure WA State Infrastructure Strategy Discussion Paper (05-085-03-0001 DM)	51
6.2	Draft Amendments to the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> (05-047-01-0017 VJ)	54
6.3	Interim Review – State Planning Policy 3.1 Residential Design Codes (05-015-02-0002 CH)	57
6.4	State and Federal Budgets (05-088-03-0001 DM)	59
6.5	Noongar Heritage Agreement for Local Government (05-032-01-0001 SM).....	61
6.6	Aboriginal Cultural Heritage Bill Consultation (05-032-01-0001 SM)	62
6.7	Local Government Animal Welfare in Emergencies Grant Program (06-081-01-0001 EDR)	64
6.8	2020 Annual General Meeting (01-003-02-0003 TL).....	66
6.9	COVID-19 - Update	68
7.	ORGANISATIONAL REPORTS	72
7.1	Key Activity Reports	72
7.1.1	Report on Key Activities, Commercial and Communications (01-006-03-0017 ZD)...	72
7.1.2	Report on Key Activities, Governance and Organisational Services (01-006-03-0007 TB)	76
7.1.3	Report on Key Activities, Infrastructure (05-001-02-0003 ID)	79
7.1.4	Report on Key Activities, Strategy, Policy and Planning (01-006-03-0014 MJB)	81
7.2	Policy Forum Reports	85
7.2	Policy Forum Reports (01-006-03-0007 TB)	85
	State Council Status Report	86

5. MATTERS FOR DECISION

5.1 Local Government Act Review Advocacy Paper – Key Issues From Recent Inquiries into Local Government (05-034-01-0001 TL)

By Tony Brown, Executive Manager Governance and Organisational Services

Recommendation

That:

1. Ongoing advocacy relating to the Review of the *Local Government Act 1995* be noted; and,
2. The Advocacy Positions for a New Local Government Act: *Key issues from recent Inquiries into Local Government* – be endorsed.

Executive Summary

- WALGA has developed an Advocacy Paper focusing on key issues identified in final reports of three recent Local Government Inquiries:
 1. [Final Report of the Local Government Review Panel](#)
 2. [Report of the Inquiry into the City of Perth](#)
 3. [Select Committee into Local Government Final Report](#)
- The Advocacy Paper aims to highlight strategic policy issues, leveraging previous detailed policy development work, at a key stage of Phase two of the Review of the *Local Government Act 1995*.

Attachment

Advocacy Positions for a New Local Government Act: *Key issues from recent Inquiries into Local Government*

Policy Implications

Policy positions encapsulated in the Advocacy Paper are consistent with WALGA's existing policy positions.

Background

The Review of the *Local Government Act 1995* has been a key focus of the Local Government sector and WALGA since the review was announced in 2017.

Stage one, focusing on priority reforms, are now mostly in place following the passage of the *Local Government Legislation Amendment Act 2019*.

As part of Phase two of the Review, which focuses on wide ranging reforms, the Government established the Local Government Review Panel in November 2019.

The [Final Report of the Local Government Review Panel](#) was released in August 2020.

In addition, the final reports of the following two key inquiries were released in September 2020:

- [Report of the Inquiry into the City of Perth](#)
- [Select Committee into Local Government Final Report](#)

The three reports make recommendations relating to a range of topics and issues relevant to the Review of the Local Government Act.

Comment

Leveraging the concurrent release of the final reports of three Inquiries, an advocacy paper highlighting key issues has been prepared.

The advocacy paper addresses the issues listed below:

- New Local Government Act
- Legislative Intent
- Intergovernmental Cooperation
- Elections
- Rating Exemptions
- Fees and Charges
- Road Funding
- Regional Collaboration
- Community Engagement
- Roles and Responsibilities
- External Oversight
- Financial Management and Procurement
- Accountability and Audit

The Advocacy Paper approach aims to:

- Ensure the Local Government sector's key concerns are prominent during stage two of the Local Government Act Review
- Leverage the timing and inherent legitimacy of the three key reports to highlight ongoing strategic advocacy priorities
- Concentrate engagement at the strategic policy level, rather than the detail of specific proposals that may or may not represent government policy, and
- Link to WALGA's state election advocacy campaign.

The Advocacy Paper does not replace or diminish existing detailed policy positions, which are underpinned by multiple consultation processes and State Council deliberations.

Key Local Government sector policy positions are listed in the Recommendations section of the paper, attached.

Advocacy Positions for a New Local Government Act

**Key issues from recent inquiries
into Local Government**

November 2020



About WALGA

The WA Local Government Association (WALGA) is working for Local Government in Western Australia. As the peak industry body, WALGA advocates on behalf of 139 Western Australian Local Governments. As the united voice of Local Government in Western Australia, WALGA is an independent, membership-based organization representing and supporting the work and interests of Local Governments in Western Australia. WALGA provides an essential voice for 1,220 Elected Members, approximately 22,000 Local Government employees (16,500 Full Time Equivalent's) as well as over 2.5 million constituents of Local Governments in Western Australia.

Contacts

Nick Sloan
Chief Executive Officer
nsloan@walga.asn.au

James McGovern
Manager Governance and Procurement
jmcgovern@walga.asn.au

Tony Brown
Executive Manager Governance and
Organisational Services
tbrown@walga.asn.au

Tim Lane
Manager Strategy and Association
Governance
tlane@walga.asn.au

Contents

About WALGA	8
Contacts	8
Recommendations	10
Background	13
Local Government Review Panel	13
City of Perth Inquiry	13
Select Committee into Local Government	13
Key Issues	14
New Local Government Act	14
Legislative Intent	15
Intergovernmental Cooperation	18
Elections	19
Rating Exemptions	22
Fees and Charges	22
Road Funding	24
Regional Collaboration	25
Community Engagement	27
Roles and Responsibilities	29
External Oversight	31
Financial Management and Procurement	33
Accountability and Audit	38

Recommendations

New Local Government Act

That the State Government prepare a new Local Government Act as a priority.

Legislative Intent

That the following key principles be embodied in the Local Government Act:

1. Uphold the general competence principle currently embodied in the Local Government Act
2. Provide for a flexible, principles-based legislative framework
3. Promote a size and scale compliance regime
4. Promote enabling legislation that empowers Local Government to carry out activities beneficial to its community taking into consideration Local Governments' role in creating a sustainable and resilient community through:
 - i. Economic development
 - ii. Environmental protection, and
 - iii. Social advancement
5. Avoid red tape and 'de-clutter' the extensive regulatory regime that underpins the Local Government Act, and
6. The State Government must not assign legislative responsibilities to Local Governments unless there is provision for resources required to fulfil the responsibilities.

Intergovernmental Cooperation

That a Partners in Government Agreement promoting a collaborative partnership approach be signed by the Premier, Minister for Local Government and Local Government leaders at the commencement of each term of the State Government.

Elections

The Local Government sector supports:

1. Four year terms with a two year spill
2. Greater participation in Local Government elections
3. The option to hold elections through:
 - Online voting
 - Postal voting, and
 - In-person voting
4. Voting at Local Government elections to be voluntary
5. The first past the post method of counting votes
6. Local Governments being enabled to determine the number of Elected Members required on the Council between six and 15 (including the Mayor/President)

7. Local Governments to determine if the Mayor or President is elected by the Council or the community at large.
8. Continuation of the property franchise.

Rating Exemptions

That an independent review of all rate exemptions be undertaken.

Fees and Charges

That:

1. An independent review be undertaken to remove fees and charges from legislation and regulation and,
2. Local Government be empowered to set fees and charges for Local Government services.

Road Funding

That the Government returns to Local Government at least 27 percent of motor vehicle licence fee collections.

Regional Collaboration

That:

1. Local Governments be empowered to form single and joint subsidiaries, and beneficial enterprises, and
2. Compliance requirements of Regional Councils be reviewed and reduced.

Community Engagement

The Local Government sector supports:

1. Responsive, aspirational and innovative community engagement principles
2. Encapsulation of aims and principles in a community engagement policy, and
3. The option of hosting an Annual Community Meeting to present on past performance and outline future prospects and plans.

Roles and Responsibilities

That clarification of roles and responsibilities for mayors/presidents, councillors and CEO's be considered in conjunction with the separation of powers between the Council as governing body and the administration of the Local Government.

External Oversight

The Local Government sector supports:

1. Establishing an Office of the Independent Assessor to replace the Standards Panel to provide an independent body to receive, investigate and assess complaints against elected members and undertake inquiries.
2. Remove the CEO from being involved in processing complaints
3. That an early intervention framework of monitoring to support local governments be provided.

Financial Management and Procurement

That the Local Government sector:

1. Requests the Minister for Local Government to direct the Department of Local Government to prepare a Model set of Financial Reports for the Local Government sector, in consultation with the Office of the Auditor General;
2. Requests the Department of Local Government to re-assess the amount of detail required to be included in annual financial reports, in particular for small and medium sized entities as suggested by the Office of Auditor General;
3. Supports Local Governments being able to use freehold land to secure debt;
4. Supports Building Upgrade Finance being permitted for specific purposes such as cladding, heritage and green improvements;
5. Supports the alignment of Local Government procurement thresholds, rules and policies with the State Government.

Accountability and Audit

That audit committees of Local Government, led and overseen by the Council, have a clearly defined role with an Elected Member majority and chair.

Background

Three significant inquiries relating to Local Government in Western Australia have released their final reports in August and September 2020.

This paper aims to distil key issues raised by these reports and identify strategic advocacy positions of the Local Government sector to inform the strategic direction of legislative reform.

Local Government Review Panel

As part of the Review of the Local Government Act, the Local Government Review Panel was formed to guide the strategic direction of the review and to recommend high level guiding principles for a new act.

The [Local Government Review Panel Final Report](#) was released on 5 August 2020.

City of Perth Inquiry

The Authorised Inquiry into the City of Perth was announced on 24 April 2018 by the Minister for Local Government.

The report contains 341 recommendations, of which 132 have implications for the Local Government sector.

The [Report of the Inquiry into the City of Perth](#) was tabled in Parliament on 11 August 2020.

Select Committee into Local Government

The Legislative Council Select Committee into Local Government commenced on 26 June 2019.

The Committee had broad terms of reference to inquire into Local Government in Western Australia and made a number of recommendations relating to key Local Government sector issues.

The [Select Committee into Local Government Final Report – Inquiry into Local Government](#) was tabled in Parliament on 22 September 2020.

Key Issues

New Local Government Act

The Local Government Review Panel Final Report states:

When the Western Australia Government launched the Local Government Act Review its objectives were to produce ‘a new, modern Act that empowers local governments to better deliver for the community’, and that local government should be ‘Agile, Smart and Inclusive’. Those objectives remain valid.

Discussion

The current *Local Government Act 1995* was proclaimed in 1996 and has been effective at enshrining the general competence principle which has enabled Local Governments to govern in the best interests of their communities. However, over the last 25 years there has been significant regulation and compliance obligations added to the legislation.

The current Local Government Act contains ten parts and totals 490 pages. In addition, there are 13 sets of regulations comprising a further 460 pages. This is a legislative burden on the Local Government sector and requires a significant reduction and a move to a principle over prescription approach to a new Act.

The Local Government Act should facilitate Local Governments utilising their general competence powers within a legislative framework that provides for good governance and accountability to the community for decision-making. The Local Government sector seeks a reduced regulatory approach accompanied by best practice guidance, support and assistance.

With a State Election due in March 2021 it is appropriate for the sector to seek a commitment for the progression of a new Local Government Act.

Local Government Position:

That the State Government prepare a new Local Government Act as a priority.

Legislative Intent

The Local Government Review Panel Final Report recommends:

2. *The Panel recommends the following statement of intent (vision) for a new Act:*

An Act to provide for a system of local government relevant to Western Australia that develops and supports sustainable, accountable, collaborative and capable local governments through democratic representation, the provision of services, opportunities and enhanced well-being for each and every community.
3. *The Panel recommends the adoption of the following objectives for a new Act:*
 - a. *Democratic and accountable local government that recognises the diversity of and within Western Australia's communities.*
 - b. *Recognition of the specific needs and culture of Western Australia's Aboriginal people.*
 - c. *Promotion and improvement of the community's economic, social and environmental well-being.*
 - d. *An adaptive and forward-looking legislative framework, which supports and enables councils to provide local leadership for the whole community, and to collaborate with each other and with other key stakeholders at a regional level.*
 - e. *Open and transparent community participation in the decisions and affairs of local governments.*
 - f. *Enhanced capability of the local government sector, with a focus on continuous improvement and sustainability.*
 - g. *Efficient and effective service delivery and regulation that is responsive to current and future community needs.*
 - h. *Informed decision-making by local governments which is in the interest of their communities, within a legislative framework that supports balance and certainty in relation to the different interests of their communities.*
 - i. *Accountability of local governments to their communities through processes that demonstrate good governance.*
 - j. *Support for approaches and opportunities which foster collaboration and cooperation both within the local government sector and across all levels of Government.*
4. *The Panel recommends an Act that is considerably shorter, less prescriptive and minimises the use of regulations by establishing clear principles, robust processes, model charters, guidelines and templates.*
5. *The Panel recognises the diversity of local governments in Western Australia and supports a new Act which is responsive to this but does not recommend the adoption of a multi-tiered legislative framework.*
6. *The Panel recommends the inclusion of a statement of the role and principal functions of local governments that makes it clear their basic statutory responsibilities, retaining the overall power of general competency in the current Local Government Act.*

The Select Committee into Local Government recommends:

1. *The Government consider implementing a compliance regime that differentiates between local governments based on their size and scale where appropriate.*

Discussion

Throughout WALGA's consultation with the sector on the Local Government Act review, there has been overwhelming support for *principles over prescription*, an approach that avoids red tape and declutters the extensive regulatory regime. The following key principles are fundamental drivers of future Local Government legislation.

General competence

The Local Government Act is founded on the general competence powers principle, which gives Local Governments the legal capacity to do anything that is not prohibited by law. This principle is uniformly supported by the Local Government sector and that it should not be diluted by over-regulating the operations of Local Government.

The general competence principle recognises the democratic mandate of Local Government to represent, plan, and provides services for its community.

Flexible, principles-based legislative framework

The Local Government Act works well when Local Governments apply their general competence powers within a legislative framework that provides for good governance, with accountability to the community for decision-making.

The Local Government Act should focus on principles and objectives, not on process. Best practice, guidance material and smart people working together to solve problems drive innovation; prescriptive regulation drives compliance for the sake of compliance.

To focus on the process and not the principles and objectives risks embedding today's practice into legislation instead of allowing Local Governments the flexibility to innovate and adapt to new methods and new technologies. Not everything a Local Government should do needs to be legislated. Ultimately, Councils are considered to be generally competent and are accountable to the community through democratic elections held every two years.

Size and scale compliance regime

There is a marked appetite to differentiate between Local Governments based on size and scale. There is a significant difference in the compliance requirements of the City of Stirling compared to the Shire of Murchison. Areas such as the integrated planning and reporting framework, internal audits and model procurement policies are example areas that could be considered on a size and scale approach.

Promote enabling legislation

Promote enabling legislation that empowers Local Government to carry out activities beneficial to its community taking into consideration the Local Government's role in creating a sustainable and resilient community through:

- Economic development
- Environmental protection, and
- Social advancement.

There is a need to provide enabling legislation with a 'menu of opportunities' for the sector. Legislation should enable Local Governments to carry out a range of activities, even though all Local Governments may not want to undertake the activity.

Reduce red tape

WALGA has called for the de-cluttering of the extensive regulatory regime that underpins the Local Government Act. The legislative and regulatory regime represents a considerable challenge to the delivery of effective and efficient governance.

The State Government must not assign legislative responsibilities to Local Governments unless there is provision for resources required to fulfil the responsibilities.

The State Government should not impose responsibilities to Local Governments without adequate resourcing. This principle is contained within the British Columbia Community Charter and is supported by the Local Government sector.

Local Government Position:

That the following key principles be embodied in the Local Government Act:

- 1. Uphold the general competence principle currently embodied in the Local Government Act**
- 2. Provide for a flexible, principles-based legislative framework**
- 3. Promote a size and scale compliance regime**
- 4. Promote enabling legislation that empowers Local Government to carry out activities beneficial to its community taking into consideration Local Governments' role in creating a sustainable and resilient community through:**
 - i. Economic development**
 - ii. Environmental protection, and**
 - iii. Social advancement**
- 5. Avoid red tape and 'de-clutter' the extensive regulatory regime that underpins the Local Government Act, and**
- 6. The State Government must not assign legislative responsibilities to Local Governments unless there is provision for resources required to fulfil the responsibilities.**

Intergovernmental Cooperation

The Local Government Review Panel Final Report recommends:

- 15 *The Panel recommends that the new Act include a set of principles for intergovernmental relations that make clear local government's role and obligations as part of the broader system of government, and that underpin a range of ongoing arrangements such as the State Local Government Partnership.*

Discussion

Local Government strongly supports the enhanced collaboration between State and Local Government, as two spheres of government responsible for delivering public infrastructure and services for the benefit of the Western Australian community.

A Partners in Government Agreement, to be signed by the Premier, Minister for Local Government and Local Government leaders should contain:

- A preamble highlighting the importance of collaboration and partnership
- Objectives and principles
- Meetings of the Partners in Government Group comprising senior State and Local Government decision makers
- Collaboration aims and ideals, and
- Key focus areas.

Collaboration and partnership between the State and Local Government sectors aims to leverage the strengths of both spheres of Government for the benefit of Western Australia: the State's leadership and policy direction, and Local Government's on-the-ground presence in every community in our large and diverse state.

Local Government Position:

That a Partners in Government Agreement promoting a collaborative partnership approach be signed by the Premier, Minister for Local Government and Local Government leaders at the commencement of each term of the State Government.

Elections

The Local Government Review Panel Final Report recommends:

19. *Optional preferential voting be adopted in place of the current first past the post system.*
20. *The principle of one vote per person be included in the legislation, subject to Recommendation 21 below.*
21. *Property franchise voting should be replaced with the requirement for local governments to introduce mechanisms for regular and effective consultation with the business community.*
22. *Local government elections are held once every four years, two years after but to otherwise accord with the timing of the State election.*
23. *All local government elections should be overseen by the Western Australian Electoral Commissioner.*
24. *Provision in the new Act for electronic/online voting to be introduced in the future once the integrity of the process can be assured (including allowing for a pilot).*
25. *The Panel makes the following further recommendations in relation to elections:*
 - a. *Postal voting be required, with lodgement of these votes to be allowed in person on and before election day.*
 - b. *The election process extended to provide more time for the issuing and receipt of postal votes.*
 - c. *The information local government candidates must provide at nomination should be expanded to ensure that adequate information is given for voters to make an informed decision. Candidate nomination forms should also include declaration of membership of a political party and these forms should be published and available during the election period.*
 - d. *A caretaker policy should be introduced barring elected members up for re-election from representing the council at events, handing out council grants or donations and moving substantive notices of motion in the period before the election, and a requirement to comply with this policy should be included in the Code of Conduct.*
 - e. *The donor and the candidate should co-sign each declaration of a gift made.*
 - f. *Donations via crowd funding platforms should be regulated so far as possible.*
26. *In respect to elected member representation, the Panel recommends:*
 - a. *Population should be used to determine the number of elected member positions:*
 - (i) *Population of up to 5,000 – 5 councillors (including President).*
 - (ii) *Population of between 5,000 and 75,000 – 5 to 9 councillors (including Mayor/President).*
 - (iii) *Population of above 75,000 – 9 to 15 councillors (including Mayor).*

- b. Ward boundary reviews, to ensure equitable representation is maintained, should be conducted every four years by the Office of the Electoral Distribution Commissioners, with the support of the WAEC and should be conducted using similar processes and principles that are in place for state electoral boundaries as contained in the Electoral Act 1907.*
- c. Current classification bands 3 and 4 should not have multiple wards unless the Local Government Commission permits it in the interests of ensuring local democracy is enabled in certain communities.*
- d. The changes to wards and elected member numbers due to the above recommendations should be phased in.*

Discussion

The overwhelming majority of Local Governments support retaining four year terms with a half spill every two years. A principle of the current two year election cycle is to support the continuity of knowledge and experience of the Local Government. A key risk of a proposal for an all in/all out term is the loss of knowledge and the influence of a Council.

Promoting voting participation in Local Government elections is a priority and can be achieved through a range of voting options, such as:

- On-line voting
- Postal voting, and
- In-person voting.

In respect to voting methods, Local Governments over the past 40 years have experienced preferential voting, proportionate preferential voting and the current first past the post method. Due to its simplicity, and ease of understanding, the Local Government sector supports first past the post voting.

The Local Government sector opposes compulsory voting in Local Government elections.

In respect to Elected Member representation, the general competence principle should apply, enabling a Local Government to determine the appropriate number, between six and 15 elected members (including the Mayor/President), depending on local requirements. This philosophy also extends to the decision to have a Mayor or President elected by the Council or elected at large by the community.

The Local Government sector supports continuation of the status quo with regards to the property franchise.

Local Government Position:

The Local Government sector supports:

- 1. Four year terms with a two year spill**
- 2. Greater participation in Local Government elections**
- 3. The option to hold elections through**
 - Online voting**
 - Postal voting, and**
 - In-person voting**
- 4. Voting at Local Government elections to be voluntary**
- 5. The first past the post method of counting votes**
- 6. Local Governments being enabled to determine the number of Elected Members required on the Council between six and 15 (including the Mayor/President)**
- 7. Local Governments to determine if the Mayor or President is elected by the Council or the community at large**
- 8. Continuation of the property franchise.**

Rating Exemptions

The Local Government Review Panel Final Report recommends:

50(c) The Economic Regulatory Authority (ERA) should be asked to undertake a review of the rating system, including a thorough examination of the case for the current wide range of exemptions.

The Select Committee into Local Government recommends:

- 8 Recognising that the current charitable purposes rate exemption produces perverse outcomes and may inappropriately shield commercial operations from paying rates, the Government clarify the charitable purposes rate exemption in any new local government Act.*
- 9 The Government conduct a broad review of the rate exemptions to be included in any new local government Act.*

Discussion

Exemptions from rates represent significant revenue leakage for Local Government. Recent data indicates that revenue foregone represents approximately two percent of rate revenue. This shortfall in lost revenue must then be made up from other ratepayers.

Rating exemptions relating to charitable purposes are particularly concerning as this exemption has extended in scope beyond its original intent to provide rating exemptions for the commercial undertakings of not-for-profit organisations. For instance, Independent Living Units, which often cost far more than the median house, are often exempt from rates. The net result of this is that millions of dollars of revenue is lost to Local Government which then has to be recouped from other ratepayers, many of whom would not be in a position to afford an Independent Living Unit themselves.

The rating exemptions that are of concern for the sector relate to the following:

- Rating of Charitable Purpose properties
- Department of Housing: Leasing to Charitable Organisations
- Government Trading Entities
- State Agreement Act projects
- State Owned Unallocated Crown Land

On this basis, the Local Government sector supports an independent review of all rating exemptions to enhance equity among ratepayers in the community.

Local Government Position:

That an independent review of all rate exemptions be undertaken.

Fees and Charges

The Local Government Review Panel Final Report recommends:

- 51 *The Panel recommends that local governments should be able to set reasonable fees and charges according to a rating and revenue strategy, with the oversight of the Audit, Risk and Improvement Committee.*
- 52 *The Panel recommends that local governments and State Government apply cost recovery principles when setting fees and charges.*

Discussion

Fees and charges represent a significant source of discretionary revenue for Local Governments. Examples include dog registration fees, fees for building approvals and swimming pool entrance fees.

Currently fees and charges are determined by legislation or regulation, with an upper limit set by legislation, or by the Local Government. Fees mandated by legislation often do not keep pace with the cost of delivery meaning that ratepayers will subsidise particular activities without any ability to have input into the setting of the fee.

While cost recovery should be a consideration for the setting of fees and charges, there are some services that Local Governments may choose to subsidise to encourage activities with overall community benefit.

Setting fees and charges is a core government function and should be a deliberative decision of the Council.

Local Government Position:

That:

- 1. An independent review be undertaken to remove fees and charges from legislation and regulation and,**
- 2. Local Government be empowered to set fees and charges for Local Government services.**

Road Funding

The Select Committee into Local Government recommends:

7. *The Government consider returning to local governments at least 27 percent of motor vehicle licence fee collections.*

Discussion

Local Governments are responsible for 127,500km of roads in Western Australia, representing 88 percent of the public road network.

With a replacement value close to \$30 billion, the Local Government road network is a significant state asset that connects people and places and facilitates economic activity across all of Western Australia.

In their final report, the Select Committee into Local Government found that the shortfall between local government expenditure on road preservation and the amount required to maintain roads at their current condition has continued to increase over the past five years to \$155.74 million in 2018-19.

To that end, the Local Government sector advocates for road funding from the State Government to return to 27 percent of vehicle licence fees.

Local Government Position:

That the Government returns to Local Government at least 27 percent of motor vehicle licence fee collections.

Regional Collaboration

The Local Government Review Panel recommends:

12. *The Panel recommends that the new Act should promote and mandate expanded regional cooperation between local governments by:*
 - a. *Making increased collaboration a specific objective and principle.*
 - b. *Providing an improved model of joint (regional) subsidiaries that can be used for strategic planning, resource sharing, shared services delivery and commercial enterprises (see also Recommendations 14 and 39).*
 - c. *Requiring regional cooperation as part of IPR (see also Recommendation 35).*
13. *The Panel recommends that consideration also be given to the potential need for a new form of 'regional authority' to enable collaboration on specific issues between governments and with other key stakeholders.*
14. *The Panel recommends:*
 - a. *The regional council model is discontinued.*
 - b. *A flexible model of joint (regional) and single (local) subsidiaries be introduced in order to enable:*
 - (i) *collaboration between local governments; and/or*
 - (ii) *involvement of local government in economic development including commercial activities.*
40. *The Panel recommends that the new Act should provide the freedom for local governments to be involved in commercial activities where it is in the public interest and subject to competitive neutrality principles.*
41. *The Panel recommends that 'beneficial enterprises' not be introduced as a new mechanism for local government commercial activities, but that instead an updated and more flexible subsidiary model should provide for the following:*
 - a. *Local government autonomy to establish a single or joint subsidiary to:*
 - (i) *Carry out any scheme, work or undertaking on behalf of the council;*
 - (ii) *Manage or administer any property or facilities on behalf of the council;*
 - (iii) *Provide facilities or services on behalf of the council; and/or*
 - (iv) *Carry out any other functions on behalf of the council.*
 - b. *The subsidiary to be established through a charter.*
 - c. *The charter to be certified by an independent and suitably experienced legal practitioner as within power and National Competition Policy.*
 - d. *Public notice of the proposal to establish the subsidiary to ensure that there are no private operators that would be significantly disadvantaged.*
 - e. *The subsidiary to be able to undertake commercial activities (within the limits of competitive neutrality and a thorough risk assessment).*
 - f. *The subsidiary to have the ability to acquire, hold, dispose of or otherwise deal with property.*

- g. Dividends able to be paid to member local governments.*
 - h. The requirement for employees of the subsidiary to be employed under the same award or agreement conditions as the relevant local government/s and within the jurisdiction of the Western Australian Industrial Relations Commission.*
 - i. No requirement for ministerial approval at the outset, but reserve powers for the Minister for Local Government to intervene if issues arise should be included.*
42. *The Panel recommends local governments should utilise the subsidiary models and, as a general rule, should not form entities outside this, such as under the Associations Incorporation Act, except as a means of establishing or maintaining partnerships with other local or regional organisations in those instances where the local government is not the dominant party.*

Discussion

The Local Government sector supports streamlined and effective regional collaboration to leverage economies of scale, combined resources and enhanced accountability.

Regional collaboration provides many benefits for the community, including:

- Efficient service delivery leveraging economies of scale
- Enhanced accountability for specific functions, and
- Reduced risk by quarantining ratepayer funds in a separate legal entity

Flexibility for local governments to select and adapt the most suitable collaborative model to local circumstances is crucial for the benefits of regional collaboration to be realised. While competitive neutrality is important, and should be respected, the ability to undertake commercial activities is important, particularly to address instances of market failure.

The subsidiary model, governed by a charter, provides simplicity and can be customised to meet local and service delivery needs.

The beneficial enterprises model provides for a commercial focus while increasing accountability and reducing risk by quarantining ratepayer funds.

To that end, the local government sector supports the ability to utilise a range of fit-for-purpose regional collaborative models.

Local Government position

That:

- 1. Local Governments be empowered to form single and joint subsidiaries, and beneficial enterprises, and**
- 2. Compliance requirements of Regional Councils be reviewed and reduced.**

Community Engagement

The Local Government Review Panel Final Report recommends:

33. *The Panel recommends that the following community engagement principles should be included in the new Act:*
 - a. *Councils actively engage with their local communities;*
 - b. *Councils are responsive to the needs, interests and aspirations of individuals and groups within its community;*
 - c. *Community engagement processes have clearly defined objectives and scope;*
 - d. *Participants in community engagement have access to objective, relevant and timely information to inform their participation;*
 - e. *Participants in community engagement are representative of the persons and groups affected by the matter that is the subject of the community engagement;*
 - f. *Participants in community engagement are entitled to reasonable support to enable meaningful and informed engagement; and,*
 - g. *Participants in community engagement are informed of the ways in which the community engagement process will influence council decision-making.*
34. *The Panel recommends a Community Engagement Charter be required as a mechanism for guiding and enhancing community participation in local decision-making, and that a model charter be prepared to set parameters and provide guidance on mechanisms to be used.*
35. *The Panel recommends the Annual Electors' Meeting is replaced by an Annual Community Meeting whereby:*
 - a. *As a minimum, councils provide information on their achievements and future prospects;*
 - b. *Councils report on the local government's financial performance and performance against relevant Council Plans;*
 - c. *Both the mayor/president and the Chair of the Audit Committee address the meeting;*
 - d. *There is ample time for questions; and,*
 - e. *Wider community participation is encouraged through different delivery mechanisms.*

Discussion

With a local presence in every community in Western Australia, community engagement is core business for Local Government.

Principles and methods supporting responsive, aspirational and innovative community engagement are supported. Local Governments are often on the frontier of innovative community engagement methods, such as participatory budgeting and deliberative democracy.

To that end, the Local Government sector supports community engagement aims and principles to be encapsulated in a policy. However, the content of such a policy should not be prescribed; Local



Governments, with knowledge and regular touchpoints with their communities, are best placed to determine the content of a community engagement policy.

An optional Annual Community Meeting is supported, at which Local Governments could present their annual report, financial performance and recent achievements, and outline their future prospects and plans.

Local Government Position:

The Local Government sector supports:

- 1. Responsive, aspirational and innovative community engagement principles**
- 2. Encapsulation of aims and principles in a community engagement policy, and**
- 3. The option of hosting an Annual Community Meeting to present on past performance and outline future prospects and plans.**

Roles and Responsibilities

The Local Government Review Panel Final Report recommends:

28. *The Panel recommends significant changes in the Act to the current statements of roles and responsibilities for mayors/presidents, councillors and CEOs and that the Act should include a new statement of responsibilities for the 'council' which captures the roles and responsibilities of all councillors acting collectively as the council.*
- 29-32. *Revised statements of roles and responsibilities that are specific to address the following issues:*
- *Community leadership*
 - *Strategic planning*
 - *Continuous improvement*
 - *Executive function (for mayors/presidents)*
 - *Guiding the CEO (for mayors/presidents)*
 - *Training*

The Select Committee into Local Government Report recommends:

26. *The Government clarify the roles of council and the chief executive officer, and the distinction between governance and operational matters, in any new local government Act.*

Discussion

The *Local Government Act 1995* is predicated on separate roles and responsibilities for Elected Members and the administration, as summarised in the Second Reading Speech:

*'The new Act will provide a clear distinction between the representative and policy making role of the elected Councillors and the administrative and advisory role of the chief executive officer and other staff.'*¹

The Inquiry Report's recommendations for training and induction are reflective of the mandatory training and continuing professional development requirements introduced in the *Local Government Legislation Amendment Act 2019*.

WALGA has long advocated for absolute certainty in responsibilities and separation of powers associated with employees. Appointing and dismissing senior designated employees falls within the function of the CEO.

From this perspective, clarification of roles and responsibilities requires similar consideration of a clearly defined separation of powers between the governing body and the administration.

¹ Government of Western Australia, Local Government Bill Second Reading, 31 Aug. 1995 pp. 7547-7551



Local Government Position:

That clarification of roles and responsibilities for mayors/presidents, councillors and CEO's be considered in conjunction with the separation of powers between the Council as governing body and the administration of the Local Government.

External Oversight

The Local Government Review Panel Final Report recommends:

57. *The Panel recommends that there should be an early intervention framework of monitoring to support local governments. The department should have additional powers to appoint and support the monitor with councils responsible for the direct costs of the monitor.*
58. *The Panel recommends the Minister should have the power to direct local governments and make declarations in respect to the Local Government Act during a declared state of emergency.*
59. *The Panel recommends establishing an Office of the Independent Assessor that should:*
 - a. *Be an independent body to receive, investigate and assess complaints against elected members and undertake inquiries. This removes the CEO from being involved in processing and determining complaints.*
 - b. *Be a statutory appointment by the Governor.*
 - c. *Upon assessment, refer the complaint back to the council (behaviour-related), the State Administrative Tribunal (SAT) (serious breaches), or to another appropriate body (such as, Corruption and Crime Commission, Public Sector Commission, Ombudsman) according to the subject of the complaint.*
 - d. *Replace the Standards Panel by investigating and making determinations on Rules of Conduct breaches. SAT will determine the penalties.*
 - e. *Amongst other powers, have the power to investigate, to order compulsory mediation and to deal with abuses of process.*
 - f. *Be required to notify the CEO and council of any matters on a confidential basis.*

The City of Perth Inquiry Report recommends:

- 323-332. *An Office of Inspector of Local Government (Inspector) be established as an independent statutory office, responsible to the Minister for Local Government.*

The Select Committee into Local Government Report recommends:

25. *The Government give active consideration, as part of the review of the Local Government Act 1995, to establishing a new independent statutory body to regulate and support the local government sector.*

Discussion

The recommendation from the Local Government Act Review Panel to replace the Standards Panel with an Office of the Independent Assessor is worth supporting. The proposal is to set-up an independent body to receive, investigate and assess complaints against elected members and undertake inquiries. This removes the CEO from being involved in processing and determining complaints, which has previously put the CEO in an invidious position.

An early intervention framework of monitoring to support Local Governments should also be provided.

Local Government Position:

The Local Government sector supports:

- 1. Establishing an Office of the Independent Assessor to replace the Standards Panel to provide an independent body to receive, investigate and assess complaints against elected members and undertake inquiries.**
- 2. Remove the CEO from being involved in processing complaints**
- 3. That an early intervention framework of monitoring to support local governments be provided.**

Financial Management and Procurement

The Local Government Review Panel Final Report recommends:

43. *The Panel recommends the following financial management principles be included in the new Act:*
- a. *Councils should have regard to achieving intergenerational equity, including ensuring the following:*
 - (i) *Policy decisions are made after considering their financial effects on future generations*
 - (ii) *The current generation funds the cost of its services, and*
 - (iii) *Long life infrastructure may appropriately be funded by borrowings*
 - b. *Revenue, expenses, assets, liabilities, investments and financial transactions are managed in accordance with the council's financial policies and strategic plans*
 - c. *Financial risks are monitored and managed prudently having regard to economic circumstances*
 - d. *Financial policies and strategic plans, including the Revenue and Rating Strategy and Investment policy, seek to provide stability and predictability in the financial impact on the community; and*
 - e. *Accounts and records that explain the financial operations and financial position of the council are kept.*
44. *Having regard to the need for sound financial decision-making and accountability, the Panel recommends the following:*
- a. *Local governments should be required to adopt or justify departures from a model investment policy to the Audit, Risk and Improvement Committee and relevant State Government Agency.*
 - b. *Local governments should be able to use freehold land to secure debt.*
 - c. *Debt should not be used for recurrent expenditure except in an emergency situation.*
 - d. *Notice should continue to be required to be given for borrowings not included in the local government's annual budget.*
 - e. *Building upgrade finance is permitted for specific purposes such as cladding, heritage and green improvements.*
 - f. *Local governments should adopt program budgeting to more clearly show the actual cost of delivering a service or undertaking an activity.*
 - g. *Local governments should report on the percentage of their expenditure spent on local businesses in their annual report.*
45. *The Panel recommends that local government procurement thresholds, rules and policies are, where applicable, aligned with the State Government, including (but not limited to):*
- a. *Tender threshold (currently \$250,000);*
 - b. *Procurement rules and methods for goods and services under the tender threshold;*
 - c. *Procurement policies, including sustainable procurement, procuring from disability enterprises, buy local (where 'local' refers to Western Australia or a*

- specific region of the state determined by the local government) and Aboriginal businesses; and*
- d. *Using TendersWA as the primary tender platform.*
46. *The Panel recommends the development of a model procurement policy for all local governments. If a local government chooses to deviate from the policy it should to be required to explain its reasoning to the responsible State Government agency.*
47. *The Panel recommends enhancing legislation to regulate and guide the establishment and management of panel contracts.*
48. *The Panel recommends a requirement for local governments to have an open register of local businesses with local governments determining what is considered 'local' to their community.*
49. *The Panel recommends breaches of the local government procurement rules to be referred to the Office of the Independent Assessor to use the appropriate powers under the new Local Government Act.*

The Select Committee into Local Government recommends:

12. *The Government give active consideration to providing, through the Department of Local Government, Sport and Cultural Industries, an accounting advice helpdesk service to the local government sector similar to the service provided by the Department of Treasury to the State government sector.*
13. *The Government:*
- *consider reducing the financial reporting requirements on local governments*
 - *in doing so, take into account the information provided by the Office of the Auditor General, set out at Appendix 3 and Appendix 4 of this report.*
14. *The Department of Local Government, Sport and Cultural Industries and the Government consider the introduction of tiered financial reporting for local governments.*

The City of Perth Inquiry Report recommends:

188. *The State Government consider amendments to the Local Government Act 1995 to provide for better practice financial management through the establishment of Local Government Financial Management Instructions (similar to the Treasurer's Instructions for State Government) that establish a minimum set of standards and requirements for the financial administration of local government (Financial Management Instructions).*
189. *The "WA Accounting Manual" be reviewed, updated and promulgated by the Department within the next 12 months.*
190. *The Minister for Local Government consider prescribing the format of the annual budget and financial report to provide consistency across local government.*

Discussion

The sector has considered a number of the recommendations from the reports and supports reviewing the financial reporting requirements for Local Governments.

Model Financial Statements

WALGA has recently formed a Sector Reference Group to review the current financial ratios and to suggest more appropriate ratios. The Reference Group believes the first action to be taken should be for the Department of Local Government to prepare a Model set of Financial Reports for the Local Government sector. This is to enable consistent financial reporting across the sector which would then allow for ratios to be more meaningful for sector analysis.

The following is an excerpt of notes from the group;

The Working Group discussed the possibility of progressing this resolution as soon as possible, rather than waiting for the work on financial ratios to be completed. It was decided that this should be actioned as a priority. A signal from the Minister for Local Government as to whether this proposal is supported will assist in guiding the group's next steps, noting that the actual development of a model set of accounts would take time and resources. The group also noted that the Office of Auditor General (OAG) have made complementary recommendations relating to financial reporting. For example, in the [Audit Results Report – Annual 2018-19 Financial Audits of Local Government Entities](#), it was recommended that DLGSC re-assess the amount of detail required to be included in annual financial reports.

Resolved:

That WALGA advocates to the Minister for Local Government that the Department of Local Government to prepare a Model set of Financial Reports for the Local Government sector, in consultation with the Office of the Auditor General.

The concept on a model set of accounts is not new. Every other State produces one in some form. This document would be produced annually by the Department and be endorsed by the OAG.

The proposal would involve a detailed set of accounts, including notes, would be available to the industry in March of each year. The document would provide a template for Statements and Notes. These items would include references to legislation and Accounting Standards so the user can gain an appreciation as to why the information is required. Accompanying text could provide a greater understanding of the information and the cross referencing to other information. For example, the note on calculating financial ratios would include how those ratios are calculated, hence doing away with the need for Departmental Guidance Notes.

The benefits that would accrue to the Local Government sector and the community would be substantial. One set of model reports that could provide clear outcomes, rather than waiting for the

annual audit to see if a Local Government had interpreted the standards and legislation correctly. Small Local Government would benefit as they may not have qualified accountants on staff and this would provide cost savings. Accessing information about each Local Government would be simplified. The audit process would also be simplified. All of these measures have the ability to lower costs incurred by Local Government in producing the annual financial report.

Use of Debt

The sector's long held position is that the Act should allow Local Governments to use freehold land, in addition to its general fund, as security when borrowing. Currently a Local Government can only borrow against its cash. In most cases this is sufficient, however there have been examples of Local Governments borrowing for large scale infrastructure projects that would benefit from being able to use their freehold land as security.

Building Upgrade Finance

Building Upgrade Finance would enable Local Governments to guarantee finance for building upgrades for non-residential property owners. In addition to building upgrades to achieve environmental outcomes, Local Governments have identified an opportunity to use this approach to finance general upgrades to increase the commercial appeal of buildings for potential tenants. In this way, BUF is viewed as means to encourage economic investment to meet the challenges of a soft commercial lease market and achieve economic growth.

Procurement

WALGA has consistently supported the alignment of the tender threshold with that of the State Government and broadly supports the principle that suppliers of goods, services and works competing for contracts will benefit where procurement processes across State and Local Government has more similarities than differences.

Local Government Position:

That the Local Government sector:

- 1. Requests the Minister for Local Government to require the Department of Local Government to prepare a Model set of Financial Reports for the Local Government sector, in consultation with the Office of the Auditor General;**
- 2. Requests the Department of Local Government to re-assess the amount of detail required to be included in annual financial reports, in particular for small and medium sized entities as suggested by the Office of Auditor General;**
- 3. Supports Local Governments being able to use freehold land to secure debt;**
- 4. Supports Building Upgrade Finance being permitted for specific purposes such as cladding, heritage and green improvements;**
- 5. Supports the alignment of Local Government procurement thresholds, rules and policies with the State Government.**

Accountability and Audit

The Local Government Review Panel Final Report recommends:

53. *The Panel recommends the role of audit committees be expanded to become Internal Audit, Risk and Improvement Committees and:*
 - a. *The majority of the Committee members, including the Chair, should be independent of the local government and should be drawn from a suitably qualified panel.*
 - b. *To address the impost on small local governments, the committee could be established on a regional basis.*
54. *The Panel recommends the main roles of the Audit, Risk and Improvement Committee should include:*
 - a. *Developing an audit plan which focuses on compliance, risk (including procurement), financial management, fraud control, governance and delivery of Council Plans;*
 - b. *Identifying continuous improvement opportunities and monitoring programs and projects in this area;*
 - c. *Conducting the mandatory internal audits as outlined in the audit plan; and*
 - d. *Providing advice to the council in relation to these matters.*

The Select Committee into Local Government recommends:

11. *The Government give active consideration to facilitating, through the Department of Local Government, Sport and Cultural Industries, a shared internal audit service for the Local Government sector, particularly to assist small and medium councils.*

Discussion

The Local Government sector supports a robust self-regulation audit framework, which includes a role for the audit committee overseen by council, and a role for the Office of the Auditor General in conducting financial and performance audits of Local Government.

In accordance with the principles of self-governance and self-regulation, majority independent membership of audit committees is not supported. Oversight of the affairs of the Local Government is a fundamental role of the Council, and should not be confused by diffusing responsibility among an audit committee comprised of a majority of non-elected members. Notwithstanding, the Local Government sector acknowledges that some independent expertise may be beneficial to the audit committee process.

The Local Government sector supports a clearly defined role for the audit committee, led and overseen by the elected Council.



Local Government Position:

That audit committees of Local Government, led and overseen by the Council, have a clearly defined role with an Elected Member majority.

5.2 Submission – Registration of Building Engineers in WA (05-015-02-0010 VJ)

By Vanessa Jackson, Policy Manager Planning and Improvement

Recommendation

That WALGA:

- 1. Advise the Department of Mines Industry Regulation and Safety (DMIRS) that the registration of Building Engineers in WA is supported.**
- 2. Request that DMIRS also consider the registration of Electrical Engineers, Façade Engineers, Energy Assessors, Bush Fire Consultants, Access consultants, Swimming pool, Patio installers and Demolition contractors.**
- 3. Request that DMIRS clarify that dilapidation reports may only be undertaken by Registered Engineers.**
- 4. Provide this report to Department of Mines Industry Regulation and Safety as feedback on the Consultation Regulatory Impact Statement.**

Executive Summary

- In July 2020, Department of Mines Industry Regulation and Safety (DMIRS) released a Consultation Regulatory Impact Statement (CRIS) focused on the registration of Building Engineers in WA.
- Broad support is provided as the registration of technical experts has been advocated by the Association for many years. Additional registration of professionals and businesses is also requested to assist in improving the quality of buildings and professional standards in WA.
- Submissions on the Consultation Regulatory Impact Statement closes on the 3 December 2020.

Attachment

Consultation Regulatory Impact Statement on the registration of Building Engineers in WA ([here](#)).

Policy Implications

The proposed recommendation is aligned with the March 2017 State Council meeting (Resolution 7.1/2017), where the Top Ten improvements to the Act were endorsed, including the Registration of Technical Specialists, as follows:

- Technical specialist (such as fire engineers) should be registered with the Building Commission
- Registration of Energy Assessors, Bush Fire consultants and Access consultants is required.

At 30 April 2020 meeting, the Central Metropolitan Zone considered a report on the process surrounding Dilapidation Reports and recommended that “WALGA lodge a submission to State Government, in support for formal registration of practitioners conducting dilapidation reports to industry standards”.

Background

The Consultation Regulatory Impact Statement (CRIS) proposes to amend the *Building Services (Registration) Act 2011* to require the following categories of engineers to be registered to carry out building engineering work: civil engineers; structural engineers; hydraulic engineers; mechanical engineers; geotechnical engineers and fire safety engineers.



The proposals in the CRIS are aligned with the national registration model being developed by the Australian Building Codes Board ([here](#)). The CRIS is open for comment from 8 July to 3 December 2020

Comment

Since 2017, WALGA has been advocating for the registration of technical experts within the building approval and construction process. Concerns with technical specialists providing incorrect information on critical aspects such as fire safety, wind ratings and cyclone suitability, has resulted in numerous problems over the years for ratepayers. The ACT and WA are the only jurisdictions with no regulatory requirements for building-related engineers. All other jurisdictions regulate engineers in the building industry to varying degrees through building or occupational licensing legislation.

Over the years, WALGA has recommended that Structural Engineers and Fire Engineers be accredited in the same manner as Building Surveyors. WALGA has also advocated for the registration process to be expanded to cover Bushfire Attack Level (BAL) Assessors and Energy Efficiency assessors. Other additional 'engineering services' that could also be included in a registration process could be Electrical Engineers (Emergency lighting & exit signs, automatic fire detection systems for major developments) and Façade Engineers (weatherproofing and cladding compliance on major developments). Otherwise, the system does not sufficiently acknowledge the expertise that is required within these other specific fields, to ensure buildings are safe to occupy.

The CRIS seeks responses to a total of 23 questions, primarily focused on the professional qualifications, ongoing professional development processes, and registration costs and funding arrangements to establish the registration process. Broad support of the registration of the proposed categories of building related engineers is provided as it aligns with previous WALGA policy positions.

The concerns of the Central Metropolitan Zone are not covered within this CRIS. If the new registration process specifically indicates that dilapidation reports can only be undertaken by one of these qualified professionals, then this may be a solution. Clarity is therefore required when DMIRS prepares the upcoming Decision Regulatory Impact Statement.

Finally, the CRIS released addresses the registration of Structural and Fire Engineers, however, the registration of Electrical and Façade Engineers, Energy Assessors, Bush Fire consultants and Access consultants has not been considered in this paper.

Feedback was also sought from members on other professions or businesses that should be registered; the registration of swimming pool and patio installers, and demolition contractors would also assist in improving the rigor around these professionals involved in the building process.

This report was circulated to Local Government Building Surveyors for comments, with feedback received from officers at the Cities of Perth, Joondalup and Melville.

5.3 Family and Domestic Violence and the Role of Local Governments (05-086-03-0004 MM)

By Marissa MacDonald, Acting Policy Manager Community

Recommendation

That:

- 1. WA Local Governments recognise the prevalence, seriousness and preventable nature of family and domestic violence and the roles that Local Governments can play in addressing gender equity and promoting respectful relationships in their local community.**
- 2. WALGA advocates to the State Government:**
 - a. to define and communicate the role, responsibilities and expectations of Local Governments in family and domestic violence.**
 - b. for adequate funding for family and domestic violence programs and services, particularly in regional areas.**
 - c. for appropriate resources and funding be allocated to Local Governments to implement any particular roles and actions addressing family and domestic violence as defined in the State Strategy.**
 - d. to provide support to Local Government in the broader rollout of the Prevention Toolkit for Local Government.**
 - e. to continue advocacy to the Commonwealth Government for additional funding and support.**
- 3. WALGA organises presentations for Local Governments that address family and domestic violence, as part of relevant events or webinars.**

Executive Summary

- WALGA received two separate requests from the South West Country Zone in March 2019 and the East Metropolitan Zone in November 2019 to analyse the role of Local Governments in addressing family and domestic violence.
- A discussion paper was prepared in response to the Zone requests which encompassed the roles of all three levels of Government and comparison across States and Territories as well as Local Government Associations.
- The analysis in the discussion paper recommends that WALGA should strengthen advocacy efforts, including updating the outdated 2011 WALGA State Council endorsed policy position.

Attachment

Family and Domestic Violence: The Role of Local Governments Discussion Paper

<https://walga.asn.au/getattachment/Documents/Item-5-3-attachment-Local-Government-and-FDV-Discussion-Paper-FINAL.PDF?lang=en-AU>

Policy Implications

In December 2011 WALGA State Council endorsed a submission to the State Government's former 'Enough is Enough Interpersonal Violence Prevention Strategy', along with adopting a now outdated set of principles that aligned with that Strategy at the time - RESOLUTION 144.7/2011.

Background

Family and domestic violence is an ongoing pattern of behaviours intended to coerce, control or create fear between family members or in current or past intimate partner relationships. Gender inequality, gender norms and stereotypes and attitudes towards women are all recognised as key drivers of family and domestic violence. Family and domestic violence behaviours can involve physical violence, sexual assault, verbal or emotional abuse, controlling behaviour, stalking and financial abuse. It can contribute to and cause anxiety and depression, suicide and self-harm, early pregnancy loss, alcohol and drug use and homelessness.

WALGA received two requests from the South West Country Zone in March 2019 and the East Metropolitan Zone in November 2019 to analyse the role of Local Governments in addressing family and domestic violence.

A discussion paper was prepared in response to the Zone requests that provided a broad analysis of the roles of all three levels of Government and comparison across jurisdictions as well as Local Government Associations. The results from WALGA's family and domestic violence survey collected between September 2019 and January 2020, with 26 individual Local Government responses was also included in the discussion paper. Not in scope for this paper was the analysis of the legal and judicial system associated with family and domestic violence, the direct support services provided to help support victims (e.g. crisis accommodation) or the specific programs facilitated to change the behaviour of offenders. Also not in scope was the Commonwealth Government's Royal Commission into Institutional Responses to Child Abuse recommendations and responses.

In August 2020 the discussion paper was provided to the South West Country Zone and the East Metropolitan Zone for consideration. Both of the Zones supported progressing the recommendations from this paper, with a minor amendment from the East Metropolitan Zone. In September 2020 all Local Governments were then provided an opportunity to review and provide further comment on the discussion paper for a period of five weeks, with the feedback received being incorporated. Feedback was received from the City of Swan and the City of Wanneroo, as well as the community alliance 'Peel Says No to Violence' which the City of Mandurah supports.

Comment

Historically Local Governments around Australia have not had a defined role and are not legislatively obligated to address family and domestic violence, except for Victorian Local Governments. The Commonwealth Government however recognises the role of Local Governments in the primary prevention of family and domestic violence outlined in the National Plan, as well as through the release of the Prevention Toolkit for Local Government which was piloted in five Local Governments across Australia, including the City of Mandurah. Some WA Local Governments with capacity are taking action by developing policies and delivering community initiatives targeted towards the primary prevention of family and domestic violence. This includes installing 'purple benches' to raise awareness of the issue in partnership with the Women's Council for Domestic and Family Violence Services WA.

The State Government developed and released the State Strategy in July 2020 without the opportunity for Local Governments and WALGA to provide input. WALGA's main role therefore is to advocate rather than administer a specific program or network, as there are no specific funding commitments from the State Government to Local Governments and there is an absence of legislation compelling Local Government to address the issue unlike in Victoria. The survey conducted by WALGA with 26 Local Government responses, supports the position that WALGA should strengthen advocacy efforts



including updating the outdated 2011 WALGA State Council endorsed policy position to align with current approaches and evidence.

5.4 Underground Power (05-049-02-0001 ID)

By Ian Duncan, Executive Manager, Infrastructure and Roads

Recommendation

That Local Government supports the:

1. continuation of cooperative arrangements between the State Government, Western Power and Local Government to progressively replace the overhead electricity distribution network in residential areas with underground power.
2. development of a new approach to identifying and prioritizing areas for investment in underground power, initiated by the need to invest in the overhead network to meet safety, reliability and capability requirements.
3. development of a new approach to allocating State Government resources to facilitate projects proceeding in areas with a high electricity network need and lower economic capacity of ratepayers while retaining a commitment to funding an average of 25% of program costs.
4. opportunity for Local Governments to initiate projects to convert areas to underground power be retained with Western Power to continue to contribute the amount recoverable as an efficient investment as calculated by the New Facilities Investment Test (NFIT).

Executive Summary

- The last projects identified under Round 6 of the State Underground Power Program will be completed in late 2022.
- It is timely for the Association to review its policy position in relation to underground power and formulate an advocacy position for future investment.
- The current, competitive process is unlikely to be sustainable, as conversion to underground power the inner, coastal and river front suburbs is nearly completed. The current costs borne by householders (50 – 90% of project costs) are too high in lower socio economic areas.
- Western Power will need to invest significantly in parts of the network particularly that built between 1950 and 1980. Investing the avoided costs of this renewal in replacing the overhead network with underground power, offers the potential to significantly reduce the costs faced by residents.
- The State Government should continue to financially support underground power, targeting investment in those areas with high network need and lower financial capacity of ratepayers.

Policy Implications

State Council Resolution 111.5/2010

Submission to the Economic Regulation Authority Inquiry into the State Underground Power Program which made the following specific recommendations:

1. Re-examine the objectives of the State Underground Power Program (SUPP) within broader State Government policies including energy and environmental policy objectives.
2. Western Power be required to develop a high level program for the undergrounding of all electricity distribution infrastructure over 20 – 40 years utilizing best practice asset management principles and use this as the basis to determine the sequence of work within the SUPP (notwithstanding the opportunity to bring forward projects identified below).
3. Determine whether the benefits received by stakeholders are similar across all projects and if not, identify the principles for a project specific basis for cost sharing between the beneficiaries.

4. Assess whether the benefits of higher property prices have changed over time (as underground power becomes more common) and whether that benefit is sustainable if the vast majority of the entire network is underground.
5. Estimate the benefits from improved reliability of the power network to electricity generators and retailers and include these in share of costs on the beneficiary pays principle as appropriate.
6. Investigate the potential benefits to community health from higher exercise rates arising from improved street lighting.
7. Include network asset management principles and economics more clearly in the project identification, prioritization and funding determination process.
8. This Inquiry specifically consider the perspectives of owner-occupiers, private investors, government owned homes and other investors in assessing the benefits received by property owners.
9. This Inquiry should consider whether measures such as the SEIFA index for an area provide a sufficient measure of the capacity of a property owner to contribute to the cost of an underground power program.
10. Cost estimates used to gauge community support for projects be adjusted for cost inflation during the expected time between the consultation period and project construction.
11. This Inquiry should give guidance as to the analysis of equity considerations between those who have already received a public contribution to the provision of underground power and those yet to do so.
12. Within the context of an established program for progressive replacement of overhead electricity distribution infrastructure with an underground network, provide the opportunity for communities to bring forward the work in their area by contributing the marginal cost of early infrastructure write-off and capital expenditure.
13. Evaluate the implications to the overall SUPP and its objectives of broadening the scope of the program to include peri-urban areas and the undergrounding of electricity distribution infrastructure to accommodate road expansion and upgrade works.

Background

The benefits of providing underground power include:

- More reliable power supply (particularly during storms);
- Better quality power supply (reduced damaged to electrical appliances and flickering lights that occur with fluctuations in power supply);
- Greater public safety due to less opportunity for contact with live power lines and collisions with non-frangible poles;
- Eliminating pole top fires, that typically occur in damp conditions following extended dry periods;
- Improved visual amenity of streetscapes with poles and wires removed and the opportunity for more tree planting;
- Better street lighting as the location of lights can be optimised as part of the design, rather than constrained by the distance poles are apart. This improves road and community safety; and
- Reduced vegetation management costs to keep trees clear of overhead power lines and the opportunity for increased tree canopy cover.

The State Government owned corporations, Western Power and Horizon Power, have responsibility for electricity distribution infrastructure within their geographic areas of operation. Road Reserves in which the electricity infrastructure is located are Crown Land, with care and control vested in Local Governments (*s.3.53 of the Local Government Act 1995* and *s.55 (2) of the Land Administration Act 1997*). The *Local Government Act 1995 (s 6.38)* and *Local Government (Financial Management) Act 1996 (Regulation 54(c))* provide the head of power for Local Governments to apply a service charge to recover some or all of the costs to provide underground power. Councils have historically provided

financing arrangements to enable property owners to defer payment and pay for underground power over an extended period of time.

Since 1996 Local Governments, Western Power and the State Government have worked together to replace overhead electricity distribution wires with underground cables. At the conclusion of the current Round 6 of the State Underground Power Program (SUPP), it is anticipated that 70 Major Residential Projects will have been completed, converting approximately 105,000 residences to underground power. All new residential subdivisions are required to have underground power distribution. Nearly 60% of residential properties in the Perth metropolitan area are now served by underground power. However, there remains more than 350,000 residential properties in Perth and 90,000 properties in regional urban areas that have overhead power connections.

A program to retrospectively provide underground power in residential areas has enjoyed bi-partisan political support for 25 years.

Despite very significant investment in pole replacement over the past decade, nearly 30% of the 622,300 wooden poles in the Western Power distribution network are more than 40 years old². Cross arms in the distribution network have a similar age profile. This indicates that Western Power will need to continue large scale investment in pole reinforcement and pole replacement in the immediate future. The installation of underground power eliminates the need to replace poles that have reached the end of their service life and reinforce poles during their service life.

Competition for underground power projects remains strong. There were 62 proposals from 14 Local Governments for Round 6 Major Residential Projects, with just 17 projects approved by the Minister for Energy for development. There were 89 project proposals in the previous Round 5.

Current Models for Converting to Underground Power

There are currently three ways in which existing overhead electricity distribution wires and poles may be replaced with underground infrastructure:

1. State Underground Power Program (SUPP)
2. Retrospective (Customer Funded) Underground Power (RUP)
3. Network Renewal Underground Power Pilot (NRUPP)

State Underground Power Program

The Guidelines for the most recent round of the State Underground Power Program (SUPP), Round 6, provided for the Local Government to contribute between 50% and 100% of the project cost. Western Power provides a contribution up to the amount that is recoverable as an efficient investment as calculated by the New Facilities Investment Test (NFIT)³ and the balance is funded by the State Government. Across the first eleven projects in Round 6, on average Local Government has provided 66% of the funding (50%-90%), Western Power 23% (10%-33%) and the State Government 11% (0%-29%).

Typically ratepayers, through their Local Government, have been required to contribute between \$3000 and \$9000 per property for underground power conversion through the SUPP.

The last of the 17 projects planned for delivery under Round 6 (SUPP) is scheduled for completion in late 2022.

Retrospective (Customer Funded) Underground Power

² Western Power, State of the Infrastructure Report 2018/19 page 16
<https://westernpower.com.au/media/4296/state-of-the-infrastructure-report-2018-19-20200630.pdf>

³ <https://www.erawa.com.au/electricity/electricity-access/western-power-network/western-power-network-augmentations>

In some situations Local Governments or property developers have elected to work directly with Western Power to fund the replacement of overhead wires and poles with underground power. There is no funding from the State Government under these arrangements.

Typically these projects cost \$4000 to \$10,000 per property.

Network Renewal Underground Power (Pilot)

In a small number of situations the condition of the overhead network is such that replacement with underground power meets the new facilities investment test (NFIT) that Western Power is subject to for capital investment. Four pilot projects are in development or implementation. The funding model is that the resident, through the Local Government, funds the underground connection to the property (green dome plus connection from the dome to the house as this infrastructure is not owned by Western Power). Western Power funds all of the street works.

In the small number of projects developed to date, ratepayers, through their Local Government, have been required to contribute between \$1,500 and \$2,500 per property for underground power conversion.

Comment

New Approaches to Underground Power Conversion

Three approaches to underground power conversion have been identified for future consideration:

1. State Underground Power Program Round 7
2. Network Investment Priority Driven Co-investment Model
3. Customer Funded

State Underground Power Program Round 7

This approach requires the State Government to initiate a competitive project selection process using the criteria and guidelines (or similar) to the previous Round 6.

From a funding perspective, the Local Government bids the share of project costs it is willing to fund (subject to a minimum); Western Power funds up to the amount able to be approved under the New Facilities Investment Test (NFIT) and the State Government funds the balance. The State Government determines the investment priorities, based on network need or risk, maximising the impact of its funding contribution and minimising the risk of community opposition.

Strengths

- i. Every Local Government is provided the opportunity to propose and compete for underground power projects;
- ii. Well understood structure;
- iii. Transparent process;
- iv. Equitable (broadly) with projects delivered since 2000.

Weaknesses

- i. Increasingly difficult to identify project areas where residents are willing and able to fund 50% or more of the project costs;
- ii. Investment does not maximise opportunities from Western Power critical maintenance expenditure. New investment in the overhead network reduces the amount Western Power is able to contribute to underground conversion;
- iii. Process of funding rounds results in a long period of time (up to 6 years) between project initiation and completion;
- iv. Difficult to maintain a steady flow of project work to encourage investment in the industry and competition between contractors;

Network Investment Priority Driven Co-investment Model

Development of a new network investment priority driven approach requires the State Government to determine a contribution to each project. This could be a fixed amount or share (percentage) or a variable amount or share based on relevant factors. The Economic Regulation Authority Inquiry into the State Underground Power Program⁴, proposed State Government contributions range from 5% to 40% of project costs based on median house prices. Alternative factors or measures include:

- Index of relative socio-economic disadvantage⁵;
- Relative Average Gross Rental Value (GRV) in the project area
- Relative unimproved land value; and
- Small area income or wealth measures⁶.

The structure of this approach requires potential underground conversion project areas are identified by Western Power based on planned maintenance investment. This information is currently available (not publicly) and would be expected to be regularly updated. The New Facilities Investment Test (NFIT) determines the Western Power financial contribution to the project.

The Local Government(s) within the project area are invited to consider the project area proposed by Western Power for conversion to underground electricity distribution having been advised of the estimated ratepayer contribution required to fill the gap between project costs and contributions from Western Power and the State Government. Projects would be proposed on a rolling basis, rather than a funding round. However, indicative project areas for a five year period could be used for planning purposes. If the Local Government declines the invitation, Western Power would invite the Local Government responsible for the next highest priority project area to consider a project. In the area where overhead power is to remain, Western Power will undertake the required work on the overhead network to ensure safety of the infrastructure and supply.

Strengths

- i. Ultimately (40 years +) provides for underground power to most residential properties on the Swan Coastal plain and regional centres.
- ii. Maximises the opportunities provided by essential Western Power investment in network maintenance and renewal. In the highest priority project areas, this represents 52% of estimated project costs.
- iii. Offers the potential to make a significant impact on the network constructed between the 1950's and 1980's which is approaching the end of its service life and subject to pressure from infill development and solar generation.
- iv. Rolling program shortens the length of time between community consultation and project implementation.
- v. Broadly equitable with funding Rounds 5 and earlier, that provided a greater State Government contribution to lower socio-economic areas with the added benefit of higher Western Power contribution.

Weaknesses

- i. Not every Local Government or every community will be offered the opportunity to convert to underground power under this program within the short to medium term;

⁴ Inquiry into State Underground Power Program Cost Benefit Study 2011
<https://www.erawa.com.au/cproot/9988/2/20111020%20-%20D76272%20-%20Final%20report%20-%20inquiry%20into%20State%20Underground%20Power%20Program.pdf>

⁵ Australian Bureau of Statistics <https://www.abs.gov.au/websitedbs/censushome.nsf/home/seifa>

⁶ For example
<https://www.abs.gov.au/Ausstats/abs@.nsf/0/603D7F27299009A7CA25810F001B15DD?OpenDocument>

- ii. Not very transparent, as Western Power investment priorities and plans are complex and difficult to communicate in an open way;
- iii. Project areas may straddle Local Government boundaries and not align with communities of interest.

Customer Funded

Property developers and Local Governments can approach Western Power to design and construct replacement underground electricity distribution infrastructure. A series of up-front payments are required for the cost estimates and design costs, prior to a final agreement to proceed to construction.

Western Power to determine and provide a financial contribution to customer funded underground power projects up to the amount that is able to be approved under the New Facilities Investment Test (NFIT).

Strengths

- i. Every Local Government able to propose areas for conversion;
- ii. Western Power agrees to contribute the value of benefits accrued to the network (avoided costs).

Weaknesses

- i. Does not leverage maintenance and renewal investment;
- ii. Results in potential early write-off of electricity distribution assets;
- iii. Unlikely to have a significant impact across the network due to high costs faced by property owners.

Conclusions

The current approach to identifying areas for conversion to underground power is not sustainable. A future program requires that the investment priorities of Western Power, the State Government and ratepayers are better aligned so that the benefits received by ratepayers equal or exceed to costs they face. Focussing on areas that have the highest impact in terms of electricity network benefits will lower the costs faced by ratepayers.

The State Government should continue to have a role in the program recognising the benefits accruing to the wider community and to provide equitable treatment for those electricity consumers still served by an overhead network.

A new Electricity distribution network driven approach to project identification be supported.

The opportunity for Local Governments to initiate underground power conversion in areas, with co-investment by Western Power to the amount recoverable as an efficient investment as calculated by the New Facilities Investment Test (NFIT) be supported.

6. MATTERS FOR NOTING / INFORMATION

6.1 Submission to the Infrastructure WA State Infrastructure Strategy Discussion Paper (05-085-03-0001 DM)

By Dana Mason, Policy Manager Economics

Recommendation

That the endorsed Submission to the Infrastructure WA State Infrastructure Strategy Discussion Paper be noted.

Executive Summary

- WALGA has prepared a submission in response to the Infrastructure WA (IWA) Discussion Paper to guide the development of a State Infrastructure Strategy.
- The Discussion Paper focusses on the guiding principles, objectives, methodology and governance for the development of the strategy, as well as opportunities and challenges over the medium to long term. It does not consider specific infrastructure projects, but is focused on the broader strategic framework.
- WALGA's submission advocates for the following issues.
 1. A sound strategic framework to guide the development of the State Infrastructure Strategy. This should contain a number of key elements including:
 - *A long-term vision for infrastructure in WA* which is underpinned by the broader vision for our State and its economy, environment and social fabric. The vision should be developed in consultation with the community.
 - *Infrastructure needs should be considered as a whole*, rather than examining specific regions or projects in isolation. The Strategy should recognise the interconnectivity of systems and flows of people and goods.
 - The strategy should *bring together existing plans for the state* (for example, regional plans, land use, transport, community plans etc.), to ensure alignment and consistency. *Any existing plans should be reviewed* to ensure that they remain relevant and fit for purpose.
 - The strategy should be developed *based on a robust and objective assessment of evidence* including data, stakeholder engagement and other analysis to determine the most pressing needs and priorities.
 2. An integrated approach to infrastructure planning and provision across all levels of Government and the private sector. The Discussion Paper makes little reference to the role that Local Government plays in the planning and delivery of infrastructure, with the focus instead in on infrastructure owned and delivered by the State Government agencies, GTEs and statutory authorities.
 3. Local Government plans to be used to inform the State Infrastructure Strategy through a bottom up approach. Local Governments have extensive community and land use plans that provide valuable local level insights to inform the Strategy.
 4. Clear targets to measure progress against the State Infrastructure Strategy. The objectives identified in the Discussion Paper are appropriate but broad, and should be distilled into clear targets to ensure that progress in achieving the Strategy can be clearly measured.
 5. A focus on technology, data and digital connectivity as a key objective to underpin the State Infrastructure Plan. Digital technology will have significant implications for both our

economy and community going forward, and appropriate digital connectivity should be designed and built into all public infrastructure.

6. Innovative solutions to deliver on the state's future infrastructure needs in a fiscally constrained environment, including leveraging funding from other sources such as the private sector and broader policy reforms and non-build solutions. For Local Governments, amendments to the *Local Government Act 1995* to allow for the creation of Beneficial Enterprises will be an important reform to facilitate investment and collaboration with the private sector for infrastructure delivery.
 7. A focus on getting the most out of existing infrastructure and improving maintenance. The infrastructure strategy scope should include maximising the benefits of and minimising the lifecycle costs of existing infrastructure.
 8. Prioritisation criteria to not only consider a project's economic impacts, but also the social and environmental implications. There is a need to strike a balance between promoting new economic development and improvements in core service delivery.
 9. Resilience of infrastructure to be considered when it is planned, designed, delivered and managed, and should be of an appropriate standard to withstand the known climate change impacts likely to be experienced in the future.
 10. Infrastructure WA to explore the use of functional economic regions (which group a number of Local Government areas together based on real economic linkages) as a way to identify and deliver large-scale opportunities across regional borders. In some circumstances, it may be useful to consider a program of work that cuts across regional boundaries to support a particular strategic outcome, rather than individual projects.
 11. Greater use of technology to allow people to stay in regional areas and stem the decline in population, but will require access to fast and reliable telecommunications infrastructure.
 12. A clear way of facilitating bottom up input from outside of State Government agencies through the engagement process to develop the State Infrastructure Strategy.
- The submission also provides commentary on the trends and issues related to the WA economy and infrastructure sectors identified in the Discussion Paper.

Attachment

WALGA submission to the Infrastructure WA State Infrastructure Strategy Discussion Paper
<https://walga.asn.au/getattachment/Documents/Item-6-1-attachment-IWA-Discussion-Paper-Submission-FINAL.PDF?lang=en-AU>

Background

Infrastructure WA was established in 2019 to provide advice and assistance to the WA Government on infrastructure matters. IWA has a range of responsibilities, including the delivery of a State Infrastructure Strategy, which addresses Western Australia's infrastructure needs and priorities over a 20 year horizon.

IWA is consulting broadly in the development of this strategy. In June 2020 IWA released the "A Stronger Tomorrow: State Infrastructure Strategy Discussion Paper", which provides the foundation for the development of the State Infrastructure Strategy. The Discussion Paper focuses on:

- the guiding principles and objectives that will help define the Strategy parameters;
- the methodology and governance for developing the Strategy; and
- the priority opportunities and challenges the Strategy should address, particularly over the medium to long-term.

IWA is seeking feedback on this document from industry, the community and all levels of Government through 22 consultation questions, which explore these issues in further detail.

WALGA has prepared a submission, which sets out the key issues for Local Government in line with the Association's current policy position. In developing the submission, WALGA provided the opportunity for the Infrastructure Policy Team and broader membership to provide feedback. WALGA received written feedback from five Local Governments for inclusion in the submission (City of Armadale, City of Canning, City of Gosnells, City of Swan and Shire of Serpentine-Jarrahdale).

WALGA also participated in the IWA consultation workshop on this Discussion Paper.

Comment

WALGA is broadly supportive of the Discussion Paper.

However, the Association has concerns that it does not go far enough to recognise the important role of Local Governments in infrastructure planning and provision. Local Governments have extensive community and land use plans that provide valuable local level insights and should be used to inform the State Infrastructure Strategy through a bottom-up approach.

It will be important that IWA looks to enhance cross-government coordination and planning across all three levels of Government, and ensure that Local Government infrastructure plans and Local Government planning schemes are reflected and acknowledged in the infrastructure planning framework.

The submission was endorsed by the Infrastructure Policy Team and subsequently endorsed by WALGA's State Council via Flying Minute (RES 112.FM/2020), and the submission was forwarded to Infrastructure WA.

6.2 Draft Amendments to the *Planning and Development (Local Planning Scheme) Regulations 2015* (05-047-01-0017 VJ)

By Vanessa Jackson, Policy Manager Planning and Improvement

Recommendation

That the endorsed Submission on the Draft Amendments to the *Planning and Development (Local Planning Scheme) Regulations 2015*, be noted.

Executive Summary

- On 20 August 2020, the WA Planning Commission released draft amendments to the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- The public comment period closed on 18 September 2020.
- A submission was prepared for State Council endorsement via Flying Minute.

Attachment

WALGA Submission on the Draft Amendments to the *Planning and Development (Local Planning Scheme) Regulations 2015*.

https://walga.asn.au/getattachment/Documents/Item-6-2-attachment-WALGA_Response-to-LPS-Regulations_2020-FINAL-06102.pdf?lang=en-AU

Policy Implications

WALGA's Current Policy positions on Planning Reforms: -

6.1 Planning Principles - All legislation and policy which deals with planning and development must

- ensure role clarity and consistency across all legislation controlling development, to avoid confusion of powers and responsibilities;
- be easily interpreted by, understood by and accessible to all sections of the community;
- be amended only with WALGA involvement and/or consultation/involvement with Local Government.

6.2 Planning Reform Position Statement - The Local Government sector supports the underlying principles of planning reform and the continuing focus of streamlining the planning system.

Background

The draft amendments to the Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regulations) fit within three main areas of proposed reforms: -

1. *Cutting Unnecessary Red Tape* - proposing to include a broader range of exemptions for small projects and exempt more change of use applications in retail, commercial and industrial area. These exemptions will make it easier for people to undertake small improvements to their homes or businesses, getting more people back to work and boosting the local economy.
2. *Streamlined Planning Process* - to streamline approvals for single residential dwellings, improve the assessment and referral process for development applications, provide more consistent and contemporary community consultation requirements.
3. *Improved Consultation Practices* – to improve community engagement and consultation process, making the planning system easier to navigate and establishing clear and transparent consultation practices. The proposed regulatory reforms will support new planning laws recently passed by Parliament and complement changes to State Planning Policies, including the revised residential design codes policy.

Comment

The release of draft amendments to *the Planning and Development (Local Planning Scheme) Regulations 2015* (LPS Regulations) is welcomed. Since the introduction of the provisions in 2015, the Association has advocated for amendments, to clarify the provisions and to remove some of the unintended consequences that occurred following the gazettal of the Regulations. It is acknowledged that this first round of amendments will be followed by additional amendments in 2021, with many of those amendments also addressing the concerns raised by the Association over the last 5 years.

Local Government as the level of government that predominately administers and applies the LPS Regulations, is a key stakeholder in any review. In July, the Department of Planning Lands and Heritage established three working groups to work through the review of the *Planning and Development (Local Planning Schemes) Regulations 2015*, being: -

- Local planning frameworks, including local planning strategies, schemes and amendments, and local planning policies.
- Structure plans, activity centre plans and local development plans.
- Development Assessment Processes, including consultation.

WALGA called for expressions of interest from the sector to attend these working groups and provided 51 officer nominations to the Department, representing 32 Local Governments from metropolitan, regional and rural areas. The involvement of Local Government planners, in the discussion on the proposed amendments has been positive. It is hoped that similar engagement continues to occur as part of future reforms to the planning system.

The intent and approach that has been taken by the draft LPS Regulations is broadly supported, however, there remains a number of matters that require modification. These matters are addressed in the broad comments and recommendations in this report, while a detailed spreadsheet of 74 comments provided:-

- 14 amendments are supported
- 42 amendments have been given in-principal support, subject to conditions
- 1 amendment is unable to be supported because proposal is unclear
- 17 amendments are not supported.

In regards to the proposed amendments that are not supported, the following rationale is provided on the main themes: -

1. Several 'Discretionary' uses are proposed to be exempt from requiring planning approval (cl.61(2)(b)). Although the types of uses outlined are accompanied by conditions, the preparation of a Local Planning Scheme has been based on carefully choosing the uses that are 'Permitted' and the ones that require discretion in order to be considered, based on the location and information provided by the applicant. In effect exempting these 'Discretionary' uses, automatically makes them 'Permitted' uses across all 139 Local Government's Planning Schemes. The dictionary definition of discretion is: -
 - o *the right or ability to decide something*
 - o *choice, or the right to make a choice, based on judgment*
 - o *the right to choose something, or to choose to do something, according to what seems most suitable in a particular situation.*

Therefore, it is not possible to exempt these land uses and remove the judgement needed to determine whether these land uses are appropriate for the particular zone. Further, without any analysis being undertaken on the potential impact of this change on all Local Planning Schemes, this change is not supported.

2. Publishing the Local Planning Scheme, Local Planning Strategy and State Planning Policies on a Local Governments website (r.16, cl.25, cl. 27, c.29, cl.31). Thorough the draft regulations there are requirements for a Local Government to place various large documents on their website, even though these documents are already held centrally on the WAPC website. For smaller Local Governments, this could place a strain on the IT platform, and for all Local Governments it duplicates information which could also result in older versions being maintained on a website. It would be preferable for just the link to the WAPC website be provided on the Local Governments website, rather than being a mandatory requirement to host the documents.

3. Only one request for further information (cl.65A(3)). This clause outlines that a Local Government can only ask for additional information once, however, there should be no limit on the number of times additional information can be requested, as the submission of new information can change the development footprint, which upon reassessment, can require additional details to be provided. And combined with the clause that provides an applicant with the right to refuse submitting additional information (cl.65B), there is the potential for more applications to be refused. Local Governments aim to assist applicants with their development applications, to help with economic stimulus, these clauses seem to be counter to this objective.
4. Car parking provisions - Generally support reforms that enable economic recovery and these exemptions should assist in that endeavour by reducing costs for businesses. However, an effect of these car parking reforms will be an increased demand for parking in on-street and off-street public bays in urban centres, particularly through cumulative impacts, and reduced income streams, i.e. cash-in-lieu, to provide alternative forms of parking and transport modes for local communities. Further, a ten year period does not allow enough time to raise enough capital to fund multi-storey car parking facilities. These facilities cost \$20 million plus to construct, therefore, 10 years is highly unlikely to be sufficient time to raise adequate capital, design and construct these structures. Local Governments should therefore be given the opportunity to extend the ten year period in particular circumstances, with the approval of the Commission. Refunding contributions after 10 years is also not supported.
5. Site Works (non-residential) - This provision exempts site works less than 500mm above or below the natural ground level, within 1m of the boundary. There is no condition that the site works must also comply with the clearing regulations, therefore, this could result in large non-residential sites being excessively cleared and significant vegetation or trees removed prior to lodging a Development Application.
6. A new clause has been included that specifies that as part of the review of a local planning scheme and report presented to the WAPC, advice must be provided as to whether a structure plan or Local Development Plans is either satisfactory, should be amended or approval revoked. It would be difficult at the report of review stage to know whether an approved structure plan or local development plan require amending or revocation, or whether they are satisfactory in their existing form. Given the number of structure plans and local development plans that currently exist within some Local Governments (some have over 300), it would be difficult for this assessment to be made within the required 6 month period.

During the public consultation period, the Association sought feedback from the Local Government Sector to inform a representative submission to the WA Planning Commission. Given the short 4 week consultation period, feedback was only received from the Cities of Bayswater, Belmont, Kwinana and Busselton, Shire of Harvey and Town of Victoria Park.

The submission was presented to the People and Place Policy Team for feedback on 9 September 2020. Members discussed the complex technical nature of the changes, but supported the submission as the comments have been prepared by both Local Government and WALGA technical officers.

The submission was subsequently endorsed by WALGA's State Council via Flying Minute on 17 September 2020 (**RESOLUTION 137.FM/2020**) and the submission was forwarded to the WAPC to meet the 18 September 2020 deadline.

6.3 Interim Review – State Planning Policy 3.1 Residential Design Codes (05-015-02-0002 CH)

By Chris Hossen, Senior Planner

Recommendation

That the endorsed submission on the interim review of State Planning Policy 3.1 Residential Design Codes, be noted.

Executive Summary

- On 11 July 2020, the WA Planning Commission released the interim review of the State Planning Policy 3.1 Residential Design Codes (R-Codes) for public comment. The comment period closed on 10 September 2020.
- The submission was endorsed by State Council by Flying Minute.

Attachment

Attachment 1: Submission on the interim review of the R-Codes

<https://walga.asn.au/getattachment/Documents/Attachment-1-Submission-Interim-RCodes-Review-2020-Final-v1.pdf?lang=en-AU>

Policy Implications

WALGA's Current Policy positions on Planning Reforms: -

6.1 Planning Principles - All legislation and policy which deals with planning and development must

- ensure role clarity and consistency across all legislation controlling development, to avoid confusion of powers and responsibilities;
- be easily interpreted by, understood by and accessible to all sections of the community;
- be amended only with WALGA involvement and/or consultation/involvement with Local Government.

6.2 Planning Reform Position Statement - The Local Government sector supports the underlying principles of planning reform and the continuing focus of streamlining the planning system.

Background

The State Government through its Action Plan for Planning Reform has identified three main goals for reform of the WA planning system, being: that planning creates great places for people; that planning is easier to understand and navigate; and that planning systems are consistent and efficient. Beneath each goal sits a range of initiatives, including Design WA, a project that seeks to elevate the importance of design quality across the whole built environment. As part of Design WA is the review and reorganisation of the suite of State Planning Policies that relate to built form, the most important of these being the R-Codes.

As part of these reforms the R-Codes is being split into three distinct policies; higher density (apartments), medium density (townhouses and low-level apartments), and low density (single houses).

According to the State Government, the interim review of the R-Codes has been brought forward as part of their planning reforms to support Western Australia's economic recovery in response to the COVID19 pandemic. Further changes to the R-Codes are expected to be announced in coming weeks with the release of the draft medium density code, applying to most residential development between the density codes of R40 and R80. The R-Codes will continue to apply to all low-density residential development for the foreseeable future.

Comment

The Association welcomes the release of the interim review of R-Codes for public consultation. The R-Codes control the design of most residential development in WA, and thus are fundamental in ensuring that both homes and communities across WA remain sustainable and liveable through the maintenance of high qualities of urban amenity. Continued improvements to the R-Codes to ensure that its policy measures meet both the expectations of the community and contemporary practice are therefore necessary to ensure that relevancy is maintained.

Local Government as the level of government that administers and applies the R-Codes is a key stakeholder in any review. The WA Planning Commission (WAPC) in the formulation of the proposed changes directly engaged with Local Government officers to assist in the framing and testing of the provisions. The early involvement of Local Government planners, in the framing and testing of the proposed modifications is supported.

Several proposals within the interim review seek to simplify the approvals process for new home builds and renovations, by amending common triggers for development approval and streamlining assessment processes for minor works. The Association supports these initiatives, and notes that many Local Governments already facilitate such outcomes through their local planning frameworks.

The Association has been supportive of the Design WA initiative as good design and positive built form outcomes have always been at the forefront of Local Government intentions and the land use planning outcomes that the sector seeks to achieve. To this end, while the Association broadly supports the intent and approach that has been taken by the interim review of the R-Codes, there remains a number of matters that require modification to ensure that optimal land-use outcomes can be achieved across Western Australia. These matters are addressed in the specific comments and recommendations of the submission.

During the public consultation period, the Association sought feedback from the Local Government sector to inform a representative submission to the WAPC. Feedback from officers at the Town of Bassendean, and Cities of Cockburn, Fremantle and Stirling was received. The Association also facilitated an online information session on the proposed changes for Local Government officers and Elected Members with 64 attendees from 30 Local Governments.

The draft submission was presented to the People and Place Policy Team for feedback on 2 September. Members discussed the complex technical nature of the changes but supported the submission as the comments have been prepared by both Local Government and WALGA technical officers.

The submission was subsequently endorsed by WALGA's State Council via Flying Minute on 9 September 2020 (**RESOLUTION 136.FM/2020**) and the submission was forwarded to the WAPC to meet the 10 September 2020 deadline.

6.4 State and Federal Budgets (05-088-03-0001 DM)

By Dana Mason, Policy Manager Economics

Recommendation

That the update on the 2020 Federal and State Budgets be noted.

Executive Summary

- The State and Federal Budgets were handed down in recent weeks. The Budgets revealed the significant and lasting impact of the COVID-19 pandemic on our economic and financial position.
- The Budget showed that COVID-19 had an immediate impact on the state's labour market, particularly those industries directly affected by the restrictions such as hospitality, arts and recreation and retail. This saw our domestic economy record the largest quarterly contraction on record (-6%) in June.
- However, the WA economy is still faring better than other states, and with our performance boosted by the state's dominant mining industry and the early containment of the virus, which allowed restrictions to be lifted.
- Even though WA is expected to perform better than other states, the impact of COVID-19 will still be long lasting, with unemployment expected to be elevated for a number of years.
- In light of this, the focus of the both the State and Federal Budgets were on COVID-19 recovery, and will see the use of debt to fund a range of initiatives intended to kick-start the economy.
- The headline of the State Budget was the previously announced \$5.5 billion COVID recovery plan, and an Asset Investment Program worth \$27 billion that will be funded through operating surpluses and additional debt.
- There were limited new announcements in the budget, but those which are welcome news for the sector, include:
 - \$7.6 million to implement the 'Stop Puppy Farming' legislation
 - \$5 million to assist local coastal managers to protect coastal erosion hotspot sites
 - \$15 million to treat priority bushfire and other risks on unallocated or unmanaged Crown land, including that under the care of Local Government
 - \$16.1 million over four years to target high casualty and high-risk intersections on local government roads within the metropolitan area.
- The Commonwealth has directed significant funding towards tax relief and incentives for both households and businesses to encourage spending and restart the economy.
- The Federal Budget contained more news that is positive for Local Governments, particularly the announcement of a \$1 billion investment in local roads and community infrastructure.
- Local Governments that rely heavily on domestic and international visitors will also benefit from the Federal Budget's \$50 million Regional Tourism Recovery initiative, and a new \$200 million round of the Building Better Regions Fund.
- Further detail about the State and Federal Budgets can be found in the Budget summary documents and WALGA Economic Briefing.

Attachments

https://walga.asn.au/WalgaWebsite/media/WALGA_Media/Comms%20and%20Events/state-budget-202021v1.pdf

<https://alga.asn.au/alga-analysis-of-the-2020-21-federal-budget/>

October 2020 Economic Briefing.

<https://walga.asn.au/getattachment/e262974b-efa9-47e6-a8fe-09d10f5f06ef/WALGA-Economic-Briefing-October-2020.pdf>

Background

The COVID-19 pandemic meant that both the State and Federal Budgets were delayed until October order to provide greater certainty around the impact on the economy and the State and Nation's finances.

WALGA's Pre-Budget submission was originally submitted to Government with the expectation that the May budget would go ahead. In light of these changes, WALGA released a policy document titled Reboot, which sought funding for a number of programs and projects that will quickly support WA jobs, while also providing long-lasting and widespread benefits to all of WA's communities.

Comment

While both budgets contained some positive news for Local Governments, there was more in the Federal Budget for Local Government this year. In particular, the \$1 billion investment in local roads and community infrastructure is a vote of confidence in the sector's ability to drive local economic prosperity.

The State Budget contained some initiatives that were welcome news for the sector including partial commitments towards several requests in WALGA's Pre-Budget Submission and Reboot document.

However, the Government missed the opportunity to invest in programs that could quickly boost jobs and provide lasting benefits to WA communities such as the Community Sport and Recreation Facilities Fund and the commodities freight route program.

We were also disappointed that there are going to be significant increases in some key fees and charges that are imposed on Local Government, including increases in excess of 10% in 2020-21 for street lighting tariffs for Horizon Power customers and 2.9% for electricity tariffs.

These are important issues for the sector, and WALGA will ensure they remain a central part of our advocacy agenda in the coming period.

6.5 Noongar Heritage Agreement for Local Government (05-032-01-0001 SM)

By Susie Moir, Policy Officer Community

Recommendation

That the update on the Noongar Heritage Agreement for Local Government be noted.

Executive Summary

- In August 2020 State Council endorsed the Template Noongar Heritage Agreement for Local Government (NHALG) which was developed by WALGA, the South West Aboriginal Land and Sea Council (SWALSC), the Department of Planning, Lands and Heritage (DPLH), the Department of the Premier and Cabinet (DPC), and the State Solicitors Office to facilitate a consistent approach to Aboriginal heritage across the area of the South West Native Title Settlement (SWNTS), which affects 101 Local Governments.
- In October 2020 SWALSC requested that commencement of the NHALG be delayed whilst they determine resourcing requirements to enter into NHALGs in a timely manner.
- SWALSC's resourcing issues also mean that they are unable to respond to Local Government's directly on heritage matters and have requested all Local Governments' to contact DPLH for heritage advice.

Background

The NHALG template has been developed to offer Local Governments an additional tool to assist them to fulfil their obligations under Western Australia's Aboriginal cultural heritage legislation, to build positive relationships with SWALSC and local Aboriginal knowledge holders, and to facilitate a consistent approach to Aboriginal heritage in the SWNTS area.

Since 2018 WALGA has participated in the South West Native Title Settlement Group (SWNTS Group), which comprises WALGA, SWALSC, DPLH, and DPC. Meeting quarterly, the purpose of the SWNTS Group is to keep Local Government engaged and informed about the progress of the SWNTS. A key priority that the SWNTS Group identified was supporting Local Government to engage more closely and build lasting relationships with local Aboriginal communities, and to comply with the requirements of the *Aboriginal Heritage Act 1972*. To this end, the SWNTS Group agreed to develop a template Noongar Heritage Agreement for Local Government.

Comment

In October 2020 SWALSC requested that commencement of the NHALG be delayed whilst they determine resourcing requirements to enter into NHALGs in a timely manner.

SWALSC's resourcing issues also mean that they are unable to respond to Local Government's directly on heritage matters and have requested all Local Governments' to contact DPLH for heritage advice. Instead SWALSC will advise Local Governments who have heritage enquiries to make contact directly with DPLH.

DPLH upon receipt of a request will continue its current system of providing advice directly to Local Governments which may include:

- Advice on application of the Due Diligence Guidelines (DDG) and the likelihood of impacting heritage;
- Advice on whether a Regulation 10, section 16 or section 18 may or may not be required;
- Where a survey is being undertaken by Local Government, provide the names of informants for the survey.

Local Governments within the area of the SWNTS are encouraged to send emails to heritageenquiries@dplh.wa.gov.au and copy the South West Heritage team on swsheritage@dplh.wa.gov.au if there are questions on the process.

6.6 Aboriginal Cultural Heritage Bill Consultation (05-032-01-0001 SM)

By Susie Moir, Policy Officer Community

Recommendation

That the update on the consultation on the Aboriginal Cultural Heritage Bill be noted.

Executive Summary

- In September 2020 the Department of Planning, Lands and Heritage released the Aboriginal Cultural Heritage Bill (ACHB) for a short five week consultation period. The ACHB reflects the feedback of Aboriginal people, industry and stakeholders across the State gathered over two years of consultation.
- This followed consultation in 2018 and 2019 on the development of new legislation for the protection of Aboriginal cultural heritage for Western Australia.
- WALGA lodged a response to the ACHB consultation survey on 1 October 2020.

Attachments

WALGA Aboriginal Heritage Act 1972 – 2018 Review Submission – Stage 1 – July 2018

<https://walga.asn.au/getattachment/Documents/Item-6-6-Attachment-1-July-2018-WALGA-State-Council-Aboriginal-Heritag.pdf?lang=en-AU>

WALGA Submission – Aboriginal Heritage Act Review Consultation Phase 2 – May 2019

<https://walga.asn.au/getattachment/Documents/Item-6-6-Attachment-2-July-2019-WALGA-State-Council-Aboriginal-Heritag.pdf?lang=en-AU>

WALGA Response to ACHB Consultation Survey – October 2020

<https://walga.asn.au/getattachment/Documents/Item-6-6-attachment-3-ACHB-Survey-Response-1-October-2020.pdf?lang=en-AU>

Background

In March 2018 the Minister for Aboriginal Affairs initiated a review of the *Aboriginal Heritage Act 1972* (the AHA). More than 130 written submissions were received by DPLH including a submission from WALGA and submissions from five Local Governments.

Feedback received during the 2018 review indicated that the scope and the purpose of the AHA needed to change and new legislation was needed.

In March 2019, the Minister for Aboriginal Affairs released a Discussion Paper and additional materials setting out proposals for a new Aboriginal heritage system to recognize, protect, manage and celebrate the places and objects that are important to Aboriginal people, as well as providing an efficient land use proposal framework. WALGA engaged with members as stated below and submitted a sector submission in July 2019:

- Co-presenting with DPLH an Info-session and webinar in May 2019 which was attended by officers, managers and Elected Members from 9 Local Governments (Perth, Gosnells, Armadale, East Pilbara, Derby – West Kimberley, Busselton, Broome, Augusta – Margaret River and Northam).
- A member survey seeking feedback on the review which was advertised in LG News and received 10 responses (seven from metropolitan Local Governments and three from regional and rural Local Governments).

- Establishing a Sector Reference Group during the 2018 review which was refreshed prior to preparing the submission in 2019. An Expression of Interest process was undertaken through LG News in April 2019 to provide a further opportunity for involvement to WALGA members. Members were from Rockingham, Boddington, Augusta - Margaret River, Perth, Wanneroo, and Derby – West Kimberley.

WALGA staff were briefed by DPLH in September 2020 and then prepared a response to the DPLH Consultation Survey based on previous submissions, advice from the Infrastructure, Governance and Organisational Services and Strategy, Planning and Policy teams. The short consultation timeframe did not allow detailed consultation with the sector however feedback received from members was incorporated into WALGA's response where available. An Item was run in LG News on 11 September 2020 advising the sector of the consultation and asking members to provide copies of their submissions to WALGA. One submission was received.

Comment

In broad terms the sector supports the development of new Aboriginal cultural heritage legislation for Western Australia that recognizes the rights of Aboriginal people to protect their cultural heritage and provides the same rights to Aboriginal people and proponents of activity. Issues raised in WALGA's submissions have highlighted the need for adequate resourcing and governance support to be provided to Aboriginal Cultural Heritage Services and the Aboriginal Cultural Heritage Council; clarification of the relationship between the ACHB and aspects of the *Planning and Development Act 2005*; the need for further guidance and the development of a support package for Local Government as to their heritage obligations when undertaking particular types of infrastructure works and the definitions of exempt activities; and the need for fees for heritage services to be managed.

DPLH will shortly be commencing a twelve month consultation on the development of the Regulations to support the ACHB. WALGA will refresh the Sector Reference Group in the coming months and continue to provide input into that process.

6.7 Local Government Animal Welfare in Emergencies Grant Program (06-081-01-0001 EDR)

By Evie Devitt-Rix, Acting Policy Manager Emergency Management

Recommendation

That State Council note:-

- 1. The Local Government Animal Welfare in Emergencies Grant Program is a collaboration between the Department of Primary Industries and Regional Development (DPIRD) and WALGA to build the capacity of Local Government to assist their communities in responding to, and recovering from, emergencies.**
- 2. Recipients of the Grant funding have been notified and will commence their projects in November.**

Executive Summary

- The Local Government Animal Welfare in Emergencies Grant Program has been funded by DPIRD and administered by WALGA.
- Individual grants up to a maximum of \$10,000, and collaborative grants of up to \$5,000 per Local Governments were made available.
- Local Governments will use the funding to prepare or update a Local Government Animal Welfare in Emergencies Plan, procure equipment to house animals in the event of an emergency, host an exercise, facilitate training, or to develop their own project to build their capacity to respond to, and recover from emergencies.
- Twenty grants have been funded, including seven in the metropolitan area and thirteen in regional areas.

Policy Implications

Nil

Budgetary Implications

WALGA is the administrator of this Grant program. In accordance with the WALGA Grants Policy FS140, 10% (\$50 000) has been charged as part of the grant for administrative costs.

Background

In 2018, the State Emergency Management Committee (SEMC) formally assigned the role and responsibility for coordinating animal welfare in emergencies to DPIRD. The State Support Plan - Animal Welfare in Emergencies (this Plan) was subsequent prepared by DPIRD in collaboration with the SEMC, relevant hazard management agencies (HMAs) and controlling agencies and the Animals In Emergencies Working Group under the sponsorship of the SEMC – Response Capability Subcommittee.

The Plan acknowledges that the owner or person responsible for caring for an animal is responsible for the welfare of that animal, and that the owner or carer's ability to address animal welfare issues may be hampered or prevented due to the nature of the emergency. In such cases, local arrangements may assist. If local arrangements do not exist, are inadequate or have been exhausted, the controlling agency or HMA may determine the need to access the arrangements under this Plan.

Local Government considerations under the Plan include activating their Local Government Plan for Animal Welfare in Emergencies (LPAWE), and liaising with DPIRD to provide a coordinated approach to animal welfare response actions where relevant.

As part of implementation of the Plan, DPIRD partnered with WALGA to hold WA Local Government Animal Welfare in Emergencies Workshops, which introduced participants to the importance of considering animals and their welfare in emergencies, highlighting the unique and sometimes challenging issues that arise. As a result of these workshops, DPIRD developed a Local Government Plan for Animal Welfare in Emergencies (LPAWE) Guide and Template, to assist Local Governments to develop a LPAWE that is relevant to their area of responsibility, the risks they face and the community they support.

To further build the capacity of Local Governments to support animal owners and carers in emergencies, DPIRD has provided WALGA with \$500,000 of funding to deliver the Animal Welfare in Emergencies grant program for Local Governments. The grant program aims to improve the preparedness and response of Local Governments, and their communities, to the impacts of emergencies on animal welfare and biosecurity, and to improve the animal's chances of survival and recovery.

Grants up to a maximum of \$10,000 were made available to individual Local Governments, with collaborative grants also offered of up to \$5,000 per Local Government. Local Governments were offered the opportunity to apply for a grant to prepare or update an LPAWE, procure equipment to house animals in the event of an emergency, host an exercise, facilitate training, or to develop their own project.

Comment

The project team, comprising staff from DPIRD and WALGA, assessed the twenty grant applicants, and all twenty of the applicants were successful in receiving grant funding. Seven Local Government recipients are from the metropolitan area and 13 from the regions, including two collaborative grants.

More than half the grants awarded are to procure equipment used to house and look after animals in the event of an evacuation. A quarter of the recipients will use their grants to review and develop new animal welfare in emergencies plans. Many of these projects are accompanied by a community awareness program. Other projects include exercising the Local Government's arrangements, and the development of information videos for residents.

Grant recipients will have between November 2020 and June 2021 to complete their projects.

A full list of grant recipients is available on the WALGA [website](#).

6.8 2020 Annual General Meeting (01-003-02-0003 TL)

By Tim Lane, Manager Strategy and Association Governance

Recommendation

That the actions taken on the resolutions from the 2020 WALGA Annual General Meeting be noted.

Executive Summary

- WALGA's 2020 Annual General Meeting was held on Friday, 25 September 2020
- The meeting resolved for WALGA to take action in relation to two policy issues:
 1. Drought in Western Australia, and
 2. State Owned Unallocated Crown Land (UCL) House Blocks.
- Both items are consistent with WALGA Policy Positions and action has been undertaken consistent with the intent of the motions.

Attachment

[WALGA 2020 Annual General Meeting Minutes.](#)

Policy Implications

Both resolutions carried at the Annual General Meeting are consistent with existing WALGA policy.

Background

Two member motions, as follows, were considered, and supported by members, at the 2020 WALGA Annual General Meeting, which was held on 25 September 2020:

1. Drought in Western Australia

That WALGA:

1. *Requests assistance from the Federal Minister for Agriculture, Water and Environment, to reconsider the Federal Government's approach when determining the criteria on what areas are eligible for drought assistance, and*
2. *Requests the State Minister for Agriculture and Food to reconsider the State Government approach of not assisting with the drought situation, and if the State cannot help under their Water Deficiency Program that is implemented to cart water, then an alternative assistance package be considered.*

2. State Owned Unallocated Crown Land (UCL) House Blocks

That WALGA request the Minister for Local Government, Hon. David Templeman to consider a review into the justification and fairness of the State Government not paying rates on Unallocated Crown Land (UCL).

Comment

The following action has been taken on each item:

1. Drought in Western Australia

The motion is consistent with the State Council resolution of March 2020, requesting WALGA, in consultation with ALGA, to liaise with the WA State Government Ministers for Water, Agriculture and Environment to provide a coordinated holistic response in respect to the ongoing drying climate issues and access to the Drought Communities Funding Program. RESOLUTION 37.1/2020

WALGA has written to the Federal Minister for Agriculture, Water and Environment and a favourable response has been received in respect to the On-farm Emergency Water Infrastructure Rebate Scheme (the Minister announced a further \$50m for the Scheme in October 2020, with a co-contribution expected from the State) and in acknowledging sector frustration with the then Drought Communities Program Extension Program. The Minister is now focused on finalising the details of the Local Government Regional Drought Resilience Planning Program with the WA State Government. Once the details are finalised, the successful undertaking and completion of these Plans by Local Government will inform decisions about future funding allocations by the State and Commonwealth.

Correspondence was also sent to the Western Australian State Minister for Agriculture and a positive response to reviewing the matter has been received, with the Minister committing to work with the Minister for Water to ensure that Local Governments optimally benefit from the Future Drought Fund, and that DPIRD and DWER will continue to work closely with WALGA to seek solutions to improve drought resilience throughout the state.

2. State Owned Unallocated Crown Land (UCL) House Blocks

The motion is consistent with WALGA's current policy of requesting for a broad review to be conducted into the justification and fairness of all rating exemption categories currently prescribed under Section 6.26 of the Local Government Act. This would include the current exemption for State Government Unallocated Crown Land (UCL).

It is also worth noting that the Local Government Review Panel have recommended that "*The Economic Regulation Authority (ERA) should be asked to undertake a review of the rating system, including a thorough examination of the case for the current wide range of exemptions*".

The request for an Independent review of all rate exemptions is also part of WALGA's advocacy paper being considered in item 5.1 of the State Council Agenda for December 2020.

6.9 COVID-19 - Update

By Nicole Matthews: COVID-19 Coordinator

Please note: The information in this report is up-to-date as of 30 October 2020. Supplementary information will be provided at Zone and State Council meetings, as well as through other channels, such as the COVID-19 Update from the WALGA President and CEO if required.

Recommendation

That the information contained in this report be noted.

Executive Summary

- At the time of writing there has been no community transmission of COVID-19 in WA since 11 April. Significant recent increases in WA's active cases are due to returning international travelers in quarantine and crew members of arriving international vessels.
- The national picture has improved, with the number of active cases falling, the Victorian outbreak coming under control and restrictions relaxed.
- The Premier announced on 30 October that effective 14 November WA will move from a 'hard' to a 'controlled' interstate border, subject to advice from the WA Chief Health Officer. The modified 2 sqm rule (with exemptions) and remote Aboriginal community restrictions will remain in place.
- The State Government's COVID-19 priorities continue to be promoting economic recovery, the development and testing of COVID-19 outbreak and surge plans and ensuring the integrity of the quarantine management system.
- WALGA has continued to provide dedicated COVID-19 support and advocacy for members, including regular updates, webinars, guidance and analysis.

Policy Implications

The advocacy detailed in this item is in accordance with existing policy positions; some of the advocacy detailed in this item relates only to the current pandemic situation, so will not impact existing policy positions.

Budgetary Implications

Nil

Background

COVID-19 in WA

The latest information on COVID-19 in WA (including by Local Government Area) and nationally can be found on the WA Health website [here](#).

At the time of writing there has been no community transmission of COVID-19 in WA since 11 April. Increasing WA case numbers have been due to returning international travellers and crew members of arriving international vessels.

Restrictions and Directions

[WA State of Emergency and State of Health Emergency Declarations](#) remain in force.

On 30 October the Premier announced that from Saturday, 14 November, WA will move from a 'hard' to a 'controlled' interstate border under the *Emergency Management Act*, subject to every state and territory recording a 14-day rolling average of less than 5 community cases of COVID-19 per day.

Under the new arrangements travellers arriving in WA from very low risk states and territories, defined as having no community transmission in the previous 28 days, will no longer need to self-quarantine but will be subject to health screening, temperature check and a COVID-19 test if deemed necessary. They will also need to have completed a G2G PASS declaration stipulating they do not have any COVID-19 symptoms and where they have been in the past 14 days. At the time of writing Tasmania, Queensland, South Australia, the ACT and the Northern Territory meet this low risk criteria.

Residents from low risk jurisdictions, defined as less than 5 community cases per day on a 14 day rolling average, currently NSW and Victoria, will still need to take a COVID-19 test if deemed necessary, self-quarantine for 14 days in a suitable premise and present for a COVID-19 test on day 11.

Remote aboriginal community restrictions and the modified 2 sqm rule for selected entertainment venues (refer below and [WA COVID-19 Roadmap](#)).

Events

There have been two significant changes in relation to the holding of events:

- From 25 September public or private events of more than 500 people that already require Local Government approval also require an approved COVID Event Plan.
 - Events assessed as low or medium COVID-19 risk can be approved by the Local Government as an extension of the usual events approval process.
 - Events assessed as high risk are escalated to the Department of Health for review and approval.
- From 24 October selected entertainment venues including performing arts centres, theatres, concert halls, auditoriums/amphitheatres, cinemas and comedy lounges are exempt from the 2 sqm rule and can operate at 60 per cent capacity for seated and ticketed performances. This exemption does not apply to events that are required to develop a COVID Event Plan.

Further information on requirements for events can be found [here](#).

Economic impacts

The State and Federal Budgets handed down in October revealed the significant impact that COVID-19 has had on the Australian and WA economies.

In Australia, Gross Domestic Product fell by 0.2% in 2019-20 and is forecast to fall by a further 1.5% in 2020-21. The impact of COVID-19 on the WA economy was less severe due to the State's relative containment of the virus and the export sector being largely unaffected. Although economic growth forecasts were revised downwards, Gross State Product still increased by 2% in 2019-20 and is forecast to increase by 1.25% in 2020-21. The State's labour market is, however, still expected to take a hit in 2020-21. Employment growth is expected to be -0.25% during this financial year, meaning there will be fewer workers at the end of 2020-21 than there were at the beginning.

More information on the impact of COVID-19 on the economy, the economic outlook, Government Budget initiatives and how the State and Federal Budgets will impact on the Local Government sector is provided at Item 6.4 of the State Council Agenda.

Outbreak planning

The State Government's COVID-19 outbreak and surge planning is ongoing. The State Health Incident Coordination Centre (SHICC) has developed Integrated COVID-19 Outbreak Response Plans which set out the State's strategic response to outbreaks, both at a state-level and for 'high risk' settings. Plans have been developed for: Remote Aboriginal communities; Residential aged care; Prisons; Hospitals; Schools and Childcare services; Mining and Offshore facilities; Commercial vessels; and Congregate living. An Integrated COVID-19 Welfare Response Plan has also been developed to integrate with the Integrated Outbreak Plans.

WALGA is continuing to liaise with the SHICC and Department of Communities to ensure that implications for Local Governments are considered and that roles and responsibilities in an outbreak are understood.

A webinar providing more information on the COVID-19 Outbreak Response Planning can be viewed [here](#).

It is essential that Local Governments are prepared for a second wave/outbreak of COVID-19, which could impact their workforce and capacity to deliver essential services. In particular Local Governments should be reviewing and testing their business continuity/pandemic plans. LGIS is available to assist members in developing, updating and testing BCPs, as well as in undertaking COVID Hazard Assessments that focus on the work health and safety controls associated with COVID-19.

COVID-19 Recovery

73 Local Governments responded to a second survey by the State Recovery Controller on focussing on emerging impacts, successes, gaps in service delivery and pre-season preparedness relating to local government operations.

Support and Advocacy

WALGA has continued to provide dedicated COVID-19 support and advocacy for the sector, including through:

- Membership of the State Emergency Management Committee COVID-19 Coordination Group, State Welfare Emergency Committee and State Recovery Advisory Group;
- Representation at the SHICC (SHICC), enabling WALGA to raise issues and provide input into arising operational issues and strategies as they relate to Local Government;
- *Planning* - Providing a detailed submission on the proposed amendments to the *Planning and Development (Local Planning Scheme) Regulations 2015* to support the recent changes to the Planning and Development Amendment Bill 2020. Further information is provided at Item 6.2 of the State Council Agenda;
- *Waste services outbreak planning* - WALGA has been working with Local Governments and Preferred Suppliers to develop a plan for managing waste management activities in the event of a second wave of COVID-19 in Western Australia (or future event). This plan builds on the rapid response of Local Government and the waste industry to the first wave of COVID-19. The plan was endorsed by the Municipal Waste Advisory Council (MWAC) on 28 October. It has been provided to the Minister, Department of Water and Environmental Regulation and the SHICC as an input to the State's outbreak planning;
- *Events* – WALGA, in consultation with the City of Busselton and Shire of Augusta-Margaret River, successfully advocated for a reconsideration of the State Government's decision to cancel Leavers 2020 celebrations, which will now proceed with COVID event plans in place;
- *Economic analysis* - WALGA is continuing to expand and update its analysis of the economic impact of COVID-19 on WA's local economies. This analysis includes:
 - How local jobs have been impacted since the start of the pandemic, measured as a proportion of total payroll job changes in each Local Government Area;
 - How local business have been impacted since the start of the pandemic, measured as a proportion of organisations within each Local Government Area that were accessing the JobKeeper subsidy in April; and
 - The overall economic impact of COVID-19, relative to other Local Government Areas and regions.
- *Procurement and support for local suppliers* - The Vendor Panel marketplace initiative now has 8093 local suppliers registered. The platform has had \$18.8 million in activity at the mid-point of the 12 month free trial;

- *COVID-19 Updates* - 88 updates have been provided to the sector up to 30 October. There are approximately 1300 subscribers to these updates, which have been viewed more than 170,000 times. Updates can be viewed on WALGA's COVID-19 website [here](#); and
- *Webinars* - The following State to Sector briefing and other COVID-19 related webinars have been held since the end of August:

26 August	WA Recovery Plan Local Government Minister the Hon David Templeman and State Recovery Controller Sharyn O'Neill
16 October	WA State Budget Webinar Deputy Under Treasurer Michael Court and WALGA Policy Manager Economics
30 October	Local Business Recovery Webinar CCI Chief Economist Aaron Morey, Regional Chambers of Commerce CEO Kitty Prodonovich and Small Business Commissioner David Eaton
13 November	Hon Ben Wyatt MLA, Treasurer, Minister for Finance; Aboriginal Affairs; Lands State Government's Aboriginal Affairs policy agenda
25 November	Hon Alannah MacTiernan MLC, Minister for Regional Development; Agriculture and Food; Ports

7. ORGANISATIONAL REPORTS

7.1 Key Activity Reports

7.1.1 Report on Key Activities, Commercial and Communications (01-006-03-0017 ZD)

By Zac Donovan, Executive Manager Commercial and Communications

Recommendation

That the Key Activity Report from the Commercial and Communications unit to the December 2020 State Council meeting be noted.

Commercial and Communications comprises of the following WALGA work units:

- Commercial Development
- Commercial Management
- LGIS Contract Management
- Communications (Marketing and Events)
- Media and Advocacy (currently vacant)

The following provides an outline of the most recent key activities of Commercial and Communications:

Commercial Development

Preferred Supplier Panel Transition

As reported previously, the WALGA Preferred Supplier Panels are undergoing a consolidation of contract terms and categories to ensure that additional suppliers can be readily transitioned so as to increase competitive pricing and provide Member Local Governments greater choice.

- It is intended for the transition process to be completed for the commencement of the new financial year.
- To date 19 out of 36 panels have had some progress made towards transition to a more consolidated 11 supplier panels.
- New WALGA Contract Conditions have been drafted and Panel and General Conditions have been developed.
- Specialist Member conditions and Special Conditions for Waste, ICT, Temporary Labour and works will be completed by the end of 2020.
- A new format is being proposed for the issuance of Member Conditions and the contracting process to enable greater access for smaller suppliers.

Contract Development

Key activities in contract development are:

- Contract reviews nearing completion for new suppliers in the ICT and Energy categories.
- Commercial Development team is exploring potential opportunities for digital Rates Notice and payment activity, ICT support and governance services, and Energy Power Purchase projects.

Commercial Management

Local Supplier Performance

As previously reported WALGA has underwritten a 12-month free trial of the Marketplace local supplier platform for all Local Governments. As of 28 October – at the mid-point of the trial period - the program had:

- 8093 local suppliers registered to participate on the platform.

- Making 9356 submissions for the 426 contracts awarded
- Representing \$18.8 million in activity.

Member Engagement

Key activities in Member engagement for the period are:

- Annual Preferred Supplier activity reports provided to each Member Local Government detailing the specific panels engaged; amounts expended against each panel; comparison data to the previous period and market rates; and indication of times tenders were run by the Member when access to a supplier panel was available.
- The Commercial Management team has visited 27 Member Local Governments during the period in three separate trips:

Kimberley – from 29 September to 1 October

Visited the Shires of: Wyndham-East Kimberley, Halls Creek, Derby and Broome

Great Eastern/Avon – from 5 to 7 October; 27 to 29 October

Visited the Shires of: Victoria Plains, Wongan-Ballidu, Goomalling, Dowerin, Wyalkatchem, Koorda, Mount Marshall, Mukinbudin, Merredin, Westonia, Nungarin, Trayning, Toodyay, Northam, Cunderdin, Tammin, Kellerberrin, Bruce Rock, Narembeen, Quairading, Beverley and York.

Marketing and Events

Sector Promotional Campaign

A new campaign to promote the role the sector plays in improving the Quality of Life for communities is currently under development and scheduled to commence after the State election in March next year. The timing of the campaign commencement is twofold – to both ensure messaging is not lost in the activity leading up to the election and to gain greater value for money for advertising expenditure by not purchasing at a time of higher demand.

The campaign is being developed to engage metropolitan and regional television, print media and social and search and will include a social-media based competition to better engage community participation and salience.

West Australian Advertorial

WALGA has commenced offering the monthly p4 editorial placement in the West Australian to member Local Governments to feature their local area, context and achievements.

Featured during the period were: Town of Victoria Park (August), Shire of Northam (September), and Shire of Cue (October).

WALGA Social Media

Twitter: In this 97 day period between Friday, 24 July and Wednesday, 28 October July, WALGA's Twitter page earned 15,400 impressions, and increased on the previous period (which was shorter at 53 days). The top tweet for Impressions in this period was a tweet about the Valuer General Lester Cousins participating in a WALGA webinar. The tweet generated 1,417 impressions, 23 engagements and a total engagement rate of 1.6%. The tweet with the highest Engagement Rate was about President and CEO's Council Visit to the Shire of Menzies and it was 5.7%. Over this 97 day period, the WALGA Twitter profile gained 20 new followers, giving a total of 1909 followers; with 21 retweets, 61 likes and 7 link clicks.

Facebook: The WALGA Facebook post with the highest reach during this 97 day period was a post congratulating Shire of East Pilbara President Cr Lynne Craigie in being awarded Local Government Medal Recipient. This post had an organic (unpaid) reach of 454 people and an engagement rate of 8%. It generated 21 reactions, comments and shares and 9 link clicks. This was the equal highest post in terms of engagement rate, together with a post promoting the Shire of Gnowangerup 'Orange

Pouch' project. Over this period, the WALGA Facebook page received 83 new likes, taking it to 1852 likes with a total of 1873 followers.

LinkedIn: The most popular post for Impressions on LinkedIn over this period was a post about WALGA Webinars focused on Managing Bushfire Risk in Changing Climate. This post had 1,309 impressions, 17 clicks, 15 likes and an engagement rate of 2.98%. This was also the post with the highest engagement rate. Over this period the WALGA LinkedIn page received 221 new followers bringing it to a total of 11,422.

YourEveryday website: Adding new content to the YourEveryday website has recommenced in August after a pause during the COVID-19 restrictions period.

Media Activity

Articles on specific topics relating to Local Government over the past three months are considered to be more balanced than negative. Issues that received considerable attention over the past three months included:

Mostly balanced coverage was recorded on the topic of **Elections in Local Government**. The majority of the articles related to candidates standing for the position of the Lord Mayor, including discussion of appropriate processes in campaigning for the role. Following the election numerous articles were also published relating to the new Council and their election of the Deputy Mayor. There were three other Shires that saw extraordinary elections, but they did not receive the same amount of coverage as the City Council. Other articles related to the topic saw Councils debating on ward changes.

Mostly negative coverage was recorded on the topic of **Councils and Council Members** in the News.

- Council in the central metropolitan area: Mostly negative articles were recorded on this Council, which was issued a show-cause notice by the Local Government Minister. Multiple articles questioned Council expenditure on legal costs to challenge the Local Government Minister's show-cause notice in the Supreme Court. Following the Supreme Court proceeding, the show-cause notice was overturned. There were numerous articles that noted this outcome as an unprecedented victory over the Local Government Minister.
- Council in the mid-west region: A number of negative articles related to the trial of a Mayor for assault. He was later found not guilty of assault following the final hearing.
- Council in the southern metropolitan area: A number of negative articles related to a Council decision on a long term lease for a sporting facility with suggestions of conflict of interest within Council members, and warnings issued from the Minister to consider the process carefully.

Mostly balanced coverage was recorded on **Council Rates and Budgets**. There was a positive report from ALGA that showed three WA Councils to be of top financial health. Other balanced coverage included Councils adopting its budget to provide for capital works, road upgrades and economic measures. A number of articles related to various WA Local Governments calling the post-pandemic budget as "toughest yet".

Media Statements

Media Statements released during the period were:

Thursday, 6 August	General Support for Review Report
Friday, 25 September	East Pilbara President Awarded Local Government Medal

Content Production

Content Producer Jeff Henderson has filmed a number of videos featuring local planners as part of series highlighting their role and performance.

Filming of content to populate the YourEveryday website has recommenced, with the following Councils visited over the period: Shires of Coorow, Cue, Kulin, Lake Grace, Perenjori and Yalgoo

WALGA Events

During the period, WALGA's Event Team helped to coordinate the following events:

- 24 September: Local Government Forum on Information Systems
- 25 September: Breakfast with Paul Hasleby
- 25 September: 2020 Political Forum
- 25 September: WALGA Annual General Meeting
- 12 October: Field Training on Plant Recognition and Restoration in Natural Areas
- 16 October: WA State Budget Webinar
- 26 October: Webinar Series: Managing Bushfire Risk – Mitigation: Fuel Reduction for Safety and Biodiversity
- 29 October: Breakfast with Directors General
- 29 October: Webinar Series: Managing Bushfire Risk – 'Recovery – Rebuilding and Resilience'

Upcoming Events

30 October: Webinar - Economic Recovery Supporting Local Business. WALGA will be hosting a series of webinars to inform Local Governments about the impact of the pandemic on their local economy and business community and the role they can play in supporting the recovery. Chamber of Commerce and Industry WA Chief Economist Aaron Morey, Regional Chambers of Commerce CEO Kitty Prodonovich and Small Business Commissioner David Eaton will discuss the issues and challenges faced by the WA business community arising from COVID-19 and ways that Local Governments can help support this important sector.

5-6 November: Pilbara Waste Summit 2020. The Pilbara Waste Summit will bring high profile speakers to the region as well as showcasing local initiatives and opportunities. Participants will also have the opportunity to workshop local waste management issues and opportunities with their colleagues from the region.

27 November: Trees in a Liveable City: An Urban Forest Conference. The conference will showcase achievements of the organisations involved in growing Perth's urban canopy, including best practice examples and latest research, to provide attendees with the knowledge needed to make positive change in their own roles, organisations and communities.

7.1.2 Report on Key Activities, Governance and Organisational Services (01-006-03-0007 TB)

By Tony Brown, Executive Manager Governance & Organisational Services

Recommendation

That the Key Activity Report from the Governance and Organisational Services Unit to the December 2020 State Council meeting be noted.

Governance and Organisational Services comprises of the following WALGA work units:

- Governance Support for Members
- Employee Relations
- Training
- Regional Capacity Building
- Strategy & Association Governance

The following provides an outline of the key activities of Governance and Organisational Services since the last State Council meeting.

Governance and Procurement Support

Mandatory Standards for CEO Recruitment, Performance Review and Termination

The *Local Government Legislation Amendment Act 2019* introduced numerous amendments to the *Local Government Act 1995*, including the yet to commence insertion of new sections introducing mandatory Model Standards for CEO recruitment, performance and termination.

In March 2019 the Department of Local Government, Sport and Cultural Industries invited WALGA and other parties to participate in the CEO Recruitment, Performance Review and Termination Working Group to develop Model Standards. The Department discontinued the Working Group in May 2019 and released a Consultation Paper without endorsement by the Working Group in October 2019.

At the WALGA State Council meeting held in December 2019, based on sector feedback, State Council resolved to request that the Working Group be reconvened to develop and endorse Model Standards for further sector consultation, and identified several concerns with the proposals in the Consultation Paper.

Throughout 2020, WALGA sought advice from the Department on the progress of draft regulations and a sector consultation process. The Department has now released the draft *Local Government (Administration) Amendment Regulations (No.2) 2020* (Draft Regulations), to prescribe the Model Standards, together with Explanatory Notes. Both documents are available via the [Department's website](#). Initially a short consultation period of three weeks closing on Friday 13 November was proposed. WALGA strongly objected and requested a more realistic period of consultation. To the Governments credit the consultation has been extended to 6 December 2020.

WALGA notes that the Working Group was not reconvened, and the Draft Regulations include several elements that were highlighted as matters of concern by the sector.

WALGA's initial concerns relate to the following;

1. Requirement to re-advertise CEO positions after 10 years of continuous service
2. Independent panel member
3. Transparency and procedural fairness – Schedule 2

4. Council decision making authority

WALGA is seeking to coordinate a sector response and has requested sector feedback from Member Local Governments on the Draft Regulation. Due to the short time frame sector feedback will be obtained and a late item will be prepared for Zone meetings and the State Council meeting.

Mandatory Code of Conduct

At the time of writing this report WALGA is anticipating the draft version of the Local Government (Model Code of Conduct) Regulations 2020 together with the draft Explanatory notes to be provided to Local Governments.

The sector position resolved at the December 2019 State Council meeting was as follows;

That WALGA:

1. *Request the Mandatory Code of Conduct Working Group be reconvened by the Department of Local Government, Sport and Cultural Industries;*
2. *Refer the following matters to the Working Group for further consideration:*
 - (a) *Part A – Principles - Supported*
 - (b) *Part B – Behaviours*
 - i. *ensuring principles of natural justice can be adequately upheld in all circumstances;*
 - ii. *training opportunities that will assist Council Members determine complaint outcomes under Part B;*
 - iii. *development of a template Complaints Management Policy;*
 - iv. *reconsider the purpose of allowing ‘any person’ to make a complaint;*
 - v. *ensuring Committee Members and Candidates are included in Part B;*
 - vi. *re-naming ‘Rules’ to an appropriate term throughout Part B.*
 - vii. *Develop a complaint process that is carried out by DLGSC or another party (which must be external of the local government). For any breach of the Code (being part b or part c) and where the Council, Mayor/President or CEO are not the decision makers in determining whether the breach has or has not occurred and/or whether any action is required.*
 - (c) *Part C – Rules of Conduct*
 - i. *review the rationale for creating a new Rule of Conduct breach where three or more breaches of Part B – Behaviours are found and the Local Government resolves to refer the matter to the Local Government Standards Panel; and*
 - ii. *review the proposal to amend the definition of an ‘interest’ relating to Impartiality Interests from the present definition in Regulation 11 of the Local Government (Rules of Conduct) Regulations.*
 - iii. *Develop a complaint process that is carried out by DLGSC or another party (which must be external of the local government). For any breach of the Code (being part b or part c) and where the Council, Mayor/President or CEO are not the decision makers in determining whether the breach has or has not occurred and/or whether any action is required.*
 - iv. *Review the appropriateness of the elements of the rule of conduct to only apply to a person who is a Council Member or Candidate both at the time of the conduct and at the time of the panel decision.*
3. *Recommend the Working Group develop an endorsed Mandatory Code of Conduct for further consultation with the Local Government sector.*

The Working Group was not reformed and throughout 2020, WALGA sought advice from the Department on the progress of draft regulations and a sector consultation process.

WALGA will request feedback from the sector and late item will be prepared for Zone meetings and the State Council meeting.

Employee Relations

Ministerial Review of State IR System - Updated

On 25 June 2020, the *Industrial Relations Legislation Amendment Bill 2020* (the Bill) was introduced into State Parliament. The Legislative Assembly (Lower House) has passed the Bill, which has progressed, to the Legislative Council (Upper House) for debate. At the time of writing this report the bill had not been debated in the Upper House. There are a limited number of sitting days remaining in 2020. If not debated in 2020, the future of the Bill will remain unresolved until after the State Government election in March 2021.

The Association conducted a sector wide webinar with representatives from the Private Sector Labour Relations division of the Department of Mines, Industry Regulation and Safety on 19 October 2020. The webinar provided the sector with an overview of the Bill, specifically the transitional arrangements that will apply if the Federal Minister for Industrial Relations signs the declaration endorsing the move of Local Governments to the State industrial relations system.

The Association will continue to advocate against this proposed legislation, including lobbying parliamentarians in the Legislative Council to vote against the Bill

Local Government Industry Award - Updated

WALGA has successfully advocated for WA Local Governments with regard to the casual and overtime provisions in the Local Government Industry Award 2010 (**Award**). The Award will be amended to have clearer provisions clarifying that casual loading is not payable to a casual employee when they are working overtime. We are waiting for a decision confirming whether or not the casual loading is paid on public holidays.

In response to COVID-19 the Fair Work Commission implemented interim amendments to the Award to assist Local Governments and employees during this unprecedented time. These measures were replicated by the Western Australian Industrial Relations Commission. WALGA Employee Relations service continues to monitor the extensions to these conditions and provide submissions on behalf of the sector in both jurisdictions as required.

Training

Most elected members have carried out an excellent job in completing their training on time within the 12 month period of being elected or re-elected in 2019.

The vast majority of Elected Members elected in 2019 utilised WALGA's training service to carry out the Council Member Essentials Training. At the time of writing this report approximately 80% had completed all 5 courses.

Elected members who have not completed their training as yet can take advantage of the following flexible training options:

- Face to face training at WALGA, West Leederville
- Virtual classroom training via ZOOM
- eLearning
- Onsite training at your local council

To enrol or to seek clarification, please contact us on (08) 9213 2088 or email training@walga.asn.au.

7.1.3 Report on Key Activities, Infrastructure (05-001-02-0003 ID)

By Ian Duncan, Executive Manager Infrastructure

Recommendation

That the Key Activity Report from the Infrastructure Unit to the December 2020 State Council meeting be noted.

Roads

Condition Assessment of Roads of Regional Significance

Funds have been provided through the *State Road Funds to Local Government Agreement* to perform condition surveys of all the Roads of Regional Significance. For the first phase, Talis Consultants have been engaged to survey roads in the Mid-West region including recording video of regionally significant unsealed roads. These surveys will provide a consistent dataset for the Regional Road Group to consider in funding decisions. Field work is almost complete. Following post survey data analysis and reporting the condition surveys and video will be provided to the Shires by upload to their RAMM database or other preferred format.

The Great Southern and Goldfields – Esperance Regions will be surveyed in the next phase that is scheduled for the first half of 2021.

State Road Funds to Local Government Procedures

Main Roads and WALGA have comprehensively reviewed the *State Road Funds to Local Government Procedures*. A final document has been produced after extensive stakeholder consultation. The document will be submitted to the State Road Funds to Local Government Advisory Committee (SAC) for approval before publication.

ROADS 2040: Development Strategies for Regionally Significant Local Roads

The criteria for roads to be included in the development strategies for regionally significant roads are under review. Outside the metropolitan area, only these roads are eligible for Road Project Grant funding through the *State Road Funds to Local Government Agreement*. The selection guidelines have been revised and a draft has been provided to all Regional Road Groups for feedback. When finalised, the Regional Road groups will be tasked to review their roads and strategies for development of the next version of this important strategic document. The current version, *ROADS 2030*, was published in 2013 with some updates published since.

Funding

Local Roads and Community Infrastructure Program

The Federal Budget allocated \$1 billion to the Local Roads and Community Infrastructure Program to be delivered in two tranches. This followed the \$73 million provided to Western Australian Local Governments, from a \$500m national allocation announced in May. The Federal Department of Infrastructure, Transport, Regional Development and Communications has indicated that the criteria and methodology used to allocate these funds between Local Governments may change and the Association is waiting on further advice.

Underground Power Programs

The Underground Power Programs Steering Committee, of which WALGA is a member, has been working hard seeking to respond to the economic impacts of the COVID-19 pandemic and enable projects that are in the development pipeline to continue. Actions have included deferring the timing of cash calls from Local Governments, revising costs and re-surveying ratepayers in project areas to ensure continued support.

Work is continuing on development of the program beyond 2022 and a workshop involving 27 Local Government representatives with senior staff from Western Power and Energy Policy WA made good progress in identifying preferred options for the future.

Infrastructure WA

The Association accepted an invitation to join the Infrastructure WA external stakeholder's reference group. This group held an inaugural meeting. Participation will assist WALGA keep the Local Government sector informed on the development of the State Infrastructure Strategy as well as provide input on strategic matters.

Drones

The Association worked with a large group of State agencies including WA Police, Main Roads WA, Department of Transport, Department of Water and Environmental Regulation, Department of Biodiversity, Conservation and Attractions to respond from a State perspective to the National Aviation Policy Issues Paper on Emerging Aviation Technologies. Matters of concern raised by Local Governments that have been highlighted include the lack of capability to manage the privacy and noise impacts of drone use, including recreational drones. In a separate communication with the Federal Department, WALGA highlighted the beneficial uses of drones by Western Australian Local Government, to ensure that these are supported in policy development and regulation.

Urban and Regional Transport

Review of taxes and government spending on WA motorists

WALGA is developing estimates of the taxes charged on WA motorists by Federal and State Governments, and the expenditure on roads and other benefits to motorists. Data collection and modelling is currently in progress. Preliminary discussions are being planned with advocacy organisations that have aligned objectives in relation to this matter with a view to combining resources and advocacy efforts.

Road Safety

Road Safety Council Update

The Road Safety Council received a presentation from Professor Lynn Meuleners on the research program being undertaken by the WA Centre for Road Safety Research and another from the Road Safety Commissioner around the Road Trauma Trust Account budget in relation to the delayed State Budget.

On 17 September the Road Safety Council held its annual planning day which culminated in the establishment of the following road safety priorities for reducing road deaths and serious injuries in WA: safe speed; impaired driving; safe intersections; run off road crashes; vulnerable road users; education, engagement and supporting implementation.

RoadWise Activity

To find out more about RoadWise activities, view the monthly newsletter at <https://www.roadwise.asn.au/roadwise-road-safety-newsletter.aspx> and visit the RoadWise Facebook page at <https://www.facebook.com/WALGARoadWise/>.

7.1.4 Report on Key Activities, Strategy, Policy and Planning (01-006-03-0014 MJB)

By Mark Batty, Executive Manager Strategy, Policy and Planning

Recommendation

That the Key Activity Report from the Strategy, Policy and Planning Team to the December 2020 State Council meeting be noted.

The following provides an outline of the key activities of the Strategy, Policy and Planning Portfolio since the last State Council meeting.

PLANNING

Urban Forest Dashboard Launch

WALGA facilitated a soft launch of the DPLH's new urban forest dashboard for the Local Government sector. The dashboard provides the Department's urban monitor data in a public facing interactive product and allows Local Governments to analyse changes in their urban canopy from the bi-yearly information collected for the Department by the CSIRO. The dashboard will be publicly available in the coming weeks.

R-Codes Review

The DPLH is currently undertaking an interim review of the Residential Design Codes in support of the State Governments economic recovery. Changes are proposed for the deemed-to-comply provisions for open space, building setbacks, wall heights, and visual privacy setbacks. WALGA held an online info session with DPLH on the changes on 23 July that was attended by 65 officers and elected members. Comments are due to the DPLH by 10 September, WALGA will be preparing a sector-wide submission on the changes.

Consultations – Upcoming

The Department of Planning Lands and Heritage have indicated the following consultations are planned before the end of 2020.

- SPP 7.3 - Residential Design Codes Volume 1 – Minor Review – released in July 2020, submissions are due in before 10 Sept 2020 ([here](#))
- SPP 4.2 Activity Centres for Perth and Peel – to WAPC at the end of August 2020
- SPP 7.2 Precinct Design Guidelines – consultation in September 2020
- SPP 3.7 Bushfire Policy and Guidelines – consultation in September 2020
- SPP 2.9 Water Resources Policy and Guidelines – consultation in September 2020
- SPP 7.3 - Residential Design Codes – Medium density – to be advised
- Revision of the Designing Out Crimes [Guidelines](#) – to be advised
- Amendments to the Planning and Development (Local Planning Scheme) Regulations 2015 – to be advised

The following consultations are also currently out for public comment: -

- National Registration Framework for Building Practitioners – closes 23 August 2020 ([here](#))
- Accessible Housing standards for inclusion in the National Construction Code – closes 31 August ([here](#))
- Registration of Building Engineers in WA – closes 3 December ([here](#))

ENVIRONMENT

LGmap Service

LGmap demonstrations were delivered at several events in October and November, including three WALGA facilitated events: WALGA Field Training: Plant recognition for parks and restoration practices in natural areas (8 October), bushfire risk assessment and management (12 October), and on how to utilise LGmap to inform Urban Forest planning and management (27 November).

One hands-on demonstration was delivered at the 2020 IPWEA Public Works Professional Development Week, held in Maylands between 23 and 27 November. LGmap trials were set up for the City of South Perth and the Shire of Broomehill-Tambellup.

Events and Newsletters

WALGA Field Training: Plant recognition and restoration practices in natural areas

WALGA partnered with the City of Stirling to host a *Field Training Day on Plant Recognition and Restoration Practices in Natural Areas* on 8 October, attended by 43 staff from 19 Local Governments. The training shared the practical, on-ground knowledge needed by Local Government staff involved in the conservation of natural areas.

Attendees visited a variety of vegetation complexes, including coastal heathland, and banksia and tuart woodlands, and focused on restoration approaches, plant identification, and how to undertake natural area surveys. The day was a great example of collaboration between a number of organisations, with WALGA, the City of Stirling, Perth NRM, Stirling Natural Environment Coastcare, the Wildflower Society WA, and Friends of Trigg Bushland all contributing their expertise.

This is the second year that WALGA has offered the field training in the Perth metropolitan area, and it continues to be highly popular with the sector. WALGA will investigate options to host additional sessions in 2021, which will potentially include the wheatbelt and south-west region.

WALGA Managing Bushfire Risk in a Changing Climate Webinar series

WALGA hosted a series of three webinars on *Managing Bushfire Risk in a Changing Climate* in October, which aimed to strengthen Local Governments' ability to prepare for, mitigate and recover from the impacts of bushfires.

Webinar 1 - Preparedness through policy and planning discussed the policy and programs at the State level to manage bushfire risk. It also provided case studies from the Shire of Mundaring on planning controls, and the Shire of Denmark on creating a shared sense of responsibility within the community.

Webinar 2 – Mitigation through fuel reduction for safety and biodiversity discussed the regulatory requirements for clearing or burning of native vegetation to reduce bushfire risk, and also how Local Government can incorporate traditional fire practices in their fuel hazard reduction programs. The City of Cockburn discussed how prescribed burning of conservation reserves is part of a suite of management approaches, which also include the construction of fire breaks, and controlling weeds through slashing, mechanical removal and chemical control.

Webinar 3 – Recovery through rebuilding and resilience discussed community support and animal welfare in the immediate aftermath and recovery period following bushfire, with presentations from the Shire of Dardanup, Bega Valley Shire (NSW), Animals Australia (VIC).

EnviroNews

The September, October, and November editions of EnviroNews can be accessed electronically on the WALGA website [here](#). The December edition is scheduled for release on 16 December.

EMERGENCY MANAGEMENT

Local Emergency Management Advisory Group (LGEMAG)

WALGA has hosted the LGEMAG since 2010, as a representative group for Local Government to identify, consider and respond to commonly shared issues involving emergency management in Western Australia both metropolitan and country. The LGEMAG had evolved to include mainly representatives from metropolitan Local Governments.

To enable broad representation of the sector, WALGA ran an expression of interest process for the LGEMAG in August 2020, with the aim to significantly increase regional membership. The EOI closed in early September, and the LGEMAG membership has now been finalized with five metropolitan and six regional members. The LGEMAG will meet quarterly, and provide input into State committees, particularly the Local Government Grant Scheme (LGGS), and guide the formulation of Association policy on emergency management issues.

Report on Local Government Response to the Australian Fire Danger Rating System Survey

The Department of Fire and Emergency Services (DFES) is leading WA's participation in the design and implementation of the new Australian Fire Danger Rating System (AFDRS). DFES are currently developing a State implementation plan which will require extensive engagement with relevant stakeholders across WA, to determine impacts and organisational change requirements and enable the effective implementation of the new AFDRS scheduled for release in June 2022.

In late August, DFES, in consultation with WALGA, administered an online survey to all Local Governments, offering them the opportunity to provide feedback on impacts that the new AFDRS may have on their Local Government. Responses were received from 68 Local Governments, with the majority of respondents in emergency management roles.

The findings will be used to inform impacts that the new AFDRS system may have on Local Governments and considerations to be made in addressing change impacts and support required, particularly in relation to communication methods, community education and training. The report has been circulated to Local Government CEOs. Please contact em@walga.asn.au to be provided with a copy.

COMMUNITY

New Library Agreement

The new State and Local Government Partnership Agreement for the Provision of Public Library Services was signed at the 1 September 2020 meeting of the State Local Government Partnership Leadership Group.

Development of the State's Young People Priority Framework

Both the Western Australian Mental Health and Alcohol and Other Drug Services Plan 2015 — 2025, and the Commissioner for Children and Young People's 'Our Children Can't Wait' report from 2015, highlighted the need to improve services available to support young people with mental health and/or alcohol and other drug (AOD) issues. In March 2020, the Minister for Mental Health released the WA State Priorities Mental Health, Alcohol and Other Drugs 2020 – 2024, in which young people were confirmed as an immediate priority. The Minister for Mental Health asked the Mental Health Commission to develop the Young People Priority Framework to guide the mental health and alcohol and other drug sector in supporting the needs of young people aged 12 to 24 years. The Mental Health Commission appointed Nous Group to undertake consultation during October 2020 to develop the Framework. WALGA attended a workshop on behalf of Local Governments, with feedback being collected from Local Governments prior to the workshop.

Development of the State's Digital Inclusion Plan

The State Government's Office of Digital Government has released the draft Blueprint for Digital Inclusion in WA to ensure that the State Government progresses towards a more secure, sustainable and inclusive digital future. It identifies four key priority areas to address in achieving this vision—connectivity, affordability, skills and design—and builds on collective effort across the state to guide the delivery of digital inclusion in WA. WALGA represented Local Governments at the community services workshop hosted by WACOSS and the Office of Digital Government in October 2020. WALGA emphasized the importance of appropriate consultation with Local Governments.

ALGA Arts and Culture Policy Position

WALGA contributed to the development of the recently endorsed ALGA Arts and Culture Policy Position. The Australian Local Government Association calls for support of the pivotal role Local Government plays in the development of the creative sector, which is essential to the liveability and economic sustainability of all Australian communities.

Prevent Support Heal Campaign – Mental Health Funding

In August 2020 WALGA's East Metropolitan Zone requested WALGA to encourage Local Governments to support the WA Association of Mental Health's (WAAMH) Prevent Support Heal campaign. The campaign seeks to advocate to the political parties in the lead up to the 2021 State Election, for a funding commitment towards an optimal mix of funding for mental health. This optimal mix of funding is outlined in the State Government's *'Better Choices. Better Lives: Western Australian Mental Health, Alcohol and Other Drug Services Plan 2015-2025'*. Currently ninety per cent of mental health funding is spent on inpatient hospital services and community treatment, leaving just 1 per cent for prevention and 5 per cent for community support. In particular the campaign is seeking increased funding for prevention and community support measures.

These are extremely important to support the community during the current COVID-19 pandemic and beyond. The campaign's State Election Platform was launched on Tuesday, 15 September with people sharing their experiences in WA's mental health system, demonstrating the importance of funding for the optimal mix of services in mental health. More information is available on the campaign website www.preventsupportheal.org.au

Local Government Policy Awards – Public Health Advocacy Institute WA

The 2020 Local Government Policy Awards convened by the Public Health Advocacy Institute of WA (PHAIWA) were announced on Wednesday, 4 November. The annual awards recognise Local Governments which are implementing initiatives that promote the health and wellbeing of children and young people. WALGA's President, Mayor Tracey Roberts provided an address and the Awards were presented by the Hon. David Templeman, Minister for Local Government; Heritage; Culture and the Arts. More information about the Awards can be accessed on the website www.phaiwa.org.au/2020-local-government-policy-awards/

7.2 Policy Forum Reports

7.2 Policy Forum Reports (01-006-03-0007 TB)

The following provides an outline of the key activities of the Association's Policy Forums that have met since the last State Council meeting.

Recommendation

That the report on the key activities of the Association's Policy Forums to the September 2020 State Council Meeting be noted.

Policy Forums

The following Policy Forums have been established

- Mayors / Presidents Policy Forum
- Container Deposit Legislation Policy Forum
- Mining Communities Policy Forum
- Economic Development Policy Forum

All Policy Forums have not held meetings since the last State Council meeting.

State Council Status Report

COMPLETE STATUS REPORT ON STATE COUNCIL RESOLUTIONS To the December 2020 State Council Meeting

MEETING DATE	RESOLUTION	COMMENT	Completion Date	Officer Responsible
2020 September 2 Item 5.1 Park Home Approvals and the Caravan Parks and Camping Grounds Act 1995	That WALGA urgently requests the State Government to undertake a full review of the <i>Caravan Parks and Camping Grounds Act 1995</i> and associated legislation and regulations, to address manufactured homes on caravan park sites.	Correspondence and the background information has been sent to the Minister for Local Government for consideration of an urgent review of the <i>Caravan Parks and Camping Grounds Act 1995</i> . A letter has been received from the Minister (as attached), stating that <i>"Government is considering a broader review of the regulatory system regarding lifestyle villages; however, its legislative priority will not be considered until after the 2021 election."</i>	Ongoing	Mark Batty Executive Manger Strategy, Policy and Planning
2020 September 2 Item 5.2 Submission on Decision Paper – Swimming Pool & Safety Barrier Control	That the submission on the Decision Paper on Swimming Pool and Safety Barrier Control, be endorsed.	Correspondence and the submission has been sent to the Department of Mines, Industry Regulation and Safety for consideration in the drafting of future regulatory changes and provision of additional guidance.	September 2020	Mark Batty Executive Manger Strategy, Policy and Planning
2020 September 23 Item 5.3	That the findings and recommendations of the Development Assessment Panels, 2011-20 Review be endorsed and that WALGA advocate for: 1. The abolishment of the current 'mandatory' mechanism which requires a Development Assessment Panel to act as the decision maker where a proposal has a value of \$10 million or greater, and replace this with an 'opt in' mechanism for all proposals; 2. Raising the Development Assessment Panel threshold from the current \$2 million to \$5 million; and 3. The Department of Planning, Lands and Heritage to make public comprehensive data related to the performance of the Development Assessment Panel system to improve the transparency of the system.	A report on the performance of DAPs between 2011 and 2020 was provided in the September State Council Agenda for further advocacy on DAPs. Correspondence has been sent to the Minister for Planning, Director General of DPLH, Minister for Local Government, and Shadow Minister for Planning. The new advocacy position will be further socialised with government and industry in anticipation of the upcoming review of the DAP Regulations.	Ongoing	Mark Batty Executive Manger Strategy, Policy and Planning

MEETING DATE	RESOLUTION	COMMENT	Completion Date	Officer Responsible
2020 September 2 Item 5.4 Air Handling Discussion Paper Part Two	That the submission to the Department of Health in response to the Air Handling discussion paper Part Two be endorsed.	WALGA's submission was provided to the Department of Health.	Completed	Mark Batty Executive Manager Strategy, Policy and Planning
2020 September 2 Item 5.5 Local Government Review Panel Final Report	That WALGA: 1. Acknowledges the panel report and the recommendations received from Zones and continue to work with the Government to undertake further consultation on the recommendations contained therein; 2. Requests a formal commitment from the Minister for Local Government that the Local Government Sector be consulted on the Draft Local Government Bill in line with the State / Local Government Partnership Agreement and that WALGA actively participates in the legislative drafting process to develop the new Local Government Act; and 3. Strongly encourages individual Local Governments to consider responding to the recommendations of the panel report and advise WALGA of their submissions by 31 October 2020.	WALGA has written to the Minister for Local Government as per resolution 2. In respect to resolution 3 advice was provided to the sector requesting responses to the Panel report be submitted to WALGA. Many Local Governments have provided their responses and the material is being considered in developing a Local Government Act Advocacy Paper.	Ongoing	Tony Brown Executive Manager Governance & Organisational Services
2020 July 1 Item 4.2 Work health and Safety Bill 2019	That WALGA: 1. recommend that the Standing Committee on Legislation investigate the drafting and interpretation of offences in the context of Western Australia's Criminal Code, and consider whether the standard imposed in s30B and s31 is appropriate for an offence punishable by imprisonment; and 2. recommend that the Standing Committee on legislation ensure there is adequate time following proclamation of the WHS Bill for all industries in Western Australia to transition to the new, harmonised work place safety and health provisions.	Correspondence was sent to the Standing Committee on Legislation advising of the State Council resolution on 3 July 2020. It is anticipated that the new <i>Workplace Health and Safety Bill 2019</i> will become law in 2021. To support the WA Local Government sector, WALGA have partnered with LGIS and a legal firm to provide tailored advice on what the changes mean for the sector. LGIS will be sharing a series of materials, guidelines with members and WALGA will host a webinar. The webinar will be held on Thursday 19 November 2020 , more information will be coming soon, on how to register.	Awaiting a response	Tony Brown Executive Manager Governance & Organisational Services

MEETING DATE	RESOLUTION	COMMENT	Completion Date	Officer Responsible
	<u>RESOLUTION 89.3/2020</u>			
2020 July 1 Item 4.3 Teacher Housing Availability	<p>That WALGA contact the Director General of the Department of Housing to:</p> <ol style="list-style-type: none"> 1. Seek action and acknowledge the extra challenges in attracting and retaining public sector staff in remote and rural areas of the state; 2. Immediately review and address the issue of insufficient GROH housing (and the high cost of subsidised rental) for public sector staff and actively seek and enter into Joint Venture arrangements with Councils to address the shortfall in accommodation; 3. Request that the agencies be requested to engage with WALGA to seek a solution to the current short supply of GROH housing within all regions. <p><u>RESOLUTION 91.3/2020</u></p>	<p>In July 2020 a letter was sent to DG Department of Communities as the responsible agency for Government Regional Officer Housing seeking a response to the Resolution. In August 2020, WALGA received a response from the Director General, Communities, which stated that the Department of Communities has diverted much of its resources towards the social and economic recovery of the State. Therefore work on the planned GROH review is placed on hold until the conclusion of the COVID-19 emergency period.</p> <p>It was acknowledged that GROH plays an important role in attracting and retaining staff in regional and remote communities. On 21 August 2020 WALGA met with relevant staff from the Department of Communities to further discuss the issue.</p>	In progress	Mark Batty Executive Manager Strategy, Policy and Planning
2020 July 1 Item 5.4 WALGA JLT Scheme Management Agreement Extension	<p>State Council require that:</p> <ol style="list-style-type: none"> a) The terms of existing WALGA JLT/Marsh Scheme Management Agreement be maintained for a further 12 months or until the review actions are completed. b) A contingency planning project be undertaken to ensure the WALGA LGIS insurance service is competitive, resilient and appropriate to serve the needs of Member Councils. c) All other details as to the State Council LGIS review to remain confidential. <p><u>RESOLUTION 95.3/2020</u></p>	<ol style="list-style-type: none"> a) Action implemented. Completed b) Contingency planning project in scoping stage. To be aligned with previous review actions with a June 2021 completion target. 	July 2021	Zac Donovan Executive Manager Commercial and Communications
2020 July 1 Item 8 South West Country Zone Universal	That due to the COVID-19 pandemic, WALGA request the Minister for Local Government to extend by six months the requirement for newly	Correspondence was provided to the Minister for Local Government requesting consideration to utilizing the provision under Section 10.3 of the <i>Local Government Act 1995</i> to modify Local Government	Completed	Tony Brown Executive Manager Governance & Organisational Services

MEETING DATE	RESOLUTION	COMMENT	Completion Date	Officer Responsible
Elected Member Training	Elected Members to undertake training within 12 months. <u>RESOLUTION 109.3/2020</u>	Administration Regulation 35 (3) for the purpose of providing a 6 month extension for Elected Members to complete the training. The Minister has responded advising that there will be no extension to the 12 month requirement to complete the training. WALGA Training provides the following statistics on the training uptake; The vast majority of Elected Members elected in 2019 utilised WALGA's training service to carry out the Council Member Essentials Training. At the time of writing this report approximately 80% had completed all 5 courses.		
2020 May 6 Item 4.1 COVID-19 Pandemic – WALGA Response	That the information contained in this report relating to WALGA's response to the COVID-19 pandemic and WALGA's advocacy on requesting no additional State Government cost impositions on Local Governments be noted. <u>RESOLUTION 57.2/2020</u>	This item noted WALGA's advocacy on COVID-19 and more broadly on requesting no additional cost impositions on the sector. On the 5 June, the Western Australian Planning Commission (WAPC) approved a new Position Statement – Expenditure of Cash-in-Lieu of Public Open Space. This position statement was following advocacy from the Association and member Councils to improve the implementation of funds held in trust for public open space, to bring forward projects for COVID 19 recovery. The new position statement provides: <ul style="list-style-type: none"> • Additional guidance on where and on what cash-in-lieu funds may be spent; • New provision for local government to request approval of a grouped program of works across multiple areas rather than just a single location; • Updated references to align with the Planning and Development Act 2005; and • General updates to align with current cash-in-lieu process, formatting and terminology. A more comprehensive review of the planning framework relating to public open space which will be undertaken, which will include a review of <i>Development Control Policy 2.3 Public Open Space in Residential Areas</i> and will include consultation with local government.	Ongoing	Mark Batty Executive Manager Strategy, Policy & Planning
2020 March 4 Item 4.1 Stop Puppy Farming Legislation	That WALGA write to the Minister and request that he withdraw the Stop Puppy Farming Bill and more appropriately consult with the sector, traditional custodians and the wider community, or failing that, that he remove any reference to Local Government in the bill as the sector does not endorse it in its current form. <u>RESOLUTION 13.1/2020</u>	Correspondence has been sent to the Minister for Local Government advising of State Councils position	Ongoing	Tony Brown Executive Manager Governance & Organisational Services
2020 March 4 Item 8 Additional Zone Resolutions	That State Council endorse the recommendation from the Great Eastern Country Zone relating to the Federal Government Drought Communities Program.	WALGA is currently in dialogue with the DWER and DPIRD to determine the program design for the Commonwealth \$10m for Regional Drought Resilience Planning, which was announced on July 1 st . It is worth noting that this program element is reflective of the advocacy of members of the Central Country Zone and WALGA.	Ongoing	Mark Batty Executive Manager Strategy, Policy and Planning

MEETING DATE	RESOLUTION	COMMENT	Completion Date	Officer Responsible
Federal Government Drought Communities Program	<ul style="list-style-type: none"> That the Great Eastern Country Zone requests WALGA, in consultation with ALGA, to liaise with the WA State Government Ministers for Water, Agriculture and Environment to provide a coordinated holistic response in respect to the ongoing drying climate issues and access to the Drought Communities Funding Program. <p><u>RESOLUTION 37.1/2020</u></p>	The program will provide funding to consortia of local councils or equivalent entities to develop Regional Drought Resilience Plans for agriculture and allied industries. WALGA continues to liaise with the DWER and DPIRD and relevant Ministers on the need for a coordinated holistic response in respect to the ongoing drying climate issues and further access to the Drought Communities Funding Program.		
2019 Dec 4 Item 4.1 Bushfire Fighting Vehicles	<p>That WALGA State Council:</p> <ol style="list-style-type: none"> Note this issue and support the concerns raised. Commit to working collectively with Local Governments to resolve this issue with the State Government and Department of Fire and Emergency Services (DFES) as a matter of urgency. <p><u>RESOLUTION 141.7/2019</u></p>	<ol style="list-style-type: none"> WALGA noted the concerns and has raised these with the Commissioner of DFES. WALGA facilitated attendance by DFES at a meeting with the Shire of Esperance to discuss concerns raised and options for improvements to their fleet. It has been reported to WALGA that the actions were to trial large tyres and central tyre inflation systems (2 x Tankers), work is progressing on both. Furthermore, a Bushfire Fleet Mobility Working Group is scheduled to meet 17 February 2020. <p>WALGA have not received a formal update from the Bushfire Fleet Mobility Working Group which is the primary vehicle for the sector to resolve this issue. The report will have been delayed due to the COVID response effort in state government.</p>	Ongoing	Mark Batty Executive Manager Strategy, Policy and Planning
2019 Dec 4 Item 5.3 Mandatory Code of Conduct for Council Member, Committee Members and Candidates – Sector Feedback	<p>That WALGA:</p> <ol style="list-style-type: none"> Request the Mandatory Code of Conduct Working Group be reconvened by the Department of Local Government, Sport and Cultural Industries; Refer the following matters to the Working Group for further consideration: <ol style="list-style-type: none"> <u>Part A – Principles - Supported</u> Part B – Behaviours <ol style="list-style-type: none"> ensuring principles of natural justice can be adequately upheld in all circumstances; training opportunities that will assist Council Members determine complaint outcomes under Part B; development of a template Complaints Management Policy; reconsider the purpose of allowing 'any person' to make a complaint; 	<p>Correspondence has been sent to the Director General of the Department of Local Government, Sport & Cultural Industries advising of the Council resolution on this issue.</p> <p>The Department of Local Government, Sport and Cultural Industries released the draft Local Government (Model Code of Conduct) Regulations 2020 on Monday 2 November 2020, requesting sector feedback by 6 December 2020.</p> <p>An Item will be prepared for the November / December Zone and State Council meetings.</p>	Ongoing	Tony Brown Executive Manager Governance & Organisational Services

MEETING DATE	RESOLUTION	COMMENT	Completion Date	Officer Responsible
	<ul style="list-style-type: none"> xi. ensuring Committee Members and Candidates are included in Part B; and xii. re-naming 'Rules' to an appropriate term throughout Part B. vii. <u>Develop a complaint process that is carried out by DLGSC or another party (which must be external of the local government). For any breach of the Code (being part b or part c) and where the Council, Mayor/President or CEO are not the decision makers in determining whether the breach has or has not occurred and/or whether any action is required.</u> <p>(f) Part C – Rules of Conduct</p> <ul style="list-style-type: none"> ii. review the rationale for creating a new Rule of Conduct breach where three or more breaches of Part B – Behaviours are found and the Local Government resolves to refer the matter to the Local Government Standards Panel; and iv. review the proposal to amend the definition of an 'interest' relating to Impartiality Interests from the present definition in Regulation 11 of the Local Government (Rules of Conduct) Regulations. v. <u>Develop a complaint process that is carried out by DLGSC or another party (which must be external of the local government). For any breach of the Code (being part b or part c) and where the Council, Mayor/President or CEO are not the decision makers in determining whether the breach has or has not occurred and/or whether any action is required.</u> 			

MEETING DATE	RESOLUTION	COMMENT	Completion Date	Officer Responsible
	<p>iv <u>Review the appropriateness of the elements of the rule of conduct to only apply to a person who is a Council Member or Candidate both at the time of the conduct and at the time of the panel decision.</u></p> <p>6. Recommend the Working Group develop an endorsed Mandatory Code of Conduct for further consultation with the Local Government sector.</p> <p><u>RESOLUTION 144.7/2019</u></p>			
<p>2019 Dec 4 Item 5.4 Standards & Guidelines for CEO Recruitment & Selection Performance Review & Termination – Sector Feedback</p>	<p>That WALGA:</p> <ol style="list-style-type: none"> 1. Request the CEO Recruitment and Selection, Performance Review and Termination Working Group be reconvened by the Department of Local Government, Sport and Cultural Industries; and 2. Refer the following matters to the Working Group for consideration: <ol style="list-style-type: none"> (a) Removal from the Model Standards the requirement to readvertise CEO positions after 10 years of continuous service; (b) Encouraging, rather than mandating, the involvement of an independent person in the CEO Recruitment and Selection Process; (c) Reconsideration of the proposal for independent review of the recruitment process; (d) Support the role of the Department of Local Government, Sport and Cultural 	<p>Correspondence has been sent to the Director General of the Department of Local Government, Sport & Cultural Industries advising of the Council resolution on this issue.</p> <p>The Department released the draft <i>Local Government (Administration) Amendment Regulations (No.2) 2020</i> (Draft Regulations), to prescribe the Model Standards, together with Explanatory Notes on Monday 26 October requesting Local Governments respond by 6 December 2020. WALGA was successful in advocating for the Department to provide more time than the original 13 November time-line.</p> <p>An item will be prepared for the November / December Zone and State Council meetings.</p>	Ongoing	<p>Tony Brown Exec Manager Governance & Organisational Services</p>

MEETING DATE	RESOLUTION	COMMENT	Completion Date	Officer Responsible
	<p>Industries as the regulator for monitoring and compliance; and</p> <p>(e) Further investigate a role for a Local Government Commissioner.</p> <p>3. Recommend the Working Group develop endorsed Model Standards for further consultation with the Local Government sector.</p> <p><u>RESOLUTION 145.7/2019</u></p>			
<p>2019 Dec 4 Item 5.8 Membership of Development Assessment Panels</p>	<p>That WALGA advocate to the Minister for Planning, that the composition of Development Assessment Panels (DAPs) be modified to provide equal representation of Specialist Members and Local Government Members, in accordance with the original objectives of the DAP system to enhance the decision making process by improving the balance of experts.</p> <p><u>RESOLUTION 149.7/2019</u></p>	<p>A report on the performance of DAPs between 2011 and 2020 was provided in the September State Council Agenda for further advocacy on DAPs. All advocacy items related to DAPs will inform the Associations submission in the upcoming review of the DAPs Regulations.</p>	Ongoing	<p>Mark Batty Exec Manager Strategy, Policy and Planning</p>
<p>2019 Dec 4 Item 5.10 Local Government as Collection Agency for Construction Training Fund</p>	<p>1. That WALGA advise the Construction Training Fund (CTF):</p> <p>1.1 That due to the operational improvements and establishment of an on-line portal for payments of the Building and Construction Industry Training Fund, Local Government will not continue to be a collection agency for these payments</p> <p>1.2 That the online receipt issued upon payment of the <i>Building and Construction Industry Training Fund</i>, must clearly show the property address and estimated building value to ensure it complies with section 20 of the <i>Building Act 2011</i></p> <p>1.3 That the Department of Mines, Industry Regulation and Safety (DMIRS) must provide access to the data collated in the Building Permit</p>	<p>Correspondence has been sent to the CTF Board advising them of the State Council Resolution. Separate letters have also been sent to the Ministers for Commerce, Education and Training and Local Government to seek their support.</p> <p>The CTF Executive Director has responded, advising the following:</p> <p><i>"While 37 of the State's 140 LGAs responded to the WALGA's recent survey about collection of the BCITF, CTF is concerned that stakeholders in the building and construction industry – who would be affected by the changes to current permit allocation procedure – have not to date been consulted. As such, CTF has approached HIA an MBA for feedback from their members..."</i></p> <p>CTF advised that they will meet with WALGA once feedback from the building and construction industry has been received before establishing a way forward to address the issues arising from the State Council's recommendation.</p> <p>The Minister for Commerce has also provided a response, indicating that they will be working with the CTF to enable access to the data already being captured by the Building Permit Database project. If a local government isn't providing this data, the CTF may still require information direct from those Local Governments.</p>	Ongoing	<p>Mark Batty Exec Manager Strategy, Policy and Planning</p>

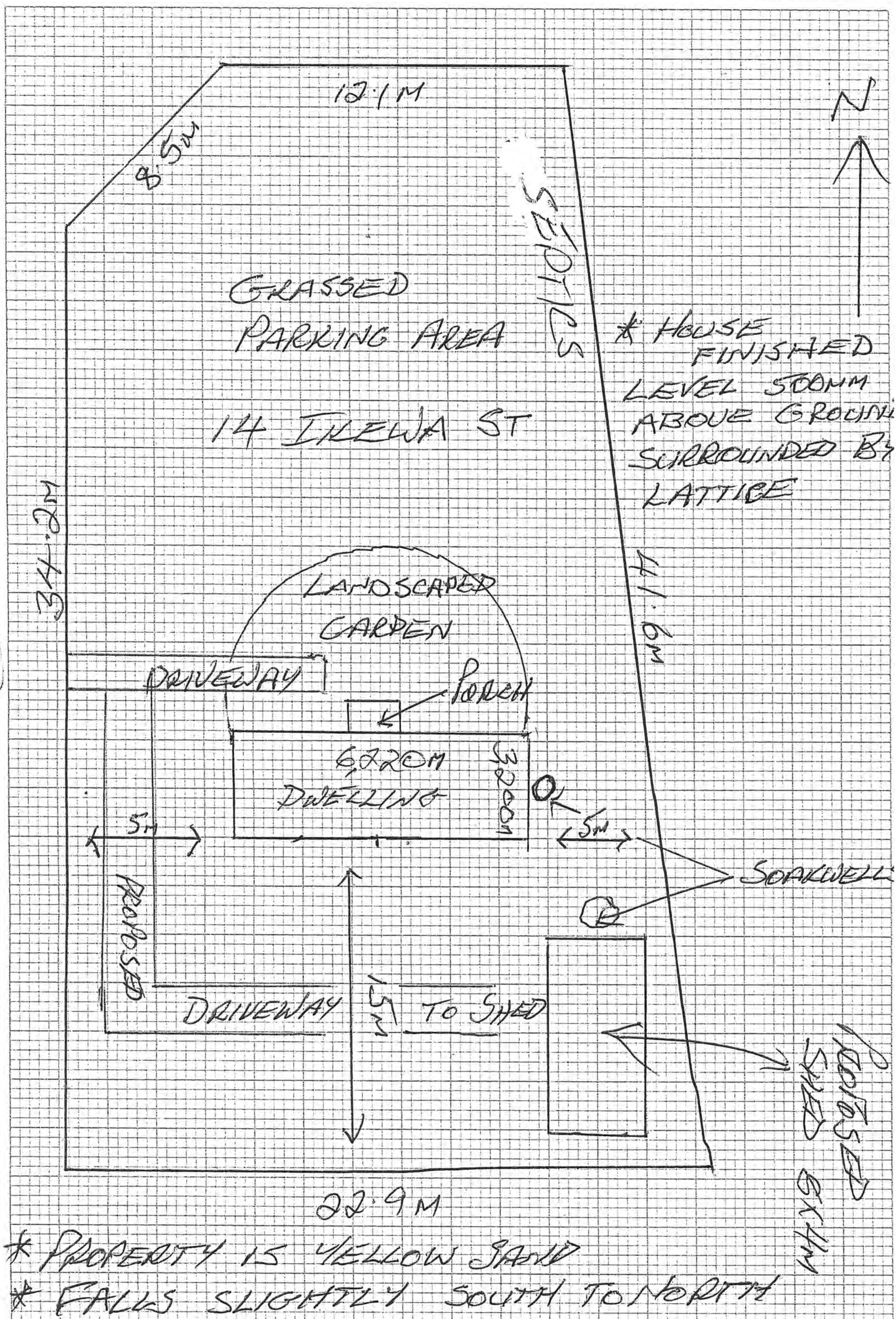
MEETING DATE	RESOLUTION	COMMENT	Completion Date	Officer Responsible
	<p>Database Project to assist CTF in their acquittal process, and</p> <p>1.4 That a review of the apprenticeship pathways should be undertaken, as the Local Government sector can provide many potential apprentice pathways directly connected to the construction and development industry.</p> <p>2. That WALGA advise the Minister for Local Government, Minister for Education & Training and Minister for Commerce that the current CTF collection process is unnecessary administrative red tape for the Local Government sector, and seek their support for Local Government to not continue to be a collection agency for these payments.</p> <p><u>RESOLUTION 151.7/2019</u></p>	<p>The Minister for Education & Training has also provided a response, similar in content to the CTF letter, that Local Government provides a 'one stop shop' for Industries payment of the fees.</p> <p>Awaiting the CTF to arrange a meeting on the issue.</p>		
<p>2018 December 5</p> <p>Item 4.1</p> <p>State / Local Government Partnership Agreement on Waste Management and Resource Recovery</p>	<p>1. That State Council endorse investigating a State / Local Government Partnership Agreement on Waste Management and Resource Recovery.</p> <p>2. That the item be referred to MWAC for is development and negotiation with the State Government.</p> <p>3. A report regarding a proposed "State / Local Government Partnership Agreement on Waste Management and Resource Recovery" be brought back to the next meeting of State Council.</p> <p><u>RESOLUTION 131.7/2018</u></p>	<p>The development of the Agreement has been delayed due to COVID-19, however will be further progressed in the second half of 2020.</p>	Ongoing	<p>Mark Batty</p> <p>Exec Manager</p> <p>Strategy, Policy and Planning</p>
<p>2018 December 5</p> <p>Item 5.1</p> <p>Proposed Removal by Main Roads WA of the "Letter of Approval"</p>	<p>That WALGA:</p> <p>1. Opposes withdrawal of the "Letter of Approval" Restricted Access Vehicle Operating Condition until an acceptable</p>	<p>On advice from the State Solicitors Office, Main Roads WA is intending to remove the CA07 condition that requires a transport operator to obtain a letter of approval from the relevant Local Government. Main Roads is proposing to replace the condition with a notification process (CA88). After consultation with Regional Road Groups and a Stakeholder Working Group, the overwhelming majority of participants are of the view that the proposed arrangement is not an</p>	Ongoing	<p>Ian Duncan</p> <p>Exec Manager</p> <p>Infrastructure</p>

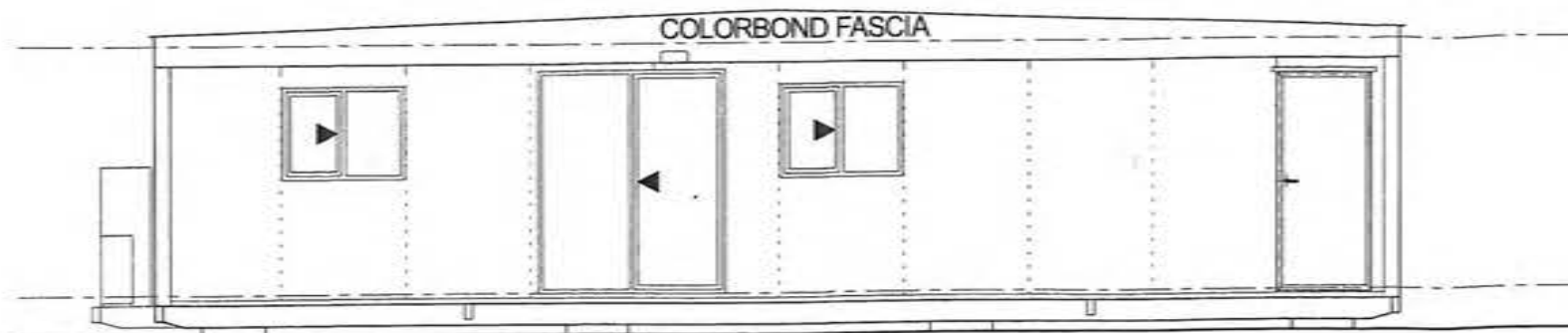
MEETING DATE	RESOLUTION	COMMENT	Completion Date	Officer Responsible
Restricted Access Vehicle Operating Condition	<p>alternative to Local Government is developed;</p> <p>2. Supports the position that Local Governments not use provision of the Letter of Authority to charge transport operators to access the Restricted Access Vehicle network;</p> <p>3. Supports the development of standard administrative procedures including fees and letter formats; and</p> <p>4. Supports the practice of Local Governments negotiating maintenance agreements with freight owners/ generators in cases where the operations are predicted to cause extraordinary road damage as determined by the Local Government.</p> <p>5. Advocates to Main Roads to establish a stakeholder working group to develop an appropriate mechanism through which the increased infrastructure costs from the use of heavy vehicles and those loaded in excess of limits (concessional loading) can be recovered from those benefiting, and redirected into the cost of road maintenance.</p> <p><u>RESOLUTION 132.7/2018</u></p>	acceptable alternative. WALGA has written to Main Roads WA stating that WALGA does not support the alternative and that the position adopted by Sate Council in December 2018 has not changed.		
2018 September 7 Item 5.8 Interim Submission to the Independent Review of the Strategic Assessment of the Perth and Peel Regions	<p>That the Interim Submission to the Independent Review of the Strategic Assessment of the Perth and Peel Regions be endorsed <u>subject to the inclusion of:</u></p> <p>1. Further guidance regarding the form of a assurance and adaptive management framework; and</p> <p>2. Reference to the costs to Local Government of the ongoing management of conservation areas</p>	<p>Following the SAPPR Review Panel's report to Government, which identified unresolved 'gateway issues' – legal risk, flexibility and funding - in February 2019 it was announced that the review would be extended so that these issues could be progressed and options developed.</p> <p>WALGA met with the Panel on 31 May 2019 to discuss funding options. The Review Panel also briefed the Growth Area Alliance Perth and Peel at its 13 June meeting.</p> <p>The Review Panel provided its report to the Deputy Premier in August 2019.</p> <p>WALGA met the Review Panel again in on 3 September and subsequently wrote to the Review Chair on 27 September to reiterate WALGA's in-principle support for the SAPPR, contingent on the issues raised</p>	Ongoing	Mark Batty Exec Manager Strategy, Policy and Planning

MEETING DATE	RESOLUTION	COMMENT	Completion Date	Officer Responsible
	<p>and how decisions the impacts of land use within urban areas will impact on peri-urban areas.</p> <p><u>RESOLUTION 109.6/2018</u></p>	<p>in earlier submissions and feedback to the Review Panel being addressed satisfactorily and the establishment of a consultative and transparent process is established going forward.</p> <p>On the 26 March 2020, the Premier announced that the review of SAPPR will be deferred indefinitely, in an effort to free up resources and allow the State Government to continue to focus all efforts on responding to COVID-19.</p> <p>https://www.mediastatements.wa.gov.au/Pages/McGowan/2020/03/Administrative-changes-to-support-COVID-19-response-.aspx</p>		
<p>2018 July 4 5.7 Interim Submission – Review of the State Industrial Relations System</p>	<p>That the interim supplementary submission in response to the Interim Report of the Review of the State Industrial Relations System be endorsed.</p> <p><u>RESOLUTION 78. 5/2018</u></p>	<p>The Final Report (Report) of the review into the WA State Industrial Relations System was tabled in State Parliament on 11 April 2019. This report makes the recommendation to amend the <i>Industrial Relations Act 1979</i> (IR Act) to enable a declaration to be made that WA Local Government authorities are not “national system employers” for the purposes of the <i>Fair Work Act 2009</i> (FW Act).</p> <p>The State Government has introduced the <i>Industrial Relations Legislation Amendment Bill 2020</i> (the Bill) into State Parliament. The Bill seeks to bring all Local Governments under the State IR system.</p> <p>The State Government predicates the need for the Bill to address jurisdictional uncertainty. However, the move comes without any commitment, resourcing or support from the State Government to enable 89% of Local Governments to effectively transition, over the proposed two year period, to the State IR system.</p> <p>The Bill has passed the Legislative Assembly and will need to pass the Legislative Council of Parliament before a declaration for the endorsement of the Hon. Christian Porter, the Federal Minister of Industrial Relations can be sought.</p> <p>The State Government’s proposal is reliant on the endorsement of the Federal Minister.</p> <p>WALGA will continue to lobby against the Bill and encourages all Local Governments to lobby their opposition to this proposal that is highly detrimental to the Local Government sector with their respective State and Federal parliamentary members.</p> <p>Advocacy has increased in opposing the State Governments proposal. Meetings have been held with the State Opposition including the Liberal, National and One Nation Parties. Support has also been requested with the office of the Federal Minister for Industrial Relations, Christian Porter.</p>	Ongoing	<p>Tony Brown Exec Manager Governance & Organisational Services</p>
<p>2017 July 5 5.5 Corella Project (05-046-02-0003 MH)</p>	<p>That State Council</p> <ol style="list-style-type: none"> Note the outcomes of the Coordinated Corella Control pilot program. Endorse WALGA’s proposed approach to the continuation and expansion of the Program in 2017/18. 	<p>The Minister for Agriculture has agreed to the review of the Biosecurity and Agricultural Management Act (2007), and WALGA will raise the need to address significant incursions of this pest in town-sites and the peri urban areas across the south-west land division. The Preferred Supplier Program provides for contractors to manage this species, and WALGA continues to maintain the pest bird portal for interested members.</p>	Ongoing	<p>Mark Batty Exec Manager Strategy, Policy and Planning</p>

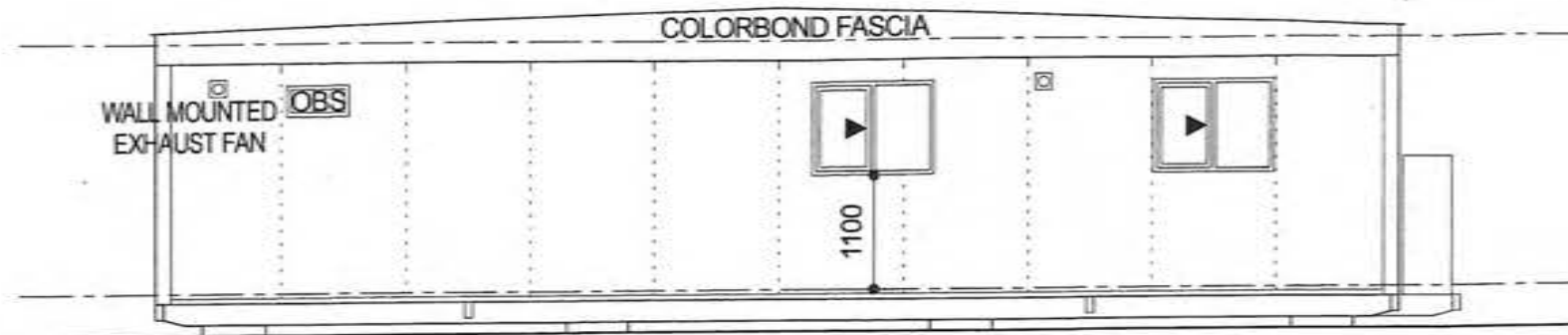


MEETING DATE	RESOLUTION	COMMENT	Completion Date	Officer Responsible
	3. Seek to have the program expanded to the whole of the State, including the provision of adequate resources.			

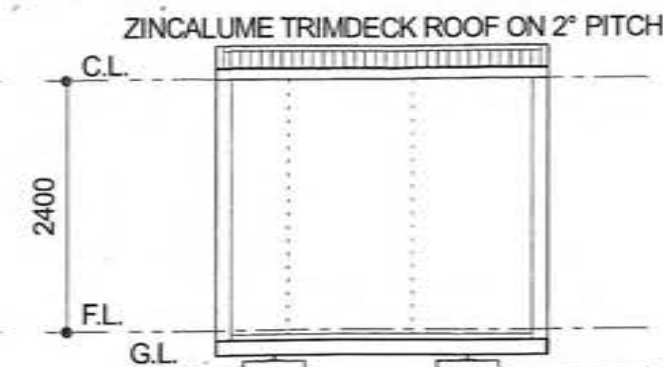




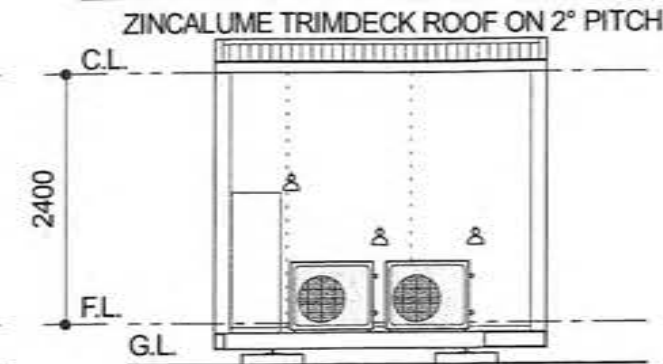
ELEVATION 1 SCALE 1:100



ELEVATION 3 SCALE 1:100

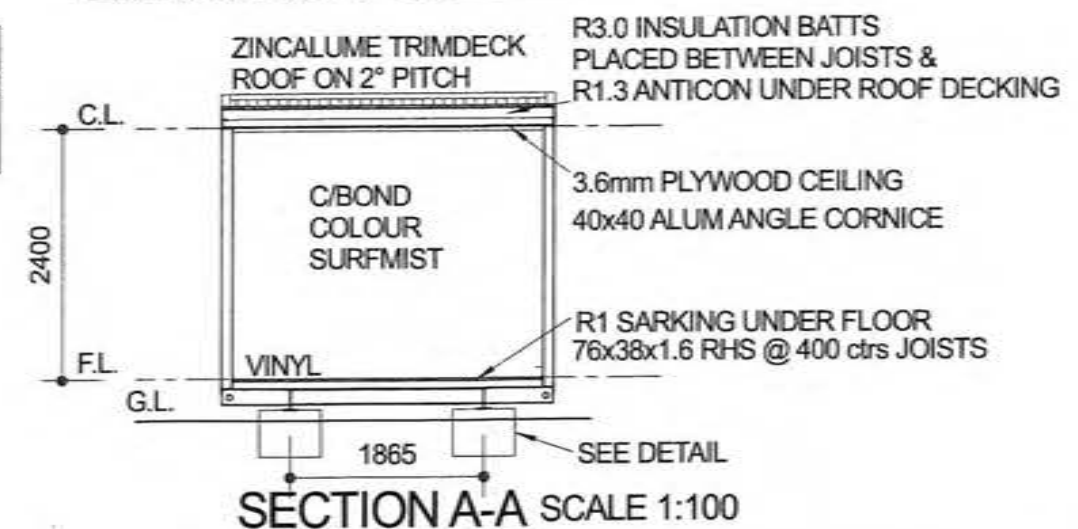


ELEVATION 2 SCALE 1:100



ELEVATION 4 SCALE 1:100

NOTE:
PROVIDE STAINLESS MESH SECURITY SCREENS
TO ALL WINDOWS AND SLIDING DOORS OVER
SLIDING AND FIXED GLAZING



PROJECT SPECIFICATION FOR NEW TRANSPORTABLE UNIT

FLOOR STRUCTURE

STEEL SKIDS-200UB22
FLOOR JOISTS-76x38x1.6 RHS @ 400 crs
FLOORING-22mm AQUATITE FLOORING + 2mm VINYL
R1.0 SARKING UNDER FLOOR

WALL STRUCTURE

EXTERNAL 100 THICK INSULATED BONDOR PANEL 0.6MM C/BOND FACINGS
INTERNAL WALLS ARE FITTED 50mm INSULATED PANEL WITH
0.6 C/BOND FACINGS

ROOF STRUCTURE

CEILING JOISTS AND PURLINS-C89x41x1.15 GALV STEEL
ROOF DECKING-ZINCALUME TRIMDECK PROFILE
INSULATION-R3.0 FIBRE BATTS BETWEEN JOISTS & R1.3 ANTICON
CEILING-PREFINISHED PLYWOOD CEILING LINING

WINDOWS

POWDERCOATED ALUMINUM FRAME
ALL WINDOWS & DOOR FRAMES TO HAVE FIXINGS DOUBLED
INTERNALLY AND EXTERNALLY

ELECTRICAL LEGEND

○	LIGHT : OYSTER LIGHT FITTING (LED)
⊙	LIGHT : EXTERNAL BULKHEAD : W/PROOF
△	GPO : 10 AMP SINGLE : HEIGHT SHOWN
⋈	GPO : 10 AMP DOUBLE : HEIGHT SHOWN
⬆	GPO : 15 AMP SINGLE : HEIGHT SHOWN
⊞	EXHAUST FAN : WALL MOUNTED
⚡	SWITCH ISOLATOR W/PROOF : HT SHOWN
●	FIRE : SMOKE DETECTOR : HARD WIRED

FLOOR PLAN SCALE 1:100

STEVE'S TRANSPORTABLES GROUP PTY LTD

ATF SHORTER FAMILY TRUST

Steve's Mobile: 0419 955 259
Duke's Mobile: 0498 022 147
Email: sales@stevestransportables.com.au
Website: www.stevetransportablesperth.com

© COPYRIGHT



12m x 3.2m UNIT 1 x 1

E:\Documents\JD\2020 Steves Transportables\12000x3200 1x1.SKF

Date Dm: 07.04.20

STRUCTURAL NOTES

GENERAL

1. READ THIS DRAWING IN CONJUNCTION WITH ARCHITECTURAL AND SERVICE DRAWINGS. ENGINEERING DRAWINGS SHALL BE CONSIDERED TO TAKE PRECEDENCE.
2. DO NOT SCALE FROM DRAWINGS.
3. ALL WORK TO BE IN ACCORDANCE WITH THE NATIONAL CONSTRUCTION CODE AND LOCAL AUTHORITY REQUIREMENTS AS WELL AS LATEST REVISIONS OF THE RELEVANT AUSTRALIAN STANDARDS.
4. ALL DIMENSIONS AND SITE CONDITIONS TO BE CHECKED ON SITE BY THE BUILDER, AND THE ENGINEER NOTIFIED OF ANY DISCREPANCIES.
5. WIND CLASSIFICATION IN ACCORDANCE WITH AS4055:
 - WIND CLASS: N1 TO N3 (BUILDER TO CONFIRM)
6. NO RESPONSIBILITY CAN BE ACCEPTED BY ARENA CLAUSON ENGINEERING GROUP FOR ANY STRUCTURAL DEFECTS UNLESS AN ENGINEER FROM THIS OFFICE INSPECTS AND APPROVES THE FOLLOWING:
 - SOIL COMPACTION CERTIFICATE - SAND PAD FOUNDATIONS TO BE COMPACTION SOIL TESTED USING STANDARD PERTH PENETROMETER IN ACCORDANCE WITH AS1289.6.3.3.
 - ALL EXCAVATIONS PRIOR TO CONCRETING.
 - ALL FOOTINGS AND GROUND SLABS PRIOR TO CONCRETING.

FOUNDATION

1. EARTHWORKS TO BE CARRIED OUT IN ACCORDANCE WITH AS3798.
2. FOUNDATION MATERIAL MUST HAVE A MINIMUM SAFE ALLOWABLE BEARING PRESSURE OF 100kPa. THIS MUST BE PROVEN BY TESTING WITH A DYNAMIC CONE PENETROMETER (OR PERTH SAND PENETROMETER IN SANDY SOILS) AS A MINIMUM. GROUND MUST BE TESTED TO A MINIMUM DEPTH OF 600mm BELOW THE UNDERSIDE OF FOOTINGS AND HAVE INCREASING CAPACITY WITH DEPTH.
3. FOOTINGS AT LOWEST LEVEL MUST BE FIRST FOOTINGS POURED.
4. ALL DELETERIOUS MATERIAL (E.G. ANY TREE STUMPS, OLD EXCAVATIONS, RUBBISH, FILL ETC) TO BE CLEARED OUT AND REPLACED WITH CLEAN COMPACTED FILL OR CONCRETE AS REQUIRED BY ENGINEER.
5. OBTAIN ENGINEER APPROVAL OF ALL EXCAVATIONS PRIOR TO CONCRETING.
6. IMPORTED AND/OR RECLAIMED DISTURBED SAND FILL TO BE CLEAN AND WELL DRAINED WITH MAXIMUM FINES (PARTICLES UP TO 0.075mm) CONTENT OF 5% AND SHALL BE COMPACTIONED TO A MINIMUM STANDARD OF 10 BLOWS PER 300mm ON A STANDARD PERTH PENETROMETER.

CONCRETE

1. ALL CONCRETE SHALL CONFORM TO REQUIREMENTS OF AS3600.
2. CONCRETE SHALL HAVE MINIMUM 28 DAY COMPRESSIVE STRENGTH AND PROPERTIES OF (UNO):
 - FOOTINGS: N25 / 20 / #0
3. ONLY CONCRETE MIX FROM OFFSITE CONCRETE BATCHING PLANT PERMITTED. NO ADDITIONAL WATER SHALL BE ADDED TO THE CONCRETE MIX ON SITE.
4. ALL CONCRETE SURFACES SHALL BE CURED BY COVERING WITH A FORTECON MEMBRANE FOR 7 DAYS OR BY AN ALTERNATIVE APPROVED METHOD.
5. ALL REINFORCEMENT SHALL BE INSPECTED BY A QUALIFIED STRUCTURAL ENGINEER PRIOR TO POURING.
6. CEMENT SHALL BE TYPE GP PORTLAND CEMENT IN ACCORDANCE WITH AS3972.
7. COVER TO REINFORCEMENT SHALL BE (UNO):
 - FOOTINGS: 65mm
8. REINFORCEMENT SHALL BE GRADE 500 IN ACCORDANCE WITH AS 4671.
9. SUPPORT ALL REINFORCEMENT ADEQUATELY AND ACCURATELY ON APPROVED PLASTIC-TIPPED WIRE CHAIRS AT 750mm MAXIMUM CENTRES.
10. PROVIDE THE FOLLOWING MINIMUM LAP LENGTHS FOR REINFORCEMENT UNO:
 - BARS 40xDIAMETER
 - MESH LAPPED BY A MINIMUM TWO CROSS WIRES
11. ALL CONCRETE IS TO BE WELL COMPACTED.
12. CHEMSET CONCRETE ANCHORS ARE TO BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURE'S SPECIFICATIONS USING MINIMUM HILTI HY-200 INJECTION MORTAR OR EQUIVALENT UNO.

STEELWORK

1. ALL STEEL WORK SHALL BE FABRICATED AND ERECTED IN ACCORDANCE WITH:
 - AS4100 - STEEL STRUCTURES
 - AS4600 - COLD-FORMED STEEL STRUCTURES
2. ALL EXTERNAL STEELWORK INCLUDING LINTELS AND ALL STEELWORK CAST INTO CONCRETE TO BE PRIMED WITH 50 MICRONS OF ZINC PHOSPHATE OVER HAND TOOL CLEANING.
3. MINIMUM STRUCTURAL STEEL GRADES AS BELOW (UNO):
 - FLAT PLATE: GRADE 350 TO AS3678
 - FASTENERS/ANCHOR RODS: GRADE 8.8 TO AS1252
4. ALL STRUCTURAL STEEL, FASTENERS AND CONCRETE REINFORCEMENT SHALL BE COATED IN ACCORDANCE WITH TABLE 3.4.4.2 OF THE NATIONAL CONSTRUCTION CODE.

LIMITATIONS

1. A SOIL CLASSIFICATION OF THE SITE HAS NOT BEEN CONDUCTED BY OUR OFFICE. THE FOOTING DESIGN ASSUMED THE SITE CLASS IS 'A-M' PER AS2870. CONSULT THIS OFFICE IF THE ASSUMPTION IS NOT VALID.
2. THESE DRAWINGS ARE APPLICABLE FOR RESIDENTIAL APPLICATION ONLY WHERE THE BUILDING FLOOR LOAD IS LIMITED TO 1.5KPA.
3. THESE TIE DOWN / FOOTING DETAILS ARE APPLICABLE FOR A CONVENTIONAL LIGHT WEIGHT DEMOUNTABLE BUILDINGS CONSTRUCTED OR RENOVATED BY STEVE'S TRANSPORTABLES. WHERE UNSURE REGARDING THE APPLICABILITY OF THESE DETAILS CONSULT OUR OFFICE.

DRAWING SCHEDULE

18003.11-DWG-S00	STRUCTURAL NOTES DRAWING SCHEDULE
18003.11-DWG-S01	STANDARD FOOTING 'TYPE A'
18003.11-DWG-S02	STANDARD FOOTING 'TYPE B'

REV.	DATE	DESCRIPTION	DRN.	ENG.	CHK.
1	15.02.19	UPDATED TO INCLUDE 3.2M WIDE BUILDING	GM	RCL	RCL
0	11.10.18	ISSUED FOR USE	GM	RCL	RCL



ARENA CLAUSON
ENGINEERING GROUP
Suite 7, 1070 Hay St. West Perth WA 6005
Phone: 08 9256 1267 Email: info@arenaclauson.com.au
Website: www.arenaclauson.com.au

DO NOT SCALE FROM DRAWING IF IN DOUBT ASK !!!

Structural Certification by:
ROBERT CLAUSON BE MIEAust 3234523

Signed: *[Signature]*

PROJECT: 12m x 3/3.2m TRANSPORTABLE BUILDING STANDARD N1-N3 FOOTING

TITLE:

STRUCTURAL NOTES DRAWING SCHEDULE

CLIENT:

STEVE'S TRANSPORTABLES

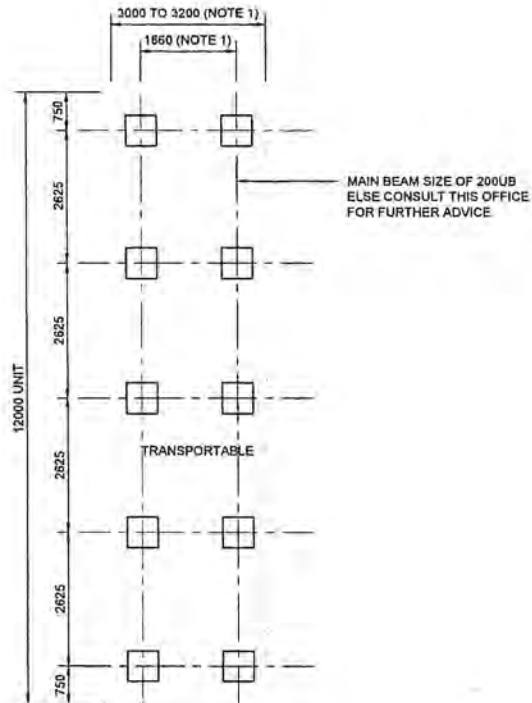
DWG No:

18003.11-DWG-S00

Rev.

1

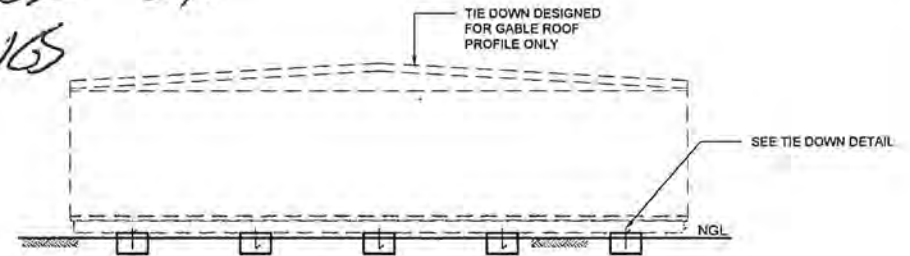
PLEASE ADVISE ON
TYPE A OR B FOOTINGS



FOOTING PLAN (TYPE B)

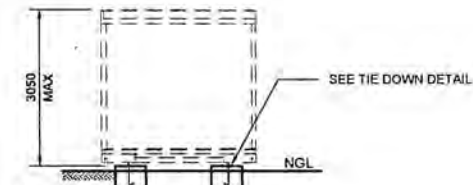
SCALE 1:100 @ A3

NOTE 1 - NOMINAL DIMENSION PROVIDED ONLY AS THIS WILL VARY



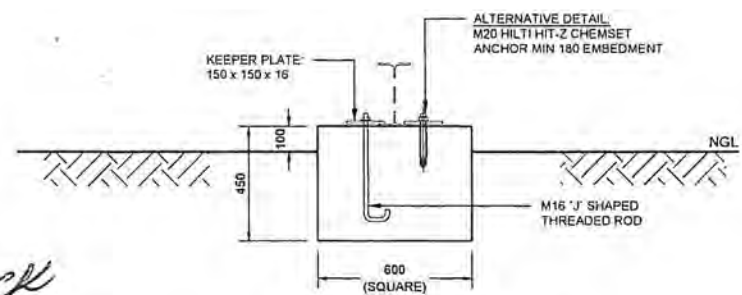
TYPICAL ELEVATION

SCALE 1:100 @ A3



TYPICAL SECTION

SCALE 1:100 @ A3



TD - 'J' SHAPED ROD TIE DOWN DETAIL

SCALE 1:20

LEVEL BLOCK

COMPACTED YELLOW BUILDERS SAND



ARENA CLAUSON
ENGINEERING GROUP

Suite 7, 1076 Hay St, West Perth WA 6005
Phone: 08 9255 1557 Email: info@arenaclauson.com.au
Website: www.arenaclauson.com.au

DO NOT SCALE FROM DRAWING - IF IN DOUBT ASK !!!
Structural Certification by:
ROBERT CLAUSON BE MIEAust 3234523

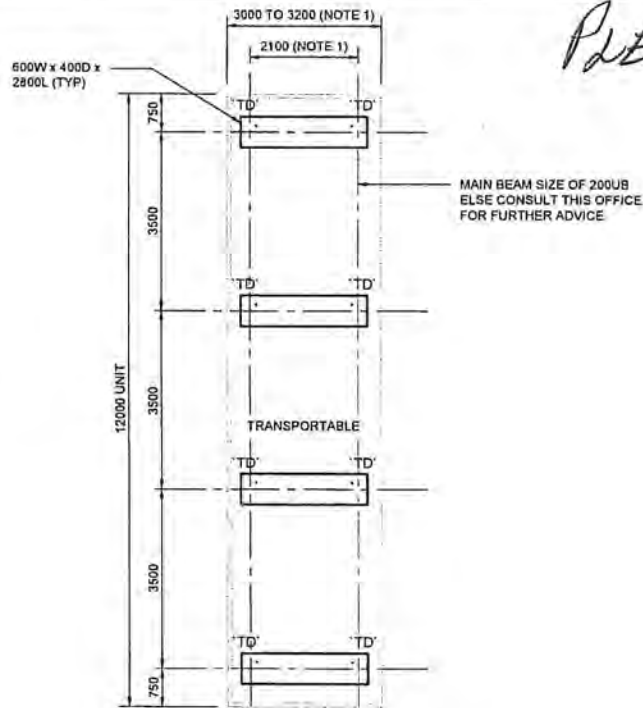
Signed: *Robert Clauson*

PROJECT: 12m x 3/3.2m TRANSPORTABLE BUILDING STANDARD N1-N3 FOOTING
TITLE: STANDARD FOOTING 'TYPE B'

CLIENT: STEVE'S TRANSPORTABLES

DWG No: 18003.11-DWG-S02
Rev: 1

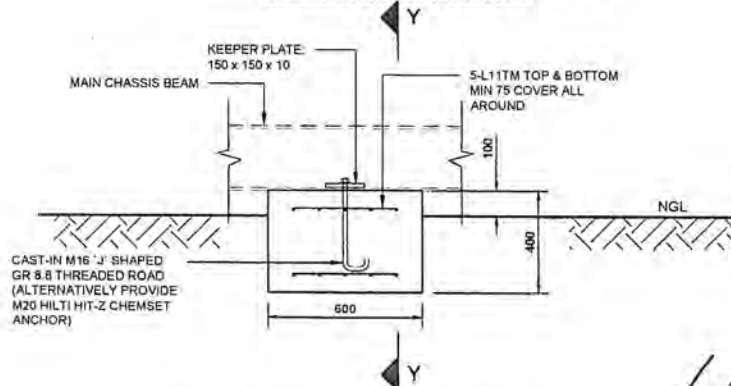
PLEASE ADVISE ON TYPE A OR B
FOOTINGS



FOOTING PLAN (TYPE A)

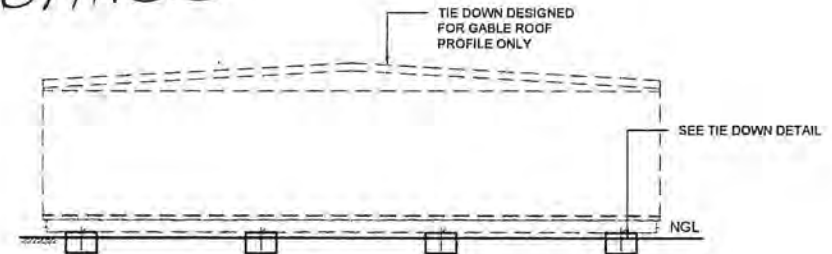
SCALE 1:100 @ A3

NOTE 1 - NOMINAL DIMENSION PROVIDED ONLY AS THIS WILL VARY BETWEEN MAKE / MODEL OF BUILDING. FOR PRECISE DIMENSIONS REFER BACK TO SUPPLIER



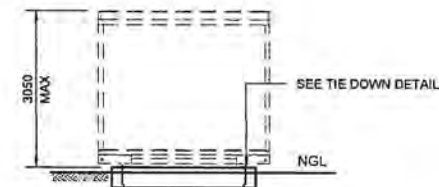
TD - 'J' SHAPED ROD TIE DOWN DETAIL

SCALE 1:20



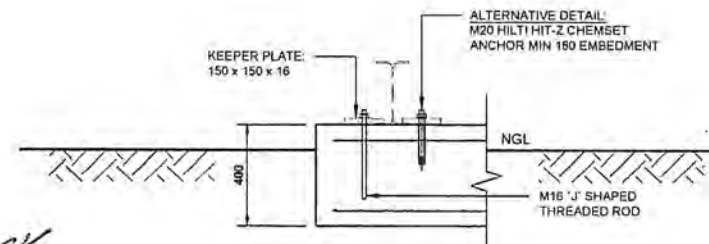
TYPICAL ELEVATION

SCALE 1:100 @ A3



TYPICAL SECTION

SCALE 1:100 @ A3





SECTION Y-Y

SCALE 1:20

LEVEL BLOCK

COMPACTED YELLOW BUNKER SAND

						 <div>ARENA CLAUSON ENGINEERING GROUP Suite 7, 1076 Hay St, West Perth WA 6005 Phone: 08 9256 1557 Email: info@arenaclauson.com.au Website: www.arenaclauson.com.au</div>	DO NOT SCALE FROM DRAWING.....IF IN DOUBT ASK !!!		PROJECT: 12m x 3/3.2m TRANSPORTABLE BUILDING STANDARD N1-N3 FOOTING		CLIENT: STEVE'S TRANSPORTABLES	
1	15.02.19	UPDATED TO INCLUDE 3.2M WIDE BUILDING	GW	RCL	RCL		Structural Certification by: ROBERT CLAUSON BE MIEAust 3234523		TITLE: STANDARD FOOTING 'TYPE A'	DWG No.: 18003.11-DWG-S01	Rev. 1	
0	11.10.18	ISSUED FOR USE	GW	RCL	RCL	Signed: 						
REV	DATE	DESCRIPTION	DRN	ENG	CHK							







Trevor Wayne Nitschke
14 Ikewa St
MINGENEW WA 6522

OWNER-BUILDER APPROVAL

IMPORTANT

- This approval is not a building permit and it does not imply that your project will be granted a building permit by your local government authority.
- Please ensure a building permit application has been lodged with your local government authority before this approval expires.

The Building Services Board has granted owner-builder approval to the individual whose name is listed below under the provisions set out in the Building Services (Registration) Act 2011.

Approval Number:	1008404
Name of Owner-Builder:	Trevor Wayne Nitschke
Date of Approval:	24 September 2020
Approval Expiry Date:	24 March 2021
Address of Building Work:	Lot 95, 14 Ikewa Street, Mingenew
Local Government Authority:	Mingenew Shire
Type of Building Work Permitted:	A Class 1(a)(i) building - construction of a new dwelling; renovation, addition and alteration to an existing dwelling
Conditions on Approval:	Ongoing compliance with representation made in the application Completed structure is checked by an engineer or building surveyor (cyclone area).

Authorised Person



FORM OF APPLICATION FOR PLANNING APPROVAL

(PLEASE COMPLETE ALL BOXES)

OWNER DETAILS:

Name(s): TREVOR WAYNE NITSCHKE
Postal Address: Box 106 MINGENEW Postcode: 6522
Contact Person: TREVOR NITSCHKE
Phone: 0817 932 148 Email: BIGTREVORDIS@HOTMAIL.CO
Signature: [Signature] Date: 2.10.2020
Signature: _____ Date: _____

NOTE: The signatures of ALL the owner(s) is required to process this application.

APPLICANT DETAILS: (if different from owner)

Name: _____
Postal Address: _____ Postcode: _____
Contact Person: _____
Phone: _____ Email: _____
Signature: _____ Date: _____

PROPERTY DETAILS:

Lot/Location No: 95 House/Street No: 14
Street Name: IKLEWA ST Locality/Suburb: MINGENEW
Diagram/Plan No: P174741 Volume No: 1322 Folio No: 1322

180

EXISTING DEVELOPMENT/LAND USE:Nature of any Existing Development/Land Use: NEW DWELLING**PROPOSED DEVELOPMENT/LAND USE:**Description of Proposed Development/Land Use: RESIDENTIALApproximate Cost: \$60 000Estimated Time of Completion: 31/12/2020**REQUIRED INFORMATION & FEES:**

Please refer over for the information required to be submitted with this application and the schedule of fees. This application will not be processed without all required information including payment of the appropriate fee.

OFFICE USE ONLY:Date Received: 02.10.2020 Application No: _____Accepting Officer's Initials: EG File Number: _____Required Fee: \$ 192.00 Date Paid: 02.10.2020

Application for building permit – uncertified

Building Act 2011, section 14, 16
Building Regulations 2012, regulation 4, 16

PERMIT AUTHORITY
USE ONLY

Reference number

Permit authority

1. Property this application relates to

Property street
address (provide lot
number where street
number is not
known)

Unit no	Street no 14	Level	Lot no 95
Street name IKEWA	Street type STREET	Street suffix ST	
Suburb MINGENEN	State WA	Postcode 6522	
Certificate of title (if known)	Volume 1322	Folio 180	

Local government area (if different
from permit authority)

Is this lot vacant?



Yes



No

2. Details of building work

Project name (if any)

Description of the
building(s) and
building work

Main use of
building(s)

Building Code of
Australia (BCA)
class of the
building(s)

Project name (if any)			
Description of the building(s) and building work TRANSPORTABLE HOUSE			
Main use of building(s) DWELLING			
Main BCA class			
<input checked="" type="checkbox"/>	Class 1a single dwelling (including detached house, row house, terrace house, town house or villa unit)		
<input type="checkbox"/>	Class 10a (garage, carport, shed or the like)		
<input type="checkbox"/>	Class 10b (fence, mast, antenna, retaining or free standing wall, swimming pool or the like)		
<input type="checkbox"/>	Class 10c (private bushfire shelter)		
Secondary BCA class (for multi-purpose buildings)		Third BCA class (for multi-purpose buildings)	

Type of work

- ☒ New building/structure
 ☐ Alteration/addition
 ☐ Refurbishment/fit out
☒ Relocation of a building to this site
 ☐ Change of use/conversion

Type of building or incidental structure (if a Class 10)

- ☐ Swimming pool/spa
 ☐ Garage
 ☐ Patio
☐ Carport
 ☐ Shed
 ☐ Fence/wall
☐ Retaining wall
 ☐ Water tank
 ☐ Other

Number of dwellings relocated TO this site from another site

/

Type of structure

- ☒ Detached (free standing)
 ☐ Attached to another structure

Number of residential dwellings to be created

/

Number of storeys of the highest building (above ground)

Number of basement storeys of the building (below ground)

Estimated value of building work (including GST)

\$ 60,000

Floor area to be created (m²)

38.4

Site (lot) area (m²)

817

What are the main materials used in the building work?

Floor	Exterior walls	Roof cover	Wall frame
<input type="checkbox"/> Concrete <input type="checkbox"/> Timber <input type="checkbox"/> Steel <input type="checkbox"/> Other	<input type="checkbox"/> Brick (double) <input type="checkbox"/> Brick (veneer) <input type="checkbox"/> Concrete/stone <input type="checkbox"/> Fibre cement <input type="checkbox"/> Timber <input type="checkbox"/> Curtain glass <input type="checkbox"/> Steel <input type="checkbox"/> Aluminium <input type="checkbox"/> Other	<input type="checkbox"/> Tiles <input type="checkbox"/> Concrete <input type="checkbox"/> Fibre cement <input type="checkbox"/> Steel <input type="checkbox"/> Aluminium <input type="checkbox"/> Other	<input type="checkbox"/> Brick/block <input type="checkbox"/> Concrete <input type="checkbox"/> Timber <input type="checkbox"/> Steel <input type="checkbox"/> Aluminium <input type="checkbox"/> Other
If 'other' please specify		AS PER PLAN	

Intended owner of the completed building

- ☒ Private sector
☐ Government sector

Is this application for a stage of a multi-stage building project?

- ☐ Yes
☒ No

Is a performance solution to a building standard proposed for the building work?

- ☒ Yes
 ☐ No

3. Owner details

Where there are multiple owners, please attach a list with the names and signatures of each owner. If each of those owners requires a copy of the building permit, please also provide forwarding details for each owner.

Owner's name

TREVOR NITSCHKE

Street address
(provide lot number
where street
number is not
known)

Unit no	Street no 14	Level	Lot no 95
Street name IKENA		Street type	Street suffix STREET
Suburb MINGENEN	State WA	Postcode 6522	Country (if not Australia)

OR

PO Box address

PO Box no Box 106			
Suburb MINGENEN	State WA	Postcode 6522	Country (if not Australia)

Email address

BIGTREUSDIGGING@HOTMAIL.COM

Phone/fax

Phone no 0417 932148	Fax
-------------------------	-----

Owner's signature*



Date 14.8.2020

*If you are authorised to sign on behalf of the owner, please provide your written legal authorisation with your application. Owner's signature is not required for Class 1 or Class 10 buildings or incidental structures.

4. Builder details

Builder's name

TREVOR WAYNE NITSCHKE

Street address
(provide lot number
where street number
is not known)

Unit no	Street no 14	Level	Lot no 95
Street name IKENA		Street type	Street suffix ST
Suburb MINGENEN	State WA	Postcode 6522	Country (if not Australia)

OR

PO Box address

PO Box no 106			
Suburb MINGENEN	State WA	Postcode 6522	Country (if not Australia)

Email address

Phone/fax

Phone no 0417 932148	Fax
-------------------------	-----

Type of builder

- ☐ Registered building contractor (provide registration number below)
☒ Approved owner-builder (attach owner-builder approval from the Building Services Board and provide owner-builder approval number below)
☐ Public Authority
☐ Other (building work under \$20,000, or where registered building contractor not required)

Registration number or owner-builder approval number

Registration / approval number (if relevant)

OB 18008404

Builder's signature

Name (print)

TREVOR WAYNE NITSCHE

Signature

[Signature]

Date

24.9.2020

5. Applicant details

Who is the applicant?
(Tick one box)

Owner



Builder



Other

If 'Other' was selected above, complete the following details:

Applicant's name

--	--	--	--

Street address
(provide lot number where street number is not known)

Unit no	Street no	Level	Lot no
Street name		Street type	Street suffix
Suburb	State	Postcode	Country (if not Australia)

OR

PO Box address

PO Box no			
Suburb	State	Postcode	Country (if not Australia)

Email address

Phone no	Fax

Phone/fax

6. Statement by applicant

I understand that a building permit cannot be granted unless:

1. All the prescribed information is provided with this application.
2. All consents or court orders have been obtained if part of a building or incidental structure is proposed to be placed beyond the boundaries of the works land.

Does the proposed work encroach on other land? ☐ Yes ☒ No

If yes, has consent or a court order been obtained? ☐ Yes ☐ No

Attach a copy of each consent (form BA20) or court order obtained.

3. All consents or court orders have been obtained if the building work may adversely affect land beyond the boundaries of the works land.

Does the proposed work adversely affect other land? ☐ Yes ☐ No

If yes, has consent or a court order been obtained? ☐ Yes ☐ No

Attach a copy of each consent (form BA20) or court order obtained.

4. If the proposed building work is for a Class 1 or Class 10 building or incidental structure that includes performance solutions to building standards, details have been provided with this application.

Provide details of each performance solution not shown on the plans and specifications.

Applicant's
signature

Name (print)

TREVOR NITSCHKE

Signature

Trevor Nitschke

Date

14.8.2020



DEVELOPMENT APPLICATION SUBMISSION FORM

Proposed Residence - Lot 95 corner Wattle & Ikewa Streets, Mingenew

Name: MARK CONWAY

Postal Address: P.O. Box 84 MINGENEW

Phone Number: 0408 358 178

SUBMISSION:

☒ Support

☐ Object

☐ Indifferent

Please give in full your comments and any arguments supporting your comments
(if insufficient space, please attach additional sheets) -

100% SUPPORT FOR "BIG TREV'S"
PROPOSED RESIDENCE
THIS RETIRED GENTLEMAN I BELIEVE WAS
BORN LOCALLY + WISHES TO RESIDE LOCALLY.
THIS NEW RESIDENCE IS THE BEST HE CAN AFFORD
KINDLY CONSIDER, THIS RETIRED APPLICATION
FAVOURABLY - OTHERWISE WOULD BE "UNREASONABLE"

Yours Faithfully MARK CONWAY

Signature: [Signature] Date: 6/10/2020

Please return to either:

Shire of Mingenew

or

(fax) 9928 1128

PO Box 120

or

MINGENEW WA 6522

enquiries@mingenew.wa.gov.au

NOTE: The local government in determining the application will take into account the submissions received but is not obliged to support those views.

Submissions Close: 4pm Friday 30 October 2020



DEVELOPMENT APPLICATION SUBMISSION FORM

Proposed Residence - Lot 95 corner Wattle & Ikewa Streets, Mingenew

Name: R & S McTaggart

Postal Address: PO Box 76 DONGARA

Phone Number: 0427 281198

SUBMISSION: ☐ Support ☐ Object ☐ Indifferent

Please give in full your comments and any arguments supporting your comments
(if insufficient space, please attach additional sheets) -

We don't object to the proposal but
suggest a verandah be added to the
front to enhance the appearance & for
sun protection & improved energy rating

Signature: [Signature] Date: 23-10-2020

Please return to either: Shire of Mingenew or (fax) 9928 1128
PO Box 120
MINGENEW WA 6522 or enquiries@mingenew.wa.gov.au

NOTE: The local government in determining the application will take into account the submissions received but is not obliged to support those views.

Submissions Close: 4pm Friday 30 October 2020



DEVELOPMENT APPLICATION SUBMISSION FORM

Proposed Residence - Lot 95 corner Wattle & Ikewa Streets, Mingenew

Name: G. THOMPSON

Postal Address: 2 WATTLE ST. MINGENEW.

Phone Number: 0431606258.

SUBMISSION:

☒ Support

☐ Object

☐ Indifferent

Please give in full your comments and any arguments supporting your comments
(if insufficient space, please attach additional sheets) -

NO PROBLEM WITH OWNER OF LOT 95,
NO PROBLEM WITH PROPOSED CONSTRUCTIONS,

Signature: [Signature]

Date: 29-10-2020

Please return to either:

Shire of Mingenew

or

(fax) 9928 1128

PO Box 120

or

MINGENEW WA 6522

enquiries@mingenew.wa.gov.au

NOTE: The local government in determining the application will take into account the submissions received but is not obliged to support those views.

Submissions Close: 4pm Friday 30 October 2020



FORM OF APPLICATION FOR PLANNING APPROVAL

(PLEASE COMPLETE ALL BOXES)

OWNER DETAILS:

Name(s): Feijoa Caroline Catchick
Postal Address: 9 Seahorse Loop, Port Denison Postcode: 6525
Contact Person: Feijoa C
Phone: 0401 844 431 Email: WildSideCoffee@yahoo.com
Signature: Catchick Date: 26.10.2020
Signature: _____ Date: _____

NOTE: The signatures of ALL the owner(s) is required to process this application.

APPLICANT DETAILS: (if different from owner)

Name: _____
Postal Address: _____ Postcode: _____
Contact Person: _____
Phone: _____ Email: _____
Signature: _____ Date: _____

PROPERTY DETAILS:

Lot/Location No: _____ House/Street No: _____
Street Name: _____ Locality/Suburb: _____
Diagram/Plan No: _____ Volume No: _____ Folio No: _____

EXISTING DEVELOPMENT/LAND USE:

Nature of any Existing Development/Land Use: _____

PROPOSED DEVELOPMENT/LAND USE:Description of Proposed Development/Land Use: ~~CBM~~, MINGENEW CARAVAN

PARK, (PARKING BAY) ACROSS FROM IGA - ONLY SUNDAYS AFTER BAKERY CLOSED

Approximate Cost: _____

Estimated Time of Completion: _____

REQUIRED INFORMATION & FEES:

Please refer over for the information required to be submitted with this application and the schedule of fees. This application will not be processed without all required information including payment of the appropriate fee.

OFFICE USE ONLY:

Date Received: _____ Application No: _____

Accepting Officer's Initials: _____ File Number: _____

Required Fee: \$ _____ Date Paid: _____



Proposed locations

- Parking bay on Midland's road, bus stop, only on a Sunday afternoon when the Mingenew bakery has shut for the day.
- 86 Midlands Rd ,Mingenew approved by land owner Kym Mcglinn
- Coalseam National Park, has been approved.
- Mingenew Springs Caravan Park, has been approved by land owner Caroline Farr.

I'm seeking approval for all locations to operated depending on weather, season and trying to work in conjunction with other businesses operating hours.

Please consider Wild Side Coffee for any upcoming events, being private or corporate.

Waste Management Plan- (Wild Side Coffee)

Wild Side Coffee staff understand the importance of preserving and respecting the environment we work in, we have procedures and physical Trailer instillation's in place to ensure this is done at all times these include:

- Two separate tanks for potable drinking water and grey water management, all water will be contained and taken with us off site at the end of each working period and disposed of in accordance with Mingenew Shire's Waste Management requirements.
- All products sold are in fully recyclable and compostable materials.
- Bins will be provided and taken off site at the end of each working period and disposed of with agreed procedure with Mingenew Shire.
- Before and after commencing operation staff will do a walk around collecting and correctly disposing of any trash in the working vicinity.

NOTIFICATION / REGISTRATION OF FOOD BUSINESS

PROPRIETOR / BUSINESS DETAILS:

Proprietor Name:	Peyton Caroline Catchick		
Trading Name of food business:	Wild side coffee		
Postal Address:	9 seahorse loop, Port Denison wa 6525		
Phone:	0401 844 431	ABN:	
Email:	wildsidecoffee@yahoo.com		

PREMISES DETAILS

Community Group / Organisation:	Wild side coffee		
Address of Premises:	9 seahorse loop, Port Denison wa 6525		
Phone:	0401 844 431		
Email:	wildsidecoffee@yahoo.com		
Name of person in charge, and their title (if different from proprietor)			
Details of food vehicle (make, model, registration plate)	1TSZ306 - ELROSS food/van trailer		
Details of any associated premises:			

NATURE OF FOOD BUSINESS

You are required to notify the Shire of Mingenew of any changes to the information provided below. The new information must be provided before the changes occur.

1. A) What is your business type?

- | | | |
|---|--|---|
| <input type="checkbox"/> Manufacturer / processor | <input type="checkbox"/> Retailer | <input type="checkbox"/> Food Service |
| <input type="checkbox"/> Distributer / importer | <input type="checkbox"/> Packer | <input type="checkbox"/> Storage |
| <input type="checkbox"/> Transport | <input type="checkbox"/> Restaurant / café | <input type="checkbox"/> Snack bar / takeaway |
| <input type="checkbox"/> Caterer | <input type="checkbox"/> Hotel / motel/ guesthouse | <input type="checkbox"/> Pub / Tavern |
| <input type="checkbox"/> Canteen / kitchen | <input type="checkbox"/> Hospital / nursing home | <input type="checkbox"/> Childcare Centre |
| <input type="checkbox"/> Home delivery | <input type="checkbox"/> Market stall | <input type="checkbox"/> Charitable / community org |
| <input type="checkbox"/> Meals-on-wheels | <input checked="" type="checkbox"/> Mobile food operator | <input type="checkbox"/> Other: _____ |

2. B) Please provide more detail about your business e.g. butcher, bakery, seafood processor, service station etc.

mobile coffee & food trailer

NOTIFICATION / REGISTRATION OF FOOD BUSINESS

3. Do you provide, produce or manufacture any of the following foods?

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Prepared, ready-to-eat table meals | <input checked="" type="checkbox"/> Raw fruit and vegetables | <input type="checkbox"/> Frozen meals |
| <input type="checkbox"/> Raw meat, poultry or seafood | <input type="checkbox"/> Processed fruit and vegetables | <input type="checkbox"/> Confectionary |
| <input type="checkbox"/> Processed meat, poultry or seafood | <input type="checkbox"/> Infant or baby food | <input type="checkbox"/> Bread, pastries or cakes |
| <input type="checkbox"/> Fermented meat, poultry or seafood | <input type="checkbox"/> Egg or egg products | <input type="checkbox"/> Sandwiches or rolls |
| <input type="checkbox"/> Meat pies, sausage rolls or hot dogs | <input type="checkbox"/> Dairy products | <input type="checkbox"/> Soft drinks / juices |
| <input type="checkbox"/> Prepared salads | <input type="checkbox"/> Other: | |

4. What is the nature of your food business?

a) Are you a small business?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
b) Is the food that you provide, produce or manufacture ready-to-eat when sold to the customer?	<input type="checkbox"/> Yes <input type="checkbox"/> No
c) Do you process the food that you produce or provide before sale or distribution?	<input type="checkbox"/> Yes <input type="checkbox"/> No
d) Do you directly supply or manufacture food for organisations that cater to the sick, elderly, children under 5 years of age or pregnant women (such as hospitals, nursing homes or childcare centres)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
To be answered by manufacturing / processing businesses only:	
e) Do you manufacture or produce products that are not shelf-stable?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
f) Do you manufacture or produce fermented meat products, such as salami?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
To be answered by food service and retail business only (including charitable and community organisations, market stalls and temporary food premises)	
g) Do you sell ready-to-eat food at a different location from where it is prepared?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Hours of Operation

Monday	6am - 5pm	Friday	6am - 5pm
Tuesday	6am - 5pm	Saturday	6am - 5pm
Wednesday	6am - 5pm	Sunday	6am - 5pm
Thursday	6am - 5pm		

DECLARATION

I, the person making this application, declare that:

- The information contained in this application is true and correct in every particular; and
- I am aware of my obligation to notify the Shire of any change to the location, management, operation or activities of the food business as soon as practicable.

Signature of Applicant: Fatchuel

Name: Rejda Caroline Fatchuel Date: 26.10.2020

(In the case of a company, the signing officer must state their position in the company)

A notification or registration of a food business will require the payment of an annual fee, as per Council's Fees & Charges. The fee is imposed and recoverable by the Shire of Mingenew under the Local Government Act 1995 Part 5 Division 5 Subdivision 2.

Triple bowl sink-
supplied with hot
and cold running
water.



Flooring – Marine
ply vinyl R10 non
slip flooring.



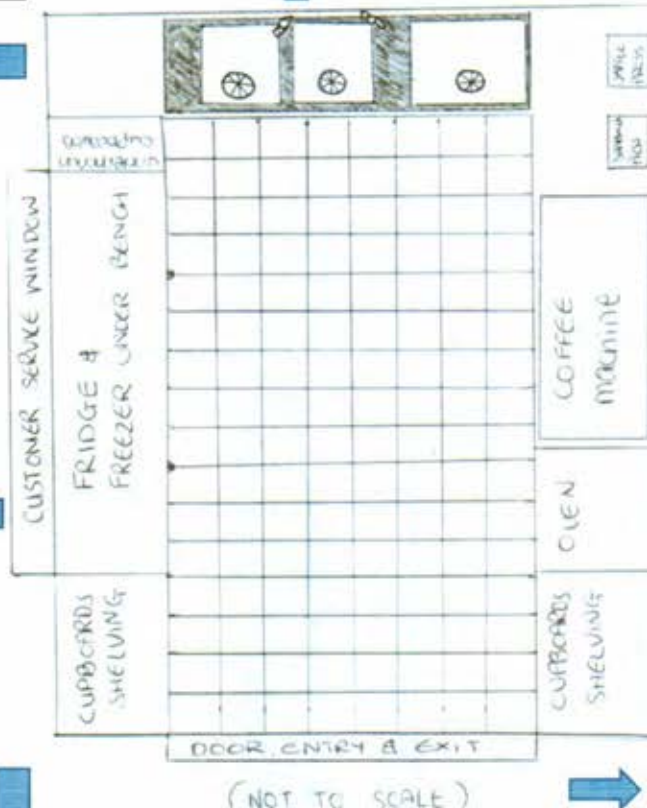
Benches – all
surfaces are
stainless steel.



Walls – 50mm
EPS panel
, exterior
colourbond
steel.



Laminated
solid core
timber.





Statement of Attainment

A Statement of Attainment is issued by a Registered Training Organisation when an individual has completed one or more accredited units.

This is a statement that

Feijoa Catchick

has attained

SITXFSA001 Use hygienic practices for food safety

These competencies have been identified as meeting

SITSS00050 Food Handling

Document Number

FSF03-SOA-HOS-E-V1-FCA1010001-20201015-1

Date Issued

14 October 2020

A handwritten signature in black ink, appearing to read "Feijoa Catchick", written over a faint circular watermark.

Authorised Signature



**NATIONALLY RECOGNISED
TRAINING**



CERTIFICATE
10 CPL 4005775

Page No: 2

Location: 9 Seahorse Loop

PORT DENISON 6525

Risk: 001/001 Business legal liability

Effective: 9/10/20

Any excess shown on this certificate or in the policy includes GST

Excess:

Damage to property

\$550

Insured: Feijoa Caroline Catchick

Business: Mobile Coffee & Food Van

Limit of Indemnity:

Limit any one Occurrence

\$10,000,000

Property in Your physical or legal control

\$250,000

Aggregate limit for product liability

\$10,000,000

Aggregate limit for pollution liability

\$10,000,000

Mobile Coffee & Food Van

CONSERVATION AND LAND MANAGEMENT REGULATIONS 2002 (PART 7)

COMMERCIAL OPERATIONS LICENCE

The Chief Executive Officer (CEO) of the Department of Biodiversity, Conservation and Attractions hereby grants a commercial operations licence to enter upon and conduct activities within the parks/reserves listed in Schedule 1 of this licence to:

Licensee: Feijoa Caroline Catchick

Trading Name: Wild Side Coffee

Licence Number: L000601

Commencing on the 01 July 2021 and expiring on 30 June 2022.

CONDITIONS

- 1 This Commercial Operations Licence is subject to the provisions of the *Conservation and Land Management Act 1984* and all subsidiary legislation made under it.
- 2 The Licensee must comply with and not contravene the conditions and restrictions set out in the Commercial Operator Handbook as varied from time to time by the CEO.
- 3 The Licensee must comply with the conditions contained in any schedule of conditions attached to this Commercial Operations Licence.

Jacinta Overman
Coordinator, Tourism and Concessions
As Delegate of CEO
Under Section 133(2) of the CALM Act 1984

04/11/2020

Licence Number	L000601
Commencement Date	01/07/2021
Expiry Date	30/06/2022

**SCHEDULE 1
COMMERCIAL OPERATIONS LICENCE ACTIVITIES**

Coalseam Conservation Park	Four wheel drive, Other
---------------------------------------	-------------------------

**SCHEDULE 2
COMMERCIAL OPERATIONS LICENCE CONDITIONS**

- 1 The Operator shall provide a copy of their renewed public liability insurance certificate by the expiry date.
- 2 The Operator shall achieve accreditation within six (6) months of gaining the licence and maintain it throughout the term of the licence.
- 3 The Operator may conduct additional activities under conditions as outlined in Schedules 3 and 4 attached to this licence.

**SCHEDULE 3
COMMERCIAL OPERATIONS LICENCE ACTIVITIES**

Coalseam Conservation Park	Food Van Vendor
----------------------------	-----------------

**SCHEDULE 4
COMMERCIAL OPERATIONS LICENCE CONDITIONS**

1. The Operator may conduct food vending operations within the Coalseam Conservation Park.at the location as designated at Map 1.
2. The Operator shall advise the Department of Biodiversity, Conservation and Attractions (DBCA) Geraldton District Manager of the proposed date and time of operations prior to 1 July each year.
3. The Operator acknowledges and accepts that this Licence is not issued as of right and upon expiry the licence will not be automatically renewed and may be subject to a competitive application process.
4. The Operator acknowledges and accepts that the operations may be reviewed and modified or cancelled at any stage during the licence period.
5. The Operator shall not sell any product in glass containers.
6. The Operator shall ensure that the use of generators is only within the hours of 0700 hours to 2100 hours when operating at Irwin Lookout and Fossil sites and 0800 hours to 2100 hours when operating at Miners and Breakaway sites.
7. The Operator shall remove the van from Coalseam Conservation Park when not operating.
8. The Operator shall keep the food van and immediate area clean and tidy.
9. The Operator shall provide rubbish bins for customers and ensure that all waste (organic and inorganic) is removed from park and is disposed of at a licensed facility, and where possible recyclable materials should be deposited at a recycling facility.
10. The Operator shall take reasonable measures to minimise disturbance or impact on park visitors utilising camping and day use facilities.

End Conditions

Map 1 - Coalseam Conservation Park Area of Operation



The Department of Biodiversity, Conservation and Attractions does not guarantee that this map is without flaw of any kind and disclaims all liability for any errors, loss or other consequence which may arise from relying on any information depicted. Roads and trails on land managed by DBCA may contain unmarked hazards and their surface condition is variable. Exercise caution and drive to conditions on all roads.

SHIRE OF MINGENEW
MONTHLY FINANCIAL REPORT
(Containing the Statement of Financial Activity)
For the Period Ended 31 October 2020

LOCAL GOVERNMENT ACT 1995
LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996

TABLE OF CONTENTS

Monthly Summary Information	2-3
Statement of Financial Activity by Program	4-5
Statement of Financial Activity by Nature or Type	6-7
Note 1 Statement of Financial Activity Information	8
Note 2 Cash and Financial Assets	9
Note 3 Receivables	10
Note 4 Other Current Assets	11
Note 5 Payables	12
Note 6 Rating Revenue	13
Note 7 Disposal of Assets	14
Note 8 Capital Acquisitions	15-17
Note 9 Borrowings	18
Note 10 Leases	19
Note 11 Cash Reserves	20
Note 12 Other Current Liabilities	21
Note 13 Grants and Contributions	22-23
Note 14 Bonds & Deposits	24
Note 15 Budget Amendments	25
Note 16 Explanation of Material Variances	26-27

PREPARATION TIMING AND REVIEW

Date prepared: All known transactions up to 31 October 2020
Prepared by: Helen Sternick, Senior Finance Officer
Reviewed by: Jeremy Clapham, Finance & Administration Manager

BASIS OF PREPARATION

REPORT PURPOSE

This report is prepared to meet the requirements of *Local Government (Financial Management) Regulations 1996, Regulation 34*. Note: The statements and accompanying notes are prepared based on all transactions recorded at the time of preparation and may vary due to transactions being processed for the reporting period after the date of preparation.

BASIS OF ACCOUNTING

This statement comprises a special purpose financial report which has been prepared in accordance with Australian Accounting Standards (as they apply to local governments and not-for-profit entities and to the extent they are not inconsistent with the *Local Government Act 1995* and accompanying regulations), Australian Accounting Interpretations, other authoritative pronouncements of the Australian Accounting Standards Board, the *Local Government Act 1995* and accompanying regulations. Accounting policies which have been adopted in the preparation of this financial report have been consistently applied unless stated otherwise.

Except for cash flow and rate setting information, the report has been prepared on the accrual basis and is based on historical costs, modified, where applicable, by the measurement at fair value of selected non-current assets, financial assets and liabilities.

THE LOCAL GOVERNMENT REPORTING ENTITY

All Funds through which the Council controls resources to carry on its functions have been included in this statement. In the process of reporting on the local government as a single unit, all transactions and balances between those funds (for example, loans and transfers between Funds) have been eliminated. All monies held in the Trust Fund are excluded from the statement, but a separate statement of those monies appears at Note 14.

SIGNIFICANT ACCOUNTING POLICES

GOODS AND SERVICES TAX

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is

not recoverable from the Australian Taxation Office (ATO). Receivables and payables are stated inclusive of GST receivable or payable. The net amount of GST recoverable from, or payable to, the ATO is included with receivables or payables in the statement of financial position. Cash flows are presented on a gross basis. The GST components of cash flows arising from investing or financing activities which are recoverable from, or payable to, the ATO are presented as operating cash flows.

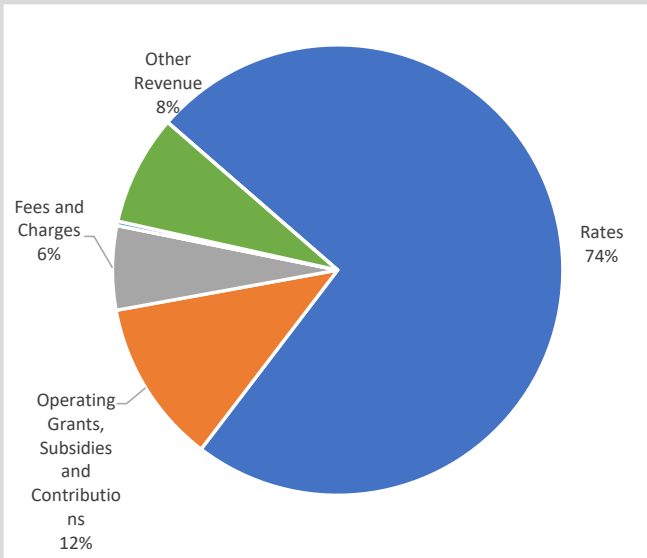
CRITICAL ACCOUNTING ESTIMATES

The preparation of a financial report in conformity with Australian Accounting Standards requires management to make judgements, estimates and assumptions that effect the application of policies and reported amounts of assets and liabilities, income and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances; the results of which form the basis of making the judgements about carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates.

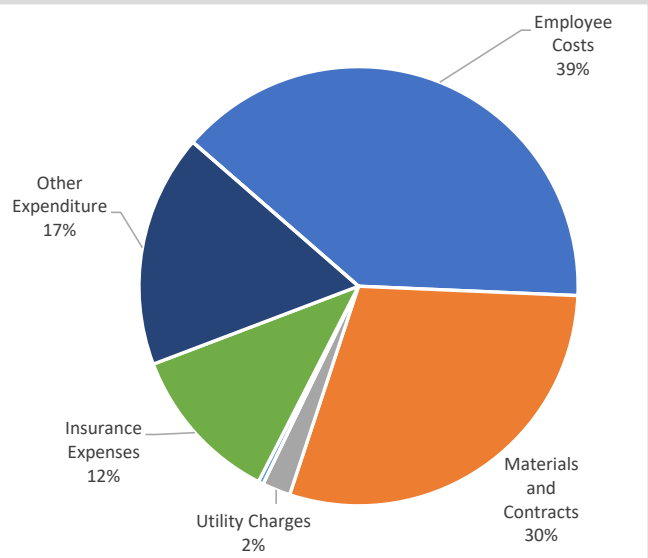
ROUNDING OFF FIGURES

All figures shown in this statement are rounded to the nearest dollar.

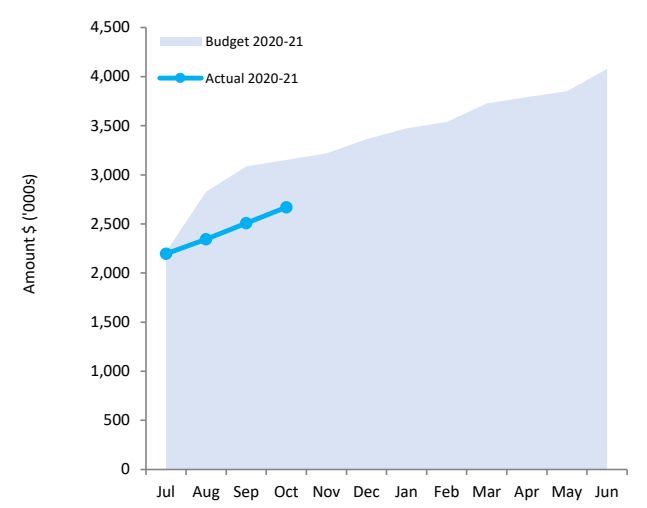
OPERATING REVENUE



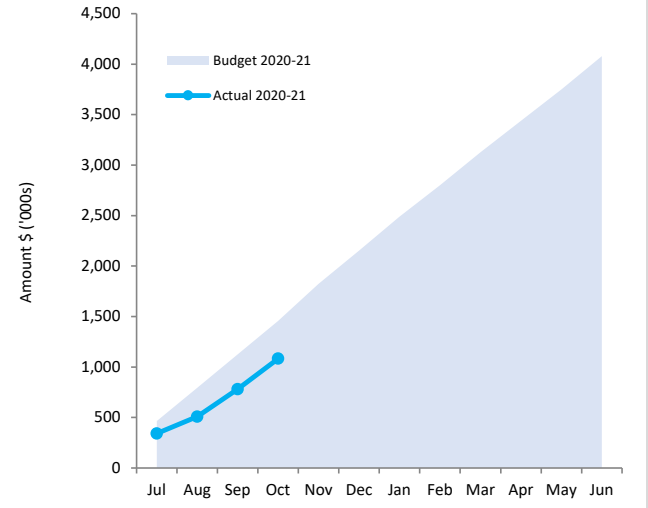
OPERATING EXPENSES



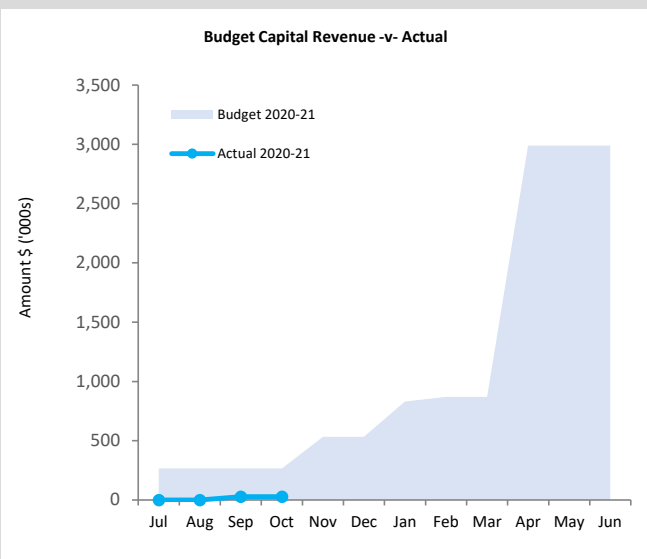
Budget Operating Revenues -v- Actual



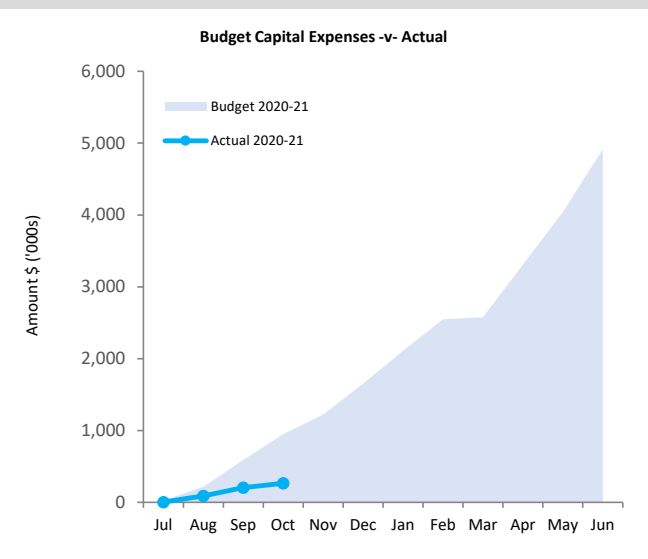
Budget Operating Expenses -v- YTD Actual



CAPITAL REVENUE



CAPITAL EXPENSES



This information is to be read in conjunction with the accompanying Financial Statements and Notes.

KEY TERMS AND DESCRIPTIONS
FOR THE PERIOD ENDED 31 OCTOBER 2020

STATUTORY REPORTING PROGRAMS

Shire operations as disclosed in these financial statements encompass the following service orientated activities/programs.

	ACTIVITIES
GOVERNANCE To provide a decision making process for the efficient allocation of scarce resources.	Administration and operation of facilities and services to members of council; other costs that relate to the tasks of assisting elected members and ratepayers on matters which do not concern specific Council services.
GENERAL PURPOSE FUNDING To collect revenue to allow for the provision of services.	Rates, general purpose government grants and interest revenue.
LAW, ORDER, PUBLIC SAFETY To provide services to help ensure a safer community.	Fire prevention, animal control and safety.
HEALTH To provide services to help ensure a safer community.	Food quality, pest control and inspections.
EDUCATION AND WELFARE To meet the needs of the community in these areas.	Includes education programs, youth based activities, care of families, the aged and disabled.
HOUSING Provide housing services required by the community and for staff.	Maintenance of staff, aged and rental housing.
COMMUNITY AMENITIES Provide services required by the community.	Rubbish collection services, landfill maintenance, townsite storm water drainage control and maintenance, administration of the Town Planning Scheme and maintenance of cemeteries.
RECREATION AND CULTURE To establish and manage efficiently, infrastructure and resources which will help the social well being of the community.	Maintenance of halls, recreation centres and various reserves, operation of library, support of community events and matters relating to heritage.
TRANSPORT To provide effective and efficient transport services to the community.	Construction and maintenance of streets, roads and footpaths, cleaning and lighting of streets, roads and footpaths, traffic signs and depot maintenance.
ECONOMIC SERVICES To help promote the Shire and improve its economic wellbeing.	The regulation and provision of tourism, area promotion, building control and noxious weeds.
OTHER PROPERTY AND SERVICES To provide effective and efficient administration, works operations and plant and fleet services.	Private works operations, plant repairs and operational costs. Administration overheads.

**STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD ENDED 31 OCTOBER 2020**

STATUTORY REPORTING PROGRAMS

	Ref Note	Adopted Budget	Amended Budget	YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)	Var.
		\$	\$	\$	\$	\$	%	
Opening Funding Surplus / (Deficit)	1(c)	568,521	568,521	568,521	405,934	(162,587)	(28.60%)	▼
Revenue from operating activities								
Governance		13,399	13,399	4,460	13,308	8,848	198.39%	▲
General Purpose Funding - Rates	6	1,975,991	1,975,991	1,975,241	1,975,046	(195)	(0.01%)	▼
General Purpose Funding - Other		1,182,941	1,182,941	752,304	226,119	(526,185)	(69.94%)	▼
Law, Order and Public Safety		23,750	23,750	9,158	10,489	1,331	14.53%	▲
Health		150	150	52	477	425	817.31%	▲
Education and Welfare		400	400	132	337	205	155.30%	▲
Housing		90,440	90,440	30,144	37,883	7,739	25.67%	▲
Community Amenities		89,650	89,650	76,876	72,596	(4,280)	(5.57%)	▼
Recreation and Culture		28,780	28,780	27,984	29,228	1,244	4.45%	▲
Transport		594,400	594,400	248,664	259,368	10,704	4.30%	▲
Economic Services		18,582	18,582	7,116	13,493	6,377	89.61%	▲
Other Property and Services		60,500	60,500	20,160	31,382	11,222	55.66%	▲
		4,078,983	4,078,983	3,152,291	2,669,726	(482,565)		
Expenditure from operating activities								
Governance		(343,694)	(346,694)	(123,547)	(106,628)	16,919	13.69%	▼
General Purpose Funding		(76,332)	(76,332)	(24,397)	(29,090)	(4,693)	(19.24%)	▲
Law, Order and Public Safety		(66,912)	(66,912)	(22,463)	(27,522)	(5,059)	(22.52%)	▲
Health		(80,167)	(80,167)	(26,700)	(20,289)	6,411	24.01%	▼
Education and Welfare		(111,669)	(111,669)	(37,558)	(26,427)	11,131	29.64%	▼
Housing		(159,522)	(161,522)	(72,205)	(54,375)	17,830	24.69%	▼
Community Amenities		(249,083)	(249,083)	(83,285)	(64,520)	18,765	22.53%	▼
Recreation and Culture		(992,925)	(992,925)	(334,977)	(214,510)	120,467	35.96%	▼
Transport		(1,615,122)	(1,600,122)	(539,079)	(409,528)	129,551	24.03%	▼
Economic Services		(302,628)	(302,628)	(104,727)	(111,644)	(6,917)	(6.60%)	▼
Other Property and Services		(80,817)	(80,817)	(76,097)	(18,149)	57,948	76.15%	▼
		(4,078,871)	(4,068,871)	(1,445,035)	(1,082,682)	362,353		
Non-cash amounts excluded from operating activities	1(a)	1,527,770	1,512,770	510,268	(865)	(511,133)	(100.17%)	▼
Amount attributable to operating activities		1,527,882	1,522,882	2,217,524	1,586,179	(631,345)		
Investing Activities								
Proceeds from non-operating grants, subsidies and contributions	13(b)	2,990,490	2,990,490	266,000	28,176	(237,824)	(89.41%)	▼
Proceeds from disposal of assets	7	35,000	50,000	40,000	5,091	(34,909)	(87.27%)	▼
Purchase of property, plant and equipment	8	(4,915,678)	(4,925,678)	(959,709)	(265,323)	694,386	(72.35%)	▼
Amount attributable to investing activities		(1,890,188)	(1,885,188)	(653,709)	(232,056)	421,653		
Financing Activities								
Repayment of Debentures	9	(161,995)	(161,995)	(40,493)	(40,137)	356	(0.88%)	
Principal element of finance lease payments	10	0	0	0	(2,995)	(2,995)	0.00%	
Transfer to Reserves	11	(44,221)	(44,221)	(1,460)	0	1,460	(100.00%)	▼
Amount attributable to financing activities		(206,216)	(206,216)	(41,953)	(43,132)	(1,179)		
Closing Funding Surplus / (Deficit)	1(c)	0	0	2,090,383	1,716,925	(373,458)		

KEY INFORMATION

▲ ▼ Indicates a variance between Year to Date (YTD) Actual and YTD Actual data as per the adopted materiality threshold. Refer to Note 2 for an threshold. Refer to Note 16 for an explanation of the reasons for the variance.

The material variance adopted by Council for the 2020-21 year is \$10,000 or 10.00% whichever is the greater.

This statement is to be read in conjunction with the accompanying Financial Statements and notes.

KEY TERMS AND DESCRIPTIONS
FOR THE PERIOD ENDED 31 OCTOBER 2020

REVENUE

RATES

All rates levied under the *Local Government Act 1995*. Includes general, differential, specific area rates, minimum rates, interim rates, back rates, ex-gratia rates, less discounts offered. Exclude administration fees, interest on instalments, interest on arrears and service charges.

OPERATING GRANTS, SUBSIDIES AND CONTRIBUTIONS

Refer to all amounts received as grants, subsidies and contributions that are not non-operating grants.

NON-OPERATING GRANTS, SUBSIDIES AND CONTRIBUTIONS

Amounts received specifically for the acquisition, construction of new or the upgrading of non-current assets paid to a local government, irrespective of whether these amounts are received as capital grants, subsidies, contributions or donations.

PROFIT ON ASSET DISPOSAL

Profit on the disposal of assets including gains on the disposal of long term investments. Losses are disclosed under the expenditure classifications.

FEES AND CHARGES

Revenues (other than service charges) from the use of facilities and charges made for local government services, sewerage rates, rentals, hire charges, fee for service, photocopying charges, licences, sale of goods or information, fines, penalties and administration fees. Local governments may wish to disclose more detail such as rubbish collection fees, rental of property, fines and penalties, other fees and charges.

SERVICE CHARGES

Service charges imposed under *Division 6 of Part 6 of the Local Government Act 1995*. *Regulation 54 of the Local Government (Financial Management) Regulations 1996* identifies these as television and radio broadcasting, underground electricity and neighbourhood surveillance services. Exclude rubbish removal charges. Interest and other items of a similar nature received from bank and investment accounts, interest on rate instalments, interest on rate arrears and interest on debtors.

INTEREST EARNINGS

Interest and other items of a similar nature received from bank and investment accounts, interest on rate instalments, interest on rate arrears and interest on debtors.

OTHER REVENUE / INCOME

Other revenue, which can not be classified under the above headings, includes dividends, discounts, rebates etc.

NATURE OR TYPE DESCRIPTIONS

EXPENSES

EMPLOYEE COSTS

All costs associate with the employment of person such as salaries, wages, allowances, benefits such as vehicle and housing, superannuation, employment expenses, removal expenses, relocation expenses, worker's compensation insurance, training costs, conferences, safety expenses, medical examinations, fringe benefit tax, etc.

MATERIALS AND CONTRACTS

All expenditures on materials, supplies and contracts not classified under other headings. These include supply of goods and materials, legal expenses, consultancy, maintenance agreements, communication expenses, advertising expenses, membership, periodicals, publications, hire expenses, rental, leases, postage and freight etc. Local governments may wish to disclose more detail such as contract services, consultancy, information technology, rental or lease expenditures.

UTILITIES (GAS, ELECTRICITY, WATER, ETC.)

Expenditures made to the respective agencies for the provision of power, gas or water. Exclude expenditures incurred for the reinstatement of roadwork on behalf of these agencies.

INSURANCE

All insurance other than worker's compensation and health benefit insurance included as a cost of employment.

LOSS ON ASSET DISPOSAL

Loss on the disposal of fixed assets.

DEPRECIATION ON NON-CURRENT ASSETS

Depreciation expense raised on all classes of assets.

INTEREST EXPENSES

Interest and other costs of finance paid, including costs of finance for loan debentures, overdraft accommodation and refinancing expenses.

OTHER EXPENDITURE

Statutory fees, taxes, provision for bad debts, member's fees or State taxes. Donations and subsidies made to community groups.

STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD ENDED 31 OCTOBER 2020

BY NATURE OR TYPE

	Ref Note	Adopted Budget	Amended Budget	YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)	Var.
Opening Funding Surplus / (Deficit)	1(c)	\$ 568,521	\$ 568,521	\$ 568,521	\$ 405,934	\$ (162,587)	% (28.60%)	▼
Revenue from operating activities								
Rates	6	1,975,991	1,975,991	1,975,241	1,975,046	(195)	(0.01%)	
Operating grants, subsidies and contributions	13(a)	1,306,100	1,306,100	845,714	314,231	(531,483)	(62.84%)	▼
Fees and charges		239,292	239,292	146,160	161,092	14,932	10.22%	▲
Interest earnings		24,381	24,381	8,124	8,515	391	4.81%	
Other revenue		531,219	531,219	177,052	210,842	33,790	19.08%	▲
Profit on disposal of assets	7	2,000	2,000	0	0	0	0.00%	
		4,078,983	4,078,983	3,152,291	2,669,726	(482,565)		
Expenditure from operating activities								
Employee costs		(1,031,488)	(1,031,488)	(347,224)	(425,404)	(78,180)	(22.52%)	▲
Materials and contracts		(708,353)	(713,353)	(284,784)	(318,285)	(33,501)	(11.76%)	▲
Utility charges		(93,002)	(93,002)	(30,972)	(22,575)	8,397	27.11%	▼
Depreciation on non-current assets		(1,506,670)	(1,506,670)	(502,168)	0	502,168	100.00%	▼
Interest expenses		(10,686)	(10,686)	(2,952)	(4,008)	(1,056)	(35.77%)	▲
Insurance expenses		(120,997)	(120,997)	(70,613)	(126,609)	(55,996)	(79.30%)	▲
Other expenditure		(584,575)	(584,575)	(198,222)	(185,801)	12,421	6.27%	▼
Loss on disposal of assets	7	(23,100)	(8,100)	(8,100)	0	8,100	100.00%	▼
		(4,078,871)	(4,068,871)	(1,445,035)	(1,082,682)	362,353		
Non-cash amounts excluded from operating activities	1(a)	1,527,770	1,512,770	510,268	(865)	(511,133)	(100.17%)	▼
Amount attributable to operating activities		1,527,882	1,522,882	2,217,524	1,586,179	(631,345)		
Investing activities								
Proceeds from non-operating grants, subsidies and contributions	13(b)	2,990,490	2,990,490	266,000	28,176	(237,824)	(89.41%)	▼
Proceeds from disposal of assets	7	35,000	50,000	40,000	5,091	(34,909)	(87.27%)	▼
Payments for property, plant and equipment	8	(4,915,678)	(4,925,678)	(959,709)	(265,323)	694,386	(72.35%)	▼
Amount attributable to investing activities		(1,890,188)	(1,885,188)	(653,709)	(232,056)	421,653		
Financing Activities								
Repayment of debentures	9	(161,995)	(161,995)	(40,493)	(40,137)	356	(0.88%)	
Principal element of finance lease payments	10	0	0	0	(2,995)	(2,995)	0.00%	
Transfer to reserves	11	(44,221)	(44,221)	(1,460)	0	1,460	(100.00%)	▼
Amount attributable to financing activities		(206,216)	(206,216)	(41,953)	(43,132)	(1,179)		
Closing Funding Surplus / (Deficit)	1(c)	0	0	2,090,383	1,716,925	(373,458)		

KEY INFORMATION

▲▼ Indicates a variance between Year to Date (YTD) Actual and YTD Actual data as per the adopted materiality threshold.

Refer to Note 16 for an explanation of the reasons for the variance.

This statement is to be read in conjunction with the accompanying Financial Statements and Notes.

(a) Non-cash items excluded from operating activities

The following non-cash revenue and expenditure has been excluded from operating activities within the Statement of Financial Activity in accordance with Financial Management Regulation 32.

	Notes	Adopted Budget	Amended Budget	YTD Budget (a)	YTD Actual (b)
Non-cash items excluded from operating activities		\$		\$	\$
Adjustments to operating activities					
Less: Profit on asset disposals		(2,000)	(2,000)	0	0
Less: Fair value adjustments to financial assets		0	0	0	(865)
Add: Loss on asset disposals		23,100	8,100	8,100	0
Add: Depreciation on assets		1,506,670	1,506,670	502,168	0
Total non-cash items excluded from operating activities		1,527,770	1,512,770	510,268	(865)

(b) Adjustments to net current assets in the Statement of Financial Activity

The following current assets and liabilities have been excluded from the net current assets used in the Statement of Financial Activity in accordance with *Financial Management Regulation* 32 to agree to the surplus/(deficit) after imposition of general rates.

		Last Year Closing 30 Jun 2020	This Year Opening 01 Jul 2020	This Time Last Year 31 Oct 2019	Year to Date 31 Oct 2020
Adjustments to net current assets					
Less: Reserves - restricted cash	11	(427,011)	(427,011)	(310,035)	(427,011)
Less: Cost of acquisition		0	0	(40,394)	0
Add: Borrowings	9	161,995	161,995	118,979	121,858
Add: Lease liabilities		9,331	9,331	6,427	6,336
Add: Provisions - employee	12	136,130	136,130	125,163	136,130
Add: Change in accounting policies - AASB16 Leases		0	0	29,060	0
Total adjustments to net current assets		(119,555)	(119,555)	(70,800)	(162,687)

(c) Net current assets used in the Statement of Financial Activity

Current assets					
Cash and cash equivalents	2	1,088,447	1,088,447	2,723,150	2,512,084
Rates receivables	6	27,369	27,369	365,462	321,368
Receivables	3	18,573	18,573	92,532	38,772
Other current assets	4	0	0	92,945	1,901
Less: Current liabilities					
Payables	5	(130,578)	(130,578)	(33,160)	(43,290)
Borrowings	9	(161,995)	(161,995)	(118,979)	(121,858)
Lease liabilities	10	(9,331)	(9,331)	(6,427)	(6,336)
Contract liabilities	12	(170,866)	(170,866)	(654,910)	(686,899)
Provisions	12	(136,130)	(136,130)	(125,163)	(136,130)
Less: Total adjustments to net current assets	1(b)	(119,555)	(119,555)	(70,800)	(162,687)
Closing Funding Surplus / (Deficit)		405,934	405,934	2,264,651	1,716,925

CURRENT AND NON-CURRENT CLASSIFICATION

In the determination of whether an asset or liability is current or non-current, consideration is given to the time when each asset or liability is expected to be settled. Unless otherwise stated assets or liabilities are classified as current if expected to be settled within the next 12 months, being the Council's operational cycle.

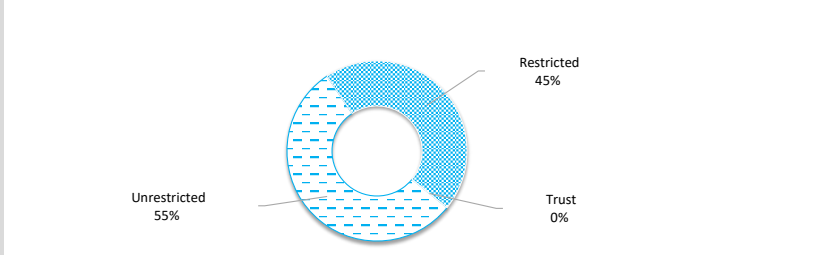
Description	Classification	Unrestricted	Restricted	Total Cash	Trust	Institution	Interest Rate	Maturity Date
		\$	\$	\$	\$			
Cash on hand								
Cash on hand	Cash and cash equivalents	100		100			On Hand	
At call deposits		0						
Municipal Funds	Cash and cash equivalents	125,427		125,427		NAB	0.25% Cheque A/C	
Municipal Funds	Cash and cash equivalents	1,251,362	543,570	1,794,932		NAB	0.85% On Call	
Term Deposits		0						
Municipal Funds	Cash and cash equivalents	0	164,613	164,613		NAB	0.90% 23/12/2020	
Reserve Funds	Cash and cash equivalents	0	427,012	427,012		NAB	0.90% 23/12/2020	
Total		1,376,889	1,135,195	2,512,084	0			
Comprising								
Cash and cash equivalents		1,376,889	1,135,195	2,512,084	0			
Financial assets at amortised cost		0	0	0	0			
		1,376,889	1,135,195	2,512,084	0			

KEY INFORMATION
Cash and cash equivalents include cash on hand, cash at bank, deposits available on demand with banks and other short term highly liquid investments highly liquid investments with original maturities of three months or less that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value and bank overdrafts. Bank overdrafts are reported as short term borrowings in current liabilities in the statement of net current assets.

The local government classifies financial assets at amortised cost if both of the following criteria are met:

- the asset is held within a business model whose objective is to collect the contractual cashflows, and
- the contractual terms give rise to cash flows that are solely payments of principal and interest.

Financial assets at amortised cost held with registered financial institutions are listed in this note other financial assets at amortised cost are provided in Note 4 - Other assets.



Total Cash	Unrestricted
\$2.51 M	\$1.38 M

NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD ENDED 31 OCTOBER 2020

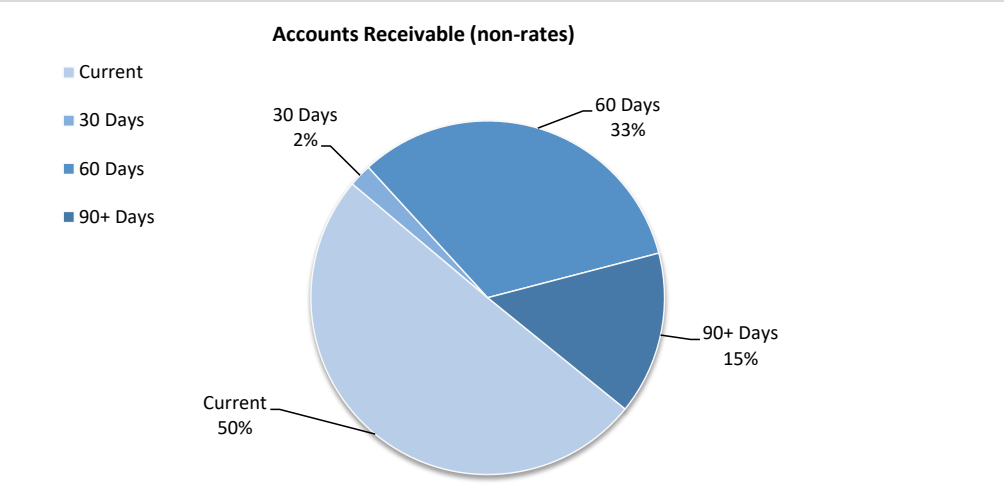
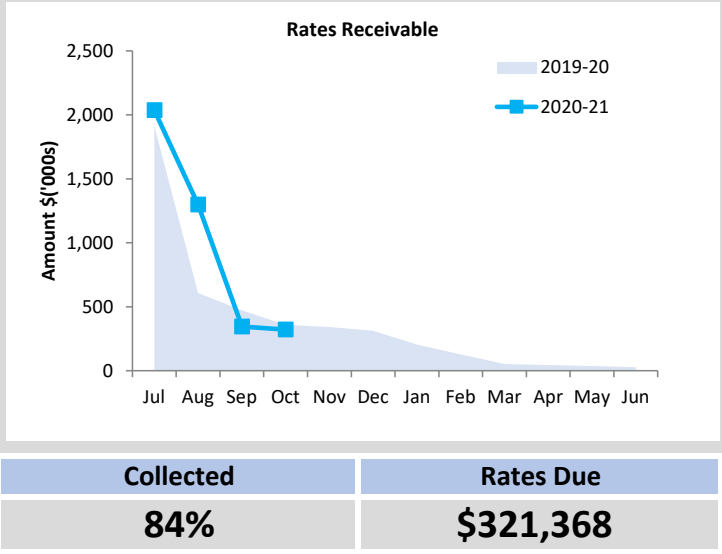
OPERATING ACTIVITIES
NOTE 3
RECEIVABLES

Rates Receivable	30 Jun 2020	31 Oct 20
	\$	\$
Opening Arrears Previous Years	21,379	27,369
Levied this year	1,885,305	1,975,046
Less - Collections to date	(1,879,315)	(1,681,047)
Equals Current Outstanding	27,369	321,368
Net Rates Collectable	27,369	321,368
% Collected	98.6%	84%

Receivables - General	Credit	Current	30 Days	60 Days	90+ Days	Total
	\$	\$	\$	\$	\$	\$
Receivables - General	(624)	12,774	530	8,314	3,782	24,776
Percentage	-2.5%	51.6%	2.1%	33.6%	15.3%	
Balance per Trial Balance						
Sundry receivable	(Include Sundry Debtors of \$21,070 and Rates Pensioner Rebates of \$3,706)					24,776
GST receivable						14,568
Allowance for impairment of receivables						(572)
Total Receivables General Outstanding						38,772
Amounts shown above include GST (where applicable)						

KEY INFORMATION

Trade and other receivables include amounts due from ratepayers for unpaid rates and service charges and other amounts due from third parties for goods sold and services performed in the ordinary course of business. Receivables expected to be collected within 12 months of the end of the reporting period are classified as current assets. All other receivables are classified as non-current assets. Collectability of trade and other receivables is reviewed on an ongoing basis. Debts that are known to be uncollectible are written off when identified. An allowance for doubtful debts is raised when there is objective evidence that they will not be collectible.



Debtors Due
\$38,772
Over 30 Days
36%
Over 90 Days
15.3%

Instalment schedule: 1st due date 4 September 2020; 2nd due date 6 November 2020; 3rd due date 15 January 2021; 4th due date 19 March 2021.

	Opening Balance 1 July 2020	Asset Increase	Asset Reduction	Closing Balance 31 October 2020
Other Current Assets	\$	\$	\$	\$
Inventory				
Fuel	0	1,901	0	1,901
Total Other Current assets				1,901
Amounts shown above include GST (where applicable)				

KEY INFORMATION

Inventory

Inventories are measured at the lower of cost and net realisable value.

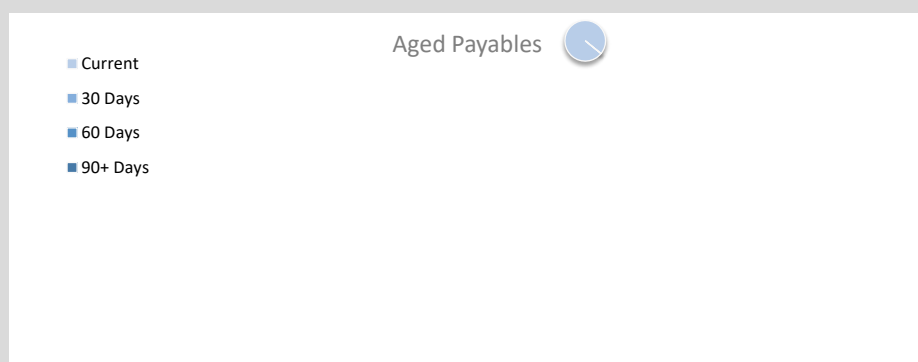
Net realisable value is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs necessary to make the sale.

Payables - General	Credit	Current	30 Days	60 Days	90+ Days	Total
	\$	\$	\$	\$	\$	\$
Payables - General	0	469	0	0	0	469
Percentage	0%	100%	0%	0%	0%	
Balance per Trial Balance						
Sundry creditors						469
ATO liabilities						24,389
Receipts in Advance						1,877
Other payables - Bonds Held						19,407
* Other payables						(2,852)
Total Payables General Outstanding						43,290
Amounts shown above include GST (where applicable)						

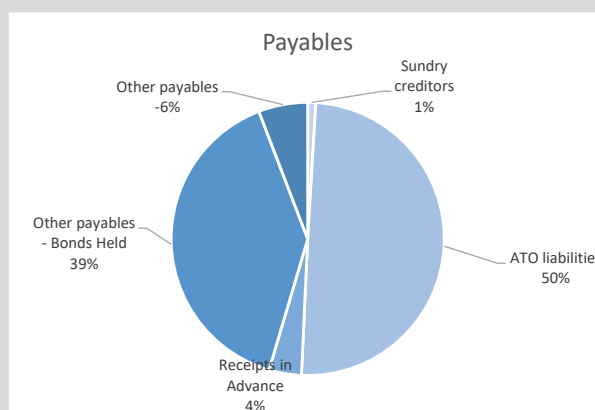
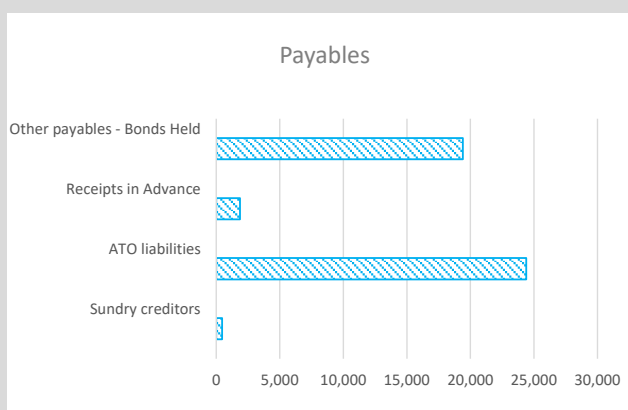
KEY INFORMATION

Trade and other payables represent liabilities for goods and services provided to the Shire that are unpaid and arise when the Shire becomes obliged to make future payments in respect of the purchase of these goods and services. The amounts are unsecured, are recognised as a current liability and are normally paid within 30 days of recognition.

* Other payables are the adjustments made to ESL through property amalgamations as provided by Landgate and will be recouped from DFES as part of the end of year process.



Creditors Due
\$43,290
Over 30 Days
0%
Over 90 Days
0%

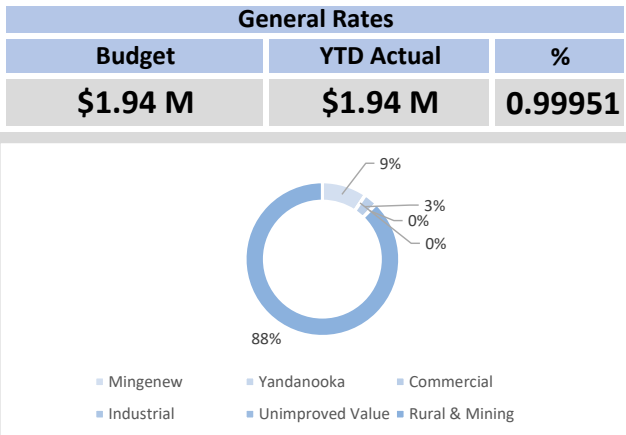
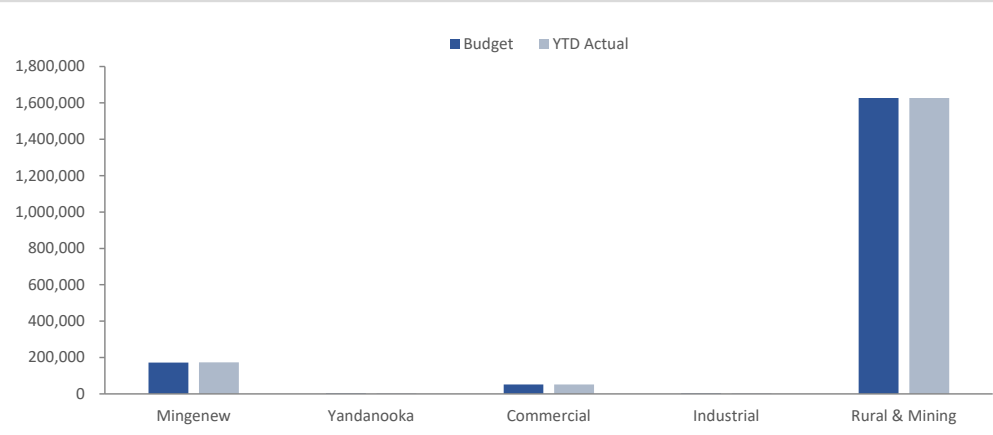


NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD ENDED 31 OCTOBER 2020

OPERATING ACTIVITIES
NOTE 6
RATE REVENUE

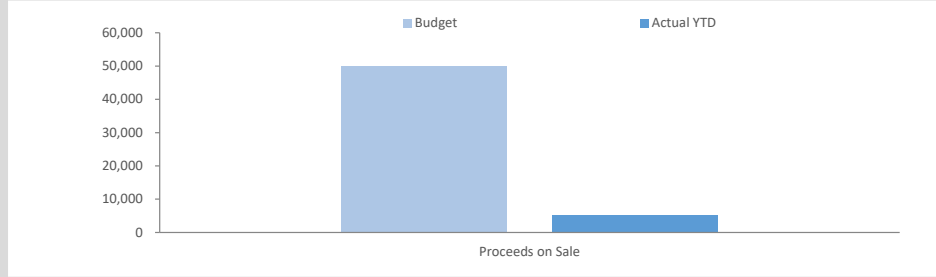
General Rate Revenue				Budget				YTD Actual			
	Rate in \$ (cents)	Number of Properties	Rateable Value	Rate Revenue	Interim Rate	Back Rate	Total Revenue	Rate Revenue	Interim Rates	Back Rates	Total Revenue
				\$	\$	\$	\$	\$	\$	\$	\$
RATE TYPE											
Differential General Rate											
Gross Rental Value											
Mingenew	0.150280	129	1,144,624	172,014	750	0	172,764	172,010	1,641	0	173,651
Yandanooka	0.150280	2	13,884	2,086	0	0	2,086	2,086	0	0	2,086
Commercial	0.150280	14	346,632	52,092	0	0	52,092	52,091	0	0	52,091
Industrial	0.150280	3	12,480	1,875	0	0	1,875	1,875	0	0	1,875
Unimproved Value											
Rural & Mining	0.012920	112	125,918,500	1,626,867	0	0	1,626,867	1,626,238	801	309	1,627,348
Sub-Total		260	127,436,120	1,854,934	750	0	1,855,684	1,854,300	2,442	309	1,857,051
Minimum Payment											
Minimum \$											
Gross Rental Value											
Mingenew	707	59	24,721	41,713	0	0	41,713	41,713	0	0	41,713
Yandanooka	707	0	0	0	0	0	0	0	0	0	0
Commercial	707	9	6,209	6,363	0	0	6,363	6,363	0	0	6,363
Industrial	707	3	2,786	2,121	0	0	2,121	2,121	0	0	2,121
Unimproved Value											
Rural & Mining	1,061	31	773,297	32,891	0	0	32,891	31,815	(1,061)	(177)	30,577
Sub-Total		102	807,013	83,088	0	0	83,088	82,012	(1,061)	(177)	80,774
Concession							(1,045)				(1,043)
Amount from General Rates							1,937,727				1,936,782
Ex-Gratia Rates							38,264				38,264
Total General Rates							1,975,991				1,975,046

KEY INFORMATION
Rates, grants, donations and other contributions are recognised as revenues when the local government obtains control over the assets comprising the contributions. Control over assets acquired from rates is obtained at the commencement of the rating period or, where earlier, upon receipt of the rates.



Asset Ref.	Asset Description	Adopted Budget				Amended Budget				YTD Actual			
		Net Book Value	Proceeds	Profit	(Loss)	Net Book Value	Proceeds	Profit	(Loss)	Net Book Value	Proceeds	Profit	(Loss)
		\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
	Plant and equipment												
	Transport												
	Crew cab - MI029	8,000	10,000	2,000	0	8,000	10,000	2,000	0	0	0	0	0
	Water truck*	16,500	10,000	0	(6,500)	16,500	10,000	0	(6,500)	0	0	0	0
	JCB backhoe	31,600	15,000	0	(16,600)	31,600	30,000	0	(1,600)	0	0	0	0
	Water tanker trailer	0	0	0	0	0	0	0	0		5,091	0	0
		56,100	35,000	2,000	(23,100)	56,100	50,000	2,000	(8,100)	0	5,091	0	0

KEY INFORMATION



Proceeds on Sale		
Annual Budget	YTD Actual	%
\$50,000	\$5,091	10%

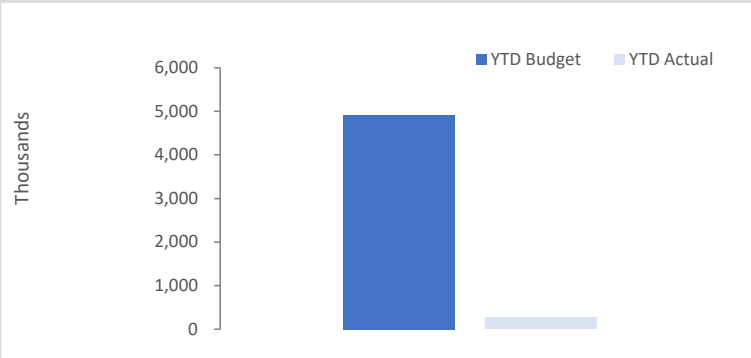
* Note: Incorrect asset used, should have been the Water Tanker (not the Water Truck), will be corrected in the Budget Review in early 2021.

Capital Acquisitions	Adopted Budget	Amended Budget	YTD Budget	YTD Actual	YTD Actual Variance
	\$	\$	\$	\$	\$
Land	0	0	0	5,000	5,000
Buildings - non-specialised	300,500	310,500	100,000	28,135	(71,865)
Buildings - specialised	299,500	299,500	76,500	19,846	(56,654)
Plant and equipment	340,000	340,000	340,000	4,545	(335,455)
Infrastructure - Roads	1,406,774	1,406,774	300,209	88,415	(211,794)
Infrastructure - bridges	2,266,404	2,266,404	0	0	0
Infrastructure - parks & ovals	200,000	200,000	80,000	102,440	22,440
Infrastructure - other	102,500	102,500	63,000	16,941	(46,059)
Capital Expenditure Totals	4,915,678	4,925,678	959,709	265,323	(694,386)
Capital Acquisitions Funded By:					
	\$	\$	\$	\$	\$
Capital grants and contributions	2,990,490	2,990,490	266,000	168,210	(97,790)
Other (Disposals & C/Fwd)	35,000	50,000	40,000	5,091	(34,909)
Contribution - operations	1,890,188	1,885,188	653,709	92,022	(561,687)
Capital Funding Total	4,915,678	4,925,678	959,709	265,323	(694,386)

SIGNIFICANT ACCOUNTING POLICIES

All assets are initially recognised at cost. Cost is determined as the fair value of the assets given as consideration plus costs incidental to the acquisition. For assets acquired at no cost or for nominal consideration, cost is determined as fair value at the date of acquisition. The cost of non-current assets constructed by the local government includes the cost of all materials used in the construction, direct labour on the project and an appropriate proportion of variable and fixed overhead. Certain asset classes may be revalued on a regular basis such that the carrying values are not materially different from fair value. Assets carried at fair value are to be revalued with sufficient regularity to ensure the carrying amount does not differ materially from that determined using fair value at reporting date.

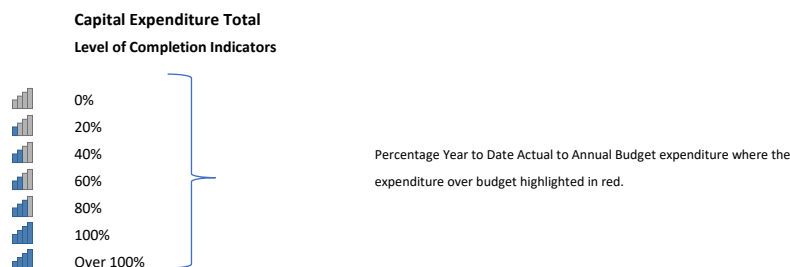
KEY INFORMATION



Acquisitions	Annual Budget		YTD Actual	% Spent
	\$4.92 M		\$0.27 M	5%
Capital Grant	Annual Budget		YTD Actual	% Received
	\$2.99 M		\$0.17 M	6%

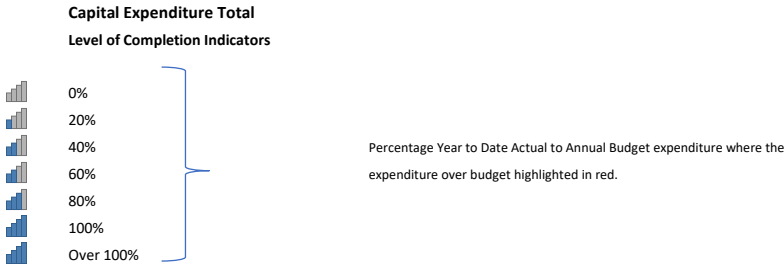
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD ENDED 31 OCTOBER 2020

INVESTING ACTIVITIES
NOTE 8
CAPITAL ACQUISITIONS (CONTINUED)



Level of completion indicator, please see table at the end of this note for further detail.

Account Description			Adopted Budget	Amended Budget	YTD Budget	YTD Actual	Variance (Under)/Over
Land							
	LC085	25 Victoria Road (Lot 85) - Land	0	0	0	5,000	5,000
Land Total			0	0	0	5,000	5,000
Buildings - non-specialised							
	BC083	21 Victoria Road (Lot 83) - Chambers - Building (Capital)	13,000	13,000	0	0	0
	BC076	76 Phillip Street (Lot 106) - Daycare Centre - Building (Capital)	150,000	150,000	10,000	0	(10,000)
	BC033	33 Victoria Road (Lot 89) - Residence - Building (Capital)	40,000	40,000	20,000	13,280	(6,720)
	BC121	12 Victoria Road (Lot 66) - Unit 1 (APU) - Building (Capital)	3,125	3,125	0	0	0
	BC122	12 Victoria Road (Lot 66) - Unit 2 (APU) - Building (Capital)	3,125	3,125	0	0	0
	BC123	12 Victoria Road (Lot 66) - Unit 3 (APU) - Building (Capital)	3,125	3,125	0	0	0
	BC124	12 Victoria Road (Lot 66) - Unit 4 (APU) - Building (Capital)	3,125	3,125	0	0	0
	BC047	47 Linthorne Street (Lot 114) - Depot - Building (Capital)	25,000	25,000	0	0	0
	BC054	54 Midlands Road (Lot 71) - MIG Office - Building (Capital)	20,000	30,000	30,000	0	(30,000)
	BC050	50 Midlands Road (Lot 73) - Post Office - Building (Capital)	20,000	20,000	20,000	2,571	(17,429)
	BC021	21 Victoria Road (Lot 83) - Administration Office - Building (Capital)	20,000	20,000	20,000	12,285	(7,715)
Buildings - non-specialised Total			300,500	310,500	100,000	28,135	(71,865)
Buildings - specialised							
	BC023	23 Victoria Road (Lot 84) - Toy Library - Building (Capital)	7,000	7,000	0	0	0
	BC098	Recreation Centre - Building (Capital)	25,500	25,500	25,500	19,846	(5,654)
	BC598	Recreation Centre - Water infrastructure upgrade (capital)	51,000	51,000	51,000	0	(51,000)
	BC016	16 Midlands Road - Railway Station - Building (Capital)	216,000	216,000	0	0	0
Buildings - specialised Total			299,500	299,500	76,500	19,846	(56,654)
Plant and equipment							
	PE029	Crew Cab Truck - MI029 - Capital	80,000	80,000	80,000	0	(80,000)
	PE255	Water Truck - MI255 - Capital	90,000	90,000	90,000	4,545	(85,455)
	PE262	Backhoe - MI262 - Capital	170,000	170,000	170,000	0	(170,000)
Plant and equipment Total			340,000	340,000	340,000	4,545	(335,455)
Infrastructure - Roads							
	RC045	Phillip Street (Capital)	100,000	100,000	29,998	4,550	(25,448)
	RC087	Parking Bay South of Midland Road (Capital)	30,000	30,000	0	0	0
	RC000	Road Construction General (Budgeting Only)	283,273	283,273	94,416	4,300	(38,727)
	RC013	Enokurra Road (Capital)				46,654	
	RC011	Mooriary Road (Capital)				4,735	
	RRG080	Mingenew - Mullewa Road (RRG)	439,500	439,500	175,795	364	(175,431)
	RRG024	Milo Road (RRG)	258,000	258,000	0	15,000	15,000
	BS002	Yandanooka North East Road (BS)	296,000	296,000	0	12,813	12,813
Infrastructure - roads Total			1,406,774	1,406,774	300,209	88,415	(211,794)
Infrastructure - bridges							
	BR0833	Yarragadee - Mingenew - Mullewa Road - Bridge (Capital)	47,000	47,000	0	0	0
	BR3019	Lockier River - Coalseam Road - Bridge (Capital)	2,219,404	2,219,404	0	0	0
Infrastructure - bridges Total			2,266,404	2,266,404	0	0	0
Infrastructure - parks & ovals							
	PC011	Skate Park - (Capital)	200,000	200,000	80,000	102,440	22,440
Infrastructure - parks & ovals Total			200,000	200,000	80,000	102,440	22,440
Infrastructure - other							
	OC006	Transfer Station - Infrastructure - Capital	30,000	30,000	30,000	2,539	(27,461)
	OC002	Mingenew Hill Walk Trail - Capital	32,000	32,000	0	380	0



Level of completion indicator, please see table at the end of this note for further detail.

Account Description			Adopted Budget	Amended Budget	YTD Budget	YTD Actual	Variance (Under)/Over
OC007	Astrotourism Project		18,000	18,000	18,000	0	(18,000)
OC008	Remote Tourism Cameras		7,500	7,500	0	0	0
OC009	Communications tower upgrade		15,000	15,000	15,000	14,402	(598)
Infrastructure - other Total			102,500	102,500	63,000	16,941	(46,059)
Grand Total			4,915,678	4,925,678	959,709	265,323	(694,386)

NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD ENDED 31 OCTOBER 2020

FINANCING ACTIVITIES
NOTE 9
BORROWINGS

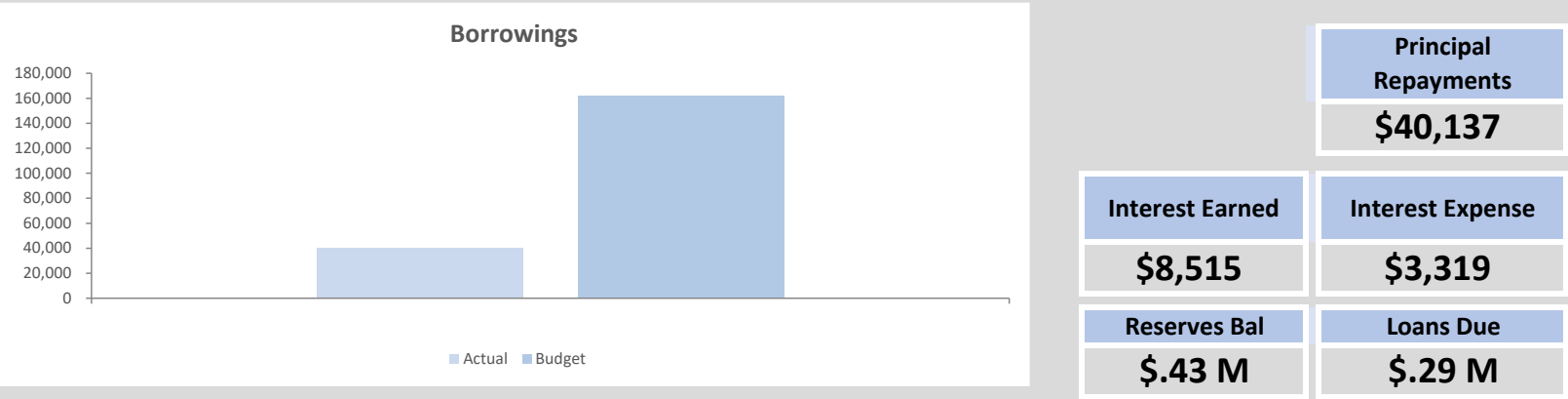
Repayments - Borrowings

Information on Borrowings		New Loans		Principal Repayments		Principal Outstanding		Interest Repayments	
Particulars	1 July 2020	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget
	\$	\$	\$	\$	\$	\$	\$	\$	\$
Education and welfare									
Loan 137 - Senior Citizens Building	44,961	0	0	5,503	22,210	39,458	22,751	455	1,136
Housing									
Loan 133 - Triplex	28,647	0	0	3,506	14,151	25,141	14,496	290	724
Loan 134 - Phillip Street	21,823	0	0	2,671	10,780	19,152	11,043	221	551
Loan 136 - Moore Street	54,423	0	0	6,661	26,884	47,762	27,539	551	1,375
Loan 142 - Field Street	25,107	0	0	3,076	12,415	22,031	12,692	254	635
Recreation and culture									
Loan 138 - Pavilion Fitout	43,163	0	0	5,283	21,321	37,880	21,842	437	1,091
Transport									
Loan 139 - Roller	10,580	0	0	1,295	5,227	9,285	5,353	107	267
Loan 141 - Grader	36,738	0	0	4,496	18,148	32,242	18,590	372	928
Loan 144 - Side Tipper	25,132	0	0	3,076	12,415	22,056	12,717	254	635
Loan 145 - Drum Roller	37,338	0	0	4,570	18,444	32,768	18,894	378	943
	327,912	0	0	40,137	161,995	287,775	165,917	3,319	8,286
Total	327,912	0	0	40,137	161,995	287,775	165,917	3,319	8,286
Current borrowings	161,995					121,859			
Non-current borrowings	165,917					165,916			
	327,912					287,775			

All debenture repayments were financed by general purpose revenue.

KEY INFORMATION

All loans and borrowings are initially recognised at the fair value of the consideration received less directly attributable transaction costs. After initial recognition, interest-bearing loans and borrowings are subsequently measured at amortised cost using the effective interest method. Fees paid on the establishment of loan facilities that are yield related are included as part of the carrying amount of the loans and borrowings.



NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD ENDED 31 OCTOBER 2020

FINANCING ACTIVITIES
NOTE 10
LEASES

Repayments - Lease

Information on Borrowings		1 July 2020	New Lease		Lease Principal Repayments		Lease Principal Outstanding		Lease Interest Repayments	
Particulars	Institution		Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget
		\$	\$	\$	\$	\$	\$	\$	\$	\$
Other property and services										
Photocopier	De Lage Landon	10,400	0	0	1,013	3,732	9,387	6,668	285	960
IT equipment	Finrent	10,318	0	0	1,982	5,599	8,336	4,719	406	1,440
Total		20,718	0	0	2,995	9,331	17,723	11,387	691	2,400
Current lease		9,331					6,336			
Non-current lease		11,387					11,387			
		20,718					17,723			

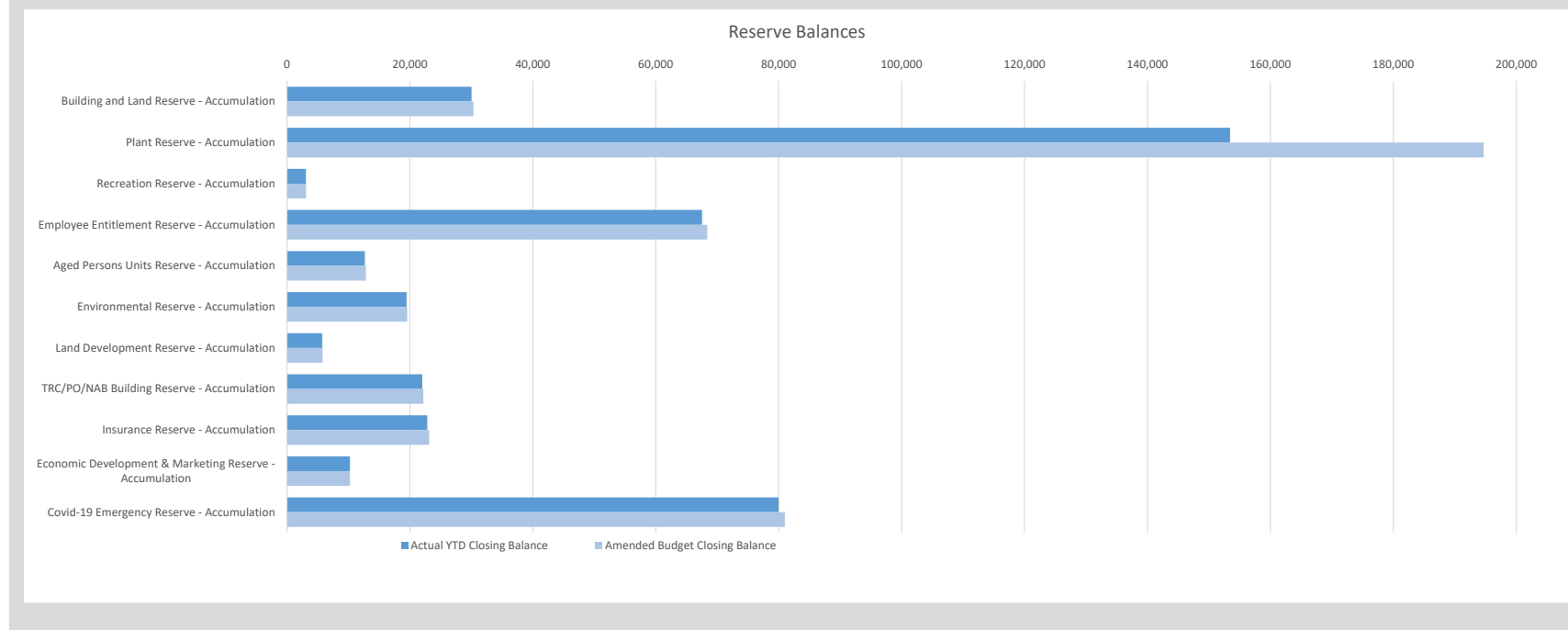
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD ENDED 31 OCTOBER 2020

OPERATING ACTIVITIES
NOTE 11
CASH RESERVES

Cash Backed Reserve

Reserve Name	Opening Balance	Budget Interest Earned	Amended Budget Interest Earned	Actual Interest Earned	Budget Transfers In (+)	Amended Budget Transfers In (+)	Actual Transfers In (+)	Budget Transfers Out (-)	Amended Budget Transfers Out (-)	Actual Transfers Out (-)	Amended Budget Closing Balance	Actual YTD Closing Balance
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Building and Land Reserve - Accumulation	30,035	286	286	0	0	0	0	0	0	0	30,321	30,035
Plant Reserve - Accumulation	153,439	1,425	1,425	0	39,840	39,840	0	0	0	0	194,704	153,439
Recreation Reserve - Accumulation	3,068	38	38	0	0	0	0	0	0	0	3,106	3,068
Employee Entitlement Reserve - Accumulation	67,534	844	844	0	0	0	0	0	0	0	68,378	67,534
Aged Persons Units Reserve - Accumulation	12,670	158	158	0	0	0	0	0	0	0	12,828	12,670
Environmental Reserve - Accumulation	19,444	118	118	0	0	0	0	0	0	0	19,562	19,444
Land Development Reserve - Accumulation	5,724	72	72	0	0	0	0	0	0	0	5,796	5,724
TRC/PO/NAB Building Reserve - Accumulation	22,023	150	150	0	0	0	0	0	0	0	22,173	22,023
Insurance Reserve - Accumulation	22,842	285	285	0	0	0	0	0	0	0	23,127	22,842
Economic Development & Marketing Reserve - Accumulation	10,232	2	2	0	0	0	0	0	0	0	10,234	10,232
Covid-19 Emergency Reserve - Accumulation	80,000	1,003	1,003	0	0	0	0	0	0	0	81,003	80,000
	427,011	4,381	4,381	0	39,840	39,840	0	0	0	0	471,232	427,011

KEY INFORMATION



NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD ENDED 31 OCTOBER 2020

OPERATING ACTIVITIES
NOTE 12
OTHER CURRENT LIABILITIES

Other Current Liabilities	Note	Opening Balance 1 July 2020	Liability Increase	Liability Reduction	Closing Balance 31 October 2020
		\$	\$	\$	\$
Contract Liabilities					
Unspent grants, contributions and reimbursements		170,866	684,243	(168,210)	686,899
Lease liability		9,331	0	(2,995)	6,336
Provisions					
Annual leave		91,767	0	0	91,767
Long service leave		44,363	0	0	44,363
Total Provisions					136,130
Total Other Current assets					829,365
Amounts shown above include GST (where applicable)					

A breakdown of contract liabilities and associated movements is provided on the following pages at Note 13(a) and 13(b)

KEY INFORMATION

PROVISIONS

Provisions are recognised when the Shire has a present legal or constructive obligation, as a result of past events, for which it is probable that an outflow of economic benefits will result and that outflow can be reliably measured.

Provisions are measured using the best estimate of the amounts required to settle the obligation at the end of the reporting period.

EMPLOYEE BENEFITS

Short-term employee benefits

Provision is made for the Shire's obligations for short-term employee benefits. Short-term employee benefits are benefits (other than termination benefits) that are expected to be settled wholly before 12 months after the end of the annual reporting period in which the employees render the related service, including wages, salaries and sick leave. Short-term employee benefits are measured at the (undiscounted) amounts expected to be paid when the obligation is settled.

The Shire's obligations for short-term employee benefits such as wages, salaries and sick leave are recognised as a part of current trade and other payables in the calculation of net current assets.

Other long-term employee benefits

The Shire's obligations for employees' annual leave and long service leave entitlements are recognised as provisions in the statement of financial position.

Long-term employee benefits are measured at the present value of the expected future payments to be made to employees. Expected future payments incorporate anticipated future wage and salary levels, durations of service and employee departures and are discounted at rates determined by reference to market yields at the end of the reporting period on government bonds that have maturity dates that approximate the terms of the obligations. Any remeasurements for changes in assumptions of obligations for other long-term employee benefits are recognised in profit or loss in the periods in which the changes occur. The Shire's obligations for long-term employee benefits are presented as non-current provisions in its statement of financial position, except where the Shire does not have an unconditional right to defer settlement for at least 12 months after the end of the reporting period, in which case the obligations are presented as current provisions.

NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD ENDED 31 OCTOBER 2020

NOTE 13(a)

OPERATING GRANTS AND CONTRIBUTIONS

Provider	Unspent Operating Grant, Subsidies and Contributions Liability					Operating Grants, Subsidies and Contributions Revenue					
	Liability 1-Jul	Increase in Liability	Liability Reduction (As revenue)	Liability 31-Oct	Current Liability 31-Oct	Adopted Budget Revenue	YTD Budget	Annual Budget	Budget Variations	Expected	YTD Revenue Actual
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Operating Grants and Subsidies											
General purpose funding											
Grants Commission - General	0	0	0	0	0	154,000	38,500	154,000	0	154,000	37,315
Grants Commission - Roads	0	0	0	0	0	150,000	37,500	150,000	0	150,000	36,634
DCP, BBRF, LRCI	0	371,452	(140,034)	231,418	231,418	851,000	667,000	851,000	0	851,000	140,034
Law, order, public safety											
DFES - LGGS Operating Grant	0	0	0	0	0	18,200	4,550	18,200	0	18,200	6,086
Transport											
MRWA - Direct Grant	0	0	0	0	0	78,000	78,000	78,000	0	78,000	79,640
	0	371,452	(140,034)	231,418	231,418	1,251,200	825,550	1,251,200	0	1,251,200	299,707
Operating Contributions											
Law, order, public safety											
DFES - Administration contribution	0	0	0	0	0	4,000	4,000	4,000	0	4,000	0
Transport											
Street Lighting Subsidy	0	0	0	0	0	2,400	0	2,400	0	2,400	0
Other property and services											
Reimbursements - PWO	0	0	0	0	0	3,500	1,164	3,500	0	3,500	3,943
Fuel Tax Credit Scheme	0	0	0	0	0	45,000	15,000	45,000	0	45,000	10,580
	0	0	0	0	0	54,900	20,164	54,900	0	54,900	14,524
TOTALS	0	371,452	(140,034)	231,418	231,418	1,306,100	845,714	1,306,100	0	1,306,100	314,231

NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD ENDED 31 OCTOBER 2020

NOTE 13(b)

NON-OPERATING GRANTS AND CONTRIBUTIONS

Provider	Unspent Non Operating Grants, Subsidies and Contributions Liability					Non Operating Grants, Subsidies and Contributions Revenue					
	Liability 1-Jul	Increase in Liability	Liability Reduction (As revenue)	Liability 31-Oct	Current Liability 31-Oct	Adopted Budget Revenue	YTD Budget	Annual Budget	Budget Variations	Expected	YTD Revenue Actual (b)
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Non-Operating Grants and Subsidies											
General purpose funding											
Grants Commission - Special Purpose Grant	46,666	0	0	46,666	46,666	0	0	0	0	0	0
Grants Commission - Special Purpose Grant	100,000	0	0	100,000	100,000	0	0	0	0	0	0
Recreation and culture											
DLGSCI - North Midlands Trail Masterplan	24,200	0	0	24,200	24,200	0	0	0	0	0	0
Transport											
Regional Road Group	0	186,000	(15,364)	170,636	170,636	465,000	186,000	465,000	0	465,000	15,364
Roads to Recovery	0	42,041	0	42,041	42,041	2,325,490	0	2,325,490	0	2,325,490	0
Black Spot	0	80,000	(12,813)	67,188	67,188	200,000	80,000	200,000	0	200,000	12,813
	170,866	308,041	(28,176)	450,731	450,731	2,990,490	266,000	2,990,490	0	2,990,490	28,176
Non-Operating Contributions											
Recreation and culture											
Youth Precinct - Playground Equipment	0	4,750	0	4,750	4,750	0	0	0	0	0	0
	0	4,750	0	4,750	4,750	0	0	0	0	0	0
Total Non-operating grants, subsidies and contributions	170,866	312,791	(28,176)	455,481	455,481	2,990,490	266,000	2,990,490	0	2,990,490	28,176

**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD ENDED 31 OCTOBER 2020**

**NOTE 14
BONDS & DEPOSITS**

Funds held at balance date over which the Shire has no control and which are not included in this statement are as follows:

Description	Opening Balance 1 July 2020	Amount Received	Amount Paid	Closing Balance 31 Oct 2020
	\$	\$	\$	\$
BCITF Levy	1,339	1,443	0	2,782
BRB Levy	57	259	(161)	155
Autumn Committee	974	0	0	974
Bonds - Keys, Facilities, Equipment	1,915	205	(415)	1,705
ANZAC Day Breakfast Donation	501	0	0	501
Building Relocation Bond	1,200	0	0	1,200
Mingenew Cemetery Group	4,314	0	0	4,314
Weary Dunlop Memorial	87	0	0	87
Joan Trust	6	0	(6)	0
Youth Advisory Council	746	0	0	746
Centenary Committee	897	0	0	897
Community Christmas Tree	432	0	0	432
NBN Rental	1,240	0	0	1,240
Railway Station Project	4,372	0	0	4,372
	18,081	1,907	(581)	19,407

**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD ENDED 31 OCTOBER 2020**

**NOTE 15
BUDGET AMENDMENTS**

Amendments to original budget since budget adoption. Surplus/(Deficit)

GL Code	Description	Council Resolution	Classification	Non Cash Adjustment	Increase in Available Cash	Decrease in Available Cash	Amended Budget Running Balance
				\$	\$	\$	\$
	Budget Adoption		Opening Surplus				0
BC054	54 Midlands Road (Lot 71) - MIG Office - Building (Capital)	21102008	Capital Expenses			(10,000)	(10,000)
2090186	STF HOUSE - Expensed Minor Asset Purchases	21102008	Operating Expenses			(2,000)	(12,000)
2040285	OTH GOV - Legal Expenses	21102008	Operating Expenses			(3,000)	(15,000)
2120391	PLANT - Loss on Disposal of Assets	21102008	Operating Expenses		15,000		0
				0	15,000	(15,000)	

**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
FOR THE PERIOD ENDED 31 OCTOBER 2020**

**NOTE 16
EXPLANATION OF MATERIAL VARIANCES**

The material variance thresholds are adopted annually by Council as an indicator of whether the actual expenditure or revenue varies from the year to date Actual materially.

The material variance adopted by Council for the 2020-21 year is \$10,000 or 10.00% whichever is the greater.

Reporting Program	Var. \$	Var. %		Timing/ Permanent	Explanation of Variance
	\$	%			
Opening Funding Surplus / (Deficit)	(162,587)	(28.60%)	▼	Permanent	End of year allocations, after budget adoption, including additional receivables, reduced other payables and accounted for contract liabilities and lease liabilities
Revenue from operating activities					
Governance	8,848	198.39%	▲	Timing	Received insurance rebate in full
General Purpose Funding - Other	(526,185)	(69.94%)	▼	Timing	Additional instalment interest received than budgeted; Revenue to be allocated once projects have progressed - DCP, BBRF, LRCI grant funds
Law, Order and Public Safety	1,331	14.53%	▲	Timing	Received more ESL operating grant funds than budgeted
Health	425	817.31%	▲	Timing	Timing of health licences
Education and Welfare	205	155.30%	▲	Permanent	Additional Autumn Centre hire than budgeted
Housing	7,739	25.67%	▲	Timing	Timing of rental revenue
Transport	10,704	4.30%	▲	Timing	Received additional funds from MRWA Direct Grant; Reimbursed for staff DOT training; Received more DOT licensing than anticipated
Economic Services	6,377	89.61%	▲	Timing	Timing of commercial property lease and community bus hire
				Permanent	Additional building permit applications than budgeted
Other Property and Services	11,222	55.66%	▲	Timing	Additional private works completed than budgeted; Reimbursement of Velpic online training platform earlier than anticipated; Reimbursement of fleet insurance adjustment; Anticipated more fuel rebate than received; Reimbursed workers compensation claim;
Expenditure from operating activities					
Governance	16,919	13.69%	▼	Timing	Less training and development for Councillors than anticipated; Timing of final insurance instalment; Timing of the use of consultants; Less building maintenance on Council Chambers than anticipated; Timing of Risk Coordinator expense
General Purpose Funding	(4,693)	(19.24%)	▲	Timing	Timing of change in valuation expenditure; Less write off of rates than anticipated; Timing of Bpay fees
Law, Order and Public Safety	(5,059)	(22.52%)	▲	Permanent	Additional insurance costs than budgeted; Anticipated quarterly payment of contracted ranger/community emergency services; Anticipated purchase of ESL protective clothing
Health	6,411	24.01%	▼	Timing	Anticipated expense for contract EHO; Doctor visited less than anticipated
Education and Welfare	11,131	29.64%	▼	Timing	Depreciation not raised due to finalisation of the 19/20 Financial Year; Less maintenance than anticipated for daycare building
Housing	17,830	24.69%	▼	Timing	Depreciation not raised due to finalisation of the 19/20 Financial Year; Additional staff housing costs reallocated than budgeted for; Less maintenance than anticipated for residences; Anticipated minor assets to be purchased

Reporting Program	Var. \$	Var. %		Timing/ Permanent	Explanation of Variance
	\$	%			
Community Amenities	18,765	22.53%	▼	Timing	Depreciation not raised due to finalisation of the 19/20 Financial Year; Timing of processing contract services for refuse collection; Less contract town planning expense than anticipated; Less maintenance than anticipated at the cemetery and public conveniences
Recreation and Culture	120,467	35.96%	▼	Timing	Depreciation not raised due to finalisation of the 19/20 Financial Year; Anticipated Community Grants Scheme payment; Timing of employee, contracts and materials at parks, gardens and ovals and buildings
Transport	129,551	24.03%	▼	Timing	Depreciation not raised due to finalisation of the 19/20 Financial Year; Less DOT payments than anticipated; Anticipated loss on sale of asset; Less ancillary maintenance than anticipated; Additional road maintenance than anticipated
Other Property and Services	57,948	76.15%	▼	Timing	Depreciation not raised due to finalisation of the 19/20 Financial Year; In lieu on notice; Additional internal plant repairs than budgeted; Additional training for outside staff; Plant insurance paid in full; Less external parts and repairs and fuel than anticipated; Workers compensation not anticipated;
Investing Activities					
Non-operating Grants, Subsidies and Contributions	(237,824)	(89.41%)	▼	Timing	Regulation changes, revenue will be allocated once projects are completed
Proceeds from Disposal of Assets	(34,909)	(87.27%)	▼	Timing	Anticipated disposal of asset
Capital Acquisitions	694,386	(72.35%)	▼	Timing	Timing of capital projects including roadworks, building and astrotourism
Financing Activities					
Transfer to Reserves	1,460	(100.00%)	▼	Timing	Anticipated interest received on reserves

Shire of Mingenew - List of Payments - October 2020

Chq/EFT	Date	Name	Description	Amount	Totals
MERCH1020	01/10/2020	NAB	NAB Merchant Fee - October 2020	-\$354.63	
PRINT1020	07/10/2020	DE LAGE LANDEN	Copier Lease: October 2020	-\$356.80	
OCT1300	15/10/2020	BUSINESS 1300 PTY LTD	Live Answering Services - October 2020	-\$99.00	
IT1020	27/10/2020	FINRENT PTY TLD	IT Equipment Lease October 2020	-\$656.57	
NAB1020	29/10/2020	NAB	NAB Connect Fee - October 2020	-\$42.99	
FEE1020	30/10/2020	NAB	NAB Fee - October 2020	-\$28.50	
MER1020	30/10/2020	NAB	NAB MERCHANT FEE - October 2020	-\$347.66	
NABFEE1020	30/10/2020	NAB	NAB FEE October 2020	-\$50.00	
BPAY1020	30/10/2020	NAB	BPAY CHARGE - October 2020	-\$18.39	-\$444.55
DD9454.1	11/10/2020	WA Super	Payroll deductions	-\$2,549.63	
DD9454.2	11/10/2020	Australian Super	Superannuation contributions	-\$1,154.51	
DD9454.3	11/10/2020	Sun Super	Superannuation contributions	-\$961.44	
DD9454.4	11/10/2020	loof Portfolio Service Superannuation Fund	Superannuation contributions	-\$390.83	
DD9454.5	11/10/2020	ANZ Smart Choice Super	Superannuation contributions	-\$71.72	
DD9454.6	11/10/2020	MLC SUPER FUND	Superannuation contributions	-\$156.52	
DD9454.7	11/10/2020	Host Plus Superannuation Fund	Superannuation contributions	-\$165.00	
DD9454.8	11/10/2020	Prime Super	Superannuation contributions	-\$274.04	
DD9459.1	20/10/2020	Australian Taxation Office	BAS - September 2020	-\$18,697.00	
DD9459.2	20/10/2020	SYNERGY	Street Lights for the period 25/08/2020 to 24/09/2020	-\$2,006.14	
DD9459.3	20/10/2020	WATER CORPORATION	Various Water Accounts - Water charges to 30/09/2020 & Service charges from 1/09/2020 to 31/10/2020	-\$3,860.38	
DD9464.1	21/10/2020	BP Australia Pty Ltd	Fuel allocations - September 2020	-\$601.43	
DD9467.1	25/10/2020	WA Super	Payroll deductions	-\$2,599.05	
DD9467.2	25/10/2020	Australian Super	Superannuation contributions	-\$1,154.51	
DD9467.3	25/10/2020	Sun Super	Superannuation contributions	-\$961.44	
DD9467.4	25/10/2020	loof Portfolio Service Superannuation Fund	Superannuation contributions	-\$351.98	
DD9467.5	25/10/2020	ANZ Smart Choice Super	Superannuation contributions	-\$86.33	
DD9467.6	25/10/2020	AMP Flexible Super	Superannuation contributions	-\$627.48	
DD9467.7	25/10/2020	MLC SUPER FUND	Superannuation contributions	-\$188.82	
DD9467.8	25/10/2020	Host Plus Superannuation Fund	Superannuation contributions	-\$206.60	
DD9467.9	25/10/2020	Prime Super	Superannuation contributions	-\$274.04	
DD9472.1	28/10/2020	Department of Mines, Industry Regulation & Safety	Bond - 32 Shenton St	-\$648.00	

Chq/EFT	Date	Name	Description	Amount	Totals
DD9474.1	30/10/2020	NAB BUSINESS VISA	Credit Card Transactions - October 2020: Zoom - Monthly Subscription; Catering - Wildflower Country Meeting; Toolbox; Chain mesh fencing and fence posts - Transfer Station; Relocate power pole - Playground upgrade; Employee HR Learner's Permit; Employee farewell gift; Computer monitor; 30,000km service for 177MI	-\$5,612.99	-\$43,599.88
DOT290920	01/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 29/09/2020	-\$346.30	
DOT300920	02/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 30/09/2020	-\$275.55	
DOT011020	05/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 01/10/2020	-\$4,781.90	
DOT051020	07/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 05/10/2020	-\$1,867.35	
DOT071020	09/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 07/10/2020	-\$1,511.80	
DOT091020	13/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 09/10/2020	-\$1,208.05	
DOT121020	14/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 12/10/2020	-\$2,483.70	
DOT131020	15/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 13/10/2020	-\$5,651.25	
DOT141020	16/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 14/10/2020	-\$36,046.15	
DOT151020	19/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 15/10/2020	-\$3,763.60	
DOT161020	20/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 16/10/2020	-\$6,178.15	
DOT191020	21/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 21/10/2020	-\$409.00	
DOT201020	22/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 20/10/2020	-\$3,017.70	
DOT211020	23/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 21/10/2020	-\$2,144.45	
DOT221020	26/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 22/10/2020	-\$1,068.40	
DOT231020	27/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 23/10/2020	-\$5,679.60	
DOT261020	28/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 26/10/2020	-\$1,224.80	
DOT271020	29/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transactions: 27/10/2020	-\$1,574.15	
DOT281020	30/10/2020	DEPARTMENT OF TRANSPORT	DOT Licencing Transaction: 28/10/2020	-\$19.90	-\$79,251.80
EFT13884	08/10/2020	RMS Regional Media Specialists	GWN7, 7Mate, 7Two and booking administration fee for advertising - August 2020	-\$4,045.84	
EFT13885	08/10/2020	Staff	Reimbursements: Parking Costs 24/9/2020, Dinner 25/9/2020	-\$260.50	
EFT13886	08/10/2020	ABCO PRODUCTS	Puregiene Superior Ultraslim Towel	-\$623.18	
EFT13887	08/10/2020	BUNNINGS Group Limited	Various Items Purchased: Combo Kit Cordless Ozito PXC 18V, Grinder Angle Ozito, Disc Cutting Makita, Hand Glitz Cleaner, 9V Batteries	-\$998.87	
EFT13888	08/10/2020	BOC GASES	Argoshield Universal, Oxygen Industrial, Dissolved Acetylene and Cellamix	-\$108.66	
EFT13889	08/10/2020	Bedrock Electrical Services	Replacement of switch board supplying tennis club and water tank	-\$3,525.50	

Chq/EFT	Date	Name	Description	Amount	Totals
EFT13890	08/10/2020	BULLIVANTS PTY LTD	Inspect and Tag Lifting Gear	-\$528.00	
EFT13891	08/10/2020	BREEZE CONNECT PTY LTD	Subscription Charges for 01/09/2020 to 30/09/2020	-\$260.00	
EFT13892	08/10/2020	THE BLOCK MAKERS	Bevelled Blocks and Flush Blocks	-\$5,454.20	
EFT13893	08/10/2020	Toll Transport Pty Ltd	Freight charges from Tutt Bryant	-\$10.73	
EFT13894	08/10/2020	CLEANAWAY	Waste Collection for Domestic Refuse for Town Site and External Town Site: 30/09/2020	-\$4,298.19	
EFT13895	08/10/2020	CLAW ENVIRONMENTAL	Removal Fees for Chemical Drums	-\$1,294.37	
EFT13896	08/10/2020	Central West Concrete	Supply F8TM3 Trench Mesh	-\$338.80	
EFT13897	08/10/2020	CHILD SUPPORT AGENCY	Payroll deductions	-\$349.45	
EFT13898	08/10/2020	CRAIGES AUTO ELECTRICAL & AIR CONDITIONING	Replace compressor and regas MI278	-\$2,000.57	
EFT13899	08/10/2020	LANDGATE	Department of Land Information Searches - September 2020	-\$133.50	
EFT13900	08/10/2020	ELDERS LIMITED	12 x 20kg Cement	-\$242.00	
EFT13901	08/10/2020	FLICK ANTICIMEX PTY LTD	Annual Sanitary Disposal Services 2020/21	-\$2,936.79	
EFT13902	08/10/2020	INFINITUM TECHNOLOGIES	Managed Service Agreement: October 2020	-\$4,156.37	
EFT13903	08/10/2020	LATERAL ASPECT	Service Fee - September 2020	-\$6,233.33	
EFT13904	08/10/2020	LGIS	Leadership Program - Leading in the New Normal (1/9/20 to 3/9/20)	-\$324.50	
EFT13905	08/10/2020	LGRCEU	Payroll deductions	-\$20.50	
EFT13906	08/10/2020	SHIRE OF MINGENEW	Payroll deductions	-\$100.00	
EFT13907	08/10/2020	LGIS	Property Insurance 2020/21 - second instalment	-\$48,791.05	
EFT13908	08/10/2020	MIDWEST AERO MEDICAL AIR AMBULANCE P/L	Professional Services: Dr Ben MacDonald 06/08/2020, 13/08/2020, 20/08/2020, 27/08/2020	-\$4,500.00	
EFT13909	08/10/2020	MOMAR AUSTRALIA PTY LTD	Cleaning products: Twenty-S, CitraForce, Miracle Man, Nutcracker	-\$1,532.03	
EFT13910	08/10/2020	MINGENEW SPRING CARAVAN PARK	Accommodation for Lateral Aspect	-\$248.00	
EFT13911	08/10/2020	MINGENEW IGA X-PRESS & LIQUOR	IGA Account - September 2020	-\$263.30	
EFT13912	08/10/2020	NEWGROUND WATER SERVICES PTY LTD	Mingenew Bore Capacity Water Strategy	-\$4,950.00	
EFT13913	08/10/2020	NUSTEEL PATIOS AND SHEDS	Refund Planning Application Fee (paid twice)	-\$147.00	
EFT13914	08/10/2020	Officeworks	Various Stationery Items: Permanent Markers, Sticky Notes, Keys Tag & Various refreshments for community meetings/workshops	-\$502.93	
EFT13915	08/10/2020	Ocean Air	Supply and Install LG 9.4/10.3kW WH34SR-18 & Decommission old Airconditioner	-\$6,905.00	
EFT13916	08/10/2020	PEST A KILL WA	Exterra contract - Enanty Barn - 10/10/20 to 10/10/21	-\$866.25	
EFT13917	08/10/2020	PATIENCE SANDLAND PTY LTD	Supply of Cream Sand	-\$109.20	
EFT13918	08/10/2020	STATEWIDE BEARINGS	Metric Ball Bearings, Vee Belts	-\$48.40	

Chq/EFT	Date	Name	Description	Amount	Totals
EFT13919	08/10/2020	TOTAL UNIFORMS	Purchase of PPE Boots	-\$184.46	
EFT13920	08/10/2020	WESTRAC PTY LTD	Purchase of SOS Kit & Filters for MI541	-\$287.91	
EFT13921	22/10/2020	Five Star Business & Communications	Kyocera7052CI - Billing Period for October 2020	-\$295.79	
EFT13922	22/10/2020	AUSTRALIA POST	Postage Fees: September 2020	-\$246.10	
EFT13923	22/10/2020	ABCO PRODUCTS	Purchase Various Items: Puregiene Sovereign Luxury Hand Towels	-\$608.65	
EFT13924	22/10/2020	ATOM SUPPLY	Purchase Various Items: Rod Brazing Alloy Silver Flux	-\$461.76	
EFT13925	22/10/2020	Afgri Equipment	375 Hour Service for John Deere 5075E MFWD Cab Tractor	-\$802.44	
EFT13926	22/10/2020	AIT SPECIALISTS PTY LTD	Professional Services Provided for the Completion of the Review of Records and Determination for Fuel Tax Credits: Road Transport and Off Road for the 1/9/2020 to 30/9/2020	-\$200.20	
EFT13927	22/10/2020	BUNNINGS Group Limited	Various Items Purchased: Cordless Drill, Garden Rake x 2, Garden Spade x 2 and Post Hole Pincer	-\$788.56	
EFT13928	22/10/2020	CHILD SUPPORT AGENCY	Payroll deductions	-\$349.45	
EFT13929	22/10/2020	Central Fumigation & Pest Management Services	German Cockroach Treatment at Council Properties: 34 William Street, Mingenew	-\$176.00	
EFT13930	22/10/2020	DELTA CLEANING SERVICES GERALDTON	Cleaning of Shire Office Building for the Month of October 2020	-\$1,230.90	
EFT13931	22/10/2020	LANDGATE	SLIP Subscription Services Annual Charge for the period 19/09/2020 to 18/09/2021	-\$2,914.00	
EFT13932	22/10/2020	Department of Mines, Industry Regulation & Safety	BSL September 2020 - 10 Enanty Street and 24 Linthorne Street, Mingenew	-\$103.90	
EFT13933	22/10/2020	Department Of Fire And Emergency Services	2020/2021 Emergency Services Levy for Shire Properties	-\$2,436.00	
EFT13934	22/10/2020	ELDERS LIMITED	Pallet of 20Kg Grey Cement	-\$635.80	
EFT13935	22/10/2020	ELGAS LTD	Annual Gas Bottle Service Charge: 3 x 45.0 Kg LPG Cylinders	-\$141.90	
EFT13936	22/10/2020	Flash Marketing	50% Deposit for Photograph Services - Council Members and Staff	-\$548.00	
EFT13937	22/10/2020	GERALDTON TROPHY CENTRE	Engraving Costs: Engrave Rowmark Labels 50 x 20mm Black/White Cemetery Tags	-\$114.40	
EFT13938	22/10/2020	GREENFIELD TECHNICAL SERVICES	SMI Town Street Repairs and Specifications, Scoping of Works and Preparation of Schedules	-\$5,005.00	
EFT13939	22/10/2020	CITY OF GREATER GERALDTON	Sirsi Dynix Library Management System: 1/4/2020 to 31/3/2021	-\$1,318.36	
EFT13940	22/10/2020	GARRARDS PTY LTD	Purchase of Various Items: 2 x 20Ltr Pyrethrin Drift and 1 x 18Kg Vectoprime	-\$1,006.35	

Chq/EFT	Date	Name	Description	Amount	Totals
EFT13941	22/10/2020	HOPPYS PARTS R US	Various Parts for Slasher	-\$239.10	
EFT13942	22/10/2020	LIMITLESS PROMOTIONS	Red Animal Registration Tags: Expiry - 31/10/2023	-\$150.00	
EFT13943	22/10/2020	LGRCEU	Payroll deductions	-\$20.50	
EFT13944	22/10/2020	SHIRE OF MINGENEW	Payroll deductions	-\$100.00	
EFT13945	22/10/2020	Mitchell and Brown	Purchase of Split System Inverter Air Conditioners for Staff and Community Housing	-\$1,300.00	
EFT13946	22/10/2020	MIDWEST LOCK & SAFE	Restricted Key Cut	-\$110.00	
EFT13947	22/10/2020	GERALDTON TOYOTA	50,000 Km for Toyota Prado GXL 2018	-\$344.48	
EFT13948	22/10/2020	MINGENEW TYRE SERVICES PTY LTD	Supply and Fit 4 x Tyres for 2008 Cat Skid Steer Loader	-\$2,245.90	
EFT13949	22/10/2020	N1 WHOLESALE PTY LTD	Communication Tower Upgrade	-\$5,500.00	
EFT13950	22/10/2020	Ocean Air	Supply and Install 1 x 3.5kW Wall Mounted Split System Air Conditioner to Tourist Centre with Standard Back to Back Installation	-\$2,882.00	
EFT13951	22/10/2020	OILTECH FUEL	Fuel Purchase for Palm Roadhouse: 23/09/2020 to 13/10/2020	-\$4,496.55	
EFT13952	22/10/2020	PUT THE LID ON: METAL ROOFING SPECIALISTS	Roof Plumbing: Re-roof property at Victoria Street, Mingenew	-\$14,608.00	
EFT13953	22/10/2020	Shire Of Carnamah	Ranger and Emergency Services Fee for 1/7/2020 to 30/9/2020	-\$4,115.98	
EFT13954	22/10/2020	Telstra Corporation	Telstra Account for September 2020: Office Telstra Account, Councillors Ipads, Fire Office Mobile, Gardening Mobile	-\$1,174.96	
EFT13955	22/10/2020	Think Water Geraldton	Purchase of Various Parts for 1999 Isuzu FVZ 1400 Water Truck (MI 255): Pump, Back Plate, Impeller, Shaft, Seal, Bearing, Circlip, Casing O-Ring, 65mm Elbow, 65mm Lump End, Flange and Steel M/M Bends	-\$1,720.05	
EFT13956	22/10/2020	VELPIC	Monthly Velpic Fees for August 2019 - Midwest Local Government Employee Induction Part A	-\$442.20	
EFT13957	22/10/2020	Walga	Shire President (Gary Cosgrove) attendance at WALGA: AGM Breakfast with Paul Haselby on 25/09/2020	-\$90.00	
EFT13958	22/10/2020	WESTRAC PTY LTD	Purchase of 4 x 20L Drums of Coolant for Contractor APC Backhoe Loader inc Bucket Forks (MI 262)	-\$479.38	-\$166,982.04
			Net Salaries	-\$74,328.81	-\$74,328.81
				-\$364,607.08	-\$364,607.08