

**South West Zone WALGA: 25 November 2016
State Council WALGA: 7 December 2016**

Agenda Summary and Recommendations

The City of Busselton is a member of the WALGA South West Zone which meets approximately five times each year. The SW Zone comprises of twelve local governments being the Shire of Augusta - Margaret River, Shire of Boyup Brook, Shire of Bridgetown-Greenbushes, City of Bunbury, City of Busselton, Shire of Capel, Shire of Collie, Shire of Dardanup; Shire of Donnybrook-Balingup, Shire of Harvey, Shire of Manjimup and the Shire of Nannup.

The City is represented on the Zone Committee by the Mayor Grant Henley with administrative support provided by Cliff Frewing, Director Finance & Corporate Services and Tracey King, Strategic Projects Officer.

The Zone employs a secretariat to prepare the Zone agenda, take minutes and action Zone adopted resolutions.

Each Agenda is in two parts:

1. Items raised by Zone Members for consideration; and
2. The WALGA State Council Agenda

The reports raised by the Zone Members and those contained in the WALGA State Council Agenda "for decision" are reviewed by City officers and are reported in the following manner for Councillor information:

- A summary of the report is provided;
- The WALGA recommendation is repeated;
- The relevant City officer comments on the report;
- The City Officer comments on the recommendation;
- The Zone decision is recorded; and
- The WALGA State Council decision is recorded.

In this way Council can track the progress of the report and recommendation as it flows through the system.

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Item 10.1 Submission by the Shire of Donnybrook - Balingup - Responsibility for Bridges

Summary of report:

The Shire of Donnybrook Balingup has a situation where certain bridges in the municipality have been privately built (i.e. not to an approved Main Road standard) as "fit for purpose" river crossings to access timber lots or agricultural land. Main Roads do therefore not take responsibility for ongoing maintenance renewal or upgrade.

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The Shire of Donnybrook-Balingup does not believe it is responsible for the crossing structures outside of the road reserve (i.e. within unallocated Crown Land), and has obtained legal advice, via WALGA and the State Solicitors Office, to corroborate this position.

The Shire is seeking the support of the Zone in the case of legal action occurring and further request that WALGA consider co-responsibility for contesting the case, with or without the assistance of the State Solicitors Office and Department of Local Government and Communities

Motion:

THAT:

- 1. The Zone supports the proposal by the Shire of Donnybrook-Balingup that in the case of legal action occurring in regard to the situation of local government responsibility relevant to 3. 55 of the Act that WALGA consider co-responsibility for contesting the case, with or without the assistance of the State Solicitors Office and Department of Local Government and Communities, and*
- 2. That WALGA request the Department of Local Government and Communities to amend the Local Government Act 1995 to clarify local government responsibility under Section 3.53*

Zone Recommendation:

Motion was carried.

Item 10.2 Submission by the City of Bunbury - Expansion of the Wellington National Park

Summary of report:

The City of Bunbury have written to the Hon Minister for the Environment; Heritage and resolved to seek the support of the Zone for their proposal to consider incorporation of the Wellington Discovery Forest and the Arcadia, Lowden, Yabberup and Mungalup forest blocks into the existing Wellington National Park to achieve a number of environmental, social and economic benefits for the local area.

MOTION

THAT the proposal by the City of Bunbury for the Minister to investigate and consider the expansion of the Wellington National Park, from its current size of 17,500 hectares to 30,000 hectares be supported.

Zone Recommendation:

Motion was lost due to lack of a seconder.

Item 10.3 Shire of Harvey submission - Plastic Bags

Summary of report:

Given the renewed groundswell of interest in introducing a state wide ban on one use, thin (supermarket) shopping bags, the Shire of Harvey have requested this issue to be discussed at the next South West Zone meeting of WALGA, with a view to promoting such legislation at State level.

MOTION

THAT the SWZ support the Shire of Harvey proposal for the introduction of legislation to ban the use of thin (supermarket) shopping bags.

Zone Recommendation:

That:

The South West Zone of WALGA advise the WA Local Government Association that it support the principle of a ban on one use, thin (supermarket) shopping bags, on the basis that a considered State-wide or National implementation and consultation plan is developed which covers issues such as community education, environmental alternatives and an equitable transition period.

Item 10.4 Shire of Collie Submission - Charitable Rating Status

Summary of report:

There is a rising concern about the number of Department of Housing properties being put under management of incorporated not for profit organisations which in turn claim charitable status, thus triggering an exemption from paying rates.

MOTION

That the SWZ supports the Shire of Collie recommendation:

That WALGA;

- 1. Express concern to the Department of Housing regarding the proliferation of organisations (quite often managing properties on behalf of the Housing Authority) claiming charitable status and seeking to avoid paying rates. This has and will lead to a diminishing unsustainable rate base for local governments and urgent attention is required to address this matter*
- 2. Seek agreement from the Department of Housing that the outsourcing of the management of public housing to not for profit organisations will not adversely impact on Councils rating income.*

Zone Recommendation:

Motion was carried.

1. WALGA State Council: Wednesday 7 December 2016

Item: 5.1 WALGA State Budget Submission

Summary of report:

WALGA prepares a budget submission to State Government annually. This year's submission was developed from outcomes of State Council Forums held in March and May this year and was endorsed by the Executive Committee on Monday 31 October 2016. Recommendations regarding the following areas are proposed to be put forward as priorities for the forthcoming State Election:

Budget Repair-

Controlling expenditure growth

Asset Sales

Public Health Act

Spending priorities

Special Inquiry into the Waroona Fire

Container Deposit Scheme

Country Local Government Fund

Broader reforms

Deregulation of Local Government fees and charges

Review of the Local Government Act 1995

State Infrastructure Plan

Investing in the State's future-

State Road Funds to Local Government

Public Libraries

Community Sports and Recreation

WALGA Recommendation:

That the WALGA 2017-18 State Budget submissions be endorsed.

City Officer Comment:

These recommendations have been formulated through a lengthy consultative period and have been endorsed by WALGA.

City Officer Recommendation:

That the WALGA recommendation be supported.

Zone Recommendation to State Council:

That the recommendation be endorsed.

State Council decision:

That the WALGA 2017-18 State Budget Submission be endorsed.

Item: 5.2 Regional Subsidiaries: Submission on Development of Regulation's

Summary of report:

The Local Government Act 1995 has been amended to enable Local Governments to establish regional subsidiaries to better provide shared services. The intention is that the regional subsidiary model could provide local government with more flexibility to deliver shared services and joint regional projects relative to other shared service models, as it is governed by a charter rather than the Local Government Act.

To assist in the development of regulations to guide the regional subsidiary model, the Department of Local Government and Communities has distributed a consultation paper for feedback. WALGA has developed a representative submission that was considered by the State Council Governance and Organisational Services Policy Team and endorsed by the Executive Committee prior to submission.

The submission advocates for a minimal regulatory framework to be imposed, with the regional subsidiary charter acting as the primary governing document, which is supported by the number of checks and balances inherent in the regional subsidiary model, including Ministerial Approval of the charter and oversight of the subsidiary by its constituent councils. The submission is attached as part of the State Council Agenda.

WALGA Recommendation:

That WALGA's Submission regarding the development of regulations for the establishment of regional subsidiaries be endorsed.

City Officer Comment:

The proposal to create a legislative framework to enable Local Governments to work together to provide 'shared services' has been around for some time. The LG Act has now been amended to facilitate Regional Subsidiaries but Regulations to support the Act have not yet been determined. The purpose of the WALGA submission is to propose a process to be included in the Regulations and this submission has been developed with sector involvement. Whilst the legislation doesn't go far enough in terms of allowing individual LG's to create LG controlled entities, the proposal to create Regional Subsidiaries is a small step in the right direction. The issue of legislation to enable creation of LG controlled entities will be pursued through other mechanisms.

City Officer Recommendation:

That the WALGA recommendation be supported.

Zone Recommendation to State Council:

That the recommendation be endorsed.

State Council Decision:

That WALGA's Submission regarding the development of regulations for the establishment of regional subsidiaries be endorsed.

Item 5.3 Local Government Industrial Jurisdiction

Summary of report:

WALGA is seeking to provide great clarity and certainty for Local Governments regarding the industrial relations jurisdiction, to better support Local Governments in their own assessment of the appropriate industrial relations jurisdiction within which to operate.

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Presently, it is unclear whether the sector falls within the state or federal industrial relations system. Until 31 December 2009, Western Australian Local Governments operated primarily under federal industrial awards, being the Local Government Officers' Award (1999) (LGO) and the Municipal Employees' Award (1999) (MEA). Many Local Governments also had Federal enterprise/workplace agreements in operation to underpin the employment conditions of the majority of their employees.

The introduction of the Fair Work Act 2009 influenced most State Governments to refer their industrial relations powers to the Commonwealth to create a single national industrial relations system. The federal industrial relations system and its relevant employment legislation, including the Fair Work Act 2009 (Cth), only applies to WA Local Governments that are deemed to be national system employers. Western Australia still retains a state industrial relations system that applies to state public sector employees, non-trading entities and unincorporated private sector businesses.

WALGA Recommendation:

That WALGA:

- 1. Provide information and advice to Local Governments to support their assessment of the appropriate industrial relations jurisdiction within which to operate;*
- 2. Advocate for the State Government to refer any residual industrial relations powers with respect to the Local Government sector to the Commonwealth Government;*
- 3. If recommendation 2 is unsuccessful, advocate for modernisation of the WA industrial relations legislative framework with a view to achieve consistency with the predominant Federal industrial relations system.*

City Officer Comment:

The City of Busselton, like most local governments, operates within the federal industrial relations system. Prior to the introduction of the Fair Work Act 2009, the City operated under 2 Enterprise Agreements (negotiated in 2003) that were read in conjunction with the federal awards – Local Government Officers Award (1999) and the Municipal Employees Award (1999). In 2010, the City transitioned to one Enterprise Agreement read in conjunction with the new Local Government Industry Award 2010.

While we have not sought to confirm our status as a constitutional corporation, we consider the risk of operating within the federal industrial relations system to be relatively low. Our Enterprise Agreement is ratified by the Fair Work Commission and unfair dismissal and other such claims have historically been lodged within the federal jurisdiction.

Having said that, WALGA's recommendations, recommendation 2 in particular, would remove the current ambiguity and risk that surrounds this matter for local government. Recommendation 3 is a reasonable fall-back position.

City Officer Recommendation:

That the WALGA recommendation be supported.

Zone Recommendation to State Council:

THAT item 5.3 be amended as under;

1. Provide information and advice to Local Government to support their assessment of the appropriate industrial relations jurisdiction within which to operate
2. Advocate for modernization of the WA industrial relations framework with a view to achieve consistency with the predominant Federal industrial relations system

State Council decision:

That WALGA:

- 1. Provide information and advice to Local Government to support their assessment of the appropriate industrial relations jurisdiction within which to operate; and*
 - 2. Advocate for modernization of the WA industrial relations framework with a view to achieve consistency with the predominant Federal industrial relations system.*
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Item 5.4 Review of Decision Making within the WA Planning System

Summary of report:

At the WALGA Annual General Meeting on the 3 August 2016, a motion was passed to request WALGA advocate for an independent review of the decision making within the WA planning system. It is timely given the State's reform program started in 2009, to initiate a review of the reform measures that have been introduced and to seek a review of the operation of the entire planning system, before any additional reforms measures are proposed in WA.

WALGA Recommendations:

That WALGA request that the Minister for Planning initiate an independent review of decision making within the WA planning system, including the roles and responsibilities of State and Local Government and other decision making agencies, Development Assessment Panels and the State Administrative Tribunal appeal process, that gives consideration to;

- 1. How the aspirations or values of the community are incorporated into the decision making framework;*
- 2. What improvements are required to the statutory framework, including Local Planning Schemes, that would improve the transparency, certainty and consistency of the decision making process;*
- 3. Ensuring that decision making occurs at appropriate levels that promotes good and efficient decisions for the community; and*
- 4. The erosion of the role of Local Government in planning for their communities.*

City Officer Comment:

Given the generic nature of the report and that the issues presented have not been of particular relevance to the City of Busselton, there is no valid reason to not support the recommendations.

City Officer Recommendation:

That the WALGA recommendation be supported.

Zone Recommendation to State Council:

That the recommendation be endorsed.

State Council decision:

- 1. That WALGA request that the Minister for Planning initiate an independent review of decision making within the WA planning system, including the roles and responsibilities of State and Local Government and other decision making agencies, Development Assessment Panels and the State Administrative Tribunal appeal process, that gives consideration to;*
 - a. How the aspirations or values of the community are incorporated into the decision making framework;*

- b. What improvements are required to the statutory framework, including Local Planning Schemes, that would improve the transparency, certainty and consistency of the decision making process;*
 - c. Ensuring that decision making occurs at appropriate levels that promotes good and efficient decisions for the community;*
 - d. The erosion of the role of Local Government in planning for their communities; and*
 - e. How the community can be better engaged in the metropolitan planning process.*
2. *That WALGA undertakes research on third party appeals around Australia and further consults with members regarding the current policy position.*
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Item 5.5 Development Assessment Panels: Suggested Amendments

Summary of report:

The Development Assessment Panels (DAPs) planning approval system was introduced in July 2011 with the intention of creating a more streamlined planning approval process and to establish a better balance between professional advice and community representation. The criteria for a planning assessment by DAPs was amended at the beginning of 2015-16, with a lowering of the 'opt in' eligibility threshold to \$2m.

Recently a number of Metropolitan Local Governments have adopted motions calling for the abolition of DAPS. In addition a motion was presented to WALGA's AGM calling for the abolition of DAPs.

Both the Minister for Planning and the Opposition have stated that the DAP system will remain in place. The Minister for Planning has, however, announced that the State Government is willing to consider changes to the system.

WALGA has engaged directly with the Local Government planning community to capture their views on how best to improve the DAP system, including a workshop with senior planning officers and a survey sent to over 200 planning officers. A series of improvements to the existing system are therefore proposed.

WALGA Recommendations:

That WALGA:

- 1. Present the outcomes of the Local Government engagement on suggested amendments to the Development Assessment Panels system to the Minister for Planning, and;*
- 2. Endorse the top 15 suggested amendments contained within the report as recommendations which WALGA advocates for as practical reforms to the DAP system, in addition to WALGA's previous resolution regarding Development Assessment Panels.*

City Officer Comment:

The City is comfortable with WALGA's Top 15 'suggested amendments', but number 15 does not affect the City (as we are outside a region scheme area), number 14 just won't work in regional areas, but this has been acknowledged anyway, and number 9 is clear now. Several of the dot points under their conclusion are of more concern, notably dot points 1, 3 and 4, which sound like simple, sensible propositions on the surface, but would create all sorts of odd/perverse incentives and/or require pages of law to properly describe. Those who have supported those ideas in the consultation just haven't thought the issues through properly, and there could be numerous other consequences

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of going down those paths. However, on balance, the proposed Amendments are considered acceptable from an industry point of view.

City Officer Recommendation:

That the WALGA recommendation be supported.

Zone Recommendation to State Council:

That the recommendation be endorsed.

State Council decision:

That WALGA:

- 1. Present the outcomes of the Local Government engagement on suggested amendments to the Development Assessment Panels system to the Minister for Planning, and;*
 - 2. Endorse the top 15 suggested amendments contained within the report as recommendations which WALGA advocates for as practical reforms to the DAP system, in addition to WALGA's previous resolution regarding Development Assessment Panels.*
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Item 5.6 Amendment to State Planning Policy 3.1 – Residential Design Codes – Minor Amendments

Summary of report:

In August 2016, the WA Planning Commission (WAPC) released proposed changes to the State Planning Policy 3.1 – Residential Design Codes (RCodes) to address the misinterpretation and inconsistency of application of certain provisions of the RCodes and to align with the new Local Planning Scheme Regulations. The proposed changes are mostly minor in nature.

An interim submission was prepared to meet the WA Planning Commission's deadline of the 10 October 2016.

WALGA Recommendation:

That the interim submission to the WA Planning Commission regarding minor amendments to State Planning Policy 3.1 – Residential Design Codes be endorsed.

City Officer Comment:

These are very minor issues in the scheme of things, and the City does not need to be concerned about either proposal.

City Officer Recommendation:

That the WALGA recommendation be supported.

Zone Recommendation to State Council:

That the recommendation be endorsed.

State Council decision:

That the interim submission to the WA Planning Commission regarding minor amendments to State Planning Policy 3.1 – Residential Design Codes be endorsed with the exception of the submission position on item 24 in that WALGA does not oppose in principle the reduction of the minimum number of aged persons' dwelling in any single development from 5 to 2.

Item 5.7 Draft State Planning Policy 1 – State Planning Framework

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Summary of report:

- The WA Planning Commission has released a draft State Planning Policy 1 (SPP1) – State Planning Framework for public comment until 24 December 2016.
- The draft State Planning Policy 1 is more concise than the existing SPP1 and provides greater clarity in the hierarchy and application of the various planning instruments for WA.

WALGA Recommendation:

That the WA Planning Commission be advised that WALGA supports the draft State Planning Policy 1 – State Planning Framework.

City Officer Comment:

These are very minor issues in the scheme of things, and the City does not need to be concerned about either proposal.

City Officer Recommendation:

That the WALGA recommendation be supported.

Zone Recommendation to State Council:

That the recommendation be endorsed.

State Council decision:

That the WA Planning Commission be advised that WALGA supports the draft State Planning Policy 1 – State Planning Framework.

Item 5.8 LG Risk Vision Risk Management System

Summary of report:

At the September 2013 meeting of State Council, Resolution 250:4/2013 was passed in support of further development of the Community Emergency Risk Assessment Tool as the preferred emergency risk assessment tool for Local Government in Western Australia.

Following an intensive development and trial process, WALGA has designed and produced the LG Risk Vision emergency management risk system.

The State Emergency Management Committee (SEMC) Risk Subcommittee at its 9 November 2016 meeting noted the development by WALGA of LG Risk Vision and proposed a process toward acknowledgement as a compliant system.

WALGA Recommendations:

That LG Risk Vision be endorsed for use by Local Government in Western Australia.

City Officer Comment:

The City of Busselton supports the development of the LG Risk Vision system as a key tool in the risk analysis and assessment process and overall emergency management arrangements.

City Officer Recommendation:

That the WALGA recommendation be supported.

Zone Recommendation to State Council:

That the recommendation be endorsed.

State Council decision:

That LG Risk Vision be endorsed for use by Local Government in Western Australia.

Item 5.9 Interim Submission in response to the 'Transport @ 3.5 Million: Perth Transport Plan for 3.5 Million People and Beyond'

Summary of report:

The State Government released the 'Transport @ 3.5 Million: Perth Transport Plan for 3.5 Million People and Beyond' for consultation closing on 28 October.

The vision for the plan is to ensure Perth remains one of the most liveable cities in the world, one that is vibrant, connected and productive. The plan covers many aspects of urban land transport including public transport, road network, freight, active transport and travel demand management. Extensive consultation was undertaken with senior Local Government officers, including a workshop, to identify regional and city-wide matters of interest to inform the interim submission.

Key issues raised include the lack of aspirational and measureable outcomes, low mode-share expectations for public and active transport outside of the CBD peak hour travel requirements, limited engagement with Local Governments in producing the Plan, and the lack of evidence in the supporting documents to show the strategic framework for the transport route or mode recommendation.

WALGA Recommendation:

That the interim submission in response to the 'Transport @ 3.5 Million: Perth Transport Plan for 3.5 Million People and Beyond' be endorsed.

City Officer Comment:

The report item does not directly affect the City of Busselton.

City Officer Recommendation:

That the WALGA recommendation be supported.

Zone Recommendation to State Council:

That the recommendation be endorsed.

State Council decision:

1. *That the interim submission in response to the 'Transport @ 3.5 million: Perth Transport Plan for 3.5 Million People and Beyond' be endorsed as amended.*

With the amendment to the interim submission being to delete the works "from overseas" from recommendation 6.9 so that it reads: The State Government should be open to innovative transport modes and technologies that could be beneficial to Perth's future beyond 3.5 million.

2. *That WALGA advocate for consistency between planning, transport and environmental plans.*
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Item 5.10 Guidelines and Specifications for Residential Crossovers

Summary of report:

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There are a large number of different guidelines for the design, planning and construction of residential crossovers in the Perth metropolitan region.

At a Building Summit in February 2016, and in other forums this was raised as an issue causing inefficiency and confusion in the housing industry.

WALGA appointed Cardno to assist in preparing guidelines and specifications for the planning, design and construction of residential crossovers.

Following a Local Government workshop in May and sector wide consultation, a guideline has been prepared based on the harmonisation of current practices.

If adopted by Local Governments in entirety or as a framework with amendments to reflect local circumstances, the Guide and Specification will increase efficiency and reduce costs in residential building.

WALGA Recommendation:

That WALGA Guidelines and Specifications for Residential Crossovers be endorsed for adoption by Local Governments in its entirety or as a framework with amendments to reflect local circumstances.

City Officer Comment:

Standardisation for the design, planning and construction of residential cross overs is seen as beneficial to the Local Government sector and will avoid the issue of having different standards adopted by different local Governments.

City Officer Recommendation:

That the WALGA recommendation be supported.

Zone Recommendation to State Council:

That the recommendation be endorsed.

State Council decision:

That WALGA Guidelines and Specifications for Residential Crossovers be endorsed for adoption by Local Governments in its entirety or as a framework with amendments to reflect local circumstances.

Item 5.11 Review of Electricity (Network Safety) Regulations 2015

Summary of report:

The Electricity (Network Safety) Regulations 2015, gazetted in August 2015, require the electricity network operators (Western Power, Horizon Power) to prepare an Electricity Network Safety Management System in accordance with the relevant Standard AS 5577. However, in Western Australia, the regulations do not require the electricity network operators to submit the Safety Management System to the regulator, EnergySafety WA, or to achieve a satisfactory independent audit of the System.

Regulatory oversight is weaker in Western Australia than other Australian jurisdictions, which is particularly inappropriate at a time when sale or long term lease of the main electricity network operator is being considered. If not managed correctly, electricity networks are capable of presenting serious local and large scale hazards to the community as has been demonstrated in Western Australia (e.g. Toodyay 2009; Stoneville 2014).

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Regulations consistent with those adopted in other Australian jurisdictions would both provide stronger regulation of the industry and deliver the harmonisation of regulations promised in the 2012 Intergovernmental Agreement on this matter.

WALGA Recommendation:

That WALGA request the State Government initiate a review of the Electricity (Network Safety) Regulations 2015 to ensure the electricity network safety management system is independently audited, providing public assurance that the serious hazards to people and property presented by electricity distribution networks are appropriately managed.

City Officer Comment:

No concerns have been identified in supporting this recommendation.

City Officer Recommendation:

That the WALGA recommendation be supported.

Zone Recommendation to State Council:

THAT recommendation 5.11 be endorsed. Discussion ensued and Cr Sanford will speak to the matter at the State Council meeting.

State Council decision:

That WALGA request the State Government initiate a review of the Electricity (Network Safety) Regulations 2015 to ensure the electricity network safety management system is independently audited, providing public assurance that the serious hazards to people and property presented by electricity distribution networks are appropriately managed.
