



GVROC Council Meeting to consider WALGA State Council Agenda Items

Unconfirmed Minutes

Friday 28 August 2020
Zoom Videoconference, commencing at 8.30am

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GOLDFIELDS VOLUNTARY REGIONAL ORGANISATION OF COUNCILS (GVROC)

**Videoconference meeting of the GVROC Council to consider WALGA State
Council Agenda Items held Friday 28 August 2020 8.30am**

AGENDA

1. OPENING AND ANNOUNCEMENTS

The purpose of the meeting is to provide advice to the WALGA State Council Representative, Cr Mal Cullen on the Agenda for the WALGA State Council Meeting to be held on 2 September 2020.

2. DECLARATION OF INTEREST

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

Declarations:

Cr Shelley Payne – Shire of Esperance - declares a standing interest as a member of the GEDC.

3. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

3.1 Attendance

Cr Mal Cullen (Chair)	President, Shire of Coolgardie
Mr James Trail	CEO, Shire of Coolgardie
Cr Tracey Rathbone	Deputy Shire President, Shire of Coolgardie
Cr Laurene Bonza	President, Shire of Dundas
Mr Peter Fitchat	CEO, Shire of Dundas
Cr Ian Mickel	President Shire of Esperance
Cr Shelley Payne	Councillor, Shire of Esperance
Cr Patrick Hill	President, Shire of Laverton
Mr Peter Naylor	CEO, Shire of Laverton
Mr Jim Epis	CEO, Shire of Leonora
Mr Kevin Hannagan	CEO, Shire of Ngaanyatjaraku (Joined meeting at 9:45am)
Cr Timothy Carmody	Councillor, Shire of Wiluna
Mr Andrew Mann	Executive Officer, GVROC

3.2 Apologies

Cr Sharon Warner	Councillor, Shire of Dundas
Mr Shane Burge	A/CEO, Shire of Esperance
Cr John Bowler	Mayor, City of Kalgoorlie-Boulder
Cr David Grills	Councillor, City of Kalgoorlie Boulder
Mr John Walker	CEO, City of Kalgoorlie Boulder
Cr Shaneane Weldon	Councillor, Shire of Laverton
Cr Peter Craig	President, Shire of Leonora
Cr Greg Dwyer	President, Shire of Menzies
Cr Jill Dwyer	Councillor, Shire of Menzies

Mr Pascoe Durtanovich
Cr Damian McLean
Cr Jim Quadrio
Ms Laura Dwyer

A/CEO, Shire of Menzies
President, Shire of Ngaanyatjaraku
President, Shire of Wiluna
CEO, Shire of Wiluna

3.3 **Guests**

Nil

3.4 **WALGA Representatives (Via Videoconference)**

Tony Brown, Executive Manager Governance & Organisational Services
Ashley Robb, Project Officer, Planning
Sebastian Davies-Slade, Policy Officer, Transport and Roads
Carol-Anne Bradley, Goldfields-Esperance Road Safety Advisor

3.5 **DLGSCI Representatives (Via Videoconference)**

Jodie Holbrook, Director Local Government Policy and Engagement
Julie Craig

4. MINUTES OF MEETINGS

4.1 **Minutes of a Meeting of GVROC to consider WALGA State Council Agenda Items held 26 June 2020**

Minutes of the GVROC Council Meeting to consider WALGA State Council held Friday 26 June 2020 are presented for adoption (**Attachment 1**).

RECOMMENDATION:

That the Unconfirmed Minutes of the GVROC Council Meeting to consider WALGA State Council held Friday 26 June 2020 be confirmed as a true and correct record of proceedings.

RESOLUTION: **Moved: Cr Tracey Rathbone - Shire of Coolgardie**
 Seconded: Mr Jim Epis - Shire of Leonora

Carried

4.2 **Correspondence for Noting**

The following correspondence is presented for noting.

1. Email dated 24 August 2020 from Dianne Daniels, Executive Officer – Northern Country Zone of WALGA regarding State Council Agenda Item 5.5 Local Government Review Panel Final Report - Northern Country Zone Resolution (Attachment 1.1).

RECOMMENDATION:

That the correspondence listed for noting be received.

RESOLUTION: **Moved: Cr Tracey Rathbone - Shire of Coolgardie**
 Seconded: Cr Laurene Bonza - Shire of Dundas

Carried

5. EMERGING ISSUES

From: Chair GVROC

Background:

WALGA State Council meets five times each year and as part of the consultation process with Member Councils circulates the State Council Agenda for input through the Zone structure. The Zone can provide comment or submit an alternate recommendation that is then presented to the State Council for consideration.

A full copy of the State Council Agenda for the 2 September 2020 can be found at **Attachment 2**

6. Review of WALGA State Council Agenda - Matters for Decision

6.1 Park Home Approvals and the Caravan Parks and Camping Grounds Act 1995 (05-018-02-0002 VJ)

WALGA Recommendation

That WALGA requests the State Government to:

- 1. Urgently amend the Caravan Parks and Camping Grounds Act 1995 to allow the continued lawful placement of new manufactured homes on caravan park sites until 2030; and**
- 2. Undertake a full review of the Caravan Parks and Camping Grounds Act 1995 and associated legislation and regulations.**

IN BRIEF

- The State currently regulates the approval and ongoing management of park homes within a caravan park under the Caravan Parks and Camping Grounds Act 1995.
- A recent SAT case has highlighted the conflict in the various legislative controls on this form of accommodation.
- New Regulations gazetted in March 2020 do not address the fundamental issue of locating park homes within caravan parks, they only provide a temporary solution after the SAT case.
- A full review of the Caravan Parks and Camping Grounds Act 1995 and other legislative requirements (i.e. planning and building) is required to enable a more streamlined assessment of park homes in caravan parks, and remove the conflict between the different State legislative requirements.

BACKGROUND:

At WALGA's South West Country Zone on 26 June 2020, the Zone resolved to:

Seek WALGA's support to request that the State Government urgently amend the Caravan Parks Legislation to allow the continued lawful placement of new manufactured homes on caravan park sites, until approximately 2030, providing regulatory certainty in the short term to the industry, its customers and local governments, and providing time in which more comprehensive regulatory reform can be undertaken.

Under the Act, park homes are required to have a chassis, axles and wheels which are structurally able to bear the weight of the park home giving it the capacity to be drawn by another vehicle on a public road.

COMMENT

Over the last ten years, Local Governments and WALGA have been raising concerns with the Department of Local Government, Sport and Cultural Industries (DLGSC) on the regulation and management of park homes, seeking to resolve the various conflicts between the legislation governing Caravan Parks, Park Homes and Lifestyle Villages.

The report presented to the South West Country Zone by the City of Busselton provides a comprehensive summary of the issues and concerns relating to the approval of park homes under the Caravan and Camping Grounds Act 1995.

The recent SAT decision (Henville and City of Armadale) highlighted longstanding and significant issues with the Caravan Parks Legislation in Western Australia, and created a situation whereby most, if not all, park homes could be considered unlawful.

After the Henville and City of Armadale case, DLGSC set up a working group of State Agencies, to see whether the various pieces of legislation could be harmonised, to provide greater certainty to the park home industry and to Local Government.

At the end of 2019, the working group advised that they had arrived at a series of possible solutions, however, the only formal response that has occurred is the Caravan Parks and Camping Grounds Amendment Regulations 2020, as gazetted on the 4 March 2020 (more information here).

The new regulations address park homes that were already in place in mid-2019, but there is no change with respect to the lawfulness of new park homes constructed since that time. This creates significant uncertainty and issues for the industry, its customers and for Local Government in assessing applications for park homes under the caravan park legislation. As outlined in the South West Country Zone report, this is an inadequate solution because it does not address the underlying issues between the various pieces of legislation.

The South West Country Zone resolution, which seeks an urgent amendment to the Caravan Parks and Camping Grounds Act 1995 to allow the continued lawful placement of new manufactured homes on caravan park sites, until 2030, is therefore supported.

This will provide greater regulatory certainty in the short term to the industry, its customers and local governments, and will enable a more comprehensive regulatory reform to be undertaken to address the issue, more holistically, of the location of park homes in caravan parks.

RECOMMENDATION

GVROC endorse the WALGA recommendation.

RESOLUTION: **Moved: Cr Tracey Rathbone - Shire of Coolgardie**
 Seconded: Mr Jim Epis - Shire of Leonora

Carried

6.2 Submission on Decision Paper – Swimming Pool and Safety Barrier Control (05-015-02-0010 VJ)

WALGA Recommendation

That the submission on the Decision Paper on Swimming Pool and Safety Barrier Control, be endorsed.

IN BRIEF

- In June 2020, a Decision Paper on Swimming Pool and Safety Barrier Control was released to the Local Government sector.
- A workshop with Local Government Building Surveyors and Swimming Pool inspectors was held to assist in providing feedback on the 16 proposals contained in the Decision Paper.
- The proposed changes to the swimming pool barrier inspection process has resourcing implications for the sector.
- A submission has been prepared to meet the comment deadline of 16 September 2020.

BACKGROUND:

On 23 November 2017, the Ombudsman's Report 'Investigation into ways to prevent or reduce deaths of children by drowning' was tabled in WA Parliament. The report contains 25 recommendations, of which 20 were specifically directed to the Building Commissioner, and five were directed to the Department of Mines Industry Regulation and Safety (DMIRS).

In January 2019, DMIRS undertook targeted consultation with Local Government through a consultation paper on swimming pool and safety barrier controls. The feedback provided at a Local Government workshop was submitted in March 2019, and this feedback has informed the preparation of this recently released DMIRS Decision Paper.

The purpose of the Decision Paper is to:

- outline the current issues with respect to swimming pools and safety barriers in light of the recommendations in the Ombudsman's Report;
- examine the impacts of reforms based on the feedback from stakeholders; and
- set out the decisions for change.

The Decision Paper sets out 16 decisions on how the Government intends to improve the regulatory requirements for Swimming Pool and Safety Barrier Control and the impacts of each decision are presented in the report. In a number of instances, non-regulatory interventions have been determined as the best method to improve safety outcomes, as well as addressing the recommendations in the Ombudsman's Report.

The report outlines proposed regulatory changes or non-regulatory changes for the following issues:

Building Permits, Notice of Completion & first barrier inspection	Excluded areas of the State
Barriers for pools under construction & other temporary barriers	Pre-November 2001 concession
Reinspections of non-compliant barriers	Boundary barriers
Compliance and enforcement strategy for barrier compliance	Training of swimming pool barrier inspectors
Four-yearly inspections: administering, record keeping & reporting	Display of CPR charts
Swimming pool barrier inspection charge	Portable swimming pools
Inspection of pools with a depth of water 30cm or less	Spa baths
Barrier inspection at sale/rent of property	Swimming pool covers

DMIRS has advised that it will work closely with stakeholders to develop the necessary regulatory amendments and guidance material to ensure WA has in place best practice requirements to reduce the risk of young children drowning in swimming pools. Submissions on the Decision Paper close on the 16 September 2020.

COMMENT

The majority of the proposals within the decision paper are supported, as they align with the feedback provided to DMIRS in 2019. The paper proposes a few new processes in the current pool barrier control:

- A new first barrier inspection to be conducted by Local Government which is accompanied by a new maximum fee of \$292
- A series of additional guidance notes for Local Government and the Industry in the installation process, best practice inspection processes and compliance and enforcement processes.

A workshop was held with Local Government Building Surveyors and Swimming Pool inspectors on 16 July 2020 with officers from 33 Local Governments attending the session. Officers were from Armadale, Bayswater, Belmont, Bridgetown Greenbushes, Broome, Bunbury, Busselton, Canning, Capel, Chittering, Cockburn, Collie, Dandaragan, Gosnells, Joondalup, Kalamunda, Mandurah, Melville, Mosman Park, Mundaring, Northam, Perth, Port Hedland, Rockingham, Serpentine Jarrahdale, South Perth, Subiaco, Stirling, Swan, Vincent, Wanneroo, Waroona and Yilgarn. The feedback from these officers has assisted in the preparation of the attached submission.

Comments in the submission have been made on the following decisions:

- The fee structures cannot claim to be cost recovery if a maximum fee is regulated
- Further work is required in regard to the boundary barrier requirements
- Owners of empty pools should be charged an inspection fee, rather than other ratepayers subsidising the inspection of their empty pool.

The details in the submission will provide DMIRS with assistance in drafting of the amendments to the Building Act 2011 and Building Regulations 2012 and in the preparation of the guidance documents.

RECOMMENDATION

GVROC endorse the WALGA submission on the Decision Paper on Swimming Pool and Safety Barrier Control recommendation.

RESOLUTION: **Moved: Moved: *Cr Tracey Rathbone - Shire of Coolgardie***
 Seconded: *Cr Laurene Bonza - Shire of Dundas*

Carried

6.3 Development Assessment Panels (05-047-01-0016 CH)

WALGA Recommendation

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 back to \$3 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. That WALGA requests the State Government to:**

IN BRIEF

- The Development Assessment Panels (DAPs) 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 Association undertook a review of the DAP system in 2016 in response to motions from Metropolitan Local Governments calling for the abolition of DAPs, this review found that the DAP system was failing to meet its aims.
- The Association has undertaken a further review of the DAP system, looking at the years 2011-2020. This review provides evidence that the DAPs system is still failing to meet its aims and objectives and is in need of further reforms.

BACKGROUND:

The DAPs system was introduced in July 2011 with the intention of creating a more streamlined planning approval process. DAPs were also established with the intention of providing a better balance between independent professional advice and Local Government representation through the involvement of independent technical experts in the determination of significant development proposals.

The Minister for Planning announced a number of changes to the DAP system which came into operation at the beginning of the 2015-16 financial year. The most significant of these changes was the lowering of the ‘opt in’ DAP assessment eligibility criteria to development proposals with a capital works value of \$2m (outside of the City of Perth), and a reduction in the number of panels, particularly in regional areas.

Further reforms were undertaken in 2020 in response to the State Government’s Action Plan for Planning Reform that has seen the number of panels reduce again from nine (9) to five (5), and a range of process improvements that seek to improve consistency of information and decision making, and enhanced transparency.

The Association undertook a review of the DAP system in 2016 in response to motions from Metropolitan Local Governments calling for the abolition of DAPs, this review found that the DAP system was failing to meet its aims. This review examined the performance of the DAPs system against its aims and objectives across the first five years of its operation. The Association also conducted a survey in 2016 to gather member’s experience of the DAPs system.

COMMENT

The analysis of the DAPs data between 2011-2020 generally shows that the DAP system is still failing to meet the stated aims and objectives of the DAP system.

Since the inception of the DAP system in 2011, the average processing time for development applications (DAs) has increased year on year. For the 2019/20 financial year, the average processing time for DAs was 148 days, with 68% of all proposals taking longer than 90 days, and 41% taking greater than 120 days. By comparison, in the period 2015/16, the average time taken by a DAP to determine a DA was 108 days, with 58% taking longer than 90 days and 28% taking longer than 120 days.

The analysis of DAP assessment timeliness in the DPLH's 2018/19 Annual Report further supports these findings, with only 72.9% of applications in that year processed within statutory timeframes. In comparison 82% of DAs assessed by Local Governments in 2018/19 were assessed within statutory timeframes (in the Local Government Performance Monitoring Report).

The decision to lower the capital works cost for DAP eligibility has led to rapid growth in the number of proposals that fall within the \$2-\$3m range, with these now accounting for 25% of all DAs considered by a DAP. Developments with a lower development value are unlikely to be of a complex or strategic in nature, and are generally service stations, childcare centres and fast food restaurants. Proposals for such uses are over represented in recommendations for refusal by Local Government and in the rates of DAPs deferred decisions.

More detailed analysis of trends can be viewed in Attachment 2. Based on the findings, it is recommended that advocacy be undertaken on the following items:

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 back to \$3 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.

An interactive dashboard of the DAPs decision database will be developed by the Association.

In conclusion, the findings of the 9 year analysis of the DAPs system supports the long held position of the Association that the DAPs system is in need of significant reform for it to achieve its objectives of greater transparency, consistency and efficiency in decision making on significant planning applications.

RECOMMENDATION

GVROC endorse the WALGA recommendation regarding DAPs.

RESOLUTION: **Moved: Moved: Cr Tracey Rathbone - Shire of Coolgardie**
 Seconded: Cr Laurene Bonza - Shire of Dundas

Carried

6.4 Air Handling Discussion Paper Part Two (05-031-01-0001 BW)

WALGA Recommendation

That the submission to the Department of Health in response to the Air Handling discussion paper Part Two be endorsed.

IN BRIEF

- The Public Health Act 2016 is progressing through a five-stage process of implementation and is currently at Stage 4. All regulations from the previous Health Act 1911 will be repealed and replaced with new regulations at the commencement of Stage 5, which is anticipated to commence in 2021.
- The Department of Health previously released a discussion paper on Air Handling where WALGA provided a formal submission supporting the development of new regulations, but noting the need for further detail in the content of the regulations. The Department has now released part two of the discussion paper which provides more detail on the regulations.
- WALGA's Submission discusses Local Government's preference for air handling enforcement to be centralised with the Department of Health, rather than Local Government as the enforcement agency.

BACKGROUND:

Air handling units, which usually have the acronym of A.H.U are found in medium to large commercial and industrial buildings.

Air handling units' condition and distribute air within a building. In essence, they are industrial scale air conditioners, part of a heating, ventilating, and air-conditioning (HVAC) system. They take fresh ambient air from outside, clean it, heat it or cool it, maybe humidify it and then force it through some ductwork around to the designed areas within a building. Most units will have an additional duct run to then pull the used dirty air out of the rooms, back to the AHU, where a fan will discharge it back to atmosphere.

The Department of Health (DOH) released the "Air Handling Discussion Paper Part Two" for public comment; this provides more detail on the proposed new regulations. The major changes outlined in this paper, which relate to Local Government are:

- Registration will remain a requirement; however, it is yet to be determined whether this is maintained at local government or in a centralised register.
- Remove the requirement for Local Government to assess and approve applications in respect of air handling or water systems.
- Require a Risk Management Plan as part of the registration process and provide templates and guidance to enable local government to enforce this requirement.

COMMENT

The report contains technical advice in response to the 19 survey questions. Despite extensive call for comment, Local Governments provided limited feedback. The key points of the submission are:

- While there is a recognised public health risk associated with air handling, it is considered a low priority for the Local Government sector due to the low occurrences of outbreak, relatively low numbers and the requirement for highly specialised technical knowledge that most Local Governments are unlikely to have.
- All feedback received indicated that it would more appropriate for a centralised system for registration and enforcement with Department of Health as the enforcement agency.
- Local Governments would be better placed to provide on-ground support during assessment of an outbreak on a case-by-case basis (as they would do in any case) rather than being an enforcement agency.

RECOMMENDATION

GVROC endorse the WALGA submission to the Department of Health in response to the Air Handling discussion paper Part Two.

RESOLUTION:

Moved: Cr Patrick Hill - Shire of Laverton

Seconded: Cr Tracey Rathbone - Shire of Coolgardie

Carried

6.5 Local Government Review Panel Final Report (05-034-01-0001 TB)

WALGA carried out an extensive consultation process on Phase 2 of the Local Government Act Review in 2018/19, culminating in sector positions being endorsed by State Council in March 2019. This agenda item considers the Local Government Review Panel's recommendations in the context of the sector's current advocacy positions.

The Minister for Local Government has not considered the Panel's recommendations at this stage and has not requested a consultation process on the report. WALGA is taking the opportunity to obtain a sector opinion on the recommendations to provide to the Minister.

The Recommendations below are subject to Zone input and all Zone recommendations will be collated into a consolidated recommendation that will be provided for State Council consideration at its meeting on 2 September 2020.

WALGA Recommendation

1. That WALGA SUPPORT the following Recommendations from the Local Government Review Panel Final Report:

- Recommendations 1, 2, 3, 4, 6 and 7;
- Recommendation 8;
- Recommendation 11;
- Recommendations 12, 13 and 14;
- Recommendation 15;
- Recommendations 16 and 17;
- Recommendation 24;
- Recommendations 25(b) to (f);
- Recommendations 26(b), (d), (e) and (f);
- Recommendations 28, 29, 30, 31, 32(1)(a) to (o) and 32(2)(a);
- Recommendations 33 and 34;
- Recommendations 36 and 37;
- Recommendations 38(c), (d) and (e);
- Recommendations 39, 40, 41(a) to (g) and (i);
- Recommendation 42;
- Recommendations 43 and 44;
- Recommendations 45, 46, 47, 48 and 49;
- Recommendations 50, 51 and 52;
- Recommendation 54;
- Recommendations 55(a), (b), (d), (e), (f), (h) and (i);
- Recommendation 56;
- Recommendation 57;
- Recommendation 59;
- Recommendations 62 and 63;
- Recommendation 64 (c);
- Recommendations 65(a) to (e).

2. That WALGA OPPOSE the following Recommendations from the Local Government Review Panel Final Report:

- Oppose Recommendation 5;
- Oppose Recommendation 19;
- Oppose Recommendations 20, 21 and 27;
- Oppose Recommendations 22 and 25(a);

- Oppose Recommendations 23 and 25(a);
 - Oppose Recommendation 26(c);
 - Oppose Recommendations 32(2)(b) and (c);
 - Oppose Recommendation 35;
 - Oppose Recommendations 38(a) and (b);
 - Oppose Recommendation 41(h);
 - Oppose Recommendations 53(a) and (b);
 - Oppose Recommendations 55 (c) and (g);
 - Oppose Recommendation 58;
 - Oppose Recommendation 60;
 - Oppose Recommendation 61;
3. That WALGA **CONDITIONALLY SUPPORT** the following Recommendations from the Local Government Review Panel Final Report as described:
- Recommendations 9 and 10 and but oppose any proposal to remove the poll provisions (Dadour provisions) in Clause 8, Schedule 2.1 of the Local Government Act;
 - Recommendation 18 and reiterate WALGA's current advocacy position that there be adequate funding of legislative responsibilities assigned to Local Governments in relation to service delivery to remote Aboriginal communities;
 - Recommendation 20, 21 and 27 in support of a broad review of the property franchise including a community consultative process;
 - Recommendation 26(a) conditional upon a review of the relative benefits and merits of changes to reduce numbers of Elected Members on Council be supported, on the following basis:
 - Populations up to 5,000 – 5 to 7 Councillors (incl. President)
 - Populations between 5,000 and 75,000 – 5 to 9 Councillors (incl. Mayor/President)
 - Populations above 75,000 – up to 15 Councillors (incl. Mayor);
4. That WALGA carry out further consultation on the following Recommendations from the Local Government Review Panel Final Report:
- Recommendation 22 – All In/All Out Elections;
 - Recommendations 64(a) and (b) - WALGA
 - Recommendation 65(f) – Transfer of Employee Entitlements

IN BRIEF

- In 2017 the State Government announced a review of the *Local Government Act 1995*.
- Given the breadth of matters covered by the Local Government Act, a staged approach to the review was adopted:
 - Stage one: priority reforms
 - Stage two: wide ranging reforms leading to a new LOCAL Government Act
- This agenda item relates to the Stage 2 reforms. The Department of Local Government carried out a consultation process in 2018/19 where over 3,000 submissions were received.
- The Minister for Local Government appointed an Independent Panel to consider submissions received by the Department of Local Government Sport and Cultural Industries on the review of the Local Government Act in November 2019.
- The Panel's report has made 65 recommendations
- The Panel's report does not represent Government policy; the Minister for Local Government has stated the report will be considered as part of the Act Review process.

- This agenda item seeks a sector position on the recommendations. The recommendations to support, oppose or seek further consultation or information is proposed in this item.

WALGA Process

The Association recognizes the Report is a high level document that is based on identifying principles that will drive the development of a modern Local Government Act. The Association therefore considered the Report from the perspective of the sector's current advocacy positions.

This Item provides commentary on support for recommendations that met or where similar to adopted advocacy positions. This Item also identifies significant departure from advocacy to the extent that support cannot be recommended without further sector consideration of WALGA's position.

Attachment

The Panel's Report can be found [here](#).

Comment

The following comment is a comparison of State Council's record of advocacy on matters raised in the Local Government Review Panel Final Report:

CLEAR LEGISLATIVE INTENT

Recommendations 1 to 7 – Introduction and Role and Functions of Local Government

Local Government Act Reference: Part 1

Recommendation 1 proposes a strategic approach to the consideration of the Report recommendations.

Recommendation 2 introduces a new statement of intent that will explain the legislations purpose:

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.

Recommendation 3(a) to (j) proposes objectives for the legislative framework 'to support Local Governments having the agility, adaptability and flexibility to respond to changing community expectations and technology'.

Recommendation 4 proposes a shorter, less prescriptive Act that minimizes the use of regulations in favour of a principles-based approach.

Recommendation 5 proposes recognition of the diversity of Local Governments however it does not support a multi-tiered (size and scale) legislative framework.

Recommendation 6 proposes upholding the power of general competence predicated in the current Local Government Act.

Recommendation 7 (a) to (i) proposes guiding principles for sustainable, accountable, collaborative and capable Local Governments.

WALGA Comment – WALGA advocacy supports many of the proposals in Recommendations 1 to 7, principally that the Local Government Act Review be based on a 'Principles over Prescription' approach that avoids red tape and 'declutters' the extensive regulatory regime that currently exists¹ (Recommendations 3 and 4) and maintaining the general competence principle² (Recommendation 6) which frees Local Governments to make any decision that does not conflict with statute or common law.

¹ State Council Resolution 06.3/2019 Items 1, 1(b) and 1(e)

² State Council Resolution 06.3/2019 Item 1(a)

Recommendation 7 aligns with WALGA advocacy for enabling legislation.³ Recommendation 5 is unsupportive of WALGA advocacy that promotes a size and scale compliance regime⁴ and it is recommended that WALGA maintain its current advocacy for a Local Government Act that is reflective of the differences and diversity of Local Governments in Western Australia.

WALGA Recommendation: Support Recommendations 1, 2, 3, 4, 6 and 7. Oppose Recommendation 5

AN AGILE SYSTEM

Recommendations 8 to 11 - Structural Reform

Local Government Act Reference: Part 1; Section 2.1(2) and Schedule 2.1, cl. 8

Recommendation 8 proposes to combine the Local Government Grants Commission and Local Government Advisory Board to form a Local Government Commission, with roles assigned that will engender a strategic approach to its operation including monitor the performance and financial health of the sector, the latter in collaboration with the Office of the Auditor General, in addition to traditional functions such as distributing Commonwealth grant funding to Local Governments and boundary changes. Establishment of the Commission under this strategic framework will require skills-based appointments rather than by representation.

Recommendations 9 and 10 supports a legislative framework that is flexible, responsive and resilient and capable of facilitating community participation. There are also specific proposals for structural reform including revised processes for boundary changes and mergers, enhanced model of joint subsidiaries (see Recommendation 14) and provision for the establishment of community boards. Commentary associated with Recommendation 9 sees flaws in the current poll provisions found in Clause 8 of Schedule 2.1 ('Dadour provisions') as being '*...unduly restrictive when Local Governments need to adapt to changing circumstances*'.

Recommendation 11 proposes the potential to establish community boards, with reference to examples of successful international models. While community boards might be formed in response to mergers or for use by large Local Governments to devolve certain responsibilities to community representatives, the proposal makes clear that the overall responsibility for decision-making and authority will rest with the 'parent' Local Government. See also Recommendation 33 'Community Engagement'.

WALGA Comment – WALGA does not have an advocacy position in relation to Recommendation 8 'Local Government Advisory Board' and this may be a matter for sector consultation. Recommendations 9 and 10 propose a legislative framework that has similar themes to WALGA's advocacy that the Local Government Act Review promote a flexible, principles-based legislative framework⁵.

WALGA has a long-standing advocacy position for the retention of the Dadour provisions that give electors a right to demand a poll on recommended amalgamations⁶. This advocacy is tied to the principle that the Dadour provisions are the ultimate expression of community support or rejection of amalgamation proposals. Although not a specific recommendation, the commentary appears contradictory to the general themes expressed throughout the Report for increased opportunities for community consultation⁷. The community board proposal in Recommendation 11 is similar to WALGA advocacy for community engagement that is based on principle rather than prescription⁸.

WALGA Recommendation: Support the general intent of Recommendations 8 and 9. Oppose any proposal to remove the poll provisions (Dadour provisions) in Clause 8, Schedule 2.1 of the Local Government Act. Support Recommendation 11.

³ State Council Resolution 60.3/2019 Item 1(d)

⁴ State Council Resolution 06.3/2019 Item 1(c)

⁵ State Council Resolution 06.3/2019 at 1(b)

⁶ State Council Resolution 06.3/2019; 121.6/2017; 108.5/2014

⁷ For example, Recommendations 9, 10(c), 11, 33, 34, 35

⁸ State Council Resolution 06.3/2019

Recommendations 12, 13 and 14 - Expanded Regional Cooperation

Local Government Act Reference: Part 3, Division 4

Recommendations 12 and 13 promotes expanding opportunities for regional cooperation between Local Governments under improved regional subsidiaries model for shared services, and through a new form of regional authority for specific issues. Recommendation 14 proposes an end to the regional council model in favour of regional cooperation models set out in the previous recommendations.

WALGA Comment – WALGA has a strong advocacy history in support of regional subsidiaries⁹ and is disappointed that the complexity of the existing legislative provisions means that no regional subsidiaries have formed since the Act amendment of 2016. WALGA has independently developed a revised version of regulations that limits unnecessary compliance without diluting transparency and accountability of regional subsidiaries, and therefore welcomes recommendations that will facilitate regional cooperation under this model.

WALGA is cognisant that regional councils are often formed for a singular purpose, most commonly waste management, yet compliance obligations are generally equivalent to that of a Local Government. It is current WALGA advocacy that the compliance obligations of regional councils should be reviewed¹⁰. It appears the recommendations will create a suitable opportunity for the transition of regional councils to a model more suitable to the participant Local Governments.

WALGA Recommendation: Support Recommendations 12, 13 and 14.

Recommendation 15 - State Local Government Partnership Agreement

Local Government Act Reference: Section 3.18

Recommendation proposes a set of principles for intergovernmental relations that makes clear Local Government's role and obligations as part of a broader system of government.

WALGA Comment – WALGA's advocacy is for a communication and consultation protocol that ensures a consultation process precedes regulatory or compliance changes that affect the sector¹¹. The current Partnership Agreement signed in 2017 is currently under review.

Section 3.18 'Performing executive functions' includes apparently similar objectives to Recommendation 15, whereby a Local Government considers matters such as; integration and coordination; avoidance of inappropriate duplication; and effective and efficient management of services and facilities that may also be provided by the State and Commonwealth. This creates adequate space for the general competence principle to apply when a Local Government considers the range and scope of its executive functions, services and facilities.

WALGA Recommendation: Support Recommendation 15.

INCLUSIVE LOCAL DEMOCRACY

Recommendations 16 and 17 - Relations with Aboriginal Peoples and Communities and Recommendation 18 - Service Delivery in Remote Communities

Local Government Act Reference: Not mandated

Recommendations 16 and 17 contemplate a Local Government Act that includes recognition of the unique status of Aboriginal peoples and inclusion of mechanisms for consultation and engagement. Recommendation 18 recommends further consideration of service delivery to remote communities through improved integration with Integrated Planning and Reporting requirements.

⁹ State Council Resolutions 121.6/2017; 106.6/2016; 94.4/2011; 114.5/2010

¹⁰ State Council Resolution 06.3/2019

¹¹ State Council Resolution 2.1/2012

WALGA Comment – WALGA's advocacy recognises and respects Aboriginal cultural practices and places through development of Reconciliation Action Plans¹², and is supportive of efforts to improve the living conditions and governance in Aboriginal communities.¹³

There are 287 discrete Aboriginal communities in WA accommodating approximately 17,000 Aboriginal people spanning 26 Local Government districts. It is therefore inevitable that service delivery considerations are coordinated with State and Federal Government departments and agencies with relevant responsibilities, to mitigate against cost-shifting responsibility to individual Local Governments with limited financial capacity.

WALGA adopted the advocacy position that *'the State Government must not assign legislative responsibilities to Local Governments unless there is provision for resources required to fulfil the responsibilities'*¹⁴.

The commentary associated with Recommendation 18 raises a necessary discussion regarding service delivery to remote Aboriginal communities but lacks detail on how the inter-governmental responsibilities and funding arrangements associated with efficient and timely service delivery can be better achieved.

WALGA Recommendation: Support Recommendations 16 and 17, and reiterate WALGA's current advocacy position in relation to Recommendation 18, that there be adequate funding of legislative responsibilities assigned to Local Governments in relation to service delivery to remote Aboriginal communities.

GVROC Recommendation:

GVROC support rather than WALGA's conditionally support, that there be adequate funding of legislative responsibilities assigned to Local Governments in relation to service delivery to remote Aboriginal Communities.

RESOLUTION: **Moved: Cr Tracey Rathbone - Shire of Coolgardie**
 Seconded: Mr Jim Epis - Shire of Leonora

Carried

Recommendation 19 - Optional Preferential Voting

Local Government Act Reference: Section 4.69, 4.74 and Schedule 4.1

The Report recommends a system of voting that better represents the community's preference for candidates that is not currently delivered by a first past the post system, where a candidate does not require a clear majority of votes to be elected.

WALGA Comment – WALGA's advocacy position supports the current 'first past the post' system. WALGA has previously opposed other forms of voting¹⁵ and the system of proportional preferential voting was briefly introduced to the Local Government Act for one election cycle before being repealed and returned to first past the post voting in 2009¹⁶.

WALGA Recommendation: Oppose Recommendation 19 any alternative voting system in favour of retaining the first past the post system.

Recommendations 20, 21 and 27 - Review of Property Franchise

Local Government Act Reference: Sections 4.30 → 4.35; Section 4.66

Recommendation 20 proposes mandating one vote per person, which is currently prescribed in Section 4.65 albeit in the context of the property franchise. Recommendation 21 proposes discontinuing enrolment entitlement through ownership or occupation of rateable property. Property franchise claims

¹² State Council Resolution 118.5/2012

¹³ State Council Resolution 64.3/2014

¹⁴ State Council Resolution 06.3/2019 at 1(f)

¹⁵ State Council Resolutions 185.2/2007 and 427.5/2008

¹⁶ *Local Government Amendment (Elections) Act 2009*

result in enrolment on the Owner's and Occupiers Roll, forming the second limb of voter entitlement alongside the Residents Roll.

The Expert Panel proposes increasing participation, consultation and involvement of business owners and operators by Local Governments including mechanism such as business advisory groups.

Recommendation 27 recommends consultation be undertaken to determine whether the property franchise continue within the City of Perth, in concert with a review of the *City of Perth Act 2016*. Currently, Part 4 of the Local Government Act applies to the election of council members of the City of Perth, and Section 20 of the *City of Perth Act 2016* applies to the election of the Lord Mayor.

WALGA Comment – WALGA has not adopted an advocacy position relevant to the recommendations.

It is recommended that support be given to a broad consultative process with Local Governments, the business sector, communities and relevant stakeholders to assess whether or not owners and occupiers of rateable property should have a right to vote in a modern democratic electoral system.

WALGA Recommendation: Conditionally Support Recommendations 20, 21 and 27 in support of a review of the property franchise including a broad community consultative process.

Recommendation 22 - All In/All Out 4 Year Election Cycle

Local Government Act Reference: Section 4.5

Recommendation 22 proposes Elected Members be elected at the same time, every four years. This aligns with the election of State Parliamentarians. An acknowledged detriment is the potential loss of corporate knowledge due to non-election of experienced councillors, whereas benefits include potential increased participation by candidates and electors and reduced election costs to Local Governments.

WALGA Comment – There is no WALGA advocacy position relevant to this proposal. It is therefore recommended that the sector be consulted and the resultant views be considered in developing WALGA's advocacy position.

WALGA Recommendation: That the sector be consulted prior to WALGA considering its advocacy position in relation to Recommendation 22.

GVROC Recommendation:

GVROC oppose All in /All out Elections.

RESOLUTION:

Moved: Cr Tracey Rathbone - Shire of Coolgardie

Seconded: Mr Jim Epis - Shire of Leonora

Carried

Recommendations 23, 24 and 25(a) – Conduct of Elections

Local Government Act Reference: Section 4.20 and 4.61

Recommendation 23 is that the Western Australian Electoral Commission (WAEC) take responsibility for all Local Government elections, with the consequence that a Local Government CEO will no longer be the Returning Officer of first resort. Recommendation supports electronic/online voting. Recommendation 25(a) adds to the currently mandated role of the WAEC by proposing all elections are by postal voting, ending the option on in-person voting.

WALGA Comment – WALGA advocates for an end to the WAEC's enshrined monopoly on the conduct of postal elections by amending legislation to permit third parties to be service providers of postal elections¹⁷.

WALGA Recommendation: Support Recommendation 24; Oppose Recommendations 23 and 25(a); WALGA reiterate its position that third parties be permitted as service providers for postal elections.

¹⁷ State Council Resolution 06.3/2019

Recommendations 25(b) to (f) - Other Election Proposals

Recommendation (b) proposed the extension of the election process to optimise participation. Recommendation 25(c) 'Candidate Nomination Information' is adapted from a model similar to Victorian legislation that requires candidates to respond to a set of questions prescribed by regulation in the form of a statutory declaration. Recommendation 25(d) – Caretaker Policies are increasingly evident in Local Government; in 2016, WALGA committed to develop the currently-available template Caretaker Policy¹⁸.

Recommendation 25(e) seems to reflect current legislation¹⁹ and Recommendation (f) identifies the prospect that potential donations can be crowdfunded in the absence of a gift declaration and this is likely to undermine integrity of the election process.

WALGA Recommendation: Support Recommendations 25(b) to (f) **Recommendation 26(a) - Elected Member Numbers Based on Population**

Local Government Act Reference: Section 2.17

The Report proposes the following structures for Elected Member positions on Council:

- (i) Population up to 5,000 – 5 Councillors (incl. President)
This proposal will capture approximately 81 Local Governments (1 metro, 80 non-metro)
- (ii) Population between 5,000 and 75,000 – 5 to 9 Councillors (incl. Mayor/President)
This proposal will capture approximately 47 Local Governments (19 metro, 28 non-metro)
- (iii) Population above 75,000 – 9 to 15 Councillors (incl. Mayor)
This proposal will capture approximately 11 Local Governments (10 metro, 1 non-metro)

WALGA Comment – WALGA adopted an advocacy position in 2011 opposing a previous proposal to reduce the number of Elected Members to between 6 and 9²⁰. At the time, WALGA requested a proper examination of the relative benefits and merits of any proposal to reduce numbers of Elected Members be conducted. There is still merit in reviewing numbers on Council and the proposal is worthy of consideration although limiting populations of up to 5,000 to a fixed number of 5 Councillors lacks the flexibility that is easily resolved by extending the maximum number of Councillors to 7.

WALGA Recommendation: Conditionally Support Recommendation 26(a) conditional on a review of the relative benefits and merits of changes to reduce numbers of Elected Members on Council be supported, on the following basis:

- (i) Populations up to 5,000 – 5 to 7 Councillors (incl. President)
- (ii) Populations between 5,000 and 75,000 – 5 to 9 Councillors (incl. Mayor/President)
- (iii) Populations above 75,000 – up to 15 Councillors (incl. Mayor)

GVROC Recommendation:

- GVROC support rather than WALGA's conditionally support, WALGA's suggested numbers of Elected Members on Council on the following basis:
 - Populations up to 5,000 – 5 to 7 Councillors (incl. President)
 - Populations between 5,000 and 75,000 – 5 to 9 Councillors (incl. Mayor/President)
 - Populations above 75,000 – up to 15 Councillors (incl. Mayor).

RESOLUTION: **Moved: Cr Tracey Rathbone - Shire of Coolgardie**
 Seconded: Cr Ian Mickle - Shire of Esperance

Carried

¹⁸ State Council Resolution 16.1/2016

¹⁹ Regulations 30B and 30CA of the *Local Government (Elections) Regulations*

²⁰ State Council Resolution 08.1/2011 – 'Reject the reduction in the number of Elected Members to between 6 and 9, and request the Minister engage the Department of Local Government in research to determine the relative benefits and merits of the proposal prior to further discussion with the Local Government sector'

Recommendation 26(b) to (f) – Wards, Mayor/President Election and Term Limits

Local Government Act Reference: Part 2 and Part 4; Schedule 2.2

Recommendation 26 (b) to (f) proposes a number of adjustments associated with Recommendation 8 - Local Government Advisory Board/Local Government Commission. These proposals include:

- Recommendation 26(b) - system of ward boundary reviews;
- Recommendation 26(c) - discontinuance of ward boundaries for Band 3 and 4 Local Governments;
- Recommendation 26(d) - phasing in of proposals under Recommendation 26(a);
- Recommendation 26(e) - continuance of two year election cycle for Council-elected Mayors/Presidents; and
- Recommendation 26(f) - no limits to be placed on terms Elected Members and elected Mayor/President can serve.

WALGA Comment – Recommendation 26(e) aligns with WALGA advocacy that Local Governments retain the right to determine whether the Mayor / President will be elected by the Council or the community.²¹ WALGA has not adopted advocacy positions specific to the remaining proposals however Recommendation 26(c) conflicts with the general competence principle and the current self-determination inherent in the current ward review system. WALGA supports the ability for all Local Governments, not merely those in Band 3 and 4, to consider the merits of its system of representation and election on the basis of community of interest; physical and topographical features; demographic trends; economic factors and the ratio of Councillors to electors in the various wards.²²

WALGA supports the general intent of Recommendation 8 and similar support is proposed to the exclusion of Item (c).

WALGA Recommendation: Support Recommendations 26(b), (d), (e) and (f). Oppose Recommendation 26(c).

Recommendations 28 to 32 - Redefinition of Roles and Responsibilities

Local Government Act Reference: Sections 2.7, 2.8, 2.10 and 5.41

Recommendation 28 sets the scene for Recommendations 29 to 32 by suggesting 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

WALGA Comment – Recommendations 28, 29, 30 and 31 are supported. Recommendations 32(1)(a) to (o), and 32(a) are supported. WALGA opposes Council involvement in matters relating to senior employees²³ as this conflicts with the role of the CEO as employing authority of all employees under Sec. 5.41(g) of the Local Government Act.

Recommendations 32(2)(b) and (c) are opposed. These recommendations seek to perpetuate ongoing Council involvement in matters relating to senior employees. WALGA points out that Regulation 9(1) of the *Local Government (Rules of Conduct) Regulation* was amended on 15 August 2020 to remove reference to Councillor involvement in administration where authorised by the Council to undertake that task.

²¹ State Council Resolution 06.3/2019; 121.6/2017

²² *How to conduct a review of wards and representation for local governments with and without a ward system* – Department of Local Government, Sport and Cultural Industries - October 2017, Page 6

²³ State Council Resolution 123.6/2017

This amendment directly relates to past findings such as the City of Canning Inquiry 2014, where the Inquirer noted this Regulation was used to involve Council in a matter directly related to the CEO's employing authority functions:

*'Reg. 9(1) of the Local Government (Rules of Conduct) Regulations 2007 is a rule of conduct, and is not, by itself, a source of authority for intervention by the Council in Administration activities.'*²⁴

WALGA Recommendation: Support Recommendations 28, 29, 30, 31, 32(1)(a) to (o) and 32(a). Oppose Recommendations 32(2)(b) and (c) to conclusively ensure that a Council cannot involve itself in the functions of the Chief Executive Officer as set out in Section 5.41 of the Local Government Act.

Recommendations 33 and 34 – Community Engagement and Governance

Local Government Act Reference: Sections 2.7, 2.8, 2.10 and 5.41

Recommendation 33 proposes a range of community engagement principles, and Recommendation 34 proposes a Community Engagement Charter be required as a mechanism for guiding and enhancing community participation in local decision-making.

WALGA Comment – WALGA advocates that Local Governments adopt a Community Engagement Policy, with each Local Government to implement the most appropriate means of engagement²⁵.

WALGA Recommendation: Support Recommendations 33 and 34.

Recommendation 35 – Annual Engagement with Electors

Local Government Act Reference: Sections 5. 27

Recommendation 35 proposes a lesser version of the opportunity already available to electors but poorly attended historically. This raises the prospect that, in the absence of the opportunity to move motions at meetings, the proposed annual meeting will follow a similar trend.

WALGA Comment – WALGA advocates that Elector's General Meetings should not be compulsory, on the basis that there is adequate opportunity for the public to participate in the affairs of the Local Government through attendance at Council Meetings, participating in public question time, requesting special electors' meetings etc²⁶.

WALGA Recommendation: Oppose Recommendation 35 and seek amendment to the Act to ensure Electors' General Meetings are not compulsory.

SMART PLANNING AND SERVICE DELIVERY

Recommendations 36 and 37 - Enhanced Integrated Planning and Reporting

Local Government Act Reference: Section 5.56; Local Government (Administration) Regulations Part 5, Division 3

Recommendation 36 and 37 propose enhanced Integrated Planning and Reporting principles and provisions and that Audit, Risk and Improvement Committee monitor performance against baseline measures including financial management, service delivery and community well-being.

WALGA Comment – WALGA has supported the Integrated Planning and Reporting framework dating back to the Systemic Sustainability Study of 2008 and broadly supported the regulatory amendments introduced in 2011.

²⁴ Report of the Panel of Inquiry into the City of Canning, May 2014 at 9.53

²⁵ State Council Resolution 06.3/2019

²⁶ State Council Resolution 06.3/2019; 121.6/2017; 09.1/2011

WALGA Recommendation: Support Recommendations 36 and 37

Recommendations 38(a) and (b) – Minimum Service Levels

Local Government Act Reference: Section 3.18

Recommendations 38(a) and (b) are separated for independent consideration due to the potential for extensive consequences to the Local Government sector. Recommendation 38(a) proposes a minimum level of service delivery established as a statutory obligation, and Recommendation 38(b) proposes a qualified reserve power whereby the Minister for Local Government responds to a failure to deliver the minimum services by issuing an enforceable direction.

WALGA Comment: WALGA's closest advocacy positions to Recommendation 38 is 'principles over prescription' together with upholding the General Competence Principle²⁷. Recommendation 38(a) appears intended to create a commonality of service delivery that is potentially measurable across the sector, with service delivery outcomes either legislated or directed by the Minister for Local Government. This approach is anathema to the General Competence Principle that permits Local Governments to independently determine appropriate levels of service.

It is noted that continuance of the General Competence Principle is supported in Recommendation 6, but the contradictory nature of Recommendation 38(a), that determination of some services will be taken out of the hands of Local Governments and their communities, is neither identified nor examined in the Report.

Recommendation 38(b) is intended as a qualified reserve power however the associated commentary includes reference to directions relating to a natural disaster or a pandemic. The Local Government sector's experiences during the COVID-19 pandemic did not bring to light any deficiency in the capacity of the State Government to manage issues arising from a pandemic that would require the Minister for Local Government to assume emergency direction powers – see also Recommendation 58. WALGA advocates that the State Government ensure there is proper provision for resources required to fulfil any legislated responsibility²⁸.

WALGA Recommendation: Oppose Recommendation 38(a) and (b) and reiterate support for Recommendation 6 'General Competence Principle'.

Recommendations 38(c), (d) and (e) – Service Levels and IPR

Local Government Act Reference: Section 5.56; Part 5, Division 3 Local Government (Administration) Regulations

Recommendations 38(c), (d) and (e) propose a range of measures to align financial sustainability principles and services and programs to the integrated planning and reporting framework, and to conduct regular service delivery reviews including community consultation.

WALGA Comment: WALGA supported the introduction of the Integrated Planning and Reporting 'planning for the future' provisions and the above recommendations broadly align with current level of maturity in community consultation processes and examination of service delivery leading to the development of Strategic Community Plans and Corporate Business Plans.

WALGA Recommendation: Support Recommendations 38(c), (d) and (e)

Recommendations 39 to 42 - Local & Joint Subsidiaries

Local Government Act Reference: Part 3, Division 4

Recommendation 39 proposes Integrated Planning and Reporting frameworks be cognisant of State Government plans when developing strategies for economic development.

²⁷ State Council Resolution 06.3/2019 Items 1(a) and (b); 120.6/2017

²⁸ State Council Resolution 06.3/2019 Item 1(f)

Recommendation 40 proposes the new Local Government Act provide freedom for commercial activities, linking with Recommendation 41 which, whilst recommending against a beneficial enterprise model, makes positive recommendations for the support of commercial activities under an updated subsidiary model required to observe competitive neutrality principles. Recommendation 42 supports the use of regional subsidiary models unless qualified by the requirement to form an entity where the Local Government is not the dominant party.

WALGA Comment – It is noted that Recommendation 41(a) to (i) details the elements required for a flexible subsidiary model, including a proposal under 41(h) that employees of a subsidiary fall within the jurisdiction of the WA Industrial Relations Commission. This conflicts with current WALGA advocacy that such a transfer is conditional upon modernisation of the State system to be more consistent with the Federal industrial relations system²⁹.

WALGA has a long-held advocacy position for the creation of Beneficial Enterprises³⁰ with support for a vehicle for commercial activity ('Council-controlled organisations') dating back to WALGA's Systemic Sustainability Study 2008³¹.

WALGA Recommendation: Support Recommendations 39, 40, 41(a) to (g) and (i) and 42. Oppose Recommendation 41(h).

Recommendations 43 and 44 - Modernise Financial Management

Local Government Act Reference: Part 6; Local Government (Financial Management) Regulations

Recommendation 43 proposes a modern set of principles to modernise financial management.

Recommendation 44 proposes a selection of measures in support of sound financial decision-making.

WALGA Comment – WALGA supports the general intent of the recommendations, aligning as they do with a number of advocacy positions³² including:

- Conduct a complete review of financial management provisions
- Freehold land be used to secure debt
- Enable Building Upgrade Finance

WALGA notes that the Report of the Inquiry into the City of Perth makes a number of recommendations³³ relating to financial management of all Local Governments including:

- Recommendation 188 : Establishment of Financial Management Instructions;
- Recommendation 189 : The 'WA Accounting Manual' dated September 2012 be reviewed and updated;
- Recommendation 190 : The format of format of the annual budget and financial report be prescribed for consistency across local government'

WALGA Recommendation: Support Recommendations 43 and 44

Recommendation 45 to 49 - Procurement

Local Government Act Reference: Section 3.57; Local Government (Functions and General) Regulations Part 4

Recommendation 45 proposes procurement thresholds, rules and policies be more closely aligned with the State Government. Recommendation 46 proposes a model Procurement Policy be adopted by all Local Governments. Recommendations 47 and 48 propose enhancing panel contracts and encouraging local business to register as local content providers. Recommendation 49 introduces the prospect that breaches of procurement rules be referred to an Independent Assessor for investigation.

²⁹ State Council Resolution 78.5/2018

³⁰ State Council Resolutions 06.3/2019; 121.6/2017; 107.5/2010; 114.5/2010

³¹ *The Journey: Sustainability into the Future* - Action 21, Page 49

³² State Council Resolution 06.3/2019

³³ City of Perth Inquiry Report, Volume 3, Page 83

WALGA Comment – WALGA has consistently supported the alignment of the tender threshold with that of the State Government³⁴ 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. These proposals will also assist recent endeavours of both State and Local Government to enhance opportunities for local and regional suppliers to access contracts and boost local economies in the post COVID-19 recovery phase.

WALGA Recommendation: Support Recommendations 45, 46, 47, 48 and 49

Recommendations 50, 51 and 52 - Rating and Revenue

Local Government Act Reference: Part 6; Local Government (Financial Management) Regulations

Recommendation 50(a) opposes rate capping and 50(c) proposes a broad review of rate exemptions available under Section 6.26(2) of the Local Government Act in recognition of the limitation this places on capacity to raise revenue. Further proposals include development and publication a Local Governments rates and revenue strategies (50b) and a review by the Valuer General of rating methodologies (50 g).

Recommendation 51 aligns with the current provisions in Sec 6.17 of the Local Government Act which requires the setting of fees and charges to consider; the cost of providing the service; importance of the service to the community; and the price of alternative providers might charges for similar service.

Recommendation 52 recommends cost recovery principles be adopted when Local Government and State Government set fees and charges.

WALGA Comment – WALGA's advocacy opposes rate capping³⁵ and there is long-standing support for a review of general rate exemption provisions and charitable land use rate exemptions³⁶ initially examined by the Local Government Advisory Board in 2005³⁷. WALGA also supports a review of the basis of rates³⁸ and this may be incorporated in Recommendation 50(g).

WALGA's advocacy position in relation to Recommendation 52 is that Local Government to be empowered by legislation to set fees and charges for all services it provides in favour of the current arrangement whereby many fees and charges are determined by State Government legislation³⁹.

The Office of the Auditor General regularly audits State Government fee-setting in line with Government policy:

It is general government policy that fees should fully recover the cost of providing related services. If fees under-recover costs, this could mean the general public is subsidising customers, while over-recovery could mean customers are being charged too much. Any under or over-recovery of costs requires approval from the Minister or authority from legislation, respectively.⁴⁰

WALGA's long-held concern is that the State Government's policy is inadequately applied to Local Government service delivery (town planning fees, building fees, dog and cat registration etc) and Local Governments experience a net revenue loss due to inherent issues of:

- Lack indexation
- Lack from regular review
- Lack a transparent methodology in setting of fees and charges

³⁴ State Council Resolution 06.3/2019

³⁵ State Council Resolution 06.3/2019; 96.6/2015; 118.7/2015 incl. Rate Setting Policy Statement

³⁶ State Council Resolution 06.3/2019; 122.6/2017; 118.7/2015; 5.1/2012

³⁷ Local Government Advisory Board's Inquiry into the Operation of Section 6.26(2)(g) of the Local Government Act 1995 – November 2005

³⁸ State Council Resolution 06.3/2019; 123.6/2017

³⁹ State Council Resolution 06.3/2019; Metropolitan Local Government Reform Submission 2012

⁴⁰ Report 13 'Fee-setting by the Department of Primary Industries and Regional Development and Western Australia Police Force' December 2019 - Executive Summary, Page 3

WALGA Recommendation: Support Recommendations 50, 51 and 52; continue to advocate for legislation that empowers Local Governments to set fees and charges for all services it delivers.

ACCOUNTABILITY, SELF-REGULATION AND INTEGRITY

Recommendations 53 and 54 - Accountability and Self-Regulation

Local Government Act Reference: Part 7 (Audit); Local Government (Audit) Regulations

Recommendation 53 recommends an expanded Audit, Risk and Improvement Committee with Recommendation 53(a) and (b) proposes that skills-based independent members hold the majority of numbers, and the Chair, of the Committee, and regional committees be formed to offset potential increased costs.

Recommendation 54 proposes an expanded role for the Audit, Risk and Improvement Committee including an audit plan approach focussing on compliance, risk (including procurement), financial management, fraud control, governance and delivery of plans.

WALGA Comment – WALGA's advocacy supported the Office of the Auditor General WA conducting Local Government finance and performance audits⁴¹. The self-regulation themes within Recommendation 54 are supported, however Recommendation 53(a) and (b) proposals for a majority of independent members, potentially drawn from a panel of approved suppliers or shared through regional cooperation arrangements, does not include a benefits analysis and there is no evidence the regional cooperation approach will lessen internal audit costs particularly for rural and regional Local Governments.

WALGA Recommendation: Oppose Recommendation 53(a) and (b). Supports Recommendation 54.

Recommendation 55 – Integrity and Governance

Local Government Act Reference: Part 7 (Audit); Local Government (Audit) Regulations

Recommendation 55(a) to (i) propose a range of governance measures to improve integrity, oversight and public participation.

WALGA Comment – Recommendations (f), (g) and (h) align with the Department of Local Government, Sport and Cultural Industries current development of Mandatory CEO Standards for Recruitment, Performance Review and Termination (associated with the *Local Government Amendment Legislation Act 2109*) and it is likely this body of work will continue to be dealt with independent of this Report. WALGA's current advocacy position includes opposition to item (g), the mandatory readvertising of the CEO position upon completion of two five year terms.⁴²

The proposal under item (c), permitting elected members unable to maintain impartiality to withdraw from a meeting and not vote, is clearly unworkable where the meeting quorum comes under threat and is opposed.

WALGA Recommendation: Support Recommendation 55(a), (b), (d), (e), (f), (h) and (i). Oppose Recommendations 55 (c) and (g).

Recommendation 56 – Training and Development

Local Government Act Reference: Section 5.126 and Regulations 35 and 36 of the Local Government (Administration) Regulations

Recommendation 56 updates the recently introduced Elected Member training provisions.

WALGA Recommendation: Support Recommendation 56

⁴¹ State Council Resolution 7.1/2018

⁴² State Council Resolution 145.7/2019

Recommendation 57 and 58 – Early Intervention Framework

Local Government Act Reference: Part 8

Recommendation 57 proposes an early intervention framework whereby the Department of Local Government, Sport and Cultural Industries works with Local Governments to improve performance, governance and compliance. Recommendation 58 proposes the Minister for Local Government should have powers to direct Local Governments and make declarations during a declared state of emergency.

WALGA Comment – WALGA does not have advocacy positions in relation to either recommendation. Recommendation 38(b) introduced commentary on this topic and it is reiterated the Local Government sector's experiences during the COVID-19 pandemic did not bring to light any deficiency in the capacity of the State Government to manage issues arising from the pandemic that would require providing the Minister for Local Government with additional emergency powers. A matter of this significance should be considered in the broad context of the State Government's assessment of its capacity to respond during the present state of emergency period, rather than dealt with piecemeal in a review of the Local Government Act.

WALGA Recommendation: Support Recommendation 57. Oppose Recommendation 58.

Recommendations 59 and 60 – Office of the Independent Assessor

Local Government Act Reference: Part 8; Section 5.41

Recommendation 59 (a) to (f) proposes conditions upon which an Office of the Independent Assessor might be established, including taking the functions of the Local Government Standards Panel.

Recommendation 60 proposes consideration of managing complaints by Elected Members against a CEO or other senior officer, with potential complaints be investigated by the Independent Assessor.

WALGA Comment – WALGA has a long-standing advocacy position for improvement to the operational efficiency of the Local Government Standards Panel.⁴³

The proposal in Recommendation 59 to create the Office of the Independent Assessor resonates in some regard with Recommendation 323, 324 and 325 of the Report of the Inquiry into the City of Perth.⁴⁴

Recommendation 60 has the potential to overlay with other statutory provisions relating to employment law, and it is unclear whether the Report has considered the appropriateness of a proposal which will permit individual Elected Members, rather than the Council acting collectively as the employing authority, to instigate actions relating to a CEO's performance. Similarly, it is current practice that all complaints relating to other local government employees fall within the function of the CEO as the employing authority under Section 5.41(g) of the Act.

WALGA Recommendation: Support Recommendation 59. Oppose Recommendation 60.

OTHER MATTERS

Recommendation 61(a) and (b) – Classification Bands

Local Government Act Reference: Schedule 2.2

Recommendation 61(a) proposes the principles for determining classification and for Local Governments should be set out in the new Act, and Recommendation 61(b) states that once established they be utilized by the Salaries and Allowances Tribunal to determine Councillor and CEO allowances and remuneration.

⁴³ State Council Resolution 43.2/2011

⁴⁴ City of Perth Inquiry Report Recommendations Pp. 108 - 110

WALGA Comment – WALGA has a long-standing advocacy position in relation to appropriate levels of remuneration for Elected Members.⁴⁵ The commentary accompanying Recommendation 61(b) informs the rationale for removing the classification band process from the *Salaries and Allowances Act 1975* to the *Local Government Act 1995* is to provide a broader application of the band system to other matters including whether a Local Government should have wards, This ties Recommendation 61(a) and (b) to Recommendation 26(c) that has the intent of discontinuing wards in Band 3 and 4 Local Government, which WALGA does not support.

WALGA Recommendation: Oppose Recommendation 61.

Recommendations 62 and 63 - Harmonisation of Local Laws

Local Government Act Reference: Section 3.5 to 3.17

Recommendations 62 and 63 propose increased harmonisation of Local Laws by developing model Local Laws and deemed provisions, with Local Government responsible for justifying any departure or variation from the models or provisions.

WALGA Comment – WALGA advocates for improvements to the current local law-making process and independent local law scrutiny conducted by Parliament's Delegated Legislation Committee⁴⁶. Consistent Models and deemed provisions will greatly enhance certainty in the local law-making process whilst ensuring the right for Local Governments to argue for and justify departures and variances that suit local conditions, issues and needs.

WALGA Recommendation: Support Recommendations 62 and 63

Recommendation 64 - WALGA

Local Government Act Reference: Section 9.58

Recommendation 64 recommends the following in respect to WALGA;

- (a) WALGA not be constituted under the new Act;
- (b) A transition period is provided to ensure continuity in operations of WALGA while it is re-formed under other legislation; and
- (c) Recognition of WALGA's Preferred Supplier Program and mutual insurance coverage in the legislation should be accompanied by appropriate oversight measures, including auditing.

WALGA Comment – From the Local Governments sector perspective it is critical to retain WALGA's services status in the legislation and regulations relating to the Preferred Supplier Program and the Insurance service, as these programs provide significant savings for the Local Government sector.

In respect to whether WALGA's establishment is referenced in the Local Government Act, it is appropriate for the Association to obtain legal advice on any negative consequences this may have.

WALGA Recommendation: Support recommendation 64 (c) for WALGA services retention in the Local Government Act relating to the Preferred Supplier Program and the Local Government Insurance Service. Further advice required in respect to recommendation 64 (a) and (b)

Recommendation 65 – Operational Provisions

Local Government Act Reference: Various

Recommendation 65 (a) to (f) proposes a number of operational matters for future consideration.

⁴⁵ State Council Resolution 06.3/2019; WALGA Submission to the Salaries and Allowances Tribunal – 21 February 2019

⁴⁶ State Council Resolution 06.3/2019

WALGA Comment – The proposals align with WALGA’s advocacy to the extent that the new Local Government Act be based on a flexible, principles-based legislative framework that avoids red tape and ‘de-clutters’ the current extensive regulatory regime.⁴⁷

There is general support is therefore for these operational provisions, however Recommendation 65(f) – transfer of employee entitlements across all three levels of Government – though well intended is highly likely to raise extensive legal, industrial and financial ramifications prior to being capable of implementation. Further research and industrial consideration is therefore inevitable.

WALGA Recommendation: Support Recommendations 65(a) to (e). Conditionally support Recommendation 65(f) pending further research and industrial consideration.

GVROC RECOMMENDATION

GVROC support the WALGA recommendations 1 through 4 as presented in this item, with the following amended resolutions regarding:

- Recommendation 18 – GVROC support rather than conditionally support, that there be adequate funding of legislative responsibilities assigned to Local Governments in relation to service delivery to remote Aboriginal Communities.
- Recommendation 26(a) – GVROC support rather than conditionally support, WALGA’s suggested numbers of Elected Members on Council on the following basis:
 - Populations up to 5,000 – 5 to 7 Councillors (incl. President)
 - Populations between 5,000 and 75,000 – 5 to 9 Councillors (incl. Mayor/President)
 - Populations above 75,000 – up to 15 Councillors (incl. Mayor).
- Recommendation 22 – GVROC Oppose All in /All out Elections.

RESOLUTION: **Moved: Cr Tracey Rathbone - Shire of Coolgardie**
 Seconded: Cr Timothy Carmody - Shire of Wiluna

Carried

⁴⁷ State Council Resolution 06.3/2019 Items 1(b) and (e)

7. Review of WALGA State Council Agenda - Matters for Noting/Information

7.1 COVID-19 Pandemic - Update

Please note: This report provides a COVID-19 update since 3 August 2020.

Refer to Attachment 2 - State Council Agenda Item 6.1 and also Attachment 2.2 regarding additional information to be read in conjunction with this update.

WALGA Recommendation

That this updated COVID-19 information be noted.

IN BRIEF:

1. At the time of writing the COVID-19 pandemic in WA remains under control, with only 5 active cases and no evidence of community transmission.
2. Based on health advice Phase 5 of the State Government Roadmap has been further delayed until at least 24 October 2020, and the Perth Royal Show has been cancelled.
3. Widespread, unknown source community transmission in Victoria has resulted in the reimposition of Stage 3 and 4 restrictions in that State and a further downward revision in GDP and national employment forecasts.
4. Learnings from Victoria are informing the WA Government's outbreak preparedness.
5. State Recovery Plan announcements are being made progressively, with region plans released for the Kimberley, Wheatbelt, Great Southern, Mid-West, Gascoyne, Peel and Goldfields-Esperance.
6. WALGA has undertaken local economic impact analysis for each Local Government Area to assist in operational and strategic planning decision making. Each Local Government CEO and Mayor or President has been provided with a tailored analysis pack for its area. A tailored report your Regional Development Area is attached.

BACKGROUND:

COVID-19 in WA

The COVID-19 pandemic in Western Australia remains under control with only 5 active cases (all in quarantine) and no evidence of community transmission. Notwithstanding this, the State Government is continuing to prepare for outbreaks or a 'second wave' of COVID-19, with learnings from the situation in Victoria informing that process.

Further restrictions on entry to Western Australia have also been implemented, including a requirement for truck drivers entering Western Australia to show evidence of having received a negative COVID-19 test result in the previous five days or to take a test within 48 hours.

On 18 August the Premier announced a third delay to the commencement of Phase 5 of the roadmap to easing restrictions, based on the latest health advice. Phase 5, which was originally scheduled to commence on July 17 now has a tentative start date of Saturday 24 October. A final decision on this timeline will be made earlier in October.

The Premier also announced the cancellation of the Royal Show due to the health risk posed by the large number of visitors and indoor venues, as well as number of high frequency contact surfaces that, if somehow COVID-19 was present, would lead to a significant outbreak.

State Recovery Plan

Further initiatives have been announced as part of the State COVID-19 Recovery Plan, including for tourism, local manufacturing, infrastructure, health, police, schools and TAFE, renewable energy, sport, culture and the arts. Region plans have been released for the Kimberley, Wheatbelt, Great Southern, Mid-West, Peel, Gascoyne and Goldfields-Esperance. Information on these and other Recovery Plan announcements can be found at <https://inthisitogether.wa.gov.au/>.

COVID-19 Economic Impact

The Victorian shutdown has seen further downward revisions to GDP and employment forecasts provided by the Commonwealth Treasurer in the Economic and Fiscal Update on 23 July:

- Real GDP in the September quarter will shrink by between \$7 billion and \$9 billion
 - 80% of this economic cost, \$6 - \$7 billion, is expected to be in Victoria;
 - the remainder arises from the broader impact on confidence in other states and supply chain impacts from the shutdown of certain industries in Victoria.
- The combined effect on GDP of the previous Victorian restrictions through the September quarter are expected to be in the order of \$10 - \$12 billion, detracting 2.5% from quarterly real GDP growth.
- National unemployment is expected to exceed the forecast peak of 9.25% and may instead peak closer to 10%.
- The effective rate of unemployment (which accounts for people not looking for work and those on zero hours) which had fallen to just over 11% will increase again to high 13%.

Australian Bureau of Statistics figures indicate that during the months of June and July, the WA economy recovered almost half of the 95,000 jobs lost due to the COVID-19 pandemic.

WALGA COVID-19 Local Economic Impact Analysis

WALGA has prepared tailored economic impact reports for each Local Government in WA to assist them as they develop COVID-19 recovery plans and initiatives. Each Local Government has been provided analysis on:

- How employment in different industries has been impacted in their Local Government Area since the start of the pandemic;
- The proportion of their Local Government Area's labour force that were accessing the JobSeeker subsidy in March, April, May and June;
- The proportion of organisations within their Local Government Area that were accessing the JobKeeper subsidy in April and May; and
- The overall economic impact of COVID 19 in their Local Government Area, relative to other Local Governments Areas and regions.

This information will assist Local Governments to:

- Inform their response and recovery activities and stimulus measures to ensure they are appropriately targeted;
- Anticipate and plan for the financial impact of ratepayers (residents and businesses) requiring access to hardship measures for their rates, or for potential changes in fees and services revenue; and
- Engage key stakeholders, such as regional Chambers of Commerce, businesses, community groups and not for profits and other key bodies and institutions, so that these organisations can use the information within this report as an input into their own decision making and planning.

A tailored report for your Regional Development Area is attached (Refer to **Attachment 2.2**).

WALGA will continue to update this analysis as new data is released and is seeking to partner with State Treasury to further inform and broaden this analysis by incorporating other key economic and social data.

WALGA's analysis has also been provided to the State Recovery Controller, Sharyn O'Neill and the Minister for Local Government. WALGA understands that the Minister will table a summary of this analysis for consideration at an upcoming meeting of the State Disaster Council, chaired by the Premier.

RECOMMENDATION:

GVROC note the WALGA COVID-19 Pandemic update and tailored report for the Goldfields Esperance Region.

RESOLUTION:

Moved: Cr Tracey Rathbone - Shire of Coolgardie

Seconded: Cr Patrick Hill – Shire of Laverton

Carried

7.2 Planning and Development Amendment Act 2020 (06-03-01-0001 VJ)

WALGA Recommendation

That the advocacy undertaken on the Planning and Development Amendment Act 2020 be noted.

IN BRIEF:

- The Planning and Development Amendment Bill 2020 was passed by Parliament in June 2020, receiving Royal Assent on the 7 July 2020.
- The 26 amendments include a new development assessment pathway to the WAPC, establishment of a Special Matters Development Assessment Panel, and changes to the Planning and Development Act 2005 that were foreshadowed in 2013.
- Regulations are currently being drafted by the Department of Planning Lands and Heritage.

BACKGROUND:

In 2013, State Council deliberated on the proposed reforms to the *Planning and Development Act 2005* (PD Act) (Resolution 274.5/2013).

On 20 May 2020, twenty six proposed amendments to the PD Act were tabled in Parliament without formal consultation with the Local Government sector. The two broad aims of the *Planning and Development Amendment Bill 2020* were to: -

1. Provide an urgent response to the COVID-19 pandemic, by:
 - facilitating significant development projects;
 - removing regulatory road blocks and significantly reduce red tape;
 - strategically refocus what urban and regional planning considers important;
 - enhancing how development contribution funds are utilised for community benefit; and
 - providing for a more robust planning environment with a higher degree of professionalism and enforcement capability.
2. Implement a comprehensive series of public, stakeholder and specialist reviews of the planning system, in order to create a better planning system, which:
 - creates great places for people;
 - is easier to understand and navigate; and
 - is consistent and efficient.

The Bill's Explanatory Memorandum explained that these aims would be implemented in two phases of legislation, the *Planning and Development Amendment Bill 2020* as the first phase, implementing those aspects of planning reform with most immediate impact on the planning framework, as a prioritised COVID-related response. The second phase would be facilitated by a second Bill in the near future.

A Special State Council meeting was held on the 25 May 2020 to discuss the proposed Bill and the following resolution was made (RESOLUTION 85.4/2020):

Notwithstanding the need for Planning Reform and recognising the proposed impacts the *Planning and Development Amendment Bill 2020* has on local planning, WALGA does not support the Bill in its current form and;

That WALGA;

1. Advocate to the State Government for extensive consultation on the proposed legislation, noting:
 - a) Without due consideration of the full impact of the proposed 26 amendments, there is the potential for unintended consequences due to the haste in the drafting of this Bill;
 - b) The Bill provides unfettered powers to the WA Planning Commission, circumventing meaningful involvement of local communities in the planning process;
2. Writes to the Premier and Minister for Local Government to raise the sector's concerns with the Government's actions in setting aside the State and Local Government Partnership

Agreement for the fast tracking of proposed legislative reforms under the cover of COVID-19 recovery.

3. Requests member Local Governments to inform the communities of possible impacts of the proposed legislation on local planning decisions.
4. Write to all non-Government Upper House members to discuss the sectors concerns.

The proposed Bill was passed by Parliament on the 23 June 2020, and Royal Assent was received on the 7 July 2020.

COMMENT:

Discussions with members raised two particular concerns, which included:

- Allowing the State Government to assess and approve certain development applications for an 18 month period, bypassing both DAP and Local Government assessment pathways.
- Creation of a “[Special matters DAP](#)” after the 18 month period, to consider significant development proposals (limited information has been provided on this reform proposal).

Both of these new assessment pathways are a major shift to the role of Local Government in the planning assessment process, arguably undermining the expertise that exists in the assessment of development applications, devaluing the sector’s experience and competency in applying local planning schemes and making appropriate decisions.

The PD Act amendments provide the WAPC with powers to set aside any local planning controls (e.g. land use permissibility, height controls, floor space ratio, etc.). This proposal is a fundamental shift in the WAPC’s role and function, moving from strategic matters and subdivision control into complex development assessment against local considerations.

It also appears that the “Special Matters” DAP removes Elected Member representation, instead requiring a representative with “local government knowledge”. It was stated several times in Hansard that the WALGA President would be on the Special Matters DAP; however, no formal advice has been provided to confirm this statement, nor have any draft regulations been provided to clarify the Local Government representative on the Special Matters DAP.

During the debate on the Bill in the Upper House, the Association provided all Upper House members with a list of concerns with the proposed amendments to encourage changes to the Bill.

Several amendments to the Bill were endorsed during the debate, including:

- “Significant Development” definition was amended allowing any application over \$20 million in the Metropolitan Region and any \$5 million proposal in regional areas (including Mandurah) are now eligible for the new development assessment pathway. This pathway is optional, not mandatory.
- The CEO of Contaminated Sites legislation must be consulted, if appropriate.

The following amendments were also endorsed, as advocated for by the Association:

- WAPC must consult and must have due regard to submissions made by the public. The Bill originally stated “may” consult with the public and did not outline how the submissions would be considered.
- The 48 month period for the development to be substantially commenced has been amended to 24 months, ensuring that the provisions will only be used for seriously entertained development proposals to assist in COVID-19 recovery.
- If the Minister or Premier issue a direction to the WAPC or other Agency, then it must be provided to Parliament within 14 days of the direction being given, which will provide greater transparency.
- The *Environmental Protection Act 1986* has been removed from Part 17 of the Bill, which ensures that the WAPC is not able to override any of the legislated environmental requirements, including clearing permit provisions.

Regulations will now be drafted to provide additional guidance in the application of these new powers. As a result of advocacy by the Association, the DPLH 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. DPLH has advised that *the intent and scope of the changes to the Regulations is generally not open for discussion; rather, the focus will need to be on ensuring that the changes can be implemented as effectively as possible and avoid unintended consequences. The feedback would therefore be focussed on how the proposals can be improved and refined.*

To date, DPLH have been flexible in listening to and accommodating input from working group participants in order to improve the changes to the Regulations.

A four week public advertising period for all of the proposed Regulations has been promised.

The use of the new assessment pathway, through the [State Development Assessment Unit](#) will be monitored by the Association and a report provided in 2021 regarding the effect of the new provisions.

RECOMMENDATION:

GVROC note the advocacy undertaken on the Planning and Development Amendment Act 2020.

RESOLUTION:

Moved: Cr Patrick Hill – Shire of Laverton

Seconded: Cr Laurene Bonza – Shire of Dundas

Carried

7.3 Australian Fire Danger Rating System (AFDRS) Program (05-024-03-0035 EDR)

WALGA Recommendation

That the following be noted:

1. **An update on progress of the Australian Fire Danger Rating System (AFDRS), including the implementation timeline for the project.**
2. **Advice from the Department of Fire and Emergency Services (DFES) for Local Governments to suspend investment in current fire danger rating signage (including electronic signs) until a final prototype is announced.**

IN BRIEF:

- The Australian Fire Danger Rating System (AFDRS) Program will design, develop and implement a national fire danger rating system to better describe the overall fire danger and risk to firefighters, land managers, broader government including Local Governments, utilities, businesses and the community.
- The project has been endorsed and overseen by the Australian New Zealand Emergency Management Committee and commenced in 2016. Critical research and prototypes are being socialised with all jurisdictions with workshops having been held in WA in September 2019 and July 2020.
- An Implementation Plan is currently being developed by the Department of Fire and Emergency Services (DFES), which will include extensive engagement with relevant stakeholders across WA to determine impacts and organisational change requirements. Implementation of the AFDRS is scheduled for June 2022.

BACKGROUND:

The AFDRS program aims to build a new national fire danger ratings system that is based on updated science and decades of research into fire behaviour.

The current method of setting fire danger ratings was developed in the 1960's and is no longer effective in dealing with Australian bushfires. Significant advances in science, technology and the understanding and management of fires means that the current system no longer has the capacity or capability to effectively assist Australia in dealing with its most significant fires.

Since 2016, the AFDRS Program is being overseen by a project board reporting to the Australian New Zealand Emergency Management Committee (ANZEMC). The National program team has been working with national stakeholder groups to design and develop an updated system.

The NFDRS Program is estimated to cost in the order of \$42 million over five years with ongoing technology costs of approximately \$1.4 million.

The cost of fires is expected to rise significantly in the future, largely due to the substantial increases in Australia's population over the next 30 years. Climate will also play a role in increasing costs for Australia. Globally, and in Australia, the number of large fires significant in their size, destruction and inability to suppress is increasing. Accurately predicting and preparing for these events is well beyond the capacity of the current system.

COMMENT:

DFES is leading WA's participation in the AFDRS. The first two phases of the project included a feasibility study, development of a research prototype and implementation of the Social Research Project. The project is currently in phase 3 which includes the system build and the design of the new ratings and associated messaging. It is expected that the fire danger ratings framework and action messaging will be confirmed by November 2020 and operational testing of the new system has been scheduled from July 2021.

DFES are currently developing a State Implementation Plan to identify the governance requirements, resourcing needs and change management process. This will include extensive engagement with relevant stakeholders across WA to determine impacts and organisational change requirements to enable the effective implementation of the new AFDRS scheduled for release in June 2022. Advice from DFES for Local Governments to suspend investment in current fire danger rating signage (including electronic signs) until a final prototype is announced.

RECOMMENDATION:

GVROC note the WALGA recommendation regarding the Australian Fire Danger Rating System (AFDRS) Program.

RESOLUTION:

Moved: Cr Tracey Rathbone - Shire of Coolgardie

Seconded: Cr Laurene Bonza – Shire of Dundas

Carried

7.4 Report Municipal Waste Advisory Council (MWAC) (01-006-03-0008) RNB

WALGA Recommendation

That the resolutions of the Municipal Waste Advisory Council at its 24 June 2020 meeting be noted.

IN BRIEF:

- This item summaries the outcomes of the MWAC meeting held on 24 June 2020.

BACKGROUND:

The Municipal Waste Advisory Council is seeking State Council noting of the resolutions from the **24 June 2020** meeting, consistent with the delegated authority granted to the Municipal Waste Advisory Council to deal with waste management issues.

Copies of Agendas and Minutes are available from WALGA staff, on request.

COMMENT:

The key issues considered at the meetings held on **24 June 2020** included:

Draft Waste Reform Submission

The Department of Water and Environmental Regulation (DWER) Consultation Paper Closing the Loop: Waste Reforms for a Circular Economy contains a range of different reform proposals that address a series of issues. In developing the Submission the approach taken was to identify if a case for change to the existing conditions is present, there is support for the change options identified and any additional clarifications are needed. A draft Submission was developed for consideration by Local Government and feedback received has been incorporated into the final Submission.

MUNICIPAL WASTE ADVISORY COUNCIL MOTION

That the Municipal Waste Advisory Council endorse the draft Submission on the DWER Consultation Paper Closing the Loop: Waste Reforms for a Circular Economy.

Draft Waste Levy Submission

The Department of Water and Environmental Regulation Review of the Waste Levy Consultation Paper seeks feedback on the application and extent of the Waste Levy. The WALGA Policy Statement on the Waste Levy has been used as a basis for the Submission, as well as feedback received from Local Government. A draft Submission was developed for consideration by Local Government and feedback received has been incorporated into the formal Submission.

MUNICIPAL WASTE ADVISORY COUNCIL MOTION

That the Municipal Waste Advisory Council endorse the draft Submission on the Review of the Waste Levy.

Comparison – Waste Authority Business Plans and Annual Report

MWAC has previously analysed the Waste Authority Business Plan to inform advocacy regarding the expenditure of the Levy. The analysis showed that a significant portion of the Levy, allocated to the WARR Account, is being spent on the staffing of DWER, with a much smaller proportion being spent on projects to reduce waste and increase resource recovery. WALGA met with the Waste Authority and DWER to discuss WALGA's analysis of this and is seeking confirmation from the Department that the analysis correctly allocates funding. For the 19/20 financial year, funding appears to be allocated:

- DWER staffing – 57.8%
- Local Government - 27.1%
- Consultant / Service Provider - 4.8%
- Waste Industry/Community/Charity - 0.3%

MUNICIPAL WASTE ADVISORY COUNCIL MOTION

That the Municipal Waste Advisory Council note the analysis of the 2018/19 and 2019/20 Waste Authority Business Plans and 2018/19 Annual Report.

RECOMMENDATION:

GVROC note the resolutions of the Municipal Waste Advisory Council at its 24 June 2020 meeting.

RESOLUTION:

Moved: *Cr Laurene Bonza – Shire of Dundas*

Seconded: *Cr Patrick Hill – Shire of Laverton*

Carried

8. Review of WALGA State Council Agenda - Organisational Key Activity Reports

- 8.1 Report on Key Activities, Commercial and Communications (01-006-03-0017 ZD)
- 8.2 Report on Key Activities, Governance and Organisational Services (01-006-03-0007 TB)
- 8.3 Report on Key Activities, Infrastructure (05-001-02-0003 ID)
- 8.4 Report on Key Activities, Strategy, Policy and Planning (01-006-03-0014 MJB)

GVROC COMMENT:

GVROC note the Organisation Key Activity Reports as provided.

RESOLUTION: Moved: *Cr Tracey Rathbone - Shire of Coolgardie*
Seconded: *Cr Timothy Carmody – Shire of Wiluna*

Carried

9. Review of WALGA State Council Agenda - Policy Forum Reports

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 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 meeting since the last State Council meeting due to the COVID-19 pandemic.

RECOMMENDATION:

GVROC notes the Policy Forum Reports update

RESOLUTION: Moved: *Cr Tracey Rathbone - Shire of Coolgardie*
Seconded: *Cr Patrick Hill – Shire of Laverton*

Carried

10. Review of WALGA State Council Agenda – State Council Status Report

10.1 Complete Status Report on State Council Resolutions - To the September 2020 State Council Meeting

GVROC COMMENT:

Additional to the Complete Status Report on State Council Resolutions, **Attachment 3** provides the relevant Goldfields Esperance Country Zone Status Report.

RECOMMENDATION:

GVROC notes the Complete State Council Status Report to the September 2020 State Council meeting and the Goldfields Esperance Country Zone Status Report.

RESOLUTION:

Moved: Cr Tracey Rathbone - Shire of Coolgardie
Seconded: Cr Patrick Hill – Shire of Laverton

Carried

11. GVROC – Urgent Matters for a Decision

11.1 GVROC Economic Policy Paper

Reporting Officer: Andrew Mann, Executive Officer, GVROC

Disclosure of Interest: Nil

Date: July 2020

Attachments: Final GVROC Economic Policy Paper (**Attachment 4**)

Background:

Following the draft outline of the paper that was presented at the meeting on 15 May 2020, engagement was held with the GEDC, RDAGE, WALGA and the DLGSC to further develop an economic policy paper for the GVROC that can be utilised to lobby the State and Federal Governments as part of the economic recovery stimulus plans post Covid-19 and also during the upcoming State and Federal Government elections. The revised paper was then presented back to the GVROC at its meeting on 24 July 2020.

This Economic Policy Paper (Paper) has been developed by the GVROC to position, assist and drive growth for the region. It considers a number of key government policy settings, regulations and funding programs at a Federal and State level, that if reformed or addressed could enable the GVROC members to grow their communities in a sustainable way on par with the major capital cities, which will provide significant social and economic benefits to not only the region, but also for the State and Nation.

The paper provides the GVROC with a united regional voice from each of its nine local government authorities' members of what they would like to see delivered by the current and future State and Federal Governments.

The paper also takes into consideration the current effect of the Covid-19 Pandemic and the future economic stimulus measures that the GVROC would like to see funded and implemented by State and Federal Governments in conjunction with the GVROC members to stimulate and grow its regional cities, towns and communities into thriving and strong economic communities.

The action from the GVROC meeting on 24 July 2020 was that all GVROC Delegates, CEOs, GEDC, WALGA, DLGSC, RDAGE were to provide feedback to the GVROC Executive Officer on the revised paper so it could be finalised and endorsed.

Officer Comment:

Given the recent announcements from State and Federal Governments regarding stimulus packages for the region, and the looming State Government election in March 2021, it is critical that this paper be finalised and endorsed by the GVROC so that it can be circulated to relevant State and Federal Government Ministers and all local members of Parliament to ensure that any future funding announcements meet the needs and requests of the GVROC LGAs and the region.

Any further delays in putting this paper out may result in lost funding opportunities that are now present to meet the requests outlined in the paper.

Also, in consideration of feedback from each of the GVROC LGAs on the Economic Policy paper, the following comment was received by the CKB CEO – John Walker, which needs to be discussed and deliberated on before the GVROC is able to progress and endorse the paper going forward.

"The Economic Paper in many ways contradicts the Regional Capitals Alliance WA (RCAWA) view to which the CKB is aligned. Whilst there is general support for the contents of the paper the fundamental difference is that the CKB support economic stimulus through the Regional Capitals in pretence to delivering it through a ROC. This has become more obvious following an RCAWA Strategy Session held between the ten Regional Capital LGAs on 7 August 2020. I can't support signing this and so will need direction from Council before doing so – John Walker CEO CKB, 14 August 2020"

Noting the above comment, it is still recommended that the GVROC endorse this paper.

Consultation: GVROC Chair
GVROC Strategic Working Group
GEDC
WALGA
DLGSC
RDAGE

Financial Implications: Still to be determined

Strategic Implications: GVROC Strategic Plan 2017-2022

RECOMMENDATION:

That the GVROC Council endorse the Economic Policy Paper and request that the GVROC Executive Officer circulate it to all relevant State and Federal Ministers and local members of parliament for the region.

Motion called for deferment:

Request was made by the Shire of Esperance President, Ian Mickle, to lay on the table the above recommendation to the next meeting scheduled for 11 September 2020 to allow further time for consideration of the paper by the individual GVROC LGAs.

Following discussion on this motion a vote for and against was called on the motion which was carried unanimously.

RESOLUTION: **Moved: Cr Tracey Rathbone - Shire of Coolgardie**
Seconded: Cr Ian Mickle – Shire of Esperance

Carried

12. DLGSC Update

General Update to be provided by DLGSC on activities of interest for the Region.

13. LATE ITEMS as notified, introduced by decision of the Meeting

Nil.

14. FUTURE MEETINGS

With the continuing situation of the COVID-19 “Corona Virus” the ability of holding future meetings in person is a watching brief. This will be reviewed at each meeting by GVROC and until a change in the situation that allows for in person meetings, all meetings will be conducted through Zoom video conferencing.

In noting the above, the following suggested dates in 2020 have been set for the remaining GVROC meetings.

- 11 September 2020 – (Kalgoorlie)
- 13 November 2020 (Coolgardie)

The following are the WALGA State Council meeting dates in 2020 with suggested GVROC Zoom video conference meeting dates prior to these to inform the GVROC’s representatives attending the meetings with relevant input for State Council Agenda Items:

- 2 September 2020 - (GVROC Video conference 28 August 2020)
- 25 September WALGA Annual General Meeting – Crown Perth
- 2 December 2020 - (GVROC Video conference 27 November 2020)

15. CLOSURE OF MEETING

There being no further business the Chair declared the meeting closed at 10:00am.