



Peel Zone

Minutes

1 March 2018

Peel Zone

Hosted by the Shire of Serpentine-Jarrahdale
6 Paterson Street Mundijong, phone 9526 1111
Thursday 1 March commenced at 2:05 pm

Minutes

MEMBERS

2 Voting Delegates from each Member Council

City of Mandurah	Hon. Cr Fred Riebeling JP (Deputy) Mr David Prattent, Executive Manager Finance & Governance (Observer) non-voting delegate.
Shire of Murray	President David Bolt Cr Steve Lee
Shire Serpentine Jarrahdale	President Michelle Rich Mr Kenn Donohoe, Chief Executive Officer non-voting delegate
Shire of Waroona	President Michael Walmsley Mr Ian Curley, Chief Executive Officer
WALGA Representatives	Ms Vanessa Jackson, Policy Manager Planning & Improvement Ms Nicole Matthews, Environment Policy Manager
DLGC Representative	Mr Ken Parker, Principal Strategy Officer
Guest Speakers	Mr Simon Taylor, Department of Premier and Cabinet

APOLOGIES

City of Mandurah	Mayor Rhys Williams
City of Mandurah	Cr Caroline Knight
City of Mandurah	Mr Mark Newman, Chief Executive Officer
WALGA	Ms Kate Eades, Governance & Organisational Services Trainee
Shire of Murray	Mr Dean Unsworth, Chief Executive Officer
Shire of Boddington	President Martin Glynn
Shire of Boddington	Cr David Smart
Shire of Boddington	Mr Chris Littlemore, Chief Executive Officer
Shire of Serpentine - Jarrahdale	Cr David Atwell

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1. CONFIRMATION OF MINUTES

RESOLUTION

**Moved President Michael Walmsley
Seconded Cr Steve Lee**

That the Minutes of the meeting of the Peel Zone held on 29 November 2017 were confirmed as a true and accurate record of the proceedings.

CARRIED

2. DECLARATION OF INTEREST

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

Nil

3. BUSINESS ARISING

A Status Report outlining the actions taken on the Zone's resolutions was enclosed as an attachment to the Agenda.

Noted

4. STATE COUNCIL AGENDA - MATTERS FOR DECISION

Item 5.1 – Local Government Act Review.

Discussion on Rating Exemptions – Charitable purposes – Section 6.26 (2) (g), and the definition of what actually constitutes a 'Charitable Organisation'. The Department of Local Government representative advised that the review of this Clause will be undertaken in Phase 2 of the Local Government Act review, to ensure that a fair and equitable system will be created.

NOTED

Items for Decision 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 5.8 & 5.9

RESOLUTION

**Moved Hon Cr Fred Riebeling
Seconded President Michael Walmsley**

That Items 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 5.8 & 5.9 within the March 2018 State Council Agenda are supported 'en bloc'.

CARRIED

RESOLUTION

**Moved Hon Cr Fred Riebeling
Seconded President Michael Walmsley**

That Items 6.1, 6.2, 6.3, 6.4, 7.1 & 7.2 within the March 2018 State Council Agenda are noted on bloc.

CARRIED

5. REPORTS FROM MEMBER COUNCILS

5.1 Building Act 2011 and the Liquor Licensing Control requirements (Section 39)

The Shire of Serpentine-Jarrahdale Manager of Building Services advised the Zone on an issue of concern.

When premises apply for a liquor license local governments are required to sign off that the building is compliant with all of the requirements of the Building Act 2011(the Act). Local government building surveyors inspect premises to ensure that they comply with the Act. Generally the focus will be around compliance with section 37 of the Act and the applicable building standards. This has the potential to bring local government building surveyors into conflict with independent building surveyors where a difference of opinion over compliance are raised.

West Australian building legislation has removed the ability of local government building surveyors to scrutinize building permit applications for compliance with the Building Code of Australia (BCA). The role of the local government is to determine compliance with section 20 of the Act. This section of the Act requires the permit authority to ensure suitably qualified persons have been involved and that all required approvals are in place, amongst other things, before a building permit is issued.

Upon completion of works, if a compliant Occupancy Permit application is lodged with the permit authority, an Occupancy permit is issued. Buildings such as restaurants and public houses are required to apply to the local government under section 39 of the Liquor Control Act 2016 before they make application to the Department of Racing, Gaming and Liquor for a liquor license.

The local government is required to sign off that the building complies with the State's health legislation as well as all of the Building Act 2011. Historically local governments provide a service to ensure that buildings within their jurisdiction are safe and healthy, that is they are fit for purpose. Much of this role has been removed from local government following the implementation of the Act. It is suggested that the requirement for the local government to sign off on a building under the building legislation is a throwback to a period pre the Act.

The Shire recommends that the Liquor Control Act should be changed, so that if a building has been signed off by a private certifier, then the Section 39 under the Liquor Control Act should also be signed off by the same private certifier.

RESOLUTION

**Moved President Michael Walmsley
Seconded President Michelle Rich**

That the Zone recommends

- 1. That the Legislation be changed so that the certifier responsible for the issuance of the Certificate of Construction Compliance (BA17) is required to sign a declaration that the building is safe and fit for purpose for an application to be made for a liquor licence.**

2. That the Department of Local Government and Communities representative provide the information to the Department of Liquor Licencing for consideration.

CARRIED

6. GENERAL BUSINESS

6.1 Replacement Agreement for Local Governments in Regional and Remote Areas to Provide Licensing Services under the Road Traffic (Administration) Act 2008

By Mal Shervill, Policy Officer Road Safety

In Brief

- From 1 January 2008 under the provisions of the *Road Traffic Act 1974*, the (then) Director General of the Department of Planning and Infrastructure entered into agreements with 71 Local Governments in regional and remote areas to provide licensing services prescribed in the *Road Traffic Act 1974*. This agreement expired on 31 December 2017.
- The Department of Transport now seeks to have those same Local Governments continue to provide licensing services and has granted a three month extension for the expired agreement to the end of March 2018.
- The Department of Transport has provided and invited the affected Local Governments to sign replacement agreements so they can continue to provide licensing services. The replacement agreements are for a three year or five year term. The different terms of the agreements are based on transaction volumes.
- The circumstances of the replacement agreements was raised as an emerging issue at State Council at its December 2017 meeting.
- On 8 January 2018 WALGA met with senior representatives of the Department of Transport who provided specific advice addressing the matters raised about the replacement agreements.

Background

From 1 January 2008 under the provisions of section 6B of the *Road Traffic Act 1974*, the (then) Director General of the Department for Planning and Infrastructure entered into agreements with 71 Local Governments to provide licensing services prescribed in the *Road Traffic Act 1974*. This agreement expired on 31 December 2017.

Knowing the agreement with Local Governments was to expire in December 2017 and on the basis the Department of Transport (the Department) desired regional and remote Local Governments to continue to provide licensing services, in June 2017 the Department surveyed the CEOs of affected Local Governments seeking the following advice:

- Did the Local Government want to continue to provide licensing services?
- What are the issues encountered with the current agreement?
- What suggested improvements could be incorporated into the new agreements?

The Department received 56 (of 71) responses from affected Local Governments and all but one indicated a willingness to continue to provide licensing services. The common issues raised included:

- Commission payments did not cover the cost of providing the service.
- Merchant fee costs to the Local Government had increased.
- There was an increase in complex transactions compared to simple payment processing.
- There was a need for more training.

According to the Department the replacement agreements were drafted to incorporate feedback from affected Local Governments and the changes to the agreements are minimal.

The Department advises that a restructure of the *Road Traffic Act 1974* has necessitated that two replacement agreements be offered to Local Governments:

1. A main agreement known as the Road Law Agreement.
This agreement covers driver and vehicle licensing transactions under legislation that includes the *Road Traffic (Authorisation to Drive) Act 2008* and *Road Traffic Act 1974*.
2. A subsidiary agreement known as the Non-Road Law Agreement.
This agreement covers transactions under legislation that includes the licensing of vessels (*WA Marine Act 1982*), photo cards (*WA Photo Card Act 2014*), motor vehicle driving instructor fees (*Motor Vehicles Drivers Instructors Act 1963*), and licensing and renewal of licenses for off road vehicles (*Control of Vehicles (Off Road Areas) Act 1978*).

The two replacement agreements contain no services additional to those in the expired agreement.

Under the provisions of section 11 of the *Road Traffic (Administration) Act 2008* in late 2017 the Department provided affected Local Governments with the replacement agreements for signing. In response some Local Governments raised the following matters:

- The timeframe for signing and returning the agreements to the Department did not allow sufficient time for them to be formally put to Councils for consideration.
- Local Governments were offered agreements for either a three year or five year term rather than a ten year term as was done previously.
- There was no remarkable increase in commission payment rates except for CPI increase; and generally it is a cost burden for Local Governments to provide the services.

This matter was considered as an emerging issue at the WALGA State Council meeting in December 2017 resulting in a resolution that WALGA engage with the Department of Transport to further investigate the issue of vehicle licencing contracts.

Comment

WALGA met with senior Department of Transport representatives who provided the following advice in relation to the matters raised by some affected Local Governments.

Review of expired agreement

The Department reviewed the ten year agreement prior to its expiration with the aim to more clearly detail service provision requirements and levels; and process requirements. The replacement agreements were drafted to incorporate feedback from affected Local Governments. Key changes are summarized in Attachment 1.

Timeframe for signing replacement agreements

The current ten year agreement for Local Governments to provide licensing services expired on 31 December 2017. A restructure of the *Road Traffic Act 1974* necessitated that two replacement agreements be drafted, which were offered to Local Governments for signing in late 2017. The timeframe nominated by the Department to sign and return the agreements did not allow sufficient time for Local Government CEOs to put them to their Councils for consideration. Acknowledging the timeframe was insufficient, the Department granted a three month extension of the expired agreement to the end of March 2018.

Three year or five year replacement agreements

In line with community demands the Department is actively seeking to shift transaction processing to on-line methods. A number of transactions can now be processed and/or paid via on-line modes. Over the coming years the Department plans to implement additional on-line transactions and other initiatives such as e-billing and direct debits that will accelerate the shift from face-to-face processing to on-line processing. These initiatives will have consequences for Local Government as simple transactions will move on-line leaving more complex and time consuming transactions to be processed face-to-face.

Sixty three percent (63%) of the Department's payments are currently processed online (representing 4.6 million payments) compared with 46% in 2013-2014 (3.4 million transactions).

Transactions processed at Local Governments have fallen 12% since 2011-2012 with a significant portion of the reduction occurring in the last two years. The reduction is due to the shift to on-line payment processing; changed economic conditions; and a move by the WA Police Force to process firearm transactions on-line through its website.

Local Governments were offered replacement agreements for terms of either three or five years. The terms were determined by the Department changing its business practices and processes, the general shift to on-line processing, external factors including current economic conditions, and face-to-face transaction volumes. These factors combined could create situations in the future where it is uneconomical for a Local Government to continue providing the services; therefore the Department considered a ten year agreement term too long to afford sufficient flexibility for effective management by both parties. Shorter agreement terms will allow for regular review of the economic viability and service quality. As a consequence:

- Three year terms were offered to Local Governments with low transaction volumes located in close proximity (less than 50 kilometres) to other Local Governments providing the services.
- Five year terms were offered to Local Governments with higher transaction volumes; and Local

Fees and Costs

The fees and costs incurred by Driver and Vehicle Services (Department of Transport) are reflected in the fees and charges to customers. The Department advised it has an obligation to promote and support lower cost delivery methods because supporting more expensive service delivery methods comes at a cost to customers.

The Department acknowledged that feedback from the June 2017 survey of CEOs indicated commission payments do not fully meet the costs incurred by their Local Governments to provide licensing services. Contributing factors included increased merchant fees, increasing volume of complex transactions, and processing variations of the same transaction requiring additional time investment by staff.

According to the Department, the expired agreement provided for an increase in commission values paid to Local Governments based on CPI increases and became effective from 1 July each year. The replacement agreements continue this practice.

The Department has scheduled a commission increase of 3% effective from 1 January 2018. The cost is expected to be offset by falling transaction volumes. The Department also made a decision to provide additional funding to support Local Governments processing higher volumes of transactions above 3,000 per annum (12 per work day).

RESOLUTION

Moved Mr Ian Curley
Seconded Hon Cr Fred Riebeling

That the Peel Zone note the advice provided by the Department of Transport on the two replacement agreements being offered to Local Governments in regional and remote areas to continue to provide licensing services under the *Road Traffic (Administration) Act 2008*.

CARRIED

Attachment 1

Summary of key changes to replacement agreements as provided by the Department of Transport

Clause change	Reason
Definition of "Database"	Clarify that the agreement relates to DoTs vehicle and driver licensing databases.

Definition of "KPI" removed	KPI considered outdated and replaced by a compliance concept that focusses on no errors and correction if errors are identified during daily audit. Further <i>please explain</i> if errors continue or are significant – see amended Schedule H.
Definition of "PCIDSS Annual Statement" removed	Not required from Shires.
Definition of "Physical stock point" (h)	Referenced to Schedule M for clarity.
Definition of "Principal's Property"	Expanded to include physical stock and equipment provided by the Principal.
Event of Default (g) - wording change	Amended to clarify Principal to be advised and may give consent if Agents personnel have a criminal history. Otherwise it is a default event.
6.3 Agents undertakings	Now includes returning plates through approved couriers.
6.5 Conflict of interest	Better define the Department's understanding of the term.
7.1 Supply by Principal	Remove EFTPOS from (b) (i) - Shires use own systems to process payments.
8.1 Training	(e) Added to recoup taxi fares to and from training - evidence/receipts required.
8.3 Telecommunications	Ongoing rental not covered - originally introduced in infancy of the internet, now all business have internet connection, and DoT upload traffic is small.
10.3 Use of the Principal's Systems and Database	(b) Amended to provide for the Principal to request signing of a confidentiality agreement on demand - providing greater flexibility to ensure Agent personnel are aware of their responsibility. (d) Require personnel to log off when not using the PC so as not to enable unauthorized staff to access data to reduce unauthorized access and release of personal customer information.
10.5 Return of Confidential information	(b) Provide for more regular return of paperwork or other confidential information to the Department.
15.1 Audit and Review and 15.2 Performance and Compliance review meetings	Include the concept of compliance with business rules (error reduction) as well as performance which relates to quality of service.
16 Disputes	(b) Clarify that the Agents and Principals representatives must resolve disputes.
Schedule A	Minor wording changes: - Definition – Transport Service Centre - Scope of Services – now Road Law due to restructure of legislation - Physical Stock Requirements (c) - Timeliness of Service – (i), (iii) and (b)(iii) - Quality of Service (b) - Auditing by Transport Service Centres
Schedule B	Increased by 3% for selected sites performing over 3,000 transactions per annum. Non driver or vehicle transactions (maritime, photo card and taxi) removed and placed in the Non Road Rules Agreement
Schedule E	Changes to allow for directives to be issued by email.
Schedule F	Wording changes to reflect changes to DoT operations.
Schedule H	Changes to focus on error correction and prevention.
Schedule L	Removal of term from main contract to this schedule for flexibility. Contracts either for 3 or 5 years depending on volumes.

6.2 Presentation – Auditor General’s Office

The Office of the Auditor General would like to present at the next meeting to be held 26 April.

The Auditor General or one of the Assistant Auditor Generals will provide an overview of what Local Governments can expect in terms of performance and financial audits.

RESOLUTION

Moved Cr Steve Lee
Seconded Hon Cr Fred Reibeling

That the Peel Zone invite the Auditor General’s Office to present at the meeting to be held 26 April 2018.

CARRIED

6.3 Elected Member Training

An additional phase of DLGSC and WALGA’s subsidised training, funded by the State Government through the Royalties for Regions and Country Local Government Fund program, has just been released for completion by **30 June 2018**.

A range of training courses were selected by DLGSC, with input from WALGA resulting in a schedule which considered what courses had already recently been delivered in each Zone for Elected Members.

WALGA has liaised with the selected Host Council’s with the program below to be delivered to Peel Zone at a subsidised cost of only \$50 course per Elected Member.

For your information, please note the following:

Training Course	Host Council	Date
Serving on Council	Murray	1 May (Tues)
Meeting Procedures and Debating	Murray	2 May (Wed)

For further information, please call Jacqueline Dodd, WALGA Training Services Manager on 0417 045 585, or email at jdodd@walga.asn.au.

Noted

7. EXECUTIVE REPORTS

7.1 WALGA President’s Report

The President’s Report was tabled and noted.

Noted

7.2 State Councillor's report to the Zone

WALGA State Councillor, President Michelle Rich, presented on the previous State Council meeting in December 2017. Outlined that the meeting in December was predominately an all-day induction for new State Councillors, and included attendance at the CEDA luncheon with Premier Mark McGowan. Minister Templeman also provided an update to the new State Council members.

Noted

7.3 Department of Local Government and Communities Representative Update Report.

Department of Local Government and Communities representative, Mr Ken Parker updated the Zone on DLGC issues, including the Local Government Act review, the upcoming update to the MyCouncil website and submission of financial information to the Department.

Noted

8. DEPUTATIONS

8.1 Strategic Environmental Planning and Approvals

Simon Taylor, Director, Strategic Environmental Planning and Approvals at the Department of the Premier and Cabinet did not attend to provide the presentation.

The Zone requested that the Department attend a further meeting to present the progress of the Green Growth Plan.

RESOLUTION

**Moved Cr Steve Lee
Seconded Hon Cr Fred Reibeling**

That the Peel Zone invite the Department of the Premier and Cabinet to present at the next meeting to be held 26 April 2018.

CARRIED

9. DATE, TIME AND PLACE OF NEXT MEETING

That the next ordinary meeting of the Peel Zone will be held on 26 April at the Shire of Waroona commencing at 2pm.

10. CLOSURE

There being no further business the Chair declared the meeting closed at 3.39pm.