WALGA

# South East Metropolitan Zone Minutes

# 19 June 2024

Hosted by the City of Gosnells 2120 Albany Highway, Gosnells

# WALGA

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# **PRIORITISATION FRAMEWORK**

How to use the Framework:

- If the majority of the factors are towards the left column, the issue is a high priority.
- If the majority of the factors are towards the middle, the issue requires action, but is not a high priority.
- If the majority of the factors are towards the right column, the issue is a low priority.

			-
Impact on Local Government Sector Impact on Local Government sector without intervention	High	Medium	Low
<b>Reach</b> Number of member Local Governments affected	Sector-wide	Significant (multiple regions, Zones, or bands)	Few
<b>Influence</b> Capacity to influence decision makers	High	Medium	Low
<b>Principles</b> Alignment to core principles such as autonomy, funding, general competence	Strong	Partial	Peripheral
<b>Clarity</b> Policy change needed is clear and well-defined	Clear	Partial	Unclear
<b>Decision-maker support</b> Level of support among decision-makers (political and administrative)	High	Medium	Low
Public support Level of support among the public or other stakeholders	High	Medium	Low
<b>Positive consequences for</b> <b>WALGA</b> Prospect of positive consequences for WALGA. E.g. enhanced standing among members or leverage for other issues.	High	Medium	Low
Negative consequences for WALGA Prospect of negative consequences for WALGA for not undertaking the advocacy effort. E.g. diminished standing among members or other stakeholders.	High	Medium	Low
<b>Partnerships</b> Potential for partnerships with other stakeholders	Yes (3+)	Possibly (1-2)	No (0)

# ANNOUNCEMENTS

<u>Zone Delegates</u> were requested to provide sufficient written notice, wherever possible, on amendments to recommendations within the State Council or Zone Agenda to the Zone Chair and Secretariat prior to the Zone meeting.

<u>Agenda Papers</u> were emailed 7 days prior to the meeting date.

<u>Confirmation of Attendance</u> An attendance sheet was circulated prior to the commencement of the meeting.

#### **ATTACHMENTS**

- 1. Draft Minutes of previous meeting
- 2. June 2024 Update Department of Local Government, Sports and Cultural Industries
- 3. Zone Status Report
- 4. President's Report
- 5. Standing Orders

# 1 OPENING, ATTENDANCE AND APOLOGIES

### 1.1 OPENING

The Chair opened the meeting at 6:07pm.

#### 1.2 ATTENDANCE

MEMBERS	2 Voting Delegates from each Member Council
City of Armadale	Mayor Ruth Butterfield Cr Michelle Silver Ms Joanne Abbiss, Chief Executive Officer – non-voting delegate
City of Canning	Mayor Patrick Hall <b>Acting Chair</b> (SC) Cr Michelle Hurn
City of Gosnells	Mayor Terresa Lynes Cr Caren Baayens Mr Ian Cowie, Chief Executive Officer - non-voting delegate
City of South Perth	Cr Jennifer Nevard Mr Mike Bradford, Chief Executive Officer – non-voting delegate
Town of Victoria Park	Cr Lindsay Miles Cr Peter Devereux Mr Duncan Olde, Acting Chief Executive Officer – non-voting delegate
WALGA Representatives	Deputy President Cr Paul Kelly Ms Nicole Matthews, Executive Manager, Policy Mr Tony Brown, Executive Director, Member Services

**Guest Speaker** Department of Communities – Office of Homelessness

Ms Kathy Cokis, Acting Executive Director Ms Tanyana Bailey, Manager Strategic Policy

### 1.3 APOLOGIES

City of Gosnells	Cr Kevin McDonald
City of South Perth	Cr Bronwyn Waugh - Chair
City of Canning	Mr Michael Littleton, Chief Executive Officer – non-voting delegate

# 2 ACKNOWLEDGEMENT OF COUNTRY

We, the Zone members acknowledge the continuing connection of Aboriginal people to Country, culture and community. We embrace the vast Aboriginal cultural diversity throughout Western Australia, including Boorloo (Perth), on the land of the Whadjuk Noongar People, where this meeting is being held and we acknowledge and pay respect to Elders past and present.

# 3 DECLARATIONS OF INTEREST

Nil.

# 4 STATE COUNCILLOR REPRESENTATIVE – EXTRAORDINARY ELECTION

WALGA Executive Director Member Services, Mr Tony Brown, carried out the role of Returning Officer for the Election of State Council Representative.

# 4.1 ELECTION OF STATE COUNCIL REPRESENTATIVE

Following the recent resignation of Cr Adam Hort as State Council Representative, nominations are sought from Zone Delegates for the extraordinary vacancy for one representative on the WALGA State Council from the South East Metropolitan Zone.

A call for nominations was distributed to Zone Delegates via email on 16 May 2024.

The term of office for this position will commence immediately following this election and will conclude the day before the Ordinary Meeting of State Council in December 2025.

The following written nominations were received for the position of State Council Representative:

- Mayor Terresa Lynes
  City of Gosnells
- Cr Jennifer Nevard
  City of South Perth
- Cr Peter Devereux
  Town of Victoria Park

Further nominations were called from the floor. No further nominations were received.

In accordance with the guidelines endorsed by State Council, candidates were afforded the opportunity to make a two-minute election bid prior to the secret ballot being taken.

As more than one nomination was received, ballot papers were distributed and a secret ballot conducted.

#### DECLARATION

That Mayor Teresa Lynes be elected as State Council Representatives of the South East Metropolitan Zone for the remaining term until December 2025.

The Acting Chair, Mayor Patrick Hall resumed the Chair.

### 5 **DEPUTATIONS**

#### 5.1 HOMELESSNESS AND IMPACTS ON LOCAL GOVERNMENT

Ms Kathy Cokis, Acting Executive Director and Ms Tanyana Bailey from the Department of Communities, provided an overview of the Office of Homelessness and the 'All Paths Lead to a Home' strategy; priority work; and some data on homelessness.

The Presentation is **attached** with the Minutes.

#### 6 AGENCY REPORTS

# 6.1 DEPARTMENT OF LOCAL GOVERNMENT, SPORT AND CULTURAL INDUSTRIES REPRESENTATIVE UPDATE REPORT

The June 2024 report from the Department of Local Government, Sport and Cultural Industries (DLGSC) was provided as an attachment within the Agenda.

#### Noted

# 7 CONFIRMATION OF MINUTES

#### RESOLUTION

Moved:Cr Caren BaayensSeconded:Cr Jennifer Nevard

That the Minutes of the meeting of the South East Metropolitan Zone held on 17 April 2024 be confirmed as a true and accurate record of the proceedings.

CARRIED

# 8 BUSINESS ARISING

#### 8.1 STATUS REPORT

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

#### Noted

# 9 ZONE BUSINESS

### 9.1 WALGA'S EFFORTS TO BECOME AN EMPLOYER ORGANISATION

By Tony Brown, Executive Director Member Services

#### **EXECUTIVE SUMMARY**

- As previously detailed in an item to all Zones in April, WALGA has been considering amending the Association Constitution to enable WALGA to become a registered employer organisation under section 54 of the *Industrial Relations Act 1979* (WA) (IR Act).
- Despite advocacy efforts by WALGA since December 2022, the State Government has not agreed a pathway for WALGA to be provided with standing as an employer organisation by being named in the IR Act.
- Becoming an employer organisation would provide WALGA with more opportunity to modernise the Local Government State Awards, intervene in industrial matters concerning the Local Government sector, and generally better represent Members' views.
- Whilst the benefits of becoming an employer organisation are considerable, legal advice received by WALGA suggests that the constitutional amendments necessary for WALGA to comply with the requirements for registration are considerable and unachievable without wholesale changes to the governance structure of the Association.
- WALGA will continue to advocate to the State Government for WALGA to be named in the IR Act and given the status of an employer organisation, without needing to make constitutional amendments.

#### POLICY IMPLICATIONS

The existing <u>Advocacy Position</u> on WALGA's registration as an Employee Organisation is contained in position 2.8.3:

That WALGA advocate for amendments to the Industrial Relations Act 1979 (WA) (IR Act) for WALGA to be named in the IR Act like the Western Australian Branch of the Australian Medical Association Incorporated (AMA) at s.72B and given the status of an employer organisation, including to the Minister for Industrial Relations, the Minister for Local Government and the Department of Mines, Industry Regulation and Safety.

### BACKGROUND

Currently, WALGA is a registered industrial agent under the <u>Industrial Relations Act 1979</u> (WA) (IR Act). This status allows WALGA to:

- appear as an agent for a WA Local Government or Regional Council in the Western Australian Industrial Relations Commission (WAIRC) and Industrial Magistrate's Court or Industrial Appeal Court; and
- provide advice or other services to Local Governments in relation to 'industrial matters' as defined in section 7 of the IR Act.

Since the mandate for Local Governments<sup>1</sup> to operate in the State industrial relations system from 1 January 2023, unions have commenced various Local Government State awards variation claims in the WAIRC to amend industry employment conditions.

Currently, WALGA can intervene in award matters, but is unable to represent named employers and the broader Local Government sector in its own right.

WALGA has been advocating to the State Government since late 2022 to amend the IR Act and name WALGA as an employer organisation in the Act. These advocacy efforts have been unsuccessful to date.

Without being named in the IR Act, WALGA would need to comply with strict governance requirements to apply to become an employer organisation. This would require significant amendments to the Association Constitution, as well as endorsement by State Council and Members.

Even if these constitutional amendments were made and an application supported by State Council and the membership, the ultimate decision as to whether or not to register WALGA as an employer organisation rests with the WAIRC.

#### COMMENT

As foreshadowed in an Agenda item to Zones in April, WALGA has been looking to amend the Association Constitution to enable WALGA to apply to become a registered employer organisation under the IR Act.

WALGA has recently engaged lawyers, Jackson McDonald, to provide legal advice as to what constitutional amendments must be made to ensure WALGA is best placed to make a successful application for registration.

The advice received indicates that the changes required would be substantial, costly and potentially unwieldy, involving significant changes to the current governance structure and election processes of WALGA.

<sup>&</sup>lt;sup>1</sup> with the exception of the Shires of Christmas Island and Cocos (Keeling) Islands

In particular, the following three changes required under the IR Act are considered to be untenable with the current structure of WALGA, and would therefore prohibit the Association from making a successful application for registration:

# 1. Secret Postal Ballot

Section 56 of the IR Act requires that elections for the holder of each office within the organisation <u>must</u> be conducted by way of secret postal ballot. Due to the broad definition of "office" and "officer" in the IR Act, WALGA office holders include every State Council representative, as well as the President and Deputy President.

Whilst conducting the elections for President and Deputy President via a secret postal ballot would be achievable, a postal voting system for the election of State Council representatives by Zone Delegates across 17 Zones would be unmanageable. As well as timing issues (see below), there would be significant costs involved in conducting elections in this manner, with no benefit to Members.

To accommodate an election of State Council representatives by secret postal ballot, the election cycle of WALGA would need to be changed. Currently, the terms of State Councillors run from the day of the first Ordinary State Council meeting immediately following the biennial Local Government elections (being the first week of December), to the day before the first Ordinary State Council meeting immediately following the next Local Government elections (2 years later). To allow for sufficient time for an election by postal ballot (an unavoidably slow process), the terms for State Councillors would need to be amended to commence at the next meeting (being March the year following the Local Government elections). In the meantime, the composition of State Council would be subject to the results of the Local Government elections (which may result in vacancies, with representatives needing to leave their State Council position due to no longer being on Council).

# 2. Independent Returning Officer

Section 56 of the IR Act requires that the rules of an employer organisation <u>must</u> provide for the conduct of every election to an office within the organisation by an independent returning officer, not being the holder of any other office in, and not being an employee of, the organisation. As described above, WALGA office holders include the President, Deputy President and State Councillors.

An independent returning officer could be engaged relatively easily for the election of President and Deputy President. However, engaging independent returning officers to conduct the election of State Council representatives at all 17 Zone meetings in the weeks following the biennial Local Government elections raises significant concerns in terms of cost, administrative burden and timing.

At present, the State Council elections are conducted in mid-November, about 4-5 weeks after the Local Government elections. In the interim, Councils are required to meet and elect or appoint their Zone Delegates. This leaves very little time for an independent returning officer to carry out a formal nomination and election process.

This difficulty would only be compounded if the postal voting requirement were also adopted for State Council elections.

The Commissioner <u>must</u> refuse an application for registration if they are not satisfied that the rules conform with the election requirements in section 56 (including secret postal ballot and independent returning officer).

# 3. Secretary

The IR Act requires the creation of a position of "Secretary". Under the current governance structure of WALGA, the functions of Secretary are held by the CEO. However, under the IR Act, the Secretary is considered an "office", meaning it is subject to the same election requirements as other offices. Therefore, on a strict view, the Secretary should be the President, Deputy President or a State Councillor, not the CEO.

Once again, this is a significant non-compliance risk that jeopardises the likelihood of WALGA's application for registration being successful.

# **NEXT STEPS**

For the reasons described above, it is proposed that WALGA <u>does not proceed</u> with the original plan to amend the Association Constitution and apply for registration as an employer organisation under the IR Act.

Instead WALGA has the following options to seek standing to become a registered organisation of employers under the IR Act:

- 1. Option 1 Advocate to the Minister for Industrial Relations to either:
  - a. name WALGA in the IR Act as an employer organisation similar to the Western Australian Branch of the Australian Medical Association Incorporated under s. 72B; or
  - b. amend the IR Act provision to permit WALGA to register as an employer organisation without making modifications to its Constitution or governance model. This might be achieved by amending the provisions to permit dual registration of organisations or making modifications to the election procedures of organisations.
- 2. Option 2 Establish a new entity to apply for registration as an organisation of employers which will require separate management/committee, a motion approving an application for registration to the WAIRC under s. 54 of the IR Act and a Constitution which complies with all aspects of Part II, Division 4 of the IR Act.
- 3. Option 3 In the event that neither Option 1 or 2 are achieved or considered appropriate, the final option will be for WALGA to establish protocols with Member Local Governments to notify WALGA when new union claims are made and to work with Members to bring award variations in the names of Local Governments.

WALGA met with the Minister for Industrial Relations, Hon Simone McGurk MLA, on 13 June to again advocate for WALGA to be named in the IR Act. The importance of WALGA becoming an employer organisation was discussed, alongside the complexities of amending the Association Constitution to adhere to IR Act registration requirements (as detailed above).

WALGA will keep the Zones updated on any progress on this item.

# Noted

# 10 STATE COUNCIL AGENDA – MATTERS FOR DECISION AND NOTING

# *Zone Delegates to consider the Matters for Decision contained in the WALGA State Council Agenda and put forward resolutions to Zone Representatives on State Council.*

The full State Council Agenda can be found via link: <u>here</u>

The Zone can provide comment or submit an alternative recommendation that is then presented to the State Council for consideration.

### STATE COUNCIL MATTERS FOR DECISION

# 10.1 CARAVAN PARK AND CAMPING GROUNDS REGULATIONS

### **EXECUTIVE SUMMARY**

- Tiny Homes on Wheels (THOWs) are an emerging form of housing that offers an alternative and affordable housing option that can assist in addressing the current housing shortage.
- THOWs are classified as caravans under the *Caravan Parks and Camping Grounds Act* 1995 (the Act) and the *Caravan Parks and Camping Grounds Regulations 1997* (the Regulations).
- The Regulations restrict the length of occupation of THOWs.
- A new advocacy position proposes that the Regulations be amended to allow THOWs to be occupied for longer periods and for Local Governments to be able to establish policy to guide these longer approvals.
- The Environment Policy Team endorsed the draft advocacy position on 29 May 2024.

#### WALGA RECOMMENDATION

That State Council endorse a new Caravan Park and Camping Grounds Regulations Advocacy Position:

*Part 2 of the Caravan Parks and Camping Grounds Regulations 1997 should be amended to allow Local Governments to:* 

- 1. Consider camping on private property for a period of greater than three months.
- 2. Establish policy to guide approvals beyond 3 months to ensure that camping is locally appropriate and provide for circumstances where caravans, predominantly in the form of tiny homes on wheels, can be occupied on a more permanent basis.

#### RESOLUTION

Moved: Mayor Ruth Butterfield

Seconded: Cr Michelle Silver

That the South East Metropolitan Zone supports the WALGA Recommendation in Agenda item 10.1 as amended and underlined below:

State Council endorse a new Caravan Park and Camping Grounds Regulations Advocacy Position:

*Part 2 of the Caravan Parks and Camping Grounds Regulations 1997 should be amended to allow Local Governments to:* 

- 1. Consider camping on private property for a period of greater than three months <u>and</u> <u>up to a maximum of 12 months.</u>
- 2. Establish policy to guide approvals beyond 3 months <u>and up to a maximum of 12</u> <u>months</u> to ensure that camping is locally appropriate and provide for circumstances where caravans, predominantly in the form of tiny homes on wheels, can be occupied on a more permanent basis.

CARRIED

# 10.2 2024 AUDIT EXPERIENCE SURVEY RESULTS AND ADVOCACY POSITION

### **EXECUTIVE SUMMARY**

- WALGA, in partnership with Local Government Professionals WA (LG Professionals), has recently conducted a survey of the Local Government sector to seek feedback on the annual audit process.
- The 2024 survey was based on the inaugural audit experience survey conducted last year, allowing for direct comparison of results over time.
- Five key emerging issues were identified following the 2023 survey, and these areas demonstrated varying levels of improvement this year:
  - timeframe and delays;
  - o additional workload on Local Government staff;
  - o cost;
  - inconsistent advice from contract Auditors and the Office of the Auditor General (OAG); and
  - o asset valuation requirements.
- An outcome of advocacy efforts last year was the achievement of a review of the application of Fair Value principles, particularly as applied in audit related asset valuation.
- It is recommended that the WALGA Advocacy Position on Local Government Audit Process (position 2.2.2) be updated to reflect this achievement.
- An initial meeting with the OAG has recently been held to discuss the outcomes from the survey.
- WALGA and LG Professionals will continue to work with the OAG to reform the audit process in line with sector feedback, with a particular focus on those areas of concern identified in the 2024 survey results.
- This item was considered at the Governance Policy Team held on 15 May 2024, where the recommendation was supported.

# RESOLUTION

Moved:	Mayor Ruth Butterfield
Seconded:	Mayor Terresa Lynes

# That State Council:

- 1. Note the Audit Experience Survey Results Summary; and
- 2. Amend Advocacy Position 2.2.2 *Local Government Audit Process* to remove point 7 as it has been achieved.

CARRIED

# 10.3.1 Policy Team and Committee Reports

- 9.1 Environment Policy Team Report
- 9.2 Governance Policy Team Report
- 9.3 Infrastructure Policy Team Report
- 9.4 People and Place Policy Team Report
- 9.5 Municipal Waste Advisory Council (MWAC) Report

# 10.3.2 Matters for Noting/Information

- 10.1 2024-25 State and Federal Budget Update
- 10.2 Submission to the Commissioner for Children and Young People WA Priority Area Discussion Papers
- 10.3 Perth and Peel Urban Greening Strategy
- 10.4 Polyphagous Shot-Hole Borer Update
- 10.5 Flying Minute: Submission on Emergency Management Sector Adaptation Plan
- 10.6 Flying Minute: State Wage Case Submission
- 10.7 Flying Minute: Submission on the Inquiry into Local Government Sustainability
- 10.8 Flying Minute: Standardised Meeting Procedures Submission

### RESOLUTION

- Moved: Cr Peter Devereux
- Seconded: Cr Caren Baayens

That the South East Metropolitan Zone:

- 1. Supports all Matters for Decision and Policy Team recommendations as listed above subject to amendments made to item 10.1 in the July 2024 State Council Agenda, and
- 2. Notes all Matters for Noting, other Policy Team and Committee Reports and Organisational Reports as listed in the July 2024 State Council Agenda.

CARRIED

# 11 EXECUTIVE REPORTS

# 11.1 WALGA PRESIDENT'S REPORT

WALGA Deputy President Cr Paul Kelly presented the President's Report. The report was attached within the Agenda.

#### Noted

# 11.2 STATE COUNCILLOR'S REPORT TO THE ZONE

State Councillor Mayor Patrick Hall acknowledged the contribution of Cr Adam Hort who has recently resigned from State Council.

Mayor Hall provided the following update on key State Council activities occurring since the last State Council meeting held on 1 May.

# State Council Meeting Day

State Council held its second meeting for 2024 on Wednesday, 1 May at the City of Wanneroo. State Council holds two Regional meetings per year – one Metropolitan and one Country. This meeting was the Metropolitan Regional meeting for 2024.

### Strategic Forum

The Strategic Forum is an informational session held before every Ordinary State Council meeting. The Forum is an opportunity for State Councillors to raise any issues they believe have strategic importance for WALGA and the sector, and for State Council to hear from guest speakers on key issues.

At the May Forum, State Councillors received the following presentations:

- Regulating WA's Power Supply Mr Steve Edwell, Economic Regulation Authority Chair
- Submissions to Regional Telecommunications Reviews and Inquiries Mr Ian Duncan, WALGA Executive Manager Infrastructure
- WALGA Brand Refresh Ms Rachel Horton, WALGA Executive Manager Advocacy

#### State Council meeting

#### Presentation from Hon Alannah MacTiernan

The Regional Telecommunications Review occurs every 3 years and is an opportunity to examine the existing and future telecommunication needs in regional, rural and remote communities across Australia.

The Review Committee is led by the Hon Alannah MacTiernan, as Chair. Ms MacTiernan presented to State Council on the Review.

#### New Advocacy Positions and Submissions

The following Advocacy Positions and Submissions were endorsed by State Council:

- Waste Levy Advocacy Position
- Submission on the Inquiry into Local Government Sustainability (endorsed in principle, subject to amendments endorsed by Flying Minute)
- Submissions to Regional Telecommunications Reviews and Inquiries
- Submission on Draft Local Planning Scheme Regulations 2015 (Short-Term Rental Accommodation)

The current Advocacy Positions can be viewed in the Advocacy Positions Manual.

#### Association Constitution Proposed Amendments

State Council was provided an update on proposed amendments to the Association Constitution to:

- 1. Primarily, allow WALGA to be in a position to apply to be registered as an organisation of employers under the Industrial Relations Act 1979 (WA); and
- 2. Make some changes to address inconsistencies and modernise terminology.

If the proposed amendments are endorsed by State Council (by special majority), they will be put to Members at the 2024 AGM.

The Zone meeting noted the update on this item earlier in this meeting.

Other decisions as per *Full Minutes*.

### Zone Forum

The Zone Forum is an opportunity for State Council to discuss and share information between State Councillors and the WALGA Zones relating to regional, strategic Local Government issues.

State Council received presentations from the Mayors of the Cities of Stirling, Wanneroo and Joondalup. This was followed by a brief question and answer session.

#### **Flying Minutes**

Since the last State Council meeting held in March, the following have been endorsed by State Council via Flying Minutes:

- Submission on the Emergency Management Sector Adaptation Plan (EM-SAP)
- Submission on the Inquiry into Local Government Sustainability
- Submission for 2024 State Wage Case

These are included on the State Council Agenda as items for noting.

Full Flying Minutes are available on the <u>WALGA website</u>.

#### Information Forum

Information Forums are informal briefing sessions for State Council.

Presentations at the April Forum included:

- WALGA Emergency Management Survey Ms Nicky Munro, Research Solutions and Ms Rachel Armstrong, WALGA Acting Policy Manager, Emergency Management.
- St John WA Mr Craig Spencer, St John WA

#### Strategic Planning Workshop

WALGA is undertaking a strategic planning process over the course of 2024. A workshop was held with State Councillors on Thursday, 2 May. State Council, as the governing board of WALGA, plays a pivotal role in the strategic planning process.

#### Next Meeting

The next State Council meeting will be held on Wednesday, 10 July at WALGA.

Noted

# 12 OTHER BUSINESS

Nil

# 13 NEXT MEETING

The next meeting of the South East Metropolitan Zone will be held on Wednesday, 21 August 2024 at the City of South Perth commencing at 6pm.

# 14 CLOSURE

There being no further business the Chair declared the meeting closed at 7:27pm