



Pilbara Country Zone

Minutes

23 November 2020

Pilbara Country Zone

Hosted by WALGA, Wattle Meeting Room

Level 1, 170 Railway Parade, West Leederville

Monday 23 November 2020, commenced at 1:30 pm

Minutes

MEMBERS

2 Voting Delegates from each Member Council

City of Karratha

Cr Daniel Scott – via video

Mr Chris Adams, Chief Executive Officer non-voting delegate – via telephone

Town of Port Hedland

Mayor Peter Carter – via video

Mr Carl Askew, Chief Executive Officer non-voting delegate – via video

Shire of East Pilbara

President Cr Lynne Craigie OAM

Cr Anthony Middleton – via video

Mr Jeremy Edwards, Chief Executive Officer non-voting delegate

Ms Lisa Clack (Observer) – via video

Shire of Ashburton

President Kerry White

Cr Peter Foster – **Deputy Chair – via video**

Mr Kenn Donohoe, Chief Executive Officer non-voting delegate

WALGA Secretariat

Dale Chapman, Manager Commercial Management

Chantelle O'Brien, Governance Support Officer

DLGSC Representative

Mitch Hardy, Director Regional Services

Guests

Ms Engel Prendergast, Roadwise

APOLOGIES

City of Karratha

Mayor Peter Long - **Chair**

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ANNOUNCEMENTS

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

Agenda Papers were emailed 7 days prior to the meeting date to your Council for distribution to Zone Delegates.

Confirmation of Attendance attendance was noted prior to the commencement of the meeting.

Acknowledgement of Country All attendees acknowledged the traditional owners of the land that the meeting is held on and paying respects to Elders past, present and future.

ATTACHMENTS WITH THE AGENDA

1. Previous Meeting Minutes – 24 August 2020
2. Status Report
3. President's Report
4. Tennis West Correspondence

1. DECLARATION OF INTEREST

Elected Members 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

2. DEPUTATIONS

All Deputations have a time limit of 20 minutes, which includes questions time.

Nil

3. CONFIRMATION OF MINUTES

RESOLUTION

Moved: Cr Lynne Craigie
Seconded: Cr Kerry White

That the Minutes of the meeting of the Pilbara Country Zone held on 24 August 2020 be confirmed as a true and accurate record of the proceedings.

CARRIED

4. BUSINESS ARISING

4.1

Nil

4.2 Status Report

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

The Shire of East Pilbara raised in regards to the Draft Aviation Strategy that further comment be sought from Infrastructure in regards to their concerns raised at the August 2020 Zone meeting.

Noted

5. BUSINESS

5.1 Lodging Houses and Mining Operations

By Shire of Ashburton

BACKGROUND

Local Government are responsible to register and manage risks of lodging houses under legislation from the

- Health (Miscellaneous Provisions) Act 1911 (Part V, Division 2)
- Health local laws developed by local governments and the:
- National Construction Code (including the Building Code of Australia and the Plumbing Code of Australia)

The definition of a lodging-house means any building or structure, permanent or otherwise, and any part thereof, in which provision is made for lodging or boarding more than 6 persons, exclusive of the family of the keeper thereof, for hire or reward; but the term does not include —

- (a) premises licensed under a publican's general licence, limited hotel licence, or wayside-house licence, granted under the Licensing Act 1911 2; or
- (b) residential accommodation for students in a non-government school within the meaning of theSchool Education Act 1999; or
- (c) any building comprising residential flats.

Section 146(1) of the Health (Miscellaneous Provisions) Act 1911 (Act) provides that a local government is to keep a register of lodging-houses within its district. Throughout Ashburton, mining accommodation camps are placed on the Shire's register and invoices for lodging-house registrations are issued annually on the basis that the registrations will be required to be renewed.

If the invoices are not paid, the lodging-houses will cease to be registered and the Shire may then take such enforcement action as is appropriate if an unregistered lodging-house continues to be used.

Section 147 of the Act, Registration – states the following:

(1) A person shall not keep a lodging-house or receive a lodger therein unless the house is registered, nor unless his name as the keeper thereof is entered in the register.

Through its Local Law, the Shire of Ashburton considers the registration of Lodging Houses imperative to public health to ensure the following:

- Functioning facilities for bathing, ablutions, food preparation and handwashing (supporting good domestic hygiene and safe food preparation)
- Maintaining air quality
- Minimising contact with human waste from sewage or disease carrying vectors; and
- Minimising overcrowding.

The Shire of Ashburton has a group of mining camps that have, in recent years, disputed the need to pay a registration fee for a lodging house as they claim there is no hire or reward and that the workers were not paying a fee to reside at the camps.

Based on this, the Shire sought legal advice in 2018 with respect to its ongoing dispute with some operators. Generally, the legal advice supported the Shire's position in terms of interpretation of what a 'lodging-house' is and that a mining camp or similar would fall under such interpretation. The main conjecture is the issue of 'hire or reward'.

In terms of 'hire or reward', the general view would be to ascertain whether or not there is a direct financial transaction to constitute such. It is agreed there is no hire as there is no known mining operator that charges their workers/contractors for the use of accommodation. The argument lies wholly within what is a 'reward' with respect to accommodation. While being a narrow approach, it would seem that it is appropriate for a local government to question an operator on this basis and therefore either confirm or deny the interpretation of a 'lodging-house'.

It is noted that pursuant to "Goods and Services Tax Ruling (GSTR) 2012/6", the Australian Taxation Office considers 'camp-style' accommodation and 'accommodation supplied to employees and contractors by third parties' is a taxable supply of accommodation. How an operator or employer deals with this as a tax benefit to the employee is not known nor understood.

COMMENT

This issue of 'lodging-house' interpretation has been a long outstanding issue and there is now a defined need to have the matter resolved. It is noted that in correspondence from the Department of Health to the CEO of the Association of Mining and Exploration Companies (AMEC) that the Department has taken the general view based on the 'hire or reward' issue yet still advised AMEC to obtain its own legal advice.

In addition to Ashburton having obtained its own legal advice, Ashburton has contacted some other Pilbara local governments for their current position in addition to the Environmental Health contractor covering the four of the Murchison region local governments.

Generally, the consensus amongst those contacted is that lodging-houses as per the act are not pursued unless those camps/accommodation facilities are located within a townsite and are made available for tourist accommodation or other users not related to the operations of the camp/accommodation owner.

However, it was evident in those conversations that there is a need to settle this issue once and for all and for industry to have a clear definition. Therefore, the non-commitment from the Department of Health is continuing to fuel the confusion and therefore highlighting the need for a final position.

It is agreed that with respect to mining operations, a local government can inspect such premises at any time. This is in keeping with the intent of the legislation with respect to lodging-houses. However, it is considered appropriate to now push for a clear delineation between mining and transient workers accommodation as compared to lodging-houses, boarding houses, hotels, motels and so forth.

RESOLUTION

Moved: Cr Kerry White
Seconded: Cr Lynne Craigie

That the Pilbara Zone considers and agrees that there is a lack of direction from the State in relation to Mining and Transient Workers Accommodation with respect to its inclusion as a 'lodging-house' and requests WALGA:

1. Advocates to the State Government (Department of Health) to provide a clear determination in consultation with local government and industry;
2. Advocates to the State Government to clearly define accommodation with respect to mining operations and amend its existing legislated definitions to clearly include or exclude such mining operation accommodation.

CARRIED

6. STATE COUNCIL AGENDA - MATTERS FOR DECISION

(Zone delegates to consider the Matters for Decision contained in the WA Local Government Association State Council Agenda and put forward resolutions to Zone Representatives on State Council)

The full State Council Agenda can be found via link: [State Council Agenda December 2020](#)

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

Matters for Decision

5.1 Local Government Act Review Advocacy Paper – Key Issues From Recent Inquiries into Local Government

That:

1. Ongoing advocacy relating to the Review of the Local Government Act 1995 be noted; and,
2. The Advocacy Positions for a New Local Government Act: Key issues from recent Inquiries into Local Government – be endorsed.

5.2 Submission – Registration of Building Engineers in WA

That WALGA:

1. Advise the Department of Mines Industry Regulation and Safety (DMIRS) that the registration of Building Engineers in WA is supported.
2. Request that DMIRS also consider the registration of Electrical Engineers, Façade Engineers, Energy Assessors, Bush Fire Consultants, Access consultants, Swimming pool, Patio installers and Demolition contractors.
3. Request that DMIRS clarify that dilapidation reports may only be undertaken by Registered Engineers.
4. Provide this report to Department of Mines Industry Regulation and Safety as feedback on the Consultation Regulatory Impact Statement.

5.3 Family and Domestic Violence and the Role of Local Governments

That:

1. WA Local Governments recognise the prevalence, seriousness and preventable nature of family and domestic violence and the roles that Local Governments can play in addressing gender equity and promoting respectful relationships in their local community.
2. WALGA advocates to the State Government:
 - a. to define and communicate the role, responsibilities and expectations of Local Governments in family and domestic violence.
 - b. for adequate funding for family and domestic violence programs and services, particularly in regional areas.
 - c. for appropriate resources and funding be allocated to Local Governments to implement any particular roles and actions addressing family and domestic violence as defined in the State Strategy.
 - d. to provide support to Local Government in the broader rollout of the Prevention Toolkit for Local Government.
 - e. to continue advocacy to the Commonwealth Government for additional funding and support.
3. WALGA organises presentations for Local Governments that address family and domestic violence, as part of relevant events or webinars.

5.4 Underground Power

That Local Government supports the:

1. continuation of cooperative arrangements between the State Government, Western Power and Local Government to progressively replace the overhead electricity distribution network in residential areas with underground power.
2. development of a new approach to identifying and prioritizing areas for investment in underground power, initiated by the need to invest in the overhead network to meet safety, reliability and capability requirements.
3. development of a new approach to allocating State Government resources to facilitate projects proceeding in areas with a high electricity network need and lower economic capacity of ratepayers while retaining a commitment to funding an average of 25% of program costs.
4. opportunity for Local Governments to initiate projects to convert areas to underground power be retained with Western Power to continue to contribute the amount recoverable as an efficient investment as calculated by the New Facilities Investment Test (NFIT).

5.5 CEO Recruitment and Selection, Performance Review and Termination Standards Regulations

1. That WALGA support the establishment of CEO Recruitment, Selection and Performance Review Standards subject to:
 - a) removal from the Regulations the requirement to re-advertise CEO positions after 10 year's continual service;
 - b) Encouraging, rather than mandating, the involvement of an independent person in the CEO Recruitment and Selection Process;
 - c) The retention of Regulation 18C of the *Local Government (Administration) Regulations*;
 - d) Deletion of the requirement under Regulation 18FB(4) to provide a copy of a council resolution certifying compliance with the CEO standards to the Departmental CEO;
 - e) The conduct of an independent assessment of potential industrial and employment law consequences arising from the proposed regulations under Schedule 2, Division 4 'Standards for termination of employment of CEOs'; and
 - f) Deferral of Regulation 18FC pending an independent assessment of the Schedule 2, Division 4 'Standards for termination of employment of CEOs'.
2. Seek that the CEO Recruitment and Selection, Performance Review and Termination Working Group be reconvened to oversee the development of CEO Standards Regulations.

5.6 Model Code of Conduct for Council Members, Committee Members and Candidates Regulations

That WALGA generally supports the *Local Government (Model Code of Conduct) Regulations 2020* with the following recommendations:

- a) Amend Division 2, Clause 4(d) to read 'identify and appropriately manage any conflict of interest';
- b) Does not support the inclusion of local level complaints about alleged behavioural breaches and Local Governments dealing with complaints provisions in Division 3, Clauses 10 and 11; and

Supports an external oversight body to manage local level complaints involving council members as prefaced in the *Local Government Review Panel Report, City of Perth Inquiry Report* and *Select Committee into Local Government Report*, to be considered in a future Local Government Act.

Matters for Noting

- 6.1 Submission to the Infrastructure WA State Infrastructure Strategy Discussion Paper
- 6.2 Draft Amendments to the Planning and Development (Local Planning Scheme) Regulations 2015
- 6.3 Interim Review – State Planning Policy 3.1 Residential Design Codes
- 6.4 State and Federal Budgets
- 6.5 Noongar Heritage Agreement for Local Government
- 6.6 Aboriginal Cultural Heritage Bill Consultation
- 6.7 Local Government Animal Welfare in Emergencies Grant Program
- 6.8 2020 Annual General Meeting
- 6.9 COVID-19 - Update

RESOLUTION

Moved: Cr Kerry White
Seconded: Cr Lynne Craigie

That the Pilbara Country Zone

1. Supports items 5.1, 5.2, 5.4, 5.5 and 5.6 as listed in the 2 December 2020 State Council Agenda; and
2. Notes all Matters for Noting and Organisational Reports as listed in the 2 December 2020 State Council Agenda.

CARRIED

5.3 Family and Domestic Violence and the Role of Local Governments

AMENDMENT

Moved: Cr Kerry White
Seconded: Cr Lynne Craigie

The Pilbara Country Zone amends the recommendation to read:

That:

1. WA Local Governments recognise the prevalence, seriousness and preventable nature of family and domestic violence;

2. **WALGA advocates to the Commonwealth and State Government for adequate funding for family and domestic violence programs and services, particularly in regional areas.**

CARRIED

8. OTHER BUSINESS

8.1 2021 Proposed Schedule of Meetings

By Chantelle O'Brien, Zone Executive Officer

Since the re-establishment of the Pilbara Country Zone in 2019, all meetings have been held at WALGA, in Perth. Zone members at previous meetings have expressed an interest in rotating the host location around the member Local Governments within the region. Based on this expression of interest, please see a proposed schedule below.

Due to Anzac Day falling on a Monday in 2021, the proposed date for April's meeting is the Tuesday of that week.

**NOTICE OF MEETINGS
PILBARA ZONE 2021**

Zone Meeting Dates Monday	Time	HOST COUNCIL	State Council Meeting Dates 2021
22 February	Monday 9.30am	Shire of Ashburton (Tom Price or Onslow)	Wednesday 3 March 2021
Tuesday 27 April	Tuesday 9.30am	Shire of East Pilbara	Regional Metro Wednesday 5 May 2021
28 June	Monday 9.30am	City of Karratha	Wednesday 7 July 2021
23 August	Monday 9.30am	Town of Port Hedland	Regional Meeting 2-3 September 2021
22 November	Monday 9.30am	Shire of Ashburton (Tom Price or Onslow)	Wednesday 1 December 2021

The Zone meets five times per year. To follow the precedence of other Zone meetings, the host Council is selected by alphabetical order, this would result in the Shire of Ashburton hosting two meetings per year.

The Zone may want to consider having the end of year (November) meeting held in Perth or via videoconference to balance out the schedule.

RESOLUTION

Moved: Cr Kerry White
Seconded: Cr Anthony Middleton

Zone Meeting Dates Monday	Time	HOST COUNCIL	State Council Meeting Dates 2021
22 February	Monday 11.30am	Shire of Ashburton (Onslow)	Wednesday 3 March 2021
Tuesday 27 April	Tuesday 11.30am	Shire of East Pilbara	Regional Metro Wednesday 5 May 2021
28 June	Monday 11.30am	City of Karratha	Wednesday 7 July 2021
23 August	Monday 11.30am	Town of Port Hedland	Regional Meeting 2-3 September 2021
22 November	Monday 11.30am	Shire of Ashburton (Tom Price)	Wednesday 1 December 2021

That the 2021 schedule of meetings for the Pilbara Country Zone as above be adopted.

CARRIED

8.2 Request to Present – Tennis West

By Chantelle O'Brien, Zone Executive Officer

Please refer to Agenda attachment (Attachment 3) in regards to correspondence received from Tennis West to attend a future Zone meeting and provide a presentation.

Should the Zone consider the presentation topics to be relevant for their area, a presentation could occur at the next Pilbara Country Zone meeting in February 2021.

RESOLUTION

Moved: Cr Anthony Middleton
Seconded: Mayor Peter Carter

That the Pilbara Country Zone supports inviting Tennis West to attend a future meeting in 2021 to provide a presentation.

CARRIED

9. EXECUTIVE REPORTS

9.1 President's Report to the Zone

The WALGA representative, Mr Dale Chapman, presented the President's Report as written.

Noted

9.2 State Councillor's report to the Zone

WALGA Deputy State Councillor, Cr Peter Foster presented on the previous State Council meeting with comments provided by the Zone's State Councillor, Mayor Peter Long.

Noted

9.3 Department of Local Government, Sport and Cultural Industries Representative Update Report.

Mitch Hardy, from the Department of Local Government, Sport and Cultural Industries updated the Zone on Local Matters such as Lottery West funding in response to Covid19 Recovery and the District Leadership Program.

Please also see link below to the full update:

[Local Matters November 2020](#)

Noted

10. DATE, TIME AND PLACE OF NEXT MEETING

RESOLVED

That the next ordinary meeting of the Pilbara Country Zone be held on 22 February 2021, hosted by Shire of Ashburton, in Onslow commencing at 11.30am.

11. CLOSURE

There being no further business the Chair declared the meeting closed at 2.18pm.