WALGA

WORKING FOR LOCAL GOVERNMENT

MINUTES

Annual General Meeting

Perth Convention Exhibition Centre

Perth

Wednesday, 3 August 2016

AGENDA

Annual General Meeting
of the
Western Australian
Local Government Association

held at the

Perth Convention Exhibition Centre

21 Mounts Bay Road, Perth

Riverside Theatre (Level 2)

on

Wednesday, 3 August 2016

at 1.30 pm

TABLE OF CONTENTS

Attendance

Record of Attendance and Apologies:

- Mayor Phil Marks (Belmont)
- Cr Martin Glynn (Boddington)
- Cr Paul Kelly (Claremont)
- Cr Glyn Yates (Collie)
- Cr Janeane Mason (Corrigin)
- Cr Eliza Downing (Cuballing)
- President Turk Shales (Exmouth)
- Cr John Lally (Karratha)
- Cr Frank Pritchard (Kojonup)
- Cr Ian Pedler (Kojonup)
- Cr Graeme Hobbs (Kojonup)
- Cr Jason Homwood (Mount Magnet)
- Cr Stuart Faulkner (Mt Marshall)
- Cr Camilo Blanco (Port Hedland)
- Cr Sharon Hawkins-Zeeb (South Perth)
- Cr David McDonnell (Swan)
- Cr Therese Chitty (Toodyay)
- Cr Matt Buckles (Vincent)
- Mr Len Kosova (Vincent)
- Cr Julie Russell (Wickepin)
- Cr Keith Wright (Wyndham-East Kimberley)

Announcements

Nil.

1.0 Confirmation of Minutes

Minutes of the 2015 WALGA Annual General Meeting are contained within the AGM Agenda.

Moved: **Mayor Henry Zelones (Armadale)**
Seconded: **Mayor Kelly Howlett (Port Hedland)**

That the Minutes of the 2015 Annual General Meeting be confirmed as a true and correct Record of proceedings.

CARRIED

2.0 Adoption of President's Annual Report

The President's Annual Report for 2015/2016 is contained within the AGM Agenda.

Moved: **Cr Gerry Pule (Bassendean)**
Seconded: **Cr Janet Davidson (Perth)**

That the President's Annual Report for 2015/2016 be received.

CARRIED

3.0 WALGA 2015/2016 Financial Statements (Item Under Separate Cover)

The audited 2015/2016 WALGA Financial Statements have been distributed to all members prior to the meeting.

Moved: **Cr Karen Chappel (Morawa)**
Seconded: **Mayor Peter Long (Karratha)**

That the WALGA Financial Statements for 2015/2016 be received.

CARRIED

4.0 Consideration of Executive and Member Motions

As per motions listed.

5.0 Closure

There being no further business, the Chair declared the meeting closed at 5.45pm.

4. Consideration of Executive and Member Motions

4.1 Amendments to the WALGA Constitution (01-001-01-0001)

Executive Member:

IN BRIEF

- Amendments to the WALGA Constitution that were resolved by State Council in March 2016.
- Finalisation of WALGA's periodic governance review that focused on consistency among governance documents.

Moved: **Mayor Henry Zelones (Armadale)**
Seconded: **Cr Gerry Pule (Bassendean)**

That the WALGA Constitution be amended as follows:

1. **In Clause 5(7)(b) of the Constitution for "sub-clause 5(9)" read "sub-clause 5(11)".**
2. **Clause 10 (2) of the Constitution be amended with the last sentence to read:**
   "The President shall exercise a casting vote only, in the event of there being an equality of votes in respect of a matter considered by the State Council but excluding an election held in accordance with Clause 16."
3. **Clause 10 of the Constitution be amended by inserting as sub-clause (9):**
   "(9) State Council shall adopt Standing Orders that will apply to all meetings."
4. **Clause 14(4a) and Clause 20 of the Constitution be amended by inserting as sub-clause (h) and sub-clause (j), respectively:**
   "is a Councillor of an Ordinary Member that has been peremptorily suspended under Section 8.15C (2)(c) of the Local Government Act 1995"
5. **Clause 16(2)(b) of the Constitution be amended to read:**
   "(b) representatives are to vote on the matter by secret ballot."
6. **Clause 17 of the Constitution be amended by inserting as sub-clause (5):**
   "(5) Where the incumbent President seeks and is re-elected for a consecutive term, that person shall not hold office beyond two (2) full consecutive terms."

CARRIED BY SPECIAL MAJORITY

SECRETARIAT COMMENT

In accordance with Clause 29 of the Western Australian Local Government Association (WALGA) Constitution, amendments to the Constitution must be agreed to by a special majority of State Council and by a special majority at an Annual General Meeting of WALGA. The Motion, above, was resolved by a special majority at the 2 March 2016 meeting of State Council.

The proposed amendments are outcomes of WALGA's periodic governance review which commenced in July 2015 with the release of a discussion paper for feedback from the Local Government sector. A total of 15 responses were received from individual Local Governments, with composite responses from the Great Eastern, Central Country and East Metropolitan Zones, representing a total of 53 responses from Member Councils. The 2015 Review focused on ensuring consistency between the Constitution, Corporate Governance Charter and Standing Orders.

The proposed amendments are as follows:

1. Technical Wording Amendment – Clause 5(7)(b)

It is recommended that:

In Clause 5(7)(b) of the Constitution for "sub-clause 5(9)" read "sub-clause 5(11)".

Clause 5(7) should refer to sub-clause 5(11) as this relates to the process for application to join WALGA as an Associate Member, as does clause 5(7).

2. Clarify that a Casting Vote does not apply to an Election – Clause 10(2)

It is recommended that:

Clause 10 (2) of the Constitution be amended with the last sentence to read:

"The President shall exercise a casting vote only, in the event of there being an equality of votes in respect of a matter considered by the State Council but excluding an election held in accordance with Clause 16."

This recommendation is to explicitly state that the President shall not be entitled to a casting vote if there is an equality of votes relating to an election in accordance with Clause 16.

3. State Council to Adopt Standing Orders – Clause 10(9)

It is recommended that:

Clause 10 of the Constitution be amended by inserting as sub-clause (9):

"(9) State Council shall adopt Standing Orders that will apply to all meetings."

State Council resolved to amend the Constitution to include a clause that State Council will adopt Standing Orders to recognise the importance of meeting procedures in the efficient operation of State Council.

4. Suspension of Elected Members – Clause 14(4a) and Clause 20

It is recommended that:

Clause 14(4a) and Clause 20 of the Constitution be amended by inserting as sub-clause (h) and sub-clause (j), respectively:

"is a Councillor of an Ordinary Member that has been peremptorily suspended under Section 8.15C (2)(c) of the Local Government Act 1995"

There is a requirement to clarify that an Elected Member who has been peremptorily suspended under Section 8.15C(2)(c) of the Local Government Act (where a Council is also suspended) becomes ineligible to be a Zone delegate during this period of suspension.

As a result, a consequential amendment is required to Clause 20 'Vacation of Office' which applies to State Councillors and Deputy State Councillors.

5. Election Procedure – Clause 16(2)(b)

Clause 16(2)(b) of the Constitution be amended to read:

"(b) representatives are to vote on the matter by secret ballot."

Clause 16 of the Constitution refers to the election process and must follow the procedure set out under sub-clause (2).

Currently, sub-clause (2)(b) states the following (emphasis added):

"(b) representatives or delegates *are to vote on the matter by secret ballot;"*

The reference to 'delegates' in sub-clause (2)(b) is erroneous. The definition of both 'Delegate' and 'Representative' is set out in Clause 2(1) of the Constitution (emphasis added):

*"**Delegate**" means a councillor or officer nominated or appointed to represent an Ordinary Member* and exercise voting entitlements *at General Meetings of the Association pursuant to clauses 22 and 23 of this Constitution,* or on a Zone pursuant to clause 14 of this Constitution*;*

*"**Representative**" means a member on the State Council elected or appointed by the country and metropolitan constituencies in accordance with the provisions of sub-clause 9(1) and 9(3);*

The definition of 'delegate' identifies that they are representatives of an Ordinary Member and limits their voting entitlement to General Meetings of the Association and Zone meetings. The reference to a 'delegate' in sub-clause (2)(b) is therefore inappropriate with only a 'representative', being a country or metropolitan constituency appointee to State Council, entitled to vote in an election conducted under Clause 16(2)(b).

6. Presidential Term Limit – Clause 17

It is recommended that:

Clause 17 of the Constitution be amended by inserting as sub-clause (5):

"(5) Where the incumbent President seeks and is re-elected for a consecutive term, that person shall not hold office beyond two (2) full consecutive terms."

The President and Deputy President are elected by State Council for two year terms following the election of State Councillors by the Zones. Following a State Councillor's election as President, the Zone that elected that State Councillor is entitled to elect a replacement State Councillor to maintain that Zone's representation around the State Council table.

WALGA's original discussion paper on the governance review canvassed the issue of term limits for the President and Deputy President as currently, there is a two term limit on the position of Deputy President with no limit for the position of President.
There was a majority view, amongst submissions from Local Governments and Zones, that Clause 17 of the Constitution should be amended to align the terms served by the President and Deputy President, with the President to serve a maximum of two full consecutive terms to achieve consistency with the Deputy President as currently defined in Clause 18(4).

4.2 Natural Disaster Recovery Support Funding (05-001-03-0029)

Shire of Dardanup:

IN BRIEF

- Process to receive funding is difficult.
- Government response is slow.
- New source of funding is required.

Moved: **Cr Michael Bennett (Dardanup)**
Seconded: **Cr Gerry Pule (Bassendean)**

Request that WALGA State Council investigates the development and implementation of Natural Disaster Recovery Support Funding that will provide advice and financial support for Local Governments affected by the impacts of natural disasters that meet the Western Australia Natural Disaster and Recovery Arrangements (WANDRRA) criteria.

AMENDMENT

Moved: **Mr John Read**
Seconded: **Mayor Logan Howlett**

That item 2 be added;

2. **WALGA State Council advocate for WANDRRA to amend its policy to allow Local Government work forces to carry out approved natural disaster recovery work during normal working hours.**

THE AMENDMENT WAS PUT AND CARRIED

AMENDMENT

Moved: **Mayor Carol Adams**
Seconded: **Cr Matthew Whitfield**

That items 3 to 8 be added;

3. **Request that WALGA State Council Improve the Western Australian Natural Disaster and Relief and Recovery Arrangements (WANDRRA) criteria process**
4. **Improve the timeliness of access to funds**
5. **Strengthen the relationship between the Natural Disaster Relief and Recovery Arrangements (NDRRA) and WANDRRA**
6. **Request WALGA to develop consistent Funding eligibility between NDRRA and WANDRRA**
7. **Improve communication with Local Government during the claims process**
8. **Request consultation with Local Governments throughout the process**

THE AMENDMENT WAS PUT AND CARRIED

THE MOTION NOW READS

1. **Request that WALGA State Council investigates the development and implementation of Natural Disaster Recovery Support Funding that will provide advice and financial support for Local Governments affected by the impacts of natural disasters that meet the Western Australia Natural Disaster and Recovery Arrangements (WANDRRA) criteria.**
2. **WALGA State Council advocate for WANDRRA to amend its policy to allow Local Government work forces to carry out approved natural disaster recovery work during normal working hours.**
3. **Request that WALGA State Council Improve the Western Australian Natural Disaster and Relief and Recovery Arrangements (WANDRRA) criteria process.**
4. **Improve the timeliness of access to funds**
5. **Strengthen the relationship between the Natural Disaster Relief and Recovery Arrangements (NDRRA) and WANDRRA.**
6. **Request WALGA to develop consistent Funding eligibility between NDRRA and WANDRRA.**
7. **Improve communication with Local Government during the claims process.**
8. **Request consultation with Local Governments throughout the process.**

MOTION AS AMENDED WAS PUT AND CARRIED

MEMBER COMMENT

The Western Australia Natural Disaster and Recovery Arrangements (WANDRRA) is jointly funded by the State and Commonwealth Governments and administered by the Department of the Premier and Cabinet (DPC), with assistance from other agencies. Through WANDRRA, the Western Australian and Commonwealth Governments provide help to people who have suffered the direct impact of a proclaimed natural disaster event.

Assistance is provided via a range of relief measures to assist communities to recover from an eligible natural disaster event including: bushfire; cyclone; earthquake; flood; landslide; meteorite strike; storm; storm surge; tornado or tsunami.

The Department of the Premier and Cabinet will activate WANDRRA if it is one of the ten events mentioned above; and the anticipated cost of eligible measures will exceed $240,000.

Who Can Receive Assistance?

The relief measures are intended to provide assistance for the recovery of communities and are available for:

- Individuals and families Small Business
- Primary Producers
- Local Government
- State Government Agencies

It is evident that the experience of Local Governments in this situation has found that the financial support and response through WANDRRA is not satisfactory. There is not a lot of financial support or advice for the Local Governments that are impacted to recover infrastructure and for community rebuilding.

The process to receive funding is difficult to address and it takes a long time to develop the assistance application and to get feedback on how the application is progressing.

There is also a gap in responses, and a lack of recognition and understanding of the demands on Local Government staff time that has to be diverted to the recovery, the ongoing commitment, plus initial cost demands. The response by government is slow and the problem is that the Council must deal with the problem immediately.

Councils cannot get definitive answers on claims making the management of the process more difficult and the strain on the budget and resources challenging.

It is proposed that this gap in the provision of financial support and advice for affected local governments be filled by an industry sponsored initiative that involves WALGA setting up a fund to be available to provide support for local government.

The source of funding for the initiative is a matter for State Council to consider and canvass support from member Councils; however, the Association has been very successful in developing a strong business model that has not required member subscriptions to increase for many years.

Sources of funding for the initiative may include:

- Profits from the existing business model (e.g. Training);
- Increased subscriptions to accumulate capital in a reserve fund; and
- A levy on all member Councils.

WALGA may also consider presenting the business model to the Premier for consideration to match any funding that the Natural Disaster Recovery Support Funding was to accumulate.

SECRETARIAT COMMENT

The Commonwealth Government has established and administers the Natural Disaster Relief and Recovery Arrangements (NDRRA) to provide financial assistance to the States for relief and recovery after a declared natural disaster event. The Commonwealth provides for partial reimbursement of the costs incurred by the States, provided the State's measures are as set out in the Federal NDRRA Determination and certain financial thresholds have been met. Under this arrangement the Commonwealth has delegated responsibility for identifying the type and level of assistance required for natural disasters to the States. The States are not limited to the guidance and conditions provided under the NDRRA Determination and can provide assistance beyond this scope, although these costs are not being eligible for reimbursement from the Commonwealth. The Western Australia Natural Disaster and Relief and Recovery Arrangements (WANDRRA) were established by the Western Australian Government in line with the NDRRA Determination.

It is generally acknowledged that the relationship between the NDRRA and the WANDRRA is inconsistent and not meeting the needs of Local Governments.

The provision of funds from the State Government to Local Governments through WANDRRA for disaster recovery has been on average $30 million per year between 2010/2011 and 2014/15, of which about $28m per year was for reconstructing roads.

Department of Premier and Cabinet and Main Roads WA staff provide “advice” to Local Governments affected by disasters. However, because all decision-making in relation to funding eligibility under NDRRA is by Emergency Management Australia in Canberra, issues are often referred and responses slow. Furthermore, these advisors are primarily acting in the interests of the State, rather than Local Government.

In establishing an arrangement that provides funding support to Local Governments impacted by disasters, careful consideration would need to be given to its structure if the intent was that at least some of the costs incurred would ultimately be recovered from the NDRRA and the WANDRRA.

The Australian Local Government Association (ALGA) has continued to advocate, on behalf of WALGA and other State Associations, for more funding, support and conditions for natural disaster relief and recovery for Local Governments. In January 2016 the ALGA prepared a 2016-2017 Submission to the Federal Government Budget that included advocacy for natural disaster recovery funding. This submission recommended that the Federal Government:

- maintain the levels of support for the Natural Disaster Relief and Recovery Arrangements (NDRRA);
- fund a targeted disaster mitigation program at a level of $200 million per annum; and
- include betterment funding as a core element of the NDRRA.

4.3 Non Operational Rail Corridors (05-009-03-0037)

Shire of Bridgetown-Greenbushes:

Moved: **Cr Nicholas**
Seconded: **Cr Practico**

That the Public Transport Authority and Brookfield Rail work with WALGA and any interested Local Governments in developing a policy and/or procedures in order to facilitate third party use of non-operational rail corridors, in particular uses that demonstrate a clear community benefit.

IN BRIEF

- Brookfield Rail has a lease over an extensive network of rail infrastructure in Western Australia
- This lease includes non-operational rail corridors, where in some cases rail use hasn't occurred for 20 years or more.
- There is potential for the non-operational rail corridors to be used by local governments or other third parties for a community benefit however to date it has proven difficult to get Brookfield Rail and the Public Transport Authority to recognise this potential.
- A policy to facilitate such uses should be developed with input from interested local governments

AMENDMENT

Moved: **Cr Moira Girando**
Seconded: **Cr Bruce Jack**

That item 2 be added;

2. **That the public Transport Authority & Brookfield Rail work with WALGA and any interested Local Governments to develop a separate policy and/or procedures in order to facilitate third party use of operational rail corridors, in particular uses that demonstrate a clear community benefit.**

THE AMENDMENT WAS PUT AND CARRIED

THE MOTION NOW READS:

1. **That the public Transport Authority & Brookfield Rail work with WALGA and any interested Local Governments to develop a policy and/or procedures in order to facilitate third party use of non-operational rail corridors, in particular uses that demonstrate a clear community benefit.**

2. **That the public Transport Authority & Brookfield Rail work with WALGA and any interested Local Governments to develop a separate policy and/or procedures in order to facilitate third party use of operational rail corridors, in particular uses that demonstrate a clear community benefit.**

MOTION AS AMENDED WAS PUT AND CARRIED

MEMBER COMMENT

Brookfield Rail has a lease until 2049 on 5,100km of rail infrastructure throughout the southern half of Western Australia. It is responsible for maintaining the network and granting access to operators.

Over the last few years the Shire of Bridgetown-Greenbushes has experienced frustrations dealing with Brookfield Rail on issues concerning the non-operational rail corridor, including:

- Refusal to allow minor landscaping;
- Refusal to allow minor encroachments of services (power) into the corridor;
- Refusal to allow formalised pedestrian crossings on the rail line even though the rail line hasn't been operational for approximately 25 years;
- Restrictions on community use of the service roads either side of the rail line, specifically as trails, but at the same time allow indiscriminate and uncontrolled vehicular use of the same roads; and
- Inconsistent requirements for and maintenance of signage on rail crossings and failure to progress rail interface agreement for management of rail crossings in the rail corridor.

Consultation with other south west local governments indicates similar concerns, including:

- Non-operational rail corridors detract from townscapes and essentially divide town sites with ugly deteriorating infrastructure;
- Non-operational rail corridors accumulate rubbish that is unsightly; and
- Non-operational rail corridors that do not have vegetation managed appropriately do present a source of significant fire fuel that under the right conditions would significantly contribute as entry points for wild fire into town sites.

Our motion focuses on the need for the Public Transport Authority to develop a policy framework for third party access to non-operational rail corridors for the purpose of allowing the corridors to be developed for appropriate community use. Such a policy should be developed in consultation with interested local governments.

In many of the non-operational rail corridors rail use has been non-existent for upwards of 20 years. There is no rail freight task foreseeable in the short, medium or long term future that would warrant the capital investment to bring the rail back up to standard. Permanent closure of the rail corridors would be short-sighted however the use restrictions should be minimised. If the rail was to ever re-open there should be an obligation on the end user to cease the use and return infrastructure back to original condition.

SECRETARIAT COMMENT

The rail network subject to the Brookfield Rail lease includes nearly 1,300km of rail corridors and track that is non-operational. The Public Transport Authority (PTA) publicly claims that it has a "light touch" approach to managing the lease with Brookfield Rail, providing the company opportunity "quiet use and enjoyment of the network by the lessee."[1] The PTA have indicated that there is an express clause in the lease agreement to this effect. This approach by the PTA has been strongly criticised in a number of inquiries and by the Western Australian Auditor General[2].

The PTA have strongly resisted proposals that would impact on rail corridors, even with soft infrastructure (parks and playgrounds) and in situations where the rail services ceased more than two decades ago.

Identifying and promoting the potential benefits to Brookfield Rail from supporting the use of non-operational rail corridors presents an opportunity for these State-owned assets to be utilised for the benefit of Western Australians.

[1] The Management of Western Australia's Freight Rail Network 2014 Economics and Industry Standing Committee Inquiry Report No 3 Parliament of Western Australia
[2] Management of the Rail Freight Network Lease, Twelve Years Down the Track 2013 Auditor General's Report

4.4 Planning Systems Review (05-047-01-0014)

City of South Perth:

Moved: **Mayor Sue Doherty (South Perth)**
Seconded: **Cr Steve Wolff (Belmont)**

IN BRIEF

- Issues arising from decisions of Joint Development Assessment Panels needs to be addressed.
- Issues arising from State Administrative Tribunal need to be addressed.
- Local Government Planning Policies are being disregarded in decision making.
- The Planning System is no longer providing for the voice of communities to be effectively heard.
- The State Government continues to support and protect its reforms leaving the LG sector to deal with community dissatisfaction.
- An Independent review will seek to provide a strong basis for improved advocacy in the lead up to a State election.

1. Request the Western Australian Local Government Association to advocate for an independent review of decision making in the Western Australian Planning System, including the roles of local government, delegated authorities, Joint Development Assessment Panels and State Administrative Tribunal appeal processes that gives consideration to:

1.1 How the aspirations or values of the community are incorporated into the decision making framework

1.2 Improvements to the statutory framework, including Local Planning Schemes, that would improve the transparency, certainty and consistency of the decision making process;

1.3 Ensure that decision making occurs at appropriate levels that promotes good and efficient decisions for the community;

1.4 Ensure that Local Governments have a third party right to present local community views to the State Administrative Tribunal;

1.5 The erosion of the roles of Local Government in planning for their communities.

2. In the event that the State Government is unwilling to pursue an independent review of the decision-making process, request the Western Australian Local Government Association to engage with members and advocate for practical reforms that will ensure greater accountability, transparency and procedural fairness for ratepayers through the Joint Development Assessment Panel's decision making processes.

AMENDMENT

Moved: **Cr Fiona Reid (South Perth)**
Seconded: **Mayor Henry Zelones (Armadale)**

That the following amendments be made with new item 2 and item 2 becomes item 3 as below;

2. <u>As part of the review WALGA advocates for the abolition of Development Assessment Panels (DAPs) and advise the Minister for Planning of its concerns with the actions and decisions of the Development Assessment Panels; and</u>

3. In the event that the State Government is unwilling to pursue an independent review of the decision-making process <u>and/or the abolition of the DAPS</u>, WALGA engage with members and advocate for practical reforms that will ensure greater accountability, transparency and procedural fairness for ratepayers, through the Joint Development Assessment Panel's decision making processes.

THE AMENDMENT WAS <u>LOST</u>

ORIGINAL MOTION PUT AND <u>CARRIED</u>

MEMBER COMMENT

The Local Government sector has raised concerns including the erosion of the roles of local Government and the decisions being made by JDAPs, whereby poor planning outcomes are resulting and the communities are left blaming the local council representatives who are the minority on the JDAPs. Issues such as having a majority of government appointees on JDAPs is perceived to be creating a culture of lack of care and limited responsibility for the outcomes of planning decisions upon the community or the longer term ramifications.

JDAPs are not required to look at any other aspects other than the application before it. This is perceived to be leading to decisions being made that will adversely impact on broader community future planning outcomes.

A number of metropolitan local government Mayors at recent forums have outlined a range of issues being encountered by JDAPs.

The key issue raised are:

- Chair of JDAPs are not independent.
- Council Policies are not being considered in deliberations.
- Council Reporting Officers are having to make a recommendation and an alternative recommendation which enables the JDAPs to be selective in their decision making.
- JDAPs are taking longer and costing the community more.
- Developers are using JDAPs to put through incomplete and inferior planning applications.

Some local governments are now questioning what could be done to raise the profile of this issue and as a result recently the City of Vincent passed a resolution on the matter. The City of Belmont is also considering a report regarding the issues they are experiencing and will be sending all their community complaints to the Department of Planning (DoP) for their review.

The City of South Perth recently dealt with a 29 storey tower development through its JDAP which resulted in Supreme Court action by local residents. The developer subsequently re-submitted an application for a 44 storey building on the same site which has led to issues with the State Administrative Tribunal excluding the City of South Perth from a directions hearing stating the City of South Perth was not a party to the action.

The common theme being reiterated by many local governments dealing with JDAPs, SAT and the WA planning system functions in general, is that communities are being disengaged from the decisions and believe leveraging broader community support will be the only way the local government can get a commitment from the State Government to look at its planning decision making processes.

The planning system should be focussed on good decisions. Whilst consideration to abolishing the JDAPs system has been called for, this gives no guarantee in and of itself that the decisions would be better. Clearly, locally elected Councillors have a far better understanding of the impacts of developments on the community than appointed persons, however, in some circumstances, the added expertise may be warranted for some decisions.

By way of an example, some Local Authorities in WA represent less than 1000 people and deal with relatively few applications per year. If an application for major infrastructure was applied for, understandably, the Council may not be able to gauge how their planning scheme should be applied, or

what appropriate conditions may be applied, due to a lack of familiarity with the system. On the other hand, very large local authorities such as Stirling manage a population 40% of the State of Tasmania, but are not allowed to deal with a $2 million shed, if the applicant seeks a JDAP determination. The system put in place by the State is a one size fits all planning system, rather than one that supports decision making at the appropriate level.

As has been pointed out by the State Government and numerous developer lobbies, the JDAPs are bound by the Local Planning Schemes, which whilst approved by the Minister, in most cases have been drafted by the local authorities. This would be the most appropriate place to start any review of the planning decision process. Much of the issue comes from planning schemes, which give significant amounts of discretion, with little guidance on how it should be applied. For example if a scheme simply says that the height of a development can be increased, but gives no reason as the circumstances in which this variation can happen, of course there will be debate about whether it was appropriate if that discretion is applied.
Clearly the elected members have a better understanding of the strategic intent of certain provisions of their planning schemes and this knowledge should be respected and clearly articulated. There is significant context set out in the strategic plans of the local governments that should be incorporated into the decision making process.

The advent of JDAPs was largely due to criticism by the development industry that some Councils were anti-development and incorrectly refusing applications, forcing the need for review at State Administrative Tribunal (SAT). Whilst this analysis is debatable, the other reforms that occurred over the same period were changes to the Local Government Act, which allows for the Minister for Local Government to suspend Councils or individual Councillors and mandate training to assist in their decision making.

Local Governments through their lead body WALGA would recommend that any review of decision making not be limited to the JDAPs system, but should look at how better decisions can be made across all levels of decisions in the planning system, from Ministerial decisions down to delegate decisions by officers and also the appeal processes undertaken by SAT.

A previous parliamentary inquiry was held into the functionality of the regulations surrounding JDAPs, however the scope of the review did not allow for a true investigation into the need for such a mechanism. The parliamentary inquiry was not seen by the Local Government sector as being broad enough to deal with all the issues being experienced and also not seen as being truly independent nor giving voice to the community. Further review will find improvements to the planning system which will benefit the community and developers alike.

In conclusion, if the Local Government Industry wants to see real changes in JDAPS and SAT they must also look at the planning system as whole. All Local Governments must be prepared to support reforms across the entire system otherwise the issues surrounding JDAPS will continue unless fair compromise between State and Local Government can be reached.

It is fair to say that if the State Government does not agree to partner with Local Government to undertake an independent and thorough review of the entire planning system then the loggerhead will continue.

SECRETARIAT COMMENT

Since 2009, the WA Planning Commission have been pursuing a reform process aimed at improving the land use planning and development approvals system in WA. *Planning Makes It Happen - a blueprint for planning reform* set out 11 key strategic priorities and a forward work program that included 22 actions for the State.

In September 2013, the Minister for Planning released *Planning makes it happen: phase two* outlining a range of additional projects and process improvements aimed at streamlining the approval processes. The State's reform documents are located http://www.planning.wa.gov.au/Planning-makes-it-happen.asp

The current State priority reforms outlined in *Phase Two* include the following: -

What	Why
Review of the Metropolitan Region Scheme	Consistent planning frameworks. Appropriate level of decision making.
Improve amendment process for region planning schemes	Simplify application processes. Fast track land supply.
Concurrent amendment of region and local planning schemes	Simplify application processes. Fast track land supply.
Improve local planning scheme review process	Consistency across local governments. Simplify planning processes. Fast track housing approvals.
Improve local planning scheme amendment process	Improve application processes. Fast track land supply.
Streamline structure plan process	Simplify application processes. Fast track land supply.
Private certification of development applications	Fast track housing approvals.
Standardise delegations of local government development decisions	Consistency across local governments. Appropriate level of decision making.
Electronic application system	Improve customer service – easier, faster applications and tracking of progress.
Design and development	Deliver quality development as the urban form of towns and cities across WA changes.
Review the role of the Western Australian Planning Commission (WAPC)	Ensure strategic leadership and good quality decision making.
Improve the function of the Infrastructure Coordinating Committee (ICC)	Improve coordination of infrastructure planning and delivery.
Funding of region planning schemes	Improve regional land acquisition and infrastructure provision.

4.5 Abolitions of DAPS (05-047-01-0016)

City of Subiaco:

Moved: **Mayor Ron Norris (Mosman Park)**
Seconded: **Cr Bruce Haynes (Claremont)**

IN BRIEF

- That WALGA advocate for the abolition of Development Assessment Panel (DAPs).

That WALGA:

1. Advocates for the abolition of Development Assessment Panels (DAPs) on the basis that:

1.1. DAPs by means of their majority unelected membership are not democratic bodies representing the ratepayers and accordingly do not reflect the aspirations or values of the community;

1.2. DAPs represent a significant erosion of planning powers by elected representatives who have been given a mandate by ratepayers to make these decisions; and

1.3. Previous decisions made by the Joint Development Assessment Panel have gone well beyond the purpose, intent and application of relevant Local Planning Scheme and Policies adopted by each local council; and

2. Advocates for consideration of the following reforms, in the event that DAPs remain in place, to ensure greater accountability, transparency and procedural fairness for ratepayers through the Panel's assessment and decision making processes:

2.1. Abolishing the current opt-in mechanism which allows applicants to choose either elected Councils or the DAP as the decision maker in favour of a Ministerial call-in power for projects of state or regional significance, with a minimal value of $20 million, as has been adopted in the eastern states;

2.2. Requiring equal membership on the DAP between Local Government and Appointed Specialist members with an independent chair approved by both State and Local Governments;

2.3. Requiring the DAP to set the meeting date for consideration of the development applications no later than five working days after the application being received to enable inclusion within the community consultation process;

2.4. Requiring the DAP agenda and local government report and recommendation to be published no less than ten business days prior to the scheduled meeting date;

2.5. Requiring a minimum of five business days between publishing the DAP agenda and the date by which ratepayers can make public presentations to the DAP, to provide more time to prepare a formal response;

2.6. Mandating that respondents to the development application can nominate e-mail or Australia Post as their preferred contact method for information and requiring the local government to contact registered respondents throughout the process as deadlines are reached;

2.7. Providing a public template for ratepayers to assist with the preparation of feedback as part of the Community consultation process;

2.8. Requiring any changes to a development application between the community consultation period and final proposal for decision by the DAP to be published on the local government's website and to notify all respondents to the original community consultation of those changes;

2.9. Removing the need for the local government to obtain the applicant's consent for further consultation or an extension of time to report the applicant's development proposal to a DAP meeting for determination; and

2.10. Providing a Local Government aggrieved by a DAP decision a right of review at the State Administrative Tribunal.

3. Advise the Minister for Planning of its concerns with the actions and decisions of the Development Assessment Panels.

AMENDMENT

Moved: Cr Russ Fishwick (Joondalup)
Seconded: Cr Christine Hamilton-Prime (Joondalup)

2.3 Requiring the DAP to set the meeting date for consideration of the development applications no later than thirty working days after the application being received to enable inclusion within the community consultation process;

THE AMENDMENT WAS PUT AND CARRIED

THE MOTION AS AMENDED WAS PUT IN THREE (3) PARTS:

MOTION ONE:

That WALGA:

1. Advocates for the abolition of Development Assessment Panels (DAPs) on the basis that:
- **1.1 DAPs by means of their majority unelected membership are not democratic bodies representing the ratepayers and accordingly do not reflect the aspirations or values of the community;**
- **1.2 DAPs represent a significant erosion of planning powers by elected representatives who have been given a mandate by ratepayers to make these decisions; and**
- **1.3 Previous decisions made by the Joint Development Assessment Panel have gone well beyond the purpose, intent and application of relevant Local Planning Scheme and Policies adopted by each local council.**

LOST

MOTION TWO:

That WALGA:

2. Advocates for consideration of the following reforms, in the event that DAPs remain in place, to ensure greater accountability, transparency and procedural fairness for ratepayers through the Panel's assessment and decision making processes:
- **2.1 Abolishing the current opt-in mechanism which allows applicants to choose either elected Councils or the DAP as the decision maker in favour of a Ministerial call-in power for projects of state or regional significance, with a minimal value of $20 million, as has been adopted in the eastern states;**
- **2.2 Requiring equal membership on the DAP between Local Government and Appointed Specialist members with an independent chair approved by both State and Local Governments;**
- **2.3 Requiring the DAP to set the meeting date for consideration of the development applications no later than thirty working days after the application being received to enable inclusion within the community consultation process;**
- **2.4 Requiring the DAP agenda and local government report and recommendation to be published no less than ten business days prior to the scheduled meeting date;**

2.5 Requiring a minimum of five business days between publishing the DAP agenda and the date by which ratepayers can make public presentations to the DAP, to provide more time to prepare a formal response;

2.6 Mandating that respondents to the development application can nominate e-mail or Australia Post as their preferred contact method for information and requiring the local government to contact registered respondents throughout the process as deadlines are reached;

2.7 Providing a public template for ratepayers to assist with the preparation of feedback as part of the Community consultation process;

2.8 Requiring any changes to a development application between the community consultation period and final proposal for decision by the DAP to be published on the local government's website and to notify all respondents to the original community consultation of those changes;

2.9 Removing the need for the local government to obtain the applicant's consent for further consultation or an extension of time to report the applicant's development proposal to a DAP meeting for determination; and

2.10 Providing a Local Government aggrieved by a DAP decision a right of review at the State Administrative Tribunal.

CARRIED

MOTION THREE:

That WALGA:

3. Advise the Minister for Planning of its concerns with the actions and decisions of the Development Assessment Panels.

CARRIED

THE MOTION NOW READS

That WALGA:

1. Advocates for consideration of the following reforms, in the event that DAPs remain in place, to ensure greater accountability, transparency and procedural fairness for ratepayers through the Panel's assessment and decision making processes:

1.1 Abolishing the current opt-in mechanism which allows applicants to choose either elected Councils or the DAP as the decision maker in favour of a Ministerial call-in power for projects of state or regional significance, with a minimal value of $20 million, as has been adopted in the eastern states;

1.2 Requiring equal membership on the DAP between Local Government and Appointed Specialist members with an independent chair approved by both State and Local Governments;

1.3 Requiring the DAP to set the meeting date for consideration of the development applications no later than thirty working days after the application being received to enable inclusion within the community consultation process;

1.4 Requiring the DAP agenda and local government report and recommendation to be published no less than ten business days prior to the scheduled meeting date;

1.5 Requiring a minimum of five business days between publishing the DAP agenda and the date by which ratepayers can make public presentations to the DAP, to provide more time to prepare a formal response;

1.6 Mandating that respondents to the development application can nominate e-mail or Australia Post as their preferred contact method for information and requiring the local government to contact registered respondents throughout the process as deadlines are reached;

1.7 Providing a public template for ratepayers to assist with the preparation of feedback as part of the Community consultation process;

1.8 Requiring any changes to a development application between the community consultation period and final proposal for decision by the DAP to be published on the local government's website and to notify all respondents to the original community consultation of those changes;

1.9 Removing the need for the local government to obtain the applicant's consent for further consultation or an extension of time to report the applicant's development proposal to a DAP meeting for determination; and

1.10 Providing a Local Government aggrieved by a DAP decision a right of review at the State Administrative Tribunal.

2. Advise the Minister for Planning of its concerns with the actions and decisions of the Development Assessment Panels.

MEMBER COMMENT

1. Following the lead of the City of Vincent, a version of this motion has been passed by the following councils:
   1.1. Vincent, Mosman Park, Nedlands, Cambridge, Subiaco, Stirling, Bayswater, South Perth, Belmont, Cottesloe, Claremont, Peppermint Gove, and Victoria Park.
2. The following Councils are working up support for this motion:
   2.1. Swan, Gosnells, Cockburn and Kwinana.
3. The following local communities have been adversely affected by a DAP/SAT decision or have concerns over the loss of amenity from proposed development to be approved by the DAP:
   3.1. Ascot, Alfred Cove, Applecross, Bayswater, Broome, Carine, Claremont, Como, Cottesloe, Daglish, Dalkeith, Dianella, Floreat, Guildford, Gwelup, Kensington, Mandurah, Maylands, Mount Hawthorn, Mount Lawley, North Beach, North Perth, Scarborough, South Perth, Subiaco Town Centre, Subiaco East, Subiaco West, Swanbourne, Wembley, and Woodlands.
4. The communities affected by DAP development applications have raised the following concerns in their submissions to their local council:
   4.1. The process of updating Local Planning Schemes, costing hundreds of thousands of dollars, will not stop the DAP system from considering development applications (DA) which do not comply with these schemes and policies.
   4.2. All ambit claims (DA) must be presented to a DAP regardless of their extreme non-compliance, costing ratepayer’s councils valuable time and money preparing a Responsible Authority Report.
   4.3. The decisions made by unelected DAP panel members are unaccountable and untouchable. The Minister has backed every controversial decision raised by the community, and they cannot be voted out at the next election.
   4.4. Developers can appeal DAP decisions at State Administrative Tribunal (SAT), a flawed system which does not give affected parties a seat at the table to defend their amenity rights.
   4.5. The only avenue of appeal is to the Supreme Court costing ratepayers or residents hundreds of thousands of dollars.
   4.6. The use of discretionary clauses by the DAP/SAT system has created uncertainty and a loss of trust in the planning system. The uncertainty prevents homebuyers from knowing exactly

4.7. what the rules are that govern the area / suburb / community where they may wish to invest in, buy their home, raise their family or retire. The uncertainty for those already settled concerns what changes to their living environment may be summarily visited on them. Since the residents are afforded no rights of appeal against such decisions, they are effectively left just to "hope" that they won't have to face such a decision.

4.8. Changing Local Planning Schemes and policies offers no hope of controlling discretion to approve any development. Discretion exists in other State Government planning/development, policy and regulations such as:

4.8.1. Residential Design Codes (R-Codes) Part 2 – Judgement of merit which allows the DAP/SAT to use Design Principles (a subjective view) to approve any non-complying development. If the DAP exercise its judgement based on objectives and design principles, as the decision maker it can ignore the deemed to comply provisions, ref. 2.5.1 Exercise of judgement.

4.8.2. R-Codes Part 5 – Design principles and their use are problematic for local planning schemes and policies. The State Government put in place a subjective list of design principles which are futuristic, a one size fits all approach, and open to subjective views and discretionary powers by the DAP.

4.8.3. Local councils adopting Centre Activity Structure Plans are high level subjective documents which inadvertently impose significant change to the interpretation of local town planning schemes and policies. These Centre Activity Structure Plans are used by developers and their legal team to argue Judgement of merit for their development, and have unintended consequences for communities such as those affected by the State Government's plans to redevelop Western Australia's football ovals such as:

4.8.3.1. Claremont Football Oval;

4.8.3.2. Bassendean Football Oval;

4.8.3.3. Midland Football Oval; and

4.8.3.4. Subiaco Football Oval.

4.8 These undemocratic decisions will have irreversible consequences for Western Australia's local communities, in the City and in regional towns

SECRETARIAT COMMENT

The current WALGA position regarding Development Assessment Panel (DAPs) is for a full and comprehensive cost benefit analysis of the DAP system to be conducted to assess the net benefit of DAPs (State Council March 2015). At this meeting, State Council also resolved that if the cost benefit analysis isn't undertaken, then the following improvements should be made to the operation of the system:

1. That the minimum monetary threshold for an application to be eligible for consideration by a DAP be increased to at least $30 million.
2. That the DAP system be amended to be an opt-in only process, so that when an application does meet the minimum monetary threshold, the proponent still has to elect to have the application determined by a DAP. This will identify individual Local Governments that are unable to adequately satisfy applicant expectations and allow the industry to determine the relevance of DAPs.
3. That a procedure similar to that in NSW be introduced to 'call in' a development application where it has state or regional significance and should be determined by a DAP, even if it is below the monetary threshold.

4. That DAPs be permitted to process development applications that are below the new minimum monetary threshold, providing the application has been 'called in' as having either state or regional significance or referred by a Local Government.
5. That a system be introduced to temporarily remove the planning powers of a Council due to ongoing poor performance and DAPs be utilised to process development applications that cannot be dealt with under delegated authority during the suspension period.
6. That the Parliamentary Committee investigate specific examples of DAP decisions provided by Local Government members, in order to consider the transparency of the meeting process.
7. That the Department of Planning's proposed changes to the regulations as a result of their internal review of DAPs in 2013, be put on hold until a cost-benefit analysis of DAPs has been undertaken and the outcomes of this Parliamentary review are finalised.

WALGA President, Cr Lynne Craigie and senior staff met with the new Minister for Planning and Disability Services, Hon Donna Faragher MLC on Wednesday, 25 May 2016. The Association advised the Minister about the disappointment of the recent Parliamentary Committee's review of DAPs which failed to actually address fundamental problems with DAPs, as well as the concerns from the sector and increasing dissatisfaction with the role of DAPs within the planning system. The Minister expressed her willingness to work with the sector to consider improvements to the DAPs system.

The Association is currently in the process of reviewing all decisions made by DAPs and when complete will present a report to State Council examining the performance and effectiveness of the DAP system across its full five years of operation. It is intended that this report will examine all of the issues raised in the numerous member's resolutions to abolish DAP's, including the appropriateness of DAP's development cost thresholds and the transparency of the decision making system. As part of the review, the Association will be seeking member's feedback on their experiences with DAP's, via a survey, and will also collate development application processing information from Local Governments to enable a direct comparison of the effectiveness of the DAP system compared to Local Government performance.

4.6 Introduction of Container Deposit Scheme (CDS) (05-050-02-0001)

Shire of Dandaragan:

MOTION

Moved: **Cr Darren Slyns (Dandaragan)**
Seconded: **Cr Michael Aspinall (Gingin)**

That WALGA:

1. **Continue to actively advocate for the implementation of a Container Deposit Scheme in Western Australia; and**
2. **Include the implementation of a Container Deposit Scheme in the Association's Election Platform.**

IN BRIEF

- WALGA has advocated for a CDS over a number of years
- In 2008 WALGA established a Policy Statement in support of Container Deposit Legislation
- A CDS will assist in litter reduction and improve resource recovery

CARRIED

MEMBER COMMENT

WALGA has been advocating for a CDS to be implemented throughout Western Australia for a number of years. In 2008, WALGA established a Policy Statement in support of Container Deposit Legislation (CDL).

CDL has been in place in South Australia since the 1975, which imposed a deposit on a range of beverage containers. The deposit is included in the retail price of the item and refunded when the container is returned to the collection point.

Local Government has significant investment in kerbside recycling programs and landfill operations of which beverage containers make up a large percentage of material. An additional issue is that roadside litter and drainage debris consist of a higher proportion of beverage containers as well.

The introduction of CDL would provide an incentive for community organisations, individuals and the packaging companies themselves, to take responsibility for the lifecycle of their waste.

SECRETARIAT COMMENT

The motion is consistent with current WALGA Policy.

4.7 Declared Pest Plant C3 Review by DAFWA (05-046-03-0015)

Shire of Dardanup:

Moved: **Cr Peter Robinson (Dardanup)**
Seconded: **Cr Michael Bennett (Dardanup)**

IN BRIEF

- Request for WALGA to lobby the Minister for Agriculture and Food WA to ensure that the BAM Act review results in the Act giving the DAFWA the responsibility to control, manage and facilitate the eradication of pest plants and weeds, including Cotton Bush
- Department be adequately funded to undertake eradication programs

Request that WALGA lobby the Minister for Agriculture and Food WA to ensure that the Biosecurity and Agriculture Management Act 2007 (BAM Act) review results in the Act giving the Department of Agriculture and Food WA the responsibility to control, manage and facilitate the eradication of pest plants and animals, including Cotton Bush, and that the Department be adequately funded to undertake eradication programs for all species that have the potential to negatively impact on the production of agriculture in Western Australia, including but not limited to Cotton Bush, wild dogs, cane toads, skeleton weed, Blackberry and Patterson's Curse.

CARRIED

MEMBER COMMENT

The Biosecurity and Agriculture Management Act 2007 (BAM Act) is scheduled for review in 2017.

A number of Local Governments have endorsed and contributed financially to Regional Biosecurity Groups. It is evident that the Department of Agriculture and Food (WA) has limited resources and over the last twenty years the Department's budget has steadily declined and the ability to manage biosecurity in Western Australia has suffered because of it.

It is requested that WALGA lobby the Minister for Agriculture and Food WA to ensure that the BAM Act review results in the Act giving the Department of Agriculture and Food WA the responsibility to control, manage and facilitate the eradication of pest plants and weeds, including Cotton Bush.

It is also requested that the Department be adequately funded to undertake eradication programs for all species that have the potential to negatively impact on the production of agriculture in Western Australia, including but not limited to Cotton Bush, wild dogs, cane toads, Skeleton Weed, Blackberry and Patterson's Curse.

SECRETARIAT COMMENT

The Association will be making a comprehensive submission to the review of the Biosecurity and Agriculture Management Act 2007, and will advocate the submission recommendations to the Minister for Agriculture and Food, the Director General of DAFWA and the State Biosecurity Council.

4.8 Renewable Energy (05-028-04-0009)

City of Bunbury:

IN BRIEF

- WALGA to advocate for changes to the rules and regulations governing feed in tariffs for renewable energy, providing for a guaranteed fixed feed in tariffs over an extended period.

Moved: **Cr Brendan Kelly (Bunbury)**
Seconded: **Cr Wendy Giles (Bunbury)**

That the Western Australian Local Government Association advocates for reforms to the parameters applied by the WA Government regarding generation of energy through renewable sources by local governments, either individually or in partnership with private sector specifically seeking a fixed feed in tariff for extended periods to enable effective business planning and funding arrangements.

AMENDMENT

Moved: **Cr Gerry Pule (Bassendean)**
Seconded: **Cr Cliff Collinson (East Fremantle)**

That the Western Australian Local Government Association advocates for reforms to the parameters applied by the WA Government regarding generation of energy through renewable sources by local governments, either individually or in partnership with private sector specifically seeking an adequate fixed feed in tariff for extended periods to enable effective business planning and funding arrangements.

THE AMENDMENT WAS CARRIED

THE MOTION NOW READS:

That the Western Australian Local Government Association advocates for reforms to the parameters applied by the WA Government regarding generation of energy through renewable sources by local governments, either individually or in partnership with private sector specifically seeking an adequate fixed feed in tariff for extended periods to enable effective business planning and funding arrangements.

MOTION AS AMENDED WAS PUT AND CARRIED

MEMBER COMMENT

Local government typically incurs significant annual electricity costs in providing services to the community, ie. recreation centres, street lighting, community facilities etc.

As has been demonstrated in other areas of Australia, local governments are moving to become more reliant on renewable energy sources and on a small scale this is effective, however for local governments to invest substantial funding into renewable energy sources there is a need for long term agreements and arrangements to ensure the viability of the investment. Where a local government may seek to offset its electricity usage through the provision of renewable energy sources, the rules governing the rate of feed in tariff vary depending on the amount of electricity being generated through renewable sources and the location of the facilities, making it difficult to develop a business case to justify investment in.

A fixed feed in tariff for local government in this regard would provide certainly for local governments looking to either partly of fully offset their energy use through renewable sources, demonstrating leadership in implementing measures to tackle climate change and reliance on fossil fuel power generation.

SECRETARIAT COMMENT

The City of Bunbury's proposal - *to simplify the current arrangements and provide certainty for local governments that are looking to invest in renewable technology* - seems logical as a way to encourage greater take up of renewables.

At the moment there are a range of different feed in tariffs for both residential and non-residential customers, depending on the amount of electricity being generated and/or the time at which this occurs.

There are a number of "unknowns" at this stage, which warrant investigation and report prior to advocating a specific position, such as;

- what implications the proposal would have for the broader market;
- the implications of the market transition to the Australian Energy Regulator;
- the likely rate/time frame for any set tariff.

4.9 Reducing Regulatory Burden on Local Government (05-099-03-0001)

Shire of Toodyay:

Moved: **Cr David Dow (Toodyay)**
Seconded: **Cr Brian Rayner (Toodyay)**

That all new legislation, regulation or quasi-regulation imposed on Local Government be accompanied by an independent regulatory impact assessment including the opportunity for input from the Local Government sector.

CARRIED

IN BRIEF

- The State Government is committed to red tape reduction.
- Increased Local Government compliance requirements have not been subject to the same level of scrutiny.
- All new legislation, regulation or quasi-regulation should be subject to a regulatory impact assessment.

MEMBER COMMENT

In May 2015 the State Government launched a project to launch the Reinvigorating Regulatory Reform Project. The plan purports to support four actions:

- Cutting red tape;
- Progressive deregulation and regulatory reform;
- Improving regulatory assessment;
- Ensuring success through communication and engagement.

One of the priority areas for improvement was releasing administrative burden.

Placing additional regulatory or compliance burdens on Local Government increases the cost of Local Governments performing their functions and ultimately, increases the cost to the community and business. Any increase in the cost of doing business for Local Government will in due course be funded by increased rates or reduced levels of service.

Recently the State Government conducted a series of workshops with Local Governments to seek to improve the Integrated Planning and Reporting Process which now forms part of the compliance requirement for Local Government. During that process the Department was unable to answer:

- The increased cost to the sector of the new provisions; and
- Whether a regulatory burden assessment was completed prior to implementation, and if the assessment was done, what was the outcome?

Gather any group of elected members or Local Government employees together and they will be able to list new compliance requirements imposed in the last five years. The list will be long, but will include:

- Integrated Planning and Reporting Framework;
- Regulation 17 of the Local Government (Audit) Regulations
- New deemed provisions in all Local Planning Schemes;
- Changes to Planning for Bushfire Protection;
- Introduction of Fair Value Accounting for Assets;
- Changes to reporting requirements for gifts;
- Introduction of My Council website;

- Introduction of Registered Biosecurity Groups (while reducing State Government services); and
- Changes to compliance and reporting requirements for rates.

Many of these changes are important and worthwhile and have been embraced by the sector. Others are clearly reactions to political issues of the day, but will remain as requirements long after the issues have passed.

The State Government has recently reformed the compliance requirements for incorporated associations, providing three levels of reporting reflective of the level of risk to the community. This is good reform and represents the risk based approach which is also a feature of the red tape reduction policy. It is curious that the same risk based approach cannot be applied to Local Government instead of a single prescriptive one size fits all approach.

If efforts to reduce red tape are genuine and serious, all new legislation, regulation and quasi-regulation (circulars, guidelines etcetera) which impose or potentially impose a cost to the Local Government sector should be accompanied by an independent and publicly released impact assessment to quantify both the compliance cost and the estimated benefit.

Any new burden on business would be subject to this kind of assessment. There seems to be a lack of appreciation that any new cost to Local Government ends up being a cost to the community and business.

SECRETARIAT COMMENT

WALGA supports the concepts of reduced red tape and unwarranted compliance.

4.10 Most Accessible Regional City in Australia Awards (01-006-04-0001)

City of Bunbury:

MOTION

Moved: **Cr Brendan Kelly (Bunbury)**
Seconded: **Cr Wendy Giles (Bunbury)**

IN BRIEF

- Introduce an annual awards program coinciding with LG Week to acknowledge local governments promoting and improving accessibility in Western Australia

That the Western Australian Local Government Association:

1. **Develop assessment criteria to formally recognise the contribution that Western Australian local governments are taking to promote and improve accessibility within their jurisdictions.**

2. **Conduct an annual awards process coinciding with Local Government Week to recognise local governments nominated for work undertaken in no. 1 above based on metropolitan, Regional and remote categories.**

3. **Nominate the winning local government from each category for the National Awards for Local Government – Disability Access and Inclusion Awards conducted by the Department of Infrastructure and Regional Development.**

CARRIED

MEMBER COMMENT

The City of Bunbury's first objective in the Community and Culture Key Priority Area of its Strategic Community Plan is to Establish Bunbury as the most accessible regional city in Australia by 2020, by providing services and information that are accessible and inclusive for community members of all abilities.

The City recognises access and inclusion as being a key component in enhancing community well-being and the quality of life for the people who live and work in Bunbury, and considers this philosophy to be applicable to all local governments throughout Western Australia.

It is suggested that making provision for such awards in Western Australia can then naturally feed into the national awards for Disability Access and Inclusion administered by the Federal Department of Infrastructure and Regional Development, where no Western Australian local government has ever been successful in winning that category.

SECRETARIAT COMMENT

The Association has held annual awards in the past in respect to specific issues such as Biodiversity awards.

4.11 Discussion Paper Excessive Force (01-003-02-0001)

Shire of Bridgetown-Greenbushes:

Moved: **Cr Antonio Practico (Bridgetown-Greenbushes)**
Seconded: **Cr John Nicholas (Bridgetown-Greenbushes)**

That WALGA, recognising that a significant role of local government is to lobby and advocate to higher levels of government on matters of concern to local constituents, advocate to the State Government for a discussion paper to be prepared on the issue of decriminalising the use of excessive force by members of the public when such force is effected in the course of defending family and property from intruders.

IN BRIEF

- There have, in recent years, been some well publicised incidents of property owners being charged for causing injury to intruders in the course of defending family and property.
- This is an issue of concern to the broader community and it has been raised at many community forums across the State.
- Local Government has an advocacy role to take on matters of concern raised by the community even when they are not directly related to local government service provision.
- The Motion is merely seeking the development of a discussion paper in order to allow widespread debate of this issue in the community.

AMENDMENT

Moved: **Mayor Carol Adams (Kwinana)**
Seconded: **Cr Ruth Alexander (Kwinana)**

That WALGA, recognising that a significant role of local government is to lobby and advocate to higher levels of government on matters of concern to local constituents, advocate to the State Government for a discussion paper to be prepared on the <u>issues associated with use of force</u> by members of the public when such force is effected in the course of defending family and property from intruders.

THE AMENDMENT WAS PUT AND <u>CARRIED</u>

THE MOTION NOW READS

That WALGA, recognising that a significant role of local government is to lobby and advocate to higher levels of government on matters of concern to local constituents, advocate to the State Government for a discussion paper to be prepared on the issues associated with use of force by members of the public when such force is effected in the course of defending family and property from intruders.

MOTION AS AMENDED WAS PUT AND <u>CARRIED</u>

MEMBER COMMENT

It is accepted that some local governments will query the merits of the subject matter of this Motion being on the WALGA AGM agenda. This was an argument debated by the Shire of Bridgetown-Greenbushes councillors when the Motion was proposed. However it is our belief that the subject matter is appropriate for consideration by local governments and at the WALGA AGM as it falls under the “advocacy” role that the local government sector plays. There are many issues outside the direct control of local government that are of interest to the sector and that the sector, either individually or collectively, seeks to have input into.

The issue of decriminalising the use of excessive force in the defence of family and property has been raised at the local community level, including at many community forums throughout the State.

How are members of the public expected to lobby for Government to consider and review this issue? Individually approaching Members of Parliament is unlikely to generate momentum for this issue to be added to the ever-increasing list of judicial reviews, statutory reviews, etc. Alternatively individual members of the public could band together to instigate petitions to the government on this issue. History however would question the effectiveness of such an approach. By raising the issue at the WALGA AGM and hopefully having the Motion carried would add weight to the issue with the decision being reflective of an overall community wish for this issue to be discussed.

The Motion is not seeking an immediate change to the criminal code or other related legislation. Such a Motion would be presumptuous and would ignore the processes required to effect legislative change. The Motion instead seeks the development of a discussion paper in order to allow widespread debate, from the community level to the judicial level, on the issues concerning the use of force by property owners when defending family and property.

There have, in recent years, been some well publicised incidents of property owners being charged for causing injury to intruders in the course of defending family and property.

The motion deliberately uses the term “excessive force” as that is the term often used when persons are charged after causing injury to intruders in the course of defending family and property. Even if a property owner uses “appropriate” force the reality is that if injury or death is caused to the intruder the judicial determination would be that the force used in defending family or property was excessive in the circumstances.

The Motion isn’t condoning the use of excessive force – it is simply seeking some discussion on the issue as it is an issue of concern to the broader community.

SECRETARIAT COMMENT

The Association currently does not have a policy position on “excessive force”.

4.12A MATTER OF SPECIAL URGENT BUSINESS: Corella Management Strategy (05-046-02-0003)

City of Rockingham:

Moved: **Cr Deb Hamblin (Rockingham)**
Seconded: **Cr Matthew Whitfield (Rockingham)**

That members agree that the following item of Special Urgent Business relating to a Corella Management Strategy be considered.

CARRIED BY ABSOLUTE MAJORITY

4.12B Corella Management Strategy (05-046-02-0003)

City of Rockingham:

Moved: **Cr Deb Hamblin (Rockingham)**
Seconded: **Cr Matthew Whitfield (Rockingham)**

IN BRIEF

- Development and implementation of a Corella Management Strategy for the Perth metropolitan Reign is sought.

"That the State Government through the auspices of the Department of Parks and Wildlife, in consultation with Perth metropolitan Local Governments take a leadership role in the development and implementation of a Perth metropolitan area wide Corella Management Strategy with the objective of:

(a) Managing populations of corellas at a sustainable and ecologically appropriate level.
(b) Limiting the deleterious impact current Corella populations are having on local ecosystems.
(c) Limiting the significant damage current Corella populations are inflicting on public open space and associated infrastructure.
(d) Limiting the public health risks that are being created, and public amenity being threatened, by the large levels of Corella faeces being deposited in public open spaces."

AMENDMENT

Moved: **Cr Deb Hamblin (Rockingham)**
Seconded: **Cr Moira Girando (Coorow)**

"That the State Government through the auspices of the Department of Parks and Wildlife, in consultation with all Local Governments take a Western Australia leadership role in the development and implementation of a state-wide Corella Management Strategy with the objective of:

(a) Managing populations of corellas at a sustainable and ecologically appropriate level.
(b) Limiting the deleterious impact current Corella populations are having on local ecosystems.
(c) Limiting the significant damage current Corella populations are inflicting on public open space and associated infrastructure.
(d) Limiting the public health risks that are being created, and public amenity being threatened, by the large levels of Corella faeces being deposited in public open spaces."

THE AMENDMENT WAS PUT AND CARRIED

THE MOTION NOW READS

"That the State Government through the auspices of the Department of Parks and Wildlife, in consultation with all Local Governments take a Western Australia leadership role in the development and implementation of a state-wide Corella Management Strategy with the objective of:

(a) Managing populations of corellas at a sustainable and ecologically appropriate level.
(b) Limiting the deleterious impact current Corella populations are having on local ecosystems.
(c) Limiting the significant damage current Corella populations are inflicting on public open space and associated infrastructure.
(d) Limiting the public health risks that are being created, and public amenity being threatened, by the large levels of Corella faeces being deposited in public open spaces."

MOTION AS AMEDNED WAS PUT AND CARRIED

MEMBER COMMENT

The Department of Parks and Wildlife (DPaW) estimate that there are 7,000 to 10,000 corellas in the Perth metropolitan area made up of a single population that move throughout the metropolitan area. This number is currently growing at approximately 7% per year.

There are two species identified as requiring management being the Little Corella (*Cacatua sanguinea) native to the north of Western Australia and the* **Eastern Long-billed Corella** (*Cacatua tenuirostrisI) which is an introduced Eastern States species.*

Corellas cause a number of issues within the urban environment, being:

- Noise issues through there characteristic screeching particularly at sun rise and sunset
- Large flocks can cause issues with defecation on property and infrastructure particularly at roost sites
- Damage to trees through defoliation and picking at fruits and nuts
- Damage to turf areas while digging and plucking at shoots looking for food
- Damage to buildings through rubbing of their beaks and chewing at infrastructure
- Competing with native bird species for breeding habitat and food source

Western Australian Local Government Association currently facilitate a Corella Coordination Working Group (CCWG) made up of representatives from the following;

- WALGA
- DPaW
- Department of Agriculture and Food – Western Australia (DAFWA)
- East Metropolitan Regional Council (EMRC)
- South West Group
- City of Joondalup
- City of Wanneroo
- City of Swan
- City of Stirling
- City of Rockingham

The aim of the Corella Coordination Working Group is to develop an operational plan and gain commitment regarding the management of Corella populations in the metro area over the next two years. DPaW have committed $50,000 to Corella Management and are seeking commitment from the working group members to also provide funding and resources.

City officers recognise that population numbers can't be properly controlled at a local level and a collaborative approach needs to be undertaken. Getting commitment from state and local authorities has proved difficult due to varying priorities and no one department looking to take overall responsibility.

Whilst the present working group is a step forward it does not provide a comprehensive metropolitan wide overall approach to the issue, led by the State setting direction for the whole area, devising goals and objectives and identifying a range of approaches to pursue so that it can achieve and measure its success.

SECRETARIAT COMMENT

WALGA welcomes participation of any affected Local Government in the working group.