July 2014
State Council
Full Minutes
NOTICE OF MEETING

Meeting No. 3 of 2014 of the Western Australian Local Government Association State Council held at WALGA, 170 Railway Parade West Leederville on Wednesday 2 July 2014 beginning at 4:00pm.

1. ATTENDANCE, APOLOGIES & ANNOUNCEMENTS

1.1 Attendance

Chairman
President of WALGA
Mayor Troy Pickard
Deputy President of WALGA
Cr Lynne Craigie
Pilbara Country Zone

Members
Avon-Midland Country Zone
Cr Lawrie Short
Central Country Zone
President Cr Philip Blight
Central Metropolitan Zone
Cr Janet Davidson JP
Mayor Heather Henderson
East Metropolitan Zone
Cr Steve Wolff
Cr Mick Wainwright
Goldfields Esperance Country Zone
Mayor Ron Yuryevich AM RFD
Gascoyne Country Zone
Cr Ross Winzer
Great Eastern Country Zone
President Cr Eileen O'Connell
Great Southern Country Zone
President Cr Ken Clements
Kimberley Country Zone
Cr Chris Mitchell
Murchison Country Zone
Cr Simon Broad
North Metropolitan Zone
Mayor Tracey Roberts JP
Cr Geoff Amphlett JP
Cr David Michael
Northern Country Zone
President Cr Karen Chappel
Peel Country Zone
President Cr Wally Barrett
South East Metropolitan Zone
Mayor Cr Henry Zelones JP
Cr Fiona Reid
South Metropolitan Zone
Mayor Carol Adams
Cr Doug Thompson
Mayor Logan Howlett
Cr Wayne Sanford
Ex-Officio
Local Government Managers Australia
Mr Jonathon Throssell

Secretariat
Chief Executive Officer
Ms Ricky Burges
Deputy Chief Executive Officer
Mr Wayne Scheg gia
EM Governance & Corporate Services
Mr Tony Brown
EM Marketing & Communications
Mr Zac Donovan
EM Planning & Community Development
Ms Allison Hailes
EM Infrastructure
Mr Ian Duncan
EM Business Solutions
Mr Nick Wood
A/EM Environment & Waste
Ms Julia Beijeman
Manager Governance
Mr James McGovern
Finance Manager
Mrs Tina Mosscrop

1.2 Apologies

The Rt Hon Lord Mayor of the City of Perth
Ms Lisa Scaffidi
Local Government Managers Australia
Mr Mark Chester
North Metropolitan Zone
Cr David Michael
EM Environment & Waste
Mr Mark Batty
EO Governance and Strategy
Ms Ana Fernandez
OBSERVERS
Nil

MEETING ASSESSMENT
Mayor Heather Henderson to undertake a meeting assessment at the conclusion of the meeting.

ANNOUNCEMENTS
Nil

1. MINUTES OF THE PREVIOUS MEETINGS
2.1 Minutes of May 2014 State Council Meeting

Moved: Cr W Barrett
Seconded: Cr C Mitchell

That the Minutes of the Western Australian Local Government Association (WALGA) State Council Meeting held on 9th May 2014 be confirmed as a true and correct record of proceedings.

RESOLUTION 53.3/2014 CARRIED

2.1.1 Business Arising from the Minutes of May 2014.
Nil

2. DECLARATION OF INTEREST
Pursuant to our Code of Conduct, the following State Councillors declared an interest for Item 5.13 Honours Panel Committee Minutes, to the Chairman:

- Mayor Henry Zelones
- Cr Wally Barrett
- Cr Mick Wainwright
4. EMERGING ISSUES

Special Urgent Business

Item 8 of Standing Orders

Moved Cr F Reid
Seconded Mayor H Zelones

That Motion of Special Urgent Business to consider a South East Metropolitan Zone motion in respect to Metropolitan Reform be put.

PROCEDURAL MOTION

Moved Cr W Barrett
Seconded Mayor C Adams

That the motion be put.

RESOLUTION 54.3/2014 CARRIED

The motion of special urgent business was put and

Lost for want of a two thirds majority
5. MATTERS FOR DECISION
   • As per matters listed
   • Items Under Separate Cover to State Council only

6. MATTERS FOR NOTING / INFORMATION
   • As per matters listed.

7. ORGANISATIONAL REPORTS
   7.1 Key Activity Report
      7.1.1 Environment and Waste
      7.1.2 Governance and Strategy
      7.1.3 Infrastructure
      7.1.4 Planning and Community Development
   7.2 Policy Forum Reports
      7.2.1 Policy Forum Reports
   7.3 President’s Report
      Recommendation
      That the President’s Report for July 2014 be received.
   7.4 CEO’s Report
      Recommendation
      That the CEO’s Report for July 2014 be received.

8. ADDITIONAL ZONE RESOLUTIONS
   To be advised following Zone meetings.

9. MEETING ASSESSMENT
   Mayor Heather Henderson be requested to provide feedback as to the effectiveness of the meeting.

10. DATE OF NEXT MEETING
    Recommendation
    That the next meeting of the Western Australia Local Government Association State Council be held in the Boardroom at WALGA, 170 Railway Parade West Leederville, on Wednesday 3 September 2014, commencing 4pm.

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5. MATTERS FOR DECISION

5.1 Local Government Reform and Poll Provisions (05-034-01-0018 TB)

By Tony Brown, Executive Manager Governance and Corporate Services

Moved Cr P Blight
Seconded Cr L Short

That WALGA:
1. Reaffirm its policy position opposing forced amalgamations and supporting voluntary reform; and
2. Adopt, and advocate for, a policy position that the poll provisions contained in the Local Government Act 1995 should be amended so that Electors of a Local Government where 1 or more Local Governments will be abolished or significantly affected by a boundary change proposal are able to demand a poll on the proposal, with ‘significantly affected’ being specifically defined as causing a fifty percent variation in:
   i. Population; or,
   ii. Rateable properties; or,
   iii. Revenue.

RESOLUTION 55.3/2014 CARRIED

In Brief
- An emerging issue relating to structural reform and the poll provisions was considered by State Council at their 5 March 2014 meeting;
- At that meeting, State Council resolved to refer the emerging issue motion to the Metropolitan Reform Implementation Policy Forum and the Country Reform Policy Forum;
- The item was considered by the Country Reform Policy Forum at their 7 May 2014 meeting and by the Metropolitan Reform Implementation Policy Forum at their 17 April 2014 and 5 June 2014 meetings;
- The Policy Forums generally shared a consensus that WALGA’s policy position regarding the poll provisions should be changed for WALGA to support amendments to the poll provisions so that:
   i. Votes in polls are conducted in all affected districts with their votes combined; and
   ii. Electors of a Local Government that will be abolished or significantly affected by a boundary change proposal should have the right to demand a poll.

Attachment
Nil.

Relevance to Strategic / Business Plan
- Providing strong representation for Local Government
- Providing effective leadership for Local Government
- Building a positive profile for Local Government
- Enhancing the capacity of Local Government to deliver services
Policy Implications
WALGA’s current policy position is to support the poll provisions in their current form. This item recommends changing WALGA’s policy position on the poll provisions.

Budgetary Implications
Nil.

Background
The following motion was listed for discussion at the 5 March 2014 State Council meeting as an emerging issue:

1. That State Council:
   a. reject any moves by the State Government to force the amalgamation of Local Governments; and
   b. adopt as a matter of policy that amalgamations, mergers and boundary changes be supported but only if introduced and supported by the affected Local Governments.

2. That State Council write to the Premier and Minister for Local Government requesting that the State Government give an undertaking that each Local Government community be entitled to hold a poll if structural change of any form is proposed.

State Council, at their 5 March 2014 State Council meeting, resolved as follows:

That the motion from the Central Country Zone on Local Government reform be considered by the Metropolitan Reform Implementation Policy Forum and the Country Reform Policy Forum for input to a future State Council agenda item.

These issues were discussed by the Country Reform Policy Forum at their 7 May 2014 and by the Metropolitan Reform Implementation Policy Forum at their 17 April 2014 and 5 June 2014 meetings.

An Item for Noting was prepared for the 9 May 2014 meeting to provide State Council and Zones with an update on the process for resolving WALGA’s policy position relating to the poll provisions.

Comment
The recommendation in the emerging issue motion submitted by the Central Country Zone addresses two issues:

1. Forced vs. voluntary structural reform; and,

Forced vs. Voluntary Structural Reform

Part 1 (a) and (b) of the emerging issue motion submitted by the Central Country Zone is consistent with WALGA’s current policy position:

1. That State Council:
   a. reject any moves by the State Government to force the amalgamation of Local Governments; and
   b. adopt as a matter of policy that amalgamations, mergers and boundary changes be supported but only if introduced and supported by the affected Local Governments.
The Association’s policy on Local Government reform is for no forced amalgamations and support for the recommendations and principles outlined in the Systemic Sustainability Study final report.

The SSS report encourages Local Governments to explore regional processes to integrate effective service delivery and infrastructure planning with appropriate political representation on a local basis.

The Association’s positions in relation to the Metropolitan Local Government Reform process were developed specifically for that purpose and do not impact the Association’s policy position of no forced amalgamations and in support of voluntary reform.

The Association’s Metropolitan Local Government Reform position was developed and considered by a meeting of Metropolitan Mayors, a full Zone process and subsequently by State Council.

The position is as follows:

WALGA supports a Governance Model for the Perth metropolitan region consisting of approximately 15-20 Local Governments, and will work towards achieving this objective, based on sustainability principles, with reference to Directions 2031, using existing Local Government boundaries as a starting point.

Further, in relation to implementation:

That, in the event Local Government reform proceeds, a staged reform transition process is implemented whereby:

1. the State Government establishes and states its vision and objectives for Local Government in metropolitan Perth and country Western Australia, and determines the parameters for Local Government structural reform;

2. the Local Government sector is empowered to achieve the objectives within a 12 month timeframe;

3. that transitional arrangements are managed by selected serving Elected Members from the amalgamating Local Governments rather than appointed commissioners;

4. that any change to the structure and governance of Local Governments, whether forced or voluntary, is funded by the State Government; and,

5. that the Local Government sector and Local Government peak bodies – WALGA and the LGMA – are involved in any Local Government reform initiative stemming from the Metropolitan Local Government Review.

Poll Provisions

As per State Council’s 5 March 2014 resolution, the Central Country Zone’s motion was considered by the Country Reform Policy Forum at their 7 May 2014 meeting and by the Metropolitan Reform Implementation Policy Forum at their 17 April 2014 and 5 June 2014 meetings.

The Government has stated that the poll provisions will not be changed to affect the current Metropolitan Local Government Reform process. However, WALGA’s advocacy position on the poll provisions will be important for future boundary change and amalgamation proposals.

In discussing WALGA’s potential future advocacy positions on the poll provisions, both Policy Forums considered the underpinning principles of the poll provisions by addressing the following six questions.
While there was some divergence of opinion, responses to the questions above were broadly consistent between the two Policy Forums with responses as follows:

<table>
<thead>
<tr>
<th>Question</th>
<th>Current Provisions</th>
<th>Policy Forum Positions</th>
</tr>
</thead>
<tbody>
<tr>
<td>I  Should a community have a right to call a poll for a boundary change proposal that will see the abolition of one Local Government?</td>
<td>Currently electors may only demand a poll if two or more Local Governments will be abolished.</td>
<td>Both Policy Forums agreed that a community should have the right to call a poll if their Local Government is to be abolished or significantly affected in terms of population or financial sustainability by the boundary change.</td>
</tr>
<tr>
<td>II Should a poll be held by individual Local Governments, or should a poll of the combined districts be held?</td>
<td>Currently polls are held within one district.</td>
<td>Most Policy Forum members argued for electors of all affected districts to be able to vote in a poll.</td>
</tr>
<tr>
<td>III Should the threshold for success or failure of a poll remain as it currently applies or should it should be changed?</td>
<td>Currently, a majority of electors must vote for a poll to be valid, and a majority of votes in a valid poll must oppose an amalgamation proposal for it to be defeated.</td>
<td>Generally it was agreed that the threshold should remain as it currently applied.</td>
</tr>
<tr>
<td>IV Should the trigger for a poll to be called be changed or remain as it currently applies?</td>
<td>Currently, at least 250, or at least 10 percent, of electors can request a poll within one month of notice being given.</td>
<td>There was some discussion that the number of signatures required for a poll to be called should be increased, possibly through the application of a formula so that more signatures would be required in more populous Local Governments.</td>
</tr>
<tr>
<td>V  Should voting in a poll be able to be held by postal vote?</td>
<td>Currently, voting can only be conducted in-person.</td>
<td>It was agreed that voting should be able to be conducted by postal vote.</td>
</tr>
<tr>
<td>VI Should voting in a poll be compulsory or voluntary?</td>
<td>Currently, voting in polls is voluntary.</td>
<td>It was generally agreed that voting in polls should be linked to the Local Government voting method and therefore should be voluntary while voting in Local Government elections is voluntary.</td>
</tr>
</tbody>
</table>

Accordingly, it is recommended that WALGA adopt an advocacy position that the poll provisions should be amended so that:

1. Votes in polls are conducted by combining the votes of electors in all affected districts; and,
2. Electors of a Local Government that will be abolished or significantly affected by a boundary change proposal are able to demand a poll on the proposal.

An important aspect of point 2, above, relates to the definition of ‘significantly affected’.
One option would be for the Minister to be empowered to determine whether a Local Government would be ‘significantly affected’ by a proposal, however this is considered sub-optimal given the Minister may have a view that a particular proposal should proceed.

Accordingly, it is recommended that measurable criteria are applied to determining if a boundary change proposal would significantly affect a Local Government.

It is recommended that ‘significantly affected’ be defined as causing a fifty percent variation to a Local Government’s:

 i. Population; or 
 ii. Rateable properties; or 
 iii. Revenue.
5.2 Road Funding Campaign (01-004-06-0001 ZD)

Zac Donovan, Executive Manager, Marketing and Communications

Moved: Mayor R Yuryevich
Seconded Cr W Sanford

That State Council:

1. Rescind resolution number 29.2/2014
2. Not proceed with a State wide road funding advertising campaign and continue with political advocacy for increased road funding as per Association policy.

RESOLUTION 56.3/2014 CARRIED

In Brief

- As a consequence of the 2013/14 mid-year Budget review, the State Government effectively abandoned the local roads agreement, costing the sector $70 million over three years.
- WALGA has since met with the new Transport Minister to seek to have the decision reversed without success and, given the recent State Government budget, there is little prospect the local roads funding will be reinstated.
- At the May State Council meeting, a decision was made to carry out a State wide campaign condemning the State Government decision that maximizes public exposure and enables Local Government participation.
- An independent survey to quantify Local Government participation was sent to all Local Governments. The response received showed strong support for a campaign but little support for local participation.
- Due to insufficient support at a local level and insufficient funding to conduct an advertising only campaign, it is recommended that the State wide campaign does not proceed.

Attachment

Nil

Relevance to Strategic / Business Plan

- Providing strong representation for Local Government
- Providing effective leadership for Local Government
- Building a positive profile for Local Government
- Enhancing the capacity of Local Government to deliver services

Policy Implications

- The State Road Funds to Local Government Agreement 2011/12 to 2015/16 was endorsed by State Council in April 2011. Delivering the local roads funding agreement is a core policy objective of the Association and a major achievement of 2011.
• Implementing a public campaign critical of the State Government decision will likely challenge relationships with government in the Transport portfolio with the risk of also hindering relations with government departments, agencies and Ministers across all portfolios.

Budgetary Implications

• Implementation of a public campaign as per the previous State Council resolution will cost $350,000 which was proposed to be funded from the WALGA Strategic Reserve.
• The WALGA Strategic Reserve is current at $750,000
• In addition to the direct cost of the campaign there is the risk of potential impact on the general WALGA operating budget if the State Government takes a punitive response to the criticism in the campaign and withdraws grant funding in the transport portfolio.

Background

• The State Road Funds to Local Government Agreement 2011/12 to 2015/16 was endorsed by State Council in April 2011.
• In the recent 2013/14 mid-year Budget review, the State Government announced that funding for local roads would be capped at the 2010/11 allocation.
• With this decision the State Government abandoned the cornerstone of the five-year funding agreement that 27 per cent of all vehicle registrations would be allocated to local roads.
• The impact of the decision is the loss over the remaining three years of the agreement of $70 million in road funding to Local Governments.
• On April 15, 2014 the WALGA President, CEO and senior policy officer met with the new Minister for Transport with the view to have the funding decision redressed without success.
• Road funding is a core operation of Local Governments, indeed the genesis of the sector was as local roads boards.
• The critical importance of road funding, the quantum of the effect and the manner in which the agreement was abandoned, is the reasoning behind a proposed campaign.
• It was proposed that the Association implement a public campaign to voice its strong opposition to the funding situation and demonstrate its support for the impact on Member Councils.
• The campaign was proposed to include both state wide advertising and components that enable Local Governments to participate in voicing their opposition at minimal direct cost.
• Given that the State Government has repeatedly cited financial constraint and has implemented a program of cost cutting across departments, it is highly unlikely the funding will be reinstated.
• In addition it should be recognized that a campaign publicly critical of the State Government could prompt an adverse response to withdraw other grant funding from the Association.

State Council at its May 2014 meeting resolved the following in respect to a Road Funding Campaign:

RESOLUTION 29.2/2014

That:
1. On receipt of advice from the Minister for Transport that the local road funding agreement will not be reinstated, the Association implements a public campaign to voice strong opposition to the State Government decision.

2. The campaign highlights that the State Government reneged on the previous agreement with the sector on road funding; and the potential consequences for community safety.

3. The campaign includes State wide public communications channels; and components that are readily able to be implemented and supported by Member Councils at minimal direct cost to Member Councils.

4. The cost of the initial campaign budget to be up to $350,000 with funding to be allocated from the Association Strategic Reserve.

Comment

The campaign for local road funding as proposed to State Council at the meeting of 9 May 2014, was premised on the engagement of local activity by Member Councils supported by State wide television and online advertising.

The objective of the campaign was to create community pressure on government Members of Parliament in their electorates to encourage the Minister and Premier to reconsider the funding cuts.

To define the commitment of WA Councils to undertake local area activity to underpin the campaign an independent survey was commissioned.

The survey was issued to all Local Governments at the competition of two weeks, there had been 80 Local Governments respond representing 58% of the sector. The survey found that while 100% of respondents favoured a State wide roads campaign to redress the funding cuts, less than 20% would allocate any staff time to assist with local area activity. Further 23% would not distribute campaign materials at local facilities.

The budget for the campaign of $350,000 was reliant on local area activity assisting to leverage pressure on government Members of Parliament.

However only 2 of the 10 Councils that host government MPs would commit to targeting the electorate offices with one Local Government declining to take any part in the campaign so as not to upset their local MP.

A campaign without significant local area activity – that is based almost entirely on State wide media advertising to generate the community awareness, interest and required online response – would not be expected to succeed within the campaign budget of $350,000.

It is therefore recommended that the proposed local roads campaign does not proceed at this point in time due to insufficient commitment by Local Governments in supporting and committing to the necessary local area activity.
5.3 Microeconomic Reform Inquiry Draft Report Submission (05-100-03-0001 PS)

By Paul Schollum, Policy Manager Economics

Moved: Cr G Amphlett
Seconded: Cr L Short

That the Association’s interim submission in response to the Economic Regulation Authority’s Microeconomic Reform Inquiry Draft Report be endorsed subject to the following change:

- In ERA recommendation 26 add in part b, after “residential transfer duty” the words “and rural transfer duty”.

RESOLUTION 57.3/2014

CARRIED UNANIMOUSLY

In Brief

- In 2013, the Economic Regulation Authority (ERA) was asked by the State Treasurer to investigate potential reforms that would improve WA’s economic performance.
- The Draft Report of the ERA’s Microeconomic Reform Inquiry was released in April 2014.
- The Association made an interim submission in response to the ERA’s Draft Report in May 2014. Note that the Association also previously made submissions to the Inquiry’s Issues Paper and Discussion Paper.
- The Association’s latest submission did not support the following ERA recommendations:
  - The Royalties for Regions legislation should be repealed.
  - Keystart should be abolished.
- The submission did support (or provided qualified support for) the following ERA recommendations:
  - A process should be developed for unsolicited infrastructure proposals from the private sector.
  - There should be a trial of congestion charging in the Perth CBD.
  - A number of processes should be introduced to reduce the costs of complying with regulation.
  - The State Government should consider reforms to State taxes, including broadening the land tax base.
- The ERA will present its final report to the Treasurer in June 2014.

Attachments

Interim Submission to the ERA Microeconomic Reform Inquiry Draft Report

Relevance to Strategic / Business Plan

- Providing strong representation for Local Government
- Providing effective leadership for Local Government
- Building a positive profile for Local Government
- Enhancing the capacity of Local Government to deliver services

Policy Implications

State Council has previously made the following resolutions regarding the ERA’s microeconomic reform inquiry:
That the Association’s interim submission and addendum to the interim submission to the ERA inquiry into microeconomic reform be endorsed with the following additional comments:

1. Funding and Utilisation of Infrastructure

Access to the Electricity Grid.

Current Western Power Policy does not allow access to the electricity grid other than for domestic users with PV cells getting feed in access. There are businesses in the State ready to build renewable energy supplies, however they cannot secure customers for their power due to lack of access to the grid.

The reasons given are related to power smoothing required when several small feeds enter the grid. There is a system called Ancillary Services, which takes care of such situations.

Access to the South West Integrated Grid (SWIG) should be made available to renewable energy generators at a fee for use basis.

2. The suggestion that the ERA consider privatising the service delivery function of the Water Corporation be deleted from the submission.

RESOLUTION 6.1/2014 (March 2014)

1. That State Council note the Association’s input to the ERA inquiry into microeconomic reform and the Association’s advocacy on Local Government’s fee and charge setting regime.
2. Further correspondence be submitted to the ERA on the following;
   a) Strengthen the comments around native vegetation clearing exemptions; and
   b) Raising issues with the rail access regime

RESOLUTION 283.5/2013 (December 2013)

Background

In 2013, the Economic Regulation Authority (ERA) was asked by the State Treasurer to investigate potential reforms that would improve WA’s economic performance. The ERA is the State’s independent economic regulator and one of its key roles is regulating and monitoring ‘natural monopoly’ type sectors, such as the electricity, water, gas and rail industries. The ERA also has an advisory role which includes undertaking inquiries requested by the State Government.

The ERA stated that the current inquiry on microeconomic reform would:

- Compare the State’s current economic performance against other States, the Federal economy and relevant international economies
- Identify those areas where reform will enhance the State’s economy and the changes needed to make the reforms work
- Prioritise the identified opportunities and their impacts on current and future growth and prosperity
- Identify those areas that warrant a more intensive inquiry due to the level of complexities of the likely impacts

The Draft Report of the ERA’s Microeconomic Reform Inquiry was released in April 2014. The recommendations of the Draft Report included:

- The Royalties for Regions legislation should be repealed.
- Keystart should be abolished (Keystart is a State Government enterprise that provides home loans to Western Australians who are unable to secure financing from the private sector)
- A process should be developed for unsolicited infrastructure proposals from the private sector.
- There should be a trial of congestion charging in the Perth CBD.
• A number of processes should be introduced to reduce the costs of complying with regulation.
• The State Government should consider reforms to State taxes, including broadening the base of land tax.

Comment

The ERA required submissions to be made in May 2014. Therefore, the Association prepared an interim submission, subject to State Council approval. The submission was relevant to a number of policy areas; therefore, all State Council Co-chairs and the WALGA President were given the opportunity to provide input. Support for the interim submission was obtained.

The Association made the following key points in its submission:

Royalties for Regions (RFR)

The Association argued that RFR had secured vital funding for regional WA and that the legislation should not be repealed. The Association also argued for reinstatement of the Country Local Government Fund and for sufficient funding to be provided to address the infrastructure backlog for Councils in rural WA. Additionally, the submission recommended that the $1 billion cap on the RFR fund be removed.

Keystart

The Association argued that Keystart improves access to home ownership for lower income earners and ensures these benefits are shared throughout the community. Therefore, Government involvement in the housing market, through Keystart, is justified on the basis of sound social policy. This has been particularly important during the last ten years, as housing affordability in WA has declined considerably.

Unsolicited infrastructure proposals

The Association supported the recommendation to develop a process for unsolicited infrastructure proposals from the private sector. Greater involvement of the private sector could encourage greater innovation and efficiency in delivering infrastructure as well as providing different options for financing projects. The Association also recommended that care should be taken in designing such a process, with probity and transparency being particularly important considerations.

Additionally, the submission pointed out that the potential gains from private sector proposals would be increased if Local Governments had the power to form Council Controlled Organisations (CCOs).

Congestion charging

The Association provided qualified support for a trial of congestion charging in the Perth CBD. Particularly important considerations were the impact of congestion charging on the local road network outside the charging area and the impacts on parking facilities both inside and outside the CBD.

Reducing the cost of complying with regulation

The Association generally agreed with the Draft Report’s recommendations on reducing the cost of complying with regulation. The submission pointed out that like other sectors of the WA economy, Local Governments face costs from out-dated and poorly designed regulation. The submission identified a few specific areas of regulatory reform that would benefit the sector, such as addressing legislative restrictions on fees and charges and allowing Local Governments to rate property used to provide Independent Living Units on a for-profit basis.
Review of State taxes

The ERA’s Draft Report recommended broadening the payroll tax base by removing the exemptions (Local Governments are included in the list of payroll tax exemptions). The Association did not support this recommendation and argued that a much broader review of State taxation would be required before such a recommendation could be considered. This is because including Local Governments in the payroll tax base would raise the question of reciprocal taxation, i.e., if Local Governments are to pay State taxes then State Government entities should be liable for Local Government rates.

The ERA also recommended that the State Government consider decreasing its reliance on transfer duty (stamp duty on property transactions). The Association supported this recommendation on the grounds that transfer duty is a particularly inefficient tax.

The removal of transfer duty would require an increase in other state taxes; therefore, the submission provided qualified support for the ERA’s recommendation to broaden the land tax base. The Association’s support was conditional on several matters, including: that Local Government would not be the land tax collector for the State; the State Government should collect the Emergency Services Levy (i.e., by putting the levy on the land tax bill); and that the land tax should be levied at relatively low rates, so that it does not compromise Local Governments ability to raise rates revenue.

The submission pointed out that broad land taxes have a number of advantages compared to transfer duty. For example, a broad land tax would spread the tax burden among the community, rather than the small group of people that move house in a given period. Land taxes also provide a fair and efficient means of funding infrastructure as well as encouraging land to be put to its most productive use. However, as with any changes to payroll tax, the Association argued that broadening the land tax base should be considered as part of a comprehensive review of the State taxation system.
Interim Submission to the Economic Regulation Authority

Inquiry into Microeconomic Reform in Western Australia

May 2014

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1. Introduction

The Western Australian Local Government Association (WALGA or ‘the Association’) is the united voice of Local Government in Western Australia. The Association is an independent, membership-based group representing and supporting the work and interests of all 138 mainland Local Governments in Western Australia, plus the Indian Ocean territories of Christmas Island and Cocos (Keeling) Islands.

The Association provides an essential voice for 1,249 elected members and approximately 24,900 Local Government employees as well as over 2 million constituents of Local Governments in Western Australia. The Association also provides professional advice and offers services that provide financial benefits to the Local Governments and the communities they serve.

The Association is grateful to the Economic Regulation Authority (ERA) for the opportunity to provide a submission in response to the Draft Report of the Inquiry into Microeconomic Reform in Western Australia. Local Governments have a strong interest many of the issues raised by the Draft Report and support reforms that would increase the prosperity and well-being of the community.

This submission focuses on the Draft Report’s recommendations that are of key interest and importance to the Local Government sector. The submission provides the Association’s perspective on the ERA’s recommendations in respect to:

- Royalties for Regions;
- Unsolicited infrastructure proposals;
- Congestion charging;
- Reducing the cost of complying with regulation;
- Review of state taxes; and,
- Keystart.

Due to meeting schedules and the tight deadline to provide input to the ERA, this submission has not yet been endorsed by the Association’s State Council. The ERA will be informed of any changes to the Association’s submission following consideration by the Council.

2. Royalties for Regions

ERA recommendation:
4. Repeal the Royalties for Regions legislation, or restrict regional funding to an amount determined annually as part of the Budget process and guided by appropriate cost benefit analysis on a project-by-project basis.

The Association does not support repealing the Royalties for Regions (RFR) legislation. The ERA’s Draft Report does not acknowledge that in the years before the RFR policy, regional areas of WA struggled for appropriate levels of State Government support and expenditure. RFR has enabled regional WA to have a fair share of the state’s taxation revenue and has directed funding towards critical projects in regional communities that may have otherwise been spent on ‘higher profile’, though not necessarily higher priority, infrastructure in Perth.
The State Government’s objectives for regional development are dependent upon Communities outside Metropolitan Perth being able to secure stable and continuing funding for infrastructure and social and economic development. The Association therefore supports the use of RFR for this purpose.

The Draft Report is critical of RFR being a hypothecated fund and emphasises the impact of hypothecation on budget flexibility. The ERA points out that RFR appropriations have increased from ‘around 3 per cent of general government revenue in 2009-10 to well over 5 per cent in 2013-14’. However, it should be noted that from 2013-14 onwards, a number of services/agencies that have regional components to them are being funded by RFR rather than through consolidated revenue, as in previous years.

The State Budget released on 8 August 2013 saw the Department of Regional Development, Regional Development Commissions, agriculture, regional health, education, tourism, community services, business development, transport and infrastructure projects sharing in the $1.3 billion of Royalties for Regions investments for 2013-14. This weakens the arguments against the hypothecated nature of RFR because it demonstrates that the State Government has greater budget flexibility than the ERA suggests.

The Association’s main focus with respect to RFR has been the Country Local Government Fund (CLGF). The CLGF is a program funded by RFR and its purpose is to address the infrastructure backlog across the country local government sector.

The Draft Report cites the recommendations of the standing Committee on Estimates and Financial Operations: ‘Royalties for Regions’ Policy. This included the Committee’s finding that it ‘was unable to establish any evidence of an actual infrastructure backlog in regional local government’. However, the extensive research undertaken by the Association to compile the Systemic Sustainability Study revealed an infrastructure backlog of $1.75 billion.

Despite the significant infrastructure backlog for country Local Governments, the CLGF was effectively ended in the 2013-14 State Budget (funding was only provided to complete previous years’ projects). The Association is currently advocating to the State Government for the retention of the Country Local Government Fund at a level commensurate with its original intent of addressing the country Local Government infrastructure backlog.

The Association position on the Fund’s reinstatement is consistent with the Western Australian Regional Development Trust’s (WARDT) recommendations contained in their 2012 Review of the Country Local Government Fund. In their review, the WARDT acknowledged that WALGA’s previous estimate of Local Government’s infrastructure backlog at $1.75 billion is ‘potentially very conservative’ and that $800 million of maintenance expenditure may be required for the State’s road network alone.

The very essence of why the Royalties for Regions fund was created is based on equitable access for those who live, work, and play in regional Western Australia. Pitching regional WA against the goliath that is the population of the metropolitan area via contestable, competitive applications would be a step backwards without the appropriate capacity building of regional applicants.

To suggest that ‘a significant proportion of projects are too small to justify detailed cost benefit analysis’ based on the fact that Royalties for Regions has allocated more than $4.2 billion to over 3,500 regional development projects at an average value of $1.2 million per project funded, shows a lack of understanding of the positive impact this type of investment is having on regional communities.

There is no doubt that measures need to be taken by the State Government to ensure the return of the AAA credit rating status, however is there also the need for a realistic mechanism for Local Governments to access the funds that are produced by the resources situated in the areas they represent. The CLGF has and should continue to be available as an option for Local Governments as part of the Royalties for Regions fund. Further, a portion of the fund should contribute to the human capacity building of those in the regional Western Australia to enable an opportunity for equitable access to funds through robust business cases.

Section 8 of the Royalties for Regions Act 2009 states: ‘[t]he Treasurer is to ensure that the amount of money standing to the credit of the Fund at any time does not exceed $1 billion’. The Draft Report criticised this $1 billion cap on the RFR fund, stating that attempts to stay under the cap could ‘hasten the expenditure of large amounts of funding’ and this is ‘not consistent with good practice infrastructure project planning or delivery’. The Association agrees with the ERA’s statements regarding the cap on the RFR fund. The Association believes the cap should be removed and that there could be some advantages if the RFR fund builds up substantial ‘reserves’. A larger RFR fund could lead to a more efficient allocation since it would improve the funding prospects for strategic large scale infrastructure projects.

In summary, the Association’s position on RFR is:

- RFR secures vital funding for regional WA and the RFR legislation should not be repealed.
- The Country Local Government Fund should be reinstated and sufficient funding provided to address the Local Government infrastructure backlog.
- The $1 billion cap on the RFR fund should be removed.

3. Unsolicited infrastructure proposals

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<th>ERA recommendation:</th>
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<td>9. Develop a process and guidelines for unsolicited infrastructure proposals from the private sector.</td>
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The Association agrees with this recommendation because the development of unsolicited proposal guidelines would enable greater input from the private sector into infrastructure provision while also ensuring the probity of such a process. More input from the private sector could encourage greater innovation and efficiency in delivering infrastructure as well as providing different options for financing projects.

The Association also agrees that care should be taken in designing the guidelines for accepting such proposals. The Association believes transparency would be a particularly important consideration in the proposal process and that a strong oversight role for the WA Office of the Auditor General could help to achieve this.
Local Governments in WA could potentially benefit from unsolicited private sector proposals for projects such as land development, street lighting, and developing and running facilities (e.g., regional airports). The potential gains from private sector proposals would be increased if Local Governments had the power to form Council Controlled Organisations (CCOs).

This model is available to Local Governments in New Zealand where CCOs are used for a variety of commercial purposes. The model allows one or more Local Governments to establish a wholly Local Government owned commercial organisation. CCOs in New Zealand are employed to:

- carry out a broad range of functions where (in the opinion of the shareholding local authorities) the efficiency of delivering such functions would be enhanced by the creation of professionally governed entities established for the specific purpose and where the appropriate consultation and oversight measures are in place.\(^3\)

A key advantage of CCOs is that they would be able to enter into commercial partnerships with the private sector to deliver infrastructure and related services more effectively than Local Governments themselves. The Association believes that the establishment of CCOs would lead to productivity gains in the Local Government sector and has therefore advocated to the State Government to make the necessary amendments to the *Local Government Act 1995*.

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\(^3\) Western Australian Local Government Association (2010), *Local Government Enterprises as a Means of Improving Local Government Efficiency*
4. Congestion charging

**ERA recommendation:**

5. Trial a congestion charge for entering the CBD during morning and afternoon peak periods. In order to implement this, further investigation will be required in order to determine the borders of the charging area, the fee structure, the charging and management system and the capacity of the public transport system to handle the likely increase in patronage.

The Association acknowledges the need to address congestion issues in the CBD and believes a congestion charge trial could be worthwhile. There are a number of issues that should be considered by such an investigation:

- Any trial or policy must consider exemption for personnel that perform functions for service authorities and require their vehicles in the execution of these duties. The trial should also consider the limited transport options that many working people face.
- A study must be performed to address a solution for residents that do not have adequate access to public transport.
- A comprehensive traffic assessment must be performed to gauge the impact on bordering parking facilities and the capacity of station parking areas.
- The trial should consider the destination of drivers using congested roads at peak times (i.e., whether the traffic is travelling through the CBD or into the CBD).
- The trial should consider that congestion charging will divert some traffic to the local road network and assess the potential impact of this, including the increased wear and tear on local roads. This also has implications for road funding in Metropolitan Perth. If the congestion charge increases traffic on local roads then some of the revenue raised by the charge should be earmarked for the maintenance of those roads.
- The trial should also consider the impact of the number of long and short term parking bays in the CBD.

5. Reducing the cost of complying with regulation

**ERA recommendations:**

11. Appoint a lead reform agency (either the Department of Premier and Cabinet, or alternatively the Department of Finance) to work closely with senior departmental staff across all areas of Government to develop regulatory reform targets and monitor, enforce and publish performance against the targets.

12. Set Key Performance Indicators for regulatory reform targets for senior departmental staff.

13. Establish an Information and Communications Technology (ICT) office within Government (the Department of Premier and Cabinet, or alternatively the Department of Finance) to:

   a. identify technology-based strategies to reduce regulatory burden in Western Australia;

   b. develop and implement a policy and implementation plan for ICT reform in the
c. provide ongoing support to the Western Australian public sector, in the areas of service delivery, strategic ICT policy and planning, public sector innovation, and information management, focusing on reducing the level of regulatory burden.

14. Update the Red Tape Reduction Group’s 2009 assessment of regulatory burden in Western Australia, to measure current levels of regulatory burden in the State.

15. Require departments with a regulatory role to:

a. establish a customer service charter with clear and measurable service standards;

b. have this customer service charter reviewed by a lead reform agency responsible for the reform programme;

c. publish this customer service charter online, and display it in areas where staff provide services to the public;

d. include a report on actual performance against the service standards in the departmental Annual Report; and

e. set Key Performance Indicators for service standards for senior departmental staff.

16. Where regulatory problems are particularly broad or complex, establish working groups that include public, private, and community-sector representatives to assist in developing solutions.

17. Replace the Regulatory Impact Assessment Guidelines for Western Australia with a statutory mandate establishing the Regulatory Impact Assessment process, and defining the roles and responsibilities of the Regulatory Gatekeeping Unit.

18. Establish a five-yearly recurring review of the implementation and effectiveness of the Regulatory Impact Assessment process, to be undertaken by the Office of the Auditor General.

19. Transfer responsibility for the central publication, but not preparation, of Regulatory Impact Assessment documentation to the Regulatory Gatekeeping Unit, including the timely publishing of:

a. Preliminary Impact Assessments;

b. Consultation and Decision Regulatory Impact Statements;

c. Compliance Notices and advice of non-compliance;

d. statements of the supporting rationale for any non-compliant proposals adopted by Government, to be provided to the Regulatory Gatekeeping Unit by the Government;

e. notices of exemptions (including the supporting reasons for approval of the exemption);
f. notices of any changes made between a Consultation Regulatory Impact Statement and the subsequent Decision Regulatory Impact Statement, to be included with the Decision Regulatory Impact Statement; and

g. a current list of all proposals undergoing Regulatory Impact Assessment, including the status of each, with the exception of cases where Cabinet-in-Confidence restrictions apply.

20. Amend the Guidelines (or their legislated replacement) to:

   a. limit applications for exemptions, including Treasurer’s exemptions, to the period immediately after the requirement for a Regulatory Impact Statement has been triggered;

   b. limit the granting of exemptions to exceptional circumstances (such as emergency situations) where a clear public interest can be demonstrated;

   c. remove the capacity for exemptions to be granted in the case of election commitments, except where exceptional circumstances apply; and

   d. require timely publication of the reasons for all exemptions granted.

21. Establish a training and resourcing initiative to ensure that all Government departments involved in the preparation of Regulatory Impact Statements and Preliminary Impact Assessments have the capacity to conduct key analytical work (such as cost benefit analysis) in-house.

22. Mandate a 30-day minimum consultation period for Regulatory Impact Assessments, where consultation is undertaken as a part of the Regulatory Impact Assessment process.

23. Empower the Regulatory Gatekeeping Unit to develop and conduct post-implementation reviews for all non-legislative proposals that have been subject to a Regulatory Impact Assessment.

24. Direct the Regulatory Gatekeeping Unit to perform an audit of legislation overdue for review, and set a schedule for the review of these Acts.

25. Establish a review policy to be applied to all new legislation, specifying:

   a. criteria triggering the mandatory inclusion of a Review of Act clause;

   b. criteria for identifying the most appropriate Government or external organisation to perform the review;

   c. criteria to guide legislators in identifying how frequently a review should be performed; and

   d. standard wording for the Review of Act clause.
The Association generally agrees with the Draft Report’s recommendations for reducing the cost of complying with regulation. Like other sectors of the WA economy, Local Governments face significant costs from out-dated and poorly designed legislation. As pointed out in the Association’s response to the Microeconomic Reform Inquiry’s Issues Paper, key areas for regulatory reform should include:

- Removing regulatory restrictions on Local Government fees and charges, since these cause inequitable outcomes for ratepayers and deny Local Governments an efficient source of revenue.
- Reforms to the Local Government Act 1995 that would enable Local Governments to rate land used for Independent Living Units where these services have been provided for profitable services.
- Amendments to the Environmental Protection (Clearing of Native Vegetation) regulations 2004 to provide clarity on Local Government roles and responsibilities.

6. Review of state taxes

**ERA recommendation:**
26. Consider options for reforming payroll tax, residential transfer duty and land tax:

a. broadening the base and lowering the rate of all three taxes to increase their efficiency; or

b. increasing reliance on efficient taxes (land tax and payroll tax) and reducing or abolishing the inefficient taxes (residential transfer duty).

**Payroll tax**

The Association is opposed to Local Governments being included in the payroll tax base. There is a long standing agreement that governments in Australia do not tax each other – an agreement that the Association supports.

If the current payroll tax exemption for Local Governments was removed, this would then suggest reciprocal taxation arrangements should apply: Local Governments should pay State taxes and State Government entities should pay Local Government rates.

The Draft Report’s recommendation to broaden the payroll tax base ignores the political and practical difficulty of implementing such arrangements. The impact of reciprocal taxation on Local Governments would vary according to the State Government presence in their district, i.e., the additional rates revenue raised compared to the State taxes incurred. When Tasmania introduced reciprocal taxation in 2003, it was estimated that only three out of 29 Local Governments would be worse off in net terms as a result of the changes. However, in WA there is a high proportion of small rural Councils that would be probably be worse off due to reciprocal taxation since they have little or no State Government presence in their Local Government Area.

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The ERA’s recommendation that the payroll tax base should be broadened is based on conceptual and philosophical arguments with little or no consideration of such ‘real-world’ complications such as reciprocal taxation. The Association believes a much broader review of State taxation should take place before such a recommendation could be considered.

Transfer duty

The Association supports the Draft Report’s recommendation that the State Government should considering decreasing its reliance on transfer duty. Transfer duty can be considered an inefficient tax on several grounds:

- Transfer duty is a volatile source of revenue for the State Government since it relies on both the volume and value of transactions. As an example of this volatility, the WA State Government raised $2.2 billion in transfer duty in 2007-08, but only $1.0 billion in 2008-09.\(^5\)
- Transfer duty adds a substantial outlay to the costs of purchasing a home. This acts as a disincentive for people to move house, which causes the following problems:
  - Low turnover of ‘family’ sized housing, since older couples are discouraged from downsizing and young purchasers tend to buy bigger homes than they immediately need to avoid paying transfer duty in the future.
  - Workers are discouraged from moving closer to their jobs, which contributes to longer daily commutes.
  - Workers are discouraged from moving from areas with high unemployment to regions with labour shortages.

In the case of retirees, transfer duty significantly adds to the costs of downsizing to a smaller home. For example, the median price for small homes (one to two bedrooms) in Metropolitan Perth was $525,000 in 2013.\(^6\) Purchasing a home at this price would result in a transfer duty bill of $18,952.50.

There is a wide consensus that transfer duties on property transactions are inefficient and the Association believes this form of State taxation should be phased out. However, the Association also recognises that such comprehensive tax reform is difficult. If transfer duty is to remain, the State Government could at least mitigate the disincentive for older people to downsize in retirement through targeted concessions. Some jurisdictions in Australia have already taken this step:

- In Victoria, card-holding seniors are eligible for a transfer duty exemption for property purchases under $330,000. Properties up to $750,000 receive a partial concession.\(^7\)
- The Northern Territory offers a ‘Senior and Pensioner Carer Concession’ on transfer duty of $8,500 for homes under $750,000.\(^8\)
- The Pensioner Duty Concession scheme in the ACT charges transfer duty at a concessional rate of $20 on homes up to $580,900. Properties up to $742,000 receive a discounted rate of transfer duty.\(^9\)

Land tax

The Association recognises that land tax, when applied to a comprehensive base, is a far more

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\(^6\) Source: Real Estate Institute of Western Australia.
\(^7\) Source: Victorian Department of Human Services.
\(^8\) Source: Northern Territory Department of Treasury and Finance.
\(^9\) Source: Australian Capital Territory Revenue Office.
efficient tax than transfer duty. Land taxes have a number of advantages:

- They can be used as a fair and efficient method of taxing and funding infrastructure (since any uplift in land values caused by new infrastructure will be partly captured by the government via increased land tax revenue).
- Because land taxes are based on the unimproved value of land, they encourage development and for land to be put to its most productive use. They therefore also tend to discourage land banking, speculation and urban sprawl.
- They provide a stable source of revenue for the State Government – particularly compared to other revenue sources such as royalties and transfer duty.
- Progressive land tax rates can be used to ensure owners of higher valued land pay a higher proportion of tax (just as progressive income tax rates increase the rate of tax paid by higher income earners).
- In contrast to transfer duty, broad land taxes spread the tax burden among the community, rather than the small group of people that move house in a given period.
- If land tax replaced transfer duty this would have positive effects on labour productivity and congestion, since this would remove the disincentive for people to relocate for work purposes.
- If land tax replaced transfer duty this would have a positive impact on housing affordability, since the upfront costs of home ownership would be reduced. Additionally, the supply and turnover of housing stock would probably increase, further improving affordability.

While there are many potential advantages to broadening the land tax base, the Association would only support such a reform subject to the following conditions:

- That Local Government does not act as the land tax ‘collector’ for the State Government. Furthermore, if land tax is to be applied to a comprehensive base, the State Government should take the opportunity to use the same arrangements to collect the Emergency Services Levy from property owners.
- That land tax be levied at relatively low rates (similar to those suggested by the ERA’s Draft Report) so that the tax does not compromise Local Governments’ ability to raise rates revenue.
- That appropriate transitional arrangements are in place. This should include phasing in the land tax over time and exemptions or concessions for households and other entities that have recently paid transfer duty.
- That appropriate arrangements are made for ‘asset-rich, income-poor’ households. This could include allowing pensioners to defer their land tax payments until the property is sold, as currently occurs with Local Government rates.
- That Local Governments continue to be exempt from land tax.

As with broadening the payroll tax base, implementing broader land taxes has a number of implications. The Association believes that the State Government should initiate a major review with a view to improving the equity and efficiency of the State’s taxes. This review should be broader in scope than the ERA’s assessment of State taxation in the Microeconomic Reform Inquiry. The ERA’s Draft Report outlined a number of compelling conceptual arguments for reforms of state taxes and the predicted net economic benefits to the community that would result from such changes. However, a broader review is necessary so that the costs and benefits to all parties affected by taxation change can be understood. Such a review should include extensive consultation with the community and discussion of transitional and compensatory arrangements for those groups adversely affected by tax reform. In the case of Local Governments, this would include investigating the implications of reciprocal taxation in WA.
7. Keystart

**ERA recommendation:**

31. Abolish Keystart as soon as possible

High demand and limited supply has caused the cost of housing in Western Australia to rise dramatically during the last ten years. Many communities across the State are suffering from the lack of affordable housing which is essential in supporting economic growth as well as maintaining vibrant and diverse communities. As such, the Association is concerned that the removal of any programs which help improve housing affordability, including Keystart, would be detrimental to both WA households and also the State’s economic competitiveness.

While it appears that the ERA is recommending that ‘Keystart’ be dissolved, the Inquiry’s recommendations relating to Keystart are inconsistent and in need of clarification. The Draft Report’s ‘summary of recommendations’ sets out the recommendation to ‘abolish Keystart as soon as possible’. However, Chapter 7.5 states that the ‘ERA considers that there are two options for reform: 1. Keystart is abolished; or 2. Keystart’s pricing structure is altered to allow Government to be adequately compensated for the risk to which it is exposed’. As such, the headline recommendation is somewhat misleading and does not reflect the findings and recommendation set out in the main body of the report.

Nevertheless, should the ERA wish to pursue the recommendation to abolish Keystart, the Association is concerned that the Inquiry does not provide sufficient evidence to justify this recommendation. The current analysis of the risk to the State posed by Keystart is limited to the level of debt held within the program. There is little assessment of the Program’s lending criteria and the level of default amongst borrowers, which the Association understands is considerably less than that within the private lending sector. Given the limited range of evidence examined by the Inquiry in relation to the performance of Keystart, the Association recommends that the ERA undertake further research and a full cost benefit analysis of the Keystart program. It is important that such analysis includes examining the social and economic impacts of the Keystart program together with the cost to the State Government of providing alternative housing programs should Keystart be abolished.

The Association is concerned that the Draft Report unduly emphasises that by increasing access to home ownership opportunities for lower earning households, Keystart increases demand for affordable housing which in turn leads to price increases. While there may be some impact on housing prices in the affordable segment of the market, the ERA does not quantify this effect or provide any empirical evidence of it. Additionally, focusing on house prices only considers one aspect of housing affordability policy.

There are many different components of housing and affordable housing, including social and private rentals in addition to home ownership options which the Draft Report fails to recognise. One of the key benefits of the Keystart program is that helps people to transition from social housing to private housing and thereby reduces the State’s social welfare expenditure. This also frees up scarce social housing stock for Western Australians on the waiting list for these services.

It is also important to recognise that improving the accessibility of homeownership is likely to reduce demands for rental properties, making rental accommodation more affordable. Furthermore, reducing the demand for rental properties and the value of the rental market is also likely to reduce...
housing demand pressures, in turn helping to alleviate investor demand, which otherwise may lead to increased housing costs for both home occupiers and renters.

The Draft Report states that ‘Keystart’s activities are attempting to address a problem that is not a true market failure… [as] potential homebuyers are unable to access private finance because they have insufficient deposits’. Indeed, throughout the report the ERA suggests market failure is the only justification for Government intervention in a market. However, social policy and equity considerations are also frequent and justified reasons for Government intervention. For example, Government intervention in the health sector is ‘undertaken with a view to providing equity of access to a satisfactory system that promotes good health at a low cost’.

The Draft Report suggests that increased levels of home ownership leads to ‘improved individual social outcomes, providing stability, security and increased community connection’. Keystart improves access to home ownership for lower income earners and ensures these benefits are shared throughout the community. Therefore, Government involvement in the housing market is justified on the basis of sound social policy.

Furthermore, there may be no ‘true’ market failure in the housing market, but the market is leading to undesirable outcomes for Western Australians. The current cost of housing, whether rental or for purchase, is such that it prevents people from saving for a deposit. Indeed, recent research by the Bankwest-Curtin Economics Centre, found that over half of households in private rentals were paying more 40% of their gross incomes in rents. This severely reduces their ability to save for a housing deposit. Additionally, this report found that those on low to moderate incomes are only able to purchase a property in a small proportion of suburbs in metropolitan Perth which ‘provides strong evidence that the housing market in WA is failing to clear for all sections of the state’s population’.

Again, such outcomes indicate the need for a body such as Keystart to help overcome the barriers to home ownership.

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11 Bankwest Curtin Economics Centre (2014) Housing Affordability: The real costs of housing in WA.
5.4 Draft Submission to the WA Planning Commission: Draft State Planning Policy 3.7 Planning for Bushfire Risk Management (05-024-02-0056CG)

By Christopher Green, (Planning Coordinator Reform and Improvement)

Moved: Cr D Thompson
Seconded: Mayor T Roberts

That WALGA’s submission to the WA Planning Commission regarding the Draft State Planning Policy 3.7 - Planning for Bushfire Risk Management and the Planning For Bushfire Risk Management Guidelines be endorsed.

RESOLUTION 58.3/2014 CARRIED UNANIMOUSLY

In Brief

- In May 2014, the Western Australian Planning Commission (WAPC) released the Draft State Planning Policy 3.7: Planning for Bushfire Risk Management (SPP 3.7) and supporting revised Planning for Bushfire Risk Management Guidelines. The proposed policy and revised guidelines will supercede the current Planning for Bush Fire Protection Guidelines.

- The public comment period for the SPP closes on Friday 4 July 2014 and submissions relating to the Guidelines close on Friday 1 August 2014. A draft submission for both documents has been prepared for State Council endorsement prior to the closing of these deadlines.

- The intention of the SPP is to reduce the risk of bushfire to people, property and infrastructure by addressing the land use planning recommendations set out by Mr Mick Keelty AO in his review of the 2011 Perth Hills Bushfire.

- The proposed bushfire risk management process will see the development of state wide, bushfire prone area mapping. In these areas a bushfire hazard level assessment will be required and in areas of moderate and extreme risk, the provisions of SPP3.7 will apply.

Attachment


Relevance to Strategic / Business Plan

- Providing strong representation for Local Government

Policy Implications

Consistent with State Council Resolution 200.2/2013 of May 2013:

State Council fully supports the intent of recommendation 3 in the report by Mr Mick Keelty, A Shared Responsibility and strongly advocates that the Western Australian Planning Commission (WAPC) must take responsibility for bushfire risk mapping and land-use planning bushfire mitigation provisions that achieve the following:

- Bushfire prone areas are identified and declared by the State Government/WAPC through bushfire prone area maps published by the State;
Consistent, State-wide, minimum bushfire mitigation standards are adopted and applied by decision making bodies, to all strategic plans, subdivision and development applications, in areas identified and declared by the State as bushfire prone.

2. That the provisions within the current Planning and Development Act (Part 15, Division 1, s256), enabling the Minister to make regulations that prescribe ‘deemed provisions’ in local planning schemes be utilised for the purposes of achieving Point 1, in a consistent and efficient manner; and

3. That any regulations prescribed for this purpose shall not limit a Local Government’s powers to adopt local planning scheme and policy provisions that exceed the State-wide minimum requirements, if so desired.

Budgetary Implications

Nil

Background

On 2 May 2014, the WAPC released the State Planning Policy 3.7: Planning for Bushfire Risk Management (SPP 3.7) and supporting revised Planning for Bushfire Risk Management Guidelines for public consultation. The proposed policy and revised guidelines will supersede the current Planning for Bush Fire Protection Guidelines (WAPC 2010).

The intention of the SPP 3.7 is to help reduce the risk of bushfire to people, property and infrastructure by encouraging a risk-minimisation approach to strategic planning, subdivision, development and other planning decisions proposed in bushfire-prone areas. Specifically it addresses the land use planning elements of the report prepared by Mr Mick Keelty AO titled A Shared Responsibility: The Report of the Perth Hills Bushfire February 2011 Review by:

- elevating bushfire issues to be addressed by the highest level of planning policy available, giving it clear status and effect in the planning policy framework;
- emphasizing the need to consider bushfire management measures in strategic level policy documents, including regional and local planning schemes, sub-regional and local planning strategies and structure plans, as well as during statutory planning processes for subdivision and development applications; and
- seeking to achieve the consistent implementation of bushfire management measures across the community.

Although not mentioned in the SPP or Guidelines, the information session provided by the Department and the Department’s Frequently Asked Questions document, outline that the mandatory provisions are currently being drafted, and will be applied as a ‘deemed provisions’ under Part 15 of the Planning and Development Act 2005. If enacted, deemed provisions will have the effect of mandating the provisions of the SPP through Local Planning Schemes, however as the WAPC has yet to release the content of the ‘deemed provisions' this process and the effect of the deemed provisions remains unclear.

The proposed bushfire risk management process will see the declaration of bushfire prone areas by the Fire and Emergency Services Commissioner. State bushfire prone areas and mapping will be progressively released so that eventually the whole State will be assessed. Local Governments retain the ability to release their own bushfire-prone area mapping with approval from the Commissioner. Where no bushfire prone area mapping exists, a default position will be applied whereby land within 100m of an area of bushfire-prone vegetation equal or greater than one hectare will be considered bushfire prone.
Within bushfire prone areas, planning documents and applications will be required to undertake a bushfire hazard assessment. In areas where the bushfire hazard assessment level is moderate or extreme, the SPP and guidelines are applicable and bushfire attack level (BAL) assessments are required for habitable development and the construction standard, AS3959 *Construction of buildings in Bushfire-Prone Areas* is applied.

**Comment**

In accordance with State Council’s previous Resolution No 200.2/2013, the Association welcomes the release of the draft SPP and the WAPC’s attempts to reduce the risk of bushfire to people, property and infrastructure by satisfying the recommendations made by Mr Keelty in his report on the 2011 Perth Hills. Further, the Association also welcomes the WAPC’s intention to apply minimum bushfire protection provisions across the State through the use of ‘mandatory provisions’ negating the need for Local Governments to amend their planning schemes to enact the bushfire management provisions.

Nevertheless, the Association is concerned that the ‘deemed provisions’ which are crucial to successful application of the proposed land use planning bushfire risk management response, have not been included in the consultation. In light of this uncertainty, the Association is concerned about what will happen to those Local Governments who already have local planning scheme and policy provisions for bushfire risk management in place, together with how the process for adopting new local planning provisions which supplement the SPP and Guidelines will work post adoption.

WALGA understands the WAPC’s attempts to ensure that the planning and development approval process does not become overly cumbersome with the addition of bushfire risk management policy provisions. However the Association is concerned that in certain situations, the application of bushfire risk management policy provisions does not fall until the very last stage of the development process and these provisions are reliant on being applied through the building approval process. As such, where this is the case, the process is likely to result in buildings being built to satisfy higher construction standards which, through the application of measures such as building protection zones at the planning stage, may not be necessary.

Further, the legislation set out by the Building Act 2011 has been intentionally designed to streamline the building application as much as possible thus minimizing the ability for Local Governments to input. Adding complexity to the building approval process with the need to undertake bushfire hazard assessments clearly contravenes the intentions of the Act and without clear guidance, is likely to be problematic at least in the initial period post adoption.

Finally the Association harbors concerns about how the process for determining whether a person is suitably qualified to undertake bushfire hazard and bushfire attack level (BAL) assessments will be undertaken, particularly in the initial period post adoption of the SPP and deemed provisions.

The draft submission makes a total of 34 recommendations which relate to both the SPP and the Guidelines.
SUBMISSION TO THE
WESTERN AUSTRALIA PLANNING COMMISSION

DRAFT STATE PLANNING POLICY 3.7 PLANNING FOR
BUSHFIRE RISK MANAGEMENT
&
PLANNING FOR BUSHFIRE RISK
MANAGEMENT GUIDELINES

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INTRODUCTION

The Western Australian Local Government Association (WALGA) is the united voice of Local Government in Western Australia. The Association is an independent, membership-based group representing and supporting the work and interests of 138 Local Governments in Western Australia.

The Association provides an essential voice for over 1,200 elected members and approximately 14,500 Local Government employees as well as over 2 million constituents of Local Governments in Western Australia. The Association also provides professional advice and offers services that provide financial benefits to the Local Governments and the communities they serve.

The comments contained in this submission were considered at the State Council meeting held on 2 July 2014.

GENERAL COMMENT

The Association welcomes the release of the draft State Planning Policy (SPP) 3.7 and the WAPC’s attempts to reduce the risk of bushfire to people, property and infrastructure by satisfying the recommendations made by Mr Keelty in his report examining the 2011 Perth Hills. Although not mentioned in the SPP, Guidelines or Minister’s media release, the information session provided by the Department and the Department’s Frequently Asked Questions document, outlined that the mandatory provisions are currently being drafted, and will be applied as a ‘deemed provisions’ under Part 15 of the Planning and Development Act 2005. The Association also welcomes the WAPC’s intention to apply minimum bushfire protection provisions across the State through the use of ‘mandatory provisions’ as this negates the need for Local Governments to amend their planning schemes to enact the bushfire management provisions.

Nevertheless, the Association is concerned that the ‘deemed provisions’ which are crucial to successful application of the proposed land use planning bushfire risk management response, have not been included in the consultation. In light of this uncertainty, the Association is concerned about what will happen to those Local Governments who already have local planning scheme and policy provisions for bushfire risk management in place, together with how the process for adopting new local planning provisions which supplement the SPP and Guidelines will work post adoption.

WALGA understands the WAPC’s attempts to ensure that the planning and development approval process does not become overly cumbersome with the addition of bushfire risk management policy provisions. However the Association is concerned that in certain situations, the application of bushfire risk management policy provisions does not fall until the very last stage of the development process and these provisions are reliant on being applied through the building approval process. As such, where this is the case, the process is likely to result in buildings being built to satisfy higher construction standards which, through the application of measures such as building protection zones at the planning stage, may not be necessary.

Further, the legislation set out by the Building Act 2011 has been intentionally designed to streamline the building application as much as possible and minimizing the need for Local Government input. Adding complexity to the building approval process with the need to undertake bushfire hazard assessments clearly contravenes the intentions of the Act and without clear guidance, is likely to be problematic at least in the initial period post adoption.

Finally the Association harbors concerns about how the process for determining whether a person is suitably qualified to undertake bushfire hazard and bushfire attack level (BAL)
assessments will be undertaken, particularly in the initial period post adoption of the SPP and deemed provisions.

**Deemed Provisions**
As stated above, whilst the Association welcomes the principle of the WAPC’s proposed use of deemed provisions to mandate bushfire risk management provisions across the State, the Association is perturbed that the draft deemed provisions have not been released alongside the SPP and Guidelines. Knowing and understanding the content of the provisions is fundamental to understanding how the State’s bushfire risk management planning response will work and how the development design requirements will be mandated. Without the publication of the deemed provisions it is difficult to provide detailed feedback concerning how the proposed bushfire risk management regime will work. As such the comments included in this submission are limited and made with an assumption that the deemed provisions will effectively enact the provisions contained in both the SPP and the Guidelines.

Recommendation

1. That the WAPC release the draft bushfire risk management ‘deemed provisions’ immediately for public consultation. The critical importance of the content of the deemed provisions is such that they should be afforded a minimum 3 month consultation period and the consultation periods for the SPP and Guidelines should be extended to allow comment to be provided on the overall framework of bushfire risk management planning controls.

**SPP Integration with the Building Act 2011**
The Association is concerned about the interaction between the draft Bushfire Risk Management SPP and the Building Act 2011, specifically about how the process will work in situations where planning approval is not required, but a building permit is.

The Association’s understanding is that a planning scheme provision cannot require a person undertaking a development to provide information if no planning approval is required. As such, a Local Government in their role as a Permit Authority, issuing building permits, cannot request information as part of a building permit application that is needed to satisfy a planning scheme provision. Such information requests can only be made relating to a planning application. Any requirement to provide information relating to the issuing of a building permit needs to be done through legislation relating to the Building Act. However, it is not clear whether the proposed designation of bushfire prone mapping is sufficient to trigger requirements made through the Building Act as well as AS3959? Accordingly the Association strongly recommends that the WAPC in conjunction with the Building Commission provide guidance explaining how the proposed process will work and how the legislation relating to bushfire risk management connects to the Building Act 2011.

In conjunction with this issue, a number of WALGA’s members have raised concerns about how the proposed bushfire risk management requirement relate specifically to Section 18, Further Information of the Building Act, 2011. The Building Regulations 2012 specify that when a Building Permit application is lodged, a Permit Authority can only ask for ‘Further Information’ once, as outlined in Section 17(2) of the Regulations. Therefore, it is unclear how the process will work, particularly when planning approval is not required, but a building permit is and an applicant has not submitted a BAL assessment. Does a Permit Authority’s request for a Bushfire Hazard Level Assessment and then potentially a BAL assessment fall within the ‘Further Information’ provisions of the Building Act? If so, no further requests can be made for more information. The deemed provisions or the SPP need to be very clear on how the proposed process is to work, otherwise the Permit Authority will be trapped by the Building Act requirements and unable to seek any additional information about the building permit application after the BAL Assessment is received.

It also remains unclear as to what happens in situations where the bushfire hazard has been treated between the different stages of the development process. For example what happens if,
as part of a subdivision application, a hazard assessment has been undertaken prior to mitigation works being undertaken? As part of any subsequent development or building permit application is a new bushfire hazard assessment needed? Or are bushfire hazard assessments required to undertake assessment of the situation pre and post mitigation works? Can a developer of a subdivision undertake a series of BAL assessments and pass these on to the subsequent lot owners?

The Association also queries what conditions will need to be attached to a sub-division approval, and a planning approval for single dwellings and other forms of development and in particular how these conditions should relate to a building permit. Any requirements placed on owners/applicants must be clearly understood along with any consequences of not conforming to those requirements.

Recommendation
2. That the WAPC and Building Commission provide guidance explaining how legislation relating to bushfire risk management connects to the Building Act 2011.
3. That guidance concerning the application of subdivision and development conditions together with model conditions are published by the WAPC.

Local Response to Bushfire Risk Management
The Association is concerned that the SPP and its Guidelines do not provide clear advice about what approach Local Governments could take if they wish to strengthen the State’s mandated provisions locally, either through additional scheme provisions, zoning or preparation of a local planning policy. Section 257B (3) of the PD Act states that ‘if a deemed provision …is inconsistent with another provision of the scheme, the deemed provision prevails and the other provision is to the extent of the inconsistency of no effect’.

On the basis that the Guidelines offer more advice relating to the development of local planning policies, the impression is given that the WAPC would prefer Local Governments to develop local planning policies, supporting the SPP and the deemed provisions, although this is far from clear. Elsewhere the Guidelines state that “WAPC prefers that bushfire controls be provided through the local planning scheme and special control areas’. It is important that whatever approach the WAPC supports, is made clear so that inconsistencies are minimised. It is also not clear whether the use of deemed provisions will result in any ‘inconsistencies’ as without the regulations being advertised, the effect of the new provisions on existing schemes with bush fire provisions cannot be examined in detail.

Recommendation
4. That the WAPC clarify what the preferred planning approach is for those Local Governments who wish to adopt local planning controls that strengthening the bushfire risk management provisions set out by the draft SPP and Guidelines.
5. The preferred approach adopted by the WAPC should recognise those Local Governments who have already adopted planning provisions and processes to mitigate bushfire risk and not jeopardise these approaches, at least in the interim period following adoption of the SPP and the deemed provisions coming into effect.

Accreditation Scheme for fire consultants
The lack of guidance relating to credentials of a fire consultant is concerning, particular given the lack of accredited fire consultants currently registered within WA. It is acknowledged that this registration system is currently being developed by the Building Commission, however, informally it has been suggested that there is likely to be an ‘interim period’ whereby full compliance with the SPP’s definition of a fire consultant will not be sought. This is not stated in either the SPP or Guidelines. It is vitally important that such guidance is formally provided along with any professional requirements that a fire consultant will need to satisfy during any interim period post the SPP adoption.
It is also not clear what happens in instances where a bushfire hazard assessment conflicts with that of a higher order planning document. Can a Local Government challenge the findings of bushfire hazard assessment or bushfire attack level assessment undertaken by fire consultant? And if so, would DFES provide assessment and advice to the local government or does the local government have to seek its own independent advice? Or does a document at the lowest level take precedence?

Recommendation
6. That the WAPC clarify the definition and requirements for fire consultants.
7. That the process for managing conflicting advice in bushfire hazard assessment and bushfire attack level assessments are set out by the WAPC.

SPECIFIC COMMENT

SPP 3.7 Planning for Bushfire Risk Management

4.2 Where this Policy Applies
It is not precisely clear in which situations the policy applies nor is it clear if bushfire management plans are required for all types of work requiring development approval in bushfire prone areas and areas.

Whilst the SPP states that the policy applies to all planning proposals located in bushfire prone areas, the Guidelines state that that if an assessment results “in a property having either a bushfire hazard level assessment of low, or achieve a BAL-Low classification across the entire portion of land, then development does not require application of the bushfire planning measures stipulated in SPP 3.7 and these guidelines”. However this is not stated in the section of SPP describing where the policy applies.

The SPP states that land may be designated bushfire prone by a Local Government bushfire map “approved by a resolution of Council, and designated by the Fire and Emergency Services Commissioner”. As such the Association queries why approval is needed from the Fire and Emergency Services Commissioner in order for a Local Government to declare a bushfire prone area.

The process for excluding land which not considered to be bushfire prone but consists of, or is within 100m of one hectare of bushfire prone vegetation, is not set out, or if indeed it is possible to exclude such land.

Recommendation
8. That the WAPC clarify, clearly and precisely in what situations and to what level/type of development the provisions of the SPP apply.
9. That the SPP clarifies if, and why Local Governments need the approval of the Fire and Emergency Services Commissioner to designated bushfire prone land.
10. The process for managing situations in which there is a difference of opinion in between a Local Government and the Commissioner over the designation of bushfire prone land is explained.
11. That guidance is provided relating to the process for excluding land from being designated bushfire prone is provided together with guidance concerning how such land is recognised in the mapping

Policy Measures
Section 6.3 of the SPP states that in areas of BAL-40 or BAL-FZ, that development will not be supported unless the proposal is considered to be ‘unavoidable development’. However the definition of ‘unavoidable development’ in the policy is limited to “in the opinion of the decision
maker”. Whilst there is further guidance to what ‘unavoidable development’ means within the Guidelines, the policy does not provide a link to these.

This section provides a reference to SPP3.6 Developer Contributions and states that the decision-maker may impose conditions and on-going contributions to address bushfire protection for subdivision or development applications. To aid both decision-makers and applicants, a list or examples of what can be included as a contribution would be helpful.

Recommendation
12. That the SPP definition of ‘unavoidable development’ provides appropriate reference to the Guidelines.
13. That the SPP and Guidelines clarify what items are considered to be appropriate developer contributions.

Planning for Bushfire Risk Management Guidelines

2 Identifying Bushfire-Prone Areas
The Guidelines state that bushfire-prone vegetation includes a variety of vegetation classified by AS3959 and that such “vegetation will generally not include manicured parks and gardens, nurseries, nature strips, orchards, or land used for horticultural purposes”. However it is not clear where this assumption has come from, particularly with regards to nature strips. Further given the requirements to comply with the policy, it is important that people are aware of what vegetation types are classified as bushfire-prone.

Recommendation
14. That the Guidelines provide a full list of bushfire prone vegetation.

2.3 Identification of Default Bushfire-Prone Areas
The default definition of bushfire-prone area as being land within 100m of an area of bushfire-prone vegetation that is greater or equal to one hectare is somewhat crude and is likely to capture large, narrow, linear areas of vegetation such as roadside verges that may not necessarily pose a bushfire risk.

Recommendation
15. That the default definition of bushfire-prone areas should include a minimum dimension.

3 Assessing Bushfire Risk
The Guidelines state that ‘bushfire hazard level assessments’ should be included as part of the preparation of planning documents including regional and local planning schemes and amendments, structure plans, subdivision and development applications. The Association queries whether this intention is correct, or whether the intention is to require a bushfire hazard level assessment only in locations identified on the State’s bushfire prone mapping as being bushfire prone? Whilst the document goes on to say that “a proponent may use an existing bushfire hazard assessment if it remains current” it is not clear if a further assessment is needed lower down the planning hierarchy, or can an existing bushfire hazard level assessment used at a higher level be reused? For example, can a bushfire hazard level assessment used to inform a local planning scheme be used at the development application level? Or is there a scale threshold in which bushfire hazard level assessments cannot be transferred?

In continuing, the Guidelines state that a decision making body may request a new bushfire hazard level assessment for reasons including if it believes the vegetation has significantly changed. However “this second assessment is to be undertaken by a different fire consultant than that used for the initial assessment.” The Association queries this and whether this means, for example, that a fire consultant who undertook an assessment for a subdivision
application cannot be used to provide an updated assessment as part of a development application arising some subsequent years later?

The Guidelines go on to state that “bushfire hazard level assessments must be undertaken by a fire consultant on behalf of a proponent (if the proponent is not the Local Government)”. As such, are there any requirements that Local Government will need to satisfy when undertaking a bushfire hazard level assessment as part of planning scheme amendment or when preparing a structure plan? Can a subsequent proponent refer to a bushfire hazard level assessment undertaken by a Local Government? Is the State Government and its agencies afforded the same abilities to undertake such assessments?

The Guidelines provide no advice as to what happens in situations where there is a conflict in bushfire hazard level assessments. For example, what happens in situations where a structure plan contains a higher hazard assessment rating than that of an assessment undertaken at the development application level? Does the local or wider area assessment take precedent or is a precautionary principle applied in which the highest hazard assessment rating used?

Recommendation
16. That SPP and Guidelines make it clear when a bushfire hazard level assessment is needed and the rules governing who is appropriate to undertake such an assessment.

Availability of AS3959: Construction of Buildings in bushfire-prone areas
The Guidelines state that AS3959 is not freely available and encourages the Local Governments to make copies of the Standard available in their libraries and administration centres (124 page document). It is not clear how this complies with the copyright provisions of the AS standards. In discussing this concept with the Standards Australia, they indicated that each local government would have to submit a request to ‘post’ the standard in their library or administration centre. They would assess the request and then determine the fee required. For the Association, the cost to purchase our version was $156 and only as a single user licence. It is inappropriate for 139 local governments to have to undertake this process and incur a fee to satisfy the State Government requirements. Therefore given that it is a State Government requirement to comply with the Standard, then it should be the State’s Governments responsibility to ensure that the Standard is available.

Recommendation
17. That the State Government make AS3959 available.

3.3 Bushfire Protection Criteria
It is not entirely clear that in areas of moderate and extreme bushfire hazard levels that full compliance with the design criteria set out in the Appendices is required. Furthermore, in areas with a low bushfire hazard level, the Guidelines suggest that ember protection features should be incorporated into building design. However, details of the ember protection features are not identified.

The Guidelines note that where a proposal contains features which cannot comply with the performance principles and acceptable solutions should be discussed with the decision-maker and DFES. This raises two important questions, firstly are there any procedures in place for DFES to check applications and if so what timeframes are involved? Secondly, what happens in the case of Development Assessment Panel applications where a proponent is not permitted to contact the decision-maker, prior to assessment?

Recommendation
18. That the SPP and deemed provisions makes the level of compliance with the policy and guidelines clear.
19. That timeframes and procedures for receiving both DFES and DPaW feedback are clearly explained.
20. That the Guidelines identify ember protection measures, or the design criteria measures that should be considered in areas with a low bushfire hazard level.

3.4 Bushfire Management Plans
The Guidelines state that “for private land, Bushfire Management Plans (BMPs) must be prepared by a fire consultant on behalf of the proponent” however the Guidelines go on to say that a BMP may not be required for subsequent stage of the planning process if it remains current. As such it is not clear if a BMP must be prepared by a fire consultant on behalf of the proponent.

Recommendation
21. That the Guidelines clarify when a BMP is needed.

4.3 Preparing Regional and Local Planning Schemes and Amendments in Bushfire-Prone Areas
The third paragraph within this section refers to section 4.2.2 however there is no such section within the document.

4.3.2 Establishing Special Control Areas for Bushfire-Prone Areas
This section refers to development ‘intensification’, however no definition is provided in the SPP, Guidelines or Appendixes. Whilst the Association understands the reluctance to accurately define ‘intensification’, it is vitally important for the purposes of ensuring consistency that at the very least, some basic guidance concerning ‘development intensification’ within bushfire prone areas is provided. For example in the context of bushfire hazard, is intensification simply modifying or increasing the size of building or is does relate more specifically to increasing the number of people within a bushfire prone area?

Recommendation
22. That the SPP and Guidelines provide a broad definition or examples of intensification in the context of the bushfire risk management.

4.3.3 Using Local Planning Policies (LPPs) to Address Bushfire
The Guidelines state that “all LPPs related to bushfire first require the endorsement of both the WAPC and DFES prior to being adopted and implemented by Local Governments… Once a letter of endorsement has been provided, the LPP will become the prevailing position on bushfire for the area for the changes specified. Without endorsement of the LPP, SPP 3.7 and these guidelines will prevail to the extent of any inconsistency”. Nevertheless, this approval process is not mentioned in the SPP and the statutory status of the Guidelines is such that they cannot impose a compulsory, local planning policy approval process. Furthermore, as recognised by the Guidelines, LPPs are not statutory instruments, therefore it is not clear how any provisions contained with a LPP will become the prevailing policy position.

The Guidelines offer little guidance relating to local planning scheme provisions, will the WAPC support provisions in schemes or do supplement provisions have to be set out as local planning policies?

Recommendation
23. The Association strongly recommends that the WAPC clearly outline the process in which Local Governments can adopt supplementary planning provisions relating to the bushfire risk management mitigation together with the head of power supporting these provisions.
24. That the WAPC provide both the rationale and authority to require LPP approval together with process and likely timeframes for LPP and local planning scheme amendment endorsement.

4.4 Preparing Local Planning Strategies in Bushfire-Prone Areas
This section states that “extreme risk areas should preferably be retained in public ownership in the form of reserved land or as a rural zoning” however no reason for or justification for this is provided.

Recommendation
25. That the WAPC clarify why extreme areas of bushfire risk shall be retained in public ownership.

5.2 Local Governments
This section states that Local Government responsibilities include ensuring local planning instruments “incorporate the State bushfire-prone area maps”, whilst section 2 states that the “State bushfire-prone area maps should not adopted as local planning scheme map”.

Recommendation
26. The process of how the maps and provisions will be adopted into schemes, needs to be clearly explained.

Appendices

Appendix 3, Section 5, Bushfire Risk Management Measures
This section states that bushfire risk management measures may include “restricting the use of reserves and national parks within two kilometres on fire danger days above very high”. However, it is not clear what this two kilometre limit applies to.

Recommendation
27. That any restriction placed on the use of reserves and National Parks is clarified.

Appendix 3, Section 6, Implementation
The last paragraph of section 5 appears to flow into section 6, is it not clear if this intentional.

Appendix 4, Element 2 Siting and Design of Development
A2.2, e. states that there should be no tall shrubs or trees within two metres of a building however no definition of a ‘tall’ shrub is given. It is also not clear if the clause is referring to tall trees, or rather any trees. It may be reasonable argued that a tall shrub is not as high as a tall tree, therefore if the clause is intended to refer to tall trees, is this distinction intentional?

A2.2 g. states that any fences and sheds within the building protection zone should be constructed of non-combustible material. Should this not be extended to include decks and any other types of construction?

A2.3 c, this section refers to fuel load reductions in jarrah/marri, karri forest and woodlands and mallee heath. Are fuel load reductions just required for these types of environments, or are fuel load reduction also needed for other environments across the State?

E2.2, building protection zones, states that in areas where building protection zones cannot be achieved within the site boundary “it may be possible to create building protection zones across
“lot boundaries”. This conflicts with the advice given within section 4 of the Guidelines which states that this is not encouraged as there is no legal basis to enforce compliance.

E2.2 refers to fire resistant plant species, are these defined?

Recommendation
28. That the permitted height of any vegetation, including shrubs and trees within two metres of a building is clearly stated.
29. That if appropriate, A2.2 g is expanded to include decks and other types of construction.
30. Any requirements to maintain a reduce fuel load are made clear to all types of vegetation and environments to which it applies.
31. That the Guidelines are consistent in stating whether building protection zones running across lot boundaries are supported.
32. That appropriate reference or definition of fire resistance plant species is provided.

Appendix 4, Element 3 Vehicular Access
Acceptable solution 3.1 refers to providing two different vehicular access routes, the Association queries whether these routes should be a certain distance apart or lead to different destinations?

A.3.4 and A3.5, there is some inconsistency in that battle axe lots are permitted to have a maximum length of 600m whilst there is no limit on private driveways. The Association queries whether the same access design criteria should apply to both private driveways and battle axe access ways as they are effectively the same thing.

Recommendation
33. That the Guidance clarifies the design criteria for vehicular access routes.
34. That the access design arrangements for private driveways and battle axe lots is made consistent.
5.5 DFES Concept Paper: Review of the Emergency Services Acts - WALGA Submission (05-024-02-0059 EF)

By Erin Fuery, Senior Community Policy Advisor

Moved: Cr M Wainwright
Seconded: Cr L Short

1. That the Association’s submission on the Department of Fire and Emergency Services’ Concept Paper: Review of the Emergency Services Acts recommending the following, be endorsed:
   
a. That the new Emergency Services Act includes the risk mitigation obligations of State agencies, as well as those for Local Government and private landowners.

b. That DFES undertakes a full assessment of the potential costs for State agencies, Local Government and private landowners associated with the new risk mitigation obligations outlined in the Concept Paper.

c. That the State Government commits to identifying a sustainable funding option for risk mitigation activities and functions under the new Emergency Services Act. This should include a review of the future purpose and use of the Emergency Services Levy.

d. That DFES commit to working in consultation with Local Governments and volunteer brigades to develop hazard-appropriate training for emergency services personnel.

e. That any future DFES training program is adequately resourced to deliver training across Western Australia on an equitable basis, in line with local needs and schedules.

f. That DFES work in consultation with Local Government Insurance Services and WALGA to explore the liability implications for Local Government in relation to risk mitigation activities prescribed in the new Emergency Services Act.

g. That DFES makes a commitment to explore the cost and resource implications of expanding the legislation to include all hazards, and to develop a proposal to build capacity and resources to meet these requirements under the Act.

h. That DFES undertakes further assessment and scenario planning on the streamlined risk mitigation strategies outlined in the Concept Paper to identify the potential risks to community safety, if the proposals were to be adopted.

a. That WALGA liaise with DFES, Department of Planning and WA Planning Commission about the potential impacts of the increased planning requirements in rural areas on regional development.

RESOLUTION 59.3/2014 CARRIED UNANIMOUSLY
PROCEDURAL MOTION

Moved: Cr P Blight
Seconded: Mayor H Zelones

That the following Central Country Zone item be referred to Item 8 – ‘Additional Zone Resolutions’

“That the Central Country Zone request that WALGA investigate potential for the fire fighting services of the Department of Parks and Wildlife (DPAW) to be transferred to the Department of Fire and Emergency Services (DFES) so that all fire fighting capabilities are incorporated into one emergency service arrangement to avoid “blurred” lines of responsibility and that the funding for the DPAW operations should be transferred to DFES and not be raised through the Emergency Services Levy.”

RESOLUTION 60.3/2014 CARRIED

In Brief

- The Concept Paper includes legislative options for reducing risk, emergency services in urban areas, volunteer brigades and units, and the Emergency Services Levy.
- The Association has undertaken a comprehensive consultation program over a short period of time to facilitate Local Government feedback on the Concept Paper.
- The Association has developed a submission on the Concept Paper on behalf of Local Government, which is presented to State Council for endorsement.

Attachment

PART 1 - WALGA Submission on the Concept Paper: Review of the Emergency Services Acts, Achievement of the Primary Objectives

PART 2 – WALGA Submission on the Concept Paper (Options Table)

APPENDIX B – Workshop Consultation Summary Table (available on WALGA website)

APPENDIX C – Workshop Consultation Local Government Participation List (available on WALGA website)

The DFES Concept Paper can be accessed from

Relevance to Strategic / Business Plan

- Providing strong representation for Local Government
- Providing effective leadership for Local Government
- Building a positive profile for Local Government
- Enhancing the capacity of Local Government to deliver services
Policy Implications

Comments are consistent with existing State Council endorsed positions including:

EMERGENCY SERVICES LEVY (ESL)
Resolution 119.5/2011
In the WALGA response to the Special Inquiry Report on Perth Hills Bushfires (Keelty Report), the Association supported Recommendation 48: The State Government move the responsibility for the management and distribution of the Emergency Services Levy to the Department of Finance, adding that the key issue for the sector is a full review of the ESL to ensure that an appropriate proportion of funding from the ESL is directed to Local Government. Separate management and distribution of the Levy is supported but is a secondary matter.

Resolution 219.3/2013
The WALGA Submission on the Emergency Services Legislation Review (May 2013) included the comment that “there is an appetite to review the allocation of the ESL to ensure that funds are allocated to higher risk areas, that funds are provided for mitigation as well as response, and to allow Local Governments to have more control over the allocation and distribution of funds...” and if “the ESL is not to fund mitigation and preventative works, money needs to be made available to assist Local Government and other to undertake these duties.”

BUSHFIRE RISK MANAGEMENT
Resolution 129.6/2012
That the State Government, through the Premier Hon Colin Barnett, be advised that Local Government:
1. Supports efforts to reduce bushfire risk in Western Australia;
2. Does not support the Governance Structure for Bushfire Risk Management developed by the Department of Premier and Cabinet as it is unworkable and:
   • Fails to address a number of significant issues identified by Mr Keelty in his Reports on the Perth Hills and Margaret River bushfires;
   • Fails to address the importance of strategic planning and how the growth of WA’s towns and cities is planned at the State and regional level;
   • Is excessively resource intensive and doesn’t focus limited resources efficiently or effectively;
   • Does not ensure that all landowners / manager are held equally accountable for managing bushfire risk;
   • Appears to transfer responsibility for bushfire risk management planning and coordination on State lands to Local Governments, exposing the sector to additional costs, effort and liability.
3. Accepts responsibility for risk identification and mitigation works on its own lands and will endeavor to enforce compliance on private lands;
4. Does not support any shift in responsibility for bushfire risk management planning or co-ordination from the State to Local Government because of the limited bushfire expertise, resources and capability in Local Government;
5. Requests that a new joint State / Local Government Advisory Group be established to identify and guide any changes to legislation, policy or practice related to Local Government’s role and responsibilities in emergency / bushfire management; and
6. Seeks an assurance that any subsequent resourcing impacts on Local Government will be fully quantified and funded through the Emergency Services Levy.

BINDING THE CROWN
Resolution 219.3/2013
The WALGA Submission on the Essential Services Legislation Review (May2013) included the comment that the sector supports the binding of the Crown to ensure maximum possible protection for people and property. In addition, the Submission requests that the new legislation includes a specific provision to bind rail corridor land leased by the State, and ensure that State agencies
responsible for the management of lands including UCL and UMR, road corridors and railway reserves are made aware of their responsibilities.

STATE TO DECLARE HAZARD PRONE AREAS

Resolutions 200.2/2013, 219.3/2013, 251.4/2013

The WALGA endorsed position is:

1. State Council fully supports the intent of recommendation 3 in the report by Mr Mick Keelty, A Shared Responsibility and strongly advocates that the Western Australian Planning Commission (WAPC) must take responsibility for bushfire risk mapping and land-use planning bushfire mitigation provisions that achieve the following:
   - Bushfire prone areas are identified and declared by the State Government/WAPC through bushfire prone areas maps published by the State;
   - Consistent, State-wide, minimum bushfire mitigation standards are adopted and applied by decision making bodies, to all strategic plans, subdivision and development applications, in areas identified and declared by the State as bushfire prone.

Budgetary Implications

Nil.

Background

On 16 April 2014, the Department of Fire and Emergency Services (DFES) released the Concept Paper: Review of the Emergency Services Acts (the Concept Paper) for consultation until 31 July 2014. DFES is undertaking a review of the Fire Brigades Act 1942, the Bush Fires Act 1954 and the Fire and Emergency Services Act 1998, with the intention to repeal the current legislation and develop a new emergency services Act.

DFES comments that the Acts need to be reviewed as the current legislation is confusing and incongruous and does not reflect how emergency services organisations operate in today’s modern communities. The WALGA submission to the initial stage of consultation for the review of the Acts in 2013 included the comment that there is ‘strong support within Local Government for the amalgamation of the Acts. Specifically… the current legislation overlaps, and is often confusing and unreadable. There is an expectation that these issues will be resolved with the creation of the Emergency Services Act’ (Resolution 219.3/2013).

The primary objectives of the Review are to:

- Increase community resilience through promoting a focus on shared responsibility for prevention, while also coordinating emergency preparedness and response delivery across government agencies, local government, volunteers and private landowners;
- Promote highly motivated, resourced and well trained emergency responders, both volunteer and career, that strive to keep themselves and others safe;
- Provide the framework, powers and protections necessary to allow all emergency services personnel and agencies to carry out their functions in the best interests of the community;
- Clearly identify the roles, functions, responsibilities and control mechanisms required to enable government agencies, local government and emergency services personnel to achieve effective interoperability; and
- Simplifying the current emergency services legislation and the provision of emergency services by eliminating duplication and overlap of effort.
The Concept Paper is divided into nine chapters focusing on key elements of the proposed emergency services legislation. The document outlines the relevant background information for each chapter and sections then identifies the preferred option or legislative intent considered to address the specific issue, along with other key options considered. The Concept Paper is intended to be a high-level concept document, and the detailed mechanics of implementation and operation do not form part of the paper. There will be further opportunity to comment on the directions proposed for the new legislation later on in the year.

The nine chapters in the Concept Paper focus on:
1. Emergency Services Levy (ESL)
2. Administration and Miscellaneous Provisions
3. Risk Mitigation
4. Volunteer Brigades, Groups and Units
5. Response, Command and Control
6. Emergency Services in the Built Environment
7. Offences and Enforcement
8. Protection from Liability
9. Fire and Rescue Service Operational Staff

Comment

The Association has undertaken an extensive consultation program to ensure the development of a comprehensive representative submission. The consultation timeframe was tight to ensure the WALGA submission was included in the July State Council Agenda before being submitted to DFES. WALGA is also encouraging Local Governments to submit their own submissions to DFES to enable local variations to be captured in the DFES consultation process.

In May 2014, the Association developed a summary paper to assist Local Governments to identify the key issues in the DFES Concept Paper, and to facilitate Local Government feedback to inform the development of the WALGA submission. The Local Government Summary outlined each ‘preferred option’ in the Concept Paper and any endorsed State Council positions that corresponded with those options. The options that did not have a correlating State Council position were given interim positions (supported, partially supported or not supported) to facilitate Local Government discussion.

Five workshops were held with Local Governments to work through the options outlined in the Concept Paper using the WALGA Local Government Summary as a guide. The workshops were held in Kelmscott, Busselton, Brookton, Mt Barker and Dongara. Overall, 69 people representing 30 Local Governments attended the workshops. Further information was gathered and validated through a separate survey that was distributed to all Local Governments, through discussions with the Local Government Emergency Management Advisory Group, and through meetings with the Local Government Insurance Services (LGIS).

The Association appointed an independent facilitator to run the workshop sessions. Participants were asked to indicate the chapters within the Concept Paper that included options they did not support, and those they were happy to support without further discussion. Across all five workshops, the chapters discussed in length were Chapter 1: Emergency Services Levy (ESL), Chapter 2: Administration and Miscellaneous Provisions, Chapter 3: Risk Mitigation and Chapter 4: Volunteer Brigades, Groups and Units.

Staff members from the DFES Review Team were invited to attend the workshops to be available to answer questions and provide clarity around particular options if requested. The Concept Paper is intended to be a high-level concept document that outlines the principles and proposed changes to achieve these, without going into too much detail. While the majority of the preferred options outlined in the Concept Paper are supported in-principle by the sector, without specific details many Local Government representatives were hesitant to endorse the proposed
option out-right. Indeed many options presented more questions than answers.

The Association’s submission is comprised of two parts:

Part 1: Achieving the Objectives

Part 2: Consideration of Preferred Options

In summary, the key issues for Local Governments in the Concept Paper are:

**Funding**

The new legislation proposes to increase Local Government responsibility for risk mitigation and risk assessment, however the Concept Paper is silent on how additional resources are to be found or funded. The Concept Paper proposes that the ESL continues to be administered by DFES, and that the current funding model is retained. Unfortunately, the current scope of the ESL funding model is limited to response, and does not fund Local Governments to meet their other obligations under the Act.

WALGA proposes to undertake an extensive review of the ESL to explore the key issues for the sector in regard to the functions, collection, allocation and other aspects of the fund. This project will be completed before the end of the year to coincide with the schedule proposed by DFES to develop drafting instructions for the new Emergency Services Act. The WALGA position on the ESL model and the intention to review the ESL is in-line with existing endorsed State Council positions (Resolutions 119.5/2011, 129.6/2012, 219.3/2013).

**Training**

DFES proposes to develop new minimum standards for risk mitigation as well as reporting on mitigation activities undertaken. Many Local Governments questioned the skills and knowledge required to undertake these tasks. Affordable, appropriate and available training is seen as paramount to ensuring Local Governments can address their proposed responsibilities under the new legislation. A large investment by the State to provide trainers and trainer assessors throughout regional Western Australia is a priority.

**Protection from liability**

The Concept Paper proposes that State agencies, Local Government and private landowners should not be afforded protection from civil liability in cases of risk mitigation activities. It is a concern that the Concept Paper proposes to increase Local Government responsibility for risk mitigation but does not offer appropriate protection for Local Governments to feel comfortable in undertaking these activities.

Many Local Government representatives also raised a concern with the potential risk of liability in connection with risk assessment responsibilities. The Concept Paper proposes that Local Governments extend their risk assessments to encompass all hazards. Local Governments questioned whether this left Local Governments exposed when assessments are not done or not done sufficiently or when mitigation steps, or infringement procedures, are not carried out.

**Local knowledge**

In an effort to streamline a number of systems and processes within the current legislation (Restricted and Prohibited Burning Times, permits to burn, Total Fire Bans), DFES appear to be centralising much of the decision making process. Many Local Governments are concerned that this not only limits flexibility in how the provisions of the Act are applied, it also prevents local solutions to unique local problems.

The Association has developed the WALGA Submission on the *Concept Paper: Review of the Emergency Services Acts* using the information gathered during the workshops, via the Local
Government survey, and through other communication with Local Government. The WALGA Submission, due on 31 July 2014, includes an overview of the feedback received on the Concept Paper, and a table addressing each of the 75 ‘preferred options’ (Part 2).
SUBMISSION

on the

CONCEPT PAPER: REVIEW OF THE EMERGENCY SERVICES ACTS

PART 1

Achievement of the Primary Objectives

JUNE 2014

Prepared by:

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INTRODUCTION

The Western Australian Local Government Association (WALGA) is the united voice of Local Government in Western Australia. The Association is an independent, membership-based organization representing and supporting the work and interests of Local Governments in Western Australia.

The Association provides an essential voice for 1,249 elected members and approximately 14,500 Local Government employees as well as over 2 million constituents of Local Governments in Western Australia. The Association also provides professional advice and offers services that provide financial benefits to the Local Governments and the communities they serve.

The Association welcomes the opportunity to comment on the Concept Paper: Review of the Emergency Services Acts. The Association has undertaken a comprehensive consultation process to ensure that the key concerns for Local Governments are captured in the Association’s submission. Local Governments have been encouraged to send through their own submissions in addition to the WALGA submission to enable local variations to be captured in the DFES consultation process.

WALGA’s submission is comprised of two Parts:

   Part 1: Achievement of the Primary Objectives
   Part 2: Concept Paper (Options Table)

The Association would also like to thank the DFES staff from the Review Team who attended the WALGA workshops to answer questions and provide clarity around some of the ‘Preferred Options’.

BACKGROUND

This submission is informed by Local Government feedback captured in a series of workshops held with Local Government representatives in May 2014. The Local Government sector is supportive of efforts to increase WA’s assessment prevention, risk mitigation, response and recovery capacity. However, the sector also has serious concerns about the increased responsibilities and costs for Local Governments of many of the preferred options within the Concept Paper. While Local Governments are aware that the Concept Paper is intended to be a high-level concept document, the sector strongly recommends that further exploration and modelling of many of the proposals is undertaken prior to finalization of any legislation, to identify the potential impacts on State and Local Government business, and the possible risks to community safety.

The Association encourages DFES to commit to working in partnership with Local Government and the community to develop practical systems that meet the need to reduce red tape, while providing enough flexibility to apply the necessary local knowledge to solve unique local problems.

Local Government plays an essential role in the State’s emergency response and recovery capacity and an increasing role in mitigation across a number of natural hazards. Local Government is therefore a key stakeholder in the development and implementation of any future emergency services legislation.

COMMENT ON PRIMARY OBJECTIVES

The Concept Paper outlines that the four primary objectives of the review are to:
1. Increase community resilience through promoting a focus on shared responsibility for prevention, while also coordinating emergency preparedness and response delivery across government agencies, Local Government, volunteers and private landowners.

2. Promote highly motivated, resourced and well trained emergency responders, both volunteers and career, that strive to keep themselves and others safe.

3. Provide the framework, powers and protections necessary to allow all emergency services personnel and agencies to carry out their functions in the best interests of the community.

4. Clearly identify the roles, functions, responsibilities and control mechanisms required to enable government agencies, local government and emergency services personnel to achieve effective interoperability.

Local Government is supportive of the primary objectives but is concerned that the Concept Paper does not include the provisions necessary to bring about the desired outcomes. The following comments and recommendations on each of the objectives are intended to

**OBJECTIVE 1**

*Increase community resilience through promoting a focus on shared responsibility for prevention, while also coordinating emergency preparedness and response delivery across government agencies, Local Government, volunteers and private landowners.*

The proposals contained in the Concept Paper, appear to predominantly focus on the obligations and responsibilities of Local Government. While the Concept Paper includes a proposal to the bind the Crown to the entire Act, it does not include much detail on how State agencies and agents of the State will be required to meet their obligations.

Local Government supports a focus on shared responsibility and coordination and acknowledges that the sector is best placed to ensure that private landowners are also bound to the objectives of the Act. The overarching objective will not be achieved however, unless there is clarity and greater detail included in the legislation on the responsibilities of State agencies and agents of the State and how they will be required to meet their obligations.

**RECOMMENDATION 1:**
That the new Emergency Services Act includes the risk mitigation and coordination obligations of State agencies, as well as those for Local Government and private landowners.

In addition, whilst Local Government is supportive of the intent of the objective to increase risk mitigation and community preparedness, the Concept Paper recommendation that the management and current model for the Emergency Services Levy remains unchanged, does not reflect a commitment to achieve this by the State. Without doubt, a significant capital investment and increased operational funding will be required to pay for the new mitigation activities, as well as the training of individuals and the development of supporting operational and business systems.

**RECOMMENDATION 2:**
That in conjunction with stakeholder, DFES undertakes a full assessment of the potential costs for State agencies, Local Government and private landowners associated with the new risk mitigation obligations outlined in the Concept Paper.

**RECOMMENDATION 3:**
That the State Government commits to identifying a sustainable funding option for risk mitigation activities and functions under any new Emergency Services Acts. This should include a review of the future purpose and use of the Emergency Service Levy.
Objective 2

Promote highly motivated, resourced and well trained emergency responders, both volunteers and career, that strive to keep themselves and others safe.

Local Governments strongly support increased training for emergency services personnel and volunteers throughout the State, as the training system currently in place is inadequate. A commitment must be made to develop and deliver equitable, affordable and accessible training to all emergency services personnel.

The commitment to deliver better training must also be extended to include training for personnel on risk assessment and mitigation works. The focus on mitigation and prevention in the new legislation will require a network of new qualified practitioners to carry out these activities. To reduce the risk to the community, DFES need to commit to developing appropriate training standards for volunteers, State agencies, Local Government and private contractors, and the delivery of a comprehensive training program that is accessible to all communities throughout the State.

RECOMMENDATION 4:
That DFES commit to working in consultation with Local Governments and volunteer brigades to develop hazard appropriate training for emergency services personnel.

RECOMMENDATION 5:
That any future DFES training program is adequately resourced to deliver training across Western Australia on an equitable basis, in-line with local needs and schedules.

Objective 3

Provide the framework, powers and protections necessary to allow all emergency services personnel and agencies to carry out their functions in the best interests of the community.

The intent of this objective is strongly supported, Unfortunately the proposed protection from liability model is inadequate and may inadvertently result in a reduction in mitigation activities being carried out by State agencies and Local Government due to fear of potential liability if something goes wrong. Agencies undertaking risk mitigation activities to address responsibilities and functions of the Act must be offered more comprehensive protection from liability.

The risk mitigation obligations expected of Local Governments will certainly increase under the new legislation. It is therefore important that there is some sort of enhancement in liability protection commensurate with these more onerous obligations. Retaining existing coverage for anything a person has done in good faith in the performance of function under the Emergency Services Acts does not adequately mirror the augmented responsibilities Local Governments will undoubtedly experience under the new legislation. The threshold test of a person having to show they are vested with ‘powers’ under the Acts in respect of the activity, and were using those powers when causing the loss or damage, will inevitably exclude many risk mitigation activities from liability protection.

There is strong argument for saying that certain risk mitigation activities may be regarded as being of sufficient importance to warrant protection from liability. Consequently the Association and Local Government Insurance Services (LGIS) would rather see the Protection Clause enhanced to provide for specific activities to be covered – such as hazard mitigation or acting in terms of a risk management plan.

A commitment to quality risk mitigation training, an emphasis on developing effective state-wide standards and procedures in terms of risk mitigation, and coherent inter-agency communication
and leadership should alleviate any concerns over any potential increase in negligence in the conduct of risk mitigation work. Furthermore, skilled drafting of the new legislation should address any concerns over statutory ambiguity as to which activities are, or are not, covered by any prospective enhancement in the Protection Clause.

The Association and LGIS disagree with the assertion that ambiguity over interpretation of the prospective legislation is a cogent argument against expanding the Protection Clause to cover recognised risk mitigation activities. Perhaps an emphasis on acting in accordance with, rather than necessarily performing a function under, the new emergency services legislation would be a more appropriate liability threshold test, especially given the potential increase in Local Government obligations envisioned in the Concept Paper.

In addition, the proposed option that suggests that the new legislation remains silent on ‘burden of proof’ will also result in undue stress for State agencies, Local Governments and private contractors. Leaving it up to the defendant (State agencies, Local Governments and private contractors undertaking mitigation activities) to prove they acted in ‘good faith’ when the complainant does not need to prove otherwise, is unfair and inequitable.

**RECOMMENDATION 6:**
That DFES work in consultation with Local Government Insurance Services and WALGA to explore the liability implications for Local Government in relation to risk mitigation activities prescribed in the new Emergency Services Act.

**Objective 4**

*Clearly identify the roles, functions, responsibilities and control mechanisms required to enable government agencies, local government and emergency services personnel to achieve effective interoperability.*

Local Government supports the introduction of more clarity around functions, responsibilities, roles and powers under the new legislation, but believes that the Concept Paper does not go far enough. Many Local Governments are concerned that confusion within the community in regard to who is responsible for what, and who has the power to direct private landowners, increases the risk to the community. Many Local Governments have suggested that the legislation or regulations include details as to who is responsible for what, and in what situation powers may be used.

Further exploration of the implications of expanding risk mitigation activities to include all hazards also needs to be undertaken. Local Governments support an all hazard approach to risk mitigation and preparedness, and many currently employ a number of risk mitigation strategies across multiple hazards. The training and expertise, resourcing and time impacts of expanding these responsibilities, however, needs to be identified. Currently many Local Governments do not have the capacity to increase their assessment and mitigation schedules. A commitment to further training and funding needs to be made to meet the increase in responsibilities.

**RECOMMENDATION 7:**
That DFES makes a commitment to explore the cost and resource implications of expanding the legislation to include all hazards, and to develop a proposal to build capacity and resources to meet these requirements under the Act.

**Objective 5**

*Simplifying the current emergency services legislation and the provision of emergency services, by eliminating duplication and overlap of effort.*
While this objective is supported in-principle, Local Governments have expressed considerable concerns with many of the corresponding proposals within the Concept Paper. Specifically, the proposals relating to establishing a single Fire Danger Period, not permitting Local Governments to alter Fire Danger Periods, and streamlining the fire permit system, will mean that many decisions will be made centrally by DFES, and remove the flexibility Local Governments and brigades currently have to minimise risk by controlling local conditions.

The proposals in the Concept Paper related to these matters need to be explored further to enable the potential consequences of adopting such a model to be understood.

RECOMMENDATION 8:
That DFES undertakes further assessment and scenario planning on the streamlined risk mitigation strategies outlined in the Concept Paper to identify the potential risks to community safety, if the proposals were to be adopted.

CONCLUSION

A number of the options outlined in the Concept Paper were misinterpreted by Local Government, and inadvertently caused concern and angst in regard to the option being proposed. The Association recommends that for the next public consultation phase for this project, a concerted effort is applied to ensuring that the proposed provisions are adequately explained, and the potential impacts explored in full.

The options that were misinterpreted are identified in Appendix A.

Local Government is supportive of the promotion of ‘shared responsibility’ for prevention and mitigation across State agencies, Local Government and private landowners. Local Governments acknowledge that they are a key stakeholder in assessing and mitigating risks across hazards, as well as playing a significant role in supporting response delivery across the State.

The Concept Paper introduces a number of new obligations for Local Governments, particularly in relation to risk mitigation on Local Government land and private landholdings. While the Concept Paper is intended to be a high-level concept document, many of the ‘Preferred Options’ need further exploration to fully determine the implications for the WA community.

While Local Governments support the increased focus on risk mitigation, the capacity of Local Governments and brigades to meet these new responsibilities differs greatly across the State. Further training and funding will be required over an extended period of time to raise the standard of risk mitigation, assessments and reporting across the State, and to sustain this standard into the future.

The Concept Paper does not identify practically how the new obligations are to be funded or how other resources required to support the identified obligations under the Act are to be provided. Without a significant commitment from the State to invest in raising the standard of risk mitigation and prevention activities across Western Australia, local communities will continue to be put at risk.

The Association looks forward to contributing to further stages of the Review and working together with DFES and Local Governments to develop practical risk mitigation models that are feasible to implement, and will result in the best outcomes for local communities across the State.

For Local Government comments on the ‘Preferred Options’ in the Concept Paper, please refer to Part 2.
Western Australian Local Government Association

Submission to DFES Concept Paper – Review of the Emergency Services Acts

Part 2: Options Table
1.4. CHAPTER 1: EMERGENCY SERVICES LEVY (ESL)

<table>
<thead>
<tr>
<th>CONCEPT PAPER PREFERRED OPTION</th>
<th>WALGA COMMENTS</th>
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<tbody>
<tr>
<td><strong>1.1 ADMINISTRATION OF THE ESL</strong></td>
<td><strong>Not supported.</strong></td>
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<tr>
<td>1.1.1 PREFERRED OPTION: Responsibility for administration of the ESL to remain with DFES</td>
<td>Many Local Governments are concerned that the perceived conflict of interest will not be addressed by keeping the status quo. Many Local Governments did comment, however, that if the ESL continues to be a fund for response purposes, the administration should sit with DFES as the subject experts. If the focus of the fund was to expand to include mitigation, for example, then administration will need an independent perspective. A concern has been raised, however, that if the Department of Finance administer the ESL, the money may find its way into general revenue. The Concept Paper indicates that the new Act will have a greater focus on mitigation and ‘shared responsibility’ across State agencies, Local Government and private landowners. The ESL, however, only continues to fund response, with the money going to Local Government limited to the needs and capacity of local brigades. For this reason, WALGA continues to advocate for a full review of the ESL, beyond a review of who should administer the fund, to ensure that an appropriate proportion of funding from the ESL is directed to Local Government to meet responsibilities under the Act.</td>
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| **1.2 ESL FUNDING MODEL AND REVENUE STREAMS** | **Not supported.** |
| 1.2.1 PREFERRED OPTION: Retain the current ESL funding model | There is strong support from Local Government to review the current ESL funding model. Many Local Governments have commented that the ESL does not adequately cover the costs associated with undertaking activities and functions of the Act, beyond the needs of DFES. There is an appetite to review the allocation and purpose of ESL to ensure that funds are allocated to higher risk areas, that funds are provided for mitigation as well as response (option 1.6), and to allow Local Governments to have more control over the allocation and distribution of funds. The review of the ESL should also include a review of how the different ESL categories are allocated and charged, particularly Category 5. There is currently an inequity in the way Category 5 is prescribed, whereby farming properties that are comprised of multiple non-adjoining lots, receive multiple charges. |

| **1.3 ADDITIONAL LEVIES** | **Not supported.** |
| 1.3.1 OPTION (preference not specified): Collecting an emergency services levy from vessel owners | Local Governments do not support further fees charged to the community, particularly where these costs are currently covered by the State government. Local Government does however acknowledge the significant costs associated with running the VMRS, and suggest an alternative model be developed that is funded through the ESL. |
1.3.2 OPTION (preference not specified): Collect an emergency services levy from motor vehicle owners

**Not supported.**
Local Governments do not support further fees charged to the community, particularly where these costs are currently covered by the State government.

1.4 ESL ADJUSTMENTS

1.4.1 PREFERRED OPTION: Provide clarification that adjustments will only be permitted in the current financial year

**Supported.**
Note: There was some confusion in relation to this option. Further clarification by DFES may be required. This option relates specifically to billing errors for landowners, not ESL allocations, although the concern was raised that errors or delayed payments for necessary overspends of ESL allocations is not being addressed in the Review.

## 1.5. CHAPTER 2: ADMINISTRATION AND MISCELLANEOUS PROVISIONS

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<tr>
<th>CONCEPT PAPER PREFERRED OPTION</th>
<th>WALGA COMMENTS</th>
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<tr>
<td><strong>2.1 FIRE DISTRICTS</strong></td>
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| 2.1.1 PREFERRED OPTION: Abolish Fire Districts | **Partially supported.**
Many Local Governments have commented that without a model, it is difficult to assess the full impact of this option. Some Local Governments are concerned that the abolishment of Fire Districts will cause confusion in relation to response arrangements. The main concern being that outside of the Metropolitan Area, local knowledge is essential; one size does not fit all. There will need to be further exploration as to how fire hydrants are managed with the abolishment of Fire Districts. |
| **2.2 LOCAL GOVERNMENT’S POWER TO DELEGATE** | |
| 2.2.1 PREFERRED OPTION: Allow local government to sub delegate powers as required | **Supported.**
No further comment. |
| **2.3 BUSH FIRE ADVISORY COMMITTEES IN LEGISLATION** | |
| 2.3.1 PREFERRED OPTION: Bush Fire Advisory Committees are removed from legislation and local government form hazard advisory committees to suit local needs | **Partially supported.**
Local Governments have questioned the proposal to replace Bush Fire Advisory Committees (BFAC) with hazard advisory groups commenting that they serve different needs. For many, the BFAC is an important information sharing forum, not just for Local Government. In some areas, bushfire is the main hazard, and will require its own committee. It has been acknowledged that some BFACs are not performing as intended, and are not as strategic as they should be to fulfil their designated function. The system does work for some, although many acknowledged that a better system could be developed. |
It has been recommended that BFACs remain, and Local Governments should have a choice if they want to establish or maintain a BFAC. Guidelines to assist BFACs or hazard advisory committees meet their intended purpose could also be developed.

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<tr>
<th>2.4 STRUCTURE OF POWERS</th>
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<tr>
<td><strong>2.4.1 PREFERRED OPTION:</strong> Emergency service powers are structured into general classes of powers (e.g. prevention; response; inspection; investigation and recovery)</td>
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<tr>
<th>2.5 ABILITY TO TAKE WATER</th>
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<tr>
<td><strong>2.5.1 PREFERRED OPTION:</strong> Water may be taken as required to perform a function under the Act, but will be replenished as soon as practicable, in certain cases</td>
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<tr>
<th>2.6 APPROVED INDUSTRY UNITS</th>
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<tr>
<td><strong>2.6.1 PREFERRED OPTION:</strong> Provide for approval of Industry Response Units to act as directed</td>
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<th>2.7 INVESTIGATION POWERS</th>
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<tr>
<td><strong>2.7.1 PREFERRED OPTION:</strong> Establish investigation as a function of the FES Commissioner and provide specifically for investigation powers</td>
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</table>
## 1.6. CHAPTER 3: RISK MITIGATION

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<tr>
<th>CONCEPT PAPER PREFERRED OPTION</th>
<th>WALGA COMMENTS</th>
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<tbody>
<tr>
<td>3.1 BINDING THE CROWN&lt;br&gt;3.1.1 PREFERRED OPTION: Binding the Crown to the entire Act</td>
<td><strong>Supported.</strong> Local Government supports the binding of the Crown to ensure maximum protection for people and property. The implications of binding the Crown to the entire Act needs further exploration, however, including how to manage risk for parcels of land or rail and road corridors, for example, when another agency is acting on behalf of the State. The risks associated with management orders over Crown land, and where the responsibility for managing the risk on Unallocated Crown Land and Unmanaged Reserves ultimately lies, also needs to be clarified.</td>
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<tr>
<td>3.2 DIRECTING THE CROWN (STATE AGENCIES)&lt;br&gt;3.2.1 PREFERRED OPTION: The FES Commissioner can direct State agencies</td>
<td><strong>Supported.</strong> Local Government supports the FES Commissioner directing State agencies however the proposed system needs to be developed further to identify whether it will have the desired outcome. Local Governments do acknowledge that there needs to be a better system to ensure that State agencies engage and undertake risk mitigation activities. The consequences also need to be further explored. For example, if State agencies are found non-compliant, who will undertake mitigation work on this land? Will DFES staff be required to issue infringements? The system needs to be effective and ensure that the process does not cause delays to mitigation activities, and therefore increasing the risk to the community.</td>
</tr>
<tr>
<td>3.3 RISK MITIGATION ON LOCAL GOVERNMENT LAND&lt;br&gt;3.3.1 PREFERRED OPTION: Making provision for local government responsibilities in respect of risk mitigation activities on its land or land it manages, controls or is under its care</td>
<td><strong>Partially supported.</strong> While the principle is supported, the feasibility and costs associated with this option needs to be acknowledged, including local capacity to meet these responsibilities. Many commented that under the current structure, this is not feasible. Many Local Governments would also like to see the responsibilities of State agencies included in the new Act as well, including their ‘obligations to take practicable steps to prevent and minimise the occurrence and/or spread of bushfires or other natural hazards on any land directly under its control, care, or management.’ The implications for an ‘all hazard’ approach also needs to be explored. While Local Governments support an all hazards approach, many do not have the expertise to assess and mitigate risks across a number of hazards. A definition for ‘any land directly under its control, care, or management’ also needs to be clarified, including responsibility for Crown land, and responsibilities within gazetted town boundaries.</td>
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<tr>
<td>3.4 DIRECTING LOCAL GOVERNMENT TO ENGAGE IN RISK MITIGATION</td>
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<tr>
<td>3.4.1 PREFERRED OPTION: Local government will have an obligation to take such mitigation steps as required by the FES Commissioner</td>
<td><strong>Partially supported.</strong> While supported in principle, the concerns are similar to those expressed for 3.3.1, particularly local capacity to undertake the assessment and mitigation steps required, especially those Local Governments who manage large areas of land with small staff numbers. The process whereby the FES Commissioner requires a Local Government to take certain steps also needs to be explained further. Local Governments are concerned that the timeframes could be unreasonable, and/or no consideration of local conditions or local knowledge will be taken into account when requiring Local Government to undertake works. This option also assumes that a process would be established for determining where and when the level of risk mitigation is appropriate. Local Government should be consulted during the assessment and decision making process. State agencies should also have an obligation to take such mitigation steps as required by the FES Commissioner.</td>
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<tr>
<td>3.5 LEGISLATIVE BASIS FOR COMMITTEES</td>
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<tr>
<td>3.5.1 PREFERRED OPTION: No further committees</td>
<td><strong>Supported.</strong> No further comment.</td>
</tr>
<tr>
<td>3.6 REPORTING</td>
<td></td>
</tr>
<tr>
<td>3.6.1 PREFERRED OPTION: Local government and specified State agencies must report to the FES Commissioner on items specified in the legislation and additional matters as may be required by the FES Commissioner</td>
<td><strong>Partially supported.</strong> While the principle is generally supported, the proposed process needs to be developed further. Many Local Governments have expressed concern regarding the current level of reporting they already undertake, and do not want to add to this unnecessarily. The purpose and intent of reporting should be clarified. Reporting should also tie in to Local Government schedules and, rather than needing to report by the end of the financial year, reports should be due in September, before the bushfire season. Communication from DFES to Local Government and local brigades also need to be improved. There is an expectation that Local Governments will be able to access the data collected.</td>
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<tr>
<td>3.7 RISK MANAGEMENT PLANNING</td>
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<tr>
<td>3.7.1 PREFERRED OPTION: Maintain current risk management planning arrangements</td>
<td><strong>Supported.</strong> No further comment.</td>
</tr>
<tr>
<td>3.8 MITIGATING THE EFFECTS OF OTHER NATURAL HAZARDS</td>
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<tr>
<td>3.8.1 PREFERRED OPTION: Empower local government to issue notices to owners and occupiers to require them to mitigate the risk associated with other specified natural hazards</td>
<td><strong>Partially supported.</strong> The principle is supported, but the feasibility of the Preferred Option needs to be explored. There will potentially be a large increase in cost to Local Government as a result of these new responsibilities. Many Local Governments also expressed the concern that Local Government may have a potential liability risk in regard to assessments not done or done incorrectly. Local Governments do not currently have the expertise or resourcing to do this work. The cost related for Local Governments associated with non-compliance will determine its effectiveness and eventual use of powers.</td>
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Many Local Governments identified that further training and funding will need to be made available for Local Governments to meet these responsibilities.

### 3.9 HAZARD MANAGEMENT PLANS – PRIVATE LANDHOLDINGS

**3.9.1 PREFERRED OPTION:** Local government may require the development and implementation of a hazard management plan on private land

**Partially supported.**
The principle is supported, but the impact on Local Government resources needs to be identified including undertaking the risk assessment, signing off plans, and monitoring compliance. In addition, what is the procedure involved when the FES Commissioner requests a Local Government to require a hazard management plan for a private property? Note: There was some confusion as to who would develop the plans, the potential triggers, and what properties would require hazard management plans. Further clarification may need to be provided by DFES. This option provides Local Government with the ability to introduce hazard management plans as a potential risk mitigation strategy for larger private lands, for example plantations. The Local Government will require this of the private landowner who will develop the plan.

### 3.10 THE FES COMMISSIONER AND PRIVATE LANDOWNERS

**3.10.1 PREFERRED OPTION:** The FES Commissioner may require private landowners to conduct risk mitigation on private land

**Partially supported.**
Local Governments have expressed the concern that the private landowner may get confused if they are receiving instructions from Local Government and the FES Commissioner. There needs to be consistency in approach. A model or draft procedure will need to be developed.

### 3.11 PROHIBITED AND RESTRICTED BURNING TIMES

**3.11.1 PREFERRED OPTION:** Replace Restricted and Prohibited Burning Times with a single Fire Danger Period

**Partially supported.**
While Local Government acknowledges that a new system that addresses the inconsistency across the State in relation to the application of Restricted and Prohibited Burning Times, a single Fire Danger Period may limit local flexibility needed when addressing risks arising from unique local conditions. Local Governments acknowledge the confusion caused by different Restricted and Prohibited Burning Times across the State and from Local Government to Local Government. It was suggested that the limitations should be set at a local or a district level, so that regional weather conditions can set the restrictions with local input, rather than one Fire Danger Period across the State set by DFES in Perth.

### 3.12 THE POWER TO ALTER A FIRE DANGER PERIOD

**3.12.1 PREFERRED OPTION:** Local government is not permitted to alter Fire Danger Periods

**Not supported.**
Concerns have been raised regarding this option. Many Local Governments comment that there needs to be a mechanism for the Local Government or community to have input, and this will take control out of their hands. It is an essential tool Fire Control Officers (FCOs) use to control conditions. More work needs to be done to explore the feasibility of this concept, and the implications for the community. Local Governments also question the application of Harvest Vehicle Movement Bans, and how this system will operate under the new Act.

### 3.13 TOTAL FIRE BANS - EXEMPTIONS

**3.13.1 PREFERRED OPTION:** Allow for an automatic exemption to

**Partially supported.**
Many Local Governments commented that this option and a number of the following options should be
<table>
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<th>Section</th>
<th>Preferred Option</th>
<th>Comments</th>
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<tr>
<td>3.14 FIRE DANGER FORECASTS</td>
<td><strong>Partial support.</strong> Many Local Governments commented that this option and a number of the following options should be grouped together and explored further to understand the implications. The concern regarding lack of flexibility and the opportunity for local input has also been raised.</td>
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<td>3.15 TOTAL FIRE BAN – GAZETTAL OF DECLARATION</td>
<td><strong>Partial support.</strong> Many Local Governments commented that this option and a number of the following options should be grouped together and explored further to understand the implications. The concern regarding lack of flexibility and the opportunity for local input has also been raised.</td>
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<td>3.16 PERMITS TO BURN</td>
<td><strong>Not supported.</strong> A number of concerns have been raised regarding this Preferred Option: 1) The current system allows brigades and Local Governments to review the requests to burn at a local level. A FCO will get to know residents and the land in question, and identify any risks. The FCO has the ability to say &quot;no&quot;. 2) The definition of ‘higher risk’ will need to be developed. 3) It is unreasonable to expect that someone wanting to undertake burning will know the requirements in the regulations. 4) What are the standards to assess higher risk? 5) What training will be provided to undertake assessments?</td>
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<tr>
<td>3.17 HAZARD MITIGATION STRATEGIES: PROTECTION FROM LIABILITY</td>
<td><strong>Not supported.</strong> There is a concern that the new legislation will increase Local Government responsibility, but will make it</td>
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<td>private landowners should not be afforded protection from civil liability in cases of risk mitigation activities</td>
<td>difficult for Local Government to undertake mitigation activities due to fear from potential liability. It is a possibility that this option could impede risk mitigation activities. This option needs to be explored further. A suggestion has been made that instead of the ‘good faith’ test, there should be a ‘general negligence’ threshold. There will need to be prescribed standards to allow agencies to prove that the standards have been met. If risk mitigation, and specifically prescribed burning, is a requirement under the new Act, Local Government should be exempted from liability if they act in accordance with legislation and prescribed standards. Further investigation needs to be undertaken to understand the scope and separation of protection from liability when multiple-parties are involved in an incident. Where does the liability rest when an incident occurs when undertaking activities in-line with a Bushfire Risk Mitigation Plan? Liability protection will need to cover Local Government staff, volunteers and contractors. The concern is that if contractors are not covered, they cannot get insurance. Training needs to be developed to ensure that all involved are appropriately skilled and are aware of their responsibilities.</td>
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| **3.18 HAZARD MITIGATION STRATEGIES: PRESCRIBED BURNING AS A SEPARATE CONCEPT** | **3.18.1 PREFERRED OPTION:** Prescribed Burning is defined and referred to as a distinct mitigation strategy  
**Supported.**  
This option is generally supported, however the cost to Local Government needs acknowledged, especially if Local Government will be required to undertake these activities outside a gazetted town site. |
| **3.19 HAZARD MITIGATION STRATEGIES: REGULATION OF PRESCRIBED BURNING** | **3.19.1 PREFERRED OPTION:** The FES Commissioner has the power to provide a system that must be complied with in the case of every Prescribed Burn  
**Partially supported.**  
While the principle is supported, the feasibility of implementing the system across all brigades and Local Governments was questioned. Local Governments support the introduction of minimum standards, but comment that training and support will need to be consistent, and available, for the system to be effective.  
Local Governments raised the concern that the capacity and interest in undertaking further administration work at a brigade level varies significantly. There is a concern that addition restrictions will lead to delays in prescribed burning. |
| **3.20 HAZARD MITIGATION STRATEGIES: PRIMACY OF LEGISLATION** | **3.20.1 PREFERRED OPTION:** In the case of any conflict between the new emergency services Act (including any legislated guideline, notice or direction issued in terms of the Act) and any other prescribed Act, the new emergency service Act will prevail  
**Partially supported.**  
This option needs to be explored further to identify potential risks associated with people using this provision to their advantage to clear protected flora and fauna. A model will need to be developed, in consultation with local community interest groups. |
| **3.21 HAZARD MITIGATION STRATEGIES: ASSET PROTECTION ZONES** | **3.21.1 PREFERRED OPTION:**  
**Supported.** |
Include provisions that deal specifically with Asset Protection Zones

Local Governments support the Preferred Option, but question the inclusion in legislation when many issue Asset Protection Zone (APZ) notices already. The practicality of issuing two distinct notices was questioned, with the suggestion that the need for an APZ and fire break notice can be included in a single notice, put forward.

Whether or not DFES intends for APZ notices to be issued for current or future developments is unclear. Clarification needs to be provided regarding whether an APZ will apply retrospectively.

Note: This option caused some confusion, and further clarification by DFES may be needed. The Preferred Option relates to the inclusion in legislation of Asset Protection Zones as another distinct mitigation strategy that can be employed by Local Government similar to a ‘firebreak’.

3.22 HAZARD PRONE AREA DECLARATIONS

3.22.1 PREFERRED OPTION: Empower the FES Commissioner to designate hazard prone areas

Partially supported.

Local Governments support the position that it should be the State, not Local Government, who is responsible for declaring hazard prone areas. The assessment of hazards and hazard mapping however, need to have local input. Mapping, in particular, needs to be developed in consultation with Local Government and the local community.

Other hazards, not just bushfire prone areas, need to be included.

1.7. CHAPTER 4: VOLUNTEER BRIGADES, GROUPS AND UNITS

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<th>CONCEPT PAPER PREFERRED OPTION</th>
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<tr>
<td><strong>4.1 VOLUNTEER CHARTER</strong></td>
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<td>4.1.1 PREFERRED OPTION:</td>
<td><strong>Supported.</strong></td>
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<tr>
<td>Recognise a single Volunteer</td>
<td>The ‘Preferred Option’ is generally supported, however some Local Governments did question the feasibility of the option considering all brigades and units do vary.</td>
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<td>Charter in the new emergency</td>
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<td>services Act</td>
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<td><strong>4.2 SEPARATION OF VOLUNTEER EMERGENCY SERVICES</strong></td>
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<td>4.2.1 PREFERRED OPTION:</td>
<td><strong>Supported.</strong></td>
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<tr>
<td>Retain the current legislative</td>
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<td>separation of the volunteer</td>
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<tr>
<td>emergency services</td>
<td>The ‘Preferred Option’ is generally supported, however the comment was made that there is benefit in having all brigades under the FES Commissioner for consistency and to limit potential liability issues and further cost shifting to Local Governments.</td>
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<td><strong>4.3 ADMINISTRATION ON VOLUNTEER BGUS</strong></td>
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</table>
4.3.1 PREFERRED OPTION: Provide a set of minimum administrative requirements, that apply to all BGUs

**Partially supported.**
While the principle is generally supported, practically there will need to be significant investment for this to happen. Whether the brigade runs its' own administration, or whether this is done by the Local Government, additional resources will be required.

4.4 CONDUCT AND DISCIPLINE

4.4.1 PREFERRED OPTION: Discipline and conduct matters handled at BGU level in line with minimum specified requirements with some matters to be escalated to the FES Commissioner

**Partially supported.**
While the principle is generally supported, many Local Governments would like to see included the requirement for discipline and conduct matters to go through the Local Government after internal assessment by the brigades, and before being referred to the FES Commissioner.

4.5 SETTING MINIMUM TRAINING STANDARDS FOR VOLUNTEERS

4.5.1 PREFERRED OPTION: Legislation sets out that the FES Commissioner has the power to set training standards and those standards are set out in policy

**Partially supported.**
While the principle is generally supported, many Local Governments are concerned about the cost of further training, and the appropriateness and availability of the funding that currently exists. It was suggested that this option be explored further to illustrate:

1) How minimum standards across different brigades will be set, and implemented?

2) How different requirements (skills) for different brigades will be taken into account?

3) How training will be implemented in the regions, specifically?

4) How will Recognition of Prior Learning (RPL) will be resolved?

4.6 GENERAL DIRECTION AND CONTROL OF BGU MEMBERS

4.6.1 PREFERRED OPTION: Where DFES is responsible for managing BGUs, all members fall under the immediate order and control of the FES Commissioner

**Supported.**
No further comment.

4.7 EMPLOYMENT PROTECTION

4.7.1 PREFERRED OPTION: No employment protection for volunteers provided in the new emergency services Act

**Supported.**
Note: There was some confusion around this option and further clarification by DFES may be needed. This Preferred Option relates specifically to protecting a volunteer's existing employment if their employer ends their employment due to extended absenteeism caused by volunteering.

4.8 RESPONSIBILITY FOR STATE EMERGENCY SERVICES

4.8.1 PREFERRED OPTION: Retain the SES as a volunteer emergency

**Supported.**
While the Preferred Option is supported, many Local Governments have expressed dissatisfaction with
<table>
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<tr>
<th>Service Under DFES</th>
<th>the administration burden involved with the current financial management of the brigades through the Local Government. Currently no MOUs or other agreements exist to clarify the relationship between DFES, SES brigades and Local Government. It has also been commented on that this arrangement increases the amount of legislative burden involved, and will be best suited with DFES. Some Local Governments have also been caught out of pocket due to investment in SES infrastructure. The additional costs to Local Government and the expectations that are raised due to the unusual arrangement whereby Local Governments distribute ESL funds to SES, while having no further responsibility or management of the brigades, need to be acknowledged by DFES and addressed.</th>
</tr>
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<tbody>
<tr>
<td>4.9 Responsibility for Bush Fire Brigades</td>
<td>4.9.1 Preferred Option Part A: Local government may, by agreement with DFES, hand over responsibility for a BFB to DFES</td>
</tr>
<tr>
<td>Partially supported.</td>
<td>While the principle is supported, this process needs further exploration. Many Local Governments commented that the community and the brigade should be consulted before the handover process begins. Whether DFES was able manage the brigade locally (not from Perth) should also be identified as a priority. Many Local Governments also expressed the concern regarding the implication of having different arrangements for brigades across the State. The impact of handover on Local Government mitigation responsibilities also needs to be explored and clarified. Currently, Local Governments rely on volunteers to undertake much of the required mitigation activity on Local Government and private lands. If Local Government hands over responsibility, how will this work happen, and what additional resources will be required?</td>
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<tr>
<td>4.9.2 Preferred Option Part B: DFES may take responsibility for a BFB under certain circumstances without agreement from local government</td>
<td>Partially supported.</td>
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<td>While the principle is supported, this process needs further exploration. Many Local Governments commented that the appeals process needs to be clarified, including the definition of ‘established channels’ for appeals. In addition, Local Government ‘responsibility’ must also be clearly defined, including what the process is for when they are not meeting their responsibilities. It has also been recognised that the circumstance whereby DFES take responsibility for a brigade without Local Government agreement is likely to be rare and therefore significant. It was suggested that the decision should be at a Ministerial level, acknowledging the potential extent of the decision.</td>
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<td>4.9.3 Preferred Option Part C: The FES Commissioner may establish (or disband) a BFB</td>
<td>Partially supported.</td>
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<td>While the principle is supported, this process needs further exploration. Many Local Governments commented that the option is supported as long as this is only for areas under DFES control, where Local Government has signed over responsibility. Consultation with the community and the Local Government before a brigade is established or disbanded is essential.</td>
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<td>4.9.4 Preferred Option Part D: Local government cannot establish (or disband) a BFB without the approval of the FES Commissioner</td>
<td>Partially supported.</td>
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<td>While the principle is supported, this process needs further exploration. The concern has been raised that DFES lack the necessary local knowledge to make this decision. Local Government should retain the ability to disband, but could offer management of the brigade to DFES before making this decision. The question was asked, however, why should Local Governments need the FES Commissioner’s approval to establish or disband brigades when they are currently managed and run by Local Governments, not DFES.</td>
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### 1.8. CHAPTER 5: RESPONSE, COMMAND AND CONTROL

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<th>CONCEPT PAPER PREFERRED OPTION</th>
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<tr>
<td><strong>5.1 RESPONSE, COMMAND AND CONTROL ARRANGEMENTS</strong></td>
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<tr>
<td><strong>5.1.1 PREFERRED OPTION A:</strong> Introduce Response Agreements (that include agreement on the primary responder for an area, and details of command and control at incidents)</td>
<td><strong>Partially supported.</strong> While there was general support for this proposal, some Local Governments were concerned that a Response Agreement will take away flexibility to deal with unique circumstances arising from a particular incident. The comment was made that a Response Agreement should be an option applied at the discretion of the Local Government, or whether a particular circumstance required it. For example, providing clarity around the management of incidents on a particular parcel of land.</td>
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<td><strong>5.1.2 PREFERRED OPTION B:</strong> Until a Response Agreement has been established current arrangements will continue</td>
<td><strong>Supported.</strong> No further comment.</td>
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<td><strong>5.2 ENDORSEMENT OF INCIDENT CONTROLLERS</strong></td>
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<tr>
<td><strong>5.2.1 PREFERRED OPTION:</strong> The FES Commissioner may endorse certain people as ‘Incident Controllers’</td>
<td><strong>Supported.</strong> Note: There was some confusion around this option and may require further clarification. This Preferred Option relates specifically to streamlining the process by which different agencies authorise Incident Controllers generally, not how an Incident Controller is appointed to manage a particular incident.</td>
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<td><strong>5.3 TRANSFER OF CONTROL OF INCIDENTS</strong></td>
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<tr>
<td><strong>5.3.1 PREFERRED OPTION:</strong> The FES Commissioner has power to authorise a person to take control of an incident either upon request or due to the nature and extent of the incident</td>
<td><strong>Supported.</strong> While this option is generally supported, there is some concern about the inclusions of 'all hazards' and a desire to see this option explored in more detail.</td>
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<td><strong>5.4 NOTIFICATION OF INCIDENTS</strong></td>
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<tr>
<td><strong>5.4.1 PREFERRED OPTION:</strong> Requirement to notify DFES of all prescribed incidents anywhere in the State</td>
<td><strong>Supported.</strong> While this option is generally supported, there is some concern regarding the additional resources needed to comply with a new reporting procedure. Some Local Governments have also queried the definition of a ‘prescribed incident’.</td>
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<td><strong>5.5 PRESCRIPTION OF RANKS</strong></td>
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<td><strong>5.5.1 PREFERRED OPTION:</strong> The new emergency services Act gives the</td>
<td><strong>Supported.</strong> Local Governments are generally supportive of the Proposed Option, adding that while the existing</td>
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Minister for Emergency Services the power to set out the rank structures, for all BGUs, in the regulations.

5.6 BUSH FIRE LIAISON OFFICERS

5.6.1 PREFERRED OPTION: Remove the option for the FES Commissioner to appoint a BFLO

Supported.
Local Governments are generally supportive of the Proposed Option, but some made the comment that BFLO positions must be funded through ESL funds.

1.9. CHAPER 6: EMERGENCY SERVICES IN THE BUILT ENVIRONMENT

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<tr>
<td>6.1 FES COMMISSIONER’S POWERS AT THE BUILDING PERMIT APPLICATION STAGE</td>
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| 6.1.1 PREFERRED OPTION: DFES continues to have an advisory only role | Supported.
No further comment. |
| 6.2 REQUIREMENT FOR FES COMMISSIONER APPROVAL PRIOR TO THE ISSUE OF AN OCCUPANCY CERTIFICATE | |
| 6.2.1 PREFERRED OPTION: The FES Commissioner is not able to prevent the issue of an occupancy certificate | Supported.
No further comment. |
| 6.3 THE FES COMMISSIONER’S POWERS OF INSPECTION | |
| 6.3.1 PREFERRED OPTION: The FES Commissioner may inspect premises and take certain action if there is potential danger to life or property from a hazard that DFES is responsible for or due to a failure to meet DFES operational requirements | Supported.
No further comment. |
| 6.4 REQUIREMENTS FOR OWNER/OCCUPIER TO TAKE CERTAIN STEPS | |
| 6.4.1 PREFERRED OPTION: The FES Commissioner has the power to require the owner/occupier of premises to take steps to prevent or | Supported.
No further comment. |
mitigate the effects, or potential effects, of any incident

### 6.5 POWERS OF EVACUATION, CLOSURE AND USE OF FORCE

| 6.5.1 PREFERRED OPTION: Powers to evacuate, close and use force granted for all premises (except Class 1a) to the FES Commissioner or an authorised officer in the event of a potential danger to life or due to failure to meet DFES operational requirements | Supported.  
No further comment. |

### 6.6 PUBLICATION OF DFES OPERATIONAL REQUIREMENTS

| 6.6.1 PREFERRED OPTION: Publish a document of operational requirements (guidelines not set in legislation) | Supported.  
No further comment. |

### 1.10. CHAPTER 7: OFFENCES AND ENFORCEMENT

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<th>CONCEPT PAPER PREFERRED OPTION</th>
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<td><strong>7.1 DOLLARS VERSUS UNITS</strong></td>
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<tr>
<td>7.1.1 PREFERRED OPTION: Penalty amounts should be specified in units</td>
<td>Supported.</td>
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<td><strong>7.2 ENFORCEMENT</strong></td>
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| 7.2.1 PREFERRED OPTION: Assign enforcement powers to the parties as set out in Section 59 of the Bush Fires Act | Supported.  
While generally supported, some Local Government representatives suggest the inclusion of specific information in relation to which agency is responsible. It was suggested that this would provide clarity for those involved, and will result in more teeth behind the legislation. 
The comment was also made that often enforcement works better when the head of power is at a distance. For example, in a small community, a Local Government issuing a fine may not hold as much respect as if the WA Police or the DFES issued it, which impacts on compliance. |
| **7.3 OPTIONAL WARNING SYSTEMS** |                |
| 7.3.1 PREFERRED OPTION: Continue to allow enforcement | Supported.  
No further comment. |
7.4 STRUCTURE OF PENALTIES FOR DAILY AND REPEAT OFFENDERS

| 7.4.1 PREFERRED OPTION PART A: Improve daily penalty provisions | Supported. The concern was also raised that while improved daily penalty provisions were supported, Local Governments did not want to see the ability to mitigate the risk and pass on the cost (plus interest) taken away. While the daily penalty may have increased, the identified risk to the community is still prevalent. |
| 7.4.2 PREFERRED OPTION PART B: Introduce graduated penalties for repeat offences | Supported. Local Governments, while supporting thePreferred Option, reiterate that when issuing infringement notices, the graduated enforcement procedure allows them to manage the workload, but also minimise costs by going straight to enforcement, for example, ‘Improvement notice’, ‘Infringement notice’, then ‘Formal notice’. This can also be applied across hazards. In addition, Local Governments would like to see the ability to increase the yearly fines for repeat offenders. For example, if the Local Government had to mitigate the risk and clear fire breaks on private land one year, if the private landowner continued to not clear their land and rely on Local Government to undertake this, the Local Government should be able to increase the fine year to year taking into account previous behaviour. Local Government would also like to see the inclusion of provisions similar to those in the Litter Act 1979 where corporations are fined at a higher rate. |

7.5 INFRINGEMENT PROCEDURE WITHIN THE CRIMINAL PROCEDURE ACT 2004

| 7.5.1 PREFERRED OPTION: The new emergency services Act is listed as a prescribed Act under the Criminal Procedure Act 2004 | Supported. No further comment. |

7.6 OFFENCES THAT ALSO APPEAR IN OTHER LEGISLATION

| 7.6.1 PREFERRED OPTION: Remove offences in the emergency services legislation when clearly duplicated in the Criminal Code or adequately addressed in another contemporary Act in Western Australia | Supported. No further comment. |

7.7 DAMAGE TO CRITICAL INFRASTRUCTURE

| 7.7.1 PREFERRED OPTION: The new emergency services Act provides for a single provision containing an offence for damage to any property owned or operated by a person performing a function under the | Supported. No further comment. |
### 7.8 OFFENCES RELATING TO DISPOSAL OF CIGARETTES, CIGARS OR MATCHES

| 7.8.1 PREFERRED OPTION: Create a new, more general offence and simplify the elements required to prove the offence | Supported.
While the Preferred Option is supported, there is the possibility that there may be unnecessary duplication of some of the provisions under the Litter Act 1979.
Local Governments have also suggested the introduction of fines that have a different penalty rate depending on whether the infringement occurred in the Fire Danger Period, or whether it occurred in a lower risk season. |

### 1.11. CHAPTER 8: PROTECTION FROM LIABILITY

#### CONCEPT PAPER PREFERRED OPTION

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<tr>
<td><strong>8.1 ACTIVITIES PROTECTED</strong></td>
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<tr>
<td><strong>8.1.1 PREFERRED OPTION: Retain existing coverage for anything a person has done in good faith ‘in the performance or purported performance of a function under the emergency services Acts’</strong></td>
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| **Not supported.**
Local Governments are concerned that, on one hand, the new legislation represents a significant increase in Local Government responsibility, but on the other, does not include relevant provisions to adequately protect Local Governments when attempting to meet these responsibilities. There is support for Option 8.1.2 – The Protection Clause provides for specific activities to be covered (such as hazard mitigation or acting in terms of a risk management plan). There will need to be clarity regarding which activities or functions are included, and who is covered. There is a concern that by not including protection from liability for specific activities, a greater risk will be created by agencies fearful of undertaking responsibilities under the Act in case these activities go wrong. |
| **8.2 SPECIFIC MENTION OF CERTAIN GROUPS** |
| **8.2.1 PREFERRED OPTION: Do not include specific groups (as specified in section 37(1a) of the Fire and Emergency Services Act) in the new emergency services Act** |
| **Supported.**
No further comment. |
| **8.3 CIVIL AND CRIMINAL LIABILITY** |
| **8.3.1 PREFERRED OPTION: Protection is limited to Civil Liability** |
| **Supported.**
No further comment. |
| **8.4 ESTABLISHING A BAR TO ACTION AGAINST EMERGENCY SERVICES PERSONNEL** |
| **8.4.1 PREFERRED OPTION: A new** | Supported. |
section is included stating that a Court may order a stay of proceedings if satisfied that there is no reasonable ground for alleging that the Protection from Liability would not apply.

### 8.5 BURDEN OF PROOF IN A PROTECTION FROM LIABILITY CLAUSE

**8.5.1 PREFERRED OPTION:**
Emergency services legislation remains silent on burden of proof

*Not supported.*

There are two main issues with this proposal:

1) The protection from liability afforded under Preferred Option 8.1.1 and 3.17.1 is contingent on someone acting ‘in good faith’. If the new Act is silent on burden of proof, there is the possibility of someone taking advantage of this provision. This will mean that agencies will be burdened with proving whether or not they acted in good faith, rather than complainants proving where the agency did not act in good faith. This does not seem either fair or efficient.

2) If the burden of proof remains with the defendant, integrity of documentation, record keeping, systems management, and being able to demonstrate compliance with standards and accepted procedures and controls becomes paramount. Unfortunately, many State agencies, Local Government and brigades do not have rigorous, or consistent, file management procedures and systems. In addition, the State has yet to develop and implement standards for many of the proposed activities in the current legislation and future Act. Without these systems in place, agencies undertaking activities under the Act will be vulnerable.

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**1.12. CHAPTER 9: FIRE AND RESCUE SERVICE OPERATIONAL STAFF**

<table>
<thead>
<tr>
<th>CONCEPT PAPER PREFERRED OPTION</th>
<th>WALGA COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>9.1 ADMINISTRATIVE PROVISIONS</strong></td>
<td></td>
</tr>
</tbody>
</table>
| **9.1.1 PREFERRED OPTION:** Administrative provisions contained in the regulations only | **Supported.**
|                               | No further comment. |
5.6 Regional Planning and Infrastructure Frameworks - Goldfields-Esperance, Wheatbelt, South West, Great Southern and Kimberley Regions (05-036-03-0039 to 05-036-03-0042 VJ)

By Vanessa Jackson (Policy Manager Planning and Improvement) and Christopher Green (Planning Coordinator Reform and Improvement)

Moved: Mayor R Yuryevich
Seconded: Cr E O’Connell

1. That the Association’s interim submission to the WA Planning Commission for the five Regional Planning and Infrastructure Frameworks; Goldfields- Esperance, Wheatbelt, South West, Great Southern and Kimberley; be endorsed. subject to the Department of Planning being requested to:

(a) Include an end date and/or review date for all Planning and Infrastructure Frameworks to ensure currency;
(b) Ensure alignment between the Vision and Strategic Objectives in all Planning and Infrastructure Frameworks;
(c) Provide greater recognition within the Goldfields-Esperance Planning and Infrastructure Framework of the heritage diversity that exists across the region;
(d) Accurately reflect within the various Frameworks the funding streams now covered by the Royalties for Regions Program.
(e) Include maps detailing the following information, where relevant, within the Framework:
   • Mineral deposits;
   • New arable land suitable for cropping;
   • Wetlands and waterways;
   • Economic activity areas;
   • Urban catchments; and
   • Land with significant conservation values.

Such information, particularly when reviewed regularly, will assist local governments to plan at the local level with a full understanding of the State’s requirements and interests; and
Liaise with the five relevant Development Commissions to ensure a strong correlation between the Regional Planning and Infrastructure Frameworks and the respective “Economic Blueprints” that allows both documents to be used as complementary tools.

RESOLUTION 61.3/2014 CARRIED UNANIMOUSLY

In Brief

• Five draft Regional Planning and Infrastructure Frameworks were recently released by the Western Australian Planning Commission for public comment, with submissions closing on the 5 June 2014.

• An interim submission has been prepared for State Council endorsement.

• The interim submission includes a number of broad comments and recommendations seeking to clarify and improve the content of the Framework.
Attachment
The interim submission on the Regional Planning and Infrastructure Frameworks for the Goldfields-Esperance, Wheatbelt, South West, Great Southern and Kimberley regions.

The Regional Planning and Infrastructure Frameworks can be accessed at http://www.planning.wa.gov.au/6971.asp.

Relevance to Strategic / Business Plan
- Providing strong representation for Local Government
- Providing effective leadership for Local Government

Policy Implications
Previous State Council resolutions:
- March 2012 – Endorsement of the interim submission to the Western Australia Planning Commission regarding the review of the Mid West Regional Planning and Infrastructure Framework (RESOLUTION 30.2/2012)
- December 2012 - Endorsement of the interim submission to the Western Australia Planning Commission on the review of the Gascoyne Regional Planning and Infrastructure Framework

RESOLUTION: 139.6/2012

Budgetary Implications
Nil.

Background
The WA Planning Commission, in partnership with Regional Development Commissions, Regional Development Australia and local government has prepared Regional Planning and Infrastructure Frameworks for the State’s eight country planning regions. The purpose of each framework is to establish a regional vision and basis for decision-making. The frameworks also introduce a number of planning initiatives, which form the basis of an on-going work program for the Department of Planning.

The following Regional Planning and Infrastructure Frameworks are finalised or are being finalised:-

- Pilbara Regional Planning and Infrastructure Framework was finalised in 2012.
- Gascoyne Regional Planning and Infrastructure Framework was released in 2012 and will be finalised in 2014.
- Mid West Regional Planning and Infrastructure Framework was released in 2011 and will be finalised in 2014

The following Regional Planning and Infrastructure Frameworks were released for public comment, until 5 June 2014: -

- Goldfields-Esperance Regional Planning and Infrastructure Framework
- Wheatbelt Regional Planning and Infrastructure Framework
- South West Regional Planning and Infrastructure Framework
- Great Southern Regional Planning and Infrastructure Framework
- Kimberley Regional Planning and Infrastructure Framework
Comment

During the Frameworks public consultation period, the Association sought comment from the Local Government sector to inform a representative submission to the Western Australian Planning Commission. Feedback was received by the Shire of Williams and the Association’s policy areas of Infrastructure and Waste and Environment.

The interim submission prescribes a series of comments and recommendations that will help ensure that the Frameworks are able to meet the aims and objectives. Furthermore the recommendations set out in the submission are intended to improve the clarity of each of the Frameworks, helping Local Government within the five different regions to respond to its requirements more appropriately.

The attached interim submission was presented to WA Planning Commission before the 5 June 2014. In accordance with WALGA procedures, a copy of the interim submission was forwarded to State Council’s Planning and Community Development Co-chairs and the WALGA President for comment prior to submission.
WALGA’S INTERIM SUBMISSION TO THE WA PLANNING COMMISSION

REGIONAL PLANNING AND INFRASTRUCTURE FRAMEWORKS FOR:

- GOLDFIELDS-ESPERANCE
- WHEATBELT
- SOUTH WEST
- GREAT SOUTHERN
- KIMBERLEY

Contact:
Vanessa Jackson
Policy Manager Planning and Improvement
WALGA
ONE70, LV 1, 170 Railway Parade West Leederville
Phone: (08) 9213 2064
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Website: www.walga.asn.au
INTRODUCTION

The Western Australian Local Government Association (WALGA) is the united voice of Local Government in Western Australia. The Association is an independent, membership-based group representing and supporting the work and interests of all 138 Local Governments in Western Australia.

The Association provides an essential voice for 1,249 elected members and approximately 14,500 Local Government employees as well as over 2 million constituents of Local Governments in Western Australia. The Association also provides professional advice and offers services that provide financial benefits to the Local Governments and the communities they serve.

The comments contained in this submission have not been considered or endorsed by WALGA’s State Council, as such, please be advised that this is an interim submission and that the Association reserves the right to modify or withdraw the comments as directed by State Council.

This interim submission will be considered at the next State Council meeting on 2 July 2014.

GENERAL COMMENTS

The Association welcomes the release of the five Regional Planning and Infrastructure Frameworks as they provide a guide for future planning within the different regions.

During the public comment period for the Regional Planning and Infrastructure Frameworks, the Association sought comment from the Local Government Sector to inform a representative submission to the WA Planning Commission. This submission, therefore, reflects the main issues and concerns raised by the Association and local government in relation to the proposed policy.

The following broad comments are provided regarding the Regional Planning and Infrastructure Frameworks, more detailed comments on each of the documents is provided in Appendix 1:

- The format and content of each of the Regional Planning and Infrastructure Frameworks is different. For consistency, the Frameworks should try to cover the same list of issues and opportunities, to ensure that local governments are able to incorporate a similar level of detail into their local planning strategies and schemes. It is interesting that one of the biggest criticisms directed at the local government sector is the lack of consistency between local governments; however, these documents produced at the regional level are not consistent with each other, therefore this should be addressed.

- For example, the correlation to the State Planning Strategy within each document isn’t consistent, and the topics covered are totally different, some have sections on Climate Change and Native Title implications, while others have no comments at all about these topics. Several of the documents have aligned the proposed projects at the back of the document, as a separate table at the end of each relevant section. This provides a much clearer link between the issues that are being discussed and the future projects that aim to address them, which would be beneficial in each of the Frameworks.

- Some of the terminology used between the frameworks is also inconsistent. For example, the Framework’s settlement hierarchy’s use different terminology to define urban centres.

- The Frameworks also have different review timetables, some biannual, one triennial, which for consistency should propose the same review schedules.
• Should the development strategies for roads of regional significance on the local road network (ROADS 2030) be included in these documents?

• The Kimberley is unnecessarily long and wordy. Several of the documents sections repeated, with the same text used in the Summary document, the Chairman’s Foreword, the Executive Summary and the main document itself. This unnecessary duplication fails to add any further guidance or clarity and only extends the length of the document.

• The Frameworks have a very narrow gaze that is confined to the borders of each region and fails to recognise the interconnections and relationships between neighbouring regions and population centres. For example there are strong economic and social connections between Darwin and the Kimberley which are not recognised.

• The Frameworks should clearly and consistently identify the Waste Strategy targets that the various regions need to achieve.

• The Frameworks should also outline a commitment to data collection and long term planning for waste management facilities within each region. The work done by the Pilbara Development Commission in conjunction with the Waste Authority and Waste Management Association of Australia provides a good example that could be used for all of the Frameworks.

**RECOMMENDATION**

The Association recommends that the comments and recommendations outlined above and within Appendix 1 are considered in the finalisation of the five Regional Planning and Infrastructure Frameworks.

In addition the Association kindly requests that it and its members be kept informed of the progress made in the finalisation of the Frameworks.
# APPENDIX 1 -- DETAILED COMMENTS ON THE FIVE REGIONAL PLANNING AND INFRASTRUCTURE FRAMEWORKS:

## GOLDFIELDS-ESPERANCE

<table>
<thead>
<tr>
<th>Page</th>
<th>Project/comments</th>
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</tr>
</thead>
<tbody>
<tr>
<td>4, Figure 2</td>
<td>Figure 2 shows the State wide planning framework.</td>
<td>Figure 2 and the positioning of the Regional Planning Framework within the overall State Planning Framework should be clarified.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Figure 2 shows the State wide planning framework, however within the Goldfields-Esperance Region there is no ‘statutory region scheme’. As this is not clearly marked, some may find the diagram misleading. Further, the diagram does not show where the regional planning and infrastructure frameworks sit within the overall planning hierarchy.</td>
</tr>
<tr>
<td>12, Opportunity EE5</td>
<td>EE5 identifies an opportunity to investigate regional affordable housing requirements.</td>
<td>The Framework explains why undertaking an investigation into regional affordable housing requirements is an opportunity. However no previous mention of housing and its affordability is included. Therefore it is not clear how this opportunity has been identified?</td>
</tr>
<tr>
<td>12, Opportunity EE8</td>
<td>Section 2.1.3 notes that the fragmentation of pastoral land is problematic while EE8 encourages diversifying economic activity on pastoral land.</td>
<td>Section 2.1.3 notes that the fragmentation of pastoral land is problematic which conflicts with the opportunity EE8 which encourages diversifying economic activity on pastoral land. Opportunities for diversifying economic activity on pastoral land are clarified.</td>
</tr>
<tr>
<td>19, Section 2.3.1</td>
<td>“The Murchison IBRA bioregion is currently under-represented in the National Reserve System”</td>
<td>This section notes that “the Murchison IBRA bioregion is currently under-represented in the National Reserve System”, however the framework offers ‘opportunity’ related to this issue. This section goes on to state that with regards to biodiversity and conservation priorities, “there is a need to conduct substantial baseline data investigations. The opportunities relating to biodiversity should be re-examined to ensure that they aligned with the issues with affecting the region.</td>
</tr>
<tr>
<td>22, Section 2.3.4</td>
<td>The Framework suggests that Local Planning Schemes are one planning mechanism that allows local governments to provide statutory protection to heritage places.</td>
<td>The Framework suggests that Local Planning Schemes are one planning mechanism that allows local governments to provide statutory protection to heritage places. However, local designations of heritage places and property carry less weight unlike the State Heritage Register.</td>
</tr>
<tr>
<td>24, section 3.1</td>
<td>Comment that “consideration should be given to the future structure of local governments in the region and its implications for regional planning.”</td>
<td>It is clear what is meant by the Frameworks statement that “consideration should be given to the future structure of local governments in the region and its implications for regional planning.” The framework should clarify this comment.</td>
</tr>
<tr>
<td>26</td>
<td>Comments about the State’s planning reform program.</td>
<td>That the relevance of the planning reform agenda to the Regional Planning and Infrastructure Framework is explained.</td>
</tr>
<tr>
<td>28</td>
<td>Conservation - The framework notes the importance of ensuring that the National Park management plans are updated.</td>
<td>It is notable that many of these plans listed have not been recently updated. The framework should update the National Park management plans are recognised as being an opportunity.</td>
</tr>
<tr>
<td>29</td>
<td>Emergency Services</td>
<td>The relevance of the Emergency Services section is not apparent and should be explained.</td>
</tr>
<tr>
<td>29, section Extent of the Framework</td>
<td></td>
<td>There are 9 Local Governments listed by the</td>
</tr>
</tbody>
</table>
### WALGA State Council Meeting July 2014

#### 3.1.3 Framework within the region and not four as stated. Further, there is a discrepancy in that Wiluna identifies itself as being within the Goldfields-Esperance region whilst the DoP/WAPC considers it to be within the Midwest.

#### Page 34 Settlement Hierarchy

It is notable that the Coolgardie is not considered to be a sub-regional centre despite the fact that it has a population base much larger than all but one of the regional centres listed.

WA Tomorrow forecasts significant population decline for Menzies, how does this affect its status as a local centre?

The methodology for determining the settlement hierarchy should be consistent or at least explain the rationale and justification for the designation of Coolgardie as a local centre.

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### WHEATBELT

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<td>Given the examples in the entire Figure, it would be more relevant to have a State Planning Policy that refers to Rural Planning Issues rather than the R-Codes. Suggest that the Example be changed to State Planning Policy 2.5 Land Use Planning in Rural Areas.</td>
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<td>Paragraph 5 – Due to the Wheatbelt’s settlement history and investment in infrastructure, there is potential for under-utilised or surplus Government land or assets to be redeveloped, re-used or reinvigorated. Such land or assets could provide interesting development prospects for a range of land uses in town sites.</td>
<td>Is there an outline of what kinds of interesting development prospects are being suggested?</td>
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<td>Paragraph 7 – The Wheatbelt has a need for accommodation for seasonal or project-related workforces. This presents opportunities for short-term accommodation in town sites.</td>
<td>Are there any definitive numbers on the seasonal and project related workforce that would assist local governments in understanding this demand?</td>
</tr>
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<td>Childcare – In terms of service delivery, the Wheatbelt’s dispersed settlement pattern means that provision of economically viable services is challenging. Opportunities may exist for collective solutions to deliver services based on local community needs. This may involve collaboration between small businesses who are the region’s major employers, and local government.</td>
<td>Local Governments within the region have outlined difficulties in providing child care services to its communities due to the amount of red tape and training required to run these centres. WALGA will be providing the State Government with more details on this matter, as the comments made within this Framework imply that all that is required is the collaboration between employers and local government.</td>
</tr>
<tr>
<td>Initiatives for Liveable Communities – Dot point 3</td>
<td>Missing information – There is no information after this dot point to outline what the investment strategy would...</td>
</tr>
</tbody>
</table>

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**Page 34** Settlement Hierarchy

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<td>------------------</td>
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</tr>
<tr>
<td><strong>Develop a strategy to guide investment in education services and infrastructure. This will consider and/or address:</strong></td>
<td>consider and/or address.</td>
</tr>
<tr>
<td><strong>Pages 33 and 60</strong> Project 17 – Consideration also needs to be given to the establishment of bypasses to retain the amenity of those towns affected by increased road train movements.</td>
<td>The issues are current, for example Bindoon, New Norcia etc on Great Northern Hwy, in addition to those towns that will be affected by growth in freight movements. Suggest that the wording be amendment to: “Planning for road by-passes around towns that are affected by high and increasing volumes of heavy vehicle traffic should be undertaken.” The analysis of these should consider the positive and potential negative impacts of a heavy vehicle by-pass on each town where one is proposed.</td>
</tr>
<tr>
<td><strong>Pages 33 and 34</strong> Aviation Strategy</td>
<td>The commentary regarding aviation training within the region is supported. The State Aviation Strategy (yet to be released) considers options for both an emergency alternative to Perth airport and the long term development of a second airport for Perth. The emergency alternative would almost certainly be an existing large airport, at this stage underdetermined but either Kalgoorlie or Geraldton. It is anticipated that the airlines would decide, but they don’t want to pay for either as the number of times they get diverted to Adelaide or Learmonth probably does not justify the investment. Any second airport for Perth would require a high speed passenger link.</td>
</tr>
<tr>
<td><strong>Page 33</strong> Transport</td>
<td>There needs to be some mention and strategy for the transport of grain from the Wheatbelt to the Bunge Grain Terminal in Bunbury. There are road safety issues because of the limited passing opportunities on the roads leading into Collie via Williams or Darkan.</td>
</tr>
<tr>
<td><strong>Page 35</strong> Wastewater</td>
<td>“Some local governments have expressed concern that limiting the intensity of development based on the availability of reticulated sewerage is an obstacle to growth. The Department of Health’s draft Country Sewerage Policy, limits density in areas that cannot be serviced by reticulated sewerage networks. The cost of extending a sewer and connecting to existing sewerage treatment works is often cost prohibitive given the relatively low cost of residential land in much of the Wheatbelt. Page 36 continued… There may also be opportunities for expanded local government and private sector involvement in sewerage treatment systems, including the possibility of smaller systems to service individual subdivisions and alternative treatment methods. The Department of Health’s draft Country Sewerage Policy has been under review for several years and a draft Code of practice also released, however it is unclear whether the Associations comments on both documents have been taken on board and when the documents will be updated. The draft Code of Practice for proposed monitoring alternative or smaller private systems is very onerous on the local government sector and does not provided clear roles and responsibilities. Also the licencing arrangements of these ‘private’ systems has caused some concerns for the Department of Health. Suggesting that expanded services may be possible, without acknowledging some of the current difficulties and uncertainty of the status of the State documents, is inappropriate.</td>
</tr>
<tr>
<td><strong>Page 35</strong> Water Supply</td>
<td>The Water Corporation could easily influence land development using existing infrastructure by relaxing their water supply standards. For example the main 900mm water supply pipe from the Harris River Dam runs through our shire. There are many water connections off the pipeline which are allowed because of a “Non Standard Water Supply Agreement”. Although water and quality and supply cannot be guaranteed by the Water Corporation this type of supply has worked within the rural connections for many years.</td>
</tr>
<tr>
<td>Project/comments</td>
<td>WALGA response</td>
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<tr>
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</tr>
<tr>
<td>The Shire of Williams has previously had issues with the development of the 12 lots at the Quindanning Town site 30km west of Williams. The Water Corporation wanted the Shire to install a $400k chlorination facility to boost the chlorine in the water for these lots. The Quindanning Hotel already uses the water from the pipeline and does not have any issues relating the water quality or supply.</td>
<td></td>
</tr>
<tr>
<td>Off grid power supply should be allowable with the option for people in town sites or small rural lots (under 50ha) to install their own solar panel and battery systems</td>
<td></td>
</tr>
<tr>
<td>As noted in the Framework, this pre-feasibility study has been completed. It is the Association’s understanding that it was determined that it is unlikely to be viable in the foreseeable future and the Dept of Transport determined that no further work should be planned. If the Government isn’t planning on pursuing this project then perhaps the project should go from this list.</td>
<td></td>
</tr>
<tr>
<td>It is unclear what this means, particularly in the context of Project 20. While these strategic locations are on Tier 1 and Tier 2 lines, the role of Government in achieving this regional development aspiration is not articulated. It needs to be clear what is required to make this happen and who is responsible for putting the enablers in place.</td>
<td></td>
</tr>
<tr>
<td>It is unclear what “encourage” means in context of the proposed action: Government encourages private investment in Tier 3 rail to continue operation if the private sector considers the lines viable. Continued demand for services on rail lines in guided by the commercial decisions of grain handlers, transport operators and farmers. If the private sector considers an investment profitable, it will do it, if not, it won’t. Does encourage mean incentives, or threats, or what? The paper does not address the question it raises about the sustainability of a road freight network for grain that is dependent on increasing levels of investment from Local Governments. This needs to be part of sustainable planning for the region.</td>
<td></td>
</tr>
<tr>
<td>This has been strongly advocated by Local Governments at a number of opportunities and should be supported</td>
<td></td>
</tr>
</tbody>
</table>

**SOUTH WEST**

<table>
<thead>
<tr>
<th>Project/comments</th>
<th>WALGA response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The reference should be to “other forms of appropriate accommodation”, as not all of the options will be high density.</td>
<td></td>
</tr>
<tr>
<td>As there is already a passenger rail service between Bunbury and Perth, suspect that this is intended to say “high speed” or “fast” passenger rail services. Improving freight rail services in the region is vague and does not set out the proposed responsibilities for the parties, including Government.</td>
<td></td>
</tr>
<tr>
<td>7. Supporting the development of retirement homes, lifestyle villages and other forms of high density accommodation suited to aged persons….</td>
<td></td>
</tr>
<tr>
<td>The WAPC will support development of strategies and plans that: 1. Improve connectivity between Bunbury and Perth and between settlements in the region by: • developing a high standard of road links and planning a passenger rail services between</td>
<td></td>
</tr>
<tr>
<td>Page 11</td>
<td>7. Supporting the development of retirement homes, lifestyle villages and other forms of high density accommodation suited to aged persons….</td>
</tr>
<tr>
<td>---</td>
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</tr>
<tr>
<td>Bunbury and Perth; • improving freight rail services in the region; and • expanding the Bunbury Port;</td>
<td>Not sure how this fits into a regional planning context. Micro-power benefits would be State-wide or national. The paper does not articulate the regional characteristic that would make micro-power attractive or particularly competitive in the SW Region. The consideration of projects at a sub-regional level makes it difficult to gain a sense of strategic development.</td>
</tr>
<tr>
<td>Page 28</td>
<td>Between 2006 and 2011, the Bunbury–Wellington sub-region experienced population growth of 2.3 per cent per annum, which is above the State average of 2.7 per cent.</td>
</tr>
</tbody>
</table>

### GREAT SOUTHERN

<table>
<thead>
<tr>
<th>Project/comments</th>
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</tr>
</thead>
<tbody>
<tr>
<td>The local context of the framework</td>
<td>There is an almost complete lack of reference to anything at the local level, the document is very agency driven. Does not clearly link the proposed projects with a regional strategy.</td>
</tr>
<tr>
<td>Comment made about the Albany Port exporting iron ore from Yilgarn until the Oakajee Port is established and that the port needs to capitalise on the potential export opportunities including identified magnetite and gold mining prospects.</td>
<td>It is unlikely that the Port of Albany is critical to iron ore from towns in the Wheatbelt and although the map shows the gold deposits in the Shire of Katanning, it is unclear why the gold would go through Albany port.</td>
</tr>
<tr>
<td>Table A - Page 27 Provides a list of projects and regional initiatives based on the agency leading the changes.</td>
<td>This table provides the clearest allocation of project responsibilities, compared to the other 4 regional planning Frameworks out for public comment. It would be beneficial if the other RPIF’s were as clear as this document.</td>
</tr>
</tbody>
</table>

### KIMBERLEY

General Comment - A number of the comments outlined below are applicable in the relevant sections of both summary document and full Framework.

| Summary Document | The document uses a large number of abbreviations which for many, make reading difficult to understand. A list of abbreviations would help to resolve this. |
| Page 7 Settlement Hierarchy | The terminology used to in the settlement hierarchy is inconsistent between Kimberley and other Region Planning and Infrastructure Frameworks. |
| Page 7 It is stated that the “the KRPIF provides the impetus to transform the region’s economy over the next 25 years”. | The Association queries how the KRPIF will achieve the transformation in the regional economy? That this statement and the role of the KRPIF are clarified. |
| Page 11 Opportunities – cultural and natural heritage | The table states that changes to local and state planning policies should be considered, whilst the next line contends that work should be undertaken within the |
| Page 12, 2e | Aboriginal arts and cultural precincts | Further guidance explaining how Local Planning Schemes should promote Aboriginal arts and cultural precincts should be set out |
| Page 14, 3a | Roles and responsibilities of IPA management plans | Ensuring land use planning and decision making is consistent with IPA management plans is not solely the responsibility of Local Governments. All agencies responsible are identified. |
| Page 16, 4a | ABS and Aboriginal communities | How will the ABS improve the measurement of population within Aboriginal Communities? Is this an ABS program or is the DoP advocating for this change? Clarification of the ABS intentions to improve the measurement of Aboriginal population. |
| Page 16, 4b | Identification of future demand | Is the identification of future demand for residential, commercial and industrial purposes and infrastructure projects, at least at the regional level not the responsibility of the DoP/WAPC and this document? |
| Page 16 4c | Identification of future demand | This initiative does not really make sense, who is leading the identification of land for development? |
| Page 16, 4g | What does the ‘normalisation of Aboriginal towns’ mean? | More information and clarification of what the normalisation of Aboriginal towns means, is it a land use planning response or a wider government response? Accordingly there are likely to be many more agencies involved, not just the DPC. |
| Page 18, 5d | Resource investment | How is attracting regional resource development investment and encouraging supply chain completion a planning initiative? |
| Page 22, 7d | This is the same initiative as 6d on page 20. |
| Page 24 | Makes several references to sections which are not contained in the summary document. |
| Page 25 | Extreme weather events and climate change | Extreme weather events and climate change are two different things. This opportunity should be better explained and/or split into two different responses. |

Main Document

<p>| Climate change | Whilst it is acknowledged that climate change may increase the frequency and severity of extreme weather events, climate change and extreme weather events are two separate issues. The impacts of climate change, how this will be mitigated and the impacts and processes for mitigating extreme weather should be made clear. |
| Outline of Planning Framework | The structure with which the vision is set out is not consistent with other regional planning and infrastructure frameworks and that of the State Planning Strategy. Whilst the format within which the vision is expressed compared with other RPIF’s and the SPS, it remains several paragraphs long and is therefore difficult to precisely ascertain what the vision for the region is. |
| Figure 1.1 – outline of the planning framework | Figure 1.1 shows the how the KRPIF sits within the overall planning framework. However, contrary to what is shown, there is no regional planning scheme within this region. Figure 1.1 should be amended to accurately show the overall State Planning Framework should be clarified. |
| Cultural and natural heritage | The elements of cultural and natural heritage does not include Indigenous Protected Areas mentioned in section 3.3.7 |</p>
<table>
<thead>
<tr>
<th>Page</th>
<th>Section</th>
<th>Notes</th>
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</thead>
<tbody>
<tr>
<td>33</td>
<td>Table 4.6 and Figure 4.2 – Population scenarios</td>
<td>It is not clear why table 4.6 and figure 4.2 shows a number of aspirational population growth scenarios for Broome as the Kimberley Regional Planning Committee has expressed an aspirational target of 5% growth. The same is also true of the growth targets for the other centres. The framework should clarify the growth targets for the region’s population centres.</td>
</tr>
<tr>
<td>82</td>
<td>Community Services</td>
<td>This section fails to note the importance and connections between the Region and Darwin in relation to the provision of community services, particularly health and education. In many cases, particularly within the East Kimberley, it is faster to access health facilities at Royal Darwin Hospital via the Royal Flying Doctor Service than those in Perth. In addition, the Universities in Katherine and Darwin are closer than those located in Perth. The importance of Darwin in servicing the Kimberley region should be recognised.</td>
</tr>
<tr>
<td>88</td>
<td>Table 7.2 – Projects</td>
<td>Table 7.2, it is not clear which, if any of the projects listed in table 7.2 are priorities and given that none of the projects listed have secured funding, how likely it is that these projects will be delivered. It is also notable that increasing the provision of aged care facilities has been highlighted as a priority although this is not previously mentioned. Table 7.2 should be amended to provide greater clarity on the regional community services infrastructure priorities.</td>
</tr>
<tr>
<td>91</td>
<td>Transport</td>
<td>The transport section fails to recognise both the importance of Darwin to much of the region, particularly the East Kimberley and also the connections between Darwin and region. Darwin is a logical export hub connected by air, road and sea networks across Northern Australia and many of the regions airports connect to rest of Australia via Darwin. The transport connections between the Kimberley and Darwin should be recognised.</td>
</tr>
<tr>
<td>104</td>
<td>Opening paragraph</td>
<td>The opening paragraph refers to table 8.5, which is missing from the document. Reference to table 8.5 should be corrected.</td>
</tr>
</tbody>
</table>
5.7 Local Government and Emergency Management in Remote Aboriginal Communities (06-069-01-0001 EF)

By Erin Fuery, Senior Community Policy Officer

Moved: Cr C Mitchell
Seconded: Mayor R Yuryevich


2. That State Council endorses the recommendations in the WALGA Summary Report:
   a. That WALGA advocate for increased State support for building emergency management capacity within remote Aboriginal communities.
   b. That WALGA develop and distribute a template Aboriginal Community Checklist for Local Governments to include in their Local Emergency Management Arrangements; and
   c. That WALGA strongly articulates to the State that, while Local Government recognises that there is a need to build emergency management capacity within remote Aboriginal communities, this must be led by the State, as the role of Local Government is to support community preparedness through Local Emergency Management Committees and the development of inclusive Local Emergency Management Arrangements.

3. That all matters associated with the future delivery of Local Government services to discrete aboriginal communities should be resolved as a priority prior to the formalisation of any Local Government involvement in Emergency Management arrangements with these communities.

RESOLUTION 62.3/2014 CARRIED UNANIMOUSLY

In Brief

- The WALGA Building Local Government Capacity in Emergency Management Background Paper and Advocacy Strategy (March 2013) identified that there needs to be more clarity around Local Government responsibilities for emergency management in remote Aboriginal communities.
- The Association was awarded a Natural Disaster Resilience Program (NDRP) grant to undertake a study into the responsibilities and capacity of Local Government to support emergency management activities in remote Aboriginal communities.
- Winteractive consultants were appointed to undertake the study, and have submitted the Local Government in Emergency Management in Remote Aboriginal Communities Report.
- The Winteractive Report identifies that while Local Governments believe that more needs to be done to build capacity in emergency management planning and preparedness within remote Aboriginal communities, Local Governments do not have the resources, expertise or mandate to do so.
- The Association has developed a Summary Report outlining the key findings in the Winteractive Report.
Attachment

Local Government and Emergency Management in Remote Aboriginal Communities - WALGA Summary Report (Attachment 1)

Please refer to link below to view the full Winteractive Report.

http://www.walga.asn.au/MemberResources/PlanningCommunityDevelopment/Documents.aspx

Relevance to Strategic / Business Plan

- Providing strong representation for Local Government
- Providing effective leadership for Local Government
- Building a positive profile for Local Government
- Enhancing the capacity of Local Government to deliver services

Policy Implications

Nil.

Budgetary Implications

Nil.

Background

The WALGA Building Local Government Capacity in Emergency Management Background Paper and Advocacy Strategy (March 2013) identified that many Local Governments were concerned that the Emergency Management Act 2005 was unclear in relation to Local Government responsibility for emergency management in remote Aboriginal communities.

The Background Paper and Advocacy Strategy included the following strategy to address this concern:

5.1 Undertake a study of what resourcing and expertise is required to fulfill Local Government emergency management capacity in Aboriginal communities.

The Background Paper and Advocacy Strategy was endorsed by the WALGA State Council at its 6 March 2013 meeting (Resolution 168.1/2013).

The Association was awarded a Natural Disaster Resilience Program (NDRP) grant to undertake a study into Local Government responsibility and capacity in relation to remote Aboriginal communities. Independent consultants, Winteractive, were appointed to undertake the study and develop a report on the findings.

The WALGA Summary Report represents an outline of the key findings of the Winteractive Local Government and Emergency Management in Remote Communities Report, and identifies recommendation actions for the Association to undertake to support Local Government fulfill their responsibilities.

Comment

An analysis of relevant legislation and emergency management policies at the start of the project identified that the main Local Government emergency management responsibilities in regard to remote Aboriginal community are at the Local Emergency Management Committee (LEMC) and Local Emergency Management Arrangements (the Arrangements) levels. This means that stakeholders from the relevant communities should be represented on the LEMC and recovery
committees. In relation to Arrangements, consideration must be given to the inclusion of At-Risk groups and communities, including Aboriginal communities.

The Winteractive Report is the accumulation of research and information collected through interviews and workshops held with Local Government stakeholders in the City of Kalgoorlie-Boulder, Shire of Halls Creek, Shire of Ngaanyatjarraku and Town of Port Hedland. The Report comments that while Local Governments identified that more needs to be done to build capacity in emergency management planning and preparedness within remote Aboriginal communities, Local Governments do not have the resources, expertise or mandate to do so.

Participants identified that there is a gap, and not enough was being done by the State to consult with communities to understand what they want, and build local capacity to engage in the emergency management process.

Understanding the statutory responsibilities of Local Government, and the key areas that need to be progressed by the State to ensure that Local Governments can address these responsibilities comes at an opportune time. The State Emergency Management Committee (SEMC) Community Engagement Subcommittee has identified emergency management in Aboriginal communities as a key project within its 2013/14 Workplan.

The Winteractive Report provides clarification on the role and responsibilities of Local Government, which the Association can articulate to the State and relevant agencies to ensure that the State fulfils its responsibility of building emergency management capacity in Aboriginal Communities.
1. BACKGROUND
The WALGA Building Local Government Capacity in Emergency Management Background Paper and Advocacy Strategy (March 2013) identified that many Local Governments were concerned that the Emergency Management Act 2005 was unclear in relation to Local Government responsibility for emergency management in remote Aboriginal communities. Local Governments flagged that there was a gap, and not enough was being done to build capacity in remote Aboriginal communities to adequately plan, prepare and respond to emergency events.

The Background Paper and Advocacy Strategy included the following strategy to address this concern:

5.1 Undertake a study of what resourcing and expertise is required to fulfil Local Government emergency management capacity in Aboriginal communities.

The Background Paper and Advocacy Strategy was endorsed by the WALGA State Council at its 6 March 2013 meeting (Resolution 168.1/2013).

The Association was awarded a Natural Disaster Resilience Program (NDRP) grant in 2013 to undertake a study into Local Government responsibility and capacity in relation to remote Aboriginal communities. Independent consultants, Winteractive, were appointed to undertake the study and develop a report on the findings.

The completed report can be accessed from the WALGA website at http://www.walga.asn.au/MemberResources/PlanningCommunityDevelopment/Documents.asp

2. PURPOSE OF THE SUMMARY REPORT
The purpose of the Summary Report is to outline the key findings within the Local Government and Emergency Management in Remote Aboriginal Communities Report (April 2014) in relation to:

- Local Government legislative responsibilities;
- Trends in research conducted with Local Governments; and
- Recommended actions.

The findings in the Local Government and Emergency Management in Remote Aboriginal Communities Report and this Summary Report will be used to form a position on the role of Local Government in emergency management in remote aboriginal communities, and guide WALGA’s advocacy in this area.

3. LOCAL GOVERNMENT AND EMERGENCY MANAGEMENT IN REMOTE ABORIGINAL COMMUNITIES
The original scope for the NDRP-funded project was to identify what elements need to be addressed to build Local Government capacity to plan and respond to emergency management situations in remote Aboriginal communities. The project was to identify: a) what services will be required; b) what resources will need to be provided; and c) what service and infrastructure gaps exist.
WALGA commissioned McLeods Barristers & Solicitors to provide advice regarding State and Local Government responsibilities with respect to emergency management in Aboriginal communities to better understand the role Local Government has in this area.

3.1 Local Government Legislative Responsibilities

After analysing legislation, State Emergency Management Policies (SEMP) and Westplans, McLeods concluded that Local Government responsibility can be confined to:

1. High-level and long-term mitigation strategies, building approvals and land use planning functions.
2. More direct mitigation strategies, through the performance of Local Government (i.e. works programs).
3. Specific emergency related mitigation and preparedness strategies, to prepare emergency management plans (i.e. developing Local Emergency Management Arrangements and establishing and running Local Emergency Management Committees).
4. With respect to most categories of emergency, providing assistance to State agencies in responding to emergencies.
5. Playing a significant role across all stages of bush fire emergency management (i.e. responsibilities under the Bush Fires Act 1954).

Specific provisions include:

**SEMP 2.5 – Emergency Management and Local Government Districts**

Clause 17 states '[c]onsideration should be given to including key indigenous stakeholders from the local community within the local emergency management and recovery committees to provide advice and guidance to the LEMC to ensure appropriate engagement with the local indigenous communities.'

**Westplan – Fire**

3.2.6 Special Needs and At Risk Groups states that the Local Emergency Management Arrangements (the Arrangements) need to identify the following groups:

- Special Needs groups such as schools, hospitals, health services, aged care facilities, travellers and holiday destination groups; and
- At Risk groups including Aboriginal and Culturally and Linguistically Diverse (CaLD) communities and At Risk localities.

**Local Government Act 1995**

Section 3.53(2) states that a ‘local government is responsible for controlling and managing every otherwise unvested facility within its district’. Otherwise unvested facility is defined in section 3.53(1) as meaning ‘a thoroughfare, bridge, jetty, drain, or watercourse belonging to the Crown, the responsibility for controlling or managing which is not vested in any person other than under this section.’ Accordingly, the provision does not apply to vast tracks of land, it applies (perhaps with the exception of watercourse) to confined facilities.

This advice was used to guide the rest of the project in relation to what was in scope and out of scope for Local Governments in regard to their statutory responsibilities.

Winteractive consultants were appointed to undertake further research, and to give consideration to:

- The capacity of Local Governments to undertake any emergency management work with remote Aboriginal communities.
- Any case history of good practice in regard to integration of programs (not just emergency management) being delivered by Local Governments, or others.
- The general philosophical view of Local Governments in regard to working with remote Aboriginal communities.
- The past history of remote Aboriginal communities, where did responsibility rest for implementation of emergency management responsibilities?
Any potential nexus for stakeholder coordination.

Envisaged to be a scoping exercise to guide further capacity building (if necessary), research was conducted in four case study sights (City of Kalgoorlie-Boulder, Shire of Halls Creek, Shire of Ngaanyatjarraju and Town of Port Hedland) to identify trends and potential opportunities. Winteractive conducted interviews with Local Government staff and workshops with Local Governments and representatives from Local Emergency Management Committees (LEMCs). A workshop was also held in Perth to validate some of the findings from earlier consultation, to consolidate outcomes, and highlight good practice.

3.2 Trends in Research Conducted with Local Government

The discussions with Local Governments can be grouped into the following two themes:

- Local Government role and capacity for undertaking emergency management activity in remote Aboriginal communities; and
- Building emergency management capacity within remote Aboriginal communities.

**THEME: Local Government role and capacity for undertaking emergency management activity in remote Aboriginal communities.**

The key message delivered by Local Governments is that while they believe that more needs to be done to build capacity in emergency management planning and preparedness within remote Aboriginal communities, Local Governments do not have the resources, expertise or mandate to do so.

The legislation advice received makes it clear that the main Local Government emergency management responsibilities in regard to remote Aboriginal communities are at the LEMC and Arrangement level. This means that stakeholders from the relevant communities should be represented on the LEMC and recovery committees. In relation to the Arrangements, consideration must be given to the inclusion of At-Risk groups and communities, including Aboriginal communities.

The suggestion to develop a template or example of simple emergency plans and information for remote Aboriginal communities to include in Arrangements was raised at almost every interview and workshop. It was viewed that the more sophisticated the plan, the less chance it would be utilized.

Some suggestions of essentials for this document include:

- Demographics and cultural sensitivities of each community.
- Risks to the community.
- Who is to be contacted to alert the community, and what protocols are in place to ensure that early warning messages are communicated?
- Evacuation procedures including when evacuation is necessary, and where people are to be evacuated.
- Available resources, including what is on site to assist with evacuating, mitigating, responding and recovering.
- Key contacts, both within and outside the community.

The *Local Government and Emergency Management in Remote Aboriginal Communities Report* includes a proposed template plan based on these suggestions.

For there to be appropriate representation at the LEMC, and accurate information to support Arrangements, there needs to be a level of capacity to engage and participate at the community level.

**THEME: Building emergency management capacity within remote Aboriginal communities**

The Report identifies that more needs to be done at a community level to identify what the needs and key issues are for that community. A one-size-fits-all approach will not work, as no two communities are the same. Research participants identified that there is a gap, and not
enough was being done by the State to consult with the community to understand what they want, and build local capacity to engage in the emergency management process.

The Report identifies that there are examples of positive initiatives implemented in various areas of the State. The success of these initiatives, however, is due to a commitment to build trust between agencies and the community, and an investment to appropriately skill local people to undertake essential tasks such as environmental health monitoring and education.

Community emergency management plans developed by the community, beyond a simple one-pager included in Arrangement, were seen as essential. A key component of these comprehensive community plans should be preferred evacuation procedures. The opinion was expressed during the workshops that better planning and capacity building before an event would assist in keeping the community unified and together. The involvement of other agencies to ensure they have the ability to support community members during an evacuation is also essential; whether this is identifying the best place to house those evacuated, or making sure that evacuation/welfare centres are appropriately resourced.

The Report recommends that the State provides a resource (Community Emergency Managers) to develop readiness planning for communities.

3.3 Recommended Actions

The Report makes a number of conclusions and recommendations based on the role of Local Government and the support needed to fulfil their responsibilities in regard to emergency management in remote Aboriginal communities. The following recommendations represent the priority actions identified by WALGA needed to address the key issues in the Report.

For Local Governments to ensure LEMCs and Arrangements involve appropriate consultation and engagement with community representatives, remote Aboriginal communities need to have the capacity to adequately engage in the process. An identified role for WALGA is to advocate to the State to commit to more investment in capacity building at a local level.

**Recommendation:** That WALGA advocate for increased State support for building emergency management capacity within remote Aboriginal communities.

Participants in the workshop agreed that a simple checklist to include in Arrangements would be a good start to identifying the key risks and resources within communities. The template document was workshopped and the outcome included in the finalised Report.

**Recommendation:** That WALGA finalise and distribute a template community checklist for Local Governments to include in Local Emergency Management Arrangements if required.

Local Government representatives involved in the project, while aware of and concerned for the current gaps in emergency management preparedness in remote Aboriginal communities, made it clear that they do not have the expertise, capacity, or mandate to undertake the much needed capacity building work required. Local Government representatives are happy to support future projects, but the State needs to take the lead. There is a role for WALGA to articulate this position to the State to ensure the State makes a commitment to providing more resources to emergency management in remote Aboriginal communities, but does not shift responsibility to Local Government.

**Recommendation:** That WALGA strongly articulates to the State that, while Local Government identifies that there is a need to build emergency management capacity within remote Aboriginal communities, the role of Local Government is to support community preparedness through coordination of Local Emergency Management Committees and the development of inclusive Local Emergency Management Arrangements.
4. SUMMARY
WALGA was awarded NDRP funding to identify what are Local Government’s responsibilities in regard to emergency management in remote Aboriginal communities. The research conducted highlighted that Local Government responsibility in regard to remote Aboriginal communities is at the LEMC and Arrangement level. For Local Governments to meet these responsibilities however, communities need to be able to engage in the process.

The research identifies that the State has a role to engage with communities to identify their emergency management risks, preferences in regard to evacuation, and generally build their emergency management skills and knowledge. There needs to be a commitment to build good relationships and trust to ensure genuine, on-going engagement with communities.

There is a role for WALGA to advocate for further investment in emergency management in remote Aboriginal communities to the State, and to articulate strongly the role of Local Government to ensure this important State responsibility is not divested to Local Government.
5.8 Patient Assisted Travel Scheme Inquiry (05-031-01-0001JH)

By Jodie Holbrook, Policy Manager, Community

Moved: Cr F Reid
Seconded: Cr K Chappel

That WALGA's interim submission to the Standing Committee on Public Administration's Parliamentary Inquiry into the State Government's Patient Assisted Travel Scheme (PATS) be endorsed.

RESOLUTION 63.3/2014

CARRIED UNANIMOUSLY

In Brief

- The Patient Assisted Travel Scheme (PATS) provides a subsidy towards the cost of travel and accommodation for eligible patients travelling long distances to seek certain categories of specialist medical services.
- The Parliamentary Standing Committee on Public Administration has initiated a Parliamentary inquiry into the State Government's Patient Assisted Travel Scheme (PATS)
- WALGA sought Member feedback via a Local Government Information page on 23 March 2014 and developed an interim submission to meet the deadline for comments.

Attachment

WALGA interim submission to the Standing Committee on Public Administration Parliamentary inquiry into the State Government's Patient Assisted Travel Scheme

Relevance to Strategic / Business Plan

- Providing strong representation for Local Government
- Providing effective leadership for Local Government
- Building a positive profile for Local Government
- Enhancing the capacity of Local Government to deliver services

Policy Implications

State Council has continued to express support for PATS as an important service to regional remote and rural Western Australia. WALGA State Council provided a submission to the 2007 Senate Inquiry into the Patient Assistance Travel Scheme: Senate Inquiry Highway to Health: Better Access for rural regional and remote patients.

Budgetary Implications

Nil.

Background

The Patient Assisted Travel Scheme (PATS) provides a subsidy towards the cost of travel and accommodation for eligible patients travelling long distances to seek certain categories of specialist medical services. The Scheme is funded by the Royalties for Regions Program.
PATS provides permanent country residents in a WA Country Health Service region with financial assistance when travelling more than 100kms to access the nearest eligible medical specialist service.

Country patients needing to travel more than 70kms to access specialist medical treatment for cancer or dialysis, where the health service is unable to provide a transport service, are also eligible for some assistance.

PATS provides a subsidy to eligible patients, however it does not cover all costs associated with travel and accommodation. To access PATS a referral must be made by the patient’s medical practitioner. The application for PATS assistance needs to be lodged prior to travel via fax, email, email or in person at the patient’s nearest health service.

In March 2014 the Parliamentary Standing Committee on Public Administration initiated a Parliamentary Inquiry into the State Government’s PATS. The terms of reference guiding the inquiry include:

1.) How adequately PATS delivers assistance to regional people accessing specialist medical care including:
   o The level of funding applied to the transport and accommodation subsidies provided;
   o Eligibility for PATS funding;
   o The administration process; and
   o Whether there is consideration of exceptional circumstances.
2.) Any incidental matter.

WALGA sought member feedback via an information page on 23 March 2014. WALGA received two responses.

Comment

All spheres of Government face a number of challenges in supporting the communities’ access to health care services, and these challenges differ greatly across the State. Increasingly Local Governments (particularly in regional and remote areas of Western Australia) are providing health services that are traditionally provided by the State Government or other service providers. This need is being compounded by the ageing population and an unprecedented level of migration to Western Australia.

There have been many reviews of the Patient Assistance Travel Schemes by respective Commonwealth, State and Territory Governments. All acknowledge that the current system established in the 1980’s is no longer an appropriate model for modern Australia. Recommendations suggest a need for national standards to be developed, better use of online service options, subsidies to reflect the real costs of travel and accommodation, and broadening of eligibility to in recognition that holistic multidisciplinary care provides better outcomes for patients and their families.

Local Government recognises that access to equitable health services is critical for community wellbeing and the sustainability of regional rural and remote communities. WALGA views the inquiry into PATS as an opportunity to progress the key recommendations of the 2007 Senate Inquiry into the Patient Assistance Travel Scheme: Senate Inquiry Highway to Health: Better Access for rural regional and remote patients and work towards a consistent national framework which reflects today’s needs.
Western Australian Local Government Association

Public Administration Committee - Inquiry into the Patient Assisted Travel Scheme (PATS) in Western Australia

WALGA Interim Submission

June 2014
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1. Executive summary

Local Governments in Western Australia play a significant role in supporting their communities’ well-being through the planning and investment of infrastructure, programs and service delivery. Increasingly Local Governments (particularly in regional and remote areas of Western Australia) are providing health services that are traditionally provided by the State Government or other service providers. The provision of such services impacts on other services that could be provided to the community. It is a challenge to manage competing considerations. For example the provision of housing for Doctors and allied health professional may mean the basketball court for local children is not refurbished for another year. Local Government must make decision based on the community need and balance with against legislative and administrative requirements. Local Government is not homogenous. There is no one size fits all approach. This can also be understood in terms of the Patient Assisted Travel Scheme. There are different needs across different regions. All spheres of Government face a number of challenges in supporting their communities’ access health care services, and these challenges differ greatly across the State. This is being compounded by the ageing population and an unprecedented level of immigration to Western Australia. According to the Western Australian Planning Commissions WA Tomorrow Forecast by 2026. Almost 1 in 5 Western Australians will be aged 65 years and over. According to the Australia Bureau of Statistics Series B Population Projection Western Australia’s total population will be 3.7 million in 2031. The increase in CALD community may require different communication, service options and partnerships with non-traditional providers. There have been many reviews of the Patient Assistance Travel Schemes by respective Commonwealth, State and Territory Governments. All acknowledge that the current system established in the 1980’s no longer an appropriate model for modern Australia. Recommendations suggest a need for national standards to be developed, better use of online service options, subsidies to reflect the real costs of travel and accommodation, and broadening of eligibility to in recognition that holistic multidisciplinary care provides better outcomes for patients and their families. Local Government recognises that access to equitable health services is critical for community wellbeing and to ensure sustainability of rural regional and remote communities into the future.
2. Introduction

The Western Australian Local Government Association (WALGA) welcomes the Public Administration Committee inquiry into the Patient Assisted Travel Scheme (PATS) in Western Australia. This submission has been prepared by the Western Australian Local Government Association (WALGA) on behalf of Local Government in Western Australia. The Western Australian Local Government Association (WALGA) is the united voice of Local Government in Western Australia. The Association is an independent, membership-based group representing and supporting the work and interests of 138 Local Governments in Western Australia.

The comments contained in this submission have not yet been considered or endorsed by WALGA’s State Council, as such, please be advised that this is an interim submission and that the Association reserves the right to modify or withdraw the comments as directed by State Council.

Local Governments in Western Australia play a significant role in supporting their communities’ well-being through the planning and investment of infrastructure, programs and service delivery. Increasingly Local Governments particularly in regional and remote areas of Western Australia are providing health services that are traditionally provided by the State Government or other service providers.

Local Governments however face a number of challenges in supporting their communities’ access health care services, and these challenges differ greatly across the State.

In consideration of the terms of reference comments provided throughout this document have been formulated having regard to the feedback received from our Members over a number of years and with reference to specific documents.

WALGA views the inquiry into PATS as an opportunity to progress the key recommendations of the 2007 Senate Inquiry into the Patient Assistance Travel Scheme: Senate Inquiry Highway to Health: Better Access for rural regional and remote patients and work towards a consistent national framework which reflects today’s needs.

3. Spheres of Government Responsibility

State and Territory Governments are principally responsible for the provision of public hospital infrastructure and services, community health services, mental health programs, patient transport and population health programs. Local Governments also contribute to the delivery of health programs.12

There are 138 Local Governments in Western Australia governed by the 1995 Local Government Act. In its broadest terms role of Local Government is to provide good governance for their community.

Many Local Governments are involved in the provision of health services because the service is not provided within easy access for their community.

Local Governments do not receive any specific financial compensation or remuneration for supporting health services. They are to fund such services from their operating revenue and Financial Assistance

12 Australia Bureau of Statistics Series B Population Projection Catalogue 3222.0
Grants (FAGs). The financial impost is considered to be increasingly burdensome. This can be directly attributed to Western Australia’s population growth and changing demographics.

4. Changing Population Considerations

One-third of Western Australia’s population were born overseas, the highest proportion of any state or territory. Between 2001 and 2011 the Australian born portion of the Western Australian population grew by an average annual rate of 1.4%. The migrant portion of the Western Australian population grew by an average annual rate of 3.7%. According to the Australia Bureau of Statistics Series B Population Projection Western Australia’s total population will be 3.7 million in 2031 (source: ABS 3222.0). It can be estimated that the migrant proportion of Western Australia’s population could potentially be 43% or 1.6 million.13 The Western Australia Tomorrow Population Report No.7, which was recently released by the Western Australian Planning Commission (WAPC) outlines a series of population projections 2006 – 2026 which are designed to help various stakeholders, including Local Governments, plan for the future. In relation to age, WA Tomorrow projections forecast that the number of people aged 65 and over, within WA, will increase by 223% to a total of 539,685 persons by 2026. Almost 1 in 5 will be aged 65+ from less than 1 in 8 in 2006. This increase means that across WA, the proportion of the population aged 65 or over will increase from approximately 12% to 18% by 2026. However, again, this growth in the number of persons aged 65 or above, is not uniform across the state. Some Local Governments are predicted to experience a greater increase in the numbers of people aged over 65 than others. Indeed the WA Tomorrow forecasts predict that by 2026, 20 Local Governments will have populations whereby more than 25% of all residents are aged 65 or above.

It is clear that the WA Tomorrow population growth projections together with the forecast of a demographic shift towards an older population will have a number of wide ranging implications for Local Governments.

Local Government recognises that is access to equitable health services is critical for community wellbeing. As the population ages, more people from rural and remote areas will require assessment and/or treatment at distant primary health and specialist facilities (especially given the loss of many local health services, and the move towards reduced length of stay which, for older people, is associated with increased episodes of care). Travel assistance schemes will become even more important in reducing barriers to accessing health care.14

5. Outdated Service Delivery Model

The PATS was established in the 1980’s with a focus on connecting rural regional and remote patients to specialists’ services. It reflected the community needs at that time, to the extent that the Commonwealth Government handed over the administration of the scheme to the respective State and Territory Governments in 1987 providing an increase of Financial Assistance Grants in recognition that the State and Territory Governments were better placed to develop and administer more effective local measures. There has been limited change to the service model.

13 Ibid
14 Standing Committee on Community Affairs (2007) Highway to health: better access for rural, regional and remote patients
In 2007 the Senate established an Inquiry into the Patient Assistance Travel Schemes. The Standing Committee on Community Affairs was tasked with reviewing the operation and effectiveness of Patient Assisted Travel Schemes including:

(a) the need for greater national consistency and uniformity of Patient Assisted Travel Schemes across jurisdictions, especially the procedures used to determine eligibility for travel schemes covering patients, their carers, escorts and families; the level and forms of assistance provided; and reciprocal arrangements for inter-state patients and their carers;

(b) the need for national minimum standards to improve flexibility for rural patient access to specialist health services throughout Australia;

(c) the extent to which local and cross-border issues are compromising the effectiveness of existing Patient Assisted Travel Schemes in Australia, in terms of patient and health system outcomes;

(d) the current level of utilisation of schemes and identification of mechanisms to ensure that schemes are effectively marketed to all eligible patients and monitored to inform continuous improvement;

(e) variations in patient outcomes between metropolitan and rural, regional and remote patients and the extent to which improved travel and accommodation support would reduce these inequalities;

(f) the benefit to patients in having access to a specialist who has the support of a multidisciplinary team and the option to seek a second opinion;

(g) the relationship between initiatives in e Health and Patient Assisted Travel Schemes;

(h) the feasibility and desirability of extending patient assisted travel schemes to all treatments listed on the Medicare Benefits Schedule – Enhanced Primary Care items such as allied health and dental treatment and fitting of artificial limbs; and

(i) the role of charity and non-profit organisations in the provision of travel and accommodation assistance to patient

The Standing Committee on Community Affairs made 16 recommendations in their report Highway to Health: Better access for rural, regional and remote patients which essentially called for the program to be redefined to reflect contemporary models of service delivery; embrace technology to streamline administration, establish a national taskforce to develop national standards for PATS schemes, address legislative and policy barriers, develop a performance and monitoring framework and identify appropriate mechanisms against which to review subsidy levels on a regular basis to keep pace with changes in living costs.15

In February 2010, the Government provided its response to the Committee’s report. It committed the Australian Government to working with the state and territory governments to improve the system.16 It is

15 Standing Committee on Community Affairs (2007) Highway to health: better access for rural, regional and remote patients
acknowledged that many of the recommendations will require significant investment for new ICT infrastructure and administrative systems. However the progress and implementation of these recommendations remains unclear. WALGA recommends that an outcome of this Inquiry be a request to the Commonwealth Government to determine the level of implementation of the 2007 Inquiry report recommendations through the Australian Health Ministers' Advisory Council.

6. Terms of Reference Feedback

WALGA has collected feedback from Local Government during this current Inquiry and previous consultations with Members. There are six identified themes as follows:

1. Administration
2. Eligibility and Equity
3. Communication
4. Subsidy to reflect real costs
5. Investment in online services
6. Opportunity to partner with Private and Not for Profit providers for service delivery

Administration
Today’s society is much more connected through our use of technology. The PATS has not kept pace with these changes. This is reflected in the consistent feedback about the administration scheme:

- the process for referral is unnecessarily complex
- there is insufficient information about the schemes
- the amount of paperwork is often daunting
- the subsidy provided is inadequate
- the online presence is not helpful or connected in a meaningful way to assist with making claims.

Eligibility and Equity
Ensure equity of access to medical services for people living in rural, regional and remote Australia. Whilst the scheme has set up to enable people living in rural regional and remote areas to access specialists other models of service (tele-health, Medicare locals, and pharmacists) are being increasingly used.

A critical gap is allied health and dental care. PATS does not cover travel to access these services (Apart from Queensland who covers dental). As a result, WALGA feedback indicated significant support for the extension of PATS to cover allied health services and dental care. This can be attributed to the recognition and benefit of multi-disciplinary teams; primary and allied health professional working together to provide a continuum of care. This model needs to be recognised and accommodated in the PATS scheme going forward.

PATS is fantastic idea but should have option to complete application online and upload payment receipts from Specialists. Receipts are proof of treatment. Paying for appointments with GP’s so they can fill in application forms; almost exactly what is written on page 1 of the application form seems unnecessary and costly.

Communication
All feedback suggested that there was a real lack of information and advice provided for people and their families wishing to access PATS or having difficulties with the scheme:

- Frustrating. No instructions on how to use. Information from other users, no leaflets or information.
• Eligibility criteria need to be clearer. What is covered, how to access it is difficult to understand?
• Limited information available, not widely promoted
• Medical personnel in some areas are unsure of the program and procedures

Subsidy to reflect real costs
Equally Local Government in Western Australia cites the lack recognition of the vast distances that need to be travelled for appointments and the real costs of such trips.

In their submission to the 2007 Senate Inquiry the Shire of Karratha noted:

The issues are: hub and spoke does not work because there is no spoke in the sense that there is no public transport; there is no commercial link or integration of any type whatsoever between any town in the Pilbara at the air level; there is absolutely no land service of a commercial public nature; and, all interaction is through private travel. We are talking about extremely long distances and times. Most one way distances are 400 to 500 kilometres or more. This puts great pressure on patients because, the way the system works, carers do not get a great deal of support through the PATS system.

Also, the road systems, the distances travelled, the safety risks from animals on the road, the sheer heat and such types of things mean that it is a test for an able-bodied, healthy person, let alone someone who is suffering an illness.17

Similar sentiments were reflected in feedback collected from Wheat belt Shires from in 2014 who note:

‘The set distance to the nearest specialist for PATS eligibility excludes some patients from the scheme but they still require assistance to attend appointments. One case the patient was 2 kms too close so were not eligible for assistance.’
‘Travelling to get the forms signed and lodged on time is difficult’
At my age it’s not safe to be travelling such long distances on the roads, but I’m limited with my options in my home town.

The State Government 2014/2015 Budget reflected a significant reduction of road funding to Local Government which may further impact on the safety of people travelling on the roads.18

Investment in online services
1. The poor online presence was the most commented issues. For many users the ability to do the paperwork online would make a tremendous difference. Most homes have access to a computer and have the ability to upload the required information without the repeat trips to the specialists. The government website https://my.gov.au/ was cited as a user friendly model that could be adopted for PATS.

17 Standing Committee on Community Affairs (2007) Highway to health: better access for rural, regional and remote patients
18 The State Government Mid-Year Review, released in December 2013, announced a $70.4 million reduction in funding made available for Local Government roads over three years including 2013/14. However this was revised to $56 million according the 2014/2015 State Budget.
Needs to be a simple process of logging on to a website, completing application and emailing to the appropriate district. Could be done on laptops while waiting for appointments. Should not have to make and pay for another GP appointment to get sorted

Not enough information given, phone calls to find out email addresses for further action. After specialist appointments the receipt could then be emailed or uploaded. A customer or ID number could be allocated to each application for ease of processing.

Opportunity to partner with Private and Not for Profit providers for service delivery

In the 2007 Senate Inquiry there were calls for a greater role by private insurance companies to provide financial assistance for health-related travel and accommodation. This was considered part of the solution and would require review of the Private Insurance Act 2007. Other suggestions put forward included engagement with not for profit organisations that are looking for new service opportunities. In Western Australia there is significant reform of the non-government sector and the services they provide. Led by the Department of Premier and Cabinet the objective is to improve outcomes for all Western Australians through a genuine partnership between Government and not for profit organisations in the policy, planning and delivery of community services in Western Australia.19

With a significant ageing population it is unreasonable to expect that Government will be able to continue to fund and resource the current PATS service or that appropriate volunteers will be available to assist with the service. Alternative service providers and information points should be identified and explored.

7. Need for a Nationally Consistent Approach

There have been many reviews of the Patient Assistance Travel Schemes by respective State and Territory Governments and Commonwealth Government. All acknowledged that the current system established in the 1980's no longer an appropriate model for modern Australia. WALGA supports the 2007 Senate inquiry recommendations to develop a National Taskforce comprised of government, non-government consumer and practitioner representatives to develop a set of national standards for patient assisted travel schemes that ensure equity of access to medical services for people living in rural, regional and remote Australia.

That, in establishing national standards, the Taskforce:

• identify relevant legislative, geographic, demographic and health service variables of the States and Territories impacting on access;

• identify barriers to access including costs of travel and accommodation, Restrictions on escort eligibility and access to transport;

• assess the impact of co-payments;

• identify mechanisms to improve access for patients travelling between Jurisdictions;

• identify, as a matter of priority, core, minimum standards that are relevant to all jurisdictions particularly in relation to eligibility criteria and subsidy levels; and

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• give consideration to the development of optimal, outcomes-based standards that support consistent, quality outcomes for consumers, whilst enabling different State/Territory approaches that are responsive to local need.20

8. Conclusion

Local Government recognises that access to equitable health services is critical for community wellbeing. WALGA supports the need to review the current PATS system and to develop a consistent national framework and standards to ensure the services meets the needs people living in rural regional and remote Australia. It is a valued Government service that with a growing and ageing population will become even more critical to reducing barriers to accessing health care into the future.

20 Standing Committee on Community Affairs (2007) Highway to health: better access for rural, regional and remote patients
Local Government Communique on Future Service Delivery to Discrete Aboriginal Communities (05-032-02-0010 JH)

By Jodie Holbrook Policy Manager, Community

Moved: Mayor H Zelones
Seconded: Cr G Amphlett

1. That the Local Government Communiqué for Service Delivery to Aboriginal Communities (2012) is reaffirmed as the sector’s position in July 2014;

2. That the 2012 Communiqué be sent to the Hon Nigel Scullion, Federal Minister for Indigenous Affairs; the Hon Peter Collier, WA Minister for Aboriginal Affairs; and the Hon Tony Simpson, Minister for Local Government and Communities; with correspondence seeking a commitment from (as appropriate):
   a. The Office of Prime Minister and Cabinet advising how Western Australian Local Governments’ concerns will be addressed through the Indigenous Advancement Strategy and Remote Network in accordance with the WALGA Communiqué (2014);
   b. The Department of Aboriginal Affairs providing advice on how Local Government concerns are currently considered and addressed through the Aboriginal Affairs Cabinet Subcommittee (AACS);
   c. Inclusion of the Department of Local Government and Communities (DLGC) on the Aboriginal Affairs Communities Subcommittee;
   d. Inclusion of a WALGA representative on the Aboriginal Affairs Cabinet Sub-Committee (AACS);
   e. The Aboriginal Affairs Coordinating Committee establishing a Subcommittee for Local Government to provide policy and operational advice to the AACC and AASC on Local Government matters.

AMENDMENT

Moved: Cr C Mitchell
Seconded: Mayor L Howlett

f. Request that the Department of Local Government and Communities re-convenes the Remote Aboriginal Technical Groups to review and report on works previously undertaken as a matter of urgency

Motion as amended was put and

RESOLUTION 64.3/2014 CARRIED UNANIMOUSLY
In Brief

- The Commonwealth Government will introduce the Indigenous Advancement Strategy and Regional Network from 1 July 2014.
- The Strategy will be delivered by the Office of Prime Minister and Cabinet. The new strategy will replace the current National Partnership Agreement on Remote Service Delivery.
- $28.6 million Municipal Services Program (MUNS) has been extended until 30 June 2015 but is expected to cease at that time.

Attachment

Proposed WALGA Communiqué for Service Delivery to Aboriginal Communities (2014)

Relevance to Strategic / Business Plan

- Providing strong representation for Local Government
- Providing effective leadership for Local Government
- Building a positive profile for Local Government
- Enhancing the capacity of Local Government to deliver services

Policy Implications

State Council’s previously adopted position in relation to the provision of service delivery to Aboriginal Communities is:

1) That WALGA State Council supports the 22 Local Governments with Discrete Aboriginal Communities in their expression of grave concern with the proposed transition of ‘municipal’ services to Local Government by July 2012, as contained in the National Partnership Agreement on Remote Aboriginal Housing (2009);

2) State Council endorses the draft Communiqué developed at the WALGA Forum held 5 December 2011 on Service Delivery to Aboriginal Communities;

3) That State Council requests the “Service Delivery Forum” members to include the following additional points in their Communique to State Government:

   a) Urgent attention needs to be given to putting in place all transition legislation
   b) Land tenure issues need to be taken into account for both community access and asset development and ownership ie depots.

   RESOLUTION 25.2/2012

Budgetary Implications

Nil.

Background

There are 287 discrete Aboriginal Communities in Western Australia accommodating approximately 17,000 Aboriginal people spanning 22 Local Governments.

Over the past decade Commonwealth and State Government policy directions on serving remote Aboriginal communities have largely been shaped by a view that reform should centre on transferring responsibility for essential and municipal services from specific Commonwealth programs to mainstream State agencies and Local Government. This is formalized through the Council of Australian Governments’ (COAG) National Aboriginal Reform Agreement.
The approach is generally referred to as the ‘normalisation’ agenda. It is an expectation that the living conditions and governance in Aboriginal Communities can be significantly improved if these communities receive essential services such as power and water and municipal services in a manner similar to other Australians who live in towns or cities.

A number of Indigenous-specific National Partnership Agreements (NPA) were established and commit governments to a common framework of outcomes, progress measures and policy directions to guide the normalisation agenda.

The National Partnership Agreement on Remote Indigenous Housing (NPARIH) established in 2009 is led by the Department of Housing in Western Australia. It is a ten year funding strategy to reform responsibilities between the Commonwealth, the States and the Northern Territory in the provision of housing for Aboriginal people in remote communities and to address overcrowding, homelessness, poor housing condition and severe housing shortage in remote Aboriginal communities.

Under the NPA normalised service arrangements mean that a remote Aboriginal community is serviced by municipal and essential services delivery arrangements that are accountable through an agreed framework and reflect a standard of service delivered to non Indigenous people in communities of similar size and location. The Agreement defines essential and municipal services as meaning power, water and sewerage operation and maintenance, road maintenance, waste disposal, landscaping and dust control, dog control, environment health activities, and management of infrastructure and municipal services.

Local Government has continued to express concern with the definitions within this NPA. The key objective is the progressive transfer of responsibility of municipal and essential services to the States, depending on agreement being reached with individual jurisdictions. The deadline for this transfer has continued to shift with time. Currently it is earmarked for July 2015.

On the 5 December 2011 WALGA hosted a forum with the 22 Local Governments with discrete Aboriginal communities. The forum discussed the need to develop a Local Government position to inform Commonwealth and State Government negotiations. The outcome of this Forum was the development of a Communiqué which was endorsed as the WALGA State Council position in March 2012 (Resolution 25.2/2012).

At a State level, the Aboriginal Affairs Cabinet Subcommittee (AACSC) was established on 17 April 2013. It is the key mechanism for the coordination of the current Government focus on Aboriginal affairs in Western Australia. The AACSC’s function is to set policy directions, priorities and reform and improve coordination and the effectiveness of Government investment in Aboriginal affairs. Treasury estimates that State government expenditure on services for Aboriginal people was around $2.3 billion in 2010–11, or approximately $30,000 per person.

The Committee is chaired by the Minister for Aboriginal Affairs and supported by the Deputy Premier, the Minister for Regional Development and the Minister for Mental Health. The Committee works with the Aboriginal Affairs Coordinating Committee (AACC) legislated under the Aboriginal Affairs Planning Authority Act 1972 to effectively coordinate activities that provide services and assistance to Aboriginal people.

The Aboriginal Affairs Coordinating Committee (AACC) comprises the Directors General from the following State Departments: Aboriginal Affairs (Chair), Premier and Cabinet, Treasury, Child Protection, Education, Regional Development and Lands, Housing, Training and Workforce Development Health Corrective Services and WA Police. THE AACC has established five sub-committees to provide advice, assist in setting policy direction and implement strategies to improve the wellbeing of Aboriginal people in Western Australia. The Department of Local Government and

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Communities is represented on the AACC Regional and Remote Aboriginal Communities Subcommittee. This subcommittee is working towards the development of a strategic investment approach to remote Aboriginal communities.

As part of the Federal Budget 2014/15, the Commonwealth Government announced significant policy reform to Aboriginal service delivery with the introduction of the Indigenous Advancement Strategy and Remote Community Advancement Network. The federal budget papers indicate that $4.8 billion will be invested to replace 150 individual grants and activities with five broad-based programmes administered by the Prime Minister and Cabinet and Health portfolios as follows:

1. **Jobs, Land and the Economy** – focused on jobs, business and the use of land for economic development.
2. **Children and Schooling** – focused on school attendance, improving education outcomes, early childhood and families.
3. **Safety and Wellbeing** – focused on health and social and emotional wellbeing.
4. **Culture and Capability** – focused on maintaining culture, social and economic participation and quality service delivery.
5. **Remote Australia Strategies** - focused on strategic investment in local, flexible solutions based on Aboriginal Communities priorities and remote housing and infrastructure.

The Strategy and its programs will be managed by the Department of the Prime Minister and Cabinet (PM&C). Programs will be implemented through the Remote Community Advancement Network in PM&C. For further information on the Strategy visit [http://www.dpmc.gov.au/indigenous_affairs/](http://www.dpmc.gov.au/indigenous_affairs/)

The Strategy will begin on 1 July 2014 with a transition period to allow continuity of frontline services and time for communities and service providers to adjust to the new arrangements. The PM&C will honor contract funding agreements and organisations who have received long term funding, and whose funding is due to expire in the near term, will receive an extension of six to 12 months to allow for a smooth transition.

As part of the establishment of the Indigenous Advancement Strategy, the NPARIH will remain however the NPA on Remote Service Delivery will be replaced by the new “Remote Community Advancements Network” and new bilateral arrangements with each State and Territory will be established.

On 7 May 2014 *The Australian* newspaper ran an article on the potential impact of the changes on Aboriginal communities affected by the reduction in programs and funding:

“A spokesman for Federal Indigenous Affairs Minister Nigel Scullion said there was transitional funding in contingency reserves in this year's budget to support the States for the next year “The transitional arrangements will assist States to take on responsibility for the provision of municipal services in remote communities,” the spokesman for Senator Scullion said. “Municipal services should be the responsibility of state or local governments: that view has been shared across successive governments.” The government said it would negotiate the transitional funding arrangements before the end of June, when the current agreement expired.

On 10 May 2014, Ms Jennifer Mathews Director General, Department of Local Government and Communities (DLGC) emailed Local Government’s with discrete Aboriginal Communities to confirm that Municipal Services Program (MUNS) will continue to provide $28.6m in funding until 30 June 2015. Ms Mathews emphasised while the MUNS program has been extended for
a further 12 months, at this stage there is no certainty regarding funding arrangements beyond this time.

Ms Mathews also highlighted the work of DLGC as part of the State negotiation team working closely with the Department of Housing and the Department of Premier and Cabinet, to ensure that any new arrangements capture the key concerns of both the Local Government sector and the State Government notably:

- securing funding to continue municipal service delivery until new arrangements are agreed;
- securing the capital funding required to meet infrastructure gaps;
- improving services to standards equivalent to comparable non-Aboriginal communities;
- allowing for a period for transition to allow local governments to build capacity and resources to deliver: and
- developing the transitional arrangements; notably the Draft National Principles for Reform of Essential and Municipal Services. The transition principles outline the need for a long term and staged approach to municipal services reform in a fiscally responsible manner.

Ms Mathews acknowledged WALGA State Council Communiqué on Service Delivery to Aboriginal Communities (2012) was informing the negotiations both with the Commonwealth and other State Government agencies and that any future reforms will be dependent on the provision of adequate funding.

**Comment**

WALGA continues its efforts to work with the Commonwealth and State Government to effect change for Aboriginal communities. Despite these efforts the policy goal posts continue to change. It has been over 10 years since the first bilateral discussions commenced. Whilst there have been positive outcomes during the past decade, the systemic issues continue.

WALGA has consistently outlined the fundamental issues that need to be addressed in order to deliver normalised services to discrete Aboriginal Communities. These concerns have been acknowledged but it still appears the complexities of municipal service delivery to Aboriginal Communities and the associated funding, is not clearly understood by the State or Commonwealth Government. This has been compounded by the broader agendas of reform; the lack of clarity around governance structures both within communities and between the three spheres of government.

At a Commonwealth level whilst the Indigenous Advancement Strategy and associated framework are introduced, it will be some time before this is operational and understood by all.

The WALGA Communiqué has framed all discussion with the State and Commonwealth Government since it was endorsed as the sector position in 2012. With the introduction of a new framework at the Commonwealth level and new State governance structure it is timely to review the Communiqué to capture the changes and reaffirm the local Government sector position for future negotiations.
Western Australian Local Government Association

“Without Prejudice”

Communique to the Commonwealth Government of Australia and the State Government of Western Australian

Future Local Government Service Delivery to Discrete Aboriginal Communities

July 2014
Contact:

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Background

There are 287 discrete Aboriginal Communities in Western Australia accommodating approximately 17,000 Indigenous people spanning 26 Local Governments.

In the more than four decades since the 1967 Referendum, successive Commonwealth governments have developed and funded policies and programs designed to improve the socio-economic status of Aboriginal Australians, and overcome a long history of poverty and marginalisation. Despite these efforts, there has been only modest improvement in some areas, and many Aboriginal Australians continue to experience high levels of disadvantage in living standards, life expectancy, education, health and employment.

Over the past decade Commonwealth and State Government policy directions on the provision of services to remote Aboriginal communities have largely been focused on transferring responsibility for essential and municipal services delivery from Commonwealth programs to the State Government agencies and Local Governments normally responsible. This approach is generally referred to as the ‘normalization agenda’.

The Council of Australian Governments’ (COAG) National Aboriginal Reform Agreement provides the current framework for the Commonwealth, State and Territory governments to work together with Aboriginal Australians and the broader community to achieve the target of ‘Closing the Gap’ in Aboriginal disadvantage.

The Closing the Gap strategy includes six targets relating to Aboriginal life expectancy, health, education and employment, which need to be in place in order to address the current level of disadvantage. Underpinning the Closing the Gap targets outlined in the National Aboriginal Reform Agreement are other National Agreements which contain Aboriginal specific outcomes, and a series of National Partnership Agreements. One such agreement is the National Partnership Agreement on Remote Aboriginal Housing 2009.

This Agreement specifically includes provision for arrangements to be put in place to enable the progressive transfer of responsibility for delivery of municipal and essential services from the Commonwealth to the States and Local Government by 1 July 2015 (subject to agreement being reached with individual jurisdictions).
As part of the Federal Budget 2014/15, the Commonwealth Government announced significant policy reform to Aboriginal service delivery with the introduction of the Indigenous Advancement Strategy and Remote Community Advancement Network which will work across five broad-based programs administered by the Prime Minister and Cabinet and Health portfolios as follows:

2. Children and Schooling – focused on school attendance, improving education outcomes, early childhood and families.
3. Safety and Wellbeing – focused on health and social and emotional wellbeing.
4. Culture and Capability – focused on maintaining culture, social and economic participation and quality service delivery.
5. Remote Australia Strategies- focused on strategic investment in local, flexible solutions based on Aboriginal Communities priorities and remote housing and infrastructure.
Communique

Western Australian Local Governments with Aboriginal communities are supportive of efforts to improve the living conditions and governance in communities that currently receive municipal and essential services such as power and water, to a level that is similar to other Australians, living in towns and cities.

However, affected Western Australian Local Governments do not consider that adequate provisions have been made to enable Local Government to assume responsibility for service delivery to Aboriginal communities in a fiscally responsible or acceptable manner.

To achieve better outcomes for Aboriginal communities and considering the Council of Australian Government (COAG) agenda for normalisation of Local Government services to discrete Aboriginal communities, the Western Australian Local Government Association (WALGA) convened a forum of the 22 Local Governments affected by the COAG Closing the Gap agenda on 5th December 2011. Forum participants agreed to communicate the following message to the State Government.

WA Local Governments are committed to supporting improvements to, and normalization of, the current arrangements for municipal services delivery to Aboriginal Communities.

In order for Local Governments to engage in the transfer of responsibility for municipal services delivery to Aboriginal communities, in accordance with the National Partnership Agreement on Remote Aboriginal Housing 2009, and Indigenous Advancement Strategy (2014) the following pre-requisites must be put in place:

1. A written commitment by the Commonwealth and State Governments to the transition principles for the transfer of services (attached);

2. Agreement to defer any change in service delivery or existing funding levels to communities to at least December 2015, to provide sufficient time for community engagement and business planning by Local Governments;

3. Confirmation of the quantum of funding that will be provided to Local Government from Commonwealth and State Government to undertake service delivery, and the mechanism to do so;
4. Identification and confirmation of the outcomes that are to be achieved through the transfer of responsibilities and service ‘normalization’ to Aboriginal communities;

5. Confirmation of which Aboriginal communities are to be included in the ‘normalization of service delivery’ process in the short and long term;

6. A commitment by the Commonwealth to fund and lead a comprehensive Aboriginal community consultation and engagement program, in conjunction with affected Local Governments, about the Aboriginal Advancement Strategy, Remote Regional Network and proposed changes to service delivery and funding arrangements. The program must commence by December 2014;

7. Funding to be made available to individual Local Governments by December 2014, for the employment (inc overheads) of the additional resources required by each Local Government to undertake the activities required to plan for and implement the new arrangements/responsibilities related to service delivery to communities;

8. Confirmation of the timeframe for the transition of delivery eg 10 years / 20 years and commitment to developing regional / local implementation plans with affected Local Governments;

9. That the definition of Municipal Services shall be more clearly defined taking into account the executive function provisions of schedule 3.18 of the Local Government Act 1995;

10. A Local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act:

   1. In performing its executive functions, a local government may provide services and facilities.

   2. A local government is to satisfy itself that services and facilities that it provides –
   
   a) integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State or any public body; 
   b) do not duplicate, to an extent that the local government considers appropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and
   c) are managed efficiently and effectively.

11. A commitment by the State Government to address the lack of understanding of Local Government functions by the Commonwealth and State agencies in relation to community development and governance needs.
12. Agreement to the Department of Local Government and Communities (DLGC) representation on the Aboriginal Affairs Cabinet Subcommittee;

13. Agreement to WALGA representation on the Aboriginal Affairs Coordinating Committee to ensure sustainable funding, service and governance arrangements are in place between the Commonwealth State and Local Government for the provision of service delivery to discrete Aboriginal Communities from 1 July 2015.

14. A commitment from the Aboriginal Affairs Coordinating Committee to establish a Subcommittee Local Government to provide policy and operational advice to the AACC and AASC on Local Government matters.

15. A commitment from the Office of Premier and Cabinet to review the Remote Jobs and Communities Program (former CDEP program) to address the negative impact it is having on the functionality and cohesiveness of remote communities.

This message was reaffirmed by the WALGA State Council on 6 July 2014.
Guiding Principles for Negotiation.

The six principles to guide negotiation and transition planning in accordance with the COAG Closing the Gap agenda are as follows:

1. To cause no harm through policy change and to fund and plan transition arrangements accordingly;
2. All funding structures need to be recalibrated to better account for the costs of remoteness and achieve a rate equivalent base as recurrent funding sources are inadequate to meet basic service standards;
3. Agreement is required between the Commonwealth, State and Local government on a funding arrangement to upgrade the infrastructure required for agreed services to be provided, to a minimum serviceable level prior to a Local Government taking up responsibility for service provision in discrete Aboriginal communities;
4. To comprehensively plan for changes to service delivery by taking into account risk management, implementation issues, practicalities of scheduling and alignment with State and Commonwealth priorities, in order to achieve improved standards and quantity of service delivery;
5. Transition funding needs to secure governance arrangements as a necessary precursor to service planning with both local governments and communities; and
6. Community consultation and skills and capacity building need to be built in to the funding arrangements and service planning.
5.10 WALGA Submission – Review of Contaminated Sites Act 2003  
(05-020-01-001 MB)

By Michelle Brent, Environment Policy Officer

Moved: Cr G Amphlett  
Seconded: Cr M Wainwright


RESOLUTION 65.3/2014  
CARRIED

In Brief

- The Western Australian Local Government Association (WALGA) entered an interim submission to the second phase of the Department of Environment and Regulation’s Contaminated Sites Act 2003 (the Act) review.

- This is the second phase of the review, and hence is WALGA’s second submission. WALGA also entered a submission in the first stage of the review, which was endorsed by State Council in December 2012, resolution 135.6/2012.

- In this submission, WALGA stated that:
  - Local Government officers should not be required to report suspected or known contamination.
  - An additional site classification, “contaminated – investigation required” should be added.
  - A three month time frame for information provision to the Contaminated Sites Committee should be imposed, but extensions made possible.
  - The State Administrative Tribunal (SAT) should be responsible for reviewing both DER and Contaminated Sites Committee decisions, to increase administrative transparency.
  - WALGA also reiterated concerns initially raised in its first submission. These were in regard to data sharing and State Government recognition of legacy sites.

- DER will now draft a review report, based on the submissions it received. This report is due for completion in June 2014, and will then be sent to the Minister for the Environment in July 2014.

Attachment

WALGA’s submission to the Review of the Contaminated Sites Act 2003

Relevance to Strategic / Business Plan

- Providing strong representation for Local Government
- Providing effective leadership for Local Government
- Building a positive profile for Local Government
- Enhancing the capacity of Local Government to deliver services

Policy Implications

Nil.
Budgetary Implications
Nil.

Background
The Department of Environment Regulation (DER) is reviewing the Contaminated Sites Act 2003. This is a mandatory five year review, and seeks to examine how effectively the Act has been identifying, recording, and remediating contaminated sites over the past five years.

In December 2013, DER sought public comment for the second stage of the review. The consultation process has been over a number of phases, and WALGA has engaged in each. Table 1 outlines the DER’s consultation process:

Table 1: DER’s consultation process

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<td>Release 1&lt;sup&gt;st&lt;/sup&gt; consultation document</td>
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<td>Review, analyse public comments</td>
<td>Release 2&lt;sup&gt;nd&lt;/sup&gt; discussion document</td>
<td>Further public consultation (12 weeks)</td>
<td>Review, analyse public comments</td>
<td>Forward review report (recommending changes) to Minister</td>
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The DER’s second discussion paper requested feedback on four issues:
1. the duty to report;
2. the site classification scheme;
3. mandatory disclosure arrangements; and
4. the role and procedures of the Contaminated Sites Committee.

Submissions closed on 24 February, 2014 after a 12 week consultation period. WALGA entered an interim submission, which was prepared with input from staff members from across the organisation, and was approved by the WALGA President and Environment Co-Chairs.

The review was advertised to Local Governments through the normal communication channels; however, no responses were received. This could be because Local Governments provided feedback to WALGA during the first round of community consultation. The comments previously received from Local Government were included in the current interim submission.

Comment

The following text summarises WALGA’s submission.

1. Duty to report
Landowners and occupiers currently have a duty to report known and suspected contamination. The DER asked whether “environmental consultants” should also have to comply with this requirement. WALGA agreed that environmental consultants should have a duty to report, but stated that Local Government employees should be specifically excluded from the legal definition of an ‘environmental consultant’. This is because some Local Government employees, such as environmental managers, could be burdened with the personal responsibility of reporting known or suspected contamination.
2. Site classification

Once a site has been reported as contaminated, it will be classified within 45 days. The most common classification following a report is “possibly contaminated – investigation required”. Until the site is adequately investigated and a determination about remediation is made, a site will remain classified as “possibly contaminated – investigation required”. In the case of complex sites, this ambiguous classification can apply for prolonged periods, even if the DER is in possession of information that demonstrates remediation or management strategies of some kind will be required.

To improve site classification, the DER asked whether a new classification of “contaminated – investigation required” should be introduced. This classification would be applied to sites with confirmed contamination, but a remediation strategy is not yet developed. WALGA agreed that a new site classification “contaminated – investigation required” would be beneficial. However, WALGA reaffirmed its previous position that all contaminated site data should be fully and freely available to Local Government.

3. Timeframes for providing information to Contaminated Sites Committee

The Contaminated Sites Committee decides which party will be responsible for remediating a contaminated site. When the Act was originally passed, it was envisaged that these decisions would be made within six months of a request being filed. However, in practice, the decisions are taking around 2.5 years.

In the initial round of submissions, the majority of respondents supported a three month timeframe and penalties for non-compliance. Although Local Government noted the difficulties in identifying responsibility for contamination, particularly when there has been multiple occupiers using similar contaminants or a long history of industrial uses. WALGA supported the proposal to introduce a three month time limit for the provision of information to the Contaminated Sites Committee on the proviso that this time limit should be capable of extension in certain circumstances.

4. Potential role for the State Administrative Tribunal (SAT)

In 2009, the Legislative Council Standing Committee on Legislation formed the view that there may be a role for the SAT in reviewing decisions of the:

- Contaminated Sites Committee regarding responsibility for the remediation, noting that no such right of review exists; and
- DER regarding site classifications and notices issued under the Act, noting that the Contaminated Sites Committee currently reviews these decisions.

In this review, the DER asked respondents about their opinion of the above view. WALGA stated at this time (and our view remains) that the SAT should be responsible for reviewing both of the above, as it is an independent body and has significant experience in reviewing the merits of decisions based on technical evidence. SAT has a more transparent process than the Contaminated Sites Committee, conducting hearings in a public forum where witnesses are examined. The SAT is therefore well placed to make decisions on contaminated sites issues, subject to employing non-judicial members with expertise in contamination.

5. Other issues

WALGA also raised issues from its first submission about State Government recognition of legacy sites, and future clarity.

Next steps

The DER will now analyse the feedback received during the consultation period, finalise its policy positions, and draft a review report. The review report is due to be completed in June 2014, and will then be sent to the Minister for the Environment.
Review of the *Contaminated Sites Act 2003*

**Discussion paper**

**SUBMISSION COVER SHEET**

Complete and email this form with your submission by

**Monday 24 February 2014.**

To assist us in collating stakeholder responses, please submit in Word format.

**PLEASE DO NOT SEND PDF DOCUMENTS**

Submissions will be published on the DER webpage, however, personal contact details will **not** be made public.

Email to: consitesreview@der.wa.gov.au

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<th>Contact person</th>
<th>Michelle Brent</th>
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<td>Position</td>
<td>Environment Policy Officer</td>
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Response template

To get the most out of your feedback, please provide examples and relevant data to support your view (e.g. how the issue affects you, information regarding costs incurred and how frequently the issue arises). Comments are most helpful if they:

- contain a clear rationale;
- provide evidence to support your view;
- describe any alternatives we should consider; and
- where possible provide data which could inform a costs and benefits analysis of the issue such as how often the issue arises and what direct and/or indirect costs or savings would be incurred if the change was made.

What will happen to the information I provide?

After the comment period has closed (24 February 2014), we will review and consider all stakeholder feedback and produce a detailed report for consideration by the Minister for the Environment. The review report will be tabled by the Minister in Parliament. All submissions received will be published on the DER website (personal contact details will not be made public).

Thank you

We would like to thank you for your time in contributing to this review process. This stakeholder consultation will provide valuable information for us to consider and incorporate into improving the operation of the CS Act and Regulations and the way we do our business.
(1) Duty to report

Under s.11(4) of the Act, the following persons have a duty to report a site:
- an owner or occupier of the site
- a person who knows, or suspects, that he or she has caused, or contributed to, the contamination
- an auditor engaged to provide a report that is required for the purposes of this Act in respect of the site.

If any other person becomes aware of a known or suspected contamination, they may report it, but are not obliged to do so.

In the Consultation paper we asked: Should a person with the professional knowledge or ability to identify contamination have a duty to report it?

Proposed way forward – include an ‘environmental consultant’ in the persons with a duty to report under s.11

The intent here is that the reporting obligation would apply to environmental consultants engaged for investigation or remediation purposes [an appropriate definition of ‘environmental consultant’ would need to be included in the Act]. It is suggested that for an environmental consultancy, the onus would be on the project manager to ensure that known/suspected contamination is reported to DER in the appropriate timeframe. It is not intended that a reporting obligation would apply to other professionals such as a field technician sampling wells, a laboratory technician conducting laboratory analyses or to someone conducting a survey at the site.

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<td>Please remember to provide specific examples and information on the possible financial consequences of making or not making the proposed change. You may also wish to offer an alternative solution.</td>
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| 1.1 | Yes, only if ‘environmental consultant’ is clearly defined and Local Government employees, such as in-house environmental managers, are specifically excluded from that definition. |

WALGA makes this submission on the following basis:

- If employees of Local Governments are not excluded from the definition of “environmental consultants”, some employees of Local Governments, such as environmental managers, will be burdened with the personal responsibility of reporting known or suspected contamination;

- It would be inappropriate and undesirable for such a burden to be placed on the employee of a Local Government, even if that employee meets the definition of environmental consultant, particularly as it:
  - Could impose on the employee a burden which is more appropriately imposed on the employer;
  - Has the potential to create a conflict of interest between the in-house environmental consultant and the Local Government;
(2) Site classification scheme

In the Consultation paper we asked: In circumstances where contamination has been identified but requires further investigation to determine whether clean-up is necessary for the current or proposed land use, would a new classification, contaminated—investigation required be helpful? Would such a classification prompt more timely investigations at a site?

Proposed way forward — process improvements — no change to classification system

We have initiated substantial improvements to our internal procedures to provide clearer guidance on what a site classification of possibly contaminated—investigation required means. A summary of the planned improvements is provided in the Discussion paper.

2.1 Do you support the proposed way forward?

Please remember to provide specific examples and information on the possible financial consequences of making or not making the proposed change. You may also wish to offer an alternative solution.

2.1 No. The Association supports the proposal to introduce a new classification scheme.

2.2 If not, what modifications or alternative course of action do you propose?

2.2 The Association is supportive of changing the site classification scheme to include the classification of “contaminated — investigation required”; if Local Government’s unique operating environment is recognised by DER.

Local Government has a unique operating environment because they run on annual budget cycles. Due to this, meaning that funds are generally not readily available for contaminated sites investigation/clean-up.

The Association also supports a change to the contaminated sites information that is publicly available. Each council should have full access to DER’s contaminated sites data within the Local Government boundaries. Full access to data will enable Local Governments to make better informed decisions,
including in relation to development applications on contaminated, or potentially contaminated, land, and also ensure that information is not lost during institutional changes, such as council amalgamations.

An alternative to changing the site classification scheme may be to introduce a system similar to what exists in New South Wales (http://www.epa.nsw.gov.au/clm/aboutclmrecord.htm). Introducing an online list of all sites reported and each site’s status would mean that interested parties could easily identify if a site has been reported pursuant to the duty to report.

(3) Mandatory disclosure

Under s.68 of the Act, landowners must provide written disclosure to any new or potential owners if selling or transferring land that is classified contaminated—restricted use, contaminated—remediation required or remediated for restricted use or land that is subject to a regulatory notice.

In the Consultation paper we asked: Are the mandatory disclosure requirements clear? Have you encountered difficulties in knowing when to make a disclosure?

Proposed way forward—minor changes to the Act

The definition of ‘owner’ is provided in s.5 (1) of the Act. For the purposes of s.68, we propose to clarify the meaning of ‘owner’ and ‘completion of a transaction’ as described in the Discussion paper.

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| 3.1 | Yes, as long as the new definition of “owner” and “completing of transaction” are consistent with the definitions of these in other Acts. |

| 3.2 | **If not, what modifications or alternative course of action do you propose?** |
| 3.1 | |
| 3.2 | |

(4) Contaminated Sites Committee

(4.1) Improved timeframes for decisions on responsibility for remediation

It was originally anticipated that most committee decisions on responsibility for remediation would be made within six months of a request being filed with the committee (reg. 27). However, these decisions are taking much longer in practice. In many cases this is because relevant information is submitted after
material has been circulated by the committee, resulting in multiple rounds of consultation prior to the committee making its final decision.

In the Consultation paper we asked: Should there be a time limit and requirement for all relevant documents to be sent to the committee to decide on the responsibility for remediation? What time limit (e.g. three months) would be fair to all parties? Can you suggest other ways to expedite the decision making process?

Way forward – possible changes to the Act

The possible changes to the Act to improve the timeliness of committee decision-making could include:

- a timeframe of three months in the Act to complete the circulation of all information submitted to the committee. For example, a three-month timeframe would mean that parties would have about 10 weeks from the call for submissions to provide all relevant information for circulation to the other parties. The process would need to be clearly articulated in supporting guidelines to avoid claims that the process lacked procedural fairness if exchange of information was curtailed.

- extending the offence of providing ‘false or misleading information’ (s. 94) to include making a written submission to the committee in connection with a decision on responsibility for remediation (penalty $125,000, and a daily penalty of $25,000).

- the authority (or ‘headpower’) in the Act for the committee to publish its reasons for each decision on responsibility for remediation. (Reference to published decisions may help parties to identify the types of documentation which will be required by the committee and may also help parties to come to an agreement on responsibility without applying to the committee for a formal decision).

Please also consider the next section on the role of the committee and whether you would support the possible transfer of some committee functions to the State Administrative Tribunal before finalising your response to Q.4.1.

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4.1 The Association would prefer powers to be transferred to the State Administrative Tribunal. However, if DER decides to continue with the Contaminated Sites Committee as the decision making authority, then a three month timeframe is supported.

The Association generally supports the proposal to introduce a three month time limit for the provision of information to the Contaminated Sites Committee.

However, this time limit should be capable of extension in certain circumstances, including when:

- Agreement is reached with the Contaminated Sites Committee as to when relevant information is to be provided;

- A Local Government’s resources prevent it from being able to provide all available information within the 3 month time limit;

- The subject site’s history is particularly complex, for example, where a number of occupiers used similar contaminants or there is a long history of industrial uses;
- Pertinent documents are held by third parties; and

- There are reasons outside of the Local Government's reasonable control, such that all relevant information could not be provided within the 3 month time limit.

In support of the above submission, the Association notes that, whilst the timely remediation of sites is to be encouraged, it has to be balanced against the risk that a significant financial liability may be imposed on the basis of incomplete information.

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<th><strong>If not, what modifications or alternative course of action do you propose?</strong></th>
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### (4.2) Role of the Contaminated Sites Committee and the State Administrative Tribunal

When the Act was being drafted, the State Administrative Tribunal (SAT) did not exist so Parliament did not address the question of whether or not all or part of the role of the committee should be performed by SAT. Further information on this issue is provided in the Discussion paper.

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<th><strong>4.2.1</strong></th>
<th>Do you support SAT review of the Contaminated Sites Committee’s primary decisions (e.g. the committee decisions on responsibility for remediation), assuming that SAT is appropriately resourced to perform this task?</th>
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<td><strong>4.2.1</strong></td>
<td>Yes, The Association supports the SAT review of the Contaminated Sites Committees’ primary decisions.</td>
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The SAT is independent of the DER and has significant experience in reviewing the merits of decisions based on technical evidence. It also has a more transparent process than the Contaminated Sites Committee, conducting relatively informal hearings in a public forum where witnesses are examined.

The SAT is therefore well placed to undertake merits review of decisions of the Contaminated Sites Committee, subject to employing non-judicial members with expertise in contamination.

Other benefits of a right to appeal to the SAT include:

- Unlike the Contaminated Sites Committee, the SAT publishes reasons for its decisions and its decisions have precedent value. This improves the
consistency of decisions and enhances the public’s understanding of, and confidence in, the decision-making process; and

- The SAT has significant experience in mediations and has a strong track record of assisting parties to resolve disputes. Whilst the Contaminated Sites Committee encourages the DER and persons responsible for contamination to discuss matters between themselves, the Contaminated Sites Committee does not assist in these discussions.

The Association submits that transferring the Contaminated Site Committee’s appeal jurisdiction to SAT will not disadvantage appellants who are unable to engage legal representation. The Association has observed that it is not necessary to engage a lawyer in the SAT process; appellants are able to represent themselves.

4.2.2 Do you support SAT becoming the review decision-maker in place of the Contaminated Sites Committee for appeals against classification and notices served under the Act, assuming that SAT is appropriately resourced to perform this task?

Please remember to provide specific examples and information on the possible financial consequences of making or not making the proposed change. You may also wish to offer an alternative solution.

4.2.2 Yes, The Association supports the SAT review process being proposed for decisions, classifications and notices made by the DER. The observations made in response to item 4.2.1 above are equally applicable to the SAT’s review of decisions of the DER.

In addition, the Association notes that the SAT regularly reviews notices issued by Local Governments which may require substantial works to be undertaken. Examples of such notices include (but are not limited to) notices issued under the Local Government Act 1995 (such as notices issued under section 3.25 of that Act) and the Planning and Development Act 2005 (such as notices issued under sections 215 and 255 of that Act, relating to illegal development).

This, in the Association’s view, further supports the submission that the SAT has significant experience in reviewing notices of a similar nature to that issued by the Contaminated Sites Act.

(5) Additional Comments

Association has additional comments on the review of the Contaminated Sites Act that were not covered in the discussion paper. These comments are around data sharing, state government assistance and future clarity and are detailed below.

5.1 Data sharing - All contaminated sites data should be freely available to the general public. If this is not possible, then full and free access should be available to decision making authorities, such as Local Government.
| 5.2 | **State Government Assistance** - Many of the contaminated sites that Local Governments are responsible for (such as landfills) were contaminated while either under State Government control or while the best management practices/legal obligations at the time were adhered to. The State Government should recognise the history of these sites and provide financial assistance for site remediation to local governments. |
| 5.3 | **Future clarity** – Several options could be introduced that would provide clarity for future operations. These include stakeholder communication templates, voluntary management plans, review of guidelines, investigation commencement timeframes and additional reporting requirements for consultants. |
MATTERS FOR CONSIDERATION BY STATE COUNCILLORS
(UNDER SEPARATE COVER)

5.11 Selection Committee Minutes (01-006-03-0011 MD)

Moved: Cr L Craigie
Seconded: Mayor L Howlett

That the recommendations from the Selection Committee meeting minutes dated 26 June 2014 be endorsed by State Council.

RESOLUTION 66.3/2014 CARRIED UNANIMOUSLY

5.11.1 Selection Committee Interview Report (01-006-03-0011) MD

Moved: Cr L Craigie
Seconded: Cr F Reid

That the recommendation from the Selection Committee Interview Panel to appoint Mr Aaron Cook, Town of Narrogin, to the Local Government Self Insurance Board as Senior Officer Member be endorsed.

RESOLUTION 67.3/2014 CARRIED UNANIMOUSLY

5.12 Finance & Services Committee Minutes (01-006-03-0006 TB)

Moved: Cr K Chappel
Seconded: Mayor H Zelones

That:

1. That the Minutes of the Finance and Services Committee meeting of 25 June 2014 be endorsed;

2. The 2014/15 Governance Budget for the Association as recommended by the Finance and Services Committee be endorsed;

3. Membership subscriptions totalling $2,111,883 as recommended by the Finance and Services Committee be endorsed as the appropriate charge for 2014/15 by application of the adopted subscriptions formula.

Voting Requirement: ABSOLUTE MAJORITY

RESOLUTION 68.3/2014 CARRIED UNANIMOUSLY
5.13 Honours Panel Committee Minutes (01-006-03-0006 AF)

Mayor Zelones, Cr Wainwright, Cr Barrett departed the meeting at 5.04pm

Moved: Cr L Craigie  
Seconded: Mayor L Howlett

That the minutes of the Honours Panel meeting held on 28 May 2014 be received.

RESOLUTION 69.3/2014  CARRIED UNANIMOUSLY

Mayor Zelones, Cr Wainwright, Cr Barrett returned to the meeting at 5.07pm
5.14 Use of the Association’s Common Seal (01-004-07-0001 RB)

Moved: Mayor C Adams
Seconded: Cr C Mitchell

That the use of the Association’s common seal for the following purposes be noted:

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<th>Document</th>
<th>Document Description</th>
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<th>State Council prior approval</th>
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| Irrevocable Authority     | Irrevocable Authority        | Mayor Troy Pickard
Ricky Burges
QUBE Railway Parade Pty Ltd | No                           |
| Set-off Agreement (January 2012) | Set-off Agreement        | Bank of Western Australia Ltd
QUBE Railway Parade Pty Ltd
WALGA as trustee for the Local Government House Trust | No                           |
| Bankwest General Security Interest – Details | General Security           | Bank of Western Australia Ltd
WALGA – Local Government House Trust | No                           |
| Facility Agreement        | Facility Agreement          | Commonwealth Bank of Australia trading as Bankwest
QUBE Railway Parade Pty Ltd
WALGA as trustee for the Local Government House Trust | No                           |

RESOLUTION 70.3/2014 CARRIED UNANIMOUSLY
6. MATTERS FOR NOTING / INFORMATION

6.1 WA Planning Commission’s Summary of Submissions – Planning makes it Happen: Phase 2 (05-036-03-0037 VJ)

By Vanessa Jackson, Policy Manager Planning and Improvement

Moved: Mayor R Yuryevich
Seconded: Mayor L Howlett

That State Council note the WA Planning Commission’s Summary of Submissions – Planning makes it Happen: Phase 2.

RESOLUTION 71.3/2014 CARRIED UNANIMOUSLY

In Brief

- Recent release of a summary report of all submissions received during the public advertising of the planning reforms proposed in the ‘Planning makes it Happen: Phase two” document.
- Additional summary reports will be released on the comments received on Development Assessment Panels and the administrative review of the Planning and Development Act 2005.

Attachment

Link to the Summary of Submissions report

Relevance to Strategic / Business Plan

- Providing strong representation for Local Government
- Providing effective leadership for Local Government

Background

On 19 September 2013, the Minister for Planning launched Planning Makes It Happen: Phase Two. This included three key documents:
- Planning Reform Discussion Paper, which included 12 statutory planning reform initiatives, and six governance and administrative reform initiatives
- review of the Planning and Development Act 2005 discussion paper
- review of the Development Assessment Panels report.

Public submissions by email or post were invited on the documents until the 20 December 2013.

At the State Council meeting on the 5 December 2013, the following resolution was made (RESOLUTION 274.5/2013):

1. That the submission on the Western Australian Planning Commission's ‘Planning makes it happen – Phase 2 - Planning Reform Discussion Paper’, be endorsed subject to the following amendment:

   That support for the proposed reform measures contained within 4.4 Local Government Planning Accreditation is reserved pending:
   a. Clear parameters and requirements for the accreditation process are discussed with the Local Government prior to any formal adoption of this reform measure;
b. A Local Government Planning Accreditation Panel is established to guide the accreditation process;

c. The formalisation of delegation arrangements from the WAPC are agreed to prior to any formal adoption of this reform measure.

2. That WALGA advocates that the WA Planning Commission establishes a Planning Reform Stakeholders Reference Group to guide further discussion about the proposed reform measures identified, and to assist in the allocation of priorities and identification of other reform measures that would support reforms to the WA planning framework

Comment

During the public advertising period, a total of 257 responses were received by the WA Planning Commission (WAPC). The Commission has released a Summary of Submissions report on the Planning Reform Phase Two Discussion Paper, outlining the support or otherwise of the reforms mentioned. Separate submissions reports will be prepared on the initiatives relating to Development Assessment Panels (3.12) and the administrative review of the Planning and Development Act 2005 (4.6).

Although the summary doesn’t outline the proposed timeline for any further work on the proposed reforms measures identified, or the Minister’s support or otherwise of each item, the report does provide for interesting reading to gauge the level of support for various initiatives and the items that attracted a greater degree of interest and support than others.

The following is a small snapshot of some of the most relevant comments relating to Local Government Planning:

- **Improve local planning scheme review process** - While generally expressing support for some standardisation of administrative and State planning provisions, most local government submissions stated that local government must retain the ability to include local planning provisions in their schemes. A level of concern was expressed by local government that too much uniformity across local planning schemes would remove any local place planning preferences. Those submissions which expressed opposition to the initiative generally did so because they were opposed to any further reduction in local government influence on planning. Many submissions, from across the range of categories of respondents, suggested that there should be statutory timeframes and more transparency for the WAPC stages of the local planning scheme preparation and review process and amendment process, as well as for the local government stages, in order to address time delays across the whole system.

- **Streamline structure plan Process** - Local government submissions generally objected on the basis of a perception that there was no obvious benefit to timeframes of having the WAPC as the single decision maker, given the local government would still advertise, assess and make recommendations on the structure plans; and because of a strong view that local government should have a role in determining structure plans relating to development, which has typically been a local government matter. It was suggested that this proposal, combined with Development Assessment Panels and proposed private certification, left a very limited role for local government in planning.

- **Private certification of development applications** - This proposal was met with significantly more opposition than any other proposal in the discussion paper, from a wide range of respondents. The initiative did receive a level of support from industry and private planning practitioners; however it was notable that many local government and community respondents who had expressed qualified support for some of the more innovative reform initiatives were unwilling to support this proposal at all. The initiative was also opposed by some representatives of related industry on the basis of their experience with private certification of building applications.
• **Local government planning Accreditation**- The proposal for planning accreditation of local government received more opposition than any proposal. It provoked a particularly negative reaction from many local government respondents, with several suggesting that the Western Australian Planning Commission (WAPC) needed to be wary of being seen to patronise local government, and questions as to whether the proposal went beyond the head of power available in the relevant planning legislation. Respondents of various categories suggested that if local government were to be subject to accreditation, the WAPC and Department of Planning officers should also be subject to an accreditation program.

• Establishment of a Committee to guide the reform process – either an Industry Reference Group under direction of Minister or a Planning Reform Advisory Group to provide independent advice on reform process and provide an ongoing forum to discuss implementation and possible additional initiatives

The Association has been advised that the Minister, the WAPC Chairman and the Department of Planning Director General are currently reviewing the report findings and a final Stage Two Planning Reform Agenda is expected to be released by the Government in the coming months.
6.2 Rating Exemptions for Land Used Exclusively for Charitable Purposes (05-034-01-0007JMc)

By James McGovern, Manager Governance

Moved: Mayor R Yuryevich
Seconded: Mayor L Howlett

That the item ‘Rating Exemptions for Land Used Exclusively for Charitable Purposes’ be noted.

RESOLUTION 72.3/2014  CARRIED UNANIMOUSLY

In Brief

- Section 6.26(2)(g) of the Local Government Act provides for a rating exemption where land is used exclusively for charitable purposes.
- WALGA has long advocated for some relaxation to the interpretation of charitable land use activity that qualifies for a rating exemption.

Attachment

Nil.

Relevance to Strategic / Business Plan

- Providing strong representation for Local Government
- Providing effective leadership for Local Government
- Building a positive profile for Local Government
- Enhancing the capacity of Local Government to deliver services

Background

This item is provided to update State Council on WALGA’s endeavours to achieve a positive advocacy outcome in relation to the charitable land use rating exemption.

Following a review into the operation of Section 6.26(2)(g) of the Local Government Act 1995 by the Local Government Advisory Board in 2006, WALGA commenced advocacy for changes recommended in the review to limit the scope of application for an exemption from rates under this provision.

At the time of the review, charitable land use rate exemptions were predominately applied to charitable organisations such as church bodies and not-for-profit organisations (NFPs) pursuing ‘traditional’ charitable objects.

Since the review, changes in State and Federal government policy especially in relation to affordable and social housing has resulted in community-based NFPs becoming increasingly involved in land use activities that are characteristic of charitable purposes.

Local Governments have reported to WALGA (most notably through consecutive WALGA AGM items) that an increasing number of NFPs are validly claiming rating exemptions where previously, a State Government department made a rate-equivalent payment.
The qualification for exemption from rates under Section 6.26(2)(g) is further exacerbated by the ever-broadening range of determinations by the State Administrative Tribunal (SAT).

It is WALGA’s position that the purpose and intent of State Parliament in providing an exemption from rating under Section 6.26(2)(g) is in urgent need of review by the Government to ensure its original objective remains.

For example, there is considerable concern within the Local Government sector that independent living units established by charitable bodies and community NFPs enjoy rate exemption status even when these developments do not qualify under the *Commonwealth Aged Care Act 1997*.

WALGA, in continuing to advocate for a review of section 6.26(2)(g) of the Local Government Act, corresponded with the Premier in 2013 seeking a review of the Local Government Act and Local Government compensatory arrangements, to the following extent:

1. **Amend the Local Government Act to clarify that Independent Living Units should only be exempt from rates where they qualify under the Commonwealth Aged Care Act 1997**;

2. **Either**
   a) amend the charitable organisations section of the Local Government Act 1995 to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations;
   b) establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of Local Government rates.

3. **Provide support by approaching the Minister for Planning and the State Treasurer, seeking an amendment to the WALA Act so that LandCorp is required to pay property rates to Local Government or alternatively, provide for a compensatory scheme.**

The Premier referred the matter to the Minister for Local Government, who requested further detail on the application of the rate exemption opportunity under Section 6.26(2)(g) and its financial effect upon Local Governments.

WALGA’s research confirmed that 30% of all rate exemptions provided under Section 6.26(2)(g) apply to independent living units, with many being regarded by Local Governments as ‘boutique’ land developments rather than having an obvious aged care intent or providing a distinct public benefit.

The Association will continue its advocacy endeavours on behalf of the Sector.
6.3 Cessation of the Local Biodiversity Program (06-005-001-004 MJB)

By Mark Batty, (Executive Manager, Environment and Waste)

Moved: Mayor R Yuryevich
Seconded: Mayor L Howlett

That State Council note:-

- the cessation of the Association grant funded Local Biodiversity Program
- acknowledge the significant contribution the program has made to improved land use planning and environmental management outcomes for local government.
- the proposed continuation (subject to State Council approval of the 2014/15 Association budget) of the Environmental Planning Tool and the Natural Area Managers Forums under a subscription based model for the 2014/15 financial year.

RESOLUTION 73.3/2014 CARRIED UNANIMOUSLY

In Brief

- The south west of Australia is its only biodiversity hot spot, renowned internationally for the richness and uniqueness of its biodiversity.
- Since 2004, the Association has provided guidance and advice to the sector in relation to biodiversity management and decision making, through the grant funded Perth Biodiversity Project and South West Biodiversity Project – since 2012 known as the Local Biodiversity Program.
- In 2010 the Program won the national United Nations World Environment Day Award for Biodiversity.
- Limited grant funding opportunities from both State and Commonwealth Governments has significantly impacted on the ability of the Association to continue key aspects of the Local Biodiversity Program, in particular providing the sector with assistance and expertise in the preparation of local biodiversity strategies.
- The Environmental Planning Tool and the Natural Area Managers Forums will continue to be delivered by the Association.

Attachment

Nil.

Relevance to Strategic / Business Plan

- Providing strong representation for Local Government
- Providing effective leadership for Local Government
- Building a positive profile for Local Government
- Enhancing the capacity of Local Government to deliver services
Background

The State Government has recognised the need for local biodiversity conservation (e.g. EPAs Guidance Statement No 33 (EPA, 2008), Statement of Planning Policy 2.8 (WAPC, 2010), and Planning Bulleting No 69 (WAPC, 2004)), but no support or guidance was available to the sector until the Perth Biodiversity Project, now known as the Local Biodiversity Program, was initiated.

The Perth Biodiversity Project (PBP) originated in 1999 when WALGA, the Commonwealth Bushcare Program and leading Perth Local Governments recognised the need to encourage Local Governments to become more involved in bushcare and biodiversity conservation. These organisations recognised that Local Governments would need financial and technical assistance to do this.

In 2002 and 2007 Local Government Capacity to Conserve Biodiversity Survey Analysis Reports were produced by the PBP. The first survey was designed to determine the capacity of Local Government to conserve biodiversity, and gauge how best to assist Local Governments in the strategic protection of their remnant native vegetation. In 2007, PBP again surveyed Local Governments to establish how Local Government capacity to conserve biodiversity has changed since 2002, assess the impact of PBP’s key guiding document—“Local Government Biodiversity Planning Guidelines”, PBP services, and other conservation initiatives, and help determine the future direction of the Project. Results of the 2007 survey documented the effectiveness of the PBP in increasing the capacity of Local Government to conserve biodiversity.

The PBP supported participating Local Governments to implement the ‘National Local Government Biodiversity Strategy’ and the policy options in the publication, “Beyond roads, rates and rubbish: opportunities for Local Government to conserve biodiversity”. These two documents provided a conceptual framework for the project. Since then the role of Local Government in biodiversity conservation has been further recognized, in particular in integrating biodiversity into land use planning (Directions 2031, WAPC 2010 and the Directions Paper on integrating NRM into land use planning, WAPC 2011).

Since its inception, the Biodiversity Project has worked in partnership with various organisations including the then Department of Environment and Conservation, the EPA, the then Department for Planning and Infrastructure, and Greening Australia WA.

In 2005, the Western Australian Local Government Association initiated the South West Biodiversity Project (SWBP) to engage 12 Local Governments in the South West NRM Region to follow the tested approach to strategically plan for biodiversity conservation. In 2007, an addendum to the Local Government Biodiversity Planning Guidelines was published to provide additional ecological data and planning principles specific to the South West project region. Building on the methodology developed by the PBP, the SWBP identified regional ecological linkages for the South West NRM Region and secured the Environmental Protection Authority’s recognition of the South West Regional Ecological Linkages as important environmental consideration in decision making (EPA Bulletin No 8, 2009). Due to a lack of grant funding, the SWBP ceased to continue its activities in October 2009.

In June 2010, at the United Nations Association of Australia’s 2010 World Environment Day Awards WALGA was presented with the Department of Sustainability and Environment (Victoria) Biodiversity Award for the Perth Biodiversity Project and the South West Biodiversity Project. The Award acknowledged the continuous effort in assisting Local Government in the internationally recognized hotspot for biodiversity conservation to conserve biodiversity.

Year 2012 represented the start of a new phase for local biodiversity conservation planning in Western Australia. With funding through the State NRM Program 2012-2014, the Perth Biodiversity Project was re-branded as the Local Biodiversity Program, reflecting the geographic expansion of the program’s scope which allowed the project to work with and support a range of Cities and Shires across the south west land division.
The Biodiversity Programs delivered a range of capacity building activities including provision of direct technical assistance and advice based on State Government endorsed methodologies, generation of spatial and statistical information to support decision making (currently not available through other sources), provision of decision support tools and facilitating access to current information on best practice biodiversity management. This support led to the adoption of 17 Local Biodiversity Strategies, additional 11 Local Governments being provided information on local biodiversity priorities, two regional conservation reports prepared and generation of mapping data being utilized by numerous stakeholders.

Unfortunately, with the ending of the State NRM funding, the Local Biodiversity Program is not eligible for alternative State or Commonwealth grant funding sources, and the State Government departments are unable to take responsibility for the program at this time.

The Association has been advised that no new funding is available for strategic projects such as the Local Biodiversity Program for the 2014/15 financial year.

Comment

The Association has subsequently undertaken an evaluation of the program to determine the most appropriate elements to maintain, given the financial constraints facing the program.

Accordingly, and subject to State Council endorsement of the 2014/15 budget, it is proposed to retain the Environmental Planning Tool and the Natural Area Managers Forum elements within the Association, under fee-for-service subscription models for the 2014/15 financial year. This will result in the loss of the 0.9 FTE Local Biodiversity Program Manager position. The fee-for-service model will allow for the retention of the Biodiversity Support Officer role (0.4FTE) for the 2014/15 financial year.

Regrettably, the Association will not be able to assist the sector with the development and implementation of local biodiversity strategies in the foreseeable future, although it is understood that the State NRM Program will have strategic grants available for 2015/16 – 2017/18 period.

The Association will evaluate the opportunity to reinstate that component of the program in the next financial year, should State or Commonwealth Government funding opportunities arise.
6.4 Report Municipal Waste Advisory Council (MWAC) (01-006-03-0008 RNB)

By Rebecca Brown, Manager, Waste & Recycling

Moved: Mayor R Yuryevich
Seconded: Mayor L Howlett

That the resolutions of the Municipal Waste Advisory Council at its 19 February and 22 April 2014 meetings be noted.

RESOLUTION 74.3/2014 CARRIED UNANIMOUSLY

In Brief

This item covers the key outcomes of the Municipal Waste Advisory Council meeting held on 19 February and 22 April.

Attachment

The full minutes of the Municipal Waste Advisory Council meeting for February and April are available from the State Council section of the WALGA website at:


Relevance to Strategic / Business Plan

- Providing strong representation for Local Government
- Providing effective leadership for Local Government
- Building a positive profile for Local Government
- Enhancing the capacity of Local Government to deliver services

Background

Under previous arrangements, the Municipal Waste Advisory Council has reported to each Western Australian Local Government Association meeting following its meetings. Minutes were submitted for noting consistent with the delegated authority bestowed on the Municipal Waste Advisory Council.

The full minutes of the Municipal Waste Advisory Council meeting and relevant documents are available from the State Council section of the WALGA website. The Municipal Waste Advisory Council is seeking State Council noting of the resolutions from 19 February and 22 April 2014 meetings, consistent with the delegated authority granted to the Municipal Waste Advisory Council to deal with waste management issues.

Copies of specific items and further supporting information are available on request from Municipal Waste Advisory Council staff.

Comment

The key issues considered at the meetings held on 19 February and 22 April 2014 included:

Waste Authority Communications Strategy

The Waste Authority has developed a Draft State Waste Communication Strategy. The Draft Strategy identifies the need to work collaboratively with Local Government and Regional Councils to
achieve the targets outlined in the State Waste Strategy. There is also a focus on centrally coordinating approaches/programs in relation to communications.

The way the Draft Strategy has been approached appears to be mapping existing activities and identifying potential activities. There is a clear emphasis on engagement with those generating and managing the MSW waste stream. However, the specific type and level of engagement with the commercial & industrial and construction & demolition sectors is not as prominent, nor is the approach as clear. In the Communication section of the WA Waste Strategy a number of strategies are identified under the headings of knowledge, infrastructure and incentive – this does not appear to have been carried over into the Draft State Waste Communications Strategy.

MUNICIPAL WASTE ADVISORY COUNCIL MOTION
That the Municipal Waste Advisory Council endorse the draft Submission on the Draft State Waste Communications Strategy.

Draft Keep Australian Beautiful WA (KABWA) Litter Strategy 2014-19
KABWA sought feedback on their Draft Litter Strategy 2014-19. The current Litter Prevention Strategy covers the 2009-2014 period. This Draft Strategy establishes a framework for litter and illegal dumping prevention and management, and aims to provide strategic direction for the combined and consistent efforts of community, industry and government throughout the state, with 21 objectives and 40 actions under seven priority areas.

The Draft Strategy is broken into three areas: background, action plan, and priority focus areas. The action plan calls for a 25% reduction in both the number and volume of littered items from present levels. The priority focus areas contain a number of strategies aimed at ‘develop(ing) a shared responsibility by all key stakeholders for a cleaner Western Australia.’ The overarching focus areas are: coordination, planning, Local Government, roadside litter and enforcement.

MWAC is concerned that the current draft lacks clarity and direction. For example, the Objectives, Actions and KPI’s in the action plan are disjointed and potentially confusing. Also, it is not clear that the Strategy is only intended to guide the activities of KABWA, rather than those of the entire State Government. For litter and illegal dumping to be successfully addressed, a whole of government approach is needed.

MUNICIPAL WASTE ADVISORY COUNCIL MOTION
That the Municipal Waste Advisory Council:
1. Endorse the draft Submission on the Draft Litter Strategy; and
2. Advocate to the Minister for Environment, requesting a whole of Government approach to litter prevention and management.

Product Stewardship Update
CASH FOR CONTAINERS
The Council of Australian Governments (COAG) met on Friday 13 December 2013. At this meeting, COAG decided that there would be a reduced number of Ministerial Councils. The Standing Council on Environment and Water (SCEW) was not included in the list of Councils to continue under COAG. SCEW was the Council tasked with considering the adoption of a national Container Deposit System, it was anticipated that a decision would be made in March 2014. Environment Ministers may still meet to discuss issues at this time, but the meeting will not be part of a formal council process.

With the abolition of SCEW, it is not clear what the decision making process is for a national Container Deposit System. To date, inquiries from various Government agencies have not promoted the Federal Government to provide any form of clarification on the matter. Therefore, it is suggested that MWAC write to the Federal Environment Minister to support the introduction of a national Cash for Containers System and to find out what the decision making process will be.
TYRES
The process for developing a Tyre Product Stewardship Scheme commenced in July 2008 with a Regulatory Impact Statement. In 2010 the Tyre Implementation Working Group was formed, and tasked with developing the Scheme. It was expected that the Scheme would be launched in late 2012, however was only formally launched in January of this year. MWAC has previously expressed doubts over the progress of the Scheme, and the ability for it to stimulate change within the Western Australian context.

Now that the Scheme has been launched, MWAC has an opportunity to raise a number of items with the Federal Environment Minister. These include:
- Requesting clarification on how the Scheme will roll out; and
- Identifying the disadvantages of a voluntary scheme (e.g. comparing the timeframe and progress of the Tyre Scheme compared to the TV’s and Computers Scheme).

USED OIL
The Product Stewardship for Oil Act 2000 includes a requirement for a review of the operation of the Act to be undertaken every four years. MWAC has provided input into the most recent reviews, highlighting Local Government concerns with the ongoing cost of used oil recycling for Local Government and the need for additional funding for infrastructure.

The Review of the Product Stewardship for Oil Act has now been tabled in the Federal House of Representatives. It is anticipated that the Government will be responding to the recommendations in the coming months.

The recommendations from the Review of the Act address a number of issues that Local Government raised. The recommendations are attached.

The suggested that MWAC write to the Minister about the review and highlight MWAC’s support for certain key recommendations, particularly those relating to funding of the Scheme as well as additional investment in infrastructure and equalising transport costs for remote areas.

MUNICIPAL WASTE ADVISORY COUNCIL MOTION
The Municipal Waste Advisory Council send correspondence to the Federal Environment Minister:
- Supporting the introduction of a National Cash for Containers Scheme and seeking clarification on the decision making process for this issue;
- Identifying a range of considerations with the voluntary approach to the Tyre Product Stewardship Scheme; and
- Providing comment on the review of the Product Stewardship for Oil Act.

Submission on the Battery Implementation Working Group Discussion Paper
A Battery Implementation Working Group (BIWG) has been established to investigate the options available to pursue product stewardship initiatives for handheld battery recycling, and provide their findings to Environment Ministers. The membership of this group includes both government and industry. The MWAC Executive Officer has been appointed as the Australian Local Government Association (ALGA) representative on this working group.

The Discussion Paper released by the Working Group for consultation, focuses heavily on what a voluntary industry lead product stewardship scheme would look like, and how it would operate. Essentially, there are two options explored:
- All handheld batteries are covered (on commencement of the scheme); and
- Coverage is based on product designation (battery type, chemistry, use, export codes), and phased in over time.

The Draft MWAC Submission questions the merits of using a voluntary product stewardship scheme to manage problematic materials, and outlines support for the continuation of the current scope of battery collection programs that are in operation across Australia. Energizer and Proctor &
Gamble, major battery manufactures, recently announced they supported a co-regulatory arrangement for rechargeable batteries only.

At the Officers Advisory Group meeting there was a general discussion about different types of product stewardship schemes and the officers requested the development of a case study on the voluntary, co-regulatory and mandatory product stewardship schemes currently in place to determine what makes a scheme successful and to demonstrate the shortcomings of voluntary schemes. This case study will be developed and presented to a future MWAC meeting.

MUNICIPAL WASTE ADVISORY COUNCIL MOTION
7. ORGANISATIONAL REPORTS

7.1 Key Activity Reports

7.1.1 Report on Key Activities, Environment and Waste Unit (01-006-03-0017 MJB)

By Mark Batty, Executive Manager Environment & Waste

Moved: Cr F Reid  
Seconded: Mayor T Roberts

That the Key Activities Report from the Environment and Waste Unit to the July 2014 State Council meeting be noted.

RESOLUTION 75.3/2014 CARRIED UNANIMOUSLY

The following report outlines key activities for the Environment Policy Unit since the April 2014 State Council meeting:

Environment Policy

Meeting with the Office of the Auditor General

Staff recently met with the Office of the Auditor General, to provide input in to their audit into the Health of the Swan Canning River System. The audit objective is to determine whether the environmental health of the Swan Canning river system is being adequately protected, and focuses on answering three key questions:

- Does the Swan River Trust know what the environmental health status of the Swan Canning river system is?
- Has the Swan River Trust effectively identified the key threats to the environmental health of the Swan Canning river system and are they managing these key threats to protect and enhance the river system?
- Has the Swan River Trust implemented plans, programs and strategies to improve the environmental health of the Swan Canning river system?

The Association provided the Office of the Auditor General with a copy of the Priority Plan for Investment in the Swan Canning Catchment, and discussed the central policy objectives and requirements of the Priority Plan. The audit is anticipated to be tabled in Parliament in the second quarter of 2014.

Meetings with Energy and Water Ombudsman

The Association, on behalf of a number of the sector licensed water service providers, recently attend meetings of the Energy and Water Ombudsman. The meetings were the annual General Meeting and a General Meeting required to approve the budget of the Scheme, and were also attended by a number of relevant Shires and the City of Kalgoorlie Boulder.
It is pleasing to note that annual levy for licensees with less than 1000 customers remained at $50 for 2014/15, and that the $2000 levy threshold for license holders has moved from applying to licensees with 1000 to 20 000 customers to 1000 to 50 000 customers.

**Street trees project**

The Association is currently working towards writing a street trees policy guidance note and a policy template for Local Government. A discussion paper released was released on Tuesday 22 April for comment from Local Government. This paper outlines the background information and the issues surrounding street trees in a Local Government setting. WALGA held a Local Government Street Trees workshop on Thursday, 6 June, and approximately 80 Local Government Officers attended.

The focus of the workshop was on the experience of Local Governments with street trees and the opportunities and constraints that exist in this space. The information gathered from this workshop will be used as a basis for the street trees policy guidance note and policy template for Local Government.

**Biosecurity**

The Association President recently met with the Minister for Agriculture to discuss options for biosecurity legislation. Key outcomes advocated for at this meeting were:

- An elected Local Government representative will now able to serve on the Biosecurity Council;
- The Executive Manager Environment and Waste to be appointed to the Biosecurity Senior Officers Group;
- Local Government to be able to request delegated authority to deal with specific pest plant or animal species declared under the *Biosecurity and Agricultural Management Act 2007*, under a suite of operational principals to be developed.

**Climate Change**

**Emission Reduction Fund White Paper Workshop**

WALGA and Herbert Smith Freehills are holding a workshop on the Emission Reduction Fund White Paper on Wednesday, 2 July. The Commonwealth Government has recently released the Emission Reduction Fund White Paper and the linked exposure draft legislation. This free workshop aims to break down the implications the proposed Emission Reduction Fund may have on the Local Government sector.

**Local Biodiversity Program**

**Natural Area Managers Forum**

The latest NAMN Forum was held on 30 June 2014, and was hosted by the Shire of Mundaring. The Forum focused primarily on the Local Biodiversity Program’s Environmental Planning Tool and its application for natural area management. Teik Oh, Local Biodiversity Program’s GIS expert demonstrated new functionalities that allows users to plan, map, and record and monitor their natural area management activities. There was also time allocated so officers could ask any NRM related questions and network with colleagues.
Local Biodiversity Conservation Planning
The Local Biodiversity Program finalised prioritisation mapping for the Shires of Augusta-Margaret River and Northam, following feedback from stakeholder consultation. This has identified the key areas for biodiversity conservation. Connectivity modelling has also been completed for the South West Group study area.

Albany Conservation Report
The Conservation Report for the Albany Regional Vegetation Survey has been finalised for publication. The Conservation Report provides a framework for determining the conservation significance of Albany vegetation units; identifies priority areas for conservation and provides guidance for planners on the use of the Report’s findings to support land use decisions.
7.1.2 Report on Key Activities, Governance and Strategy (01-006-03-0007 TB)

By Tony Brown, Executive Manager Governance & Corporate Services

Moved: Cr F Reid
Seconded: Mayor T Roberts

That the Key Activities Report from the Governance and Strategy Unit to the July 2014 State Council meeting be noted.

RESOLUTION 76.3/2014 CARRIED UNANIMOUSLY

The following provides an outline of the key activities of the Governance & Strategy Policy Unit since the last State Council meeting.

Governance

Waste Local Law

WALGA is partnering the Department of Environment Regulation and the Waste Authority in developing a new proforma Waste Local Law. A WALGA preferred supplier of legal services, McLeod's Lawyers, was selected to provide legal drafting services.

The aim of the project is to address concerns expressed in 2011 by the Joint Standing Committee on Delegated Legislation that resulted in the discontinued use of the previous version of the Waste Local Law.

WALGA expects the project to finalise by August/September following the Joint Standing Committee's review and comment on the proposed Waste Local Law before it is approved and made freely available for Local Governments to adopt.

Proposed Amendments – Functions and General Regulations ('Tender Regulations')

The Department of Local Government and Communities has requested feedback from the sector on its proposed amendments to the purchasing and tendering provisions in the Local Government (Functions and General) Regulations 1996.

The proposals derive from recommendations of the 2010 Local Government Reform Steering Committee, established by the former Minister for Local Government. The proposed amendments affect the procedural nature of purchasing and tendering provisions in the Regulations and have potential to streamline Local Government procurement activity. The Department's Issues Paper on the fifteen (15) proposed amendments was made available to the sector via WALGA InfoPage with a response due on 13 June.

Reform & Strategy

Metropolitan Local Government Reform

WALGA is undertaking a number of activities in relation to Metropolitan Local Government Reform.

Advocacy – State Government Funding

WALGA has continued to advocate for funding of the implementation of metropolitan reform, since the recent State Government Budget announcement of an allocation of $5m per year over three years with metropolitan Local Governments able to access low interest loans from a $45m funding pool.
WALGA has rejected any offer of loans and has called on the State Government to fully fund their reform process.

WALGA has repeatedly stated that metropolitan reform will cost between $65m to $100m and should be funded by the State Government who initiated the process. The costing estimate was based on information supplied directly from counterparts in Queensland on the reform process in that State and on the costs of recent and proposed amalgamations in WA.

Local Government Reform Toolkit

The Local Government Reform Toolkit – a joint project undertaken by WALGA, the Department of Local Government and Communities and LGMA (WA) – has over 700 registered users and is being well used by the Local Government sector.

The Toolkit team is seeking examples of a range of documents including overarching project plans and change management plans.

Visit www.reformtoolkit.com.au to log on and email examples or questions to toolkit@reformtoolkit.com.au.

Country Local Government Fund

The decision to reinstate funding to existing country infrastructure projects in the recent budget was welcomed by the 36 Country Local Governments who had the funds withdrawn in the previous budget.

As part of the State Budget submission, WALGA had requested $20 million be reinstated to fund existing projects commenced under the Country Local Government Fund.

The reinstated funding will provide for 36 Local Governments to complete important community projects however there is still a genuine need for the CLGF program to be reinstated in its entirety.

WALGA continues to advocate for the State Government to reinstate the program and its $100m annual spend.
7.1.3 Report on Key Activities, Infrastructure (05-001-02-0003 ID)

By Ian Duncan, Executive Manager Infrastructure

Moved: Cr F Reid
Seconded: Mayor T Roberts

That the Key Activities Report from the Infrastructure Unit to the July 2014 State Council meeting be noted.

RESOLUTION 77.3/2014 CARRIED UNANIMOUSLY

The following report outlines key activities of the Infrastructure Unit since the last State Council meeting:

Roads

The Impact of Heavy Vehicles on Road Wear

A catalogue of typical marginal costs of the impact of heavy vehicles on four road types, across three geographical regions and three road strengths has been completed by ARRB. This will be reviewed by the technical working group before being used as the basis of a guide for Local Governments.

The impact of heavy vehicles on road life is greater for roads that were not designed and constructed for this purpose, which is the case for many Local Government roads. Local Governments have been seeking a method to calculate the marginal cost associated with an industry transport task so that they can negotiate fair recompense.

Condition Survey of the Local Government Road Network

An aggregated Pavement Condition Index (PCI) has been developed to evaluate the state of the Local Government road network. The PCI is calculated using individual road condition survey data. This index has been applied to the survey condition data in the ROMAN II database, producing some interesting and powerful information. This is now being further developed to support Regional Road Groups better understand road networks.

Funding

State Road Funds to Local Government Agreement

The State Government Mid-Year Budget Review announced a $70.4 million reduction in funding for Local Government Roads over three years including 2013/14. The WALGA President met with the Minister of Transport on 15 April to appeal the funding reduction. A written response to the appeal was received from the Minister on the 9th May where he stated that “Given the difficult economic conditions facing WA the State is not in a position to reverse this previous funding decision ….”.

A special meeting of the State Advisory Committee was convened on the 15 May to decide how the reductions would be implemented. Four options were presented by Main Roads comprising a pro rata adjustment across all programs, applying the full reduction to one of the three funding categories, reduction across all programs based on delivery performance and a targeted adjustment based on delivery performance but adjusted to minimise the impact on project commitments and program priorities. SAC members discussed the merits of the options and decided that the last option would have the least impact on the overall program and resolved its adoption with some modifications. Since WALGA continues to advocate for the State Road Funds Agreement to be
maintained in its current form, WALGA delegates dissented from voting in favour of the funding reductions.

In summary the adopted option included the following:

- Considering that the 2013/14 year is almost over, no reductions would apply and projects approved in 2013/14 but not yet acquitted can be re-programmed as per the normal arrangements. Unfinished projects approved in earlier years must be evaluated for reprogramming by an independent panel.

- There will be no change in Direct Grants to Regional Local Governments. There will be no reduction in the Direct Grants to the Metropolitan Local Governments however they will increase at only 50% of the growth rate applied in 2014/15 and 2015/16 under the SRFLGA.

- The Road Project Grant program allocations to be reduced in 2014/15 and 2015/16 by a factor based on the Regional Road Group delivery performance averaged over the last three years.

- A 15% reduction to the Commodity Route Supplementary Fund.

- A $1 million reduction to the annual top up of the Supplementary Fund.

- A 20% reduction to the State Black Spot Program to be apportioned across Regions based on delivery performance.

- A reduction to the Main Roads element of the Traffic and Safety Sub-program.

- A 10% reduction to the Bridge Program allocation.

- A reduction to the State initiatives on Local Roads through the deferment of selected projects.

Main Roads subsequently made a decision to drop the State Black Spot reduction in lieu of a greater reduction to the Road Project Grants. WALGA will continue to voice its objection to these cuts and a public campaign is being planned.

**Western Australian Natural Disaster Relief and Recovery Arrangements**

Staff from WALGA and LGIS met with the Commissioners undertaking an Inquiry into Natural Disaster Funding Arrangements and a formal submission is being prepared. These discussions included the inefficiency of current restrictions on the use of Local Government day labour in recovery and reconstruction activities, barriers to reconstructing assets to a more disaster resilient standard and the need to fund disaster mitigation activities at the local level.

It is anticipated that hearings will be held following the release of a draft report later in the year. The Commissioners are keen to understand the impact of natural disasters on local communities and the role that the Commonwealth should play in relation to these events.

The State Emergency Management Committee secretariat is reviewing WANDRRA arrangements in relation to damage to Local Government infrastructure resulting from natural disasters. This review was initiated by WALGA in response to difficulties being incurred by Local Governments in claiming costs incurred. The review is currently seeking details of costs incurred but not able to be recovered from a sample of Local Governments.
Heavy Vehicle Charging and Investment Reform

During May the Transport and Infrastructure Council, comprising Commonwealth and State Government ministers responsible for transport and infrastructure matters, resolved that reform of heavy vehicle charging and investment program would not continue in its current form. The Heavy Vehicle Charging and Investment Reform Board and Project Directorate have been wound up. Jurisdictions will now work toward developing reform measures that provide greater assurance to the heavy vehicle industry that road planning and funding processes are robust and transparent.

ALGA will be convening a discussion of State based Local Government Associations to discuss the impact of this decision on road funding for Local Governments in the long term and potential links to the pressure for increased access for heavy vehicles to the local road network.

Urban and Regional Transport

Grain Freight

WALGA has been asked to give evidence to the Legislative Assembly Economics and Industry Standing Committee Inquiry into the Management of the Freight Rail Network in Western Australia. The Committee will report on whether the current lease arrangements and management of the Western Australian freight rail network, comprising Tier 1, Tier 2 and Tier 3 lines facilitate or hamper State development. The Association will use the submission to this Inquiry endorsed at the May State Council meeting as the basis of any response to the Committee’s inquiries.

Development of a Partnership Agreement for the Funding and Management of Bus Stop Infrastructure

During 2012 and 2013 WALGA held several workshops with Local Government representatives to develop a partnership agreement between the Public Transport Authority and Local Government for the funding and management of bus stop infrastructure. A draft agreement was submitted to the PTA in June 2013. In January 2014 the PTA responded with substantial amendments to the proposed agreement. WALGA met with Local Government representatives on 7 May to discuss the PTA response. WALGA will now meet with the Director General Department of Transport to appeal the scope of the amendments to the agreement.

Guidelines for the preparation of Local Government Bike Network Plans

WALGA is collaborating with the Department of Transport to prepare guidelines for the preparation of Local Government Bike Network Plans. Consulting engineers, Parsons Brinckerhoff have been appointed to perform the work. Local Governments will be invited to provide input into the development of the guideline.

Road Safety

Metropolitan Intersection Crash Program and Regional Run-off Road Crash Program

The recent State Government budget for 2014/2015 did not provide any funding for the Metropolitan Intersection Crash Program (MICP) or the Regional Run-off Road Crash Program (RRORCP) for local roads. Both programs were due to commence in 2014/15. Local Governments had submitted one project application for the MICP totalling $1.845m and 32 project applications for the RRORCP totalling $7.07m. The exclusion of local roads from these Road Trauma Trust Account funded programs was confirmed at the Road Safety Council meeting on 29 May 2014. WALGA has objected and expressed grave concern given that more than half (57%) of all deaths and serious injuries occur on the local road network.
Road/Rail Interface Agreements

On 1 February 2014 relevant sections of the Rail Safety Act 2010 became law requiring Local Governments as Road Managers to enter into Interface Agreements with Rail Infrastructure Managers for every rail/road crossing in Western Australia. The purpose of an Interface Agreement is to record the risks to safety at a rail/road crossing and identify measures to manage those risks. The legislation requires Road Managers and Rail Infrastructure Managers to work cooperatively to ensure optimum safety at rail/road crossings. WALGA continues to work with Local Governments to understand their obligations and responsibilities under the new legislation; and with Rail Infrastructure Managers to ensure the needs of the sector are reflected in the Agreements. Local Governments have commenced signing Interface Agreements with various Rail Infrastructure Managers.

Road Crash Data Report

WALGA has engaged Urban Modelling Solutions (Urbsol) to develop a road crash statistical report for the Local Government sector. It is intended the report will inform Local Government strategic and operational decision-making; and influence decisions on road network funding, management and monitoring. Urbsol has commenced developing regional reports with local road crash data relevant to each Local Government. Discussions are continuing to refine the content and structure of the report so as to provide maximum benefit the sector.

Road Safety Council Update

The Road Safety Council (RSC) meets on a regular basis to oversee and monitor road safety progress in WA. In March 2014 the RSC undertook a regional visit. Travelling to Brookton, Narrogin, Williams, North Bannister and other sites the RSC inspected a number of Main Roads WA road projects completed with funding from the Road Trauma Trust Account (RTTA).

At the April meeting, the RSC received presentations from the Royal Automobile Club (RAC) about their strategic focus for road safety and Main Roads provided an update on the RTTA funded projects in the South West region. Members also had an opportunity to view the RAC’s attention powered car. The RSC also discussed regional and remote area vehicles.

7.1.4 Report on Key Activities, Planning and Community Development (01-006-03-0014 AH)

By Allison Hailes, Executive Manager Planning and Community Development

Moved: Cr F Reid
Seconded: Mayor T Roberts

That the Key Activities Report from the Planning and Community Development Unit to July 2014 State Council meeting be noted.

RESOLUTION 78.3/2014 CARRIED UNANIMOUSLY

PLANNING

Review of Liveable Neighbourhoods – Public Open Space and Urban Structure
Following the release of the above discussion papers by the Department of Planning, the following workshops were arranged with members:

- 30 May – Public Open Space (POS) specifically the function, classification, planning for regional open space, regional variations, co-location of POS with schools and community facilities and water management issues. The Department’s Technical Advisory Group scheduled to discuss the feedback from stakeholders at a meeting on the 16 June.

- 10 June – Urban Structure discussion paper released and a workshop arranged with members to consider the following issues; Activity centres, corridors and alignment with State Planning Policy 4.2 Activity Centres for Perth and Peel; Employment provision; Residential density; Local Development Plans (formerly Detailed Area Plans ); Climate responsive lot orientation; Lots fronting parks/laneways and Lots fronting major roads & freight considerations.

These two discussion papers form the final two components of the Liveable Neighborhoods review. It is expected that the feedback will be incorporated into a revised draft Liveable Neighborhoods Policy document that will be formally released for public comment before the end of this year.

The Department’s Technical Advisory Committee, of which WALGA is member, is expected to meet mid July to consider the feedback and make final recommendations to the review.

Upcoming State Planning Policy Reviews

- The Department of Planning has initiated a review of State Planning Policy 5.2 – Telecommunications. Since the release of the policy in 2004, the demand for mobile telecommunications services has increased beyond expectations, therefore a policy update is needed to reflect changes in technology and industry practices and to respond to increased demand. The review will evaluate whether the policy and local practices adequately balance service needs with relevant health, environmental and visual landscape considerations. It will also examine how to improve policy requirements for local governments when they assess telecommunications infrastructure proposals.

- The Department of Planning is also reviewing State Planning Policies 4.1 (Industry) & 4.3 (Poultry), with the aim to prepare one State Planning Policy that covers all industries that result in buffers for odour control, i.e. mushroom, poultry, pig farms, as well as industrial buffer requirements under the EPA Act.
Both reviews will result in the preparation of a discussion paper which will be circulated to members for comment and to help develop a sector response to any proposed changes.

**WALGA Affordable Housing Forum for Local Government**

On 19th May 2014 WALGA held a one day forum entitled *Delivery of More Affordable Housing - What can Local Governments Do?* The forum was attended by over 60 participants. Attendees heard from senior representatives of the State Government, the development industry and the community housing sector about the issues, processes, strategies and policies that could be used by any Local Government to identify local requirements and opportunities to increase the supply of appropriate and affordable housing in their area.

Positive feedback was received from attendees, with several requests for additional sessions to be held on the topic.

**COMMUNITY**

**Consultation Paper: Proposal for Caravan Parks and Camping Grounds Legislation**

The Department of Local Government and Communities (DLGC) has released the *Consultation Paper: Proposal for Caravan Parks and Camping Grounds Legislation*. The DLGC proposes to develop new caravan parks and camping grounds legislation to replace the existing *Caravan Parks and Camping Grounds Act 1995*. The overarching objective is to provide a legislative framework which meets the needs of consumers, operators and regulators now, and into the future.

Local Government plays a significant role in the management and regulation of caravan parks and camping grounds throughout Western Australia. The proposed changes to the current Act will likely impact zoning of caravan parks, the monitoring and enforcement of environmental health issues, the issuing of licenses, and the management of overflow facilities.

The Association will be developing a submission on behalf of Local Government, and appreciates feedback from the sector on the key issues outlined in the Consultation Paper. The Association will be forming a small expert advisory group to inform the development of the WALGA submission. A meeting will be scheduled for late July 2014.

**Active Living WA**

WALGA continues to be a member of the Active Living WA Senior Officers Group tasked with implementation of the *Active Living for All: Framework for Physical Activity in WA 2012-2016*. The framework, developed by the former Physical Activity Taskforce, provides a coordinated and collaborative approach to improving the health and wellbeing of West Australians, through increased active-living opportunities. The two key outcomes of the framework are:

- **Active Places**: well-planned and designed environments that support, encourage and enable active living; and
- **Active People**: positive behaviour changes and participation in active lifestyles.

The Senior Officers Group reports to an Executive Group, which is comprised of the Director Generals of the Departments of Sport and Recreation, Education, Planning, and Health as well as the Managing Director of HBF. WALGA recently presented to both groups on key challenges facing the Local Government sector and opportunities for further collaboration. A particular area of focus that emerged during both presentations is the opportunity to consider what can be done to improve consideration of the impact of fast food outlets and the obesity epidemic. WALGA will provide members with further information once available.

**WACOSS Conference 2014 - The Difference We Make**

The Western Australian Council for Social Services held its biannual conference from 5-8 May 2014.
During the conference WACOSS launched DropIN a new online platform that can assist with better collaboration between the community sector and corporate and government partners. The Community Services Excellence Awards 2014 were also held in conjunction with the Conference. The Shire of Moora and the Avon Youth Community and Family Services Inc won the Award for Partnerships for their 6510 Youth Program in Northam. For further information about the conference and to download presentations please visit http://www.wacoss.org.au/WACOSSConference2014/SpeakerPresentations.aspx

Nature Play WA
WALGA is working with Nature Play WA as a partner to encourage WA communities to value nature play and create appropriate opportunities. Many Local Governments have already embraced the vision and mission of Nature Play WA and are working collaboratively with Nature Play WA to redesign play spaces. For further information on Nature Play please visit http://www.natureplaywa.org.au/mission

State Closed Circuit Television (CCTV) Strategy
The Hon Liza Harvey, Minister for Police has invited WALGA to participate on the State Advisory Group established to develop of the State Closed Circuit Television (CCTV) Strategy. Development of a strategic statewide strategy for CCTV has been a long standing objective of the Association and comes after significant advocacy. The strategic objectives of the Strategy are to enhance coordination, integration, collaboration and accessibility of CCTV systems, improve the governance and operational standards for system operations and improve the quality and security of the data collected. The first meeting of the State CCTV Advisory Group is scheduled for 12 June 2014. Further information will be provided to WALGA State Council as development of the Strategy progresses.

Disability Access and Inclusion Research
WALGA is working with the Disability Services Commission to undertake research on the availability of adult change facilities for people with disabilities and their families or carers. The Disability Services Commission is keen to identify the existing facilities provided by Local Governments and the frequency of usage as well as any unmet demand for additional facilities. WALGA is working with the Commission to scope the research project which is expected to be conducted in the second half of 2014.

Review of the National Quality Framework for Early Childhood Education and Care
A Review of the National Quality Framework for Early Childhood Education and Care is being undertaken by the Australian, State and Territory governments to ensure the goal of improving quality in education and care services is being met in the most efficient and effective way. WA’s public consultation forums were held in WA between 3rd – 5th June 2014. WALGA provided members with advice about the consultation sessions and sought feedback from Councils for incorporation into a representative submission. Feedback and submissions can also be submitted directly online until Friday 4 July 2014. For further information please visit www.woolcott.com.au/NQFReview.

Federal Budget Changes to Family Day Care
As part of the recent Federal Budget changes were introduced to the Community Support Program effective from 1 April 2014. These changes included modification to the eligibility criteria for new Family Day Care service providers for funding under the Community Support Program. Existing Family Day Care services will also be reassessed under the revised Guidelines and eligibility criteria from 1 July 2015.

The new eligibility criteria, which is outlined in the CSP Program Guidelines, require new services to be the sole Family Day Care (FDC) service located in a regional, remote or disadvantaged area and to demonstrate that there is unmet demand for child care in that area. A cap of $250,000 per financial year on the amount of Operational Support FDC services can receive will also be introduced from 1 July 2015.
The Australia Local Government Association (ALGA) hosted a teleconference with the State Associations on 29 May 2014 to discuss the proposed changes. Local Governments in New South Wales and Victoria are significant providers of child care and have indicated strong concerns about the proposed changes. Further advocacy is expected at the national level. All service providers are being advised in writing of the changes by the federal Department of Education and respective State Agencies. The Department of Local Government and Communities is responsible for the regulation of child care provision in Western Australia.

**Productivity Commission - Child Care and Early Childhood Learning Inquiry**

In November 2013 the Australian Government requested that the Productivity Commission undertake a public inquiry into future options for childcare and early childhood learning, with a view to developing a system that supports workforce participation and addresses children’s learning and developmental needs.


**EMERGENCY MANAGEMENT**

**Productivity Commission – Review of Natural Disaster Funding Arrangements**

The Productivity Commission’s Inquiry into Natural Disaster Funding Arrangements will consider the effectiveness and sustainability of Australia’s natural disaster funding arrangements. The Commission has been asked to assess the full scope of current Commonwealth, State and Territory expenditure on natural disaster mitigation, resilience and recovery and to identify reforms which achieve an effective and sustainable balance between natural disaster recovery and mitigation funding.

WALGA and LGIS representatives met with the Commissioners at the WALGA office on Monday May 26th to discuss a wide range of local issues relevant to disaster funding and in particular the Western Australian Natural Disaster Relief and Recovery Arrangements (WANDRRA).

The Commissioners have invited WALGA to participate in a national roundtable forum being held at the end of June. A copy of WALGA’s interim submission is available in the attachments to the State Council Agenda.

**Community Emergency Risk Assessment Tool (CERAT)**

The development of an emergency management risk assessment tool for Local Government is progressing well with the development committee in the process of obtaining software development cost estimates. Following this WALGA will apply for funding support from the Nation Disaster Resilience Program (NDRP) to enable the building of a relational risk database and to undertake further Local Government consultation and training. The next NDRP funding round is understood to be opening in July 2014.

**Animal Welfare in Emergencies – Local Government Forum**

WALGA will be hosting a half-day forum on Thursday, 21st August 2014 to discuss issues concerning animal welfare in emergency events. The Forum will include presentations from Local Government representatives who will share their experiences, as well as other stakeholders who have a role to support the community and their animals. The Forum will also include a workshop to enable participants to identify key components of a template document for Local Government animal welfare planning. More information will be made available shortly.
7.2 Policy Forum Reports

The following provides an outline of the key activities of the Association’s Policy Forums since the last State Council meeting.

Moved: Cr M Wainwright
Seconded: Cr K Chappel

That the report on the key activities of the Association’s Policy Forums to the July 2014 State Council meeting be noted.

RESOLUTION 79.3/2014  CARRIED UNANIMOUSLY

7.2.1 Metropolitan Reform Implementation Policy Forum (Tony Brown, Executive Manager, Governance & Corporate Services)

The Metropolitan Reform Implementation Policy Forum objectives have been identified as follows;

I. Provide guidance and direction to the President in his role as a Member of the Metropolitan Reform Implementation Committee (MetRIC).
II. Facilitate appropriate Local Government engagement allowing for a wide range of Local Government Elected Member and Officer input and contribution as necessary.
III. Develop recommendations for State Council consideration on issues relating to the implementation of the Metropolitan Local Government Reform.
IV. Endorsement of a Communication Plan that will be prepared to keep the sector informed of any developments and information during the implementation of the Metropolitan Local Government Reform.
V. Ensure adequate support and assistance for member Local Governments during the transition and implementation process.

Comment

The Metropolitan Reform Implementation Policy Forum met on 17 April and again on 5 June 2014.

The Policy Forum focused on the following key issues:

i. Reform Funding

ii. A framework for Local Implementation Committee governance

iii. The referred issue from State Council relating to the poll provisions

The sector is advised about the work of the Policy Forum through WALGA’s monthly Metropolitan Reform Bulletin, which is issued monthly.
7.2.2 **Country Reform Policy Forum** (Tony Brown, Executive Manager Governance & Corporate Services)

The Country Reform Policy Forum objectives have been identified as follows;

i. Scope and undertake research into models of governance appropriate to country Local Governments, by examining governance models including: Parish Models, Regional Centre Models and regional models;

ii. Develop best practice Governance Models appropriate to the diversity of country Local Government based on the findings of i, whilst being cognizant of Regional Organisations such as Regional Development Commissions (RDC’s) and Regional Development Australia (RDA’s);

iii. The Developed model(s) to be presented to a Forum of all Country Local Governments to consider a whole of sector position. The recommendations from this forum will be developed for State Council consideration on country Local Government Reform.

iv. Consider the current poll provisions contained within Schedule 2.1 of the Local Government Act 1995 with regard to currency and possible options for amendment;

v. Provide guidance and direction to the President and Deputy President of WALGA in their advocacy to the State Government

vi. Facilitate roundtable discussions and open forums allowing for a wide range of Local Government Elected Member and Officer input and contribution.

**Comment**

The second meeting of the Country Reform Policy Forum was held on 7 May 2014. Policy Forum members again offered valuable insight informing the ongoing progress of developing a draft Position Paper.

Given that there is no pre-determined outcome for this Policy Forum, the main focus of the meeting was to gain a better understanding of current models available to the sector. Models considered and work shopped by the members included:

1. Parish Model;
2. Place Based Model;
3. Auckland Model;
4. Hub and Spoke Model;
5. Regional Model; and
6. Amalgamation

Regional Subsidiaries and Council Controlled Organisations as regional delivery platforms were also considered.

An outcome of the meeting was the need for some early research on the state of the sector and the effectiveness of current models.

The Policy Forum will work during the course of the year, culminating in preparation of a draft Position Paper for consideration by a whole of country Local Government forum likely to be held early in 2015. An agenda item will then be prepared for consideration via the State Council meeting process to produce a formal policy position.
7.2.3 **Mining Community Policy Forum** (Wayne Scheggia, Deputy CEO)

The Mining Communities Policy Forum has been tasked with addressing the following key issues;

i. Monitor and assess the continuing impacts of State Agreement Acts on Local Government revenue raising capacity and service delivery;

ii. Monitor and assess the impacts of State Government legislation, regulation and policies on the capacity of Local Governments to appropriately rate mining operations.

iii. Develop and recommend relevant advocacy strategies in relation to i & ii;

iv. Consider and recommend relevant strategies in respect to “Fly-in, Fly-out (FIFO) and “Drive-in Drive-out” (DIDO) workforce practices with specific reference to;
   
a. The effect of a non-resident, FIFO/DIDO workforce on established communities, including community wellbeing, services and infrastructure;

b. The impact on communities sending large numbers of FIFO/DIDO workers to mine sites.

**Comment**

The DSD recently indicated that there will be a review of the current policy trial that allows GRV rating of mining, petroleum and resource interests (the trial period finishes in June 2015). The DSD have indicated consultation for the review will commence in the second half of 2014. This consultation will include discussion of the need for a Local Government/mining company communications protocol.

7.2.4 **Container Deposit Legislation Policy Forum** (Mark Batty, Executive Manager Waste and Environment)

A Container Deposit System (CDS) is a form of Extended Producer Responsibility which seeks to place financial/physical responsibility for a product (at end of life) on the original producer.

The Container Deposit Legislation Policy Forum has been tasked with addressing the following key issues;

I. To examine proposed CDS schemes and decide on a scheme that has the best capacity to meet the objectives

II. To develop an advocacy plan for the implementation of a best practice CDS, working with other supportive organisations.

III. To examine options for funding of an advocacy plan.

**Comment**

The Policy Forum is currently on hold, pending the outcome of national considerations of Cash for Containers options.
7.2.5 Metropolitan Mayors Policy Forum (Wayne Scheggia, Deputy CEO)

The Metropolitan Mayors Policy Forum has been tasked with addressing the following key issues:

i. Advise the WALGA President on emerging policy issues and the development and implementation of significant metropolitan initiatives;
ii. Identify innovative approaches to metropolitan issues;
iii. Facilitate metropolitan-wide consultation, collaboration and partnerships to address metropolitan-wide policy and project initiatives; and
iv. Serve as a stakeholder forum to effectively support and complement the broader work of the Western Australian Local Government Association

Comment

The Metropolitan Mayors Policy Forum met on 22 April 2014.

The following issues were discussed at the meeting:

i. Aged housing; and,
ii. Red Tape Reduction.

The focus of the next meeting, date to be advised, will be consideration of the completed Red Tape Reduction report.

7.3 President’s Report

Moved: Cr W Barrett
Seconded: Cr C Mitchell

That the President’s Report for July 2014 be received.

RESOLUTION 80.3/2014 CARRIED UNANIMOUSLY

7.4 CEO’s Report

Moved: Cr S Broad
Seconded: Cr R Winzer

That the CEO’s Report for July 2014 be received.

RESOLUTION 81.3/2014 CARRIED UNANIMOUSLY
8. ADDITIONAL ZONE RESOLUTIONS

Moved: Mayor L Howlett
Seconded: Cr M Wainwright

That the additional Zone Resolutions from the June 2014 round of Zone meetings as follows be referred to the appropriate policy area for consideration.

RESOLUTION 82.3/2014 CARRIED UNANIMOUSLY

AVON MIDLAND COUNTRY ZONE (Governance)

Zone Tax Offset Reform

(a) That the Zone seek the support of those WALGA Zones within the Zone A and Zone B Tax Offset areas to urge State Council to adopt Zone Tax Offset amounts for advocacy to the Federal Government which are based on indexation of the amounts from the year they had been originally introduced; and

(b) That the Zone urge State Council to review the increases to the Zone Tax Offset amounts set out in its resolution of 2 May 2014 (resolution 31.2/2014) and recommends that the amounts be based on indexation from the date the offsets were originally introduced.

Regional Development Australia Wheatbelt (Planning & Community)

That the Zone request the WA Local Government Association to advocate for the retention of the Youth Connections Program.

SOUTH WEST COUNTRY ZONE (Infrastructure)

Street Lighting – Shire of Capel

That WALGA be requested to lobby the State Government to:

1. Provide justification for the proposed increases in street light tariffs or increased transparency in street lighting costs and the tariffs charged
2. Introduce competition in the street lighting sector, by allowing other street lighting providers to participate and other electricity providers to supply power for Local Government owned streetlights
3. Require Western Power to offer other energy efficient street lighting options, such as LEDs
4. Require Western Power to offer a subsidised cost to Local Governments to changeover 80W mercury vapour street lights to 42W CFLs or 25W LEDs, recognising that major lighting companies will soon stop making mercury vapour lamps.

Clearing of Native Vegetation (Environment)

That WALGA be asked to seek alignment between the provisions of State Planning Policy 3.7 and the clearing requirements under the DER policy.

CENTRAL COUNTRY ZONE (Community)

Gap Payment to Childcare Centres for Indigenous and at Risk Children – Shire of Brookton

1. That the Central Country Zone write to the relevant State and Federal Minister requesting them to:

   a) Increase the overall investment in Early Childhood Education and Care (ECEC) because it delivers social and economic returns and creates a strong foundation for a child’s future schooling and employment prospects.
b) Reform the payments system to ensure all children can access ECEC but provide additional assistance to Childcare Centres serving low income and indigenous families and vulnerable children.

2. That WALGA be advised of this action and requested to support this initiative.

PEEL COUNTRY ZONE (Governance)

Local Government Reform
In view of the uncertainty which surrounds the structural reform agenda and the State Government’s refusal to fully fund the transition costs of proposed amalgamations, the Zone requests WALGA to:

1. Call on the State Government to provide funding of up to $100 million to be placed immediately in a reserve fund set aside for structural reform and that failing any meaningful financial commitment from the State Government, it is suggested that WALGA cease any collaborative involvement in the State Government’s reform agenda, effective forthwith; and
2. Call on all country local governments not to enter into any structural reform agenda in collaboration with the State Government in the absence of any guaranteed and meaningful funding for both the current metropolitan structural reform agenda and any future structural reform agenda for country local governments.

CENTRAL METROPOLITAN ZONE (Governance)

Metropolitan Local Government Reform Funding
In view of the uncertainty which surrounds the structural reform agenda and the State Government’s refusal to fully fund the transition costs of proposed amalgamations, the Central Metropolitan Zone requests WALGA to:

1. Call on the State Government to provide funding of up to $100m to be placed immediately in a reserve fund set aside for structural reform and that failing any meaningful financial commitment from the State Government, WALGA cease any collaborative involvement in the State Government’s reform agenda effective forthwith.
2. Call on all metropolitan local governments to follow WALGA’s lead by also ceasing any collaborative involvement in the State Government’s reform agenda.
3. Call on all country Local Governments not to enter into any structural reform agenda in collaboration with the State Government in the absence of any guaranteed and meaningful funding for both the current metropolitan structural reform agenda and any future structural reform agenda for country Local Governments.

EAST METROPOLITAN ZONE (Governance)

Metropolitan Local Government Reform Funding
That WALGA:

1. Call on the State Government to provide funding of no less than $100million to be placed immediately in a reserve fund set aside for the structural reform and that failing any meaningful financial commitment from the State Government, call on WALGA to cease any collaborative involvement in the State Government’s reform agenda effective forthwith.
2. If the funding is not provided, call on all Country Local Governments not to enter into any structural reform agenda in collaboration with the State Government in the absence of any guaranteed and meaningful funding for any future structural reform agenda for Country Local Governments.

SOUTH EAST METROPOLITAN ZONE (Governance)

Metropolitan Local Government Reform Funding
That the South East Metropolitan Zone requests State Council to establish an operating fund with the objectives of:
1. Raising the profile of Local Government reform with the ‘public at large’ and the State Government;
2. Increasing the awareness of the ‘public at large’ and the State Government regarding the lack of State funding to deliver local government reform; and
3. Call on the State Government to provide cash funding of between $65m to $100m to be placed immediately in a reserve fund set aside for structural reform.
4. Failure to obtain any meaningful financial commitment from the State Government;
   4.1 WALGA cease any collaborative involvement in the State Government’s reform agenda effective forthwith.
   4.2 Call on all Metropolitan Local Governments to follow WALGA’s lead by also ceasing any collaborative involvement in the State Government’s reform agenda.
   4.3 Call on all Country Local Governments not to enter into any structural reform agenda in collaboration with the State Government in the absence of any guaranteed and meaningful funding for both the current metropolitan structural reform agenda and any future structural reform agenda for Country Local Governments.

Metropolitan Local Government Reform
The South East Metropolitan Zone urges State Council, at its meeting of 2 July 2014, to express its extreme concern and deep disappointment to the State Government at its flawed Metropolitan Local Government reform process; that it lacks transparency, clarity and a genuine desire to reform metropolitan Local Government for the betterment of the sector and the communities they serve.

SOUTH METROPOLITAN ZONE (Governance)

Metropolitan Local Government Reform Funding
The South Metropolitan Zone request WALGA to undertake the following:

1. Call on the State Government to provide funding of up to $100m to be placed immediately in a reserve fund set aside for structural reform and that failing any meaningful financial commitment from the State Government, WALGA cease any collaborative involvement in the State Government’s reform agenda effective forthwith.
2. Call on all metropolitan local governments to follow WALGA’s lead by also ceasing any collaborative involvement in the State Government’s reform agenda.
3. Call on all country local governments not to enter into any structural reform agenda in collaboration with the State Government in the absence of any guaranteed and meaningful funding for both the current metropolitan structural reform agenda and any future structural reform agenda for country local governments.

CENTRAL COUNTRY ZONE (Community)

Review of Emergency Services Act
That the Central Country Zone request that WALGA investigate potential for the fire fighting services of the Department of Parks and Wildlife (DPAW) to be transferred to the Department of Fire and Emergency Services (DFES) so that all fire fighting capabilities are incorporated into one emergency service arrangement to avoid “blurred” lines of responsibility and that the funding for the DPAW operations should be transferred to DFES and not be raised through the Emergency Services Levy.
9. **MEETING ASSESSMENT**
Mayor Heather Henderson provided feedback as to the effectiveness of the meeting.

10. **DATE OF NEXT MEETING**
That the next meeting of the Western Australia Local Government Association State Council be held in the Boardroom at WALGA, 170 Railway Parade West Leederville, on Wednesday 3 September 2014 commencing 4pm.

11. **CLOSURE**
Meeting declared closed at 6.08pm.