

9 July 2021



Notice
of
Proposed Amendments
to the Association
Constitution

WALGA
Annual General Meeting
Monday, 20 September 2021

Notice of Item Proposing Amendments to the Association Constitution

The following item will be presented as an item of business at the WALGA Annual General Meeting to be held on Monday, 20 September 2021 at Crown Perth.

As per Clause 29 of the Constitution (**below**), amendment to the Constitution requires a resolution passed by special majority by both State Council and at a general meeting.

The amendments to the Constitution detailed in the attached item were endorsed by State Council at their 7 July 2021 meeting. The information contained in this notice will be included in the agenda papers for the Annual General Meeting.

This notice complies with the requirements of Clause 29(2)(b) that the WALGA Chief Executive Officer must give at least 60 days' notice of any proposal to alter the Constitution.

Clause 29 – Amendment to the Constitution

The Constitution of the Association may be altered, added to or repealed by:

- (1) A resolution at any meeting of the State Council on the receipt of a special majority of not less than 75% of representatives as, being entitled to do so, vote in person or by their deputy representatives; and*
- (2) A resolution at an Annual General Meeting or Special General Meeting passed by a majority of not less than 75% of delegates as, being entitled to do so, vote in person or duly authorize a proxy vote to be exercised on their behalf, provided that:*
 - a. 75% of Ordinary Members who are eligible to vote are present or represented; and,*
 - b. The Chief Executive Officer has given not less than sixty (60) days notice of any proposal to alter, add or repeal the Constitution to all Ordinary Members.*

Amendments to WALGA's Constitution (01-001-01-0001 TL)

By Tim Lane, Manager Strategy and Association Governance

Recommendation

That the WALGA Constitution be amended as follows:

1. INSERT Definition – “*Present*” means attendance in person or by electronic means deemed suitable by the Chief Executive Officer.
2. Clause 5 (10) – DELETE “and Associate Members”.
3. Clause 5 (11) – DELETE “Ordinary Member or”, REPLACE “State Council” with “Chief Executive Officer” in the first sentence, INSERT “or its delegate” after State Council in the second sentence.
4. Clause 6 (3) – REPLACE “31 May” with “30 June”.
5. Clause 7 (2) – REPLACE “30 June” with “31 July”.
6. Clause 11 (1) – after Chief Executive Officer, INSERT “in accordance with the Corporate Governance Charter”.
7. Clause 11 (2) – after Chief Executive Officer INSERT “by providing notice to State Councillors of the date, time, place and purpose of the meeting”
8. DELETE Clause 11 (3)
9. Clause 12 (1) – DELETE “as, being entitled to do so, vote in person”
10. DELETE Clause 12 (2)
11. Clause 12 (3) – DELETE “as, being entitled to do so, vote in person”
12. Clause 12 (4) – DELETE “as, being entitled to do so, vote in person”
13. Clause 16 (1) & (2) – After Any election INSERT “other than to elect the President or Deputy President”, REPLACE “generally in accordance with the provisions of the *Local Government Act 1995* as amended (2) For the purposes of the election referred to in sub-section (1)” with “as follows”.
14. Clause 16 (2) (f) – REPLACE two instances of “2” with “1”.
15. INSERT Clause 16A – Election Procedure – President and Deputy President
 - (1) An election to elect the President or Deputy President shall be conducted as follows:
 - (a) the Chief Executive Officer or his/her delegate shall act as returning officer;
 - (b) representatives are to vote on the matter by secret ballot;
 - (c) votes are to be counted on the basis of “first-past-the-post”;
 - (d) the candidate who receives the greatest number of votes is elected;
 - (e) if there is an equality of votes between two or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued, and the meeting adjourned for not more than 30 minutes;
 - (f) any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes;
 - (g) when the meeting resumes, an election will be held in accordance with sub-sections 1(a), 1(b), 1(c) and 1 (d);
 - (h) if two or more candidates receive the same number of votes so that sub-section 1(d) cannot be applied, the Chief Executive Officer is to draw lots in the presence of any scrutineers who may be present to determine which candidate is elected.
16. Clause 21 (4) – REPLACE “Chairman” with “Chair”.
17. Clause 22 (1) – REPLACE “in August or September of” with “prior to 31 October”.
18. Clause 22 (3) – DELETE “in person”
19. DELETE Clause 22 (4) (b).
20. Clause 23 (3) – DELETE “in person”
21. Clause 24 (2) – DELETE “and of which vote is to be exercised in person”
22. Clause 24 (4) – DELETE “as, being entitled to do so, vote in person”

23. **Clause 28 (1) – DELETE “The common seal shall be held in the custody of the Chief Executive Officer at all times.”**
24. **Clause 29 (1) – DELETE “as, being entitled to do so, vote in person”**
25. **Clause 29 (2) – DELETE “as, being entitled to do so, vote in person”**
26. **Clause 31 (4) (c) – DELETE “and Regional Development”.**

Voting Requirement: SPECIAL MAJORITY

Executive Summary

- A number of amendments are proposed to the WALGA Constitution;
- Amendments are necessary:
 - To remove requirements for delegates to attend annual and special general meetings in person; and,
 - As a result of WALGA’s change of financial year end to 30 June, from the previous 31 May year end.
- Other amendments are proposed to:
 - Allow a second vote to be conducted if two candidates tie in an election for President or Deputy President;
 - Clarify the application process for Ordinary and Associate Members;
 - Simplify the process for providing notice of State Council meetings;
 - Allow motions at Special State Council meetings to be passed with a simple, as opposed to absolute, majority, except as required elsewhere in the Constitution, such as the absolute majority requirement to adopt the budget; and,
 - Tidy up outdated wording.
- The proposed amendments to the Constitution were passed at the 7 July 2021 State Council meeting by a Special Majority.
- Consequently, these Constitutional Amendments are now being put to the 20 September 2021 Annual General Meeting.

Attachment

- WALGA Constitution – Proposed Amendments Mark-Up

Background

Amendments to the Constitution are required to allow delegates to attend and vote virtually through a videoconference, webinar or other platform at Annual or Special General Meetings of the Association if required.

In addition, WALGA has this year changed its financial year end from 31 May to 30 June. The 30 June year end means that WALGA’s financial year now aligns with Local Governments’ year end. Amendments to clauses relating to the budget, termination of membership and the timeframe for holding the AGM are required as a result of this change.

The requirement to amend the Constitution has provided an opportunity to amend the election procedure for WALGA President and Deputy President. The proposed change would enable a second ballot to be held if two or more candidates are tied for the position. This aligns with the procedure in the *Local Government Act 1995* for the election by Council of Mayors, Presidents, Deputy Mayors and Deputy Presidents.

Other minor changes to remove outdated and tidy up wording are proposed, as per the mark-up version of the Constitution attached.

Comment

Amendments to the Constitution require endorsement by a special (75 percent) majority at State Council, as well as a 75 percent majority at an Annual General Meeting or Special General Meeting.

As the proposed amendments were endorsed by State Council at the 7 July meeting, they are now being put to the 20 September 2021 WALGA Annual General Meeting.



Attachment
WALGA Constitution – Proposed Amendments Mark-Up

Association Constitution

Adopted: 7 August 2001
Amended: 8 August 2004
6 August 2006
5 August 2007
6 August 2011
7 August 2013
3 August 2016
1 August 2018

Constitution

Preamble

This Constitution serves as the instrument for establishment of the Western Australian Local Government Association (WALGA).

WALGA marks the progression from a structure in which the Western Australian Municipal Association (WAMA) serves as a federation of three separate constituent Associations to a single association tasked with directly representing the needs and interests of all Western Australia.

The Constituent Associations of WAMA were: the Country Shire Councils' Association (dissolved in August 2003), the Country Urban Councils' Association (dissolved in August 2002) and the Local Government Association (dissolved in August 2003).

The establishment of WALGA in 2001 represents an evolution in the process by Local Government to promote more effective representation on behalf of its elected membership and the broader community.

Central to this process is the recognition of the sense of history and significant contribution of WAMA's constituent Associations, both in terms of the creation of WALGA and in the pursuit of aims and objectives on behalf of all Western Australian Local Governments as represented within this Constitution.

1. NAME

The name of the Association is "**Western Australian Local Government Association**".

2. INTERPRETATION

(1) Throughout this Constitution, if not inconsistent with the context:

"Absolute Majority" means, in relation to the State Council or any General Meeting of the Association, a majority comprising enough of the representatives of the State Council or delegates of Ordinary Members for the time being for their number to be more than 50% of the number of voting positions of representatives or delegates (whether present and voting or not);

"Annual General Meeting" means the meeting convened under clause 22 of this Constitution;

"Association" means Western Australian Local Government Association (WALGA);

"Associate Member" means:

- in relation to the Association, those Members of the Association referred to in sub-clause 5(6) and those persons admitted as Associate Members of the Association in accordance with sub-clause 5(9); or
- in relation to a Zone, those Ordinary Members of the Association admitted as Associate Members of a Zone in accordance with sub-clause 14(9);

"Chief Executive Officer" means the Chief Executive Officer of the Association;

"Code of Conduct" means the written guidelines which define the minimum standards of professional conduct and integrity that are expected of all State Council members.

"Commissioner" means a commissioner appointed to a Local Government under sections 2.6(4) or 2.36A(3) of the *Local Government Act 1995*;

"Constituency" means such country and metropolitan groupings of Ordinary Members as the Association for the time being, may determine;

"Councillor" has the same meaning as under the *Local Government Act 1995* except that it includes a mayor or president elected by electors and includes a Commissioner appointed under section 2.6(4) or section 2.36A(3) of the *Local Government Act 1995*;

"Country Constituency" means the Ordinary Members as are grouped within the geographical area of the State of Western Australia not included within the boundaries of the Metropolitan Region Planning Scheme;

"Country Shire Councils' Association" means the Country Shire Councils' Association constituted under section 9.58 of the *Local Government Act 1995*;

"Country Urban Councils' Association" means the Country Urban Councils' Association of Western Australia constituted under section 9.58 of the *Local Government Act 1995*;

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

“Deputy President” means the Deputy President for the time being of the Association;

“Ex-officio” means a person or organisation who has an entitlement to membership of the State Council or another committee, by virtue of their office, but is not entitled to exercise a deliberative vote on any matter before the State Council or another committee;

“Governance Charter” means the written policy document that clearly defines the respective roles, responsibilities and authorities of the President, State Council members (individually and collectively) and the Chief Executive Officer in setting the direction, management and control of the Association.

“In Writing” means notice provided by posting or transmission in electronic form;

“Life Members” means those members of the Association referred to in sub-clause 5(1) and those persons admitted as Life Members of the Association in accordance with sub-clause 5(8) of this Constitution;

“Local Government” means an entity constituted under Part 2 of the Western Australian *Local Government Act 1995*;

“Local Government Act” means the Western Australian *Local Government Act 1995*;

“Local Government Association” means the Local Government Association of Western Australia constituted under section 9.58 of the *Local Government Act 1995*;

“Local Government Professionals Australia WA” means the Western Australian Division of Local Government Professionals Australia;

“Member” means:

- in relation to the Association, a Local Government, organisation or person admitted to Ordinary, Life or Associate membership of the Association in accordance with the provisions of this Constitution; or
- in relation to a Zone, those Ordinary Members of the Association that are determined to be members of a Zone by State Council in accordance with sub-clause 14 (2); or
- a new Council created pursuant to a merger or amalgamation of existing Councils that were Ordinary Members of the Association prior to the merger or amalgamation.

“Metropolitan Constituency” means the Ordinary Members as are grouped within the geographical area of the State of Western Australia within the Metropolitan Region Planning Scheme;

“Ordinary Member” means a Local Government admitted to membership of the Association in accordance with the provisions of this Constitution and includes a new Council created pursuant to a merger or amalgamation of existing Councils that were Ordinary Members of the Association prior to the merger or amalgamation;

“President” means the President for the time being of the Association;

“Present” means attendance in person or by electronic means deemed suitable by the Chief Executive Officer

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

“Secretariat” means the staff of the Association appointed from time to time by the State Council and includes the Chief Executive Officer;

“Special General Meeting” means the meeting convened under clause 23 of this Constitution.

“Special Majority” means, in relation to the State Council or any General Meeting of the Association, a majority comprising enough of the representatives of the State Council or delegates of Ordinary Members for the time being for their number to be at least 75% of the number of representatives or delegates (whether present and voting or not);

“Simple Majority” means, in relation to the State Council or any General Meeting of the Association, a majority comprising enough of the representatives of the State Council or delegates of Ordinary Members for the time being for their number to be more than 50% of the number of representatives or delegates that are present;

“State Council” means the governing board of the Association established pursuant to clause 9; and

“Zone” means a geographically based subdivision containing Ordinary Members and incorporated within a country and metropolitan constituency. The country and metropolitan zones are set out in the Register of Zone Membership referred to in sub-clause 14(8).

(2) In this Constitution:

- (a) a reference to any written law, whether specific or general, includes a reference to all amendments, modifications, re-enactments or replacements and includes all orders, ordinances, regulations, rules and by-laws made under or pursuant to that written law;
- (b) words meaning persons include natural persons, corporations and associations; and
- (c) the headings shall not affect the interpretation or construction of this Constitution.

3. OBJECTS

The objects of the Association shall be:

- (a) to provide a united voice for Local Government in Western Australia;
- (b) to promote the credibility and profile of Local Government;
- (c) to speak on behalf of Local Government in Western Australia;

- (d) to represent the views of the Association to the State and Federal Governments on financial, legislative, administration and policy matters;
- (e) to provide services to Local Government in Western Australia;
- (f) to promote Local Government issues of importance by involvement with national bodies;
- (g) to do all and any such other things as in the opinion of the State Council may conveniently be carried on by the Association or which promote or assist or are incidental or conducive to the attainment of these objects or any of them, or anything considered beneficial to the members of the Association; and
- (h) to use the property and income of the Association solely for the promotion of the objects or purposes of the Association. No part of the property or income of the Association may be paid or otherwise distributed, directly or indirectly, to members of the Association, except in good faith in the promotion of those objects or purposes.

4. POWERS

- (1) The Association shall have such specific powers as may be vested in it from time to time by the Ordinary Members. The initial powers of the Association are set out in the Register of Powers (Schedule One).
- (2) The powers of the Association may be added to, amended, withdrawn, modified or substituted in accordance with the provisions of sub-clause 12(3).
- (3) The Chief Executive Officer shall keep an up-to-date copy of the Register of Powers which records all changes and the dates thereof. The Register of Powers shall be open for inspection to the representatives of Ordinary Members during office hours and on reasonable notice.
- (4) Subject to obtaining the requisite majority support, the Association shall have general power to act in connection with all other matters in its discretion.
- (5) The Association may do all acts and things as are necessary, incidental or conducive to the attainment or execution of its objects and shall have all the powers conferred on an association constituted under section 9.58 of the *Local Government Act 1995* including, but without limitation, power to:
 - (a) acquire hold and dispose of real and personal property;
 - (b) accept any gift of any real or personal property or any interest or estate in that property or disclaim the benefit of any such gift;
 - (c) sue and be sued; and
 - (d) do all things that bodies corporate may do.

5. MEMBERSHIP OF THE ASSOCIATION

- (1) Three classes of membership to the Association shall be available:

- (a) Ordinary Membership;
 - (b) Associate Membership; and
 - (c) Life Membership.
- (2) Ordinary Membership of the Association shall be open to all Western Australian Local Governments.
- (3) Ordinary membership shall be immediately conferred upon any new Council created by the merger of existing Councils that were Ordinary Members of the Association prior to the merger, provided that all membership fees and subscriptions owed to the Association up to the date of merger by the predecessor Councils of that new Council have been paid.
- (4) An Ordinary Member shall belong to either the metropolitan constituency or the country constituency, but not both.
- (5) Subject to subclause (5), if an Ordinary Member has land both within and outside the Metropolitan Region Planning Scheme (MRPS), if the greater land area is in the MRPS, it will be deemed to be in the metropolitan constituency, otherwise it will be deemed to belong to the country constituency; or
- (6) State Council, on application from an Ordinary Member, may resolve to set aside the general rule prescribed in subclause (4) and permit an Ordinary Member to be a member of an alternate constituency. In considering any application made pursuant to this subclause, State Council shall give regard to the reasons provided in support of the application and any views expressed by Ordinary Members within the two constituencies. State Council may approve or refuse any application, advising accordingly and including any reason therefore.
- (7) Associate Members shall be:
- (a) the Local Government Professionals Australia WA; and
 - (b) any other Associate Member admitted to membership pursuant to sub-clause 5(11).
- (8) Associate Members are ineligible to vote at all meetings of the Association.
- (9) The State Council from time to time will determine nominations for Life Membership of the Association.
- (10) Additional Ordinary Members ~~and Associate Members~~ may be admitted from time to time on a simple majority resolution of the State Council.
- (11) Any person or organisation seeking admission as an ~~Ordinary Member or~~ Associate Member shall make written application to the ~~State Council~~Chief Executive Officer. The State Council ~~or its delegate~~ shall consider the application and may admit or refuse the applicant, advising accordingly including any reason therefore.
- (12) If an application for membership is granted, the membership shall commence upon payment of the appropriate subscription.
- (13) The Chief Executive Officer shall keep and maintain in an up-to-date condition a Register of the Members of the Association. The Register shall be open for inspection

to the representatives of Ordinary Members during office hours and on reasonable notice.

6. TERMINATION OF MEMBERSHIP OF THE ASSOCIATION

- (1) Membership of the Association may be terminated upon -
 - (a) receipt by the Chief Executive Officer of not less than 3 months notice in writing from a Member requesting to withdraw from membership of the Association; or
 - (b) non-payment by a Member of the required subscription within three months of the date fixed by the State Council for subscriptions to be paid, unless the State Council decides otherwise; or
 - (c) expulsion of a Member in accordance with clause 30.
- (2) Pursuant to subclause 6(1), where the membership of an Ordinary Member is terminated, the Chief Executive Officer shall remove the name of the Ordinary Member from the Register of the Members of the Association and that Ordinary Member shall cease to be a Member of the Association.
- (3) A Member who withdraws from membership to the Association shall not be entitled to a refund of any portion of such subscription as the Member will have paid in advance for the period up to and including ~~31-May~~30 June of that year.

7. BUDGET

- (1) The Association's Budget shall be prepared annually by the Chief Executive Officer in consultation with the State Council, including such other Committees as the State Council may deem expedient pursuant to clause 21.
- (2) The Budget shall be submitted to the State Council for approval not later than ~~30-June~~31 July prior to the financial year to which it relates.

8. SUBSCRIPTION

- (1) The annual subscriptions of all Members of the Association shall be as determined by the State Council.
- (2) Subscription levels shall be submitted for approval by the State Council together with the relevant Budget each year.
- (3) Subscriptions shall be due and payable on such date or dates as the State Council may decide having regard to all relevant circumstances.

9. STATE COUNCIL

- (1) The State Council is to be the governing board of the Association, responsible for the management and affairs of the Association. Members of the State Council shall include:
 - (a) 12 Councillors elected as representatives from amongst the delegates to the Zones of the metropolitan constituency;
 - (b) 12 Councillors elected as representatives from amongst the delegates to the Zones of the country constituency;
 - (c) The President (ex-officio); and
 - (d) The President of Local Government Professionals Australia WA (ex-officio).
- (2) The metropolitan constituency and country constituency shall determine the allocation of representational positions on State Council between the Zones within each respective constituency.
- (3) Representatives and deputy representatives to the State Council shall be elected by Zones of the metropolitan and country constituencies from amongst the delegates to the Zones for a term commencing on the day of the first Ordinary Meeting of State Council immediately following the biennial Local Government elections and concluding on the day before the first Ordinary Meeting of State Council of the following biennial Local Government elections.
- (4) The State Council shall be the body responsible for establishment and review of the processes which are to be applied by the Zones of the metropolitan and country constituencies to determine the election of their representatives and deputy representatives to the State Council.
- (5) The Secretariat shall be the body responsible for coordinating the nominations and election processes by which the Zones of the metropolitan and country constituencies elect their representatives and deputy representatives to the State Council.
- (6) A deputy representative elected from amongst the delegates to that Zone to act in the capacity of a representative unable to attend a meeting of the State Council shall exercise all rights of that representative.
- (7) If for any reason, a representative or deputy representative is unable to hold office for the full period for which the representative or deputy representative was appointed, the affected Zone shall be entitled to fill that vacancy by appointing some other Councillor from within that Zone as a representative or deputy representative. The representative or deputy representative so appointed shall hold office for the balance of the term of the representative or deputy representative originally elected.

10. PROCEEDINGS OF STATE COUNCIL

- (1) The State Council must meet together for the dispatch of business not less than four times in each year.
- (2) Each representative on the State Council shall be entitled to exercise one (1) deliberative vote on any matter considered by the State Council provided that this clause shall not apply to any ex-officio members of the State Council. The President shall exercise a casting vote only, in the event of there being an equality of votes in respect of a matter considered by the State Council but excluding an election held in accordance with Clause 16 in which the President is entitled to a deliberative vote only.
- (3) At any meeting of the State Council, thirteen (13) representatives present and entitled to vote shall form a quorum.
- (4) The President shall preside at all meetings of the State Council.
- (5) In the absence of the President, the Deputy President shall preside at a meeting of the State Council. In presiding, the Deputy President shall be entitled to exercise one (1) deliberative vote in respect of a matter considered by the State Council, and in the event of there being an equality of votes in respect of a matter considered, shall exercise a casting vote.
- (6) In the absence of the President and Deputy President, the State Council shall choose a representative of the State Council to preside at the meeting of the State Council. The representative chosen to preside shall exercise a deliberative vote in respect of a matter considered by the State Council, and in the event of there being an equality of votes in respect of a matter being considered, shall exercise a casting vote.
- (7) The State Council shall establish a Corporate Governance Charter as the instrument to be used by State Council in implementing good governance policies, procedures and practices.
- (8) The State Council shall establish a Code of Conduct to which all State Council members must comply.
- (9) State Council shall adopt Standing Orders that will apply to all meetings.

11. NOTICE OF STATE COUNCIL MEETINGS

- (1) Ordinary Meetings of the State Council shall be called by the Chief Executive Officer in accordance with the Corporate Governance Charter.
- (2) Special Meetings of the State Council shall be called by the Chief Executive Officer by providing notice to State Councillors of the date, time, place and purpose of the meeting upon the written request of the President or at least one quarter of the representatives to the State Council.
- ~~(3) The Chief Executive Officer must give all members to the State Council at least 7 days' notice of a meeting unless all of the members have agreed in writing to shorter notice. Notice shall be at the destinations for members appearing in the records of the Association for the time being. Such notice shall specify the nature of the business to~~

~~be transacted at the meeting and shall be deemed to have been delivered immediately if transmitted electronically or, on the second date after posting.~~

12. RESOLUTIONS OF STATE COUNCIL

- (1) Except as provided in this clause, all motions concerning the affairs of the Association shall be passed by a simple majority of the representatives of the State Council ~~as, being entitled to do so, vote in person~~ or by their deputy representatives.
- ~~(2) — Any matter considered by the State Council at a Special Meeting convened pursuant to sub-clause 11 (2) of this Constitution, shall not be passed unless having received an absolute majority of representatives of the State Council as, being entitled to do so, vote in person or by their deputy representatives.~~
- ~~(3)~~(2) The following resolutions shall not be passed unless they receive a special majority of not less than 75% of representatives of the State Council ~~as, being entitled to do so, vote in person~~ or by their deputy representatives:
 - (a) any addition, amendment, withdrawal, modification or substitution to, of or in the powers of the Association; or
 - (b) any allocation or change in allocation of any representation or voting rights on the State Council; or
 - (c) any change to the membership of Ordinary Members to Zones.
- ~~(4)~~(3) The annual budget, including annual subscriptions, shall not be adopted unless passed by an absolute majority of representatives of the State Council ~~as, being entitled to do so, vote in person~~ or by their deputy representatives.

13. CHIEF EXECUTIVE OFFICER AND SECRETARIAT

- (1) The State Council may appoint a Chief Executive Officer at such remuneration and on such terms and conditions and with such powers, authorities, discretions and duties as it deems appropriate and may terminate the appointment of the Chief Executive Officer.
- (2) The State Council may delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under this Constitution from time to time in such manner as the State Council determines and the scope of which are set out in Schedule Two. The Chief Executive Officer shall be responsible for the establishment and maintenance of a Register of Powers, Authorities, Discretions and Duties delegated by the State Council.
- (3) Subject to the control of the State Council, the Chief Executive Officer shall be solely responsible for the appointment of the staff of the Secretariat and the administration of the Association.
- (4) The Chief Executive Officer shall be the custodian of records, books, documents and securities of the Association.

14. ZONES

- (1) Ordinary Members of the Association shall be grouped into Zones of the metropolitan and country constituencies.
- (2) The membership of Ordinary Members to Zones shall be determined from time to time by State Council.
- (3) The number of Zones shall be determined from time to time by the Ordinary Members of the Association at a Special or Annual General Meeting.
- (4) Each member of a Zone shall be entitled to be represented by a delegate or delegates elected or appointed by the member to represent its interests. Zones shall determine the number of delegates to which each member is entitled to be represented by on the Zone.
- (4a) The term of a person who is a delegate of a member of a Zone expires when the person:
 - (a) dies;
 - (b) ceases to be a Councillor of the Ordinary Member;
 - (c) resigns the position by notice in writing given to the Ordinary Member who elected or appointed the person as its delegate and the resignation is accepted;
 - (d) becomes a member of State or Federal Parliament;
 - (e) is convicted of an offence under the *Local Government Act 1995*;
 - (f) is permanently incapacitated by mental or physical ill-health; or
 - (g) is the subject of a resolution passed by the Ordinary Member who appointed the person as its delegate terminating their appointment as the delegate of that Ordinary Member.
 - (h) is a Councillor that has been suspended by the Minister for Local Government under part 8 of the *Local Government Act 1995*.
- (5) The management and affairs of the Zone shall be vested in the delegates that are elected or appointed to the Zone by each member of the Zone.
- (6) The functions of each Zone shall be:
 - (a) electing a representative or representatives and deputy representative or deputy representatives to the State Council;
 - (b) considering the State Council agenda;
 - (c) providing direction and/or feedback to their representative or representatives on the State Council; and
 - (d) any other functions deemed appropriate by the members of the Zone.
- (7) An application for change in membership between Zones may only be made by the member seeking to change its membership and with the approval of the receiving Zone.
- (8) Applications for changes in membership between Zones shall be determined by the State Council. In considering such applications, State Council shall give regard to the reasons provided in support of the application and any views expressed by the Zones

directly affected by the application. State Council may approve or refuse any application, advising accordingly and including any reason therefore.

- (9) The Chief Executive Officer is to keep and maintain in an up-to-date condition a Register of Zone Membership, which may be varied from time to time by State Council. Upon request of an Ordinary Member, the Chief Executive Officer shall make the Register available for inspection by the representatives of an Ordinary Member during office hours and on reasonable notice.
- (10) A Zone may, from time to time, resolve to admit an Ordinary Member or Associate Member of the Association from outside their existing membership as an Associate Member of their Zone. In considering whether to admit an Ordinary Member or an Associate Member of the Association as an Associate Member of a Zone, the Zone shall give regard to the significance of communities of interest between the existing membership of the Zone and the Ordinary Member or Associate Member of the Association that is seeking to become an Associate Member of the Zone.
- (11) Subject to subclause (12), Zones shall determine the participation of any Associate Member admitted to the Zone, including the extent to which the representatives of an Associate Member may speak to and vote on matters considered by the Zone.
- (12) An Associate Member of a Zone may not:
 - a) nominate a delegate for election to any office of the Zone;
 - b) participate in an election held for any office bearer of the Zone; or
 - c) vote on any matter considered by the Zone requiring a 75% majority.

15. ANNUAL REPORT AND AUDITED FINANCIAL STATEMENTS

Prior to the Annual General Meeting, the President and Chief Executive Officer shall prepare the President's annual report and audited financial statements of the Association for presentation to Members at the Annual General Meeting.

16. ELECTION PROCEDURE

- (1) Any election other than to elect the President or Deputy President held by the Association shall be conducted as follows: generally in accordance with the provisions of the Local Government Act 1995 as amended.

~~(2) For the purposes of the election referred to in sub-section (1)–~~

- (a) the Chief Executive Officer or his/her delegate shall act as returning officer;
- (b) representatives are to vote on the matter by secret ballot;
- (c) votes are to be counted on the basis of “first-past-the post”;
- (d) if the election is to fill one vacancy, the candidate who receives the greater or greatest number of votes is elected;
- (e) if the election is to fill two or more vacancies, the candidates elected are -
 - (i) the candidate who receives the greatest number of votes; and
 - (ii) the candidate who receives the next highest number of votes; and
 - (iii) the candidate who receives the next highest number of votes,

and so on up to the number of vacancies to be filled; and

- (f) if two or more candidates receive the same number of votes so that sub-section ~~21~~(d) or ~~21~~(e) cannot be applied, the Chief Executive Officer is to draw lots in the presence of any scrutineers who may be present to determine which candidate is elected.

16A. ELECTION PROCEDURE – PRESIDENT AND DEPUTY PRESIDENT

- (1) An election to elect the President or Deputy President shall be conducted as follows:
- (a) the Chief Executive Officer or his/her delegate shall act as returning officer;
- (b) representatives are to vote on the matter by secret ballot;
- (c) votes are to be counted on the basis of “first-past-the-post”;
- (d) the candidate who receives the greatest number of votes is elected;
- (e) if there is an equality of votes between two or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued, and the meeting adjourned for not more than 30 minutes;
- (f) any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes;
- (g) when the meeting resumes, an election will be held in accordance with sub-sections 1(a), 1(b), 1(c) and 1 (d);
- (h) if two or more candidates receive the same number of votes so that sub-section 1(d) cannot be applied, the Chief Executive Officer is to draw lots in the presence of any scrutineers who may be present to determine which candidate is elected.

17. PRESIDENT

- (1) Subject to subclause 17(3) of this Constitution, the State Council shall elect a President from amongst those of its members that are representatives from the Zones of the metropolitan and country constituencies or were originally elected to State Council in that capacity.
- (2) The President shall be elected by the State Council at the first Ordinary Meeting of State Council of an even numbered year. The President’s term shall commence from the date of election and shall conclude on the day of the first Ordinary Meeting of State Council of the following even numbered year.
- (3) A person, other than the incumbent President of the Association, shall not be eligible for election as President unless they have first been elected by the metropolitan or country constituencies as a representative on the State Council.
- (4) The metropolitan or country constituency from which the President is elected has the right to nominate a further representative to the State Council, with that representative being drawn from the same zone and entitled to serve for the same term as their originally nominated representative.
- (5) Where the incumbent President seeks and is re-elected for a consecutive term, that person shall not hold office beyond two (2) full consecutive terms.

17A. ROTATION OF PRESIDENCY

- (1) At an election for the position of President conducted under sub-clause 17(2), only the incumbent President, subject to complying with sub-clause 17(5), or State Councillors from the alternate constituency to the incumbent President will be eligible to be elected.
- (2) At an election for the position of President conducted under Clause 19, only State Councillors from the alternate constituency to the incumbent President will be eligible to be elected.

18. DEPUTY PRESIDENT

- (1) Following determination of the election of the President pursuant to clause 17 of this Constitution, the State Council shall elect a Deputy President from amongst its metropolitan and country representatives, provided the Deputy President represents the alternate constituency to the President elected pursuant to clause 17.
- (2) The Deputy President shall be elected by the State Council at the first Ordinary Meeting of State Council of an even numbered year. The Deputy President's term shall commence from the date of election and shall conclude on the day of the first Ordinary Meeting of State Council of the following even numbered year.
- (3) Prior to expiration of a term of office, a Deputy President may seek re-election for a consecutive term.
- (4) Where a Deputy President seeks and is re-elected for a consecutive term, that person shall not hold office beyond two (2) full consecutive terms.

19. VACANCY – PRESIDENT AND DEPUTY PRESIDENT

- (1) If the office of the President becomes vacant or if for any other reason the President is unable to take or hold office at a period which exceeds six months from the date of the next scheduled election for that office, then the State Council shall meet to elect from among their number a President who, subject to this Constitution, shall hold the office of President for the balance of the term of the President replaced.
- (2) Where a vacancy occurs in the office of President at a period which is six months or less from the date of the next scheduled election for that office, the State Council may convene a meeting to elect from among their number a President who, subject to this Constitution, shall hold the office of President for the balance of the term of the President replaced, or the State Council may in its discretion, determine that the vacancy be filled by the Deputy President until the date of the next scheduled election.
- (3) An election pursuant to sub-clause 19(1) or sub-clause 19(2) shall cause the office of Deputy President to be declared vacant immediately prior to the conduct of the election.
- (4) Following an election pursuant to sub-clause 19(1) or sub-clause 19(2) an election pursuant to Clause 19 (5) will be conducted for the office of Deputy President from

amongst representatives of the alternative constituency to that of the President just elected.

- (5) If the office of Deputy President becomes vacant or if for any other reason the Deputy President is unable to take or hold office, then the State Council shall meet to elect from among their number a Deputy President who shall hold the office for the balance of the term of the Deputy President replaced, provided the Deputy President represents the alternate constituency to that of the President.
- (6) A State Council representative elected to fill a vacancy of President or Deputy President pursuant to clause 19 shall still be eligible for election for a subsequent two (2) full consecutive terms.

20. VACATION OF OFFICE

A person shall cease or be disqualified from being a representative or deputy representative on the State Council or from being President or Deputy President of the Association, or from attending State Council in an ex-officio capacity, if that person:

- (a) dies;
- (b) ceases to be a Councillor of the Ordinary Member;
- (c) resigns the position by notice in writing delivered or sent by post to the Chief Executive Officer, and such resignation is accepted;
- (d) is a member of State or Federal Parliament;
- (e) is convicted of an offence under the *Local Government Act 1995*;
- (f) is permanently incapacitated by mental or physical ill-health;
- (g) is absent from more than 3 consecutive State Council meetings;
- (h) is a member of a Local Government that ceases to be a member of the Association;
- (i) is the subject of a resolution passed by the Zone from which that person was originally elected terminating his or her appointment as a representative or deputy representative of that Zone, except where that person is the subject of any resolution consequent upon his or her being elected President of the Association and in pursuance of sub-clause 17(4); or,
- (j) is a Councillor that has been suspended by the Minister for Local Government under Part 8 of the *Local Government Act 1995*.

21. COMMITTEES AND SUB-COMMITTEES

- (1) The State Council may from time to time as it may deem necessary or expedient appoint, delegate or refer to any person or committee any of its powers, duties and functions as it thinks fit except the powers to:
 - (a) acquire, hold and dispose of real property;
 - (b) borrow money;
 - (c) set subscription levels; and
 - (d) progress any matter requiring a resolution of the State Council pursuant to sub-clauses 12(2) or 12(3) of this Constitution.
- (2) The person or the members of any committee so appointed shall not be required to be representatives on the State Council.

- (3) Any person or committee in the exercise of the powers, duties or functions so delegated or referred to it shall observe and perform any rules, regulations and directions that may be made by the State Council.
- (4) Each Committee shall elect a Chair~~man~~ from the members of the Committee.

22. ANNUAL GENERAL MEETING

- (1) The Annual General Meeting of the Association shall be held at a date to be determined by the State Council, provided that such date occurs ~~in August or September of~~prior to 31 October each year.
- (2) The Chief Executive Officer shall give at least ninety (90) days' notice of the date of the Annual General Meeting and the closing date on which notice of proposed business for the Annual General Meeting will be received by posting notice thereof to each Ordinary Member at the address appearing in the records of the Association for the time being. Such notice shall be deemed to have been delivered to the Ordinary Member immediately if transmitted electronically or on the second date after posting.
- (3) At an Annual General Meeting, greater than one half of the delegates of Ordinary Members who are eligible to vote and are present ~~in person~~ constitute a quorum.
- (4) At each such Annual General Meeting the order of business shall be as follows:
 - (a) attendance, apologies and announcements;
 - ~~(b) adoption of standing orders;~~
 - ~~(c)~~(b) confirmation of minutes from last Annual General Meeting;
 - ~~(d)~~(c) adoption of President's annual report;
 - ~~(e)~~(d) consideration of annual financial statements; and
 - ~~(f)~~(e) consideration of Executive and Member motions.
- (5) In respect of the Annual General Meeting:
 - (a) a notice of motion may only be submitted by the State Council or an Ordinary Member; and
 - (b) a motion may only be moved seconded or voted upon by a delegate of an Ordinary Member.
- (6) An agenda paper shall be forwarded by the Chief Executive Officer to each Ordinary Member, at the address appearing in the records of the Association for the time being, at least thirty (30) days before the date of the Annual General Meeting. The agenda paper shall be deemed to have been delivered to the Ordinary Member immediately if transmitted electronically or on the second date after posting.
- (7) Where the State Council considers that a direction or decision from an Annual General Meeting has been made without information of a material nature or in circumstances which have materially altered and such direction or decision is not in the best interests of the Association, the State Council may decline to follow that direction or decision and, in that event, the Chief Executive Officer by notice shall advise the Ordinary Members of the decision of the State Council and the reasons for that decision.

- (8) Notwithstanding the provisions of sub-clause (7), the State Council is required to give consideration to any direction or decision made at an Annual General Meeting in its discharge of responsibilities and functions.

23. SPECIAL GENERAL MEETING

- (1) A Special General Meeting shall be called by the Chief Executive Officer upon the instructions of the State Council or the written demand of not less than any twenty (20) Ordinary Members.
- (2) The Chief Executive Officer shall give at least thirty (30) days notice of any Special General Meeting by posting notice thereof to each Ordinary Member at the address appearing in the records of the Association for the time being. Such notice shall specify the nature of the business to be transacted at the Special General Meeting and shall be deemed to have been delivered immediately if transmitted electronically or on the second date after posting.
- (3) At a Special General Meeting, greater than one half of the delegates of Ordinary Members who are eligible to vote and are present ~~in-person~~ constitute a quorum.
- (4) Where the State Council considers that a direction or decision from a Special General Meeting has been made without information of a material nature or in circumstances which have materially altered and such direction or decision is not in the best interests of the Association, the State Council may decline to follow that direction or decision and, in that event, the Chief Executive Officer by notice shall advise the Ordinary Members of the decision of the State Council and the reasons for that decision.
- (5) Notwithstanding the provisions of sub-clause (4), the State Council is required to give consideration to any direction or decision made at a Special General Meeting in its discharge of responsibilities and functions.

24. REPRESENTATION AND VOTING AT GENERAL MEETINGS

- (1) Subject to this Constitution, each Ordinary Member shall be entitled to be represented at any Annual General Meeting or Special General Meeting of the Association by two (2) delegates.
- (2) A delegate shall be entitled to one (1) deliberative vote at the Annual General Meeting or Special General Meeting of the Association ~~and of which vote is to be exercised in person.~~
- (3) A delegate unable to attend any Annual General Meeting or Special General Meeting shall be entitled to cast a vote by proxy. A proxy shall be in writing and shall nominate the person in whose favour the proxy is given which person need not be a delegate. Proxy authorisations shall be delivered to the Chief Executive Officer before the commencement of the general meeting at which the proxy is to be exercised and shall be signed by the delegate or by the Chief Executive Officer of the Ordinary Member that nominated the delegate.

- (4) Except as provided in this Constitution, all matters considered at an Annual General Meeting or Special General Meeting of the Association shall be passed by a simple majority of the Ordinary Members' delegates ~~as, being entitled to do so, vote in person~~ or by a duly authorised proxy vote exercised on their behalf.
- (5) At any Annual General Meeting or Special General Meeting of the Association, greater than one half of the delegates who are eligible to vote must be present to form a quorum.

25. MINUTES OF MEETINGS OF ASSOCIATION

- (1) The Chief Executive Officer must cause proper minutes of all proceedings of all general meetings and State Council meetings to be taken and then to be entered within 30 days after the holding of each general meeting or State Council meeting, as the case requires, in a minute book kept for that purpose.
- (2) The President must ensure that the minutes taken of a general meeting or State Council meeting under sub-clause (1) are checked and signed as correct by the person who presided at the general meeting or State Council meeting to which those minutes relate or by the person who presides at the next succeeding general meeting or State Council meeting, as the case requires.
- (3) When minutes have been entered and signed as correct under this clause, they are, until the contrary is proved, evidence that-
 - (a) the general meeting or State Council meeting to which they relate (in this sub-clause called "the meeting") was duly convened and held;
 - (b) all proceedings recorded as having taken place at the meeting did in fact take place at the meeting; and
 - (c) all appointments or elections purporting to have been made at the meeting have been validly made.

26. AUDIT

- (1) At least once a year the State Council shall cause the Association's accounts to be audited by a person or persons appointed by the State Council or its delegated body.
- (2) The accounting records of the Association shall be open for inspection by the representatives of Ordinary Members during office hours and on reasonable notice.

27. BANKING

- (1) All moneys received by the Association shall be banked into an operating account established by the State Council, in the name of the Association.
- (2) Payments drawn on the account and other documents relating to such account shall be authorised by the Chief Executive Officer and such other authorised persons as the State Council may deem appropriate.

- (3) (a) The operating account to be so established, may be utilised for the purposes of paying salaries and operating expenses and for other purposes authorised by a resolution of the State Council.
- (b) The State Council on the advice of the Chief Executive Officer, may appoint any member of the Secretariat to manage the operating account.

28. COMMON SEAL

- (1) The Association shall have a common seal on which its corporate name appears in legible characters. ~~The common seal shall be held in the custody of the Chief Executive Officer at all times.~~
- (2) The common seal of the Association must not be used without the approval of the State Council and every use of that common seal must be recorded in the minutes of the State Council meeting.
- (3) The affixing of the common seal of the Association must be witnessed by any two of the Chief Executive Officer, the President and the Deputy President.
- (4) The common seal of the Association must be kept in the custody of the Chief Executive Officer or of such other persons as the State Council from time to time decides.

29. AMENDMENT TO THE CONSTITUTION

The Constitution of the Association may be altered, added to or repealed by:

- (1) A resolution at any meeting of the State Council on the receipt of a special majority of not less than 75% of representatives ~~as, being entitled to do so, vote in person~~ or by their deputy representatives; and
- (2) A resolution at an Annual General Meeting or Special General Meeting passed by a majority of not less than 75% of delegates ~~as, being entitled to do so, vote in person~~ or duly authorise a proxy vote to be exercised on their behalf, provided that:
- (a) 75% of Ordinary Members who are eligible to vote are present or represented; and
- (b) the Chief Executive Officer has given not less than sixty (60) days notice of any proposal to alter, add or repeal the Constitution to all Ordinary Members.

30. EXPULSION OF MEMBERS

- (1) An Ordinary Member may be expelled from the Association by resolution at a meeting of the State Council on the consent in writing to the proposition for expulsion being first received from not less than 75% of the Ordinary Members.
- (2) The Ordinary Member whom it is proposed to expel must receive at least sixty (60) days notice of the State Council meeting referred to in sub-clause (1) and shall be given the opportunity of attending the meeting and being heard with respect to the motion for expulsion.

- (3) An Associate Member may be expelled by resolution of State Council.

31. DISPUTES, MEDIATION AND ARBITRATION

- (1) The grievance procedure set out in this clause applies to disputes arising in connection with this Constitution between:
- (a) a member and another member; or
 - (b) a member and the Association; or
 - (c) if the Association provides services to non-members, those non-members who receive services from the Association, and the Association.
- (2) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen (14) days after the dispute comes to the attention of all of the parties.
- (3) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the dispute must, within ten (10) days, be referred initially to a panel to settle the dispute by mediation and if the dispute cannot be resolved, to arbitrate the dispute.
- (4) The panel shall be established by the State Council having regard to the nature and circumstances of the dispute and shall comprise such number of persons as the State Council may decide, being not less than three (3), who shall be drawn from amongst the following:
- (a) Life Members of the Association;
 - (b) the President or Past Presidents of Local Government Professionals Australia WA;
 - (c) the Director General, Department of Local Government ~~and Regional Development~~; or
 - (d) such other persons as the State Council considers appropriately qualified having regard to the nature and circumstances of the dispute.
- (5) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (6) The panel, in conducting the mediation, must:
- (a) give the parties to the mediation process every opportunity to be heard;
 - (b) allow due consideration by all parties of any written statement submitted by any party; and
 - (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (7) Any arbitration shall be conducted in accordance with the provisions of the *Commercial Arbitration Act 1985 (WA)* and, notwithstanding section 21 (1) of that Act, each disputant may be represented by a duly qualified legal practitioner or other representative.
- (8) If a matter proceeds to arbitration, then the decision of the panel shall be final and binding on the disputants.
- (9) Any mediation or arbitration conducted under this clause must be confidential and without prejudice.

32. DISTRIBUTION OF SURPLUS PROPERTY ON WINDING UP OF ASSOCIATION

The State Council shall if instructed in writing by all of the Ordinary Members dissolve the Association and, after paying and discharging out of the Association's funds and assets all debts and liabilities, transfer the funds or realise the same and transfer the proceeds to any organisation or organisations constituted with similar objects to those of the Association and which organisation or organisations prohibit the distribution of property among the Ordinary Members thereof or in the absence of such an organisation as determined by a Judge of the Supreme Court.