AGENDA

Annual General Meeting

Wednesday 7 August 2019

Perth Convention Exhibition Centre Perth

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AGENDA

WALGA

Annual General Meeting

to be held at the
Perth Convention Exhibition Centre
21 Mounts Bay Road, Perth
Riverside Theatre (Level 2)

Wednesday 7 August 2019
at 1.30 pm

1. Meeting Program

1.30pm **Welcome address by WALGA President, followed by Welcome to Country and the National Anthem**

1:45pm **Announcement of Local Government Honours for:**

- Life Membership
- Eminent Service Award
- Long and Loyal Service Award
- Local Government Merit Award
- Local Government Distinguished Officer Awards

Recipients are invited on to stage for presentation and group photograph

2:05pm Presentation of Local Government Diploma and Scholarships

2:15pm Presentation of Local Government Diploma Alumni Pins

2:20pm Anzac Day Awards

2:30pm Most Accessible Community Awards

2:35pm LGIS Report to the AGM

2:40pm Introduction of WALGA State Council by Nick Sloan

2:50-3:20pm **Afternoon Refreshments in Riverside Theatre Foyer**

3:20pm Cr Lynne Craigie OAM, President, WALGA – Annual Report

3:30pm Address from Hon David Templeman MLA, Minister for Local Government; Heritage; Culture and the Arts

3:40pm Address from Hon. Liza Harvey MLA, Leader of the Opposition

3:50pm Address from Mayor David O'Loughlin, President, Australian Local Government Association

4:00pm **AGM Business Session Commences:**

- Attendance, Apologies and Announcements;
- Confirmation of Minutes from last AGM (Attachment 2);
- Adoption of Annual Report;
- Consideration of 2018/2019 Financial Statements; and
- Consideration of Executive and Member Motions

5:15pm **Close of Annual General Meeting**

1.1 Annual General Meeting – Order of Proceedings

Record of Attendance and Apologies

Announcements

Confirmation of Minutes

Minutes of the 2018 WALGA Annual General Meeting are contained within this AGM Agenda.

DRAFT MOTION:

That the Minutes of the 2018 Annual General Meeting be confirmed as a true and correct record of proceedings.

2.0 Adoption of Annual Report

DRAFT MOTION:

That:

1. **The 2019 Annual Report be received; and,**
2. **The 2018/19 Financial Statements be received.**

3.0 Consideration of Executive and Member Motions

As per motions listed.

4.0 Closure

3. Consideration of Executive and Member Motions

3.1 Coastal Erosion

Shire of Gingin Delegate to move:

IN BRIEF

- WALGA advocate for more resources to be provided to Coastal Councils to manage coastal hazards.
- Intergovernmental Agreement to develop a coordinated national approach to Coastal Issues.

MOTION

That WALGA advocate to the Federal and State Governments with respect to the importance of responding to the increasing challenges faced by Coastal Councils, and develop policy initiatives to include:

1. **Introduction of a national funding formula to provide the resources necessary to manage and maintain the coast effectively on behalf of all Australians, including the funds needed to increase the adaptive capacity of Councils to address climate impacts.**
2. **Allocation of additional Financial Assistance Grants to address coastal hazards, and broadening of the range of 'disabilities' listed under Financial Assistance Grants to include factors such as the vulnerability of coastal areas and communities to coastal hazards.**
3. **Development of an intergovernmental agreement on the Coastal Zone that will provide a co-ordinated national approach to coastal governance through and in cooperation with Australian state, territory and local governments and clearly define the roles and responsibilities of each tier of government in relation to coastal zone management.**
4. **Creation of a National Coastal Policy, the basis of which is formed by the intergovernmental agreement on the Coastal Zone, that outlines the principles, objectives and actions to be taken to address the challenges of integrated coastal zone management for Australia.**
5. **An increase in funding for Australian climate science research programs conducted by CSIRO and other research bodies, including the restoration of funding for the National Climate Change Adaption Research Facility or establishment of a similar body, and continuing support for *CoastAdapt*. This is essential to ensure that appropriate guidance in responding to coastal hazards is accessible by Australia's coastal Councils so that coastal communities and assets are adequately prepared to address the adverse effects of climate change impacts.**

MEMBER COMMENT

Many Western Australian Local Governments attended the Australian Coastal Councils Conference in NSW earlier this year. From this conference it was clear that other State Governments are working more closely with Local Governments to provide guidance, advice and funding to help manage coastal hazards, including storm erosion, shoreline recession and coastal inundation.

This conference also clearly outlined the fact that there is no coordinated Federal, State and Local Government Policy outlining clear responsibilities, which essentially leaves Councils in a very uncertain situation with respect to how to deal with the coastal issues that they face.

The estimated cost of coastal hazards is unprecedented and yet there is no clear direction at the Commonwealth level as to responsibilities or action plans. In nearly all instances it is being

advised/proposed that retreat is the preferred method of dealing with coastal hazards, yet the financial cost of this option eclipses the cost of performing minor works to alleviate the issue for the short to medium term.

Without entering into a debate about sea-levels rising, we all acknowledge that the climate is changing and all coastal Councils in WA are being affected in some way or another that is directly impacting their residents and ratepayers. It should be noted that this matter will not only affect coastal Councils but other Council that will be affected by the ingress of water such as those located on coastal estuaries.

As such, it is requested that WALGA, whilst continuing to work in this space, has a strong focus on the recommendation above which will provide coastal Councils with the necessary support, tools, advice, resources and financial backing to work through these issues in a coordinated manner.

WALGA SECRETARIAT COMMENT

In 2013 the Western Australian Planning Commission (WAPC) adopted a significantly revised *State Planning Policy 2.6: State Coastal Planning Policy.* This policy was revised largely in response to a growing scientific consensus that increasing sea levels and storm intensities will cause more frequent coastal inundation, storm erosion and shoreline recession in coastal areas. A recent report published by the Climate Council emphasises these challenges.

In particular, the revised state coastal policy introduced new policy measures which require Local Governments to:

a) Show due regard to coastal hazards when assessing new development proposals, or making or amending a new planning scheme
b) Prepare strategies (Coastal Hazard Risk Management and Adaptation Plans) to preserve public interests in coastal areas, and
c) Inform landholders of coastal hazard risks.

WALGA has been working with its members for a number of years to help Local Governments meet these responsibilities. Key activities include:

- Preparation of *Local Government and Coastal Land Use Planning: Discussion Paper* (2014)
- Preparation of *Disclosing Hazard Information: The Legal Issues* (2017)
- Establishment of the Local Government Coastal Hazard Risk Management and Adaptation Planning (CHRMAP) forum, which meets every three months to discuss common issues with member officers and progress key actions
- Submissions to the Department of Planning Lands and Heritage on the Draft Planned and Managed Retreat Guidelines (2017) and CHRMAP Guidelines (2019), and
- Preparation of *Local Government Coastal Hazard Planning Issues Paper* (in draft).

It is the secretariat's view that the requested advocacy activities, outlined in this motion, generally align with and are complementary to, the direction being pursued by members through the Local Government CHRMAP forum to seek additional resources and pursue collaborative approaches with other levels of government to manage coastal hazard risk.

The motion also aligns with:

1. Recommendations made by a Commonwealth Government parliamentary inquiry in 2009
2. Advocacy being pursued by the Australian Coastal Councils Alliance
3. WALGA's climate change advocacy, outlined in WALGA's *Policy Statement on Climate Change*, adopted by WALGA State Council in 2018, and
4. The State Government's intent to formulate a new climate change policy

3.2 Department of Housing Leasing Residential Property to Charitable Organisations

City of Kwinana Delegate to move:

IN BRIEF

- Department of Housing policy and practice to lease housing assets, to not for profit organisations is eroding Local Governments' rate base.

MOTION

WALGA advocate to the Minister for Housing to:

1. **Cease the policy of the Department of Housing leasing their housing assets to charitable/not for profit organisations who are then eligible for charitable Local Government rate exemptions; or**
2. **Provide Local Governments with a rate equivalent payment annually as compensation for the loss of rates income; or**
3. **Include in the lease agreements with charitable institutions that they must pay Local Government rates on behalf of the Department of Housing recognising the services Local Government provides to its tenants.**

MEMBER COMMENT

The Department of Housing contribute to Local Government rates and do not receive the charitable rate exemption outlined in the *Local Government Act 1995*. It should be noted however that land that is held by the Crown and used for public purposes, is not rateable in accordance with section 6.26(2)(a)(i) of the *Local Government Act 1995*.

The Department of Housing own a large residential housing portfolio in Kwinana and have been paying local government rates for the tenants to access services (such as Library, crèche services, Zone Youth Space, roads and footpaths, parks and reserves) and programs (through the Community Centres, Zone, Library, free events). The standard of services and programs that the City offer is in line with community expectations. A reduction in rate revenue, which is predominantly the revenue source that funds these services, will increase the cost burden onto the remaining ratepayers to pay for these services and programs or result in a reduced standard of service to the community.

Prior to May 2019, the Department of Housing had 13 properties that were exempt from rates due to the Department of Housing leasing these properties to charitable/not for profit organisations, which is estimated to cost the City around $20,000 annually in lost rate revenue. At the 8 May 2019 Ordinary Council Meeting, Council approved rate exemptions for another 31 Department of Housing properties as a result of these being leased to charitable/not for profit organisations, which is estimated to result in approximately an additional $85,000 annually in lost rate revenue.

City Officers have undertaken a preliminary review of the types of properties that the Department of Housing own and has estimated that there are 338 residential properties that could be leased to charitable/not for profit organisations. If the Department of Housing entered into an agreement with a charitable organisation to manage these 338 properties and they applied for a rate exemption, the estimated annual loss of rate revenue is $585,000.

Overall, the potential annual loss of rates revenue from the Department of Housing continuing with this business practice could be up to $690,000. If the City maintained the same level of service, programs and capital schedule, the shortfall from the annual loss of rates revenue would equate to a 1.85% rate increase for the remaining ratepayers. A loss of this amount would be a major risk under the City's risk assessment framework.
The properties that have been granted charitable rate exemptions are still using the services and accessing programs that are being delivered, however they are not contributing towards this through

rates. Each charitable rate exemption reduces the base for rates income and therefore increases the burden on other ratepayers to fund the services provided to the community by a local government. It is recommended that WALGA advocate to the Minister for Housing the negative financial impact that this current Department of Housing policy is having on Local Governments; that exempting these residential properties from rates is increasing the burden on other ratepayers; and that users of local government services should contribute towards the cost of these, including the State Government.

The City does not receive information from the Department of Housing in regards to the plans for leasing their properties until such time that a lease is entered into. The trend over recent years is that the Department of Housing owned properties are leased to charitable and/or not-for-profit organisations without any rate equivalent payment being made for the local government's loss of rates revenue.

Every Western Australian Local Government is required to apply the provisions of the *Local Government Act 1995* regarding exempt properties, including those for charitable rates exemptions and are potentially facing the same issues with the Department of Housing as the City of Kwinana.

WALGA SECRETARIAT COMMENT

The issue of rate exemptions has been a high priority for the sector in the current Local Government Act Review.

This item from the City of Kwinana is consistent with the current advocacy positions of the Association.

The sectors current policy positions are as follows:

Rating Exemptions – Section 6.26

Position Statement: Request that a broad review be conducted into the justification and fairness of all rating exemption categories currently prescribed under Section 6.26 of the Local Government Act.

Rating Exemptions – Charitable Purposes: Section 6.26(2)(g)

Position Statement: 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; and either:

- amend the charitable organisations section of the Local Government Act 1995 to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or
- 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.

Rating Exemptions – Rate Equivalency Payments

Position Statement: Legislation should be amended so rate equivalency payments made by LandCorp and other Government Trading Entities are made to the relevant Local Governments instead of the State Government.

Rating Restrictions – State Agreement Acts

Position Statement: Resource projects covered by State Agreement Acts should be liable for Local Government rates.

3.3 Motorist Taxation Revenue and Spending in WA

Shire of Manjimup Delegate to move

IN BRIEF

- Fair distribution of funding from motorists to road maintenance, congestion and road safety is sought.
- An inquiry into road user pricing should be established.

MOTION

To support the independent position of the RAC, that WALGA call on the State and Federal Government to:

1. **Provide a fairer distribution of funding from revenue collected from Western Australian motorists (consistently a minimum of 50%) to remediate Western Australia's $845m road maintenance backlog and tackle the increasing costs of congestion and road trauma, to deliver productivity and liveability outcomes; and**

2. **Hold an inquiry into road user pricing as part of a broader reform of motorist taxation that would remove revenue raising fees and charges, and / or hypothecate money collected for the provision of transport infrastructure and services.**

BACKGROUND

A 2018 report by Acil Allen Consulting called "Motorist Taxation Revenue and Spending in WA" commissioned by the RAC reveals that over the past twelve years Western Australia has only received back on average 34 cents in every dollar of motoring taxation collected by successive Federal Governments.

Motoring taxation is collected by the Federal Government through:

- GST;
- Luxury Car Tax;
- Excise on petrol and diesel; and
- Passenger motor vehicles customs duty.

In 2016 the Western Australian Auditor General identified that Western Australia was facing an $845M road infrastructure maintenance backlog and it is widely recognised that the condition of many metropolitan, regional and rural roads are not up to an appropriate standard. Partly supporting this position is that the Western Australian road fatality rate that is 33% higher than the national average, and that Infrastructure Australia is projecting that by 2031 Western Australia will have seven of the top ten most congested roads in Australia.

It is concerning that in 2021/22 the projection is that Western Australia motorists are expected to pay $3.3b in motoring taxes however in the same year only $562m is forecast to be returned to fund road and transport projects, a return of 17 cents in the dollar which is the lowest level since 2007/08.

WALGA SECRETARIAT COMMENT

The $845m road maintenance backlog identified by the Western Australian Auditor General in 2016 relates only to Main Roads WA controlled roads. Additionally there is consistently a shortfall in the amount that Local Governments are able to invest in road maintenance and renewal compared that required to maintain the asset in current condition.

Twenty percent of revenue collected by the State Government from Motor Vehicle Licencing is currently provided to Local Governments through the State Road Funds to Local Government Agreement. The balance of this revenue is hypothecated to Main Roads WA. Under earlier agreements between State

and Local Governments up to 27% of motor vehicle licence fee revenue has been provided to Local Governments for the road network. This difference equates to $67 million per year. Increased Federal funding for road infrastructure would not only result in higher levels of service from State roads but also create a more favourable environment for achieving higher levels of funding for Local Government roads.

Numerous inquiries into road user pricing and broad reform of motorist taxation have been completed including:

- Productivity Commission 2007 Road and Rail Freight Infrastructure Pricing
- Henry, K *et al* 2009 Australia's Future Tax System
- COAG Road Reform Plan 2013
- Heavy Vehicle Charging and Investment Reform 2014
- Harper, I. *et al* 2015 Competition Policy Review
- Infrastructure Australia 2016, Australian Infrastructure Plan

WALGA has actively contributed to these inquiries including formal submissions endorsed by State Council (for example 65.3/2011 and 249.4/2013).

Each of these inquiries conclude that the current way of funding road infrastructure is unsustainable and inefficient. Increasingly fuel efficient vehicles, and ultimately electric or hydrogen powered vehicles are undermining the revenue base from fuel excise. However, the Federal Government firmly asserts that there is no link or hypothecation of fuel excise revenue to road funding.

The Australian Government is continuing to investigate heavy vehicle road pricing reform through the Transport and Infrastructure Council, which comprises Transport, Infrastructure and Planning Ministers from all jurisdictions, Federal Ministers and the Australian Local Government Association. The current focus is on developing nationally consistent service level standards for roads to provide an evidence base for investment decisions. Studies are also underway looking at independent price regulation and establishing a forward-looking cost base.

If roads are to become a priced utility (like power or water networks) an important consideration would be sustainable funding for low traffic volume roads, all of which are the responsibility of Local Governments. There remains an important role for all levels of government to support the provision of basic road services to ensure social mobility, economic welfare, road safety and public security. Any reforms to road investment and charging arrangements must be mindful of how best to integrate roads as an economic service with roads as a community service obligation.

3.4 Biosecurity Groups (RBGs)

Shire of Bridgetown-Greenbushes Delegate to move

MOTION

That WALGA revokes its current policy position of not supporting the establishment and operations of Recognised Biosecurity Groups (RBGs) and that the decision on whether to support RBGs is to rest with individual Local Governments.

IN BRIEF

- Current WALGA policy position is that local government isn't supportive of Recognised Biosecurity Groups (RBGs).
- Since development of this policy position 16 RBGs have been established in Western Australia, covering land within 61 separate local governments.
- Individual local governments can be discouraged from trying to work with the RBG in its area due to the current sector policy provision.
- It is timely to review the current policy position.

MEMBER COMMENT

A component of WALGA's current policy position on 'biosecurity' is that:

Local Government are not supportive of Recognised Biosecurity Groups (RBGs).

With the establishment of the Biosecurity and Agriculture Management Regulations in 2013 the State Government communicated a new policy setting, being a community coordinated approach to managing biosecurity. In Western Australia Recognised Biosecurity Groups (RBGs) were introduced as the key mechanism to deliver a community coordinated approach, and to manage widespread and established pests in WA.

The Shire of Bridgetown-Greenbushes recognises that when RBGs were initially being established in Western Australia the sector's preference was that the State Government maintains responsibility for the management of pests including providing assistance to land managers and establishment of a biosecurity network. However with the significant establishment of RBGs since 2013 the Shire of Bridgetown-Greenbushes believes it is timely for WALGA to review its current policy position.

Currently there are 16 RBGs established in Western Australia with more being considered for establishment. The 16 current RBGs have a footprint across 61 local governments in Western Australia. As the RBGs are established it is therefore appropriate and at times necessary for the affected local governments to work with the RBG to ensure that the services provided by the RBG are coordinated and compatible with services, works, etc. that are provided by the local government. This working environment and partnership can be compromised by the existence of a sector-wide policy provision that states that Local Government isn't supportive of the existence of the RBG.

With 16 RBGs established and more likely to come it is unlikely that legislation is going to be amended to discontinue this approach to biosecurity management.

The Shire of Bridgetown-Greenbushes proposes that WALGA amend its current policy position by removing the specific part that states that the sector is not supportive of RBGs. Instead the decision on whether to support a RBG should rest with individual Local Governments.

The Blackwood Biosecurity Group (BBG) operates within the boundaries of the Shire of Bridgetown-Greenbushes. The Shire has chosen to recognise and respect the work being done by the BBG noting that the establishment of the BBG wasn't a Shire initiative.

The choice on whether to support the activities of the BBG was a decision that solely rested with the Shire of Bridgetown-Greenbushes. However this decision appears to have left the Shire open to

criticism within the sector. In recent times, at various meetings where the subject of RBGs has been on the agenda, including those with WALGA representatives in attendance, there was a view expressed by some that by supporting the BBG the Shire of Bridgetown-Greenbushes is acting in contradiction of a sector policy provision, is therefore weakening the sector's position and could be seen to be encouraging the extension of RBGs or the establishment of more RBGs in Western Australia.

The Shire of Bridgetown-Greenbushes respects the rights of individual Local Governments to oppose the establishment of, or continuation of a RBG within their areas.

The WALGA policy position on biosecurity groups was determined before the growth in the number of RBGs in Western Australia and therefore it is timely to review that position. All other components of the WALGA policy position on 'biosecurity' can be retained.

SECRETARIAT COMMENT

Correspondence received in May 2019 from the Minister for Agriculture has indicated that the review of the *Biosecurity and Agriculture Management Act (2007)* will occur in the second quarter of 2020.

It is envisaged that the current Policy Position will be reviewed in response to any proposed changes to the Act. The policy review will include the provision of a discussion paper on any potential changes to the Act, and a series of workshops for members across the State in order for members, the WALGA zones, and ultimately State Council, to make their respective determinations.

That said, the change proposed by the Shire of Bridgetown-Greenbushes asserts the primacy of each member to make its own decisions, in accordance with its community's desires and expectations.

3.5 WALGA Members Support for Waste to Energy

Shire of Dardanup Delegate to move:

IN BRIEF

- Seeking support for the Waste Strategy: Western Australia's Waste Avoidance and Resource Recovery Strategy 2030 from WALGA Members.
- To seek firm commitments from the State Government as to how it will be achieved, including alternative options and incentives to reduce and eventually eliminate reliance on landfill.

MOTION

That WALGA continue to support Western Australia's Waste Avoidance and Resource Recovery Strategy 2030 and seek firm commitments from the State Government about how the waste avoidance, resource recovery and diversion from landfill targets will be achieved, including local options for reprocessing, recycling and waste to energy.

In particular these commitments should clearly indicate how the State Government will cease the proliferation of landfills in the non-metropolitan areas which are predominantly taking metropolitan waste or waste generated elsewhere in the state including mining and construction camps. These commitments should encourage alternative options and outline what incentives the Government will put in place to reduce, and eventually eliminate, our reliance on landfill.

ATTACHMENTS

Attachment 1 – Waste Avoidance and Resource Recovery Strategy 2030

http://www.wasteauthority.wa.gov.au/media/files/documents/Waste_Avoidance_and_Resource_Recovery_Strategy_2030.pdf

Attachment 2 – Waste Avoidance and Resource Recovery Strategy Action Plan 2030
http://www.wasteauthority.wa.gov.au/media/files/documents/Waste_Avoidance_and_Resource_Recovery_Strategy_2030_Action_Plan.pdf

Attachment 3 – Waste t Energy Position Statement
https://www.wasteauthority.wa.gov.au/media/files/documents/W2E_Position_Statement.pdf

Attachment 4 – WALGA Waste to Energy Discussion Paper for Local Government
https://www.dropbox.com/s/7ihc97m8p056nk1/Attachment%204%20-%20W2E%20Discussion%20Paper%20FINAL.pdf?dl=0

MEMBER COMMENT

- Currently the Strategy sets Targets for these outcomes but does not include a firm plan of how the State Government is going to actually implement and achieve these Targets. The Waste Avoidance and Resource Recovery Strategy Action Plan 2030 **(Attachment 2)** also does not provide clarity or concrete actions or incentives to address these targets.

- Building on and updating the first Western Australian Waste Strategy: Creating the Right Environment published in 2012, earlier this year (2019) the State Government released the West Australia's Waste Strategy (Waste Avoidance and Resource Recovery Strategy 2030). Previous State Government Targets have included goals of towards zero waste to landfill by 2020. This may no longer be achievable, however there has been positive trends in waste figures as included in Table 1 on page 9 of the Waste Strategy:

Table 1: Changes in waste generation and landfill in Western Australia, 2010–11 and 2014–15 (Hyder, 2013 & ASK Waste Management, 2017)

	2010–11	2014–15	Percentage change
Generation – total	6.53 million tonnes	6.23 million tonnes	↓5%
Generation – per capita	2,764 kilograms	2,437 kilograms	↓12%
Waste to landfill	4.49 million tonnes	3.61 million tonnes	↓20%
Resource recovery	2.04 million tonnes	2.62 million tonnes	↑28%

- Increases in FOGO and other recycling efforts have improved resource recovery significantly up 28%, whilst per capita generation is down 12%. The knock on effect is that there was a fifth (20%) less waste going to landfill in 2014/15 than in 2010/11. However, there have been questions raised regarding the accuracy of this data and the Department of Water and Environmental Regulation are going to require mandatory reporting by Local Government and industry to address this issue. Even given questions about the data, there is still more than 3.6 million tonnes of waste going to landfill every year.

- To reduce this the Waste Strategy 2030 sets out the following targets:

VISION	*Western Australia will become a sustainable, low-waste, circular economy in which human health and the environment are protected from the impacts of waste.*		
OBJECTIVES	**Avoid** *Western Australians generate less waste.*	**Recover** *Western Australians recover more value and resources from waste.*	**Protect** *Western Australians protect the environment by managing waste responsibly.*
TARGETS	⊙ 2025 – 10% reduction in waste generation per capita ⊙ 2030 – 20% reduction in waste generation per capita	⊙ 2025 – Increase material recovery to 70% ⊙ 2030 – Increase material recovery to 75% ⊙ From 2020 – Recover energy only from residual waste	⊙ 2030 – No more than 15% of waste generated in Perth and Peel regions is landfilled. ⊙ 2030 – All waste is managed and/or disposed to better practice facilities

Source: Waste Avoidance and Resource Recovery Strategy 2030 page 6

- If these targets are achieved it would result in the following:
  - Total waste generated in 2030 reduced by 20% from 2014/15 figures to 4.98 million tonnes per annum.
  - Only 15% of total waste generated is landfilled (acknowledging that the target is only set for Perth and Peel), the total waste to landfill across the state will be 0.75 million tonnes.
  - Resource recovery is increased to 75%, resulting in 3.74 million tonnes being recovered.
  - That leaves 0.5 million tonnes potentially available for Waste to Energy – which the Strategy notes should only be generated from 'residual waste'. The alternative is that waste to landfill will increase to 1.25million tonnes per annum.

- Whilst the targets are clear, the plan about how this will be implemented is yet to be developed and Local Government and industry will need long term certainty to invest to achieve these targets. The Shire of Dardanup is therefore asking WALGA members to support WALGA to advocate to the State Government for more specific and firm commitments to divert waste from landfill through local options for reprocessing, recycling and waste to energy.

- In this regard, the Waste Authority recognises the benefits in siting waste infrastructure close to the source of waste generation. Benefits include reduced transport impacts from the movement of waste, such as greenhouse impacts, traffic congestion and community amenity (Waste Authority's

Waste to Energy Position Statement, 2013 - **Attachment 3**). It is therefore important that **local options** for reprocessing, recycling and waste to energy are considered an essential component in achieving the Waste Strategy's targets. Not taking action and continuing with the status quo will mean waste is transported hundreds or even thousands of kilometres to be disposed of in the regions, rather than being dealt with at source. By considering smaller scale local options it would provide opportunities for reduction at source and also assist communities in the regions to reduce their waste to landfill.

- Considering the above, without Waste to Energy (WtE) and significant improvements in resource recovery, there would still be 25% or 1.25million tonnes state-wide of waste being sent to landfill. According to a 2013 discussion paper (**Attachment 4**) prepared for WALGA by the Municipal Waste Advisory Council (MWAC), a standing committee of the Association with delegated authority to represent the Association in all matters relating to solid waste management, WtE could reduce the weight of waste by 70-80% and the volume of waste by 90%.

- The Waste Authority considers best practice WtE processes to be a preferable option to landfill for the management of residual waste but not at the expense of reasonable efforts to avoid, reuse, reprocess or recycle waste. WtE has the potential to divert substantial volumes of waste from landfill (and thereby support the delivery of Waste Strategy targets) and produce a beneficial product (Waste Authority's Waste to Energy position Statement, 2013).

- To address this it is important that options for reduction in the amount of waste going to landfill also consider smaller waste to energy plants that could be located within regional areas to reduce reliance on landfill. Initial investigations indicate that current available technologies could provide opportunities for smaller plants to be established that would use about 500kg of Municipal Solid Waste per hour or about 4,400 tonnes per annum. Such facilities could be located across regional areas and reduce waste to landfill but also provide for energy generation.

- It is recommended that the alternative options outlined in this item be incorporated into the Waste Strategy's Action Plan 2030 with specific incentives put in place by the Government to ensure we reduce, and eventually eliminate, our reliance on landfill.

SECRETARIAT COMMENT

The Shire of Dardanup should be commended for their initiative and identification of key issues such as the need to control the development of new landfills, to support the Strategy Targets, and to develop local solutions to divert material from landfill for material and energy recovery.

3.6 Membership of Development Assessment Panels

Shire of Mundaring Delegate to move:

MOTION

That WALGA investigate increasing Local Government membership in Development Assessment Panels

IN BRIEF

- DAP includes 3 experts and 2 elected members, which is considered by DoPLH as a balanced decision-making framework;
- There is a need to strengthen transparency and increase public respect for the DAP process;
- It is proposed that WALGA advocate for increasing local government membership on DAP.

MEMBER COMMENT

At its meeting of 3 March 2018, the Shire of Mundaring Council resolved to:

> *"Advise WALGA that it recommends WALGA investigate increasing local government membership in Development Assessment Panels, rather than advocate for the introduction of Third Party Appeal Rights."*

The Shire will be reconsidering its position in relation to Third Party Appeal Rights at its meeting on the 11 June 2019; its position on seeking WALGA investigate increasing local members on DAP however remains unchanged.

The Department for Planning's website states:

As a key component of planning reform in Western Australia, Development Assessment Panels (DAPs) are intended to enhance planning expertise in decision making by improving the balance between technical advice and local knowledge.

Development Assessment Panels *(DAPs)* comprise three technical experts in planning (one of whom chairs the meeting) and two elected members from the local government in which the DAP applies. This is not a balance and there could be various membership options that WALGA could explore, with some likely to be more palatable to the State than others.

For example, an equal number of local elected members and planning professionals on a DAP would demonstrate respect for the expertise of local members in applying planning regulations to a proposed development. It would demonstrate that local elected members have views of equal importance to those of the other Panel members.

Equal numbers of members could result in a tied vote with the Chairperson having a deciding vote. That would not diminish the importance of a balanced number of local representatives and planning experts participating in the decision making process.
DAPs are public meetings. Community members attend to take the opportunity to briefly address the Panel and to listen to the reasons why the decision is made.

Appointing additional elected member/s to DAPs means community members would have local experts and three planning experts explain how the proposed development would impact on a local area and what conditions, if any, are justifiably imposed. This would be educative for the community, strengthen transparency and increase public respect for the DAP process.

SECRETARIAT COMMENT

The Minister for Planning initiated several amendments to Development Assessment Panels (DAPs) to improve their efficiency and operation. The majority of the changes were *"primarily administrative to ensure the system remains flexible and responsive, while more clearly communicating DAP decisions to the public" (Changes-to-the-DAP-system-announced.aspx)*, and did not include changes to DAP membership.

A previous 2016 AGM resolution was for WALGA to advocate for consideration of a series of reforms, in the event that DAPs remain in place, to ensure greater accountability, transparency and procedural fairness for ratepayers through the Panel's assessment and decision making processes. One of the reforms specifically sought a change that would require equal membership on the DAP between Local Government and Appointed Specialist members with an independent chair approved by both State and Local Governments.

At the same 2016 AGM, WALGA was also requested to advocate for an independent review of the decision making within the WA planning system, looking at the roles and responsibilities of State and Local Government and other decision making agencies, Development Assessment Panels and the State Administrative Tribunal appeal process

In December 2016, two reports were presented to WALGA's State Council, one on the review of the entire planning system (Resolution 108.6/2016), followed by one on the possible improvements to the DAPs system (Resolution 109.6/2016). The report on the review of Decision Making within the WA Planning System also resolved to undertake research on third party appeals around Australia and further consult with members regarding its current policy position. The Association prepared a discussion paper which provided background on the development of WALGA's position and a review of the arguments both for and against third party appeals which was then circulated to the Local Government sector for comment and feedback during 2017.

At the May 2018 WALGA State Council meeting, it was resolved to amend the policy position to support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels (DAPs) (Resolution 37.2/2018). The following resolutions were made: -

1. Note the results of the additional consultation with members on the possible introduction of Third Party Appeal Rights into the Planning System;
2. Based on the feedback received, amend its current policy position to support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels;
3. Provide the State Government with the outcomes of this consultation and advocate for the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels as part of the upcoming Independent Planning Reform process; and
4. Further consult with members to provide more clarity on the exact details of the criteria that would need to be established, before any system of Third Party Appeals for decisions made by Development Assessment Panels is implemented by the State Government.

At its May 2019 meeting (Resolution 44.4/2019), WALGA's State Council considered a 'Preferred Model' and resolved that WALGA:

1. Continues to advocate for the State Government to introduce Third Party Appeal Rights for decisions made by Development Assessment Panels, and
2. Endorses the 'Preferred Model' as presented in the May 2019 Agenda, as the Third Party Appeals process for decisions made by Development Assessment Panels and in future give consideration to broadening Third Party Appeal Rights to other parties relating to Development Assessment Panel decisions.

The Shire of Mundaring proposal to have equal representation may achieve an actual balance between technical advice and local knowledge, as espoused as the objective of the DAP framework. This would be a beneficial improvement to the DAP system, particularly in the event that the State is unwilling to pursue any introduction of Third Party Appeal Rights to DAP decisions. The Minister for Planning has advised that Third Party Appeal rights would not be considered by the Government as it would add

unnecessary complexity and red tape to the planning framework, contrary to the intent of the current planning reform process.

3.7 Review of the *Mining Act 1978*

Shire of Dundas Delegate to move

IN BRIEF

- FIFO and DIDO to be limited in a reviewed Mining Act, similar to the Stronger Resource Communities Act in Qld https://www.legislation.qld.gov.au/view/whole/pdf/inforce/current/act-2017-028
- That an MOU with Councils is addressed as a compulsory part of the mining application process
- That the MOU forms part of the Audit process of the relevant Local Government

MOTION

That:

1. **WALGA requests that the Hon. Bill Johnston, Minister for Mines and Petroleum, undertakes a review of the outdated *Mining Act 1978* and that the revision address FIFO and DIDO, and its impact on local communities; and**

2. **The Mining application process includes a mandatory MOU with the Local Government which would be overseen by the Auditor General to ensure fairness to the Community by having the mining company contribute to local infrastructures as a Legacy project.**

MEMBER COMMENT

As a Local Government we have felt and seen the impact of mine closures and factors out of our control and how this can devastate a small community. This has significant flow on effects from lack of volunteers to support fighting bush fires in our 95,000 square kilometres of currently unmanaged, UCL land, lack of volunteers to support St Johns Ambulance services, to reducing the capacity of our school through a steady decline in numbers. Businesses have closed, as have Government Departments as the population declines.

We are not advocating a total elimination of FIFO and DIDO as this would be an unrealistic approach.

We seek the Minister's support as a matter of urgency to make our small communities sustainable.

SECRETARIAT COMMENT

The Association provided an interim submission to the Education and Health Standing Committee Inquiry into mental health impacts of FIFO work in October 2014. This inquiry was in response to the suicides of nine FIFO lives in the Pilbara region of WA.

The submission reinforced support for the implementation of the key recommendations of the 2013 House of Representatives Standing Committee Senate Inquiry report, *Cancer of the bush or salvation for our cities.* That Inquiry recommended research to be undertaken by the Commonwealth Government to determine the socio economic impact of FIFO work practices, accurate measurement of the impact of FIFO on existing on infrastructure and services, and strategies to address current inequities in infrastructure and sustainability of regional medical services health service delivery.

3.8 Financial Assistance Grant

Shire of Dundas Delegate to move

MOTION

That WALGA requests the Hon. Minister of Local Government and Communities David Templeman to assist all Local Governments to Lobby the Federal Government to retain the Financial Assistance Grant at one percent of the of Commonwealth Taxation Revenue.

IN BRIEF

- Acknowledges the importance of federal funding through the Financial Assistance Grants program for the continued delivery of council services and infrastructure;
- Expresses its concern about the decline in the value of Financial Assistance Grants funding at the national level from an amount equal to around 1% of Commonwealth Taxation Revenue in 1996 to a current figure of around 0.55%.; and
- Calls on all political parties contesting the 2019 Federal Election and their local candidates to support the Australian Local Government Association's call to restore the national value of Financial Assistance Grants funding to an amount equal to at least 1 % of Commonwealth Taxation revenue and therefore to provide a Fairer Share of Federal funding for our local communities.

MEMBER COMMENT

The Shire of Dundas feels the current funding arrangements for Local Government are no longer fit for purpose.

The roles and responsibilities of Local Government has grown significantly. The main funding available from the Australian Government (the Financial Assistance Grants) has consistently declined from a level equal to 1% of Commonwealth Taxation Revenue (CTR) in 1996 to just 0.55% of CTR today.

The Australian Government collects approximately 82% of Australia's tax revenue and is responsible for just one tenth of Australia's public infrastructure assets.

Local councils raise 3.6% of taxes and are responsible for 33% of public infrastructure, including 75% of Australia's roads

3.6% of the tax take is not adequate funding to unlock the potential of our communities. The decline in the Financial Assistance Grants funding has left local councils worse off struggling to meet increasing demand on local infrastructure and services and impacting their ability to build and maintain essential infrastructure to the higher standard required today.

The result is increased pressure on rates and council budgets, making it harder to maintain community services and infrastructure.

There is a current infrastructure backlog of $30+billion dollars. The requirement to upgrade and renew infrastructure built during the 'baby boom' and rapid growth periods in the 60s and 70s is becoming a major problem. New infrastructure is also required to meet the needs of the growing population and to meet productivity and safety requirements.

There are also increasing community expectations related to the type and standards of services available to local communities. This is placing pressure on local governments particularly when they are required to provide services previously provided by the other spheres of government. This is particularly the case in thin markets such as rural and regional areas where, if federal or state governments withdraw services, local government must step in or no one will, as we have seen in recent years.

SECRETARIAT COMMENT

WALGA supports the need for a review of the Financial Assistance Grants (FAGs) system, from the perspective of growing the overall size of the pool.

WALGA has consistently supported advocacy, through ALGA and other channels, for increases in funding from the Commonwealth Government to Local Government through Financial Assistance Grants. WALGA continues to work with ALGA to advocate to increase FAGS funding to 1% of taxation revenue.

ALGA's number one priority in their Federal Election advocacy strategy was to restore Financial Assistance Grant funding to one percent of Commonwealth taxation revenue. This remains an ongoing area of advocacy for ALGA.

3.9 Third Party Appeal Rights

City of Bayswater Delegate to move:

IN BRIEF

- Further amendments proposed to the Preferred Model for Third Party Appeals Process

MOTION

1. **That there be an amendment to the Third Party Appeals Process Preferred Model, being that third parties in addition to Local Governments are able to make an appeal.**

2. **That there be an amendment to the Third Party Appeals Process Preferred Model, being that third parties are able to appeal decisions made by the Western Australian Planning Commission and the State Administrative Tribunal, in addition to Development Assessment Panels.**

MEMBER COMMENT

The Council has taken a particularly strong stand on this important issue and it is requested that this matter be given further consideration.

SECRETARIAT COMMENT

At its May 2019 meeting, WALGA's State Council considered a 'Preferred Model' and resolved that WALGA:

1. Continues to advocate for the State Government to introduce Third Party Appeal Rights for decisions made by Development Assessment Panels, and

2. Endorses the 'Preferred Model' as presented in the May 2019 Agenda, as the Third Party Appeals process for decisions made by Development Assessment Panels and in future give consideration to broadening Third Party Appeal Rights to other parties relating to Development Assessment Panel decisions.

(Resolution 44.4/2019)

The above resolution was sent to the Minister for Transport: Planning with a copy of the proposed model (as attached).

The May 2019 Agenda item sought to finalise a 'Preferred Model' for appeals on Development Assessment Panel decisions. WALGA's State Council considered several alternative WALGA Zone resolutions, as several Zones proposed alternative 'Preferred Models' for decisions made by DAPs, preferred types of Third Party Appeals and one Zone indicated its opposition to any Third Party Appeals model being introduced, as follows: -

SOUTH METROPOLITAN ZONE

That the Position Statement be referred back to WALGA officers to provide an evidence case to support the need for change, the expected benefits, and an analysis of the implications of change in terms of cost, resource and timeframes by utilising the experience of other States where third party appeals exist and applying that to the system proposed.

GREAT SOUTHERN COUNTRY ZONE
That the Zone opposes Third Party Appeals in relation to Item 5.2 in the May 2019 WALGA State Council Agenda.

EAST METROPOLITAN ZONE

That there be an amendment to the Preferred Model, being that third parties are able to appeal decisions made by the Western Australian Planning Commission and the State Administrative Tribunal, in addition to Development Assessment Panels.

CENTRAL METROPOLITAN ZONE

That WALGA:

1. Continues to advocate for the State Government to introduce Third Party Appeal Rights for decisions made by Development Assessment Panels; and
2. Endorses the original December 2018 'Preferred Model' as the third party appeals process for decisions made by the Development Assessment Panels with the following amendments:
    a. DOT POINT 1 "which could possibly be expanded later if it proves to be beneficial" to be removed
    b. DOT POINT 4 to be replaced with "Other affected parties would be able to appeal a DAP decision"

Based on the formal resolutions received and members discussions at Zone meetings, there were a range of options available for State Council to consider at its meeting in May: -

1. Not adopt a Preferred Model until more information on cost and resource implications is provided;
2. Adopt the Preferred Model as presented in the May 2019 Agenda;
3. Adopt the Preferred Model as presented in the May 2019 Agenda, with the amendments suggested by the East Metropolitan Zone, ie ability to appeal decisions made by the Western Australian Planning Commission and the State Administrative Tribunal, in addition to Development Assessment Panels;
4. Adopt the Preferred Model as circulated to members in December 2018;
5. Adopt the Preferred Model as circulated to members in December 2018, with the amendments suggested by the Central Metropolitan Zone;
6. Adopt the Preferred Model with different amendments (any amendments discussed by State Council);
7. Not adopt any Preferred Model but still advocate for Third Party Appeal Rights for DAPs decisions
8. Adopt a different Third Party Appeal model (ie wider than just for DAPs);
9. Consult the sector again on what model of Third Party Appeal rights is considered acceptable given the wide range of views;
10. Return to the pre-May 2018 position, where any Third Party Appeal rights are not supported

The preferred approach by State Council was to adopt the Preferred Model as presented in the May 2019 Agenda, as it would provide the starting point for discussion with the State Government about the introduction of Third Party Appeals for Development Assessment Panel decisions.

WALGA provided this position to the Minister for Transport; Planning and the Minister's response was as follows:

I note WALGA's State Council endorsed Preferred Model on this matter, however I maintain concerns regarding the unnecessary complexity and red tape third party appeal rights would add to the planning system, which is contrary to the objectives of the Government's commitment to planning reform.

The Department of Planning, Lands and Heritage received 254 submissions in response to the Green Paper, including many which confirmed the issues and views identified in the Green Paper regarding the current DAP system.

An Action Plan for planning reform which contains a program of initiatives to address the concerns identified by the Green Paper and submissions is currently being finalised by the Department for consideration by Government.

I will make announcements regarding the content of the Action Plan and reform initiatives in the near future.

Preferred Model

Third Party Appeal Rights for decisions made by Development Assessment Panels

Benefits of Third Party Appeal Right for decisions made by Development Assessment Panels

- Only Local Governments will be able to challenge and seek review of DAP decisions that are made contrary to the recommendations of the Responsible Authority Report (RAR) or Council position.
- In future, possible consideration to a broadening of Third Party Appeal Rights to other parties relating to Development Assessment Panel decisions.
- Local Government would be able to appeal a DAP decision and defend the merits of their policies and defend the enforceability of their conditions.
- More transparent process in both decision making and condition setting, resulting in more accountable DAP members.

- Would allow for an appeal to be made on the conditions of approval or refusal
  i) that may have been removed from a RAR; or
  ii) added to the decision, particularly where no liaison has occurred with the Local Government for clearing or enforcing the condition; or
  iii) applied inappropriately i.e. the condition would change the intent or design of the development and therefore a new application should have been lodged.
  -
- Limits appeal rights to larger, more complex applications and would filter out 'smaller' impact applications which could potentially overburden the system.
- Provides the opportunity for additional information to be included in the appeal process, particularly if information was not received before the DAP meeting.
- Provides the ability to challenge any new information being presented at the DAP meeting without the Local Government being able to undertake any assessment of the new information (unassessed revised plans are currently being lodged and approved at meetings).
- Able to appeal the ‘Deferral’ process being over utilised, i.e. DAPs are tending to defer applications multiple times rather than making a decision to approve or refuse the proposal.
- Can give the Local Government more confidence that the developer will provide a fully complete application and discuss the application with the Local Government first, rather than relying on the DAP to condition the proposal requiring additional critical information.

Appellants in a Third Party Appeal

Should be for

- A Local Government where DAP has gone against the position of Council itself; or
- A Local Government where DAP has gone against the Responsible Authority Report (RAR)

Local Government makes a submission

- SAT would need to ensure that appeals are made on valid planning grounds and are not made for commercial or vexatious reasons.
- The existing Directions Hearing process could be used to see if the appeal has reasonable planning merit, which would assist in providing clarity on what constitutes a valid planning consideration and what would be an invalid planning consideration. The Directions Hearing could consider the appellant's justification for submitting the appeal, in particular, whether the grounds of appeal are supported by documentary evidence or other material (a similar process for justifying the lodgement of an appeal already exists through Section 76 of the *Planning and Development Act 2005)*.
- *** Will need to discuss with SAT the definition of 'valid planning grounds' to determine whether the submission has reasonable grounds for appeal***

What can be appealed?

- DAP applications that are compulsory over $10 million for JDAPs and $20 million for City of Perth DAP; or
- DAP applications in the optional threshold $2m – 10m for JDAPs and in the City of Perth $2 million - $20 million; or
- DAP applications seeking amendments to approvals ***i.e.*** Form 2 applications proposing a change to the development application, and including applications for an extension of time

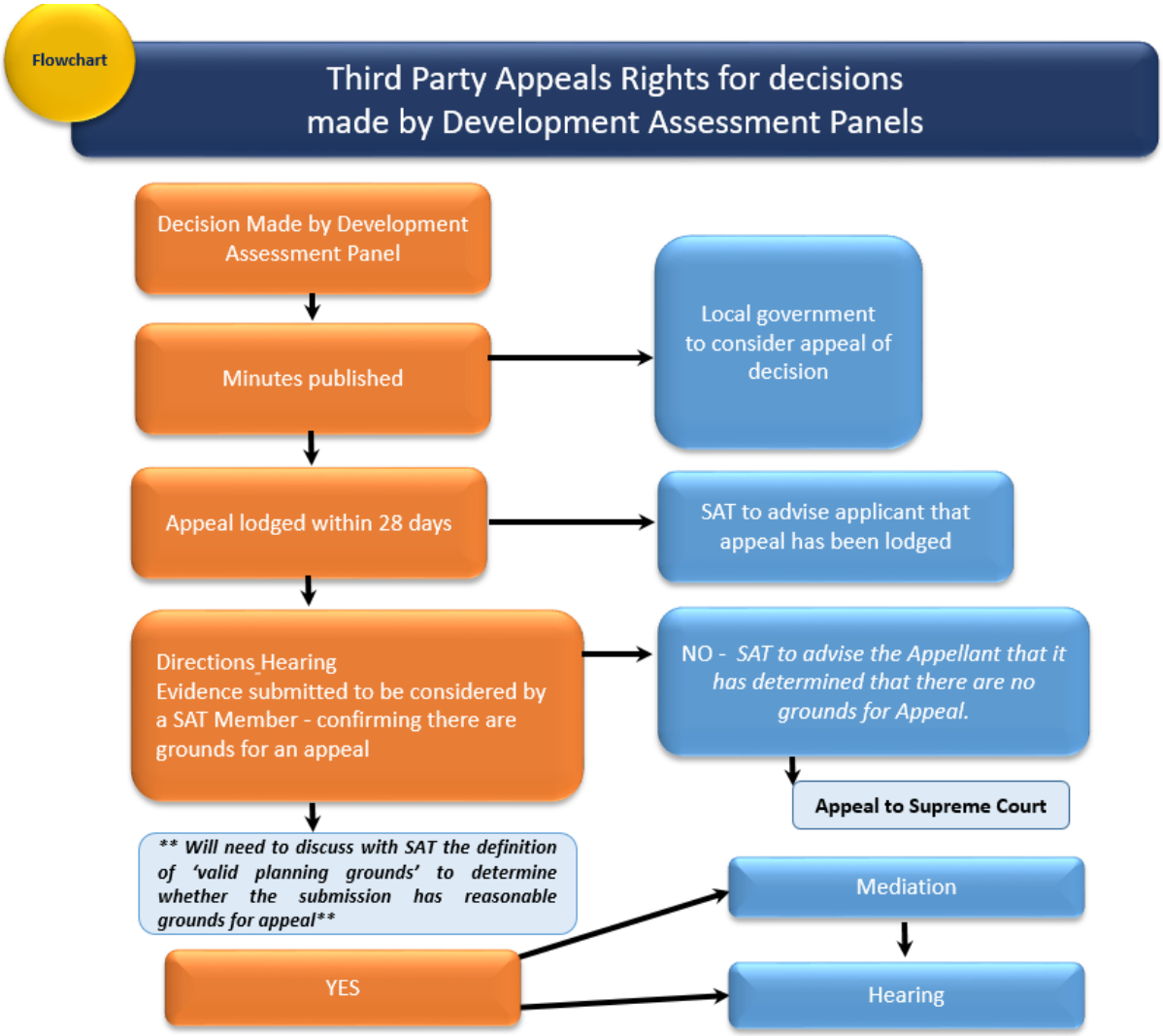
Timeframe to lodge an appeal

- As per the existing timeframe, an appeal on a decision made by a Development Assessment Panel should be lodged within 28 days of the decision being made public, ie publishing of the DAP minutes.
- Local Governments would need to determine within their own organisation what process to follow in order to decide whether or not to lodge an appeal against a DAP decision. In many cases this may require a Special Council meeting to determine this.

Costs

- Any Local Government would need to cover their costs of initiating the appeal, attending SAT directions, mediation and hearings, and costs could also include obtaining expert advice.

Appeals Process



Attachment 1 Minutes Annual General Meeting 2018

Minutes

Annual General Meeting

Perth Convention Exhibition Centre
Perth

Wednesday, 1 August 2018

WALGA

Minutes

Annual General Meeting
of the
Western Australian
Local Government Association

held at the

Perth Convention Exhibition Centre

21 Mounts Bay Road, Perth

Riverside Theatre (Level 2)

on

Wednesday 1 August 2018

at 1.30 pm

WALGA

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Annual General Meeting – 2018

Apologies

- Shire of Denmark
- Shire of Irwin
- Shire of Ngaanyatjarraku
- Shire of Three Springs
- City of Vincent
- Mayor Phil Angers, Town of Cottesloe
- Mr John Giorgi, Town of Cambridge

1.0 Confirmation of Minutes

RESOLUTION:

Moved: Cr Denese Smythe (York)
Seconded: Cr Chris Mitchell (Broome)

That the Minutes of the 2017 Annual General Meeting be confirmed as a true and correct record of proceedings.

CARRIED

2.0 Adoption of President's Annual Report

RESOLUTION:

Moved: Mayor Tracey Roberts (Wanneroo)
Seconded: President Cr Karen Chappel (Morawa)

That the President's Annual Report for 2017/2018 be received.

CARRIED

3.0 WALGA 2017/2018 Financial Statements

RESOLUTION:

Moved: Cr Kevin Trent (York)
Seconded: Cr Julie Brown (Gosnells)

That the WALGA Financial Statements for 2017/2018 be received.

CARRIED

4.0 Consideration of Executive and Member Motions

As per motions listed.

5.0 There being no further business the Chair declared the meeting closed at 4:38pm.

4. Consideration of Executive and Member Motions

4.1 Proposal to Amend the Association Constitution

SPECIAL MAJORITY REQUIRED

MOTION:

Moved: President Cr Karen Chappel (Morawa)
Seconded: Mayor Carol Adams (Kwinana)

IN BRIEF

- A number of Constitutional amendments proposed by State Council as well as some technical clarifications.
- Proposed amendments endorsed by State Council in May 2018.

1. That Clause 18 and Clause 19 of the Association Constitution be amended as follows:

I. Clause 18, sub-clause (1) be amended with the addition of the underlined words, as follows:

(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, <u>provided the Deputy President represents the alternate constituency to the President elected pursuant to clause 17</u>.

II. Clause 19 be amended with the addition of the underlined words and the deletion of the strikethrough words, as follows:

(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.

<u>(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.</u>

<u>(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 alternate constituency to that of the President just elected.</u>

~~(3)~~<u>(5)</u> 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.

~~(4)~~(6) A State Council representative elected to fill a vacancy of President or Deputy President pursuant to clause ~~18~~ 19 shall still be eligible for election to a subsequent two (2) full consecutive terms.

2. That Clause 17A – Rotation of Presidency be added to the Association Constitution, as follows:

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.

3. That Clause 20 of the Association Constitution be amended with the addition of the underlined words as follows:

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:

4. That sub-clause 20(j) of the Association Constitution be amended with the addition of the underlined words and the deletion of the strikethrough words as follows:

(j) Is a Councillor that has been suspended by the Minister for Local Government under Part 8 ~~of an Ordinary Member that has been peremptorily suspended under Section 8.15C(2)l~~ of the *Local Government Act 1995*.

5. That sub-clause 10(2) of the Association Constitution be amended with the addition of the underlined words as follows:

(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.

6. That sub-clauses 2(1), 5(7)(a), 9(1)(d), and 31(4)(b) be amended as follows:

I. That the following strikethrough words be replaced with the following underlined words in sub-clause 2(1):

~~**"*Local Government Managers Australia"* means the Western Australian Division of the Local Government Managers Australia (LGMA), which body is incorporated under the *Victorian Companies Act 1961.***~~
"*Local Government Professionals Australia WA"* means the Western Australian Division of Local Government Professionals Australia.

II. **That sub-clause 5(7)(a) of the Association Constitution relating to Associate Members of WALGA be amended with the words "Local Government Managers Australia (LGMA)" to be replaced with the words "Local Government Professionals Australia WA".**

III. **That sub-clause 9(1)(a) of the Association Constitution relating to ex-officio members of State Council be amended to replace the words "Local Government Managers Australia (LGMA)" with the words "Local Government Professionals Australia WA".**

IV **That sub-clause 31(4)(b) of the Association Constitution relating to a dispute resolution panel be amended by replacing the word "LGMA" with the words "Local Government Professionals Australia WA".**

7. **That sub-clause 14(4a)(h) be amended with the addition of the underlined words and the deletion of the strike through words as follows:**

(h) Is a Councillor that has been suspended by the Minister for Local Government under part 8 ~~of an Ordinary Member that has been peremptorily suspended under Section 8.15C(2)(c)~~ of the *Local Government Act 1995*.

CARRIED BY SPECIAL MAJORITY

SECRETARIAT COMMENT

This item proposes a number of amendments to WALGA's Constitution that have been raised or identified since the last governance review and amendments to WALGA's Constitution in 2016.

Amendment of the Constitution involves a two-step process, as detailed in Clause 29 of the Constitution, as follows:

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.

The proposed amendments were endorsed by a Special Majority at the 4 May 2018 meeting of State Council. Endorsement by a Special Majority at the Annual General Meeting is required for the amendments to come into effect.

This report considers seven issues put forward for Constitutional Amendment, with each issue corresponding to the numbered recommendations, as follows:

1. President and Deputy President – Metropolitan and Country Representation
2. President and Deputy President – Rotation of Presidency between Metropolitan and Country constituencies
3. State Councillor Eligibility – Ex-officio Members
4. State Councillor Eligibility – Ministerial Suspension of Council or Councillor
5. Election Procedure – Confirmation that the WALGA President is entitled to vote in elections for the positions of President and Deputy President
6. Change of Name – Local Government Professionals Australia WA
7. Zone Delegate Eligibility – Ministerial Suspension of Council or Councillor

Issue 1 – President and Deputy President: Metropolitan and Country Representation

An emerging issue was raised at the March 2018 meeting of State Council in relation to the representation of both the Metropolitan and Non-metropolitan constituencies in the positions of President and Deputy President of WALGA.

Following consideration of this issue, State Council resolved as follows:

> *That an item for decision be prepared for the May 2018 State Council agenda to provide consideration to proposed amendments to the WALGA Constitution and Corporate Governance Charter to ensure representation from both Metropolitan and Country constituencies for the President and Deputy President positions.*

Since the formation of WALGA as the single Local Government association in 2001, there has been a convention that the President and Deputy President would be elected from opposite constituencies. That is, if the President is from the country constituency, the Deputy President would be elected from the metropolitan constituency and vice-versa.

This convention has not been challenged or broken in the 17 years since WALGA's formation, although it is possible that State Council could elect a President and Deputy President from the same constituency.

The argument in favour of this Constitutional amendment is that it would ensure that the Deputy President is drawn from the alternate constituency from that of the President, ensuring representation for both constituencies.

The argument against this Constitutional amendment is that it reduces the decision-making function of State Council to elect the 'best person for the job' and, as the convention has not been broken since WALGA's formation, it may not be an issue that requires regulation via Constitutional amendments.

To effect the change, amendments are required to Clause 18 – Deputy President, and to Clause 19 – Vacancy: President and Deputy President.

The following amendment is proposed to Clause 18 – Deputy President, by adding the underlined text as follows:

> (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.

The proposed amendment above would sufficiently address the issue for regular, end-of-term elections following the election of a new State Council.

However, where a vacancy arises in the office of President, the election of a replacement President would need to ensure that metropolitan and country representation remains in the two positions. Ensuring continued representation of both constituencies in the event of a casual vacancy in the office of President could be addressed in one of two ways, both of which have pros and cons.

Either:

A. The replacement President must be drawn from same constituency as the current President. That is, if the WALGA President is from the country constituency, election of the replacement President for the balance of the President's term must be drawn from the country constituency.

Or:

B. The office of Deputy President is declared vacant at the time the election for President is held. This would enable State Council to elect a President from amongst all members with the subsequent election for Deputy President being limited to the alternate constituency.

Option A – Replacement President from the same constituency – limits the options of State Council in electing a President to half of State Council, the half representing the same constituency as the departing President. While this may be appropriate in some circumstances, it does not necessarily provide State Council with the ability to elect the 'best person for the job'. Secondly, the Deputy President may be an appropriate candidate for the position of President, but would be unable to nominate for the position under this scenario unless they resigned from the position of Deputy President.

Option B – Office of Deputy President declared vacant at election of President – addresses the issues with Option A outlined above in that State Council would be able to elect a President from amongst all State Councillors, including the Deputy President who may be suitable. However, it may not be considered appropriate that the Deputy President loses office due to the resignation or inability of the President to continue in the role.

On the basis that electing a President from amongst all State Councillors is considered the most important criteria, amendments in accordance with Option B have been drafted to Clause 19 – Vacancy: President and Deputy President – by adding the underlined text and amending the numbering as follows:

(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 alternate constituency to that of the President just elected.

~~(3)~~(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.

~~(4)~~(6) A State Council representative elected to fill a vacancy of President or Deputy President pursuant to clause ~~18~~ 19 shall still be eligible for election to a subsequent two (2) full consecutive terms.

Issue 2 – Rotation of Presidency between Metropolitan and Country Constituencies

Similar to issue 1, above, the Governance and Organisational Services Policy Team of State Council considered the issue of the Presidency of the Association being rotated between the Metropolitan and Country constituencies.

Again, this has been managed since WALGA's formation in 2001 by convention. When a President has retired or stepped down from the role, a representative from the other constituency (often the serving Deputy President) has been elected to the Presidency.

The Governance and Organisational Services Policy Team of State Council requested that the issue of rotating the Presidency between the constituencies on a formal basis through Constitutional amendments be considered.

The Policy Team resolved:

That an item for decision be prepared for the May 2018 State Council agenda to provide amendments to the WALGA Constitution and Corporate Governance Charter to cover the following issues:

- *That the position of WALGA President transfers between the two constituencies following the completion of the incumbent's entitlement to be elected for two full consecutive terms.*

Similar to Issue 1, above, implementation of this concept through Constitutional amendment has pros and cons. While, an amendment of this nature would ensure rotating representation of metropolitan and country constituencies in the office of President, it could also limit State Council's prerogative to elect the 'best person for the job'.

This proposal raises a number of scenarios that are not necessarily simple to deal with through Constitutional amendments. For instance, depending on the amendments to the Constitution, issues could arise if a President resigns part way through a term, or even if a President only completes one two-year term.

For example, if a President from the metropolitan constituency resigned after one two-year term, there would be three possible scenarios:

1. The country constituency could then have a claim to the Presidency as it would be the country's turn and only State Councillors from the country constituency would be eligible to be elected;
2. A replacement President could be elected from the metropolitan constituency as the metropolitan constituency had only held the Presidency for two years (the newly elected President may then expect to be re-elected for a second term, lengthening the reign of the metropolitan constituency to six years, thereby causing further issues); or,
3. State Council could elect a President from either constituency, as per current arrangements.

One option could be to only 'force' the rotation of the Presidency once the President has completed two terms, however this could create an issue if a President resigned part way through their second term as the replacement President would then be 'entitled' to two terms before a constitutionally enforceable rotation of the Presidency.

In the interest of simplicity it is suggested that a new Clause 17A be added to the Constitution to ensure rotation of the office of Presidency no matter the length of time served by the President:

17A – Rotation of Presidency

3. 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.

4. 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.

This would mean, at any election for President, only the incumbent President or State Councillors from the alternate constituency would be eligible to nominate. If the President has retired or has completed two full terms (as per sub-clause 17(5)), only State Councillors from the alternate constituency would be eligible to nominate and be elected.

Issue 3 – State Councillor Eligibility: Ex-officio Members

At the July 2017 State Council meeting, an emerging issue was considered in relation to the continuing eligibility of to serve on State Council following a serious breach of the *Local Government Act 1995*.

State Council resolved as follows:

That:

1. *The issue of amending the Constitution relating to State Councillor, ordinary or ex officio, eligibility be considered by the Governance Policy Team;*

2. *The Policy Team to consider the implications of amending the Constitution so that if any State Councillor, ordinary or ex officio, is found guilty of a serious breach of the Local Government Act 1995, as amended, that person will become ineligible to become or continue as a State Councillor, ordinary or ex officio.*

As per State Council's resolution above, the Governance and Organisational Services Policy Team considered this issue at their March 2018 meeting and resolved as follows:

> *That an item for decision be prepared for the May 2018 State Council agenda to provide amendments to the WALGA Constitution and Corporate Governance Charter to cover the following issues;*
> - *That if any State Councillor, ordinary or ex officio, is found guilty of a serious breach of the* Local Government Act 1995*, as amended, that person will become ineligible to become or continue as a State Councillor, ordinary or ex officio.*

Clause 20, sub-clause (e) disqualifies a representative or deputy representative from serving on the State Council if that person is convicted of an offence under the *Local Government Act 1995.*

To give effect to the Policy Team's recommendation, an amendment is required to clarify that Clause 20 of the Constitution also applies to ex-officio members, with the addition of the underlined text, as per below:

> 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 of an Ordinary Member that has been peremptorily suspended under Section 8.15C(2)(c) of the *Local Government Act 1995*.

Issue 4 – State Councillor Eligibility: Ministerial Suspension of Council or Councillor

A further issue relating to State Councillor eligibility relates to the suspension of Councils and the proposed amendment to the *Local Government Act 1995* to enable the Minister for Local Government to stand down an individual Elected Member.

Currently sub-clause 20(j) of the Constitution states that a State Councillor will not be eligible to be elected or to continue on State Council if "a Councillor of an Ordinary Member that has been peremptorily suspended under Section 8.15C(2)(c) of the *Local Government Act 1995*."

It is the opinion of the secretariat that sub-clause 20(j) is too specific as Councils can also be suspended under Section 8.19 of the *Local Government Act 1995.* Further, if the *Local Government Amendment (Suspension and Dismissal) Bill 2018* passes the Parliament, as expected, the Minister for Local Government will also have the power to suspend individual Elected Members.

It is therefore recommended that sub-clause 20(j) be amended to clarify that a State Councillor who is suspended or stood down by the Minister using various sections of the *Local Government Act 1995* is not eligible to be elected to, or continue on, State Council, as follows:

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 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 an Ordinary Member that has been peremptorily suspended under Section 8.15C(2)(c)~~ of the *Local Government Act 1995*.

Issue 5 – Election Procedure – Confirmation that the WALGA President is entitled to vote in elections for the positions of President and Deputy President

Another clarification that has arisen is to confirm that the incumbent President is entitled to vote in elections for President and Deputy President of WALGA.

The Constitution is clear that the President does not exercise a deliberative vote on matters before State Council (but does have a casting vote if there is an equality of votes), but the Constitution is silent on whether the President is entitled to vote in elections. It has been standard operating practice that the President has voted in elections for the position of President and Deputy President.

Clause 10 – Proceedings of State Council, sub-clause (2) relates to the President's voting and it is proposed that it be amended with the addition of the underlined words, as follows to make clear that the President may vote for office bearer positions:

(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.

Issue 6 – Change of Name – Local Government Professionals Australia WA

Following the change of name of the Local Government Managers Australia (LGMA) to Local Government Professionals Australia WA it is proposed that the following sub-clauses be amended to reflect the name change:

- 2(1)
- 5(7)(a)
- 9(1)(d)
- 31(4)(b)

Issue 7 – Zone Delegate Eligibility: Ministerial Suspension of Council or Councillor

Similar to Issue 4 above, this amendment proposes that sub-clause 14(4a)(h) be amended to clarify that a Zone delegate who is suspended or stood down by the Minister using various sections of the *Local Government Act 1995* is not eligible to be elected to, or continue on, the Zone, as follows:

(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;
(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; or
(h) Is a Councillor that has been suspended by the Minister for Local Government under part 8 ~~of an Ordinary Member that has been peremptorily suspended under Section 8.15C(2)(c)~~ of the Local Government Act 1995.

4.2 Roadside Vegetation - Regulatory Amendments

MOTION:

Moved: President Cr David Lovelock (Victoria Plains)
Seconded: Cr Pauline Bantock (Victoria Plains)

That the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* be amended to permit clearing or reduction of vegetation:

1. **Within 30m of all farm driveways/gates/entrances; and,**
2. **On road bends and intersections obstructing 'line of sight', be cleared.**

IN BRIEF

- Motion for regulatory amendments to enable clearing of vegetation close to driveways, road bends and intersections;
- With a view to improving road safety.

CARRIED

MEMBER COMMENT

Drivers in country area face multiple issues on the roads, not the least of which is entry onto Shire controlled roads from property entrances and side roads. The issues exist not just for the driver on the continuing road, but for the driver attempting to enter.

Sight distances are often obscured, and in hilly terrain or where the road being entered does not provide a reasonable merging distance, entry can be problematic. This is made worse where the roads have curves or crests close to the entry point.

The issues are even worse for slow moving traffic joining a road that has a 110km/hr limit, such as school buses and heavy transport, often requiring the continuing vehicles to brake for a vehicle that has joined the continuing traffic when all indications were that it was safe and appropriate to do so.

The *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* are inadequate.

- Schedule 2 of the Regulations addresses clearing for crossovers from a property, but limits the clearing to what has been previously cleared within the previous 10 years.
- Schedule 3 applies to the maintenance of infrastructure.

The Shire is of the opinion that the proposed change to the Regulations would add significantly to road safety.

4.3 GST Revenue Distribution Share for WA

MOTION:

Moved: President Cr Brian Piesse (Donnybrook-Balingup)
Seconded: Cr Tony Pratico (Bridgetown-Greenbushes)

That WALGA adopts a policy and position as the representative of the WA Local Government section to persistently seek and advocate for an increase of the GST distribution share back to Western Australia.

IN BRIEF

- WA is underrepresented in the amount of GST share received
- Seeking WALGA's support to advocate for an increase to the GST distribution for WA

CARRIED

MEMBER COMMENT

At the Ordinary Meeting on 23 May 2018, the Shire of Donnybrook Balingup Council resolved to support the above motion and present it to the Western Australian Local Government for consideration at the 2018 Annual General Meeting of the Western Australian Local Government Association.

In comparison to other states and territories, Western Australia is underrepresented in the amount of GST revenue share received and remains the only state or territory that receives less than half of the GST it generates. This, in effect, is depriving Western Australia of much needed funds for infrastructure and development.

GST breakdown state by state 2018-19

State	GST share per dollar	GST share %	Total GST distribution $m
VIC	98c	25.6	$16,830
WA	47c	4.9	$3,255
NSW	85c	27.4	$18,030
SA	$1.47	10.3	$6,751
Tas	$1.77	3.7	$2,434
ACT	$1.18	2.0	$1,298
NT	$4.26	4.2	$2,755
Qld	$1.09	22.0	$14,447

4.4 Rural, Regional and Remote Community State Government Funding Cuts

MOTION:

Moved: Cr Ken Seymour (Moora)
Seconded: Cr Steven Carter (Dalwallinu)

That WALGA express its deep concern to the W.A State Government regarding the continued attack on rural, regional and remote communities in W.A through reducing funding to critical services and infrastructure programs, cuts that disproportionately discriminate against already disadvantaged communities across W.A.

IN BRIEF

- Concern regarding funding cuts, particularly to education services and infrastructure, affecting rural communities.

CARRIED

MEMBER COMMENT

In December 2017, Shire of Moora was advised by the Department of Education Director General, Sharyn O'Neill that the Moora Residential College would close at the end of the 2018 school year. The State Government of W.A cited reasoning of commitment to budget repair measures to deliver sustainable growth and an operating surplus by 2020/2021.

Notwithstanding the immediate effect on the Moora community and wider region because of the decision to close the Moora Residential College, the Shire of Moora is extremely concerned with the State Governments continued attack on rural, regional and remote W.A. communities, many of which are already at serious disadvantage because of isolation and population decline.

As an example, access to education and health infrastructure and services are important to rural, regional and remote communities and greatly enhances their ability to attract residents, workers and businesses.

Access to the full range of health services (including GP's, acute and high care hospital, allied health, aged care, dental care) and educational services (K-12, Childcare, TAFE) becomes a major decision factor for anyone looking to move to a rural, regional and remote community. In the case of Moora, the existing infrastructure and services, including the current education offered at the Central Midlands Senior High School, has featured prominently in many local resident's decision to move to the area. This resonates across many W.A communities.

Funding reductions to key areas of services and infrastructure such as education, health, transport and sewerage augurs to further erode and put at risk fair and equitable access to the very basics of amenity and lifestyle in rural, regional and remotes areas of W.A many of which are experiencing continued population, service and infrastructure decline.

4.5 A MATTER OF SPECIAL URGENT BUSINESS: Proposed Amendments to *Planning and Development (Local Planning Schemes) Regulations 2015*

MOTION:

Moved: Mayor Penny Taylor (Subiaco)
Seconded: Cr Julie Matheson (Subiaco)

That the members agree that the following item of Special Urgent Business relating to Proposed Amendments to *Planning and Development (Local Planning Schemes) Regulations 2015* be considered.

Voting Requirement: ABSOLUTE MAJORITY

CARRIED BY ABSOLUTE MAJORITY

4.5 B Proposed Amendment to *Planning and Development (Local Planning Schemes) Regulations 2015*

MOTION:

Moved: Mayor Penny Taylor (Subiaco)
Seconded: Cr Julie Matheson (Subiaco)

That the Western Australian Local Government Association (WALGA) advocate to amend:

1. **Schedule 2, Part 7, Clause 61 (e) of the *Planning and Development (Local Planning Schemes) Regulations 2015* to allow Local Governments to remove reference to 'a single house' from the exemption of requiring development approval; and**
2. **The *Planning and Development (Local Planning Schemes) Regulations 2015* to permit Local Governments to introduce a requirement into their local planning scheme to require development approval to be issued prior to a development application for demolition of a single house being determined.**

LOST

Attachment 2: Action Taken on Resolutions of the 2018 AGM

Action Taken on Resolutions of the 2018 Annual General Meeting

4.1 Proposal to Amend the Association Constitution 8. That Clause 18 and Clause 19 of the Association Constitution be amended as follows: I. Clause 18, sub-clause (1) be amended with the addition of the underlined words, as follows: (2) 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, <u>provided the Deputy President represents the alternate constituency to the President elected pursuant to clause 17</u>. II. Clause 19 be amended with the addition of the underlined words and the deletion of the strikethrough words, as follows: (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	The Constitution has been amended as per the AGM resolution

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 alternate constituency to that of the President just elected.

~~(3)~~(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.

~~(4)~~(6) A State Council representative elected to fill a vacancy of President or Deputy President pursuant to clause ~~18~~ 19 shall still be eligible for election to a subsequent two (2) full consecutive terms.

9. That Clause 17A – Rotation of Presidency be added to the Association Constitution, as follows:

17A – Rotation of Presidency

5. 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.

6. 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.

10. That Clause 20 of the Association Constitution be amended with the addition of the underlined words as follows:

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:

11. That sub-clause 20(j) of the Association Constitution be amended with the addition of the underlined words and the deletion of the strikethrough words as follows:

(j) Is a Councillor that has been suspended by the Minister for Local Government under Part 8 ~~of an Ordinary Member that has been peremptorily suspended under Section 8.15C(2)I~~ of the *Local Government Act 1995*.

12. That sub-clause 10(2) of the Association Constitution be amended with the addition of the underlined words as follows:

(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.

13. That sub-clauses 2(1), 5(7)(a), 9(1)(d), and 31(4)(b) be amended as follows:

I. That the following strikethrough words be replaced with the following underlined words in sub-clause 2(1):

~~"*Local Government Managers Australia"* means the Western Australian Division of the Local Government Managers Australia (LGMA), which body is incorporated under the *Victorian Companies Act 1961.*~~

"*Local Government Professionals Australia WA"* means the Western Australian Division of Local Government Professionals Australia.

II. That sub-clause 5(7)(a) of the Association Constitution relating to Associate Members of WALGA be amended with the words "Local Government Managers Australia (LGMA)" to be replaced with the words "Local Government Professionals Australia WA".

III. That sub-clause 9(1)(a) of the Association Constitution relating to ex-officio members of State Council be amended to replace the words "Local Government Managers Australia (LGMA)" with the words "Local Government Professionals Australia WA".

IV That sub-clause 31(4)(b) of the Association Constitution relating to a dispute resolution panel be amended by replacing the word "LGMA" with the words "Local Government Professionals Australia WA".

14. That sub-clause 14(4a)(h) be amended with the addition of the underlined words and the deletion of the strike through words as follows: (h) Is a Councillor <u>that has been suspended by the Minister for Local Government under part 8</u> ~~of an Ordinary Member that has been peremptorily suspended under Section 8.15C(2)(c)~~ of the *Local Government Act 1995*.	
4.2 Roadside Vegetation – Regulatory Amendments That the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* be amended to permit clearing or reduction of vegetation: 3. Within 30m of all farm driveways/gates/entrances; and, **4.** On road bends and intersections obstructing 'line of sight', be cleared.	WALGA has been working with the Department of Water and Environmental Regulation (DWER) and the Department of Biodiversity, Conservation and Attractions (DBCA) in relation to Local Governments' concerns regarding the operation of the regulations of clearing of native vegetation. DWER has agreed to WALGA's proposal to establish a **Local Government Clearing Regulation Working Group** to provide strategic leadership and guidance on roadside clearing guidelines and policy, including permits and offsets. The first meeting of the Working Group is expected to be held in mid-July, following confirmation of the Local Government Officer nominees by State Council. The requested regulatory amendments identified in the resolution are important elements to be addressed through the Local Government Clearing Regulation Working Group.
4.3 GST Revenue Distribution Share of WA That WALGA adopts a policy and position as the representative of the WA Local Government section to persistently seek and advocate for an increase of the GST distribution share back to Western Australia.	WALGA advocated the need for GST reform to State and Commonwealth officials, and the State has been successful in securing an increased share of GST revenue for WA over the coming years. The changes made to the GST distribution system include: • A new equalisation benchmark, which will ensure that no jurisdiction's GST relativity can fall below that of NSW or Victoria. The

	transition to this new equalisation standard will begin in 2021-22 and will take place over six years. • The introduction of a GST floor, which will see no jurisdiction's GST relativity fall below 0.70 in 2022-23 and 2023-24 and then 0.75 from 2024-25 onwards. • The introduction of short-term top-up payments until 2021-22, to ensure that no jurisdiction will have a GST relativity of below 0.70. The above GST reforms are estimates to provide WA an additional $8.3 billion between 2018-19 and 2022-23.
4.4 Rural, Regional and Remote Community State Government Funding Cuts That WALGA express its deep concern to the W.A State Government regarding the continued attack on rural, regional and remote communities in W.A through reducing funding to critical services and infrastructure programs, cuts that disproportionately discriminate against already disadvantaged communities across W.A	Following reinstatement of much needed funds and as a result of a resolution from the September 2018 State Council meeting: *'That WALGA express its appreciation to the State Government for working together with Local Government for the reinstatement of funds for the School of the Air, CRC's and assistance in accessing federal funding for the Moora Residential College.' Resolution 123.6/2018,* correspondence was written to the Premier, Mark McGowan on 20 November 2018 thanking his Government for recognising the incredible value of reinstating much needed funds in regional Western Australia. Notwithstanding, the Association is still pursuing, among many other matters, equity of access in the Regional Health sphere, ensuring access to affordable GROH housing and ensuring program and cost shifting does not continue into the future.

Attachment 3: AGM Association Standing Orders

1. INTERPRETATIONS

For the purposes of these Standing Orders, if not inconsistent with the context, the following words shall have the following meanings:

1.1 ***"Absolute Majority"*** means:
a majority of delegates of the Association whether present and voting or not.

1.2 ***"Association"*** means:
all or any part of the Western Australian Local Government Association.

1.3 **"*Delegate or Deputy Delegate"*** means**:**
those persons duly nominated, from time to time, to represent a Member Local Government at a meeting of the Association.

1.4 ***"Deputy President"*** means**:**
the Deputy President for the time being of the Association.

1.5 ***"Meeting"*** means:
an Annual or Special General Meeting of the Association.

1.6 ***"Member Local Government"*** means**:**
a Local Government admitted to ordinary membership of the Association in accordance with the provisions of the Constitution.

1.7 ***"President"*** means:
the President for the time being of the Association.

1.8 ***"Simple Majority"*** means:
a majority of the delegates from the Association that are present and voting**.**

2. CONDUCT OF MEETINGS

The proceedings and business of meetings of the Association shall be conducted according to these Standing Orders.

3. NOTICE OF MEETING

3.1 Annual General Meeting

The Chief Executive Officer of the Association shall give at least ninety (90) days notice of an Annual General Meeting to all Member Local Governments, advising of the closing date for submission of motions for inclusion on the agenda.

3.2 Special General Meeting

A Special General Meeting of the Association is to be held if a request is received by the Association President, in accordance with the requirements of the Association's Constitution. No business shall be transacted at a Special General Meeting other than that for which the Special General Meeting was called.

3.3 Notice shall be given at the destinations appearing in the records of the Association.

Notice will be deemed to have been delivered immediately if transmitted electronically or on the second working day after posting.

4. QUORUM

4.1 The Association shall not conduct business at a meeting unless a quorum is present.

4.2 At any meeting of the Association greater than one half of the delegates who are eligible to vote must be present to form a quorum.

4.3 The Association is not to transact business at a meeting unless a quorum is present.

4.4 If a quorum has not been established within the 30 minutes after a meeting is due to begin then the Association can be adjourned –

(a) by the President or if the President is not present at the meeting, by the Deputy President;

(b) if neither the President nor Deputy President is present at the meeting, by a majority of delegates present;

(c) if only one delegate is present, by that delegate; or

(d) if no delegate is present, by the Chief Executive Officer or a person authorised by the Chief Executive Officer.

4.5 If at any time during a meeting a quorum is not present, the President shall thereupon suspend the proceedings of the meeting for a period of five (5) minutes and if a quorum is not present at the expiration of that period, the meeting shall be deemed to have been adjourned and the person presiding is to reschedule it for some future time.

4.6 Notice of a meeting adjourned because of absence of a quorum is to be given to all Member Local Governments.

5. MEETINGS OPEN TO THE PUBLIC

The business of the Association shall be open to the public except upon such occasions as the Association may by resolution otherwise decide.

6. ORDER OF BUSINESS

Unless the Association should decide otherwise, the order of business at meetings of the Association, with the exception of special meetings or an adjourned meeting, shall be as follows:

(a) Record of attendance and apologies;

(b) Announcements;

(c) Confirmation of minutes of previous meetings;

(d) President's report;

(e) Financial report for the financial year; and

(f) Consideration of Executive and Member Motions.

7. VOTING ENTITLEMENTS

7.1 Each Member Local Government shall be entitled to be represented at any meeting of the Association.

7.2 Only eligible and registered delegates may vote.

7.3 A delegate shall be entitled to exercise one vote on each matter to be decided. Votes are to be exercised in person.

7.4 A delegate unable to attend any meeting of the Association shall be entitled to cast a vote by proxy.

7.5 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 of the Association before the commencement of the meeting at which the proxy is to be exercised and shall be signed by the delegate or by the Chief Executive Officer of the Member Local Government that nominated the delegate.

8. SPECIAL URGENT BUSINESS

At any time during a meeting a delegate may, with the approval of an absolute majority, introduce a motion relating to special urgent business that calls for an expression of opinion from the meeting.

In presenting an item of special urgent business, a delegate shall have sufficient copies of the motion in writing for distribution to all delegates present at the meeting and, where practicable, give prior notice to the President of such intention.

9. PRESIDENT

In the construction of these Standing Orders unless the context requires otherwise, the word *"President"* shall in the absence of the President include the Deputy President or the delegate chosen by resolution to preside at any meeting of the Association.

10. DELEGATE AND DEPUTY DELEGATE

10.1 In the construction of these Standing Orders unless the context requires otherwise, the word "delegate" shall in the absence of the delegate include the deputy delegate.

10.2 A deputy delegate acting in the capacity of a delegate unable to attend a meeting of the Association shall exercise all rights of that delegate.

11. PRESIDENT TO PRESIDE

11.1 The President shall preside at all meetings of the Association, but in absence of the President, the Deputy President shall preside.

11.2 In the absence of the President and the Deputy President, the delegates shall choose by resolution, a delegate present to preside at the meeting.

12. SPEAKING PROTOCOL

12.1 Only registered delegates and members of the Association's State Council shall be entitled to speak at meetings of the Association.

12.2 The first person that is entitled to speak at a meeting who attracts the attention of the person presiding shall have precedence in speaking.

12.3 Speakers are to use the microphones supplied.

12.4 When addressing a meeting, speakers are to:

(a) rise and remain standing unless unable to do so by reason of sickness or disability;

(b) address the meeting through the person presiding;

(c) state their name and Local Government before otherwise speaking;

(d) refrain from reading comment printed in the agenda paper in support of a motion, but may identify key points or make additional comment; and

(e) refrain from using provoking or discourteous expressions that are calculated to disturb the peaceful current of debate.

12.5 Mobile phones shall not be switched on while the meeting is in session.

13. DEBATE PROCEDURES

13.1 A delegate moving a substantive motion may speak for –

(a) 5 minutes in his or her opening address; and

(b) 3 minutes in exercising the right of reply.

13.2 Other speeches for or against motions are to be limited to 3 minutes unless consent of the meeting is obtained which shall be signified without debate.

13.3 No delegate, except the mover of a motion in reply, is to speak more than once on the same motion except by way of personal explanation.

13.4 As soon as the right of reply has been exercised, the motion is to be forthwith put to the vote without further comment.

13.5 No discussion shall take place on any motion unless it is moved and seconded. Only one amendment on any one motion shall be received at a time, and such amendment shall be disposed of before any further amendment can be received. Any number of amendments may be proposed.

13.6 The provisions of these Standing Orders applicable to motions apply mutatis mutandis to amendments, except that the mover of an amendment shall have no right of reply.

13.7 When a motion has been moved and seconded, the person presiding shall at once proceed to take a vote thereon unless a delegate opposes it or an amendment is proposed.

13.8 No more than two delegates shall speak in succession on one side, either for or against the question before the meeting, and if at the conclusion of the second speaker's remarks, no delegate speaks on the other side, the motion or amendment may be put to the vote.

13.9 Notwithstanding clause 13.7, where a composite motion is moved which embodies the core aspects of subsequent motions listed on the agenda, a delegate whose motion has been superseded shall have the opportunity to speak on the question of the composite motion before it is put.

Once a composite motion has been carried, no further debate shall be permitted in respect of the superseded motions.

13.10 At any time during a debate, but after the conclusion of a delegate's comments, a delegate who has not spoken during the debate may move, without discussion, "that the question be now put". If that motion is seconded and carried by a majority, the question shall be submitted at once to the meeting, after the mover has replied.

14. QUESTIONS

Any delegate seeking to ask a question at any meeting of the Association shall direct the question to the President.

15. POINT OF ORDER

A delegate who is addressing the President shall not be interrupted except on a point of order, in which event the delegate shall wait until the delegate raising the point of order has been heard and the question of order has been disposed of, whereupon the delegate so interrupted may, if permitted, continue.

16. MOTION - SUBSTANCE TO BE STATED

A delegate seeking to propose an original motion or amendment shall state its substance before addressing the meeting thereon and, if so required by the President, shall put the motion or amendment in writing.

17. PRIORITY OF SPEAKERS

If two or more delegates wish to speak at the same time, the President shall decide who is entitled to priority.

18. PRESIDENT TO BE HEARD

Whenever the President signifies a desire to speak during a debate, any delegate speaking or offering to speak is to be silent, so that the President may be heard without interruption.

19. WITHDRAWAL OF MOTION

A motion or amendment may be withdrawn by the mover with the consent of the meeting, which shall be signified without debate, and it shall not be competent for any delegate to speak upon it after the mover has asked permission for its withdrawal, unless such permission has been refused.

20. PRESIDENT MAY CALL TO ORDER

The President shall preserve order, and may call any delegate to order when holding an opinion that there shall be cause for so doing.

21. RULING BY PRESIDENT

The President shall decide all questions of order or practice. The decision shall be final and be accepted by the meeting without argument or comment unless in any particular case the meeting resolves that a different ruling shall be substituted for the ruling given by the President. Discussions shall be permitted on any such motion.

22. RESOLUTIONS

22.1 Except as otherwise provided in the Association Constitution and these Standing Orders, all motions concerning the affairs of the Association shall be passed by a simple majority.

22.2 Any matter considered by the Association at a Special Meeting shall not be passed unless having received an absolute majority.

23. NO DISCUSSION

Where there is no discussion on a motion, the President may deem the motion to be passed unless the meeting resolves otherwise.

24. PERMISSIBLE MOTIONS DURING DEBATE

24.1 When a motion is under debate, no further motion shall be moved except the following:

(a) that the motion be amended;

(b) that the meeting be adjourned;

(c) that the debate be adjourned;

(d) that the question be now put;

(e) that the meeting proceed with the next item of business; or

(f) that the meeting sits behind closed doors.

24.2 Any delegate who has not already spoken on the subject of a motion at the close of the speech of any other delegate, may move without notice any one of the motions listed in clause 24.1 (b)-(f) and, if the motion is seconded, it shall be put forthwith.

24.3 When a debate is adjourned, the delegate who moves the adjournment shall be the first to speak on the motion when the debate is resumed unless the delegate advises of no desire to speak on the motion. Where this occurs, the President shall then call for further speakers, with the exception of those delegates who have previously spoken (unless the meeting otherwise agrees).

25. RESCISSION OF RESOLUTION

25.1 At the same meeting

Unless a greater majority is required for a particular kind of decision under the Standing Orders (in which event that shall be the majority required), the Association may, by simple majority at the same meeting at which it is passed, rescind or alter a resolution if all delegates who were present at the time when the original resolution was passed are present.

25.2 At a Future Meeting

Unless a greater majority is required for a particular kind of decision under the Standing Orders (in which event that shall be the majority required), the Association may rescind or alter a resolution made at an earlier meeting:

(a) by simple majority, where the delegate intending to move the motion has, through the Chief Executive Officer, given written notice of the intended motion to each delegate at least seven (7) days prior to the meeting; or

(b) by absolute majority, in any other case.

26. METHOD OF TAKING VOTES

The President shall, in taking a vote on any motion or amendment, put the question first in the affirmative, and then in the negative and may do so as often as is necessary to enable formation and declaration of an opinion as to whether the affirmative or the negative has the majority on the voices or by a show of hands or by an electronic key pad voting system.

27. DIVISION

The result of voting openly is determined on the count of official voting cards and, immediately upon a vote being taken, a delegate may call for a division.

28. ALL DELEGATES TO VOTE

28.1 At meetings of the Association, a delegate present at the meeting when a question is put shall vote on the question.

28.2 Each delegate shall be entitled to exercise one deliberative vote on any matter considered.

29. PRESIDENT'S RIGHT TO VOTE

The President shall have a casting vote only.

30. SUSPENSION OF STANDING ORDERS

30.1 In cases of urgent necessity or whilst the Association is sitting behind closed doors, any of these Standing Orders may be suspended on a motion duly made and seconded, but that motion shall not be declared carried unless a simple majority of the delegates voting on the question have voted in favour of the motion.

30.2 Any delegates moving the suspension of a Standing Order shall state the object of the motion, but discussion shall not otherwise take place.

31. NO ADVERSE REFLECTION ON ASSOCIATION

A delegate shall not reflect adversely upon a resolution of the Association, except on a motion that the resolution be rescinded.

32. NO ADVERSE REFLECTION ON DELEGATE

A delegate of the Association shall not reflect adversely upon the character or actions of another delegate nor impute any motive to a delegate unless the Association resolves, without debate, that the question then before the Association cannot otherwise be adequately considered.

33. MINUTES

33.1 The Chief Executive Officer of the Association is to cause minutes of the meeting to be kept and preserved.

33.2 The minutes of a meeting are to be submitted to the next Annual or Special General Meeting for confirmation.

33.3 Copies of the minutes will be supplied to all delegates prior to the meeting.