



SHIRE OF

Chapman Valley

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ORDINARY COUNCIL MEETING

Notice is hereby given that an Ordinary Meeting
of Council will be held on Wednesday 16 August 2017
at the Shire Chambers Nabawa, commencing at 9:00am.

Maurice Battilana
CHIEF EXECUTIVE OFFICER

CONFIRMED MINUTES

AUGUST 2017

DISCLAIMER



No responsibility whatsoever is implied or accepted by the Shire of Chapman Valley for any act, omission or statement or intimation occurring during Council Meeting. The Shire of Chapman Valley disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee Meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council Meeting does so at that person's or legal entity's own risk.

The Shire of Chapman Valley warns that anyone who has any application or request with the Shire of Chapman Valley must obtain and should rely on **WRITTEN CONFIRMATION** of the outcome of the application or request of the decision made by the Shire of Chapman Valley.

A handwritten signature in black ink, appearing to read "M. Battilana", is written over a large, light-colored circular scribble.

Maurice Battilana
CHIEF EXECUTIVE OFFICER

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Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences.

Section 5.60A:

*"a person has a **financial interest** in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person."*

Section 5.60B:

*"a person has a **proximity interest** in a matter if the matter concerns –
(a) a proposed change to a planning scheme affecting land that adjoins the person's land; or
(b) a proposed change to the zoning or use of land that adjoins the person's land; or
(c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land."*

Regulation 34C (Impartiality):

*"**interest** means an interest that could, or could reasonably be perceived to, adversely affect the **impartiality** of the person having the interest and includes an interest arising from kinship, friendship or membership of an association."*

Item No.	Member/Officers	Type of Interest	Nature of Interest

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ORDER OF BUSINESS:

1.0 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

The Chairman, Cr Collingwood welcomed Elected Members and Staff and declared the meeting open at 9.02am.

2.0 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Nil

3.0 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

3.1 Present

a. Councillors

Member	Ward
Cr John Collingwood (President)	North East Ward
Cr Anthony Farrell (Deputy President)	North East Ward
Cr Pauline Forrester	North East Ward
Cr Peter Humphrey	South West Ward
Cr Ian Maluish	South West Ward
Cr Trevor Royce	North East Ward

b. Staff

Officer	Position
Mr Maurice Battilana	Chief Executive Officer
Simon Lancaster	Deputy Chief Executive Officer
Mrs Karen McKay	Executive Services Administrator (Minute Taker)
Mrs Dianne Raymond	Manager of Finance & Corporate Services

c. Visitors

Name	

Apologies

Name	
Cr Kirrilee Warr	North East Ward

3.2 Previously Approved Leave of Absence

Name	

4.0 PUBLIC QUESTION TIME

4.1 Response to Previous Public Questions On Notice

Nil

4.2 Public Question Time

Nil

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6.0 DISCLOSURE OF INTEREST

Item No.	Member/Officers	Type of Interest	Nature of Interest
Nil			

7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

7.1 Petitions

Nil

7.2 Presentations

Nil

7.3 Deputations

Nil

8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

COUNCIL RESOLUTION

MOVED: CR FARRELL

SECONDED: CR HUMPHREY

8.1 Ordinary Meeting of Council held on Wednesday 19 July 2017

That the minutes of the Ordinary Meeting of Council held Wednesday 19 July 2017 be confirmed as a true and accurate record.

**Voting 6/0
CARRIED**

Minute Reference: 08/17-1

COUNCIL RESOLUTION

MOVED: CR FARRELL

SECONDED: CR FORRESTER

8.2 Special Meeting of Council held on Wednesday 26 July 2017

That the minutes of the Special Meeting of Council held on Wednesday 26 July 2017 be confirmed as a true and accurate record.

**Voting 6/0
CARRIED**

Minute Reference: 08/17-2

9.0 ITEMS TO BE DEALT WITH EN BLOC

Nil

10.0 OFFICERS REPORTS

10.1 Manager of Planning August 2017

Contents

10.1 AGENDA ITEMS

- 10.1.1 Nanson Townsite Right of Way Closure
- 10.1.2 Nanson Showground Land Exchange

AGENDA ITEM:	10.1.1
SUBJECT:	NANSON TOWNSITE RIGHT OF WAY CLOSURE
PROPONENT:	L & S BLOOMFIELD
SITE:	LOTS 6 & 7 LAUDER STREET, NANSON
FILE REFERENCE:	A1354
PREVIOUS REFERENCE:	06/17-4
DATE:	7 AUGUST 2017
AUTHOR:	SIMON LANCASTER

SUPPORTING DOCUMENT:

Ref	Title	Attached to Report	Under Separate Cover
10.1.1	Schedule of Submissions	√	

DISCLOSURE OF INTEREST

Nil.

BACKGROUND

Council resolved at its 21 June 2017 meeting to initiate the closure of the Right of Way ('ROW') to the east of Lots 6 & 7 Lauder Street, Nanson and its amalgamation into this property.

The necessary advertising of the ROW closure has concluded, with no objections having been received. This report recommends that Council formally request the Minister of Planning, Lands and Heritage to close the subject portion of ROW.

COMMENT

Lots 6 and 7 Lauder Street are located at the southern end of the Nanson townsite. The lots are 1,118m² and 1,117m² in area and adjoin a 5m wide ROW to the east.

The landowner of Lots 6 and 7 is seeking to acquire the 235.362m² portion of ROW that directly abuts them to the east, and amalgamate it into their property to enable the subsequent siting of a shed in this area.

Figure 10.1.1(a) – Lots 6 & 7 Lauder Street, Nanson and adjoining ROW



Figure 10.1.1(b) – View of ROW proposed to be closed to east of Lots 6 & 7 Lauder Street



Shire staff raised no objection to the closure of the portion of the ROW adjoining Lots 6 & 7 Lauder Street and its amalgamation into the adjoining land on the following basis:

- the ROW is considered surplus to Shire requirements;
- the ROW already appears on-ground to form part of the landowner's property;
- the adjoining landowner to the west who may have had an interest in acquiring part or all of the ROW has advised in writing of their support for the applicant's proposal;
- closing the ROW would not inconvenience the surrounding landowners or wider public as the ROW is not required for access purposes;
- disposal of the ROW would remove any Shire responsibility for the land relating to management or liability;
- it is considered that the subject land would be better managed under the private ownership of the adjoining landowner rather than under public ownership;
- closing the ROW would accord with the Shire's strategic direction as contained in the recommendations of the Nanson Townscape Plan.

Council resolved at its 21 June 2017 meeting as follows:

"That Council pursuant to Section 58 of the Land Administration Act 1997, initiate closure action of the portion of Right of Way adjoining Lots 6 & 7 Lauder Street, Nanson (to enable their subsequent amalgamation with Lots 6 & 7 Lauder Street, Nanson)."

Council previously supported a ROW closure and disposal at its 18 April and 20 June 2012 meetings relevant to the Nanson Museum (as several Museum buildings were constructed over the ROW). The ROW was also closed that ran between Lots 11 and 12 Lauder Street and Lots 16 and 17 East Terrace (that were all owned by the same landowner). In that instance the landowner sought the closure of the ROW that ran between their 4 titles, and not only the amalgamation of the ROW into their landholding, but also that the survey diagram amalgamate their 4 lots into 1 title.

Figure 10.1.1(c) – Nanson townsite ROW closure precedent

Left: Lots 11, 12, 16 & 17 & ROW prior to process Right: Amalgamated titles following process



(Note: ROW also closed and amalgamated relevant to Nanson Museum)

It might be considered that these previous disposal actions create a precedent and also remove any strategic purpose for the ROW further south in the Nanson townsite (that adjoins Lots 6 & 7) as the ROW no longer connects through to Murphy Street.

On this basis the Shire also wrote to the 2 landowners between Lots 6 & 7 (to the south) and the previously closed ROW (to the north) enquiring whether they would be interested in purchasing the land relevant to their landholding so that the entire ROW length could be advertised for closure in one process. This action may achieve some cost savings by being able to utilise the same surveyor for the 3 jobs. However, no response was received from these landowners and therefore this report confines itself to the length of ROW adjoining Lots 6 & 7 only.

Figure 10.1.1(d) – Nanson townsite southern section illustrating total ROW length



STATUTORY ENVIRONMENT

Section 58 of the *Land Administration Act 1997* provides for the closure of public roads and ROW's and requires a resolution of Council to commence this process.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Should the Department of Lands be in agreeance to the closure of the ROW it will request the Valuer Generals Office to set a valuation for the 235.362m² area of Crown land.

The Department of Lands would require the landowner of Lots 6 & 7 Lauder Street to accept the survey and conveyancing expense, and cost of purchase of the closed portion of ROW.

Council's financial involvement would be limited to the minor cost of advertising the ROW closure process only, although there may be some long-term financial benefit to Council in removing an unrequired asset and management responsibility.

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan was received by Council at its 18 September 2013 meeting. It is not considered that the determination of this application by Council would have impact in relation to the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

The Nanson Townscape Plan was adopted by Council on 16 March 2004. The purpose of the Townscape Plan is to provide guidance for future development and enhancement of the Nanson townsite and provide a supporting basis for the pursuit of funding for specific projects identified in the Plan.

The Nanson Townscape Plan makes recommendation that the Shire "*investigate the possible closure of the right of way (dunny cart lane) with adjacent landowners*" between Lauder Street in the north and Eastough Street in the south, and this proposal accords with this strategic vision.

- **Strategic Community Plan:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 was adopted by Council at its 19 June 2013 meeting and reviewed and approved by Council at its 16 March 2016 meeting. It is not considered that the determination of this matter by Council would have impact in relation to the Strategic Community Plan.

CONSULTATION

The proposed ROW closure, was advertised for a period of 35 days as required under Section 58 of the *Land Administration Act 1997* and this included the following actions inviting comment:

- Notice being placed in the Geraldton Guardian on 30 June 2017;
- Letters being sent to the 4 landowners of the 8 surrounding lots;
- Letters being sent to Alinta Energy, ATCO Gas, Department of Fire and Emergency Services, Telstra, Water Corporation, Westnet Energy and Western Power;
- Notice being placed on the Shire website;
- Sign detailing the proposed ROW closure being erected onsite.

At the conclusion of the advertising period on 4 August 2017, 6 submissions had been received, 2 from adjoining landowners and 4 from service authorities, with none of them expressing an objection to the proposed ROW closure.

A Schedule of Submissions that identifies the respondents, the nature of their submissions, and provides individual comment upon any raised issues has been provided as **Attachment 10.1.1(a)**. Copies of the received submissions can be provided to Councillors upon request.

RISK ASSESSMENT

Rating 1 (Insignificant) Measures of Consequence – Risk Assessment and Acceptance Criteria

VOTING REQUIREMENTS

Simple Majority required.

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR FARRELL


SECONDED: CR FORRESTER


That Council pursuant to Sections 58 & 59 of the *Land Administration Act 1997* request the Minister for Planning, Lands & Heritage to approve the closure of the portion of Right of Way adjoining Lots 6 & 7 Lauder Street, Nanson (to enable its subsequent amalgamation with Lots 6 & 7 Lauder Street, Nanson).

Voting 6/0

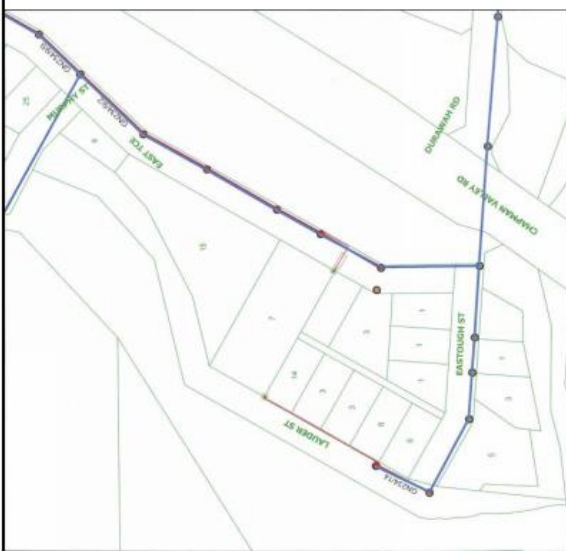
CARRIED

Minute Reference: 08/17-3

Schedule of Submissions - Proposed Right of Way Closure, Nanson Townsite			
Response No. & Date Received	Respondent	Nature of Submission	Comment
1 (2/5/17)	K & M Jones 1 East Terrace NANSON WA 6532	<p><i>Support</i> We have no interest in acquiring any part of the former 'dunny lane' that is adjacent to Lot 6 & 7 Lauder Street, Nanson and which is also adjacent to our block of land being Lot 22 Eastough Street, Nanson.</p> <p>We fully support Lloyd & Susan Bloomfield in their request to purchase the whole of this lane that is adjacent to their Lots 6 & 7 Lauder Street, Nanson.</p>	<p>The respondent is the landowner on the other (eastern) side of the Right of Way ('ROW') and the only other landowner who may have had an interest in acquiring the land.</p> <p>The respondent's declaration that they do not wish to pursue acquisition of the ROW is noted, as is their support for the landowners of Lots 6 & 7 acquiring the ROW.</p>
2 (6/7/17)	Telstra Locked Bag 2525 PERTH WA 6001	<p><i>No objection</i> Telstra has no objection.</p> <p>The nearest cable to the ROW runs along Eastough Street (map provided).</p> <p>Developers are responsible for telecommunications infrastructure on all developments, i.e. conduits, pits and the cost of the cable installation by Telstra or other carrier.</p> <p>Please dial 1100 (Dial Before You Dig) for location of existing services.</p>	<p>The below map provided by Telstra confirms that they do not have any services or interests located within the ROW that is proposed to be closed and disposed of to the adjoining landowner.</p> 
3 (6/7/17)	ATCO Gas 81 Prinsep Road JANDAKOT WA 6164	<p><i>No objection</i> ATCO Gas does not own or operate any gas distribution assets or gas infrastructure within the Shire of Chapman Valley. ATCO Gas owns and operates the Western Australian gas distribution network, however this is predominantly in the metropolitan region and the regional centres of Geraldton, Bunbury, Busselton, Albany and Kalgoorlie.</p>	<p>ATCO Gas have confirmed that they do not have any services or interests located within the ROW that is proposed to be closed and disposed of to the adjoining landowner.</p>

Schedule of Submissions - Proposed Right of Way Closure, Nanson Townsite				
Response No. & Date Received	Respondent	Nature of Submission	Comment	Recommendation
4 (4/7/17)	A & L Doust 5 Eastough Street NANSON WA 6532	Support	The respondent is the landowner on the opposite side (southern) side of Eastough Street to the ROW. The respondent's support for the ROW closure is noted.	Note submission
5 (18/7/17)	Western Power 363 Wellington Street PERTH WA 6000	No objection Western Power does not have any objection at this time. As there are overhead powerlines and/or underground cables adjacent to or traversing the property the following should be considered prior to any works commencing at the site if any alignments, easements or clearance are encroached or breached. All work must comply with Worksafe Regulations 3.64 – Guidelines for work in the vicinity of overhead powerlines. If any work is to breach the minimum safe working distances a request to work in the vicinity of powerlines form must be submitted. For more information on the type and location of assets please submit a Dial Before You Dig enquiry. If you require relocation or removal of our infrastructure please complete the application for relocation or removal of Western Power assets. Western Power is obliged to point out that any change to the existing power system if required is the responsibility of the individual developer.	The ROW already appears on-ground to form part of Lots 6 & 7 Lauder Street as can be seen in the below site photograph. The closure of the ROW and its amalgamation into the adjoining lots would merely formalise the current on-ground arrangement. The current vehicle crossover/driveway location would not be required to be moved and therefore would not require alteration/works to the power infrastructure. 	Note submission.

The below map provided by Western Power confirms that they do not have any services or interests located within the ROW that is proposed to be closed and disposed of to the adjoining landowner.

Schedule of Submissions - Proposed Right of Way Closure, Nanson Townsite				
Response No. & Date Received	Respondent	Nature of Submission	Comment	Recommendation
6 (28/7/17)	Water Corporation 629 Newcastle Street LEEDER- VILLE WA 6007	No objection The lots subject to this proposed ROW closure are remote from the Water Corporation's water services and infrastructure. Therefore the proposed changes will not affect the Water Corporation's assets or operations.		The Water Corporation have confirmed that they do not have any services or interests located within the ROW that is proposed to be closed and disposed of to the adjoining landowner. Note submission.

AGENDA ITEM:	10.1.2
SUBJECT:	NANSON SHOWGROUND LAND EXCHANGE
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	PORTION LOT 1987 & RESERVE 52196 CHAPMAN VALLEY ROAD, NANSON
FILE REFERENCE:	R52196 & A1790
PREVIOUS REFERENCE:	11/07-18, 10/10-9, 2/11-6, 03/15-11 & 03/17-7
DATE:	7 AUGUST 2017
AUTHOR:	SIMON LANCASTER

SUPPORTING DOCUMENT:

Ref	Title	Attached to Report	Under Separate Cover
10.1.2(a)	Nanson Showground Land Exchange Map	√	
10.1.2(b)	Department of Planning, Lands & Heritage correspondence		√

DISCLOSURE OF INTEREST

Nil.

BACKGROUND

The Shire is in receipt of correspondence from the Department of Planning, Lands & Heritage ('the Department') regarding the Nanson Showground land exchange (copy provided as **Attachment 10.1.2(b)**). This report recommends that Council make resolution to indemnify the State as outlined in the Department's correspondence in order to progress the Nanson Showground land exchange.

COMMENT

The increasing popularity of the Chapman Valley Agricultural Show, with recent shows attracting over 8,000 people, has meant that the existing Crown Land parcel upon which the show operates is no longer sufficient to contain the show activities. Further to this Council has also been looking to work with the various user groups to develop the Nanson Showground as a regional equine facility, and further land is required to cater for the user groups' requirements.

The Shire therefore reached agreement in 2009 with the landowner of Lot 1987 Chapman Valley Road, Nanson (Ballycastle Pty Ltd) for them to provide a 9.7ha area from their lot, which is located immediately north of the Nanson Showground, and for this land be amalgamated into the Nanson Showground Crown Reserve.

In exchange the Shire and the landowner agreed that an equivalent area of unrequired Crown Reserve on the western side of Chapman Valley Road, that the landowner already leased from the Crown for cropping purposes, should be amalgamated into their landholding. The area of Crown Land proposed to be disposed of does not include the river reserve or former railway reserve, merely the land that is considered surplus to requirements and has been used for cleared and used cropping purposes for many decades.

This land exchange would expand the Nanson Showground land area and its ability to cater for car parking and additional future uses (particularly horse activities). The land exchange would also formalise the current on-ground and lease arrangement, where the landowner of Lot 1987 has cropped the area of Crown land on the western side of Chapman Valley Road, by amalgamating it into their farm.

The Department, who are the responsible authority, agreed in principle with the Shire's proposal but advised that the land exchange would take several years to complete.

To address the safety concern of turning vehicles stacking along Chapman Valley Road on Show-day and pedestrians crossing McCagh Road, and insufficient car parking area, Council agreed to lease for a period of 4 years, the subject area north of the Nanson Showground from the landowner at its 16 February 2011 meeting. The lease was intended to serve as a temporary measure whilst the land exchange was finalised. The agreed lease fee was intended to match the fee charged by the

Department to the landowner of Lot 1987 for their use of the Crown Land proposed to be amalgamated into Lot 1987 through the land exchange.

A query was raised at the 18 September 2013 Council meeting as to why a portion of the 9.7ha being leased by the Shire was under crop, and a report was presented to the 16 October 2013 Forum Session explaining that the lease agreement allowed for the area of the 9.7ha that was surplus to immediate Show-day requirements being able to be sub-let where the proceeds of the use of the land were either provided to the Showground Committee or spent on a specific improvement to the Showground Reserve as approved by the Shire.

Council resolved at its 18 March 2015 meeting to enter into another 4 year lease (expiring 30 June 2019) as the land exchange process was still continuing.

This temporary lease arrangement has enabled the use of the land to the north of the showground for measures such as car parking but does not provide the certainty required to consider more permanent additions and improvements such as buildings and facilities, which user groups are seeking.

Since 2009 the Shire has been working with the Department to progress the Nanson Showground Land Exchange through the preparation of survey diagrams, provision of information whenever requested, and representation to the Department and meeting with a previous Minister for Lands.

The Department have now written to the Shire advising that they require a resolution of Council indemnifying the State against any claim for compensation which may arise from the taking of native title rights and interests relevant to the 6.4439ha area of land shown as Lot 512 upon Deposited Plan 411377 and Lot 509 upon DP411378.

This requirement to indemnify the State is standard Department practice relating to the disposal of Crown Land, and it is considered that the Shire will have to agree to these terms in order to progress the Nanson Showground land exchange.

STATUTORY ENVIRONMENT

The Nanson Showground (Reserve 52196) is zoned 'Recreation' under the Shire of Chapman Valley Local Planning Scheme No.2 ('the Scheme'). The Nanson Showground Reserve was surveyed and gazetted for the purpose of 'Recreation and Showground' in 1902 and the Shire has held a Management Order for the Nanson Showground since 1917. The management order contains the power for the Shire to sub-lease for a period of up to 21 years whole or part of Reserve 52196.

The privately owned land immediately north of the Nanson Showground that is proposed to be amalgamated into the Nanson Showground Crown Reserve is zoned 'Rural' under the Scheme. Upon conclusion of the transfer from private land to public land, the Shire could attend to the rezoning of the subject area to 'Recreation'.

The portions of Crown Land, that are currently leased out by the State and cropped, and are proposed to be exchanged into private ownership are zoned 'Rural' under the Scheme.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The annual lease fee paid by the Shire to Ballycastle Pty Ltd for the 9.7ha area of land immediately north of the Nanson Showground has been equivalent to the amount charged by the Department to Ballycastle Pty Ltd for their use of the 10.2101ha area on the western side of Chapman Valley Road.

The most recent annual lease fee was \$500 GST ex and Account 2722 – Public Halls & Showground Expenses has been used to cover the lease fee.

The lease payment the Shire makes to securing the area on the northern side of the Nanson Showground should be considered as the Shire making a cash contribution towards the running of the Chapman Valley Agricultural Show, which is in addition to the in-kind contributions (showground preparation works) the Shire makes every year to the running of Chapman Valley's flagship community event.

Draft DP409878 that incorporates the area of Crown Reserve currently being farmed and proposed to become private/freehold land with Lot 1987 (thereby becoming Lot 11987) is included within **Attachment 10.1.2(b)**. The Department's correspondence advises that the 10.2101ha Crown land area that is proposed to be disposed of, and amalgamated into the adjoining private land, has been indicatively valued at \$65,000 GST ex. The same correspondence advises that the 9.7ha land area proposed to be excised from the privately owned Lot 1987 and amalgamated into the Nanson Showground Crown Reserve has been indicatively valued at \$61,000 GST ex. The Department's correspondence advises that the \$4,000 difference in value would be expected to be paid by the Shire. This could be considered reasonable given the Shire's role as proponent of the land exchange, and could be addressed through Account 7052 – Surveying and Land Expenses.

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan (2013) was received by Council at its 18 September 2013 meeting and reviewed and endorsed by Council at its 19 July 2017 meeting.

The Long Term Financial Plan identifies the management of community aspirations within a confined fiscal envelope as a key issue impacting the Shire's finances, along with the continued availability of state and commonwealth funding to support asset renewals and the creation of new assets.

STRATEGIC IMPLICATIONS

- **Strategic Community Plan/Corporate Business Plan:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 was adopted by Council at its 19 June 2013 meeting and reviewed and approved by Council at its 16 March 2016 meeting.

It should be considered that the Chapman Valley Agricultural Show has a role in fulfilling a number of the economic and community objectives of the Strategic Community Plan, and the expansion of the Nanson Showground land area to better accommodate the existing and future requirements would assist in meeting these identified objectives.

"Showcasing our attractions increases the number of people visiting the area"
(page 13)

"Maintain and improve existing services and facilities and look at what additional services the community require."
(page 17)

"The community recognised a need to act inclusively to encourage a greater diversity of involvement in the community and to help develop more leadership amongst the community organisations in the Shire."
(page 17)

CONSULTATION

The Shire has consulted with the landowner of Lot 1987 and they have expressed a willingness to continue with a lease arrangement as a temporary solution to resolving the Nanson Showground's limitations until the land exchange can be finalised.

Council resolved at its 15 March 2017 meeting to encourage all Nanson Showground users, in conjunction with Shire staff, to establish an agreed Master Plan for future developments of the Nanson Showground. The Shire has arranged for a drone flight of the Nanson Showground to provide a more up to date aerial photograph of the site, that will then form the basis for the various user groups to attend a workshop with Shire staff and the preparation of an overall masterplan for Council's subsequent consideration.

RISK ASSESSMENT

Rating 4 (Major) Measures of Consequence – Risk Assessment and Acceptance Criteria

VOTING REQUIREMENTS

Simple majority of Council.

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR FORRESTER

SECONDED: CR HUMPHREY

That Council resolve:

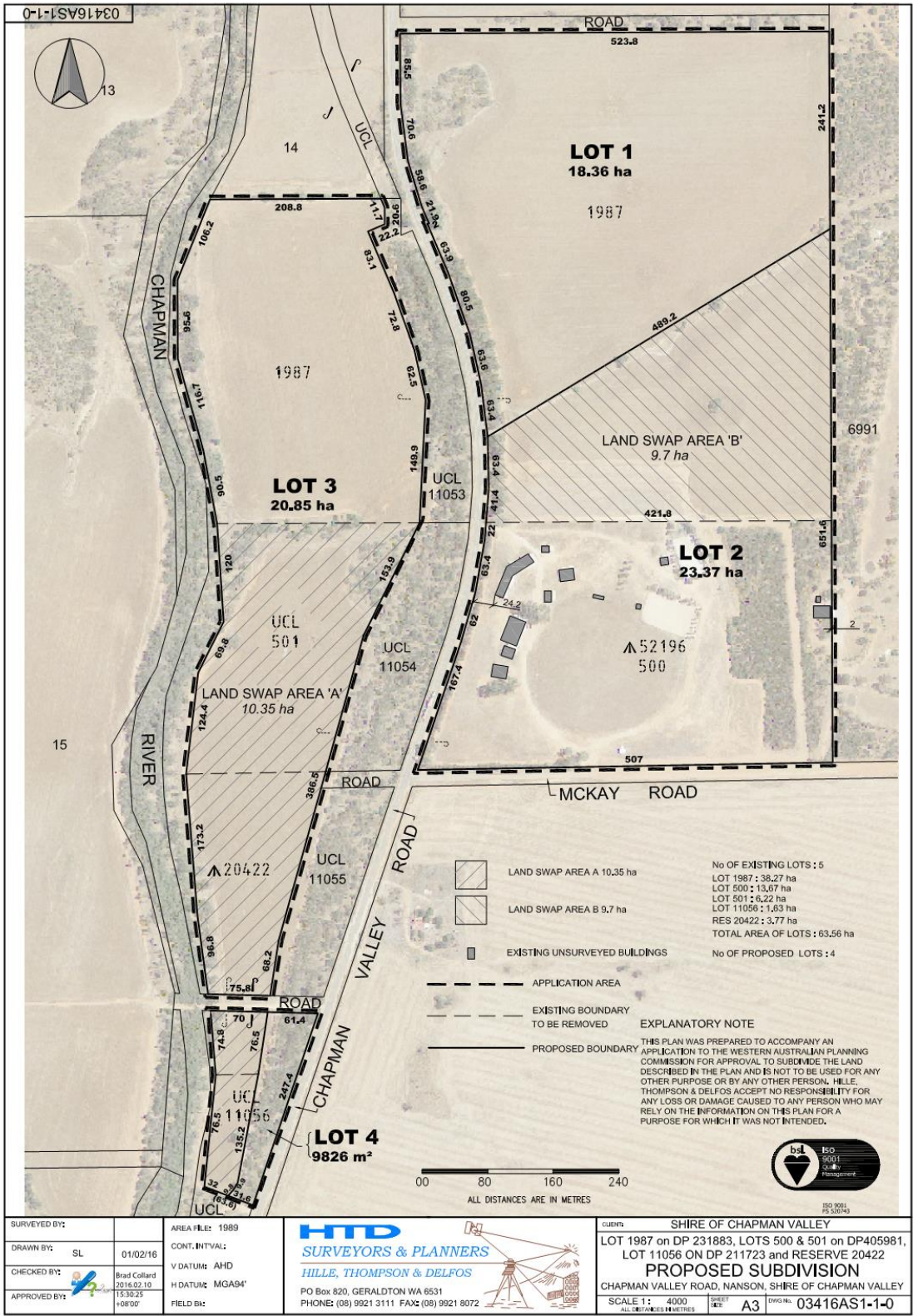
- 1 The Shire of Chapman Valley agrees that it will indemnify and keep indemnified the State of Western Australia, the Department of Planning, Lands and Heritage and the Minister for Lands (the Indemnified Parties) and hold them harmless from and against all liabilities, obligations, costs, expenses or disbursements of any kind including, without limitation, compensation payable to any party as a result of the compulsory acquisition of any interests (whether native title or non-native title) in Portion of Lot 501 on Deposited Plan 405981 shown as Lot 509 on Deposited Plan 411378 and in Portion of Lot 11056 on Deposited Plan 211723 shown as Lot 512 on Deposited Plan 411377 (the Land) under the *Land Administration Act 1997* or the *Native Title Act 1993 (Cth)* which may be imposed on, or incurred by the Indemnified Parties relating to or arising directly or indirectly from the acquisition of the Land.

- 2 Query with the Department of Planning, Lands and Heritage whether the 5.5735ha Lot 509 upon Deposited Plan 411378 that was previously part of Reserve 7953 (Lot 377) upon Deposited Plan 105742 should be subject to the indemnification and future acts process, given that it was part of Reserve 7953 (Lot 377) and as such had a management purpose of 'Recreation and Showground' assigned on 28 February 1902 and a management order issued to the Shire of Chapman Valley on 17 August 1917, and the land was excised from the Nanson Showground Reserve to facilitate the land exchange.

**Voting 6/0
CARRIED**

Minute Reference: 08/17-4

ATTACHMENT 10.1.2(a)



SURVEYED BY:	AREA FILE: 1989
DRAWN BY: SL	CONT. INT'VAL:
CHECKED BY: Brad Collard	V DATUM: AHD
APPROVED BY: 15.30.25	H DATUM: MGA94
	FIELD Bk:

HTD
SURVEYORS & PLANNERS
HILLE, THOMPSON & DELFOS
PO Box 820, GERALDTON WA 6631
PHONE: (08) 9921 3111 FAX: (08) 9921 8072



CLIENTS: SHIRE OF CHAPMAN VALLEY		
LOT 1987 on DP 231883, LOTS 500 & 501 on DP405981, LOT 11056 ON DP 211723 and RESERVE 20422		
PROPOSED SUBDIVISION		
CHAPMAN VALLEY ROAD, NANSON, SHIRE OF CHAPMAN VALLEY		
SCALE 1: 4000	SHEET NO: A3	DWG NO: 03416AS1-1-0
ALL DISTANCES IN METRES		

10.2 Finance August 2017

Contents

10.2 AGENDA ITEMS

10.2.1 Financial Reports for July 2017

10.2.2 Budget Item Deferrals

AGENDA ITEM:	10.2.1
SUBJECT:	FINANCIAL REPORTS FOR JULY 2017
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	307.04
PREVIOUS REFERENCE:	N/A
DATE:	16 AUGUST 2017
AUTHOR:	DIANNE RAYMOND, MANAGER FINANCE & CORPORATE SERVICES

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.2.1	Merged Financial Reports		√

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Financial Regulations require a monthly statement of financial activity report to be presented to Council.

COMMENT

The monthly financial statements for July 2017 have been provided as a **separate attachment** for Council's review.

STATUTORY ENVIRONMENT

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

POLICY IMPLICATIONS

There are no policy implications

FINANCIAL IMPLICATIONS

As presented in July 2017 financial statements.

- **Long Term Financial Plan (LTFP):**

No significant effect on the LTFP

STRATEGIC IMPLICATIONS

Nil

- **Strategic Community Plan/Corporate Business Plan:**

Nil

CONSULTATION

Not applicable

RISK ASSESSMENT

The associated risk would be the failure to comply with Local Government Financial Regulations requiring monthly reporting of financial activity. The Risk Rating is Level 1 Insignificant.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR HUMPHREY

SECONDED: CR MALUISH

That Council receives the financial report supplied under separate attachment for the month of July 2017 comprising the following:

- Statement of Financial Activities with notes
- Note 1 – Significant Accounting Policies
- Note 2 – Explanation of Material Variances
- Note 3 – Net Current Funding Position
- Note 4 – Cash & Investments
- Note 5 – Budget Amendments
- Note 6 – Receivables
- Note 7 – Cash Backed Reserves
- Note 8 – Capital Disposals
- Note 9 – Rating Information
- Note 10 – Information on Borrowings
- Note 11 – Grants & Contributions
- Note 12 – Trust
- Note 13 – Capital Acquisitions
- Appendix A – Budget by Program
- Summary of Payments
- Bank Reconciliation
- Credit Card Statement

**Voting 6/0
CARRIED
Minute Reference: 08/17-5**

AGENDA ITEM:	10.2.2
SUBJECT:	BUDGET ITEM DEFERRALS
PROPONENT:	CHIEF EXECUTIVE OFFICER
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	204.07.06
PREVIOUS REFERENCE:	N/A
DATE:	16th AUGUST 2017
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER & DIANNE RAYMOND, MGR FINANCE & CORP SERVICES

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
	Nil		

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Advice has been received from Main Roads WA of the State Governments decision to reduce Direct Grant payments to all local government authorities across the state. This will reduce the Shire of Chapman Valley's 2017/2018 Direct Grant road funding from \$118,710 to \$68,366 (i.e. a revenue reduction of \$50,344 this financial year).

The State Government has made the decision to reduce local government road grants as a direct result of the Legislative Council successfully passing a disallowance motion for the State to remove vehicle licence concessions and stamp duty exemption from local government.

COMMENT

It is disappointing to have the State Government act the way they have and this can be seen as nothing other than a childish reaction to not getting their way in the Legislative Council. It appears obvious the State Government is using the local government rate base as means for them address the problems they have with the State's finances, which is simply a result of poor fiscal management practices by the State in the past.

Unfortunately all the lobbying undertaken by WALGA and individual local government authorities has not resulted in any savings at all to the rate payers. Something the State Government obviously are not concerned about.

STATUTORY ENVIRONMENT

In accordance with legislative requirements of the Local Government Act, 1995, Section 6.8(1)(b) Council is required to resolve by **Absolute Majority** to incur expenditure from its municipal fund for an additional purpose that is not identified in the Adopted Budget. However; as it is only being recommended item be deferred in the budget not remove or varied I believe this will only require a **Simple Majority**.

If an item is subsequently brought back to Council to vary the budget then at this time an **Absolute Majority** will be required.

Local Government Act (1995) – Section 6.8. - Expenditure from municipal fund not included in annual budget

(1) *A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:*

- (a) *is incurred in a financial year before the adoption of the annual budget by the local government; or*
- (b) *is authorised in advance by resolution*;* or
- (c) *is authorised in advance by the mayor or president in an emergency.*

** Absolute majority required.*

(1a) *In subsection (1):*

additional purpose *means a purpose for which no expenditure estimate is included in the local government's annual budget.*

(2) *Where expenditure has been incurred by a local government —*

- (a) *pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and*
- (b) *pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The Staff Recommendation is requesting the deferral of the following specific items authorised within the 2017/2018 budget until the audited financial statements for 2016/2017 have been finalised and the actual end-of-year (EOY) financial position is known. Therefore the recommendation is not to vary the 2017/2018 Budget at this stage, rather just to place these items on hold until we are fully aware of the 2016/2017 EOY financial position:

- Replace Utility (Grader Driver) \$45,000 (net change-over cost)
- Replace Office Carpet \$ 5,600
- Remove Office Aircon & repair ceiling \$ 4,600
- Coronation Beach BBQ, Gazebo & Concrete \$12,500

Though the total of all the above exceeds the amount we lose from the reduction in the 2017/2018 Direct Road Grants it would be wise to retain these item on a list of deferred expenditure until the 2016/2017 EOY financial position is known.

- **Long Term Financial Plan (LTFP):**

No significant effect on the LTFP

STRATEGIC IMPLICATIONS

Nil

- **Strategic Community Plan/Corporate Business Plan:**

Nil

CONSULTATION

The CEO has discussed the deferral of the Grader Driver's utility for another year and it was suggested this could happen with the understanding there may be additional maintenance works required in this vehicle in 2017/2018.

RISK ASSESSMENT

As the overall effect to the current budget is \$50,344, which can be absorbed by not undertaking other project. However; in accordance with the Risk Assessment Matric is considered **Moderate** i.e.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Moderate (3)	Medical type injuries	\$10,001 - \$50,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies

VOTING REQUIREMENTS

Simple Majority

STAFF RECOMMENDATION

Council endorse the following items in the 2017/2018 Budget being deferred until the actual 2016/2017 end of financial year position is finalised at which time another review will be brought back to Council for consideration to vary the budget if necessary:

- Replace Utility (Grader Driver) \$45,000 (net change-over cost)
- Replace Office Carpet \$ 5,600
- Remove Office Aircon & repair ceiling \$ 4,600
- Coronation Beach BBQ, Gazebo & Concrete \$12,500

COUNCIL RESOLUTION

MOVED: CR MALUISH

SECONDER: CR FORRESTER

That Council defer \$50,344 of the contract and material component roadwork budget for 2017/2018 until the actual 2016/2017 end of financial year position is finalised at which time another review will be brought back to Council for consideration to vary the budget if necessary.

**Voting 2/4
LOST**

Minute Reference: 08/17-6

FORESHADOWED MOTION

MOVED: CR FARRELL

SECONDED: CR HUMPHREY

Council endorse the following items in the 2017/2018 Budget being deferred until the actual 2016/2017 end of financial year position is finalised at which time another review will be brought back to Council for consideration to vary the budget if necessary:

- Replace Office Carpet \$ 5,600
- Remove Office Aircon & repair ceiling \$ 4,600
- Coronation Beach BBQ, Gazebo & Concrete \$12,500
- Balance to come from the materials and contract component of the 2017/2018 roadworks budget.

The Foreshadowed Motion became the Substantive Motion and was discussed.

**Voting 4/2
CARRIED**

Minute Reference: 08/17-7

FORESHADOWED MOTION

MOVED: CR ROYCE

Council endorse the following items in the 2017/2018 Budget being deferred until the actual 2016/2017 end of financial year position is finalised at which time another review will be brought back to Council for consideration to vary the budget if necessary:

- Replace Utility (Grader Driver) \$45,000 (net change-over cost)
- Replace Office Carpet \$ 5,600
- Remove Office Aircon & repair ceiling \$ 4,600
- Coronation Beach BBQ, Gazebo & Concrete \$12,500

MOTION LAPSED

10.3 Chief Executive Officer August 2017

Contents

10.3 AGENDA ITEMS

10.3.1 Local Government Act Review

AGENDA ITEM:	10.3.1
SUBJECT:	LOCAL GOVERNMENT ACT REVIEW
PROPONENT:	WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION
SITE:	WA LOCAL GOVERNMENT
FILE REFERENCE:	404.02
PREVIOUS REFERENCE:	MINUTE REFERENCE 04/17-22
DATE:	16th AUGUST 2017
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER

SUPPORTING DOCUMENTS

Ref	Title	Attached to Report	Under Separate Cover
10.3.1(a)	WALGA Info Page	√	
10.3.1(b)	Council Submission to WALGA NCZ	√	
10.3.1(c)	WALGA LG Act Review Discussion Paper		√

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The Western Australian Local Government Association (WALGA) has provided an Infopage (**Attachment 10.3.1(a)**) and a Discussion Paper (**10.3.1(c)** provided under separate cover) on the review of the Local Government Act, 1995.

Council made a submission to the Northern Country Zone (NCZ) of WALGA in April 2017 on the issue of local government legislative burdens. 1 copy of this submission is provided as **Attachment 10.3.1(b)** after the following resolution at the April 2017 OCM:

“MOVED: CR FARRELL

SECONDED: CR WARR

Council advises the Northern Country Zone (NCZ) of the Western Australian Local Government Association (WALGA) the following in regards to the issue of legislative and compliance burdens placed on Western Australian local government authorities:

- 1. It supports the list of legislative issue, which need to be reviewed as presented by the NCZ Chief Executive Officers and Senior Staff;*
- 2. Recommends the NCZ local government authorities co-opt the service of an appropriately qualified and experienced individual or organisation to analyse the legislative requirements of the Local Government Act and associated Regulations in comparison to the interpretation of this legislation by the executive arm of State Government;*
- 3. Recommends the NCZ approach all WALGA Zones seeking any additional items to be added to (or expanded upon) the current list of legislative issue, which need to be reviewed as presented by the NCZ Chief Executive Officers and Senior Staff;*
- 4. Recommend an approach not be made to the WALGA State Council on this matter until feedback has been obtained from all WALGA Zones to ensure this matter is presented to the State Council with prior Zone support and/or input.*

Voting 6/0

CARRIED

Minute Reference 04/17-22”

The April 2017 Council resolution was presented to the NCZ; however, was unsuccessful due predominantly to internal politics within the NCZ. However; the Shire’s concerns were clearly presented to WALGA and the submission sent to WALGA for consideration as part of the Local Government Act Review process.

COMMENT

The Local Government Act Review process has now moved to the next level with the Minister formally announcing the review. The review is to be undertaken in two stages as identified in both the WALGA Infopage and the Discussion Paper.

Though the review Stages are focussing on specific areas on the legislation the Minister's office has advised there may be some flexibility as to what issues are to be considered in Stages 1 & 2.

The WALGA Discussion Paper has comments added to reflect my feelings on the items raised within the Paper. I have also included in the Staff Recommendations items previously raised by Council (i.e. Minute Reference 04/17-22) not listed in the WALGA Discussion Paper. i.e.

a) FM Reg17A. Assets, valuation of for financial reports etc.

Recommend Asset Revaluations only be required to be undertaken every five years, as is the Queensland requirement.

If five years is not to be considered then an alternative recommendation is that the Salaries Administrative Tribunal bands be used, i.e. if in Band 4 only require revaluation every "x" amount of years

Recommend that it is questionable the benefit of valuing assets which cannot be sold and infrastructure of assets. Does not give a true reflection of the Councils financial situation as the value of these assets only inflates the financial position but in reality those assets cannot be sold.

b) Section 2.1; Schedule 2.2; & Constitution Reg. - Ward Representation

The current State Government position of +/- 10% of Electors to Elected Members is unfair when the rate/revenue contribution of the various area of LG district is not taken into account as well.

Unable to determine if the ratio is set by legislation, which sets the +/- 10% ratio and believe this is simple a position of the State Government, probably at the recommendation of Executive Government, which has then been a direction to the Local Government Advisory Board.

In the Shire of Somewhere as an example the Electors are approximately 50:50 under the current Ward system, whereas the rate revenue is significantly weighted to the UV areas (i.e. 82% UV – v – 18% GRV).

It is being suggested the Rate Revenue only should be the basis of revenue source of an LGA and the WALGGC population ratio linked to FAGS revenue would also need to ne included into the calculations.

A combination of a number of criteria needs to be included as part of the Ward Representation ratio rather than just using the Electors – v – Elected members in isolation.

Regional & remote LGAs opposed the State at the time they introduced the One Vote – One Value procedure for establishing State Electoral boundaries, yet we did not fight against the same concept for our own Ward Boundary representation, which is based on the same concept.

Recommend that the appropriate body, be it the DLGC or WALGA investigate the possibility of a criteria being developed to accommodate the above

(Note this is not legislated but a directive. In addition the calculating of rate revenue as a basis is not in keeping with the definition of "electors")

c) Section 2.31 – Resignation of Elected Member

Section 2.31 (3) requires written notice of resignation is to be signed and dated by the person who is resigning and delivered to the CEO.

Recommendation that his section be amended to reflect an emailed resignation with undisputed proof the email is from the Elected Member should satisfy the requirements of being a signed & dated resignation delivered to the CEO.

d) Division 2– Subdivision1& Functions & General Regs. – Local Laws made under the Act

The Local Law process is extremely complex and difficult. This whole area needs to be reviewed to simplify the process of adopting new and/or reviewing existing local laws.

Recommend the DLGC undertake a comprehensive review with industry input on the process in reviewing Local Laws. The process needs simplification and an alternative needs to be established and considered by the sector.

e) Part 4 – Elections & Other Polls (Section 4.62)& Election Regs

If a LGA is conducting a Postal Election or Referendum then the need to man a Polling Place on the day of the Election/Referendum should be removed.

It is an added expense to have the WAEC & staff sitting at a Polling Place all day for limited or no votes collected.

The Counting of Votes should still be held after 6pm on the election/referendum day.

Recommend the requirement to man a polling place when undertaking an election by postal vote be removed.

f) Section 5.56. Planning for the future -Integrated Planning & Reporting

The current requirements for Integrated Planning & Reporting (IPR) are too onerous, specifically for smaller LGAs with limited resources.

The most recent review undertaken by the DLGC has only exacerbated the resource requirements on LGAs to review their IPR.

There must be different levels of requirements placed on LGAs of different sizes & resource capacity. The current IPR set up has resulted in smaller LGAs having to increase rate revenue to obtain external services/consultants to step these LGAs through the process.

Long Term Financial Plans and Asset Management Plans linked to basic Strategic Community Plans is all that should be required.

Corporate Business Plans & Workforce Plans are superfluous.

It was noted that it is not the actual legislation but the Department and their one size fits all 'guidelines' that are the problem. Guidelines using 'banding' to reflect capacity of local governments would be better. Noted that Strategic Community Plans legislation in Queensland was abolished as the plans were unrealistic and unachievable financially for many rural local governments

Also a concern that directives coming from DLGC are telling LG what they should do. It's a LG decision not the DLGC.

g) Admin Reg. 14A - Attendance by telephone etc. (Act s. 5.25(1)(ba))

This section is too restrictive and needs to be relaxed (e.g. the 150km distance is unrealistic).

- 14A. Attendance by telephone etc. (Act s. 5.25(1)(ba))
- (1) A person who is not physically present at a meeting of a council or committee is to be taken to be present at the meeting if —
- (a) the person is simultaneously in audio contact, by telephone or other means of instantaneous communication, with each other person present at the meeting; and
 - (b) the person is in a suitable place; and
 - (c) the council has approved* of the arrangement.
- (2) A council cannot give approval under subregulation (1)(c) if to do so would mean that at more than half of the meetings of the council, or committee, as the case may be, in that financial year, a person (other than a person with a disability) who was not physically present was taken to be present in accordance with this regulation.
- (3) A person referred to in this regulation is no longer to be taken to be present at a meeting if the person ceases to be in instantaneous communication with each other person present at the meeting.
- 4) In this regulation —
- disability** has the meaning given in the Disability Services Act 1993 section 3;
- suitable place** —
- (a) in relation to a person with a disability — means a place that the council has approved* as a suitable place for the purpose of this paragraph; and
 - (b) in relation to any other person — means a place that the council has approved* as a suitable place for the purpose of this paragraph and that is located —
 - (i) in a townsite or other residential area; and
 - (ii) 150 km or further from the place at which the meeting is to be held under regulation 12, measured along the shortest road route ordinarily used for travelling;
- townsite** has the same meaning given to that term in the Land Administration Act 1997 section 3(1).

With current technology local government should be embracing the opportunity to have Councillors participate, irrespective of distance or type of location (i.e. townsite).

Recommend that the 150km limit be removed from regulation 14A.

h) Admin Reg. 18F - Remuneration and benefits of CEO to be advertised

The purpose of this regulation is questioned due to the remuneration of CEO's are set by the Salaries & Allowances Tribunal.

Recommend this section be deleted as serves no purpose in the governance of a LG.

i) Audit Reg. 15 - Compliance audit return

Recommend this requirement be removed due to the plethora of other audits required.

Also question why it is a legislative requirement for this to go to an Audit Committee

Further the actual legislative need for an Audit Committee is questioned when the whole Council can undertake the same role.

j) Audit Reg. 17 - CEO to review certain systems and procedures

The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —

- (a) risk management; and
- (b) internal control; and
- (c) legislative compliance.

This is onerous and should be removed or amended. Not sure why this would need to go to the Audit Committee then to Council. If retained then should go directly to Council with the Council then determining if any items raised needs further investigation and then putting this to the Audit Committee.

In many instances the process is very onerous on the CEO and therefore external assistance is used which comes at a cost to the Council.

Recommend there should be different requirements for different 'bands' of local governments and DLGC's expectations need to be amended to allow reviews to be done in house.

k) Annual Reports

Recommend that there should be different levels of requirements for different 'bands' of local governments

Also question the actual need for them considering little are read by electors.

l) Annual Financial Reporting

Currently there is a one size fits all model for the annual financial process and Corporate Business Planning Process. Could a scenario where there is a tiered process that requires a higher level of reporting for larger LG's, similar to the tiered approach that exists with company reporting.

Recommend the development of a "tiered" process on the level of reporting for each LG and on the level of compliance

m) Annual Returns

Where a Councillor or designated employer has had no change to their previous Annual Return, they are required to place "No change" "nil" "none" within each box of the return. This does not occur in many cases and Auditors are determining that an Annual Return is not complete due to some boxes in the return have not been marked "none", "nil" or "no change."

Recommend the Annual Returns be changed to introduce the ability to declare 'no change from previous year' instead of having to mark every area. This will also assist in the storing of annual returns where only one page needs to be kept on record and not four as is the current case. This does not sound like an issue, however when you have a member that has been on Council for many years, the accumulation of four pages of an annual report does build

n) Section 3.5.8 Disposal of Property

Issue is that if a LG gets a Real Estate Agent to sell land on its behalf and that land is sold, then the LG still has to go through the advertising process.

Recommend legislation be changed to allow disposal through real estate agent (without having to go through 3.58 advertising provisions, i.e. be an exemption) as advertising has been undertaken and the public are well informed of the proposal to sell.

o) Exemption of rates

Recommend be changed to allow Council to decide whether or not to allow exemption to each 'charitable organisation' and any other organisation (e.g. CBH)

p) General Comments

The Department needs to assist local government more rather than being a policeman all the time. One example is where the Department will send you a letter if you forget to supply them with a copy of the annual financials. Instead of waiting for the deadline they could be more helpful and send a reminder prior to the deadline. Smaller LG's generally rely on one person to undertake this type of function, if they get sick or are on leave there is generally no one to do the role. Also the audit partner could send the annuals document when they advise the Department that the audit has been signed off.

Recommend that the Department should be providing templates for annual reports, budgets etc., instead of Councils having to pay Moore Stephens to attend workshops, receive templates. Generally the Department should have more of a focus on "helping", not "policing".

Many of the difficulties experienced are as a result of Departmental Guidelines/expectations as opposed to the actual Local Government Act 1995 and Regulations. It is recommended that a tiered approach towards compliance needs to be taken by the Department, and not apply a one size fits all as many smaller local governments do not have the staff or financial resources to ensure the compliance strictly in accordance with the DLGC expectations. It appears that DLGC go over and beyond what the actual legislative requirements are.

STATUTORY ENVIRONMENT

Local Government Act, 1995 & associated Regulations.

POLICY/PROCEDURE IMPLICATIONS

No existing Policies/Procedures effected.

FINANCIAL IMPLICATIONS

As reported at the April 2017 OCM, the financial Implications associated with superfluous overburdening legislation has not been formally measured or analysed. However; in a presentation given in the mid 2000s by Shane Silcox, CEO City of Melville, indicated the costs of legislative compliance in local government is approximately \$12m per annum. Below is an extract from the Shane's presentation:

"In Western Australia the growth in legislation from the 1960s as documented in the Business Regulation Action Plan by the Business Council of Australia has been some 185% to a staggering 20,000 pages of primary legislation in 2000. That is from approximately 7,000 pages of primary legislation in 1960's, 11,000 pages in 1970's, 14,000 pages in the 1980's, 18,000 pages in the 1990's and 20,000 pages in the 2000's.

Unfortunately, many regulations conceived to fix one problem often lead to unintended consequences, sometimes requiring more legislation...and the cycle goes on!

And the cost of this exponential growth, or exuberance, is estimated at 8% of GDP. In fact the cost of regulation for small and medium-sized Australian businesses in 1998, suggests the OECD, is estimated at more than \$17 billion. Additionally, the Federal government alone spent some \$4.5 billion on the administrative costs of Commonwealth regulatory bodies.

Studies in the USA have identified that the cost of compliance is about 1.5% of revenues...in Western Australia the combined Local Government revenues is some \$829m hence the cost of compliance in this state alone is over \$12m.

Overall it is unfortunate that compliance has dominated debate since the 1990's with our society becoming more litigious in the process. Australian taxpayers, consumers and ratepayers ultimately pay the price of this exuberance both from a compliance and risk management perspective."

It would fair to state the issue has worsened significantly since the mid 2000's and I am sure the legislation cost across the local government sector would closer to \$20m per annum. However, as you

would imagine, ascertaining the actual cost burden would be a major exercise and one I am sure this shire alone (or even the NCZ member LGAs) could not afford the time or resources to undertake.

- **Long Term Financial Plan (LTFP):**

The Shire’s LTFP must take into account the operational costs of the organisation, which then must take into account the costs to ensure compliance with legislative requirements and the implementation of legislation as it is being determined by the executive arm of government (i.e. *Best Practice*).

The administrative burdens placed on the organisation has been significant over past 20 to 30 years. These administrative burdens are invariably directly associated with the legislative (and executive arm of governments interpretations) burdens place on local governments during this period.

It would also be fair to state the Financial Assistance Grants, which are designed to make funds available to local government to provide services to its constituents, has not kept pace with the legislative impositions place on local government.

STRATEGIC IMPLICATIONS

- **Strategic Community Plan/Corporate Business Plan:**

Objective	Strategy	Actions
We want to strengthen our community’s position for the future	Maintain a resilient and independent Shire, which portrays unity and cooperation.	Council management, systems and processes enable the delivery of sustainable services and projects

CONSULTATION

As previously reported, the NCZ CEOs and other Senior Staff have discussed their concerns and developed a list of legislative burdens associated with the Local Government Act & Regulations.

The Local Government Act review process has now moved to the next stage where WALGA is leading an industry approach for the review.

RISK ASSESSMENT

Due to the ever increasing burdens being placed on local government I would consider the risk being **Major** in this instance if these burdens cannot be removed (or at least diminished) i.e.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Major (4)	Lost time injury	\$50,001 - \$150,000	Prolonged interruption of services – additional resources; performance affected < 1 month	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, high impact, high news profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR HUMPHREY

SECONDED: CR FORRESTER

Council:

1. Endorse the comments in attachment 10.3.1(c) as presented for Stage 1 of the review process; and
2. Reiterate the following items to be considered as part of the review process in either Stage 1 or Stage2:

a) FM Reg17A. Assets, valuation of for financial reports etc.

Recommend Asset Revaluations only be required to be undertaken every five years, as is the Queensland requirement.

If five years is not to be considered then an alternative recommendation is that the Salaries Administrative Tribunal bands be used, i.e. if in Band 4 only require revaluation every "x" amount of years

Recommend that it is questionable the benefit of valuing assets which cannot be sold and infrastructure of assets. Does not give a true reflection of the Councils financial situation as the value of these assets only inflates the financial position but in reality those assets cannot be sold.

b) Section 2.1; Schedule 2.2; & Constitution Reg. - Ward Representation

The current State Government position of +/- 10% of Electors to Elected Members is unfair when the rate/revenue contribution of the various area of LG district is not taken into account as well.

Unable to determine if the ratio is set by legislation, which sets the +/- 10% ratio and believe this is simple a position of the State Government, probably at the recommendation of Executive Government, which has then been a direction to the Local Government Advisory Board.

In the Shire of Somewhere as an example the Electors are approximately 50:50 under the current Ward system, whereas the rate revenue is significantly weighted to the UV areas (i.e. 82% UV – v – 18% GRV).

It is being suggested the Rate Revenue only should be the basis of revenue source of an LGA and the WALGVC population ratio linked to FAGS revenue would also need to ne included into the calculations.

A combination of a number of criteria needs to be included as part of the Ward Representation ratio rather than just using the Electors – v – Elected members in isolation.

Regional & remote LGAs opposed the State at the time they introduced the One Vote – One Value procedure for establishing State Electoral boundaries, yet we did not fight against the same concept for our own Ward Boundary representation, which is based on the same concept.

Recommend that the appropriate body, be it the DLGC or WALGA investigate the possibility of a criteria being developed to accommodate the above

(Note this is not legislated but a directive. In addition the calculating of rate revenue as a basis is not in keeping with the definition of "electors")

c) Section 2.31 – Resignation of Elected Member

Section 2.31 (3) requires written notice of resignation is to be signed and dated by the person who is resigning and delivered to the CEO.

Recommendation that his section be amended to reflect an emailed resignation with undisputed proof the email is from the Elected Member should satisfy the requirements of being a signed & dated resignation delivered to the CEO.

d) Division 2– Subdivision1& Functions & General Regs. – Local Laws made under the Act

The Local Law process is extremely complex and difficult. This whole area needs to be reviewed to simplify the process of adopting new and/or reviewing existing local laws.

Recommend the DLGC undertake a comprehensive review with industry input on the process in reviewing Local Laws. The process needs simplification and an alternative needs to be established and considered by the sector.

e) Part 4 – Elections & Other Polls (Section 4.62)& Election Regs

If a LGA is conducting a Postal Election or Referendum then the need to man a Polling Place on the day of the Election/Referendum should be removed.

It is an added expense to have the WAEC & staff sitting at a Polling Place all day for limited or no votes collected.

The Counting of Votes should still be held after 6pm on the election/referendum day.

Recommend the requirement to man a polling place when undertaking an election by postal vote be removed.

f) Section 5.56. Planning for the future -Integrated Planning & Reporting

The current requirements for Integrated Planning & Reporting (IPR) are too onerous, specifically for smaller LGAs with limited resources.

The most recent review undertaken by the DLGC has only exacerbated the resource requirements on LGAs to review their IPR.

There must be different levels of requirements placed on LGAs of different sizes & resource capacity. The current IPR set up has resulted in smaller LGAs having to increase rate revenue to obtain external services/consultants to step these LGAs through the process.

Long Term Financial Plans and Asset Management Plans linked to basic Strategic Community Plans is all that should be required.

Corporate Business Plans & Workforce Plans are superfluous.

It was noted that it is not the actual legislation but the Department and their one size fits all 'guidelines' that are the problem. Guidelines using 'banding' to reflect capacity of local governments would be better. Noted that Strategic Community Plans legislation in Queensland was abolished as the plans were unrealistic and unachievable financially for many rural local governments

Also a concern that directives coming from DLGC are telling LG what they should do. It's a LG decision not the DLGC.

g) Admin Reg. 14A - Attendance by telephone etc. (Act s. 5.25(1)(ba))

This section is too restrictive and needs to be relaxed (e.g. the 150km distance is unrealistic).

14A. Attendance by telephone etc. (Act s. 5.25(1)(ba))

(1) A person who is not physically present at a meeting of a council or committee is to be taken to be present at the meeting if –

- (a) the person is simultaneously in audio contact, by telephone or other means of instantaneous communication, with each other person present at the meeting; and
 - (b) the person is in a suitable place; and
 - (c) the council has approved* of the arrangement.
- (2) A council cannot give approval under sub regulation (1)(c) if to do so would mean that at more than half of the meetings of the council, or committee, as the case may be, in that financial year, a person (other than a person with a disability) who was not physically present was taken to be present in accordance with this regulation.
- (3) A person referred to in this regulation is no longer to be taken to be present at a meeting if the person ceases to be in instantaneous communication with each other person present at the meeting.
- 4) In this regulation —
- disability** has the meaning given in the Disability Services Act 1993 section 3;
- suitable place** —
- (a) in relation to a person with a disability — means a place that the council has approved* as a suitable place for the purpose of this paragraph; and
 - (b) in relation to any other person — means a place that the council has approved* as a suitable place for the purpose of this paragraph and that is located —
 - (i) in a townsite or other residential area; and
 - (ii) 150 km or further from the place at which the meeting is to be held under regulation 12, measured along the shortest road route ordinarily used for travelling;
- townsite** has the same meaning given to that term in the Land Administration Act 1997 section 3(1).

With current technology local government should be embracing the opportunity to have Councillors participate, irrespective of distance or type of location (i.e. townsite).

Recommend that the 150km limit be removed from regulation 14A.

h) Admin Reg. 18F - Remuneration and benefits of CEO to be advertised

The purpose of this regulation is questioned due to the remuneration of CEO's are set by the Salaries & Allowances Tribunal.

Recommend this section be deleted as serves no purpose in the governance of a LG.

i) Audit Reg. 15 - Compliance audit return

Recommend this requirement be removed due to the plethora of other audits required.

Also question why it is a legislative requirement for this to go to an Audit Committee

Further the actual legislative need for an Audit Committee is questioned when the whole Council can undertake the same role.

j) Audit Reg. 17 - CEO to review certain systems and procedures

The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —

- (a) risk management; and
- (b) internal control; and
- (c) legislative compliance.

This is onerous and should be removed or amended. Not sure why this would need to go to the Audit Committee then to Council. If retained then should go directly to Council with the Council then determining if any items raised needs further investigation and then putting this to the Audit Committee.

In many instances the process is very onerous on the CEO and therefore external assistance is used which comes at a cost to the Council.

Recommend there should be different requirements for different 'bands' of local governments and DLGC's expectations need to be amended to allow reviews to be done in house.

k) Annual Reports

Recommend that there should be different levels of requirements for different 'bands' of local governments

Also question the actual need for them considering little are read by electors.

l) Annual Financial Reporting

Currently there is a one size fits all model for the annual financial process and Corporate Business Planning Process. Could a scenario where there is a tiered process that requires a higher level of reporting for larger LG's, similar to the tiered approach that exists with company reporting.

Recommend the development of a "tiered" process on the level of reporting for each LG and on the level of compliance

m) Annual Returns

Where a Councillor or designated employer has had no change to their previous Annual Return, they are required to place "No change" "nil" "none" within each box of the return. This does not occur in many cases and Auditors are determining that an Annual Return is not complete due to some boxes in the return have not been marked "none", "nil" or "no change."

Recommend the Annual Returns be changed to introduce the ability to declare 'no change from previous year' instead of having to mark every area. This will also assist in the storing of annual returns where only one page needs to be kept on record and not four as is the current case. This does not sound like an issue, however when you have a member that has been on Council for many years, the accumulation of four pages of an annual report does build

n) Section 3.5.8 Disposal of Property

Issue is that if a LG gets a Real Estate Agent to sell land on its behalf and that land is sold, then the LG still has to go through the advertising process.

Recommend legislation be changed to allow disposal through real estate agent (without having to go through 3.58 advertising provisions, i.e. be an exemption) as advertising has been undertaken and the public are well informed of the proposal to sell.

o) Exemption of rates

Recommend be changed to allow Council to decide whether or not to allow exemption to each 'charitable organisation' and any other organisation (e.g. CBH)

p) General Comments

The Department needs to assist local government more rather than being a policeman all the time. One example is where the Department will send you a letter if you forget to supply them with a copy of the annual financials. Instead of waiting for the deadline they could be more helpful and send a reminder prior to the deadline. Smaller LG's generally rely on one person to undertake this type of function, if they get sick or are on leave there is generally no one to do

the role. Also the audit partner could send the annuals document when they advise the Department that the audit has been signed off.

**Voting 6/0
CARRIED
Minute Reference: 08/17-8**

INFOPAGE

To: All Local Governments

From: Tony Brown
Executive Manager Governance &
Organisational Services



Date: 7 July 2017

Priority: High

Subject: Review of the Local Government Act 1995

IN BRIEF:

Operational Area:	Governance
Key Issues:	<ul style="list-style-type: none"> The Minister for Local Government has announced a review of the Local Government Act and Regulations. The process will be in two (2) stages. The Minister has advised that the first stage will focus on modernising Local Government, with the policy work and consultation to be completed in 2017 with a Bill in 2018. WALGA will carry out a comprehensive consultation process with Member Local Governments to inform sector views and priorities.
Action:	Feedback requested

The Minister for Local Government recently confirmed the commencement of a review of the Local Government Act and associated Regulations. This will be the most comprehensive review since the commencement of the legislation in July 1996. The Minister has confirmed that the Act review process will take place in 2 stages and provided information on the key themes of issues to be considered, stating:

"The first will focus on modernising Local Government, with the policy work and consultation to be completed in 2017 with a Bill in 2018. Key topics in this phase will be increasing elector participation, electronic disclosure (making information more readily available), simplifying the disclosure of gifts and some reducing red tape provisions."

"The theme for the second phase is delivering for the community, with the policy work and consultation to be completed in 2018 with a Bill in 2019. Key themes for this phase will be improving behaviour and relationships, increasing community participation, enabling local government enterprises, improving financial management and reducing red tape."

The following are the issues that the Minister's office has put forward:

Phase 1: 'Modernising local government' - 2017

- Increasing participation in local government elections
- Strengthening public confidence in local government elections
- Making information available online
- Restoring public confidence (includes the gift provisions)
- Reducing red tape
- Regional Subsidiaries

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Phase 2: 'Services for the community' - 2018

- Increasing community participation
- Improving financial management
- Improving behaviour and relationships
- Reducing red tape

One of the policy priorities listed in WALGA's Election Campaign document was for a commitment to comprehensively review the key areas of the Local Government Act. The new State Government has agreed to this request. Key foundations of the Act, which the sector would like considered, relate to the retention of the 'general competence' principle and consideration of a size and scale compliance regime. The Act review will incorporate regulatory amendments.

WALGA is looking to carry out a thorough consultation process with the sector on the key issues for the Act review. The Minister's office has advised that there may be some flexibility as to what issues are to be considered in stage 1 or stage 2. Based on this the Association will consult the sector on all potential Act amendment issues this year.

The process the Association will undertake will be as follows:

- Infopage will be distributed to Local Governments, followed by a Discussion Paper on issues that have been identified over the last 8 years including WALGA's advocacy positions resolved by the sector. This will include a request for Local Governments to submit additional items for consideration in the Act review process. Councils can submit individually or collectively through their Zone.
- WALGA to hold Zone/regional group forums on the Act/Regulatory amendment suggestions. Can be held in-conjunction with a Zone meeting or separately.
- Finalise feedback and provide recommendations on legislative and regulatory change through a State Council agenda item that would go through the Zones.

It is expected that this process will be carried out between July and November 2017 with the State Council item being considered at the 6 December meeting. The following key issues have previously been identified and will form part of the consultation process with the sector on Act amendments:

- a) Gifts
- b) Regional Subsidiaries
- c) Rating Exemptions:
 - Charitable Purposes provisions
 - Rate Equivalency Payments of Government Trading entities
- d) Financial Management Issues:
 - Borrowings,
 - Investments*
 - Fees and Charges
 - Financial ratios

(* Noting that Regulation 19C(2)(b) of the Financial Management Regulations, permitting fixed term deposits to be invested for up to 3 years, was amended on 12 May 2017)

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e) Administration:

- Electors' General Meetings to be optional,
- Designated Senior Officer section to be reviewed,
- Public Notices (modernisation of the Act to acknowledge electronic means).

f) Functions of Local Governments:

- Tender Thresholds,
- Establish Council Controlled Organisations (Local Government Enterprises),
- Regional Council provisions (review of compliance requirements).

g) Poll Provisions relating to amalgamations and boundary adjustments.

- The poll provisions contained in Schedule 2.1 of the Local Government Act should be extended to provide any community whose Local Government is undergoing a boundary change or amalgamation with the opportunity to demand a binding poll of electors.

A brief summary of some of WALGA's key Advocacy Positions adopted by State Council in the previous 8 years is **attached**. A complete listing of Advocacy Positions together with detailed background information will be included in the future Discussion Paper.

The opportunity for comment will commence shortly with the release of the Discussion Paper. Any questions or queries in the meantime can be referred to James McGovern, Manager Governance on 9213 2093, jmcgovern@walga.asn.au

For further information please contact:

Executive Manager Governance & Organisational Services, Tony Brown
on 9213 2051 or email tbrown@walga.asn.au.

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ITEMS FOR DISCUSSION

Item	Description	Comments
1	<p>Part 6 & Financial Management Regs. - Financial Ratios</p> <p>Reg 17A Financial Management Regs</p>	<p>All Ratios need to be reviewed, specifically the inclusion of FAGS revenue into the ratios.</p> <p>Currently FAGS are not included, which reflects poorly on LGAs. As stated under section 3 of the <i>Local Government (Financial Assistance) Act 1995</i> the Australian Government provides financial assistance for local government purposes by means of grants to the states and self-governing territories for the purpose of improving:</p> <ul style="list-style-type: none"> • <i>The financial capacity of local governing bodies;</i> • <i>The capacity of local governing bodies to provide their residents with an equitable level of services;</i> • <i>The certainty of funding for the local governing bodies;</i> • <i>The efficiency and effectiveness of local governing bodies; and</i> • <i>The provision, by local governing bodies, of services to Aboriginal & Torres Strait Islander communities.</i> <p>For the DLGC to determine the FAG revenue should form part of the LGA ongoing recurrent revenue (similar to rates, fees and charges, etc.) is ludicrous and contradicts Commonwealth legislation.</p> <p>Recommend that rather than change the ratios, the Financial Health Indicator should take the FAGs into account. Suggestions for alternative ratios to be considered. In addition the Zones raise it as a concern on the manner in which ratios are calculated</p> <p>17A. Assets, valuation of for financial reports etc.</p> <p>(1) <i>In this regulation —</i> fair value, in relation to an asset, means the fair value of the asset measured in accordance with the AAS.</p> <p>(2) <i>Subject to subregulation (3), the value of an asset shown in a local government's financial reports must be the fair value of the asset.</i></p> <p>(3) <i>A local government must show in each financial report —</i></p> <p>(a) <i>for the financial year ending on 30 June 2013, the fair value of all of the assets of the local government that are plant and equipment; and</i></p> <p>(b) <i>for the financial year ending on 30 June 2014, the fair value of all of the assets of the local government —</i></p> <p style="padding-left: 40px;">(i) <i>that are plant and equipment; and</i></p> <p style="padding-left: 40px;">(ii) <i>that are —</i></p> <p style="padding-left: 80px;">(I) <i>land and buildings; or</i></p> <p style="padding-left: 80px;">(II) <i>infrastructure;</i></p> <p style="padding-left: 40px;"><i>and</i></p> <p>(c) <i>for a financial year ending on or after 30 June 2015, the fair value of all of the assets of the local government.</i></p> <p>(4) <i>A local government must revalue all assets of the local government of the classes specified in column 1 of the Table to this subregulation —</i></p> <p style="padding-left: 40px;">(a) <i>by the day specified in column 2 of the Table; and</i></p>

(b) by the expiry of each 3 yearly interval after that day.

Class of asset	Day
Plant and equipment	30 June 2016
Land, buildings and infrastructure for which the fair value was shown in the local government's annual financial report for the financial year ending on 30 June 2014	30 June 2017
All other classes of asset	30 June 2018

(5) A revaluation under subregulation (4) must be based on the value of the asset as at a time that is as close as possible to the day by which the revaluation is due.

[Regulation 17A inserted in Gazette 20 Apr 2012 p. 1699-700; amended in Gazette 21 Jun 2013 p. 2451.]

Asset Revaluations (Fair Value) – Remove the need for assets (i.e. Building; Plant & Infrastructure) to be revalued every three years.

In most small LGAs this is an excessive cost to the Rate payers, when values do not vary much (if at all). This also distorts the Financial Statements as values (particularly Infrastructure Assets) can change significantly as this is subject to the individual Valuer.

Recommend that Asset Revaluations only be required to be undertaken every five years, as is the Queensland requirement.

If five years is not to be considered then an alternative recommendation is that the Salaries Administrative Tribunal bands be used, ie if in Band 4 only require revaluation every "x" amount of years

Recommend that it is questionable the benefit of valuing assets which cannot be sold and infrastructure of assets. Does not give a true reflection of the Councils financial situation as the value of these assets only inflates the financial position but in reality those assets cannot be sold

2	Section 2.1, Schedule 2.1; & Constitution Reg. - Provisions about creating, changing the boundaries of, and abolishing districts	<p>Amend legislation to ensure poll option is required for boundary adjustment if required by an affected local government authority.</p> <p>The issue is that Clause 8 of Schedule 2.1 only allows poll provisions for the amalgamation of two or more districts, not for boundary adjustments.</p> <p>The argument is a district(s) could be merged with its neighbour simply by adjusting boundaries and not wholesale amalgamation of two districts.</p> <p>Local Governments have been staked in the past on such boundary adjustment concepts however there is no poll provisions allowed under the legislation in such instances.</p>
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		<p>Recommendation is that Schedule 2.1 needs to be amended to ensure any LGA with boundary adjustments being imposed or suggested, that they have the right to poll their constituents as they do with an amalgamation.</p>
3	Section 2.1; Schedule 2.2; & Constitution Reg. - Ward Representation	<p>The current State Government position of +/- 10% of Electors to Elected Members is unfair when the rate/revenue contribution of the various area of LG district is not taken into account as well.</p> <p>Unable to determine if the ratio is set by legislation, which sets the +/- 10% ratio and believe this is simple a position of the State Government, probably at the recommendation of Executive Government, which has then been a direction to the Local Government Advisory Board.</p> <p>In the Shire of Somewhere as an example the Electors are approximately 50:50 under the current Ward system, whereas the rate revenue is significantly weighted to the UV areas (i.e. 82% UV – v – 18% GRV).</p> <p>It is being suggested the Rate Revenue only should be the basis of revenue source of an LGA and the WALGGC population ratio linked to FAGS revenue would also need to be included into the calculations.</p> <p>A combination of a number of criteria needs to be included as part of the Ward Representation ratio rather than just using the Electors – v – Elected members in isolation.</p> <p>Regional & remote LGAs opposed the State at the time they introduced the <i>One Vote – One Value</i> procedure for establishing State Electoral boundaries, yet we did not fight against the same concept for our own Ward Boundary representation, which is based on the same concept.</p> <p>Recommend that the appropriate body, be it the DLGC or WALGA investigate the possibility of a criteria being developed to accommodate the above</p> <p>Note this is not legislated but a directive. In addition the calculating of rate revenue as a basis is not in keeping with the definition of “electors”</p>
4	Section 2.31 – Resignation of Elected Member	<p>Section 2.31 (3) requires</p> <p><i>Written notice of resignation is to be signed and dated by the person who is resigning and delivered to the CEO.</i></p> <p>Recommendation that his section be amended to reflect an emailed resignation with undisputed proof the email is from the Elected Member should satisfy the requirements of being a signed & dated resignation delivered to the CEO.</p>
5	Division 2– Subdivision 1& Functions & General Regs. – Local Laws made under the Act	<p>The Local law process is extremely complex and difficult. This whole area needs to be reviewed to simplify the process of adopting new and/or reviewing existing local laws.</p> <p>Recommend that the DLGC undertake a comprehensive review with industry input on the process in reviewing Local Laws. The process needs simplification and an alternative needs to be established and considered by the sector.</p>

6	Section 3.53 – Control of certain unvested facilities	<p>Section 3.53(2) states:</p> <p><i>“A local government is responsible for controlling and managing every <u>otherwise unvested facility</u> within its district unless subsection (5) states that this section does not apply.”</i></p> <p>The interpretation of <u>otherwise unvested facility</u> in the Act is:</p> <p><i>“otherwise unvested facility means a thoroughfare, bridge, jetty, drain, or watercourse belonging to the Crown, the responsibility for controlling or managing which is not vested in any person other than under this section.”</i></p> <p>The issue with this legislation is the LGA is responsible for all unallocated crown land (e.g. fire control, removal of abandoned vehicles, etc.)</p> <p>Recommend that this section needs to be removed or, if LGAs are to remain responsible for this land then they should be able to either rate the Crown or seek reimbursement of costs from the crown for works that are required.</p>
7	Part 4 – Elections & Other Polls (Section 4.62)& Election Regs	<p>If an LGA is conducting a Postal Election or Referendum then the need to man a Polling Place on the day of the Election/Referendum should be removed.</p> <p>It is an added expense to have the WAEC & staff sitting at a Polling Place all day for limited or no votes collected.</p> <p>The Counting of Votes should still be held after 6pm on the election/referendum day.</p> <p>Recommend that the requirement to man a polling place when undertaking an election by postal vote be removed.</p>
8	Subdivision 4 – Electors Meetings	<p>Amend this legislation to allow a LGA to determine if they want (or don't want) to conduct an Electors Meeting.</p> <p>Remove set number of days (i.e. 56) a LGA must hold an Electors meeting after accepting the Annual Report.</p> <p>Remove requirement for Minutes of an Electors meeting having to be presented to the first ordinary meeting after the Electors Meeting. This is not always possible. Perhaps state the minutes need to go to Council no more than three meetings after the Electors meeting being held.</p> <p>Recommend that the above changes be undertaken</p>
9	Section 5.37 – Senior Employees	<p>Remove section 5.37(2) regarding:</p> <p><i>“...and the council may accept or reject the CEO's recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.”</i></p> <p>This does not make sense and the CEO should only be required to advise Council of his/her decision to employ/dismiss a Senior Employee.</p> <p>Also remove sections 5.37(3) & (4A) i.e.</p> <p>(3) <i>Unless subsection (4A) applies, if the position of a senior employee of a local government becomes vacant, it is to be advertised by the local</i></p>

		<p>government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.</p> <p>(4A) Subsection (3) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.</p> <p>The way the CEO advertises and fills any position (senior or not) should be considered operational and be at the discretion of the CEO.</p> <p>Recommend that the above changes be undertaken</p>
10	5.38. - Annual review of certain employees' performances	<p>Section 5.38 states</p> <p><i>The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.</i></p> <p>It is interpreted that this requires all employees to be reviewed annually. In smaller local authorities it appears to be a non-sense to have this requirement. Senior staff/supervisors predominantly know the performance of all employees due to their close working relationship with them. Further this legislative requirement is again regulating an operational process and reviews should be at the discretion of the individual LGA.</p> <p>For CEO and Senior Employees, they have performance reviews stipulated in their contracts.</p> <p>Recommend that this section be deleted as is an operational matter and should not be legislated.</p>
11	5.56. Planning for the future -Integrated Planning & Reporting	<p>The current requirements for Integrated Planning & Reporting (IPR) are too onerous, specifically for smaller LGAs with limited resources.</p> <p>The most recent review undertaken by the DLGC has only exacerbated the resource requirements on LGAs to review their IPR.</p> <p>There must be different levels of requirements placed on LGAs of different sizes & resource capacity. The current IPR set up has resulted in smaller LGAs having to increase rate revenue to obtain external services/consultants to step these LGAs through the process.</p> <p>Long Term Financial Plans and Asset Management Plans linked to basic Strategic Community Plans is all that should be required.</p> <p>Corporate Business Plans & Workforce Plans are superfluous.</p> <p>Agreed, however it was noted that it is not the actual legislation but the Department and their one size fits all 'guidelines' that are the problem. Guidelines using 'banding' to reflect capacity of local governments would be better. Noted that Strategic Community Plans legislation in Queensland was abolished as the plans were unrealistic and unachievable financially for many rural local governments</p> <p>Also a concern that directives coming from DLGC are telling LG what they should do. It's a LG decision not the DLGC.</p>
12	Division 9 & Rules of Conduct Regs. – Conduct of certain officials	<p>Penalties for breaches (other than a <i>serious breach</i>) under the Act and Code of Conduct need to be harsher as in instances this has not deterred an elected member for continuing a breach.</p>

		<p>5.110 Dealing with complaint of minor breach</p> <p>(5) If a standards panel finds that a council member has committed a minor breach, the standards panel is required to give the council member an opportunity to make submissions about how the breach should be dealt with under subsection (6).</p> <p>(6) The breach is to be dealt with by —</p> <ul style="list-style-type: none"> (a) dismissing the complaint; or (b) ordering that — <ul style="list-style-type: none"> (i) the person against whom the complaint was made be publicly censured as specified in the order; or (ii) the person against whom the complaint was made apologise publicly as specified in the order; or (iii) the person against whom the complaint was made undertake training as specified in the order; <p>or</p> <ul style="list-style-type: none"> (c) ordering 2 or more of the sanctions described in paragraph (b). <p>5.113. Punishment for recurrent breach If, on an allegation under section 5.112, the State Administrative Tribunal finds that a person committed a recurrent breach, it may make any of the orders described in section 5.117</p> <p>5.117. Punishment for serious breach</p> <p>(1) If, on an allegation under section 5.116(2), the State Administrative Tribunal finds that a person committed a serious breach, it may —</p> <ul style="list-style-type: none"> (a) order that — <ul style="list-style-type: none"> (i) the person against whom the allegation was made be publicly censured as specified in the order; or (ii) the person against whom the allegation was made apologise publicly as specified in the order; or (iii) the person against whom the allegation was made undertake training as specified in the order; or (iv) the person against whom the allegation was made is suspended for a period of not more than 6 months specified in the order; or (v) the person against whom the allegation was made is, for a period of not more than 5 years specified in the order, disqualified from holding office as a member of a council; <p>Current penalties are to weak and lack consequence for inappropriate actions by Elected Members</p> <p>Recommend that the DLGC review all penalties for breaches under Rules of Conduct Regulations.</p>
13	6.33. Differential general	Process of advertising and advertising intention to impose differential rates is

	rates; 6.36. Local government to give notice of certain rates; and Financial Management Regs.	<p>unwieldy, specifically the timing issues and having to determine a rate in the dollar before the property revaluations are available. These rates are unavailable incorrect as it isn't possible to determine property valuation prior to Landgate releasing these figures, therefore making it necessary to report the rates variations in the Budget.</p> <p>An easier process needs to be introduced.</p> <p>Recommend that the DLGC undertake a complete review of the WA rating system make it comparable to the methodology of other States.</p>
14	Admin Reg. 10 - Revoking or changing decisions (Act s. 5.25(1)(e))	<p>Regulation 10 states:</p> <p>(1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —</p> <p>(a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or</p> <p>(b) in any other case, by at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee,</p> <p>inclusive of the mover.</p> <p>(1a) Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.</p> <p>(2) If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made —</p> <p>(a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or</p> <p>(b) in any other case, by an absolute majority.</p> <p>(3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.</p> <p><i>[Regulation 10 amended in Gazette 31 Mar 2005 p. 1030.]</i></p> <p>It is questionable that a majority of local governments would follow the above process and would simply move a motion to revoke/change a motion. The process is cumbersome and needs to be changed.</p> <p>Recommend that Regulation 10 be amended to remove the notice to be signed by all elected members and simply require a Council to change or revoke a motion by a motion with an absolute majority to pass that motion.</p>
15	Admin Reg. 14A - Attendance by telephone etc. (Act s. 5.25(1)(ba))	<p>This section is too restrictive and needs to be relaxed (e.g. the 150km distance is unrealistic).</p>

		<p>14A. Attendance by telephone etc. (Act s. 5.25(1)(ba))</p> <p>(1) A person who is not physically present at a meeting of a council or committee is to be taken to be present at the meeting if —</p> <p>(a) the person is simultaneously in audio contact, by telephone or other means of instantaneous communication, with each other person present at the meeting; and</p> <p>(b) the person is in a suitable place; and</p> <p>(c) the council has approved* of the arrangement.</p> <p>(2) A council cannot give approval under subregulation (1)(c) if to do so would mean that at more than half of the meetings of the council, or committee, as the case may be, in that financial year, a person (other than a person with a disability) who was not physically present was taken to be present in accordance with this regulation.</p> <p>(3) A person referred to in this regulation is no longer to be taken to be present at a meeting if the person ceases to be in instantaneous communication with each other person present at the meeting.</p> <p>(4) In this regulation —</p> <p>disability has the meaning given in the <i>Disability Services Act 1993</i> section 3;</p> <p>suitable place —</p> <p>(a) in relation to a person with a disability — means a place that the council has approved* as a suitable place for the purpose of this paragraph; and</p> <p>(b) in relation to any other person — means a place that the council has approved* as a suitable place for the purpose of this paragraph and that is located —</p> <p>(i) in a townsite or other residential area; and</p> <p>(ii) 150 km or further from the place at which the meeting is to be held under regulation 12, measured along the shortest road route ordinarily used for travelling;</p> <p>townsite has the same meaning given to that term in the <i>Land Administration Act 1997</i> section 3(1).</p> <p>With current technology local government should be embracing the opportunity to have Councillors participate, irrespective of distance or type of location (i.e. townsite).</p> <p>Recommend that the 150km limit be removed from regulation 14A.</p>
16	Admin Reg. 18F - Remuneration and benefits of CEO to be advertised	<p>The purpose of this regulation is questioned due to the remuneration of CEO's are set by the Salaries & Allowances Tribunal.</p> <p>Recommend that this section be deleted as serves no purpose in the governance of a LG</p>

17	Audit Reg. 15 - Compliance audit return	<p>Recommend this requirement be removed due to the plethora of other audits required.</p> <p>Agreed and question why it is a legislative requirement that it has to go to an Audit Committee</p> <p>Further the actual legislative need for an Audit Committee is questioned when the whole Council can undertake the same role.</p>
18	Audit Reg. 17 - CEO to review certain systems and procedures	<p>The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —</p> <ul style="list-style-type: none"> (a) risk management; and (b) internal control; and (c) legislative compliance. <p>This is onerous and should be removed or amended. Not sure why this would need to go to the Audit Committee then to Council. If retained then should go directly to Council with the Council then determines if any items raised needs further investigation and then putting this to the Audit Committee.</p> <p>In many instances the process is very onerous on the CEO and therefore external assistance is used which comes at a cost to the Council.</p> <p>Recommend that there should be different requirements for different 'bands' of local governments and DLGC's expectations need to be amended to allow reviews to be done in house.</p>
19	Annual Reports	<p>Recommend that there should be different levels of requirements for different 'bands' of local governments</p> <p>Also question the actual need for them considering little are read by electors.</p>
20	Annual Financial Reporting	<p>Currently there is a one size fits all model for the annual financial process and Corporate Business Planning Process. Could a scenario where there is a tiered process that requires a higher level of reporting for larger LG's, similar to the tiered approach that exists with company reporting.</p> <p>Recommend that the DLGC develop a "tiered" process on the level of reporting for each LG and on the level of compliance</p>
21	Annual Returns	<p>Where a Councillor or designated employer has had no change to their previous Annual Return, they are required to place "No change" "nil" "none" within each box of the return. This does not occur in many cases and Auditors are determining that a Annual Return is not complete due to some boxes in the return have not been marked "none", "nil" or "no change."</p> <p>Recommend that the Annual Returns be changed to introduce the ability to declare 'no change from previous year' instead of having to mark every area. This will also assist in the storing of annual returns where only one page needs to be kept on record and not four as is the current case. This does not sound like an issue, however when you have a member that has been on Council for many years, the accumulation of four pages of an annual report does build up.</p>
22	Tender Regulations	<p>Operating issues with current regulations, road building materials such as bitumen, asphalt and aggregate should be exempt as are fuel and oils.</p> <p>Recommend that road building materials should be exempt from Tender provisions</p> <p>Concern that auditors and the DLGC are interpreting the \$150,000 threshold can go over more than two, three or even more financial years which is an issue with the provision of some services, ie tyres from the one firm. Industry belief it only relates to a financial year</p>

		Recommend that the \$150,000 threshold should be per financial year or per project if a project spans more than one financial year.
23	Section 3.5.8 Disposal of Property	<p>Issue is that if a LG gets a Real Estate Agent to sell land on its behalf and that land is sold, then the LG still has to go through the advertising process</p> <p>Recommend be changed to allow disposal through real estate agent (without having to go through 3.58 advertising provisions, ie be an exemption) as advertising has been undertaken and the public are well informed of the proposal to sell.</p>
24	Exemption of rates	Recommend be changed to allow Council to decide whether or not to allow exemption to each 'charitable organisation' and any other organisation (eg CBH)
25	Financial Workshops	<p>The Department needs to assist local government more rather than being a policeman all the time. One example is where the Department will send you a letter if you forget to supply them with a copy of the annual financials. Instead of waiting for the deadline they could be more helpful and send a reminder prior to the deadline. Most smaller LG's generally rely on one person to undertake this type of function, if they get sick or are on leave there is generally no one to do the role. Also the audit partner could send the annuals document when they advise the Department that the audit has been signed off.</p> <p>Recommend that the Department should be providing templates for annual reports, budgets etc, instead of Councils having to pay Moore Stephens to attend workshops, receive templates. Generally the Department should have more of a focus on "helping", not "policing"</p>
	General Compliance Requirements	Many of the difficulties experienced are as a result of Departmental Guidelines/expectations as opposed to the actual Local Government Act 1995 and Regulations. It is recommended that a tiered approach towards compliance needs to be taken by the Department, and not apply a one size fits all as many smaller local governments do not have the staff or financial resources to ensure the compliance strictly in accordance with the DLGC expectations. It appears that DLGC go over and beyond what the actual legislative requirements are.

11.0 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12.0 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

Nil

13.0 DELEGATES REPORTS

Cr Forrester advised she thoroughly enjoyed attending the new Perth Stadium tour during the WALGA Conference.

Cr Humphrey attended the Cockburn Recreation Precinct during the conference.

14.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

15.0 MATTERS FOR WHICH MEETING TO BE CLOSED TO MEMBERS OF THE PUBLIC

Nil

16.0 CLOSURE

The Chairman thanked the Elected Members and Staff for their attendance and closed the meeting at 9.58am.