



PART 1

APPENDICES

Items 12.1 - 12.18

ORDINARY COUNCIL MEETING

To Be Held

Wednesday, 30 September 2020

Commencing at 5.00pm

At

Shire of Dardanup
ADMINISTRATION CENTRE EATON
1 Council Drive - EATON

This document is available in alternative formats such as:

- ~ Large Print
- ~ Electronic Format [disk or emailed]
Upon request.

(Appendix ORD: 12.1A)

From: [Silje Hynes](#)
To: [Donna Bailye](#)
Subject: Re: SW Montessori - Lease
Date: Friday, 28 August 2020 8:53:41 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[image003.jpg](#)
[image004.jpg](#)

Hi Donna,

First of all, thank you so much for extending our lease. we really appreciate it and it has given us some space to think ahead.

At this week's committee meeting we have decided that we are willing to put in the work in keeping South West Montessori going forward.

As you are aware, this last year has been financially quite challenging for our playgroup.

However, when there was a change of committee members,

July 2019, none of us were prepared for the commitment handed to us. Now that we are a year into running and observing this playgroup, we

think the best step forward is to bring back a Montessori guide, which worked so well for this group many years ago. As this is purely Montessori equipment,

it makes sense to have a teacher available during sessions, that knows how to use the equipment. We have already found a guide and decided to

have two sessions a week. Monday session will be for kids under 3, and will be more like a playgroup, so it's a place to meet and chat for parents in the community.

For this session we usually get parents from all over greater Bunbury. Wednesday session will be for home schoolers and will cater for kids up to 12 years. This session will be much more structured

and will resemble a Montessori classroom and structure. There is already 3 families ready to join, without putting the word out there.

The South West Home-schooling moderator has also been to visit and will happily recommend our centre to other home schoolers as the equipment we have will cover curriculums up to year 6. There has also been a big increase in home schoolers in the last month, and with it, comes an interest in educational facilities that bring home schooled

children together. Hopefully, we can keep on growing and offer more sessions as the word gets out.

We will also be able to do some more fundraising for the centre and this will be of great financial support, as it has been in the past. Our term fees will increase due to hiring a Montessori guide,

however, the people we have spoken to will happily pay some more if they are given the whole Montessori experience for their children. We will also try and run some parents' information

sessions, so we can ensure the parents feel more confident in using the equipment.

We have all the materials a Montessori school have, and this learning style in increasing in popularity. Dalyellup is now opening a Montessori day care based on this demand, and it's just a matter of time before a Montessori school will be opened in our area. Mandurah,

(Appendix ORD: 12.1A)

Rockingham, Perth and Margaret River has a variety of Montessori schools.

Until then, our group can be part of bridging that gap and offer the Montessori experience for those that wish so.

Our main goal is to be an alternative learning and community centred group, that can offer a hand on, child -led learning approach for children 0-12.

We hope we will be given a renewal of the property lease so we can keep on offering our beautiful equipment and philosophy to the children in our community.

If there are any questions don't hesitate to ask.

Kind Regards

Silje Hynes

South West Montessori

From: Donna Bailye <donna.bailye@dardanup.wa.gov.au>

Sent: Thursday, 20 August 2020 6:47 AM

To: Silje Hynes <silje_gjestang@hotmail.com>

Subject: SW Montessori - Lease

Hi Silje

As per our conversation today, I wish to advise that the current lease was due to expire on the 31 May 2020.

An item was taken to Council on the 29 April 2020 wherein Council approved an extension to the lease for a 6 month period (Expiry now being 30 November 2020). Resolution is provided below:

THAT Council

- 1. Approve an extension to the South West Montessori Lease Agreement for a period of 6 months with the same conditions as provided for in the current Lease Agreement with the exception of the rental fee being waived for the period of the lease extension.*
- 2. Requests that a report be brought back to Council in September 2020 regarding the status of the negotiations with the South West Montessori Group.*
- 3. Authorise the Shire President and the Chief Executive Officer to execute an Addendum to the current lease agreement.*

As discussed, I am required to bring a report back to Council in September, therefore can you please provide me with a written update on your proposal for the future of the Centre.

Look forward to hearing from you soon. Any further questions, please give me a call.

Kind Regards,

Donna Bailye

Personal Assistant Deputy Chief Executive Officer

Shire of Dardanup | 1 Council Drive | PO Box 7016 | Eaton WA 6232

p: 08 9724 0310 | e: donna.bailye@dardanup.wa.gov.au



“This message contains privileged and confidential information intended only for the use of the addressee or entity named above. Use of this information beyond this intended use is unauthorised”

RISK ASSESSMENT TOOL									
OVERALL RISK EVENT: South West Montessori – Lease Negotiations RISK THEME PROFILE: 3 - Failure to Fulfill Compliance Requirements (Statutory, Regulatory) 10 - Management of Facilities, Venues and Events RISK ASSESSMENT CONTEXT: Operational									
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL			RESIDUAL RISK RATING
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING	
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	Failing to review and renew the lease agreement will be in breach of current lease terms	Minor (2)	Unlikely (2)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Council would be seen in a negative light if we failed to meet our contractual and legislative requirements.	Minor (2)	Unlikely (2)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.

(Appendix ORD: 12.2A)



Department of Planning,
Lands and Heritage



Land Use Management

DPLH ref: FILE 00267-2000 Case 2001920
Enquiries: 08 6552 4578
greg.martiensen@dplh.wa.gov.au.

Chief Executive Officer
Shire of Dardanup
PO Box 7016
EATON WA 6232

Dear Sir,

LOT 85 ON DEPOSITED PLAN 415343. LOCALITY OF EATON. SHIRE OF DARDANUP.

As a result of a freehold subdivision, the above lot (print enclosed) was ceded to the Crown subject to section 152 of the *Planning and Development Act 2005* for the purpose of 'Right of Way'.

In accordance with section 3.53 of the *Local Government Act 1995*, the proposed reserve is considered an unvested facility and consequently under the control of the Local Government Authority. The Department of Planning, Lands and Heritage are in the process of formalising tenure over the abovementioned land and now seek your confirmation that Council is willing to accept the management of the proposed reserve.

Should you have any enquiries please contact me on any of the above details.

Yours faithfully

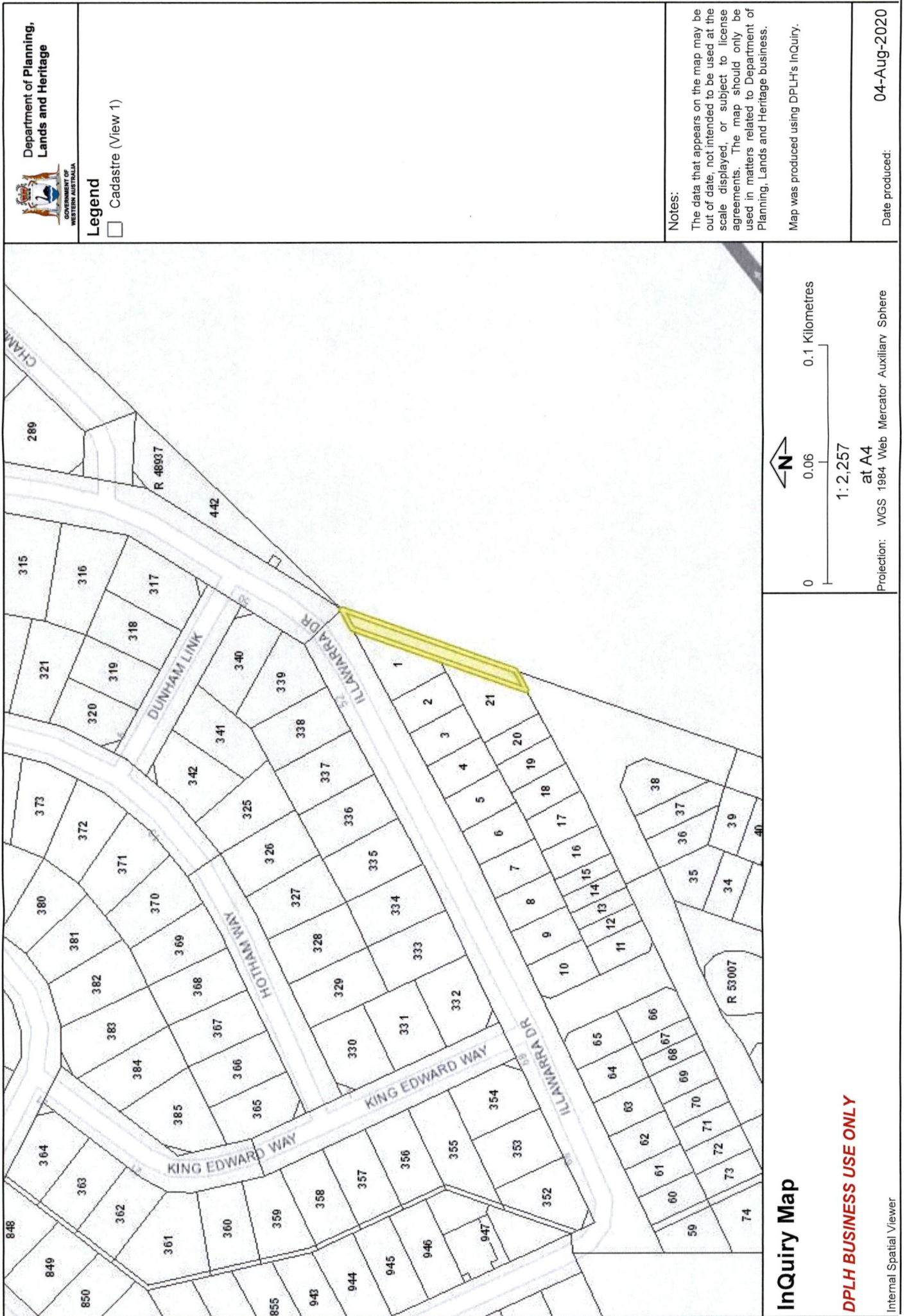
Greg Martiensen
Assistant State Land Officer
Position No. 0025297
Department of Planning Lands and Heritage

07 August 2020

(Appendix ORD: 12.2A)



(Appendix ORD: 12.2A)





Your Ref :
 Enquiries : Daniel Naude (Ph 9791 0585)



Mga Town Planners
 Po Box 104
 WEST PERTH WA 6872

Approval Subject To Condition(s) Freehold (Green Title) Subdivision

Application No : 153278

Planning and Development Act 2005

Applicant	: Mga Town Planners Po Box 104 WEST PERTH WA 6872
Owner	: Ardross Estates (S.A.) Pty Ltd Po Box 7019 Cloisters Square PERTH WA 6850
Application Receipt	: 18 February 2016

Lot Number	:
Diagram / Plan	: 44632
Location	:
C/T Volume/Folio	: 2593/771
Street Address	: Lot 9106 Illawarra Drive, Millbridge
Local Government	: Shire of Dardanup

The Western Australian Planning Commission has considered the application referred to and is prepared to endorse a deposited plan in accordance with the plan date-stamped **18 February 2016** once the condition(s) set out have been fulfilled.

This decision is valid for **four years** from the date of this advice, which includes the lodgement of the deposited plan within this period.

The deposited plan for this approval and all required written advice confirming that the requirement(s) outlined in the condition(s) have been fulfilled must be submitted by **18 May 2020** or this approval no longer will remain valid.

Reconsideration - 28 days

Under section 151(1) of the *Planning and Development Act 2005*, the applicant/owner may, within 28 days from the date of this decision, make a written request to the WAPC to reconsider any condition(s) imposed in its decision. One of the matters to which the WAPC

South West Office, Sixth Floor, Bunbury Tower, 61 Victoria Street, Bunbury, Western Australia 6230
 Tel: (08) 9791 0577; Fax: (08) 9791 0576; TTY: (08) 9264 7535; Infoline: 1800 626 477
 e-mail: corporate@wapc.wa.gov.au; web address: <http://www.planning.wa.gov.au>
 ABN 35 482 341 493

(Appendix ORD: 12.2B)



will have regard in reconsideration of its decision is whether there is compelling evidence by way of additional information or justification from the applicant/owner to warrant a reconsideration of the decision. A request for reconsideration is to be submitted to the WAPC on a Form 3A with appropriate fees. An application for reconsideration may be submitted to the WAPC prior to submission of an application for review. Form 3A and a schedule of fees are available on the WAPC website: <http://www.planning.wa.gov.au>

Right to apply for a review - 28 days

Should the applicant/owner be aggrieved by this decision, there is a right to apply for a review under Part 14 of the *Planning and Development Act 2005*. The application for review must be submitted in accordance with part 2 of the *State Administrative Tribunal Rules 2004* and should be lodged within 28 days of the date of this decision to: the State Administrative Tribunal, Level 6, State Administrative Tribunal Building, 565 Hay Street, PERTH, WA 6000. It is recommended that you contact the tribunal for further details: telephone 9219 3111 or go to its website: <http://www.sat.justice.wa.gov.au>

Deposited plan

The deposited plan is to be submitted to the Western Australian Land Information Authority (Landgate) for certification. Once certified, Landgate will forward it to the WAPC. In addition, the applicant/owner is responsible for submission of a Form 1C with appropriate fees to the WAPC requesting endorsement of the deposited plan. A copy of the deposited plan with confirmation of submission to Landgate is to be submitted with all required written advice confirming compliance with any condition(s) from the nominated agency/authority or local government. Form 1C and a schedule of fees are available on the WAPC website: <http://www.planning.wa.gov.au>

Condition(s)

The WAPC is prepared to endorse a deposited plan in accordance with the plan submitted once the condition(s) set out have been fulfilled.

The condition(s) of this approval are to be fulfilled to the satisfaction of the WAPC.

The condition(s) must be fulfilled before submission of a copy of the deposited plan for endorsement.

The agency/authority or local government noted in brackets at the end of the condition(s) identify the body responsible for providing written advice confirming that the WAPC's requirement(s) outlined in the condition(s) have been fulfilled. The written advice of the agency/authority or local government is to be obtained by the applicant/owner. When the written advice of each identified agency/authority or local government has been obtained, it should be submitted to the WAPC with a Form 1C and appropriate fees and a copy of the deposited plan.

If there is no agency/authority or local government noted in brackets at the end of the condition(s), a written request for confirmation that the requirement(s) outlined in the condition(s) have been fulfilled should be submitted to the WAPC, prior to lodgement of the deposited plan for endorsement.

(Appendix ORD: 12.2B)

Prior to the commencement of any subdivision works or the implementation of any condition(s) in any other way, the applicant/owner is to liaise with the nominated agency/authority or local government on the requirement(s) it considers necessary to fulfil the condition(s).

The applicant/owner is to make reasonable enquiry to the nominated agency/authority or local government to obtain confirmation that the requirement(s) of the condition(s) have been fulfilled. This may include the provision of supplementary information. In the event that the nominated agency/authority or local government will not provide its written confirmation following reasonable enquiry, the applicant/owner then may approach the WAPC for confirmation that the condition(s) have been fulfilled.

In approaching the WAPC, the applicant/owner is to provide all necessary information, including proof of reasonable enquiry to the nominated agency/authority or local government.

The condition(s) of this approval, with accompanying advice, are:

CONDITION(S):

1. Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power for the provision of an underground electricity supply to the lot(s) shown on the approved plan of subdivision. (Western Power)
2. The transfer of land as a Crown reserve free of cost to Western Power for the provision of electricity supply infrastructure. (Western Power)
3. Arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)
4. Arrangements being made with the Water Corporation so that provision of a sewerage service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)
5. The provision of easements for existing or planned future water, sewerage and/or drainage infrastructure as may be required by the Water Corporation being granted free of cost to that body. (Water Corporation)
6. Engineering drawings and specifications are to be submitted, approved, and works undertaken in accordance with the approved engineering drawings, specifications and approved plan of subdivision, for grading and/or stabilisation of the site to ensure that:
 - a) lots can accommodate their intended use; and
 - b) finished ground levels at the boundaries of the lot(s) the subject of this approval match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting. (Local Government)

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 e-mail: corporate@wapc.wa.gov.au; web address: <http://www.planning.wa.gov.au>
 ABN 35 482 341 493

(Appendix ORD: 12.2B)

7. Engineering drawings and specifications are to be submitted and approved, and works undertaken in accordance with the approved engineering drawings and specifications and approved plan of subdivision, for the filling and/or draining of the land, including ensuring that stormwater is contained on-site, or appropriately treated and connected to the local drainage system. Engineering drawings and specifications are to be in accordance with an approved Urban Water Management Plan (UWMP) for the site, or where no UWMP exists, to the satisfaction of the Western Australian Planning Commission. (Local Government)
8.
 - a) Prior to the commencement of subdivisional works, the landowner/applicant is to provide a pre-works geotechnical report certifying that the land is physically capable of development or advising how the land is to be remediated and compacted to ensure it is capable of development; and
 - b) In the event that remediation works are required, the landowner/applicant is to provide a post geotechnical report certifying that all subdivisional works have been carried out in accordance with the pre-works geotechnical report. (Local Government).
9. Drainage easements and reserves as may be required by the Local Government for drainage infrastructure being shown on the diagram or plan of survey (deposited plan) as such, granted free of cost, and vested in that Local Government under Sections 152 and 167 of the *Planning and Development Act 2005*. (Local Government)
10. Suitable arrangements being made for connection of the land to the comprehensive district drainage system at the landowner/applicant's cost. (Local Government)
11. The landowner/applicant making a pro-rata contribution towards the cost of the acquisition of the primary school site identified in the subdivision locality. (Department of Education)
12. The landowner/applicant is to prepare, have approved by the Water Corporation, and implement a detailed plan demonstrating the location and capacity of fire emergency infrastructure to the satisfaction of the Western Australian Planning Commission. (Department Fire and Emergency Services)
13. A Notification, pursuant to Section 165 of the *Planning and Development Act 2005* is to be placed on the certificate(s) of title of the proposed lot(s) with a Bushfire Attack Level (BAL) rating of 12.5 or above, advising of the existence of a hazard or other factor.

Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:

'This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and may be subject to a Bushfire Management Plan. Additional planning and building requirements may apply to development on this land' (Western Australian Planning Commission)



14. A bushfire management plan being prepared, approved and relevant provisions implemented during subdivisional works, in accordance with the WAPC's *Guidelines for Planning in Bushfire Prone Areas (December 2015)* to the specifications of the Local Government and the Department of Fire and Emergency Services. (Department Fire and Emergency Services)
15. A compliance certificate/report for the BAL Contour Map relating to the approved subdivision shall be completed prior to the issuing of titles to the satisfaction of the Western Australian Planning Commission. (Local Government)
16. The 'central road drainage area' shown on the approved plan of subdivision being shown on the diagram or plan of survey (deposited plan) as reserve(s) for drainage and vested in the Crown under Section 152 of the *Planning and Development Act 2005*, such land to be ceded free of cost and without any payment of compensation by the Crown. (Local Government)
17. Engineering drawings and specifications are to be submitted, approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, to ensure that those lots not fronting an existing road are provided with frontage to a constructed road(s) connected by a constructed road(s) to the local road system and such road(s) are constructed and drained at the landowner/applicant's cost.

As an alternative, and subject to the agreement of the Local Government the Western Australian Planning Commission (WAPC) is prepared to accept the landowner/applicant paying to the Local Government the cost of such road works as estimated by the Local Government and the Local Government providing formal assurance to the WAPC confirming that the works will be completed within a reasonable period as agreed by the WAPC. (Local Government)

18. Engineering drawings and specifications are to be submitted and approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications to ensure that:
 - a) street lighting is installed on all new subdivisional roads to the standards of the relevant licensed service provider; and
 - b) roads that have been designed to connect with existing or proposed roads abutting the subject land are coordinated so the road reserve location and width connect seamlessly

to the satisfaction of the Western Australian Planning Commission. (Local Government)

19. Engineering drawings and specifications are to be submitted, approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, for the provision of shared paths through and connecting to the application area to the satisfaction of the Western Australian Planning Commission.

(Appendix ORD: 12.2B)

- The approved shared paths are to be constructed by the landowner/applicant. (Local Government)
20. A Traffic Impact Assessment being prepared for the Illawarra Drive intersection and access road to the subdivision, approved and relevant recommendations implemented during subdivisional works to the specifications of the Local Government and the satisfaction of the Western Australian Planning Commission. (Local Government)
 21. All local streets within the subdivision being truncated in accordance with the Western Australian Planning Commission's *Liveable Neighbourhoods* policy. (Local Government)
 22. The access way forming part of lot 27 shall be a minimum width of 6 metres and depicted on the diagram or plan of survey, deposited plan accordingly. (Local Government)
 23. A 2 metre x 2 metre truncation being provided at the junction of Lot 28 and the access way for Lot 27. (Local Government)
 24. The proposed access way(s) being constructed and drained at the landowner/applicant's cost to the specifications of the Local Government. (Local Government)
 25. Suitable arrangements being made with the Local Government for the provision of vehicular crossover(s) to service lot 27 shown on the approved plan of subdivision. (Local Government)
 26. The Acoustic Assessment report being reviewed and updated to the satisfaction of the Western Australian Planning Commission on advice from Main Roads WA. The subdivider is to prepare a Noise Management Plan and undertake suitable noise mitigation and landscape buffering measures along the Australind Bypass in consultation with Main Roads WA and the Local Government, consistent with cl. 3.18.2 of the local planning scheme, which integrates with noise attenuation measures to the west of the subdivision prior to the issue of clearance(s). (Main Roads WA)
 27. A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:

'The lot/s is/are situated in the vicinity of a transport corridor and is currently affected, or may in the future be affected by transport noise.' (Local Government)
 28. Local Development Plan(s) being prepared and approved for those lots identified in the Acoustic Assessment/Noise Management Plan as requiring 'Quiet House Requirements' to facilitate implementation of the Noise Management Plan. (Local Government)



29. The landowner/applicant shall make arrangements to ensure that prospective purchasers of lots subject of a Local Development Plan are advised in writing that Local Development Plan provisions apply (Local Government).
30. Arrangements being made for the proposed drainage reserve to be developed by the landowner/applicant to a minimum standard and maintained for two summers through the implementation of an approved landscape plan providing for the development and maintenance of the reserve in accordance with the requirements of Liveable Neighbourhoods and to the specifications of the Local Government. (Local Government)

ADVICE:

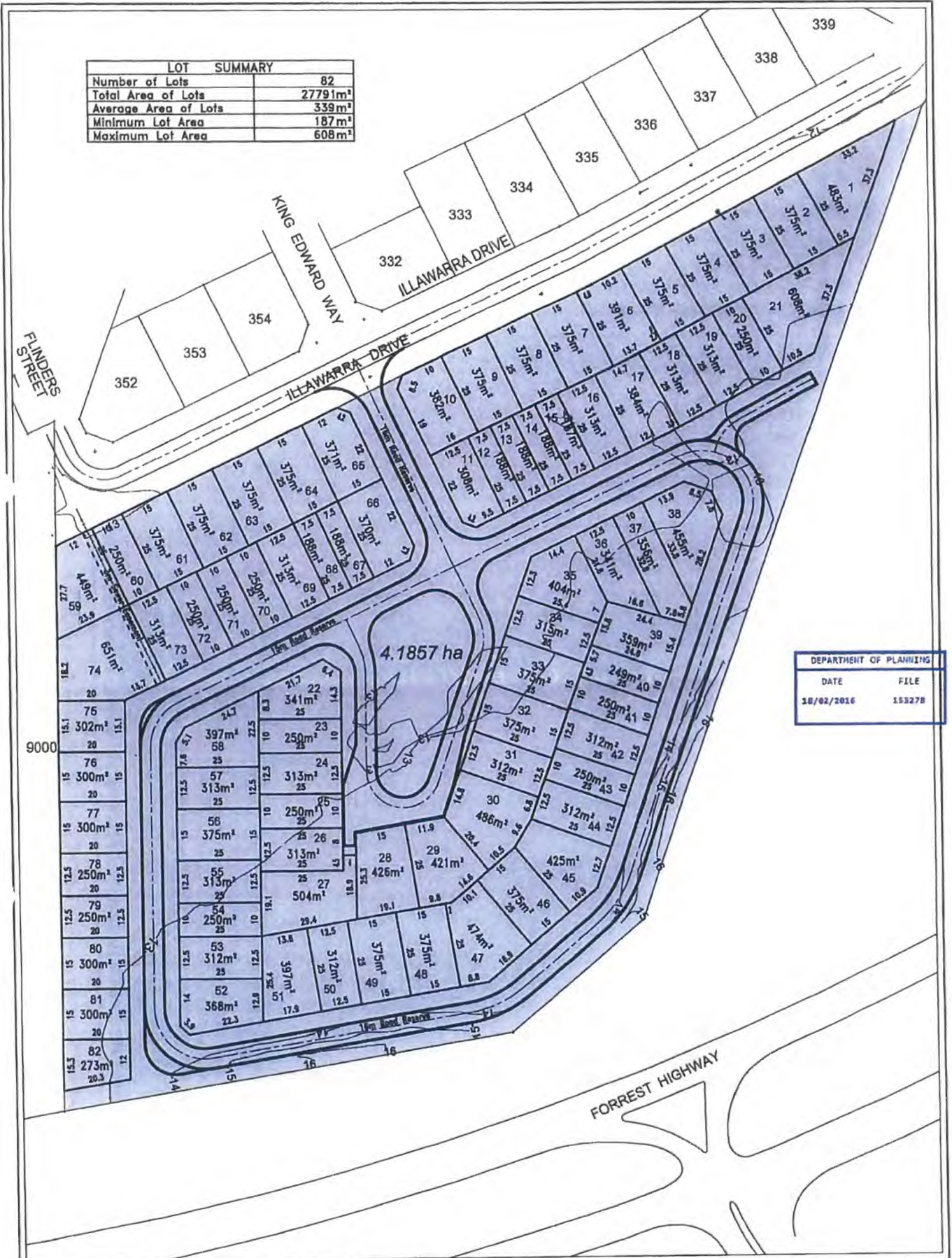
- i. In regard to Condition 1, Western Power provides only one underground point of electricity supply per freehold lot.
- ii. In regard to Condition/s 4, the landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/applicant, a Land Development Agreement under Section 83 of the *Water Services Act 2012* will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.
- iii. In relation to Condition 7, the Department of Water advise that stormwater should be managed in accordance with the Decision process for stormwater management in WA (DoW 2009) and the Stormwater Management Manual for Western Australia (DoW 2004–2007).
- iv. The landowner/applicant is advised that the Department of Environment and Regulation has prepared dust control guidelines for development sites, which, outline the procedures for the preparation of dust management plans. The dust management plans are generally approved, and their implementation overseen, by Local Government. Further information on the guidelines can be obtained from the Department of Environment and Regulation's website: www.der.wa.gov.au under air quality publications.
- v. In relation to Condition 27, the landowner/applicant is advised that notification is only required for those lots identified in the Acoustic Assessment as not meeting the noise target.

A handwritten signature in black ink that reads "Kerrine Blenkinsop".

Kerrine Blenkinsop
 Secretary
 Western Australian Planning Commission
 18 May 2016

(Appendix ORD: 12.2B)

LOT SUMMARY	
Number of Lots	82
Total Area of Lots	27791m ²
Average Area of Lots	339m ²
Minimum Lot Area	187m ²
Maximum Lot Area	608m ²



DEPARTMENT OF PLANNING	
DATE	FILE
18/02/2016	153278

NOTES:
Original Lot Areas
Lot 9106 4.1857ha

Application Area

25mm at scale

MGA
TOWN PLANNERS
Ph: (08) 9321 2011
Fax: (08) 9324 1961
email: mga@shelton.net.au

A3



Date: 27 November 2015
Ref: 1985/2014/Lot 9106 - opt 1/encd-AppA3 App

All dimensions and areas subject to survey



PROPOSED GREEN TITLE SUBDIVISION
LOT 9106, ILLAWARRA DRIVE
MILLBRIDGE



Government of **Western Australia**
Department of **Planning, Lands and**
Heritage

Taylor Burrell Barnett Town Planning & Design
Katherine Shirley
BY EMAIL: Katherine@tbbplanning.com.au

Dear Katherine,

PROPOSED MODIFICATIONS TO APPROVED PLAN OF SUBDIVISION (153278) PRIOR TO ENDORSEMENT OF DIAGRAM / PLAN OF SURVEY (DEPOSITED PLAN)

In response to your request to modify the approved plan of subdivision under WAPC Ref: 153989, I can advise the following:

The Western Australian Planning Commission (WAPC) is able to accept modifications that accord with the approved plan of subdivision as part of the endorsement of a diagram or plan of survey (deposited plan) under Section 145 of the *Planning and Development Act 2005*. However, prior to an application for WAPC endorsement of a diagram or plan of survey (deposited plan), the Department can advise, on behalf of the WAPC, whether or not proposed modifications are considered to accord with the approved plan of subdivision, based on the following accepted parameters:

- The modifications are minor in nature and do not constitute a substantially different proposal;
- The modifications are consistent with WAPC policy, strategy and practice;
- No new conditions or modifications to existing conditions are required; and
- The modifications have been agreed to by all relevant clearing agencies

In this instance, the proposed modification (plan showing 2 proposed lots) is considered to accord with the approved plan of subdivision within the above parameters.

Accordingly, it is expected that the WAPC would consider accepting the proposed modifications as part a future application for endorsement of a diagram or plan of survey (deposited plan).

This advice is provided on the basis that the diagram or plan of survey (deposited plan) to be lodged with the WAPC for its future endorsement is identical to the revised plan of subdivision you have currently provided, and that all conditions of approval cleared by the applicable clearing agencies are based on the revised plan of subdivision. No right of appeal exists in relation to this advice and all terms and conditions of the subdivision approval are required to be complied with.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'David Brash'.

David Brash
Principal Planning Officer

9 October 2017

(Appendix ORD: 12.2B)

LEGEND

--- TOTAL APPLICATION AREA

□ APPROVED LOTS SUBJECT TO MODIFICATION

SOURCE: MGA Town Planners, 2016

LOT SUMMARY

Size	No. Lots	% Total Lots	Average Size	% of Total Area
180m ² - 234m ²	8	9.64%	187m ²	5.30%
235m ² - 319m ²	35	42.17%	290m ²	36.46%
320m ² - 449m ²	34	40.98%	361m ²	46.50%
450m ² - 499m ²	3	3.61%	481m ²	5.17%
550m ² - 599m ²	1	1.20%	554m ²	1.99%
600m ² - 699m ²	2	2.41%	629m ²	4.51%
Total Number of Lots	83			

Minimum Lot Size 187m² Average Lot Size 336m²
 Maximum Lot Size 651m² Total Lot Area 27908m²



Revised Plan of Subdivision (WAPC Ref: 153278)
 LOT 9001 ILLAWARRA DRIVE, EATON
 AN ARDROSS ESTATES (S.A.) PTY LTD PROJECT

TAYLOR BUNNETT

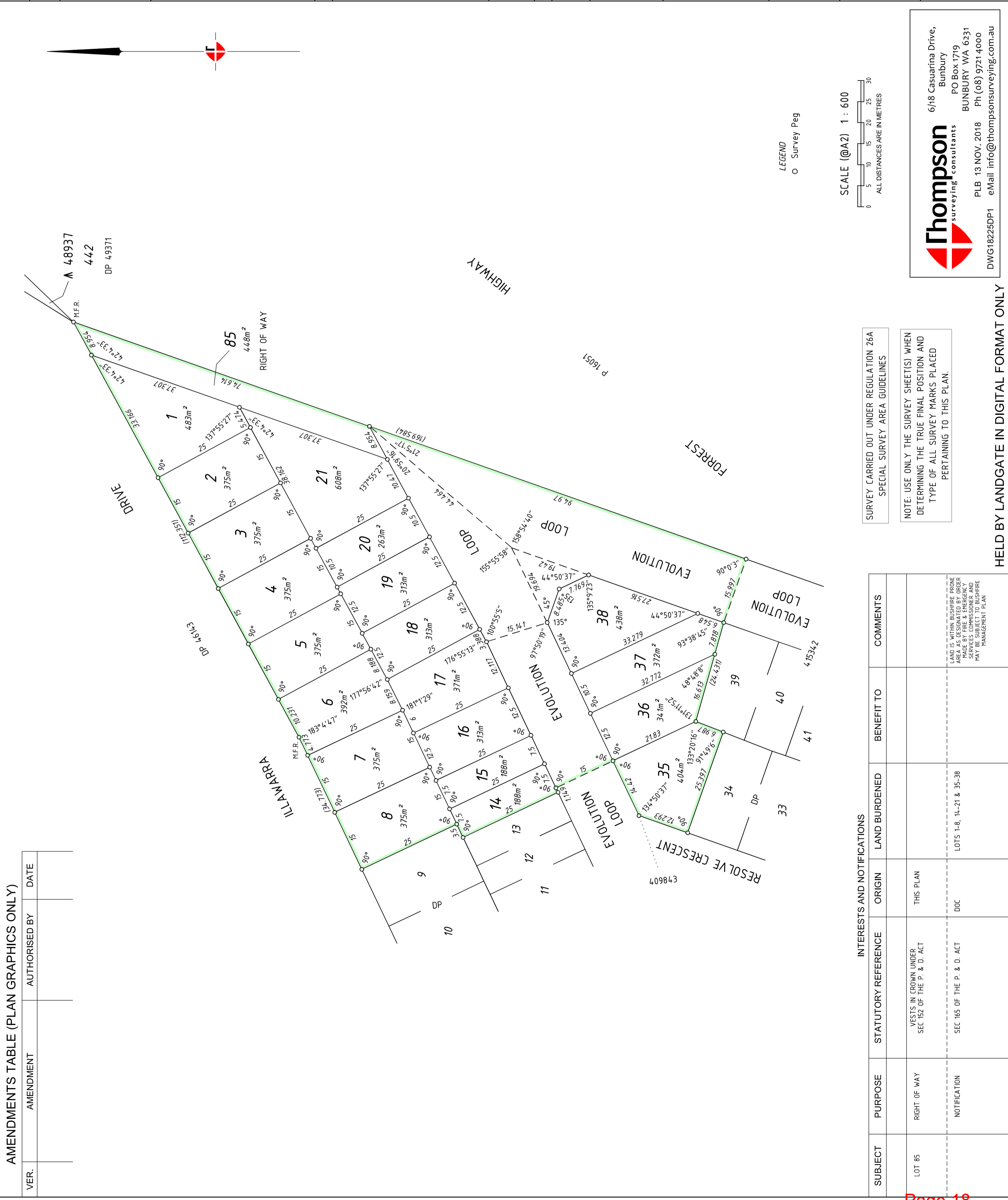
Taylor Bunnett Town Planning & Design
 10/111 GERRARD STREET NORTH
 MELBOURNE VIC 3048
 PH: 03 9487 2211 FAX: 03 9487 2212
 WWW.TAYLORBUNNETT.COM.AU

Scale: 1:1000

TYPE	FREEHOLD	S.S.A.	YES
PURPOSE	SUBDIVISION		
PLAN OF	LOTS 1-8, 14-21, 35-38 & 85 AND ROAD		
FORMER TENURE	LOT 9003 ON DP 415342 C/T 2961-139		
LOCAL AUTHORITY	SHIRE OF DARDANUP		
LOCALITY	EATON		
D.O.L. FILE	D.O.L. FILE		
FIELD RECORD	138265		
SURVEYOR'S CERTIFICATE - Reg. 54	I, L.B. KOK hereby certify that this plan is accurate and is a correct representation of the - (a) "survey" and/or (b) "calculations from measurements recorded in the field records." I delete if inapplicable) undertaken for the purposes of this plan and that it complies with the relevant written law(s) in relation to which it is lodged. Digitally signed by L.B. Kok Date: 2020.01.23 14:46:21 +08'00'		
LICENSED SURVEYOR	DATE	LOGGED	ASSESS NO.
23.01.2020			
I.S.C.	DATE	EXAMINED	DATE
		E. Milewska	31.01.2020
WESTERN AUSTRALIAN PLANNING COMMISSION	FILE	153278	
Delegated under S.16 P&D Act 2005	DATE	19-Mar-2020	DATE
IN ORDER FOR DEALINGS	SUBJECT TO SEC 168(1)(2), 152, 165 OF THE P&D ACT		
FOR REGISTRAR OF TITLES	DATE	APPROVED	REG. 26A(4)
INSPECTOR OF PLANS AND SURVEYS (S. 18 Licensed Surveyors Act 1909)	DATE		



DEPOSITED PLAN
415342
SHEET 1 OF 1 SHEETS
PLUS SURVEY SHEET(S)
VERSION 1



AMENDMENTS TABLE (PLAN GRAPHICS ONLY)	AMENDMENT	AUTHORISED BY	DATE
VER.			

6/18 Casuarina Drive,
Bunbury
PO Box 1719
BUNBURY WA 6231
Ph (08) 9721 4000
eMail info@thompsonsurveying.com.au

Thompson
surveying consultants

PLB 13 NOV. 2018
DWG18225DP1

SUBJECT	PURPOSE	STATUTORY REFERENCE	ORIGIN	LAND BURDENED	BENEFIT TO	COMMENTS
LOT 85	RIGHT OF WAY	VESTS IN CROWN UNDER SEC 152 OF THE P. & D. ACT	THIS PLAN			LAND IS WITHIN BUSHFIRE PRONE AREA AS DESIGNATED BY ORDER MADE BY FIRE & EMERGENCY SERVICES AUTHORITY. THIS LAND MAY BE SUBJECT TO BUSHFIRE MANAGEMENT PLAN
	NOTIFICATION	SEC 165 OF THE P. & D. ACT	DOC	LOTS 1-8, 14-21 & 35-38		

INTERESTS AND NOTIFICATIONS

HELD BY LANDGATE IN DIGITAL FORMAT ONLY

SURVEYOR'S CERTIFICATE - Reg. 54

I, **L.B. KOK**
hereby certify that this plan is accurate and is a correct representation of the -
(a) *survey; and/or
(b) *calculations from measurements recorded in the field records,
I *delete if inapplicable)
undertaken for the purposes of this plan and that it complies with the relevant written law(s) in relation to which it is lodged.

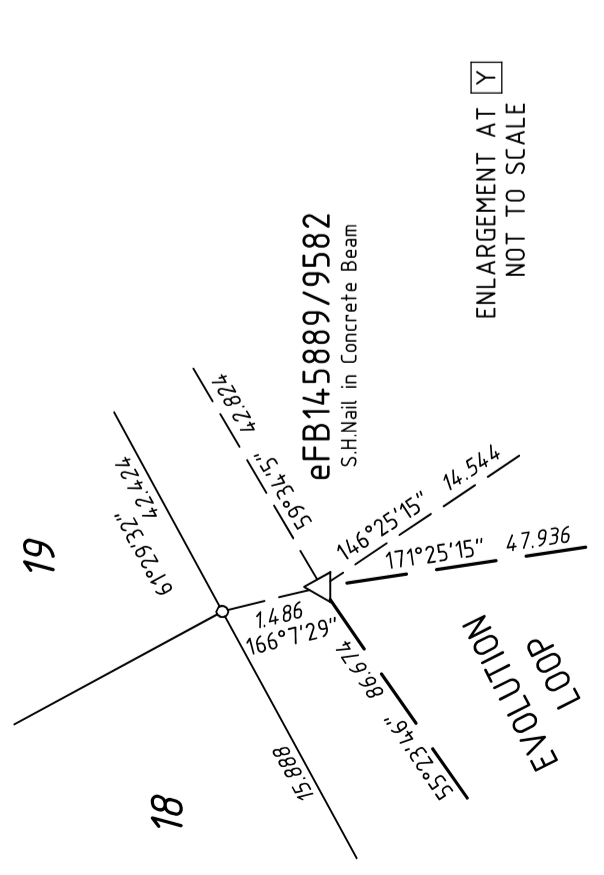
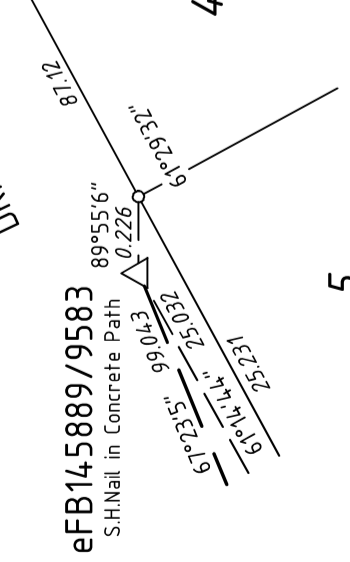
SURVEYOR'S CERTIFICATE - Reg. 55E(d)
The marks shown on these plans of survey were in place on
4-12-2018

Digitally signed by L.B. Kok
Date: 2020.01.23 14:48:26
+0800
LICENSED SURVEYOR
DATE

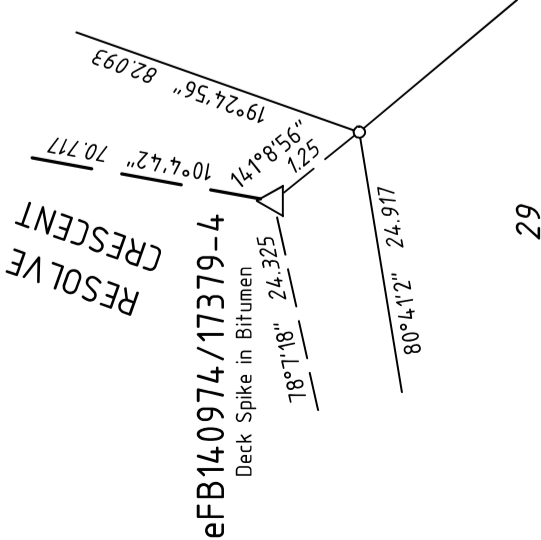
AMENDMENTS TABLE (SURVEY SHEETS ONLY)

VER.	AMENDMENT	AUTHORISED BY	DATE

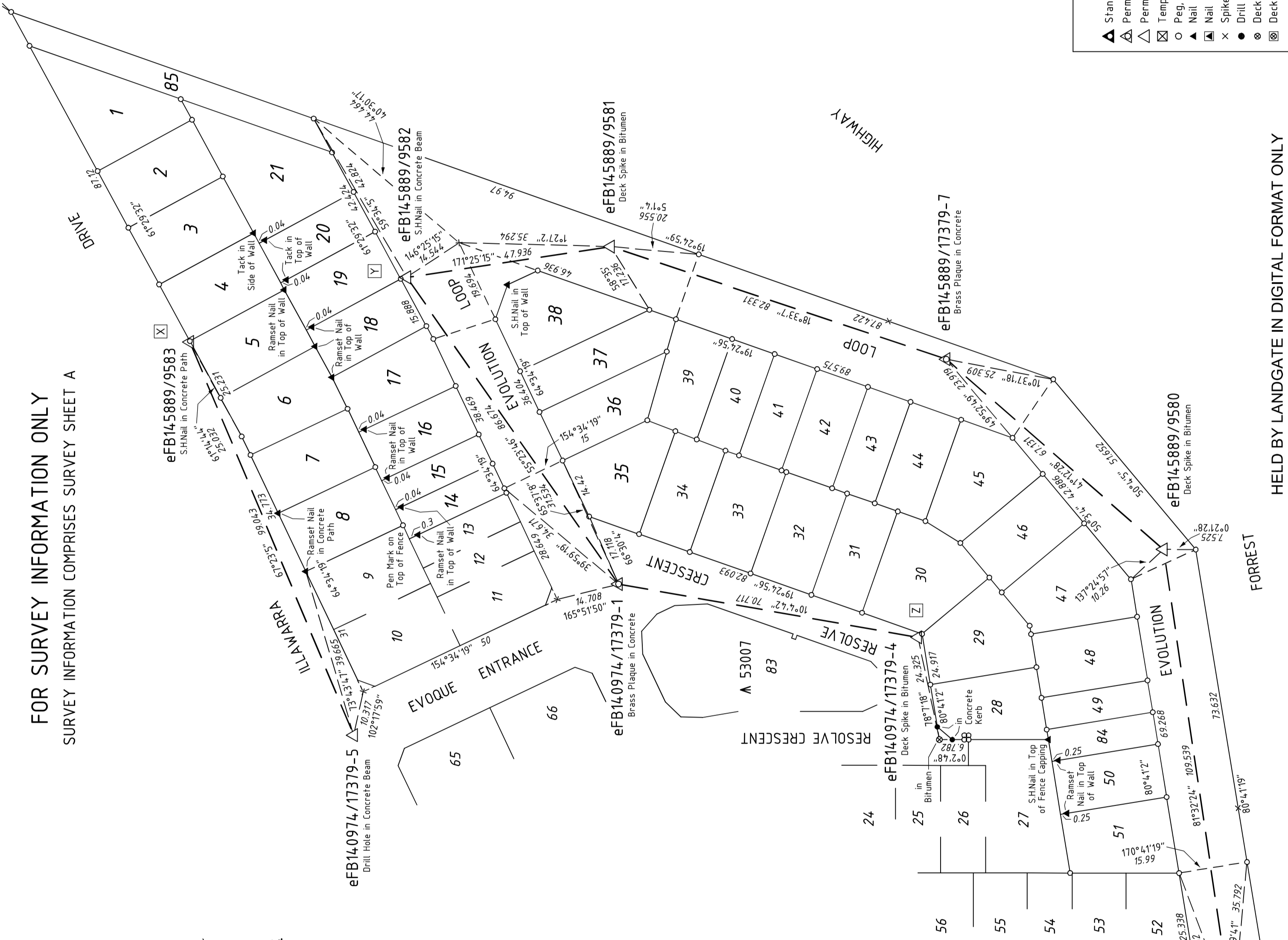
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NOT TO SCALE



ENLARGEMENT AT [Y]
NOT TO SCALE



ENLARGEMENT AT [Z]
NOT TO SCALE

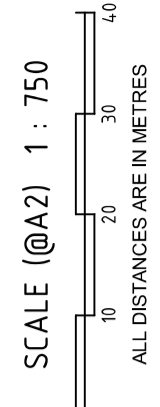
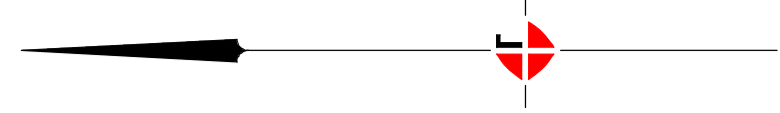


SURVEY SHEET

ALL BEARINGS AND DISTANCES ON THIS SHEET ARE THE RESULT OF LEAST SQUARES ADJUSTMENTS CARRIED OUT ON RAW FIELD OBSERVATIONS

GRID DATUM IS P.C.G.84 (PERTH COASTAL GRID)

SURVEY CARRIED OUT UNDER REGULATION 26A SPECIAL SURVEY AREA GUIDELINES



SCALE (@A2) 1 : 750
ALL DISTANCES ARE IN METRES

Thompson surveying consultants
6/18 Casuarina Drive, Bunbury
PO Box 1719
BUNBURY WA 6231
Ph (08) 9721 4000
eMail info@thompsonsurveying.com.au
DWG18225DP1

- LEGEND**
- ▲ Standard Survey Mark (S.S.M.)
 - △ Permanent Survey Mark (P.S.M.)
 - ▽ Permanent Control Mark (P.C.M.)
 - ⊗ Temporary Control Mark (T.C.M.)
 - Peg, unless stated otherwise
 - ▲ Nail
 - ▴ Nail & Plate
 - × Spike
 - Drill Hole
 - ⊕ Deck Spike
 - ⊞ Deck Spike & Plate

Landgate
GOVERNMENT OF WESTERN AUSTRALIA

DEPOSITED PLAN
415343
SURVEY SHEET A
VERSION 1

HELD BY LANDGATE IN DIGITAL FORMAT ONLY

(Appendix ORD: 12.2C)

Claire Lee

From: Michael.Tranter@dplh.wa.gov.au
Sent: Thursday, 19 March 2020 2:27 PM
To: Records
Subject: APPROVED: etDP DP415343 WAPC 153278 REGION South West Regions

Plan Approved

The document **415343** has been Approved.

Agency: **Dardanup Shire**

Please do not respond to this email as it is an automated email from the Department of Planning, Lands and Heritage

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RISK ASSESSMENT TOOL									
OVERALL RISK EVENT: Management Order Request – Lot 85 on Deposited Plan 415343 RISK THEME PROFILE: 7 - Environment Management 10 - Management of Facilities, Venues and Events RISK ASSESSMENT CONTEXT: Operational									
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL			RESIDUAL RISK RATING
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING	
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	Unmanaged Crown land could look untidy.	Minor (2)	Possible (3)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.	Not required.

RISK ASSESSMENT TOOL

OVERALL RISK EVENT: Bunbury Geographe Tourism Partnership Memorandum of Understanding Extension

RISK THEME PROFILE:

- 4 - Document Management Processes
- 6 - Engagement Practices

RISK ASSESSMENT CONTEXT:

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	By not agreeing to extend the MOU it could cause the perception that the Shire of Dardanup is not supportive of a joint tourism/marketing initiative for the region.	Minor (2)	Unlikely (2)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

ISK ASSESSMENT TOOL									
OVERALL RISK EVENT:		Eaton Community College Board Member – Resignation and Nomination							
RISK THEME PROFILE:		6 - Engagement Practices							
RISK ASSESSMENT CONTEXT:		Operational							
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL			RESIDUAL RISK RATING
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING	
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.

RISK ASSESSMENT TOOL								
<p>OVERALL RISK EVENT: Entering into 3-year contract with Advanced Traffic Management (W.A.) Pty Ltd (2020/2021 – 2022/2023)</p> <p>RISK THEME PROFILE:</p> <ul style="list-style-type: none"> 3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory) 4 - Document Management Processes 6 - Engagement Practices 8 - Errors, Omissions and Delays 14 - Safety and Security Practices 15 - Supplier and Contract Management <p>RISK ASSESSMENT CONTEXT: Operational</p>								
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)		AFTER TREATMENT OR CONTROL	
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING	CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING	
HEALTH	Contractor undertakes work in an unsafe or incompetent manner and puts themselves, Shire Staff and the public at risk of injury or death at any time during contract period.	Catastrophic (5)	Unlikely (2)	Moderate (5 - 11)	Advanced Traffic Management were assessed on their available resources, OSH compliance, OSH policies and procedures, risk management and safety systems- these areas are systematically weighted to affect officer recommendation. Reference checks undertaken with other LGs to confirm competency in this area. A contractor with unsuitable safety systems would not be recommended to Council.	Catastrophic (5)	Rare (1)	Moderate (5 - 11)
FINANCIAL IMPACT	Contract prices agreed to for whole term (3 years) are too high and Council are locked in to pay these for the contract duration.	Minor (2)	Unlikely (2)	Low (1 - 4)	Advanced Traffic Management's price schedule submitted in Tender were assessed against all respondents and current pricing compared to previous years.	Insignificant (1)	Rare (1)	Low (1 - 4)

SERVICE INTERRUPTION	Contractor is unable to provide services as and when required throughout contract term.	Moderate (3)	Likely (4)	High (12 - 19)	Advanced Traffic Management were assessed on their available resources (plant, equipment and materials) and any relevant contingency measures or backup available. Reference checks undertaken with other LGs to confirm competency in this area.	Minor (2)	Unlikely (2)	Low (1 - 4)
LEGAL AND COMPLIANCE	Unsuitable contractor is engaged and places the Shire of Dardanup at risk of litigation or non-compliance.	Catastrophic (5)	Possible (3)	High (12 - 19)	Advanced Traffic Management were assessed against the Shire's required compliance criteria and were found to be compliant- an incompliance in this area would have disqualified them from being awarded the contract.	Insignificant (1)	Unlikely (2)	Low (1 - 4)
REPUTATIONAL	Unsuccessful respondents are unhappy with outcome and processes utilised.	Insignificant (1)	Possible (3)	Low (1 - 4)	Records of Tender are kept in accordance with State Records Act 2000- these show that correct process was utilised.	Insignificant (1)	Rare (1)	Low (1 - 4)
ENVIRONMENT	Successful contractor employs unsuitable practices and processes in regards to environmental sustainability.	Minor (2)	Possible (3)	Moderate (5 - 11)	Advanced Traffic Management was assessed on their sustainability in regards to environmental management and no concerns were noted.	Minor (2)	Rare (1)	Low (1 - 4)

MEMORANDUM OF UNDERSTANDING

between

Department of Biodiversity, Conservation and
Attractions

and

Shire of Dardanup

Management of and access to lands vested in the
Shire of Dardanup within the proposed
~~Leschenault~~ Kalgulup Regional Park

MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed [Leschenault Kalgulup](#) Regional Park

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MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed ~~Leschenault~~ Kalgulup Regional Park

BACKGROUND

The State Government has committed funding towards the establishment and management of the proposed Preston River to Ocean and Leschenault Regional Parks, which has been renamed as Kalgulup Regional Park (Parks). Creation of the Parks will ensure the protection of the area's biodiversity while maintaining and improving recreational, social and cultural values for the residents of the Greater Bunbury Region.

Establishment plans have been prepared for both Parks, providing guidance on the lands to be included in the Parks and issues to be addressed through the preparation of a management plan for the Parks.

The Department of Biodiversity, Conservation and Attractions (DBCA) is responsible for coordinating the establishment and management of the Parks, including the preparation of a management plan that guides future management priorities.

The management plan will also identify the proposed ultimate tenure for all lands held by local and State government authorities within the Parks.

The proposed ~~Leschenault-Kalgulup~~ Regional Park includes a number of Crown Reserves vested with and managed by the Shire of Dardanup (the Shire). This MOU aims to provide an interim management agreement for the DBCA to access and undertake defined management activities on Crown Reserves vested and managed by the Shire (Shire's land) to complement the Shire's current management activities. The intention is that this MOU will be in place until the land tenure arrangements have been identified through the management planning process and the agreed Crown Reserves are formally vested in the Conservation and Parks Commission unless alternative management arrangements are made.

This MOU is not intended to create legal rights or obligations on either party or in any way alter either party's legal obligations (under statute or otherwise).

RATIONALE FOR THE MEMORANDUM OF UNDERSTANDING (MOU)

This MOU seeks to establish the highest standards of cooperation and understanding between the Shire and the DBCA, within the resources available to both agencies, to achieve interim arrangements for DBCA to commence the management activities on the Shire's land referred to in the MOU.

The MOU is an administrative document that seeks to ensure mutually beneficial working arrangements.

DESCRIPTION OF THE LANDS

A description of the Shire's land the subject to this MOU is provided in Appendix I. Maps of the Shire's land is provided in Appendix II.

SCOPE AND TERM OF THE MOU

This MOU relates only to the Shire's land defined in Appendix I and Appendix II.

The MOU cannot restrict either party in the performance of its statutory functions or the execution of its statutory powers. In all respects, other than those roles and responsibilities identified in this MOU as being undertaken by DBCA, responsibility for the administration and management of the Shire's land remains with the Shire, who has lawful responsibility for these functions under the *Local Government Act 1995 (WA)* and *Land Administration Act 1997 (WA)*.

MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed Leschenault Kalgulup Regional Park

This MOU may be modified, altered, revised, extended or renewed at any time by mutual written consent of both parties. Amendments must be in writing, signed and dated by the Party's Contact.

The MOU will remain in place from the date of signature by its parties for two years unless it is cancelled, or the management and vesting/ownership of the Shire's land are altered. If still in place, the MOU will be subject to a review prior to being renewed/replaced after the two-year period. This MOU and the arrangements referred to in this MOU, may be cancelled by either party by providing 90 days written notice.

FUNCTIONS AND OBJECTIVES OF THE MOU

DBCA and the Shire acknowledge that:

- a) the Shire is responsible for the administration and management of the Shire's land under the *Local Government Act 1995 (WA)* and *Land Administration Act 1997 (WA)*.
- b) the Shire grants access to the Shire's land referred to in Appendix 1 to DBCA, its officers, employees, contractors and volunteers for the purpose of carrying out DBCA's management activities referred to in this MOU; and
- c) Both parties must have current liability and workers compensation insurance that covers their respective management activities on the lands in question.

ROLES AND RESPONSIBILITIES OF THE PARTIES

Joint

The DBCA and the Shire will:

- a) act in the spirit of cooperation and good faith in the performance of this MOU;
- b) liaise with the other through the Party's Contacts or their delegates (see Communications below);
- c) provide and share all information as relevant to the purpose, roles and responsibilities under the MOU and in a timely manner; and
- d) immediately, or as soon as practicable notify each other of any matter which will impact the other, relating directly or indirectly to this MOU or anything which this MOU may contemplate to ensure that the parties are able to perform their roles and responsibilities as set out in this MOU.

DBCA's management activities

Area 1 - Northern portion of R43641 (see map at Appendix II)

At its own costs and in consultation with the Shire:

- a) Maintain/upgrade existing fencing and gates for the purpose of managing public access;
- b) Install and manage new fencing and gates to manage public access;
- c) Conduct regular patrols of the Shire's land to complement the Shire's enforcement program and powers, with information on illegal activities to be provided to Shire staff through the Party's Contact or delegate. DBCA enforcement functions will be limited to those available to DBCA employees under the *Biodiversity Conservation Act 2016* and regulations;
- d) Remove and dispose of illegally dumped rubbish;

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(Appendix ORD: 12.6A)

MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed Leschenault Kalgulup Regional Park

- e) Undertake the management of declared organisms in accordance with DBCA's Corporate Policy Statement No. 14 Weeds Management and Corporate Policy Statement No. 12 Management of Pest Animals;
- f) Undertake weed management activities that target weeds that are a threat to known priority conservation and recreation assets;
- g) Conduct annual visitor risk management (VRM) inspections of all constructed structures (walk trails, information shelters, signs, furniture etc.), including surrounding trees and other natural hazards that may impact visitors using these structures;
- h) Maintain, as required, constructed structures, including any maintenance necessary to address any VRM;
- i) Plan, design and install new visitor infrastructure, in consultation with the Shire;
- j) Maintain existing firebreaks;
- k) Obtain the required approvals, including environmental, heritage, planning and building, for activities being undertaken by DBCA under this MOU;
- l) Implement targeted biological surveys based on identification of knowledge gaps;
- m) Map threats and assets and undertake priority conservation works as deemed required, based upon available resources;
- n) Adhere to the DBCA's Dieback hygiene standards when accessing and undertaking works on the lands, as appropriate;
- o) Undertake the abovementioned works to maintain, at a minimum, the condition of the assets at the commencement of this MOU; and
- p) Train and supervise all employees, contractors and volunteers undertaking activities for DBCA under this MOU.

N.B. Further clarification of the abovementioned roles and responsibilities is provided via Appendix III.

Area 2 - Southern bushland portion of R43641, bushland portion of R25417 and R43939 (see map at Appendix II)

- a) Consult with the Shire in relation to management activities DBCA is planning to undertake in Area 1 to provide the opportunity for identification of synergies or efficiencies with Shire management activities in Area 2;
- b) Consider opportunities identified by the Shire for DBCA to assist with or contribute to specific projects being undertake by the Shire in Area 2.

The Shire will

- a) Continue management of the Shire's land that complements and takes into consideration DBCA's management activities referred to above (N.B. Further clarification of these roles and responsibilities is provided via Appendix III).

COSTS AND EXPENSES

Each party will pay for its own costs and expenses in connection with anything done or to be done under the MOU, unless otherwise agreed by both parties.

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MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed **Leschenault Kalgulup** Regional Park

DISPUTES

The parties will use their best efforts to resolve disputes initially through the Party's Contacts and only then if necessary, through the signatories to this MOU.

COMMUNICATIONS

The parties will communicate on a two monthly basis (minimum) in order to keep each other generally aware of their respective activities.

Each party will consult with the other prior to undertaking actions that may cause adverse impacts upon the other, the community or natural environment or otherwise are likely to generate significant community and/or media interest.

The parties will not release information to the community or media that concerns this MOU or the lands that form part of this MOU without first consulting with the other.

These communications will occur via the party's contacts or their delegates.

PARTY'S CONTACTS AND DELEGATES

SHIRE OF DARADANUP	DEPARTMENT OF BIODIVERSITY, CONSERVATION AND ATTRACTIONS
<p>Contact: Director Infrastructure Luke Botica P: 9724 0367 E: luke.botica@dardanup.wa.gov.au</p> <p>Delegate: Environmental Officer Jackie Nichol P: 9724 0338 E: Jackie.nichol@dardanup.wa.gov.au</p>	<p>Contact: Regional Manager, South West Bob Hagan P: 9725 4300 E: bob.hagan@dbca.wa.gov.au</p> <p>Delegate: Regional Parks Coordinator Aminya Ennis P: 9725 4300 E: aminya.ennis@dbca.wa.gov.au</p>

MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed [Leschenault Kalgulup](#) Regional Park

VARIATION

Changes may be made to this MOU by written agreement of both parties at any time.

Where the parties mutually determine to vary this MOU, any variation will:

- a) be made jointly by the Party's Contacts;
- b) be made in writing, in the form of either an exchange of letters or electronic communication confirmed between the parties;
- c) commence on the date signed by both parties or the date the last party signs, where the Parties do not sign on the same day; and
- d) will be documented in an Addendum, in order to consolidate all related aspects of the MoU in the one document.

SIGNATURES

In the spirit of cooperation and collaboration in which this MOU has been entered into, and with the mutual understanding that this is a voluntary working arrangement, the following individuals acting on behalf of their respective organisations accept the terms and conditions stated in this MOU.

Jason Foster
**EXECUTIVE DIRECTOR, REGIONAL AND
FIRE MANAGEMENT SERVICES**

Department of Biodiversity Conservation and
Attractions

Andre Schönfeldt
CHIEF EXECUTIVE OFFICER

Shire of Dardanup

Signed

Signed

Date

Date

MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed ~~Leschenault~~
~~Kalgulup~~ Regional Park

APPENDIX I – Shire’s land subject to MOU

Crown Reserves

Area 1

1. Crown Reserve 43641
Portion of Lot 5679 on Plan 19531
Vested in Shire of Dardanup
Description: northern portion of reserve including The Elbow/Eelup wetland and adjacent river foreshore strip (refer to map in Appendix II)

Area 2

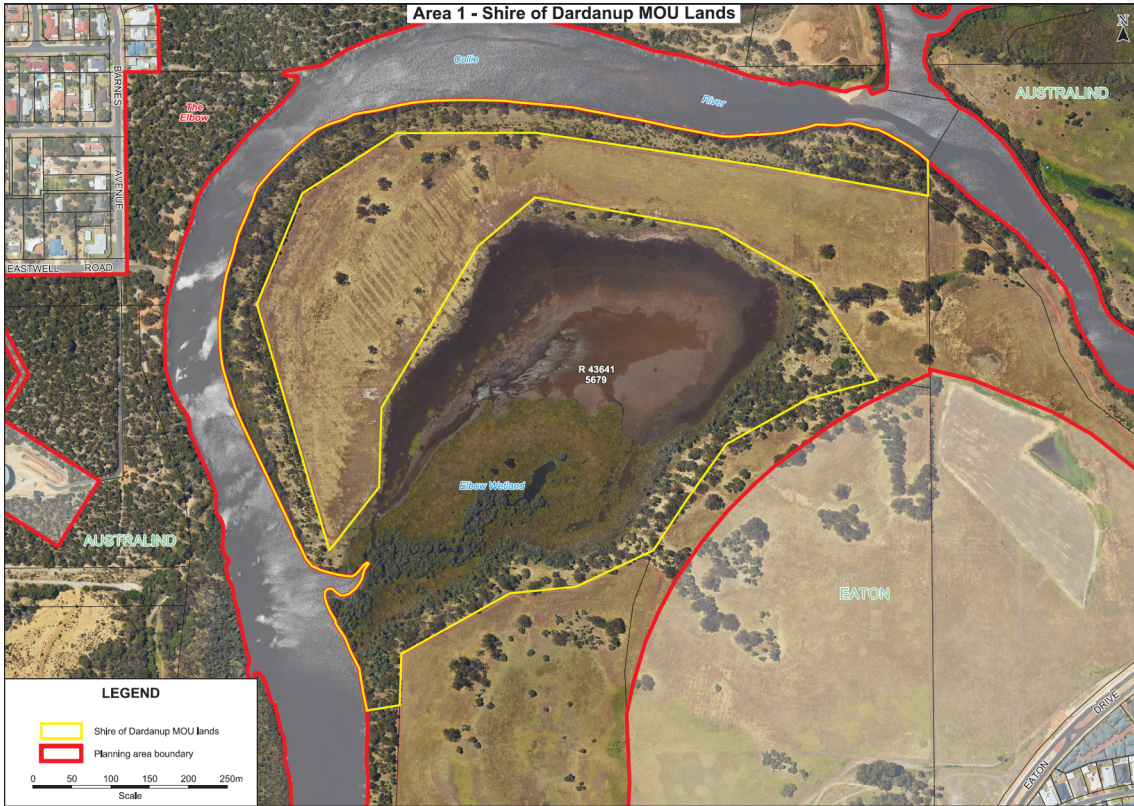
- ~~1.2.~~ Crown Reserve 25417
Portion of Lot 5536 on Plan 15906
Vested in Shire of Dardanup
Description: bushland portion of Watson Reserve (refer to map in Appendix II)
- ~~2.3.~~ Crown Reserve 43641
Portion of Lot 5679 on Plan 19531
Vested in Shire of Dardanup
Description: ~~includes~~ bushland portion of Leicester Reserve, ~~Eelup/Elbow wetland~~ and ~~portion of~~ Collie River foreshore strip lot (refer to map in Appendix II)
- ~~3.4.~~ Crown Reserve 43939
Lot 500 on Plan 405484
Vested in Shire of Dardanup
Description: Collie River foreshore strip east of Eaton Drive

MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed ~~Leschenault~~ [Kalgulup](#) Regional Park

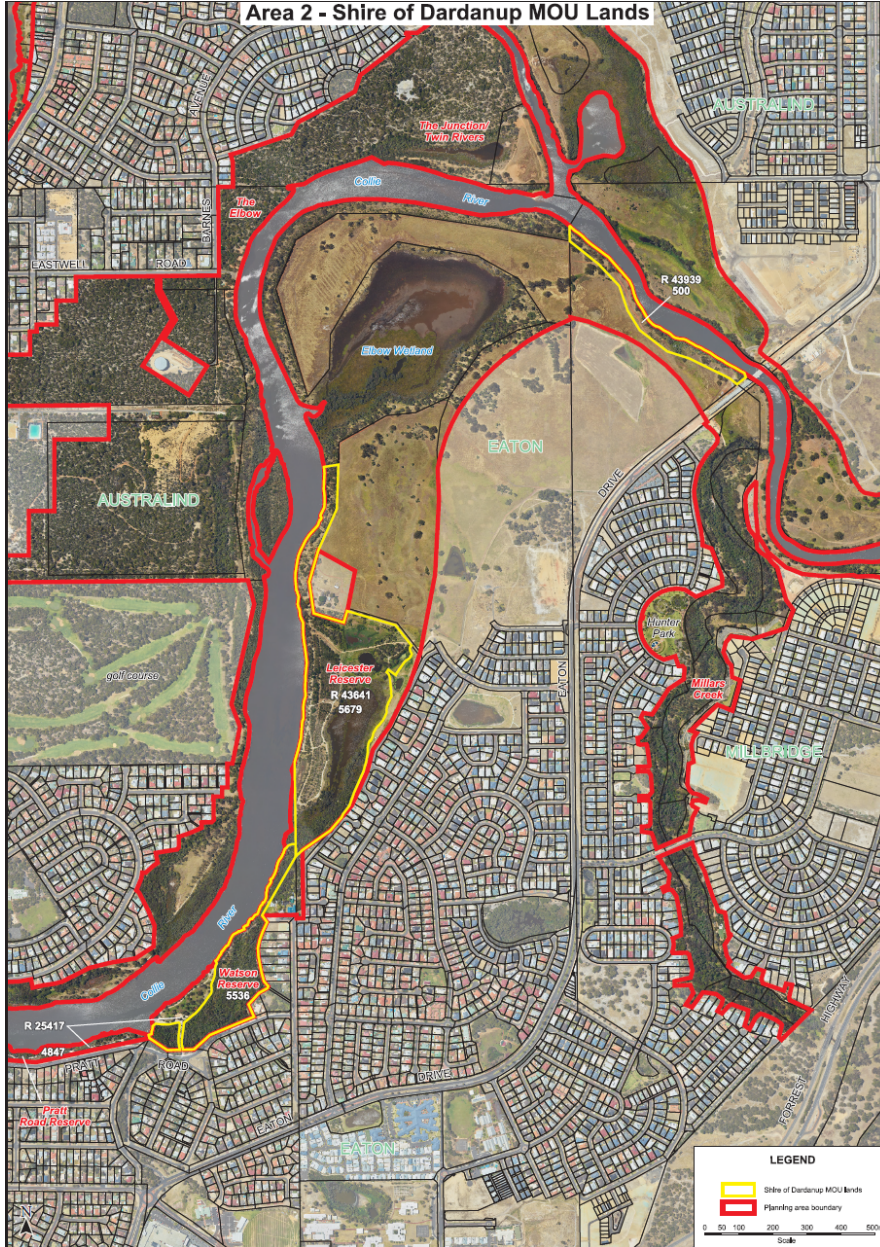
APPENDIX II – Maps of Shire's land subject to MOU

(Appendix ORD: 12.6A)

MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed Lesehenault-Kalgulup Regional Park



MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed Leschenault-Kalgulup Regional Park



MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed ~~Leesehenautt~~ Kalgulup Regional Park

APPENDIX III – Further clarification of DBCA and Shire of Dardanup roles and responsibilities under MoU

The following table seeks to clarify the DBCA's and Shire of Dardanup's respective roles and responsibilities under this MoU as broadly outlined under 'Roles and Responsibilities of the Parties':

Management Action	Responsible Organisation	
	Area 1 ¹	Area 2 ²
<p><u>Access tracks and firebreaks – Shire lands subject to MoU (N.B. excludes concrete/asphalt foot paths and bicycle ways)</u></p> <p>Maintain and expand (as deemed necessary) existing firebreaks and other access tracks. This task includes keeping tracks and firebreaks free of grassy weeds.</p> <p>Give consideration to designing any new access trails to allow for emergency and management vehicle access.</p>	DBCA	<u>Shire</u>
<p><u>Asset management – Shire lands subject to MoU</u></p> <p>Install and maintain visitor infrastructure such as shelters, boardwalks, furniture etc.</p> <p>DBCA is to provide the Shire with details regarding any new infrastructure installs in order to inform the Shire's asset register.</p>	DBCA	<u>Shire</u>
<p><u>Asset management – Shire lands not subject to MoU</u></p> <p>Install and maintain visitor infrastructure such as toilets, shelters, gazebos, BBQs, playground equipment, furniture, walk/cycle trails etc.</p>	Shire	<u>Shire</u>

¹ Area 1 depicted in Appendix XX

² Area 2 depicted in Appendix XX

MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed ~~Leesehenautt~~ Kalgulup Regional Park

Management Action	Responsible Organisation	
	Area 1 ¹	Area 2 ²
<u>Car park maintenance and expansion</u> General maintenance e.g. repair of pot holes, management of tree roots etc. Carpark expansion	Shire	<u>Shire</u>
<u>Shire of Dardanup event coordination</u> Coordination and promotion of events	Shire	<u>Shire</u>
<u>Concrete/asphalt foot paths and bicycle ways</u> Path inspections, cleaning and repairs	Shire	<u>Shire</u>
<u>Conservation works</u> Undertake priority bushland conservation works as deemed required and resources allow. Tasks may include weed control and revegetation.	DBCA	<u>Shire</u>
<u>Declared organisms (WA Biosecurity and Agriculture Management Act 2007)</u> Undertake the management of declared organisms	DBCA — Shire lands subject to this MoU (N.B. to be undertaken in accordance with DBCA's Corporate Policy Statement No. 14 Weeds Management and Corporate Policy Statement No. 12 Management of Pest Animal)	<u>Shire</u> Shire — Shire lands not subject to this MoU (e.g. Eaton foreshore, Pratt Road reserve, Millar's Creek)
<u>Dieback hygiene</u> Adhere to accepted Dieback hygiene standards when accessing the lands	DBCA and Shire will adhere to their respective standards when undertaking activities in the proposed park	DBCA and Shire will adhere to their respective standards when <u>undertaking activities in the proposed park</u>
<u>Fencing and gates</u> Install and maintain/upgrade fencing and gates for the	DBCA — Shire lands subject to this MoU	<u>Shire</u> Shire — Shire lands not subject to

MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed ~~Leesehenant~~ Kalgulup Regional Park

Management Action	Responsible Organisation	
	<u>Area 1¹</u>	<u>Area 2²</u>
purposes of managing public access		<u>this MoU</u>
<u>Fire mitigation works</u> (N.B. <u>excluding firebreak maintenance</u>) Fire mitigation works in accordance with the <u>WA Bushfires Act 1954</u> e.g. fuel load reduction.	Shire	<u>Shire</u>
<u>General maintenance and management</u> General maintenance and management of the lands outside the scope of activities elsewhere mentioned in this table (e.g. management of requests from third parties to access the land for various purposes)	Shire	<u>Shire</u>
<u>Graffiti removal</u> Removal of graffiti from infrastructure	DBCA — <u>Shire lands subject to this MoU</u>	<u>Shire</u> <u>Shire — Shire lands not subject to this MoU (e.g. Eaton foreshore, Pratt Road reserve, Millar's Creek)</u>
<u>Interpretive signage</u> Installation and maintenance of interpretive signage	DBCA — <u>Shire lands subject to this MoU</u> <u>Shire — Shire lands not subject to this MoU (e.g. Eaton foreshore, Pratt Road reserve, Millar's Creek)</u> (N.B. exceptions to this general rule may occur through mutual agreement e.g. instances where <u>DBCA wishes to install regional park boundary signage</u>)	<u>Shire</u> (N.B. exceptions to this general rule may occur through mutual agreement e.g. instances where <u>DBCA wishes to install regional park boundary signage</u>)
<u>Law enforcement (WA Biodiversity Conservation Act 2016)</u> Undertake law enforcement as required and empowered under the <u>WA Biodiversity Conservation Act 2016</u> . Duties include, inter alia, the regulation of native flora, fauna and threatened ecological community collection and modification	DBCA	<u>DBCA</u>

MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed ~~Leesehenauit~~ Kalgulup Regional Park

Management Action	Responsible Organisation	
	Area 1 ¹	Area 2 ²
activities		
<p><u>Law enforcement (WA Local Government Act 1995, WA Litter Act 1979, WA Dog Act 1976, Shire of Dardanup local laws etc.)</u></p> <p>Undertake law enforcement as required and empowered under the <u>WA Local Government Act 1995, WA Litter Act 1979, WA Dog Act 1976</u>. Shire of Dardanup local laws etc. Duties include regulation of illegal camping, litter control, dog control, regulation of recreational vehicle parking and vandalism control.</p>	<p>Shire</p> <p><u>DBCA is also empowered to support the enforcement of the WA Litter Act 1979 and will undertake this role where appropriate in amongst its other roles and responsibilities under this MoU.</u></p>	<p>Shire</p> <p><u>DBCA is also empowered to support the enforcement of the WA Litter Act 1979 and will undertake this role on the subject lands where appropriate in amongst its other roles and responsibilities under this MoU.</u></p>
<p><u>Law enforcement signage</u></p> <p>Installation and maintenance of law enforcement signage</p>	Shire	Shire
<p><u>Mosquito surveillance and control</u></p> <p>Mosquito monitoring and application of larvicides and growth regulators to control mosquito numbers</p>	Shire	Shire
<p><u>Mowing</u></p> <p>Turf/grass management through the use of ride-on mowers, edgers, line-trimmers, slashers etc.</p>	Shire	Shire
<p><u>Patrols</u></p> <p>Conduct regular patrols of the land in order to support law enforcement and general reserve management</p>	<p>DBCA and Shire will both undertake patrols of the lands subject to this MoU in support of their respective law enforcement and management duties</p>	<p>Shire</p> <p><u>DBCA will opportunistically include areas adjacent to Area 1 in patrol activities</u></p>

MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed [Leesehenautt Kalgulup](#) Regional Park

Management Action	Responsible Organisation	
	Area 1 ¹	Area 2 ²
<u>Regular waste collection</u> Regular waste collection (e.g. emptying of rubbish bins)	Shire	<u>Shire</u>
<u>Reticulation maintenance</u> General reticulation system maintenance, pump and bore maintenance, reticulation installations	Shire	<u>Shire</u>
<u>Road maintenance and expansion</u> General maintenance e.g. repair of pot holes, management of tree roots; Expansion includes installation of street signs, line marking, road upgrades, street lighting, central islands	Shire	<u>Shire</u>
<u>Rubbish and hazardous Waste</u> Collection and disposal of litter and dumped rubbish and hazardous waste	DBCA — <u>Shire lands subject to this MoU</u>	<u>Shire</u> <u>Shire — Shire lands not subject to this MoU</u>
<u>Stormwater system maintenance and expansion</u> Management of siltation with brushes and high pressure hose, maintenance/upgrade/expansion of basins, open drains, stormwater pipes and related infrastructure repairs, improvements e.g. Water Sensitive Urban Design.	Shire	<u>Shire</u>
<u>Tree maintenance</u> Tree pruning and management in order to minimise risk e.g. to infrastructure	DBCA — <u>Shire lands subject to this MoU</u> <u>Shire — Shire lands not subject to this MoU (e.g. Eaton-foreshore, Pratt Road reserve, Millar's-Creek)(N.B. exceptions to this general rule may occur through mutual agreement)</u>	<u>Shire</u> <u>(N.B. — exceptions to this general rule may occur through mutual agreement)</u>

MOU: Management of and access to lands vested in the Shire of Dardanup within the proposed ~~Leschenault~~ Kalgulup Regional Park

Management Action	Responsible Organisation	
	<u>Area 1¹</u>	<u>Area 2²</u>
<u>Weed management</u> Undertake management activities that target weeds that are a threat to known priority conservation and recreation assets	DBCA — Shire lands subject to this MoU	Shire

RISK ASSESSMENT TOOL									
OVERALL RISK EVENT:		Kalgulup Regional Park – Amended Memorandum of Understanding							
RISK THEME PROFILE:		7 - Environment Management							
RISK ASSESSMENT CONTEXT:		Operational							
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL			
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING	
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Missed opportunity for Shire to benefit from DBCA's interim management activities on Crown Reserves currently vested with the Shire that are proposed to be ultimately managed by DBCA.	Minor (2)	Possible (3)	Moderate (5 - 11)	Endorse Amended MOU for interim management arrangements	Minor (2)	Unlikely (2)	Low (1 - 4)	
ENVIRONMENT	Inadequate management of the natural reserves	Insignificant (1)	Possible (3)	Low (1 - 4)	Endorse Amended MOU for interim management arrangements	Insignificant (1)	Unlikely (2)	Low (1 - 4)	



AGREEMENT

BETWEEN DARDANUP SHIRE COUNCIL ABN 57 305 829 653 of 3 Little Street Dardanup, Western Australia 6236 (Shire)

AND AUSTRALIAN RED CROSS SOCIETY ABN 50 169 561 394 of 155 Pelham Street, Carlton Victoria 3053 (Red Cross)

BACKGROUND

- A Red Cross is a beneficiary under the Will of the late Alexander Edwin Poad who, by his Will, bequeathed \$152,000.00 to the Dardanup Branch of Red Cross (**Bequest**).
- B Red Cross has been in discussion with the Dardanup Branch members, the Dardanup community and the Shire, to agree on the most appropriate application of the Bequest given the late Mr Poad's wish that his generous gift benefit the Dardanup Shire.
- C The Shire and Red Cross have reached agreement on the application of the Bequest as set out in this agreement.

AGREEMENT

- 1 In consideration of the payments referred to in this agreement, the parties have agreed, subject to final approval from the Shire, to allocate the Bequest as follows:
 - (a) the sum of \$10,000.00 is to be paid to Red Cross to be applied to the operation of Lady Lawley Cottage in Cottesloe, Perth;
 - (b) the sum of \$1,000.00 is to be paid to Red Cross to be used for promotional banners for its South West Regional Office in Western Australia;
 - (c) the sum of is \$90,000.00 is to be paid to the Shire and allocated to the Dardanup Central Fire Brigade for the refurbishment of the fire station premises. This will involve external extension including an extra bay for a second vehicle as well as internal refurbishment to include showers, toilet (with disabled access) and a meeting room to be used for workshops/education. This will also include a plaque acknowledging Mr Poad as well as Red Cross – subject to all necessary approvals being obtained ;
 - (d) the sum of \$51,000 is to be paid to the Shire for use on the expansion of the Wells Recreation Ground (Dardanup) facilities. On completion of the expansion, part of these moneys will be allocated to the erection of a plaque acknowledging the contribution of Mr Poad and Red Cross subject to all necessary approvals being obtained;
- 2 If interest has accrued on the Bequest prior to the distribution being made under clause 1, the parties agree that any funds in excess of \$152,000.00 will be allocated to the Dardanup Central Fire Brigade for use in its operations.



- 3 The Bequest is currently held by Red Cross. Upon receipt of formal approval from the Shire, and the execution of this agreement by both parties Red Cross will transfer \$141,000.00 from the Bequest to the Shire's nominated Bank Account ("Dardanup Share"). The receipt the Financial Officer of the Shire for this money will be a sufficient discharge to Red Cross for the payment of \$141,000.00.
- 4 The Shire must oversee the application of the Dardanup Share to ensure it is used for the purposes set out in clause 1. Once the Dardanup Share has been paid to the Shire by Red Cross, Red Cross will have no further responsibility to oversee the application of those moneys by the Shire.
- 5 Red Cross must oversee the application of the balance of the Bequest to ensure it is used for the purposes set out in clause 1. Once this agreement is signed, the Shire will have no further responsibility to oversee the application of those moneys by Red Cross.
- 6 The contacts for this agreement are:

Shire: Mark Chester, Chief Executive Officer
 Phone 9724 0000
 Email ceo@dardanup.wa.gov.au

Red Cross: Maria Fitzgerald, Australian Red Cross, Regional Manager SW
 Phone 0439 350 393
 Internal 08 9726 6700
 Email mfitzgerald@redcross.org.au

EXECUTED by the parties as an agreement thisday of.....2016

SHIRE SIGNATURE BLOCK

**MARK L. CHESTER
 CHIEF EXECUTIVE OFFICER**





SIGNED by AUSTRALIAN RED CROSS)
SOCIETY by its Authorised)
Representative in the presence of:)

Helen Douglas)
.....)
Signature of witness)

HELEN DOUGLAS)
.....)
Name of witness (block letters)

[Signature])
.....)
Signature of Authorised Representative

S. FOSIRE, CEO)
.....)
Full Name of Authorised Representative
(block letters)

Executive Director)
.....)
Title of Authorised Representative
(block letters)

RISK ASSESSMENT TOOL

OVERALL RISK EVENT: Failure to approve additional expenditure to enable site works for the Dardanup Central Volunteer Bushfire Brigade Redevelopment.

RISK THEME PROFILE:

- 1 - Asset Sustainability Practices
- 6 - Engagement Practices

RISK ASSESSMENT CONTEXT: Strategic

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	Failure to approve additional expenditure to enable site works for the Dardanup Central Volunteer Bushfire Brigade Redevelopment will cause capital grant funding to be forfeited.	Major (4)	Almost Certain (5)	Extreme (20 - 25)	Approve additional expenditure and utilise bequeathed estate for required site works related to the Dardanup Central Bushfire Brigade redevelopment.	Major (4)	Rare (1)	Low (1 - 4)
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Failure to approve additional expenditure to enable site works for the Dardanup Central Volunteer Bushfire Brigade Redevelopment will leave Council seen in a negative light.	Moderate (3)	Unlikely (2)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

12.6.2 Title: Allocation of Dog Exercise Areas

Reporting Department: Development Services Directorate
Reporting Officer: Mr Murray Halden - Senior Ranger
Mr Robert Quinn- Director Development Services
Legislation: Local Government Act 1995
Dog Act 1976
Shire of Dardanup Local Law Relating to Dogs
Equal Opportunity Act 1984
Disability Discrimination Act 1992
(Commonwealth).
File Number: RS010001, LE010016

Background

The Council meeting of the 21 May 2014 considered a request from Benotto Animal Management to be permitted to use the Eaton Foreshore Reserve for dog obedience classes. During the consideration of this item Councillors queried whether there were sufficient dog exercise areas within the Shire.

Part 2 of Council's resolution [Res 135/14] of that meeting resolved:

That Council...

2. Request the Chief Executive Officer research the following issues and provide a report back to Council 13 August 2014 meeting:

- a) Adequacy of the current dog exercise areas within Shire of Dardanup.*
- b) Potential sites for more dog exercise areas if current areas are found not to be adequate.*

Public comment was sought on the proposed and existing dog exercise areas via an advertisement in the South West Times on 29 May 2014, the Shire newsletter (June edition) and the Shire website.

The following areas were advertised for public comment:

LOCALITY	PROPOSED TIMES
Marri Reserve Eaton (Cnr Hale Street/Millard Street)	No time restriction
Leicester Reserve, Eaton (off Leicester Ramble)	No time restriction
Hunter Park, Millbridge (off Hunter Circle)	7.00pm to 10.00am
Wunditjch Reserve Eaton (Cnr Millard Street/Cottonwood Gardens)	No time restriction
Watson Street Reserve, Eaton [existing]	No time restriction
Eaton Foreshore (Foster Street West to Collie River Bridge) [existing]	7.00pm – 10.00am
Burekup Reserve, (Gardiner Street) [existing]	No time restriction
Wells Recreation Park, Dardanup [existing]	No time restriction

As a result of this advertising process, 18 submissions were received and copies of all submissions are attached (Appendix ORD: 12.6.2A) and are summarised in the Schedule of Submissions in the resolution.

Legal Implications

There is a requirement that Section 8 of the Dog Act 1976 and Equal Opportunity Act 1984, Disability Discrimination Act 1992 (Commonwealth) are taken into consideration. Section 66J of the Equal Opportunity Act 1984 is specific that it is unlawful to discriminate against a person who has impairment. Section eight (8) of the Dog Act 1976 outlines the issue of assistance dogs that are used for a person who has a disability or medical condition.

The proposed dog exercise areas must be approved and advertised in accordance with Section 31 (3C) of the Dog Act 1976 (Appendix ORD: 12.6.2B). Section 31 (3C) of the Dog Act 1976 requires the following advertisement of dog exercise areas at least 28 days before they are specified:

- Advertisement in newspaper circulating throughout the district(South West Times);
- Exhibited on local government offices on public notice board; and
- Exhibited on local government library on public notice board.

The existing dog exercise areas will expire on the 31 July 2014 due to the amendments to the Dog Act 1976. Should Council choose to allocate new dog exercise areas this will mean that for a period of 28 days from the date of the advertisement the Shire will have no designated off lead dog exercise areas and dogs should be on a lead at all times. Should the Council meeting of the 23 July 2014 resolve to make amendments to the dog exercise areas and times an advertisement appeared in the South West Times on the 31 July 2014.

This would mean that the designated dog exercise areas would come into force as of 1 September 2014, allowing dogs to be exercised off lead.

Strategic Community Plan - None.

Environment - None.

Precedents - None.

Budget Implications

The cost estimates received indicate that it would cost approximately \$5,000 to erect the required 16 Dog Exercise Area signs, inclusive of parts, labour and advertising. This cost does not include dog excretion bag dispensers.

The Eaton Veterinary Clinic has indicated that they would be interested in providing sponsorship towards the signs in return for some type of advertising on the signs. No commitments have been to the Eaton Veterinary Clinic regarding sponsorship.

Budget – Whole of Life Cost - None.

Council Policy Compliance - None.

Risk Assessment - Low.

Officer Comment

Adequacy of Current Dog Exercise Areas

The current dog exercise areas within the Shire are:

DOG EXERCISE AREA	TIME RESTRICTION
Foreshore Reserve(Collie River Bridge to Foster Street)	5.00 am until 10.00am daily
Watson Street Reserve	No restrictions
Wells Recreation Park (Lot 55 Ferguson Road, Dardanup)	No restrictions
Burekup Reserve (Lot 107 Gardiner Street, Burekup)	No restrictions

These dog exercise areas were designated via the Shire of Dardanup Local Law Relating to Dogs. The Shire of Dardanup Local Law Relating to Dogs was last reviewed in 1998 which included designation of the existing dog exercise areas. Therefore, based on this evidence there has not been an increase in dog exercise areas since 1998.

It is considered that as the current dog exercise areas were designated in 1998 and the population has increased significantly along with the number of dogs within the Shire, the current dog exercise areas would not be adequate. The population of the Shire in 1998 was approximately 7,000, in 2011 the population of the Shire was approximately 12,400.

It is unknown how many dogs were registered in 1998 within the Shire. There are approximately 2,200 dogs registered within the Shire of Dardanup. The number of registered dogs is expected to grow as the population increases which further supports that dog exercise areas designated in 1998 would not be adequate.

Another factor which supports the argument that the current dog exercise areas are not adequate is the current location of the dog exercise areas. The population of Eaton has been steadily locating to the north in the Parkridge and Millbridge areas. Currently, there are no dog exercise areas in Millbridge, while the western portion of Parkridge area is in reasonable proximity to Watson Street Reserve.

Therefore, based on the increase in population and dog numbers, location of current dog exercise areas it is contended that the current dog exercise areas could be increased.

During the public consultation process of the Strategic Community Plan no comments were received for the increase of the dog exercise areas.

- *Potential Sites for Dog Exercise Areas*

Officers first went through a process of selecting reserves based primarily on the area of the reserves. Although area was the primary criteria used to select potential dog exercise areas, as the selection process continued some larger reserves were not considered adequate for various reasons.

The majority of the smaller reserves were not considered adequate for one or more of following reasons: -

- Pocket parks/reserves;
- Play-ground equipment/passive recreation;
- Incompatible use, i.e. having off lead dogs around children in small areas;
- Adjacent to busy thoroughfare; and
- Area of reserve inadequate for reasonable dog exercise.

The smaller reserves are not detailed as there a large amount of small reserves. Secondly, the larger reserves were then considered. Of the larger reserves that were considered, the following reserves were deemed to be unsuitable:

- Sindhi Park
- Lofthouse Park
- Council Drive, (skate park)
- Illawarra Park
- Cadell Park

- Eaton Drive (Lots 644 & 645, reserves north of Castlereagh Vista)
- Millars Creek Walkway (including Lot 647, reserve north of Millars Creek Walkway)
- Peninsula Lakes Park
- Glenhuon Sports Oval
- Eagle Wetland Reserve
- Garry Engel Reserve (Cnr Eaton Drive/Millbridge Boulevard)
- Eaton Oval Reserve
- Gromark Park
- Cleveland Bay Reserve
- Duck Pond Park
- Lusitano Park

for one or more of following reasons:

- Area utilised for sporting activities
- Adjacent to busy thoroughfare
- Not under the Shire of Dardanup's management (leased to an organisation, etc)
- Allocated as a significant drainage reserve
- Playground/passive recreation
- Significant environmental/conservation issues

After consideration of the criteria for selection of dog exercise areas the following potential sites for dog exercise areas were identified and advertised for public comment:

- Pratt Road Foreshore Reserve(Collie River Bridge to Foster Street)
- Watson Street Reserve
- Wells Recreation Park (Lot 55 Ferguson Road, Dardanup)
- Burekup Reserve Lot 107 Gardiner Street
- Hunter Park Millbridge (off Hunter Circle)
- Leicester Reserve, Eaton (adjacent to Leicester Ramble)
- Marri Reserve (Corner Hale Street/Millard Street)
- Wunditjch Reserve (Corner Millar Street & Cottonwood Gardens)

- *Background Research*

To provide a background for making recommendations to Council on the allocation of dog exercise areas, research of adjoining local governments was undertaken in regard to dog exercise areas:

City of Bunbury

Within the City of Bunbury there are 22 dog exercise areas. Many of these areas are on sporting grounds which are leased to various clubs. Dog exercise times range from 6.00pm to 8.00am each day, provided no sporting activities are taking place. Some areas are also deemed to be dog prohibited areas from October 1 to April 30 each year.

In addition the City of Bunbury has three designated dog prohibited areas at all times, one being a highly sensitive conservation park. The other two dog prohibited areas are beach areas to prevent beach users from being harassed by off lead dogs.

Shire of Harvey

The Shire of Harvey has eight town-sites within its district and each town-site has a dog exercise area with the exception of the Australind/Leschenault area that has two designated dog exercise areas. All these dog exercises areas have no time limitations.

In comparison to the Pratt Road foreshore area, Ridley Place in Australind is not a dog off lead area. The Leschenault Recreation Park has one dog exercise area which is situated on the most northern oval. No other areas of the Leschenault Recreation Park allow dogs off lead. The other designated dog exercise area for the Australind/Leschenault area is in Clifton Park which is known as Lot 131 Lucy Victoria Avenue (north of Pratt Road foreshore area).

- *Recommended Dog Exercise Areas*

The following two reserves were advertised for public comment as potential dog exercise areas:

- Wunditjch Reserve Corner (Millard Street and Cottonwood Gardens)
- Marri Reserve (Corner Hale Street/Millard Street)

These areas were originally chosen as potential dog exercise areas in an attempt to provide dog exercise areas on the southern portion of the Eaton townsite, as all existing dog exercise areas are on the northern portion of the Eaton townsite.

The submissions raised the issue of the environmental sensitivity of these two reserves regarding native flora, fauna and the natural environment contained on these reserves. Comment was sought from the Manager Environment & Emergency (MEE) regarding the issues raised in the submissions. Advice from the MEE suggested there is the potential for environmental degradation/damage to the habitat if Wunditjch Reserve and Marri Reserve were used as dog exercise areas, therefore, they have not been recommended as dog exercise areas.

The submissions were in sense, polarised as one respondent did not wish one of the proposed reserves to be a dog exercise area at all, as opposed to other respondents seeking some reserves to be un-restricted dog exercise areas. Officers have attempted to gain a balance between the rights of the dog owners and the non-dog owners to use and enjoy public reserves in making these recommendations.

After the advertising was completed and the submissions were considered the following recommendations for dog exercise areas for the Shire of Dardanup are presented to Council for consideration.

Eaton areas are shown on one map to illustrate there location in proximity to other facilities (Appendix ORD: 12.6.2C):

AREA	COMMENT	MEE COMMENT	RECOMMENDATION
Eaton Foreshore Reserve (Collie River Bridge to Foster Street)	Currently the times that a dog owner can have a dog off the lead are from 5.00am to 10.00am. By extending off lead hours to 7.00pm to 10.00am it is considered to allow a balance between dog owners and reserve users.	No comment	Dog exercise area between 7.00pm and 10.00am daily. The reserve will not be an off lead area between 10.00am 7.00pm daily. <i>MEE Recommendation</i>

AREA	COMMENT	MEE COMMENT	RECOMMENDATION
			Suitable as a dog exercise area however additional controls should be considered to formalise Collie River access points.
Watson Street Reserve	Currently no time restrictions are imposed.	Staff are not aware of any significant environmental impacts from the exercising of dogs in this area.	Dog exercise area with no restrictions <i>MEE recommendation</i> Suitable as dog exercise area however additional controls should be considered to formalise river access points.
Wells Recreation Park Lot 55 Ferguson Road, Dardanup	Currently no time restrictions are imposed.	No comment	Dog exercise area with no restrictions.
Burekup Reserve Lot 107 Gardiner Street	Currently no time restrictions are imposed.	No comment	Dog exercise area with no restrictions.

<p>Hunter Park Millbridge. (off Hunter Circle)</p>	<p>Currently no dogs are permitted off lead on this reserve. Recommendation allows a balance between dog owners and reserve users. The reserve will not be an off lead area between 10.00am and 7.00pm daily.</p>	<p>No comment</p>	<p>Dog exercise area between 7.00pm and 10.00am daily.</p> <p>The reserve will not be an off lead area between the 10.00am 7.00pm daily.</p>
<p>Leicester Reserve, Eaton (off Leicester Ramble)</p>	<p>Currently no dogs are permitted off lead on this reserve</p>	<p>Leicester Reserve – (East of the Wetlands) This area provides safe refuge for water birds and other native animals. The open</p>	<p>Dog exercise area with time no restrictions.</p> <p><i>MEE Recommendation:</i> Supported as a dog</p>
		<p>parklands offers good sight distance for native bird species.</p> <p>Leicester Reserve (Wetland to River) This area has been subject to significant re-vegetation works by the Department of Water, South West Catchments Council and the Shire of Dardanup through the FLoRA group. Concern expressed for the native flora and fauna.</p>	<p>exercise areas but consideration needs to be given to fencing portions of the wetland fringe near the walk trail to offer safe refuge for water birds. Designate and formalise access points to the Collie River to control potential erosion and damage to the river bank.</p>

The MEE has made several recommendations regarding formalisation of access points to the Collie River. These will need to be considered in the Parks and Reserve Management Plan (PRAMP) program.

Also in regard to works on the reserves, the submissions raised the issue of having formalised access to the Collie River from the Pratt Road foreshore area, an enclosed small dog exercise area, improved parking near Collie River bridge and shade sails.

It is difficult to comment on any works on the foreshore as the plan for the redevelopment has recently been advertised for comment. Council may consider these comments when deliberating on the redevelopment of this area. Another avenue for

the residents/dog owners request works in the area in the future is via the Strategic Community Plan which will be due for adoption of a complete review by late 2016. This would be an opportune time for the requirements of the dog exercise areas to be considered through the community consultation process.

- *Places Where Dogs Are Prohibited*

There are various places where it is considered inappropriate for dogs to be at any time. These places are mentioned in Part 5 of the Shire of Dardanup Local Law Relating to Dogs.

Part 5 of the Shire of Dardanup Local Law Relating to Dogs states that dogs are prohibited from certain public places: -

PART 5 - DOGS IN PUBLIC PLACES

5.1 Places where dogs are prohibited absolutely

- (1) *Dogs are prohibited absolutely from entering or being in any of the following places –*
 - (a) *a public building, unless permitted by a sign;*
 - (c) *all premises or vehicles classified as food premises or food vehicles under the Health (Food Hygiene) Regulations 1993;*
 - (d) *public toilets or changing rooms; and*
 - (e) *Cemetery unless otherwise provided for in the local governments local law relating to cemeteries.*

Section 31 (2B) of the Dog Act 1976 states:

- (2B) *A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited –*
 - (a) *at all times; or*
 - (b) *at specified times.*

The places detailed in Part 5 of the Shire of Dardanup Local Law Relating to Dogs prohibiting dogs is supported and it is recommended that Council specify the following places as dog prohibited areas pursuant to Section 31 (2B) of the Dog Act 1976:

- A public building, unless permitted by a sign;
- All premises or vehicles classified as food premises or food vehicles under the Health (Food Hygiene) Regulations 1993;
- Public toilets or changing rooms; and
- Cemetery unless otherwise provided for in the local governments local law relating to cemeteries.

Council Role - Executive/Strategic.

Voting Requirements

- Absolute Majority.

Discussion:

Cr. M T Bennett, Shire President referred Council to three further emails that have been sent in to Councillors. From:

- *Travis Birch;*
- *Karen Leask; and*
- *Julie Taylor.*

Cr. C N Boyce – I suggest Lofthouse Park be included in this. My only concern is that there is a playground there. I suggest that we trial 6am to 2pm as a dog exercise area. That allows children to attend the park after school. We could review this at 6 months. I also suggest that a further part 5 be added to the resolution saying:

“Request the Chief Executive Officer negotiates with the leaseholder(s) of Glenhuon Reserve (Reserve 50882) and the Education Department of Western Australia with a view to establishing a dog exercise area on Glenhuon Reserve (Reserve 50882).”

Cr. M T Bennett – Council could delegate to the Chief Executive Officer to negotiate with the leaseholders to establish dog exercise areas if possible.

Director Development Services, Mr Robert Quinn advised that under the changes to the Dog Act, the Chief Executive Officer has authority to amend the dog exercise areas.

Cr. C N Boyce – In providing more dog exercise areas we need to be mindful of providing the facilities and bags for dogs. Being off lead does not release the owner for the responsibility from being in control of the dog. If we are basing our decision on evidence and facts, I believe there has been only one complaint made about the dog of lead areas/dog training.

Cr. J Lee – I would like to think that the rules we have in place are borne out of experience. Off lead and on lead. A lot of thought needs to be put into a place as to not using experiments at some victim’s expense. Secondly, there seems to be muddying with the regard to exercise and off lead exercise. We do not restrict people from exercising their dogs at any time whilst they are on a lead. Council doesn’t want people to not exercise their pets. As far as security is concerned, that is a digression. Security is a different matter. The infrastructure and the use of Council Rangers to police these matters is the issue. As it stands now we need to have the discussion about off lead areas and not exercise areas.

Cr. C N Boyce – Dog exercise areas is off lead. The 7pm to 10am time has been here for 24 years now at least. We believe that is safer. Eaton has come a long

way from a small place to the amount of development we have. The more population we have, it becomes a little less viable and I don't see why we should do things that way because we have always done it that way. I want to put it in a trial period. I see that as a two way door not an experiment.

Cr. J Lee – I think it has changed. We didn't have as stringent rules in the past. If a 2 or 3 year old child has a dog running at it, it doesn't know if the dog is running at it just to say hello. My concern is for the children being traumatised. I'm sure that has happened in the past.

Cr. P S Robinson – Are we getting involved in the exercise and control of the dog that is not our responsibility. Is it our responsibility or dog owners?

Cr. J Lee – To some part it is ours because it is our land.

Cr. C N Boyce – We should be basing this on facts. Can we ask the Ranger to advise us about the amount of dog attacks?

Senior Ranger, Mr Murray Halden – With the amendments to the Dog Act, it has changed. In the past it was different, now the dog only has to frighten someone or show action and we have to investigate this as a dog attack under the Dog Act. The penalties are significant. Off the top of my head we have investigated 22 dog attacks in the past year. These have been, dog on animal, dog on person and dog on dog. We have taken some pretty serious actions on dog attack. Some have been off property, off lead and confinement issues. We are focussed on dog control.

Cr. C N Boyce – That seems ridiculous that someone can 'say' they were scared by a dog and it is classified as an attack.

Senior Ranger, Mr Murray Halden – We investigate all dog attacks on face value. We, as Rangers are professional, we take statements and consider all the facts before we make a sound conclusion.

Cr. A Mountford – I would be happy to move the resolution with the inclusion of Lofthouse Park and also the addition of Part 5 to the resolution as outlined previously by Cr. C N Boyce.

OFFICER RECOMMENDED RESOLUTION & COUNCIL RESOLUTION

231/14 MOVED - Cr. A Mountford SECONDED - Cr. C N Boyce

THAT Council:

- 1. Endorse the following Schedule of Submissions: -**

	Respondent - Name & Address	Summary Of Submission	Officer Comments
1.	Suzanne & Peter Bairstow Email:	Requested the dogs off lead time at the Eaton Foreshore be increased from 10.00am on Saturdays. No end time suggested.	Saturday is one of the highest usage days at the Eaton Foreshore and off lead times will need to take into consideration other users of this area.
2.	Kevin Jones Email:	No comments about dog exercise areas but encourages Council to support dog behaviour organisations.	Noted
3.	Debbie Ey Email:	1. Request for permission to be granted to Benotto Animal Management to be allowed to have dogs off lead on the Eaton Foreshore after 10.00am.	This is a separate issue to the dog exercise areas. Council has not determined how it will deal will commercial organisations using Shire reserves.
		2. Has no issues relating to wandering dogs on the reserve while dogs being exercised.	Noted
		3. Need for an increase in the number of dog exercise areas within the Eaton town-site.	Acknowledged
		4. No mention of allowing non-exclusive use of reserves for a commercial organisation.	This is a separate issue to the dog exercise areas. Council has not determined how it will deal will commercial

	Respondent - Name & Address	Summary Of Submission	Officer Comments
			organisations using Shire reserves.
		5. Notes the reserves in the Shire are used by other organisations, schools and non-profit groups.	Acknowledged
		6. The reserves are maintained by the Shire of Dardanup.	Acknowledged
4a.	Claire Gick (1) <u>22 May 2014</u> Email:	Requested an extension to the times that are currently operating at the Eaton Foreshore Reserve.	Review of dog exercise areas underway.

4b. Claire Gick (2) 26 June 2014 Email:	1. Considers Eaton Boomers (Glen Huon) oval is not on the list but is ideal for a dog exercise area when not being used by a sporting group.	This area is leased to sporting group and used by Eaton Community College. The lease holders effectively control the use of the area.
	2. Time restrictions are not a good idea as they require signage and enforcement and cause confusion for dog owners.	Consideration of all users' needs to be taken into account when allocating areas and times for use by dog owners. A balance of non-dog owners and dog owners is required for reserve owners.
	3. Watson Street is not considered a good option due to steep access, frequent flooding, vandalism and antisocial behaviour.	This area has been a dog exercise area since 1998.
	4. Eaton Foreshore is used by residents all day and those that wish to walk their dogs on lead may use the pathway. Those that wish to walk their dogs off lead walk closer to the river.	All areas of the Eaton Foreshore are available to those that wish to walk their dogs on lead at all times. They are not restricted to having to use the pathway. All users of this area need to be taken into consideration.
	5. Eaton Foreshore - Not considered suitable as a timed area	Consideration of all users' needs to be taken into account when allocating times for use by dog owners. A balance of non-dog owners and dog owners is required for reserve users.
	6. Eaton Foreshore - Good size with adequate parking and facilities but multiple uses including families with children.	This comment indicates that Eaton foreshore is not suitable as dog exercise area due to multiple uses. A

	Respondent - Name & Address	Summary Of Submission	Officer Comments
		<p>playing/picnicking, boating and fishing make it an unsuitable area to be shared with a dog exercise area.</p>	<p>balance of non-dog owners and dog owners is required for reserve users.</p>
		<p>7. Eaton Foreshore - Proposed future development will only increase pressure on this area and really would not be suitable to be combined with a dog exercise area.</p>	<p>This comment indicates that Eaton foreshore is not suitable as dog exercise area when the area is developed. The situation will need to be monitored.</p>
		<p>8. Eaton Foreshore – near Collie River Bridge could have parking improved and shade sails erected so that dog owners can access the river without having to stand in the sun.</p>	<p>These works can be referred to the PRAMP and may be part of the Strategic Community Plan.</p>
		<p>9. No vehicular access to beach near Collie River bridge. Improved parking and a pathway would allow disable and elderly to access this area and provided better facilities for fishing jetty.</p>	<p>These works can be referred to the PRAMP and may be part of the Strategic Community Plan.</p>
		<p>10. Recommend costing and budgeting to install a 1.2m fence along the Collie River Bridge end and Pratt Road with pedestrian and access gates to allow for other functions. May include a small exercise area for dogs within, as is common in Queensland.</p>	<p>These works can be referred to the PRAMP and may be part of the Strategic Community Plan.</p>
		<p>11. Marri Reserve – Too small, close to roads, poor fencing and no parking. Deemed not suitable.</p>	<p>Agreed and has not been recommended as dog exercise area.</p>
		<p>12. Hunter Circle – Time restrictions do not work. Suggest no time restrictions from gazebo section down to river if not being used for sport or event.</p>	<p>Time restrictions work in other areas.</p>
		<p>13. Hunter Circle – Too small needs to be increased to include access to river.</p>	<p>Access to creek may create environmental degradation and not supported.</p>

	14. Hunter Circle – any inclusion of a playground should be fenced to keep dogs out of soft fall area	Fencing can be referred to PRAMP
	15. Wunditjch Reserve – unsuitable as it is wooded, too small, no parking and close to busy roads.	Agreed and has not been recommended as dog exercise area.

	Respondent - Name & Address	Summary Of Submission	Officer Comments
		16. Leicester Reserve – Suitable size and caters for one end of Eaton Millbridge. Good option to improve access and would not require fencing in the short term as it is surrounded by quieter streets.	Agreed and fencing can be referred to PRAMP
		17. Leicester Reserve - Possums in this area would generally not be disturbed as they are nocturnal and would not be impacted on in the day time.	Advice suggest that this area would be acceptable as a dog exercise area.
		18. Burekup Reserve – Unfamiliar with but on paper looks to be a very small reserve.	
		19. Burekup Reserve – Shared use with school can work well with unofficial after hours security by users walking their dogs.	This area has been a dog exercise area since 1998. Limited options for dog exercise areas in Burekup.
		20. Wells Recreation Park Dardanup appears to meet the needs of most dog owners. Parking and access is reasonable.	This area has been a dog exercise area since 1998. Limited options for dog exercise areas in Dardanup.
5	Wendy Bradford 24 Greenough Place MILLBRIDGE WA 6232	Supports comments made by Clare Gick (4b)	Noted
6.	Carolyn and Kynan Rabbitts Email:	1. Comments duplicate those presented in 4b.	Noted
		2. Requests that dog waste dispenser are installed at all dog exercise areas an restocked on a regular basis.	Noted

7	Travis Birch 1 Hunter Circle MILLBRIDGE WA 6232	Opposed to Hunter Circle becoming a dog exercise area. Concerned for the safety of children and health issues with uncollected animal faeces in what is known as a family friendly park.	Noted. Acknowledged. Dog owners are required to collect dog excreta and health risk is acknowledged.
8	Carmel Boyce 17 Watson Street EATON WA 6232	1. Concerned about size and proximity to roads with Marri and Wunditjch Reserve.	Agreed and has not been recommended as dog exercise area.
		2. Concerned about native flora and fauna in natural areas of Wunditjch Reserve.	Agreed and has not been recommended as dog exercise area.
		3. Concerned about increased fire risk with more people using Marri & Wunditjch Reserves.	Agreed and has not been recommended as dog exercise area.

	Respondent Name & Address	Summary Of Submission	Officer Comments
		4. Leicester Reserve – Concerned that off lead dogs will impact on the native flora and fauna	Advice suggest that this area would be acceptable as a dog exercise area.
		5. Watson Street Reserve – Good multiple use area and provides access to river for swimming dogs. Care needs to be taken with discarded fish on the banks.	Noted
		6. Hunter Park – Dog exercise areas and family environments are not a natural fit. Delineation of the two areas may be required.	This would be difficult to enforce without definite delineation of the each area.
		7. Eaton Foreshore – Attractive and well used by many. Suggests that time restrictions be removed for a trial period of 12 months.	Noted. Time restrictions are in place to ensure that all users are taken into consideration and to reduce the impact of unacceptable interaction.
		8. Requests shelters be erected close to the water edge near the Collie River Bridge	These works can be referred to the PRAMP and may be part of the Strategic Community Plan. These works could form part of the foreshore redevelopment.

		9. Glenhuon oval and Eaton Bowling Club unused green are other suggestions that could be investigated.	These area are leased and any decision would need to be made by the lessee.
9	Karen Leask 3 Cook Place AUSTRALIND WA 6233	1. Shift Worker – does not want to see time restrictions.	Consideration of all users' needs to be taken into account when allocating areas and times for use by dog owners.
		2. Would prefer to see large areas set aside as dog exercise areas to cater for large dogs.	Noted, may be difficult to enforce.
		3. Parking at dog exercise areas needs to be taken into consideration.	Noted
		4. Dog exercise areas need to be away from busy roads and fenced off with the provision of poo bags and bins.	Noted
10	Julie Taylor 12 Appaloosa Court EATON WA 6232	1. Feels more safe areas need to be allocated and fenced.	Investigation of costs involved in fencing any area would need to be investigated and budgeted for. Other park users would also need to be taken into consideration.
		2. Time restrictions are not convenient for everyone and encourages people to break the law.	Noted. Time restrictions are in place to ensure that all users are taken into consideration and to reduce the impact of unacceptable interaction.
		3. Watson Street not considered safe enough for her daughter to walk their dog alone, too secluded and lots of anti-social behaviour.	Noted.
		4. Positive signage required that indicates dog are allowed off lead instead of negative signage saying they must be on leash.	Noted. Any new signs can indicate when dogs are allowed of lead in a positive manner.
		5. Supply of poo bags really appreciated.	Noted.
11	Holly Taylor 12 Appaloosa Court EATON WA 6232	1. Watson Street Reserve - Good sized area but is too secluded and not safe due to anti-social behaviour.	Noted.

		2. Watson Street Reserve – Not safe due to large number of snakes	Noted.
		3. Leicester Reserve – Considered too small even though it is 44 ha in size due to it including wetlands and swamp. Inaccessible for most of the year.	It is considered a sufficient area of the Reserve can be accessed at any time to enable a dog to be exercised even when some areas are not accessible.
		4. Leicester Reserve – Environment is nesting ground for swamp animals such as tortoises and snakes.	Flora and fauna are found in any natural environment and a balancing act needs to occur to ensure there is no impact on the environment by any users. Advice suggest it is suitable as a dog exercise area.
		5. Impact on local wildlife and dog safety needs to be taken into consideration when allocating dog exercise areas.	Noted.
		6. Restricted times are suitable for the public but not dog owners.	Noted. Time restrictions are in place to ensure that all users are taken into consideration and to reduce the impact of unacceptable interaction.
		7. Eaton oval (Glen Huon oval) next to Shire office should be considered as a dog exercise area but dog faeces are evident on the oval so litter bags would need to be provided.	This area is leased and any decision would need to be made by the lessee.
12	Claire Clark	1. Dog area time restriction from 7.00pm to 10.00am. These times are not very family friendly	Noted. Time restrictions are in place to ensure that all users are taken into consideration and to reduce the impact of unacceptable interaction.
		2. Eaton Foreshore - Consider installing fencing along Pratt Road for safety of dog and children	These works can be referred to the PRAMP and may be part of the Strategic Community Plan. These works could form part of the foreshore redevelopment.

		3. Fenced off area would be a fantastic idea to for dog to be off lead away from other park users.	These works can be referred to the PRAMP and may be part of the Strategic Community Plan. These works could form part of the foreshore redevelopment.
		4. Consideration should be made for parking at all dog areas.	Noted.
		5. Watson Street Reserve seems good sized area but is unsafe as frequently used by undesirables.	Noted.
		6. Consider leaving Eaton Foreshore area as an off lead dog exercise area at any time of the day.	Noted. Time restrictions are in place to ensure that all users are taken into consideration and to reduce the impact of unacceptable interaction.
		7. Allowing beach access for the dogs would be fantastic.	This issue could form part of the foreshore redevelopment.
13	Sue Ganz	1. Supports the increase of number of dog exercise areas and extension of the area of the existing dog areas listed.	Noted

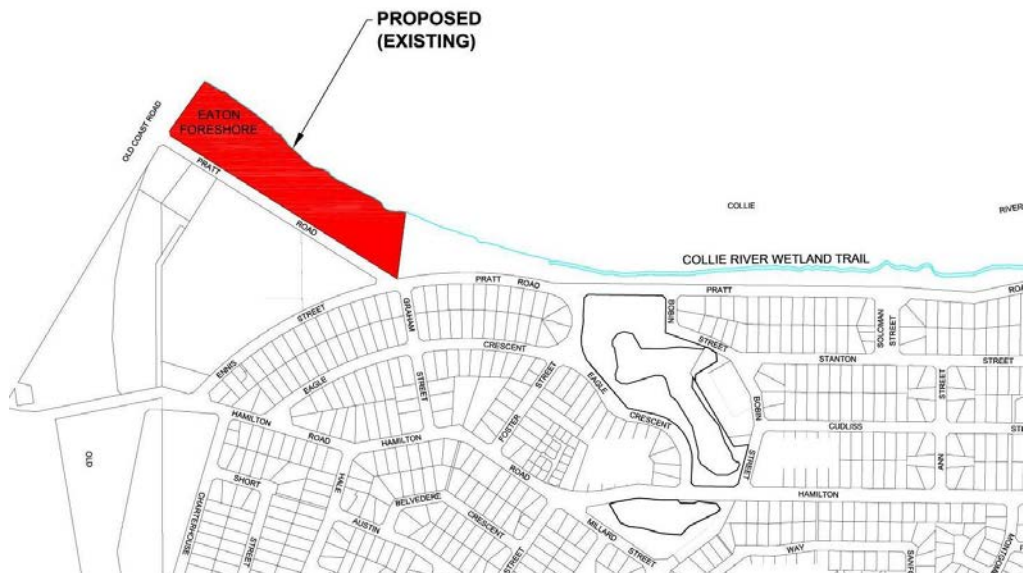
Respondent - Name & Address	Summary Of Submission	Officer Comments
	2. Requests dogs allowed to be off lead 24/7 at Eaton Foreshore and Hunter Park	<p>Not Supported.</p> <p>Eaton Foreshore caters for all users but is primarily seen as a family friendly environment.</p> <p>Eaton Foreshore has multiple uses, cycling walking, picnics, children playing all of which may be impacted on by dogs off lead on a 24/7 basis.</p> <p>Dogs off lead 24/7 would make this area predominantly a dog exercise area to the exclusion and detriment of other users e.g.</p>

			Sporting or family activities.
14	Julie King	1. Requested an extension to the dog exercise areas.	Noted.
		2. More bag dispensers around the areas and bins with additional monitoring.	Noted
15	Kathy Miles	1. Eaton Foreshore area is great for dogs and families enjoying quality time together but encourages lifting the time restrictions. Feels restriction time from 10 am to 7 pm is ridiculous	Noted. Time restrictions are in place to ensure that all users are taken into consideration and to reduce the impact of unacceptable interaction.
		2. Request investigation into opening up other areas as dog exercise areas as the areas listed are insufficient.	Noted
16	Gordon Trench	1. Commercial use of Eaton Foreshore not supported due to potential risk to other users and the Shire.	Noted
17	Michelle Dyer	1. Current time restrictions are unsuitable to meet her requirements.	Noted
		2. Believes areas between both exercise areas on Pratt Road to be designated dog exercise areas but signs say dogs on leash.	Sections of the area mentioned are not designated as a dog exercise area and dogs must be on leash in all sections where designated except during the allocated times.

Respondent Address	Name &	Summary Of Submission	Officer Comments
18 Mark		1. Agrees with more areas for friendly dogs	Noted
		2. Against dog owners allowing dogs to excrete on his lawn.	If the owner can be observed by a Ranger whilst this activity is occurring an infringement can be issued.
		3. There is a barking dog in the area which prevents sleep past 6.00am.	Respondent has been contacted by Rangers to advise of procedure to address barking dogs.
		4. Supports more area, however, needs more enforcement for dog excretion on private property and barking dogs.	Noted

2. Pursuant to Section 31 (3A) of the Dog Act 1976 the following areas are specified as dog exercise areas and corresponding time restrictions:

AREA	RECOMMENDATION
Eaton Foreshore Reserve (Collie River Bridge to Foster Street)	Dog exercise area between 7.00pm and 10.00am daily.



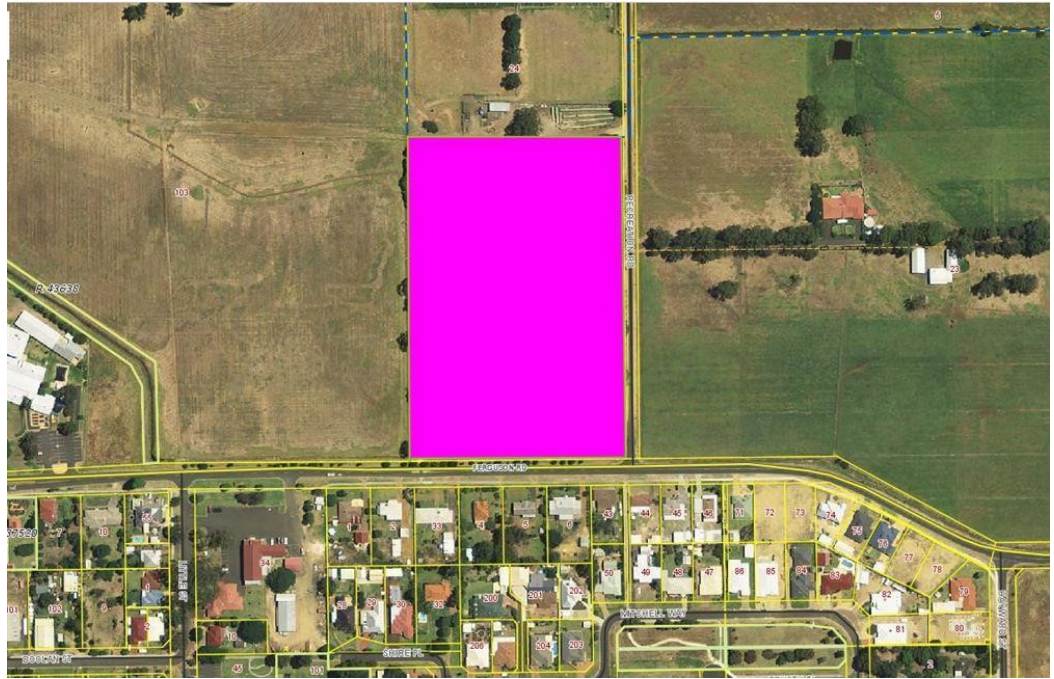
AREA	RECOMMENDATION
Hunter Park Millbridge. (off Hunter Circle)	Dog exercise area between 7.00pm and 10.00am daily.



AREA	RECOMMENDATION
Leicester Reserve, Eaton (off Leicester Ramble)	Dog exercise area with time no restrictions.
Watson Street Reserve	Dog exercise area with no restrictions.



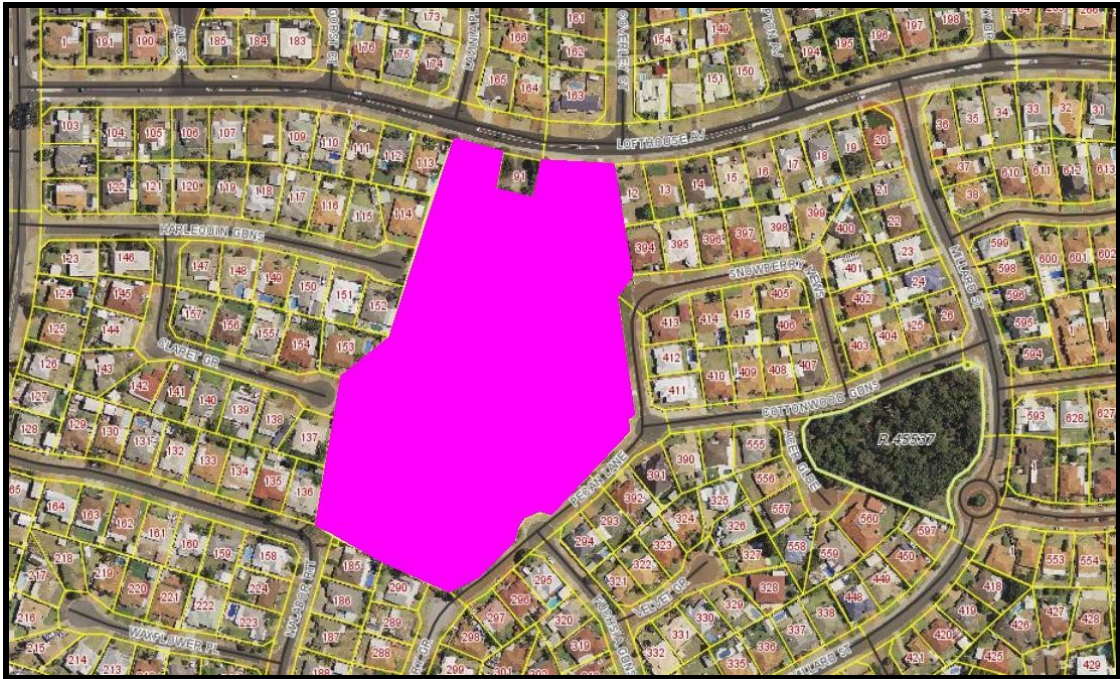
AREA	RECOMMENDATION
Wells Recreation Park Lot 55 Ferguson Road, Dardanup	Dog exercise area with no restrictions.



AREA	RECOMMENDATION
Burekup Reserve Lot 107 Gardiner Street	Dog exercise area with no restrictions.



AREA	RECOMMENDATION
Lofthouse Park (Reserve 42368) Lofthouse Avenue Eaton	Dog exercise area between 7.00pm and 10.00am daily.



3. Pursuant to Section 31 (2B) of the Dog Act 1976 specifies that dogs are prohibited absolutely from entering or being in any of the following places:

- A public building, unless permitted by a sign;
- All premises or vehicles classified as food premises or food vehicles under the Health (Food Hygiene) Regulations 1993;
- Public toilets or changing rooms;
- Cemetery unless otherwise provided for in the local governments local law relating to cemeteries.

Subject to any written law and any law of the Commonwealth about assistance animals as defined in the Disability Discrimination Act 1992 (Commonwealth) section 9(2).

4. Advertise the specified dog exercise areas and dog prohibited places come into effect on 1 September 2014 pursuant to Section 31 (3c) of the Dog Act 1976.

5. **Request the Chief Executive Officer negotiates with the leaseholder(s) of Glenhuon Reserve (Reserve 50882) and the Education Department of Western Australia with a view to establishing a dog exercise area on Glenhuon Reserve (Reserve 50882).**

CARRIED

10/0

HUNTER PARK

DOG OFF LEASH

EXERCISE AREA



Dogs may be off leash in the shaded area between 3pm and 10am but must be kept under effective control.

Clean up after your dog or penalties will apply.

RISK ASSESSMENT TOOL									
OVERALL RISK EVENT: Review Shire Dog Exercise Areas RISK THEME PROFILE: 1 - Asset Sustainability Practices 3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory) RISK ASSESSMENT CONTEXT: Operational									
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL			RESIDUAL RISK RATING
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD		
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	Failure to comply with the Dog Act 1976 through the review of dog exercise areas will result in prosecution.	Moderate (3)	Unlikely (2)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Failure to approve sufficient and suitable dog exercise areas will leave Council seen in a negative light.	Minor (2)	Unlikely (2)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	Failure to approve suitable dog exercise areas will cause significant damage to local flora and fauna.	Minor (2)	Unlikely (2)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.	Not required.



Records No. 14-109053
File No. RS010001

LE010016

MEMORANDUM

File No: RS010001/LE010016

TO : SHIRE PRESIDENT AND COUNCILLORS
FROM : MR MARK L CHESTER – Chief Executive Officer
DATE : 4 SEPTEMBER 2014

SUBJECT : USE OF GLEN HUON RESERVE AS A DOG EXERCISE AREA

Councillors

At the 23 July 2014 Council meeting Council resolved (231/14):-

"Request the Chief Executive Officer negotiates with the leaseholders of Glen Huon Reserve (Reserve 50882) and the Education Department of Western Australia with the view to establishing a dog exercise area on Glen Huon Reserve (Reserve 50882)."

Staff have held discussions with the users of the reserve to establish the hours and spread of dates that the reserve is in use. A spreadsheet is attached that outlines the use over a twelve month period, including days and times per week.

With the information provided I have determined that the Glen Huon Reserve should not be used as a designated dog exercise area. Any attempt to provide intermittent access for letting dogs of their leash has the potential to create conflicts with users. I also determine that to try to sign post intermittent days and times that may alter month by month would be difficult for dog owners to understand and for Rangers to police.

In my view there are ample opportunities within Eaton and Millbridge for areas to exercise dogs, therefore Glen Huon Reserve is not to be designated as a dog exercise area.

MR MARK L CHESTER
Chief Executive Officer

Enc.

V:\Executive\GOVERNANCE\CORRESPONDENCE\09 SEPTEMBER\2014 09 04 - CEO - USE OF GLEN HUON RESERVE AS A DOG EXERCISE AREA.docx



MEMORANDUM

File No: RS010001
LE010016

TO : MR MARK CHESTER – Chief Executive Officer
FROM : MR ROBERT QUINN – Director Development Services
DATE : 2 SEPTEMBER 2014

SUBJECT : **POTENTIAL USE OF GLENHUON RESERVE AS DOG EXERCISE AREA**

Dear Mark

Council at its meeting on 23 July 2014 resolved [231/14] the following:

“Request the Chief Executive Officer negotiates with the leaseholder(s) of Glenhuon Reserve (Reserve 50882) and the Education Department of Western Australia with a view to establishing a dog exercise area on Glenhuon Reserve (Reserve 50882).”

Shire officers have sought information from the following users of the Glenhuon Reserve to determine which hours and dates Glenhuon Reserve is free from being used:

- Education Department of Western Australia;
- Eaton Boomers Football Club;
- Eaton Soccer Club; and
- Bunbury and Districts Softball Association.

The attached spread sheet illustrates the dates and hours Glenhuon Reserve is used. As the Education Department of Western Australia is a major user of the Glenhuon Reserve throughout the week and the Glenhuon Reserve is used extensively for sporting activities on the weekends it is difficult to recommend times when the Glenhuon Reserve could be used as a dog exercise area. To be used as a dog exercise area there would need to be uninterrupted use of the reserve all year round for a designated period of several daylight hours. Based on the information provided by the users of Glenhuon Reserve, the uninterrupted times are limited and therefore the Glenhuon Reserve is not recommended as a dog exercise area.

A handwritten signature in black ink, appearing to read "RQ".

MR ROBERT QUINN
Director Development Services

Attachment: Spreadsheet

Day	Time	January	February	March	April	May	June	July	August	September	October	November	December
Sunday	8.00/9.00				Football Apr-20	May-04 May-25	Jun-08 Jun-22	Jul-06	Aug-03 Aug-17 Aug-31				
	9.00/10.00												
	10.00/11.00												
	11.00/12.00												
	12.00/13.00												
	13.00/14.00												
	14.00/15.00												
	15.00/16.00	Softball											
	16.00/17.00												
	17.00/18.00												
	18.00/19.00												
	19.00/20.00												
	20.00/21.00												
	21.00/22.00												
22.00/23.00													
Monday	8.00/9.00												
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	14.00/15.00												
	15.00/16.00	Softball											
	16.00/17.00												
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	21.00/22.00												
22.00/23.00													
Tuesday	8.00/9.00												
	9.00/10.00		ECC										
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	13.00/14.00												
	14.00/15.00												
	15.00/16.00	Softball											
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LEGEND	SOFTBALL	SENIOR SOFTBALL	SUCCER	ECC	FOOTBALL
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This data was sought from:
 Soccer – Leanne Swanwick – Registrar (Juniors and Seniors)
 Football - Garry Bock - Eaton Boomers General Manager / SW Football Budget
 Softball – Warren Jones - President
 (School holidays except January)

DRAFT - 2020

MEMORANDUM OF UNDERSTANDING

Between

Shire of Dardanup

and

South West Region Group of Councils

**IMPLEMENTATION OF THE SOUTH WEST REGIONAL COUNCILS
DESIGNATED AREA MIGRATION AGREEMENT (DAMA)**

1. Introduction

The Shire of Dardanup has agreed to manage the preparation of a Feasibility Study and an Implementation Plan to establish a Designated Area Migration Agreement (DAMA) on behalf of the South West Group of Councils comprising:

1. Shire of Augusta-Margaret River,
2. Shire of Boyup Brook,
3. City of Bunbury,
4. City of Busselton,
5. Shire of Bridgetown-Greenbushes,
6. Shire of Capel,
7. Shire of Collie,
8. Shire of Donny-Brook Balingup,
9. Shire Harvey,
10. Shire of Manjimup,
11. Shire of Nannup.

in accordance with the terms and conditions contained in this Memorandum of Understanding (“the/this Memorandum”).

2. Funding

Each Local Government will provide the cash contribution as per [Attachment 1](#) to the Shire of Dardanup to fund a Feasibility Study and Implementation Plan to establish a Designated Area Migration Agreement covering the South West Region.

3. Objectives

The purpose of the Feasibility Study is to identify the regional workforce needs in each location and overall as a region.

The purpose of the Feasibility Study is to create a unified approach to the assessment of Regional Workforce needs in each location and overall as a Region. The Study will focus on the south west regions high growth industries including agribusiness, forestry, health and social services, tourism and hospitality, construction and mining and would include specific occupations and conditions that will assist our region to address our most acute labour shortages by enabling employers to sponsor overseas workers in a broader range of occupations than the existing skilled migration visa pathways. The occupations approved the DAMA will reflect the unique labour requirements in the region

Upon completion of the needs assessment and the Feasibility Study the appointed Consultant would provide recommendations to an Implementation Plan to establish the DAMA and for ongoing administration to support the program.

4. Responsibilities of the individual Local Governments

Each individual Council is responsible for liaising and providing support to the appointed Consultant, in particular by identifying relevant stakeholders, employers and labour agencies within each local government's area.

5. Tenure

- I. This Agreement shall commence on the first day of October 2020.
 - II. The Memorandum shall be effective until the Feasibility Study and Implementation Plan to establish a Designated Area Migration Agreement has been completed.
-

(Appendix ORD: 12.9A)

Signatures

I have read the above Memorandum of Understanding and agree to the terms and conditions of use set out above.

..... STEPHANIE ADDISON-BROWN CHIEF EXECUTIVE OFFICER SHIRE OF AUGUSTA-MARGARET RIVER Signed / / 2020 AARON BOWMAN ACTING CHIEF EXECUTIVE OFFICER SHIRE OF BOYUP BROOK Signed / / 2020
..... TIM CLYNCH CHIEF EXECUTIVE OFFICER SHIRE OF BRIDGETOWN- GREENBUSHES Signed / / 2020 MALCOLM OSBORNE CHIEF EXECUTIVE OFFICER CITY OF BUNBURY Signed / / 2020
..... MIKE ARCHER CHIEF EXECUTIVE OFFICER CITY OF BUSSELTON Signed / / 2020 IAN MCCABE CHIEF EXECUTIVE OFFICER SHIRE OF CAPEL Signed / / 2020
..... XXXXXXXXX XXXXXXXXX CHIEF EXECUTIVE OFFICER SHIRE OF COLLIE Signed / / 2020 ANDRÉ SCHÖNFELDT CHIEF EXECUTIVE OFFICER SHIRE OF DARDANUP Signed / / 2020
..... BEN ROSE CHIEF EXECUTIVE OFFICER SHIRE OF DONNYBROOK-BALINGUP Signed / / 2020 ANNIE RIORDAN CHIEF EXECUTIVE OFFICER SHIRE OF HARVEY Signed / / 2020
..... ANDREW CAMPBELL CHIEF EXECUTIVE OFFICER SHIRE OF MANJIMUP Signed / / 2020 DAVID TAYLOR CHIEF EXECUTIVE OFFICER SHIRE OF NANNUP Signed / / 2020

ATTACHMENT 1

Local Government Annual Financial Contribution

In accordance with Clause 2 of the Memorandum of Understanding, each Local Government will provide the following cash contribution to the Shire of Dardanup as per the MOU.

LGA	Contribution
Shire of Augusta-Margaret River	\$5,000
Shire of Boyup Brook	\$5,000
City of Bunbury	\$5,000
City of Busselton	\$5,000
Shire of Capel	\$5,000
Shire of Collie	\$5,000
Shire of Dardanup	\$5,000
Shire of Donny-Brook Balingup	\$5,000
Shire of Greenbushes-Bridgetown	\$5,000
Shire Harvey	\$5,000
Shire of Manjimup	\$5,000
Shire of Nannup	\$5,000

RISK ASSESSMENT TOOL

OVERALL RISK EVENT: Designated Area Migration Agreement (DAMA) - Memorandum of Understanding Extension

RISK THEME PROFILE:

- 4 - Document Management Processes
- 6 - Engagement Practices

RISK ASSESSMENT CONTEXT:

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	By not agreeing to the MOU it could cause the perception that the Shire of Dardanup is not supportive a regional approach to establish a Designated Area Migration Agreement.	Minor (2)	Unlikely (2)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

RISK ASSESSMENT TOOL									
OVERALL RISK EVENT: (Brief Explanation of the Overall Risk Event or Agenda Item Title) RISK THEME PROFILE: 3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)									
RISK ASSESSMENT CONTEXT: Operational									
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL			RESIDUAL RISK RATING
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING	
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Non participant in significant sector changes brings considerable risk to the Shire of Dardanup strong leadership reputation.	Moderate (3)	Unlikely (2)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.



Local Government Review Panel

Final Report

Recommendations for a new Local Government Act
for Western Australia

May 2020



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FOREWORD

'Rates, Roads and Rubbish' was a catch-cry I heard frequently when I was elected to Local Government 15 years ago. This 'Roads Boards' viewpoint was not appropriate then, and is certainly not fit-for-purpose for Western Australian communities in 2020 and into the future.

Since the 1995 Act was proclaimed, our society and the technologies we use continue to change at an unstoppable pace, and with this change, community needs and expectations of local government are also increasing. These demands on the sector will continue to expand, especially in the aftermath of, and recovery from, the COVID-19 pandemic.

The recommendations in this review are a road-map to more agile and inclusive local governments, with a clear purpose to deliver for the enhanced wellbeing of their communities.

A new legislative framework that ensures community consultation and integrated planning is a centrepiece of a local government's operations, as well as an emphasis on regional and intergovernmental collaboration.

The recommended renewed focus on integrity, self-regulation and accountability will give local governments the tools to ensure good governance and continuous improvement.

An Act based on this report would prepare local governments in Western Australia not just for the challenges of today, or the next few years, but for the long-term, and would put them in good stead to continue to foster healthy, connected and engaged local communities.

Thank you to the many contributors to this report, including those in the sector and community who made a submission or otherwise assisted in the process.

I especially thank panel members for their significant individual contributions, as well as the secretariat at the Department who supported the panel with high quality research and assistance, as without their diligence, this report would not have been possible.

David Michael MLA
Chair



BACKGROUND

In 2017 the McGowan Government announced a review of the *Local Government Act 1995*. This is the most significant and comprehensive reform of local government legislation conducted in more than two decades. The objective is for Western Australia to have a new, modern Act that empowers local governments to better deliver for the community. The vision is for local governments to be agile, smart and inclusive.

Given the breadth of matters covered by the Local Government Act, a staged approach to the review has been adopted:

- Stage one: priority reforms
- Stage two: wide ranging reforms

The majority of the stage one priority reforms are now in place following the passage of the *Local Government Legislation Amendment Act 2019*. These reforms include:

- A new gift framework for elected members;
- A mandatory online induction for all candidates;
- Universal training for elected members;
- Changes to the Standards Panel; and
- Easier access to information to provide greater transparency to the community.

The remaining priority reforms which are expected to be implemented later this year include:

- New mandatory code of conduct for elected members, committee members and candidates;
- Best practice standards for Chief Executive Officer (CEO) recruitment, performance review and early termination; and
- Further transparency measures.

Extensive community consultation was conducted on stage two topics between September 2018 and March 2019 by the Department of Local Government, Sport and Cultural Industries (the Department) with the input of a stakeholder reference group.

More than 3,000 survey responses and written submissions were received from community members, ratepayer associations, industry groups, local governments, elected members, and peak bodies.

After this significant community and sector consultation to better understand the issues confronting local government, the areas in need of reform and possible options for reform, a panel of experts was formed to provide more detailed consideration and to develop policy responses to guide the development of the new Act. The role of the Panel was to guide the review's strategic direction and to consider and recommend high level guiding principles of the new Act.



The members of the Panel are:

- Mr David Michael MLA, Member for Balcatta (Chair)
- Professor John Phillimore, Executive Director, John Curtin Institute of Public Policy
- Mr Graham Sansom, Adjunct Professor, Institute for Public Policy and Governance, University of Technology Sydney
- Ms Anne Wood, Partner, Kott Gunning Lawyers
- Mr Henry Zelones OAM LGM JP, former Mayor City of Armadale
- Mr Duncan Ord OAM, Director General, Department of Local Government, Sport and Cultural Industries

Commencing in November 2019, the Panel formally met on nine occasions. In addition, invitations were extended to a range of organisations to provide advice and test ideas at separate roundtables.

It should be noted that an overwhelming majority of recommendations were agreed to unanimously by all members of the panel, with only a small number either having a minority of panellists expressing an opposing view or excluding themselves due to a potential conflict of interest.

Meetings were structured around the following six broad topic areas:

1. A Vision for Local Government
2. Planning for a New Local Government Act
3. Supporting Communities and Local Democracy
4. Growing the Economy
5. Sustainable Service Delivery
6. Building Trust and Integrity

This report reflects the work of the Panel. It is divided into two sections: Part A provides the strategic overarching direction, with Part B outlining the Panel's detailed recommendations within that framework.



PART A – THE STRATEGIC FRAMEWORK

The Minister asked the Panel members to consider and recommend overarching, high-level directions for local government that would flow into policies and principles to guide the development of a 'new' Local Government Act. This Part of the Panel's report sets out a strategic framework for the new Act that addresses not only the underlying issues identified when the Panel began its work, but crucially the emerging imperatives that flow from the COVID-19 crisis and its aftermath.

Why a 'New' Act?

When the Western Australia Government launched the Local Government Act Review its objectives were to produce 'a new, modern Act that empowers local governments to better deliver for the community', and that local government should be 'Agile, Smart and Inclusive'. Those objectives remain valid, but there is now also the question of how they can and should be pursued in the aftermath of COVID-19.

Western Australia's system of local government has remained largely unchanged for several decades. Even before the COVID-19 crisis, local governments demonstrated the full spectrum of capacities and behaviours, ranging from outstanding to good, to average, to, in a few cases, poor. This is not surprising given the very large number of local governments and their variable size and capacity. Many have responded positively and swiftly to the crisis with initiatives to support local communities and businesses – through rate freezes, waiving of fees, increased flexibility in dealing with planning applications, and so on – complementing the State government's initiatives. However, the crisis has also highlighted the system's limited capacity, sustainability and resilience. Rather than being a crucial and reliable source of support to communities, many local governments themselves require considerable funding from other levels of government simply to perform their basic statutory obligations and keep their operations running, rather than to expand services.

Having numerous local governments, including a majority that are small in terms of population and/or area and that lack financial and human resources, also makes the system cumbersome and costly to operate. In addition to financial support, local government requires significant State Government resources for oversight, advice, capacity building and regulation, including interventions to ensure good governance.

Further areas of concern are the generally low levels of community participation and regional cooperation. Local government should be truly the level of government 'closest to the people', but the system of voluntary, first-past-the-post voting attracts only a low turnout at elections, and the extent to which many councils can be considered to be properly representative of their diverse communities can be questioned. At the same time, only limited use is being made of opportunities for local governments to share information, skills and resources at a regional level, and to undertake collaborative planning and service delivery.

So, can local government in Western Australia 'better deliver for the community' without fundamental change? Is it sufficient for councils simply to perform their current functions more efficiently and effectively? What sort of local government will be needed to tackle a slow and fragile post-COVID-19 recovery and to play a valued ongoing role in advancing community wellbeing and regional development?

The Panel's view is that the new Act must address these questions and underpin a program of systemic reform to ensure that local government can meet the needs of communities in what may well be a very different operating environment. The Act itself must be truly renewed. It should look and feel different, 'tell the story' of change, and outline a fresh agenda. The Panel's package of key reforms is set out below.

What Sort of 'New' Act?

Local Government Acts are among the most lengthy and complex pieces of legislation in any jurisdiction. As a result, their strategic intent and important linkages between different sections of the Act can easily be lost in the mass of detail. Currently the 1995 Western Australia Act and Regulations run to more than 700 pages, while there are also elements of the *Local Government (Miscellaneous Provisions) Act 1960* that are still operational.

Some jurisdictions have tackled this problem by having multiple Acts: Queensland has a separate Electoral Act; New Zealand has a separate Rating Act; British Columbia has a 'Community Charter' that deals with key elements of local democracy and complements the Local Government Act.

So, what should a new Western Australian Act look like? How can it 'tell a story' rather than swamp the reader (and the sector) with a torrent of regulatory detail? The Panel proposes the following:

- Start with an introductory section that sets the tone – the Northern Territory Act offers an excellent example of how this can be done (refer to **Attachment 1**).
- Structure the new Act around strategic issues and the ways in which local government relates to its communities and partners, rather than the mechanics of local administration.
- Include sets of principles that offer guidance on how key objectives of the new Act should be pursued.
- Shorten the main text considerably (aim for at least a 50% reduction) by consigning regulatory detail to schedules or a separate 'operations' Act (the Panel was advised that extensive use of schedules may be inconsistent with current drafting practice).
- Incorporate new measures to expand self-regulation (notably independent Audit, Risk and Improvement Committees) as part of a flexible regulatory regime that can respond quickly to unexpected circumstances (such as COVID-19).
- Minimise the use of Regulations (which tends to enable more extensive and detailed oversight and intervention, and which requires time-consuming parliamentary drafting) by providing standardised guidelines and model codes, charters and local laws. Local governments could modify these 'minimum' provisions but would have to justify significant departures from them to the Joint Standing Committee on Delegated Legislation.

Moving Quickly

The current direction of the review, reflected in the initial instructions to the Panel, is for a complete re-write of the existing Local Government Act. However, experience in other States indicates that will require more resources than appear available at present and take a very long time, and that bold new directions may get lost along the way. The Panel is therefore of the view that the Government's objectives could best be achieved by developing the new Act in two stages, focusing first on a limited number of strategic elements (such as overarching principles, building the sector's capacity, Integrated Planning and Reporting (IPR), and enhanced accountability), while leaving matters of operational detail (a number of which require further investigation) until later.



The Panel also believes that the Government needs to legislate as soon as possible in order to strengthen local government's capacity for the post-COVID-19 recovery and likely ongoing changes in its operating environment. While it appreciates that resources are currently focused on short-term responses to the impact of COVID-19, the Panel's assessment is that a substantial package of strategic changes to the Local Government Act is required within months, not years. This could be done in one of three ways:

- (a) Amend and restructure the existing Local Government Act to bring together its key strategic elements as a 'front end', but leaving most of its provisions unchanged for the time being;
- (b) A new 'framework' Act initially limited to essential changes, but which would later progressively absorb updated material from the current Act (along the lines of the approach taken previously when the *Local Government Act 1995* and the *Local Government (Miscellaneous Provisions) Act 1960* replaced the *Local Government Act 1960*); or
- (c) A permanent 'companion' Act to the current Act that deals with 'high-level directions' (similar to the approach taken in British Columbia with its 'Community Charter' Act).

The decision on how to proceed is of course one for Government and will depend on several factors including other Parliamentary priorities. On balance, the Panel favours options (b) or (c), which most decisively reflect the Government's commitment to produce a 'new' Act – something that 'looks and feels' different. The risk with option (a) is that it could become too complex and might boil down to just a series of amendments scattered through hundreds of pages of existing provisions, without clearly setting out a fresh agenda. This is what happened after the 2013 review in New South Wales.

The High-Level Package

The critical high-level elements of the legislative package proposed by the Panel are detailed below. These elements need to be drafted and juxtaposed in a new or restructured Act or Acts in such a way that the inter-relationships between them are made clear. In several instances supportive policy statements will be essential to convey fully Government's intentions.

Clear Legislative Intent

- **An introductory section** that acknowledges the status of local government as a sphere of government and the importance of all facets of local democracy; that recognises the rights and interests of Aboriginal peoples; that focuses on the need to enhance community wellbeing, including acceptable standards of local government service delivery for all; and that calls for open, accountable and ethical governance (refer to **Attachment 1** for an example).
- **A statement of the role and functions of local governments**, including the power of general competence (refer to **Attachment 2** for an example of the functions of a local government).
- **Guiding principles** for effective local and regional governance, complemented by more detailed policy principles in those parts of the Act for IPR, community engagement, decision-making, financial management, integrity and inter-government relations.

An Agile System

- **Establishment of a Local Government Commission** that brings together and extends the work of the Grants Commission and Advisory Board to promote and facilitate capacity building and continuous improvement across the sector as well as, where necessary, structural reform (including mergers and/or regional governance).
- **A fresh approach to enabling structural reform**, including voluntary mergers and the option of replacing merged councils with community boards (see below) – recognising that the ‘Dadour’ provisions can now be by-passed by simply extending the boundaries of one council to subsume its neighbour, and the consequent need for a new pathway for change (refer to **Attachment 3** for an example).
- **Expanded regional cooperation**, including streamlined arrangements for the establishment of joint subsidiaries (which could then replace existing regional local governments); requirements for cooperative regional planning as part of IPR; and if necessary, a new form of ‘regional authority’ that overlays local government areas and can bring together local governments, state and federal agencies and other key stakeholders (for example Aboriginal communities) to address specific issues.
- **Advancing inter-governmental relations** through a set of legislated principles that could be linked to the State Local Government Partnership Agreement (refer to **Attachment 4** for an example); additional consultative mechanisms if required; and arrangements for collaborative governance at the regional level (including involvement of federal agencies where appropriate).

Inclusive Local Democracy

- **Specific provisions for engagement with Aboriginal peoples and communities**, including new consultative mechanisms and an obligation to plan for, and where appropriate undertake, delivery of essential services to local communities.
- **Four-yearly elections for all councillors**, plus a continued requirement for regular ‘representation reviews’ that involve the community in consideration of electoral issues such as the number of councillors, how the mayor is elected, the use of wards and whether the councillors are sufficiently representative of the broader community.
- **Re-definition of roles and responsibilities** for the governing body of council (councillors working collectively), mayors, individual councillors and CEOs, coupled with the new principles for decision-making.
- **More effective community engagement and governance**, including a requirement for all local governments to formulate and adhere to a Community Engagement Charter and an option to establish community boards in selected localities (similar to the New Zealand model).

Smart Planning and Efficient Service Delivery

- **Improved IPR**, clearly positioned as the centrepiece of local governments' operations and linking strategic and corporate planning, regional cooperation, community engagement, financial management, service delivery and monitoring and reporting of outcomes.
- **Increased Ratepayer Value for Money** through the introduction of a Rating and Revenue Strategy to increase transparency in setting rates, fees and charges, aligning services and programs to the IPR framework, a new focus on continuous improvement and reporting on a wider set of financial and service delivery indicators.
- **Modernised financial management**, based on a new set of principles, and including requirements for program budgets and regular service reviews involving community consultation.
- **New provisions for local and joint subsidiaries** that enable local governments to play an effective role in economic and regional development, and in the case of joint subsidiaries, provide a vehicle for regional cooperation.
- **Ensuring a minimum level of service** from local government is available to all Western Australians

Enhanced Accountability, Self-Regulation and Integrity

- **Robust accountability and self-regulation** through standardised performance and annual reporting; a revamped Annual Community Meeting along the lines of a company Annual General Meeting; and the establishment of independent Audit, Risk and Improvement Committees to undertake a wide range of internal audit functions and ensure good governance and continuous improvement.
- **A renewed focus on integrity** through the work of Audit, Risk and Improvement Committees and the establishment of a new Office of the Independent Assessor to deal with conduct complaints (similar to the Queensland model).
- **Rigorous training and professional development** of mayors/presidents, councillors and CEOs.
- **A new 'early intervention' framework** to support local governments experiencing governance or operational problems (a variation of the Victorian model of municipal monitors).



PART B – DETAILED RECOMMENDATIONS

Clear Legislative Intent

Introduction

1. The Panel recommends that the new Act be structured and drafted in such a way as to highlight the key strategic elements set out in Part A of this report, and that further consideration be given to the ‘two Acts’ options presented in Part A, at least as a transitional measure.

The basis for this recommendation was explained in Part A. The Panel considers it essential to move decisively and as quickly as possible to strengthen the capacity and resilience of Western Australian local government, and to set a fresh agenda, particularly in light of the COVID-19 crisis and its likely aftermath.

2. The Panel recommends the following statement of intent (vision) for a new Act:

An Act to provide for a system of local government relevant to Western Australia that develops and supports sustainable, accountable, collaborative and capable local governments through democratic representation, the provision of services, opportunities and enhanced well-being for each and every community.

It was determined that the vision for local government included in a new Act should be responsive to the changing face of Western Australia’s communities. The long title of a legislative instrument is intended to provide a clear statement of the legislature’s intention. The Panel considered how a statement of intent (vision) for a local government legislative framework would meet the future needs of Western Australia’s communities and local government sector.

3. The Panel recommends the adoption of the following objectives for a new Act:
 - a. Democratic and accountable local government that recognises the diversity of and within Western Australia’s communities.
 - b. Recognition of the specific needs and culture of Western Australia’s Aboriginal people.
 - c. Promotion and improvement of the community’s economic, social and environmental well-being.
 - d. An adaptive and forward-looking legislative framework, which supports and enables councils to provide local leadership for the whole community, and to collaborate with each other and with other key stakeholders at a regional level.
 - e. Open and transparent community participation in the decisions and affairs of local governments.
 - f. Enhanced capability of the local government sector, with a focus on continuous improvement and sustainability.
 - g. Efficient and effective service delivery and regulation that is responsive to current and future community needs.



- h. Informed decision-making by local governments which is in the interest of their communities, within a legislative framework that supports balance and certainty in relation to the different interests of their communities.**
- i. Accountability of local governments to their communities through processes that demonstrate good governance.**
- j. Support for approaches and opportunities which foster collaboration and cooperation both within the local government sector and across all levels of Government.**

The Panel considered what the objectives for a legislative framework would be to support local governments having the agility, adaptability and flexibility to respond to changing community expectations and technology, and deliver long-term sustainability. In doing so, the Panel considered examples from across Australian jurisdictions and international best practice.

4. The Panel recommends an Act that is considerably shorter, less prescriptive and minimises the use of regulations by establishing clear principles, robust processes, model charters, guidelines and templates.

The Panel endorsed the Western Australian Local Government Association’s (WALGA) call for a principles-based approach to the development of a new legislative framework.

This approach needs to be supported by robust processes for planning and decision-making, as well as model charters, guidelines and templates to set appropriate standards in areas such as establishment of subsidiaries, community engagement and local laws.

An enhanced internal audit and reporting regime is also essential to promote effective self-regulation and greater accountability to local communities (refer to Recommendation 59 regarding Audit, Risk and Improvement Committees).

5. The Panel recognises the diversity of local governments in Western Australia and supports a new Act which is responsive to this but does not recommend the adoption of a multi-tiered legislative framework.

The Panel considered the capacity and capability of Western Australia’s local government sector more broadly, and the application of a legislative framework to support this.

The Panel explored having different requirements and obligations under the new Act depending on a local government’s size, scale and/or demographics. However, finding the balance of what local governments should be required to do and for what reasons proved difficult. The Panel decided that a more practical approach was for the new Act to apply minimum standards to all local governments and, where applicable, to provide flexibility within the new Act that enables a diversity of obligations to be placed on or assumed by local governments dependent on their capacity and capability.



The Role and Functions of Local Government

- 6. The Panel recommends the inclusion of a statement of the role and principal functions of local governments that makes it clear their basic statutory responsibilities, retaining the overall power of general competency in the current Local Government Act.**

Communities and stakeholders need to be able to distinguish between local governments' basic statutory responsibilities for planning, service delivery and good governance on the one hand, and their discretionary activities on the other. This can be achieved by including a short statement that summarises statutory obligations. The South Australian Act offers a useful model (refer to **Attachment 2**).

The power of general competence provides significant autonomy to local governments. Under the *Local Government Act 1995* local governments are considered to be autonomous bodies established to provide for the good government of persons in their district. This general competency power is not, however, unlimited – local governments must comply with Commonwealth and State legislation.

Guiding Principles

- 7. The Panel recommends that the following overarching guiding principles are included in the new Act:**

To ensure the system of local government is sustainable, accountable, collaborative and capable, councils should:

- Provide democratic and effective representation, leadership, planning and decision-making;**
- Be transparent and accountable for decisions and omissions;**
- Be flexible, adaptive and responsive to the diverse interests and needs of their local communities, including the traditional owners of the land;**
- Consider the long term and cumulative effects of actions on future generations;**
- Ensure that, as a general rule, all relevant information is released publicly, readily available and easy to understand;**
- Provide services in an equitable manner that is responsive and accessible to the diverse needs of the community;**
- Seek to continuously improve service delivery to the community in response to performance monitoring;**
- Collaborate and form partnerships with other councils and regional bodies for the purposes of delivering cost-effective services and integrated planning, while maintaining local representation of communities and facilitating community benefit; and**
- Participate with other councils and with the State and Federal government in planning and delivery of services, setting public policy and achieving regional, State and Federal objectives.**



When developing the principles, the Panel considered the following to be important:

- Local governments should be effective, accountable and transparent institutions with inclusive processes which actively engage communities, build trust in government, and are responsive to their communities' needs;
- A collaborative approach across all levels of government to support sustainable development and effective decision making for the economic, social and environmental well-being of all Western Australians;
- A system of local government which supports continuous improvement and a highly capable local government sector, with accountable councils and administrations.
- Transparent and appropriate governance processes which uphold principles of integrity and build trust in the local government sector.



An Agile System

Establishment of a Local Government Commission

8. The Panel recommends:

- a. The Local Government Grants Commission and the Local Government Advisory Board should be combined into a single body responsible to the Minister and named the Local Government Commission, and including the functions of the Grants Commission in accordance with Commonwealth legislation.
- b. The role of the Local Government Commission should be to:
 - (i) Provide recommendations on major local government boundary changes, amalgamations and other necessary reforms;
 - (ii) Manage the distribution of Commonwealth grant funding to local governments in WA; and
 - (iii) Monitor the overall health and performance of the local government sector by identifying key issues and trends, and advise the Government and sector peak bodies accordingly.
- c. Members should be appointed to the Local Government Commission on the basis of their skills rather than as representatives.
- d. The Local Government Commission should consider the financial viability of local governments in making recommendations to the Minister.
- e. The Minister and sector peak bodies should have the power to refer matters to the Commission for assessment and advice.
- f. The Commission should play an independent role in monitoring the capacity and the financial health of the sector in collaboration with the Auditor General.
- g. Minor boundary adjustments where both local governments agree should be handled by the department.

The Panel considered that there were substantial opportunities and benefits in combining the existing Grants Commission and Advisory Board and in providing the new body with a more strategic role. The Grants Commission has access to considerable financial data on local governments and an understanding of the challenges facing the sector. This could be valuable in making recommendations to the Minister on boundary changes and other matters.

The Grants Commission's visiting program also means that it is in a position to identify and promote best practice and to identify local governments that would benefit from capacity building.

It was agreed that the new body should continue to provide recommendations on significant local government boundary changes and amalgamations, including all of those proposals where parties were not in agreement. To remove unnecessary regulatory burden, boundary changes of a minor nature which had the agreement of both local governments and the ratepayers in the affected area should be handled by the department in a streamlined process. Examples of this would be changing the responsibility for a road or park, or ensuring that a property (such as a farm) is in a single district.



In addition to managing the distribution of Commonwealth grant funding to local governments in Western Australia and making recommendations on boundary changes, the role of the combined body should include monitoring the overall health of the sector by identifying issues and trends and advising the Minister. This combined body should be charged with providing frank and fearless advice to the Minister, the department, and local governments.

The new body should be constituted of members of varied skills, with administrative support provided by the department.

Enabling Structural Reform

9. **The Panel supports a legislative framework for a system of local government which promotes local democracy and has the in-built flexibility to enable different models of governance which facilitate community participation, provide for representation of the whole community, and for efficient and effective service-delivery for the community.**
10. **The Panel recommends that through their Partnership Agreement and the proposed Local Government Commission, State and local government consider options to facilitate structural reform that will strengthen the capacity and resilience of the local government system. Those options should include:**
 - a. **Revised processes for boundary changes and mergers.**
 - b. **Substantially increased cooperation between local governments through an enhanced model of joint subsidiaries.**
 - c. **Provision for the establishment of community boards within local government areas.**

Making specific proposals for structural reform – in particular ‘forced’ amalgamations – was beyond the Panel’s terms of reference. However, as noted in Part A of this report, the COVID-19 crisis has focused attention on the need to maximise the capacity and resilience of the *system* of local government. Various options for structural reform have a role to play, and the new Act should include measures to facilitate necessary adjustments.

The Panel sees significant flaws in the current provisions for boundary changes and amalgamations of local government areas. Procedures for minor boundary changes appear unnecessarily complex, whilst the use of the boundary change mechanism to undertake de facto amalgamations – as approved by the Supreme Court in 2014 – raises serious issues about due process. It effectively bypasses the ‘Dadour’ provisions for local referenda, which themselves can be seen as unduly restrictive when local government needs to adapt to changing circumstances.

These issues have been debated repeatedly across Australia. The Panel saw potential in the new provisions for boundary changes and mergers adopted in early 2019 in South Australia (sections 26-28). The process was negotiated with the Local Government Association. It is based on a set of principles (refer to **Attachment 3**); administered *independently* by the Grants Commission; requires detailed investigation and extensive community consultation on major boundary adjustments and amalgamations; but has no requirement for referenda.

The new Local Government Commission proposed under Recommendation 8 could play a similar role in Western Australia, monitoring the capacity and health of the local government system, identifying action required to address any deficiencies, and handling major boundary changes. The Panel is also recommending that the structural reform 'toolkit' be augmented with an improved model of joint subsidiaries (Recommendations 14 and 39), plus a new option for establishing community boards (Recommendation 11). Robust, multi-functional joint subsidiaries could offer an alternative to amalgamations, whilst community boards could be used to maintain local identity, democracy and services in merged local government areas.

11. The Panel recommends an additional legislative option for local governments to establish community boards.

The Panel noted that with 137 local governments ranging in populations from less than 200 to over 200,000, Western Australian local governments can be either too small to meet their responsibilities, or too big to be properly representative of different localities within them, and respond adequately to varying community needs and demands. Accordingly, there is a need for mechanisms in the new Act that would, on the one hand, encourage small councils to combine their efforts 'upwards' through regional cooperation and/or mergers, and on the other, enable large councils to devolve some of their responsibilities 'downwards' in order to promote effective community governance.

The Panel concluded that the new Act should therefore include an option for local governments to establish community boards along the lines of those that have operated successfully in New Zealand for more than 30 years, but with flexibility to tailor implementation of the model to particular local circumstances. Community boards could either replace councils that have been merged into a larger entity, thus maintaining local identity and democracy in former local government areas; or be established for specific localities within a large local government area – a suburb or group of suburbs, a rural district with a distinct identity and a sense of community, a town within a large shire, a remote Aboriginal settlement, and so on.

Key features of the community boards model should include:

- Ultimate authority to rest with the 'parent' local government, which would determine the functions and budgets (if any) of boards in its area – the boards would not be incorporated as local governments in their own right.
- Empowering the Local Government Commission to require the establishment of boards as part of a merger.
- Giving local communities the right to petition the Local Government Commission for the establishment of a board.
- No requirement for boards to cover the whole of a local government area.
- Membership options ranging from a majority being locally elected to all members being appointed by the 'parent' local government after a community nomination process.
- Mechanisms for boards to advocate to the 'parent' local government on behalf of their communities, and to play a significant advisory role in planning and budgeting processes.



Expanded Regional Cooperation

12. The Panel recommends that the new Act should promote and mandate expanded regional cooperation between local governments by:

- a. Making increased collaboration a specific objective and principle.**
- b. Providing an improved model of joint (regional) subsidiaries that can be used for strategic planning, resource sharing, shared services delivery and commercial enterprises (see also Recommendations 14 and 39).**
- c. Requiring regional cooperation as part of IPR (see also Recommendation 35).**

13. The Panel recommends that consideration also be given to the potential need for a new form of ‘regional authority’ to enable collaboration on specific issues between governments and with other key stakeholders.

While there are promising signs of increasing regional cooperation between local governments for certain functions and in some parts of the state, the Panel formed the view that much more could and should be done – as proposed in WALGA’s 2008 report *The Journey: Sustainability into the Future*. The evident limitations of the current model of regional subsidiaries is a particular concern. The Panel proposes that increased collaborative working should be framed as a specific objective of the new Act: that could be realised through a streamlined model of joint subsidiaries and by adding a regional dimension to IPR, as explained under Recommendations 34 and 35.

The Panel also noted the potential need for a new form of collaborative ‘regional authority’ that overlays local government areas and can bring together local governments, state (and where necessary, federal) agencies and other key stakeholders to address specific issues. Such an arrangement might be required when regional issues, such as provision of services to remote Aboriginal communities or complex environmental management problems, exceed the scope of local governments and joint subsidiaries.

14. The Panel recommends:

- a. The regional council model is discontinued.**
- b. A flexible model of joint (regional) and single (local) subsidiaries be introduced in order to enable:**
 - (i) collaboration between local governments; and/or**
 - (ii) involvement of local government in economic development including commercial activities.**

Greater cooperation and collaboration is one way to address financial sustainability and capacity of local governments without the fear of loss of identity. The Panel noted that there are a range of areas that could potentially be delivered jointly by local governments, such as corporate services, economic development, IPR, waste management and community planning.

The current Local Government Act provides for two formal approaches: regional local governments and regional subsidiaries. The Panel recommends that there would be benefits to having only one broader legislative model of collaboration. A single flexible model could reduce complexity and provide for a more tailored compliance regime. Local governments would still have the flexibility to enter into voluntary arrangements outside of the legislated model. This would remove the regional



local government model under the new Act, noting the need for appropriate transitional provisions for those already established.

Further discussion and recommendations on this new flexible model, including its use for economic development, can be found under Smarter Planning and Service Delivery at Recommendations 37 to 40.

Advancing Intergovernmental Cooperation

15. The Panel recommends that the new Act include a set of principles for intergovernmental relations that make clear local government's role and obligations as part of the broader system of government, and that underpin a range of ongoing arrangements such as the State Local Government Partnership.

The Panel welcomed the progress being made through the State Local Government Partnership Agreement. It appreciated the difficulty of requiring such agreements under legislation, but at the same time sees an opportunity to promote and support ongoing improvements to state-local relations by including relevant principles in the new Act. The British Columbia Community Charter Act includes a set of principles that may offer a starting point for further discussion (refer to **Attachment 4**). The Panel noted, however, that any set of principles must make clear not only the need for mutual respect, consultation and cooperation, but also local government's responsibility to see itself and act as *government*, and to accept its ongoing obligations to plan, deliver services and provide good governance as part of the broader public sector.



Inclusive Local Democracy

Relations with Aboriginal Peoples and Communities

- 16. The Panel recommends that the new Act recognises the unique status of Aboriginal people as traditional owners of the land and ensures that they are empowered to engage in decision-making in their local communities.**
- 17. The Panel recommends that further consideration is given to the manner of recognition, and the options for inclusion, engagement and shared decision making between local governments and Aboriginal communities, through consultation with the Department of Premier and Cabinet and the Aboriginal Advisory Council of Western Australia, and with reference to practices in other states, the Northern Territory and New Zealand.**

The Panel identified a need for the new Act to include specific provisions for engagement with Aboriginal peoples and communities, including new consultative mechanisms and an obligation to plan for, and where appropriate undertake, delivery of essential services to local communities.

The Panel noted that while legislative statements mandating general recognition of the diversity of communities are common in the local government context, statements recognising the unique role of Aboriginal people in the community and the potential role of local government in partnering to achieve outcomes are less common in local government legislation in Australian State jurisdictions.

Models that should be further explored include the *Local Government Act 2020* (Victoria) where the definition of 'municipal community' includes 'traditional owners of the land in the municipal'; the *Local Government Act 2002* (New Zealand) which specifically references the need to provide opportunities for Maori people to contribute to the decision making process and the *Local Government Act 2008* (Northern Territory) which includes in its preamble "the rights and interests of Indigenous traditional owners, as enshrined in the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) and the *Native Title Act 1993* (Cth), must also be recognised and the delivery of local government services must be in harmony with those laws".

- 18. The Panel recommends further consideration is given to the issue of service delivery by local governments in remote communities, and appropriate adjustments to Integrated Planning and Reporting requirements.**

There is a need for local governments to work closely with indigenous communities and accept their responsibilities to ensure that adequate services are offered to all citizens, by the local government itself and/or in conjunction with other governments and agencies. While it was recognised that there are unique challenges with service delivery to remote communities, IPR processes should require identification of their needs, plus effective engagement and shared decision making with Aboriginal people.



Elections

19. Optional preferential voting be adopted in place of the current first past the post system.

The Panel discussed voting methodologies and agreed that the first past the post system can often lead to outcomes that do not adequately represent the community's preferences with successful candidates being elected without a clear majority of votes.

There was support for the adoption of optional preferential voting, a variant to preferential voting whereby the voter can mark their preference of all or some of the candidates on the ballot paper, with "1" indicating their first preference. It was considered that this would provide results that are most representative of the community's views and would not require electors to vote for candidates about which they had little knowledge.

20. The principle of one vote per person be included in the legislation, subject to Recommendation 21 below.

21. Property franchise voting should be replaced with the requirement for local governments to introduce mechanisms for regular and effective consultation with the business community.

The Panel considered that there are two sides to local democracy: involvement in local decision-making to influence and inform the decisions that are being made by council, and elections. If structures and processes are in place to ensure all segments of the community are engaged, there may no longer be a need to extend election franchise beyond residents of the district.

The Panel noted that the introduction of compulsory voting was previously recommended by the Robson Review and was suggested by several submissions, but believes that before this change is considered, recommendations contained within this report should be implemented to increase voter participation and possibly negate the need for the introduction of compulsory voting.

The Panel considered democratic principles, the right of business owners and operators to participate in and inform local government decision-making, the relatively small take-up of the property electoral franchise and the administrative burden for local governments to retain a separate register for the small number of owner occupiers that are currently registered to vote. The Panel believed that there are other avenues that local governments could and should use to ensure that business and landowner views are adequately heard through mechanisms such as a business advisory group.

22. Local government elections are held once every four years, two years after but to otherwise accord with the timing of the State election.

The Panel discussed the merits and disadvantages of all elected members being elected at the same time. While acknowledging the potential for loss of corporate knowledge if no councillors were re-elected, the benefits of one election held every four years midway between State Government elections has the potential to increase participation and would reduce costs for local governments.



23. All local government elections should be overseen by the Western Australian Electoral Commissioner.

The Panel decided that the Western Australian Electoral Commission (WAEC) was the most appropriate organisation to coordinate local government elections. Having the one body responsible for conducting elections would allow for greater consistency across local governments. It was acknowledged that there would be higher costs associated with WAEC run elections; however, this would be offset by elections being held only every four years.

24. Provision in the new Act for electronic/online voting to be introduced in the future once the integrity of the process can be assured (including allowing for a pilot).

While believing that electronic and online voting was not yet mature enough to be introduced, the Panel decided that new technologies would be likely to become practical in the life of the new Act and that the legislation should allow for the piloting and introduction of these. In the event online voting is introduced, postal / in person voting should remain an option.

25. The Panel makes the following further recommendations in relation to elections:

a. Postal voting be required, with lodgement of these votes to be allowed in person on and before election day.

To improve equity, the Panel determined all elections should be postal with the ability to lodge those votes in person, including on election day, being retained. The need for voting to be able to be carried out via the post has been demonstrated by the current COVID-19 pandemic.

b. The election process extended to provide more time for the issuing and receipt of postal votes.

To optimise participation in the electoral process and in recognition of the changes to postal services in Australia, an extension to the electoral timeframe is recommended. This should allow additional time for the issuing of postal votes and more time for electors to return their votes. The timeframe should be set through regulations in consultation with the Western Australian Electoral Commissioner.

c. The information local government candidates must provide at nomination should be expanded to ensure that adequate information is given for voters to make an informed decision. Candidate nomination forms should also include declaration of membership of a political party and these forms should be published and available during the election period.

The Panel discussed methods to increase community knowledge of candidates including increasing the length of the candidate profile statements, providing more structure for these, and publishing candidate answers to WAEC approved questions on local governments' websites. The Panel was supportive of additional information being provided by candidates in local government elections. This would enable voters to make more informed voting decisions, rather than relying on the 150-word statement. This could be achieved through set questions in regulations to which candidates would respond in the form of a statutory declaration. The Victorian provisions serve as a model.



- d. A caretaker policy should be introduced barring elected members up for re-election from representing the council at events, handing out council grants or donations and moving substantive notices of motion in the period before the election, and a requirement to comply with this policy should be included in the Code of Conduct.**

The Panel also considered ways to increase transparency and accountability and reduce conflicts during a local government election period. The Panel agreed that the Code of Conduct should include caretaker provisions to be imposed from the close of nominations to the date of the election.

The Panel acknowledged the need to protect the CEO from potential conflicts during the caretaker period and, consistent with Recommendation 59, the CEO would no longer receive or investigate complaints.

- e. The donor and the candidate should co-sign each declaration of a gift made.**

In order to ensure integrity in the election process, the Panel agreed that there should be a requirement for the declaration of a gift to be signed by both the candidate and the donor.

- f. Donations via crowd funding platforms should be regulated so far as possible.**

The Panel also acknowledged the increasing likelihood that candidates will receive donations through crowd funding platforms which makes identifying individual donors difficult and determined that the department should investigate the legality and practicality of regulating crowd funding donations to ensure integrity in the election process is upheld.

26. In respect to elected member representation, the Panel recommends:

- a. Population should be used to determine the number of elected member positions:**
 - (i) Population of up to 5,000 – 5 councillors (including President).
 - (ii) Population of between 5,000 and 75,000 – 5 to 9 councillors (including Mayor/President).
 - (iii) Population of above 75,000 – 9 to 15 councillors (including Mayor).
- b. Ward boundary reviews, to ensure equitable representation is maintained, should be conducted every four years by the Office of the Electoral Distribution Commissioners, with the support of the WAEC and should be conducted using similar processes and principles that are in place for state electoral boundaries as contained in the *Electoral Act 1907*.**
- c. Current classification bands 3 and 4 should not have multiple wards unless the Local Government Commission permits it in the interests of ensuring local democracy is enabled in certain communities.**
- d. The changes to wards and elected member numbers due to the above recommendations should be phased in.**



The Panel gave careful consideration to the recommendations of the Local Government Advisory Board in relation to wards and councillor numbers. Wards in local governments with small populations were seen as unnecessarily increasing fragmentation and detracting from the requirement for elected members to act in the best interests of the entire community.

However, the Panel acknowledged there may be situations, for example remote communities, where it is important to ensure there is balanced representation on council. The Panel decided local governments in bands 3 and 4 can apply to the new Local Government Commission for wards should it be necessary to enable local democracy in their districts.

The Panel considered that it was desirable for councils to have an odd number of positions.

e. With the introduction of four-year elections, council elected mayors/presidents should be elected for two-year terms.

The Panel considered that it was important to provide a council with the ability to elect a new mayor/president to replace one who had lost the confidence of the other members of council within their four-year term. The Panel decided the fairest and most efficient way to do this was to have two year terms for council elected mayors and presidents which will provide the opportunity for council to replace them after this period should there be dissatisfaction with their performance amongst council.

f. No restriction should be placed on the number of terms an elected member or mayor/president can serve.

The Panel agreed that there should be no change made to the current situation with no limits applying to the number of terms a councillor and mayor/president can serve.

27. The Panel recommends further consideration should be given to strengthening the provisions of the City of Perth Act to reflect the unique role the City of Perth plays in the development of the State economy. In addition, consultation should be undertaken with the City of Perth and other relevant stakeholders as to whether property franchise voting should be retained in the City of Perth.

The Panel noted that property franchise voting may nevertheless be appropriate for the City of Perth and suggested that the Department could undertake further consultation to determine if the *City of Perth Act 2016* should be amended so property franchise voting continues to apply in the City of Perth.

The Panel recognised the *City of Perth Act 2016* might be appropriate legislation to further strengthen the relationship between the State Government, business and the City of Perth in promoting the social and economic interests of the whole State.



Redefinition of Roles and Responsibilities

28. The Panel recommends significant changes in the Act to the current statements of roles and responsibilities for mayors/presidents, councillors and CEOs and that the Act should include a new statement of responsibilities for the 'council' which captures the roles and responsibilities of all councillors acting collectively as the council.

The revised statements of roles and responsibilities seek to address more clearly the following issues:

- Community leadership
- Strategic planning
- Continuous improvement
- Executive function (for mayors/presidents)
- Guiding the CEO (for mayors/presidents)
- Training

29. The Panel recommends the following as the role of council:

The council —

- (a) considers the diversity of interests and needs of the local community;
- (b) is accountable to the community for the local government's performance;
- (c) ensures adequate opportunities and mechanisms for engagement with the local community;
- (d) ensures the timely development and adoption of the strategic plans, programs and policies of the council and promotes the effective and consistent implementation of these;
- (e) develops and adopts strategic plans and a budget for the local government;
- (f) keeps the local government's resource allocation, expenditure and activities and the efficiency and effectiveness of its service delivery, under review;
- (g) provides strategic direction to the CEO in order to achieve high-quality administration and performance of the local government's functions in accordance with the Local Government Act and local government's policies;
- (h) carries out an annual performance review of the CEO and in agreement with the CEO adopts Key Performance Targets for the following year;
- (i) provides a safe working environment for the CEO, officers and councillors;
- (j) reviews annually the delegations of the council; and
- (k) performs such other functions as are given to a council by this Act or any other written law.



30. The Panel recommends the following as the role of councillors:

A councillor —

- (a) without bias represents the current and future interests of all people who live, work and visit the district;
- (b) provides leadership and guidance to the community in the district;
- (c) facilitates communication between the community and the council;
- (d) accurately represents to the community the policies and decisions of the council;
- (e) participates in the development of strategic plans;
- (f) must be prepared to –
 - (i) participate with an open mind in the local government’s decision-making processes;
 - (ii) be an active and contributing member of the council; and
 - (iii) make considered and well-informed decisions;
- (g) makes all reasonable efforts to acquire and maintain the skills necessary to perform the role of councillor; and
- (h) performs such other functions as are given to a councillor by this Act or any other written law.

31. The Panel recommends the following as the role of the mayor/president:

In addition to the responsibilities of a councillor, the mayor or president —

- (a) provides leadership and guidance to the community in the whole district;
- (b) carries out civic and ceremonial duties on behalf of the local government;
- (c) acts as the principal spokesperson on behalf of the council and explains and upholds the decisions of the local government;
- (d) encourages good working relations between councillors, and between the council and the CEO;
- (e) provides guidance to councillors about what is expected of a councillor including in relation to:
 - (i) the role of a councillor;
 - (ii) the councillor code of conduct; and
 - (iii) standing orders
- (f) liaises with the CEO on the local government’s affairs and the performance of its functions;
- (g) presides at meetings in accordance with this Act;
- (h) leads the development of strategic plans;
- (i) promotes partnerships between the council and key stakeholders;
- (j) leads and facilitates the presentation of the annual Council budget;



- (k) initiates the annual performance appraisal of the CEO; and
- (l) performs such other functions as are given to the mayor or president by this Act or any other written law.

32. The Panel recommends the following as the functions of the CEO:

- (1) The CEO's functions are to —
 - (a) advise and assist the council in relation to the functions of a local government under this Act and other written laws;
 - (b) ensure that timely and accurate advice and information is available to the council so that informed decisions can be made;
 - (c) ensure that the mayor and other councillors are given the administrative and professional support necessary to effectively discharge their role;
 - (d) advise the council on appropriate forms of community engagement;
 - (e) advise and consult the mayor and council on the development and implementation of the strategic plans, programs, strategies and policies of the council;
 - (f) prepare, in consultation with the mayor and council, the draft budget;
 - (g) ensure that the policies and lawful decisions of the council are implemented in a timely and efficient manner;
 - (h) conduct the day-to-day management of the local government in accordance with the strategic plans, programs, strategies and policies of the council;
 - (i) ensure the effective and efficient management of the local government in a way that promotes —
 - (i) the effective, efficient and economical management of public resources;
 - (ii) excellence in service delivery; and
 - (iii) continual improvement;
 - (j) maintain systems to enable effective planning and accurate reporting of the financial and service performance of the local government to the council and community;
 - (k) speak publicly on behalf of the local government when approved by the mayor or president to do so;
 - (l) be responsible for the employment and management of local government employees, except with respect to the position of CEO, through management practices that —
 - (i) promote equal employment opportunities;
 - (ii) are responsive to the local government's policies and priorities; and
 - (iii) provide a safe working environment;



- (m) ensure the local government complies with this Act and any other written law;
 - (n) ensure that records, proceedings and documents of the local government are properly kept for the purposes of this Act and any other written law; and
 - (o) perform any other function specified or delegated by the council or imposed under this Act or any other written law as a function to be performed by the CEO.
- (2) The CEO must inform and consult the council when determining, or making, significant changes to –
- (a) the organisational structure for the staff of the local government; or
 - (b) the processes, terms or conditions that are to apply to the appointment of senior executive officers; or
 - (c) the appraisal scheme that is to apply to senior executive officers.

Community Engagement and Governance

33. The Panel recommends that the following community engagement principles should be included in the new Act:

- a. Councils actively engage with their local communities;**
- b. Councils are responsive to the needs, interests and aspirations of individuals and groups within its community;**
- c. Community engagement processes have clearly defined objectives and scope;**
- d. Participants in community engagement have access to objective, relevant and timely information to inform their participation;**
- e. Participants in community engagement are representative of the persons and groups affected by the matter that is the subject of the community engagement;**
- f. Participants in community engagement are entitled to reasonable support to enable meaningful and informed engagement; and**
- g. Participants in community engagement are informed of the ways in which the community engagement process will influence council decision-making.**

The Panel considers the community key to the effective functioning of the local government, with the local government being there for and to respond to the community. It is therefore vital that all segments of the community are heard and can participate in decision-making.

34. The Panel recommends a Community Engagement Charter be required as a mechanism for guiding and enhancing community participation in local decision-making, and that a model charter be prepared to set parameters and provide guidance on mechanisms to be used.

The Panel agreed that all local governments should be required to have a Community Engagement Charter, with individual local governments responsible for ensuring they are fit for purpose. The



department should provide suitable guidance material and templates for those local governments that wish to utilise these.

The Panel proposed that triggers for consultation be included, such as borrowing, change of purpose in land use, and major changes to strategy.

The Panel considered that the Charter should be accessible, flexible, and include the deliberative community engagement requirements for IPR. The Charter should also include a reporting mechanism in the annual report.

The Panel believed that elected members have an important role to play in community engagement in listening to the community and that this should be outlined in the Charter. Training should be available to elected members in this area.

35. The Panel recommends the Annual Electors' Meeting is replaced by an Annual Community Meeting whereby:

- a. As a minimum, councils provide information on their achievements and future prospects;**
- b. Councils report on the local government's financial performance and performance against relevant Council Plans;**
- c. Both the mayor/president and the Chair of the Audit Committee address the meeting;**
- d. There is ample time for questions; and**
- e. Wider community participation is encouraged through different delivery mechanisms.**

The Panel recommended the retention of an annual meeting (to replace the Annual Electors' Meetings) which will facilitate community participation through more modern delivery mechanisms to reach people who may not be able to attend ordinary council meetings (for example, using Zoom and/or webinars). At this meeting there should be an annual performance statement made by the mayor/president, a report from the chair of the Audit, Risk and Improvement Committee and a question and answer session.



Smart Planning and Service Delivery

Enhanced Integrated Planning and Reporting

36. The Panel recommends the following IPR Principles are included in the new Act:

- a. Councils plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services to meet the diverse needs of the local community;
- b. Strategic planning identifies and incorporates, where appropriate, regional, State and Federal objectives and strategies concerning the economic, social, physical and environmental development and management of the community;
- c. Strategic planning addresses the community's vision;
- d. Strategic planning takes into account the resources needed for effective implementation;
- e. Strategic planning identifies and addresses the risks to effective implementation; and
- f. Strategic planning is a key accountability tool that provides for ongoing monitoring of progress and regular reviews to identify and address changing circumstances.

37. The Panel recommends:

- a. IPR be given greater prominence in the new Act as the centrepiece of 'smart' planning and service delivery.
- b. The new Local Government Commission and the department should take steps to improve understanding and skills across the sector to ensure consistent implementation of IPR requirements.
- c. IPR provisions in the Act should be expanded to include the issues currently covered in the regulations (suitably updated in accordance with these recommendations).
- d. IPR provisions and guidelines should be amended to, amongst other things –
 - (i) Highlight the central goal of advancing community well-being (economic, social, cultural and environmental).
 - (ii) Replace the current requirement for a Strategic Community Plan with a more flexible framework for 'Community Strategies'.
 - (iii) Reframe Corporate Business Plans as broader 'Council Plans' prepared by each incoming council.
 - (iv) Mandate deliberative community engagement in the preparation of both Community Strategies and Council Plans.
 - (v) Require a 'regional issues and priorities' section within Council Plans, to be prepared in consultation with neighbouring/nearby local governments.
- e. Provision should be made for a baseline reporting system as part of the IPR framework, and local governments should be required over time to report against a



wider range of performance measures covering financial management, service delivery, governance and community wellbeing.

- f. Annual reports should include a statement of performance against the objectives, programs and projects set out in Community Strategies and Council Plans.
- g. The Audit, Risk and Improvement Committee (see Recommendations 53 and 54) should monitor the local government's performance in implementing the IPR framework, including compliance with relevant statutory obligations, and report its assessment to the community (for example, as an addendum to the council's annual report and/or as a statement to the Annual Community Meeting proposed in Recommendation 35).
- h. That all IPR plans be reviewed every four years (to align with the new election cycle), two years or one year depending on the plan.

The Panel believes that strengthening and reframing the Act's provisions for IPR would promote and link more effective strategic and corporate planning, regional cooperation, community engagement, financial management, service delivery, and monitoring and reporting of outcomes.

The Panel noted some excellent examples of emerging regional cooperation in strategic planning, and opportunities for creative use of IPR to promote a more holistic approach to community wellbeing, and in particular for collaborative planning with Aboriginal peoples and communities. However, it was concerned that the current IPR framework is not fully understood across the sector, and that implementation remains patchy. There is an evident need for more work to develop and explain the framework, and for further assistance to individual local governments and regional groups to enhance their ability both to meet basic IPR requirements, and to grasp opportunities to make better use of IPR as a tool to achieve desired outcomes for places and communities.

The Panel concluded that reframing the current requirements for Strategic Community Plans and Corporate Business Plans would be helpful in explaining the scope and intent of IPR. This would involve:

- Clarifying the difference between 'aspirational' strategies on the one hand, and plans that commit a council to pursue specific courses of action on the other.
- Demonstrating how IPR offers pathways for local governments to work together at a regional level, as well as to plan with communities for districts and neighbourhoods.

The Panel therefore proposes that Strategic Community Plans be replaced by multi-level 'Community Strategies' that could be prepared for regions, individual local government districts, and smaller areas/localities within a local government district. Corporate Business Plans should be reframed as broader 'Council Plans' that give effect (as far as possible) to Community Strategies. These proposals draw on current practice in Victoria (council plans and community planning) and New South Wales (joint organisations developing regional strategies).

The Panel also examined the requirement for Victorian local governments to report on a wide range of key performance indicators and considered this type of reporting to the community to be highly desirable. To alleviate the burden this could place on some local governments, it proposes that reporting should be phased in, starting with indicators for financial management, service delivery and governance, and expanding to broader well-being measures over time. Reporting should be made freely available through a statewide online platform.



Part of the reporting framework could be an annual declaration that the local government is successfully meeting its obligation to provide essential basic services to its community. This could be a function of the Audit, Risk and Improvement Committee.

Minimum Service Levels

38. The Panel recommends:

- a. **As a minimum, local governments must seek to identify and provide, or offer, to all its citizens, a minimum level of services to meet statutory obligations.**
- b. **The Minister should have the power to direct a local government if it fails to provide or offer these services.**
- c. **The new Act should incorporate financial sustainability principles which also link to the IPR framework.**
- d. **Local government services and programs should be aligned to the IPR framework.**
- e. **Local governments conduct regular reviews of services and service levels including community consultation.**

The Panel strongly believed that all citizens in Western Australia are entitled to a minimum level of service delivery, whether it be a metropolitan local government or a remote community. However, the diversity of the sector means that services may vary significantly between local governments. The Panel felt that while there are some services where it is reasonable to have discretion, there are some minimum services that all local governments must provide.

The Panel was cognisant of the financial constraints and capability of local governments to be able to deliver basic services and in some cases, providing services independently would be challenging. In these situations, local governments should collaborate using the joint subsidiary model.

As noted earlier, service delivery to remote communities was identified as an area that could be particularly challenging due to financial constraints, isolation and access (among other things). The Panel strongly supported identification of service needs through the IPR process and minimum services being delivered. However, financial and cultural barriers will sometimes need to be addressed through broader whole of government initiatives. New mechanisms may be needed to facilitate such initiatives (such as the South Australian Outback Communities Authority). A community should have the right to decline a particular service or services if they have other arrangements in place.

The Minister should have a qualified reserve power to intervene in certain situations and provide enforceable directions to local governments. This would include where minimum services were not being provided and in the event of a natural disaster or pandemic.

Local and Joint Subsidiaries

39. **The Panel recommends local governments should continue to play an active role in economic development at both local and regional levels. The IPR framework should encourage local governments to be cognisant of State Government plans when developing strategies for economic development.**



40. The Panel recommends that the new Act should provide the freedom for local governments to be involved in commercial activities where it is in the public interest and subject to competitive neutrality principles.

The Panel noted that local government provides an important stimulus in the economy, especially in regional areas, and that it is important that a legislative framework does not unnecessarily restrict the ability for local governments to be involved in economic development.

The Panel was of the view that there are not currently any specific barriers in the Local Government Act that hinder the ability for local government to grow their economy. They also noted that local governments' involvement in economic development should be voluntary, and subject to the needs and desires of the local community. The new Act should provide appropriate governance and accountability measures covering these activities.

41. The Panel recommends that 'beneficial enterprises' not be introduced as a new mechanism for local government commercial activities, but that instead an updated and more flexible subsidiary model should provide for the following:

- a. Local government autonomy to establish a single or joint subsidiary to:
 - (i) Carry out any scheme, work or undertaking on behalf of the council;
 - (ii) Manage or administer any property or facilities on behalf of the council;
 - (iii) Provide facilities or services on behalf of the council; and/or
 - (iv) Carry out any other functions on behalf of the council.
- b. The subsidiary to be established through a charter.
- c. The charter to be certified by an independent and suitably experienced legal practitioner as within power and National Competition Policy.
- d. Public notice of the proposal to establish the subsidiary to ensure that there are no private operators that would be significantly disadvantaged.
- e. The subsidiary to be able to undertake commercial activities (within the limits of competitive neutrality and a thorough risk assessment).
- f. The subsidiary to have the ability to acquire, hold, dispose of or otherwise deal with property.
- g. Dividends able to be paid to member local governments.
- h. The requirement for employees of the subsidiary to be employed under the same award or agreement conditions as the relevant local government/s and within the jurisdiction of the Western Australian Industrial Relations Commission.
- i. No requirement for ministerial approval at the outset, but reserve powers for the Minister for Local Government to intervene if issues arise should be included.

42. The Panel recommends local governments should utilise the subsidiary models and, as a general rule, should not form entities outside this, such as under the Associations Incorporation Act, except as a means of establishing or maintaining partnerships with other local or regional organisations in those instances where the local government is not the dominant party.



The Panel noted that the current regional subsidiaries model could be improved in relation to their establishment, scope of operations and governance. It was noted that the current model has not been utilised by the sector as its scope is perceived to be too limiting.

While the Panel supported local governments being innovative and able to operate when market failure is identified, it was of the view that the new Act should explicitly require that local governments operate in accordance with competitive neutrality principles when establishing a subsidiary and setting fees and charges.

The Panel also noted concerns that a local government may use a subsidiary to reduce employee pay and conditions and considered that this should be prohibited in the Act.

The introduction of a new subsidiaries model, similar to the Tasmanian model, would allow local governments the flexibility to operate on a commercial basis (within reason). It is recommended that if this is to occur, adequate controls would need to be introduced, including community consultation, model charters, appropriate reporting and audit measures and providing the ability for the Minister to intervene if considered necessary.

The legislative framework for the model should provide autonomy for local governments to establish a subsidiary without Ministerial oversight while retaining reserve powers for the Minister if required. There should be measures to ensure greater transparency and accountability to the community.

The Panel also discussed concerns with local governments using the Associations Incorporation Act to establish entities outside the Local Government Act and considered that as a general rule this be prohibited under the new Act. Local governments should encourage non-government providers to establish and govern associations where appropriate for community-led service delivery, with local governments only stepping in if the association cannot operate effectively or needs to be wound up.

Modernise Financial Management

43. The Panel recommends the following financial management principles be included in the new Act:

- a. Councils should have regard to achieving intergenerational equity, including ensuring the following:**
 - (i) Policy decisions are made after considering their financial effects on future generations;**
 - (ii) The current generation funds the cost of its services; and**
 - (iii) Long life infrastructure may appropriately be funded by borrowings.**
- b. Revenue, expenses, assets, liabilities, investments and financial transactions are managed in accordance with the council's financial policies and strategic plans;**
- c. Financial risks are monitored and managed prudently having regard to economic circumstances;**
- d. Financial policies and strategic plans, including the Revenue and Rating Strategy and Investment policy, seek to provide stability and predictability in the financial impact on the community; and**



e. **Accounts and records that explain the financial operations and financial position of the council are kept.**

44. Having regard to the need for sound financial decision-making and accountability, the Panel recommends the following:

- a. **Local governments should be required to adopt or justify departures from a model investment policy to the Audit, Risk and Improvement Committee and relevant State Government Agency.**
- b. **Local governments should be able to use freehold land to secure debt.**
- c. **Debt should not be used for recurrent expenditure except in an emergency situation.**
- d. **Notice should continue to be required to be given for borrowings not included in the local government's annual budget.**
- e. **Building upgrade finance is permitted for specific purposes such as cladding, heritage and green improvements.**
- f. **Local governments should adopt program budgeting to more clearly show the actual cost of delivering a service or undertaking an activity.**
- g. **Local governments should report on the percentage of their expenditure spent on local businesses in their annual report.**

It is important that local governments are enabled through the legislation to invest their reserves effectively to maximise revenue. Given that the funds are public money, this must be balanced to ensure that local governments and their communities are not unnecessarily exposed to risk. The Panel agreed that local governments should be required to prepare an investment policy, dealing with approved investments and risk levels amongst other things.

Local government legislation in Queensland contains a tiered investment structure, with local governments having the power to invest based on their tier. This takes into consideration risk levels and credit ratings. The Panel suggested that further expert analysis be undertaken to inform potential implementation in Western Australia.

Local governments generally have low levels of debt relative to security, income levels and service responsibilities. The Panel noted that there are benefits to using debt for financial management when the benefits of the capital investment are multi-generational. On this basis, the Panel recommended expanding the ability for local governments to use freehold land to secure debt.

Building upgrade finance, which is operating in some other jurisdictions, is a scheme whereby a local government administers loans issued by financiers to non-residential building owners to upgrade their buildings. The Panel saw merit in allowing the introduction of the scheme for prescribed purposes such as upgrading heritage buildings or environmental upgrades. The introduction of building upgrade finance will need to have appropriate safeguards in place which could be modelled on the approach used in other States.

The Panel was of the view that the budget needs to be more closely integrated with IPR processes. As one measure to achieve this alignment, local governments should transition to budgeting on the basis of service delivery. This would require each service or program to be fully costed, ensuring elected members (and ultimately the community) understand the cost of providing the service and



encourage critical review of costs. This would also allow the community to provide more informed input into the Council Plans.

Program budgeting will result in better information leading to more informed decisions. Reporting on actual cost of services could result in decisions to allocate limited resources in different ways and gain greater acceptance by the community.

The positive impact a local government can have on their local economy through using businesses within their district and region were noted by the Panel. The view was held that there would be benefits for the community in seeing how much the local government had spent locally and with which businesses. This would be included in the Annual Report as a “local content” report.

Procurement

45. The Panel recommends that local government procurement thresholds, rules and policies are, where applicable, aligned with the State Government, including (but not limited to):

- a. **Tender threshold (currently \$250,000);**
- b. **Procurement rules and methods for goods and services under the tender threshold;**
- c. **Procurement policies, including sustainable procurement, procuring from disability enterprises, buy local (where ‘local’ refers to Western Australia or a specific region of the state determined by the local government) and Aboriginal businesses; and**
- d. **Using TendersWA as the primary tender platform.**

The Panel agreed that procurement needs to be open, transparent, fair and ensure adequate market testing, value for money and local consideration.

The Panel supported aligning local government and State Government procurement frameworks, including the tender threshold, procurement rules under the tender threshold and the publication of tenders and high value contracts on TendersWA. By increasing consistency between State and local government, and transparency of procurement rules and processes it creates a business-friendly environment and increases confidence in the process.

Local governments should be able to advertise tenders on other platforms, in addition to TendersWA, if they so choose.

46. The Panel recommends the development of a model procurement policy for all local governments. If a local government chooses to deviate from the policy it should be required to explain its reasoning to the responsible State Government agency.

In keeping with the recommended alignment to the State procurement framework, a model procurement policy should be developed that is consistent, as much as practicable, with the State rules that apply for purchasing goods under the tender threshold. The Panel believed development of a model procurement policy would assist local governments with the procurement process and increase consistency between local governments. If a local government chose to deviate from the model, local governments should have to justify the deviation by explaining their reasoning.



47. The Panel recommends enhancing legislation to regulate and guide the establishment and management of panel contracts.

It was acknowledged that local government preferred supplier panels are important and need to be retained; however, their establishment and operation needs to be regulated. The Panel supported the continuance of the WALGA Preferred Supplier Panel, subject to regular oversight and checks and balances to ensure that it is constituted correctly and there is accountability.

48. The Panel recommends a requirement for local governments to have an open register of local businesses with local governments determining what is considered 'local' to their community.

The Panel recommended the introduction of an open register of local businesses where local businesses can register with the local government and outline the services and goods they provide. This will assist local governments to support local businesses when procuring goods under the tender threshold, and in informing them of open tenders. Local governments should determine what is considered 'local' to their community.

49. The Panel recommends breaches of the local government procurement rules to be referred to the Office of the Independent Assessor to use the appropriate powers under the new Local Government Act.

There are currently limited penalties for non-compliance with the procurement rules in the Local Government Act. The Panel supported the compliance model in the State Government procurement rules whereby greater oversight and less autonomy is the result of compliance breaches and believed the Office of the Independent Assessor should have the power to address cases of non-compliance. (See Recommendation 54 for more information on the Office of the Independent Assessor).

Rating and Revenue

50. The Panel recommends:

- a. Rate capping should not be introduced.
- b. Local governments should be required to develop and publish a rates and revenue strategy, that would amongst other things replace the need to have fees and charges set in the annual budget.
- c. The Economic Regulatory Authority (ERA) should be asked to undertake a review of the rating system, including a thorough examination of the case for the current wide range of exemptions.
- d. The current rates exemptions should be retained until after the ERA review.
- e. Property owners seeking an exemption should be regularly required to prove they meet the criteria for an exemption.
- f. Local governments should charge a separate waste charge applying to all properties which have a waste service, including exempt properties.



g. The Valuer General should be asked to undertake a review of the rating methodology with the aim of smoothing out significant fluctuations in valuations.

The Panel noted the importance of rates as local government's principal own source revenue, but equally the need to ensure transparency and fairness in the way rates are calculated and imposed.

With local governments increasingly being required to provide more services and to a higher level to their communities, as well as maintaining their existing assets, the Panel noted that there is concern as to how local governments will continue to fund this in the future given their limited revenue sources.

Of all revenue sources, the most important own source revenue for local governments is rates revenue. Local governments are permitted to impose differential general rates according to land zoning, land use (including if the land is vacant) or a combination of the two.

The Panel was supportive of local governments being required to develop a rates and revenue strategy, as is in place in other jurisdictions. The strategy would include the schedule of fees and charges set by local governments (currently included in the budget), the methodology where the fees are set at cost recovery, the rate/s in the dollar and associated objects and reasons for differential general rates. This would increase transparency for ratepayers and enable local governments to demonstrate the actual cost of services to consumers.

It was acknowledged that there are limitations on local governments' ability to raise revenue due to the current rate exemption categories. Rate exemptions result in local governments needing to cover the rates shortfall by other means, raising the funds from other groups of ratepayers or alternatively reducing services or asset maintenance.

It was accepted that there may be sound reasons why certain exempt categories should be retained, including linkages to State Government policies and initiatives. The Panel recommends that applicants should be required to prove each year that they still fit the criteria for the exemption, especially for organisations claiming charitable status.

51. The Panel recommends that local governments should be able to set reasonable fees and charges according to a rating and revenue strategy, with the oversight of the Audit, Risk and Improvement Committee.

52. The Panel recommends that local governments and State Government apply cost recovery principles when setting fees and charges.

While local governments have the power to set their own fees and charges generally, there are a number of fees and charges that local governments have no control over. Only a few of these are set under the current Local Government Act.

The Panel agreed that fees and charges set in legislation can provide consistency between local governments. It was also noted that while the fees and charges may be consistent, there is likely to be a different level of service provided by local governments.

It was also noted that while local governments are encouraged to adopt a cost recovery model when setting fees and charges, there may be circumstances where it is appropriate to set them lower for certain population groups (for example, seniors) or to encourage certain outcomes in the community.



Accountability, Self-Regulation and Integrity

Enhanced Accountability and Self-Regulation

53. The Panel recommends the role of audit committees be expanded to become Internal Audit, Risk and Improvement Committees and:

- a. The majority of the Committee members, including the Chair, should be independent of the local government and should be drawn from a suitably qualified panel.**
- b. To address the impost on small local governments, the committee could be established on a regional basis.**

54. The Panel recommends the main roles of the Audit, Risk and Improvement Committee should include:

- a. Developing an audit plan which focuses on compliance, risk (including procurement), financial management, fraud control, governance and delivery of the Council Plans;**
- b. Identifying continuous improvement opportunities and monitoring programs and projects in this area;**
- c. Conducting the mandatory internal audits as outlined in the audit plan; and**
- d. Providing advice to the council in relation to these matters.**

The Panel supported the expansion and strengthening of the role of local government audit committees to become Audit, Risk and Improvement Committees. Moving to a principles-based Act and providing local governments with more autonomy emphasises the need for self-regulation. This requires a robust process for accountability and transparency, justifying the need for the committee to have an independent chair. The Panel also concluded that, given the committee's expanded and critical role, there should be a majority of members not associated with the local government in any way and appointed and remunerated for their skills.

This aligns with the changes occurring within the State Government and the Office of the Auditor General recommendations.

Audit, Risk and Improvement Committees should be required to review matters such as compliance, risk management, financial management, fraud control and governance of the local government.

The Panel was of the view that an Audit, Risk and Improvement Committee could have a role in providing advice to council on decisions across a range of matters, including good governance, financial and risk management, and continuous improvement. The Chair could have a more public role, including in addressing council on relevant matters, reporting at the Annual Community Meeting and preparing a statement in the local government's annual report.

To address cost and access to suitable personnel to take on this role, regional Internal Audit, Risk and Improvement Committees should be permitted. In addition, consideration should be given to establishing a panel of approved independent members from which councils could choose.



Renewed Focus on Integrity

55. In relation to governance, the Panel recommends:

- a. Meeting procedures are standardised across all local governments, allowing for both a committee system and a public briefing system.
- b. Elected members should be required to lodge a declaration of interest as well as a confirmation of impartiality prior to meetings.
- c. Elected members who believe that they are unable to maintain impartiality on a particular matter should be permitted to withdraw from that part of the meeting provided a quorum is maintained.
- d. All votes should be recorded in the minutes on each motion with details of how each councillor voted.
- e. As a minimum, audio recordings of public parts of council meetings should be available on the local government's website when the minutes become available, with livestreaming to be encouraged.
- f. CEO contracts should be standardised and consistent with the Public Sector Commission's policy and relevant conditions for public sector employees.
- g. CEO contracts should be no more than five years and after two terms the local government must readvertise the position.
- h. The department should facilitate additional oversight in the recruitment and management processes of CEOs. This could include representation on the selection panel and/or screening of applicants.
- i. Primary and Annual Returns should include disclosure of membership of political parties and associations likely to be seen as exerting an influence on decision-making.

The Panel discussed ways to ensure council decision-making was transparent and accountable. It recommends that not only should actual conflicts of interest be declared before the council meeting, but that each councillor should make a declaration in relation to any item on the agenda on which they may not be impartial. This would include, for example, items where they had taken a public position or lobbied in relation to the matter before the meeting. If the councillor believes that they are unable to put those interests aside and make a decision in the best interests of the district as a whole, the person should be able to remove themselves from the meeting for that item, providing a quorum is maintained so that a vote can be taken. A declaration prior to the meeting would assist the CEO in determining whether or not a quorum is available for a matter.

While webcasting (livestreaming) of council meetings was preferred, given the technology constraints that could be experienced by some local governments, audio recordings of the meetings was considered as a practical minimum to ensure greater transparency in the decision making process. These recordings would be State records under the *State Records Act 2000*. The recordings should be required to be published on the website by the time the minutes were published.

The Panel agreed that the department should play an active role in assisting the council in the CEO recruitment and performance review processes. Another option is that prior to selection, the



Department could provide a reference check and possible recommendations for training for the shortlisted candidates for the positions of CEO.

To increase transparency and foster greater trust in local government, the Panel believed that elected members should declare in their Primary and Annual Returns interests that could be perceived as affecting decision-making. This would include membership of political parties, business associations and the holding of any office in an incorporated association such as a sporting club.

Expanded Requirements for Training and Professional Development

56. The Panel recommends the following in relation to training:

- a. New CEOs (including CEOs moving to a substantially larger local government) should be required to undertake training and ongoing professional development as recommended by the selection panel.**
- b. There should be compulsory induction training and ongoing professional development for all councillors, including specific programs for mayors and presidents.**
- c. Training modules for all councillors should include in-depth material on IPR and land use planning.**
- d. The Minister should have discretion to exempt completion of training within the stipulated time on compelling grounds.**
- e. Expanded use of peer review and support should be encouraged both to help improve the performance of individuals and local governments.**

The Panel discussed the importance of training for elected members, including training beyond the foundation units in such areas as land use planning. Additional training should also be required of mayors and presidents to provide them with such skills as leadership, conducting meetings and managing disputes. Training for new CEOs was also considered vital so that they had knowledge across the whole portfolio of their responsibilities. This need should be identified during the recruitment process and training should commence shortly after appointments are made. The Department could also identify training needs in CEOs and senior staff and advise the relevant mayor/president.

A New Early Intervention Framework

57. The Panel recommends that there should be an early intervention framework of monitoring to support local governments. The department should have additional powers to appoint and support the monitor with councils responsible for the direct costs of the monitor.

The Panel agreed that the department should assist councils through early intervention to remedy weaknesses and provide mentoring and support. This would be in addition to the department's role in policy development, legislation and statutory approvals.

A key benefit of an early intervention model would be the ability for the department to work with local governments to improve their performance, governance and compliance with legislation and to strengthen the capacity of local governments.



This model should enable the department to appoint a monitor to support local governments that are experiencing governance issues. The role of a monitor would be to observe governance processes and report back on issues; provide advice to councils that are experiencing governance issues, and to make recommendations to the Minister for Local Government for further action. The relevant council should be advised of the terms of the monitor appointment.

The Panel saw value in a power to extend the role of a monitor to temporarily take over certain functions of a local government when good governance practices are not being adopted or services are not being delivered to segments of the community.

They also saw value in Department staff having the right of access to council meetings, including closed meetings.

58. The Panel recommends the Minister should have the power to direct local governments and make declarations in respect to the Local Government Act during a declared state of emergency.

The COVID-19 situation has highlighted the need for the Minister to be able to direct local governments and make declarations without having to apply to the State Emergency Coordinator so that the Local Government Act can be applied flexibly and adapt to the changing environment of an emergency.

Establishment of an Office of the Independent Assessor

59. The Panel recommends establishing an Office of the Independent Assessor that should:

- a. Be an independent body to receive, investigate and assess complaints against elected members and undertake inquiries. This removes the CEO from being involved in processing and determining complaints.
- b. Be a statutory appointment by the Governor.
- c. Upon assessment, refer the complaint back to the council (behaviour-related), the State Administrative Tribunal (SAT) (serious breaches), or to another appropriate body (such as, Corruption and Crime Commission, Public Sector Commission, Ombudsman) according to the subject of the complaint.
- d. Replace the Standards Panel by investigating and making determinations on Rules of Conduct breaches. SAT will determine the penalties.
- e. Amongst other powers, have the power to investigate, to order compulsory mediation and to deal with abuses of process.
- f. Be required to notify the CEO and council of any matters on a confidential basis.

60. The Panel recommends consideration should be given to the appropriate recognition and management of complaints by an elected member against a CEO or other senior officer, with one option for these to be investigated by the Office of the Independent Assessor.



The Panel considered the range of bodies that currently play a role in ensuring the integrity of local governments. They supported the continuation of the Ombudsman's role in dealing with complaints related to local government administrative decisions.

The Panel supported the creation of an Office of the Independent Assessor, an independent "one stop shop" body to investigate and assess complaints against elected members. The Independent Assessor could assess and prioritise all complaints and, depending on the outcome of its investigations, refer it to the relevant agency. This could include the Corruption and Crime Commission, the Public Sector Commission, or the State Administrative Tribunal for mediation, possible further investigation and determination of a sanction/s. Where a complaint involves behaviour it could be referred back to the council to deal with under Part B of the new Code of Conduct provisions. It was suggested that the Queensland model for an Independent Assessor may provide appropriate guidance.

The Office of the Independent Assessor would require a team of investigators and the Panel considered that the Office could take over the department's current role in conducting inquiries and investigations. The Independent Assessor could advise the Minister on suspension and dismissals of elected members and councils. It could also have powers to make recommendations to the State Administrative Tribunal and local governments.

The Office of Independent Assessor would replace the Standards Panel, and have the power to investigate complaints of breach of Part C of the Code of Conduct. Its findings in relation to breaches of conduct could be referred to the State Administrative Tribunal for imposition of the penalty.

The Panel considered that there should be a power under the Act for the appointment of an acting CEO to temporarily take the place of a CEO if an investigation by the Office of Independent Assessor reveals serious deficiencies in the way the local government is administered.



Other Matters

Classification Bands

61. The Panel recommends:

- a. The new Act should set principles for determining classification bands for local governments.
- b. These classification bands should be used by the Salaries and Allowances Tribunal for determining councillor and CEO payments, as well as providing a framework for distinguishing between local governments in relation to other matters.

The Panel was of the opinion that the principles behind the setting of bands for the payment of salaries and allowances should be set in the new Local Government Act, rather than by the Salaries and Allowances Tribunal, with the Tribunal responsible for the setting of the monetary figures for each category.

These bands should have wider application; being used to determine whether a local government should have wards, as an example. This would create a level of consistency in treatment of local governments considered to be similar according to the principles.

Local Laws

62. The Panel recommends the increased harmonisation of local laws through the development of model local laws and deemed provisions.

63. The Panel recommends requiring local governments to justify to the Joint Standing Committee on Delegated Legislation any variation from the model or deemed provisions.

The Panel saw merit in laws being harmonised throughout the State; however, agreed that there should be flexibility for local governments to tailor local laws to address certain, limited, local matters.

The Panel also saw value in the introduction of deemed provisions which operate in a manner similar to the Planning and Development deemed provisions regulations. Deemed provisions are essentially uniform local laws which will operate across the State. They can also be amended from time to time and will override any inconsistent local laws.

The benefit of deemed provisions is that there is more consistency across the State for matters where harmonisation is considered important. It also reduces the need for local governments to develop their own laws with the accompanying capability and capacity implications.

The development of model local laws which complement the deemed provisions will allow local governments the flexibility to introduce specific provisions to their districts. The “local” would be delivered through the identification of certain elements that could be district or region specific, with the council having the power to specify these.

The Joint Standing Committee on Delegated Legislation, in approving the model local laws or deemed provisions, would approve the extent to which these could be altered without referral back to the Committee. Further public consultation would not be required on these variations but could be undertaken by the local government.



The use of model local laws and deemed provisions would reduce the administrative burden on local governments to consult. If a local government wanted to introduce provisions outside the model or deemed provisions, consultation would be required and the law would need to be scrutinised by the Joint Standing Committee on Delegated Legislation. The local government should have to justify to the Committee why such a deviation was necessary or desirable.

The Panel also supported a restriction on the range of matters over which a local government could introduce a local law; with approval necessary outside of this.

Western Australian Local Government Association

64. In relation to WALGA, the Panel recommends:

- a. WALGA not be constituted under the new Act;**
- b. A transition period is provided to ensure continuity in operations of WALGA while it is re-formed under other legislation; and**
- c. Recognition of WALGA's Preferred Supplier Program and mutual insurance coverage in the legislation should be accompanied by appropriate oversight measures, including auditing.**

The Panel deliberated the merits of WALGA being constituted under the Local Government Act and determined that it was not appropriate to incorporate a member body under this legislation. This created confusion as to the extent of the Minister's powers over the organisation and WALGA's level of independence.

More appropriate legislation would appear to be the *Associations Incorporation Act 2015*. Transitional provisions should be included in the new Local Government Act to allow for the orderly reconstitution of WALGA without affecting their operations.

This change would not restrict the new Act (or other Acts) from referencing WALGA membership on boards and committees.

The Panel saw merit in the sector being able to use its aggregated buying power through use of WALGA's preferred supplier program and their mutual insurance coverage. Recognition of these initiatives in the legislation should be accompanied by a power for the Auditor General to conduct regular audits of these programs and related processes.



Operational Provisions

65. The Panel also identified the following operational matters to be considered when drafting the new Act:
- a. The powers of entry in the current Local Government Act should be retained.
 - b. The current evidence requirements in legal proceedings should be retained, however the requirement for the CEO to certify the documents should be removed. This should be delegated and the range of items that can be certified expanded after consultation with local governments.
 - c. The new Act should be updated to reflect the modern signing of contracts.
 - d. A more streamlined ability to dispose of impounded goods needs to be developed for the new Act.
 - e. The new Act should enable councillors and members of the community (in the case of public questions and deputations) to remotely participate in council and committee meetings.
 - f. Employment entitlements for local government employees should be transferrable across all three levels of Government.



ATTACHMENT 1

Example of Introductory Sections

Northern Territory Local Government Act 2019 Part 1.2

Section 4(1).

The underlying principles of this Act are as follows:

- (a) Local government is a distinct and essential sphere of government.
- (b) The system of local government:
 - i. needs to be flexible and adaptable to the diverse interests and needs of the many communities within the Territory; and
 - ii. needs to be comprehensive, democratic, responsive to community needs and accountable both to local communities and the public generally.

Section 5.

The rights and interests of Indigenous traditional owners, as enshrined in the Aboriginal Land Rights (Northern Territory) Act 1976 (Cth) and the Native Title Act 1993 (Cth), are to be recognised and the delivery of local government services must be in harmony with those laws.

Section 6.

This Act provides for the following:

- (a) the establishment of a democratic and effective system of local government that recognises the diversity of communities in the Territory;
- (b) the conferral of wide powers on councils to act for the advancement, and in the best interests, of their local communities;
- (c) the enabling of councils to play a broad role in promoting the social, economic, environmental, and cultural well-being of their local communities;
- (d) the imposition of high standards of ethical conduct on council members;
- (e) the requirement on councils of high standards of governance, service delivery, asset management and financial accountability;
- (f) the requirement on councils to promote and assist constructive participation by their local communities in achieving effective local government for their areas.



ATTACHMENT 2

Example of Functions of a Local Government

South Australia Local Government Act

Section 7: Functions of a council

The functions of a council include—

- (a) to plan at the local and regional level for the development and future requirements of its area;
- (b) to provide services and facilities that benefit its area, its ratepayers and residents, and visitors to its area (including general public services or facilities (including electricity, gas and water services, and waste collection, control or disposal services or facilities), health, welfare or community services or facilities, and cultural or recreational services or facilities);
- (c) to provide for the welfare, well-being and interests of individuals and groups within its community;
- (d) to take measures to protect its area from natural and other hazards and to mitigate the effects of such hazards;
- (e) to manage, develop, protect, restore, enhance and conserve the environment in an ecologically sustainable manner, and to improve amenity;
- (f) to provide infrastructure for its community and for development within its area (including infrastructure that helps to protect any part of the local or broader community from any hazard or other event, or that assists in the management of any area);
- (g) to promote its area and to provide an attractive climate and locations for the development of business, commerce, industry and tourism;
- (h) to establish or support organisations or programs that benefit people in its area or local government generally;
- (i) to manage and, if appropriate, develop, public areas vested in, or occupied by, the council;
- (j) to manage, improve and develop resources available to the council;
- (k) to undertake other functions and activities conferred by or under an Act.



ATTACHMENT 3

Possible Approaches to Structural Reform

South Australia Local Government Act

Following negotiations between the State government and the Local Government Association the South Australian Act was amended in 2018 to introduce a new, more flexible process for structural reform, set out in sections 26-32C (see below). Importantly, section 26(d) states that *the Commission should, so far as is relevant, give preference to structural changes that enhance the capacity of local government to play a significant role in the future of an area or region from a strategic perspective.*

Other principles (section 26(1)(c)) are as follows:

- i. the resources available to local communities should be used as economically as possible while recognising the desirability of avoiding significant divisions within a community;
- ii. proposed changes should, wherever practicable, benefit ratepayers;
- iii. a council should have a sufficient resource base to fulfil its functions fairly, effectively and efficiently;
- iv. a council should offer its community a reasonable range of services delivered on an efficient, flexible, equitable and responsive basis;
- v. a council should facilitate effective planning and development within an area, and be constituted with respect to an area that can be promoted on a coherent basis;
- vi. a council should be in a position to facilitate sustainable development, the protection of the environment and the integration of land use schemes;
- vii. a council should reflect communities of interest of an economic, recreational, social, regional or other kind, and be consistent with community structures, values, expectations and aspirations;
- viii. a council area should incorporate or promote an accessible centre (or centres) for local administration and services;
- ix. the importance within the scheme of local government to ensure that local communities within large council areas can participate effectively in decisions about local matters;
- x. residents should receive adequate and fair representation within the local government system, while over-representation in comparison with councils of a similar size and type should be avoided (at least in the longer term);
- xi. a scheme that provides for the performance of functions and delivery of services in relation to 2 or more council (for example, a scheme for regional governance) may improve councils' capacity to deliver services on a regional basis and therefore offer a viable and appropriate alternative to structural change.

Key elements of the process set out in sections 27-32C of the Act include:

- Responsibility for processing boundary changes transferred from the former Boundary Adjustments Facilitation Board to the Grants Commission, which operates with a very high level of independence and determines the guidelines under which the process operates.
- The Minister is limited to being one party who can propose boundary changes or mergers for the Commission's consideration, and making the final decision to accept or reject the



Commission's recommendation – a decision to reject the Commission's recommendation must be reported to Parliament.

- Changes or mergers can also be proposed by local governments (groups or individual), by either house of Parliament, and by a specified number of eligible electors.
- The Commission can decide not to investigate a proposal it considers trivial, a repeat of a previous proposal, or in some other way inappropriate or contrary to the public interest.
- Minor ('administrative') proposals can be processed quickly by the Commission with or without community consultation.
- A two-stage process is required for major ('general') changes – preliminary analysis followed (if considered appropriate) by detailed investigation and extensive community consultation (some sort of public inquiry).
- No requirement for binding referenda.
- All the Commission's findings and recommendations must be reported publicly on a website.



ATTACHMENT 4

Example of Principles for Inter-Governmental Relations

British Columbia Community Charter Act

Section 23. Agreements with other public authorities

- (1) A council may make agreements with a public authority respecting
 - a) activities and services within the powers of a party to the agreement, including agreements respecting the undertaking, provision and operation of activities and services,
 - b) operation and enforcement in relation to the exercise of authority to regulate, prohibit and impose requirements within the powers of a party to the agreement, and
 - c) the management of property or an interest in property held by a party to the agreement.

Principles of municipal-provincial relations (given effect in sections 276 and 277)

- (1) The citizens of British Columbia are best served when, in their relationship, municipalities and the Provincial government
 - a) acknowledge and respect the jurisdiction of each,
 - b) work towards harmonization of Provincial and municipal enactments, policies and programs, and
 - c) foster cooperative approaches to matters of mutual interest.
- (2) The relationship between municipalities and the Provincial government is based on the following principles:
 - a) the Provincial government respects municipal authority and municipalities respect Provincial authority;
 - b) the Provincial government must not assign responsibilities to municipalities unless there is provision for resources required to fulfill the responsibilities;
 - c) consultation is needed on matters of mutual interest, including consultation by the Provincial government on
 - (i) proposed changes to local government legislation,
 - (ii) proposed changes to revenue transfers to municipalities, and
 - (iii) proposed changes to Provincial programs that will have a significant impact in relation to matters that are within municipal authority;
 - d) the Provincial government respects the varying needs and conditions of different municipalities in different areas of British Columbia;



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LOCAL GOVERNMENT ACT REVIEW >>> DELIVERING FOR THE COMMUNITY

- e) consideration of municipal interests is needed when the Provincial government participates in interprovincial, national or international discussions on matters that affect municipalities;
- f) the authority of municipalities is balanced by the responsibility of the Provincial government to consider the interests of the citizens of British Columbia generally;
- g) the Provincial government and municipalities should attempt to resolve conflicts between them by consultation, negotiation, facilitation and other forms of dispute resolution.



5.5 Local Government Review Panel Final Report (05-034-01-0001 TB)

Tony Brown, Executive Manager Governance and Organisational Service
James McGovern, Manager Governance

WALGA carried out an extensive consultation process on Phase 2 of the Local Government Act Review in 2018/19, culminating in sector positions being endorsed by State Council in March 2019. This agenda item considers the Local Government Review Panel's recommendations in the context of the sector's current advocacy positions.

The Minister for Local Government has not considered the Panel's recommendations at this stage and has not requested a consultation process on the report. WALGA is taking the opportunity to obtain a sector opinion on the recommendations to provide to the Minister.

The Recommendations below are subject to Zone input and all Zone recommendations will be collated into a consolidated recommendation that will be provided for State Council consideration at its meeting on 2 September 2020.

Recommendations

1. That WALGA **SUPPORT** the following Recommendations from the Local Government Review Panel Final Report:

- Recommendations 1, 2, 3, 4, 6 and 7;
- Recommendation 8;
- Recommendation 11;
- Recommendations 12, 13 and 14;
- Recommendation 15;
- Recommendations 16 and 17;
- Recommendation 24;
- Recommendations 25(b) to (f);
- Recommendations 26(b), (d), (e) and (f);
- Recommendations 28, 29, 30, 31, 32(1)(a) to (o) and 32(2)(a);
- Recommendations 33 and 34;
- Recommendations 36 and 37;
- Recommendations 38(c), (d) and (e);
- Recommendations 39, 40, 41(a) to (g) and (i);
- Recommendation 42;
- Recommendations 43 and 44;
- Recommendations 45, 46, 47, 48 and 49;
- Recommendations 50, 51 and 52;
- Recommendation 54;
- Recommendations 55(a), (b), (d), (e), (f), (h) and (i);
- Recommendation 56;
- Recommendation 57;
- Recommendation 59;



- Recommendations 62 and 63;
 - Recommendation 64 (c);
 - Recommendations 65(a) to (e).
2. That WALGA OPPOSE the following Recommendations from the Local Government Review Panel Final Report:
- Oppose Recommendation 5;
 - Oppose Recommendations 20, 21 and 27;
 - Oppose Recommendations 22 and 25(a);
 - Oppose Recommendations 23 and 25(a);
 - Oppose Recommendation 26(c);
 - Oppose Recommendations 32(2)(b) and (c);
 - Oppose Recommendation 35;
 - Oppose Recommendations 38(a) and (b);
 - Oppose Recommendation 41(h);
 - Oppose Recommendations 53(a) and (b);
 - Oppose Recommendations 55 (c) and (g);
 - Oppose Recommendation 58;
 - Oppose Recommendation 60;
 - Oppose Recommendation 61;
3. That WALGA CONDITIONALLY SUPPORT the following Recommendations from the Local Government Review Panel Final Report as described:
- Recommendations 9 and 10 and but oppose any proposal to remove the poll provisions (Dadour provisions) in Clause 8, Schedule 2.1 of the Local Government Act;
 - Recommendation 18 and reiterate WALGA's current advocacy position that there be adequate funding of legislative responsibilities assigned to Local Governments in relation to service delivery to remote Aboriginal communities;
 - Recommendation 19 in support of a broad review of the property franchise including a community consultative process;
 - Recommendation 26(a) conditional upon a review of the relative benefits and merits of changes to reduce numbers of Elected Members on Council be supported, on the following basis:
 - Populations up to 5,000 – 5 to 7 Councillors (incl. President)
 - Populations between 5,000 and 75,000 – 5 to 9 Councillors (incl. Mayor/President)
 - Populations above 75,000 – up to 15 Councillors (incl. Mayor);
4. That WALGA carry out further consultation on the following Recommendations from the Local Government Review Panel Final Report:
- Recommendation 22 – Property Franchise;
 - Recommendations 64(a) and (b) - WALGA
 - Recommendation 65(f) – Transfer of Employee Entitlements



Executive Summary

- In 2017 the State Government announced a review of the *Local Government Act 1995*.
- Given the breadth of matters covered by the Local Government Act, a staged approach to the review was adopted:
 - Stage one: priority reforms
 - Stage two: wide ranging reforms leading to a new LOCAL Government Act
- This agenda item relates to the Stage 2 reforms. The Department of Local Government carried out a consultation process in 2018/19 where over 3,000 submissions were received.
- The Minister for Local Government appointed an Independent Panel to consider submissions received by the Department of Local Government Sport and Cultural Industries on the review of the Local Government Act in November 2019.
- The Panel's report has made 65 recommendations
- The Panel's report does not represent Government policy; the Minister for Local Government has stated the report will be considered as part of the Act Review process.
- This agenda item seeks a sector position on the recommendations. The recommendations to support, oppose or seek further consultation or information is proposed in this item.

WALGA Process

The Association recognizes the Report is a high level document that is based on identifying principles that will drive the development of a modern Local Government Act. The Association therefore considered the Report from the perspective of the sector's current advocacy positions.

This Item provides commentary on support for recommendations that met or where similar to adopted advocacy positions. This Item also identifies significant departure from advocacy to the extent that support cannot be recommended without further sector consideration of WALGA's position.

Attachment

The Panel's Report can be found [here](#).

Comment

The following comment is a comparison of State Council's record of advocacy on matters raised in the Local Government Review Panel Final Report:



CLEAR LEGISLATIVE INTENT

Recommendations 1 to 7 – Introduction and Role and Functions of Local Government

Local Government Act Reference: Part 1

Recommendation 1 proposes a strategic approach to the consideration of the Report recommendations.

Recommendation 2 introduces a new statement of intent that will explain the legislations purpose:
An Act to provide for a system of local government relevant to Western Australia that develops and supports sustainable, accountable, collaborative and capable local governments through democratic representation, the provision of services, opportunities and enhanced well-being for each and every community.

Recommendation 3(a) to (j) proposes objectives for the legislative framework 'to support Local Governments having the agility, adaptability and flexibility to respond to changing community expectations and technology'.

Recommendation 4 proposes a shorter, less prescriptive Act that minimizes the use of regulations in favour of a principles-based approach.

Recommendation 5 proposes recognition of the diversity of Local Governments however it does not support a multi-tiered (size and scale) legislative framework.

Recommendation 6 proposes upholding the power of general competence predicated in the current Local Government Act.

Recommendation 7 (a) to (i) proposes guiding principles for sustainable, accountable, collaborative and capable Local Governments.

WALGA Comment – WALGA advocacy supports many of the proposals in Recommendations 1 to 7, principally that the Local Government Act Review be based on a 'Principles over Prescription' approach that avoids red tape and 'declutters' the extensive regulatory regime that currently exists¹ (Recommendations 3 and 4) and maintaining the general competence principle² (Recommendation 6) which frees Local Governments to make any decision that does not conflict with statute or common law. Recommendation 7 aligns with WALGA advocacy for enabling legislation.³ Recommendation 5 is unresponsive of WALGA advocacy that promotes a size and scale compliance regime⁴ and it is recommended that WALGA maintain its current advocacy for a Local Government Act that is reflective of the differences and diversity of Local Governments in Western Australia.

WALGA Recommendation: Support Recommendations 1, 2, 3, 4, 6 and 7. Oppose Recommendation 5

¹ State Council Resolution 06.3/2019 Items 1, 1(b) and 1(e)

² State Council Resolution 06.3/2019 Item 1(a)

³ State Council Resolution 60.3/2019 Item 1(d)

⁴ State Council Resolution 06.3/2019 Item 1(c)



AN AGILE SYSTEM

Recommendations 8 to 11 - Structural Reform

Local Government Act Reference: Part 1; Section 2.1(2) and Schedule 2.1, cl. 8

Recommendation 8 proposes to combine the Local Government Grants Commission and Local Government Advisory Board to form a Local Government Commission, with roles assigned that will engender a strategic approach to its operation including monitor the performance and financial health of the sector, the latter in collaboration with the Office of the Auditor General, in addition to traditional functions such as distributing Commonwealth grant funding to Local Governments and boundary changes. Establishment of the Commission under this strategic framework will require skills-based appointments rather than by representation.

Recommendations 9 and 10 supports a legislative framework that is flexible, responsive and resilient and capable of facilitating community participation. There are also specific proposals for structural reform including revised processes for boundary changes and mergers, enhanced model of joint subsidiaries (see Recommendation 14) and provision for the establishment of community boards. Commentary associated with Recommendation 9 sees flaws in the current poll provisions found in Clause 8 of Schedule 2.1 ('Dadour provisions') as being '*...unduly restrictive when Local Governments need to adapt to changing circumstances*'.

Recommendation 11 proposes the potential to establish community boards, with reference to examples of successful international models. While community boards might be formed in response to mergers or for use by large Local Governments to devolve certain responsibilities to community representatives, the proposal makes clear that the overall responsibility for decision-making and authority will rest with the 'parent' Local Government. See also Recommendation 33 'Community Engagement'.

WALGA Comment – WALGA does not have an advocacy position in relation to Recommendation 8 'Local Government Advisory Board' and this may be a matter for sector consultation. Recommendations 9 and 10 propose a legislative framework that has similar themes to WALGA's advocacy that the Local Government Act Review promote a flexible, principles-based legislative framework⁵.

WALGA has a long-standing advocacy position for the retention of the Dadour provisions that give electors a right to demand a poll on recommended amalgamations⁶. This advocacy is tied to the principle that the Dadour provisions are the ultimate expression of community support or rejection of amalgamation proposals. Although not a specific recommendation, the commentary appears contradictory to the general themes expressed throughout the Report for increased opportunities for community consultation⁷. The community board proposal in Recommendation 11 is similar to WALGA advocacy for community engagement that is based on principle rather than prescription⁸.

WALGA Recommendation: Support the general intent of Recommendations 8 and 9. Oppose any proposal to remove the poll provisions (Dadour provisions) in Clause 8, Schedule 2.1 of the Local Government Act. Support Recommendation 11.

⁵ State Council Resolution 06.3/2019 at 1(b)

⁶ State Council Resolution 06.3/2019; 121.6/2017; 108.5/2014

⁷ For example, Recommendations 9, 10(c), 11, 33, 34, 35

⁸ State Council Resolution 06.3/2019



Recommendations 12, 13 and 14 - Expanded Regional Cooperation

Local Government Act Reference: Part 3, Division 4

Recommendations 12 and 13 promotes expanding opportunities for regional cooperation between Local Governments under improved regional subsidiaries model for shared services, and through a new form of regional authority for specific issues. Recommendation 14 proposes an end to the regional council model in favour of regional cooperation models set out in the previous recommendations.

WALGA Comment – WALGA has a strong advocacy history in support of regional subsidiaries⁹ and is disappointed that the complexity of the existing legislative provisions means that no regional subsidiaries have formed since the Act amendment of 2016. WALGA has independently developed a revised version of regulations that limits unnecessary compliance without diluting transparency and accountability of regional subsidiaries, and therefore welcomes recommendations that will facilitate regional cooperation under this model.

WALGA is cognisant that regional councils are often formed for a singular purpose, most commonly waste management, yet compliance obligations are generally equivalent to that of a Local Government. It is current WALGA advocacy that the compliance obligations of regional councils should be reviewed¹⁰. It appears the recommendations will create a suitable opportunity for the transition of regional councils to a model more suitable to the participant Local Governments.

WALGA Recommendation: Support Recommendations 12, 13 and 14.

Recommendation 15 - State Local Government Partnership Agreement

Local Government Act Reference: Section 3.18

Recommendation proposes a set of principles for intergovernmental relations that makes clear Local Government's role and obligations as part of a broader system of government.

WALGA Comment – WALGA's advocacy is for a communication and consultation protocol that ensures a consultation process precedes regulatory or compliance changes that affect the sector¹¹. The current Partnership Agreement signed in 2017 is currently under review.

Section 3.18 'Performing executive functions' includes apparently similar objectives to Recommendation 15, whereby a Local Government considers matters such as; integration and coordination; avoidance of inappropriate duplication; and effective and efficient management of services and facilities that may also be provided by the State and Commonwealth. This creates adequate space for the general competence principle to apply when a Local Government considers the range and scope of its executive functions, services and facilities.

WALGA Recommendation: Support Recommendation 15.

⁹ State Council Resolutions 121.6/2017; 106.6/2016; 94.4/2011; 114.5/2010

¹⁰ State Council Resolution 06.3/2019

¹¹ State Council Resolution 2.1/2012



INCLUSIVE LOCAL DEMOCRACY

Recommendations 16 and 17 - Relations with Aboriginal Peoples and Communities and Recommendation 18 - Service Delivery in Remote Communities

Local Government Act Reference: Not mandated

Recommendations 16 and 17 contemplate a Local Government Act that includes recognition of the unique status of Aboriginal peoples and inclusion of mechanisms for consultation and engagement. Recommendation 18 recommends further consideration of service delivery to remote communities through improved integration with Integrated Planning and Reporting requirements.

WALGA Comment – WALGA’s advocacy recognises and respects Aboriginal cultural practices and places through development of Reconciliation Action Plans¹², and is supportive of efforts to improve the living conditions and governance in Aboriginal communities.¹³

There are 287 discrete Aboriginal communities in WA accommodating approximately 17,000 Aboriginal people spanning 26 Local Government districts. It is therefore inevitable that service delivery considerations are coordinated with State and Federal Government departments and agencies with relevant responsibilities, to mitigate against cost-shifting responsibility to individual Local Governments with limited financial capacity.

WALGA adopted the advocacy position that *‘the State Government must not assign legislative responsibilities to Local Governments unless there is provision for resources required to fulfil the responsibilities’*¹⁴.

The commentary associated with Recommendation 18 raises a necessary discussion regarding service delivery to remote Aboriginal communities but lacks detail on how the inter-governmental responsibilities and funding arrangements associated with efficient and timely service delivery can be better achieved.

WALGA Recommendation: Support Recommendations 16 and 17, and reiterate WALGA’s current advocacy position in relation to Recommendation 18, that there be adequate funding of legislative responsibilities assigned to Local Governments in relation to service delivery to remote Aboriginal communities.

Recommendation 19 - Optional Preferential Voting

Local Government Act Reference: Section 4.69, 4.74 and Schedule 4.1

The Report recommends a system of voting that better represents the community’s preference for candidates that is not currently delivered by a first past the post system, where a candidate does not require a clear majority of votes to be elected.

WALGA Comment – WALGA’s advocacy position supports the current ‘first past the post’ system. WALGA has previously opposed other forms of voting¹⁵ and the system of proportional preferential

¹² State Council Resolution 118.5/2012

¹³ State Council Resolution 64.3/2014

¹⁴ State Council Resolution 06.3/2019 at 1(f)

¹⁵ State Council Resolutions 185.2/2007 and 427.5/2008



voting was briefly introduced to the Local Government Act for one election cycle before being repealed and returned to first past the post voting in 2009¹⁶.

WALGA Recommendation: Oppose Recommendation 19 any alternative voting system in favour of retaining the first past the post system.

Recommendations 20, 21 and 27 - Review of Property Franchise

Local Government Act Reference: Sections 4.30 → 4.35; Section 4.66

Recommendation 20 proposes mandating one vote per person, which is currently prescribed in Section 4.65 albeit in the context of the property franchise. Recommendation 21 proposes discontinuing enrolment entitlement through ownership or occupation of rateable property. Property franchise claims result in enrolment on the Owner's and Occupiers Roll, forming the second limb of voter entitlement alongside the Residents Roll.

The Expert Panel proposes increasing participation, consultation and involvement of business owners and operators by Local Governments including mechanism such as business advisory groups. Recommendation 27 recommends consultation be undertaken to determine whether the property franchise continue within the City of Perth, in concert with a review of the *City of Perth Act 2016*. Currently, Part 4 of the Local Government Act applies to the election of council members of the City of Perth, and Section 20 of the *City of Perth Act 2016* applies to the election of the Lord Mayor.

WALGA Comment – WALGA has not adopted an advocacy position relevant to the recommendations.

It is recommended that support be given to a broad consultative process with Local Governments, the business sector, communities and relevant stakeholders to assess whether or not owners and occupiers of rateable property should have a right to vote in a modern democratic electoral system.

WALGA Recommendation: Oppose Recommendations 20, 21 and 27 Support a review of the property franchise including a broad community consultative process.

Recommendation 22 - All In/All Out 4 Year Election Cycle

Local Government Act Reference: Section 4.5

Recommendation 22 proposes Elected Members be elected at the same time, every four years. This aligns with the election of State Parliamentarians. An acknowledged detriment is the potential loss of corporate knowledge due to non-election of experienced councillors, whereas benefits include potential increased participation by candidates and electors and reduced election costs to Local Governments.

WALGA Comment – There is no WALGA advocacy position relevant to this proposal. It is therefore recommended that the sector be consulted and the resultant views be considered in developing WALGA's advocacy position.

WALGA Recommendation: That the sector be consulted prior to WALGA considering its advocacy position in relation to Recommendation 22.

¹⁶ *Local Government Amendment (Elections) Act 2009*



Recommendations 23, 24 and 25(a) – Conduct of Elections

Local Government Act Reference: Section 4.20 and 4.61

Recommendation 23 is that the Western Australian Electoral Commission (WAEC) take responsibility for all Local Government elections, with the consequence that a Local Government CEO will no longer be the Returning Officer of first resort. Recommendation supports electronic/online voting. Recommendation 25(a) adds to the currently mandated role of the WAEC by proposing all elections are by postal voting, ending the option on in-person voting.

WALGA Comment – WALGA advocates for an end to the WAEC’s enshrined monopoly on the conduct of postal elections by amending legislation to permit third parties to be service providers of postal elections¹⁷.

WALGA Recommendation: Support Recommendation 24; Oppose Recommendations 23 and 25(a); WALGA reiterate its position that third parties be permitted as service providers for postal elections.

Recommendations 25(b) to (f) - Other Election Proposals

Recommendation (b) proposed the extension of the election process to optimise participation. Recommendation 25(c) ‘Candidate Nomination Information’ is adapted from a model similar to Victorian legislation that requires candidates to respond to a set of questions prescribed by regulation in the form of a statutory declaration. Recommendation 25(d) – Caretaker Policies are increasingly evident in Local Government; in 2016, WALGA committed to develop the currently-available template Caretaker Policy¹⁸.

Recommendation 25(e) seems to reflect current legislation¹⁹ and Recommendation (f) identifies the prospect that potential donations can be crowdfunded in the absence of a gift declaration and this is likely to undermine integrity of the election process.

WALGA Recommendation: Support Recommendations 25(b) to (f)

Recommendation 26(a) - Elected Member Numbers Based on Population

Local Government Act Reference: Section 2.17

The Report proposes the following structures for Elected Member positions on Council:

- (i) Population up to 5,000 – 5 Councillors (incl. President)

This proposal will capture approximately 81 Local Governments (1 metro, 80 non-metro)

- (ii) Population between 5,000 and 75,000 – 5 to 9 Councillors (incl. Mayor/President)

This proposal will capture approximately 47 Local Governments (19 metro, 28 non-metro)

- (iii) Population above 75,000 – 9 to 15 Councillors (incl. Mayor)

This proposal will capture approximately 11 Local Governments (10 metro, 1 non-metro)

¹⁷ State Council Resolution 06.3/2019

¹⁸ State Council Resolution 16.1/2016

¹⁹ Regulations 30B and 30CA of the *Local Government (Elections) Regulations*



WALGA Comment – WALGA adopted an advocacy position in 2011 opposing a previous proposal to reduce the number of Elected Members to between 6 and 9²⁰. At the time, WALGA requested a proper examination of the relative benefits and merits of any proposal to reduce numbers of Elected Members be conducted. There is still merit in reviewing numbers on Council and the proposal is worthy of consideration although limiting populations of up to 5,000 to a fixed number of 5 Councillors lacks the flexibility that is easily resolved by extending the maximum number of Councillors to 7.

WALGA Recommendation: Oppose Recommendation 26(a) and propose that a review of the relative benefits and merits of changes to reduce numbers of Elected Members on Council be supported, on the following basis:

- (i) **Populations up to 5,000 – 5 to 7 Councillors (incl. President)**
- (ii) **Populations between 5,000 and 75,000 – 5 to 9 Councillors (incl. Mayor/President)**
- (iii) **Populations above 75,000 – up to 15 Councillors (incl. Mayor)**

Recommendation 26(b) to (f) – Wards, Mayor/President Election and Term Limits

Local Government Act Reference: Part 2 and Part 4; Schedule 2.2

Recommendation 26 (b) to (f) proposes a number of adjustments associated with Recommendation 8 - Local Government Advisory Board/Local Government Commission. These proposals include:

- Recommendation 26(b) - system of ward boundary reviews;
- Recommendation 26(c) - discontinuance of ward boundaries for Band 3 and 4 Local Governments;
- Recommendation 26(d) - phasing in of proposals under Recommendation 26(a);
- Recommendation 26(e) - continuance of two year election cycle for Council-elected Mayors/Presidents; and
- Recommendation 26(f) - no limits to be placed on terms Elected Members and elected Mayor/President can serve.

WALGA Comment – Recommendation 26(e) aligns with WALGA advocacy that Local Governments retain the right to determine whether the Mayor / President will be elected by the Council or the community.²¹ WALGA has not adopted advocacy positions specific to the remaining proposals however Recommendation 26(c) conflicts with the general competence principle and the current self-determination inherent in the current ward review system. WALGA supports the ability for all Local Governments, not merely those in Band 3 and 4, to consider the merits of its system of representation and election on the basis of community of interest; physical and topographical features; demographic trends; economic factors and the ratio of Councillors to electors in the various wards.²²

WALGA supports the general intent of Recommendation 8 and similar support is proposed to the exclusion of Item (c).

WALGA Recommendation: Support Recommendations 26(b), (d), (e) and (f). Oppose Recommendation 26(c).

²⁰ State Council Resolution 08.1/2011 – ‘Reject the reduction in the number of Elected Members to between 6 and 9, and request the Minister engage the Department of Local Government in research to determine the relative benefits and merits of the proposal prior to further discussion with the Local Government sector’

²¹ State Council Resolution 06.3/2019; 121.6/2017

²² How to conduct a review of wards and representation for local governments with and without a ward system – Department of Local Government, Sport and Cultural Industries - October 2017, Page 6

Recommendations 28 to 32 - Redefinition of Roles and Responsibilities

Local Government Act Reference: Sections 2.7, 2.8, 2.10 and 5.41

Recommendation 28 sets the scene for Recommendations 29 to 32 by suggesting revised statements of roles and responsibilities that are specific to address the following issues:

- Community leadership
- Strategic planning
- Continuous improvement
- Executive function (for mayors/presidents)
- Guiding the CEO (for mayors/presidents)
- Training

WALGA Comment – Recommendations 28, 29, 30 and 31 are supported. Recommendations 32(1)(a) to (o), and 32(a) are supported. WALGA opposes Council involvement in matters relating to senior employees²³ as this conflicts with the role of the CEO as employing authority of all employees under Sec. 5.41(g) of the Local Government Act.

Recommendations 32(2)(b) and (c) are opposed. These recommendations seek to perpetuate ongoing Council involvement in matters relating to senior employees. WALGA points out that Regulation 9(1) of the *Local Government (Rules of Conduct) Regulation* was amended on 15 August 2020 to remove reference to Councillor involvement in administration where authorised by the Council to undertake that task.

This amendment directly relates to past findings such as the City of Canning Inquiry 2014, where the Inquirer noted this Regulation was used to involve Council in a matter directly related to the CEO's employing authority functions:

*Reg. 9(1) of the Local Government (Rules of Conduct) Regulations 2007 is a rule of conduct, and is not, by itself, a source of authority for intervention by the Council in Administration activities.*²⁴

WALGA Recommendation: Support Recommendations 28, 29, 30, 31, 32(1)(a) to (o) and 32(a). Oppose Recommendations 32(2)(b) and (c) to conclusively ensure that a Council cannot involve itself in the functions of the Chief Executive Officer as set out in Section 5.41 of the Local Government Act.

Recommendations 33 and 34 – Community Engagement and Governance

Local Government Act Reference: Sections 2.7, 2.8, 2.10 and 5.41

Recommendation 33 proposes a range of community engagement principles, and Recommendation 34 proposes a Community Engagement Charter be required as a mechanism for guiding and enhancing community participation in local decision-making.

WALGA Comment – WALGA advocates that Local Governments adopt a Community Engagement Policy, with each Local Government to implement the most appropriate means of engagement²⁵.

WALGA Recommendation: Support Recommendations 33 and 34.

²³ State Council Resolution 123.6/2017

²⁴ Report of the Panel of Inquiry into the City of Canning, May 2014 at 9.53

²⁵ State Council Resolution 06.3/2019

Recommendation 35 – Annual Engagement with Electors

Local Government Act Reference: Sections 5. 27

Recommendation 35 proposes a lesser version of the opportunity already available to electors but poorly attended historically. This raises the prospect that, in the absence of the opportunity to move motions at meetings, the proposed annual meeting will follow a similar trend.

WALGA Comment – WALGA advocates that Elector’s General Meetings should not be compulsory, on the basis that there is adequate opportunity for the public to participate in the affairs of the Local Government through attendance at Council Meetings, participating in public question time, requesting special electors’ meetings etc²⁶.

WALGA Recommendation: Oppose Recommendation 35 and seek amendment to the Act to ensure Electors’ General Meetings are not compulsory.

²⁶ State Council Resolution 06.3/2019; 121.6/2017; 09.1/2011



SMART PLANNING AND SERVICE DELIVERY

Recommendations 36 and 37 - Enhanced Integrated Planning and Reporting

Local Government Act Reference: Section 5.56; Local Government (Administration) Regulations Part 5, Division 3

Recommendation 36 and 37 propose enhanced Integrated Planning and Reporting principles and provisions and that Audit, Risk and Improvement Committee monitor performance against baseline measures including financial management, service delivery and community well-being.

WALGA Comment – WALGA has supported the Integrated Planning and Reporting framework dating back to the Systemic Sustainability Study of 2008 and broadly supported the regulatory amendments introduced in 2011.

WALGA Recommendation: Support Recommendations 36 and 37

Recommendations 38(a) and (b) – Minimum Service Levels

Local Government Act Reference: Section 3.18

Recommendations 38(a) and (b) are separated for independent consideration due to the potential for extensive consequences to the Local Government sector. Recommendation 38(a) proposes a minimum level of service delivery established as a statutory obligation, and Recommendation 38(b) proposes a qualified reserve power whereby the Minister for Local Government responds to a failure to deliver the minimum services by issuing an enforceable direction.

WALGA Comment: WALGA's closest advocacy positions to Recommendation 38 is 'principles over prescription' together with upholding the General Competence Principle²⁷. Recommendation 38(a) appears intended to create a commonality of service delivery that is potentially measurable across the sector, with service delivery outcomes either legislated or directed by the Minister for Local Government. This approach is anathema to the General Competence Principle that permits Local Governments to independently determine appropriate levels of service.

It is noted that continuance of the General Competence Principle is supported in Recommendation 6, but the contradictory nature of Recommendation 38(a), that determination of some services will be taken out of the hands of Local Governments and their communities, is neither identified nor examined in the Report.

Recommendation 38(b) is intended as a qualified reserve power however the associated commentary includes reference to directions relating to a natural disaster or a pandemic. The Local Government sector's experiences during the COVID-19 pandemic did not bring to light any deficiency in the capacity of the State Government to manage issues arising from a pandemic that would requiring the Minister for Local Government to assume emergency direction powers – see also Recommendation 58. WALGA advocates that the State Government ensure there is proper provision for resources required to fulfil any legislated responsibility²⁸.

WALGA Recommendation: Oppose Recommendation 38(a) and (b) and reiterate support for Recommendation 6 'General Competence Principle'.

²⁷ State Council Resolution 06.3/2019 Items 1(a) and (b); 120.6/2017

²⁸ State Council Resolution 06.3/2019 Item 1(f)



Recommendations 38(c), (d) and (e) – Service Levels and IPR

Local Government Act Reference: Section 5.56; Part 5, Division 3 Local Government (Administration) Regulations

Recommendations 38(c), (d) and (e) propose a range of measures to align financial sustainability principles and services and programs to the integrated planning and reporting framework, and to conduct regular service delivery reviews including community consultation.

WALGA Comment: WALGA supported the introduction of the Integrated Planning and Reporting ‘planning for the future’ provisions and the above recommendations broadly align with current level of maturity in community consultation processes and examination of service delivery leading to the development of Strategic Community Plans and Corporate Business Plans.

WALGA Recommendation: Support Recommendations 38(c), (d) and (e)

Recommendations 39 to 42 - Local & Joint Subsidiaries

Local Government Act Reference: Part 3, Division 4

Recommendation 39 proposes Integrated Planning and Reporting frameworks be cognisant of State Government plans when developing strategies for economic development.

Recommendation 40 proposes the new Local Government Act provide freedom for commercial activities, linking with Recommendation 41 which, whilst recommending against a beneficial enterprise model, makes positive recommendations for the support of commercial activities under an updated subsidiary model required to observe competitive neutrality principles. Recommendation 42 supports the use of regional subsidiary models unless qualified by the requirement to form an entity where the Local Government is not the dominant party.

WALGA Comment – It is noted that Recommendation 41(a) to (i) details the elements required for a flexible subsidiary model, including a proposal under 41(h) that employees of a subsidiary fall within the jurisdiction of the WA Industrial Relations Commission. This conflicts with current WALGA advocacy that such a transfer is conditional upon modernisation of the State system to be more consistent with the Federal industrial relations system²⁹.

WALGA has a long-held advocacy position for the creation of Beneficial Enterprises³⁰ with support for a vehicle for commercial activity (‘Council-controlled organisations’) dating back to WALGA’s Systemic Sustainability Study 2008³¹.

WALGA Recommendation: Support Recommendations 39, 40, 41(a) to (g) and (i) and 42. Oppose Recommendation 41(h).

²⁹ State Council Resolution 78.5/2018

³⁰ State Council Resolutions 06.3/2019; 121.6/2017; 107.5/2010; 114.5/2010

³¹ *The Journey: Sustainability into the Future* - Action 21, Page 49



Recommendations 43 and 44 - Modernise Financial Management

Local Government Act Reference: Part 6; Local Government (Financial Management) Regulations

Recommendation 43 proposes a modern set of principles to modernise financial management.

Recommendation 44 proposes a selection of measures in support of sound financial decision-making.

WALGA Comment – WALGA supports the general intent of the recommendations, aligning as they do with a number of advocacy positions³² including:

- Conduct a complete review of financial management provisions
- Freehold land be used to secure debt
- Enable Building Upgrade Finance

WALGA notes that the Report of the Inquiry into the City of Perth makes a number of recommendations³³ relating to financial management of all Local Governments including:

- Recommendation 188 : Establishment of Financial Management Instructions;
- Recommendation 189 : The 'WA Accounting Manual' dated September 2012 be reviewed and updated;
- Recommendation 190 : The format of format of the annual budget and financial report be prescribed for consistency across local government'

WALGA Recommendation: Support Recommendations 43 and 44

Recommendation 45 to 49 - Procurement

Local Government Act Reference: Section 3.57; Local Government (Functions and General) Regulations Part 4

Recommendation 45 proposes procurement thresholds, rules and policies be more closely aligned with the State Government. Recommendation 46 proposes a model Procurement Policy be adopted by all Local Governments. Recommendations 47 and 48 propose enhancing panel contracts and encouraging local business to register as local content providers. Recommendation 49 introduces the prospect that breaches of procurement rules be referred to an Independent Assessor for investigation.

WALGA Comment – WALGA has consistently supported the alignment of the tender threshold with that of the State Government³⁴ and broadly supports the principle that suppliers of goods, services and works competing for contracts will benefit where procurement processes across State and Local Government has more similarities than differences. These proposals will also assist recent endeavours of both State and Local Government to enhance opportunities for local and regional suppliers to access contracts and boost local economies in the post COVID-19 recovery phase.

WALGA Recommendation: Support Recommendations 45, 46, 47, 48 and 49

³² State Council Resolution 06.3/2019

³³ City of Perth Inquiry Report, Volume 3, Page 83

³⁴ State Council Resolution 06.3/2019



Recommendations 50, 51 and 52 - Rating and Revenue

Local Government Act Reference: Part 6; Local Government (Financial Management) Regulations

Recommendation 50(a) opposes rate capping and 50(c) proposes a broad review of rate exemptions available under Section 6.26(2) of the Local Government Act in recognition of the limitation this places on capacity to raise revenue. Further proposals include development and publication a Local Governments rates and revenue strategies (50b) and a review by the Valuer General of rating methodologies (50 g). Recommendation 51 aligns with the current provisions in Sec 6.17 of the Local Government Act which requires the setting of fees and charges to consider; the cost of providing the service; importance of the service to the community; and the price of alternative providers might charges for similar service.

Recommendation 52 recommends cost recovery principles be adopted when Local Government and State Government set fees and charges.

WALGA Comment – WALGA’s advocacy opposes rate capping³⁵ and there is long-standing support for a review of general rate exemption provisions and charitable land use rate exemptions³⁶ initially examined by the Local Government Advisory Board in 2005³⁷. WALGA also supports a review of the basis of rates³⁸ and this may be incorporated in Recommendation 50(g).

WALGA’s advocacy position in relation to Recommendation 52 is that Local Government to be empowered by legislation to set fees and charges for all services it provides in favour of the current arrangement whereby many fees and charges are determined by State Government legislation³⁹.

The Office of the Auditor General regularly audits State Government fee-setting in line with Government policy:

It is general government policy that fees should fully recover the cost of providing related services. If fees under-recover costs, this could mean the general public is subsidising customers, while over-recovery could mean customers are being charged too much. Any under or over-recovery of costs requires approval from the Minister or authority from legislation, respectively.⁴⁰

WALGA’s long-held concern is that the State Government’s policy is inadequately applied to Local Government service delivery (town planning fees, building fees, dog and cat registration etc) and Local Governments experience a net revenue loss due to inherent issues of:

- Lack indexation
- Lack from regular review
- Lack a transparent methodology in setting of fees and charges

WALGA Recommendation: Support Recommendations 50, 51 and 52; continue to advocate for legislation that empowers Local Governments to set fees and charges for all services it delivers.

³⁵ State Council Resolution 06.3/2019; 96.6/2015; 118.7/2015 incl. Rate Setting Policy Statement

³⁶ State Council Resolution 06.3/2019; 122.6/2017; 118.7/2015; 5.1/2012

³⁷ Local Government Advisory Board’s Inquiry into the Operation of Section 6.26(2)(g) of the Local Government Act 1995 – November 2005

³⁸ State Council Resolution 06.3/2019; 123.6/2017

³⁹ State Council Resolution 06.3/2019; Metropolitan Local Government Reform Submission 2012

⁴⁰ Report 13 ‘Fee-setting by the Department of Primary Industries and Regional Development and Western Australia Police Force’ December 2019 - Executive Summary, Page 3

ACCOUNTABILITY, SELF-REGULATION AND INTEGRITY

Recommendations 53 and 54 - Accountability and Self-Regulation

Local Government Act Reference: Part 7 (Audit); Local Government (Audit) Regulations

Recommendation 53 recommends an expanded Audit, Risk and Improvement Committee with Recommendation 53(a) and (b) proposes that skills-based independent members hold the majority of numbers, and the Chair, of the Committee, and regional committees be formed to offset potential increased costs.

Recommendation 54 proposes an expanded role for the Audit, Risk and Improvement Committee including an audit plan approach focussing on compliance, risk (including procurement), financial management, fraud control, governance and delivery of plans.

WALGA Comment – WALGA’s advocacy supported the Office of the Auditor General WA conducting Local Government finance and performance audits⁴¹. The self-regulation themes within Recommendation 54 are supported, however Recommendation 53(a) and (b) proposals for a majority of independent members, potentially drawn from a panel of approved suppliers or shared through regional cooperation arrangements, does not include a benefits analysis and there is no evidence the regional cooperation approach will lessen internal audit costs particularly for rural and regional Local Governments.

WALGA Recommendation: Oppose Recommendation 53(a) and (b). Supports Recommendation 54.

Recommendation 55 – Integrity and Governance

Local Government Act Reference: Part 7 (Audit); Local Government (Audit) Regulations

Recommendation 55(a) to (i) propose a range of governance measures to improve integrity, oversight and public participation.

WALGA Comment – Recommendations (f), (g) and (h) align with the Department of Local Government, Sport and Cultural Industries current development of Mandatory CEO Standards for Recruitment, Performance Review and Termination (associated with the *Local Government Amendment Legislation Act 2109*) and it is likely this body of work will continue to be dealt with independent of this Report. WALGA’s current advocacy position includes opposition to item (g), the mandatory readvertising of the CEO position upon completion of two five year terms.⁴²

The proposal under item (c), permitting elected members unable to maintain impartiality to withdraw from a meeting and not vote, is clearly unworkable where the meeting quorum comes under threat and is opposed.

WALGA Recommendation: Support Recommendation 55(a), (b), (d), (e), (f), (h) and (i). Oppose Recommendations 55 (c) and (g).

⁴¹ State Council Resolution 7.1/2018

⁴² State Council Resolution 145.7/2019



Recommendation 56 – Training and Development

Local Government Act Reference: Section 5.126 and Regulations 35 and 36 of the Local Government (Administration) Regulations

Recommendation 56 updates the recently introduced Elected Member training provisions.

WALGA Recommendation: Support Recommendation 56

Recommendation 57 and 58 – Early Intervention Framework

Local Government Act Reference: Part 8

Recommendation 57 proposes an early intervention framework whereby the Department of Local Government, Sport and Cultural Industries works with Local Governments to improve performance, governance and compliance. Recommendation 58 proposes the Minister for Local Government should have powers to direct Local Governments and make declarations during a declared state of emergency.

WALGA Comment – WALGA does not have advocacy positions in relation to either recommendation. Recommendation 38(b) introduced commentary on this topic and it is reiterated the Local Government sector's experiences during the COVID-19 pandemic did not bring to light any deficiency in the capacity of the State Government to manage issues arising from the pandemic that would require providing the Minister for Local Government with additional emergency powers. A matter of this significance should be considered in the broad context of the State Government's assessment its capacity to respond during the present state of emergency period, rather than dealt with piecemeal in a review of the Local Government Act.

WALGA Recommendation: Support Recommendation 57. Oppose Recommendation 58.

Recommendations 59 and 60 – Office of the Independent Assessor

Local Government Act Reference: Part 8; Section 5.41

Recommendation 59 (a) to (f) proposes conditions upon which an Office of the Independent Assessor might be established, including taking the functions of the Local Government Standards Panel.

Recommendation 60 proposes consideration of managing complaints by Elected Members against a CEO or other senior officer, with potential complaints be investigated by the Independent Assessor.

WALGA Comment – WALGA has a long-standing advocacy position for improvement to the operational efficiency of the Local Government Standards Panel.⁴³

The proposal in Recommendation 59 to create the Office of the Independent Assessor resonates in some regard with Recommendation 323, 324 and 325 of the Report of the Inquiry into the City of Perth.⁴⁴

⁴³ State Council Resolution 43.2/2011

⁴⁴ City of Perth Inquiry Report Recommendations Pp. 108 - 110

(Appendix ORD: 12.10C)



Recommendation 60 has the potential to overlay with other statutory provisions relating to employment law, and it is unclear whether the Report has considered the appropriateness of a proposal which will permit individual Elected Members, rather than the Council acting collectively as the employing authority, to instigate actions relating to a CEO's performance. Similarly, it is current practice that all complaints relating to other local government employees fall within the function of the CEO as the employing authority under Section 5.41(g) of the Act.

WALGA Recommendation: Support Recommendation 59. Oppose Recommendation 60.



OTHER MATTERS

Recommendation 61(a) and (b) – Classification Bands

Local Government Act Reference: Schedule 2.2

Recommendation 61(a) proposes the principles for determining classification and for Local Governments should be set out in the new Act, and Recommendation 61(b) states that once established they be utilized by the Salaries and Allowances Tribunal to determine Councillor and CEO allowances and remuneration.

WALGA Comment – WALGA has a long-standing advocacy position in relation to appropriate levels of remuneration for Elected Members.⁴⁵ The commentary accompanying Recommendation 61(b) informs the rationale for removing the classification band process from the *Salaries and Allowances Act 1975* to the *Local Government Act 1995* is to provide a broader application of the band system to other matters including whether a Local Government should have wards, This ties Recommendation 61(a) and (b) to Recommendation 26(c) that has the intent of discontinuing wards in Band 3 and 4 Local Government, which WALGA does not support.

WALGA Recommendation: Oppose Recommendation 61.

Recommendations 62 and 63 - Harmonisation of Local Laws

Local Government Act Reference: Section 3.5 to 3.17

Recommendations 62 and 63 propose increased harmonisation of Local Laws by developing model Local Laws and deemed provisions, with Local Government responsible for justifying any departure or variation from the models or provisions.

WALGA Comment – WALGA advocates for improvements to the current local law-making process and independent local law scrutiny conducted by Parliament's Delegated Legislation Committee⁴⁶. Consistent Models and deemed provisions will greatly enhance certainty in the local law-making process whilst ensuring the right for Local Governments to argue for and justify departures and variances that suit local conditions, issues and needs.

WALGA Recommendation: Support Recommendations 62 and 63

⁴⁵ State Council Resolution 06.3/2019; WALGA Submission to the Salaries and Allowances Tribunal – 21 February 2019

⁴⁶ State Council Resolution 06.3/2019



Recommendation 64 - WALGA

Local Government Act Reference: Section 9.58

Recommendation 64 recommends the following in respect to WALGA;

- (a) WALGA not be constituted under the new Act;
- (b) A transition period is provided to ensure continuity in operations of WALGA while it is re-formed under other legislation; and
- (c) Recognition of WALGA's Preferred Supplier Program and mutual insurance coverage in the legislation should be accompanied by appropriate oversight measures, including auditing.

WALGA Comment – From the Local Governments sector perspective it is critical to retain WALGA's services status in the legislation and regulations relating to the Preferred Supplier Program and the Insurance service, as these programs provide significant savings for the Local Government sector.

In respect to whether WALGA's establishment is referenced in the Local Government Act, it is appropriate for the Association to obtain legal advice on any negative consequences this may have.

WALGA Recommendation: Support recommendation 64 (c) for WALGA services retention in the Local Government Act relating to the Preferred Supplier Program and the Local Government Insurance Service. Further advice required in respect to recommendation 64 (a) and (b)

Recommendation 65 – Operational Provisions

Local Government Act Reference: Various

Recommendation 65 (a) to (f) proposes a number of operational matters for future consideration.

WALGA Comment – The proposals align with WALGA's advocacy to the extent that the new Local Government Act be based on a flexible, principles-based legislative framework that avoids red tape and 'de-clutters' the current extensive regulatory regime.⁴⁷

There is general support is therefore for these operational provisions, however Recommendation 65(f) – transfer of employee entitlements across all three levels of Government – though well intended is highly likely to raise extensive legal, industrial and financial ramifications prior to being capable of implementation. Further research and industrial consideration is therefore inevitable.

WALGA Recommendation: Support Recommendations 65(a) to (e). Conditionally support Recommendation 65(f) pending further research and industrial consideration.

⁴⁷ State Council Resolution 06.3/2019 Items 1(b) and (e)



EXCERPT FROM

South West Country Zone

Minutes

28 August 2020

Bridgetown Pottery Restaurant

9.3 State Council Item 5.5 – Local Government Review Panel Report

Refer to attachment under separate cover.

PROCEDURAL MOTION

Moved: President Cr John Nicholas
Seconded: President Cr Ian Earl

That standing orders be suspended.

CARRIED

The Zone discussed Item 5.5 including the process for responding to the Panel Report and a number of the Panel's recommendations.

PROCEDURAL MOTION

Moved: President Cr Brian Piesse
Seconded: President Cr John Nicholas

That standing orders be resumed.

CARRIED

MOTION

Moved: President Cr Richard Walker
Seconded: Mayor Grant Henley

That the WALGA recommendation relating to Item 5.5 be supported.

AMENDMENT

Moved: President Cr Paul Omodei

That Panel recommendation 8 be opposed.

Motion LAPSED for want of a seconder

(Appendix ORD: 12.10D)

AMENDMENT

Moved: President Cr John Nicholas
Seconded: President Cr Richard Walker

That Panel recommendation 11 be subject to further consultation (i.e. moved from Part 1 of the recommendation to Part 4).

CARRIED

AMENDMENT

Moved: President Cr Brian Piesse
Seconded: President Cr Paul Omodei

That Panel recommendation 55 (h) be opposed.

CARRIED

AMENDMENT

Moved: President Cr John Nicholas

That Panel recommendation 55(c) be supported.

Motion LAPSED for want of a seconder

AMENDMENT

Moved: Cr Ian Miffing
Seconded: President Cr Michael Bennett

That, in relation to Panel recommendation 26 (a), the number of Elected Members applicable to Local Governments with populations between 5,000 and 75,000 be amended to read:

- “Populations between 5,000 and 75,000 – 5 to 11 Councillors (incl. Mayor/President)”

CARRIED

AMENDMENT

Moved: President Cr Michael Bennett
Seconded: Cr Ian Miffing

That Panel recommendation 22 be opposed.

CARRIED

(Appendix ORD: 12.10D)

RESOLUTION

That the WALGA recommendation relating to Item 5.5 be supported with the following amendments:

1. Panel recommendation 11 be subject to further consultation (i.e. moved from Part 1 of the recommendation to Part 4).
2. Panel recommendation 55 (h) be opposed.
3. In relation to Panel recommendation 26 (a), the number of Elected Members applicable to Local Governments with populations between 5,000 and 75,000 be amended to read:
 - “Populations between 5,000 and 75,000 – 5 to 11 Councillors (incl. Mayor/President)”
4. That Panel recommendation 22 be opposed.

CARRIED

RISK ASSESSMENT TOOL									
OVERALL RISK EVENT: Policy Manual Review 2020									
RISK THEME PROFILE:		4 - Document Management Processes							
3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)									
RISK ASSESSMENT CONTEXT: Operational									
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL			RESIDUAL RISK RATING
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD		
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	Failure to regularly review and update policies could result in the Shire not meeting its obligations at law.	Moderate (3)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.

RISK ASSESSMENT TOOL									
OVERALL RISK EVENT:		Event application assessment Policy – CP070							
RISK THEME PROFILE:		3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)							
1 - Asset Sustainability Practices 7 - Environment Management									
RISK ASSESSMENT CONTEXT:		Operational							
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL			RESIDUAL RISK RATING
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING	
HEALTH	Event applications not being properly assessed against health requirements, and the public safety, health and amenity being put at risk	Moderate (3)	Possible (3)	Moderate (5 - 11)	That the Shire adopt proposed Events Policy. The policy provides a defined framework for the assessment of events.	Minor (2)	Unlikely (2)	Low (1 - 4)	
FINANCIAL IMPACT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	
LEGAL AND COMPLIANCE	The Shire found not meeting its implied legal responsibility and its duty of care in ensuring public health and safety at a public gathering.	Moderate (3)	Possible (3)	Moderate (5 - 11)	That the Shire adopt proposed Events Policy. The policy provides a defined framework for the assessment of events.	Minor (2)	Unlikely (2)	Low (1 - 4)	
REPUTATIONAL	The Shire being seen as having an ad-hoc/ uncoordinated approach to event assessment.	Moderate (3)	Possible (3)	Moderate (5 - 11)	That the Shire adopt proposed Events Policy. The policy provides a defined framework for the assessment of events.	Insignificant (1)	Rare (1)	Low (1 - 4)	
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	

(Appendix ORD: 12.12B)

From: [Lucy Owen-Conway](#)
To: ["jenni@jennidoherty.com.au"](mailto:jenni@jennidoherty.com.au)
Subject: Event Policy feed back
Date: Tuesday, 25 August 2020 2:05:00 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[image003.jpg](#)
[image004.jpg](#)

Dear Jenni

Thank you for your submission regarding the draft Event Application Policy.

Regarding your concerns, the Event Application Policy will not result in any additional forms or processes for the Art Trail or other events. It is instead intended to provide a clear indication of when an event application is required to be submitted to the Shire, rather than it being ambiguous as it was previously when no policy was in place. This way, we can clearly communicate with event organisers within the Shire about what the requirements and process is and where no permit is required at all.

The eight week application period does sound a long time, however in most instances we will issue an event permit within two weeks. The main reason for the longer lead time stated is to allow for events that may require approvals from other agencies such as for road closures, pyrotechnics, or where it crosses other Shire boundaries, for example.

The process for the Art Trail is unchanged – as per previous years one event application can be submitted by the event organisers which will include a list of participants who may then be extended an exemption from applying for a development application for the event. Further, some of the participating venues may not require development approval at all now given the Shire’s new policy CP091 which was recently introduced in an effort to reduce red tape. This policy exempts various development types from obtaining planning approval at all. The development type of ‘Industry – Cottage’ may apply to you - you can check the definition on page 6 and if you comply online here: <https://www.dardanup.wa.gov.au/wp-content/uploads/sites/105/2020/05/Exempted-Development-and-Land-Use.pdf>

Please let me know if you have any further concerns. We are happy to assist with navigating the forms and processes required to meet Health and other regulations.

Kind regards
Lucy

Lucy Owen-Conway

Manager Place and Community Engagement

Shire of Dardanup | | PO Box 7016 | Eaton WA 6232
p: 08 9724 0387 | e: Lucy.Owen-Conway@dardanup.wa.gov.au

(Appendix ORD: 12.12B)



-----Original Message-----

From: Jennifer Doherty <jenni@jennidoherty.com.au>
Sent: Thursday, 20 August 2020 10:54 AM
To: Planning Mailbox <Planning@dardanup.wa.gov.au>
Subject: Event Policy feed back

To Whom it May Concern,

I have read with trepidation your new policy.

As a participant in the Art Trail for many years it saddens me that the council has decided to make entering this event even harder.

This decision seems to be based entirely on fear. Fear of missing out on income, fear of litigation and fear of not having control over all that happens around here.

This event has been run by the community with remarkable results.

Most of the participants are opening their homes, properties and life up for the public to attend. there is little financial reward and it takes many months of work to produce an exhibition, make the garden perfect, clean windows and then greet up to 500 people over two days.

It is a community event and almost all involved are not commercial enterprises and even though there are sales involved, it is a small window to show the community what we do and how we do it. It certainly aids local wineries and eateries and draws a lot of attention for tourism to the area.

My main concerns are that as a single person, an artist working alone, to give 8 weeks lead time and a lot of hours paperwork sorting out your requirements and meeting those seems almost too hard to bother any more. It is a very busy time preparing for the event. I do not have an office full of admin support and this seems another tactic by the council to occupy some of the already too many workers in the shire. It is a top heavy environment that is serving itself, not us!

I fear too now, that as a result of crazy bureaucracy, many like me will find this unachievable and this really important community event will slowly die.

What are the reasons for this major change and why now? To my knowledge there have been no accidents, food poisonings, or deaths., ever!

I would appreciate a response. A well considered, not fate accompli patronising one.

As a member of this amazing community and a ratepayer, there is public consultation given a nod too often now, but it seems the listening doesn't happen, and the wishes of those of us that provide the money for your workers are not really taken into account.

(Appendix ORD: 12.12B)

As you can probably gather by now I am not happy.

Looking forward to your reply.

Yours sincerely

Jenni Doherty

RISK ASSESSMENT TOOL									
OVERALL RISK EVENT: Livestreaming of Ordinary Council Meetings RISK THEME PROFILE: 11 - IT, Communication Systems and Infrastructure 3 - Failure to Fulfill Compliance Requirements (Statutory, Regulatory) 12 - Misconduct									
RISK ASSESSMENT CONTEXT: Operational									
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL			RESIDUAL RISK RATING
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING	
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not Required	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	Accidental streaming of closed sessions or confidential items	Moderate (3)	Possible (3)	Moderate (5 - 11)	Not required	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	Technical Issues Preventing Recording or Live Stream to occur	Moderate (3)	Possible (3)	Moderate (5 - 11)	Not required	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	Breach of Privacy Act	Moderate (3)	Possible (3)	Moderate (5 - 11)	Not required	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	Defamation Action, legal liability	Moderate (3)	Possible (3)	Moderate (5 - 11)	Not required	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	Accidental streaming of closed sessions or confidential items	Moderate (3)	Possible (3)	Moderate (5 - 11)	Not required	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Technical Issues Preventing Recording or Live Stream to occur	Moderate (3)	Possible (3)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Accidental streaming of closed sessions or confidential items	Moderate (3)	Possible (3)	Moderate (5 - 11)	Not required	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.



Local Government Update

Proposed recording and live streaming of local government council and committee meetings

By Denis McLeod, Partner, McLeods

The issue: proposed recording of council meetings

In Western Australia there has been a long running debate on the question of whether Council meetings should be streamed live online, with the recordings being made available to electors by uploading to the local government's website as soon as practical, and maintained online as an archive.

After more than 40 years as a lawyer acting for and against local governments, I have formed the firm view that any recording of Council and committee meetings should be used for the purpose of confirming the correctness of the Minutes of meetings, but should not be otherwise published. The Minutes should then remain available as the public record of the meetings.

The article that follows provides an explanation of that view. As a starting point, my view is premised on acceptance of the proposition that local government is a worthwhile institution that should be preserved and encouraged, and not presented with obstacles calculated to discourage the participation of well intentioned men and women of good sense. Perhaps not all Council members are in that category, but my proposition is that the significant majority who are, should not be discouraged from participating.

The Westminster System of Government

Discussion of the meeting recording and live streaming issue should start with recognition of the basic principles of the Westminster System of government, which apply to the WA State Government, and which focus principally on the three distinct branches of government, being:

- 1 **Parliament:** which makes laws to facilitate government. Under s.2(2) of the *Constitution Act 1889 (WA)* (**Constitution Act**), the Parliament in WA consists of the Monarchy, Legislative Assembly and Legislative Council.
- 2 **Executive:** which administers the government in accordance with the laws. (The Cabinet is the effective part of the Executive, which is subject to the strict conventions of Cabinet confidentiality and solidarity).
- 3 **The Courts and Tribunals:** which interpret the laws and apply them to resolve disputes. (S.54 of the Constitution Act ensures the independence of Supreme Court judges, which generalises to all the States' judicial persons and tribunals).

Not only are those three branches of government intended in principle to function separately, but they are in fact administered separately.

There has been a long running debate on the question of whether Council meetings should be streamed live online, with the recordings being made available to electors

Local Government within the Westminster System

Although Local Government operates within the Westminster System, there are critical features and differences, including the following, that go some way to explain why Council meetings should not be streamed live online, etc, as some critics propose:

- 1 The Council of a local government may perform in any given meeting the role of all three branches of government:
 - (a) Legislative function of Council:

Council makes and amends the local government's laws including:

 - local laws; and
 - planning schemes.
 - (b) Executive functions of Council:

Council performs the same function for its district as State Cabinet performs for the State.
 - (c) Judicial functions of Council:

Council makes quasi-judicial decisions, such as determining applications for planning approval. In doing that a Council is expected to act like a Court or tribunal by complying as far as possible with principles of judicial fairness. A difference here is that unlike Courts and tribunals, a Council's deliberations are required to be in public, and determined by majority vote, which requirements impose special rigors on Council members who are:

 - part-time in their Council role;
 - essentially untrained in legal and judicial process and principles; and
 - subject to popular election and re-election (unlike judges and tribunal members).
- 2 Council acting as the Executive branch of local government makes decisions on policies and strategies of government and on contract and financial issues like the Cabinet in the State Government, but in stark contrast its deliberations are required to be in public, and Councils do not have the protection of Cabinet confidentiality and solidarity.
- 3 So far as Councils' quasi-judicial functions are concerned, Council members are expected to explain, discuss and debate their opinions as they evolve, in public meetings, and their decisions are made by majority vote in open ballot. This is in stark contrast to the privacy and confidentiality of judicial and tribunal members' deliberations towards reaching a decision.
- 4 Unlike all members of the judiciary in Australia, Council members are popularly elected, and must be prepared to defend their public decisions to their electors at the four-yearly Council elections. A decision properly made consistent with planning and legal principle may nevertheless be very unpopular with the electors. Council members who act properly, but contrary to the wishes of the electors, have a burden of explanation to electors going beyond the requirement of judges and Tribunal members to give reasons for their decisions, and they don't have to be concerned about electoral consequences of their decisions.



- 5 Council members are subject to very strict laws on financial interest, and impartiality interest, which by comparison are only very loosely and weakly applied to members of Parliament. State political parties can receive very substantial and regular donations from lobby and pressure groups which would result in serious penalties in the case of local government Council members.
- 6 Council members do not enjoy the protection of absolute privilege from actions for defamation for what is said in their meetings, in stark contrast with the protection of absolute privilege enjoyed by members of Parliament for what is said in their sessions.

The above comments demonstrate that the fundamental features of the local government system necessarily expose it already to a high level of public scrutiny that makes it a very difficult process to participate in, and to function effectively.

Comparison of Council Executive functions with State Government Executive functions

The Council in its role as the Executive must discuss matters critical to good government, in open Council, where similar issues dealt with by the State Government Executive would be discussed and decided strictly behind closed doors, and the proceedings would be protected by the conventions of Cabinet confidentiality and solidarity. For a Council to have those essentially confidential discussions streamed online, etc as the critics propose, would make the process all the more onerous and complex for the Council. Consider what the reaction of the Premier and Cabinet Ministers would be if the public insisted Cabinet meetings be open to the public, much less streamed online.

The professional politicians in State Government are not required to cope with that. Yet the current debate would expose the part-time, non-professional, essentially unpaid Council members, to that rigour. That doesn't seem reasonable or fair.

Comparison of Council quasi-judicial functions with Courts and tribunals

The unreasonableness and unfairness is even clearer when it comes to Council's quasi-judicial functions, which apply whenever the Council is deciding on planning and building applications, and applications for a wide range of other licences, permits and approvals. Council members are expected then to perform their functions in a judicially correct way. Yet unlike all Courts and tribunals, Council members are required to discuss their thinking in public, which goes a long way beyond the normal requirement that judges give reasons for their decisions. Of course Councils must give reasons for their decisions, as judges must, but consider what the reaction of judges and tribunal members would be if the public insisted that judges and tribunals conduct in public their deliberations and the steps in their consideration of a case, much less produce a transcript of their confidential deliberations.

The highly trained lawyers and other professionals who serve as judges and tribunal members are not required to cope with that. Yet the current debate would expose the part-time, non-professional, essentially unpaid Council members to that rigour. That doesn't seem reasonable or fair.

Council's legislative function

There may presently be some argument for a Council's legislative function to be held in public, and perhaps, unlike Parliament, streamed online, etc. The fact that Council members are not protected from defamation action by absolute privilege is probably a strong enough argument against that, and it is certainly an adequate argument against streaming of debate online, etc.



(Appendix ORD: 12.13B)

Consider then the contrast with the position of members of Parliament. Many of them do not speak on any issue in Parliament from month to month. And when they do wish to speak on legislation, they generally have much time to prepare their speeches, and they generally have research assistants available, and can prepare speeches for weeks in advance. By comparison, Council members attend ordinary Council meetings once or twice each month, and also special meetings and committee meetings, and from time to time electors and public meetings. At any of those meetings many issues could arise calling for discussion and debate by the Council members. At an ordinary Council meeting, there may be dozens of matters before the Council which call for debate and a vote by Council members.

Is it reasonable to suggest then to the Council members that every word they utter in the process of deliberations will be recorded and streamed online, and recordings made available to any member of the public who might decide to put their every word under microscopic scrutiny. Not even well prepared professionals or legal experts could reasonably be expected to withstand that kind of scrutiny, without the potential for regular embarrassment, and criticism and perhaps recrimination and Court action.

Likely consequences of recording or live streaming of Council meetings

A possible effect of introducing that kind of scrutiny would be that the detailed thinking and reasoning of Council members would go underground. Rather than giving the benefit of their deliberations to the members of the public who care to attend a meeting, they may make their decisions for their own private reasons, and not attempt to explain or discuss those reasons in the public forum. That would be dramatically bad for the system of open local government. Another consequence would be to force Councils to do all their effective work, and to carry on their real debate, in non-formal Council briefing sessions or the like, which are not required to be open to the public. That could also be quite adverse for the system of open local government. More significantly, exposure to that level of scrutiny and risk is likely to function as a significant disincentive to persons interested in election to the office of councillor, which would undermine community participation in local government.

Other considerations

There are other considerations worthy of brief mention including:

- Members of the public, at Council meetings are able to speak in question time and on deputations or representations on issues arising at Council meetings. The Council has no control over their comments, but the recording and live streaming of the proceedings could result in the local government being liable in defamation for the republication of defamatory remarks, or being otherwise responsible for insulting or malicious comments.
- On listening to a recording of a Council meeting, it is often difficult to identify the person responsible for a particular comment. That is likely to lead to confusion and complications, with the local government being required to identify speakers in order to deal with complaints.
- To expect a local government to edit the recordings of meetings to guard against defamatory or otherwise hurtful comments, and to identify speakers, would place an unreasonable burden on the local government administration. There would be a further burden of work and expense in obtaining legal advice on possible defamation.
- A Council acts as a collegiate body. The views of individual Council members are for practical purposes irrelevant. The only view that counts is that expressed in a resolution of the Council. To record and stream live



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(Appendix ORD: 12.13B)

the comments of individual Council members during debate has the potential to deflect attention away from the most important statement on the topic, which is the resolution passed by the Council and any reasons it identifies for its decision.

- Even newspapers would not contemplate allowing its reporters to present their views on a topic in a direct recording of their thinking processes, without the opportunity for careful independent editing and the possibility of scrutiny by the newspaper's lawyers. That applies no matter how well the reporter may have researched the topic.
- The threat of Court action for defamation can be a very disturbing prospect for a Council member whose personal and family assets may be at risk. A wealthy/powerful or vexatious complainant may press even a bad action through lengthy and expensive litigation processes, and the fact that the action may ultimately fail is little consolation to a Council member whose life for months or years may be dominated by the presence and risks of the action.
- Any member of the public interested in an issue to be considered at a Council meeting can and generally will attend the meeting. Many of those who press for recording and live streaming of the proceedings online may be more interested in targeting Council members whose views they wish to criticise, than to inform themselves on the issues.
- Those concerned about the standard of debate at Council meetings are presumably intelligent and sensitive persons. They are the very people who should offer themselves for election to that important public service. That should improve the standard of debate far more effectively than recording and live streaming of meeting proceedings, and will be of more benefit to the public.

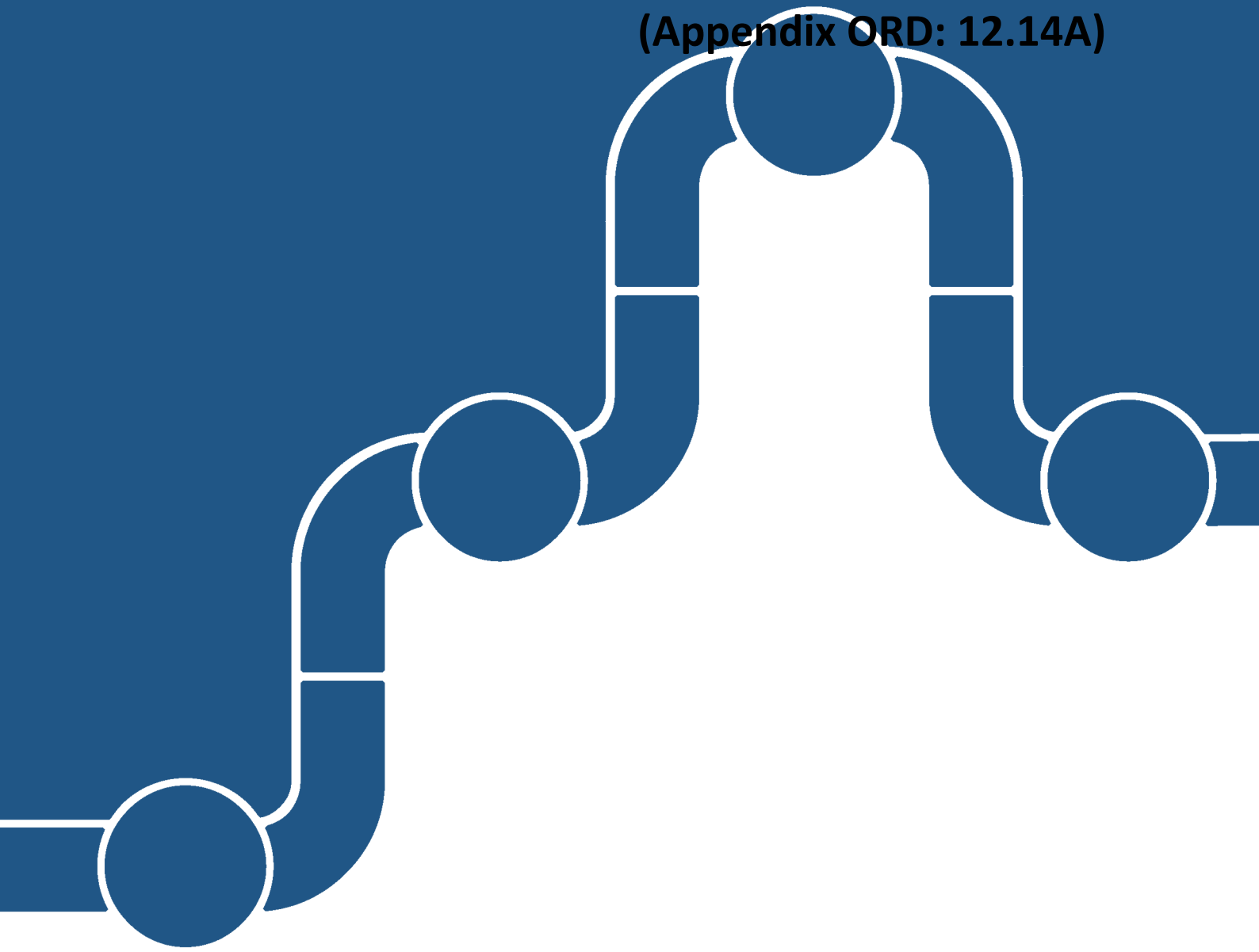
Conclusion

Those are some of the reasons for my view that Council meetings should not be streamed live online, with recordings made available to electors by uploading to the local government's website as soon as practical and maintained online as an archive. For the reasons I have discussed above, in my opinion the minutes of Council meetings should remain as the basic public record of meetings, without the additional processes of exposure and scrutiny which are being proposed by the local government critics.

I know that some local governments do record their meetings and then make the recordings available to the public on their website. That is a decision any Council can legitimately make, but it is another matter for Councils to have that regime imposed on them.

For further information in regard to the above, contact Denis McLeod on 9424 6201 or dmcleod@mcleods.com.au. The information contained in this update should not be relied upon without obtaining further detailed legal advice in the circumstances of each case.





Safe System Demonstration Project Proposition 2020

Working together to prevent road trauma



RoadWise®



WALGA

www.roadwise.asn.au

Introduction

The road transport system is important to all aspects of community life allowing access to health services, education and social circles, for the transportation of goods, and as employment, or access to employment. The level of safety of our road system determines the level of health and prosperity for individuals, businesses, governments and nations.¹ Eliminating road deaths and serious injuries is an integral part of improving overall health and well-being, and is the goal that is being pursued globally by leading jurisdictions through the safe system approach.

Through safe system design a future of zero deaths and serious injuries is possible

There is a strong body of evidence at an international and national level as to what is best practice in preventing road trauma. It relies on the integration of safe system principles into organisation policy and practice.

In Western Australia nearly 60% of deaths and serious injuries occur on the local road network.² Local Government involvement will be necessary if the goal of zero harm from use of the road system is to be achieved.³ However it is recognised that Local Governments face a number of challenges outside their control in creating a safe system standard local road network.⁴

Acknowledging these challenges, the aim of this project is to work with a Local Government to demonstrate how road safety performance can be managed and improved, using the International Standard for road traffic safety management (ISO 39001) as the framework. Having such a system in place will enable Local Government to prioritise effort and resources to guide road safety actions in working towards a point in time where no harm occurs from use of the road system.

Overview

WALGA's RoadWise is looking for an opportunity to work with a Local Government interested in showcasing leadership in the adoption and application of best practice in road safety.

WALGA RoadWise staff will work with the participating Local Government to develop and implement a road traffic safety management system based on ISO 39001. This is believed to be the first example of a Local Government adopting the International Standard for road safety management in Australia and will thus showcase the participating Local Government, within and outside the sector, as a leader in the application of best practice road safety. Embedding the management system into the organisation of the Local Government will involve undertaking the following six step process:

Six step process

1. Scope and Context

Identify the impact the Local Government can have on road traffic safety (RTS), map that impact across interested parties, and determine the organisational scope of an RTS management system.

2. Leadership

Establish leadership commitment by adopting a long-term vision to eliminate death and serious injury and providing resources to establish, implement, maintain and continually improve the RTS management system towards these ends. Establish, document and communicate RTS policy, and assign organisational responsibilities.

3. Planning

Determine risks and opportunities through assessment of current performance and identify the RTS performance factors which are relevant to the Local Government. Set objectives and targets for each performance factor and develop action plans.

4. Implementation

Implement and operate the RTS management system, and ensure that sufficient capacity is provided for the objectives and targets to be met.

5. Monitoring and Evaluation

Monitor and evaluate RTS performance, conduct internal audits and periodic reviews of the RTS management system to identify opportunities for continual improvement.

6. Continual Improvement

Improve the RTS management system on an ongoing basis following review of RTS performance, and of the RTS management system itself.

Roles and responsibilities

WALGA RoadWise

- Provide advice, assistance and support to Local Government during the project through desktop support and site visits
- Facilitate workshop/s with relevant staff and Elected Members to;
 - Introduce the project
 - Establish the scope and context
 - Provide leadership framework for progress
 - Initiate the planning process
- Provide resources to assist with delivery such as;
 - Scorecard and internal organisation survey to track progress
 - Planning guides/frameworks (to be developed in conjunction with Local Government)
- Provide a compendium of best practice guides and training/development opportunities for Local Government

Local Government

- Commitment from senior staff and elected members to participate in the demonstration project
- Willingness to adopt a long term road safety vision and make a plan to achieve it
- Reasonable (according to availability) allocation of staff and resources to develop the plan and prioritise available and future resources for implementation

Benefits

International experience

Where ISO 39001 has been adopted internationally commonly reported benefits are;

- Increased awareness and interest from management in addressing road safety
- Reduces costs to the organisation—repair bills/crash costs, insurance premiums, improved fuel economy
- Improved corporate image⁵

Local Government

Establish a clear road safety direction that is meaningful to staff, council and the community.

Be in a position to take greater advantage of state and national funding programs.

Contribute to an area of global priority in taking action to prevent death and serious injury in road crashes.

Opportunity to implement a system which will eventually result in the elimination of deaths and serious injuries on the local road network.

Be a national leader in the adoption of ISO 39001 which represents global best practice for implementing a road safety management system.

Projected Results

Research shows that by implementing a systems based approach Local Government will have;

- A clear picture of the current road safety performance
- An understanding of their capacity and capability to improve road safety performance
- A clear understanding of the local context and relevant stakeholders in designing and using the road transport system
- **A road safety management system** – tailored specifically to the Local Government and considering the organisation as a whole. The system will;
 - Be based on a comprehensive understanding of local road safety issues
 - Establish policies and objectives, and processes to achieve those objectives
 - Prioritise efforts and the allocation of resources to achieve the goal of zero harm sooner
- **An implementation plan** – specific documentation to address road safety in a proactive manner. The plan will include;
 - Milestones to enable effective adoption and implementation
 - Specific actions and objectives for allocating resources to achieve the outcomes identified in the system.
 - Performance indicators to allow ongoing monitoring, evaluation and reporting of progress

References

- ¹ Saving Lives Beyond 2020: The Next Steps, p.2 and 9
- ² WA Road Safety Commission
- ³ Inquiry into the National Road Safety Strategy 2011-2020, p.7
- ⁴ Review of National Road Safety Governance Arrangements, p.4
- ⁵ Startup Guide to ISO 39001



WALGA RoadWise Queries

Phone 08 9213 2000

Email roadwise@walga.asn.au

ONE70, Level 1, 170 Railway Parade,
West Leederville, WA 6007

Correspondence to:

WALGA RoadWise

PO Box 1544,
West Perth, WA 6872

RISK ASSESSMENT TOOL

OVERALL RISK EVENT: WALGA Safe Systems Demonstration Project – International Standard for road traffic safety management

RISK THEME PROFILE:

- 13 - Project/Change Management
- 14 - Safety and Security Practices

RISK ASSESSMENT CONTEXT: Strategic

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	No risk event identified for this category.	Not Required - No Risk Identified	No risk event identified for this category.	No risk event identified for this category.	Not Required - No Risk Identified	Not Required - No Risk Identified
FINANCIAL IMPACT	Expenditure exceeds the budget allocation.	Minor (2)	Unlikely (2)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	No risk event identified for this category.	Not Required - No Risk Identified	No risk event identified for this category.	No risk event identified for this category.	Not Required - No Risk Identified	Not Required - No Risk Identified
LEGAL AND COMPLIANCE	No risk event identified for this category.	Not Required - No Risk Identified	No risk event identified for this category.	Not Required - No Risk Identified	No risk event identified for this category.	No risk event identified for this category.	Not Required - No Risk Identified	Not Required - No Risk Identified
REPUTATIONAL	No risk event identified for this category.	Not Required - No Risk Identified	No risk event identified for this category.	Not Required - No Risk Identified	No risk event identified for this category.	No risk event identified for this category.	Not Required - No Risk Identified	Not Required - No Risk Identified
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	No risk event identified for this category.	Not Required - No Risk Identified	No risk event identified for this category.	No risk event identified for this category.	Not Required - No Risk Identified	Not Required - No Risk Identified

RISK ASSESSMENT TOOL									
OVERALL RISK EVENT: Bridges Renewal and Preservation Projects – Approval of Budget Variance RISK THEME PROFILE: 1 - Asset Sustainability Practices 2 - Business and Community Disruption RISK ASSESSMENT CONTEXT: Project									
13 - Project/Change Management									
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL			RESIDUAL RISK RATING
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING	
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	Projects exceed available funds.	Moderate (3)	Unlikely (2)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	Works not undertaken and there is a bridge failure and road closure required.	Catastrophic (5)	Unlikely (2)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Bridge failure occurs due to failure to undertake works.	Major (4)	Unlikely (2)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.

RISK ASSESSMENT TOOL							
<p>OVERALL RISK EVENT: Entering into 2-year contract with Fulton Hogan Industries Pty Ltd (2020/2021 - 2021/2022)</p> <p>RISK THEME PROFILE:</p> <p>3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)</p> <p>4 - Document Management Processes</p> <p>6 - Engagement Practices</p> <p>8 - Errors, Omissions and Delays</p> <p>14 - Safety and Security Practices</p> <p>15 - Supplier and Contract Management</p> <p>RISK ASSESSMENT CONTEXT: Operational</p>							
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING	CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	Contractor undertakes work in an unsafe or incompetent manner and puts themselves, Shire Staff and the public at risk of injury or death at any time during contract period.	Catastrophic (5)	Unlikely (2)	Moderate (5 - 11)	Catastrophic (5)	Rare (1)	Moderate (5 - 11)
FINANCIAL IMPACT	Contract prices agreed to for whole term (2 years) are too high and Council are locked in to pay these for the contract duration.	Minor (2)	Unlikely (2)	Low (1 - 4)	Insignificant (1)	Rare (1)	Low (1 - 4)
		<p>RISK ACTION PLAN (Treatment or controls proposed)</p> <p>Fulton Hogan Industries Pty Ltd (FHI) were assessed on their available resources, OSH compliance, OSH policies and procedures, risk management and safety systems- these areas are systematically weighted to affect officer recommendation.</p> <p>Reference checks undertaken with other LGs to confirm competency in this area.</p> <p>A contractor with unsuitable safety systems would not be recommended to Council.</p> <p>FHI's price schedule submitted in Tender were assessed against all respondents and current pricing compared to previous years to determine if pricing was substantially more than normal.</p>					

SERVICE INTERRUPTION	Contractor is unable to provide services as and when required throughout contract term.	Moderate (3)	Likely (4)	High (12 - 19)	FHI were assessed on their available resources (plant, equipment and materials) and any relevant contingency measures or backup available. Reference checks undertaken with other LGs to confirm competency in this area.	Minor (2)	Unlikely (2)	Low (1 - 4)
LEGAL AND COMPLIANCE	Unsuitable contractor is engaged and places the Shire of Dardanup at risk of litigation or non-compliance.	Catastrophic (5)	Possible (3)	High (12 - 19)	FHI were assessed against the Shire's required compliance criteria and were found to be compliant- an incompliance in this area would have disqualified them from being awarded the contract.	Insignificant (1)	Unlikely (2)	Low (1 - 4)
REPUTATIONAL	Unsuccessful respondents are unhappy with outcome and processes utilised.	Insignificant (1)	Possible (3)	Low (1 - 4)	Records of Tender are kept in accordance with State Records Act 2000- these show that correct process was utilised.	Insignificant (1)	Rare (1)	Low (1 - 4)
ENVIRONMENT	Successful contractor employs unsuitable practices and processes in regards to environmental sustainability.	Minor (2)	Possible (3)	Moderate (5 - 11)	FHI was assessed on their sustainability in regards to environmental management and no concerns were noted.	Minor (2)	Rare (1)	Low (1 - 4)

RISK ASSESSMENT TOOL									
OVERALL RISK EVENT: Supply and Deliver Gravel and Limestone									
RISK THEME PROFILE:		3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)							
15 - Supplier and Contract Management									
RISK ASSESSMENT CONTEXT: Operational									
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL			RESIDUAL RISK RATING
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD		
HEALTH	Ensure suppliers have the resources and systems to undertake the delivery of the materials to meet the Shires OSH standards	Major (4)	Possible (3)	High (12 - 19)	Ensure appropriate selection processes and supplier systems are adhered during works.	Moderate (3)	Unlikely (2)	Moderate (5 - 11)	
FINANCIAL IMPACT	Supply and delivery costs rise sharply due to local demand exceeding supply capacity	Major (4)	Likely (4)	High (12 - 19)	Engaging with a suitable supplier for a period of at least three years	Minor (2)	Unlikely (2)	Low (1 - 4)	
SERVICE INTERRUPTION	Unable to source materials or delivery of goods impacting on construction programme	Major (4)	Possible (3)	High (12 - 19)	Engaging with a suitable supplier for a period of at least three years	Minor (2)	Unlikely (2)	Low (1 - 4)	
LEGAL AND COMPLIANCE	Contractual obligations are met.	Moderate (3)	Possible (3)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.	
REPUTATIONAL	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required	Not required.	Not required.	Not required.	

RISK ASSESSMENT TOOL									
OVERALL RISK EVENT: Regional Road Project – Ferguson Road Survey and Design – Approval of Budget Variance RISK THEME PROFILE: 1 - Asset Sustainability Practices 13 - Project/Change Management RISK ASSESSMENT CONTEXT: Project									
CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL			RESIDUAL RISK RATING
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING	
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	Projects exceed available funds.	Moderate (3)	Unlikely (2)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	No risk event identified for this category.	Not Required - No Risk Identified	No risk event identified for this category.	Not Required - No Risk Identified	No risk event identified for this category.	Not Required - No Risk Identified	No risk event identified for this category.	Not Required - No Risk Identified	Not Required - No Risk Identified
LEGAL AND COMPLIANCE	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Additional killed and serious injuries (KSI) on this road	Major (4)	Almost Certain (5)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.	Not required.

