



Shire of  
**Chapman Valley**  
*Love the Rural Life*

## ORDINARY COUNCIL MEETING

Notice is hereby given that an Ordinary Meeting  
of Council will be held on Wednesday 15 July 2015  
at the Council Chambers, Nabawa, commencing at 9:00am.

Maurice Battilana  
CHIEF EXECUTIVE OFFICER

# **UNCONFIRMED MINUTES**

## **JULY 2015**

## DISCLAIMER



Shire of  
**Chapman Valley**  
*Love the Rural Life*

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

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

The Shire of Chapman Valley warns that anyone who has any application or request with the Shire of Chapman Valley must obtain and should rely on

### **WRITTEN CONFIRMATION**

of the outcome of the application or request of the decision made by the Shire of Chapman Valley.



Maurice Battilana  
**CHIEF EXECUTIVE OFFICER**

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- 6.0 DISCLOSURE OF INTEREST

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

Section 5.60A:

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

Section 5.60B:

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

Regulation 34C (Impartiality):

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

- 7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS
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## ORDER OF BUSINESS:

### 1.0 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

The Chairman, Cr Farrell welcomed Elected Members and Staff and declared the meeting open at 9.07am.

### 2.0 LOYAL TOAST

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

#### 3.1 Present

##### a. Councillors

| Member                                | Ward            |
|---------------------------------------|-----------------|
| Cr Anthony Farrell (Deputy President) | North East Ward |
| Cr Pauline Forrester                  | North East Ward |
| Cr Peter Humphrey                     | South West Ward |
| Cr Veronica Wood                      | South West Ward |
| Cr Ian Maluish                        | South West Ward |

##### b. Staff

| Officer              | Position   |
|----------------------|--|
| Mr Maurice Battilana | Chief Executive Officer                                |
| Mr Simon Lancaster   | Manager of Planning                                    |
| Mrs Dianne Raymond   | Manager of Finance & Corporate Services (Minute Taker) |

##### c. Visitors

| Name |  |
|------|--|
|      |  |

#### 3.2 Apologies

| Name                            |                 |
|---------------------------------|-----------------|
| Cr John Collingwood (President) | North East Ward |
| Cr Kirrilee Warr                | North East Ward |
| Cr Trevor Royce                 | North East Ward |
| Mrs Kristy Williams             | Accountant      |

### 4.0 PUBLIC QUESTION TIME

#### 4.1 Questions On Notice

Nil

#### 4.2 Questions Without Notice

Nil

### 5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

## **6.0 DISCLOSURE OF INTEREST**

Nil

## **7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil

## **8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS**

8.1 Ordinary Meeting of Council held on Wednesday 17 June 2015

### **COUNCIL RESOLUTION**

**MOVED: CR WOOD**

**SECONDED: CR FORRESTER**

That the minutes of the Ordinary Meeting of Council held Wednesday 17 June 2015 be confirmed as a true and accurate record.

**Voting 5 /0**

**CARRIED**

**Minute Reference: 07/15-1**

## **9.0 OFFICERS REPORTS**

# **9.1 Manager of Planning July 2015**

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## **Contents**

### **9.1 AGENDA ITEMS**

- 9.1.1 Extension of Lease – T Jeffery - Reserve 13085 Lauder Street, Nanson
- 9.1.2 Proposed Subdivision, Waggrakine - Lot 174 Dulchev Way, Waggrakine

|                            |  |
|----------------------------|--|
| <b>AGENDA ITEM:</b>        | <b>9.1.1</b>                               |
| <b>SUBJECT:</b>            | <b>EXTENSION OF LEASE</b>                  |
| <b>PROPONENT:</b>          | <b>T JEFFERY</b>                           |
| <b>SITE:</b>               | <b>RESERVE 13085 LAUDER STREET, NANSON</b> |
| <b>FILE REFERENCE:</b>     | <b>R13085 &amp; A1263</b>                  |
| <b>PREVIOUS REFERENCE:</b> | <b>02/05-11 &amp; 06/10-8</b>              |
| <b>DATE:</b>               | <b>3 JULY 2015</b>                         |
| <b>AUTHOR:</b>             | <b>SIMON LANCASTER</b>                     |

## DISCLOSURE OF INTEREST

The applicant is an employee of the Shire of Chapman Valley.

## BACKGROUND

A lease agreement for a Crown Reserve within the Nanson townsite has now expired and Council has received a further request from the landowner of the adjoining properties, T Jeffery of Lots 40, 41 and 42 Lauder Street, Nanson, seeking to continue the grazing lease agreement. This report makes recommendation that a new agreement be entered into with the previous lessee for the use of Reserve 13085 Lauder Street, Nanson.

**Figure 9.1.1(a) – Location Plan for Reserve 13085 Lauder Street, Nanson**



## COMMENT

Reserve 13085 is a vacant 1,012m<sup>2</sup> property in the Nanson townsite that has a management order issued to the Shire of Chapman Valley for the purpose of 'Recreation'.

Council previously resolved at its 15 February 2005 meeting as follows:

*"That the Council resolve in relation to Crown Reserve 13085 (Lot 39) Lauder Street, Nanson to issue a formal licence for grazing to Mr and Mrs Jeffery for a five (5) year period at an annual fee of \$1.00 on demand, and advise Mr and Mrs Jeffery accordingly."*

Council subsequently resolved at its 23 June 2010 meeting as follows:

*"That Council under Section 3.54 of the Local Government Act 1995 resolve to:*

- 1 Issue a formal licence to Trevor & Susan Jeffery for the use of Crown Reserve 13085 for the expressed purpose of grazing. This licence will be valid for a period of five (5) years at an annual fee of \$1.00 on demand.*



2 Advise the landowners (T & S Jeffery of Lauder Street, Nanson) accordingly.”

**Figure 9.1.1(b) – Aerial photograph of Reserve 13085 Lauder Street, Nanson**



The site is undeveloped and the Shire has no current plans to develop the land parcel for recreational purposes.

The applicant has both formally and informally managed this parcel of land for many years as the adjoining landowner and no complaints have been received by the Shire in regards to the use and management of the land.

**Figure 9.1.1(c) – View of Reserve 13085 looking east from Lauder Street**



It is recommended that a new lease agreement should be drafted as per the previous lease agreements, that is for a period of five (5) years with an annual fee of \$1.00 on demand (sometimes referred to as a ‘peppercorn’ lease). A draft lease agreement has been included as **Attachment 9.1.1(a)** with this report for Council’s consideration.

## **STATUTORY ENVIRONMENT**

Reserve 13085 is zoned ‘Townsite’ under the Shire’s Local Planning Scheme No.2.

The Council may under Section 3.54 of the *Local Government Act 1995* issue a licence for the private use of Crown land under its control in the interest of controlling and managing that land.

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Were the reserve not leased then Council would be required to undertake maintenance upon the property (e.g. firebreaks, weed control and general maintenance) which would require mobilising of staff and equipment. It has been previously considered by Council that these resources could be better utilised elsewhere and that leasing the property is a more appropriate means of management. Although the property has only been leased on a 'peppercorn' rate it has been considered that such a lease has reduced a cost to Council.

It is further suggested that with Council not having an identified need for Reserve 13085 that it could be offered to the lessee/adjoining landowner for purchase. Should the lessee/adjoining landowner wish to purchase Reserve 13085 then the Department of Lands would likely seek a valuation from the Valuer Generals Office for the property. The Department of Lands would receive the funds through the sale of Reserve 13085 and not the Shire.

- **Long Term Financial Plan:**

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

## **STRATEGIC IMPLICATIONS**

Reserve 13085 is considered surplus to recreational requirements as formal recreational facilities are already provided 400m south at the Nanson Playground, and informal recreational opportunities are provided along the Chapman River reserve immediately to the west of Lauder Street.

Should Council advise the Department of Lands and the lessee/adjoining landowner that it has no objection to the Shire's management order being revoked and Reserve 13085 being disposed of, then it is suggested that the property be amalgamated into adjoining Lot 40 Lauder Street rather than sold individually. This suggestion is made based on the Shire of Chapman Valley Local Planning Strategy (2008) which has the following vision for Precinct No.10-Nanson:

*"Consolidation of the historic rural townsite whilst preserving the local history and heritage values and promoting a range of cottage industries and tourism opportunities."*

The Strategy also lists the following overview for the Nanson townsite relevant to this matter:

*"As a result of recent consultation with the local community through the preparation of a Townscape Plan it was determined that:*

- *the existing UCL to the north should not be developed for residential purposes but more so be amalgamated with the existing foreshore reserve for recreational purposes;*
- *no further subdivision should be entertained within the existing townsite due to current constraints, unique lifestyle and historical significance;*
- *consolidation and preservation of the townsite including historic attributes should be of the up most importance, with the view to providing rural residential and rural smallholding development around the townsite, subject to adequate servicing being achieved;*
- *tourism and cottage industry opportunities should be promoted to enhance the economic well being of the Nanson area."*

*"Council may support the subdivision/amalgamation of land within this Precinct, having due regard to the objectives of the Precinct, in the following circumstances:*

- (a) *The correction of anomalies pertinent to buildings that have historically been sited across lot boundaries.*

- (b) *The amalgamation of two or more lots where clear benefit can be demonstrated without detriment to a neighbouring landowner or the environment.”*

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

The Shire of Chapman Valley Strategic Community Plan 2013-2023 adopted by Council at its 19 June 2013 provides a framework that aims to ensure that assets are affordable and support the right services. The Plan includes the following environmental strategy:

*“Ensure we adequately protect and manage the land across the Shire, including weed eradication, mining developments and fire management services.”*

**CONSULTATION**

The current lessee has advised that they would like to continue the current lease agreement.

**RISK ASSESSMENT**

Not Applicable.

**VOTING REQUIREMENTS**

Simple Majority required.

**COUNCIL RESOLUTION / STAFF RECOMMENDATION**

**MOVED: CR FORRESTER**

**SECONDED: CR HUMPHREY**

That Council under Section 3.54 of the *Local Government Act 1995* resolve to:

- 1 Issue a formal licence to Trevor Jeffery for the use of Crown Reserve 13085 for the expressed purpose of grazing. This licence will be valid for a period of five (5) years at an annual fee of \$1.00 on demand.
- 2 Advise the lessee/adjoining landowner and the Departments of Lands that Council has no objection to the Department of Lands disposing of Reserve 13085 to the lessee/adjoining landowner through its amalgamation into Lot 40 Lauder Street should they wish to purchase the property.

**Voting 5/0  
CARRIED**

**Minute Reference: 07/15-2**

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**AGREEMENT TO LICENSE USE OF RESERVE 13085  
FOR PURPOSE OF GRAZING**

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Between

**SHIRE OF CHAPMAN VALLEY**

and

**TREVOR JEFFERY**

15 July 2015

**AGREEMENT TO LICENSE USE OF RESERVE 13085  
FOR PURPOSE OF GRAZING**

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An AGREEMENT made on 15 July 2015 between the SHIRE OF CHAPMAN VALLEY having its office at Nabawa in the State of Western Australia (hereinafter called "the Shire") of the one part and TREVOR JEFFERY of Lot 41 Lauder Street, Nanson (hereinafter called "the licensee") of the other part.

WHEREAS

- (a) Reserve No. 13085 (hereinafter called "the said land") is vested in or placed under the control of the Shire for the purpose of 'Recreation' and by virtue of Section 5 of the *Parks and Reserves Act 1895* and Section 3.54 of the *Local Government Act 1995*, and subject to the approval of the Minister for Lands, the Shire may grant licenses for the purpose of grazing of animals upon the same.
- (b) The licensee has applied to the Shire for a license to graze animals on the said land and the Shire has agreed to grant a license on the terms and conditions hereinafter set forth.
  - 1. Subject to the provisions hereafter contained the licensee shall have the exclusive right to graze stock on the said land for the period 15 July 2015 to 15 July 2020, however, the agreement may be terminated at any time at the expiration of three months notice in writing by either party.
  - 2. The licensee will pay to the Shire for the License aforesaid the yearly rent of one dollar on demand. This rental amount is exclusive of Goods and Services Tax (GST). Any applicable GST will be charged by the Shire in addition to the rental amount quoted.
  - 3. The land shall not be used for any purpose other than grazing.
  - 4. The licensee shall not without the previous consent in writing of the Shire and approval of the Minister for Lands, transfer, mortgage, sublet or part with the possession of the demised land.
  - 5. The licensee shall not cut down, fell, injure or destroy any living timber or scrub upon the demised land except for the purpose of destroying poisonous growth or by the agistment of stock in reasonable numbers.
  - 6. The licensee shall indemnify the Shire and the Minister for Lands against all claims for damage to property or persons arising from the use of the demised land for the purpose of grazing.
  - 7. The licensee shall effect no improvements to the demised land without the prior written permission of the Shire.

8. Compensation shall not be payable to the licensee in respect of any improvements effected on the demised land and remaining thereon at the expiration or earlier determination of the lease.
9. Power is reserved to the Shire to direct that the number of stock grazing on the demised land shall be reduced if the Shire is of the opinion that the demised land is overstocked to an extent sufficient or likely to cause permanent damage to the land; failure to comply with any such direction will result in the forfeiture of the license.
10. The licensee shall be responsible for the maintenance of fencing and the construction and maintenance of firebreaks or other fire management measures to the requirements of the Shire.

**WITNESS whereof this agreement has been signed the day and the year first before written.**

**The COMMON SEAL of the SHIRE OF CHAPMAN VALLEY**

**Was hereunto fixed in the presence of**

\_\_\_\_\_  
PRESIDENT

\_\_\_\_\_  
CHIEF EXECUTIVE OFFICER

**Signed by the said of**

\_\_\_\_\_  
TREVOR JEFFERY

**In the presence of:**

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signed

**Approved**

\_\_\_\_\_  
MINISTER FOR LANDS

|                            |   |
|----------------------------|---|
| <b>AGENDA ITEM:</b>        | <b>9.1.2</b>                            |
| <b>SUBJECT:</b>            | <b>PROPOSED SUBDIVISION, WAGGRAKINE</b> |
| <b>PROPONENT:</b>          | <b>LANDWEST FOR R &amp; D LARARD</b>    |
| <b>SITE:</b>               | <b>LOT 174 DULCHEV WAY, WAGGRAKINE</b>  |
| <b>FILE REFERENCE:</b>     | <b>A1218</b>                            |
| <b>PREVIOUS REFERENCE:</b> | <b>09/07-6</b>                          |
| <b>DATE:</b>               | <b>6 JULY 2015</b>                      |
| <b>AUTHOR:</b>             | <b>SIMON LANCASTER</b>                  |

## DISCLOSURE OF INTEREST

Nil

## BACKGROUND

Council is in receipt of correspondence from the Western Australian Planning Commission ('WAPC') seeking its comment upon an application to subdivide Lot 174 Dulchev Way, Waggrakine. This report recommends conditional support for the subdivision application.

## COMMENT

Lot 174 is a 13.406ha L-shaped property that slopes down from the 60m contour at its northern end to the Dolby Creek which runs through the property at the 40m contour. Lot 174 is largely cleared with the exception of some native vegetation along the Dolby Creek.

The residence upon Lot 174 gains access onto Dulchev Way via a 600m long driveway that runs along the former Geraldton-Northampton railway corridor for much of its length.

**Figure 9.1.2(a) - Location Plan for Lot 174 Dulchev Way, Waggrakine**



The applicant proposes to subdivide Lot 174 by creating a 11.335ha balance lot on the northern side of Dolby Creek that would contain the existing residence and outbuilding and continue to gain access via Dulchev Way.

The 2.0708ha portion of Lot 174 that is south of Dolbys Creek is proposed to be subdivided into 2 lots, of 1.002ha and 1.021ha, that would gain access via Dolbys Drive, and also create a 478m<sup>2</sup> parcel of land that would become a Public Accessway to enable future pedestrian and emergency vehicle access to Dolby Creek (it is the intention that Dolby Creek would be created as a reserve during later subdivision of the balance 11.355ha lot).

The southern area of Lot 174 is distinct, and inaccessible, from the northern area and already have the on-ground appearance of two separate land parcels in terms of road access, fencing, land form and management.

A copy of the submitted subdivision plan for Lot 174 Dulchev Way, Waggrakine is included as **Attachment 9.1.2(a)**.

**Figure 9.1.2(b) – Aerial photograph of Lot 174 Dulchev Way, Waggrakine**



It is proposed that the rear (western) boundary alignment of the 2 new lots to front Dolbys Drive would be identified on-site at survey stage with representatives of the Department of Water and the Shire in attendance. The establishment of this alignment would ultimately determine the foreshore reserve width ahead of when subsequent subdivision of the balance lot creates the Dolby Creek foreshore reserve.

The Shire has been working towards achieving a recreational and native vegetation corridor along the Dolby Creek with the ultimate long-term strategic vision of linking the Moresby Range and the coast with a walking trail and wildlife corridor. This vision will only occur in gradual stages over an extended period due to the fragmented land ownership and timescales for subdivision of the lots along the watercourse. This proposed subdivision represents another step in this process by establishing the eastern boundary of the future river corridor at such a width as to enable continuation of the gravel walk trail when the river reserve is later created, and to also create a linkage from Dolbys Drive to the Dolby Creek to enable recreational/pedestrian access and emergency/fire-fighting vehicle access and Shire maintenance vehicle access.

It is suggested that Department of Water and Shire staff will adopt a similar stance to previous on-site discussions further east along the Dolby Creek and take a conservative approach to allow for future potential embankment movement. Such an approach is warranted as ultimately the Shire would be responsible for the foreshore reserve, and the walk trail would need to be placed on an alignment that is sufficiently setback from the creek bank as it exists now and into the future. Further, the alignment needs to be identified correctly now, as there will not be a second opportunity to establish it once the 2 lots south of Dolby Creek have been excised from the balance lot.



**Figure 9.1.2(c) – View of southern area of Lot 174 looking south-west from Dolbys Drive**



**Figure 9.1.2(d) – View over northern section of Lot 174 looking south towards Dolby Creek**



### **STATUTORY ENVIRONMENT**

Lot 174 Dulchev Way, Waggrakine is zoned 'Rural Residential 1' under Shire of Chapman Valley Local Planning Scheme No.2 ('the Scheme'). Section 4.2.4 of the Scheme lists the objectives of the 'Rural Residential' zone are to:

- (a) Provide for residential development within a low-density environment;*
- (b) Provide for other land-uses compatible with a high level of residential amenity;*
- (c) Prevent the establishment of land-uses more appropriately undertaken in commercial and/or industrial areas; and*
- (d) Protect the environmental and landscape values of the land."*

**Figure 9.1.2(e) – extract from the Scheme Map illustrating the location of Lot 174 in context to the section of the Dolby Creek corridor that has already been created and the Special Control Area 2 - Moresby Range Landscape Protection Area zone**



Section 5.19 of the Scheme lists the following requirements for the Rural Residential zone considered relevant to the assessment of this subdivision application:

**“5.19.1 Structure Plan**

- (a) *Subdivision, development and land use shall generally be in accordance with the structure plan as adopted by the Local Government and the Western Australian Planning Commission;*
- (b) *Subdivision, development and land-use shall generally be in accordance with any other matters outlined on the structure plan; and*
- (c) *In addition to such other provisions of the Scheme as may affect it, any land that is included in a Rural Residential Zone or Rural Smallholding Zone shall be subject to those provisions as may be specifically set out against it in Schedules 11 or 12.”*

Dolbys Drive does not have a structure plan in place at this time to guide subdivision and this issue is discussed at length in the Strategic Implications section of this report. Section 5.22.4.2 of the Scheme does state that:

*“Notwithstanding clause 5.22.4.1 a local government may recommend subdivision or approve the development of land within a Structure Planning Area prior to a structure plan coming into effect in relation to that land, if the local government is satisfied that this will not prejudice the specific purposes and requirements for the Structure Planning Area.”*

**“5.19.4 Foreshores**

*At time of subdivision, the Local Government may request that the Western Australian Planning Commission impose condition/s requiring suitable arrangements to be made for the ceding of foreshore reserves or management and/or rehabilitation of foreshores retained in private ownership.”*

It is suggested that the formal creation of the foreshore reserve not be requested at this juncture, and that its ceding instead be required at time of subdivision of the balance lot, which would occur following the adoption of a structure plan that identified the complete foreshore reserve requirement for its total length.

**“5.19.5 Fire Management**

- (a) *At time of subdivision, the Local Government may request that the Western Australian Planning Commission impose condition/s requiring the preparation of a fire management plan; and*
- (b) *At time of subdivision, the Local Government may request that the Western Australian Planning Commission impose condition/s requiring a contribution toward fire fighting facilities in the district.”*

In this instance, given that the two proposed new lots are cleared of vegetation and there is an existing fire hydrant upon Dolbys Drive 300m east of the subdivision, it is not recommended that a fire management plan or hydrant be required. However this subdivision application has also been referred by the WAPC to the Department of Fire and Emergency Services and they may request the imposition of conditions to which they would be they would be the appropriate clearing authority.

**“5.19.6 Vehicular Access**

- (a) *At time of subdivision, the Local Government may request that the Western Australian Planning Commission impose condition/s requiring the construction of any roads, battle-axe access legs, or shared access legs required to provide adequate vehicular access to the proposed lots;*
- (b) *At time of subdivision, the Local Government may request that the Western Australian Planning Commission impose condition/s requiring a contribution to the upgrading of the local road system.*
- (c) *At time of development approval the Local Government may require a crossover to be constructed to the specifications of the Shire and/or Main Roads WA.”*

The proposed two new lots front an existing sealed road, under this section of the Scheme Council may request that the subdivider construct the crossover access points onto Dolbys Drive for the two new lots and/or the gravel formation of the battle-axe access leg for proposed Lot B.

**“5.19.7 Fencing**

- (a) *At time of subdivision, the Local Government may request that the Western Australian Planning Commission impose condition/s requiring the installation of fencing around areas of remnant vegetation and/or re-vegetation. All such fences are to be maintained in good condition thereafter to the satisfaction of the Local Government; and*
- (b) *Prior to the stocking of any particular lot, all areas of remnant vegetation within or adjoining the lot shall be protected by stock proof fencing to the specification and satisfaction of the Local Government. All such fences are to be maintained in good condition thereafter to the satisfaction of the Local Government.”*

Schedule 11 of the Scheme expands upon the issue of fencing within the ‘Rural Residential 1’ zone as follows:

**“9 The following fencing requirements shall apply:**

- (a) *The minimum standard of fencing shall be seven line ring lock with single strand wire on top, with pine posts at six metre separation;*
- (b) *The subdivider shall construct perimeter boundary fencing to the minimum standard at each stage of subdivision.*
- (c) *The developer shall fence all bridle trails to the minimum standard as the bridle trails are developed at each progressive stage of subdivision.*
- (d) *Prior to final approval of subdivision of the land, the watercourse and all remnant vegetation (excluding areas for fire control, driveway access and servicing) shall be protected from livestock by means of fencing to an appropriate standard as prescribed by the local government.*
- (e) *All other fencing shall be constructed by individual landowners to the minimum standard, prior to the issue of a Building Licence.”*

## POLICY IMPLICATIONS

Lot 174 Dulchev Way, Waggrakine is located within Precinct No.7 – South West of the Shire of Chapman Valley Local Planning Strategy (2008). Figures 4 and 11 of the Local Planning Strategy identify Lot 174 as being 'Existing Rural Residential'.

The subdivision application can be considered to accord with the following objectives of the Local Planning Strategy:

- "7.1.2 Encourage the rezoning and subdivision of land into Rural Smallholdings and Rural Residential lots in accordance with Figure 4 as a rounding off the greater northern Geraldton area."*
- "7.2.3 Ensure that Urban and Rural Residential development are adequately serviced by existing services and infrastructure that includes connection to a potable scheme water supply."*
- "7.3.3 Ensure that land use and development adjacent to and in proximity to coastal and river areas incorporate appropriate environmental protection based on natural resource management measures."*

The consideration of this subdivision should be undertaken with regard for the following objectives of the Local Planning Strategy:

- "7.4.1 Enhance the standards of servicing and infrastructure commensurate with urban development standards (i.e. bitumen sealed roads, reticulated water, underground power etc.)."*
- 7.4.2 Ensure adequate levels of servicing and infrastructure, as determined by Council, exist or will be provided when supporting proposals for a change in land use/development or subdivision, to avoid burden (financial or otherwise) on the Council's resources."*

The Local Planning Strategy addresses subdivision within Precinct No.7 - South West as follows:

*"Council may support the subdivision/amalgamation of land within this Precinct, having due regard to the objectives of the Precinct, in the following circumstances:*

- e) For urban and rural residential purposes in accordance with the Greater Geraldton Structure Plan 1999 development subject to structure planning, a potable reticulated scheme water supply, detailed land capability/suitability assessment and appropriate rezoning."*

## FINANCIAL IMPLICATIONS

The Shire has previously required subdividers fronting Dolbys Drive to make contribution of \$2,500 per additional lot to its future sealing. In discussions between the Shire and the applicant in the lead up to the lodgement of this subdivision application it has been generally agreed that in lieu of contribution towards the sealing of Dolbys Drive (which has now been completed) that the subdivider should instead make contribution by way of providing the 478m<sup>2</sup> area of land for the 5m wide public accessway free of cost. The Shire also advised that it would require the public accessway to be fenced and constructed to a 2.5m width, 150mm thick gravel standard. It was further discussed that the Shire would require the public accessway to be gated at either end with signage on the eastern gate advising it is for emergency purposes only (and the Shire would subsequently fit standard Shire accessible fire-locks to the gates. The Shire noted in the discussions that subsequent subdivision of the balance land would create a responsibility for the subdivider to provide the river reserve and walk trails along both banks (similar to along the Dolby Creek further east) and the need for fire gates would be reviewed at that time by the Shire and would likely need to be replaced with bollards.

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan (2013) was received by Council at its 18 September 2013 meeting.

Section 3.2 of the Shire of Chapman Valley Long Term Financial Plan (2013) notes that the Shire's population is projected to increase by 680 people over the next 15 years, this following annual growth of 5.7% per annum between 2006 and 2011. This growing population, particularly in the Shire's coastal and rural-residential areas will place increasing demands on Council for services.

The Long Term Financial Plan further notes that a key issue for the Shire is its ability to grow the revenue base so that sufficient operational revenue is collected to fund all operating expenses, but that Council must ensure it manages community aspirations within a confined fiscal envelope.

**STRATEGIC IMPLICATIONS**

The Geraldton Region Plan (1999) seeks to provide a framework for the future management, protection and coordination of regional planning in the region. The Region Plan incorporates a structure plan for the Greater Geraldton area, the 2011 update of which identifies Lot 174 and the surrounding area as 'Rural Living'. Section 9.5 of the Region Plan notes that:

*“Rural-residential areas, immediately to the east of the residential development areas in a band two to three kilometres wide, include...the Cooper Street Precinct and White Peak in the Shire of Chapman Valley. The larger lot sizes provide the opportunity for rural and recreational uses, such as horse riding and hobby farming, not accommodated in conventional residential subdivisions. The rural-residential areas relate to natural features, including the rivers and the Moresby Range.*

*The areas of Woorree, Moresby, Eastlyn, and the Cooper Street Precinct are well serviced by infrastructure and in reasonable proximity to community facilities. The development of these areas for small rural lot subdivision is unlikely to use land that would otherwise be suitable for standard residential purposes, given the availability and location of residential land elsewhere.”*

Amendment No.24 to Scheme No.1 was given Ministerial approval on 24 May 2000 and rezoned the lots on the northern side of Dolbys Drive from 'General Farming' to 'Special Rural' leading to the subdivision pattern for Lots 170-174 (with Lot 170 having been further subdivided since). The Scheme Amendment No.24 documentation contained a Subdivision Guide Plan that illustrated Lot 174 in its current size.

**Figure 9.1.2(f) – Scheme Amendment No.24 Subdivision Guide Plan (24/5/2000)**



In its previous determination on the subdivision application for Lot 172 Dolbys Drive (which is the next but one lot to the east of Lot 174) which proposed to create one lot on the southern side of Dolby Creek and retain the balance on the northern side, the WAPC advised as follows:

*“The Shire is advised that in approving this subdivision the WAPC has formed the opinion that, in accordance with Local Planning Scheme No.2, a structure plan should be prepared for land in ‘Rural Residential 1’. In this case the ceding of the foreshore reserve is not supported without an overall plan due to access and management issues; and the identification of potential lots below 1ha.”*

The Shire and the applicant have both informally discussed the subdivision application for Lot 174 with the WAPC prior to its lodgement, making argument that a Dolbys Drive Structure Plan will primarily be required to address the issue of the land on the northern side of Dolbys Creek, with it likely that future road access will be required to be formalised and upgraded from Dulchev Way to enable this area to be further subdivided. It was argued that subdivision of Lot 174 south of Dolbys Creek could be supported prior to formulation of a structure plan as it would front the already constructed and sealed Dolbys Drive and would not prejudice the structure planning for the area north of Dolby Creek.

The draft 2015/2016 budget includes an allocation of \$28,000 (Account 7072) to undertake the Dolbys Drive Structure Plan, as given the area is under the ownership of 5 different landowners each with differing timeframes for subdivision, and some past disagreements between landowners it is considered unlikely that a structure plan would be prepared without the Shire playing a coordinating role. The Dolbys Drive Structure Plan would address an area of 36ha which is much smaller, than the previous Wokarena Heights (142ha, 11 landowners) and Buller (197ha, 11 landowners) Structure Plans that Council has undertaken, and hopefully would prove to be a less arduous exercise.

The Dolbys Drive Structure Plan would need to give due regard to Section 5.22 ‘Structure Planning Areas’ of the Shire’s Scheme and the relevant WAPC State Planning Policies, along with any other standard expectations the Department of Planning have in relation to the scope and layout of Structure Plans. It is also suggested that the Structure Plan process in this instance would need to give some level of consideration to the following issues:

- Designation of an appropriate foreshore reserve along the Dolby Creek watercourse that will assist in the strategic goal of providing a recreation and wildlife corridor between the coast and the Moresby Range (the width of the foreshore reserve would likely be established through on-site walking of the watercourse with Department of Water representatives);
- Identification of a watercourse crossing location to enable subdivision of the land north of Dolby Creek, this would need to be in a location acceptable to the Department of water, main Roads WA and the State Heritage Office and would likely also require an indicative crossing design and investigation regarding a shared contribution mechanism for subdividers to contribute towards this crossing; &
- Regard for the requirements of Main Roads WA in relation to the proposed Primary Distributor Road alignment as identified by the Greater Geraldton Structure Plan 2011.

The Shire has been working towards achieving a recreational and native vegetation corridor along the Dolby Creek with the ultimate long-term strategic vision of linking the Moresby Range and the coast with a walking trail and wildlife corridor.

The support of this proposed subdivision represents another step in realising the vision outlined in Section 4.3.2 and Recommendations 28 & 29 of the Moresby Range Management Strategy (WAPC, 2009) and Figure 7.2 and Section 7.4.1 of the Moresby Range Management Plan (City of Greater Geraldton & Shire of Chapman Valley, 2010).

**Figure 9.1.2(g) – View on the Moresby Range looking west along Dolby Creek to the ocean**



- **Strategic Community Plan:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 adopted by Council at its 19 June 2013 meeting lists *'making the right land available to increase housing'* as a Community Strategy to achieve the outcome of *'more people and families move into the Shire'* and *'explore opportunities to utilise key areas in the Shire by showcasing their natural and environmental characteristics'* as an Environmental Strategy.

#### **CONSULTATION**

The WAPC is not obliged to undertake any public consultation in its assessment of subdivision applications, but has referred the application out to the Shire of Chapman Valley, Department of Fire and Emergency Services, Department of Mines and Petroleum, Department of Parks and Wildlife, Department of Water, Unexploded Ordnance Branch, Water Corporation and Western Power seeking comment.

#### **RISK ASSESSMENT**

The ultimate strategic goal of a recreation and wildlife corridor along the Dolby Creek linking the Moresby Range and the coast would create an asset with some level of risk. Whilst the anticipated Shire assets ultimately within the corridor would be limited to a walk trail and potentially some limestone benches, similar to those constructed elsewhere along Dolby Creek, the Shire must be mindful that when Dolby Creek does experience a flow event it can be quite significant as evidenced in Figure 9.1.2(h) which was taken 1km downstream at the Chapman Road crossing. There are numerous examples of infrastructure not having been appropriately setback in the wider region (e.g. the Beresford footpath and Drummond Cove basketball court). On this basis the support of the presented subdivision application is subject to the rear (western) boundaries of the two proposed Dolbys Drive lots being identified on-site at time of survey by Department of Water and Shire staff to ensure that what will later become a foreshore reserve is created at an appropriate width, to protect future Shire assets such as a walking trail.

**Figure 9.1.2(h) – Dolby Creek during 1 in 200 year rainfall event**



### **VOTING REQUIREMENTS**

Simple Majority required.

### **COUNCIL RESOLUTION / STAFF RECOMMENDATION**

**MOVED: CR FORRESTER**

**SECONDED: CR HUMPHREY**

That Council advise the Western Australian Planning Commission that, under Section 5.22.4.2 of Shire of Chapman Valley Local Planning Scheme No.2, it supports the proposed subdivision of Lot 174 Dulchev Way, Waggrakine as shown upon Plan No.15117-01 (WAPC date stamped 29/6/15) subject to the following conditions and advice notes:

Conditions:

- 1 The proposed 5m wide public accessway shown on the approved plan of subdivision being shown on the deposited plan of survey as a Reserve for Recreation 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.
- 2 The pedestrian accessway being constructed, fenced and gated at the subdivider's cost to the requirements of the Local Government.
- 3 The western boundary of proposed Lots A & B to be determined on-site at survey stage to the requirements of the Department of Water and the Local Government.
- 4 Uniform fencing to be constructed along the boundaries of proposed Lots A & B at the subdivider's cost to the requirements of the the Local Government.
- 5 The 10m wide battle-axe access way for proposed Lot B being constructed and drained at the subdivider's cost to the requirements of the Local Government.
- 6 Notification, pursuant to section 70A of the *Transfer of Land Act 1893* shall be placed on the Certificate of Title of proposed Lots A and B 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:

*"The floor levels of all proposed buildings upon the lot are to be constructed not less than the floor level recommended by the Department of Water and sand pad batters are to be protected from erosion."*

- 7 Notification, pursuant to section 70A of the *Transfer of Land Act 1893* shall be placed on the Certificate of Title of proposed Lots A & B 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:

*"Reticulated sewerage connection is not available to the lots, and a suitable on-site effluent disposal system complying with the specifications of the Health Department*



*designed for long term use will be required to service any new development on each lot.”*

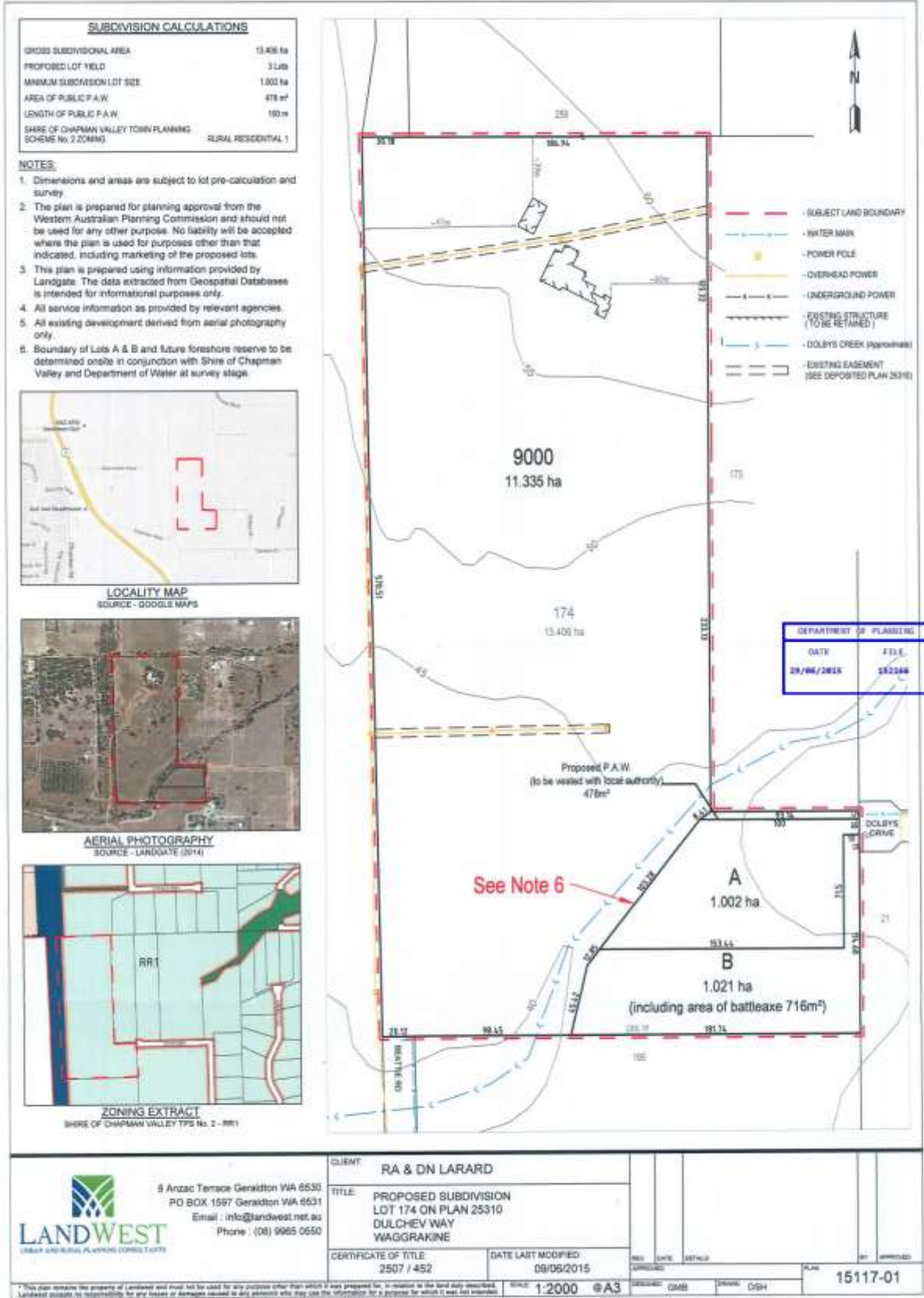
*“The lots are subject to the provisions of the Local Planning Scheme (Rural Residential 1 zone) which relate to the use and management of the land.”*

- 8 Suitable arrangements being made with the Water Corporation so that provision of a reticulated scheme water supply service will be available to all lots shown on the approved plan of subdivision.
- 9 Suitable arrangements being made with Western Power for the provision of an electricity supply service to all lots shown on the approved plan of subdivision.

Advice Notes:

- (a) In regards to condition 2 the Local Government advises that the 5m wide pedestrian accessway is required to be constructed to a 2.5m width, 150mm thick gravel minimum standard, and fenced to a 7 line ring lock with single strand wire on top and pine posts at 6m separation minimum standard, with vehicle access gates to be installed at either end with signage on the eastern gate advising it is for emergency purposes only, to the requirements of Local Government.
- (b) In regards to condition 4 the Local Government advises that the fencing is required to be to a 7 line ring lock with single strand wire on top and pine posts at 6m separation minimum standard.
- (c) In regards to condition 5 the Local Government advises that the 10m wide battle-axe access way for proposed Lot B is required to be constructed to a 3.5m width, 150mm thick gravel minimum standard.

**Voting 5/0  
CARRIED  
Minute Reference: 07/15-3**



# **9.2 Finance July 2015**

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### **9.2 AGENDA ITEMS**

#### 9.2.1 Financial Reports for June 2015

|                            |   |
|----------------------------|---|
| <b>AGENDA ITEM:</b>        | <b>9.2.1</b>                                |
| <b>SUBJECT:</b>            | <b>FINANCIAL REPORTS FOR JUNE 2015</b>      |
| <b>PROPONENT:</b>          | <b>SHIRE OF CHAPMAN VALLEY</b>              |
| <b>SITE:</b>               | <b>SHIRE OF CHAPMAN VALLEY</b>              |
| <b>FILE REFERENCE:</b>     | <b>307.04</b>                               |
| <b>PREVIOUS REFERENCE:</b> | <b>N/A</b>                                  |
| <b>DATE:</b>               | <b>15 JULY 2015</b>                         |
| <b>AUTHOR:</b>             | <b>KRISTY WILLIAMS &amp; DIANNE RAYMOND</b> |

#### **DISCLOSURE OF INTEREST**

Nil

#### **BACKGROUND**

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

#### **COMMENT**

Attached to this report are the monthly financial statements for June 2015 for Council's review.

#### **STATUTORY ENVIRONMENT**

*Local Government Act 1995 Section 6.4*

*Local Government (Financial Management) Regulations 1996 Section 34*

#### **POLICY IMPLICATIONS**

Policy 5.70 Significant Accounting Policies

Extract:

##### *"2. Monthly Reporting*

*In accordance with Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Financial Management Regulations 1996, monthly reporting will be provided as follows:*

- 1. Statement of Financial Activity*
  - 2. Balance Sheet and statement of changes in equity*
  - 3. Schedule of Investments*
  - 4. Operating Schedules 3 – 16*
  - 5. Acquisition of Assets*
  - 6. Trust Account*
  - 7. Reserve Account*
  - 8. Loan Repayments Schedule*
  - 9. Restricted Assets*
  - 10. Disposal of Assets*
- A value of 10 percent is set for reporting of all material variances".*

#### **FINANCIAL IMPLICATIONS**

As presented in April 2015 financial statements.

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

No significant affect on the LTFP

#### **STRATEGIC IMPLICATIONS**

Nil

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

Nil

### **CONSULTATION**

Not applicable

### **RISK ASSESSMENT**

The associated risk would be the failure to comply with Local Government Financial Regulations requiring monthly reporting of financial activity.

### **VOTING REQUIREMENTS**

Simple Majority

### **COUNCIL RESOLUTION / STAFF RECOMMENDATION**

**MOVED: CR WOOD                      SECONDED: CR HUMPHREY**

That Council receives the financial report supplied under separate attachment for the month of June 2015 comprising the following:

- Summary of Payments
- Summary of Financial Activity,
- Net Current Assets
- Detailed Statement of Financial Activity,
- Details of Cash and Investments,
- Statement of Significant Variations,
- Summary of Outstanding Debts
- Reserve Funds
- Information on Borrowings
- Disposal of Assets
- Acquisition of Assets
- Rating Information
- Trust Fund Reconciliations
- Bank Reconciliation

**Voting 5/0  
CARRIED  
Minute Reference: 07/15-4**

# **9.3 Chief Executive Officer July 2015**

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## **Contents**

### **9.3 AGENDA ITEMS**

#### 9.3.1 WALGA Governance Review – Discussion Paper

|                            |  |
|----------------------------|--|
| <b>AGENDA ITEM:</b>        | <b>9.3.1</b>   |
| <b>SUBJECT:</b>            | <b>WALGA GOVERNANCE REVIEW – DISCUSSION PAPER</b>      |
| <b>PROPONENT:</b>          | <b>WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION</b> |
| <b>SITE:</b>               | <b>WA LOCAL GOVERNMENT</b>                             |
| <b>FILE REFERENCE:</b>     | <b>404.01</b>  |
| <b>PREVIOUS REFERENCE:</b> | <b>NIL</b>   |
| <b>DATE:</b>               | <b>15<sup>th</sup> JULY 2015</b>                       |
| <b>AUTHOR:</b>             | <b>MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER</b>      |

#### DISCLOSURE OF INTEREST

Nil

#### BACKGROUND

As stated in the attached Discussion Paper, WALGA State Council is sponsoring a review to be carried out on the governance arrangements for State Council and Zones.

A review of the Association's governance structure was undertaken in 2011. This review focused on the structure and effectiveness of State Council and the Zones. It is proposed that the primary focus of this review will be the governance processes of WALGA and the effectiveness of the relationship with Zones rather than a focus on structure.

#### COMMENT

I found a majority of the Discussion Paper was basically governance issues, which need addressing and I concur with the proposed amendments.

The Discussion Paper seeks comments to assist the Association in the review process. I have listed in the Staff Recommendation below my thoughts/position on the questions within the Paper. However, Council can obviously add, delete or amend as they consider necessary.

Rather than repeat the content of the Paper in this report I simply refer Council to the attached document for discussion and consideration.

#### STATUTORY ENVIRONMENT

Not applicable

#### POLICY IMPLICATIONS

No policy directly affected.

#### FINANCIAL IMPLICATIONS

No financial implications envisaged.

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

No affect on the Shire's LTFP

#### STRATEGIC IMPLICATIONS

Minimal (or no) implications envisaged

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

| Objective  | Strategy  | Actions  |
|--|---|--|
| <b>We want a representation and governance model that reflects our community's unique attributes</b> | The President and Councillors to be representative of the community and provide strong leadership | Councils actively engage and work with key State and strategic partners to advocate on behalf of the Shire |

## CONSULTATION

WALGA has produced the Discussion Paper and distributed this to all member local government's for feedback.

The following timetable for the review is proposed:

|    |  |                        |
|----|--|------------------------|
| 1. | Preparation of a Discussion Paper for sector-wide consultation and feedback    | May-June 2015          |
| 2. | Consultation with the Local Government sector and Zones                        | June-September 2015    |
| 3. | Consideration of responses   | October 2015           |
| 4. | Preparation of a report to Zones and State Council                             | November-December 2015 |
| 5. | Referral of any subsequent proposals for Constitutional change to a future AGM | August 2016            |

## RISK ASSESSMENT

No risk associated with this item.

## VOTING REQUIREMENTS

Simple Majority

## COUNCIL RESOLUTION / STAFF RECOMMENDATION

**MOVED: CR MALUISH**

**SECONDED: CR HUMPHREY**

Council provides the following feedback to the Western Australian Local Government Association on the review being undertaken on the governance arrangements for the State Council and Zones:

| Item No.   | Item Description/Question   | Council Comments   |
|--|---|--|
| 2.1.1 - Clause 9<br>( <i>State Council Ex-Officio Members</i> )        | Should the Lord Mayor of the City of Perth be added to the Constitution or left as discretionary with reference only in the Corporate Governance Charter?   | The Lord Mayor of the City of Perth should be added to the Constitution as an ex-officio member. |
| 2.1.2 - Clause 10<br>( <i>Meetings of State Council</i> )              | Are State Council's meeting procedures as set out in the Standing Orders, and applying to all meetings of State Council, worthy of mention in the Constitution?   | No specific comment.   |
| 2.1.3 - Clause 14<br>( <i>Zones</i> )                                  | There is a requirement to clarify that an Elected Member who has been peremptorily suspended under Section 8.15C(2)(c) of the Local Government Act (where a Council is also suspended) becomes ineligible to be a Zone delegate during this period of suspension.<br>Comments are invited on adding the ineligibility reference as set out above. | The ineligibility reference should be added for the suspension period.                           |
| 2.1.4 - Clauses 17 and 18<br>( <i>President and Deputy President</i> ) | Should the term limit for the two positions be consistent? If consistency is preferred, then should non-restricted terms be considered or restricted terms?   | Consistency should be introduced for both positions  |
| 2.1.5 - Clause 19<br>( <i>Vacancy President and Deputy President</i> ) | Do the provisions clearly express the election process?<br>Do the provisions permit the efficient and timely election of  | Current provisions appear to be satisfactory.  |



|  |   |  |
|--|---|--|
|  | either position when a pre-term vacancy arises? Can the provisions be improved to facilitate democratic election principles?  |  |
| 2.2.1 - Clause 7<br>(Role of State Councillor)                     | Does the role of a State Councillor adequately capture the contemporary requisites and expectations of the position?  | Current roles appear to be satisfactory.   |
| 2.2.2 - Clause 7<br>(Role of State Councillor – Zone Meetings)     | There is a requirement in Local Government that Elected Members support their Council's formal resolutions, and not speak adversely or negatively on decisions that Council has made. Should this transfer to the expectation of the behaviour of State Councillors?  | Yes.   |
| 2.2.3 - Clause 8<br>(Role of President)                            | <ol style="list-style-type: none"> <li>1. Does the role of the President adequately capture the contemporary requisites and expectations of this important function?</li> <li>2. Further, should a clause be added to the Corporate Governance Charter to clarify the role of the Deputy President, which is to fulfil the role of the President in the President's absence?</li> </ol> | <p>Current roles appear to be satisfactory.</p> <p>Yes.</p>  |
| 2.2.5 - Clause 11<br>(State Council Meetings)                      | Review of this clause is recommended to ensure satisfaction that the functions relating to State Council meetings reflect contemporary expectations.  | No specific comment.   |
| 2.2.6 - Clause 13<br>(State Council Meeting Agenda)                | Should there be allocation for a report from an Ex-Officio member? Currently the LGMA (WA) President attends all meetings; however there is no item for a report. WALGA, by comparison, has a reporting item at LGMA meetings through the CEO's Ex Officio capacity.  | Yes, though do not see the need for the Lord Mayor to provide a report.  |
| 2.2.7 - Clause 13 (iv)<br>(Emerging Issues)                        | <ol style="list-style-type: none"> <li>1. Does the current process for inclusion of Emerging Issues in the State Council agenda require review?</li> <li>2. Should emerging issues require approval of State Council to be formally considered at a State Council meeting?</li> </ol>   | <p>No specific comment.</p> <p>Yes</p>   |
| 2.2.8 - Clause 16<br>(LGIS Board and Local Government House Trust) | Comment is invited on matters raised in regards to the LGIS Board and LG House Trust.   | <p>No specific comments on the LGIS Board and LG House Trust.</p> <p>Council agrees with the proposed process for the appointment to committees as stated in the Discussion Paper.</p> |
| 2.2.10 - Clause 20<br>(Monitoring)                                 | 1. This section requires reviewing as a number of   | No specific comment.   |

|  |  |   |
|--|--|---|
|  | <p>the monitoring functions are carried out by the Finance and Services Committee, and comment is invited on appropriate content.</p> <p>2. Further, should State Council have a more structured role in monitoring financial KPIs?</p>  | No specific comment.  |
| 2.2.11 - Clause 33<br>( <i>Relationship between State Council, Zones and Local Governments</i> ) | <p>Comment is invited on Clause 33 generally, and specifically:</p> <ul style="list-style-type: none"> <li>• the potential for an 'Executive Committee' to be formed;</li> <li>• the utility of the Co-Chairs and Forum of Co-Chairs; and,</li> <li>• a review of the Policy Forum / Policy Teams concept and their appointment processes.</li> </ul>  | <p>Agrees with model as stated in Discussion Paper.</p> <p>No specific comment.</p> <p>No specific comment.</p> |
| 2.2.12 - Proposed New Clause<br>( <i>Recommendations to Representative Bodies</i> )              | To what extent should the Corporate Governance Charter capture reporting requirements of representatives back to WALGA?  | No specific comment.  |
| 2.2.13 - Code of Conduct and Confidentiality Agreement   | Comment is invited in relation to the Code of Conduct and Confidentiality Agreement.   | No specific comment.  |
| 2.3.1 - Clause 7<br>( <i>Order of Business</i> )   | <p>Comment is invited on Clause 7 of the Standing Orders i.e.</p> <p><b>7. ORDER OF BUSINESS</b><br/> <i>Unless the meeting should decide otherwise, the order of business at State Council meetings, with the exception of special meetings or an adjourned meeting, shall be as follows:</i></p> <p>(a) <i>Recording of attendance and apologies;</i><br/> (b) <i>Announcements;</i><br/> (c) <i>Adjourned business (if any)</i><br/> (d) <i>Confirmation of minutes of previous meetings;</i><br/> (e) <i>Presidents and officers reports</i><br/> (f) <i>Matters for decision;</i><br/> (g) <i>Reports; and</i><br/> (h) <i>Urgent business.</i></p> | No specific comment.  |
| 2.3.2 - Proposed New Provision<br>( <i>Alleged Breach of Standing Orders</i> )                   | <p>1. Should State Council's Standing Orders contemplate complaints-handling procedures?</p> <p>2. Could this be dealt with by amending the Code of Conduct to reflect appropriate behaviours during meetings of State Council?</p> <p>3. Should the Code of Conduct be amended so that a</p>  | <p>Yes</p> <p>Yes</p> <p>Yes</p>  |

|  |  |  |
|--|--|--|
|  | breach of the Standing Orders equates to a breach of the Code of Conduct?  |  |
| 3.1.1 - Clause 5<br>(Membership of the Association)  | A typographical error appears in clause 5(7)(b), with incorrect reference to sub-clause 5(9), which should read 5(11).   | No comment necessary.  |
| 3.2.1 - Clause 7<br>(Role of State Councillor: Review of Annual General Meeting Decisions) | <p>Clause 7(iv), below, states that State Council must consider decisions made by the membership at Annual General Meetings:</p> <p><i>(iv) Annual General Meeting Directions and Decisions<br/>In accordance with clauses 22 and 23 of the Constitution, the State Council is to give consideration to any direction or decision made at an Annual General Meeting in its discharge of responsibilities and functions.<br/>Where State Council considers that a direction or decision from an Annual General Meeting is not in the best interests of the Association, the Chief Executive Officer shall give notice to Ordinary Members of the decision of State Council and the reasons for that decision.</i></p> <p>It is considered that it would be more appropriate for this clause to be included as part of the 'Role of State Council' (Clause 1) as it is a role for the board, not for individual State Councillors.</p> | Agreed   |
| 3.2.2 Clause 15<br>(Annual Meeting Calendar)   | The calendar will be reviewed and updated to reflect current practice including regional meetings.   | No specific comment.   |
| 4.1.1 Inclusiveness vs. Timeliness of State Council Decisions                              | <p>1. Does the current State Council decision-making process strike the right balance between timeliness and inclusiveness?</p> <p>2. Should the method in which State Council considers Zone resolutions be changed?</p>  | <p>Yes</p> <p>No</p>   |
| 4.1.2 Zone Motions<br>(Consistency with Council Policy)                                    | Should zone motions be required to have the Local Government's consent or be consistent with their Council's policy position?  | <p>Not necessarily.</p> <p>In the event individual Elected Members advocate a position at the Zone of State Council level, which is contrary to that of the member LGA then it should be up to that member LGA to deal with this at a local level and advise the Zone &amp; State Council accordingly.</p> |

|  |   |  |
|--|---|--|
| 4.2 - Zone Autonomy                        | Any comment relating to Zone Autonomy is invited.   | No change required to current situation. Each Zone should be allowed to be as autonomous and active as they consider necessary.  |
| 4.3 - Zone Presentations and Delegations   | Any comment relating to Zone Presentations and Delegations is invited.  | No change required to current situation. Each Zone should be allowed to be as autonomous and active as they consider necessary.  |
| 4.4.1 - Timeliness of State Council Agenda | Is the State Council agenda timetable appropriate, or should it be amended in some way?   | Yes. No need for change.   |
| 4.4.2 State Council Agenda Format          | Is it still appropriate for hard-copy agendas to be printed and posted to Local Governments or, is the electronic version sufficient? | Hard copy Agendas should be discontinued. Those LGAs requiring hard copies can print these themselves.<br><br>We need to move away from hard copy paper agendas, minutes, etc. |

**Voting 5/0  
CARRIED  
Minute Reference: 07/15-5**



# WALGA Governance Review

## Discussion Paper

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## 1. Background

WALGA State Council is sponsoring a review to be carried out on the governance arrangements for State Council and Zones.

A review of the Association's governance structure was undertaken in 2011. This review focused on the structure and effectiveness of State Council and the Zones. It is proposed that the primary focus of this review will be the governance processes of WALGA and the effectiveness of the relationship with Zones rather than a focus on structure.

### 1.1 Review Process

This Discussion Paper will focus on the following:

- a) Review of Documentation – Key issues – Section 2 of this paper
- b) Technical drafting – Correction of technical wording issues and the alignment of issues in the three governance documents – Section 3 of this paper
- c) Review of State Council and Zone processes and effectiveness – Section 4 of this paper

A review of the three Association governance documents is to be undertaken. The primacy of the documentation is as follows:

- I. Constitution
- II. Corporate Governance Charter
  - a. Code of Conduct
  - b. Confidentiality Agreement
- III. Standing Orders
  - a. State Council
  - b. Annual General Meeting

As a principle there will be an alignment of the documentation to make sure that all three documents are consistent. Over time there have been reviews of the Constitution and the Corporate Governance Charter without reviews of the Standing Orders and this has created some inconsistencies.

The following timetable for the review is proposed:

- |   |                        |
|---|------------------------|
| 1. Preparation of a Discussion Paper for sector-wide consultation and feedback    | May-June 2015          |
| 2. Consultation with the Local Government sector and Zones                        | June-September 2015    |
| 3. Consideration of responses   | October 2015           |
| 4. Preparation of a report to Zones and State Council                             | November-December 2015 |
| 5. Referral of any subsequent proposals for Constitutional change to a future AGM | August 2016            |

## 2. Review of Documentation

Each of the key governance documents of WALGA – the Constitution, Corporate Governance Charter and Standing Orders – are considered in this section of this paper, with a range of key issues identified for discussion and feedback. Other, more general feedback on each of the documents is also welcomed, beyond the issues raised below.

### 2.1 Constitution

General feedback is sought on the Constitution, as well as responses to the following discussion points. The Constitution can be found at:

<http://www.walga.asn.au/MemberResources/GovernanceStrategy/GovernanceReviewDiscussionPaper.aspx>

#### 2.1.1 Clause 9 – State Council Ex-Officio Members

There is an inconsistency between the Association's Constitution and the Corporate Governance Charter. The Constitution provides for 2 ex-officio members: the WALGA President and LGMA WA President. The Corporate Governance Charter provides for 3 ex-officio members: the WALGA President, LGMA WA President and Lord Mayor of the City of Perth.

**Discussion:**

Should the Lord Mayor of the City of Perth be added to the Constitution or left as discretionary with reference only in the Corporate Governance Charter?

#### 2.1.2 Clause 10 – Meetings of State Council

Currently the Constitution does not include a reference to Standing Orders, it only references the requirement for State Council to establish a Corporate Governance Charter and Code of Conduct.

**Discussion:**

Are State Council's meeting procedures as set out in the Standing Orders, and applying to all meetings of State Council, worthy of mention in the Constitution?

#### 2.1.3 Clause 14 – Zones

There is a requirement to clarify that an Elected Member who has been peremptorily suspended under Section 8.15C(2)(c) of the Local Government Act (where a Council is also suspended) becomes ineligible to be a Zone delegate during this period of suspension.

**Discussion:**

Comments are invited on adding the ineligibility reference as set out above.

#### 2.1.4 Clauses 17 and 18 – President and Deputy President

Currently, there is no restriction on the term the WALGA President may serve, whereas there is a two term confinement on the Deputy President position.

The President and Deputy President are elected by State Council for two year terms following the election of State Councillors by the Zones. Following a State Councillor's election as President, the Zone that elected that State Councillor is entitled to elect a replacement State Councillor to maintain that Zone's representation around the State Council table.

**Discussion:**

Should the term limit for the two positions be consistent? If consistency is preferred, then should non-restricted terms be considered or restricted terms?

#### 2.1.5 Clause 19 – Vacancy President and Deputy President

The current provisions for filling a vacancy in the office of President and Deputy President follow:

- (1) *If the office of the President becomes vacant or if for any other reason the President is unable to take or hold office at a period which exceeds six months from the date of the next scheduled election for that office, then the State Council shall meet to elect from among their number a President who, subject to this Constitution, shall hold the office of President for the balance of the term of the President replaced.*
- (2) *Where a vacancy occurs in the office of President at a period which is six months or less from the date of the next scheduled election for that office, the State Council may convene a meeting to elect from among their number a President who, subject to this Constitution, shall hold the office of President for the balance of the term of the President replaced, or the State Council may in its discretion, determine that the vacancy be filled by the Deputy President until the date of the next scheduled election.*
- (3) *If the office of Deputy President becomes vacant or if for any other reason the Deputy President is unable to take or hold office, then the State Council shall meet to elect from among their number a Deputy President who shall hold the office for the balance of the term of the Deputy President replaced.*
- (4) *A State Council representative elected to fill a vacancy of Deputy President pursuant to clause 18 shall still be eligible for election for a subsequent two (2) full consecutive terms.*

**Discussion:**

Do the provisions clearly express the election process? Do the provisions permit the efficient and timely election of either position when a pre-term vacancy arises? Can the provisions be improved to facilitate democratic election principles?

## 2.2 Corporate Governance Charter

General feedback on the Corporate Governance Charter is sought, as well as responses to the following discussion points.

The Corporate Governance Charter can be found at:

<http://walga.asn.au/MemberResources/GovernanceStrategy/GovernanceReviewDiscussionPaper.aspx>

### 2.2.1 Clause 7 – Role of State Councillor

State Councillors are the Association's Board members, elected by Zones. State Councillors, through collective decisions of State Council, have ultimate responsibility for the successful operation of the Association. This includes responsibility for policy positions, strategic direction and financial operations.

The Role of a State Councillor is currently described as follows:

#### **(i) General roles and responsibilities**

*State Councillors have ultimate responsibility for the overall successful operations of the Association. The principal roles of State Councillors relate to:*

- *all major policy positions and issues;*
- *the strategic direction of the Association;*
- *financial operations and solvency; and*
- *all matters as prescribed by law.*

*Broadly speaking, the fundamental duties that State Councillors must fulfil include:*

- (i) act in good faith and in the best interests of the organisation for a proper purpose;*
- (ii) act with care and diligence;*
- (iii) act honestly;*
- (iv) avoid actual or potential conflict of interest;*
- (v) not to improperly use information or their position;*
- (vi) prevent insolvent trading by the Association; and*
- (vii) avoid actual or potential conflicts of interest.*

*State Councillors, as directors of a Board, are required to act consistently in the "best interests of the organisation as a whole". This effectively means that the duties of a State Councillor are owed to all Member Local Governments.*

*Whilst it is recognised that State Councillors must represent the interests of their respective Zones, the interests of the Association and its collective membership must always come first.*

*Individual State Councillors have no individual authority to participate in the day-to-day management of the Association, including making any representations or agreements with Member Local Governments, suppliers, customers, employees or other parties or organisations.*

**(ii) Confidentiality and Code of Conduct**

Pursuant to the Association's Constitution (clause 10) and in accordance with agreed ethical and behavioural standards, State Councillors will abide with confidentiality requirements and the State Council's Code of Conduct. The Code is enclosed as **Schedule 2** to the Charter.

All State Councillors are required to sign a Confidentiality and Code of Conduct Agreement which outlines their obligations to the Association in relation to the treatment of confidential information and behavioural requirements within the Code of Conduct. A copy of the Confidentiality and Code of Conduct Agreement is enclosed as **Schedule 3** to the Charter.

**(iii) Expectations of State Councillors in State Council meetings**

A State Councillor shall, in good faith, behave in a manner that is consistent with generally accepted procedures for the conduct of meetings at all State Council meetings. This will include, but not be limited to:

- behaving in a business-like manner;
- acting in accordance with the policy resolutions of the Association's State Council;
- abiding by the provisions of the Confidentiality and Code of Conduct Agreement;
- addressing issues in a confident and firm, yet courteous manner;
- using judgement, common sense and tact when discussing issues;
- minimising side comments, chatter and irrelevant remarks;
- ensuring that others are afforded a reasonable opportunity to put forward their views (ie refraining from interruption or interjection when a speaker has the floor); and
- being particularly sensitive in interpreting any request or indication from the President that aims to ensure the orderly and good-spirited conduct of the meeting.

State Councillors are expected to be forthright in State Council meetings and have a duty to question, request information, raise any issue, fully canvass all aspects of any issue confronting the Association and cast their vote on any resolution according to their own judgement.

However outside the Boardroom, State Councillors will support the spirit of all State Council decisions in discussions with Member Local Governments, Zones, staff and other parties when acting in their capacity as a State Councillor. The Association respects the right of State Councillors when acting in their local or regional elected membership role to advocate the position of their local or regional constituency.

All information received by a State Councillor in the course of the exercise of their official duties that is deemed by the Chief Executive Officer to be confidential remains the property of the Association. It is improper to disclose information, or allow information to be disclosed, unless the disclosure has been authorised.

**(iv) Annual General Meeting Directions and Decisions**

In accordance with clauses 22 and 23 of the Constitution, the State Council is to give

*consideration to any direction or decision made at an Annual General Meeting in its discharge of responsibilities and functions.*

*Where State Council considers that a direction or decision from an Annual General Meeting is not in the best interests of the Association, the Chief Executive Officer shall give notice to Ordinary Members of the decision of State Council and the reasons for that decision.*

**(v) Emergency Contact Procedures**

*As there is the occasional need for urgent decisions, State Councillors should leave with the Secretariat any contact details, either for themselves or for a person who knows their locations, so that all State Councillors can be contacted within 24 hours in case of urgent business.*

**Discussion:**

Does the role of a State Councillor adequately capture the contemporary requisites and expectations of the position?

**2.2.2 Clause 7 – Role of State Councillor – Zone Meetings**

There is scope to consider broadening sub-clause (iii) 'Expectations of State Councillors in State Council Meetings' to include expectations when attending Zone Meetings to reflect the collegiate approach to State Council Policy positions that arise through formal decision-making processes.

**Discussion:**

There is a requirement in Local Government that Elected Members support their Council's formal resolutions, and not speak adversely or negatively on decisions that Council has made. Should this transfer to the expectation of the behaviour of State Councillors?

**2.2.3 Clause 8 – Role of President**

The President's role is currently described as follows:

*The President's role is a key one within the Association. The President is considered the "lead" State Councillor and utilises experience, skills and leadership abilities to facilitate governance processes.*

*The President is to represent and advocate the resolutions of State Council. Whilst State Council retains ultimate responsibility for Association decision making, any issues that require an immediate or urgent decision outside of State Council ordinary and extraordinary decision making processes, and where it is impractical to seek State Council consideration, may be dealt with by the President in consultation with the Deputy President. Such actions shall not contravene existing policy or previous decisions of State Council and must be undertaken in observance to any specified parameters. Any exercise of this power will require an agenda item to be submitted to the next ordinary meeting of State Council seeking ratification.*

*In common with the Chairman of most governing boards, the President will:*

- *chair State Council meetings in a manner which results in consensus and commitment to decisions;*
- *represent the views of State Council to management and act as a link between meetings;*
- *be the 'interface' of the organisation with external stakeholders;*
- *act as spokesperson and media contact on such matters as are required, in consultation with the Chief Executive Officer of the Association;*
- *develop an effective working relationship with the Chief Executive Officer;*
- *ensure timely and accurate dissemination of information to State Councillors;*
- *be responsible for State Council performance and advise and counsel State Councillors in regards to their performance on State Council;*
- *establish Policy Forums, as required, to report directly to State Council; and*
- *co-opt persons for Local Government vacancies to boards and committees where no nominations have been received following two rounds of advertising.*

**Discussion:**

1. Does the role of the President adequately capture the contemporary requisites and expectations of this important function?
2. Further, should a clause be added to the Corporate Governance Charter to clarify the role of the Deputy President, which is to fulfil the role of the President in the President's absence?

**2.2.4 Clause 9 – Role of the Chief Executive Officer**

The Chief Executive Officer's role is currently described as follows:

The Chief Executive Officer is appointed by and accountable to the State Council.

The Chief Executive Officer is responsible for the ongoing management of the Association in accordance with the strategy and policies approved by the State Council.

Within the State Council meeting, the Chief Executive Officer will provide advice, information and seek to clarify any issues raised, but will not enter into debate or deliberations. The Chief Executive Officer's responsibilities will include:

- managing the day-to-day operations of the Association;
- developing, with the State Council, a consensus for the Association's vision and mission and constructing strategic and business plans to implement the vision and mission;
- establishing and maintaining an effective system for identifying, monitoring, analysing and managing organisational risk and ensuring sound internal compliance and control;
- ensuring that State Council is kept informed of all relevant or requested information in a timely manner;
- ensuring that all proposals which affect the strategic direction of the Association are channelled through State Council for consideration;
- recruiting and negotiating the terms and conditions of appointment for all employees and appointing senior managers to the Executive Team;



- promoting an organisational culture that is aligned with the values, standards and strategies adopted by State Council;
- ensuring a safe workplace for all personnel;
- being the spokesperson for the Association on all operational matters and such other issues as required by the President;
- establishing and maintaining a Register of Powers, Authorities, Discretions and Duties delegated by the State Council; and
- being the custodian of records, books, documents and securities of the Association.

Pursuant to clause 13 (2) of the Association's Constitution, the State Council may delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under the Constitution.

**Discussion:**

Does the role of the Chief Executive Officer adequately describe the expectations of Members in the management of the Association?

**2.2.5 Clause 11 – State Council Meetings**

The Corporate Governance Charter currently states:

*State Council meetings are fundamental to the governance of the Association. The State Council meeting is the main opportunity for State Councillors to:*

- *obtain and exchange information with the Chief Executive Officer and senior management team;*
- *obtain and exchange information with each other; and*
- *make decisions.*

*The following guidelines have been adopted for all meetings of State Council:*

- *a willingness to deal with the business – “canvass fully, then decide”;*
- *set a start time and aim for two hours maximum;*
- *aim to finish the job;*
- *where there is no disagreement, no debate is needed;*
- *adhere to clear rules of meeting and debate;*
- *if the majority accept, move on (“win some, lose some”);*
- *concentrate on the issue, resist the temptation for personal attack and the claiming of territories;*
- *create space for those who want to have a say;*
- *speak up and speak clearly;*
- *know the Agenda - do your homework;*
- *ensure phones are turned off in meetings; and*
- *in media releases, endeavour to acknowledge difference if present, whilst representing the State Council view or decision.*

**Discussion:**

Review of this clause is recommended to ensure satisfaction that the functions relating to State Council meetings reflect contemporary expectations.



## 2.2.6 Clause 13 – State Council Meeting Agenda

The Corporate Governance Charter currently states:

*The State Council meeting agenda will generally address the following:*

- *Standing matters, including attendance, announcements, previous minutes, business arising from minutes and declarations of interest*
- *Emerging Issues*
- *Matters for Decision*
- *Matters for Noting*
- *Organisational Reports including Key Activity Reports and Policy Forum Updates*
- *The President's Report*
- *The Chief Executive Officer's Report, and*
- *Meeting Assessment.*

### **Discussion:**

Should there be allocation for a report from an Ex-Officio member? Currently the LGMA (WA) President attends all meetings; however there is no item for a report. WALGA, by comparison, has a reporting item at LGMA meetings through the CEO's Ex Officio capacity.

## 2.2.7 Clause 13 (iv) – Emerging Issues

This subclause currently states:

*Urgent issues that are not dealt with in the State Council agenda may be discussed in the "Emerging Issues" section at the beginning of State Council meetings.*

*The emerging issues section will be primarily used for notifying State Council of critical issues of relevance to Local Government that arise from Zone, Committee or Policy Forum meetings. Where a State Councillor seeks to raise an emerging issue at a State Council meeting, at least 24 hours notification must first be provided to the President and/or Chief Executive Officer.*

*Any resolutions that arise from the consideration of an emerging issue must be carried by an appropriate resolution, in accordance with clause 12 of the Association's Constitution.*

*It is considered inappropriate to utilise Emerging Issues as a means of seeking resolution from State Council on any of the following matters:*

- *variations to the Constitution;*
- *amendments to the Code of Conduct;*
- *amendments to the Standing Orders;*
- *any addition, amendment, withdrawal, modification or substitution of powers of the State Council; or*
- *delegations to any person or committee.*

### **Discussion:**

1. Does the current process for inclusion of Emerging Issues in the State Council agenda require review?

2. Should emerging issues require approval of State Council to be formally considered at a State Council meeting?

#### 2.2.8 Clause 16 – LGIS Board and Local Government House Trust

Presently, the Corporate Governance Charter contains extensive detail on the formation and operation of Delegated Committees e.g. Honours Committee. However, the LGIS Board and the Local Government House Trust are not mentioned to the same extent.

Currently the following is provided:

*State Council has established a Board with full delegated powers, namely the Local Government Self-Insurance Schemes Board. Decisions of the Board are taken independent of the need for ratification of State Council.*

*The Local Government House Trust is a Trustee which owns and operates Local Government House.*

It is suggested that more detail can be included outlining the Board and Trust.

##### Local Government Self Insurance Scheme Board

The LGIS Board is ultimately responsible for all matters relating to implementing the objectives and purposes of the Insurance Schemes.

State Council has resolved that the Board will function and be regarded for all intents and purposes as a Board of Directors. Board members are therefore Directors, and are required to act in the discharge of all their responsibilities as if they are Directors of a corporation.

The LGIS Board has its own Corporate Governance Charter which is endorsed by State Council.

##### Local Government House Trust

The Local Government House Trust was established in 1980 with the objective of providing a building for the Local Government Associations.

The Trust is overseen by a Board of Management comprising of the following;

- I. President and Deputy President of WALGA
- II. a State Councillor from the country constituency
- III. a State Councillor from the metropolitan constituency
- IV. a representative from the beneficiaries of the country constituency
- V. a representative from the beneficiaries of the metropolitan constituency
- VI. the Chief Executive Officer of WALGA

There is a need to document in the Corporate Governance Charter the appointment and re-appointment process and terms for State Councillors and also the representatives from the country and metropolitan constituency.

**Discussion:**

Comment is invited on the matters discussed above.

**2.2.9 Clause 17 – Committees with Delegated Powers**

The current Committees with delegated powers include the Finance and Services Committee, Municipal Waste Advisory Council, Selection Committee and Honours Panel.

It is suggested the Committee process could be improved by including the following provisions in the Corporate Governance Charter:

**Terms of Reference:**

This will include the scope and limitations of the Committee.

**Membership and Term:**

Description of skills and abilities of members, and the term they will serve, which is suggested should coincide with State Council terms.

**Appointment process for State Councillors and non-WALGA members:**

Currently, the Corporate Governance Charter states that the President may appoint members to delegated committees.

It is proposed that a formal process of appointment to delegated committees is established with appointments made by State Council utilising the Selection Committee where appropriate. At the beginning of each two-year State Council term, State Council should appoint State Councillors to delegated committees. Further, State Council should consider and endorse the appointment of external members to delegated committees based on recommendations from the Selection Committee following a thorough nomination and selection process.

This proposal would reflect the contemporary practice in the Local Government sector when establishing a formal Committee of a Council.

**Discussion:**

Comment is invited on this proposal.

**2.2.10 Clause 20 – Monitoring**

This clause currently states:

*A fundamental function of the State Council is to monitor the strategic direction, performance, management of risk and compliance of the Association. With this general principle in mind, the State Council is charged with monitoring both financial and non-financial KPIs.*

*Financial KPIs*

*The State Council will closely follow:*

- *annual membership contributions;*
- *the Balance Sheet;*
- *Income and Expenditure Statement;*
- *financial performance against annual budget;*
- *debtors (over 90 days);*
- *creditor's days;*
- *financial indicators (e.g. liquidity ratio, debt/asset ratio);*
- *the annual audit of financial statements; and*
- *compliance with the Association Financial Management Policies (e.g. Financial Planning, Financial Condition, Budget Reallocation).*

Currently, financial KPIs are monitored by the Finance and Services Committee with State Council considering the Finance and Services Committee Minutes at each State Council meeting.

**Discussion:**

1. This section requires reviewing as a number of the monitoring functions are carried out by the Finance and Services Committee, and comment is invited on appropriate content.
2. Further, should State Council have a more structured role in monitoring financial KPIs?

**2.2.11 Clause 33 – Relationship between State Council, Zones and Local Governments**

This clause outlines the relationship between State Council, Zones and Member Local Governments and includes sub clauses on the following:

- State Council
- State Council Co-Chairs
- Forum of Co-Chairs
- Policy Forums
- Zones
- Member Local Governments

Clause 33 states:

*The structural framework for the Association includes three levels of representation:*

- **State Council** - *consisting of 24 members representing Zones within the country and metropolitan constituencies;*
- **Zones** – *12 country and 5 metropolitan Zones; and*
- **Member Local Governments**

**(i) State Council**

*State Council is the peak decision making body for the Association and is responsible to Zones and Member Local Governments for fulfilling their constitutional responsibilities.*

Zones and Member Local Governments can make direct submissions to State Council, either through their representative(s) on State Council or the Association Secretariat.

**(ii) State Council Co-Chairs**

Two State Councillors are appointed by the President as Co-Chairs for each of the four policy portfolios of governance and strategy, infrastructure, environment and waste and planning and community development. The role of the Co-Chairs is to act as the key advocates for their respective policy portfolios.

Specific duties include liaison with the respective Executive Manager on key policy positions and developments in the portfolio including the preparation of submissions and when required, endorsement of interim submissions. Co-Chairs may also be invited to attend meetings with relevant Government Ministers at the discretion of the President.

**(iii) Forum of Co-Chairs**

The Forum of State Council Co-Chairs acts as the primary policy and advocacy support to the President and the Association. The Forum is established by the Association President and comprises the President and two State Councillors for each of the four policy areas (infrastructure, governance and strategy, environment and waste, planning and community development). The Forum of Co-Chairs has no delegated authority and works within current Association policy positions. The Forum of Co-Chairs considers and discusses strategic priority policy issues affecting the Association and the Local Government sector for future State Council consideration.

**(iv) Policy Forums**

Within the core policy portfolios of the Association, policy development is facilitated by Policy Forums.

Policy Forums are convened on an as-needs basis by the Association President to develop policy for the Association in relation to a particular issue or range of issues. Policy Forums can be of any size and may include membership from elected representatives and officers from affected or interested Member Local Governments. In some instances, a Policy Forum may be a day-long symposium open to all Local Governments which concludes upon the adoption of a common resolution. In other cases, Policy Forums may be a specialised working group assembled to develop policy or legislative initiatives for the Association. Zones and Member Local Governments may be directly involved with Policy Forums, and can participate or make formal submissions.

**(v) Zones**

The country and metropolitan constituencies in Western Australia are divided into groupings called Zones. Zones consist of Local Governments grouped together on the basis of population, commonalities of interest and geographical alignment considerations. Pursuant to the Association's Constitution, the membership of Ordinary Members to Zones shall be determined from time to time by State Council. The number of Zones shall be determined from time to time by the Ordinary Members of the Association at a Special or Annual General Meeting.

There are 12 Country Zones and 5 Metropolitan Zones. For the country constituency, each Zone has one (1) representative on State Council who will represent the interests of the

*Local Governments within that Zone. Metropolitan Zones have between two (2) or three (3) representatives to State Council, with the number of representatives determined by the population size of Local Governments within the Zone. The total number of country and metropolitan representatives to State Council is 24 (12 country and 12 metropolitan).*

*Clause 14 of the Association's Constitution requires that Zone undertake the following functions:*

- *electing a representative or representatives and deputy representative or deputy representatives to the State Council;*
- *considering the State Council agenda;*
- *providing direction and/or feedback to their representative or representatives on the State Council; and*
- *any other functions deemed appropriate by the members of the Zone.*

**(vi) Member Local Governments**

*Member Local Governments are the shareholders of the Association and the focus of core Association activities is to be directed towards the provision of political advocacy, programs and services which meet their collective needs. Under the structural framework of the Association, Member Local Governments have the capacity to be directly involved in the development of policy for Local Government. Member Local Government can access the Association through the State Council, Secretariat, Policy Teams and Policy Forums, or through their respective Zones.*

A potential reform option, which was contemplated in the previous Governance review in 2011, is considering the formation of an Executive Committee.

Under this model, State Council would maintain its primacy as the Association's governing Board but would be able to delegate some powers to an Executive Committee, which would be in a position to meet more regularly than the current two-monthly cycle of State Council meetings.

The Executive Committee could be utilised for policy and advocacy decisions required outside of the State Council meeting cycle and could be delegated powers that are currently the responsibility of the Finance and Services Committee.

Should the formation of an Executive committee be contemplated, it could then take on the political, policy and advocacy roles and responsibilities of the State Council Co-Chairs (see clause 33(ii) above) and the Forum of Co-Chairs (clause 33(iii) above).

Currently, the Co-Chairs, corresponding to WALGA's four key policy development portfolios (Governance, Infrastructure, Environment and Waste, and Planning and Community Development) consider and provide input to interim submissions prior to their submission to the relevant agency.

The membership of the Forum of Co-Chairs is the President and the two State Councillors who act as Co-Chairs for each of the Association's key policy portfolios: Governance and

Strategy, Infrastructure, Environment and Waste and Planning and Community Development.

Consideration could also be given to reviewing the Policy Forum concept as opposed to the previous construct of four portfolio Policy Teams (six members each) where a State Councillor would be allocated to at least one policy team. The four Policy Teams corresponded to each of WALGA's four key policy development portfolios: Governance, Infrastructure, Environment and Waste, and Planning and Community Development.

The Policy Teams were recently replaced by Policy Forums which are explained in Clause 33(iv) above.

Current Policy Forums are:

- Mining Communities Policy Forum
- Metropolitan Mayors Policy Forum
- WARR Act Policy Forum
- Container Deposit Legislation Policy Forum
- Freight Policy Forum

**Discussion:**

Comment is invited on Clause 33 generally, and specifically:

- the potential for an 'Executive Committee' to be formed;
- the utility of the Co-Chairs and Forum of Co-Chairs; and,
- a review of the Policy Forum / Policy Teams concept and their appointment processes.

**2.2.12 Proposed New Clause – Recommendations to Representative Bodies**

WALGA provides representatives to approximately 120 State Government and Local Government Committees and Boards. There may be a need to capture in the Governance Charter the reporting requirements of the selected representatives.

**Discussion:**

To what extent should the Corporate Governance Charter capture reporting requirements of representatives back to WALGA?

**2.2.13 Code of Conduct and Confidentiality Agreement**

A review is to be carried out to make the documents more contemporary and with general consistency with Local Government Codes of Conduct.

**Discussion:**

Comment is invited in relation to the Code of Conduct and Confidentiality Agreement.

## 2.3 Standing Orders

The current Standing Orders can be found at:

<http://walga.asn.au/MemberResources/GovernanceStrategy/GovernanceReviewDiscussionPaper.aspx>

### 2.3.1 Clause 7 – Order of Business

Alignment with the Corporate Governance Charter is required.

**Discussion:**

Comment is invited on Clause 7 of the Standing Orders.

### 2.3.2 Proposed New Provision – Alleged Breach of Standing Orders

The Standing Orders are silent on any process for dealing with an allegation of a breach of their provisions, which does not align with the Code of Conduct dealing with breaches of the Corporate Governance Charter.

The contemporary practice in Local Government centres on Regulation 4 of the Rules of Conduct Regulations, which provides for a minor breach complaint opportunity.

**Discussion:**

1. Should State Council's Standing Orders contemplate complaints-handling procedures?
2. Could this be dealt with by amending the Code of Conduct to reflect appropriate behaviours during meetings of State Council?
3. Should the Code of Conduct be amended so that a breach of the Standing Orders equates to a breach of the Code of Conduct?



### 3. Technical Drafting

In principle, all three documents should align in terms of content. Over time there have been reviews of the Constitution and the Corporate Governance Charter without reviews of the Standing Orders and this has created some inconsistencies that should be addressed as part of this review.

#### 3.1 Constitution

One item of a technical drafting nature has been identified in the Constitution.

##### 3.1.1 Clause 5 – Membership of the Association

A typographical error appears in clause 5(7)(b), with incorrect reference to sub-clause 5(9), which should read 5(11).

#### 3.2 Corporate Governance Charter

Two items of a technical drafting nature have been identified in the Corporate Governance Charter.

##### 3.2.1 Clause 7 – Role of State Councillor: Review of Annual General Meeting Decisions

Clause 7(iv), below, states that State Council must consider decisions made by the membership at Annual General Meetings:

**(iv) Annual General Meeting Directions and Decisions**

*In accordance with clauses 22 and 23 of the Constitution, the State Council is to give consideration to any direction or decision made at an Annual General Meeting in its discharge of responsibilities and functions.*

*Where State Council considers that a direction or decision from an Annual General Meeting is not in the best interests of the Association, the Chief Executive Officer shall give notice to Ordinary Members of the decision of State Council and the reasons for that decision.*

It is considered that it would be more appropriate for this clause to be included as part of the 'Role of State Council' (Clause 1) as it is a role for the board, not for individual State Councillors.

##### 3.2.2 Clause 15 – Annual Meeting Calendar

The calendar will be reviewed and updated to reflect current practice including regional meetings.

Currently, the following is included in the Corporate Governance Charter:

*In order to provide an even distribution of work over the year, the State Council will utilise a rolling twelve-month meeting calendar. An example of an annual meeting calendar is included below as a guide to State Council activities undertaken throughout a typical calendar year. At least one State Council meeting will be held regionally each year at a location and date to be determined. Zone meetings are held in a two week period prior to State Council meetings.*

| <b>Month</b> | <b>Event</b>   |
|--------------|--|
| February     | <ul style="list-style-type: none"> <li>• Finance and Services Committee Meeting</li> <li>• Selection Committee Meeting</li> </ul>  |
| March        | <ul style="list-style-type: none"> <li>• General induction of new State Councillors (if applicable)</li> <li>• Election of President and Deputy President (if applicable)</li> <li>• Honours Panel Meeting</li> <li>• State Council Meeting</li> </ul> |
| April        | <ul style="list-style-type: none"> <li>• Selection Committee Meeting</li> <li>• Finance and Services Committee Meeting</li> </ul>  |
| May          | <ul style="list-style-type: none"> <li>• Consideration of Association Honours</li> <li>• Finance and Services Committee Meeting</li> <li>• State Council Meeting</li> </ul>  |
| June         | <ul style="list-style-type: none"> <li>• Special Meeting State Council – Budget Adoption &amp; Strategic Plan review</li> <li>• Finance and Service Committee Meeting</li> <li>• Selection Committee Meeting</li> </ul>                                |
| July         | <ul style="list-style-type: none"> <li>• State Council Meeting</li> <li>• Finance and Services Committee Meeting (Adoption of Audited Financial Statements)</li> </ul>   |
| August       | <ul style="list-style-type: none"> <li>• Selection Committee Meeting</li> <li>• Finance and Services Committee Meeting</li> <li>• Annual General Meeting</li> </ul>  |
| September    | <ul style="list-style-type: none"> <li>• State Council Meeting</li> </ul>  |
| November     | <ul style="list-style-type: none"> <li>• Selection Committee Meeting</li> <li>• Finance and Services Committee Meeting</li> </ul>  |
| December     | <ul style="list-style-type: none"> <li>• Annual Review of Chief Executive Officer</li> <li>• Annual Review of State Council and individual State Councillors</li> <li>• State Council Meeting</li> </ul>   |

## 4. Review of State Council and Zone Effectiveness

General feedback is sought in relation to the effectiveness of Zones and State Council. The following subjects may provoke feedback.

### 4.1 State Council Decision Making Process

The current decision making process of State Council is inclusive. Zones consider State Council items and the recommendations to State Council at their meetings. The Zones are able to move amendments to, or oppose, the recommendations to State Council.

At the State Council meeting, every Zone's resolution regarding State Council items will be considered by all State Councillors. This is done by a process of composite resolutions, where the original recommendation is blended with all Zone motions to form a new, 'composite' resolution.

In this way, the input from Zones is crucial to the State Council decision making process and means that, in practice, State Council invariably arrives at a representative and consensus position.

#### 4.1.1 Inclusiveness vs. Timeliness of State Council Decisions

There has been discussion in recent times about the timeliness of State Council decision making, particularly when State Council seeks to ensure all Zones are able to input into the decision making process. State Council strives to find a balance between timeliness and inclusiveness in their decision making processes and can be reluctant to make decisions without Zone consultation. Notwithstanding, the ability for State Councillors to bring 'Emerging Issues' to the State Council meeting provides State Council with some flexibility to make decisions in a more timely manner when necessary.

Another relevant issue is the treatment of motions from Zones. Currently, State Council considers other Zone resolutions en bloc during their meeting, and then the Zone resolutions are referred to the relevant WALGA business or policy unit for action. This process can also take time for Zones to receive a response. One option would be for State Councillors to raise sector-wide issues when Zone resolutions are considered for State Council to make a more timely decision or for the State Council to formally prioritise Zone resolutions when they are considered.

#### **Discussion:**

1. Does the current State Council decision-making process strike the right balance between timeliness and inclusiveness?
2. Should the method in which State Council considers Zone resolutions be changed?

#### 4.1.2 Zone Motions – Consistency with Council Policy

There has been discussion on the issue of some zone representatives bringing forward items that are not supported or are actively opposed by their Council. Some have therefore suggested that motions at Zone meetings should require the support of the mover's Council.

This would ensure that the Zone is confident that the motion being considered has undergone some thought and research. Conversely, requiring a Council resolution to submit a motion to a Zone meeting would increase the time required for policy issues to be considered and would reduce the flexibility of Zones to make their own decisions. Further, as Zones are autonomous in their construct, it may be considered inappropriate to restrict matters that can be considered by Zones.

**Discussion:**

Should zone motions be required to have the Local Government's consent or be consistent with their Council's policy position?

#### 4.2 Zone Autonomy

While Zones have a requirement to elect one or more State Councillors and to consider the State Council agenda, they have the autonomy to build on or expand this role.

Some Zones are more active than others in this regard. Some Zones expand on the role of the Zone and undertake some of the following activities:

- developing and advocating positions of regional significant affecting Local Government;
- progressing regional Local Government initiatives;
- identifying relevant issues for action by WALGA;
- presentations from external stakeholders;
- networking and sharing information; and
- contributing to policy development.

Other Zones are more minimalist in their approach and have not taken the opportunity to expand their role beyond that defined in the Constitution.

**Discussion:**

Any comment relating to Zone Autonomy is invited.

#### 4.3 Zone Presentations and Delegations

Zones have the opportunity to receive delegations and presentations from politicians and government departments and agencies.

This provides the Zone with opportunities for information exchange and communication between Local Governments and stakeholders.

The Zone meetings are also a primary point of contact between WALGA and its members. The Association has the opportunity to update Local Government representatives on the work of the Association and Zone meetings present the opportunity for Zone delegates to ask questions of the WALGA President and senior WALGA staff.

**Discussion:**

Any comment relating to Zone Presentations and Delegations is invited.

#### 4.4 Comprehensive State Council Agenda

The comprehensive State Council Agenda is a key component in WALGA's policy development and advocacy process. It contains discussion in relation to policy issues on a range of topics that affect different Local Governments differently. Two issues are discussed below: the timeliness of the State Council agenda distribution and the format of the State Council agenda.

##### 4.4.1 Timeliness of State Council Agenda

The production of the comprehensive State Council agenda runs to a relatively tight timetable that seeks to balance relevance of the issues covered in the agenda with time available for reading and analysis by member Local Governments, Zone delegates and State Councillors.

The timetable operates as follows:

|   | <b>Deadline for Agenda Items</b>              | <b>Electronic Distribution – Deadline to Printer</b> | <b>Hard-copy Distribution</b>                 | <b>Zone Meetings</b>                            |
|---|---|--|---|---|
| <b>Number of days prior to the State Council Meeting (including weekends)</b> | <b>27</b> days prior to State Council meeting | <b>21</b> days prior to State Council meeting        | <b>16</b> days prior to State Council meeting | <b>12-5</b> days prior to State Council meeting |

There has been commentary that Zone delegates require more time to read the agenda; however, there are nine days between the electronic distribution of the State Council agenda and the first of the Zone meetings. The agenda timetable could be amended to provide more time for Zone delegates to read the agenda, but it would be at the risk of the agenda no longer being up to date with policy issues.

**Discussion:**

Is the State Council agenda timetable appropriate, or should it be amended in some way?

#### 4.4.2 State Council Agenda Format

Currently the State Council agenda is distributed to Local Governments via email in pdf form three weeks prior to the State Council meeting and is sent to a printing company at the same time. Then, approximately 400 copies are printed and posted to Local Governments to arrive approximately two weeks before the State Council meeting.

**Discussion:**

Is it still appropriate for hard-copy agendas to be printed and posted to Local Governments or, is the electronic version sufficient?

## 5. Submission of Feedback

Please submit feedback on the issues raised in this discussion paper, as well as any other relevant matters, by Wednesday, 16 September 2015 to:

James McGovern  
Manager, Governance  
[jmcgovern@walga.asn.au](mailto:jmcgovern@walga.asn.au)  
(08) 9213 2093

Following the submission of feedback, a report will be presented to Zones and State Council in December 2015.

**10.0 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

**11.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

11.1 Elected Member Reports

**12.0 URGENT BUSINESS APPROVED BY THE PRESIDING MEMBER OR BY A DECISION OF THE COUNCIL**

**13.0 MATTERS FOR WHICH MEETING TO BE CLOSED TO MEMBERS OF THE PUBLIC**

**MOVED: CR WOOD**

**SECONDED: CR FORRESTER**

Council closes the meeting to the public for the following Agenda Item in accordance with the *Local Government Act, 1995*, Section 5.23(2)(a) as the items relates to a matter affecting an employee.

**Voting 5/0  
CARRIED**

**Minute Reference: 07/15-6**

|                            |  |
|----------------------------|--|
| <b>AGENDA ITEM:</b>        | <b>13.1</b>  |
| <b>SUBJECT:</b>            | <b>CONFIDENTIAL ITEM - CEO ANNUAL PERFORMANCE REVIEW</b> |
| <b>PROPOSER:</b>           | <b>SHIRE OF CHAPMAN VALLEY</b>                           |
| <b>SITE:</b>               | <b>NABAWA</b>  |
| <b>FILE REFERENCE:</b>     | <b>PERSONAL FILE</b>                                     |
| <b>PREVIOUS REFERENCE:</b> | <b>N/A</b>   |
| <b>DATE:</b>               | <b>15<sup>th</sup> JULY 2015</b>                         |
| <b>AUTHOR:</b>             | <b>MAURICE BATTILANA</b>                                 |

**COUNCIL RESOLUTION / STAFF RECOMMENDATION**

**MOVED: CR HUMPHREY**

**SECONDED: CR MALUISH**

Council:

1. Appoints the Shire President, Deputy Shire President and Cr Forrester to undertake the Chief Executive Officer Annual Performance Appraisal and Remuneration Review for 2015 and bring this back to Council for consideration.
2. Provide the Chief Executive Officer written notice that his Annual Performance Appraisal and Remuneration Review is to be undertaken and requesting a waiver of condition 5.3.1 regarding the use of an independent party to facilitate the performance review in this instances.

**Voting 5/0  
CARRIED**

**Minute Reference: 07/15-7**

**MOVED: CR FORRESTER**

**SECONDED: CR WOOD**

That Council reopen to the meeting to the public.

**Voting 5/0  
CARRIED**

**Minute Reference 0715-8**

**14.0 CLOSURE**

The Chairman thanked the Elected Members and Staff for their attendance and the meeting was closed at 9.50am