



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 16 October 2019
at the **Council Chambers, 3270 Chapman Valley Road, Nabawa**
commencing at 9:00am.

Maurice Battilana
CHIEF EXECUTIVE OFFICER

CONFIRMED MINUTES

OCTOBER 2019

Shire's Vision

*'A thriving community, making the most of our coastline, ranges and rural settings to
support us to grow and prosper'*

DISCLAIMER



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

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

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

A handwritten signature in black ink, appearing to read "M. Battilana", is written over a large, faint, circular watermark or background mark.

Maurice Battilana
CHIEF EXECUTIVE OFFICER

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ORDER OF BUSINESS:

1.0 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

The President, Cr Farrell welcomed Elected Members and Staff and declared the meeting open at 9.04am.

2.0 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Nil

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

3.1 Present

a. Councillors

| Member |
|--------------------------------|
| Cr Anthony Farrell (President) |
| Cr Kirrilee Warr |
| Cr Nicole Batten |
| Cr Pauline Forrester |
| Cr Darrell Forth |
| Cr Peter Humphrey |

b. Staff

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

c. Visitors

| Name |
|------|
| Nil |

3.2 Apologies

| Name |
|----------------|
| Cr Ian Maluish |

3.3 Previously Approved Leave of Absence (By Resolution of Council)

| Councillor | OCM Month & Year | Date Approved | Minute Reference |
|------------|----------------------|----------------|------------------|
| Cr Forth | November 2019 OCM | 21 August 2019 | 08/19-1 |

4.0 PUBLIC QUESTION TIME

4.1 Response to Previous Public Questions On Notice

Nil

4.2 Public Question Time

Nil

5.0 APPLICATIONS FOR LEAVE OF ABSENCE (By Resolution of Council)

Nil

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."*

| Item No. | Member/Officers | Type of Interest | Nature of Interest |
|----------|-------------------|------------------|---------------------|
| 10.3.1 | Maurice Battilana | Financial | Financial Interest |
| 10.1.1 | Cr Darrell Forth | Proximity | Proximity Neighbour |

7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

7.1 Petitions

Nil

7.2 Presentations

Nil

7.3 Deputations

Nil

8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

COUNCIL RESOLUTION

MOVED: CR FORRESTER

SECONDED: CR BATTEN

8.1 Ordinary Meeting of Council held on Wednesday 18 September 2019

That the minutes of the Ordinary Meeting of Council held Wednesday 18 September 2019 be confirmed as a true and accurate.

**Voting 6/0
CARRIED**

Minute Reference: 10/19-1

9.0 ITEMS TO BE DEALT WITH EN BLOC

Nil

10.0 OFFICERS REPORTS

10.1

Deputy Chief Executive Officer

October 2019

Contents

10.1 AGENDA ITEMS

10.1.1 Proposed Lot Rationalisation – North West Coastal Highway, Oakajee

Cr Forth declared a proximity interest in this item and left Chambers at 9.12am

| | |
|----------------------------|--|
| AGENDA ITEM: | 10.1.1 |
| SUBJECT: | PROPOSED LOT RATIONALISATION |
| PROPONENT: | LANDWEST FOR LANDCORP |
| SITE: | LOTS 1, 2, 3, 153, 155, 180, 1039, 6990 & 10562 NORTH WEST COASTAL HIGHWAY, OAKAJEE |
| FILE REFERENCE: | A1525 & A1761 |
| PREVIOUS REFERENCE: | 13/2-4 |
| DATE: | 6 OCTOBER 2019 |
| AUTHOR: | SIMON LANCASTER |

SUPPORTING DOCUMENT:

| Ref | Title | Attached to Report | Under Separate Cover |
|-----------|---|--------------------|----------------------|
| 10.1.1(a) | Subdivision plans | √ | |
| 10.1.1(b) | Applicant's supporting correspondence | √ | |
| 10.1.1(c) | Coastal Management Strategy & Action Plan extract - Buller Rivermouth | √ | |

DISCLOSURE OF INTEREST

Cr D Forth declared a Proximity Interest.

BACKGROUND

Council is in receipt of correspondence from the Western Australian Planning Commission seeking comment on LandCorp's application to rationalise 9 lots in the Buller Rivermouth area into 6 lots. This report recommends that Council conditionally support the application.

COMMENT

LandCorp is seeking to rationalise the 9 lots that comprise 357ha at the southern end of its Oakajee Industrial Estate and Buffer landholding. The subject area includes the Buller River, an exposed sand dune south of the Buller Rivermouth (previously used as a limesand quarry), a driveway leading off the North West Coastal Highway, 2 existing residences that are leased by LandCorp, and areas used for agistment, cropping and a sandalwood plantation.

Figure 10.1.1(a) – Existing lot layout for Buller Rivermouth area



The application seeks to realign the boundaries of the lots to better reflect on-ground topography and land use features and reduce the number of lots from 9 to 6 as follows:

- Lot A - 3.463ha lot that would contain the initial 300m length of the gravel driveway that runs west off North West Coastal Highway, the lot would also contain the land area required for future realignment of the driveway to enable its upgrading to a road with a safer intersection location further north of the existing access point;
- Lot B - 5.0683ha lot that would contain the approximate 1.25km length of the remainder of the gravel driveway leading to the 2 existing houses, Lots A & B would remain as lots owned by LandCorp with a series of easements upon them providing right of carriageway to the other lots. Potential would exist for Lots A & B to ultimately be created/transferred as road reserves in the event that prior commitments and actions as outlined in the Strategic Implications section of this report are resolved;
- Lot C - 12.412ha lot that has been subject of discussions as a potential Aboriginal reburial site for remains that might be found during the future construction of a port and industrial development at Oakajee;
- Lot D - 18.3172ha lot that would contain one of the existing dwellings, and in the event that the Oakajee Industrial Estate and its associated emissions impacts necessitated demolition of the residence this would occur and LandCorp could potentially then create this lot as a nature reserve as part of the buffer;
- Lot E - 90.1302ha that would contain the Buller River and Rivermouth and the exposed sand dune area to its south; &
- Lot F - 227.8184ha lot that would contain the other existing residence and the farmed area, again the residence would be demolished by LandCorp at the appropriate trigger point of industrial development.

The proposed subdivision plans are provided as **Attachment 10.1.1(a)** and the correspondence submitted in support of the application is provided as **Attachment 10.1.1(b)**.

STATUTORY ENVIRONMENT

The proposed subdivision area is entirely located within the ‘Special Control Area 1 – Oakajee Industrial Zone & Buffer’ under the Shire of Chapman Valley Local Planning Scheme No.3 (‘the Scheme’). The north-western portion of the subdivision area is zoned ‘Strategic Industry’, the north-eastern portion and south-western portions are zoned ‘Rural’ (albeit within the Buffer Special Control Area) as shown in the below figure.

Figure 10.1.1(b) – extract from Local Planning Scheme Map

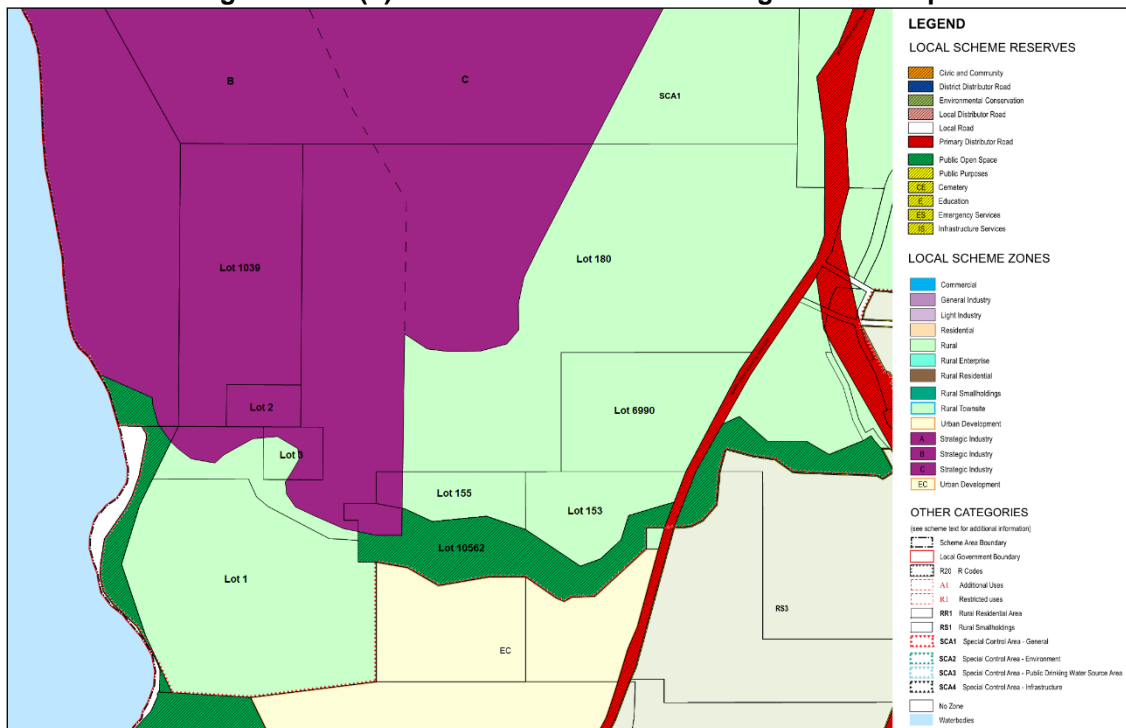


Table 6 of the Scheme lists the purpose and objectives of the ‘Special Control Area 1 – Oakajee Industrial Zone & Buffer’ as being:

- “(a) Provide for appropriate environmental and planning controls pertaining to the development of an industrial estate housing industries of strategic economic value to the State and Region, and which require separation from sensitive land-uses;

- (b) *Provide for a buffer surrounding the industrial estate within which land-uses incompatible with the purpose of the industrial estate are not permitted;*
- (c) *Support continued broad-acre agriculture on larger land holdings and the strategic placement and stockpiling of raw or manufactured materials (other than hazardous materials) subject to environmental and visual considerations.”*

The Scheme lists a range of additional provisions relevant to the ‘Special Control Area 1 – Oakajee Industrial Zone & Buffer’ and a copy of the Scheme, and a copy of the Oakajee Industrial Estate Structure Plan can be viewed on the WAPC’s website at the below link:

<https://www.dph.wa.gov.au/chapman-valley>

POLICY IMPLICATIONS

State Planning Policies are prepared and adopted by the WAPC under statutory procedures set out in part 3 of the *Planning and Development Act 2005*. The WAPC and local governments should have due regard to the provisions of State Planning Policies when making decisions on planning matters. The State Administrative Tribunal is also required to take account of State Planning Policies when determining appeals.

State Planning Policy 4.1 – State Industrial Buffer Policy seeks to provide a consistent statewide approach for the protection and long-term security of industrial zones, ports, utilities and special uses, and also provide for the safety and amenity of surrounding land uses. LandCorp’s acquisition of, not just the Oakajee Industrial Estate land area, but the surrounding buffer area, was intended to secure the long-term future of the industrial estate from potential encroachment of sensitive land uses.

SPP4.1 was gazetted in 1997 and is currently subject to review, draft SPP4.1 (2017) notes the following of relevance:

“5.3 Precautionary principle

Where a landowner/proponent has not demonstrated, to the satisfaction of the decision-maker, that a planning proposal adequately considers potential land use conflicts and will not expose existing or proposed sensitive land uses and/or zones to adverse impacts, the responsible decision-makers should apply the precautionary principle to all strategic planning proposals, subdivision and development applications.

In relation to strategic planning proposals, subdivisions and development applications, this policy recognises that each site is to be assessed on merit and that the determination of an application may involve the use of discretion in planning decision-making to support innovative solutions to prevent land use conflict.”

“6.7 Subdivision

- (a) Subdivision (including strata title) should seek to manage and avoid land use conflict through appropriate subdivision design.”*

The WAPC’s Development Control Policies sit within a structure which is established under the State Planning Strategy and State Planning Policy 1 - State Planning Framework. Development Control Policies are used to guide decision making in relation to subdivision and development applications.

WAPC Development Control Policy 4.1 – Industrial Subdivision is largely concerned with the lot size, access and servicing requirements of industrial subdivision and this would be of greater relevance to subsequent subdivisions within the Oakajee Industrial Estate as it enters into an operational phase. This application is seeking to rationalise lots that have been purchased by LandCorp as part of its initial land assembly and realign lot boundaries that have arisen through former tenure and rural activities and are not suited to the future strategic industrial estate requirements.

FINANCIAL IMPLICATIONS

Nil

• **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 June 2019 meeting. The Plan notes that protecting natural features is important to the community and the ultimate strategic aim of opening up Buller Rivermouth to the public will better achieve this. However, the Plan also notes that the continuing practice of cost shifting by the Federal and State governments onto local government provides a funding challenge and capital works and new assets require testing against the realities of the limited amount of money available to local government. Consideration over a future transfer of the current gravel driveway alignment to the Shire as a road reserve must be subject to prior resolution of several multi-party prior commitments and actions as outlined in the Strategic Implications section of this report to ensure that financial burden is not placed upon the Shire.

STRATEGIC IMPLICATIONS

Shire of Chapman Valley Local Planning Strategy

The subject land area is located within Precinct No.6 – ‘Oakajee’ of the Shire of Chapman Valley Local Planning Strategy (2008) which has the vision that “*large-scale regional and significant industry that is developed in the Precinct is protected by a buffer of compatible uses*”.

The Strategy notes for the Buller Rivermouth the following:

“Additionally, coastal management and access to specific recreational nodes, such as Buller River, will require serious consideration, extensive community consultation, and a coordinated and cooperative approach to addressing coastal issues prior to any significant development occurring within the Oakajee Industrial Estate.”

The Local Planning Strategy lists the following precinct objectives that are relevant to this application:

“Community Objective 6.1.2

Ensure coastal management and access issues are adequately addressed, and key recreational nodes are provided and maintained in a coordinated and co-operative approach with key stakeholders.”

“Environmental Objective 6.3.3

Ensure that land use and development adjacent to and in proximity to coastal and river areas incorporate appropriate environmental measures.”

“Infrastructure Objective 6.4.1

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 & State Government resources.”

The Strategy also notes that:

“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) For the relocation of lot boundaries that achieves improvements in environmental conditions and/or land management practices without adversely affecting the existing use of the land.*
- (b) Where it is demonstrated that there is a substantial, sustainable and beneficial gain in environmental repair, protection and preservation of land for conservation purposes in accordance with criteria for conservation lots outlined in WAPC Policy DC 3.4.*
- (c) Subdivision for an industrial purpose in accordance with approved structure planning.”*

Oakajee Industrial Estate Structure Plan

The Oakajee Industrial Estate Structure Plan was prepared by LandCorp and adopted by Council and the WAPC in 2012 and lists the following objectives:

- (a) To develop a structure plan that will facilitate the provision of land to meet the needs of internationally competitive heavy industry over the long-term;
- (b) To provide a multidisciplinary structure planning framework that achieves an appropriate balance between planning, engineering, environmental, sustainability, heritage and landscape factors;
- (c) To provide a planning framework which gives proponents clear direction and confidence to undertake feasibility studies into investing in the OIE;
- (d) To provide a productive Buffer (compatible use area) which designates land for its highest and best use without compromising the Strategic Industry Area;
- (e) To plan for a fully integrated and flexible transport system linking the OIE and the Port to State and National destinations via a road and rail network;
- (f) To plan for the efficient and coordinated provision of services based on an adaptable industrial ecology strategy;
- (g) To provide a spatial framework that maximises the potential for industrial ecology in terms of resource sharing and water management;
- (h) To ensure development recognises and protects, where possible, environmental, heritage and community values;
- (i) **To identify opportunities for controlled public access, including Buller River to the south, and the coastline to the west;**
- (j) To recognise and work with existing landscape values and identify opportunities for retaining and enhancing amenity through landscape design and revegetation; and
- (k) To provide a planning framework to assist with the management of carbon through renewable energy generation and commercial plantations.

Coastal Management Strategy & Action Plan

The Shire of Chapman Valley Coastal Management Strategy & Action Plan was adopted by Council in 2016 and made the following recommendations concerning the Buller Rivermouth:

| Action | Description | Priority | Responsibility |
|--------|--|---------------------|------------------------------------|
| BR1 | Consider who will be responsible for management of the Buller River area taking into account the visitor use, the future of the Oakajee Port and improvements to access. Further negotiations between the Shire of Chapman Valley and LandCorp to take place to determine the most appropriate land manager or the land management models which could be used (such as placing management orders with the Shire or continue the area to be owned by LandCorp and managed by the Shire subject to a fee for this service). | Medium - Long Term | Shire of Chapman Valley, LandCorp |
| BR2 | Prohibit camping at Buller River and install appropriate signage. | Ongoing | Mid West Ports Authority, LandCorp |
| BR3 | Develop Bull Rivermouth for day-use recreational pursuits. Prepare a Master Plan to provide further details regarding the facilities to be provided at the site. Include consideration of the following: <ul style="list-style-type: none"> • Design of the day-use area • Provision of day-use facilities • Protection of heritage sites • Access arrangements • The link between Buller River and Parkfalls Estate to the east • A horse exercise area • Responsible authorities for implementation and on-ground management and maintenance (such as rubbish collection and clean-ups) • Policing and surveillance, particularly during peak periods. | Short Term | Responsible land managers |
| BR4 | Relevant Land Manager(s) consider funding sources (be they internal, external, collaborative or a combination thereof) for development and upgrades within the Buller River environs including development of day use facilities, and the provision of permanent, sealed access to the Buller Rivermouth. | Medium - Long Term | Responsible land managers |
| BR5 | Consideration of public access to Buller River from the North West Coastal Highway including the following tasks: | Short – Medium Term | Shire of Chapman Valley, |

| | | | |
|------|--|---------------------------|--|
| | <ul style="list-style-type: none"> • Enter into negotiations with LandCorp regarding the formalisation of the existing access road from the highway to the Buller River site (note that while the ultimate recommendation for the access between the highway and Buller River is for sealed access, there may be a possibility that as an interim measure that the access could be to a gravel standard with the exception of the section leading to the highway intersection that will need to be constructed to a sealed standard). • Investigate the upgrades required to the intersection of the access road with the North West Coastal Highway (through consultation with Main Roads WA) • Determine capital and maintenance costs and how this will be funded between different parties. • Determine the future management of the road (i.e. will it be placed in a separate road reserve or remain on land managed by LandCorp). | | LandCorp, Main Roads WA |
| BR6 | Control the use of RRVs and ORVs in the dunes around the Buller River mouth, particularly north within the Aboriginal Heritage sites, through signage, education and policing (ranger presence or a caretaker). Maintain warning signs to inform drivers of the risks driving along the beach and through the dunes. | Short – Medium Term | Shire of Chapman Valley, Mid West Ports Authority, LandCorp, |
| BR7 | Erect interpretative signage at Buller River mouth to provide information on the Aboriginal Heritage sites within the area to increase awareness of their importance and value. | Short – Medium Term | Mid West Ports Authority, LandCorp, Native Title claim groups |
| BR8 | Encourage the formation of coastal care community groups to assist with beach clean ups and management of the Buller River area and to create a sense of community ownership and responsibility for the area. | Medium - Long Term | Shire of Chapman Valley, Mid West Ports Authority, LandCorp, Northern Agricultural Catchments Council |
| BR9 | A caretaker/ranger presence is maintained at Buller River, particularly during peak periods and if visitor use increases as a result of improved access and provision of facilities. | Medium - Long Term | Shire of Chapman Valley, LandCorp, Mid West Ports Authority |
| BR10 | Investigate and further consider the proposed off-road vehicle areas proposed in the NACC Feasibility Study (NACC, 2015) as a Permitted Areas under the <i>Control of Vehicles (Off-road Areas) Act 1978</i> . Following declaration of Prohibited Areas declare Authorised Officers under the <i>Control of Vehicles (Off-road Areas) Act 1978</i> to police Prohibited Areas and monitor vehicle speeds on the beach, erect appropriate signage and markers. Investigations will need to consider a range of issues such as Aboriginal heritage, rehabilitation and environmental impact, responsibilities, costings, tenure and access. | Short – Medium Term | Shire of Chapman Valley, LandCorp, Northern Agricultural Catchments Council, City of Greater Geraldton, Department of Aboriginal Affairs |
| BR11 | Undertake visitor monitoring at Buller River to help determine visitor numbers during peak periods and appropriate management responses. | Short Term | Shire of Chapman Valley, LandCorp, Mid West Ports Authority |

The section from the Coastal Management Strategy & Action Plan relating to Buller Rivermouth has been included as **Attachment 10.1.1(c)**.

Buller Rivermouth

The Buller Rivermouth has been identified to be developed as a coastal recreational node (day use only) in a number of state and local level strategic planning documents, including the Shire's Local Planning Strategy and Coastal Management Strategy and LandCorp's Oakajee Industrial Estate Structure Plan.

The Buller Rivermouth area (east to the North West Coastal Highway) is under the ownership of LandCorp, with the exception of the strip of coastal reserve which is under the management of the Mid West Ports Authority.

Buller Rivermouth is popular for fishing and camping and the development of the area will manage the current pressures being placed upon the location through uncontrolled vehicle access, fire risk, littering, vandalism, anti-social behaviour and public safety issues.

The Buller Rivermouth is currently accessible only by travelling north from Drummond Cove Road along the beach. The existing gravel access track that runs west off the North West Coastal Highway to the north of the Buller River, is situated upon land owned by LandCorp and is not a road reserve, and is therefore not open for public use and is sign posted and gated accordingly.

There has been previous discussions between the Shire, LandCorp and the Mid West Ports Authority regarding the development of public access to Buller Rivermouth. Such an action, whilst increasing the accessibility of the site and pressures upon it, will also increase the potential for surveillance and thereby impact upon the mindset of some users that the location is 'out of sight, out of mind' and a suitable location for lighting of fires, dumping rubbish, vandalism and anti-social behaviour as currently occurs.

As part of the planning and 'social offset' for the Oakajee Industrial Estate the development of two coastal nodes north and south of Oakajee had been identified, with Coronation Beach now established as an overnight stay and recreational node accessed by a sealed road. The Buller Rivermouth has been identified by a number of studies to be developed as a day-use recreational node, due to cumulative emissions modelling studies for an operational Oakajee Industrial Estate indicating the site should not be developed for overnight stay. However there remain a number of issues that require resolution before this site can be developed, with the key issues being:

- resolution of the Geraldton Alternative Settlement Agreement to resolve the issue of native title and to enable greater certainty on the Aboriginal management structure for Unallocated Crown Land so that discussions can be held involving the Shire, LandCorp, Mid West Ports Authority and the traditional owners over the future of Buller Rivermouth and exploration of potential partnerships and opportunities;
- the creation of 2WD vehicle access from North West Coastal Highway to Buller Rivermouth (this will be a considerable cost undertaking as the highway intersection will require relocation and significant upgrading in the form of slip and turning lanes to provide a safe means of access to the standards and requirements of Main Roads WA);
- the undertaking of Aboriginal heritage surveys (as the Buller Rivermouth contains a number of heritage and burial sites and these will need to be identified);
- the undertaking of a masterplan exercise (this will need to establish the type and location of development in this area, identify rehabilitation works and also plan for excluding access to areas that have heritage or environmental issues);
- the undertaking of on-ground works as identified by the masterplan; &
- agreement upon a funding framework and ongoing management model.

The Shire has recognised that whilst it is going to have to be the likely driver for the project to be achieved, it must also balance this advocacy role with an awareness of not just capital but ongoing cost.

The Shire has repeatedly expressed the view that given the significant issues of resourcing and management responsibilities that would need to be addressed to progress the development of the Buller Rivermouth site, it would need an understanding of, and agreements in place with partners such as LandCorp and the Mid West Ports Authority addressing the necessary funding to cover:

- initial planning and development cost;
- future resourcing, maintenance and management costs, appropriately indexed and quarantined;
- associated costs such as depreciation costs and road maintenance; &
- any additional insurance costs arising.

The Shire has also expressed a willingness to explore management models with LandCorp and the Mid West Ports Authority whereby the local government was engaged to manage a facility owned by LandCorp or another state government agency or department. The Shire's preferred position is for LandCorp to retain ultimate ownership and responsibility, and to contract the Shire to manage the facility on its behalf. The Shire would want to retain the right to withdraw from the management of the facility in the event that funding was removed or

reduced. In the event that a different form of management model was pursued, such as the site being transferred as Crown Reserve or freehold title to the Shire, then an understanding and agreement on the capital and ongoing costs would need to be developed to the satisfaction of all parties before the Shire would be in agreement.

To enable investigation into what some of the development issues and capital costs might be, discussions have remained preliminary and been on the basis that these pre-conditions are noted and would need to be addressed if the project was to progress.

The development of Buller Rivermouth, particularly if linked back to the Parkfalls Estate and Buller future urban area by means of a walking trail along the southern bank of the Buller River, would be a recreational asset to the Shire of Chapman Valley and its residents. However, it must also be acknowledged that with a population of only 1,422 people, the Shire cannot be expected to foot the bill for a facility that will draw the vast majority of its patronage from outside the Shire.

It is a reasonable concern of the Shire, based on many precedents in local government, that while external funding may be found for a considerable portion of the initial development cost, the Shire would then be expected to pay for management and maintenance into the future. The identification of less obvious costs, such as the increased frequency of road maintenance, ranger patrols and enforcement and the depreciation of any physical assets, is also a legitimate concern.

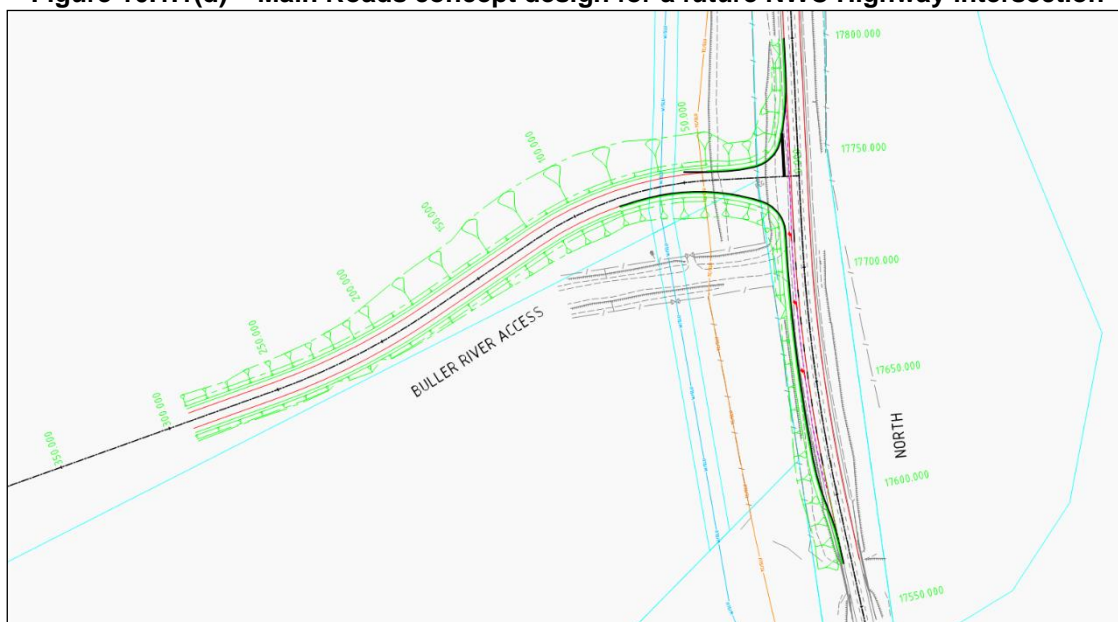
As a starting point, and to begin a process of understanding on what some of the development issues and capital costs might be, LandCorp and the Shire have been working with Main Roads WA to investigate what would be required to upgrade the highway intersection.

Figure 10.1.1(c) - Access point onto North West Coastal Highway north of Buller River



Main Roads WA have completed a concept design that confirms the existing location for the private gravel driveway onto the highway is considered unsafe and would need to be relocated further northwards to meet the sight-line requirements for a road intersection. This would require significant earthworks (inclusive of 3m cut), allowance for relocation of existing water and telecommunication services, and construction of a left-turn slip lane. This concept design has informed the layout of proposed Lot A as contained in **Attachment 10.1.1(a)**, and the concept design is also presented in **Figure 10.1.1(d)**.

Figure 10.1.1(d) – Main Roads concept design for a future NWC Highway intersection



The general Council direction from the 15 November 2017 Concept Forum was to continue without-prejudice discussions with LandCorp, Mid West Ports Authority, Main Roads WA and any other relevant party on the strategic vision of creating a day-use coastal recreation node at Buller Rivermouth, and return the matter to Council through the Concept Forum or Council meeting should discussions progress to a point where further consideration, direction or decision is required.

• **Strategic Community Plan:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 was endorsed by Council at its 15 November 2017 meeting and contains the following objectives relevant to this matter:

| Objective | Strategy | Action | Timeline |
|--|---|--|----------|
| Strengthen our advocacy role and regional partnerships to support the provision of local services and facilities | Maintain close relationships with neighbouring shires and regional bodies | Participate in and advocate for regional resource sharing and cross-boundary cooperation. | Ongoing |
| | Be present in conversations and gatherings related to the provision of essential and desired services for Chapman Valley residents and visitors | Participate in and advocate for regional resource sharing and cross-boundary cooperation. | Ongoing |
| Preserve the Natural Environment and address environmental risks as they arise. | Manage the impact of waste, water, weed and vermin control on the environment | Lobby responsible agencies, departments and landowners to control weeds and vermin on their properties | Ongoing |
| Make informed decisions within resources and areas of responsibility | Council and Shire process formally incorporate integrated plans as references for decision making | Reference Strategic Community Plan, Corporate Business Plan, Asset Management Plan, Long Term Financial Plan and Workforce Plan regularly as part of decision making process | |

CONSULTATION

The WAPC is not obliged to undertake any public consultation in its assessment of subdivision applications, but has referred the application to the Shire of Chapman Valley, Department of Biodiversity Conservation & Attractions, Department of Fire & Emergency Services, Department of Mines Industry Regulation & Safety, Department of Water & Environment Regulation, DFES Unexploded Ordnance Branch, Main Roads WA, Telstra, Water Corporation and Western Power inviting comment.

RISK ASSESSMENT

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

Discussions between LandCorp, Main Roads WA and the Shire have agreed that it is premature at this time for the access to Buller Rivermouth to be created as a road reserve, and the risk assessment rating is based upon the assumption that the alignment and Buller Rivermouth itself will remain under the ownership of LandCorp at

this time. The Strategic Implications section of this report discusses key commitments and actions that should occur prior to the Shire assuming any exposure to greater risk.

VOTING REQUIREMENTS

Simple majority required

COUNCIL / STAFF RECOMMENDATION

MOVED: CR FORRESTER

SECONDED: CR HUMPHREY

That Council advise the Western Australian Planning Commission that it supports the boundary rationalisation of Lots 1, 2, 3, 153, 155, 180, 1039, 6990 & 10562 North West Coastal Highway, Oakajee (WAPC 158504) as shown upon Plans 17120-01 & 17120-02 (WAPC date stamped 24/9/19) subject to the following:

Conditions:

- 1 Lots A & B are not to be created as road reserve and are to remain under the ownership of LandCorp.
- 2 A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificates of title of proposed Lots A & B. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows: *"This lot may be required in the future for the construction of a road."*
- 3 A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificates of title of proposed Lots C, D & E. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows: *"This lot is contained within the Oakajee Industrial Zone & Buffer Special Control Area and the lot may in the future be affected by associated impacts."*
- 4 A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate of title of proposed Lot F. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows: *"This lot is contained within the Oakajee Industrial Zone & Buffer Special Control Area and is in part zoned for Strategic Industry purposes and may be required in the future for industry and the lot may in the future be affected by associated impacts."*

Advice Note:

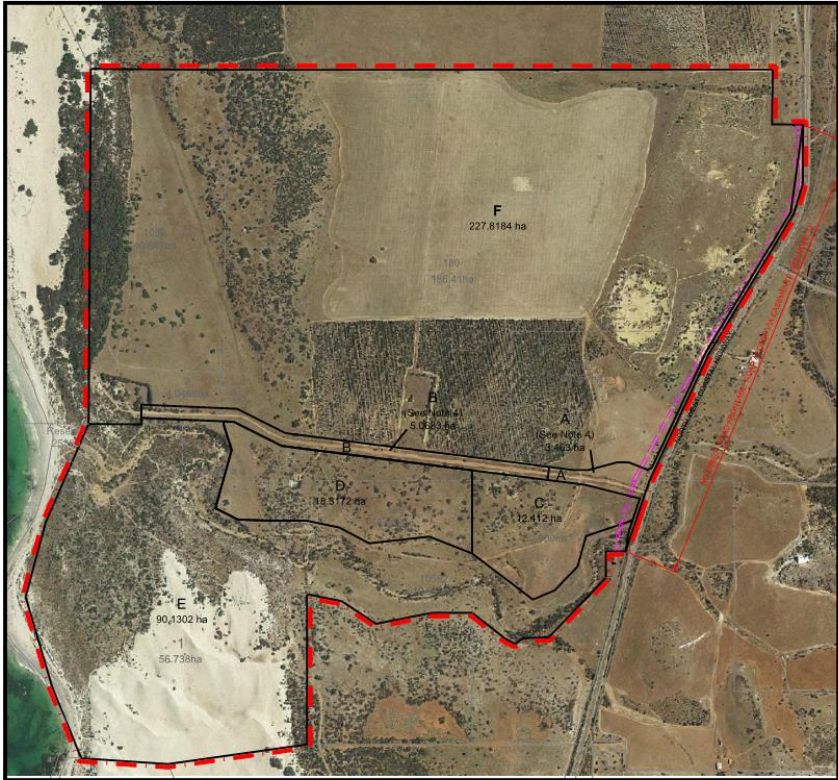
- (a) In relation to condition 1 the Shire of Chapman Valley, LandCorp and Main Roads WA have previously agreed that proposed Lots A & B would best be served as remaining lots under the ownership of LandCorp and not created as a road reserve until key commitments and actions relating to construction and management of the alignment and planning relating to Buller Rivermouth have been resolved. However, the Shire has no objection to proposed Lot A being created as a road reserve and placed under the management of Main Roads WA in the event that both LandCorp and Main Roads WA are in support of this action (noting that proposed Lot B would remain a lot under the ownership of LandCorp and that general/public access along the alignment and on-ground upgrade works would not be required at this time).


**Voting 5/0
CARRIED**

Minute Reference: 10/19-2

Cr Forth re-entered Chambers at 9.18am

ATTACHMENT 10.1.1(a)




 66 Chapman Road Geraldton WA 6530
 PO BOX 1557 Geraldton WA 6531
 Email: info@landwest.net.au
 Phone: (08) 9965 0550
 Fax: (08) 9965 0559

NOTES:

- Proposed lots based on LANDCORP provided sketch.
- This plan is prepared using information provided by Landgate. The data extracted from Geospatial Databases is intended for informational purposes only.
- Plan to read in conjunction with Plan 17120-01.

TITLE:
**AERIAL PHOTOGRAPHY
 BOUNDARY RATIONALISATION
 VARIOUS LANDHOLDINGS
 OAKAJEE**

CLIENT:
LANDCORP

CERTIFICATE OF TITLE: VARIOUS **DATE LAST MODIFIED:** 08/03/2019

* This plan remains the property of Landwest and must not be used for any purpose other than which it was prepared for, in relation to the land duly described. Landwest accepts no responsibility for any losses or damages caused to any persons who may use the information for a purpose for which it was not intended.

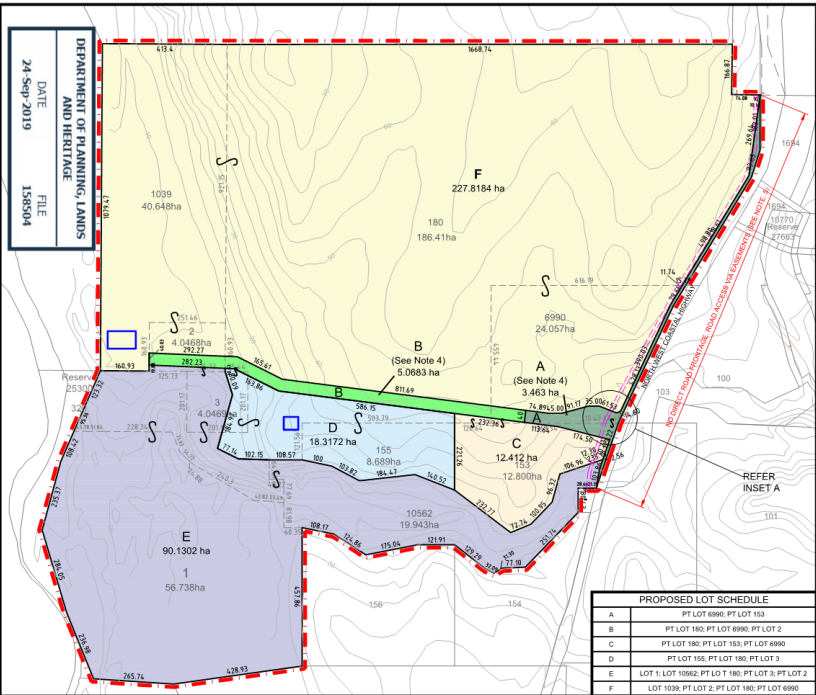
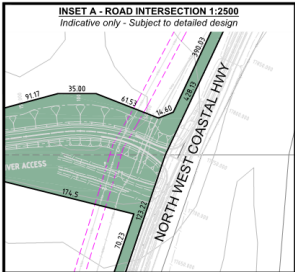
SCALE: 1 : 12 000 @A4

REV. DATE. DETAILS. BY. APPROVED:

DESIGNED: GMB PLAN: 17120-02
 DRAWN: DSH

- NOTES:**
- Proposed lots based on Landcorp provided sketch.
 - Dimensions and areas are subject to lot pre-calculation and survey.
 - This plan is prepared using information provided by Landgate. The data extracted from Geospatial Databases is intended for informational purposes only.
 - Future Road Reserves (Proposed Lots A & B) final alignment and extent subject to delineation and survey. (Freehold lots only at this subdivision stage).
 - Proposed Access Easements (created under section 136 TLA)
 - Burden Lot A, Benefit Lot B
 - Burden Lot A, Benefit Lot C
 - Burden Lot A & B, Benefit Lot D
 - Burden Lot A & B, Benefit Lot E
 - Burden Lot A & B, Benefit Lot F
 - Future Road Reserve / North West Coastal Highway intersection shown is indicative only and based on MRWA Preliminary Plan SK-PLAN01-84-A (dated 27/04/2018).
 - Building Envelope position derived from aerial photography only.
 - The plan is prepared for planning approval from the Western Australian Planning Commission and should not be used for any other purpose. No liability will be accepted where the plan is used for purposes other than that indicated, including marketing of the proposed lots.

- - - SUBJECT LAND BOUNDARY
- - - EXISTING CADASTRAL BOUNDARY
- - - EXISTING WATER CORPORATION EASEMENT
- - - PROPOSED CADASTRAL BOUNDARY
- EXISTING BUILDING ENVELOPE



TITLE: BOUNDARY RATIONALISATION VARIOUS LANDHOLDINGS OAKAJEE

CLIENT: LANDCORP

CERTIFICATE OF TITLE(S): VARIOUS **DATE LAST MODIFIED:** 08/03/2019

SCALE: 1:9000 @A3

REV. DATE. DETAILS. BY. APPROVED:

DESIGNED: GMB DRAWN: DSH PLAN: 17120-01

ATTACHMENT 10.1.1(b)



Our Ref: 17120

16 August 2019

Chief Executive Officer
Western Australian Planning Commission
Locked Bag 2506
PERTH WA 6001

Attention: Mr Michael Daymond, Planning Manager

Dear Sir

**PROPOSED BOUNDARY RATIONALISATION VARIOUS LANDHOLDINGS
OAKAJEE**

On behalf of LandCorp, application is now made for a re-subdivision of various landholdings. Please find attached to the application –

- Landowner Consent to Apply
- Landwest Plan Set 17120-01 and 17120-02 dated 08/03/2019
- Certificate of Titles as per the following schedule:

| Lot No | Certificate of Title Volume/Folio |
|--------|--------------------------------------|
| 6990 | 2006/850 |
| 153 | 2156/14 |
| 155 | 2140/529 |
| 180 | 2156/13 |
| 1 | 2848/236 |
| 2 | 2140/531 |
| 3 | 2140/531 |
| 1039 | 2140/531 |
| 10562 | 1682/800 |

Payment of the prescribed application fee has been forwarded directly.

8 Anzac Terrace Geraldton WA 6530
Telephone: (08) 9965 0550
ABN:

PO Box 1597 Geraldton WA 6531
Email: info@landwest.net.au
18 492 913 035



The Landholdings

The landholdings are located in the localities of Buller and Oakajee, approximately 18 kilometres north of Geraldton, and west of North West Coastal Highway. The area subject of this application is comprised of nine (9) titles and encompasses an area of approximately 357 hectares.

Some individual lots area landlocked at present, but the total landholding derives its access from North West Coastal Highway. The predominant access is by a MRWA approved crossover location for an internal road. The road length is approximately 2 kilometres. There are no formal access arrangements (easement/s) between individual lots in place at present.

Lot 1039 and Lot 180 each contain a dwelling and associated outbuildings. These dwellings are leased by LandCorp to land manager/s.

Lots 2, 1039, 6990 and portion of Lot 180 north of Buller River are used for agricultural purposes. This includes a Forest Product Commission Sandalwood spicatum tree farm.

The western most portion of Lot 1039 contains remnant vegetation associated with the coastal dune system on adjoining Crown reserve.

Lots 153, 155, and portions each Lot 180 and Lot 3 (north of Buller River, but south of internal access alignment) are used for limited agricultural purposes.

Lots 1, 10562, balance portion of Lot 3 and balance area of Lot 180 comprise the Buller River and its environs, and the coastal sand dune system. The informal Buller River day use area is located at the River Mouth, on Lot 1.

Statutory Considerations

The Shire of Chapman Valley Local Planning Strategy (LPS) identifies the landholdings in Precinct 6 – Oakajee. The majority of the area is located within the SCA with a section of Lot 180 included in Area C and Lot 1039 and western extent of Lot 180 in Area B.

The landholdings are zoned as follows in Local Planning Scheme No 3:

- Strategic Industry B
- Strategic Industry C
- Rural
- Public Open Space

Special Control Area 1 Oakajee Industrial Zone & Buffer (SCA1) also applies to all landholdings. Scheme provisions require all development to accord with an approved

Telephone: (08) 9965 0550
ABN:

PO Box 1997 Geraldton WA 6531
Email: info@landwest.net.au
18 492 913 035



structure plan. A range of additional scheme provisions apply which relate to suitable planning and environmental controls, the provision of adequate buffer/s and compatible and adjoining land uses, coastal and landscape management, heritage management, and development and other management requirements.

The scheme provisions are intended to identify and ensure that Oakajee is secured as, and will be developed according to market conditions, as an industrial estate of strategic regional and state and regional importance.

The Oakajee Industrial Estate Structure Plan (OIESP) was previously prepared and endorsed by the Shire of Chapman Valley. The structure plan is intended to guide future detailed planning and development of the industrial estate and buffer.

The landholdings subject of this application is variously identified in the structure plan as:

- Port Area
- Area B Coastal
- Area A General Industry
- Revegetation Areas (existing sandalwood plantation)
- Nature Reserve
- Recreation Node/Day Use

The land falls within the Oakajee Strategic Industrial Area (Oakajee SIA). The Department of Jobs, Tourism, Science and Innovation is the Lead Agency in relation to the development of Oakajee and LandCorp is the landowner and estate manager. Land is generally intended for use by large downstream processing industries which require the protection of a buffer from sensitive land uses, due to emissions, noise, odour or process been of a hazardous nature. Land within these industrial areas is generally leased to proponents by LandCorp on an undeveloped, un-serviced basis.

Proponents will develop and service their own sites through direct negotiations with service agencies due to the often large and unique nature of the proponent's requirements. For this reason, LandCorp plans SIAs across the State with identified service and transport corridors in place, to ensure services can be developed when required by a proponent.

The Proposal

Approval is sought for a boundary rationalisation which will result in six (6) titles being created from nine (9) as present. The proposed boundaries are intended to more closely match topographic features, reflect existing infrastructure, and create parcels which may be transferred to end users at a later stage. Proposed lots broadly accord with the land use categories identified on the OIESP.

Lots A & B are proposed to follow the alignment of the existing internal access track which is denoted as a future road on the OIESP. These lots will not be vested at this

Telephone: (08) 9965 0550 Email: info@landwest.net.au
ABN: 18 492 913 035



time, but have been designed and planned in consultation with Shire of Chapman Valley and Main RoadsWA to ensure the intersection with North West Coastal Highway meets with future requirements, and can ultimately be vested with the respective agencies when required.

As depicted on subdivision plan 17120-01, a series of easements are proposed across proposed Lots A & B to provide access to other proposed lots within the subject area.

Proposed Lot C is currently used for agricultural purposes which are proposed to continue. LandCorp and the State have had discussions with the Traditional Owners and have agreed that this lot will be used as an Aboriginal Reburial Area for remains that are found during the construction of the port or industrial development within the Oakajee SIA.

Proposed Lot D Contains an existing dwelling and has servicing commensurate with its needs. Any industrial development would be a trigger for its removal (scheme provisions exclude sensitive land uses including dwellings within the OIESP area). This lot is identified as a future nature reserve adjoining the Buller River.

Proposed Lot E will contain the Buller River and environs, coastal dune system and Buller River day use area at river mouth.

Proposed Lot F will continue to be used for agricultural purposes including the sandalwood plantation and at such stage that industrial development will occur, the existing dwelling demolished.

As noted above, LandCorp does not propose the vesting of road reserve/s at this stage. Easements are proposed to be created and registered on Deposited Plan of Survey to ensure each proposed lot will have a legal access to the adjoining road network. In addition, restrictive covenants may be required for lots with frontage to North West Coastal Highway in order to prevent additional access to the highway. There is no suggestion that any lots proposed, which are all included in the OIESP and Oakajee SIA, would be on-sold to users other than for industrial development, which would require the formal vesting and construction of road reserve/s and intersection with North West Coastal Highway.

Additionally, the following is noted in regards to proposed access arrangements in lieu of road vesting at this stage:

- The proposal will not result in a change of, or intensification of land use and no change to existing on-ground arrangements are required or supported. The internal road will continue to operate as a private road for access to building envelopes and LandCorp owned lots only.
- There as there is no expectation of change in ownership that would lead to alternative land use/development pressures or requirement for road access, in advance of significant industrial development in the estate.

| | |
|--|--|
| 8 Anzac Terrace Geraldton WA 6530 Telephone: (08) 9965 0550 ABN: | PO Box 1597 Geraldton WA 6531 Email: info@landwest.net.au 18 492 913 035 |
|--|--|

Land Appraisal | Rezoning/Scheme Amendments | Small & Large Scale Subdivisions | Strata Schemes | Development Applications | Project Management



- Vesting of road reserves would be premature in absence of detailed planning or business case for any future user/s for adjoining landholdings being identified;
- Vesting as public road will increase likelihood indiscriminate access to the Buller River recreation area, which has management issues for LandCorp and local authority at present.
- Road vesting with the Shire of Chapman Valley would present an asset management issue for the local government on an on-going basis, in advance of a need for the road to be developed.
- The alignment and configuration clearly delineates future use, and the location and land area requirements for the future intersection have been determined in conjunction with MRWA.
- Five (5) of the nine existing lots are landlocked, with no road access and no easements in place to manage access, with four (4) lots having direct access to North West Coastal Highway, as titles do not contain covenants to preclude this. Following this rationalisation, four (4) lots will have dedicated road access; however this will be complemented by restrictive covenants, removing the ability to access the highway directly. This represents an improved situation regarding management of access to the North West Coastal Highway.
- Easements are a sufficient mechanism for legal access in this instance, with a negligible number of users requiring access to the landholdings.
- There is no known timeframe for delivery of the project and as such, vesting of future road reserves would be premature. The future land requirements are secure as denoted by the local planning scheme.
- The Shire of Chapman Valley has also provided advice that they do not support the vesting of the road reserves at this stage, which we assume would be reflected in formal advice to the Department through the referral process.

Servicing of lots is not proposed to the lots. SPP2.5 notes that servicing of rural lots should be commensurate with the use proposed. Dwellings on proposed Lots D & F are established with suitable level of service. As noted above, servicing for large industrial users would occur at time of development when requirements are known, and when all service corridors are in place for infrastructure development.

Whilst portions of the landholdings are identified in the DFES Map of Bush Fire Prone Areas, the application does not justify a detailed BAL assessment given:

- No increase in development potential will result from the proposal.
- Sensitive land uses (dwellings) already exist.
- No increase in dwellings/residents will result.
- The proposal will not increase the threat of bushfire as no change to land use will result.
- Any future subdivision or development for industrial development will require assessment commensurate with the use proposed.

8 Anzac Terrace Geraldton WA 6530
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Land Appraisal | Rezoning/Scheme Amendments | Small & Large Scale Subdivisions | Strata Schemes | Development Applications | Project Management



Conclusion

The proposal accords with the statutory environment particularly the local planning scheme and endorsed OIESP. The proposal is consistent with the long term planning for the estate.

Whist concession is sought regarding lots being created without dedicated road access the application demonstrates a suitable alternative which improves on the existing situation by better controlling access to North West Coastal Highway and ensures an ongoing burden for management is not placed on the local authority. Additionally, the statutory environment including zoning, scheme provisions and the endorsed OIESP preclude users other than denoted, and pressure for vesting and construction of road reserves will not occur until demand for future industrial development is demonstrated. As part of project delivery, LandCorp would progress necessary arrangement at that time to achieve same.

We look forward to your determination in due course. Please do not hesitate to contact me with any further queries regarding this application

Yours faithfully

A handwritten signature in blue ink, appearing to read 'G. Bermingham'.

Gail Bermingham

enc

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3.3 CMS 2 – BULLER RIVER

CMS 2 applies to the Buller River mouth recreation site and is located between the Buller Local Structure Plan area and the proposed Oakajee Strategic Industrial Estate (as shown in Figures 3.2a and 3.2b).

This area comprises a large, sheltered bay with broad beaches backed by light to moderately vegetated foredunes rising generally in the range of approximately 2m to 3m. The Buller River is for the most part relatively narrow and incised through the elevated plain. The River meanders and the banks are well vegetated. A small area opens out on the south side approximately 150m inland from the mouth forming a flat area that is within private land.

ISSUES & OPPORTUNITIES

Table 3.3 – Issues and opportunities – Buller River

| Issues | Opportunities |
|--|---|
| Access is limited, particularly for 2WDs. | Investigate the possibility of publically opening the gravel track leading from the highway. |
| Increased ORV and RRV use, closure of off-road driving along a majority of Geraldton’s beaches and the accessibility and popularity of ORV’s such as dune buggies, quad bikes and trail bikes. | Investigation of the opportunities identified in the NACC Feasibility Study (NACC, 2015). |
| Environmental and dune degradation from increased ORV and RRV use. | Investigation of the opportunities identified in the NACC Feasibility Study (NACC, 2015) which can contain a majority of ORV use to identified areas. |
| Disturbance of Aboriginal Heritage sites and the need for better policing of ORV and RRV access through the dunes. | There is opportunity to provide employment opportunities to local community members as rangers/enforcement and educational officers. |

| Issues | Opportunities |
|--|--|
| No facilities (such as benches, rubbish bins or BBQs) are currently provided at Buller River. Provision of facilities will advocate use of the site and might increase visitor use which, while increasing surveillance of the area from increased use will also lead to greater management responsibility. | The provision of facilities to Buller River will depend on the outcomes of public access investigations and, should access be opened, facilities should be provided to help manage day-use of the area. |
| Management roles and responsibilities need clarification. Further discussion is required regarding management responsibilities, funding, provision of facilities and provision of access to Buller River. There is more than one land manager responsible for the area which can make coordination of actions and management challenging at times. | It is recommended that a Master Plan is prepared for the Buller River site which will guide land use, management responsibilities and the provision of facilities and access at Buller River. |
| The unknown future of the proposed Oakajee Port makes it difficult to anticipate future land use impacts (for example, if coastal sites are lost through development of the port this will place more pressure on Buller River). | As the timeframe for any development of the Port is not certain at this point, a majority of the recommendations are made on the assumption that it will not proceed in the short-medium term. However some recommendations are provided should the Port development commence. |
| Coastal hazards and risks. There is no reliable, detailed information on the possible impact of sea level rise, coastal erosion and inundation at Buller River. | As this is a popular site for recreational use, it is recommended that further coastal studies are undertaken and a CHRMAP is prepared for the entire study area. |

DESCRIPTION

TENURE AND ZONES

The privately owned land south of Buller River has been identified for future urban development. This area is subject to the Buller Local Structure Plan (GHD, 2015). Two residences, currently rented from the landowner (Landcorp) are located to the immediate north of the River within the Oakajee Industrial Estate Buffer, and Structure Plan area.

The Buller River mouth and the beach areas north and south are reserved and vested with the Mid West Ports Authority. The remainder of this area, including the river itself, is owned by Landcorp. The area is subject to a variety of zones and reserves under the Shire of Chapman Valley Local Planning Scheme No. 2. The river mouth and beach to the south is reserved for Parks and Recreation. The southern half of the river, including a majority of the day use area, is zoned Rural and the northern end is zoned Oakajee Industrial. The entire Buller River CMS is included within SCA1 – Oakajee Industrial Zone Buffer.

RECREATIONAL USE

Buller River mouth is popular, particularly with families, for fishing and swimming, while the River itself is a popular camping location with evidence of numerous campsites. The absence of any facilities at Buller River is an emerging problem. Considerable littering is evident and the lack of any ablution facilities cannot be sustained.

Buller River is used for informal camping by the local community and, as a result, the formalisation of camping activity at this location was seriously considered during the preparation of this Strategy. It was agreed that the site should be for day use only instead of camping by the Steering Group considering the challenges it faces with regards to access, management, heritage and provision of facilities and because the site is located within the Oakajee Buffer Area which prevents camping activities.

Any consideration of day use facilities at Buller River will need to have regard for other hazards such as flood levels, coastal storm activity and bushfires. No information on river flood levels is available through conventional sources and it would be desirable, as far as practical, to seek to establish some indication of flood levels through local knowledge, anecdotal evidence or simple flood calculations. A detailed Aboriginal heritage survey will also be required (including a Section 18 assessment) should any significant actions be proposed in the area

Management roles and responsibilities at Buller River need clarification and further discussion. Buller River comprises land reserved with MWPA (the beach and river mouth) and land managed by Landcorp (the area used currently used by the public for camping and recreation, the river as well as the gravel access track). The Shire of

Chapman Valley receives some responsibility and pressure to manage the site as it is located within the Shire and is used by the public, however the area is not vested with the Shire. Further discussion is required to clarify management responsibilities, funding, provision of facilities and provision of access to Buller River.

It is recommended that a Master Plan is prepared for the Buller River site which will investigate the issues at this site in more detail and will guide land use, management responsibilities and the provision of facilities and access at Buller River. The Master Plan should consider the following:

- Design of the day-use area
- Provision of day-use facilities
- Protection of heritage sites
- Access arrangements
- The link between Buller River and Parkfalls Estate to the east
- A horse exercise area
- Responsible authorities for implementation and on-ground management and maintenance (such as rubbish collection and clean-ups)
- Policing and surveillance, particularly during peak periods.



Day use area at Buller River

ACCESS AND VEHICLES

Access to Buller River and coastal areas north thereof is now limited to 4WD access from Drummond Cove, part of which currently is through private land. A gravel track leads to Buller River from the North West Coastal Highway, however this is not situated within a road reserve, is currently closed to the public and is on Landcorp land. The remainder of the coast is accessible from informal 4WD tracks through the dunes and along the beach.

The development of day use facilities at Buller River or access to the coast north of Buller, will require provision of permanent, sealed access from North West Coastal Highway. The current alignment of the gravel road may require review and there is a need to review the junction at the Highway to improve sight lines. Further discussion and negotiations will be required between the Shire of Chapman Valley and Landcorp regarding upgrades to the gravel road and future management and maintenance. Consultation and approval will be required from Main Roads WA regarding the highway intersection upgrades needed to achieve a safe standard. A traffic impact study and detailed engineering designs will also be required to help determine the costs of upgrades and future maintenance. It should be noted that while the ultimate recommendation for the access between the highway and Buller Rivermouth is for sealed access, there may be a possibility that as an interim measure the access could be to a gravel standard. This could be with the exception of the section leading to the highway intersection that will need to be constructed to a sealed standard as part of the review and upgrading (and realignment if necessary) process that must be undertaken to the approval of Main Roads WA.

There is a pressing need for dedicated ORV areas in the region. NACC recently completed the Off-Road Vehicle Areas on the Northern Agricultural Region of Western Australia Feasibility Study (Feb 2015) which considered the area stretching from Shire of Gingin to Shire of Northampton. The study identifies Buller River and Southgates (City of Greater Geraldton) worthy of more detailed investigation. As is identified in the study, further discussion is necessary between the different parties before a dedicated ORV area can be seriously entertained or established. It should also be acknowledged that a Gazetted ORV area will serve the regional population rather than just a local population and this will need further

consideration during negotiations.



Gravel track leading to Buller River

OBJECTIVES

To consider opportunities to enhance and improve management of Buller River as a significant recreational node through the provision of low impact day use facilities, better access and improved surveillance/policing.

ACTIONS AND RECOMMENDATIONS

Table 3.4 – Buller River Action Plan Recommendations

| Action | Description | Priority | Responsibility |
|--------|---|----------|----------------|
| BR1 | Consider who will be responsible for management of the Buller River area taking into account the visitor use, the future of the Oakajee Port and improvements to access. Further negotiations between the Shire of Chapman Valley and Landcorp to take place to determine the most appropriate land manager or the land management models which could be used (such as placing management orders with the Shire or continue the area to be owned by Landcorp and managed by the Shire subject to a fee for this service). | M – L | SCV, Landcorp |
| BR2 | Prohibit camping at Buller River and install appropriate signage. | 0 | MWPA, Landcorp |

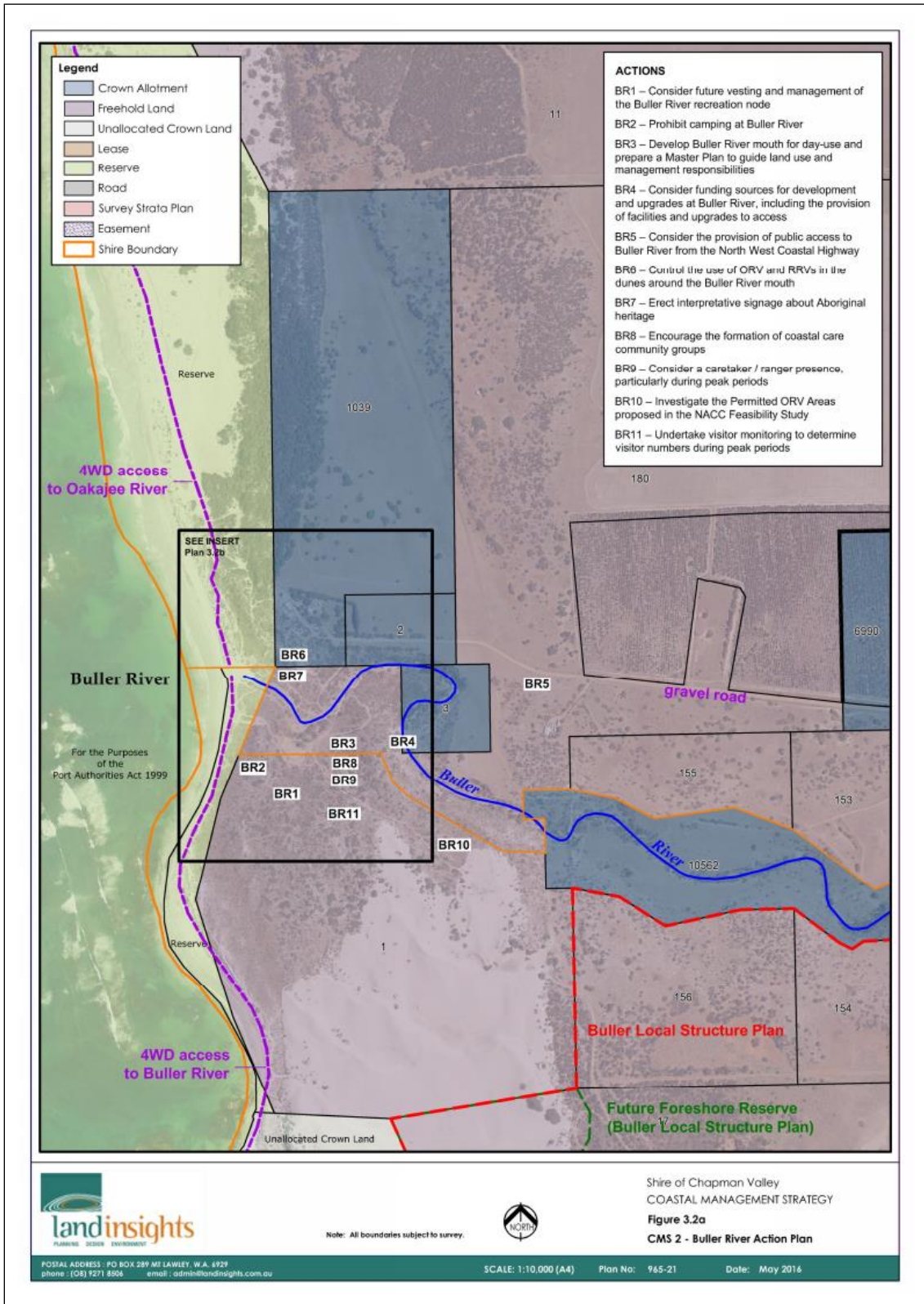
| Action | Description | Priority | Responsibility |
|--------|--|----------|---------------------------|
| BR3 | <p>Develop Buller River Mouth for day-use recreational pursuits. Prepare a Master Plan to provide further details regarding the facilities to be provided at the site. Include consideration of the following:</p> <ul style="list-style-type: none"> • Design of the day-use area • Provision of day-use facilities • Protection of heritage sites • Access arrangements • The link between Buller River and Parkfalls Estate to the east • A horse exercise area • Responsible authorities for implementation and on-ground management and maintenance (such as rubbish collection and clean-ups) • Policing and surveillance, particularly during peak periods. | S | Responsible land managers |

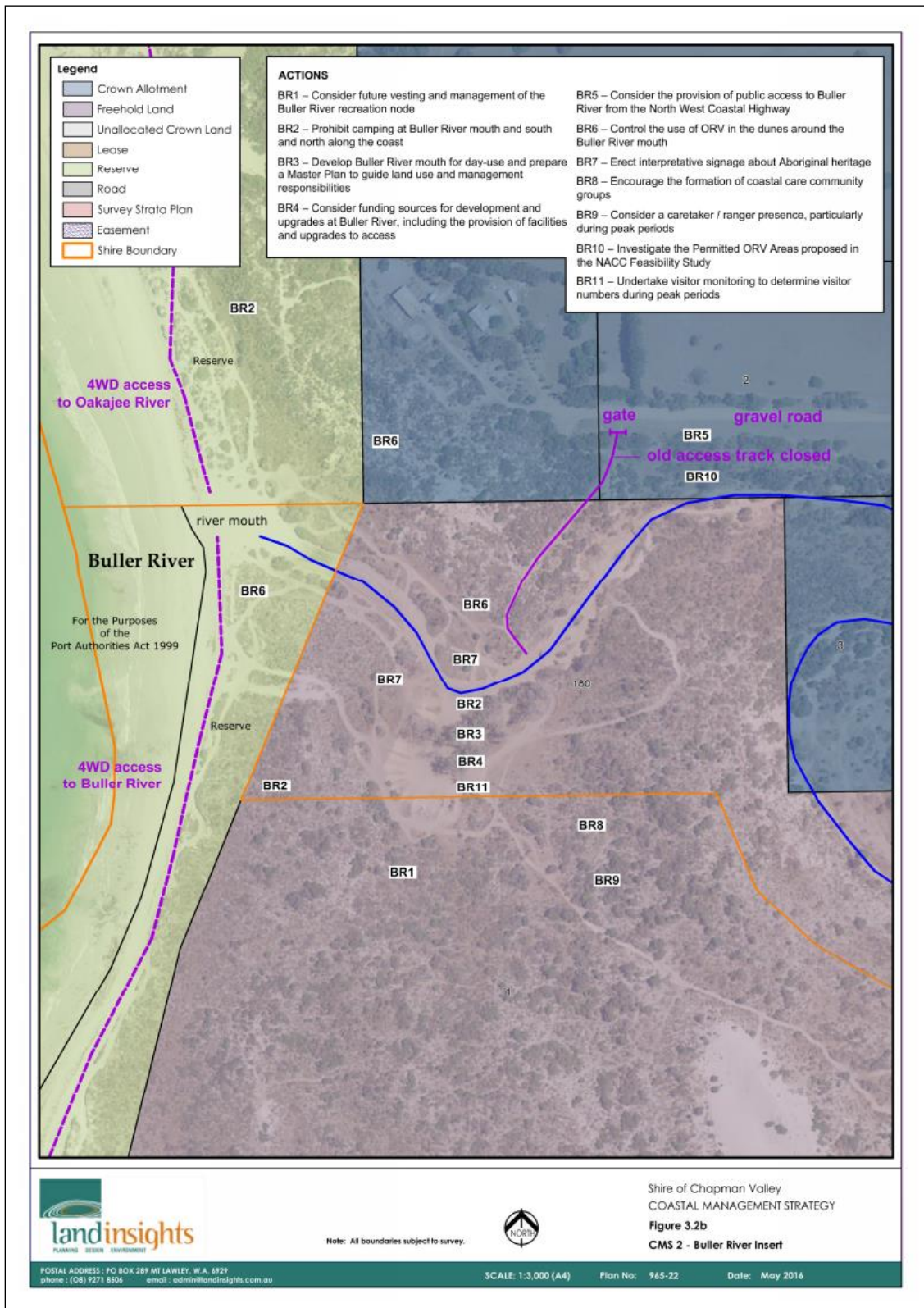
| Action | Description | Priority | Responsibility |
|--------|---|----------|---------------------------|
| BR4 | <p>Relevant Land Manager(s) consider funding sources (be they internal, external, collaborative of a combination thereof) for development and upgrades within the Buller River environs including development of day use facilities, and the provision of permanent, sealed access to the Buller River mouth.</p> | M – L | Responsible land managers |

| Action | Description | Priority | Responsibility |
|--------|--|----------|------------------------------|
| BR5 | <p>Consideration of public access to Buller River from the North West Coastal Highway including the following tasks:</p> <ul style="list-style-type: none"> Enter into negotiations with Landcorp regarding the formalisation of the existing access road from the highway to the Buller River site (note that while the ultimate recommendation for the access between the highway and Buller River is for sealed access, there may be a possibility that as an interim measure that the access could be to a gravel standard with the exception of the section leading to the highway intersection that will need to be constructed to a sealed standard). Investigate the upgrades required to the intersection of the access road with the North West Coastal Highway (through consultation with Main Roads WA) Determine capital and maintenance costs and how this will be funded between different parties | S – M | SCV, Landcorp, Main Roads WA |

| Action | Description | Priority | Responsibility |
|------------|--|----------|---|
| BR5 (cont) | <ul style="list-style-type: none"> Determine the future management of the road (i.e. will it be placed in a separate road reserve or remain on land managed by Landcorp). | S – M | SCV, Landcorp, Main Roads WA |
| BR6 | Control the use of RRVs and ORVs in the dunes around the Buller River mouth, particularly north within the Aboriginal Heritage sites, through signage, education and policing (ranger presence or a caretaker). Maintain warning signs to inform drivers of the risks driving along the beach and through the dunes. | 0 | SCV, MWPA, Landcorp |
| BR7 | Erect interpretative signage at Buller River mouth to provide information on the Aboriginal Heritage sites within the area to increase awareness of their importance and value. | S | MWPA, Landcorp, Native Title claim groups |
| BR8 | Encourage the formation of coastal care community groups to assist with beach clean ups and management of the Buller River area and to create a sense of community ownership and responsibility for the area. | M – L | SCV, MWPA, Landcorp, NACC |
| BR9 | A caretaker / ranger presence is maintained at Buller River, particularly during peak periods and if visitor use increases as a result of improved access and provision of facilities. | M – L | SCV, MWPA, Landcorp |

| Action | Description | Priority | Responsibility |
|--------|---|----------|-------------------------------|
| BR10 | Investigate and further consider the proposed off-road vehicle areas proposed in the NACC Feasibility Study (NACC, 2015) as a Permitted Areas under the Control of Vehicles (Off-road Areas) Act 1978. Following declaration of Prohibited Areas declare Authorised Officers under the Control of Vehicles (Off-road Areas) Act 1978 to police Prohibited Areas and monitor vehicle speeds on the beach, erect appropriate signage and markers. Investigations will need to consider a range of issues such as Aboriginal heritage, rehabilitation and environmental impact, responsibilities, costings, tenure and access. | S – M | SCV, Landcorp, NACC, CGG, DAA |
| BR11 | Undertake visitor monitoring at Buller River to help determine visitor numbers during peak periods and appropriate management responses. | S | SCV, Landcorp, MWPA |





10.2 Manager Finance & Corporate Services October 2019

Contents

10.2 AGENDA ITEMS

10.2.1 Financial Reports for September 2019

| | |
|----------------------------|---|
| AGENDA ITEM: | 10.2.1 |
| SUBJECT: | FINANCIAL MANAGEMENT REPORT FOR SEPTEMBER 2019 |
| PROPONENT: | SHIRE OF CHAPMAN VALLEY |
| SITE: | SHIRE OF CHAPMAN VALLEY |
| FILE REFERENCE: | 307.00 |
| PREVIOUS REFERENCE: | N/A |
| DATE: | 16 OCTOBER 2019 |
| AUTHOR: | DIANNE RAYMOND, MANAGER FINANCE & CORPORATE SERVICES |

SUPPORTING DOCUMENTS:

| FMR | Title | Attached to Report | Under Separate Cover |
|------------|--|---------------------------|-----------------------------|
| 10.2.1(a) | September 2019 Financial Management Report | | √ |
| 10.2.1(b) | Confidential List of Accounts | | √ |

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Local Government (Financial Management) Regulations require monthly statements of financial activity to be reported and presented to Council.

COMMENT

The financial position at the end of September 2019 is detailed in the monthly management report provided as a separate attachment for Council’s review.

STATUTORY ENVIRONMENT

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

POLICY/PROCEDURE IMPLICATIONS

There are no policy implications

FINANCIAL IMPLICATIONS

As presented in the Financial Management Report for September 2019

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

No significant effect on the LTFP

STRATEGIC IMPLICATIONS

Nil

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

| Ref | Objective | Strategy | Action |
|------------|---|-----------------|--|
| 5.1 | Ensure governance and administration systems, policies and processes are current and relevant | | Review current Council and Management policies and formalise update process and timelines. |

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. Risk rating is considered Level 1 - Insignificant

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

VOTING REQUIREMENTS

Simple Majority

COUNCIL / STAFF RECOMMENDATION

MOVED: CR WARR

SECONDED: CR FORRESTER

That Council receives the financial management report supplied under separate cover for the month September 2019 comprising the following:

- Statement of Financial Activities with notes
- Note 1 – Net Current Assets
- Note 2 – Explanation of Material Variances
- Note 3 – Cash & Investments
- Note 4 – Receivables
- Note 5 – Rating Revenue
- Note 6 – Disposal of Assets
- Note 7 – Capital Acquisitions
- Note 8 – Borrowings
- Note 9 – Reserves
- Note 10 – Grants & Contributions
- Note 11 – Trust Fund
- Note 12 – Budget Amendments
- Additional Information
 - Budget by Program
 - Summary of Payments
 - Bank Reconciliation
 - Credit Card Statement

**Voting 6/0
CARRIED
Minute Reference: 10/19-3**

10.3

Chief Executive Officer

October 2019

Contents

10.3 AGENDA ITEMS

- 10.3.1 Code of Conduct & CEO Standards
- 10.3.2 Australian Citizenship Ceremonies Code
- 10.3.3 WALGA State Council & Zone Structure

Mr Battilana declared a Financial Interest in this item.

| | |
|----------------------------|--|
| AGENDA ITEM: | 10.3.1 |
| SUBJECT: | CODE OF CONDUCT & CEO STANDARDS |
| PROPONENT: | DEPT. LOCAL GOVERNMENT, SPORT & CULTURAL INDUSTRIES |
| SITE: | WHOLE OF LOCAL GOVERNMENT |
| FILE REFERENCE: | 404.03 |
| PREVIOUS REFERENCE: | NA |
| DATE: | 16th OCTOBER 2019 |
| AUTHOR: | MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER |

SUPPORTING DOCUMENTS:

| Ref | Title | Attached to Report | Under Separate Cover |
|-----------|--|--------------------|----------------------|
| 10.3.1(a) | Draft Consultation Paper – Mandatory Code of Conduct for Council Members, Committee Members & Candidates | | ✓ |
| 10.3.1(b) | Draft Consultation Paper - Standards & Guidelines for LG CEO Recruitment & Selection, Performance Review & Termination | | ✓ |
| 10.3.1(c) | WALGA Draft Submission - Code of Conduct | | ✓ |
| 10.3.1(d) | WALGA Draft Submission – CEO Standards | | ✓ |

DISCLOSURE OF INTEREST

Maurice Battilana, CEO – Financial interest due to being employed under contract as CEO with Shire of Chapman Valley.

BACKGROUND

The Department of Local Government, Sport & Cultural Industries (DLG) has released the following two Draft Consultation Papers:

- 1) Mandatory Code of Conduct for Council Members, Committee Members & Candidates; and
- 2) Standards & Guidelines for LG CEO Recruitment & Selection, Performance Review & Termination.

The DLG advised the following in a Circular sent out to all WA Local Government Authorities:

“On 27 June 2019, the Local Government Legislation Amendment Act 2019 was passed in Parliament. The Act includes a requirement for the introduction of:

- *a mandatory code of conduct for council members, committee members and candidates (Code of Conduct); and*
- *mandatory minimum standards covering the recruitment, selection, performance review and early termination of local government Chief Executive Officers (CEO Standards).*

The department is seeking feedback on the draft Code of Conduct and draft CEO Standards and accompanying guidelines.

Submissions close on 22 November 2019.”

Note: The Western Australian Local Government Association has advised they have been successful in having the submission closure date extended to the 6th December 2019.

COMMENT

Both Draft Consultation Papers are provided as the following Attachments (under separate cover) i.e.

Attachment 10.3.1(a) - Mandatory Code of Conduct for Council Members, Committee Members & Candidates.

Attachment 10.3.1(b) - Standards & Guidelines for LG CEO Recruitment & Selection, Performance Review & Termination

I believe the Draft Paper on the *Mandatory Code of Conduct for Council Members, Committee Members & Candidates* basically complements the Shires existing Code of Conduct (see **Policy/Procedures Implications** section of this Report) yet the following item may require attention:

- i. Complaint Management – (Section 2.17 to 2.29) – There will be a greater onus on the Council to implement the proposed aspects associated with how complaints against Elected Members are handled. Local governments will be required to have a policy on how complaints are going to be handled or managed. This will require additional administrative resources; however, I believe the recommended process would be beneficial as the current Code of Conduct situation across the industry is lacking.

I do have a few concerns with the Draft Paper on the *Standards & Guidelines for LG CEO Recruitment & Selection, Performance Review & Termination*; however, need to make it clear I have a direct financial interest with some of these comments i.e.

- i. Many recommendations throughout the Draft Paper will result in the need for a local government (without a dedicated internal HR section) to obtain the services of an external HR consultant to address the proposed changes;
- ii. The ability for an LGA (without a dedicated internal HR section) to undertake the CEO recruitment process internally will basically not be possible, forcing such LGAs to using and paying for an external recruitment consultancy service;
- iii. There appears to be a contradiction with many recommendations being based upon a “*One Size Fits All*” approach, which was considered an important issue the current Act Review process is trying to address;
- iv. Inclusion of external, independent person(s) on the CEO Selection Panel may also come at a cost to the LGA if this person doesn’t do this voluntarily;
- v. Section S1.11 states “*The local government must re-advertise the CEO position after each instance where a person has occupied the CEO position for ten (10) consecutive years*”. This recommendation is for the full recruitment process to occur, which this is an unnecessary cost imposition upon a LGA if the Council is happy with the incumbent CEO. This should only occur by an Absolute Majority decision of Council and not mandatory under legislation.
- vi. It must also be understood the Council can advertise the position at the end of the incumbent CEO’s contract anyway, so the recommended new legislation is basically superfluous.

The question is when this proposed 10 year cycle commences? Is this from the date the legislation is passed or is it retrospective. The retrospective scenario could create an issue for those LGAs with CEO’s who’s 10 year period occurs around the same time or a CEO is part way through an existing, binding Contract of Employment

The above comments are supported by the WALGA Draft Submission where it is stated:

“It is unclear why there is a need for the position of Chief Executive Officer to be advertised after 10 years as a matter of course.

If the Council and the Chief Executive Officer are satisfied with the employment relationship, then forcing the position to be advertised will be disruptive, time-consuming, expensive, and counter-productive for the Local Government. Further, it will create uncertainty for the CEO who may be forced to look for alternative employment ‘just in case’.

In addition, if the performance management process is undertaken correctly and thoroughly, there should not be any need for the position to be advertised after a timeframe specified in regulations.

Lastly, as Chief Executive Officers are on fixed term contracts, Councils already have the opportunity to consider whether to renew the incumbent’s contract.

WALGA’s view is that this requirement should be removed from the guidelines, and not included in regulations

Council, as the employer, should determine when the position of CEO is advertised”;

- vii. The Draft Paper states *“It is recommended that the council seeks independent legal advice to ensure that the contract is lawful and able to be enforced. In particular, advice should be sought if there is any (even slight) doubt as to the meaning of the provisions of the contract.”* This is probably wise if the Model Contract is deviated from, yet will again incur additional cost on local government authorities

The WALGA Draft Submission also expresses the following concerns:

“It is unclear why an independent person should be included on the selection panel that makes recommendations to Council about the employment of a Chief Executive Officer.

Employment of the Chief Executive Officer is a fundamental role of Council. Including others on the selection panel risks creating uncertainty and ambiguity about the employment relationship.

The requirement to have an independent person on the selection panel is also impractical and may cause processes and decisions to become protracted. There is no guarantee that the independent person will have knowledge or experience in recruitment, Local Government processes, or Local Government Act requirements. This requirement could also add an unnecessary and unreasonable cost to the recruitment process, particularly for Councils in remote locations”;

- viii. Section S2.6 states *“The council has endorsed the performance review assessment by absolute majority”*. I am not sure why this should not be by a Simple Majority.
- ix. The Draft Paper states *“...it is important to align the CEO’s performance criteria to the goals contained in the council’s Strategic Community Plan and Corporate Business Plan. Accordingly, as these plans are updated, the CEO’s performance criteria should be updated to reflect the changes”*. I believe this has merit; however, it must be clear the CEO does not have total control over the changes made to these Plans and this needs to be clear if aspects of the Plan implementation is linked to the performance review;
- x. The Draft Paper states *“If a council lacks the resources and expertise to meet the expected standard of performance review, the council should engage an external facilitator to assist with the process of performance appraisal and the development of the performance agreement. The local government should ensure that the consultant has experience in performance management and, if possible, experience in local government or dealing with the performance management of senior executives. The consultant should not have any interest in, or relationship with, the council or the CEO”*. This is yet another example of additional costs to the local government authority;
- xi. Part 4 of the Draft Paper refers to the establishment of Local Government Commissioner to monitor and enforce local government compliance with the proposed Standards. This is the establishment of another bureaucracy and it appears the Commission may have the ability to pass on costs to the local government authority by way of a levy. The concept of a levy should be opposed, and the State Government should cover all costs for any Agency or Commission they introduce.

WALGA has provided copies of their draft submission on both Draft Papers for comments (see **Attachments 10.3.1(c) and 10.3.1(d)**).

WALGA is seeking feedback on their Draft Submission by the 25th October 2019.

STATUTORY ENVIRONMENT

The DLG is indicating changes endorsed by the parliament will become binding legislation under the *Local Government Act & Regulations*.

POLICY/PROCEDURE IMPLICATIONS

| | |
|----------------------------|--|
| POLICY NO | CP-005 |
| POLICY | CODE OF CONDUCT – ELECTED MEMBERS |
| RESPONSIBLE OFFICER | CHIEF EXECUTIVE OFFICER |
| PREVIOUS POLICY No. | 9.80 |
| LEGISLATION | LOCAL GOVERNMENT ACT 1995 (S5.103); AND LOCAL GOVERNMENT (RULES OF CONDUCT) REGULATIONS 2007 |

OBJECTIVES:

The Code of Conduct provides Elected Members of the Shire of Chapman Valley with consistent guidelines for an acceptable standard of professional conduct. The Code addresses in a concise manner the broader issues of ethical responsibility and encourages greater transparency and accountability.

The Code is complimentary to the principles adopted in the Local Government Act 1995 and Local Government (Rules of Conduct) Regulations 2007 which incorporates four fundamental aims to result in:

- Better decision making
- Greater community participation in the decisions and affairs of the Council
- Greater accountability of the Council to its community
- More efficient and effective local government.

The Code provides a guide and a basis of expectations for Elected Members. It encourages commitment to ethical and professional behaviour and outlines principles in which individual and collective local government responsibilities may be based.

POLICY STATEMENT/S:

Statutory Environment

The Code of Conduct observes statutory requirements of the Local Government Act 1995 (s5.103 – Codes of Conduct) and Local Government (Rules of Conduct) Regulations 2007.

Rules of Conduct

Elected Members acknowledge their activities, behaviour and statutory compliance obligations may be scrutinised in accordance with prescribed rules of conduct as described in the Local Government Act 1995 and Local Government (Rules of Conduct) Regulations 2007.

Role of Elected Members

An Elected Member's primary role is to represent the community, and the effective translation of the community's needs and aspirations into a direction and future for the Shire of Chapman Valley will be the focus of the Elected Member's public life.

An Elected Member is part of the team in which the community has placed its trust to make decisions on its behalf and the community is therefore entitled to expect high standards of conduct from its elected representatives.

In fulfilling the various roles, Elected Members' activities will focus on:

- Achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
- Achieving sound financial management and accountability in relation to the Council's finances;
- Ensuring appropriate mechanisms are in place to deal with the prompt handling of residents' concerns;

- Working with other governments and organisations to achieve benefits for the community at both a local and regional level;
- Having an awareness of the statutory obligations imposed on Elected Members and on the Shire of Chapman Valley.

Conflict and Disclosure of Interest

Conflict of interest

- Elected Members will ensure there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- Elected Members will lodge written notice with the CEO describing an intention to undertake a dealing in land within the Shire of Chapman Valley or which may otherwise conflict with the Councils functions (other than purchasing the principal place of residence).
- Elected Members who exercise a function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons. An individual's right to maintain their own political convictions are not impinged upon by this clause. It is recognised such convictions cannot be a basis for discrimination, and this is supported by anti-discriminatory legislation.
- An Elected Member is to disclose any interest he or she has in the matter to be discussed at a Council or Committee meeting they attend. Any disclosure to be made at the meeting immediately before the matter is discussed and is to be recorded in the minutes of the relevant meeting.

Pecuniary Interest

Elected Members will adopt the principles of disclosure of pecuniary interests as contained within the Local Government Act 1995.

Disclosure of Interest

- Elected Members will disclose, in a written return or at the relevant meeting, the interests which might be in conflict with their public or professional duties.
- Whenever disclosure is required, recommended in this Code, or otherwise seems appropriate, it will be made promptly, fully, and in writing within the register provided.

Personal benefit

Use of confidential information

Elected Members will not use confidential information to gain improper advantage for themselves or for any other person or body, in ways which are inconsistent with their obligation to act impartially, or to improperly cause harm or detriment to any person or organisation.

Improper or undue influence

Elected Members will not take advantage of their position to improperly influence other members or staff in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

Gifts and bribery

Refer to Local Government (Rules of Conduct) Regulations 2007, Regulation 12. *See Appendix 1 for disclosures form.*

Conduct of Elected Members

Personal behaviour

Elected Members will:

- Act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code
- Perform their duties impartially and in the best interests of the Shire of Chapman Valley uninfluenced by fear or favour
- Act in good faith (i.e. respect, trust, honesty, integrity and ethics for the proper purpose and without exceeding their powers) in the interests of the Shire of Chapman Valley and the community
- Make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any conduct, in the performance of their official duties, which may cause any reasonable person unwarranted offence or embarrassment
- Always act in accordance with their obligation of fidelity to the Shire of Chapman Valley.
- Elected Members will represent and promote the interests of the Shire of Chapman Valley, while recognising their special duty to their own constituents.

Honesty and Integrity

Elected Members will:

- Observe the highest standards of respect, trust, honesty, integrity and ethics as listed in the attached Team Values and Behaviours (see **Attachment 1**) and avoid conduct which might suggest any departure from these standards
- Bring to notice of the President any dishonesty or possible dishonesty on the part of any other member and, in the case of an employee, to the CEO
- Be frank and honest in their official dealing with each other.

Personal Communications and Social Media

- (a) Personal communications and statements made privately in conversation, written, recorded, emailed or posted in personal social media, have the potential to be made public, whether it was intended to be made public or not.

Therefore, on the basis that personal or private communications may be shared or become public at some point in the future, Elected Members and Employees must ensure that their personal and private communications do not breach the requirements of this Code of Conduct and for Elected Members, the *Local Government (Rules of Conduct) Regulations 2007*.

- (b) Employees must not, unless specifically authorised to do so, disclose information, make comments or engage in communication activities about or on behalf of the Shire it's Elected Members, employees or contractors, which breach this Code of Conduct.
- (c) Elected Member comments which become public and breach the *Local Government (Rules of Conduct) Regulations 2007* may constitute a serious breach of the *Local Government Act 1995* and may be referred for investigation.
- (d) Employee comments which become public and breach the Code of Conduct, or any other operational policy or procedure, may constitute a disciplinary matter and may also be determined as misconduct and be reported under the *Public-Sector Management Act 1992*.

Performance of Duties

Elected Members will, at all times, exercise reasonable care and diligence in the performance of their duties, being consistent in their decision making but treating all matters on individual merits. Elected Members will be as informed as possible about functions of the Council and treat all members of the community honestly and fairly.

Compliance with Lawful Orders

Elected Members will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the CEO.

Elected Members will give effect to the lawful policies of the Shire of Chapman Valley, whether or not they agree with or approve of them.

Administrative and Management Practices

Elected Members will ensure compliance with proper and reasonable administrative practices and conduct and professional and responsible management practices.

Corporate Obligations

Communication and public relations as a representative of the community. Elected Members need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council.

In doing so Elected Members should acknowledge:

- As a member of the Council there is respect for the decision-making processes of the Council which are based on a decision of the majority of the Council.
- Information of a confidential nature ought not to be communicated until it is no longer treated as confidential.
- Information relating to decisions of the Council on approvals, permits and so on ought to only be communicated in an official capacity by a designated officer of the Council.
- Information concerning adopted policies, procedures and decisions of the Council is conveyed accurately.

Relationships between Elected Members and Staff

An effective Elected Member will work as part of the Council team with the CEO and other members of staff. Teamwork will only occur if Elected Members and staff have a mutual respect and cooperate with each other to achieve the Council's corporate goals and implement the Council's strategies.

To achieve this Elected Members must:

- Accept their role is a leadership, not a management or administrative one.
- Acknowledge they have no capacity to individually direct members of staff to carry out particular functions.
- Refrain from publicly criticising staff in any way which may cast aspersions on their professional competence and credibility.

Appointments to Committees

As part of their representative role Elected Members are often asked to represent the Council on external organisations. It is important Elected Members:

- Clearly understand the basis of their appointment
- Provide regular reports on the activities of the organisation.

Dealing with Council property - Use of Local Government resources

Elected Members will:

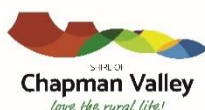
- Be scrupulously honest in their use of the Shire of Chapman Valley’s resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body
- Use the Shire of Chapman Valley’s resources entrusted to them effectively and economically in the course of their duties
- Not use the Shire of Chapman Valley’s resources (including the services of Council staff) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the CEO).

Travelling and sustenance expenses

Elected Members will only claim or accept travelling and sustenance expenses arising out of travel related matters which have a direct bearing on the services, policies or business of the Shire of Chapman Valley in accordance with Shire of Chapman Valley policy and the provisions of the Local Government Act 1995.

Access to information

Staff will ensure Elected Members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities as members
Elected Members will ensure information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council.



TEAM VALUES AND BEHAVIOURS

| Values: RESPECT, TRUST, HONESTY, INTEGRITY & ETHICAL | | |
|--|---|---|
| | Acceptable/Expected Behaviours | Unacceptable Behaviours |
| 1 | <i>Address the issue rather than holding grudges.</i> | <i>Holding a grudge can carry this mindset into future deliberations and impair good decision-making.</i> |
| 2 | <i>Remove misinformation.</i> | <i>Basing decisions on rumor, innuendo or ill-informed comments is detrimental to good decision-making.</i> |
| 3 | <i>Seek to know what you don't know.</i> | <i>Not making an effort to uncover what you don't know and basing your opinion only on what you know at the time.</i> |
| 4 | <i>Ensuring decisions are made based on full involvement & not manipulating the process to ensure a collective consensus of an outcome is achieved.</i> | <i>Manipulating the decision-making process (e.g. timing, absenteeism, misinformation) to achieve your own desired outcome.</i> |
| 5 | <i>Listen to all sides of the issue before making a decision.</i> <i>Listen to all of the debate</i> | <i>Not listening and make assumptions or predetermined decisions.</i> <i>Refuse to listen to different sides of the issue for the sake of exchanging opinions and making up your mind before you have heard the whole of the debate.</i> |
| 6 | <i>Agree to disagree without malice.</i> | <i>Being precious about your own position being the only outcome and not accepting alternative opinions.</i> |

| | | |
|---|---|--|
| 7 | <i>Agree on ground rules and adhering to these (e.g. Code of Conduct, Values, Behaviours, Standing Orders, etc.)</i> | <i>Endorsing ground rules and boundaries as a token gesture only and not adhering to these.</i> <i>Only exercising the need for adhering to ground rules & boundaries when it suits you.</i> <i>Collapsing into our Lower State.</i> |
| 8 | <i>Consider the use of a mediator on occasions when needed to assist with issues.</i> | <i>Not supporting the need for a mediator and when a mediator is introduced not participating or communicating at the time of mediation and letting issues continue.</i> |
| 9 | <i>Speak positively about the Council, Staff, Community and all decision made by the Majority, irrespective of if the decision is contrary to your individual position.</i> | <i>Talking down the Council, Staff, Community and any decision made by the majority which may not be your individual position.</i> |



TEAM VALUES AND BEHAVIOURS

| Values: RESPECT, TRUST, HONESTY, INTEGRITY & ETHICAL | | |
|--|--|---|
| | Acceptable/Expected Behaviours | Unacceptable Behaviours |
| 10 | <i>Step back and view the big picture.</i> | <i>Advocate and promote a path based on a limited view only.</i> |
| 11 | <i>Address the issue rather than letting things fester.</i> | <i>Letting things fester and allowing the problem to continue and explode later.</i> |
| 12 | <i>Have an open-minded approach.</i> | <i>Not willing to listen to new ideas and opinions, to learn new things and consider alternate approach to problem solving.</i> |
| 13 | <i>Listen to and understand other points of view.</i> | <i>By not listening you show lack of empathy, understanding, appreciation and respect.</i> |
| 14 | <i>Remain focused on the issue rather than getting personal.</i> | <i>Tackling the person not the issue</i> |
| 15 | <i>Debate constructively/legitimately.</i> | <i>Becoming personal, argumentative & irrational during the debate.</i> |
| 16 | <i>Retaining confidentiality within the Team when required.</i> | <i>Divulging confidential and personal information to promote yourself or your personal position.</i> |
| 17 | <i>Being loyal to the absent.</i> <i>Avoid saying something about someone unless you would say it in the person's presence.</i> | <i>Talking behind each other's back.</i> |
| 18 | <i>Telling the truth at all times and challenging matters when truth is not being told</i> | <i>Avoiding the truth and ignoring/condoning untruths.</i> |

| | | |
|----|--|---|
| 19 | Adhering to my roles and responsibilities within the organisation. | Encroaching into area, roles and responsibilities of the organisation, which is outside my jurisdiction and role. |
|----|--|---|

FINANCIAL IMPLICATIONS

I believe there will additional financial resources required of local government authorities (specifically those without a dedicated internal Human Resource section). What the cost could be is unknown.

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

It is anticipated the additional cost will affect the LTFP, yet not significantly.

STRATEGIC IMPLICATIONS

The intent of the two Draft Papers is honorable and understandable when associated with the recent years of issues in the local government sector. However; I feel some of the recommendations with the Papers are based on the concept of “One Size Fits All”, which is contrary to one of the pillars linked to the current Local Government Act Review.

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

| Ref | Objective | Strategy |
|-----|---|--|
| 5.1 | Ensure governance and administration systems, policies and processes are current and relevant | Review policy categories and set ongoing accountability for review processes |

CONSULTATION

The DLG has issued the two Draft Consultation Papers with feedback required by the 22nd November 2019.

RISK ASSESSMENT

There is uncertainty on what the additional cost may be if legislation is introduced as is being recommended in the Draft Papers. However; in this instance it is considered the risk (based on Financial Impact only) may be **Minor** i.e.

| Measures of Consequence | | | | | | | |
|-------------------------|--------------------|--------------------|---|--------------------------------|--|---|---|
| Rating (Level) | Health | Financial Impact | Service Interruption | Compliance | Reputational | Property | Environment |
| Minor (2) | First aid injuries | \$1,001 - \$10,000 | Short term temporary interruption – backlog cleared < 1 day | Some temporary non compliances | Substantiated, low impact, low news item | Localised damage rectified by routine internal procedures | Contained, reversible impact managed by internal response |

VOTING REQUIREMENTS

Simple Majority.

COUNCIL / STAFF RECOMMENDATION

MOVED: CR WARR

SECONDED: CR FORTH

Council submit the following to the Department of Local Government, Sport & Cultural Industries (DLG) and the Western Australian Local Government Association on the Draft Consultation Papers and request the Chief Executive Officer complete the Survey Questionnaires in accordance with these comments:

- 1) Mandatory Code of Conduct for Council Members, Committee Members & Candidates
 - i. Support the overall intention & content of the Draft Paper yet has concerns with the proposed Complaint Handling Provisions requiring additional resources (either internal or external) to administer.
- 2) Standards & Guidelines for LG CEO Recruitment & Selection, Performance Review & Termination
 - i. The recommendation throughout the Draft Paper will result in the need for a local government (without a dedicated internal HR section) to obtain the services of an external HR consultant to address the proposed changes;
 - ii. The ability for an LGA (without a dedicated internal HR section) to undertake the CEO recruitment process internally will basically not be possible, forcing such LGAs to using and paying for an external recruitment consultancy service;
 - iii. There appears to a contradiction with the recommendations being based upon a “*One Size Fits All*” approach, which was considered an important issue the Act Review was to try and address;
 - iv. Inclusion of external, independent person(s) on the CEO Selection Panel may also come at a cost to the LGA if this person doesn’t do this voluntarily;
 - v. Section S1.11 states “*The local government must re-advertise the CEO position after each instance where a person has occupied the CEO position for ten (10) consecutive years*”. This recommendation is for the full recruitment process to occur, which this is an unnecessary cost imposition upon a LGA if the Council is happy with the incumbent CEO. This should only occur by an Absolute Majority of Council and not mandatory under legislation.

It must also be understood the Council can advertise the position at the end of the incumbent CEO’s contract anyway, so the recommended new legislation is basically superfluous

When does this proposed 10 year cycle commences? Is this from the date the legislation is passed or is it retrospective. The retrospective scenario could create an issue for those LGAs with CEO’s who’s 10 year period occurs around the same time or a CEO is part way through an existing, binding Contract of Employment;

- vi. The Draft states “*It is recommended that the council seeks independent legal advice to ensure that the contract is lawful and able to be enforced. In particular, advice should be sought if there is any (even slight) doubt as to the meaning of the provisions of the contract.*” This is probably wise if the Model Contract is deviated from, yet will again incur additional cost on local government authorities;
- vii. Section S2.6 states “*The council has endorsed the performance review assessment by absolute majority*”. This should be a Simple Majority.
- viii. The Draft states “*...it is important to align the CEO’s performance criteria to the goals contained in the council’s Strategic Community Plan and Corporate Business Plan. Accordingly, as these plans are updated, the CEO’s performance criteria should be updated to reflect the changes*”. Though this has merit, it must be clear the CEO does not have total control over the changes made to these Plans and this needs to be clear if aspects of the Plan implementation is linked to the performance review;

- ix. The Draft states *“If a council lacks the resources and expertise to meet the expected standard of performance review, the council should engage an external facilitator to assist with the process of performance appraisal and the development of the performance agreement. The local government should ensure that the consultant has experience in performance management and, if possible, experience in local government or dealing with the performance management of senior executives. The consultant should not have any interest in, or relationship with, the council or the CEO”*. This is yet another example of additional costs to the local government authority;

- x. Part 4 of the Draft Paper refers to the establishment of Local Government Commissioner to monitor and enforce local government compliance with the proposed Standards. This is the establishment of another bureaucracy and it appears the Commission may have the ability to pass on costs to the local government authority by way of a levy. The concept of a levy should be opposed, and the State Government should cover all costs for any Agency or Commission they introduce.

Voting 6/0
CARRIED
Minute Reference: 10/19-4

| | |
|----------------------------|--|
| AGENDA ITEM: | 10.3.2 |
| SUBJECT: | AUSTRALIAN CITIZENSHIP CEREMONIES CODE |
| PROPONENT: | AUSTRALIAN GOVERNMENT - MINISTER FOR IMMIGRATION, CITIZENSHIP, MIGRANT SERVICES & MULTICULTURAL AFFAIRS |
| SITE: | AUSTRALIA WIDE |
| FILE REFERENCE: | 804.01 |
| PREVIOUS REFERENCE: | NA |
| DATE: | 16th OCTOBER 2019 |
| AUTHOR: | |

SUPPORTING DOCUMENTS:

| Ref | Title | Attached to Report | Under Separate Cover |
|-----------|---------------------------|--------------------|----------------------|
| 10.3.2(a) | Minister's Correspondence | ✓ | |

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Hon. Dave Coleman, Commonwealth Government Minister for Immigration, Citizenship, Migrant Services & Multicultural Affairs has written to all local governments across Australia advising the following:

- i. Local government councils must ensure ceremonies are conducted in accordance with the *Australian Citizenship Ceremonies Code*. This includes a requirement to hold a citizenship ceremony on Australia Day (January 26). Councils that conferred citizenship on less than 20 people in the previous year are exempt from this requirement.
- ii. Federal Members of Parliament, if attending a citizenship ceremony, should read the Minister's message; and
- iii. **Individual councils are to establish a Dress Code for ceremonies, to reflect the significance of the occasion, and provide a copy of their Dress Code to the Department of Home Affairs.**

A copy of the Ministers letter is provided at **Attachment 10.3.2(a)**.

COMMENT

Council has a Corporate Management Procedure dealing with Honour Awards (CMP-033 – see **Policy/Procedures Implications** section of this report) which can be amended to incorporate the requirements of citizenship award functions.

The Staff Recommendation amends Corporate Management Procedure CMP-033 to incorporate the Minister's requirements and states the dress code at citizenship ceremonies as:

“Though there is no strict dress code for citizenship ceremonies attire should be at least smart casual dress with national or cultural dress being welcomed”

The recommended wording is based upon research of how other local government authorities deal with this matter.

STATUTORY ENVIRONMENT

Australian Citizenship Ceremonies Code

POLICY/PROCEDURE IMPLICATIONS

| | |
|-------------------------------|-------------------------|
| MANAGEMENT PROCEDURE No. | CMP-033 |
| MANAGEMENT PROCEDURE | HONOUR AWARDS |
| RESPONSIBLE OFFICER | CHIEF EXECUTIVE OFFICER |
| PREVIOUS POLICY/PROCEDURE No. | 9.120 |
| RELEVANT DELEGATIONS | |

OBJECTIVES:

Set conditions, guidelines and processes for bestowing awards upon recipients.

MANAGEMENT PROCEDURE STATEMENT/S:

The Chief Executive Officer is to present an item to the Council Concept Forum(s) at the appropriate time(s) each year requesting Council consideration for awards to be presented in accordance with this Operational Procedure. The Chief Executive Officer will only present a Council Agenda Item for the further consideration of relevant awards if the Concept Forum discussions determine this action is necessary.

Citizenship Ceremonies

Citizenship ceremony be conducted at an event as considered appropriate by the Chief Executive Officer (in consultation with the President) and a native plant be given to the recipients.

Shire of Chapman Valley – Freeman of the Shire

A member of our Community may be honoured by the Shire with the title "Honorary Freeman of the Shire".

An Honorary Freeman of the Shire must have served the community of the Shire of Chapman Valley in an outstanding and meritorious manner that stands above the contributions of most other persons, and whose activities have contributed significantly to the wellbeing of the Shire's residents.

The Shire of Chapman Valley Freeman of the Shire Award recognises the outstanding achievements and dedicated service to the community by a person. The Freeman of the Shire Award is the highest honour the Shire of Chapman Valley can give to a community member.

Council may also consider conferring of the title of 'Posthumous Freeman of the Municipality'. In this case, the eligibility criteria would still apply.

Eligibility Criteria

To be eligible for nomination, a person does not have to currently reside within the Shire or have served on Council.

Nominees will be assessed on their record of service to the local and broader community against the following criteria:

1. Length of service in a field (or fields) of activity;
2. Level of commitment to the field (or fields) of activity;
3. Personal leadership qualities;
4. Benefits to the community of the Shire of Chapman Valley and/or to the State of Western Australia and/or to the nation resulting from the nominee's work; and
5. Special achievements of the nominee.

Exclusions

- A current Council Elected Member with the Shire of Chapman Valley cannot be nominated for the award.

Nomination Procedure

- Nominations for the Award may be made by Elected Members, individuals or organisations and are to be sponsored by an Elected Member of the Shire of Chapman Valley;
- They are to be submitted to the Chief Executive Officer in written format addressing the Eligibility Criteria;
- Nominations are to be made in the strictest confidence without the knowledge of the nominee;
- On receipt of a nomination the Chief Executive Officer is to present the nomination to Council as a Confidential Agenda Item for consideration;
- Council is to consider the item behind closed doors;
- Once a nomination has been accepted by Council, the nominee and any person(s) or organisation(s) involved in the nomination are to be informed of the decision and nominee is to be contact to confirm their acceptance of the honour;
- Should the nomination be supported by Council and accepted by the nominee the award shall be presented to the nominee at a function considered appropriate by the President.

Number of Freeman within the Shire

There is no limit on the number of persons upon which the title of Freeman of the Shire of Chapman Valley may be conveyed.

Entitlements

Any person upon whom the title 'Honorary Freeman of Shire' has been conferred may designate him/herself 'Honorary Freeman of the Shire of Chapman Valley'.

The recipient shall be presented with a special badge, which identifies them as 'Honorary Freeman of the Shire' along with a certificate to commemorate receiving the award.

Any Honorary Freeman of the Shire shall be invited to all subsequent formal Civic functions conducted by the Shire.

Revocation of Title of Freeman or Honorary Freeman

Council, by resolution, shall also have the ability to revoke the title bestowed upon a person, if;

A criminal matter, for which the Freeman in question was found guilty of, or for any other matter, was considered by Council to have caused embarrassment to the municipality or that the ongoing recognition of such a title on this person by the Shire was inappropriate.

The removal of the name from Honour Boards and other places and any other such items will be at the discretion of Council and conducted through liaison with the Chief Executive Officer.

WALGA Honour Awards

As detailed by the WALGA Awards Guidelines

Elected Members eligible due to length of service are to be automatically nominated by the Chief Executive Office.

All other award types are to be determined by Council.

Shire of Chapman Valley - Certificate of Appreciation

For personal commitment, eminent service and contribution to the Shire of Chapman Valley as an Elected Members, Community Members or Staff Member

Automatically given to Elected Members who have retired from Council or are the recipient of a Department of Local Government Certificate of Recognition.

All others as determined by Council.

Annual Agenda Item to discuss suitable nominations.

Elected Members

Presented at Annual Council Dinner/Function

Community Members

Certificate of Appreciation issued at an Annual Council Dinner/Function.

Recipient & partner invited to attend.

Shire of Chapman Valley Australia Day Awards and Function

For personal commitment, service and contribution to the community of the Shire of Chapman Valley

Nominations called in October and close in November (or as determined by the Australia Day Council).

The Council Appointed Working Group shall:

- Evaluate annual Australia Day Award Nominations and submitting these to Council in readiness for presenting the awards at the Shire's annual Australia Day Function;
- Assist with coordinating the annual Australia Day function(s);
- Discuss all other item(s) referred to them by Council in the areas of tourism and events.

Dept. Local Government & Community Services Awards

As detailed by the Department's Awards Guidelines

Elected Members eligible due to length of service are to be automatically nominated by the Chief Executive office.

All other award types are to be determined by Council.

(Note: All other Awards such as Australia Day Citizen of Year, Bushfire Brigade Service, etc, will only be dealt with by Council if nomination is initiated from within the community or by a Council resolution).

FINANCIAL IMPLICATIONS

No financial implications envisaged.

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

Nil affect.

STRATEGIC IMPLICATIONS

No implications envisaged

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

| Ref | Objective | Strategy |
|-----|--------------------------------|---|
| 1.1 | Nurture the sense of community | Determine a whole of Shire community integration approach |

CONSULTATION

No consultation evident only correspondence received from the Minister.

RISK ASSESSMENT

Risk in this instance is considered as *insignificant*.

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

VOTING REQUIREMENTS

Simple Majority

COUNCIL / STAFF RECOMMENDATION

MOVED: CR WARR

SECONDED: CR BATTEN

Council amend Corporate Management Policy CMP-033 regarding Citizenship Ceremonies as follows:

Remove existing wording:

Citizenship Ceremonies

Citizenship ceremonies be conducted at an event as considered appropriate by the Chief Executive Officer (in consultation with the President) and a native plant be given to the recipients.

and replace with

Citizenship Ceremonies

Citizenship ceremonies be conducted at an event as considered appropriate by the Chief Executive Officer (in consultation with the President) under the following conditions:

- i. Ceremonies to be conducted in accordance with the Australian Citizenship Ceremonies Code.*
- ii. Federal Members of Parliament, if attending a citizenship ceremony, should read the Minister's message;*
- iii. Though there is no strict dress code for citizenship ceremonies attire should be at least smart casual dress with national or cultural dress being welcomed*
- iv. A native plant be given to the recipients*

**Voting 6/0
CARRIED
Minute Reference: 10/19-5**



**THE HON DAVID COLEMAN MP
MINISTER FOR IMMIGRATION, CITIZENSHIP, MIGRANT
SERVICES AND MULTICULTURAL AFFAIRS**

Australian Citizenship Ceremonies Code

Dear Mayor,

I previously wrote to you advising of a number of proposed changes to the *Australian Citizenship Ceremonies Code*, and invited feedback on these changes from all Australian local government councils. Having considered the views of councils, I am now pleased to announce the publication of a new version of the *Australian Citizenship Ceremonies Code*, which will take effect from the date of this letter. Key changes are outlined below:

- v. Local government councils must ensure ceremonies are conducted in accordance with the *Australian Citizenship Ceremonies Code*. This includes a requirement to hold a citizenship ceremony on Australia Day (January 26). Councils that conferred citizenship on less than 20 people in the previous year are exempt from this requirement.
- vi. Federal Members of Parliament, if attending a citizenship ceremony, should read the Minister's message; and
- vii. Individual councils are to establish a Dress Code for ceremonies, to reflect the significance of the occasion, and provide a copy of their Dress Code to the Department of Home Affairs.

I believe that the changes made to the *Australian Citizenship Ceremonies Code* reflect the expectations of the Australian community and provide clear guidance to councils on hosting citizenship ceremonies. Should your council have any questions regarding these changes, please contact the Department of Home Affairs at natoceremonies@homeaffairs.gov.au.

Thank you on behalf of the Australian Government for your ongoing support of Australian citizenship ceremonies.

Yours sincerely

David Coleman 19 /

09 / 2019

| | |
|----------------------------|---|
| AGENDA ITEM: | 10.3.3 |
| SUBJECT: | WALGA STATE COUNCIL & ZONE STRUCTURE |
| PROPONENT: | CHIEF EXECUTIVE OFFICER |
| SITE: | WESTERN AUSTRALIAN LOCAL GOVERNMENT |
| FILE REFERENCE: | 404.01 |
| PREVIOUS REFERENCE: | NA |
| DATE: | 16th OCTOBER 2019 |
| AUTHOR: | |

SUPPORTING DOCUMENTS:

| Ref | Title | Attached to Report | Under Separate Cover |
|-----------|--|--------------------|----------------------|
| 10.3.3(a) | WALGA Working Group Final Report & Recommendations | | ✓ |

DISCLOSURE OF INTEREST

Nil

BACKGROUND

As presented to the July 2019 Concept Forum, the Western Australian Local Government Association (WALGA) State Council has established a Working Group to consider an alternative model to the existing State Council and Zone structures. If the State Council considers the proposed restructure to be worthy of further consideration the WALGA member Local Government Authorities (LGA) are now being consulted.

The Working Group covered following areas:

- Composition of State Council as a representative board;
- Underpinning principle that metropolitan and country Local Governments should be equally represented on State Council;
- Role of Zones;
- Method of election of State Councillors;
- Relationship between State Council and Zones;
- Existing Zone structures and the basis for the membership of Zones;
- Method of election of the President;
- Role of the Deputy President;
- Role and membership of the Executive Committee;
- Continuing effectiveness of State Council committees such as the Selection Committee, and Honours Panel;
- Membership and efficacy of State Council Policy Teams, and Policy Forums;
- Ability of Zones to shape State Council decision-making through emerging issues;
- Interim submission process to meet Government deadlines;
- Format of State Council meetings and agendas;
- Continuing need to print and distribute hard-copy State Council agendas;
- Any other matters relating to the existing structure or process of State Council, committees of State Council and Zones.

WALGA advises feedback from the Local Government sector should be provided by **5:00pm Friday, 25 October 2019**. An item will then be included in the December 2019 State Council agenda after consideration at the November 2019 round of Zone meetings.

COMMENT

Below are the Working Group Recommendations (full Report is provided under separate cove as **Attachment 10.3.3(a)**):

1. *That the existing composition and representational arrangements of State Council be retained.*
2. *That the role of Deputy State Councillor be retained.*

3. *That no term limits be introduced for the role of State Councillor.*
4. *That a Panel of Member Advisors be established comprising of State Councillors and other Elected Members appointed by the President.*
5. *That a Prospectus be prepared and distributed to all Local Governments and all Elected Members following the Local Government elections every two years highlighting the following information, with the aim of promoting the key role of Zone delegates regionally and the key role of State Councillors in leading advocacy and policy development on behalf of the Local Government in Western Australia:*
 - i. *Role of WALGA as the principal Local Government peak body;*
 - ii. *Role of State Council as WALGA's governing body;*
 - iii. *Role of a State Councillor as a key decision-maker regarding policy, advocacy and provision of services for and on behalf of the Local Government sector;*
 - iv. *Commitment required to be a State Councillor, including attendance at meetings, advocate for WALGA and the Local Government sector, report back to Zones on WALGA and State Council activity, and potentially as a Member Advisor Program mentor;*
 - v. *Opportunities for State Councillors to advocate to Government on behalf of their region and / or particular policy issues;*
 - vi. *Role of Zones as key participants into state-level advocacy and policy development, including the formal required role of Zones and the additional opportunities for Zones;*
 - vii. *Role of Zone delegates as Council representatives at the regional level, including the obligation to report back to Council on Zone activities; and,*
 - viii. *Explanation that, while it is best practice that a Zone motion is submitted by way of a Council decision, Zone delegates can submit motions to a meeting of a Zone, which is an autonomous, self-governing body, and it is recommended that the Zone is advised whether the motion has the backing of a Council resolution.*
6. *That:*
 - i. *The Committee structure, as outlined above be adopted by State Council, to take effect from December 2019;*
 - ii. *The Corporate Governance Charter be amended to reflect the changes to the Committee Terms of Reference and membership, as outlined; and,*
 - iii. *A CEO Performance Review Committee be established, to be chaired by the President and to meet at least once per year.*
7. *That the following process be endorsed for the development, consideration and endorsement of submissions Government and other stakeholders (when there is insufficient time for it to be included in the State Council agenda), and the Corporate Governance Charter be amended to reflect the changes:*
 - i. *WALGA staff prepare interim submission under the guidance of their Executive Manager, with reference to existing positions of State Council, input from Policy Team and / or contemporary feedback from the Local Government sector.*
 - ii. *Policy Team meet to amend or endorse the draft submission to proceed to State Council, with the meetings of the Policy Team to be held via teleconference or videoconference where practicable.*
 - iii. *Draft submission is considered by State Council by Flying Minute using the Board Effect platform.*
 - iv. *Submission is put forward to Government as an endorsed State Council position.*
 - v. *Submission is included in the next State Council agenda as an item for noting.*
8. *That information regarding the role of Zones, and Zone delegates, and the process for submission of Zone motions, be prepared and circulated to Zones, and included in the WALGA Elected Member Prospectus and the Corporate Governance Charter.*
9. *That:*
 - i. *The secretariat engage with Zones regarding the services and support that WALGA provides to Zones; and,*
 - ii. *The secretariat continues to offer baseline Zone secretariat services to Zones as appropriate.*

10. That:

- i. The secretariat develop templates and processes to reduce the length of State Council agenda items;
- ii. Following consultation with the sector, production of hard copy agendas cease beginning with the March 2020 meeting of State Council; and,
- iii. A process be implemented, in consultation with the Local Government sector, to enable Councils to consider items for decision in the State Council agenda to raise awareness of contemporary strategic advocacy and policy issues and to enable Councils to provide guidance and direction to their Zone representatives.

Following are my thoughts on two of the WALGA Working Group Recommendations:

Recommendation 1 - That the existing composition and representational arrangements of State Council be retained.

I believe twelve Metro & twelve Country representatives, plus the Perth Lord Mayor as an ex-officio member, totalling 25 State Council Members, is far too many.

It is understood the equal Metro – v – Regional representation issue needs to be maintained. However; further consideration should be given to how the Zone representation is determined.

Perhaps the previous Country Shire Council Association (CSCA), Country Urban Council Association (CUCA) & metropolitan Local Government Association (LGA) concept could be revamped to regionalise Zones. Below is how these three categories of local governments were once structured.

- ~ CSCA - 105 LGAs [including Mandurah, which is currently in a CSCA Zone]
- ~ CUCA (i.e. Non-Metro Regional Centres) - 5 LGAs - Cities of Albany, Bunbury, Greater Geraldton, Kalgoorlie-Boulder, Karratha.
- ~ Metro LGA – 28 LGAs

The above could be revamped to better align LGAs to those with similar interest/issues. This incorporates relocation Mandurah from a Country Zone to Metro Zone i.e.

- ~ CSCA – 104 LGAs [removing Mandurah]
- ~ Non-Metropolitan Regional Centre & Metro LGAs - 34 LGAs [adding Mandurah].

The existing Zone Structure could be retained, yet the representatives from these Zones could be reduced e.g.

| | |
|---|---|
| CSCA | <p>Eight (8) Representatives.</p> <p>Elected from and rotated amongst the existing twelve (12) Zones. The rotation could be at the time of each Ordinary LG Election where Zones have their representation terminated and a new representatives are added from a Zones, currently not on the State Council being appointed. This will result in any one Zone only being off the State Council for a maximum of two years.</p> <p>To ensure most areas of the State is covered the Zones could be grouped. (see Table 1 below).</p> |
| Non-Metro Regional Centres & Metro LGAs | <p>Two (2) Non-Metro Regional Centre LGAs & Six (6) Metro LGA representatives.</p> <p>I do not believe the Perth Lord Mayor should not have a quarantined ex-officio position on the WALGA State Council and it could perhaps be a decision of the of the Metro LGAs to quarantine the Lord Mayor as part of the six representatives allocated to them.</p> |

Table 1 – Non-Metropolitan Zone Representation Example

| Year | AVON | GREAT EASTERN | CENTRAL | PEEL | MURCHISON | NORTHERN | PILBARA | KIMBERLEY | SOUTH WEST | GREAT SOUTHERN | GOLDFIELDS | GASCOYNE | TOTAL |
|------|------|---------------|---------|------|-----------|----------|---------|-----------|------------|----------------|------------|----------|-------|
| 1 | 1 | | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 8 |
| 2 | 1 | | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 8 |
| 3 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | 8 |
| 4 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | 8 |
| 5 | 1 | 1 | | 1 | 1 | | | 1 | 1 | | 1 | 1 | 8 |
| 6 | 1 | 1 | | 1 | 1 | | | 1 | 1 | | 1 | 1 | 8 |
| 7 | 1 | | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 8 |
| 8 | 1 | | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 8 |
| 9 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | 8 |
| 10 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | 8 |
| 11 | 1 | 1 | | 1 | 1 | | | 1 | 1 | | 1 | 1 | 8 |
| 12 | 1 | 1 | | 1 | 1 | | | 1 | 1 | | 1 | 1 | 8 |
| 13 | 1 | | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 8 |
| 14 | 1 | | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 8 |
| 15 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | 8 |
| 16 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | 8 |
| 17 | 1 | 1 | | 1 | 1 | | | 1 | 1 | | 1 | 1 | 8 |
| 18 | 1 | 1 | | 1 | 1 | | | 1 | 1 | | 1 | 1 | 8 |
| 19 | 1 | | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 8 |
| 20 | 1 | | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 8 |
| 21 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | 8 |
| 22 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | 8 |
| 23 | 1 | 1 | | 1 | 1 | | | 1 | 1 | | 1 | 1 | 8 |
| 24 | 1 | 1 | | 1 | 1 | | | 1 | 1 | | 1 | 1 | 8 |
| 25 | 1 | | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 8 |
| 26 | 1 | | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 8 |
| 27 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | 8 |
| 28 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | 8 |
| 29 | 1 | 1 | | 1 | 1 | | | 1 | 1 | | 1 | 1 | 8 |
| 30 | 1 | 1 | | 1 | 1 | | | 1 | 1 | | 1 | 1 | 8 |
| 31 | 1 | | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 8 |
| 32 | 1 | | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 8 |

This will result in a total number of State Council Representatives being sixteen (16) which is far more realistic & manageable.

It could be argued there is an imbalance between metro and non-metro members with the Non-Metropolitan Regional Centre representative creating a bias in the favour of the non-metro LGAs. However; it could also be argued the Non-Metropolitan Regional Centres have more of an affinity with the Metro LGAs than they do with the Non-Metro LGAs.

Recommendation 9 - That:

- i. The secretariat engage with Zones regarding the services and support that WALGA provides to Zones; and,
- ii. The secretariat continues to offer baseline Zone secretariat services to Zones as appropriate.

There appears to be a distinct inequality under the current arrangements where WALGA provides Secretarial services to some Zones and not others. As stated in the Working Group Report:

“Currently, most Zones employ an independent executive officer, while WALGA provides secretariat support for the following Zones:

- ~ Central Metropolitan Zone
- ~ East Metropolitan Zone
- ~ Gascoyne Country Zone
- ~ Great Eastern Country Zone
- ~ North Metropolitan Zone
- ~ Peel Country Zone
- ~ South East Metropolitan Zone, and
- ~ South Metropolitan Zone

WALGA’s secretariat service is offered as a baseline service at no cost to the Zone.”

The problem with this situation is Zones not being provided with a WALGA Secretariat Service (like the Northern Country Zone) is these LGAs pay the cost of the service from subscription paid to the Zone, whereas those being provided the WALGA Secretariat Service appear not to be paying anything for this service.

Regarding the role of Zones, this has been a vexed question for as long as they have existed. It is difficult for the Zones to be positioned in a way where they can deal with issues in a prompt and timely manner.

Perhaps the scenario should be for WALGA to simply recognise feedback from individual LGAs on issues of urgency, whilst the Zones become issue/project specific for non-urgent issues only.

The concept is the Zone representatives seeks feedback from the LGAs within their areas on items of urgency listed in the State Council Agenda as a basis of forming their voting position, rather than a collective position derived from going through the Zone meetings, this could remove the existing slow and cumbersome process.

The WALGA is supposed to provide Secretariat/Administrative support to all Zones, so it could simply be an electronic feedback procedure run by WALGA with the Zone area results being sent to the State Council representative for their areas.

In the event there is a significant issue of a non-urgent nature to be discussed (e.g. LG Act Review) then the Zone could perhaps meet on an as needs basis to consider the issue. Again, this should be administered and facilitated by WALGA.

STATUTORY ENVIRONMENT

No Statutory implication envisages; however, the WALGA Structure will be affected by any changes implemented as a result of the review.

POLICY/PROCEDURE IMPLICATIONS

No Policy or Management Procedures implicated.

FINANCIAL IMPLICATIONS

If WALGA remove the current secretarial service inequity there may be a minor financial return to the Shire, though nothing of significance.

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

LTFP not affected.

STRATEGIC IMPLICATIONS

The WALGA State Council and Zone Structure and Process Review is sound as periodical reviews are important to ensure policies, procedures and structures remain current and relevant.

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

| Ref | Objective | Strategy |
|-----|---|--|
| 5.1 | Ensure governance and administration systems, policies and processes are current and relevant | Review policy categories and set ongoing accountability for review processes |

CONSULTATION

WALGA is in the process of consulting with all local government authorities across the State with submissions closing at **5:00pm, Friday, 25 October 2019.**

RISK ASSESSMENT

I believe the risk in this instance is ***insignificant.***

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

VOTING REQUIREMENTS

Simple Majority.

COUNCIL / STAFF RECOMMENDATION

MOVED: CR HUMPHREY

SECONDED: CR FORRESTER

Council make the following submission on the *WALGA State Council and Zone Structure and Process Review* concurring with Recommendations 2,3,4,5,6,7,8 & 10 and in the making the following comments on Recommendations 1 & 9:

Recommendation 1

Twelve Metro & twelve Country representatives, plus the Perth Lord Mayor as an ex-officio member, totalling 25 State Council Members, is far too many.

It is understood the equal representation (Metro – v – Regional) needs to be maintained. However; further consideration should be given to how the Zone representation is determined.

Perhaps the previous Country Shire Council Association (CSCA), Country Urban Council Association (CUCA) & metropolitan Local Government Association (LGA) concept could be revamped to regionalise Zones. Below is how these three categories of local governments were once structured.

- ~ CSCA - 105 LGAs [including Mandurah, which is currently in a CSCA Zone]
- ~ CUCA (i.e. Non-Metro Regional Centres) - 5 LGAs - Cities of Albany, Bunbury, Greater Geraldton, Kalgoorlie-Boulder, Karratha.
- ~ Metro LGA – 28 LGAs

The above could be revamped to better align LGAs to those with similar interest/issues. This incorporates relocating Mandurah from a Country Zone to a Metro Zone i.e.

- ~ Country LGAs – 104 LGAs [removing Mandurah]
- ~ Non-Metropolitan Regional Centre & Metro LGAs - 34 LGAs [adding Mandurah].

| | |
|---|--|
| CSCA | <p>Eight (8) Representatives.</p> <p>Elected from and rotated amongst the existing twelve (12) Zones. The rotation could be at the time of each Ordinary LG Election where some Zones have their representation terminated and a new representative are added from a Zones, currently not on the State Council being appointed. This will result in any one Zone only being off the State Council for a maximum of two years.</p> <p>To ensure most areas of the State is covered the Zones could be grouped. (providing WALGA with Table 1 as an example).</p> |
| Non-Metro Regional Centres & Metro LGAs | <p>Two (2) Non-Metro Regional Centre LGAs & Six (6) Metro LGA representatives.</p> <p>The Perth Lord Mayor should not have a quarantined ex-officio position on the WALGA State Council, and it could perhaps be a decision of the of the Metro LGAs to quarantine the Lord Mayor as part of the six representatives allocated to them.</p> |

This will result in a total number of State Council Representatives being sixteen (16) which is far more realistic & manageable.

Though it could be argued there is an imbalance between metro and non-metro members with the Non-Metropolitan Regional Centre representative creating a bias in the favour of the non-metro LGAs. However; it could also be argued the Non-Metropolitan Regional Centres have more of an affinity with the Metro LGAs than they do with the Non-Metro rural & remote LGAs.

Recommendation 9

There appears to be a distinct inequality under the current arrangements where WALGA provides Secretarial services to some Zone and not others. As stated in the Working Group Report i.e.

“Currently, most Zones employ an independent executive officer, while WALGA provides secretariat support for the following Zones:

- ~ *Central Metropolitan Zone*
- ~ *East Metropolitan Zone*
- ~ *Gascoyne Country Zone*
- ~ *Great Eastern Country Zone*
- ~ *North Metropolitan Zone*
- ~ *Peel Country Zone*
- ~ *South East Metropolitan Zone, and*
- ~ *South Metropolitan Zone*

WALGA’s secretariat service is offered as a baseline service at no cost to the Zone.”

The problem with this situation is Zones not being provided with a WALGA Secretariat Service (like the Northern Country Zone) is these LGAs pay the cost of the service from subscription paid to the Zone, whereas those being provided the WALGA Secretariat Service appear not to be paying anything for this service.

Regarding the role of Zones, this has been a vexed question for as long as they have existed. It is difficult for the Zones to be positioned in a way where they can deal with issues in a prompt and timely manner.

Perhaps the scenario should be for WALGA to simply recognise feedback from individual LGAs on issues of urgency, whilst the Zones become issue/project specific where there is urgency only.

The concept is the Zone representatives seeks feedback from the LGAs within their areas on items of urgency listed in the State Council Agenda as a basis of forming their voting position, rather than a collective position derived from going through the Zone meetings, this could remove the existing slow and cumbersome process.

The WALGA is supposed to provide Secretariat/Administrative support to all Zones, so it could simply be an electronic feedback procedure run by WALGA with the Zone area results being sent to the State Council representative for their areas.

In the event there is a significant issue to be discussed, of a non-urgent nature (e.g. LG Act Review) then the Zone could perhaps meet on an as needs basis to consider the issue. Again, this should be administered and facilitated by WALGA.

Voting 6/0
CARRIED
Minute Reference: 10/19-6

11.0 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

COUNCIL RESOLUTION

MOVED: CR WARR

SECONDED: CR FORTH

Council agree to deal with Late Agenda Item 12.1 regarding WALGA’s request for comment on the Size and Scale Compliance Regime as part of the Local Government Act Review.

**Voting 6/0
CARRIED
Minute Reference: 10/19-7**

| | |
|----------------------------|---|
| LATE AGENDA ITEM: | 12.1 |
| SUBJECT: | SIZE & SCALE COMPLIANCE REGIME – LOCAL GOVERNMENT ACT REVIEW |
| PROPONENT: | WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION |
| SITE: | WHOLE OF WA LOCAL GOVERNMENT |
| FILE REFERENCE: | 404.01 |
| PREVIOUS REFERENCE: | MINUTE REFERENCE 04/1/-22 |
| DATE: | 16th OCTOBER 2019 |
| AUTHOR: | MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER |

SUPPORTING DOCUMENTS:

| Ref | Title | Attached to Report | Under Separate Cover |
|---------|---|--------------------|----------------------|
| 12.1(a) | WALGA – Info Page on Size & Scale Compliance Regime – Local Government Act Review | ✓ | |
| 12.1(b) | Previous list of Administrative Burden Items Presented at the April 2017 OCM | ✓ | |

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The Western Australian Local Government Association (WALGA) is seeking comments on the Size & Scale Compliance Regime concept as part of the current Local Government Act Review.

Submissions to WALGA close on the **25th October 2019**.

Council resolved the following at the April 2017 OCM, which had aspects included on the *One-Size-Fit-All* problems with the current legislation:

“MOVED: CR FARRELL

SECONDED: CR WARR

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

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

This Agenda Item and Resolution was supported by a list of issues identified by NCZ CEO's and Senior Staff at the time (see **Attachment 12.1(b)**)

COMMENT

The WALGA Info Page (see **Attachment 12.1(a)**) states:

"As part of the review of the Local Government Act process, the sector endorsed a number of key advocacy principles. One of the key principles was for a Size and Scale compliance regime.

To assist with the advocacy for this principle, sector assistance is requested in identifying examples of where a size and scale compliance regime could be identified in the Act and Regulations."

The size and scale is likely to be based on the Band Categories as provided through the Salaries and Allowances Tribunal. There are four Bands covering all LGAs across the State, with the Shire of Chapman Valley being in the lowest level (i.e. Band 4).

In 2017 CEO's and Senior Staff from within the Northern Country Zone (NCZ) area met to discuss legislation imposed by the current Local Government Act & Regulations at the request of the NCZ. Following those discussions a report was presented to NCZ and Council who endorsed the Report at the April 2017 OCM and subsequently has been used by a number of Councils as a submission to the review of the Local Government Act since.

Within the abovementioned report, the following areas were identified where the requirements should be based on size and scale of the local government:

Reg 17A Financial Management Regs - Asset Valuation

When the 2017 review was undertaken the requirement then was for all assets to be revalued every three years. A recent change has now seen the regulation amended to at least 3 years but no more than 5 years after the day on which the asset was last valued or revalued.

This is still considered onerous and a costly exercise in rural remote areas where asset values do not change a great deal. Therefore the WALGA Submission should suggest the revaluation period be linked to the LGA Band level, ranging hypothetically from 5 to 10 years.

Reg 5.56 Planning for the Future -Integrated Planning & Reporting

The review commented on the current requirements for Integrated Planning & Reporting (IPR) being too onerous and expensive, specifically for smaller LGAs with limited resources.

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

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

Long Term Financial Plans and Asset Management Plans linked to basic Strategic Community Plans and/or Corporate Business Plans is all that should be required for LGAs on the lower Band levels.

Workforce Plans are superfluous.

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

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

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

This is onerous and should be removed or amended. It is also confusing as to why this would need to go to the Audit Committee in the first instance then to Council. If retained, then the period for LGAs on the lower Bands should only have to do the reviews less often than those on the higher Band Levels. Also, the outcomes of the reviews should go directly to Council with the Council then determining if any items raised needs further investigation and then putting this to the Audit Committee. This will remove the need to hold a Finance Committee Meeting for the sake of it and only have these meeting if/when needed.

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

The CEO/Senior Staff Group recommend there should be different requirements for different Bands of local governments and the DLGC's expectations need to be amended to allow reviews to be done in house.

Reg 20 – Financial Reporting Requirements

Currently there is a *one size fits all* model for the annual financial reporting requirements. A scenario where there is a tiered process, which requires a higher level of financial reporting requirements for larger LG's (i.e. higher Band levels) and a lower requirement for those LGAs on the lower Bands should be introduced.

The CEO/Senior Staff Group recommended the DLGC develop a "tiered" process on the level of financial reporting requirements for each LG and on the level of compliance.

Section 5.53 – Annual Report Requirements

As recommended by the CEO/Senior Staff Group and not dissimilar to the Financial Reporting requirements above, there should be a tiered process, which requires a higher level of Annual Reporting requirements for larger LG's (i.e. higher Band levels) and a lower requirement for those LGAs on the lower Bands.

STATUTORY ENVIRONMENT

Local Government Act & Regulations review process.

POLICY/PROCEDURE IMPLICATIONS

No Policy or Management Procedure directly affected

FINANCIAL IMPLICATIONS

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

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

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

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

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

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

It would fair to state the issue has worsened significantly since the mid 2000's and I am sure the legislation cost across the local government sector would closer to \$20m per annum. However, as you would imagine, ascertaining the actual cost burden would be a major exercise and one I am sure this shire alone (or even the WALGA) could not afford the time or resources to undertake.

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

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

STRATEGIC IMPLICATIONS

As stated at the April 2017 OCM, it is understood legislation is required to ensure good governance is in place. However; it is also clear over-burdening legislation and supposed *Best Practice* interpretation of the legislation is a real issue.

The ability for local government authorities to be entrepreneurial and strategically focused to grow and develop their district and communities is being stifled by the ever increasing burden of legislation and compliance being forced onto the local government sector.

It is sad to continually see the State Government (no doubt driven and directed by the executive arm of government) introduce *knee-jerk reaction* legislation almost every time there is an issue highlighted with an individual local government authority.

Again, quoting from the presentation given by Shane Silcox:

"The first and often only reaction from governments to abhorrent business behaviour, however isolated the incident suggests business writer John Arbouw, is to enact new legislation and give regulators more power. But has this rush to legislate judgment gone too far and become a threat to the effectiveness of government, the economy and is it adding an unforeseen cost burden to ratepayers and consumers?"

Recent examples abound in our industry...one CEO's curriculum vitae is rightfully questioned as to its accuracy and now all CEO salaries and recruitment is now regulated. One council tries to change the method of electing the mayor for its council and again more regulation follows, one council tried to use rates concessions for absent owners of holiday properties and again legislation is brought in, another council may be seen to have less than adequate contract management processes in place and I am sure the response will be more regulation...what will be the next knee jerk reaction?"

It would seem that the birth of regulation is the scar tissue of previous mistakes rather than legislation being a framework to enable local governments to serve the consumer base more effectively and efficiently."

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

| Ref | Objective | Strategy |
|-----|---|--|
| 5.1 | Ensure governance and administration systems, policies and processes are current and relevant | Review policy categories and set ongoing accountability for review processes |

CONSULTATION

As mentioned, the NCZ has already looked at this as part of the CEO/Senior Staff Group review and report in 2017.

WALGA is now consulting with the LG industry to form a position and submit this to the State Government as part of the *Size & Scale Compliance Regime* aspect of the Local Government Act Review process.

RISK ASSESSMENT

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

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

VOTING REQUIREMENTS

Simple Majority

COUNCIL / STAFF RECOMMENDATION

MOVED: CR HUMPHREY

SECONDED: CR WARR

Council provide the following comments to the Western Australian Local Government Association the *Size & Scale Compliance Regime* concept as part of the current Local Government Act Review:

1. Reg 17A Financial Management Regs - Assets Valuations

Currently all assets are to be revalued every three years. A recent change has now seen the regulation amended to at least 3 years but no more than 5 years after the day on which the asset was last valued or revalued.

This is still considered onerous and a costly exercise in rural remote areas where asset values do not change a great deal. Therefore, the revaluation period should be linked to the LGA Band level, ranging hypothetically from 5 to 10 years depending on the Band level.

2. Reg 5.56 Planning for the Future -Integrated Planning & Reporting

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

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

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

Long Term Financial Plans and Asset Management Plans linked to basic Strategic Community Plans or Corporate Business Plans is all that should be required for LGAs on the lower Band levels.

Workforce Plans are superfluous.

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

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

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

This is onerous and should be removed or amended. It is also confusing as to why this would need to go to the Audit Committee in the first instance then to Council. If this requirement is retained, then the period for LGAs on the lower Bands should only have to do the reviews less often than those on the higher Band levels. Also, the outcomes of the reviews should go directly to Council with the Council then determining if any items raised needs further investigation and then putting this to the Audit Committee. This will remove the need to hold a Finance Committee Meeting for the sake of it and only have these meeting if/when needed.

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

Different requirements for different Bands of local governments is important and the DLGC's expectations need to be amended to allow reviews to be done in house.

4. Reg 20 – Financial Reporting Requirements

Currently there is a *one size fits* all model for the annual financial reporting requirements. A scenario where there is a tiered process, which requires a higher level of financial reporting requirements for larger LG's (i.e. higher Band levels) and a lower requirement for those LGAs on the lower Bands (i.e. develop a "tiered" process on the level of financial reporting requirements for each LG and on the level of compliance).

5. Section 5.53 – Annual Report Requirements

Not dissimilar to the Financial Reporting requirements above (Item 4), there should be a tiered process, which requires a higher level of Annual Reporting requirements for larger LG's (i.e. higher Band levels) and a lower requirement for those LGAs on the lower Bands.

Voting 6/0
CARRIED
Minute Reference: 10/19-8

INFOPAGE

To: All Local Governments

**From: Tony Brown
Executive Manager Governance &
Organisational Services**

Date: 20 September 2019

Priority: High

**Subject: Size and Scale Compliance Regime – Local Government Act Review
Advocacy**



IN BRIEF:

| | |
|-------------------|--|
| Operational Area: | Governance |
| Key Issues: | <ul style="list-style-type: none"> • As part of the review of the Local Government Act process, the sector endorsed a number of key advocacy principles. One of the key principles was for a Size and Scale compliance regime. • To assist with the advocacy for this principle, sector assistance is requested in identifying examples of where a size and scale compliance regime could be identified in the Act and Regulations. • Local Government's are requested to provide any examples to WALGA by 25 October 2019. |
| Action: | Local Government feedback by Friday 25 October 2019 |

Background

During the current Local Government Act review process, WALGA following consultation with the sector, developed key principles and advocacy positions which were subsequently endorsed through the Zone and State Council meeting process.

The following are the key principles;

- 1) *That the sector endorse a 'Principles over Prescription' approach to the Local Government Act Review and actively promote the benefits of the general principles listed below, intended to safeguard against the new Local Government Act becoming overly prescriptive:*
 - (a) *Uphold the General Competence Principle currently embodied in the Local Government Act;*
 - (b) *Provide for a flexible, principles-based legislative framework;*
 - (c) *Promote a size and scale compliance regime;*
 - (d) *Promote enabling legislation that empowers Local Government to carry out activities beneficial to its community taking into consideration the Local Governments role in creating a sustainable and resilient community through;*
 - i. *Economic Development*
 - ii. *Environmental Protection*
 - iii. *Social Advancement;*

ONE70
LV1, 170 Railway Parade, West Leederville, WA 6007
PO Box 1544, West Perth, WA 6872
T: (08) 9213 2000 F: (08) 9213 2077 info@walga.asn.au
www.walga.asn.au



- (e) Avoid red tape and 'de-clutter' the extensive regulatory regime that underpins the Local Government Act; and*
- (f) The State Government must not assign legislative responsibilities to Local Governments unless there is provision for resources required to fulfil the responsibilities.*
- 2. *(a) Support the continuance of the Department of Local Government, Sport and Cultural Industries as a direct service provider of compliance and recommend the Department fund its capacity building role through the utilisation of third party service providers.*
(b) Call on the State Government to ensure there is proper resourcing of the Department of Local Government, Sport and Cultural Industries to conduct timely inquiries and interventions when instigated under the provisions of the Local Government Act 1995.

In respect principle 1 (c) *Promote a size and scale compliance regime*, to assist in advocacy to the State Government as part of the Local Government Act review process, sector assistance is requested in identifying examples of where a size and scale compliance regime could be identified in the Act and Regulations.

If you could provide your examples by Friday 25 October 2019 it would be appreciated.

For further information please contact:

Executive Manager Governance & Organisational Services, Tony Brown
on 9213 2051 or email tbrown@walga.asn.au or James McGovern,
Manager Governance on 9213 2093 or email jmccgovern@walga.asn.au

ONE70
LV1, 170 Railway Parade, West Leederville, WA 6007
PO Box 1544, West Perth, WA 6872
T: (08) 9213 2000 F: (08) 9213 2077 info@walga.asn.au
www.walga.asn.au

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

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

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

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

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

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

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

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

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

2 Section 2.1, Schedule 2.1; & Constitution Reg. - Provisions about creating, changing the boundaries of, and abolishing districts

Amend legislation to ensure poll option is required for boundary adjustment if required by an affected local government authority.

The issue is that Clause 8 of Schedule 2.1 only allows poll provisions for the amalgamation of two or more districts, not for boundary adjustments.

The argument is a district(s) could be merged with its neighbour simply by adjusting boundaries and not wholesale amalgamation of two districts.

Local Governments have been staked in the past on such boundary adjustment concepts however there is no poll provisions allowed under the legislation in such instances.

| | | |
|---|---|---|
| | | <p>Recommendation is that Schedule 2.1 needs to be amended to ensure any LGA with boundary adjustments being imposed or suggested, that they have the right to poll their constituents as they do with an amalgamation.</p> |
| 3 | Section 2.1; Schedule 2.2; & Constitution Reg. - Ward Representation | <p>The current State Government position of +/- 10% of Electors to Elected Members is unfair when the rate/revenue contribution of the various area of LG district is not taken into account as well.</p> <p>Unable to determine if the ratio is set by legislation, which sets the +/- 10% ratio and believe this is simple a position of the State Government, probably at the recommendation of Executive Government, which has then been a direction to the Local Government Advisory Board.</p> <p>In the Shire of Somewhere as an example the Electors are approximately 50:50 under the current Ward system, whereas the rate revenue is significantly weighted to the UV areas (i.e. 82% UV – v – 18% GRV).</p> <p>It is being suggested the Rate Revenue only should be the basis of revenue source of an LGA and the WALGGC population ratio linked to FAGS revenue would also need to be included into the calculations.</p> <p>A combination of a number of criteria needs to be included as part of the Ward Representation ratio rather than just using the Electors – v – Elected members in isolation.</p> <p>Regional & remote LGAs opposed the State at the time they introduced the <i>One Vote – One Value</i> procedure for establishing State Electoral boundaries, yet we did not fight against the same concept for our own Ward Boundary representation, which is based on the same concept.</p> <p>Recommend that the appropriate body, be it the DLGC or WALGA investigate the possibility of a criteria being developed to accommodate the above Note this is not legislated but a directive. In addition the calculating of rate revenue as a basis is not in keeping with the definition of “electors”</p> |
| 4 | Section 2.31 – Resignation of Elected Member | <p>Section 2.31 (3) requires</p> <p><i>Written notice of resignation is to be signed and dated by the person who is resigning and delivered to the CEO.</i></p> <p>Recommendation that his section be amended to reflect an emailed resignation with undisputed proof the email is from the Elected Member should satisfy the requirements of being a signed & dated resignation delivered to the CEO.</p> |
| 5 | Division 2– Subdivision1& Functions & General Regs. – Local Laws made under the Act | <p>The Local law process is extremely complex and difficult. This whole area needs to be reviewed to simplify the process of adopting new and/or reviewing existing local laws.</p> <p>Recommend that the DLGC undertake a comprehensive review with industry input on the process in reviewing Local Laws. The process needs simplification and an alternative needs to be established and considered by the sector.</p> |

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

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

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

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

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

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

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

The meeting was adjourned at 10.01am to conduct a Citizenship Ceremony.

The meeting recommenced at 10.43am

13.0 DELEGATES REPORTS

Cr Forrester advised that she had attended the Parkfalls Residents Association meeting.

Cr Humphrey he attended two Parkfalls Residents Association meetings.

Cr Warr advised she, Cr Forrester and Cr Humphrey had attended the Lotterywest cheque presentation for the next stage of the BHPCC Masterplan implementation (i.e. trails and exercise equipment) and the announcement of State Government funding towards the Moresby Range Eco Tourism Master Plan at Bill Hemsley Park Community Centre.

Cr Warr and Cr Batten attended the opening of the Yuna Tennis Club.

Cr Forth and Mr Lancaster attended the Coronation Masterplan meeting at Bill Hemsley Park Community Centre.

14.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Crs Farrell & Warr thanked Cr Forrester for her excellent service and commitment to Council and the community as an Elected Member for over 18 years.

Cr Warr expressed her appreciation for Cr Forrester’s thoughtful commitment and stated Cr Forrester had inspired her to become a Councillor.

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

Nil

16.0 CLOSURE

The President thanked Elected Members and Staff for their attendance and closed the meeting at 11.02am.