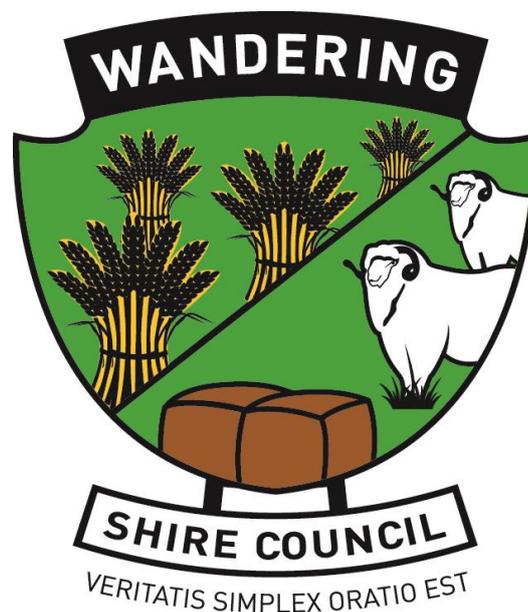


SHIRE OF WANDERING AGENDA



**21 February
2019**

ORDINARY COUNCIL MEETING

Agenda for the Ordinary Council Meeting to be held on Thursday

21 February, 2019 in the Council Chambers commencing at 3.30pm.

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Notice of Meeting

The next Ordinary Council Meeting for the Shire of Wandering will be held on Thursday 21 February, 2019 in the Council Chambers, 22 Watts Street, Wandering commencing at 3.30pm.

A handwritten signature in black ink, appearing to read 'Amanda O'Halloran', is written over a light blue circular stamp.

Amanda O'Halloran
Chief Executive Officer
Date: 11/2/2019

Order of Business

Ordinary Council Meeting to be held on Thursday 21 February, 2019

- | | |
|-----------------|---|
| 8.30am | <i>Meet at Reid Road for update from Brad</i> |
| 9.00am | <i>CEO Resignation Discussion and Councillor Catch up</i> |
| 10.30am | <i>Morning Tea</i> |
| 11.00am | <i>Review of Phase 2 of Local Govt Act Submission Planning Final Submission</i> |
| 12.15 pm | <i>Lunch</i> |
| 1.00 pm | <i>Long Term Financial Plan and Asset Management Plan</i> |
| 3.00 pm | <i>Councillor Briefing Session</i> |
| 3.30 pm | <i>Council Meeting</i> |
| 4.30pm | <i>Information Bulletin Session</i> |

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

3. DISCLOSURE OF INTERESTS

DECLARATION OF INTERESTS (NOTES FOR YOUR GUIDANCE) (updated 13 March 2000)

A member who has a Financial Interest in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest:

- (a) In a written notice given to the Chief Executive Officer before the Meeting or;
- (b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- (c) Preside at the part of the Meeting, relating to the matter or;
- (d) Participate in, or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under Section 5.68 or Section 5.69 of the Local Government Act 1995.

NOTES ON FINANCIAL INTEREST (FOR YOUR GUIDANCE)

The following notes are a basic guide for Councillors when they are considering whether they have a Financial Interest in a matter. I intend to include these notes in each agenda for the time being so that Councillors may refresh their memory.

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measured in money terms. There are exceptions in the Local Government Act 1995 but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e. sporting, social, religious etc., and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e. if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
4. If in doubt declare.
5. As stated in (b) above, if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it Must be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The only exceptions are:
 - 6.1 Where the Councillor discloses the extent of the interest, and Council carries a motion under s.5.68(1)(b)(ii) or the Local Government Act; or
 - 6.2 Where the Minister allows the Councillor to participate under s.5.69 (3) of the Local Government Act, with or without conditions.

INTERESTS AFFECTING IMPARTIALITY

DEFINITION: An interest that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected, but does not include an interest as referred to in Section 5.60 of the 'Act'.

A member who has an Interest Affecting Impartiality in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest;

- (a) in a written notice given to the Chief Executive Officer before the Meeting; or
- (b) at the Meeting, immediately before the matter is discussed.

IMPACT OF AN IMPARTIALITY CLOSURE

There are very different outcomes resulting from disclosing an interest affecting impartiality compared to that of a financial interest. With the declaration of a financial interest, an elected member leaves the room and does not vote.

With the declaration of this new type of interest, the elected member stays in the room, participates in the debate and votes. In effect then, following disclosure of an interest affecting impartiality, the member's involvement in the meeting continues as if no interest existed.

4. PUBLIC QUESTION TIME

5. APPLICATIONS FOR LEAVE OF ABSENCE

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

6.1 PREVIOUS COUNCIL MEETINGS AND BUSINESS ARISING FROM MINUTES

6.1.1 ORDINARY COUNCIL MEETING

Minutes of the Shire of Wandering Ordinary Council Meeting held on Thursday 13 December 2018.

ATTACHMENT 6.1.1

6.1.2 SPECIAL MEETING OF COUNCIL

Minutes of the Shire of Wandering Special Council Meeting held on Thursday 24 January 2019

ATTACHMENT 6.1.2

7. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

8. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

8.1.1 Presentation by Culford Agri Business – Richard Atkins and Kim Gorey

9. REPORTS OF COMMITTEES

10. REPORTS OF OFFICERS

10.1 CHIEF EXECUTIVE OFFICER

10.1.1 USE OF COMMON SEAL AND ACTIONS PERFORMED UNDER DELEGATED AUTHORITY FOR THE MONTH OF DECEMBER 2018 & JANUARY 2019

File Reference	1.1.29.1
Proponents:	Nil
Disclosure of Interest:	Nil
Date:	5 February 2019
Previously Before Council:	N/A
Authors Name & Position:	Monica Treasure, Manager of Communities

NATURE OF COUNCIL'S ROLE IN THE MATTER:

- Advocacy *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive *The substantial direction setting and oversight role of the Council e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative *Includes adopting local laws, local planning schemes and policies.*
- Review *When Council reviews decisions made by Officers.*
- Quasi-judicial *When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).*

PURPOSE OF THE REPORT

The purpose of this agenda item is to report to Council for information, Use of the Common Seal and actions performed under delegated authority requiring referral to Council, for the month of December 2018 and January 2019.

BACKGROUND

Council has authorised the updated delegations register at the September 2018 Ordinary Meeting of Council. The procedure associated with the register is to report to Council the activities or actions that have been performed under the Delegated Authority. A report will be completed for Council at each meeting that identifies (1) use of the Common Seal, and (2) actions performed under the Delegated Authority requiring referral to Council as per the Shire of Wandering Delegated Authority Register 2018.

COMMENT/ DETAILS

Actions performed under delegation during December 2018 and January 2019 are provided below:

- **Food Stall Holder's Licence:**

Seven Oaks Partners Pty Ltd:
Trading as Three Ways Tavern

Medium Risk Food Registration

Signed: Amanda O'Halloran, CEO

- **Planning Approval:**

DA19019 Mohsan Knododoost
 Lot 30 Charlton Road
 Shed

Signed: Amanda O'Halloran, CEO

- **Building Licences Issued:**

BL195 J & T Wigham
 Lot 89 Redgum Court
 Dwelling

Signed: Amanda O'Halloran, CEO

BL196 S Kelliher
 6654 Wandering – Pingelly Road
 Demolition

Signed: Amanda O'Halloran, CEO

- **Health:**

Nil

- **Payments:**

Payments made from the Municipal Account as per financial report at 10.4.1 of this Agenda.

CONSULTATION

Planning and Building Specialists City of Kalamunda
 Environmental Health Officer

STATUTORY/ LEGAL ENVIRONMENT

Local Government Act 1995 Section 9.49A

POLICY IMPLICATIONS

Affixing the Shire of Wandering Common Seal Policy
 Shire of Wandering Delegations Register 2018
 Purchasing and Tendering Policy

FINANCIAL IMPLICATIONS

Nil – all payments have been approved in the 2018/19 Annual Budget

STRATEGIC IMPLICATIONS

Community Strategic Plan 2018-2028

Goal 4 – Provide Strong Leadership

Strategic Community Plan			
Goal	Strategies	Outcome	
4.2	We plan for the future and are strategically focused.	4.2.1	Ensure accountable, ethical and best practice governance.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

That Council accept the report "Use of Common Seal and Actions Performed under Delegated Authority" for the months of December 2018 and January 2019.

10.1.2 NEW STANDPIPE CHARGES AND CLASSIFICATIONS

File Reference	32.1.3
Proponents:	Nil
Disclosure of Interest:	Nil
Date:	3 February 2019
Authors Name & Position:	Amanda O'Halloran, CEO
Previously Before Council:	N/A
Attachment:	10.1.2.1 Fixed Standpipes Frequently asked Questions

NATURE OF COUNCIL'S ROLE IN THE MATTER:

- Advocacy *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive *The substantial direction setting and oversight role of the Council e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative *Includes adopting local laws, local planning schemes and policies.*
- Review *When Council reviews decisions made by Officers.*
- Quasi-judicial *When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).*

PURPOSE OF THE REPORT

The Water Corporation will be implementing a new management and billing structure from the 1st July 2019 and information about this change was provided to the Shire of Wandering in December 2018.

The Shire of Wandering will need to reclassify the Standpipes under a new price structure and the Shire administration is seeking Council's direction to proceed given the changes are likely to significantly impact water availability and have financial implications to its stakeholders.

BACKGROUND

Local Government Authorities (LGAs) are entitled to access concessional pricing for water used for their own purposes. This will not change; however high flow rate LGA owned fixed standpipes that are publicly accessible will no longer be charged concessional rates and commercial rates will apply instead.

This change will affect users of all high flow LGA owned fixed standpipes in the Shire of Wandering of which we have two (2). Although the price is charged to the LGA directly, the costs may be passed on to businesses, farmers and properties not connected to the scheme.

Standpipes with a meter size of 20mm or 25mm will be charged at concessional rates and are to be used for community purposes only (such as drought assistance for farmers or households not connected to scheme water). All standpipes with a meter size above 25mm will be charged at a commercial rate. An exemption to consumption charges will apply for water used for fire-fighting purposes.

The Water Corporation estimates that 20mm and 25mm meters generally deliver between 20 and 40 litres per minute. The large standpipes (any pipe larger than 25mm) generally deliver from 80 litres and above per minute.

From 1 July 2019 standpipe charges will be based on the following four categories.

Local Authority Standpipe

No Annual Service Charge
Water Use Charge \$2.534 per kilolitre
Shire use only

Community Standpipe

Annual Service Charge \$265.41
Water Use Charge \$2.534 per kilolitre
25mm standpipe

Commercial Standpipe

Annual Service Charge \$1,658.93
Water Use Charge \$8.353 per kilolitre
50mm standpipe

Firefighting Standpipe

No Annual Fee 100% discount
No Water Use Charge
Must be locked and for fire-fighting use only

COMMENT / DETAILS

The Water Corporation have requested the Shire of Wandering confirms at its earliest possible convenience the need for any new infrastructure, decommissioning or downgrading of existing standpipes to reduce the new water service charge, or any plans to maintain a commercial service. The Water Corporation will provide free infrastructure for a community standpipe (20-25mm only) if a downgrade from 50mm meter is required, alternatively if upgrades are required, it will be at the local government's cost.

As the new fees will not be imposed until 1 July 2019 there is no need to amend the current Fees and Charges until the new financial year. However Council will need to consider whether it would wish to allocate the increased capital and operational costs to the water unit cost which will be increasing significantly under the new arrangements.

The Cheetaning standpipe is utilised by the Wandering Fire Brigades to access water in an emergency and to support Fire Brigade functions. It is proposed this standpipe be nominated as the Fire Purposes Only standpipe, and if locked and only utilised for firefighting purposes, it will attract no annual fee and no water use charge. Therefore, it is recommended this stand pipe is classified as a fire fighting stand pipe.

The Wandering depot standpipe located on Sewell Street is utilised the most both by the Shire and commercially, it uses an average of 2500kl per annum. Therefore, it is recommended this standpipe is classified as a Commercial 50mm meter standpipe. No changes to the infrastructure at this site are necessary. However, it will incur an annual fee of \$1,658.93 and water will cost \$8.353 per kilolitre. Council has the capacity to claim a subsidised rate on any water utilised for community purposes and Council functions. However, this will require the installation of a computerised controller system to allow for formal evidence / documentation to prove usage. Based on preliminary investigations it is likely to cost the Shire up to \$15,000 to purchase a system and install. This system will allow access via a swipe card and will provide Council with an auditable system which will formalise all charging and water allocation, which to date has been reliant on an honour system.

ATTACHMENT10.1.2.1

CONSULTATION

Wandering Fire Brigade Members
 Shire Councillors
 Water Users

STATUTORY/ LEGAL ENVIRONMENT

Local Government Act 1995

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Council will need to increase the fees charged to users to cover the water consumption and annual service fees. Based on usage in 2018, the standpipe water charges and annual service fees will increase from approximately \$6,335.00 in 2017/18 to \$20,882.50 in the 2019/20 financial year.

Council will need to consider the requirement to upgrade the infrastructure to ensure water usage and commercially sold water is auditable in order to claim a subsidy on community water usage. Formal costs and the budget’s capacity to cope will be presented to Council at the March meeting.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2018 - 2028

Goal 1 – Improve our Financial Position

Strategic Community Plan		
Goal	Outcome	Strategies
1.1	The Wandering Shire is financially sustainable	Prudently manage our financial resources to ensure value for money

Goal 4 – Provide Strong Leadership

Strategic Community Plan		
Goal	Outcome	Strategies
4.1	We plan for the future and are strategically focused	Ensure accountable, ethical and best proactive governance

Council Priority

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

That Council advise the Water Corporation that the Shire of Wandering’s standpipes open to the public be classified as follows:

- The Cheetaning Street stand pipe be reclassified as a Firefighting only standpipe to remain locked and only accessible by the Wandering Fire Brigades and Council Staff.
- The Sewell Street depot standpipe retain the 50mm meter status and be reclassified as a Commercial standpipe and fitted with swipe card infrastructure to control access.

10.1.3 COUNCIL EASTER CLOSING 2019

File Reference	18.1.40
Proponents:	Nil
Disclosure of Interest:	Nil
Date:	7 February 2019
Previously Before Council:	N/A
Authors Name & Position:	Amanda O'Halloran, CEO
Attachments:	Nil

NATURE OF COUNCIL'S ROLE IN THE MATTER:

- Advocacy *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive *The substantial direction setting and oversight role of the Council e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative *Includes adopting local laws, local planning schemes and policies.*
- Review *When Council reviews decisions made by Officers.*
- Quasi-judicial *When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).*

PURPOSE OF THE REPORT

The Easter public holidays and Anzac Day public holiday fall on the same week and it is proposed to close the Shire depot and administration operations from Good Friday 19th April 2019 until Monday 29th April 2019.

Postal services and emergency support will be provided during this time and Staff will be allocated accordingly.

BACKGROUND

It is unusual for the Easter holiday period and the Anzac Day public holiday to fall within the same week. Therefore it is proposed Shire operations be shut down and to provide essential services only such as postal services as required, enabling all other staff to plan leave with their families.

COMMENT / DETAILS

During Easter / Anzac Day period it is proposed the Shire Office will open for the collection of mail and postal services (as per our contract with Australia Post) however, the majority of staff will be asked to take leave over this period. While mail and postal services will continue to operate during this period the CRC, licensing and other Shire services will not be available. The proposed period of reduced operations is as follows –

- Shire depot team to close on Friday 19 April from 4.00pm until Monday 29 April 2019.
- Shire office administration to close on Friday 19 April from 4.30pm until Monday 29 April 2019, with sufficient notification so the community can make alternate arrangements for licensing and other payments.

Staff will be allocated to provide call out services and any essential services during the proposed closure. All other staff will be required to take leave over this period.

Staff will be required to take either annual leave or RDO's during this period and the proposed office hours will be as follows:

Friday	19 April	Good Friday Public Holiday
Saturday	20 April	<i>Easter Saturday</i>
Sunday	21 April	<i>Easter Sunday</i>
Monday	22 April	Easter Monday Public Holiday
Tuesday	23 April	Local Government Public Holiday
Wednesday	24 April	10.00am – 2.00pm (mail and postal services only)
Thursday	25 April	Anzac Day Public Holiday
Friday	26 April	10.00am – 2.00pm (mail and postal services only)
Saturday	27 April	<i>Closed</i>
Sunday	28 April	<i>Closed</i>
Monday	29 April	Normal services for all departments

** The Waste Transfer Station opening times will not be affected. Town site rubbish collection may be effected, and the Shire will wait for notification from the Contractor, Avon Waste, and ensure the community is informed accordingly.

Notification of the office opening times will be published in the Wandering Echo, Shire office and noticeboards in the months leading up to Easter.

CONSULTATION

Manager Works
 Manager Communities

STATUTORY/ LEGAL ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The Shire and the closing of its core services and general operations have been allowed for in the 2018/19 Annual Budget.

STRATEGIC IMPLICATIONS

Community Strategic Plan 2018-2028

Goal 4 – Provide Strong Leadership

Strategic Community Plan			
Outcome	Strategies	Strategies	
4.1	A well informed Community	4.1.1	Foster opportunities for connectivity between Council and the Community
4.2	We plan for the future and are strategically focused.	4.2.1	Ensure accountable, ethical and best practice governance.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

That Council

1. Endorse the proposed reduction in Shire operations for the Easter / Anzac Day period 2019 as follows:
 - Shire Works services close at 4.00pm on Friday 19 April, 2019 to Sunday 28 April 2019 inclusive and reopen 7.30 on Monday 29 April 2019
 - Shire Administration services close at 4.30pm on Friday 19 April, 2019 to 28 April 2019 inclusive and reopen 8.30 on Monday 29 April 2019
 - Australia Post services reduced to 10.00am – 2.00 pm on the 24 & 26 April 2019
2. That staffing requirements and contact details are put into place for the closure period to deal with any emergency issues that may arise.

10.1.4 COUNCILLOR ATTENDANCE FEES, ALLOWANCES AND EXPENSES FOR 2019/20

File Reference	
Proponents:	Nil
Disclosure of Interest:	Nil
Date:	7 February 2019
Authors Name & Position:	Amanda O'Halloran, CEO
Previously Before Council:	N/A
Attachment:	10.1.4.1 - 2018/19 Salaries and Allowances Determination

NATURE OF COUNCIL'S ROLE IN THE MATTER:

- Advocacy *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive *The substantial direction setting and oversight role of the Council e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative *Includes adopting local laws, local planning schemes and policies.*
- Review *When Council reviews decisions made by Officers.*
- Quasi-judicial *When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).*

PURPOSE OF THE REPORT

Shire of Wandering Councillors to date have not accepted any fees, payments or allowances as allowed under the Local Government Act 1995 and Local Government (Administration) Regulations 1996. The Shire administration is requesting Councillors give further consideration to the matter in light of recent Council vacancies and the looming October 2019 Council Elections.

BACKGROUND

The Local Government Act 1995 and Local Government (Administration) Regulations 1996 provide for Councillors to receive certain payments, and sets minimum and maximum amounts which can be paid.

Fees, allowances and expenses available include:

- Meeting Attendance Fees (or alternatively Annual Attendance Fees);
- Local Government Allowance for the President and Deputy President;
- Information Technology and Communication Allowance;
- Travel and Accommodation Expense Allowance;
- Travel reimbursement;
- Telecommunications reimbursement;
- Child Care reimbursement; and
- Other prescribed reimbursements approved by Council.

In 2013, the Salary and Allowances Tribunal (SAT) were empowered to annually determine payments for Fees, Allowances and Expenses for Councillors. SAT recently undertook the annual review with the determination made on 10 April 2018, effective from 1 July 2018. A copy of the determination is attached.

ATTACHMENT 10.4.1.1

COMMENT / DETAILS

In recognition that local governments differ in size and levels of responsibility, all Councils have been placed in a band range of 1 through to 4. The Shire of Wandering is included in Band 4. These bands are also in place for the determination made by SAT each year on the salary package range for Chief Executive Officers.

The difficulty with the SAT Fees, Allowances and Expense determination is that some are based on a range of possible payments and as such, Councillors are sometimes required to make their own decision within the applicable range. The recent SAT determination for 2018/19 has made **no change** to the band range from 2017/18.

Council is permitted to make any determination within the allocated range for a Band 4 Local Government. It also needs to be clearly identified that both Councillor Fees and Allowances, are determined within the Band range provided by the Salaries and Allowances Determination each year. However, there is no compulsion for Council to make any increase from year to year as long as the decision is within the allotted Band range.

Details of the Band system including the Bands allocated to respective Local Governments can be found within the attached 2018/19 Salaries and Allowances Determination.

It is advised that Council make a decision on the amount elected members can be paid for council meeting attendance and committee meeting attendance. Table 1 below shows the minimum and maximum range for council meeting attendance as determined by SAT to be used from the 1st July 2018.

Table 1. Meeting Attendance Fees per Local Government Meeting

Band	For the council member other than the Mayor or President		For a Council Member who holds the office of Mayor or President	
	Minimum	Maximum	Minimum	Maximum
1	\$609	\$785	\$609	\$1,177
2	\$369	\$576	\$369	\$772
3	\$191	\$406	\$191	\$628
4	\$90	\$236	\$90	\$485

Table 2 shows the fee range for committee meeting attendance. This includes, but is not limited to, Audit Committee and meetings where elected members are representing the Shire of Wandering such as WALGA Central Country Zone, Regional Road Group, HWEDA etc. and meetings with a Minister of the Crown.

Table 2. Committee Meeting and Prescribed Meeting Fees per Meeting – Local Governments

For a Council Member (including the Mayor or President)		
Band	Minimum	Maximum
1	\$305	\$392
2	\$184	\$288
3	\$96	\$203
4	\$45	\$118

Council also has the option of paying elected members an annual fee in lieu of a council or committee meeting fees. Table 3 below shows the minimum and maximum annual fees that can be applied.

Table 3. Annual Attendance Fees In Lieu of Council Meeting and Committee Meeting Attendance Fee – Local Governments

Band	For the Council Member other than the Mayor or President		For a Council Member who holds the Office of Mayor or President	
	Minimum	Maximum	Minimum	Maximum
1	\$24,360	\$31,364	\$24,360	\$47,406
2	\$14,718	\$23,000	\$14,718	\$30,841
3	\$7,612	\$16,205	\$7,612	\$25,091
4	\$3,553	\$9,410	\$3,553	\$19,341

The final consideration for Council is the allowance to be paid to the President. Although the Shire of Wandering has not previously paid an allowance to the Deputy President, this is also included in the SAT determination.

The allowance recognises the additional tasks undertaken by the President and Deputy President, including the following:

- The leadership of the President;
- The statutory functions for which the President is accountable;
- The ceremonial and civic duties required of the President, including local government business related entertainment;
- The responsibilities of the Deputy President when deputising;

The maximum annual allowance for the President shall not exceed the maximum shown in the table below, or 0.2 percent of the Local Government's operating revenue, whichever is the lesser.

Further, the allowance for the Deputy President, if endorsed by Council, to be paid will be 25% of the amount paid to the President.

Table 8. Annual Allowance for a Mayor or President of a Local Government

For a Mayor or President		
Band	Minimum	Maximum
1	\$50,750	\$88,864
2	\$15,225	\$62,727
3	\$1,015	\$36,591
4	\$508	\$19,864

Council currently pays the President an annual allowance of \$4,000. The Deputy President does not receive an allowance.

The responsibilities and the role of the Councillor and President have increased significantly over the years and in the interests of attracting new Councillors, providing an opportunity to value the considerable contribution and provide a level of compensation, Shire administration is recommending the following allowance is to be paid to Councillors:

- A Meeting Fee of \$138.00 for elected members and President, for attendance at a Council Meeting;
- A Meeting Fee of \$71.00 for elected members and President, for attendance at a Committee Meeting or (at the request of the Local Government) a type of meeting prescribed in Regulation 30(3A) of the Local Government (Administration) Regulations 1996; and
- A President's Allowance of \$4000.00

In addition, with regard to properly incurred out of pocket expenses, elected members will be reimbursed in full.

CONSULTATION

Shire President
Shire Councillors

STATUTORY/ LEGAL ENVIRONMENT

Local Government Act 1995
Local Government (Administration) Regulations 1996
Salaries and Allowances Act 1975

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

For inclusion in 2019/20 Budget deliberation, provision has been made up to \$15,120.00 in Annual Budget forecasting.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2018-2028

Goal 1 – Improve our Financial Position

Strategic Community Plan			
Outcome	Strategies	Strategies	
1.1	The Wandering Shire is financially sustainable	1.1.1	Prudently manage our financial resources to ensure value for money

Goal 4 – Provide Strong Leadership

Strategic Community Plan			
Outcome	Strategies	Strategies	
4.1	A well informed Community	4.1.1	Foster opportunities for connectivity between Council and the Community
4.2	We plan for the future and are strategically focused.	4.2.1	Ensure accountable, ethical and best practice governance.

VOTING REQUIREMENT

Absolute Majority

OFFICER RECOMMENDATION

That Council adopts the following arrangements for the payment of elected member fees and allowances from the 1 July 2019:

1. A Meeting Fee of \$138.00 for elected members and President, for attendance at a Council Meeting;
2. A Meeting Fee of \$71.00 for elected members and President, for attendance at a committee meeting or (at the request of the local government) a meeting of a type prescribed in regulation 30(3A) of the Local Government (Administration) Regulations 1996; and
3. A Presidents Allowance of \$4000.00

In addition, with regard to properly incurred out of pocket expenses, elected members will be reimbursed in full.

10.1.5 PROPOSED SUBMISSION ON PHASE TWO - STATE GOVERNMENT REVIEW OF THE LOCAL GOVERNMENT ACT 1995

File Reference	1.1.23
Proponents:	Nil
Disclosure of Interest:	Nil
Date:	5 February 2018
Authors Name & Position:	Amanda O'Halloran, CEO
Previously Before Council:	Nil
Attachments:	Nil

NATURE OF COUNCIL'S ROLE IN THE MATTER:

- Advocacy *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive *The substantial direction setting and oversight role of the Council e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative *Includes adopting local laws, local planning schemes and policies.*
- Review *When Council reviews decisions made by Officers.*
- Quasi-judicial *When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).*

PURPOSE OF THE REPORT

BACKGROUND

In June 2017, the Minister for Local Government, Hon David Templeman, wrote to the Western Australian Local Government Association (WALGA) announcing the commencement of the review of the Local Government Act 1995 (the Act).

The Minister has indicated that the review of the Act would consist of two stages comprising:

Phase One: 'Modernising Local Government' - 2017

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

Phase Two: 'Services for the Community' - 2018

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

The Western Australian Local Government Association (WALGA) and Department of Local Government, Sport and Cultural Industries (DLGSCI) completed their consultation on Phase One in early 2018. In August 2018 it was announced consultation on Phase Two would commence.

A number of topics related to Phase Two were workshopped with Council on 13 December 2018.

The purpose of this report is to provide Council's position on the proposed reforms to WALGA and the Department on the content of Phase Two review of the Act.

COMMENT/ DETAILS

As discussed during the workshop, Phase Two of the review consists of the following topics for reform:

- Beneficial Enterprises;
- Financial Management;
- Rates, Fees and Charges;
- Administrative Efficiencies – Local Laws;
- Council Meetings;
- Interventions;
- Community Engagement;
- Complaints Management; and
- Elections.

To guide Council on its submission to WALGA and DLGSCI, the following comments are offered on each aspect of the topics for reform, inclusive of the advice provided by Council at the 17 January 2019 workshop:

Beneficial Enterprises

As described in WALGA's Advocacy Position Paper, a beneficial enterprise is a standalone business entity that carries out a commercial enterprise to deliver a project or service(s) for the local community. Reform of the Act would allow local governments to establish a beneficial enterprise separate to the local government, governed under company law (Corporations Act). Under the current Act, Council has some ability to form regional Councils with other local governments, regional subsidiaries and undertake trading activity or land transactions at less than 10% of its annual operating expenditure.

Should beneficial enterprises be legislated through the reformed Act, it would give Council considerable scope to provide a service or undertake a development should it be needed. It would provide Council greater flexibility in entering into joint ventures within the private sector on conventional commercial terms to the benefit of the local community.

COUNCIL'S PROPOSED POSITION – BENEFICIAL ENTERPRISES

Whilst this proposed reform is viewed favourably, it is recommended that Council support this reform, subject to additional provisions being included that preclude local governments establishing an enterprise if it is proven that the same service is being adequately provided in the local community by private enterprise. However, Council would need to consider the risk in the undertaking of a beneficial enterprise as part of detailed considerations and in addition, it is recommended that provisions be included which prevent local governments from privatising its core business activities to ensure continuance of existing services being provided to the community.

Financial Management

General Comment

Council is of the opinion that annual reporting requirements, whilst perhaps necessary for the Auditor General, should be simplified for public release in order to engage the community and future perspective Councillors.

The reports are cumbersome and difficult to understand.

Council is firm in its view there should provision to differentiate between local governments based on capacity and the State Administrative Tribunal Banding model is an illustration of the potential grouping of local governments. This will reduce the compliance burden on smaller local governments with limited capacity and provide additional opportunities for local governments with capacity.

Power to Borrow

Currently under the Act, a local government can borrow funds against untied government grants and its rates income. The proposed reforms suggest that local government would be enabled to borrow funds against its own assets, such as plant, infrastructure and land under the new Act.

COUNCIL'S PROPOSED POSITION – POWER TO BORROW

It is recommended that Council support this reform, as it will provide Council greater financial flexibility, and an ability to secure cash funds at a competitive rate if necessary to address, for example, an emergency situation. However, Council would need to consider the risk associated with the proposed financial flexibility as part of detailed considerations and in addition, it is recommended that provisions be included which ensure local governments are borrowing responsibly.

Tendering/Procurement

The threshold for tenders is proposed to be reformed through the Act. Three possible models have been proposed;

1. WALGA supports the tender threshold being increased from \$150,000 to \$250,000, aligning the current tender process with the procurement rules of the State Supply Commission (SSC) which oversees State Government agency tenders. A timeframe of one financial year would apply to individual vendors. Currently, Western Australian local governments are exempt from the requirement to invite tenders in relation to contracts involving an estimated expenditure or receipt of an amount of less than \$150,000. When inviting public tenders, the local government is required to issue a State-wide public notice providing at least 14 days for interested parties to respond.

Under Regulation 11(2)(b), a local government is exempt from being required to invite tenders if it obtains goods and services through the Western Australia Local Government Association's (WALGA) Preferred Suppliers Program (PSP). WALGA's PSP is designed to enable member local governments to obtain advantages from a bulk purchasing arrangement for the benefit of local government in Western Australia.

State Government procurement rules are set by the State Supply Commission under its own legislation. Under the legislation, the SSC has the power to publish procurement policies that agencies must adhere to. Currently there are six procurement policies covering matters such as value for money, open and effective competition, procurement planning and contract management. These policies also establish tender thresholds for State Government agencies.

Table 1 -Tender Thresholds for Most State Government Agencies

Purchases	Methods permitted
Up to \$50,000	Direct sourcing Verbal quotations Written quotations
Between \$50,000 up to \$250,000	Written quotations (goods or services not on the Common Use Arrangement)
Over \$250,000	Open tender

Another key difference between State and Local Government purchasing rules is the Common Use Arrangement (CUA). The CUA requires State Government agencies to use specific suppliers for specified items. Most CUAs are mandatory for State Government agencies in the metropolitan area. There are currently no rules requiring local governments to use the CUA and the CUA operates separately to the WALGA preferred supplier scheme. Local governments can use the CUA if they wish, thereby benefiting from the buying power of the State Government.

The differences between the CUA and WALGA's PSP includes:

- PSP tends to be more inclusive of suppliers rather than exclusive as in the CUA;
- Some PSP's have been established as a national agreement to access the buying power of the local government sector nationally;
- Many CUAs are mandatory for State agencies, while it is not mandatory for local governments to use the PSP; and
- PSP's have a commission or levy as part of the agreed arrangement between WALGA and the supplier.

Overall, while the monetary threshold before public advertising used by the State Government is greater than local government, the SSC's regime of procurement policies means that in general, local governments enjoy greater autonomy and fewer procurement oversights than their State Government counterparts.

2. A tender threshold based on local government average annual expenditure multiplied by a prescribed percentage. For example, Council's annual operational expenditure for the last 3 years has been approximately \$10,062,372 dollars. If that figure was multiplied by a prescribed percentage of 0.25%, the tender threshold would equate to \$25,156. This approach would still require a nominal ceiling amount where a public call for tenders is required to take into account the comparably large annual expenditure of approximately twelve large metropolitan local governments and floor to take into account the majority of small regional local governments with an operating budget less than \$10m.
3. Another possible approach would be to set the tender threshold on an assigned band. Banding is currently used by the Salaries and Allowances Tribunal (the Tribunal) to set the remuneration of Council members and local government Chief Executive Officers. Local governments are categorised into one of four bands by the Tribunal based on a model that incorporates factors such as population, diversity of services, significant social, economic and environmental issues and expenditure. Incorporating Tribunal bands could better reflect the diversity and varying capacity of local government. On the other hand, it could be argued that purchasing risk is not aligned with the factors used by the Tribunal.

One example of how the Tribunal's bands could be related to the tender threshold is shown in Table 2 below:

Table 2 – Tender thresholds based on tribunal banding

Tribunal band	Tender threshold	Example local governments
1	\$250,000	Bayswater, Bunbury, Gosnells, Kalgoorlie-Boulder, Port Hedland, Swan
2	\$200,000	Esperance, Harvey, Northam, Nedlands, Vincent, South Perth,

Tribunal band	Tender threshold	Example local governments
		Subiaco
3	\$150,000	Capel, Claremont, East Fremantle, East Gingin, Ravensthorpe, Yilgarn,
4	\$100,000	Bruce Rock, Cue, Dundas, Peppermint Grove, Yalgoo, Wandering

4. An alternative to the tender thresholds proposed in Figure 2 could be to combine Tribunal bands 1 and 2 into a tender threshold of \$500,000, and bands 3 and 4 into a combined tender threshold of \$250,000.

COUNCIL'S PROPOSED POSITION – TENDERING/PROCUREMENT

Council generally supports WALGA's position, that being number 1 as described above. It is widely acknowledged, including by the Commissioner of the Corruption and Crime Commission, that tendering and procurement is an area most vulnerable to corruption. It is important that any reforms consider the risks in terms of corruption. The proposed increase in both tender value and governance over this process is considered to be in Council's interest. It would allow Council to engage local suppliers more easily, but retaining a strong measure of oversight in the awarding of a tender.

Ratios

Legislation requires that local governments calculate and publish seven financial ratios in their annual financial statements. Financial ratios are increasingly used across Australia as an important performance indicator for public sector entities, including local government.

Across Australia, local governments are required to calculate and publish different ratios. The lack of consistency makes the comparison of financial performance across local governments around the country more complex. Likewise, methods of valuation used to calculate ratios under the International Valuation Standard can vary, which means that ratios are a guide or indicator rather than a definitive account of financial health.

Altering the financial ratios that local governments are required to calculate and report may improve awareness and understanding of local government financial performance.

The choice of ratios used in Western Australia has been the subject of criticism. Some in the sector view the ratios as an ineffective metric that can be misrepresented and that do not give a true reflection of financial performance and asset management.

The publication of the Financial Health Indicator on the MyCouncil website, which uses financial ratios in its calculations, has brought greater attention to financial health and highlighted the role that ratios can perform aggregating otherwise complex financial data.

In the opinion of Shire Officers, if the Department of Local Government Sport and Cultural Industries and Office of Auditor General are going to use ratios as measurements for performance and sustainability of local governments, then the underlying data used to calculate the ratios must be reviewed.

One of the most critical anomalies that must be addressed is the removal of depreciation from non-asset based ratios. The sector is made up of many different sizes and shapes of local government areas with different asset burdens, and due to the need to include roads in assets, small local governments in population may have major asset bases and appear unsustainable.

Typically local government budgets fluctuate from year to year, ratios can be distorted by many things including Carry Forwards from previous years, Advance Payments from the Grants Commission or timing of

grant payments. Local governments in conjunction with auditors should be able to remove the anomalies from a particular year to demonstrate core business making the analysis of trends more effective.

The overall revaluation process and depreciation calculation is flawed due to the significant variations in techniques and depreciation rates across the sector. A clear direction from the DLGSCI must be given related to method of valuation and depreciation rates for there to be any apples for apples comparison between local governments. Currently, some local governments see this as an opportunity to use an outcome based approach through asset management rather than a relief skewing the health performance impression given to rate payers.

COUNCIL'S PROPOSED POSITION - RATIOS

Council strongly supports the review of financial ratios to establish a consistent approach among all local governments in Western Australia. Financial ratios are a key tool in local government performance measurement in other Australian states and it is important that the metrics used in Western Australia are meaningful and useful.

Rates, Fees and Charges

Rating

Rate setting is a challenging process, made difficult by fluctuating valuations because of the growth or decline of communities.

The Act requires in the period from 1 June to 31 August a local government is to prepare and adopt an annual budget. As part of preparing the budget, each local government must raise enough in rates to cover the shortfall (budget deficiency) between its predetermined expenditure and available revenue. It does this by applying a rate in the dollar to the valuation of each property.

Rates can be imposed uniformly (a single rate in the dollar) or differentially (different rates in the dollar for different categories).

Local governments are currently required to prepare a Long Term Financial Plan which addresses rate increases. An option is to introduce the requirement for local governments in Western Australia to develop a Rates and Revenue Strategy, which could include:

- Rating categories (and potentially how they are determined);
- Rates in the dollar;
- Objects and reasons for each rating category;
- Fees, charges and levies including the methodology where appropriate; and
- Long term rating strategy.

The Rates and Revenue Strategy, including a Schedule of Fees and Charges, would be prepared prior to the budget process and would be adopted by Council before the budget is adopted.

COUNCIL'S PROPOSED POSITION - RATING

Local governments would be required to make the Strategy available on their website and it would be used as a basis for consultation on rates. Council is supportive of a Rates and Revenue Strategy which addresses the proposed criteria as it would be considered a useful tool in managing ratepayer expectations by giving considered reasoning for an increase or reduction in rates raised by Council.

Differential General Rates

Differential general rates are generally imposed to ensure that the rate burden is more evenly distributed across ratepayers, with those requiring or using more services being charged a higher rate in the dollar. Local

governments are currently permitted to impose differential general rates according to land zoning, land use (including if the land is vacant) and a combination of the two.

While the categories must comply with the Act, there is still scope for a variety of rating categories which does not allow comparability across local governments.

In New South Wales, the legislation sets out and defines the categories for rating purposes. There are four categories of rate: Residential, Business, Farmland and Mining. The Act also provides that local governments can introduce sub-categories.

Alternatively, Victoria is proposing to expand the differential rate categories to include geographic location, types of buildings on the land and any other criteria Council determines is relevant.

While increasing the ability for local governments to expand the current categories would reduce the ability for comparability between local governments, it may ensure that rates are set at a more appropriate level for groups of ratepayers. It also has the potential to lead to more inequities.

Some local governments have requested that the differential rate categories be expanded to enable categories specific to long term vacant land, holiday houses or timeshare properties.

OFFICER RECOMMENDATION – DIFFERENTIAL RATING

WALGA advocates that the Act be reviewed in contemplation of time-based differential rating, to encourage development of vacant land. Council supports this proposed reform to differential general rating.

Public Consultation on Rates

In considering potential reforms, an overarching question is whether local governments should be required to consult on the proposed rates or simply notify their ratepayers.

If a local government introduces a rating strategy that uses a uniform rate in the dollar, unlike differential general rates, there is no requirement for public notice to be given. This means that there is no opportunity for the community to provide a submission and there is no need for local governments to justify the rate in the dollar.

Local governments are required to advertise their intended differential general rates prior to considering and adopting their annual budget. The local government must issue a notice that details each rate or minimum payment they intend to impose and the reasons for doing so. The local government must then allow 21 days for submissions and consider each submission at a Council meeting. Council can then choose to adopt the advertised rates or amend the rates.

Rate Exemptions

The Act provides that all land is rateable unless it is listed as exempt.

Not all landowners are required to pay rates. While the Act sets out a number of specific categories, it also provides the power for the Minister for Local Government to approve other land as exempt from rates. Local governments across Western Australia lost \$44 million dollars (2017/18) in revenue due to rate exemption. Charitable organisations accounted for the majority of rate revenue loss (35%) followed by Crown land (16%).

Other than land used or held by the Crown (State Government) for a public purpose, a local government or a regional local government, exemptions from rates apply to:

- Land used or held exclusively for churches (religious bodies);
- Land used or held exclusively for schools;
- Land used exclusively for charitable purposes;

- Land vested in trustees for agriculture or horticultural show purposes;
- Land owned by Co-operative Bulk Handling Limited (CBH); and
- Land exempted by the Minister for Local Government.

There is an argument that everyone should pay local government rates as everyone uses the services and facilities provided by the local government, from roads to parks and community facilities. In addition, rate exemptions can have a significant impact on the capacity of local governments to raise rate revenue, especially in regional and remote areas. It is then left to the ratepayers to make up the shortfall.

Rather than requiring everyone to pay rates, an alternative approach could be to require every occupier of land to pay a contribution to the local government. The capped rate could be the minimum payment set by the local government, or alternatively, an amount set in legislation.

Concessions can also be used by local governments, including to reduce the rate burden on a ratepayer when there have been significant valuation changes. Currently, offering a concession is at the discretion of individual local governments.

Everyone pays rates	Minimum contribution
Every owner of land is required to pay rates.	Every occupier of land has to pay a minimum contribution to the local government.
Local governments could offer concessions to land owners if determined by Council.	The capped amount could be the minimum payment set by the local government, or an amount set in legislation.

COUNCIL'S PROPOSED POSITION – RATES EXEMPTIONS

Council is of the opinion no land should be exempt of rates and to remove inequities everyone should be required to pay rates.

Charitable Organisations

One of the more contentious exemptions is for 'land used exclusively for charitable purposes'. The meaning of 'land used exclusively for charitable purposes' is not defined in the Act and differing interpretations of the meanings of 'charity' and 'charitable purposes' have continued to prove challenging across all levels of government in Australia. Each jurisdiction has taken a different approach to defining 'charity' and 'charitable purposes'.

In Western Australia the meaning of what constitutes 'land used exclusively for charitable purposes' has been the subject of several key decisions by the State Administrative Tribunal (SAT). These decisions have been a matter of contention for the local government sector as exemptions have been provided to facilities for aged care even when residents are paying market rates for the individual housing within an estate, and to industry associations because they have a training arm.

COUNCIL'S PROPOSED POSITION – CHARITABLE ORGANISATIONS

Reforms to the charitable organisation exemptions hinge on clarifying who is or isn't eligible to receive a rates exemption. WALGA supports an amendment to the charitable organisation section of the Act to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations, or alternatively support the establishment of a compensatory fund for local governments, similar to pensioner discount provisions, whereby if the State Government believes charitable organisations remain exempt from payment of local government rates, then compensation would apply. In light of this, Council supports WALGA's position that the elimination of exemptions for charitable organisations should be undertaken.

Fees and Charges

Local governments have the ability to set fees and charges for a range of services. Services can be categorised into three areas:

- Basic community services, such as waste collection;
- Additional services, such as providing security; and
- Competitive services, such as services provided by other business in the area (for example gymnasiums).

When setting fees and charges for basic and additional services, local governments should consider the cost of providing the service but may decide to subsidise the service for the common good. When it comes to competitive services, competitive neutrality principles must be observed to avoid a competitive advantage as a result of being part of the public sector.

Other fees and charges are set in legislation, for example registration fees for dogs and cats.

Some States require local governments to develop and publish a Rates and Revenue Strategy. The Strategy, as described earlier in this section, includes a schedule of fees and charges set by local governments, including the methodology where the fees are set at cost recovery.

COUNCIL'S PROPOSED POSITION – FEES AND CHARGES

Currently, fees and charges are set during the annual budget process. By moving the setting of fees from the annual budget process and combining it into the Rates and Revenue Strategy, the methodology for cost recovery of fees could be included. This would make it more transparent for ratepayers. Council supports this proposed reform.

Administrative Efficiencies – Local Laws

Local Government Grants Commission and the Local Government Advisory Board

The local government legislation in Western Australia creates three boards, commissions or panels, these being:

- Local Government Grants Commission (Grants Commission);
- Local Government Advisory Board (Advisory Board); and
- Standards Panel.

On 20 September 2017, the Premier instructed all agencies to review the ongoing need for boards and committees, particularly where there are costs involved. While the Standards Panel was discussed in earlier consultation on the Act Review, the composition and use of the Grants Commission and Advisory Board was not.

It is therefore appropriate, as part of continued consultation of the Act Review, to consider the composition and use of both the Grants Commission and Advisory Board.

The Grants Commission provides advice and makes recommendations to the Minister for Local Government on the amount of Commonwealth Financial Assistance Grants paid to local governments each financial year.

In order to receive Commonwealth funding, a Grants Commission must be established.

The Grants Commission comprises of the following membership:

- Chair (nominated by the Minister);
- Deputy Chair (Officer from the Department); and

- A representative (nominated by the Western Australian Local Government Association (WALGA) from:
 - Metropolitan local governments;
 - Country urban local governments; and
 - Country rural local governments.

Deputies are appointed for each member of the Grants Commission who attend in the absence of the respective commission member. All nominations for membership are approved by Cabinet.

The Advisory Board makes recommendations to the Minister for local government on proposals to change local government boundaries, wards or Councillor numbers.

The Advisory Board is comprised of the following membership:

- Chair (nominated by the Minister);
- Deputy Chair (Officer from the Department);
- Two people with experience as an elected member of a Council (nominated by WALGA); and
- One person with experience as a Chief Executive Officer of a local government (nominated by Local Government Professionals Australia (LG Pro)).

Deputies are appointed for each member of the Advisory Board who attend in the absence of the respective board member. As with the Grants Commission, all nominations for membership are approved by Cabinet.

As described above, the composition of the Grants Commission and the Advisory Board are somewhat similar, in that the skills and knowledge required to be appointed as a member of either of these bodies is an in-depth knowledge and experience in the local government sector. This knowledge and experience enables members to consider the appropriate factors, weigh the information before them and provide the appropriate recommendations to the Minister.

While the current duties and responsibilities of the Grants Commission and the Advisory Board are different, the composition and selection of board and commission members are very similar. The only differences are:

- Grants Commission members are appointed on their geographic location; and
- One member of the Advisory Board is nominated by LG Pro in addition to members being nominated by WALGA.

COUNCIL'S PROPOSED POSITION – AMALGAMATION OF LGGC AND LGAB

As well as the composition of the Grants Commission and Advisory Board being similar, other synergies also exist. Having substantial knowledge of the grants program may assist with the consideration of ward and boundary reviews and conversely may assist with deliberations about grant funding. Both bodies are already supported by the same team within the Department. Given the synergies between the two bodies, Council supports the combination of both boards.

Absolute Majority Decisions

The Act sets out how decisions are to be made by the Council members that form the Council. In most cases this is via a 'simple majority', that is, a decision is made if over half of the Council members present at the meeting vote for it. In some cases, a higher bar has been set. An 'absolute majority' requires half of the total number of Council member positions to vote for a matter for the decision to be made. Thus, if there are 11 positions on Council but at a particular meeting two Council members were absent, five votes would be needed for a simple majority and six for an absolute majority.

OFFICER RECOMMENDATION – ABSOLUTE MAJORITY DECISIONS

Council supports the review of which decisions should be made by an absolute majority.

Local Laws

During earlier consultation on the Act Review many submissions were received concerning the inconsistency of local laws from one local government district to another. While these concerns are valid and consistency of local laws across districts is important, requiring a local government to enact a local law in a certain form impacts upon a local government's ability to tailor a local law to local conditions or the wishes of the local community.

Model local laws provide consistency and make the local law making process easier. On the other hand, a purpose of local laws is to provide local governments with the ability to tailor local laws to suit the local community. An example is a Dog Local Law which sets the number of dogs that can be allowed in a residential area compared to a semi-urban or rural area within the one local government district.

Another mechanism that could be used to achieve consistency is the State Government enacting regulations that act as local laws. An example of this is *the Local Government (Uniform Local Provisions) Regulations 1996*. The possibility of using regulations was raised during the policy forums, particularly in relation to Health, Parking, Cemeteries, Cats, and Dogs Local Laws.

While regulations will achieve consistency, they will also remove or limit the ability of a local government to tailor local laws to meet their community's expectations.

COUNCIL'S PROPOSED POSITION – LOCAL LAWS

Council is of the opinion that flexibility in making Local Laws to local requirements should be retained. The construction of the Local Law should incorporate the provisions of a model local law when and if possible.

Council Meetings

The Act establishes the framework for Council meetings. This framework is further supported by standing orders set by Council and enacted as a local law. These standing orders typically deal with matters such as:

- The order of business and standing items;
- Procedures for debating motions;
- Procedures for taking public questions; and
- Procedures for making representations at Council meetings, known as deputations.

The rules concerning the operation of Council meetings today have not changed significantly since 1995. Within the legislative framework opportunities may exist to modernise Council meetings and ensure that current practices align with community expectations.

Public Question Time

Legislation provides that a minimum of 15 minutes of each Council or committee meeting is allocated to public question time. Public question time is an important opportunity for people to interact with their Council and is seen by many in the public as a way to apply scrutiny and rigour to Council decision making.

Managing time during question time can be difficult due to people:

- Wanting to make statements rather than ask questions;
- Asking repetitive questions;
- Asking inappropriate questions; and
- Asking a large number of questions.

At the same time, dissatisfaction with the management of public question time and perceptions about the quality or comprehensiveness of answers provided at question time is often a catalyst for distrust between Council and residents and can escalate to larger issues of governance and ineffective community engagement. In order to engage a greater number of ratepayers in Council meetings, it may be necessary to alter the way the public interact with elected members.

Currently, there are no provisions in the Act that regulate how individuals may ask questions, though it is generally a given that the person would be present at the meeting. Attending a Council meeting is not always convenient or possible for everyone in the community. The use of technology may present a way for question time to be modernised. For example, using email or social media as a means of accepting questions may foster greater community interaction, strengthen inclusivity and increase the utility of public question time. Live streaming of Council meetings would enable people to receive answers even when not in attendance.

COUNCIL'S PROPOSED POSITION – PUBLIC QUESTION TIME

Discussion of this aspect at the workshop held on the 13 December 2019 indicated a lack of support from members for this proposed reform of allowing questions to Council to be taken electronically. A note should be included in the submission that this aspect was not supported.

Public Statement Time

As a means of encouraging public engagement and promoting transparency, a period of time allowing members of the public to address Council without asking a question could be introduced.

Remote Attendance

Currently regulations allow Council members to attend Council meetings remotely in specific circumstances. To be eligible for remote attendance, the person (unless they have a disability) must be located in a Council-approved place in a town site that is at least 150km from the meeting venue. Even if a person is eligible, it is the Council's decision whether they approve the remote attendance or not. A Council is also not permitted to have members attend remotely for more than half of the meetings in a given financial year.

A member is present if they are in audio contact, by telephone or other means, with the other members of the meeting. The advancement of technology has made video calls part of everyday life and this should be reflected in modern meeting practices. Remote attendance is of particular benefit in remote areas where elected members would otherwise have to travel great distances to be present.

Expanding the instances in which remote attendance is allowed will help to ensure that local issues are heard and voted on by all elected members. It may also reduce the number of instances in which a quorum is not present, thereby allowing the local government to run more effectively.

Reducing, or removing altogether, the 150km distance requirement may improve outcomes for elected members and the community. This increased flexibility may facilitate more efficient use of Councillor's time and possibly encourage a larger pool of individuals interested in nominating to become an elected member.

The advancement of modern technology allows individuals to be in contact with the members present at the meeting from anywhere in the world. In modern times, the requirement that a Councillor be in an approved town site does not appear to serve a functional purpose.

There is some ambiguity as to whether the person must be within their local government district to attend remotely. This is not specified within the current Act, however there is an interpretation that a person must be within Western Australia for Western Australian law to apply. There is then a potential opportunity to expand the legislation to allow individuals to participate from interstate or even internationally by specifying that the law that applies is the law in the jurisdiction of the district.

COUNCIL'S PROPOSED POSITION – REMOTE ATTENDANCE

A number of potential issues with remote attendance arise when the cost of providing this service is to be considered, the reliability of phone or internet connection, the ability to enforce Standing Orders remotely, and undertaking voting. It is also arguable that in-person attendance aids in promoting trust and relationship-building between Council members. Council was not supportive of the expansion of the instances in which remote attendance is allowed.

Keeping of Council Minutes

Submissions to earlier consultation of the Act Review recommended that the responsibility for keeping minutes of Council be shifted to the Chief Executive Officer rather than the Presiding Member. This is because the keeping of minutes is an administrative function that, as the head of the administrative arm of local government, should be the responsibility of the Chief Executive Officer.

COUNCIL'S PROPOSED POSITION – KEEPING OF COUNCIL MINUTES

This aspect of the reform is not supported, as the minutes are a record of Council's business, not the administrators. Council supports that the Presiding Member retain this responsibility.

General (Annual) Electors' Meetings

A general meeting of the electors of a district is to be held once every financial year. The purpose of the annual electors' meeting is to discuss the contents of the annual report and any other general business.

The Western Australian Local Government Association (WALGA) and the local government sector have long called for the requirement to hold a General Electors' Meeting to be scrapped on the basis that very few members of the community attend and that there are other opportunities to ask questions of Council. Annual electors' meetings are not required in any State or Territory other than Western Australia.

Another opportunity for reform is to combine the General Electors' Meetings with an Ordinary Council Meeting.

OFFICER RECOMMENDATION – GENERAL ELECTORS' MEETINGS

It is recommended that General Electors' Meetings be retained, as these meetings are considered to serve a purpose in community engagement.

Special Electors' Meetings

Special Electors' Meetings may be called if a sufficient number of people within a district request one. The current requirement to call a meeting is either 100 electors or 5% of the total number of electors, whichever is less. These meetings are usually called by electors to discuss an issue affecting the district.

These meetings provide an opportunity for people to have their say but may be unhelpful due to the potential for conflict between the Council and electors. There is also nothing currently preventing a number of Special Electors' Meetings being called on the same matter. While the local government is obligated to call the meeting if the required number of electors request it, any resolutions passed at the meeting are not binding upon the Council.

In order to ensure that Special Electors' Meetings are called only when necessary, the threshold of electors required to call a meeting could be raised. Increasing the number of electors required from 100 to 500 may assist in preventing unnecessary meetings. In order to prevent numerous meetings on an issue, a requirement that a meeting cannot be held to discuss the same issue more than once in a 12 month period, could be introduced.

If Special Electors' Meetings are to remain, it may be worthwhile to ensure the procedures for electors' meetings are in accordance with the meeting procedures adopted by the Council. This would replace the rules

set by the presiding member of the meeting as is currently the case. This allows known and approved processes to be followed.

OFFICER RECOMMENDATION – SPECIAL ELECTORS’ MEETINGS

WALGA’s position is that the number of electors be increased from 100 to 500 (or 5% of electors) to request a meeting, and the provision of the ability to preclude the calling of a Special Electors’ Meeting on the same issue within a 12 month period, unless Council determines otherwise. Shire Officers support WALGA’s position on this proposal.

Interventions

In 2017-18, the number of authorised inquiries into local governments conducted by the Department was the highest it has ever been and more than three times the number of authorised inquiries conducted in the previous year. In the last 12 months, the Department and the Local Government Standards Panel have also received a record number of complaints regarding alleged breaches under the Act.

There is a community expectation that the misconduct of local government officers, Council members and organisational dysfunction and governance issues within local governments are dealt with appropriately. This is achieved through balancing the ability of the State Government to intervene in local government matters and enabling local governments to operate as autonomous bodies in managing their own operations and affairs.

Taking an approach which enables the Department to work in partnership with local governments has the potential to improve good governance and performance across the local government sector, and strengthen local government capacity. Reforms could also enable the Department to be more flexible in investigating matters and enforcing the Act.

Councillor Complaints Process

A person who suspects that a Council member has committed a breach of the Act may make a complaint to their local government or to the Department, depending on what type of breach the complaint relates to. There are two types of breaches under the Act, namely minor breaches and serious breaches. A Council member commits a minor breach if he or she contravenes a rule of conduct or a local law relating to meeting procedures. A serious breach occurs when a Council member commits an offence under a written law and an element of the offence is that they are a Council member. Serious breaches include a recurrent breach which occurs when a Council member has been found to have committed two or more minor breaches.

An amendment to the Act could be made to simplify the process of making a complaint so that both minor breach and serious breach complaints are to be made to the Director General who then decides how the complaints should be dealt with.

COUNCIL’S PROPOSED POSITION – COUNCILLOR COMPLAINTS PROCESS

Whilst this reduces red tape for local governments as it removes the requirement for the complaints officer of a local government to receive complaints, it is not expected to be supported by the State.

There are other avenues in which a complaint on Councillor conduct can be made, such as through the Corruption and Crime Commission, Public Sector Commissioner and State Ombudsman. The reform may also have an effect on Public Interest Disclosures made to the local government. Nevertheless, as this proposed reform has been proposed by the DLGSCI Council supports the proposal due to it being a simplified, expedient methodology to resolve a complaint.

State Government Assistance

The options available to support local governments in challenging times are currently limited and can escalate to direct interventions such as suspending a Council and installing a Commissioner or dismissing the Council.

Feedback received through previous consultation indicated there was support for the State Government to provide intensive assistance and support to local governments by way of a remedial action process. The process could involve:

- Issuing a remedial notice to a local government requiring the provision of information or the performance of an action or activity;
- The appointment of a person to the local government administration to assist the local governments with its operations; and
- Requiring the local government to participate in a capacity building program.

Building on the feedback from previous consultation regarding the power to appoint a person to the administration of a local government, the appointed person could be provided with the ability to direct the administration to perform certain actions and to override decisions made by the administration. This would increase the ability of the appointed person to ensure that the administration takes the necessary action to address the issues in question.

Additionally, the Act could be amended to enable the State Government to embed a person (with suitable expertise and experience) into a Council. The person could have the ability to direct the Council to perform certain actions and to override decisions made by the Council if they were illegal or contrary to the interests of the community as a whole. This may take the form of the appointed person taking over the roles and responsibilities of the Mayor or President.

The intention of embedding a person into Council is to allow the Council members to remain on Council and for the appointed person to work with Council members to address the matters of concern. This may be particularly effective in situations where a Council is dysfunctional.

This option of embedding an appointed person into a Council is based on the model in Victoria. In Victoria the Minister can appoint a "Municipal Monitor" to a Council (following written notice to the Council of the appointment). The role of the "Municipal Monitor" or "Authorised Inspector" could include monitoring governance processes and practices, providing advice to Council on governance improvements, and reporting to the Minister on any steps or actions taken by Council to improve its governance and the effectiveness of those steps or actions.

Whilst this proposed reform is supported, there is no clear discussion within the paper as to where cost will be apportioned for the intervention of the State Government in the operation of a local government. This aspect needs to be clarified as an intervention is an expensive exercise, and may have further impacts in the ability of a local government to deliver its services.

COUNCIL'S PROPOSED POSITION – STATE GOVERNMENT ASSISTANCE

Council supports this proposed reform, subject to clear advice as to the allocation of cost for the intervention of the State Government to take remedial action within a local government.

Improper Use of Information

Under the Act, a person who is a Council member, a committee member or an employee must not make improper use of any information acquired in the performance of his or her functions to gain an advantage for themselves or any other person, or to cause detriment to the local government or any other person. This offence does not apply to former Council members, committee members or employees who use information (which they acquired when they were engaged with a local government) improperly.

The Department of Local Government and Communities initiated a review in 2015 of the *Local Government (Rules of Conduct) Regulations 2007* which included a recommendation that the improper use of information offence be extended to apply to former Council members, committee members or local government employees. Feedback supported the recommendation, however, there was no consensus as to how long a person would be liable for such an offence following their separation from the local government (i.e. the period following their engagement with a local government in which they are prohibited from improperly using the information). The suggested time frames ranged from 12 months to five years. In most Australian states, the liability period for this type of offence is unlimited.

OFFICER RECOMMENDATION – IMPROPER USE OF INFORMATION

The Act could be amended to extend the improper use of information offence to former Council members, committee members or employees for a particular period. It is recommended the Council support this aspect of the reform as it will ensure that those who use information to the detriment of Council, the administration or community are held responsible for their actions. The liability period for misuse of information is recommended to be within the existing Western Australian Statute of Limitations located in the *Limitations Act 2005*. Time limits within the *Limitations Act 2005* vary, depending on the offence committed.

New Offence – Improper Use of Position

Under the *Local Government (Rules of Conduct) Regulations 2007*, a Council member must not make improper use of his or her office as a Council member to gain directly or indirectly an advantage for themselves or any other person, or to cause detriment to the local government or any other person.

As this regulation only applies to elected members, there is no equivalent “improper use of position” offence under the Act which applies to Chief Executive Officers or employees of a local government.

An amendment to the Act could be made to include an “improper use of position” offence which applies to Council members, Chief Executive Officers and employees of a local government, and former Council members, Chief Executive Officers and employees. This would ensure that Chief Executive Officers and employees do not escape liability for improperly using their position, especially in situations where the conduct of the individual does not fall within the jurisdiction of the Corruption and Crime Commission or the Public Sector Commission.

COUNCIL’S PROPOSED POSITION – IMPROPER USE OF POSITION

Council supports this reform as it supports greater penalties, and will hold those with an active role in local government accountable for knowingly misusing their position.

New Offence – Providing False or Misleading Information to Council

In making decisions, the Council of a local government may consider written reports which have been prepared by the Chief Executive Officer or employees of the local government and verbal information provided by local government staff (normally senior executive staff) during a Council meeting. The Department has received complaints whereby Council members have been provided with a written report from the Chief Executive Officer or employee of their local government which contains false or misleading information. There is currently no provision under the Act which makes it an offence for a Chief Executive Officer or employee to provide false or misleading information to Council.

Regular comparisons are made between local government Council members and Members of Parliament. Knowingly misleading a House or Committee of Parliament constitutes contempt of Parliament. Under the *Criminal Code*, it is an offence if a person under examination knowingly gives false evidence to Parliament. While the nature of the decisions and duties are different, members of Council like members of Parliament

make decisions that directly affect the community. These decisions can involve committing significant amounts of public money.

OFFICER RECOMMENDATION – PROVISION OF FALSE OR MISLEADING INFORMATION TO COUNCIL

The Act could be amended, within fairness and reason, to provide that the Chief Executive Officer or an employee of a local government must not deliberately provide false or misleading information to Council. This would ensure that a Council, as the decision-making body of a local government is provided with accurate information from its Chief Executive Officer and employees. A recommendation to this effect will be included in the submission should Council support this new offence.

New Offence – Tendering requirements

The Act requires a local government to invite tenders before it enters into certain contracts for the supply goods or services. The *Local Government (Functions and General) Regulations 1996* set out the requirements regarding when tenders must be publicly invited and how the tendering process is to be undertaken.

Currently, the Act does not provide that a breach of the tendering provisions under the Act and Regulations is an offence. Therefore, a person who does not comply with the tendering requirements cannot be prosecuted unless their conduct constitutes an offence under another provision.

OFFICER RECOMMENDATION – TENDERING REQUIREMENTS

Local governments spend around \$1 billion dollars on goods and services annually. The tendering requirements under the Act ensure that local governments provide the community with goods and services which are of the best value and that there is transparency in the procurement process. To ensure that these requirements and obligations are enforced, the Act could be amended to provide that the non-compliance of tendering requirements is an offence. A recommendation to this effect will be included in the submission should Council support this new offence.

Default penalties for Local Laws

The Act allows local governments to make local laws and there are various pieces of legislation that enable local governments to set penalties for offences in their local laws. If a local government fails to provide a penalty for an offence contained within a local law, the local government is unable to enforce that offence.

OFFICER RECOMMENDATION – DEFAULT PENALTIES FOR LOCAL LAWS

To ensure that any local laws which do not specify penalties for offences are enforceable, the Act could be amended to include a provision for a default penalty to apply. The inclusion of default penalties in the new Act is supported by Shire officers. In the event Council supports default penalties as proposed, comment on this reform will be included in the submission.

Community Engagement

Community Engagement Charter

Currently, local governments are required to engage with the community when creating their ten year Strategic Community Plan. The community must also be consulted on such matters as local laws, differential rates, planning and other matters and aspirations that are relevant to the diverse needs of individuals within a community. The current extent of community engagement simply stops at inviting submissions but engagement should be more than that.

Best practice in community engagement goes beyond the requirement to simply consult and can be more impactful when decision making is done in conjunction with the community from the beginning of a project proposal. Establishing effective partnerships between local government and communities results in a greater sense of ownership, greater take-up of services and initiatives, and better outcomes for all community groups, reducing the chances of marginalisation while encouraging unified community outcomes.

There is currently nothing in Western Australia to guide community engagement although some local governments undertake community engagement very well. A charter allows a streamlined opportunity for local governments to communicate when, how and on what matters the community will be engaged. A charter can help Councils identify the importance of matters to engage on, evaluate the resources needed and provide guidance on the best methods to engage on a particular issue.

To achieve a cohesive framework, the charter should cover the following:

- Set engagement requirements;
- Set principles that can deliver performance outcomes to ensure that engagement must be genuine, inclusive and respectful, fit for purpose, informed and transparent and processes must be reviewed and improved; and
- Set methods to measure performance.

A charter can be adapted to suit the local government and its community but have a set of minimum requirements to achieve effectiveness.

There is currently no requirement for community engagement beyond IPR in Western Australia. Identifying the role of the community clearly in the objects of the Act is a good starting point to identify how engagement should be determined.

The Act could set out principles that guide how a local government should address community engagement, including how it will engage with those that are socially disadvantaged. By providing a principle-based framework instead of being prescriptive on how engagement should be conducted, there is an opportunity to create a space for genuine engagement instead of just another criterion with which local governments have to comply. Local governments are then able to determine how to best put the principles into practice.

COUNCIL'S PROPOSED POSITION – COMMUNITY ENGAGEMENT

It is the opinion of Council the current status quo in community engagement be maintained. A community engagement charter may have an adverse effect in that it could potentially stymie development and decision making within a local government if consultation is legislated any further. Should Council believe that further consultation on a community activity or decision making proposal is required to be undertaken prior to a decision, it has the ability to determine that further consultation with the community is required. Council can also determine the limits of that consultation. It is additionally expected that widening the scope for consultation would have cost implications to the local government.

Social Media Policy

As social media continues to advance, platforms such as Twitter, Facebook and Instagram are being used by local governments as a tool to strengthen community engagement. While social media is being embraced by the sector, concerns have been expressed at the negative and undisciplined way it is being used. This was especially evident during the 2017 local government election.

Though it can be great tool for community engagement, social media has unfortunately also given rise to “keyboard warriors” who have launched attacks against Council members and local government employees. Other than pursuing defamation, there is no specific legislation that addresses this issue.

An option for reform is to introduce a legislative requirement that local governments must adopt a social media policy. The policy would not only address the use of social media by Council members and staff, but also the appropriate use of social media in community engagement.

COUNCIL'S PROPOSED POSITION – SOCIAL MEDIA POLICY

A social media policy would be supported by the Mandatory Code of Conduct that will apply to Council members and local government candidates and is being introduced as part of earlier Act Review consultation.

Complaints Management

Local governments deal with many complaints each year due to their very nature of being the first point of contact for the public. To be able to effectively categorise and manage complaints, there needs to be a common understanding of what constitutes a complaint.

The Australian/New Zealand guidelines for complaints management in organisations AS/NZ 10002:2014 (the Standard) defines a complaint as:

“Expression of dissatisfaction made to or about an organisation related to its products, services, staff or the handling of a complaint where a response or resolution is explicitly or implicitly expected or legally required.”

A complaint, as given by the Standard “**is not**” a request for information about Council services, a request for action or feedback or suggestions from the public about Council's services and administration.”

The Standard provides guidance on complaints management within an organisation including the planning, design, operation, maintenance and improvement of the organisation's complaints management systems.

The Standard emphasises that active commitment at a local government's highest level is essential for effective complaints management. If complaints are managed effectively and transparently it can improve public confidence in local governments and provide a mechanism for local governments to review their efficiency and effectiveness. As a result, it is imperative to have policies and procedures in place to deal with a complaint well from when it is first received.

There is currently no legislative requirement for local governments to have complaint handling processes other than the need to address how they dealt with complaints in the annual report.

A proposed reform is adoption of the Standard by all local governments. The Standard states that an organisation should establish an explicit complaints management policy setting out its commitment to the effective management of complaints. The policy should be supported by procedures dealing with how the complaints will be managed by the organisation, who will be involved in that process, and their roles.

All local governments could be required to adopt the Standard, including the following key requirements:

- The adoption of a clear definition of complaints in line with the Standard;
- Policies and procedures that clearly set out how the local government handles complaints, for example providing timeframes and requiring a person independent of the initial matter to be responsible;
- Provisions for how complaints are to be resolved and for when matters are referred to an external body, for example the Ombudsman; and
- A requirement for local governments to make their policies and procedures easily accessible to the public.

COUNCIL'S PROPOSED POSITION – COMPLAINTS MANAGEMENT

Council supports the need for clear policies and procedures to handle complaints which provide both the local government and community with appropriate avenues to resolve their grievance and close the loop on what can be a resource burn for local governments.

Elections

Elections are a fundamental part of local democracy. Local government draws its legitimacy through elections. Elections provide a direct voice for the community and provide the primary means of holding local government accountable.

Local government ordinary elections are held every two years. At ordinary elections, nominations are called for half of a Council's positions. This approach is intended to allow for continuity in a Council's leadership. Mayors and Presidents are either elected by the community at large or elected from the pool of Councillors by the elected members.

Elections must have a high level of integrity to ensure public confidence in the outcome. Elections must also be conducted in a way that maximises participation of eligible voters in an efficient manner while supporting the principles that are the foundation of our democracy.

Some of the ways to change how elections are conducted include:

Compulsory voting;

- Voting method (First Past the Post);
- Permitting electronic and online voting;
- Requiring postal voting to be offered in all districts;
- Mandating the use of the Western Australian Electoral Commission (WAEC) to conduct elections;
- Allowing third-parties to conduct postal voting;
- Methods to resolve ties;
- Methods to fill vacancies in lieu of extraordinary elections; and
- Caretaker provisions.

Compulsory Voting

It is a requirement of every elector to cast a vote in both State and Federal elections throughout Australia, but this same requirement does not extend to all local government elections. In Western Australia, voting in a local government election is not compulsory. Introducing compulsory voting for local government elections would ensure greater turnout in elections. However, there may be little desire for such a change to occur from the broader community as it would impose an obligation on electors that was not there previously.

COUNCIL'S PROPOSED POSITION – COMPULSORY VOTING

Council supports maintenance of the status quo in the submission. Electors should be able to retain the choice of participation in a local government election or not.

Voting Methodology

The current voting method for local government elections in Western Australia is First Past the Post (FPP). Simply put: the person with the most votes win. FPP is inconsistent with the voting method applied at both a State and Federal level where preferential voting is required.

FPP can often lead to outcomes that do not adequately represent the community's preferences with many successful candidates being elected without a clear majority of votes. For example, a successful Council

candidate can be elected even though they may only receive 8% of the total votes cast or a successful mayoral/presidential candidate may receive significantly less than 51% of total votes cast.

Ensuring elected representatives adequately reflect their communities are essential to maintain confidence in our democratic institutions.

OFFICER RECOMMENDATION – VOTING METHODOLOGY

While changing the voting method has been applied to the Western Australian local government sector previously, it was not wholly supported by the sector. Having an optional preferential voting system for electors could be seen as an adequate compromise. However, Shire Officers recommend that FPP voting be maintained as the voting method. FPP is easily understood by electors, with the vote they cast going directly to the candidate. A preferential voting system can become increasingly complex, and serve to over politicise elections. In the event Council supports this recommendation it will be included in the submission.

Electronic Voting

Online voting is seen as convenient, more efficient and in the long term more cost effective. Despite these benefits, online voting has not been adopted widely principally due to concerns with the integrity of voter registration, the casting and scrutiny of votes and the high costs in establishing and conducting elections online. In New South Wales, the average cost of every vote cast electronically in the 2011 elections was \$74. This compares to a cost of \$3.59 per elector in elections conducted by the WAEC in 2017. iVote in New South Wales have been popular. In 2015, over 230,000 votes or over 5% were cast in the New South Wales State Government election.

OFFICER RECOMMENDATION – ELECTRONIC VOTING

While there is no evidence of instances of deliberate voter manipulation through online voting in Australia, there is a level of risk with all internet applications. These risks would necessitate the continuous application of best practice with respect to security and also need to be balanced against the risks inherent in conventional paper based systems. It is recommended that electronic voting should be phased in over time, provided that the technology being used is immune to manipulation and it is affordable and within the reach of the local government. In the event Council supports electronic voting, this recommendation will be included in the submission.

Frequency of Elections

Western Australia is the only jurisdiction that holds Council elections every two years. Holding Council elections every two years for Council members that hold four-year terms is intended to provide greater continuity on Council. One alternative is to hold elections every four years offset with State Government elections.

Holding elections every two years creates additional costs for local governments. It may also contribute to voter fatigue. Alternatively, the greater frequency of elections may provide greater accountability by enabling the public to more regularly have a say through elections.

OFFICER RECOMMENDATION – FREQUENCY OF ELECTIONS

It has been suggested Council election coincide with State election every 4 years. This is not supported as this may serve to unnecessarily politicise local government elections. A 2 year election cycle retains organisational knowledge acting as a succession plan for Council. A recommendation to this effect will be included in the event Council supports this position.

Limits on Local Government Election advertising campaigns

Anecdotally, the average cost of local government campaigns has increased in recent years. This increase in costs may be tied to the growing number of candidates standing in many metropolitan local governments and the resulting greater competition.

Election campaigning either requires personal financial investment from the candidate or receipt of campaign donations. The greater the cost of campaigning, the greater the investment required.

A well-financed campaign is not inherently improper. In fact, a well-financed campaign can be in the public interest as it can contribute to a more informed and engaged voter base. At the same time, the escalating cost of campaigns can contribute to an 'arms-race' and lead ultimately to problems.

Good local democracy relies on maximising participation not just of voters but also potential candidates. An escalation of the costs of campaigning necessary to have a reasonable chance for success can reduce the percentage of people able to be a Council member. High campaign costs can lead to candidates relying heavily on donors which, if unchecked, can lead to perceptions of impropriety and undue influence. The consequences of problematic political donations at a local government level were recently highlighted in a Queensland Crime and Corruption Commission (QCCC) report.

In Tasmania, a campaign advertising limit is set for all candidates at \$8,000. Tasmanian local government candidates are required to lodge a return with the Tasmanian Electoral Commissioner stating how much they spent on advertising.

In Queensland, the concept of an advertising cap was considered following recommendations from the QCCC. In Queensland, candidates are already required to operate a dedicated bank account during the candidate disclosure period that is used to audit disclosures.

COUNCIL'S PROPOSED POSITION – LIMITS ON LOCAL GOVERNMENT ADVERTISING CAMPAIGNS

Council is supportive of a cap on funding of election campaigns. This financial cap would be tied to the population of the ward / shire and scaled appropriately.

Use of Social Media by candidates

Concerns were expressed by many with the way social media was used in the 2017 local government election period to disparage candidates. Amendments resulting from earlier consultation of the Act review will address this through the development of a new Code of Conduct for Council members which will include provisions on social media. In addition, the requirement to abide by the Code of Conduct will be extended to candidates in local government elections.

COUNCIL'S PROPOSED POSITION – USE OF SOCIAL MEDIA BY CANDIDATES

Provisions being included in the new Act that control the use of social media by candidates during local government elections is supported by Council.

CONSULTATION

Shire of Wandering Councillors participated in two workshops held on the 15 November and the 13 December 2018.

STATUTORY/ LEGAL ENVIRONMENT

The review of the *Local Government Act 1995* is critical to all Local Government organisations as it represents an opportunity to provide significant input into the statutory basis of the operation of local government in Western Australia.

POLICY IMPLICATIONS

Prospective amendments to the *Local Government Act 1995* may require reconsideration of several strategic and policy positions of the Shire of Wandering.

FINANCIAL IMPLICATIONS

Nil – all requirements have been factored into the 2018/19 Annual Budget.

STRATEGIC IMPLICATIONS

Community Strategic Plan 2018 - 2028

Goal 4 – Provide Strong Leadership

Strategic Community Plan			
Outcome	Strategies	Strategies	
4.1	We plan for the future and are strategically focused	4.1.1	Ensure accountable, ethical and best practise governance

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

In response to the ‘Phase Two’ review of the *Local Government Act 1995*, Council instructs the Chief Executive Officer to finalise Council’s submission to:

1. Support the proposed reform of the *Local Government Act 1995* relating to:
 - i. The enabling of local governments to create beneficial enterprises (Council Controlled Organisations), subject to provisions being included that in the new Act:
 - prevent the privatisation of core business activities,
 - prevent anti-competitive behaviour in the provision of services to local communities, and;
 - provide for the adequate assessment of organisational risk prior to the commencement of a beneficial enterprise in a local government area.
 - ii. Increase the tender threshold for \$150,000 to \$250,000 to align with the tendering policy of the Western Australian State Government, with a timeframe of one financial year for individual vendors;
 - iii. The review of financial ratios to establish a consistent approach across all local governments in the State of Western Australia;
 - iv. The introduction of a Rates and Revenue Strategy;
 - v. The Act be reviewed in contemplation of time-based differential rating, to encourage development of vacant land;
 - vi. The rating of habitable buildings and commercial enterprises on land that is currently rates exempt;
 - vii. A definition be included in the new Act that clearly describes a “charitable organisation”;
 - viii. The elimination of rates exemptions for charitable organisations
 - ix. The setting of fees and charges that permits the local government to recover costs for the services it provides to communities;
 - x. The amalgamation of the Local Government Grants Commission and Local Government Advisory Board;
 - xi. A review of the ‘Absolute Majority’ decisions required to be made by a Council;
 - xii. The retention of the ability to make Local Laws specific to a local government area, but based on a model Local Law;
 - xiii. The provision of “Public Statement Time” as part of the Ordinary Council Meeting agenda;
 - xiv. The strengthening of provisions regarding the revocation or amendment of decisions made by Council, provided that the decision does not contravene State or Commonwealth law;
 - xv. The retention of General Electors’ Meetings within the new Act;
 - xvi. Increasing the number of electors from 100 to 500 (or 5%) to request a Special Electors’ Meeting;
 - xvii. A provision a Special Electors’ Meeting can only be called on the same issue once within a 12 month period, unless Council deem otherwise;

- xviii. Simplification of the complaints process so that all complaints made against Council members are made directly to the Director General of Local Government;
- xix. The inclusion of a provision to be able to embed a suitably qualified individual into a 'dysfunctional' Council to monitor governance processes and report directly to the Minister of Local Government on the activity of the local government, subject to clear advice on the allocation of cost for the intervention;
- xx. The amendment of the *Local Government Act 1995* to make the improper use of information an offence that extends to former Council members, committee members or employees in accordance with the provisions of the *Limitations Act 2005*;
- xxi. The inclusion of provisions that provide an ability to hold accountable local government employees that knowingly misuse their employment position;
- xxii. The inclusion of provisions that provide an ability to hold accountable local government employees that knowingly provide false or misleading information to Council;
- xxiii. The inclusion of provisions that provide an ability to hold accountable local government employees and Council members that knowingly act in a manner that is in non-compliance with tendering requirements;
- xxiv. The inclusion of default penalties for offences not specified within a Local Law;
- xxv. The inclusion of an amendment specifying local governments are to adopt a social media policy for Council members and staff alike;
- xxvi. The adoption of Australian/New Zealand Standard AS/NZ 10002:2014 to aid in local government complaints management processes;
- xxvii. The maintenance of the 'First Past the Post' voting method for local government elections;
- xxviii. The phased use of electronic voting for local government elections, on the proviso that the technology being used is immune to manipulation and is cost effective;
- xxix. The maintenance of local government elections on a 2 year cycle;
- xxx. The inclusion of provisions that place a financial cap on funding of local government election campaigns, based on the population of a local government and scaled appropriately; and
- xxxi. Provisions included in a new Act that control the use of social media by candidates during local government elections.

2. Not supporting the reforms proposed to be made to the *Local Government Act 1995* inclusive of:

- i. A provision included in the new Act that supports the remote attendance of a Council member in the event of a special circumstance, subject to further investigation in regards to cost, and effectiveness;
- ii. The use of social media and electronic mail as platforms for local ratepayers to ask a question of Council as part of Public Question Time;
- iii. The proposition that the Presiding Member should cede responsibility of maintaining a correct and true record of Council Minutes to the Chief Executive Officer;
- iv. The requirement to develop a 'Community Engagement Charter'. Maintenance of the status quo in community engagement by local governments should be maintained.
- v. That voting in local government elections should be made compulsory for all electors; and
- vi. The utilisation of a preferential voting methodology for local government elections.

3. The following statements are emphasised in the submission:

- i. Council is of the opinion the annual reporting requirements, whilst perhaps necessary for the Auditor General, should be simplified for public release in order to engage the community and future prospective Councillors. The reports are cumbersome and difficult to understand.
- ii. Council is firm in its view that there should be provision to differentiate between local governments based on capacity and the State Administrative Tribunal Banding model is an illustration of the potential grouping of local governments. This will reduce the compliance burden on smaller local governments with limited capacity and provide additional opportunities for local governments with capacity.

10.2 BUILDING AND PLANNING REPORTS

10.2.1 APPLICATION OF COMMON SEAL - PROPOSED AMENDMENT NO. 5 TO SHIRE OF WANDERING TOWN PLANNING SCHEME NO. 3 – REZONING OF LOT 189 AND PORTION OF LOT 190 NORTH WANDERING ROAD, WANDERING (COMMERCIAL TO RURAL SWAP)

File Reference	A541
Proponents:	Robert John and Elaine Karen Cowan
Disclosure of Interest:	Nil
Date:	7 February 2019
Previously Before Council:	13 December 2018
Authors Name & Position:	Monica Treasure, Manager of Communities
Attachments:	Attachment 10.2.2 1 Amendment Document

NATURE OF COUNCIL'S ROLE IN THE MATTER:

- Advocacy *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive *The substantial direction setting and oversight role of the Council e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative *Includes adopting local laws, local planning schemes and policies.*
- Review *When Council reviews decisions made by Officers.*
- Quasi-judicial *When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).*

PURPOSE OF THE REPORT

The execution of documentation to the Western Australian Planning Commission and authorisation of the application of the Shire of Wandering common seal.

BACKGROUND

The sites were purchased by the applicant in June of 2017 with the intent to move to the area and construct houses for themselves and their family members to live in. The current commercial zoning on Lot 189 does not allow for the construction of a single house under the provisions of the Scheme. The applicant is now seeking to amend the zoning from Commercial to Rural to consolidate the area of Commercial zoned land and facilitate residential uses.

Council previously resolved to adopt the Amendment for the purposes of public advertising. The advertising period has concluded, and the Amendment was resolved by Council for final adoption at the December 2018 Council meeting.

COUNCIL DECISION – ITEM 10.2.2 MOVED: CR WATTS

SECONDED: CR PRICE

That Council:

- 1. Supports Amendment 5 to Town Planning Scheme No. 3 without modification pursuant to Part 5 Regulation 50 (3) (b) of the Planning and Development (Local Planning Schemes) Regulations 2015.*
- 2. Forwards to the Western Australian Planning Commission the summary of submission and responses and all required amendment documentation pursuant to Part 5 Regulation 53 of the Planning and Development (Local Planning Schemes) Regulations 2015*

CARRIED 5/0

COMMENT/DETAILS

The execution of the documentation to the Western Australian Planning Commission as pursuant to Part 5 Regulation 53 of the Planning and Development (Local Planning Schemes) Regulation 2015.

Therefore, it is recommended Council authorise the application of the Shire of Wandering common seal in order to execute the documents.

COMMUNITY CONSULTATION

Community consultation is not required for this item.

STATUTORY/ LEGAL ENVIRONMENT

- *Planning and Development Act 2005*

The purpose of the Act is to provide for an efficient and effective land use planning system within Western Australia. The Act generates the provisions for the preparation of a Town Planning Scheme.

- *Planning and Development (Local Planning Scheme) Regulations 2015*

Clause 35 of the Regulations requires a resolution of a local government to adopt or refuse to adopt an application to amend a local planning scheme as well as justification for the type of amendment proposed (basic, standard or complex).

In accordance with the Regulations the proposal is considered to be a standard amendment for the following reasons:

- The proposal is considered to have minimal impact on land in the scheme area that is not subject of the amendment; and
- It is considered that the amendment would not have any significant environmental, social, economic or governance impacts on land within the surrounding area.

- *Shire of Wandering Town Planning Scheme No.3*

The Shire of Wandering *Town Planning Scheme No. 3* is silent on any additional requirements for Scheme Amendments. With this in mind, emphasis is placed upon Clause 35 of the Regulations above.

POLICY IMPLICATIONS

CP008 Affixing of the Common Seal – Shire of Wandering.

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Shire of Wandering Local Planning Strategy

The proposed scheme amendment is considered to be in line with a number of objectives of the Shire of Wandering Local Planning Strategy (the Strategy). Clause 6.3 of the Strategy (Townscape) outlines that the Shire of Wandering should aim to create a compact, discrete townsite with improved linkages and enhanced pedestrian comfort. It is considered that by altering the location of the commercial zoning to be closer to the town-site boundary this objective is met by consolidating the commercial area.

Community Strategic Plan 2018-2028

Goal 2 – Improve the Economic Growth of our Community

Strategic Community Plan			
Outcome	Strategies		
2.3	Facilitate increased business opportunities	2.3.2	Ensure our planning framework and environment supports nimble decision making and gives confidence to developers.

Goal 4 – Provide Strong Leadership

Strategic Community Plan			
Outcome	Strategies	Strategies	
4.2	We plan for the future and are strategically focused	4.2.1	Ensure accountable, ethical and best practice governance

VOTING REQUIREMENT

Absolute Majority.

OFFICER RECOMMENDATION

In relation to the documentation to the Western Australian Planning Commission the summary of submission and responses and all required amendment documentation pursuant to Part 5 Regulation 53 of the Planning and Development (Local Planning Schemes) Regulations 2015 resulting from Lot 190 North Wandering Road, Wandering, Council resolves to authorise:

1. The application of the Shire of Wandering Common Seal, and
2. The execution of the required documents by the Shire President and Chief Executive Officer

10.3 COMMUNITY SERVICES REPORTS

Nil

10.4 CORPORATE SERVICES

10.4.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 31 DECEMBER 2018 AND 31 JANUARY 2019

File Reference	10.1.16
Proponents:	Nil
Disclosure of Interest:	Nil
Date:	9 February 2019
Previously Before Council:	N/A
Authors Name & Position:	Cara Ryan, Finance Manager
Attachments:	10.4.1.1 Monthly Financial Report 10.4.1.2 Bank Reconciliations, Bank Statements (Muni A/C) 31 December 2018 10.4.1.3 Bank Reconciliations, Bank Statements (Invest A/C) 31 December 2018 10.4.1.4 Bank Reconciliations, Bank Statements (Trust A/C) 31 December 2018 10.4.1.5 Credit Card Statement 31 December 2018 10.4.1.6 List of Payments December 2018 10.4.1.7 Monthly Financial Report 31 January 2019 10.4.1.8 Bank Reconciliations & Bank Statements (Muni A/C) 31 January 2019 10.4.1.9 Bank Reconciliations & Bank Statements (Investment A/C) 31 January 2019 10.4.1.10 Bank Reconciliations & Bank Statements (Trust A/C) 31 January 2019 10.4.1.11 Credit Card Statement 31 January 2019 10.4.1.12 List of Payment January 2019

NATURE OF COUNCIL'S ROLE IN THE MATTER:

- Advocacy *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive *The substantial direction setting and oversight role of the Council e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative *Includes adopting local laws, local planning schemes and policies.*
- Review *When Council reviews decisions made by Officers.*
- Quasi-judicial *When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).*

PURPOSE OF THE REPORT

In accordance with Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, the Shire is to prepare a monthly Statement of Financial Activity for consideration by Council.

Monthly Financial Report, Payment Listing and Bank Reconciliation for the months of December 2018 and January 2019 are presented for Council's consideration.

BACKGROUND

In accordance with Local Government (Financial Management) Regulation 1996 34(1), local governments are required to prepare each month, a statement of financial activity reporting on revenue and expenditure for the month in question.

The statement of financial activity is to be presented at an ordinary meeting of Council within two (2) months after the end of the month to which the statement relates.

COMMENT/ DETAILS

Council is requested to accept the Monthly Financial Report, Bank Reconciliation and List of payment for the periods ended 31 December 2018 and 31 January 2019, as presented.

Monthly Financial Report 31 December 2018	ATTACHMENT 10.4.1.1
Bank Reconciliations & Bank Statements (Muni A/C) 31 December 2018	ATTACHMENT 10.4.1.2
Bank Reconciliations & Bank Statements (Investment A/C) 31 December 2018	ATTACHMENT 10.4.1.3
Bank Reconciliations & Bank Statements (Trust A/C) 31 December 2018	ATTACHMENT 10.4.1.4
Credit Card Statement 31 December 2018	ATTACHMENT 10.4.1.5
List of Payments 31 December 2018	ATTACHMENT 10.4.1.6
Monthly Financial Report 31 January 2019	ATTACHMENT 10.4.1.7
Bank Reconciliations & Bank Statements (Muni A/C) 31 January 2019	ATTACHMENT 10.4.1.8
Bank Reconciliations & Bank Statements (Investment A/C) 31 January 2019	ATTACHMENT 10.4.1.9
Bank Reconciliations & Bank Statements (Trust A/C) 31 January 2019	ATTACHMENT 10.4.1.10
Credit Card Statement 31 January 2019	ATTACHMENT 10.4.1.11
List of Payments 31 January 2019	ATTACHMENT 10.4.1.12

CONSULTATION

Finance Officer
Chief Executive Officer

STATUTORY/ LEGAL ENVIRONMENT

Section 6.4 Local Government Act 1995, Part 6 – Financial Management, and regulation 34 Local Government (Financial Management) Regulation 1996.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Financial implications and performance to budget are reported to Council on a monthly basis.

STRATEGIC IMPLICATIONS

Community Strategic Plan 2018 - 2028

Goal 1. – The Wandering Shire is Financially Sustainable

Strategic Community Plan			
Outcome	Strategies	Strategies	
1.1	Improve accountability and transparency	1.1.1	Balanced budget delivered annually Annual external financial audit identifies no adverse issues
1.3	Prudently manage our financial resources to ensure value for money	1.1.2	Annual external financial audit identifies no adverse issues

Goal 4 – Provide Strong Leadership

Strategic Community Plan			
Outcome	Strategies	Strategies	
4.1	A well informed Community	4.1.1	Foster opportunities for connectivity between Council and the Community
4.2	We plan for the future and are strategically focused.	4.2.1	Ensure accountable, ethical and best practice governance.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Endorse all cheque, EFT, BPay, salary & wages, transport payments, transfers to investments, credit card payments and other direct debits and transfers as listed from the Municipal and Trust Fund totalling \$256,930.93 & \$200,679.14 for the periods ending 31 December 2018 and 31 January 2019.
2. Receive the bank reconciliations & bank statements for the periods ended, 31 December 2018 and 31 January 2019.
3. Receive the financial statements for the periods ended 31 December 2018 and 31 January 2019.

11. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

Nil

13. CONFIDENTIAL ITEMS

Nil

14. TIME AND DATE OF NEXT MEETING

Next Ordinary Council meeting to be held on 21 March, 2019 at 3:30pm.

15. CLOSURE OF MEETING