



South West Country Zone

Minutes

26 June 2020

BOYUP BROOK

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South West Country Zone

Meeting held at Lesser Hall, Boyup Brook
55 Abel Street (adjacent to the Shire office)
Commencing at 9.00am, Friday 26 June 2020

Minutes

1. OPENING AND WELCOME

The Chair, President Cr Tony Dean, opened the meeting at 9:00am.

Joanna Hales-Pearce, Shire of Boyup Brook, performed a Welcome to Country for delegates.

2. ATTENDANCE AND APOLOGIES

Attendance

Shire August Margaret River	President Cr Ian Earl Ms Stephanie Addison-Brown, Chief Executive Officer non-voting delegate
Shire of Boyup Brook	President Cr Richard Walker Cr Sarah Alexander, observer non-voting Cr Tom Oversby, observer non-voting Cr Helen O'Connell, observer non-voting Mr Chris Smith, Chief Executive Officer non-voting delegate
Shire of Bridgetown-Greenbushes	President Cr John Nicholas JP Mr Tim Clynch, Chief Executive Officer non-voting delegate
City of Bunbury	Cr Tresslyn Smith Mr Mal Osbourne, Chief Executive Officer non-voting delegate
City of Busselton	Mayor Grant Henley Mr Paul Needham, Director, Planning and Development Services non-voting delegate
Shire of Capel	Mr Mark Chester, Acting Chief Executive Officer non-voting delegate
Shire of Collie	Cr Ian Miffing Mr Andrew Dover, Director Development Services non-voting delegate
Shire of Dardanup	President Cr Michael Bennett Mr Andrew Schonfeldt, Chief Executive Officer non-voting delegate
Shire of Donnybrook-Balingup	President Cr Brian Piesse Mr Ben Rose, Chief Executive Officer non-voting delegate

Shire of Harvey	President Cr Paul Gillett Ms Annie Riordan, Chief Executive Officer non-voting delegate
Shire of Manjimup	President Cr Paul Omodei Mr Andrew Campbell, Chief Executive Officer non-voting delegate
Shire of Nannup	President Cr Tony Dean (SC) CHAIR Mr David Taylor, Chief Executive Officer non-voting delegate
WA Local Government Association Secretariat	Tim Lane, Manager, Strategy and Association Governance Garry Middle, Acting Policy Manager Environment
South West Development Commission	Ms Billy Wellstead, Regional Development Coordinator

Apologies

City of Busselton	Mr Tony Nottle, Director Finance and Corporate Services
Shire of Capel	President Cr Michael Southwell
Shire of Collie	President Cr Sarah Stanley Mr David Blurton, Chief Executive Officer
DLGC	Jodie Holbrook, Director Local Government Engagement
South West Development Commission	Mellisa Teede, Chief Executive Officer

3. DECLARATIONS OF INTEREST

President Cr Paul Omodei declared an impartiality interest in item 7.1.

Mr Mark Chester declared a financial interest in a discussion regarding Elected Member training during item 10.1.

President Cr Brian Piesse declared an impartiality interest in item 12.6.

4. ANNOUNCEMENTS

4.1 Attachments

The following are provided as attachments to the agenda:

1. Draft presentation: Biosecurity RBGs gone wrong
2. South West Country Zone Minutes 24 April 2020.
3. South West Country Zone Flying Minute – 13 May 2020
4. Letter to the Premier – Regional Travel Restrictions
5. Attachment for Item 7.1 – SAT Decision
6. WALGA President's Report
7. State Council Agenda – via link: <https://walga.asn.au/getattachment/9d6cd564-6fdd-486b-afb-80472db6b3d7/Agenda-State-Council-1-July-2020.pdf>

5. GUEST SPEAKERS / DEPUTATIONS

5.1 Presentation by Host Local Government – Shire of Boyup Brook

The Shire of Boyup Brook presented to the Zone on current strategic issues.

Noted.

6. MINUTES

6.1 Confirmation of Minutes from the South West Country Zone meeting held Friday 24 April 2020 (Attachment 2)

The Minutes of the South West Country Zone meeting held on Friday 24 April 2020 have previously been circulated to Member Councils.

RESOLUTION

Moved: President Cr Michael Bennett

Seconded: Mayor Grant Henley

That the minutes of the South West Country Zone meeting held Friday 24 April 2020 are confirmed as a true and accurate record of the proceedings.

CARRIED

6.1.1 Business Arising

Nil.

6.2 Confirmation of Flying Minute – Intrastate Travel Restrictions (Attachment 3)

RESOLUTION

Moved: President Cr Brian Piesse

Seconded: Mayor Grant Henley

That the Flying Minute of the South West Country Zone dated 13 May 2020 is confirmed as a true and accurate record of the proceedings.

CARRIED

6.2.1 Business Arising

Note from secretariat:

The letter sent to the Premier as an outcome of the Flying Minute is provided as an attachment (attachment 4) to the agenda. No reply was received, other than an automatic reply email, explaining that a formal reply may not be forthcoming due to the volume of correspondence the Premier receives.

7. ZONE BUSINESS

7.1 Regulation of Park Homes / Manufactured Homes / Lifestyle Villages

By City of Busselton

In Brief

A recent SAT decision has highlighted longstanding and significant issues with the Caravan Parks Legislation in Western Australia, and created a situation whereby most, if not all, Park Homes could have been considered unlawful. The State has made changes to address issues related to Park Homes that were already in place in mid-2019, but there is no change with respect to the lawfulness of new Park Homes constructed since that time. That creates significant issues for the industry, its customers and Local Governments. SAT decision is attached with the Agenda (Attachment 5)

It is recommended that the SW Zone seeks WALGA's support to request that the State Government urgently amend the legislation to allow new Park Homes to be lawfully placed on sites, until around 2030, providing certainty in the short term, and time in which more comprehensive regulatory reform can be undertaken.

Background

'Park Home' is the term used in WA legislation to describe, usually relatively small, manufactured/relocatable/pre-fabricated homes, placed within caravan parks. 'Park Home Park' is the term used to describe caravan parks that consist only of Park Home sites, and no sites for caravans or camping. 'Lifestyle village' is a marketing term often used for Park Home Parks – often, but not exclusively, aimed at an older demographic.

The development of Park Homes in WA is primarily regulated through the Caravan Parks and Camping Grounds Act 1995 ('CP Act') and associated Caravan Parks and Camping Grounds Regulations 1997 ('CP Regulations') – collectively 'CP Legislation'. The CP Legislation seeks to exempt Park Homes from the requirements of the Building Act 2011 and Building Regulations 2012 ('Building Act', 'Building Regulations', collectively 'Building Legislation') and interacts with planning legislation in a way that results in exemptions from some town planning controls that might otherwise apply.

A relatively recent decision in the State Administrative Tribunal ('SAT') - Henville and City of Armadale [2018] WASAT 108 ('Henville') – has, however, cast significant doubt on those exemptions, and created uncertainty around the lawfulness of thousands of homes around the State, and tens of millions of dollars' worth of investment. The State has responded to the implications of Henville through the Caravan Parks and Camping Grounds Amendment Regulations 2020 ('CP Amendment'), but the response addresses the implications partially at best.

Inadequacies of the kind identified through Henville have been apparent to many in the local government sector for over twenty years, and were in fact pointed out to the State Government when the current legislation was being developed. Perhaps the most remarkable thing is that it has taken over 20 years for those inadequacies to become so clearly apparent. That is most likely down to the practical approach taken by local governments across WA to implementation of an arguably extremely flawed framework established by the State. It appears likely, though, that the approach to implementation, in terms of formal processes and decisions, has not always been consistent, either between different local governments or over time at individual local governments – and it is certainly the author's view that the understanding of the CP Legislation in relation to Park Homes is often fairly limited amongst local government officers.

Why might Park Homes be a good idea?

Before looking at the CP legislation and the issue exposed by the Henville decision, though, it is worth first setting out why it may be a sensible regulatory outcome to allow for development of Park Home

Parks, and allow their effective exemption from aspects of building and town planning regulation that may otherwise apply.

Park Home Parks provide for a relatively low cost, flexible and communal housing option for, often, but not exclusively, older people. Sometimes those people have relatively low incomes and/or assets. Such people may no longer want or need a more conventional home, but may also neither want nor need to move into an aged persons' housing development or aged care facility. Particularly if they can be developed in suitable locations, with good access to shopping, services and transport, Park Home Parks can fill an important housing need. Park Home Parks can also provide housing for some disadvantaged people, but WA has largely avoided the development of poorly managed and located 'trailer parks' that unfortunately provide poor quality, low cost housing for disadvantaged people in some other jurisdictions.

Park Home Parks, or Park Homes within other caravan parks, can also provide a relatively low cost, flexible and communal tourism accommodation option. The continuing viability of Park Homes as a tourism accommodation option, though, is less dependent upon the exemptions from building and town planning regulation that were undermined by Henville and are so critical for residential Park Homes (and the reasons for that difference are set out briefly in the broader outlining of the regulatory framework below).

In short, provision for the relatively low cost, flexible and communal housing option that Park Home Parks provide is seen to a sensible regulatory outcome – if the development occurs in a suitable location. The Henville decision, however, has cast significant doubt on the ongoing viability of that option, and the State's response to date is, as is set out below, considered inadequate.

How the CP Legislation exempts Park Homes from some building and town planning requirements (prior to the CP Amendment)

The CP Legislation, in Division 2 of the CP Regulations, sets out that a Park Home may not be brought onto a caravan park site without the written approval of the owners of the Park Home, the caravan park licence holder and the local government. Before the local government can approve the Park Home being placed on the site, it must classify the Park Home under the Building Code of Australia (BCA), usually as a Class 1a (residential) or 1b (short stay) building, the same as a grouped dwelling, villa or chalet. The local government must also receive and assess a 'park home certificate', provided by a registered builder, on behalf of the owner.

Although, all 'normal' building regulation requirements apply, other than requirements associated with home indemnity insurance, the intention was that a Park Home did not require a building permit under the Building Legislation (and the same was the case prior to 2012, when building regulation was provided for under the Local Government (Miscellaneous Provisions) Act 1960, under which the equivalent of a building permit was a 'building licence'). In essence, Park Homes have been required to obtain what could be described as a 'Claytons' building permit.

In addition, though, Regulation 32(2)(c) of the CP Regulations sets out – that the design of the chassis, axles and wheels of the park home, or each component of the park home, are adequate structurally to bear the weight of the park home, or the component of the park home to which they are attached, and to enable the park home, or component of it to which they are attached, to be drawn by another vehicle without structural alteration or damage to the park home.

In effect, despite usually being otherwise structurally the same as other manufactured/relocatable/pre-fabricated buildings, Park Homes are required to have an axle (or axles, and some have a separate 'axle' for each 'wheel') and must, in theory at least, be able to be transported by being towed. In practice, though, Park Homes are almost never transported in that way. Rather, they are carried around on trucks, and craned in and out of position. Some Park Homes are, in fact, assembled on site out of two separate components (which was fairly clearly contrary to the CP Legislation, even before Henville).

The means by which the CP Legislation works to exempt Park Homes from town planning requirements that may otherwise apply is rather more complex, and much more important to their viability.

'Caravan Park' and 'Park Home Park' are defined land uses in most town planning schemes in WA, and they are also uses defined in the 'Model Provisions' (which are Schedule 1 of the Planning and Development (Local Planning Schemes) Regulations 2015) and in various forms in the earlier 'Model Scheme Text' (which was part of the Town Planning Regulations 1967). The Model Provisions definitions, reflected in most town planning schemes in WA, are as follows –

Caravan park means premises that are a caravan park as defined in the Caravan Parks and Camping Grounds Act 1995 section 5(1);

Park home park means premises used as a park home park as defined in the Caravan Parks and Camping Grounds Regulations 1997 Schedule 8;

The effect of those definitions is that, in almost all cases, the licensing of a site as a caravan park (either as a 'normal' caravan park, or as a Park Home Park) means that then becomes the land-use in town planning terms. In the absence of that, though, many Park Home Parks and/or Park Homes would fall into other land-use definitions, perhaps most notably 'Grouped dwelling' and 'Holiday accommodation' (although schemes currently may differ from the Model Provisions on the latter definition – the effect is largely the same).

Those land-uses are defined as follows (the first being as per the R-Codes, which function as part of local town planning schemes, the second as per the Model Provisions) -

Grouped dwelling: A dwelling that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partly above or below another...

Holiday accommodation means 2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot;

Note that aged persons' housing is, in most town planning schemes, a form of Grouped Dwelling development, occupancy of which is generally restricted to those 55 years of age or older.

Park Home Parks which are subject of age restrictions for occupancy may also arguably fall into the land use of 'Aged Persons' Home' or similar. That is not a land use identified in the Model Provisions and nor is there an equivalent in the Model Provisions, but the definition in the City of Busselton's scheme is as follows (and some other schemes will have the same or a similar definition) -

"Aged Persons' Home" means a building or group of buildings used primarily as a residence for aged persons and may include a hostel and/or nursing home.

If caravan parks, in land-use terms, were Grouped dwellings, Holiday accommodation or Aged Persons' Homes, they would then be subject to the land-use permissibilities and development standards applicable to those land-uses. That would often not be such a significant issue for tourism-focused caravan parks, but would be a significant issue for residential parks, especially any without an age restriction set at 55 years.

Dealing with land-use permissibility issues first. Some Park Home Parks have been developed on sites where Grouped dwellings are a prohibited land-use – i.e. a use that cannot be approved. That would especially be the case where a Park Home Park has been developed on land with a 'Rural', 'Agriculture' or similar zoning, in which case either Caravan Park or Park Home Park may be a permissible land-use, but Grouped dwelling will not. Aged Persons' Home may also be a prohibited land use in those zones. This land-use permissibility issue is not, however, something that would arise for any Park Home Park in the City of Busselton. Where residential parks have been developed on sites with a 'Residential' or similar zoning, where Grouped Dwelling will usually be a permissible use, it would also generally not create a land-use permissibility issue.

Development standards would, however, pose much more significant challenges for residential parks, even where they have been developed on sites with a 'Residential' or similar zoning, if they were classified as Grouped dwellings. The R-Codes set out development standards for things like boundary setbacks, private open space and maximum development density for Grouped dwellings that Park Homes Parks, as currently configured, would not meet. Although there is a capacity to approve variations to some of those standards, the extent of variation required would be unreasonable in many cases, and there are absolute limits to the capacity to vary standards related to development density.

Those density standards would represent a 'fatal flaw' for almost any Park Home Park that sought approval as a Grouped Dwelling development.

In short, the viability of residential Park Home Parks would be fundamentally undermined if they did not fall within the Caravan Park or Park Home Park land-use definition – because they would then be subject to significant difficulties from a land-use permissibility and/or development standards compliance perspective.

The Henville decision and its implications

Fundamentally, the Henville decision found that, as a Park Home is supposed to be a form of 'Caravan', which is a form of 'Vehicle', and that the Park Homes proposed in the decision subject of review in SAT were not Vehicles, they could therefore not be Caravans, and also therefore not Park Homes.

At paragraph 46 of her decision, the Member set out that -

In short, a 'park home' must meet three tests:

- (a) it must be a means of transport to be a conveyance and therefore a vehicle as defined;
- (b) it must be a vehicle of a class or description as provided for by the Regulations; and
- (c) it must be fitted or designed for habitation.

There seems to be very broad consensus amongst local government practitioners and the legal profession that the Henville decision was sound.

Whilst the Henville case related specifically to the Park Homes in the proposal subject of the SAT review, it is fairly clear and widely accepted that most, but not all, Park Homes in other contexts would fail to meet one or both of the first two tests outlined above (but would meet the third). The implications of that are –

1. Most, if not all, Park Home Parks should not have been licensed as 'facilities' under the CP Legislation, and they therefore –
 - (a) Could not fall into that land-use class from a town planning perspective (and may, instead, have fallen into a land-use class that may have been prohibited in the zone in which the park is located); and
 - (b) Should have met the development standards applicable to the land-use class that should instead have applied, which in the case of most residential Park Home Parks, would be Grouped dwelling, the standards for which most Park Home Parks could not meet; and
2. Most, if not all, Park Homes required a building permit, and the 'builder' would have needed to obtain home indemnity insurance – and as each time the Park Home is moved it is a separate 'building' process, that would have needed to occur each and every time the Park Home was moved.

The State's response to the Henville decision so far (including the CP Amendment)

The CP Amendment was published in the Government Gazette on 3 March 2020. In summary, the CP Amendment -

1. Introduced a new definition of 'manufactured home', which is as follows –
manufactured home —
 - (a) means a structure that —
 - (i) is not a vehicle, train, vessel or aircraft; and
 - (ii) is movable or capable of movement; and
 - (iii) is fitted or designed for habitation; and
 - (iv) immediately prior to 1 July 2019 was located at a place with purported approval; and
 - (b) unless the contrary intention appears, includes an attachment;
2. Allowed what were purported to be Park Homes, but which were in fact not Park Homes (as per Henville), to instead be lawful as manufactured homes, provided they were in place immediately prior to 1 July 2019; and
3. Allowed such manufactured homes to be moved from site to site or park to park

Fundamentally, the CP Amendment made Park Homes in place prior to 1 July 2019 retrospectively lawful, and allowed those Park Homes to be moved between sites or parks, but did not change the situation with respect to any Park Homes built and/or not on a site until after 1 July 2019.

In discussions that City of Busselton officers and WALGA staff have had with State Government officers, there has been some indication that consideration may be given to a 'Manufactured Homes' or 'lifestyle villages' act, but to date nothing formal in terms of that option being pursued has emerged.

The industry response to the Henville decision so far:

There appears to be very little response to the Henville decision from industry so far. Applications for the placement of new Park Homes which would not meet the Henville tests are continuing to be lodged with the City of Busselton and, the City understands, a number of other local governments in the South West. There also does not appear to be much evidence of industry lobbying at State level. In short, it seems that many in the industry are expecting local governments to continue with 'business as usual', notwithstanding Henville.

Comment

The incomplete State response to the implications of Henville and the absence of a significant industry response has essentially left local governments with a choice between largely ignoring Henville, or preventing any new Park Homes being placed on sites. Most local governments, including the City of Busselton, appear to be largely ignoring Henville. Whilst that allows Park Home Parks to continue to be developed, allowing the investment in the development of the parks to be realised and providing an alternative and additional housing option, it transfers a significant amount of regulatory risk from the State and the industry to the local government and the Park Home owner. The CP Amendment does not address those risks, although it does at least make existing (as at 1 July 2019) Park Homes lawful. It is also worth noting that, in bearing the regulatory risk, it is considered that local governments are not creating any health/safety or environmental risks.

There are also some significant issues with the practicality of how the CP Amendment has made existing Park Homes lawful. Whilst in mid-2020 determining whether a Park Homes was on a site immediately prior to 1 July 2019 may not be very difficult, as time goes on, that will become harder. The differences in how the CP Legislation has been applied by local governments in the past will contribute to that, as will differences in record keeping between local governments, park owners/operators and individual Park Home owners. Many local governments may, however, be somewhat reluctant to set a very high burden of evidence for someone wanting to relocate a Park Home, and where that occurs there will be a further transfer of regulatory risk to the local government.

Because of the economic dislocations being created by the Covid-19 crisis especially, it does not seem sensible to have a significant industry and housing option dependent for its continued viability on local governments continued willingness to bear regulatory risk on behalf of the industry.

Given that the CP Legislation is now approaching 25 years old, and there appear to be significant problems with the regulation of Park Homes in particular, it is seen as timely and important that a more comprehensive review of the controls related to Park Homes especially be undertaken. That may involve new legislation for Manufactured Homes or Lifestyle Villages. That would, however, be a much more complex and time-consuming exercise than might actually be required to 'fix' the Park Home issue. There would also need to be parallel changes to town planning, building control and possibly other legislation, which would add further time, cost and complexity.

A shorter term 'fix' could be achieved by simply changing the date threshold set out in the CP Amendment to allow new Park Homes (as Manufactured Homes) to be placed on sites up to a date perhaps ten years into the future. It is recommended that SW Zone call on WALGA to advocate with the State Government to achieve that change. After that change has been made by the State, a broader review and consolidation could be undertaken and implemented.

Secretariat Comment

WALGA's Planning Policy Manager, Vanessa Jackson

Over the last ten years, Local Governments and WALGA have been raising concerns with Department of Local Government, Sport and Cultural Industries (DLGSC) on the regulation and management of park homes, seeking to resolve the various conflicts between the legislation governing Caravan Parks, Park Homes and Lifestyle Villages. After the *Henville and City of Armadale* case, DLGSC set up a working group of State Agencies, to see whether the various pieces of legislation could be harmonised, to provide greater certainty to the development industry and to Local Government. Towards the end of 2019, the working group advised that they had arrived at a series of possible solutions, however, the only formal response was the *Caravan Parks and Camping Grounds Amendment Regulations 2020*. As outlined in the SW Zone report, this is only a minor fix to the issue, and does not look at the underlying issues between the various pieces of legislation, which was a disappointing outcome.

Recommendation

Moved: Mayor Grant Henley
Seconded: President Cr Brian Piesse

That the South West Zone seek WALGA's support to request that the State Government urgently amend the Caravan Parks Legislation to allow the continued lawful placement of new manufactured homes on caravan park sites, until approximately 2030, providing regulatory certainty in the short term to the industry, its customers and local governments, and providing time in which more comprehensive regulatory reform can be undertaken.

CARRIED

7.2 South West Electoral Prospectus

By Executive Officer, Tim Lane

There will be the opportunity to workshop priorities for the regional level electoral prospectus following the formal part of the meeting.

NOTED

8. ZONE REPORTS

8.1 Zone President Report

By President Cr Tony Dean

RESOLUTION

Moved: President Cr Michael Bennett

Seconded: President Cr Paul Omodei

That the Zone President's Report be received.

CARRIED

9. WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA) BUSINESS

9.1 State Councillor Report

By President Cr Tony Dean

RECOMMENDATION

Moved: President Cr Michael Bennett

Seconded: President Cr Paul Omodei

That the State Councillor Report be received

CARRIED

9.2 WALGA Status Report

By Tim Lane

BACKGROUND

Presenting the Status Report for June 2020 which contains WALGA's responses to the resolutions of previous Zone Meetings.

Agenda Item	Zone Resolution	WALGA Response	Update	WALGA Contact
2020 April 24 Zone Agenda Item 7.1 Payments to Volunteers Impacted by Emergency Events	That the South West Country Zone request WALGA to advocate for the State and Commonwealth Governments to introduce a payment system for emergency services volunteers to partially offset their income lost when volunteering in emergency events.	COVID response has delayed progress on this item.	June 2020	Mark Batty Executive Manager, Strategy, policy and Planning mbatty@walga.asn.au 9213 2078
2020 February 28 Zone Agenda Item 7.5 Request to Main Roads WA to permanently rectify the recurrence of flushing/bleeding on the South Western Highway and the Donnybrook-Boyup Brook Road.	THAT the South West Zone of WALGA: Seeks WALGA's support in taking an advocacy position to support the Shire of Donnybrook Balingup request to Main Roads WA to permanently rectify the recurrence of flushing/bleeding on the South Western Highway and the Donnybrook-Boyup Brook Road.	This matter was raised with Main Roads WA through the State Road Funds to Local Government Advisory Committee at the April 2020 meeting and referred to the Regional Office to provide further advice.	August 2020	Ian Duncan Executive Manager Infrastructure iduncan@walga.asn.au 9213 2031
2020 February 28 Zone Agenda Item 7.3 Government Guarantee Loan Fees	THAT the South West Zone: 2) Requests that WALGA raises this matter with the Treasurer to further advocate for a removal of the fee due to the financial burden the increase in the State Government Guarantee Fee has on the community. 3) WALGA be approached to formulate a research paper on the introduction and continuation of the State Government Guarantee Fee.	In order to encourage additional investment from the Local Government sector, with a view of supporting the economy throughout the COVID-19 response and recovery process, WALGA wrote a letter to the Treasurer on 24 March 2020 requesting that the State Government reduce the State Government Guarantee Fee that applies to the balance of all outstanding loans that Local Governments have with the WA Treasury Corporation. WALGA will advise all of its members once a response to this letter has been received. In addition to the letter to the Treasurer, WALGA is continuing to advocate for permanent reduction in the Government Guarantee Fee through other advocacy channels.	June 2020	Nebojsa Franich, Policy Manager, Economics, nfranich@walga.asn.au 9213 2096
2019 August 30 Zone Agenda Item 7.6 Amendments to CALM Act	That the SW Zone request WALGA lobby; A. For policy change of the Conservation and Land Management Act 1984 to ensure impacted landholders are adequately supported and recompensed in the instance where State Government activities and/or incidents resulting in damage to property; and	WALGA has followed up with the Department of Biodiversity Conservation and Attractions, and is still awaiting a response.	June 2020	Mark Batty Executive Manager, Strategy, Policy and Planning mbatty@walga.asn.au 9213 2078

	<p>B. Seek clarification on the status of the Department of Conservation and Attractions Good Neighbor Policy and when (or if) it applies; and</p> <p>C. That the State Government widely communicate the amendments made in 2016 to Section 132 of the Conservation and Land Management Act 1984 and the implications of these amendments on landholders; and</p> <p>D. That the State Government recompense impacted landholders from the Lewana and Blackwood Complex bushfires.</p>			
<p>2019 June 28 Zone Agenda Item 7.5 Reactivation of South West Rail Line</p>	<p>THAT WALGA advocate for the State Government to make a clear decision on the reactivation of the South West rail line.</p>	<p>Talison and Arc Infrastructure are continuing to develop a feasibility study in relation to utilizing rail to transport lithium ore from Greenbushes to Kemerton.</p> <p>The Department of Transport has drafted a south west regional freight strategy that will consider supply chains for agricultural and other products (including lithium). This will integrate information from the draft Westport Strategy and the Arc / Talison work. It is understood that this is currently with the Government for consideration.</p> <p>The Association has and will continue to advocate for a transparent decision regarding the future use of the South West rail line.</p>	<p>July 2020</p>	<p>Ian Duncan Executive Manager Infrastructure iduncan@walga.asn.au 9213 2031</p>
<p>2019 May 3 Zone Agenda Item 9.5 Landgate Valuation Services</p>	<p>That the SWZ:</p> <ol style="list-style-type: none"> 1 Request that WALGA lobby the State Government for the provision of increased funding to address resourcing issues within Landgate Valuation Services to ensure timely processing of valuation services for Local Governments; 2 Writes to the Valuer-General indicating its concern regarding the deterioration of services to Local Government over the past 12 to 24 months; and 3 Invites a representative from Landgate's Valuation and Property Analytics Team to a future meeting of the SWZ to discuss some of the issues faced by the members. 4 Request Landgate to review Timelines of Mining revaluations. 	<p>WALGA has recently written to the Government regarding the provision of increased resources for the processing of valuations.</p> <p>A response will be provided to the Zone when received.</p>	<p>June 2020</p>	<p>Tony Brown Executive Manager Governance and Organisational Services 9213 2051 tbrown@walga.asn.au</p>
<p>2019 March 22 Zone Agenda Item 7.3 Domestic Violence Communities</p>	<p>That The SWZ request WALGA to begin to develop an advocacy position on family and domestic violence.</p> <p>A sector working group is formed to guide the consultation process and a state wide forum be held to raise awareness of the issue within the sector</p> <p>A formal request be made that Our Watch and other key stakeholders are invited to present to the sector.</p>	<p>A Mental Health and Local Government Forum was held in Perth on 11 November 2019 which explored the policies and initiatives Local Governments are implementing to address mental health in local communities. The CEO of Our Watch intended to present, however was unable to do so and returned to deal with an urgent organisational matter. WALGA has written to the South West Country Zone regarding this matter and will reschedule an opportunity with Our Watch in 2020.</p> <p>A survey of Local Governments was undertaken between September and December 2019 to explore the role of Local Governments in addressing family and domestic violence. A discussion paper is now being prepared using the results from the Local Government survey. In January 2020 WALGA contacted the Municipal Association of Victoria, as well as other Local Government Associations, to obtain information on</p>	<p>Ongoing</p>	<p>Mark Batty Executive Manager, Strategy, Policy and Planning mbatty@walga.asn.au 9213 2078</p>

		<p>the role they are undertaking to address family and domestic violence and this will also be included in the discussion paper.</p> <p>State Government is due to release a Statewide FDV Strategy which WALGA is preparing a Role of Local Government in FDV Discussion Paper for joint release.</p>		
<p>2019 March 22 Zone Agenda Item 7.7 Funding Commitment Towards Strategic Transport Network Infrastructure In South West Western Australia</p>	<p>1. That the South West Zone of WALGA adopts an advocacy position of seeking a commitment to funding from:</p> <ol style="list-style-type: none"> Western Australian State Government; and/or Australian Federal Government; and/or Private industry to better manage the ever increasing numbers of heavy vehicle haulage and light vehicle users within the south-west (particularly including South Western Highway), including the possibility of re-instating and re-opening the disused South West Railway, as well as the future expansion and improvements of our road networks for the south-west region as part of the investment of our future infrastructure and road networks. <p>2. That the South West Zone of WALGA requests the WALGA State Council to consider adopting the advocacy position outlined in Recommendation 1, above.</p>	<p>The Infrastructure Policy Team requested that the Association investigate the need for and feasibility of developing a road project advocacy tool to support Local Governments and Zones in their advocacy for specific road developments given the large number of potential projects across the State.</p>	Ongoing	<p>Ian Duncan Executive Manager Infrastructure iduncan@walga.asn.au 9213 2031</p>
<p>2018 August 24 Zone Agenda Item 7.1 Restrictions on taking gravel from DBCA Reserves</p>	<p>THAT: The South West Zone of WALGA:</p> <ol style="list-style-type: none"> Request WALGA to seek reconsideration of present DBCA (Parks and Wildlife Service) policy/position of refusing approval and/or prohibiting access by local governments to extract gravel on DBCA reserves and forest areas. Propose a policy to DBCA that protects forests from the spread of dieback while allowing access to gravel for road building by local government authorities 	<p>Access needs to be negotiated, in the first instance, with the DBCA Regional Manager.</p> <p>More information on this issue is being sourced.</p>	Ongoing	<p>Mark Batty Executive Manager, Strategy, Policy and Planning mbatty@walga.asn.au 9213 2078</p>
<p>2017 November 24 Zone Agenda Item 9.2 Shire of Capel Submission Local Government Grant Scheme (ESL) Eligible Expenditure</p>	<p>That WALGA be requested to lobby the State Government for:</p> <ol style="list-style-type: none"> A comprehensive review of items of eligible expenditure under the Local Government Grant Scheme to enable the full costs of operating Volunteer Bush Fire Brigades to be met; and The establishment of the general principle of equality of eligible expenditure across all emergency services for operating costs associated with their activities. 	<p>The State Government has advised that the recommendations from the Economic Regulation Authority review of the Emergency Services Levy is being considered as part of the Machinery of Government process currently reviewing the structure of DFES. This process includes a review of the ESL governance and operational arrangements.</p> <p>WALGA will continue to lobby for a review of the items of eligible expenditure under the Local Government Grant Scheme to enable the full costs of operating Volunteer Bush Fire Brigades to be met; and the general principle of equality of eligible expenditure across all emergency services for operating costs associated with their activities.</p> <p>WALGA are in discussions with DFES regarding a comprehensive review of the eligible and ineligible item lists contained within the Local Government Grant Scheme Manual.</p>	Ongoing	<p>Mark Batty Executive Manager, Strategy, Policy and Planning mbatty@walga.asn.au 9213 2078</p>

		<p>WALGA most recently met with DFES on 21 May 2018 to discuss the Local Government Grant Scheme. The Association was pleased to hear there is recognition of the need for a review, particularly since the State Governments announcement of a Rural Fire Division and subsequent mitigation funding announced in the recent state budget. This provides a timely opportunity to review the principles and associated procedures manual. WALGA welcomed this approach and it is the Associations aim to build on the contributions of members during the Review of the ESL conducted by the Economic Regulation Authority. Further meetings with DFES will be established in late July to progress the scope of a review.</p> <p>A meeting is scheduled for 17 August and outcomes will be communicated the week following along with updates provided at the zone meetings.</p> <p>WALGA are working with DFES to finalise a discussion paper and workshop to initiate a review Local Government Grants Scheme. The sector will be notified of the engagement and consultation strategy once finalised.</p> <p>WALGA have been successful in advocating and establishing a working group led by DFES to review the LGGs. Please refer to Item for noting in the State Council agenda.</p>		
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ZONE COMMENT

This is an opportunity for Member Councils to consider the response from WALGA in respect to the matters that were submitted at the previous Zone Meeting.

RESOLUTION

Moved: President Cr Richard Walker

Seconded: President Cr Paul Omodei

That:

1. The South West Country Zone WALGA June 2020 Status Report be noted; and,
2. In relation to ESL eligible expenditure, slip line water tanks be considered by DFES as eligible for funding as part of the Local Government Grant Scheme.

CARRIED

9.3 Review of WALGA State Council Agenda – Matters for Decision

BACKGROUND

WALGA State Council meets five times each year and as part of the consultation process with Member Councils circulates the State Council Agenda for input through the Zone structure.

The full State Council Agenda can be found via link: <https://walga.asn.au/getattachment/9d6cd564-6fdd-486b-afbf-80472db6b3d7/Agenda-State-Council-1-July-2020.pdf>

The Zone is able to provide comment or submit an alternative recommendation that is then presented to the State Council for consideration.

4.1 COVID-19 Pandemic – WALGA Response

That the information contained in this report relating to WALGA's response to the COVID-19 pandemic be noted.

5.1 WA Public Libraries Agreement

That the draft State and Local Government Agreement for Public Libraries be endorsed.

RECOMMENDATION

Moved: President Cr Michael Bennett

Seconded: President Cr Brian Piesse

That the South West Country Zone supports all Matters for Decision as listed above in the July 2020 State Council Agenda.

CARRIED

9.4 Review of WALGA State Council Agenda – Matters for Noting / Information

- 6.1 Draft Aviation Strategy 2020
- 6.2 Regional Aviation Policy Issues Paper
- 6.3 Report Municipal Waste Advisory Council (MWAC)

9.5 Review of WALGA State Council Agenda – Organisational Reports

7.1 Key Activity Reports

- 7.1.1 Report on Key Activities, Commercial and Communications
- 7.1.2 Report on Key Activities, Governance and Organisational Services
- 7.1.3 Report on Key Activities, Infrastructure
- 7.1.4 Report on Key Activities, Strategy, Policy and Planning

7.2 Policy Forum Reports

9.6 WALGA President's Report

The WALGA President's Report is attached to the agenda (attachment 6).

RECOMMENDATION

Moved: President Cr Brian Piesse
Seconded: President Cr Michael Bennett

That the South West Country Zone notes the following reports contained in the WALGA July 2020 State Council Agenda.

- Matters for Noting/Information
- Organisational Reports
- Policy Forum Reports; and
- WALGA President's Report

CARRIED

10. AGENCY REPORTS

10.1 Department of Local Government, Sport and Cultural Industries

Jodie Holbrook was an apology to the meeting. The written update is available here: [DLGSC Update June 2020](#)

Mr Mark Chester declared a financial interest in a discussion regarding compulsory Elected Member training and left the meeting.

Moved: President Cr Michael Bennett
Seconded: President Cr Paul Omodei

That WALGA request the Minister for Local Government to extend by six months the requirement for newly elected Elected Members to undertake training within 12 months.

CARRIED

Mr Mark Chester returned.

10.2 South West Development Commission

Chief Executive Officer, Mellisa Teede, was unable to attend and sent through apologies prior to the meeting.

Ms Billy Wellstead provided an update to the meeting.

Noted.

11. FINANCIAL REPORTS – South West Country Zone

No financial reports to be presented. A handover between WALGA and the outgoing Executive Officer to be undertaken.

Noted.

12. EMERGING ISSUES / GENERAL BUSINESS

12.1 State Government Procurement Debarment Regime Proposal

City of Busselton

In Brief

- A draft Debarment Regime has been released for public comment
- WALGA operate and manage a number of preferred supplier arrangements
- The local government sector, in order to also promote the integrity and robustness of its procurement processes should be able to access this information and have the powers to make decisions to consider the impacts and actions in relation to current and potential contracts of a “debarred supplier.”

Background

The McGowan Government announced on 9 June 2020 an Australian first of its intent to establish a debarment regime to improve business practices and strengthen integrity in procurement in the government sector.

The proposal for the regime states:

“The purpose of this Regime is to provide a mechanism and framework for assessing whether or not Suppliers identified as having engaged in unlawful behaviour, or behaviour of such a nature that contracting with the Supplier would be likely to have a material adverse effect on public confidence in the State or its procurement processes, and should be barred from doing business with Government.”

It also continues to say that the purpose of the regime:

“...strives to protect the integrity of the procurement system and to minimise the State's risk of procuring from a Supplier who engages in unlawful or unethical behaviour to the detriment of the State.”

The regime proposes a number of causes for debarment in separate categories depending on severity.

Comment

As it is the case with the State Government (SG), Local Government (LG) is also a sector that strives for integrity and accountability in procurement processes due to the fact that it is managing public monies.

There is a real risk to LG that engaging with a contractor or supplier that has been convicted of the listed offences unknowingly, could cause significant reputational and financial damage. LG would need access to any register produced (SG has proposed that the list be made public), but also have the power to make decisions on whether disqualifying the contractor/supplier from any procurement activity while they remain on that list with the local government.

Additionally, WALGA itself manage and appoint numerous contractors and organisations under its preferred supplier arrangements. It would be expected from member Councils that WALGA would also refuse any contractor or supplier if they appear on the debarred list for the SG.

In correspondence with WALGA staff it has become apparent that WALGA is already monitoring the situation and considering its impacts on its preferred supplier arrangements. It is felt that this is an industry wide issue that needs to be continued to be monitored by WALGA to also advocate for the integrity of LG procurement for its members in their own procurement activity.

LG's may wish to refer to the Procurement Debarment Regime in their own procurement policies to enable them to make their own decisions around selection of suppliers and contractors.

LG's need to be assured that they have the powers to make these decisions to not include a "listed" supplier in procurement deliberations.

RESOLUTION

Moved: Mayor Grant Henley
Seconded: President Cr Ian Earl

That WALGA:

- 1. Continues to monitor the proposed Procurement Debarment Regime and the impacts on the Local Government sector to provide advice, guidance and advocacy; and**
- 2. Considers the impacts of the Procurement Debarment Regime on its own preferred supplier arrangements.**

CARRIED

12.2 Meeting Arrangements

The Zone discussed the meeting arrangements of the Zone and whether there was a desire for some Zone meetings to be conducted by video-conference.

NOTED

12.3 Population Movement to Rural and Regional Areas

The Zone discussed the recently released Regional Australia Institute report, *The Big Movers*, which is available online here: http://www.regionalaustralia.org.au/home/wp-content/uploads/2020/06/RAI_2020_The_Big_Movers_Population_Mobility_Report.pdf.

It was noted that the report suggested, that while non-metropolitan population is growing in other states, it was declining in WA. It was noted that the report relied on 2016 census data, so the contemporary situation in WA may not be reflected accurately in the report.

NOTED

12.4 Media Commentary – Planning and Development Amendment Bill 2020

The Zone discussed media commentary regarding the passing of the *Planning and Development Amendment Bill 2020*.

In particular, one article suggested that patios will no longer require a building permit, which is not correct.

Following the meeting, the article was corrected.

NOTED

12.5 Presentation of Local Government Performance Monitoring Project

It was suggested that WALGA present to the Zone on the Local Government Performance Monitoring Project at a future Zone meeting.

NOTED

12.6 Biosecurity Presentation – Shire of Boyup Brook

President Cr Brian Piesse declared an impartiality interest as Deputy Chair of the South West Catchments Council.

President Cr Richard Walker, Shire of Boyup Brook, presented on biosecurity challenges and recognised biosecurity groups.

The Shire of Collie outlined their approach to biosecurity.

NOTED

13. DATE, TIME AND PLACE OF NEXT MEETINGS

MEETING DATE	PROPOSED VENUE
28th August 2020	Bridgetown
27th November 2020	Busselton

It is proposed that the Shire of Augusta Margaret River, whose hosting role was missed due to COVID-19, will be scheduled to host the first meeting in 2021.

14. CLOSURE

There being no further business the Chair declared the meeting closed at 10:36am. Following the formal meeting, and morning tea, delegates and attendees participated in a workshop to develop the South West Region Election Manifesto.

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