



# **ATTACHMENTS UNDER SEPARATE COVER**

**FOR THE**

**ORDINARY MEETING OF COUNCIL**

**29 AUGUST, 2019**

**SHIRE OF BROOME**  
**ORDINARY MEETING OF COUNCIL**  
**29 AUGUST 2019**  
**ATTACHMENTS UNDER SEPARATE COVER**

**10.1 MINUTES OF THE JOINT MEETING OF THE KIMBERLEY ZONE OF WALGA  
AND KIMBERLEY REGIONAL GROUP HELD 6 AUGUST 2019**

Attachment 2 WALGA AGM MINUTES 2019

2



# Minutes

  

## WALGA

  

# Annual General Meeting

**Wednesday, 7 August 2019**

Perth Convention and Exhibition Centre Perth

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# **Minutes**

## **WALGA**

### **Annual General Meeting**

**held at the  
Perth Convention and Exhibition Centre  
21 Mounts Bay Road, Perth  
Riverside Theatre (Level 2)**

**Wednesday 7 August 2019  
at 1.30 pm**



## **1 Annual General Meeting – Order of Proceedings**

### **1.1 Record of Apologies**

- Cr Kelly Holzknicht, Shire of Broomehill Tambellup
- Mr John Giorgi, Town of Cambridge
- Cr /Anthony Farrell, Shire of Chapman Valley
- Cr Peter Osborne, Shire of Chittering
- Cr Tracey Rathbone, Shire of Coolgardie
- Mayor Philip Angers, Town of Cottesloe
- Cr Lorraine Young, Town of Cottesloe
- Shire of Denmark
- Cr Alison Harris, Shire of Cunderdin
- Cr Doug Thompson, City of Fremantle
- Cr Bryn Jones, City of Fremantle
- President Malcolm Edwards, Shire of Halls Creek
- Cr Brooke O'Donnell, City of Kalamunda
- Cr Suzie Williams, City of Kalgoorlie Boulder
- Shire of Menzies
- Cr Justin Bagley, Shire of Mingenew
- Shire of Ngaanyatjaraku
- Cr Michael Ryan, Shire of Northam
- Commissioner Eric Lumsden, City of Perth
- Cr Ian Goldfinch, Shire of Ravensthorpe
- Cr Vicki McQuie, Shire of Sandstone
- Cr David Lagan, City of Stirling
- President Melanie Brown, Shire of Trayning
- Cr Ian Turton, Shire of Wandering
- Cr Stephen Gamble, Shire of Wyalkatchem

### **1.2 Adoption of Standing Orders**

#### **RESOLUTION:**

**Moved** Cr Jan Court, Shire of Gingin  
**Seconded** Cr Julie Brown, City of Gosnells

**That the AGM Association Standing Orders be adopted.**



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### **1.3 Confirmation of Minutes**

Minutes of the 2018 WALGA Annual General Meeting.

#### **RESOLUTION:**

**Moved** Cr Jenna Ledgerwood, Town of Mosman Park  
**Seconded** Cr Frank Johnson, Shire of Gingin

**That the Minutes of the 2018 Annual General Meeting be confirmed as a true and correct record of proceedings.**

### **2.0 Adoption of Annual Report**

#### **RESOLUTION:**

**Moved** Cr Frank Johnson, Shire of Gingin  
**Seconded** Cr Jan Court, Shire of Gingin

**That:**

- 1. The 2019 Annual Report be received; and,**
- 2. The 2018/19 Financial Statements be received.**

### **3.0 Consideration of Executive and Member Motions**

As per motions listed.

### **4.0 Closure**

There being no further business the Chair declared the meeting closed at 6:05pm.



## 3. Consideration of Executive and Member Motions

### 3.1 Coastal Erosion

#### MOTION

Moved        Cr Jan Court, Shire of Gingin  
Seconded    Cr Tim Barling, City of Melville

That WALGA advocate to the Federal and State Governments with respect to the importance of responding to the increasing challenges faced by Coastal Councils, and develop policy initiatives to include:

1. Introduction of a national funding formula to provide the resources necessary to manage and maintain the coast effectively on behalf of all Australians, including the funds needed to increase the adaptive capacity of Councils to address climate impacts.
2. Allocation of State Funding Grants to properly investigate the causes of coastal erosion and to provide options to address the negative impacts and assist in funding the required works to stabilise the coastal areas and communities against coastal hazards where appropriate
3. Development of an intergovernmental agreement on the Coastal Zone that will provide a co-ordinated national approach to coastal governance through and in cooperation with Australian state, territory and local governments and clearly define the roles and responsibilities of each tier of government in relation to coastal zone management.
4. Creation of a National Coastal Policy, the basis of which is formed by the intergovernmental agreement on the Coastal Zone, that outlines the principles, objectives and actions to be taken to address the challenges of integrated coastal zone management for Australia.
5. An increase in funding for Australian climate science research programs conducted by CSIRO and other research bodies, including the restoration of funding for the National Climate Change Adaption Research Facility or establishment of a similar body, and continuing support for *CoastAdapt*. This is essential to ensure that appropriate guidance in responding to coastal hazards is accessible by Australia's coastal Councils so that coastal communities and assets are adequately prepared to address the adverse effects of climate change impacts.

#### IN BRIEF

- WALGA advocate for more resources to be provided to Coastal Councils to manage coastal hazards.
- Intergovernmental Agreement to develop a coordinated national approach to Coastal

**CARRIED**

#### MEMBER COMMENT

Many Western Australian Local Governments attended the Australian Coastal Councils Conference in NSW earlier this year. From this conference it was clear that other State Governments are working more closely with Local Governments to provide guidance, advice and funding to help manage coastal hazards, including storm erosion, shoreline recession and coastal inundation.

This conference also clearly outlined the fact that there is no coordinated Federal, State and Local Government Policy outlining clear responsibilities, which essentially leaves Councils in a very uncertain situation with respect to how to deal with the coastal issues that they face.





The estimated cost of coastal hazards is unprecedented and yet there is no clear direction at the Commonwealth level as to responsibilities or action plans. In nearly all instances it is being advised/proposed that retreat is the preferred method of dealing with coastal hazards, yet the financial cost of this option eclipses the cost of performing minor works to alleviate the issue for the short to medium term.

Without entering into a debate about sea-levels rising, we all acknowledge that the climate is changing and all coastal Councils in WA are being affected in some way or another that is directly impacting their residents and ratepayers. It should be noted that this matter will not only affect coastal Councils but other Council that will be affected by the ingress of water such as those located on coastal estuaries.

As such, it is requested that WALGA, whilst continuing to work in this space, has a strong focus on the recommendation above which will provide coastal Councils with the necessary support, tools, advice, resources and financial backing to work through these issues in a coordinated manner.

#### **WALGA SECRETARIAT COMMENT**

In 2013 the Western Australian Planning Commission (WAPC) adopted a significantly revised *State Planning Policy 2.6: State Coastal Planning Policy*. This policy was revised largely in response to a growing scientific consensus that increasing sea levels and storm intensities will cause more frequent coastal inundation, storm erosion and shoreline recession in coastal areas. A recent report published by the [Climate Council](#) emphasises these challenges.

In particular, the revised state coastal policy introduced new policy measures which require Local Governments to:

- a) Show due regard to coastal hazards when assessing new development proposals, or making or amending a new planning scheme
- b) Prepare strategies (Coastal Hazard Risk Management and Adaptation Plans) to preserve public interests in coastal areas, and
- c) Inform landholders of coastal hazard risks.

WALGA has been working with its members for a number of years to help Local Governments meet these responsibilities. Key activities include:

- Preparation of *Local Government and Coastal Land Use Planning: Discussion Paper* (2014)
- Preparation of *Disclosing Hazard Information: The Legal Issues* (2017)
- Establishment of the Local Government Coastal Hazard Risk Management and Adaptation Planning (CHRMAP) forum, which meets every three months to discuss common issues with member officers and progress key actions
- Submissions to the Department of Planning Lands and Heritage on the Draft Planned and Managed Retreat Guidelines (2017) and CHRMAP Guidelines (2019), and
- Preparation of *Local Government Coastal Hazard Planning Issues Paper* (in draft).

It is the secretariat's view that the requested advocacy activities, outlined in this motion, generally align with and are complementary to, the direction being pursued by members through the Local Government CHRMAP forum to seek additional resources and pursue collaborative approaches with other levels of government to manage coastal hazard risk.

The motion also aligns with:

1. Recommendations made by a [Commonwealth Government parliamentary inquiry](#) in 2009
2. Advocacy being pursued by the [Australian Coastal Councils Alliance](#)
3. WALGA's climate change advocacy, outlined in WALGA's [Policy Statement on Climate Change](#), adopted by WALGA State Council in 2018, and
4. The State Government's intent to formulate a new [climate change policy](#)



### 3.2 Department of Housing Leasing Residential Property to Charitable Organisations

#### MOTION

Moved Mayor Carol Adams, City of Kwinana  
Seconded Cr Julie Mathison, City of Subiaco

#### **IN BRIEF**

- Department of Housing policy and practice to lease housing assets, to not for profit organisations is eroding Local Governments' rate base.

WALGA advocate to the Minister for Housing to:

1. Cease the policy of the Department of Housing leasing their housing assets to charitable/not for profit organisations who are then eligible for charitable Local Government rate exemptions; or
2. Provide Local Governments with a rate equivalent payment annually as compensation for the loss of rates income; or
3. Include in the lease agreements with charitable institutions that they must pay Local Government rates on behalf of the Department of Housing recognising the services Local Government provides to its tenants.

#### AMENDMENT

Moved Cr Giorgia Johnson, City of Bayswater  
Seconded President Tony Dean, Shire of Nannup

That points 1 and 3 be deleted from the original motion.

LOST

#### AMENDMENT

Moved Cr Cliff Collinson, Town of East Fremantle  
Seconded Mayor Brett Pollock, Town of Mosman Park

That points 1 and 2 be deleted from the original motion.

THE AMENDMENT WAS PUT AND CARRIED

#### THE MOTION AS AMENDED NOW READS:

That WALGA advocate to the Minister for Housing to include in the lease agreements with charitable institutions that they must pay Local Government rates on behalf of the Department of Housing recognising the services Local Government provides to its tenants.

CARRIED

#### MEMBER COMMENT

The Department of Housing contribute to Local Government rates and do not receive the charitable rate exemption outlined in the *Local Government Act 1995*. It should be noted however that land that is held by the Crown and used for public purposes, is not rateable in accordance with section 6.26(2)(a)(i) of the *Local Government Act 1995*.



The Department of Housing own a large residential housing portfolio in Kwinana and have been paying local government rates for the tenants to access services (such as Library, crèche services, Zone Youth Space, roads and footpaths, parks and reserves) and programs (through the Community Centres, Zone, Library, free events). The standard of services and programs that the City offer is in line with community expectations. A reduction in rate revenue, which is predominantly the revenue source that funds these services, will increase the cost burden onto the remaining ratepayers to pay for these services and programs or result in a reduced standard of service to the community.

Prior to May 2019, the Department of Housing had 13 properties that were exempt from rates due to the Department of Housing leasing these properties to charitable/not for profit organisations, which is estimated to cost the City around \$20,000 annually in lost rate revenue. At the 8 May 2019 Ordinary Council Meeting, Council approved rate exemptions for another 31 Department of Housing properties as a result of these being leased to charitable/not for profit organisations, which is estimated to result in approximately an additional \$85,000 annually in lost rate revenue.

City Officers have undertaken a preliminary review of the types of properties that the Department of Housing own and has estimated that there are 338 residential properties that could be leased to charitable/not for profit organisations. If the Department of Housing entered into an agreement with a charitable organisation to manage these 338 properties and they applied for a rate exemption, the estimated annual loss of rate revenue is \$585,000.

Overall, the potential annual loss of rates revenue from the Department of Housing continuing with this business practice could be up to \$690,000. If the City maintained the same level of service, programs and capital schedule, the shortfall from the annual loss of rates revenue would equate to a 1.85% rate increase for the remaining ratepayers. A loss of this amount would be a major risk under the City's risk assessment framework.

The properties that have been granted charitable rate exemptions are still using the services and accessing programs that are being delivered, however they are not contributing towards this through rates. Each charitable rate exemption reduces the base for rates income and therefore increases the burden on other ratepayers to fund the services provided to the community by a local government. It is recommended that WALGA advocate to the Minister for Housing the negative financial impact that this current Department of Housing policy is having on Local Governments; that exempting these residential properties from rates is increasing the burden on other ratepayers; and that users of local government services should contribute towards the cost of these, including the State Government.

The City does not receive information from the Department of Housing in regards to the plans for leasing their properties until such time that a lease is entered into. The trend over recent years is that the Department of Housing owned properties are leased to charitable and/or not-for-profit organisations without any rate equivalent payment being made for the local government's loss of rates revenue.

Every Western Australian Local Government is required to apply the provisions of the *Local Government Act 1995* regarding exempt properties, including those for charitable rates exemptions and are potentially facing the same issues with the Department of Housing as the City of Kwinana.

#### **WALGA SECRETARIAT COMMENT**

The issue of rate exemptions has been a high priority for the sector in the current Local Government Act Review.

This item from the City of Kwinana is consistent with the current advocacy positions of the Association.

The sectors current policy positions are as follows:



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**Rating Exemptions – Section 6.26**

Position Statement: Request that a broad review be conducted into the justification and fairness of all rating exemption categories currently prescribed under Section 6.26 of the Local Government Act.

**Rating Exemptions – Charitable Purposes: Section 6.26(2)(g)**

Position Statement: Amend the Local Government Act to clarify that Independent Living Units should only be exempt from rates where they qualify under the Commonwealth Aged Care Act 1997; and either:

- amend the charitable organisations section of the Local Government Act 1995 to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or
- establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of Local Government rates.

**Rating Exemptions – Rate Equivalency Payments**

Position Statement: Legislation should be amended so rate equivalency payments made by LandCorp and other Government Trading Entities are made to the relevant Local Governments instead of the State Government.

**Rating Restrictions – State Agreement Acts**

Position Statement: Resource projects covered by State Agreement Acts should be liable for Local Government rates.





### 3.3 Motorist Taxation Revenue and Spending in WA

#### MOTION

Moved Hon. President Cr Paul Omodei, Shire of Manjimup  
Seconded Cr Lynn Daubney, Shire of Manjimup

To support the independent position of the RAC, that WALGA call on the State and Federal Government to:

1. Provide a fairer distribution of funding from revenue collected from Western Australian motorists (consistently a minimum of 50%) to remediate Western Australia's \$845m road maintenance backlog and tackle the increasing costs of congestion and road trauma, to deliver productivity and liveability outcomes; and
2. Hold an inquiry into road user pricing as part of a broader reform of motorist taxation that would remove revenue raising fees and charges, and / or hypothecate money collected for the provision of transport infrastructure and services.

#### **IN BRIEF**

- Fair distribution of funding from motorists to road maintenance, congestion and road safety is sought.
- An inquiry into road user pricing should be established.

#### AMENDMENT

Moved Cr Rod Bradley, Town of Cambridge  
Seconded Cr Tony Pratico, Shire of Bridgetown Greenbushes

That an additional point 3 be added that reads:

3. WALGA request RACWA to initiate a joint action in the High Court of Australia, based on SECTION 99 of the Australian Constitution, to claim an adjustment to the payment of Fuel Levies to Western Australia and for the Commonwealth to make a full and proper distribution of monies to enable Western Australia to properly build and maintain the road network needed in our vast State.

LOST

#### AMENDMENT

Moved Cr Sandra Lee, City of Kwinana  
Seconded Mayor Carol Adams, City of Kwinana

That the figure of \$845m be removed from point 1.

THE AMENDMENT WAS PUT AND CARRIED



**THE MOTION AS AMENDED NOW READS:**

To support the independent position of the RAC, that WALGA call on the State and Federal Government to:

1. Provide a fairer distribution of funding from revenue collected from Western Australian motorists (consistently a minimum of 50%) to remediate Western Australia's road maintenance backlog and tackle the increasing costs of congestion and road trauma, to deliver productivity and liveability outcomes; and
2. Hold an inquiry into road user pricing as part of a broader reform of motorist taxation that would remove revenue raising fees and charges, and / or hypothecate money collected for the provision of transport infrastructure and services.

**CARRIED**

**BACKGROUND**

A 2018 report by Acil Allen Consulting called "Motorist Taxation Revenue and Spending in WA" commissioned by the RAC reveals that over the past twelve years Western Australia has only received back on average 34 cents in every dollar of motoring taxation collected by successive Federal Governments.

Motoring taxation is collected by the Federal Government through:

- GST;
- Luxury Car Tax;
- Excise on petrol and diesel; and
- Passenger motor vehicles customs duty.

In 2016 the Western Australian Auditor General identified that Western Australia was facing an \$845M road infrastructure maintenance backlog and it is widely recognised that the condition of many metropolitan, regional and rural roads are not up to an appropriate standard. Partly supporting this position is that the Western Australian road fatality rate that is 33% higher than the national average, and that Infrastructure Australia is projecting that by 2031 Western Australia will have seven of the top ten most congested roads in Australia.

It is concerning that in 2021/22 the projection is that Western Australia motorists are expected to pay \$3.3b in motoring taxes however in the same year only \$562m is forecast to be returned to fund road and transport projects, a return of 17 cents in the dollar which is the lowest level since 2007/08.

**WALGA SECRETARIAT COMMENT**

The \$845m road maintenance backlog identified by the Western Australian Auditor General in 2016 relates only to Main Roads WA controlled roads. Additionally there is consistently a shortfall in the amount that Local Governments are able to invest in road maintenance and renewal compared that required to maintain the asset in current condition.

Twenty percent of revenue collected by the State Government from Motor Vehicle Licencing is currently provided to Local Governments through the State Road Funds to Local Government Agreement. The balance of this revenue is hypothecated to Main Roads WA. Under earlier agreements between State and Local Governments up to 27% of motor vehicle licence fee revenue has been provided to Local Governments for the road network. This difference equates to \$67 million per year. Increased Federal funding for road infrastructure would not only result in higher levels of service from State roads but also create a more favourable environment for achieving higher levels of funding for Local Government roads.



Numerous inquiries into road user pricing and broad reform of motorist taxation have been completed including:

- Productivity Commission 2007 Road and Rail Freight Infrastructure Pricing
- Henry, K *et al* 2009 Australia's Future Tax System
- COAG Road Reform Plan 2013
- Heavy Vehicle Charging and Investment Reform 2014
- Harper, I. *et al* 2015 Competition Policy Review
- Infrastructure Australia 2016, Australian Infrastructure Plan

WALGA has actively contributed to these inquiries including formal submissions endorsed by State Council (for example 65.3/2011 and 249.4/2013).

Each of these inquiries conclude that the current way of funding road infrastructure is unsustainable and inefficient. Increasingly fuel efficient vehicles, and ultimately electric or hydrogen powered vehicles are undermining the revenue base from fuel excise. However, the Federal Government firmly asserts that there is no link or hypothecation of fuel excise revenue to road funding.

The Australian Government is continuing to investigate heavy vehicle road pricing reform through the Transport and Infrastructure Council, which comprises Transport, Infrastructure and Planning Ministers from all jurisdictions, Federal Ministers and the Australian Local Government Association. The current focus is on developing nationally consistent service level standards for roads to provide an evidence base for investment decisions. Studies are also underway looking at independent price regulation and establishing a forward-looking cost base.

If roads are to become a priced utility (like power or water networks) an important consideration would be sustainable funding for low traffic volume roads, all of which are the responsibility of Local Governments. There remains an important role for all levels of government to support the provision of basic road services to ensure social mobility, economic welfare, road safety and public security. Any reforms to road investment and charging arrangements must be mindful of how best to integrate roads as an economic service with roads as a community service obligation.



### 3.4 Biosecurity Groups (RBGs)

#### MOTION

Moved Cr Tony Pratico, Shire Bridgetown Greenbushes  
Seconded Cr Alan Wilson, Shire of Bridgetown Greenbushes

That WALGA revokes its current policy position of not supporting the establishment and operations of Recognised Biosecurity Groups (RBGs) and that the decision on whether to support RBGs is to rest with individual Local Governments.

CARRIED

#### MEMBER COMMENT

A component of WALGA's current policy position on 'biosecurity' is that:

*Local Government are not supportive of Recognised Biosecurity Groups (RBGs).*

With the establishment of the Biosecurity and Agriculture Management Regulations in 2013 the State Government communicated a new policy setting, being a community coordinated approach to managing biosecurity. In Western Australia Recognised Biosecurity Groups (RBGs) were introduced as the key mechanism to deliver a community coordinated approach, and to manage widespread and established pests in WA.

The Shire of Bridgetown-Greenbushes recognises that when RBGs were initially being established in Western Australia the sector's preference was that the State Government maintains responsibility for the management of pests including providing assistance to land managers and establishment of a biosecurity network. However with the significant establishment of RBGs since 2013 the Shire of Bridgetown-Greenbushes believes it is timely for WALGA to review its current policy position.

Currently there are 16 RBGs established in Western Australia with more being considered for establishment. The 16 current RBGs have a footprint across 61 local governments in Western Australia. As the RBGs are established it is therefore appropriate and at times necessary for the affected local governments to work with the RBG to ensure that the services provided by the RBG are coordinated and compatible with services, works, etc. that are provided by the local government. This working environment and partnership can be compromised by the existence of a sector-wide policy provision that states that Local Government isn't supportive of the existence of the RBG.

With 16 RBGs established and more likely to come it is unlikely that legislation is going to be amended to discontinue this approach to biosecurity management.

The Shire of Bridgetown-Greenbushes proposes that WALGA amend its current policy position by removing the specific part that states that the sector is not supportive of RBGs. Instead the decision on whether to support a RBG should rest with individual Local Governments.

The Blackwood Biosecurity Group (BBG) operates within the boundaries of the Shire of Bridgetown-Greenbushes. The Shire has chosen to recognise and respect the work being done by the BBG noting that the establishment of the BBG wasn't a Shire initiative.

#### IN BRIEF

- Current WALGA policy position is that local government isn't supportive of Recognised Biosecurity Groups (RBGs).
- Since development of this policy position 16 RBGs have been established in Western Australia, covering land within 61 separate local governments.
- Individual local governments can be discouraged from trying to work with the RBG in its area due to the current sector policy provision.
- It is timely to review the current policy position.





The choice on whether to support the activities of the BBG was a decision that solely rested with the Shire of Bridgetown-Greenbushes. However this decision appears to have left the Shire open to criticism within the sector. In recent times, at various meetings where the subject of RBGs has been on the agenda, including those with WALGA representatives in attendance, there was a view expressed by some that by supporting the BBG the Shire of Bridgetown-Greenbushes is acting in contradiction of a sector policy provision, is therefore weakening the sector's position and could be seen to be encouraging the extension of RBGs or the establishment of more RBGs in Western Australia.

The Shire of Bridgetown-Greenbushes respects the rights of individual Local Governments to oppose the establishment of, or continuation of a RBG within their areas.

The WALGA policy position on biosecurity groups was determined before the growth in the number of RBGs in Western Australia and therefore it is timely to review that position. All other components of the WALGA policy position on 'biosecurity' can be retained.

### **SECRETARIAT COMMENT**

Correspondence received in May 2019 from the Minister for Agriculture has indicated that the review of the *Biosecurity and Agriculture Management Act (2007)* will occur in the second quarter of 2020.

It is envisaged that the current Policy Position will be reviewed in response to any proposed changes to the Act. The policy review will include the provision of a discussion paper on any potential changes to the Act, and a series of workshops for members across the State in order for members, the WALGA zones, and ultimately State Council, to make their respective determinations.

That said, the change proposed by the Shire of Bridgetown-Greenbushes asserts the primacy of each member to make its own decisions, in accordance with its community's desires and expectations.



### 3.5 WALGA Members Support for Waste to Energy

#### MOTION

**Moved** Cr Peter Robinson, Shire of Dardanup  
**Seconded** Cr Bennett, Shire of Dardanup

That WALGA seek firm commitments from the State Government about how the waste avoidance, resource recovery and diversion from landfill targets will be achieved, including local options for reprocessing, recycling and waste to energy.

In particular these commitments should clearly indicate how the State Government will cease the proliferation of landfills in the non-metropolitan areas which are predominantly taking metropolitan waste or waste generated elsewhere in the state including mining and construction camps. These commitments should encourage alternative options and outline what incentives the Government will put in place to reduce, and eventually eliminate, our reliance on landfill.

#### IN BRIEF

- Seeking support for the Waste Strategy: Western Australia's Waste Avoidance and Resource Recovery Strategy 2030 from WALGA Members.
- To seek firm commitments from the State Government as to how it will be achieved, including alternative options and incentives to reduce and eventually eliminate reliance on landfill.

**CARRIED**

#### ATTACHMENTS

**Attachment 1** – Waste Avoidance and Resource Recovery Strategy 2030

[http://www.wasteauthority.wa.gov.au/media/files/documents/Waste\\_Avoidance\\_and\\_Resource\\_Recovery\\_Strategy\\_2030.pdf](http://www.wasteauthority.wa.gov.au/media/files/documents/Waste_Avoidance_and_Resource_Recovery_Strategy_2030.pdf)

**Attachment 2** – Waste Avoidance and Resource Recovery Strategy Action Plan 2030

[http://www.wasteauthority.wa.gov.au/media/files/documents/Waste\\_Avoidance\\_and\\_Resource\\_Recovery\\_Strategy\\_2030\\_Action\\_Plan.pdf](http://www.wasteauthority.wa.gov.au/media/files/documents/Waste_Avoidance_and_Resource_Recovery_Strategy_2030_Action_Plan.pdf)

**Attachment 3** – Waste to Energy Position Statement

[https://www.wasteauthority.wa.gov.au/media/files/documents/W2E\\_Position\\_Statement.pdf](https://www.wasteauthority.wa.gov.au/media/files/documents/W2E_Position_Statement.pdf)

**Attachment 4** – WALGA Waste to Energy Discussion Paper for Local Government

<https://www.dropbox.com/s/7ihc97m8p056nk1/Attachment%20-%20W2E%20Discussion%20Paper%20FINAL.pdf?dl=0>

#### MEMBER COMMENT

- Currently the Strategy sets Targets for these outcomes but does not include a firm plan of how the State Government is going to actually implement and achieve these Targets. The Waste Avoidance and Resource Recovery Strategy Action Plan 2030 ([Attachment 2](#)) also does not provide clarity or concrete actions or incentives to address these targets.
- Building on and updating the first Western Australian Waste Strategy: Creating the Right Environment published in 2012, earlier this year (2019) the State Government released the West Australia's Waste Strategy (Waste Avoidance and Resource Recovery Strategy 2030). Previous State Government Targets have included goals of towards zero waste to landfill by 2020. This may no longer be achievable, however there has been positive trends in waste figures as included in Table 1 on page 9 of the Waste Strategy:



Table 1: Changes in waste generation and landfill in Western Australia, 2010-11 and 2014-15 (Hyder, 2013 & ASK Waste Management, 2017)

	2010-11	2014-15	Percentage change
Generation – total	6.53 million tonnes	6.23 million tonnes	↓5%
Generation – per capita	2,764 kilograms	2,437 kilograms	↓12%
Waste to landfill	4.49 million tonnes	3.61 million tonnes	↓20%
Resource recovery	2.04 million tonnes	2.62 million tonnes	↑28%

- Increases in FOGO and other recycling efforts have improved resource recovery significantly up 28%, whilst per capita generation is down 12%. The knock on effect is that there was a fifth (20%) less waste going to landfill in 2014/15 than in 2010/11. However, there have been questions raised regarding the accuracy of this data and the Department of Water and Environmental Regulation are going to require mandatory reporting by Local Government and industry to address this issue. Even given questions about the data, there is still more than 3.6 million tonnes of waste going to landfill every year.
- To reduce this the Waste Strategy 2030 sets out the following targets:

<b>VISION</b>	Western Australia will become a sustainable, low-waste, circular economy in which human health and the environment are protected from the impacts of waste.		
<b>OBJECTIVES</b>	<b>Avoid</b> Western Australians generate less waste.	<b>Recover</b> Western Australians recover more value and resources from waste.	<b>Protect</b> Western Australians protect the environment by managing waste responsibly.
<b>TARGETS</b>	<ul style="list-style-type: none"> <li>2025 – 10% reduction in waste generation per capita</li> <li>2030 – 20% reduction in waste generation per capita</li> </ul>	<ul style="list-style-type: none"> <li>2025 – Increase material recovery to 70%</li> <li>2030 – Increase material recovery to 75%</li> <li>From 2020 – Recover energy only from residual waste</li> </ul>	<ul style="list-style-type: none"> <li>2030 – No more than 15% of waste generated in Perth and Peel regions is landfilled.</li> <li>2030 – All waste is managed and/or disposed to better practice facilities</li> </ul>

Source: Waste Avoidance and Resource Recovery Strategy 2030 page 6

- If these targets are achieved it would result in the following:
  - Total waste generated in 2030 reduced by 20% from 2014/15 figures to 4.98 million tonnes per annum.
  - Only 15% of total waste generated is landfilled (acknowledging that the target is only set for Perth and Peel), the total waste to landfill across the state will be 0.75 million tonnes.
  - Resource recovery is increased to 75%, resulting in 3.74 million tonnes being recovered.
  - That leaves 0.5 million tonnes potentially available for Waste to Energy – which the Strategy notes should only be generated from 'residual waste'. The alternative is that waste to landfill will increase to 1.25million tonnes per annum.
- Whilst the targets are clear, the plan about how this will be implemented is yet to be developed and Local Government and industry will need long term certainty to invest to achieve these targets. The Shire of Dardanup is therefore asking WALGA members to support WALGA to advocate to the State Government for more specific and firm commitments to divert waste from landfill through local options for reprocessing, recycling and waste to energy.
- In this regard, the Waste Authority recognises the benefits in siting waste infrastructure close to the



source of waste generation. Benefits include reduced transport impacts from the movement of waste, such as greenhouse impacts, traffic congestion and community amenity (Waste Authority's Waste to Energy Position Statement, 2013 - [Attachment 3](#)). It is therefore important that **local options** for reprocessing, recycling and waste to energy are considered an essential component in achieving the Waste Strategy's targets. Not taking action and continuing with the status quo will mean waste is transported hundreds or even thousands of kilometres to be disposed of in the regions, rather than being dealt with at source. By considering smaller scale local options it would provide opportunities for reduction at source and also assist communities in the regions to reduce their waste to landfill.

- Considering the above, without Waste to Energy (WtE) and significant improvements in resource recovery, there would still be 25% or 1.25million tonnes state-wide of waste being sent to landfill. According to a 2013 discussion paper ([Attachment 4](#)) prepared for WALGA by the Municipal Waste Advisory Council (MWAC), a standing committee of the Association with delegated authority to represent the Association in all matters relating to solid waste management, WtE could reduce the weight of waste by 70-80% and the volume of waste by 90%.
- The Waste Authority considers best practice WtE processes to be a preferable option to landfill for the management of residual waste but not at the expense of reasonable efforts to avoid, reuse, reprocess or recycle waste. WtE has the potential to divert substantial volumes of waste from landfill (and thereby support the delivery of Waste Strategy targets) and produce a beneficial product (Waste Authority's Waste to Energy position Statement, 2013).
- To address this it is important that options for reduction in the amount of waste going to landfill also consider smaller waste to energy plants that could be located within regional areas to reduce reliance on landfill. Initial investigations indicate that current available technologies could provide opportunities for smaller plants to be established that would use about 500kg of Municipal Solid Waste per hour or about 4,400 tonnes per annum. Such facilities could be located across regional areas and reduce waste to landfill but also provide for energy generation.
- It is recommended that the alternative options outlined in this item be incorporated into the Waste Strategy's Action Plan 2030 with specific incentives put in place by the Government to ensure we reduce, and eventually eliminate, our reliance on landfill.

#### SECRETARIAT COMMENT

The Shire of Dardanup should be commended for their initiative and identification of key issues such as the need to control the development of new landfills, to support the Strategy Targets, and to develop local solutions to divert material from landfill for material and energy recovery.





### 3.6 Membership of Development Assessment Panels

#### MOTION

**Moved** Cr Lynn Fisher, Shire of Mundaring  
**Seconded** Cr John Daw, Shire of Mundaring

**That WALGA advocate increasing Local Government membership in Development Assessment Panels.**

**CARRIED**

#### MEMBER COMMENT

At its meeting of 3 March 2018, the Shire of Mundaring Council resolved to:

*"Advise WALGA that it recommends WALGA investigate increasing local government membership in Development Assessment Panels, rather than advocate for the introduction of Third Party Appeal Rights."*

The Shire will be reconsidering its position in relation to Third Party Appeal Rights at its meeting on the 11 June 2019; its position on seeking WALGA investigate increasing local members on DAP however remains unchanged.

The Department for Planning's website states:

As a key component of planning reform in Western Australia, Development Assessment Panels (DAPs) are intended to enhance planning expertise in decision making by improving the balance between technical advice and local knowledge.

Development Assessment Panels (DAPs) comprise three technical experts in planning (one of whom chairs the meeting) and two elected members from the local government in which the DAP applies. This is not a balance and there could be various membership options that WALGA could explore, with some likely to be more palatable to the State than others.

For example, an equal number of local elected members and planning professionals on a DAP would demonstrate respect for the expertise of local members in applying planning regulations to a proposed development. It would demonstrate that local elected members have views of equal importance to those of the other Panel members.

Equal numbers of members could result in a tied vote with the Chairperson having a deciding vote. That would not diminish the importance of a balanced number of local representatives and planning experts participating in the decision making process. DAPs are public meetings. Community members attend to take the opportunity to briefly address the Panel and to listen to the reasons why the decision is made.

Appointing additional elected member/s to DAPs means community members would have local experts and three planning experts explain how the proposed development would impact on a local area and what conditions, if any, are justifiably imposed. This would be educative for the community, strengthen transparency and increase public respect for the DAP process.

#### **IN BRIEF**

- DAP includes 3 experts and 2 elected members, which is considered by DoPLH as a balanced decision-making framework;
- There is a need to strengthen transparency and increase public respect for the DAP process;
- It is proposed that WALGA advocate for increasing local government membership on DAP.



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## SECRETARIAT COMMENT

The Minister for Planning initiated several amendments to Development Assessment Panels (DAPs) to improve their efficiency and operation. The majority of the changes were *"primarily administrative to ensure the system remains flexible and responsive, while more clearly communicating DAP decisions to the public"* ([Changes-to-the-DAP-system-announced.aspx](#)), and did not include changes to DAP membership.

A previous 2016 AGM resolution was for WALGA to advocate for consideration of a series of reforms, in the event that DAPs remain in place, to ensure greater accountability, transparency and procedural fairness for ratepayers through the Panel's assessment and decision making processes. One of the reforms specifically sought a change that would require equal membership on the DAP between Local Government and Appointed Specialist members with an independent chair approved by both State and Local Governments.

At the same 2016 AGM, WALGA was also requested to advocate for an independent review of the decision making within the WA planning system, looking at the roles and responsibilities of State and Local Government and other decision making agencies, Development Assessment Panels and the State Administrative Tribunal appeal process

In December 2016, two reports were presented to WALGA's State Council, one on the review of the entire planning system (Resolution 108.6/2016), followed by one on the possible improvements to the DAPs system (Resolution 109.6/2016). The report on the review of Decision Making within the WA Planning System also resolved to undertake research on third party appeals around Australia and further consult with members regarding its current policy position. The Association prepared a discussion paper which provided background on the development of WALGA's position and a review of the arguments both for and against third party appeals which was then circulated to the Local Government sector for comment and feedback during 2017.

At the May 2018 WALGA State Council meeting, it was resolved to amend the policy position to support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels (DAPs) (Resolution 37.2/2018). The following resolutions were made: -

1. Note the results of the additional consultation with members on the possible introduction of Third Party Appeal Rights into the Planning System;
2. Based on the feedback received, amend its current policy position to support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels;
3. Provide the State Government with the outcomes of this consultation and advocate for the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels as part of the upcoming Independent Planning Reform process; and
4. Further consult with members to provide more clarity on the exact details of the criteria that would need to be established, before any system of Third Party Appeals for decisions made by Development Assessment Panels is implemented by the State Government.

At its May 2019 meeting (Resolution 44.4/2019), WALGA's State Council considered a 'Preferred Model' and resolved that WALGA:

1. Continues to advocate for the State Government to introduce Third Party Appeal Rights for decisions made by Development Assessment Panels, and
2. Endorses the 'Preferred Model' as presented in the May 2019 Agenda, as the Third Party Appeals process for decisions made by Development Assessment Panels and in future give consideration to broadening Third Party Appeal Rights to other parties relating to Development Assessment Panel decisions.

The Shire of Mundaring proposal to have equal representation may achieve an actual balance between technical advice and local knowledge, as espoused as the objective of the DAP framework. This would



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be a beneficial improvement to the DAP system, particularly in the event that the State is unwilling to pursue any introduction of Third Party Appeal Rights to DAP decisions. The Minister for Planning has advised that Third Party Appeal rights would not be considered by the Government as it would add unnecessary complexity and red tape to the planning framework, contrary to the intent of the current planning reform process.



### 3.7 Review of the *Mining Act 1978*

#### MOTION

**Moved** President Laurene Bonza, Shire of Dundas  
**Seconded** Cr Les Price, Shire of Cue

**That:**

1. WALGA requests that the Hon. Bill Johnston, Minister for Mines and Petroleum, undertakes a review of the outdated *Mining Act 1978* and that the revision address FIFO and DIDO, and its impact on local communities; and
2. The Mining application process includes a mandatory MOU with the Local Government which would be overseen by the Auditor General to ensure fairness to the Community by having the mining company contribute to local infrastructures as a Legacy project.

#### IN BRIEF

- FIFO and DIDO to be limited in a reviewed Mining Act, similar to the Stronger Resource Communities Act in Qld [https://www.legislation.qld.gov.au/view/whole/pdf/info\\_rce/current/act-2017-028](https://www.legislation.qld.gov.au/view/whole/pdf/info_rce/current/act-2017-028)
- That an MOU with Councils is addressed as a compulsory part of the mining application process
- That the MOU forms part of the Audit process of the relevant Local Government

#### AMENDMENT

**Moved** Cr Sandra Lee, City of Kwinana  
**Seconded** Mayor Carol Adams, City of Kwinana

**That point 1 be amended to read:**

WALGA requests that the Hon. Bill Johnston, Minister for Mines and Petroleum, undertakes a review of the *Mining Act 1978* with a view to maximising the benefits to local communities and its impact on local communities; and

**THE AMENDMENT WAS PUT AND CARRIED**

#### THE MOTION AS AMENDED NOW READS:

**That:**

1. WALGA requests that the Hon. Bill Johnston, Minister for Mines and Petroleum, undertakes a review of the *Mining Act 1978* with a view to maximising the benefits to local communities and its impact on local communities; and
2. The Mining application process includes a mandatory MOU with the Local Government which would be overseen by the Auditor General to ensure fairness to the Community by having the mining company contribute to local infrastructures as a Legacy project.

**CARRIED**

#### MEMBER COMMENT

As a Local Government we have felt and seen the impact of mine closures and factors out of our control and how this can devastate a small community. This has significant flow on effects from lack of volunteers to support fighting bush fires in our 95,000 square kilometres of currently unmanaged, UCL land, lack of volunteers to support St Johns Ambulance services, to reducing the capacity of our school





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through a steady decline in numbers. Businesses have closed, as have Government Departments as the population declines.

We are not advocating a total elimination of FIFO and DIDO as this would be an unrealistic approach.

We seek the Minister's support as a matter of urgency to make our small communities sustainable.

#### **SECRETARIAT COMMENT**

The Association provided an interim submission to the Education and Health Standing Committee Inquiry into mental health impacts of FIFO work in October 2014. This inquiry was in response to the suicides of nine FIFO lives in the Pilbara region of WA.

The submission reinforced support for the implementation of the key recommendations of the 2013 House of Representatives Standing Committee Senate Inquiry report, *Cancer of the bush or salvation for our cities*. That Inquiry recommended research to be undertaken by the Commonwealth Government to determine the socio economic impact of FIFO work practices, accurate measurement of the impact of FIFO on existing on infrastructure and services, and strategies to address current inequities in infrastructure and sustainability of regional medical services health service delivery.



### 3.8 Financial Assistance Grant

#### MOTION

**Moved** Cr Laurene Bonza, Shire of Dundas  
**Seconded** Cr Tony Pratico, Shire of Bridgetown  
Greenbushes

**That WALGA requests the Hon. Minister of Local Government and Communities David Templeman to assist all Local Governments to Lobby the Federal Government to retain the Financial Assistance Grant at one percent of the of Commonwealth Taxation Revenue.**

**CARRIED**

#### MEMBER COMMENT

The Shire of Dundas feels the current funding arrangements for Local Government are no longer fit for purpose.

The roles and responsibilities of Local Government has grown significantly. The main funding available from the Australian Government (the Financial Assistance Grants) has consistently declined from a level equal to 1% of Commonwealth Taxation Revenue (CTR) in 1996 to just 0.55% of CTR today.

The Australian Government collects approximately 82% of Australia's tax revenue and is responsible for just one tenth of Australia's public infrastructure assets.

Local councils raise 3.6% of taxes and are responsible for 33% of public infrastructure, including 75% of Australia's roads

3.6% of the tax take is not adequate funding to unlock the potential of our communities. The decline in the Financial Assistance Grants funding has left local councils worse off struggling to meet increasing demand on local infrastructure and services and impacting their ability to build and maintain essential infrastructure to the higher standard required today.

The result is increased pressure on rates and council budgets, making it harder to maintain community services and infrastructure.

There is a current infrastructure backlog of \$30+billion dollars. The requirement to upgrade and renew infrastructure built during the 'baby boom' and rapid growth periods in the 60s and 70s is becoming a major problem. New infrastructure is also required to meet the needs of the growing population and to meet productivity and safety requirements.

There are also increasing community expectations related to the type and standards of services available to local communities. This is placing pressure on local governments particularly when they are required to provide services previously provided by the other spheres of government. This is particularly the case in thin markets such as rural and regional areas where, if federal or state governments withdraw services, local government must step in or no one will, as we have seen in recent years.

#### IN BRIEF

- Acknowledges the importance of federal funding through the Financial Assistance Grants program for the continued delivery of council services and infrastructure;
- Expresses its concern about the decline in the value of Financial Assistance Grants funding at the national level from an amount equal to around 1% of Commonwealth Taxation Revenue in 1996 to a current figure of around 0.55%; and
- Calls on all political parties contesting the 2019 Federal Election and their local candidates to support the Australian Local Government Association's call to restore the national value of Financial Assistance Grants funding to an amount equal to at least 1 % of Commonwealth Taxation revenue and therefore to provide a Fairer Share of Federal funding for our local communities.



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## SECRETARIAT COMMENT

WALGA supports the need for a review of the Financial Assistance Grants (FAGs) system, from the perspective of growing the overall size of the pool.

WALGA has consistently supported advocacy, through ALGA and other channels, for increases in funding from the Commonwealth Government to Local Government through Financial Assistance Grants. WALGA continues to work with ALGA to advocate to increase FAGS funding to 1% of taxation revenue.

ALGA's number one priority in their Federal Election advocacy strategy was to restore Financial Assistance Grant funding to one percent of Commonwealth taxation revenue. This remains an ongoing area of advocacy for ALGA.



### 3.9 Third Party Appeal Rights

#### MOTION

**Moved** Cr Giorgia Johnson, City of Bayswater  
**Seconded** Cr Julie Mathison, City of Subiaco

#### IN BRIEF

- Further amendments proposed to the Preferred Model for Third Party Appeals Process

1. That there be an amendment to the Third Party Appeals Process Preferred Model, being that third parties in addition to Local Governments are able to make an appeal.
2. That there be an amendment to the Third Party Appeals Process Preferred Model, being that closely associated third parties in addition to Local Governments are able to appeal decisions made by the Western Australian Planning Commission and the State Administrative Tribunal, in addition to Development Assessment Panels.

**CARRIED**

#### MEMBER COMMENT

The Council has taken a particularly strong stand on this important issue and it is requested that this matter be given further consideration.

#### SECRETARIAT COMMENT

At its May 2019 meeting, WALGA's State Council considered a 'Preferred Model' and resolved that WALGA:

1. Continues to advocate for the State Government to introduce Third Party Appeal Rights for decisions made by Development Assessment Panels, and
2. Endorses the 'Preferred Model' as presented in the May 2019 Agenda, as the Third Party Appeals process for decisions made by Development Assessment Panels and in future give consideration to broadening Third Party Appeal Rights to other parties relating to Development Assessment Panel decisions.

(Resolution 44.4/2019)

The above resolution was sent to the Minister for Transport: Planning with a copy of the proposed model (as attached).

The May 2019 Agenda item sought to finalise a 'Preferred Model' for appeals on Development Assessment Panel decisions. WALGA's State Council considered several alternative WALGA Zone resolutions, as several Zones proposed alternative 'Preferred Models' for decisions made by DAPs, preferred types of Third Party Appeals and one Zone indicated its opposition to any Third Party Appeals model being introduced, as follows: -

#### SOUTH METROPOLITAN ZONE

That the Position Statement be referred back to WALGA officers to provide an evidence case to support the need for change, the expected benefits, and an analysis of the implications of change in terms of cost, resource and timeframes by utilising the experience of other States where third party appeals exist and applying that to the system proposed.



#### GREAT SOUTHERN COUNTRY ZONE

That the Zone opposes Third Party Appeals in relation to Item 5.2 in the May 2019 WALGA State Council Agenda.

#### EAST METROPOLITAN ZONE

That there be an amendment to the Preferred Model, being that third parties are able to appeal decisions made by the Western Australian Planning Commission and the State Administrative Tribunal, in addition to Development Assessment Panels.

#### CENTRAL METROPOLITAN ZONE

That WALGA:

1. Continues to advocate for the State Government to introduce Third Party Appeal Rights for decisions made by Development Assessment Panels; and
2. Endorses the original December 2018 'Preferred Model' as the third party appeals process for decisions made by the Development Assessment Panels with the following amendments:
  - a. DOT POINT 1 "which could possibly be expanded later if it proves to be beneficial" to be removed
  - b. DOT POINT 4 to be replaced with "Other affected parties would be able to appeal a DAP decision"

Based on the formal resolutions received and members discussions at Zone meetings, there were a range of options available for State Council to consider at its meeting in May: -

1. Not adopt a Preferred Model until more information on cost and resource implications is provided;
2. Adopt the Preferred Model as presented in the May 2019 Agenda;
3. Adopt the Preferred Model as presented in the May 2019 Agenda, with the amendments suggested by the East Metropolitan Zone, ie ability to appeal decisions made by the Western Australian Planning Commission and the State Administrative Tribunal, in addition to Development Assessment Panels;
4. Adopt the Preferred Model as circulated to members in December 2018;
5. Adopt the Preferred Model as circulated to members in December 2018, with the amendments suggested by the Central Metropolitan Zone;
6. Adopt the Preferred Model with different amendments (any amendments discussed by State Council);
7. Not adopt any Preferred Model but still advocate for Third Party Appeal Rights for DAPs decisions
8. Adopt a different Third Party Appeal model (ie wider than just for DAPs);
9. Consult the sector again on what model of Third Party Appeal rights is considered acceptable given the wide range of views;
10. Return to the pre-May 2018 position, where any Third Party Appeal rights are not supported

The preferred approach by State Council was to adopt the Preferred Model as presented in the May 2019 Agenda, as it would provide the starting point for discussion with the State Government about the introduction of Third Party Appeals for Development Assessment Panel decisions.

WALGA provided this position to the Minister for Transport; Planning and the Minister's response was as follows:

*I note WALGA's State Council endorsed Preferred Model on this matter, however I maintain concerns regarding the unnecessary complexity and red tape third party appeal rights would add to the*



*planning system, which is contrary to the objectives of the Government's commitment to planning reform.*

*The Department of Planning, Lands and Heritage received 254 submissions in response to the Green Paper, including many which confirmed the issues and views identified in the Green Paper regarding the current DAP system.*

*An Action Plan for planning reform which contains a program of initiatives to address the concerns identified by the Green Paper and submissions is currently being finalised by the Department for consideration by Government.*

*I will make announcements regarding the content of the Action Plan and reform initiatives in the near future.*





# Preferred Model

## Third Party Appeal Rights for decisions made by Development Assessment Panels

### Benefits of Third Party Appeal Right for decisions made by Development Assessment Panels

- Only Local Governments will be able to challenge and seek review of DAP decisions that are made contrary to the recommendations of the Responsible Authority Report (RAR) or Council position.
- In future, possible consideration to a broadening of Third Party Appeal Rights to other parties relating to Development Assessment Panel decisions.
- Local Government would be able to appeal a DAP decision and defend the merits of their policies and defend the enforceability of their conditions.
- More transparent process in both decision making and condition setting, resulting in more accountable DAP members.
  
- Would allow for an appeal to be made on the conditions of approval or refusal
  - i) that may have been removed from a RAR; or
  - ii) added to the decision, particularly where no liaison has occurred with the Local Government for clearing or enforcing the condition; or
  - iii) applied inappropriately i.e. the condition would change the intent or design of the development and therefore a new application should have been lodged.
  
- Limits appeal rights to larger, more complex applications and would filter out 'smaller' impact applications which could potentially overburden the system.
- Provides the opportunity for additional information to be included in the appeal process, particularly if information was not received before the DAP meeting.
- Provides the ability to challenge any new information being presented at the DAP meeting without the Local Government being able to undertake any assessment of the new information (unassessed revised plans are currently being lodged and approved at meetings).
- Able to appeal the 'Deferral' process being over utilised, i.e. DAPs are tending to defer applications multiple times rather than making a decision to approve or refuse the proposal.
- Can give the Local Government more confidence that the developer will provide a fully complete application and discuss the application with the Local Government first, rather than relying on the DAP to condition the proposal requiring additional critical information.



### Appellants in a Third Party Appeal

Should be for

- A Local Government where DAP has gone against the position of Council itself; or
- A Local Government where DAP has gone against the Responsible Authority Report (RAR)

### Local Government makes a submission

- SAT would need to ensure that appeals are made on valid planning grounds and are not made for commercial or vexatious reasons.
- The existing Directions Hearing process could be used to see if the appeal has reasonable planning merit, which would assist in providing clarity on what constitutes a valid planning consideration and what would be an invalid planning consideration. The Directions Hearing could consider the appellant's justification for submitting the appeal, in particular, whether the grounds of appeal are supported by documentary evidence or other material (a similar process for justifying the lodgement of an appeal already exists through Section 76 of the *Planning and Development Act 2005*).
- *\*\* Will need to discuss with SAT the definition of 'valid planning grounds' to determine whether the submission has reasonable grounds for appeal\*\**

### What can be appealed?

- DAP applications that are compulsory over \$10 million for JDAPs and \$20 million for City of Perth DAP; or
- DAP applications in the optional threshold \$2m – 10m for JDAPs and in the City of Perth \$2 million - \$20 million; or
- DAP applications seeking amendments to approvals *i.e.* Form 2 applications proposing a change to the development application, and including applications for an extension of time

### Timeframe to lodge an appeal

- As per the existing timeframe, an appeal on a decision made by a Development Assessment Panel should be lodged within 28 days of the decision being made public, ie publishing of the DAP minutes.
- Local Governments would need to determine within their own organisation what process to follow in order to decide whether or not to lodge an appeal against a DAP decision. In many cases this may require a Special Council meeting to determine this.

### Costs

- Any Local Government would need to cover their costs of initiating the appeal, attending SAT directions, mediation and hearings, and costs could also include obtaining expert advice.





## Appeals Process

