

CITY OF ARMADALE

MINUTES

OF CITY STRATEGY COMMITTEE HELD IN THE COMMITTEE ROOM,
ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON TUESDAY, 11
NOVEMBER 2003, AT 7.00 PM.

PRESENT:

Cr D L Hopper JP	Deputy Chair
Cr V L Clowes-Hollins	
Cr A L Cominelli JP	
Cr J H Munn JP CMC	
Cr L Reynolds JP	
Cr H A Zelones JP	
Cr R J Tizard	Deputy for Cr Hodges

APOLOGIES:

Cr G M Hodges	Leave of absence
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OBSERVERS:

Cr P J Hart	[7pm – 7.45pm]
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IN ATTENDANCE:

Mr R S Tame	- Chief Executive Officer
Mr A F Maxwell	- Executive Director Corporate Services
Mr I MacRae	- Executive Director Development Services
Mrs S D'Souza	- CEO's Executive Assistant

Public - Nil

DISCLAIMER

The Disclaimer for protecting Councillors and staff from liability of information and advice given at Committee meetings was not read by the Chairman, given no members of the public were present at the meeting.

DECLARATION OF MEMBERS' INTERESTS

QUESTION TIME

DEPUTATION

Nil

CONFIRMATION OF MINUTES

RESOLVED

Minutes of the City Strategy Committee Meeting held on 11 October 2003, be confirmed.

ITEMS REFERRED FROM INFORMATION BULLETIN

INFORMATION BULLETIN – ISSUE NO.21/2003

The following items were included for information in the “City Strategy section”

- Progress Report on Contingency, Operational and Strategic Projects
- Report on Outstanding Matters

Committee noted the information. No items were raised for further report

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CITY STRATEGY COMMITTEE

11 NOVEMBER 2003

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ANNUAL REPORT – 2002/2003

WARD All
FILE REF: COA/24
DATE 29 October 2003
REF AWD
RESPONSIBLE Manager Administration
MANAGER & Governance

In Brief:

Council is requested to:

- Accept the 2002/03 Annual Report (including full Financial Report)
- Determine the date, time and place of the Annual General Meeting of Electors

Officer Interest Declaration

Nil

Strategic Implications

Communication:

To achieve a dialogue with the community to have a clearer understanding of the community's needs and expectations.

Legislation Implications

Sections 5.27, 5.32, 5.33 and 5.54 of the Local Government Act 1995 apply.

Council Policy/Local Law Implications

Nil

Budget/Financial Implications

Sufficient funds have been allocated in Council's budget to cover all costs associated with this matter.

Consultation

- Mayor
- CEO
- Senior officers
- Design/publishing houses

COMMENT

The purpose of this report is to obtain Council's acceptance of the text of the 2002/03 Annual Report, which is a requirement of Section 5.54 of the Local Government Act 1995, and to determine the date, time and place of the Annual General Meeting of Electors in accordance with Section 5.27 of the Act.

Progress on the artwork for the cover and layout design is currently nearing completion, however, the final draft of the Annual Report (text) is presented at **Attachment "A-1" (Summary of Attachments – lilac page)** for acceptance by Council in satisfaction of the requirements of the Act. It will be noted that the report contains the full Financial Report which better satisfies statutory requirements.

The proposed timetable for completion of the Annual Report and convening of the AGM is as follows:

Due Date	Task
Council Meeting 17 November 2003	<ul style="list-style-type: none"> - Annual Report presented to Council via City Strategy Committee with recommendation to accept the Report. - Council to determine date, time and place of Annual General Meeting of Electors.
Notices to be placed in 20 November Examiner and 25 November Comment newspapers.	Public notice to be given re: <ul style="list-style-type: none"> - Availability of the Annual Report; and - Date, time, place and purpose of the Annual General Meeting of Electors.
2 December 2003	AGM reminder advertisement and distribution of A4 flyer summarised Annual Report to households.
Thursday, 4 December 2003	Annual General Meeting of Electors to be held in the Function Room commencing at 7.30pm.
Council Meeting – 19 January 2004	Minutes of AGM to be reported to Council.

CS62/11/03 RECOMMEND

That Council:-

- 1. accept the 2002/2003 Annual Report (including full Financial Report), as presented, at Attachment A-1 to this Report.**
- 2. hold its Annual General Meeting of Electors on Thursday, 4 December 2003 at 7.30pm in the City's Function Room, 7 Orchard Avenue, Armadale.**

Moved Cr Reynolds
Motion Carried (7-0)



AERIAL PHOTOGRAPH
ROLEYSTONE SHOPPING CENTRE & SURROUNDING AREA

ROLEYSTONE NEIGHBOURHOOD CENTRE IMPROVEMENTS

WARD : Roleystone
FILE REF : A134334
DATE : 30 October 2003
REF : JEH
RESPONSIBLE : PSM
MANAGER

In Brief:-

- Application received by Council on 6 August 2003 for redevelopment of Roleystone Shopping Centre.
- Owner of the shopping centre will investigate alternative design options subject to a commitment in principle from Council to undertake works.
- In October Council resolved to refer consideration of this matter to the appropriate Committee. Preliminary discussion was held at Development Services Committee meeting of 13 October 2003.
- Recommend that officers prepare a program of works to be submitted to Council for the purpose of improving the streetscape and integration of facilities in centre of Roleystone.

Officer Interest Declaration

Nil.

Strategic Implications

Development – “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications

Local Government Act
Metropolitan Centres Policy

Council Policy / Local Law Implications

City of Armadale Retail Hierarchy Review (April 2003)
City of Armadale Commercial Strategy (Draft)

Budget / Financial Implications

There is no specific budget allocation at this time for Council to conduct works to improve the centre of Roleystone. Should Council agree in principal to conduct works in the centre of Roleystone, a detailed program of works will be submitted for the consideration of the Council.

Consultation

- Shopping Centre Owner
- Technical Services Directorate

BACKGROUND

On 20 October 2003 Council resolved to refer consideration of this matter to the appropriate Committee. As the matter has major implications for consideration by both the Technical Services and Development Services Committees, it is submitted for consideration and direction by City Strategy Committee.

The centre of Roleystone is characterised by a number of different land uses including a shopping centre, service station, community and sporting facilities, private residences and offices. It has been identified that there is a need for better integration between land uses in the centre of Roleystone and that a significant inhibitor to better integration between land uses is the design of the existing shopping Centre on the corner of Jarrah and Wygonda Roads.

On 6th August 2003 Council received an application for additions and alterations to the Roleystone Shopping centre located at Lot 65 Jarrah Road, Roleystone. The proposal does not address design concerns associated with the existing shopping centre and does not facilitate improved integration or pedestrian access between other land uses and facilities in the centre of Roleystone.

The matter of the integration of the Roleystone Hall with the proposed redevelopment of the shopping Centre and the opportunities to create a village centre was referred to Development Services Committee by Council at its meeting of 6th October 2003, after the matter was raised by Councillor Hart.

Initial discussions and negotiations on 21 October 2003 between the City and the shopping centre owner have resulted in the owner of the shopping centre expressing a willingness to consider alternative design options that will better address the Jarrah Road frontage and facilitate improved integration and access arrangements between the centre and Roleystone Hall, Cross Park and surrounding land uses.

Investigating alternative design options will pose additional time and financial costs to the owner of the shopping centre, and as such the owner has requested an initial commitment from Council that it will conduct works to complement a revised design which better relates to the street and surrounding land uses.

DETAILS OF THE PROPOSAL

The City has a mutual interest in a redeveloped shopping centre which better relates to public areas, and while there is no specific budget allocation at this time for the type of works that would assist providing better links to Cross Park and the Roleystone Hall, a rare opportunity has arisen for Council to facilitate such a redevelopment.

In order to facilitate improved integration and access between the shopping centre and surrounding land uses and to aid improvements to traffic management and streetscape, Council's commitment is sought in principle for the allocation of appropriate funding.

ANALYSIS

Metropolitan Centres Policy

Roleystone is classified as a 'Neighbourhood Centre' under the Metropolitan Centres Policy. Under the policy, Neighbourhood Centres "*should be promoted as predominantly for convenience retailing and (in the larger centres) weekly food and groceries shopping. Provision should also be made for small offices which serve the local community, as well as health, welfare and community facilities*".

The policy also states that shopping floorspace should generally be confined to 4500m² unless consistent with an endorsed local planning strategy or centre plan.

City of Armadale Retail Hierarchy Review (April 2003)

The City of Armadale Retail Hierarchy Review describes the Roleystone shopping centre as follows:

“Pleasant location for poorly designed neighbourhood centre containing a few dead areas. Bright modern large Dewsons supermarket provides valuable service to locals. Vandalism appears to be a problem, which is partly a function of the centre’s design”.

City of Armadale Commercial Strategy (Draft)

The commercial strategy identifies Roleystone Shopping Centre as being well located within its catchment area. Additionally, it is identified as forming an integral part of the Roleystone community as a meeting place.

Technical Services Comments

It is envisaged that Council could progressively conduct works over a period of 4 years that would improve and enhance the streetscape of Jarrah and Wygonda Roads. A 40 km/hr zone would facilitate improved pedestrian access and integration between facilities and land uses in the centre of Roleystone. Proposed works will initially include improvements to signage, line marking and traffic calming. Subsequent works will include landscaping, improvements to Roleystone Hall and surrounds, footpaths, parking areas and underground power /new street lighting. Council’s Technical Services Directorate have done preliminary work and estimated that a tentative program might commence with approximately \$43,000 in the current fiscal year with a total cost of approximately \$400,000 over the 4 year period. No detailed design has yet been established and it should be noted that these estimates are approximate and could be altered as required.

Development Services Comments

The orientation of the shopping centre has resulted in servicing areas and brick walls facing the street whilst shop frontages are located away from the street facing the parking areas at the rear. One of the results of this design is that the shopping centre does not have a direct “active” frontage to the street and does not integrate well with surrounding land uses such as the Roleystone Hall, Cross Park and the Roleystone Neighbourhood Family Centre.

The proposed shopping centre redevelopment provides an opportunity for Council to conduct works which will facilitate improvements to the centre of Roleystone and provide an incentive for the owner of the shopping centre to redevelop the site in a way that better integrates it with its surroundings. Preliminary discussions with the landowner have concluded that the opening up of a “breezeway” to Jarrah Road would certainly be feasible and other design improvements could also be supported provided the City also made some appropriate commitments to improve the public areas.

CONCLUSIONS

A commitment by Council to conduct works in the centre of Roleystone will provide an incentive for the shopping centre owner to consider alternative design options for the centre's redevelopment. A shopping centre that better addresses the street together with the proposed works conducted by Council will facilitate better integration and pedestrian access between the shopping centre and other facilities and land uses in the centre of Roleystone.

CS63/11/03 **RECOMMEND**

That a working group comprised of appropriate technical officers prepare a program and estimates for the purpose of improving the streetscape and integration of facilities in the centre of Roleystone, for further consideration by Council.

Moved Cr Hopper
Motion Carried (7-0)

WARD SYSTEM REVIEW

WARD ALL
FILE REF: BND/3
DATE 24 October 2003
REF AWD
RESPONSIBLE Executive Director
MANAGER Corporate Services

In brief:

- Local Government Act requires that ward boundaries and the number of offices of councillor be reviewed at least once in every 8 years.
- The last such review for the City was conducted in 1996/97 and another review must now be commenced.
- This item provides an overview and timeline for the necessary processes to be undertaken and recommends that Council formally resolve to undertake a review of its ward system.

Officer Interest Declaration

Nil

Strategic Implications

To foster an effective professional environment for the governance and administration of the City.

Legislation Implications

Clauses 5 and 6 of Schedule 2.2 of the Local Government Act 1995 “Provisions about names, wards and representation” refer.

Council Policy/Local Law Implications

Nil

Budget/Financial Implications

The majority of the cost of conducting the review will be in staff resource time, however, there will be some expenditure required during the public consultation stage. Adequate funding has been provided within the 2003/04 adopted budget.

Consultation

Local Government Advisory Board

BACKGROUND

Council last reviewed its ward boundaries and number of offices of councillor in 1996/97 with the Order determining the current (7) wards, with each ward having (2) member representatives, being gazetted on 17 January 1997.

In arriving at its preferred ward structure and making a proposal to the Minister for Local Government, Council assessed all options against the following factors:

- Community of interest;
- Physical and topographical features;
- Demographic trends;
- Economic factors; and
- The ratio of councillors to electors in the various wards.

The above factors are prescribed in Schedule 2.2 of the Local Government Act 1995 and remain current for the purposes of any further review. Since the last review, however, the Local Government Advisory Board has determined that it considers that each local government should have similar ratios of electors to councillors across the wards of its district. In this regard:

“The Minister for Local Government and Regional Development has indicated that he will not consider changes to ward boundaries and representation that result in ward councillor/elector ratios that are greater than plus or minus 10% of the average councillor/elector ratio for that local government.”

When last reviewed, the councillor/elector ratios were as follows:

Ward	No. of Electors	Ward Cr/Elector Ratio	% Ratio Deviation
Armadale	7,235	3,617	22.2
Forrest	4,280	2,140	-27.7
Kelmscott	6,591	3,295	11.32
Roleystone	5,298	2,649	-10.5
Seville	4,454	2,227	-24.8
West Armadale	6,556	3,278	10.7
Westfield	7,038	3,519	18.9
Total	41,452		
Average Cr/Elector Ratio	2,960		

The current day equivalent of the table is as follows

Ward	No. of Electors	Ward Cr/Elector Ratio	% Ratio Deviation
Armadale	6,034	3,017	28.9
Forrest	3,284	1,642	-29.9
Kelmscott	5,302	2,651	13.2
Roleystone	4,446	2,223	-5.0
Seville	3,673	1,836	-21.6
West Armadale	4,972	2,486	6.2
Westfield	5,065	2,532	8.2
Total	32,776		
Average Cr/Elector Ratio	2,341		

As can be seen in the current councillor/elector ratios, only 3 wards come within the Minister's criterion, which suggests that changes should be expected in the next review.

COMMENT

The City's previous review of Ward Boundaries has sought to reach equity of Councillor/Elector ratio, **based on anticipated growth patterns**. Clearly, these patterns have not emerged and a rethink is required.

Clause 6 of Schedule 2.2 of the Local Government Act 1995 states:

"A local government the district of which is divided into wards is to carry out reviews of:

- (a) its ward boundaries; and*
- (b) the number of offices of councillor for each ward,*

from time to time so that not more than 8 years elapse between successive reviews."

A review of this nature takes several months to complete and the Local Government Advisory Board has informed us that local governments intending to complete a review prior to the May 2005 elections, must submit their review to the Board by 31 July 2004 to ensure that any changes are in place for the 2005 elections.

The following is an outline of the process to be undertaken to complete the review:

- The purpose of the review is to evaluate the current arrangements and consider other options to find the system of representation that best reflects the characteristics of the district and its people. Any of the following may be considered:
 - Creating new wards in a district already divided into wards;
 - Changing the boundaries of a ward;
 - Abolishing any or all of the wards into which a district is divided;
 - Changing the name of a district or ward;
 - Changing the number of offices of councillor on a council; and
 - Specifying or changing the number of offices of councillor for a ward.
- Council must resolve to undertake a review of its ward system.
- Before conducting the review, a local government is to give local public notice that a review is to be carried out. The notice must also advise that submissions may be made to the local government by a date at least 42 days from the date of the first notice.
- The purpose of the public notice is to inform the community that the Council intends to conduct a review – it is not to try to "sell" the Council's preferred option. A range of alternatives to the current ward system will be developed so that all options can be considered. Whilst Council may have a preferred option, the public notice must not limit the possible responses and suggestions from the community.
- In addition to giving public notice, we may undertake other initiatives to promote community discussion including public and/or ward meetings, media articles and interviews, sending information to ratepayers or progress associations and distributing

information to all households. Maps clearly showing the current situation and possible options are essential.

- A discussion or information paper will be prepared to outline the various options and explain the five factors against which the options will be assessed. The availability of this discussion paper will be included in the public notice.
- Council must consider all submissions it receives and record this in the minutes of its meeting.
- All options must be assessed against the following factors:
 - Community of interest;
 - Physical and topographical features;
 - Demographic trends;
 - Economic factors; and
 - The ratio of councillors to electors in the various wards (ratios more than plus or minus 10% of the average ratio will generally not be considered).
- If local governments consider that they have exceptional circumstances that justify ward councillor/elector ratio deviations greater than plus or minus 10% then they must present the arguments for these circumstances to the Board.
- In reaching a decision, it needs to be clear from the consideration of submissions and the assessment of options against the factors why an option has been chosen as the best one for the district.
- If the Council proposes to maintain the status quo then reasons for this **must** be included in the resolution.
- If Council decides to make a change, then an **absolute majority** is required and the resolution of Council must propose the making of an order under s2.2(1), s2.3(3) and/or s2.18(3) of the Act.
- Once Council has completed its review, it must provide a written report about the review to the Local Government Advisory Board. If a local government expects changes to be in place in time for an ordinary election, it must submit its report to the Board by the **end of July** in the year prior to an ordinary election day. The report must outline the process and outcome of the review and include any recommendations for change.
- The Board will consider the review report submitted by Council and assess it against the requirements of the Act. If the Board determines that some part of a review does not meet the requirements of the Act, then Council may be requested to undertake another review (or part of a review) that does meet the requirements.
- The Board makes recommendations to the Minister who has the final decision and may accept or reject the Board's recommendations.

- If the Minister accepts the Board's recommendations, then several other processes follow. Changes to wards and representation are subject to an order to be signed by the Governor and then published in the *Government Gazette*. The order will include the date of implementation of changes which may be the date of gazettal or the next ordinary election day and any resulting elections arising from the changes. Where there are changes to boundaries, the order will also include a new technical description of the ward boundaries, prepared by the Department of Land Information at the local government's cost. If a boundary change affects electors, then the WA Electoral Commission prepares new rolls for those affected wards.

To assist councils with their ward boundary and representation review, the Local Government Advisory Board makes available its Chairman, representatives of the Board and officers to talk to Council and officers about how to conduct a review. In this regard, representatives of the Board have been invited to meet with Council on 15 December 2003.

A proposed project plan with associated timeframes, to assist in the management of the required processes for the City's review, has been developed and appears in the recommendation at the end of this item.

SUMMARY

As can be seen from the project plan, the total review process is lengthy and involved, requiring substantial time for collection of data, modelling the various options and conducting a full public consultation process. The result of the review is likely to significantly affect the whole of our current ward structure and consequently, not only will the process absorb considerable staff resources, it has the potential to be quite demanding on Elected Members' time.

It is essential therefore that the process commence at an early date with a formal Council resolution to undertake a review of the City's ward system.

CS64/11/03 RECOMMEND

That Council:

- a. Undertake a review of:
 - i. the City's ward boundaries; and
 - ii. the number of offices of councillor for each ward.
- b. Endorse the following draft project plan and timeline:

Date	Action
11 November 2003	Initial report to City Strategy Committee explaining the review process.
17 November 2003	Council decision to undertake a Ward System Review
15 December 2003	Councillors' briefing from representatives of Local Government Advisory Board.
17 November – 9 January 2004	Collection of Councillor input to scope and drive development of options.

Date	Action
19 January 2004	Councillors' workshop to consider feedback from Councillors and finalise options for inclusion in discussion paper for public comment.
20 January 2004 – 20 February 2004	Officers prepare Discussion Paper for public comment.
26 February – 9 April 2004	Public Notice placed inviting submissions (6 week minimum statutory advertising period)
12 April – 12 May 2004	Officers assess public submissions and prepare draft report and recommendation.
17 May 2004	Councillors' workshop to review draft report and recommendation.
15 June 2004	Present draft report and recommendation to City Strategy Committee.
21 June 2004	Council resolves preferred option for forwarding to the Local Government Advisory Board.

- c. Following the 15 December 2003 briefing, Councillors be invited to submit their written views on the review of the City's ward system to the Chief Executive Officer by 9 January 2004, to assist in the development of options for future consideration.**

- d. Note that representatives of the Local Government Advisory Board have been invited to attend a Councillors' briefing session, to explain and receive questions on the review process, at 6.30 pm Monday, 15 December 2003.**

Moved Cr Munn
Motion Carried (7-0)

LOCAL GOVERNMENT (OFFICIAL CONDUCT) BILL 2003

WARD ALL
FILE REF: GOV/51
DATE 4 Nov 2003
REF TM
RESPONSIBLE Executive Director
MANAGER Corporate Services

In brief:

- This report presents comments and recommendations on key provisions of the Local Government (Official Conduct) Bill 2003 as prepared by WALGA's Governance Policy Team.
- The report recommendation is to support a majority of the recommendations put forward by the WALGA Governance Policy Team.

Officer Interest Declaration

Nil

Strategic Implications

To foster an effective professional environment for the governance and administration of the City.

Legislation Implications

The Local Government 1995 requires all Councils to have and review periodically, a Code of Conduct – such Codes are currently enforceable.

Council Policy/Local Law Implications

Nil

Budget/Financial Implications

Nil

Consultation

Western Australian Local Government Association (WALGA)

BACKGROUND

The proposal for a local government disciplinary framework entailing a new legislated minimum Code of Conduct (for councillors) and the related establishment of a Standards Panel and Tribunal to deal with breaches of the Code and Act has been the subject of prior reports to Council in April 2003 (CS21/4/03 of 28th April 2003 refers) and again on 1st September 2003 via the CEO's report.

The proposal has also been the subject of various prior reports and discussion papers from WALGA with the more relevant ones being attached to this agenda for reference purposes, namely:

- **Attachment A-2** – Framework for a New System of Scrutiny and Dealing with Misconduct in Local Government, and
- **Attachment A-3** – (4) Bulletins produced by WALGA explaining the proposal and providing answers to frequently asked questions.

DETAILS OF PROPOSAL

Recent correspondence (received 3rd November 2003) from WALGA provides an overview of the more significant aspects of the Bill and seeks comment on these aspects from local governments so that a response can be provided back to the Minister following the State Council meeting on 3rd December 2003 whereat a local government response on the Bill will be determined. The matter will also be referred to all Zone meetings prior to the State Council meeting.

The WALGA correspondence reads in part as follows:

“The Association has been referred a confidential copy of the Local Government (Official Conduct) Bill 2003 by the Minister for Local Government and Regional Development for consideration and comment.

The legislation purports to establish a Local Government Tribunal as a cornerstone for a new disciplinary framework for elected members in local government. This Tribunal will be part of the State Administrative Tribunal (SAT).

In referring the draft Bill to the Association, the Minister provided a limited timeframe for consideration and comment. Regrettably, a request for an extension on this timeframe to enable full and proper consultation with member Council’s was not supported. The timeframe for consultation has remained restricted due to the Minister’s intention to introduce the Bill into Parliament this year.

An overview of the significant components of the legislation, together with comments and recommendations from the Association’s Governance Policy Team are enclosed. These outcomes will be considered by State Council at its meeting on 3rd December 2003”.

COMMENT

Hereunder for Council’s consideration and comment is the overview documentation from WALGA. Following the WALGA commentary and recommendation on each of the key provisions of the draft Bill is the suggested Council response together with, where applicable, Council’s prior comments from its earlier deliberations on the matter in April and September 2003.

Local Government (Official Conduct) Bill 2003 **Comments and Recommendations from the Governance Policy Team**

Overview

The draft legislation seeks to establish a disciplinary framework for Local Government elected members.

Key components of the legislation include:

- Establishment of Rules of Conduct in regulations to the *Local Government Act* which enshrine minimum behavioural standards to be observed by all elected members;
- Creation of three types of breaches by elected members – **minor** (breach of the Rules of Conduct),

- **recurrent** (two or more breaches of the Rules of Conduct) and **serious** (breach of a written law other than a local law);
- Establishment of a complaints officer within each Local Government to register complaints of minor breaches;
- Establishment of a Register of Complaints to record details of minor complaints received by each Local Government complaints officer;
- Executive Director of the Department of Local Government and Regional Development to receive all complaints of recurrent and serious breaches;
- Formation of a Standards Panel by each Local Government to deal with minor breaches; and
- State Administrative Tribunal to deal with recurrent and serious breaches referred by the Executive Director.

While the Bill incorporates most components included within the original proposal for a disciplinary framework that was referred to Zones in March/April 2003 and given in-principle support by State Council, there are several key areas where the Bill deviates. It is considered that the impact of these variations may undermine the operational integrity of the new system.

The key provisions of the Bill are detailed below, together with a summary on their effect, comments from the Governance Policy Team and resulting recommendations to State Council.

Register of Complaints / Reporting of Complaints in Annual Report

Effect: Requires all Local Governments to maintain a Register of Complaints which records details of complaints of minor breaches by elected members received by the Local Government complaints officer. Minor breaches relate to any behaviour which contravenes the Rules of Conduct for elected members. Once the complaint has been finally dealt with, details of the complaint must be recorded in the Register

including:

- Whether the standards panel sent the complaint to the Executive Director because it was a recurrent breach;
- If the standards panel dealt with the complaint, details of its findings and whether it dismissed the complaint or made an order; and
- If failure to comply with an order of the standards panel is referred to the Tribunal, when the matter was referred.

The Bill also requires Local Governments to include in their Annual Report details from the Register including:

- The number of complaints that have been finally dealt with;
- How the complaints are dealt with; and
- Any other details that regulations may require.

Comment: The Governance Policy Team considered that the requirement for an Annual Report on complaints received should require information to be reported in a consolidated form, making reference to the Council and not to individual elected members.

The provision as currently drafted could be used to target individual elected members who may have been subject to complaints. The attributing of complaints to individual members through such a reporting mechanism may give rise to a perception of impropriety, irrespective of whether complaints are substantiated or not. The Policy Team recommended that there be a restriction prescribed in the legislation to require that annual reporting not make reference to complaints registered against individual members.

WALGA Recommendation:

That the Association support the proposal for a Register of Complaints and annual reporting of complaints received, subject to a specific requirement that reporting be based on the Council as a whole and not individual elected members.

Suggested Council Response

It is not considered appropriate that complaints be reported in Annual Reports and if required to do so that it only be those that have been substantiated.

Footnote: Complaints received will be recorded in a Register and can be reported as part of the Compliance Return.

Council's Prior Comments –

Making a complaint of a minor breach

Effect: Outlines the complaints process underpinning the reporting of minor breaches to the Local Government complaints officer. Requires a complainant who alleges a breach of the Rules of Conduct by an elected member to make their complaint in writing and include details of:

- Who is making the complaint;
- Who is alleged to have committed the breach; and
- The contravention that is alleged to have resulted in the breach.

Comment: The Governance Policy Team observed that the complaints process prescribed in the Bill differs to that outlined in the original proposal for a disciplinary framework. Specifically, the requirement for a statutory declaration as a required component of the complaints process has been omitted. The requirement for a statutory declaration was incorporated to protect both the integrity of the disciplinary framework and the rights of the parties subject to the complaint. While it was noted that the Bill seeks to achieve similar protection by making it an offence to knowingly provide false or misleading information, it was the view of the Policy Team that a statutory declaration would provide a more significant up-front deterrent against vexatious or frivolous complaints. Furthermore, unless the penalty provision within the Act was widely known, potential complainants may not be aware of the consequences arising from falsifying or providing misleading information during the complaints process. As such, the removal of the requirement for a statutory declaration may give rise to greater misuse of the disciplinary framework.

WALGA's Recommendation:

That the Bill be amended to include a requirement within the complaints process for a statutory declaration..

Suggested Council Response

Agreed

Council's Prior Comments – nil

Receiving a complaint of a minor breach

Effect: Deals with the process for receiving a complaint of a minor breach and referring it to a standards panel. An internal resolution process for Local Governments will be developed as a part of the framework to allow parties to a grievance to pursue resolution of a minor breach, where possible, prior to a formal complaint being registered with the complaints officer.

Where a complaint has been registered, the complaints officer must provide both parties to the complaint with an acknowledgement that the complaint has been registered and full details of the complaint within 14 days. Within 21 days, the complaints officer must send the complaint to members of the Local Government's standards panel and arrange for the panel to meet.

Comment: The Governance Policy Team noted that, in accordance with the original proposal for disciplinary framework, a Local Government seeking to utilise an internal process to resolve minor complaints must do so before a complaint has been lodged with the complaints officer. Once the complaint has been received, it cannot be resolved internally and must be referred to a standards panel.

One of the governing principles of the original proposal was that the disciplinary framework should deal with problems, where possible, close to their source. To facilitate this occurring, it will be necessary for Local Governments to formally adopt an internal resolution process to allow would-be complaints to be mediated prior to being formally lodged with the complaints officer. The operation of an internal process will largely hinge upon the Local Government complaints officer, in the first instance, referring intended complaints for internal resolution. Such a requirement may place the complaints officer in the unenviable position of seeking to defer an aggrieved party from lodging a complaint in an effort to mediate the grievance internally.

WALGA's Recommendation:

That the Association support this provision.

Suggested Council Response

That Council advise WALGA that it welcomes a concept of a protocol for dealing with minor breaches, however where a Council has instigated a protocol for dealing with minor breaches, no complaint should be referred to an outside body (ie. Panel) until that process has been exhausted or both parties otherwise agree.

Council's Prior Comments – it is not considered appropriate that minor breaches be referred to the Department of Local Government.

Dealing with a complaint of minor breach

Effect: Defines the process by which complaints of minor breaches are dealt with by a standards panel. The panel must determine whether a breach can be substantiated and provide each party to the complaint with reasons for its findings. It will be able to request the complaints officer to provide anything that is relevant to the complaint. The panel must give the person subject to the complaint the opportunity to make a submission about how it should deal with the matter.

Options available to the panel include:

- Dismiss the complaint;
- Order that the person against whom the complaint was made be publicly censured;
- Order that the person against whom the complaint was made apologise publicly;
- Order that the person against whom the complaint was made undertake training; or
- Order 2 or more of the abovementioned sanctions.

Comment: The Governance Policy Team considered it pertinent for a standards panel to be required to provide its findings and orders in writing. These should be provided to both parties in a timely manner.

The Team also questioned how the sanction requiring a public apology would operate. Would a minimum requirement be prescribed in relation to the process for providing a public apology? Could a public apology be given at the next Council meeting, advertised in the local paper or executed by another means?.

WALGA's Recommendation:

That the Bill be amended to require the standards panel to provide its findings and make orders in writing.

Suggested Council Response

Agreed

Council's Prior Comments – nil

Recurrent breach

Effect: Allows a standards panel to refer a recurrent breach by an elected member (two or more minor breaches) to the Executive Director. The Executive Director may make an allegation to the Tribunal or refer the matter back to the standards panel to be dealt with as a minor breach. Reasons for the Executive Director's decision must be provided in writing to the Local Government complaints officer and both parties to the complaint.

Where the Tribunal finds that an elected member has committed a recurrent breach, it may order the imposition of sanctions as if the breach was a serious breach.

WALGA's Recommendation:

That the Association support the provision.

Suggested Council Response

Agreed

Council's Prior Comments – nil

Making a complaint of a serious breach

Effect: A person who believes that an elected member has committed a serious breach may complain of the breach to the Executive Director or make an allegation directly to the Tribunal. A complainant may only make an allegation directly to the Tribunal where they have already made a complaint of a serious breach to the Executive Director, or where a complaint referred by a complaints officer as a serious breach is not taken to the Tribunal by the Executive Director. A person cannot make an allegation of a serious breach to the Tribunal where the elected member who is alleged to have committed the breach has already been tried by a court for the offence.

Complaints of a serious breach must be in writing and include details of:

- Who is making the complaint;
- Who is alleged to have committed the breach; and
- The offence that is alleged to have resulted in the breach.

Comment: As with the complaints process for minor breaches, the Governance Policy Team considered that a statutory declaration should be a prescribed component. In addition, the Policy Team noted that there is currently no provision outlining the process to be followed in dealing with complaints of a serious breach. Whilst the Bill prescribes a process for dealing with complaints of a minor breach, there is no corresponding section which governs the process for handling complaints of a serious breach. The Policy Team considered that if the Local Government complaints officer is to be legislatively compelled to follow a prescribed process in dealing with minor complaints, a similar process should be prescribed for the Executive Director in dealing with complaints of a serious breach.

WALGA's Recommendation:

1. That the Bill be amended to include a requirement for a statutory declaration to be provided for complaints of a serious breach.
2. That a new section be inserted in the draft Bill prescribing a process and timeframes to be followed by the Executive Director in handling complaints of a serious breach..

Suggested Council Response

Agreed

Council's Prior Comments – nil

Complaints officer may send complaint of serious breach to Executive Director

Effect: Allows the Local Government complaints officer to refer a complaint which appears to disclose a serious breach to the Executive Director. Where this occurs, the complaints officer must notify all parties to the complaint.

Comment: The wording of this section empowers the complaints officer with the discretion to determine whether a complaint discloses a serious breach. It also allows the complaints officer to determine whether or not to refer a complaint identifying a serious breach to the Executive Director. The Governance Policy Team considered that requiring the complaints officer, who will in all likelihood be the CEO or a subordinate employee, to exercise a judgement concerning a complaint involving an elected member would be an unreasonable and potentially unworkable imposition. As such, the Team proposed that where a complaint discloses a serious breach, the complaints officer be statutorily compelled to refer the matter to the Executive Director. This compulsion will provide greater protection to complaints officers against ramifications which could arise from requiring their judgement to be exercised in identifying and referring complaints pertaining to serious breaches.

WALGA's Recommendation:

That the Bill be amended as follows:

'If a complaint a person seeks to make under section 5.107 discloses a serious breach, the complaints officer must refer the complaint to the Executive Director.'

Suggested Council Response

Agreed

Council's Prior Comments – nil

Allegation by Executive Director of serious breach

Effect: Where the Executive Director receives a complaint of a serious breach, he or she must decide whether to make an allegation to the Tribunal. In making this decision, the Executive Director must determine whether it would be more appropriate to deal with the matter in another way. This may include, for example, investigation, a Part 8 inquiry or referral to another authority (ie DPP, Police, ACC) The Executive Director cannot make an allegation to the Tribunal if the elected member subject of the complaint has already been tried by a court for the offence. The decision of the Executive Director must be provided to both parties in writing. There is a specific provision which allows the Executive Director to bring an allegation to the Tribunal even if there is no complaint.

Comment: The Governance Policy Team considered that the Tribunal, and not the Executive Director, should be the authority that determines whether a matter is to be dealt with by the Tribunal or referred for determination through another process. The rationale for this position is that the Tribunal, as a judicially independent body, has the necessary separation from Executive Government to make such decisions in an impartial manner, free from external influence. However, should the Government not support this position, the Policy Team considered that given the intended role of the Executive Director in making a judgement as to referring a matter, both parties to the complaint should be given the right (pursuant to the

principle of procedural fairness) to be heard on this matter or make submissions to the Executive Director prior to his/her decision.

WALGA's Recommendation:

1. That a recommendation be made to the Department that the legislation be amended to require the Executive Director to refer all serious breaches to the Tribunal or, where appropriate, to another authority for investigation/determination (Police, Ombudsman, ACC)
2. If the above recommendation is not supported, prior to the Executive Director making a decision as to where a matter should be referred, he or she must provide an opportunity for both parties (where a complaint exists) to be heard in order to preserve the rights to procedural fairness.
3. That a reporting mechanism be introduced into the legislation requiring the Executive Director to report to the Tribunal on how all serious complaints have been dealt with.

Suggested Council Response

Agreed

Council's Prior Comments – nil

Punishment for a serious breach

Effect: Where the Tribunal finds that an elected member committed a serious breach, it may order that the elected member:

- Be publicly censured;
- Be required to apologise publicly;
- Undertake training as specified;
- Be suspended for a period of not more than 6 months; or
- Be disqualified from holding office as a member of a Council for a period not exceeding 5 years.

The Tribunal would be empowered to order 2 or more of the above sanctions to be imposed. It may also suspend an order for suspension or disqualification while the elected member complies with any conditions specified in the order.

Comment: The Governance Policy Team proposed that the Tribunal be empowered with the capacity to suspend an order for a prescribed time period (ie up to two years). This would allow the Tribunal to order a sanction against a member and at the same time suspend the order for a prescribed period of time.

Where the member does not commit another breach during the period of the suspended order, the sanction will not come into effect. However, should they commit another breach, the suspension is lifted and the sanction would take effect. The introduction of such a power, which mirrors that used within the criminal jurisdiction under the *Sentencing Act*, was supported during consultation with Local Governments.

WALGA's Recommendation:

That the Bill be amended to introduce the capacity for the Tribunal to suspend an order for a prescribed period (ie not exceeding two years).

Suggested Council Response

Agreed

Council's Prior Comments – the Tribunal is proposed to have wide-ranging powers of censure, suspension and disqualification. It will be imperative that natural justice provisions are enshrined in the process.

Carrying out orders / Enforcement of orders

Effect: The CEO of the Local Government concerned with a complaint is required to arrange publication of any censure ordered by a standards panel or the Tribunal. The CEO must also refer any failure to comply with any order of a standards panel or the Tribunal back to the Tribunal.

Where the CEO of a Local Government or the Executive Director refers to the Tribunal a failure by an elected member to comply with an order, the Tribunal may order a sanction equivalent to a serious breach.

WALGA's Recommendation:

The Association support the provision..

Suggested Council Response

Agreed

Council's Prior Comments – nil

Complaints officer

Effect: Requires each Local Government to designate one of its employees to be the complaints officer. By default, the CEO of the Local Government would be the complaints officer.

Comment: Submissions have been received from Local Governments concerning the nomination of a person from a Local Government as the complaints officer under this framework. Comments have identified potential difficulties arising from the involvement of the CEO or subordinate employees in a complaints process against an elected member. These concerns focused on the potential impact on the relationship between elected members, the CEO and the Council administration. At the same time, concerns were also expressed about the involvement of an elected member or a person external to Council in the role of complaints officer.

After careful deliberation, the Governance Policy Team recommended that the CEO was the appropriate person to undertake the roles of complaints officer, and this power should not be

capable of being delegated. Proposed amendments to the Bill, which would see the removal of discretionary powers from the complaints officer and the imposition of compulsory reporting requirements, should alleviate concerns about the impact of the CEO being involved within the complaints process. If these amendments are accepted by the Minister, the complaints officer would have no discretion in dealing with minor or serious complaints – the Act would compel the complaints officers to refer all complaints which disclose a breach to the appropriate authority within a defined process and fixed timeframes.

WALGA's Recommendation:

That the Bill be amended to provide that the CEO is the complaints officer without power to delegate the function.

Suggested Council Response

It would be preferable that the CEO not be the complaints officer (rather the role be designated to a Director or an independent member of the Standards Panel) given the CEO is appointed by the Council and his/her performance is reviewed by the Council.

Council's Prior Comments – it would be preferable that the CEO not be the complaints officer (rather the role be designated to a Director) given the CEO is appointed by the Council and his/her performance is reviewed by the Council. *(the current recommendation to remove previously proposed discretionary powers to be exercised by the CEO addresses the basis of this previous position taken by Council)*

Standards panel

Effect: Requires all Local Governments to establish a standards panel, which is not to be a committee of Council. Where a complaints officer receives a complaint of a minor breach, the Local Government has to ensure that a standards panel has been appointed before 14 days after the complaint. A standards panel is to consist of three (3) persons, at least one of whom has experience in the operation of a Local Government.

Persons who are or have been elected members, members of a committee of Council or employees of the Local Government cannot be appointed to a standards panel. Where a person on a standards panel identifies an actual bias or perceived bias that would make it inappropriate for that person to hear a particular complaint, he or she may advise the Local Government. In this circumstance, the Local Government may choose to appoint another person to the panel on a temporary basis.

Comment: The Governance Policy Team recognised that the integrity of the new framework would hinge on ensuring that the principles of impartiality and independence are reflected in the bodies which investigate and determine complaints. The Bill as currently drafted gives member of a standards panel discretion as to whether they advise the Local Government of any actual bias they may have or be perceived to have. There is no compulsion on panel members to disclose actual or perceived bias.

The Policy Team recommended that this provision be re-drafted to compel members of a standards panel who identify an actual or perceived bias to report that bias to the Local

Government. It is then up to the Council as to how this matter is handled and whether another person is appointed on a temporary basis to the panel.

The Policy Team also raised concerns about a Council having the power to delegate the establishment of a standards panel to the CEO. It recommended that this power be restricted to the Council, which can be achieved by making the majority required for such a decision an absolute majority. The Team also raised concerns about the whether 14 days to appoint a standards panel was sufficient given the 30 day meeting cycle for Local Governments. It was recommended that this time period be modified to 30 days after the date on which the complaint has been received.

WALGA's Recommendation

- (1) That the Bill be amended as follows:
'If the complaints officer of a local government receives a complaint of a minor breach, the local government has to ensure that a standards panel has been appointed* before the end of a period of 30 days after the day on which the complaints officer received the complaint.'

*Absolute majority required

- (2) That the Bill be amended as follows:
'A person appointed as a member of a standards panel must advise the Local Government of any bias that person may have or be perceived to have which would make it inappropriate for that person to perform the functions of a member of the panel in respect of a particular complaint. Where this occurs, the Local Government may appoint another person to act temporarily in the place of that person in the performance of those functions.'

Suggested Council Response

Agreed

Council's Prior Comments – it would be preferable for the Panel membership to be from Council's own membership with perhaps one independent member – it would not seem appropriate to have a Standards Panel of all independent persons making judgements on members' actions as well as an overarching Tribunal. Information subsequent to this earlier Council response should provide Council with some greater comfort on this aspect, eg. *"it is proposed that the Association and LGMA (Local Government Managers' Association) provide a list of persons who can be selected by Councils as potential members of a Standards Panel. This listing would include persons from remote and regional WA, country urban centres and the metropolitan area. It is highly likely that the Association, LGMA and/or the Department will be involved in providing training to prospective Standards Panel members in the various roles and requirements of their position, including development of skills in the areas of mediation, conflict resolution, arbitration, conciliation, etc."*.

Confidentiality

Effect: Requires confidentiality to be observed in the process of determining a complaint of a minor breach. Confidentiality provisions apply to the parties to a complaint, a complaints officer, a member of a standards panel and any person who becomes aware of protected information. An offence is committed if, before the standards panel finishes with a complaint

of a minor breach, a person discloses protected information to any person other than those involved in investigating or dealing with a complaint.

Protected information is any information that a complaint of a minor breach has been made or any detail of that complaint.

Comment: The Governance Policy Team noted that the Bill only deals with the confidentiality of information relating to complaints of minor breaches. There is no reciprocal protection for either party to a complaint involving a serious breach. This limitation represents a significant departure from the model established under the draft disciplinary framework, and has the capacity to undermine the integrity of the new system. The Policy Team considered that confidentiality requirements should extend to information pertaining to both minor and serious breaches. The Policy Team also suggested that the Bill needs to be clarified to ensure that only persons authorized to investigate or deal with a complaint are able to lawfully disclose protected information.

WALGA's Recommendation:

1. Amend section 5.125(1) – (5) as follows:
 - (1) This section applies to -
 - (a) a person who is a party to a complaint of a minor or serious breach
 - (b) a complaints officer, the Executive Director or any other person performing any function under this Act in respect of a minor or serious breach;
 - (c) a member of a standards panel to which a complaint of a minor or serious breach is sent; and
 - (d) a person who, as a result of anything done under this Division, becomes aware of protected information and knows it to be protected information.
 - (2) A person to whom this section applies commits an offence if, before the standards panel or the Executive Director (as described in subsection (3)) finishes with a complaint of a minor or serious breach, the person discloses protected information to any person other than as described in subsection (4).
 - (3) For the purposes of subsection (2)
 - (a) the standards panel finishes with a complaint of a minor breach when –
 - (i) the standards panel finally deals with the complaint; or
 - (ii) after the standards panel has sent the complaint to the Executive Director under section 5.110(1), the Executive Director makes an allegation to the State Administrative Tribunal that the council member concerned committed the breach.
 - (b) the Executive Director finishes with a complaint of a serious breach when –
 - (i) the Executive Director finally deals with the complaint; or
 - (ii) the Executive Director makes an allegation to the State Administrative Tribunal that the council member concerned has committed the breach.
 - (4) It is not an offence under subsection (2) to disclose protected information if the disclosure is made by an authorized person for the purposes of investigating or dealing with the complaint.
 - (5) In this section -
“authorized person” means either the Executive Director, the complaints officer or a member of a standards panel established to which a complaint has been sent.

“protected information” means information that a complaint of a minor breach has been made or information of any detail of the complaint.

Suggested Council Response

Agreed

Council’s Prior Comments – nil

Giving false or misleading information

Effect: A person commits an offence if they give information in a complaint, during an investigation or to a standards panel which they know to be false or misleading. The penalty for an offence is a \$5,000 fine.

Comment: The Governance Policy Team recognised the potential difficulty that could be encountered in enforcing a provision to protect against giving of false or misleading information through the Bill as currently drafted. The Bill requires a person giving information to know it to be false or misleading in a material particular before a breach occurs. This is a subjective rather than objective test. The burden of proof for establishing an offence requires that the prosecution establish that the person knew the information to be false or misleading, not whether it was reasonable for the person to know that the information may be false or misleading..

Similarly, there is no onus on the person to undertake steps to substantiate the validity of their information as would be expected of a reasonable person. As such, a person can provide information that may have damaging repercussions for another person without fear of reprisal as long as it cannot be proved that they knew the information to be false or misleading.

The Governance Policy Team considered that given the significant ramifications that false or misleading information may have on the integrity of the disciplinary framework and the reputation of persons subject to a complaint, there must be greater protection to prevent against abuse. Accordingly, the Policy Team recommended that the section dealing with the giving of false or misleading information be amended to include an objective test for reasonableness. In addition, it proposed that the basis for substantiating an offence be amended from giving information which a person knows to be false or misleading to giving information without a reasonable belief that the information is true and not misleading. This places a responsibility on a person providing information to take reasonable steps to ensure that their information is true and not misleading.

WALGA’s Recommendation:

Amend the Bill as follows:

‘A person commits an offence if the person gives information, in any of the circumstances described in subsection (2) without a reasonable belief that the information is true and not misleading.’

Suggested Council Response

Council advise WALGA that it believes a statutory declaration should be the minimum basis of both minor and serious breaches and supports amendment of the Bill as recommended by WALGA.

Council’s Prior Comments – nil

Review of certain decisions

Effect: A party to a complaint may apply to the Tribunal for a review of a decision of a standards panel.

Comment: The Governance Policy Team recommended that in addition to having the capacity to refer a decision of a standards panel to the SAT, a party should also be capable of referring an order of a standards panel to the SAT for review.

WALGA's Recommendation:

Amend the Bill as follows:

‘A party may apply to the State Administrative Tribunal for a review of a decision or order of a standards panel.’

Suggested Council Response

Agreed

Council's Prior Comments – nil

Other issues

The Department has requested the Association to give consideration as to whether the proposed legislation needs a power for the State Administrative Tribunal to reappoint the membership of standards panels where inappropriate findings are consistently being made.

Comment: The Governance Policy Team considered it is inappropriate to empower the SAT to reappoint the membership of a Local Government's standards panel as this undermines the principles enshrined within the separation of powers doctrine.

WALGA's Recommendation:

That the proposal to include a new provision in the draft legislation allowing the SAT to reappoint the membership of standards panel where inappropriate findings are consistently made be opposed.

Suggested Council Response

Agreed

Council's Prior Comments – nil

CONCLUSION

The Bill being confidential and the restricted timeframe provided by the State Government for consideration/comments has limited a full and proper assessment of the draft Bill. However WALGA's commentary and recommendations on the key provisions of the Bill appear to be reasonable and are generally in accord with Council's prior considerations and views on the matter, and hence the following recommendation of support.

It is disappointing that the State Government yet again seems to disregard the very principles and guidelines it advocates in the Partnership Agreement on Communication and Consultation (*the intent of this partnership agreement is to effect positive changes by promoting a shared understanding of what constitutes effective communication and consultation and establishing best practice principles – the agreement provides principles and guidelines aimed at assisting all levels within State and Local Government in employing meaningful practices the result of which should be greater inclusion in decision making and policy formulation – communication and consultation represents a key component in the working relationship between State and Local Government*). This may be an issue that Council wishes to include in its recommendation.

Further, it is suggested that Council's South East Metropolitan Zone Delegates note this report and recommendation for the matter will be listed for consideration at the next zone meeting to be held on 26th November 2003.

Committee discussed WALGA's Recommendations and did not support its recommendations relating to:-

- *Register of Complaints/Reporting of Complaints in Annual Report*
- *Receiving a complaint of a minor breach*
- *Complaints Officer*
- *Giving False or Misleading Information*

Committee's recommended response is detailed in the recommendation.

Cr Hart retired from the meeting at 7.45pm

Cr Clowes-Hollins left the meeting between 7.55pm and 8pm

8.05pm Meeting adjourned

8.15pm Meeting resumed

CS65/11/03 RECOMMEND

That Council, in relation to WALGA's document detailing comments and recommendations on the key provisions of the Local Government (Official Conduct) Bill 2003, inform WALGA, that it supports its recommendations with the following exceptions:-

Register of Complaints/Reporting of Complaints in Annual Report

WALGA Recommendation:

That the Association support the proposal for a Register of Complaints and annual reporting of complaints received, subject to a specific requirement that reporting be based on the Council as a whole and not individual elected members.

Council Response

It is not considered appropriate that complaints be reported in Annual Reports and if required to do so that it only be a summary of those complaints that have been substantiated.

Footnote: Complaints received will be recorded in a Register and can be reported as part of the Compliance Return.

Receiving a complaint of a minor breach

WALGA Recommendation:

That the Association support this provision.

Council Response

That Council advise WALGA that it welcomes a concept of a protocol for dealing with minor breaches, however where a Council has instigated a protocol for dealing with minor breaches, no complaint should be referred to an outside body (ie. Panel) until that process has been exhausted or both parties otherwise agree.

Complaints officer

WALGA Recommendation:

That the Bill be amended to provide that the CEO is the complaints officer without power to delegate the function.

Council Response

It would be preferable that the CEO not be the complaints officer (rather the role be designated to a Director or an independent member of the Standards Panel) given the CEO is appointed by the Council and his/her performance is reviewed by the Council.

Giving false or misleading information

WALGA Recommendation

Amend the Bill as follows:

‘A person commits an offence if the person gives information, in any of the circumstances described in subsection (2) without a reasonable belief that the information is true and not misleading.’

Council Response

Council advise WALGA that it believes a statutory declaration should be the minimum basis of both minor and serious breaches and supports amendment of the Bill as recommended by WALGA.

APPRENTICESHIPS – Late item

WARD All
FILE REF: STF/
DATE 20 November
2003
REF JMC/MH
RESPONSIBLE EDTS
MANAGER

In Brief:

This report presents a proposal for the City to establish an Apprentice Employment Scheme.

Recommend:

That Council implement an Apprenticeship Programme commencing with 3 positions to be made available in 2004 at an estimated total cost of \$21,000 in 2003-04 (funding to be provided equally from the Economic Development and Operational (Works) Budget).

That Council approve a total cost of \$256,000 over four calendar years for continuing the Apprenticeship Program.

Officer Interest Declaration

Nil

Strategic Implications

City of Armadale Strategic Plan

1. Promote employment and residential growth, encouraging the economic well being of the community.

Legislation Implications

- Municipal Employees' (Western Australia) Award 1999
- Metal Trades Award 1966
- City of Armadale Field Staff Bargaining Agreement 2003
- City of Armadale Mechanical Services Employees Enterprise Bargaining Agreement 2001.

Council Policy/Local Law Implications

Nil.

Budget/Financial Implications

While the appointment of apprentices or trainees has not been allowed in the current 5 Year Financial Plan, the expansion growth of the City's operational activities can fund 50% of the additional cost i.e.growth in work demands extra capability. However, the remaining 50% will need to be allocated from current Five Year Plan resources, or from additional revenue sources.

Consultation

Chief Executive Officer, Executive Director Technical Services, Manager Parks, Manager Property Services, Coordinator Support Services, WALGA, various other WA Local Governments, Chamber of Commerce and Industry Western Australia, New Apprenticeships Centre.

BACKGROUND

Council's Strategic Plan identifies a range of issues and challenges. Two of these issues are:

- Creating employment for the people of our City; and
- Recognising the needs of young people.

In conjunction with the Armadale Redevelopment Authority, the City is focused on economic development to provide opportunity, jobs and income for its population. In particular, the lack of opportunity for young school leavers is a major concern.

The City accommodates a number of work experience students throughout the year and many students from the local schools have benefited from this. The Council receives enquiries regularly from career advisers from local schools, work placement centres and residents about opportunities for apprenticeships and traineeships. Currently the City does not employ apprentices or trainees. The last apprentice was employed in the mechanical workshop approximately fifteen years ago.

DETAILS OF PROPOSAL

An apprenticeship is an employment based training programme that provides an opportunity for people of all ages to learn aspects of a trade. The apprentice is employed on a four-year tenure with the employer and the employee attends trades school. At the end of the four-year tenure the apprentice is fully qualified and can be employed by the City should there be a vacancy. Apprenticeships are subsidised through the Commonwealth Government Initiative Scheme.

It is proposed to employ one apprentice in each of the following areas:

- Mechanical Workshop: Motor Mechanic
- Parks: Horticulture
- Property Management – Maintenance: Carpentry

The appointment of apprentices is an important step forward towards building a City strong in opportunity, by creating employment for young people in the City of Armadale.

COMMENT

By employing apprentices and trainees Council would be setting an example to the local business community in generating employment opportunities for young people. In the current and previous Field Staff Enterprise Bargaining Agreements (2001 and 2003) Council has made a commitment to consider, and introduce if appropriate, traineeships and apprenticeships relevant to its core activities. Apprentices can act as a conduit to transfer latest technology from learning institutes back into the City's operations. This will enhance the knowledge and expertise of existing staff.

Both the Workshop and Parks Departments can provide the necessary range of work to an apprentice to complete the apprenticeship. A Property Management apprentice could be employed through a group training company to offer the apprentice the required range of work. This can be done in partnerships with local businesses.

The apprentices would have to be employed in January/February as trades schools commence early March.

The current Government incentives offered for taking on an apprentice are:

- \$1650 (including 10% GST) when apprentice is indentured.
- \$2750 (including 10% GST) on successful completion of the apprenticeship.
- An additional \$1100 (including 10% GST) for a female in a non-traditional apprenticeship.

Apprentice wages are calculated as a percentage of the wage level for qualified staff:

Table 1: Percentage of Wage

First year	42%
Second year	55%
Third year	75%
Fourth year	88%

For Parks, an apprentice's wage per week is expressed as a percentage of the level 4A rate, in accordance with the Municipal Employees' (Western Australia) Award 1999.

The 4A rate is currently \$618 per week, \$32,137 per annum under the Field Staff Enterprise Bargaining Agreement 2003.

For the workshop, an apprentice's wage per week is expressed as a percentage of the level C10 Engineering Tradesperson's rate for Mechanics under the Metal Trades Award 1966.

Using the above percentage as a guide, the following table sets out annual costs for each apprentice:

Table 2: Workshop

YEAR	WEEKLY WAGES	SUPER	WORKERS COMP 9%	TOTAL PER ANNUM
One	\$259	\$1,209	\$415	\$15,739
Two	\$338	\$1,584	\$544	\$20,178
Three	\$461	\$2,159	\$741	\$27,666
Four	\$541	\$2,533	\$870	\$32,638

Table 3: Parks

YEAR	WEEKLY WAGES	SUPER	WORKERS COMP 9%	TOTAL PER ANNUM
One	\$259	\$1,209	\$415	\$15,092
Two	\$339	\$1,584	\$544	\$19,704
Three	\$463	\$2,159	\$741	\$26,976
Four	\$543	\$2,533	\$870	\$31,639

For Property Management: it would be proposed to employ an apprentice via a Group Training Company. In this instance, the group training company pays the apprentice and the following rates of pay apply. These rates include all costs related to employment for example; wages, superannuation, workers compensation and annual leave. Rates do not include GST.

If the City took up 20 hours per week of the properties (building) apprentices) allotted time, annual cost would be:-

Table 4: Annual Cost Property Apprentice

Year	Hourly Rate	Total Per Annum Based on 20 hours per week Working hours can vary
One	\$11.64	\$12,000
Two	\$14.64	\$15,200
Three	\$18.26	\$19,000
Four	\$18.90	\$20,000

Summary (Apprenticeships)

The total costs (rounded) of three apprentices over the full four year apprenticeship term is:-

Table 5: Summary of Total Cost (3 Apprenticeships)

Year	Total
One	\$ 43,000
Two	\$ 55,200
Three	\$ 74,000
Four	\$ 84,000
Total	\$256,000

If 50% of this amount is provided from Council's current Works Programme (operational) then \$128,000 (\$32,000 p.a. on average) is required from the City's Five Year Forward Plan.

The cost is 2003/04 will require approx. \$11,000.

Traineeship

While apprenticeships offer opportunity for young people in the operational workforce, it is considered essential that Council give consideration to providing opportunity to young administrative and professional staff.

Opportunities do exist for Graduates but Council should consider at least one position for a young person in the administrative workforce. This needs more evaluation but for “in principle” consideration an annual cost of approx. \$30,000 p.a. should be considered.

Over the four year term considered above, this equates to a further \$120,000, i.e. total impost of both initiatives equates to approximately \$62,000 p.a. (average).

The City is not yet placed to employ a young trainee within its office due to the complete lack of office space. However, as a strategic objective, the principle, should be considered for implementation once work space issues have been addressed.

CONCLUSION

The City can provide a powerful leadership example to its community by providing trade apprentice and trainee positions. Such an example also provides an opportunity to exhort the business community to follow the City’s lead in this crucial element of the Strategic Plan. The capacity to fund the positions from both operating expenditures and the provision of additional funds outside the current 5 Year Financial Plan reinforces the City’s commitment to provide for the young people in our community.

The apprentices program could commence in March 2004 for a cost of \$11,000 in the current Budget. The CEO will make recommendation on a Budget variation if Committee determines to pursue this objective. The ongoing annual cost of \$62,000 per annum needs to be considered in the light of the Five Year Forward Plan and its total commitment of approx. \$160 million.

At time of compiling this report, additional work is underway on the long term financial implications.

Chief Executive Officer advised that the cost of the Apprenticeship proposal (\$32,000 p.a. average) could readily be accommodated in the Five Year Forward Plan, noting the matching funding from Council's Works Programme.

However, the matter of a further \$30,000 p.a. for a Traineeship needs further consideration and comparison to other funding demands.

It will be recommended that the Traineeship be considered as a priority for funding on the forthcoming 2004/05 Budget, following a review of the Five Year Forward Plan.

Committee was unanimous in its support for the apprenticeship proposal. In such an economic climate the City will be seen as setting an example to the local business community, as the largest employer in the area, in creating employment opportunities for young school leavers.

CS66/11/03 RECOMMEND

That Council

- 1. implement an Apprenticeship Programme, commencing with three positions to be made available in 2004 at an estimated total cost of \$21,000 in 2003/04, and a total cost of \$256,000 over four calendar years.**
- 2. provide funding equally from Council's Operations (Works) Budget (\$10,500) and a specific allocation to the Apprenticeship Programme (\$10,500).**
- 3. pursuant to Section 6.8 of the Local Government Act 1995 authorise the following expenditure:-**
 - Apprenticeship Program - \$21,000****and amend the 2003-04 Annual Budget as follows:-**

Expenditure		
A/c No. TBA	Apprenticeship Program	Increase by \$21,000
A/c 1522420	Economic Development	Decrease by \$10,500
A/c No. TBA	Technical Services Operational (Works) Program	Decrease by \$10,500

for the purposes of implementing an Apprenticeship Program commencing with three positions in 2003/04.

- 5. approve \$256,000 (over 4 years, commencing the 2004-05 year) being listed for consideration of funding in the Five Year Forward Estimates Plan for the purposes of continuing the Apprenticeship Program beyond the 2003-04 year.**

6. **be provided with a further report (via the Technical Services Committee) which addresses the matter of the \$10,500 contribution in 2003-04 and subsequent years contribution from the Operational (Works) Program towards the Apprenticeship Program.**
7. **consider the matter of further Traineeships as a priority for funding on the forthcoming 2004-05 Budget, following a review of the Five Year Forward Plan.**

ABSOLUTE MAJORITY RESOLUTION REQUIRED

Moved Cr Zelones
Motion Carried (7-0)

COUNCILLORS' ITEMS

Nil

CHIEF EXECUTIVE OFFICER'S REPORT

The Chief Executive Officer reported on the following matters:

1. Roleystone/Armadale Regional Cabinet meeting held on 10 November 2003 – Details will be reported to Council on 17 November via the CEO's report
2. Update on the Kelmscott Shopping Centre Appeal
3. Update on the Cinema Proposal in Armadale

MEETING DECLARED CLOSED AT 9.20 PM

CITY STRATEGY COMMITTEE

SUMMARY OF "A" ATTACHMENTS

11 NOVEMBER 2003

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CITY OF ARMADALE

ANNUAL REPORT 2002-2003