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ITEM 9.2.5 APPENDIX A

Records

From: Ray Hooper
Sent: Friday, 31 May 2013 3:57 PM
To: Records
Subject: FW: Notice of Proposed Amendments to the Constitution of the Western Australian Local Government Association
Attachments: Association Constitution (2013 Final Draft).pdf; ATT00001.htm

From: Records
Sent: Friday, 31 May 2013 3:51 PM
To: Ray Hooper
Subject: FW: Notice of Proposed Amendments to the Constitution of the Western Australian Local Government Association

From: Chantelle O'Brien [mailto:COBrien@walga.asn.au]
Sent: Friday, 31 May 2013 3:14 PM
To: All Councils; State Councillors
Cc: Strategic Executive Team
Subject: Notice of Proposed Amendments to the Constitution of the Western Australian Local Government Association

Dear Chief Executive Officer

Notice of proposal to amend the Association's Constitution

In accordance with Clause 29 of the Western Australian Local Government Association (WALGA) Constitution, I formally give notice that at the 7 August 2013 Annual General Meeting (AGM) of the Association a motion to amend the WALGA Constitution will be put to delegates as an item of business. A full report will be included in the AGM agenda papers.

The proposed amendments to the Constitution relate to the following two (2) issues;

- State Council Commencement Date
- Impacts of Amalgamation – Ability for Commissioners to represent State Council

As way of initial background information the following is provided;

State Council Commencement Date

The Association had been requested by the Great Eastern Country Zone to consider amending the WALGA constitution as it relates to the commencement date for the formation of the new State Council.

It has been suggested that it would be easier and less confusing if the new State Council commenced at the first meeting following the Local Government Elections (October). The reasoning for the delay in the past was to allow Councils enough time to nominate their delegates to the Zone and then the Zones to nominate their delegate to State Council. This was of particular importance where Local Governments had a number of newly elected councillors.

Currently, a State Councillors term commences at the March meeting. If this amendment is successful the first State Council meeting after the elections would be in December with the

Zone meetings held in November. The timeframes would require nominations to be addressed prior to the November Zone meetings.

Impacts of Amalgamation – Ability for Commissioners to represent State Council

Concern had been raised by Zone Delegates as to whether they have continuing rights and membership during transitional phases where mergers may occur between Local Governments.

The question was raised by a Zone Delegate in response to a proposal for a voluntary amalgamation between three local governments. As Commissioners are responsible for administering a new Council during the transitional phase, the question was whether the new Council was eligible for membership of WALGA, representation on State Council, and the legal position of the Commissioners administering the Council.

Legal advice was sought by WALGA. As a result amendments to the Constitution have been proposed to take into account the recognition of the legal position of the new Councils and Commissioners that may be formed as a result of a merger.

State Council considered the proposed amendments at a Special Meeting of State Council held on 30 May 2013 and unanimously resolved to amend the Constitution. State Council's resolution's, follows:

1. That the Constitution be amended as follows:

In clause 9, amend the commencement and conclusion date for State Councillors' term of office by amending sub-clause (3) to read:

"Representatives and deputy representatives to the State Council shall be elected by Zones of the metropolitan and country constituencies from amongst the delegates to the Zones for a term commencing on the day of the first Ordinary Meeting of State Council immediately following the biennial Local Government elections and concluding on the day before the first Ordinary Meeting of State Council of the following biennial Local Government elections."

2. If this proposed amendment is successful at the August 2013 Annual General Meeting, the current term of State Council be reduced to end on 3 December 2013.

**3. In clause 2:
Insert a new definition of Commissioner –**

"Commissioner means a Commissioner appointed to a Local Government under sections 2.6(4) or 2.36A(3) of the Local Government Act 1995."

4. In clause 2 amend the definition of Councillor by inserting after the words "elected by electors" –

"and includes a Commissioner appointed under section 2.6(4) or section 2.36A (3) of the Local Government Act 1995."

5. Amend the definition of Member by inserting after the words "sub-clause 14(2)" –

“; or

· A new Council created pursuant to a merger or amalgamation of existing Councils that were Ordinary Members of the Association prior to the merger or amalgamation."

6. Amend the definition of Ordinary Member by inserting after “provisions of this Constitution” –

“and includes a new Council created pursuant to a merger or amalgamation of existing Councils that were Ordinary Members of the Association prior to the merger or amalgamation.”

7. In clause 5 insert a new clause (3) as follows –

“Ordinary Membership shall be immediately conferred upon any new Council created by the merger of existing Councils that were Ordinary Members of the Association prior to the merger, provided that all membership fees and subscriptions owed to the Association up to the date of merger by the predecessor Councils of that new Council have been paid.”
All subsequent subclauses are renumbered.

8. In clause 14 paragraph (4a)(b) delete the words “who elected or appointed the person as its delegate.”

9. Clause 20(b) delete the words “who elected or appointed the person as its delegate.”

A mark-up version of the Constitution, which details the proposed amendments is attached.

Any queries regarding the proposal to amend the Constitution can be directed to:

· Tony Brown, Executive Manager Governance & Strategy, (08) 9213 2051, tbrown@walga.asn.au<<mailto:tbrown@walga.asn.au>>; or

· James McGovern, Manager Governance, (08) 9213 2093, jmcgovern@walga.asn.au<<mailto:jmcgovern@walga.asn.au>>

Yours sincerely

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