

# Special Council Meeting

Minutes for Wednesday 12 March 2014

## UNCONFIRMED



**shire of  
kalamunda**

## INDEX

|      |   |    |
|------|---|----|
| 1.0  | OFFICIAL OPENING.....   | 3  |
| 2.0  | ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED .....  | 3  |
| 3.0  | PUBLIC QUESTION TIME .....  | 4  |
| 4.0  | PETITIONS/DEPUTATION .....  | 6  |
| 5.0  | ANNOUNCEMENTS BY THE MEMBER PRESIDING WITHOUT DISCUSSION.....   | 6  |
| 6.0  | MATTERS FOR WHICH MEETING MAY BE CLOSED .....   | 6  |
| 7.0  | DISCLOSURE OF INTERESTS.....  | 7  |
| 8.0  | REPORTS TO COUNCIL .....  | 7  |
|      | 04. COMMUNITY PETITION .....  | 9  |
|      | 05. METROPOLITAN LOCAL GOVERNMENT REFORM INQUIRY - SHIRE OF KALAMUNDA SUBMISSION<br>TO THE LOCAL GOVERNMENT ADVISORY BOARD – MARCH 2014 ..... | 15 |
| 9.0  | MEETING CLOSED TO THE PUBLIC.....   | 29 |
| 10.0 | CLOSURE .....   | 29 |

---

## MINUTES

### 1.0 OFFICIAL OPENING

The Presiding Member opened the meeting at 7.10pm, welcoming Councillors, Staff, Members of the Public Gallery and the Press.

### 2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

#### 2.1 Attendance

##### Councillors

|                   |                                      |                 |
|-------------------|--------------------------------------|-----------------|
| Sue Bilich        | (Shire President) (Presiding Member) | North Ward      |
| Simon Di Rosso    |                                      | North Ward      |
| Justin Whitten    |                                      | South West Ward |
| Allan Morton      |                                      | South West Ward |
| Noreen Townsend   |                                      | South West Ward |
| Geoff Stallard    |                                      | South East Ward |
| John Giardina     |                                      | South East Ward |
| Frank Lindsey     |                                      | South East Ward |
| Andrew Waddell JP |                                      | North West Ward |
| Dylan O'Connor    |                                      | North West Ward |
| Bob Emery         |                                      | North West Ward |

##### Members of Staff

|                  |                                   |                                  |
|------------------|-----------------------------------|----------------------------------|
| Rhonda Hardy     |                                   | Chief Executive Officer          |
| Warwick Carter   |                                   | Director Development Services    |
| Charles Sullivan |                                   | Director Infrastructure Services |
| Gary Ticehurst   |                                   | Director Corporate Services      |
| Donna McPherson  | Executive Research Officer to the | Chief Executive Officer          |
| Nicole O'Neill   |                                   | Coordinator Public Relations     |
| Laurie Brennan   |                                   | Media Advisor                    |
| Meri Comber      |                                   | Governance Officer               |

**Members of the Public** 163

**Members of the Press** 1

#### 2.2 Apologies

##### Councillors

|                 |  |            |
|-----------------|--|------------|
| Margaret Thomas |  | North Ward |
|-----------------|--|------------|

##### Members of Staff

#### 2.3 Leave of Absence Previously Approved

Nil.

---

### 3.0 PUBLIC QUESTION TIME

A period of not less than 15 minutes is provided to allow questions from the gallery on matters relating to the functions of this meeting. For the purposes of Minuting, these questions and answers are summarised.

*Four people had indicated a wish to ask questions, following these the Presiding Member invited all in attendance if they had questions.*

- 3.1 Keith Vivian, Lesmurdie. Why is the Shire of Kalamunda 'playing Colin Barnett's game' and can the Shire of Kalamunda fight the State Government on a legal basis?

The Presiding Member answered that the Shire of Kalamunda currently have lawyers looking into all legal avenues the Shire could take.

- 3.2 James Dean, Lesmurdie. What is the Council Member's position with regard to the fact that they have each sworn allegiance to the *Local Government Act 1995* and what plans are there to fight the State Government since they are not taking notice of what the community want?

The Presiding Member responded that the first question will be discussed at another time and may well come forward to Council. Regarding fighting the State Government, Council will explore all angles to see what it can possibly do to achieve the wishes of the community.

- 3.3 Mark Simonsen, Maida Vale. This community has already expressed that it was against amalgamation by a community poll, making a submission to the Local Government Advisory Board (LGAB) seems a waste of time, can a high court action against the State Government be made?

The Presiding Member indicated the community poll only achieved a 43% vote and not the 51% hoped for. The Shire of Kalamunda would like the opportunity to have another poll, should an amalgamation be the option chosen by the LGAB and the Dadour Amendment remains in place, this could happen.

- 3.4 *The Presiding Member noted that not all speakers listed had had an opportunity to ask their questions; a motion to extend Public Question Time was moved, seconded and put to the vote.*

|   |
|---|
| <b>Voting Requirements: Simple Majority</b> |
|---|

RESOLVED SCM 36/2014

1. That Public Question Time be extended by 15 minutes.

Moved: **Cr Geoff Stallard**

Seconded: **Cr Allan Morton**

Vote: **CARRIED UNANIMOUSLY (11/0)**

- 
- 3.5 Jenny Lewis, Bickley. Who are the members of the LGAB and what are their current and former connections; are any currently connected with the City of Belmont?

The Chief Executive Officer provided the names of the Members of the LGAB; it would be necessary for any LGAB member to declare an interest prior to discussions, should there be any.

- 3.6 Michael Konrath, Gooseberry Hill. Is any networking taking place between Councils facing a similar challenge?

The Presiding Person confirmed that a meeting will be held shortly between some Councils who have a boundary change being proposed. This may produce some group recommendations or decisions.

- 3.7 Keith Martin. The Premier has indicated there will be no forced amalgamations yet at the public meeting in the Agricultural Hall there were three proposals, not one was for the status quo to remain. Will the Premier later indicate Kalamunda made a choice when we chose the only alternative we had?

The Presiding Person noted the comment was accurate.

- 3.8 James Dean, Lesmurdie. How will this Council get around 2.1 of the *Local Government Act 1995* which indicates that the State Government can do what it likes with the boundaries?

The Chief Executive Officer indicated that the only way around 2.1 of the *Local Government Act* is to have an amalgamation, then the Dadour provisions could be used and the community would have an opportunity to have a pole.

- 3.9 Iris Jones, Lesmurdie. I have attended all three forums and noticed that the community seemed to be angry and confused between the second and third forum will a community poll take place and if not why not?

The Chief Executive Officer indicated it is difficult to know if it is possible or feasible for the State Government to draft legislation prior to June 2014 when the LGAB are obligated by law to proceed and deliver their recommendations to the Minister. Such legislation was to be part of the Amendment Bill 2013 issued last September, but this is still being debated in the Upper House. It seems unlikely that the State Government could bring a new piece of legislation, have it debated, take it through the two houses and have it gazetted through the process of parliament by June 2014.

- 3.10 Maureen Humphries, Kalamunda. Is it true that if the Shire under goes a Boundary Adjustment then the Dadour Amendment cannot be used?

The Presiding Person confirmed this.

- 3.11 James Dean, Lesmurdie. Once the process of amalgamations has commenced then as a point of law it should not be possible to use a new law to prevent the community having a poll. If the State Government tried this would Council challenge this legally?

---

The Presiding Person indicated this would be a question to put to our Lawyers and would need to be taken on notice.

- 3.12 Keith Martin. Are the City of Belmont still refusing to negotiate with the Shire of Kalamunda?

The Presiding Person indicated that the City of Belmont have recently agreed to start negotiations.

#### **4.0 PETITIONS/DEPUTATION**

- 4.1 A request had been approved for a deputation to be made by Susan Elsberry and the *Save Kalamunda Shire Action Group* to address the meeting. Four representatives were present, the Presiding Member explained that only two members may address the Council, however Councillors could ask questions of all four persons present after the deputation has been made.

Allan Malcolm and Gordon Masters presented the deputation on behalf of the *Save Kalamunda Shire Action Group*.

A Councillor asked Peter Kenyon what impact, in his view, an amalgamation would have on the Community; he responded that amalgamations are about efficiency or economy – yet we live in a community not an economy. He is concerned that the spirit of the area would be lost and expressed concerns that Ministers Day and Simpson and Mr Nathan Morton do not seem to be supporting the wishes of their communities.

A Councillor requested Susan Elsberry make a comment about the *Save Kalamunda Shire Action Group*. She responded that within one week this group have mobilised, put out flyers, have increased community awareness and have over 400 signatures on a petition. They are planning to work with other groups in similar situations, including the Belmont Action Group as residents in the City of Belmont do not wish to amalgamate with the Shire of Kalamunda. Together with local government areas in a similar situation they hope to run a media campaign and explore what legal action could be taken. Susan Elsberry does not believe the LGAB are impartial and does not have faith in a fair and equitable response from them.

Councillors asked what financial assistance the group would be seeking. Susan Elsberry responded that any assistance would be helpful as the group need to set up a website, buy stationery and pay postage etc.

#### **5.0 ANNOUNCEMENTS BY THE MEMBER PRESIDING WITHOUT DISCUSSION**

- 5.1 Nil.

#### **6.0 MATTERS FOR WHICH MEETING MAY BE CLOSED**

- 6.1 Nil.

---

## **7.0 DISCLOSURE OF INTERESTS**

### **7.1 Disclosure of Financial and Proximity Interests**

- a. Members must disclose the nature of their interest in matters to be discussed at the meeting. (Sections 5.60B and 5.65 of the *Local Government Act 1995*.)
- b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Sections 5.70 and 5.71 of the *Local Government Act 1995*.)

7.1.1 Nil.

### **7.2 Disclosure of Interest Affecting Impartiality**

- a. Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee had given or will give advice.

7.2.1 Nil.

## **8.0 REPORTS TO COUNCIL**

Please Note: declaration of financial/conflict of interests to be recorded prior to dealing with each item.

8.1 *A Councillor asked that the process be outlined for any community action group seeking financial support. The Chief Executive Officer indicated she can grant a donation up to \$1,000, a larger amount could be approved by Council at the March Ordinary Council Meeting in two weeks' time. Alternatively an amount could be put into the budget process for next year.*

8.1 *A Councillor requested that Standing Orders be suspended to allow for open discussion over the issues. The Presiding Person indicated that initially she would invite the Chief Executive Officer to outline the process of reform to this point and then, if still considered necessary, Standing Orders could be suspended.*

*The Chief Executive Officer outlined the reform process.*

8.3 *A Councillor requested that Standing Orders be suspended to allow Item 4 and Item 5 of this Agenda to be discussed concurrently.*

8.4

**Voting Requirements: Simple Majority**

RESOLVED SCM 37/2014

1. That Standing Orders be suspended to allow Item 4 and Item 5 to be discussed concurrently together with any amendments on the table.

Moved: **Cr Andrew Waddell**

Seconded: **Cr John Giardina**

Vote: **CARRIED UNANIMOUSLY (11/0)**

Standing Orders were suspended at 8.24pm.

Councillor Dylan O'Connor left the meeting at 8.25pm and returned at 8.26pm.

8.5

**Voting Requirements: Simple Majority**

RESOLVED SCM 38/2014

1. That Standing Orders be resumed.

Moved: **Cr Noreen Townsend**

Seconded: **Cr Allan Morton**

Vote: **CARRIED UNANIMOUSLY (11/0)**

Standing Orders were resumed at 8.50pm and the meeting proceeded.

All Council and staff in attendance at the start of the meeting were present. There were 62 people remaining in the Public Gallery.



---

**Declaration of financial / conflict of interests to be recorded prior to dealing with each item.**

**04. Community Petition**

|                     |                          |
|---------------------|--------------------------|
| Previous Items      | Nil                      |
| Responsible Officer | Chief Executive Officer  |
| Service Area        | Chief Executive's Office |
| File Reference      |                          |
| Applicant           | N/A                      |
| Owner               | N/A                      |

[Attachment 1](#) Community Petition

**PURPOSE**

1. For Council to receive and consider a Community Petition submitted to the Shire on 6 March 2014.

**BACKGROUND**

2. A Community Petition containing 413 signatures requesting Council to hold a Special Meeting before 13 March to receive the petition as submitted to the Chief Executive Officer on 6 March 2014.

**DETAILS**

3. The prayer of the Community Petition in addition to requesting a Special Council Meeting to receive the petition states:

*"...which expresses the wishes of the electors and residents of the Shire of Kalamunda NOT TO AMALGAMATE IN ANY FORM with the City of Belmont or any other local government."*

4. Subsequent to the receipt of the above-mentioned Petition, the Community Action Group Against Local Government Reform have also made the following requests of Council:-

*"The electors and residents of the Shire of Kalamunda formally request the following:*

1. *That the Shire of Kalamunda NOT amalgamate in any form with the City of Belmont or any other local government, and*
2. *In the event the Local Government Advisory Board recommends an amalgamation or border adjustment, the electors and residents of the Shire of Kalamunda demand the democratic right to a poll; and*
3. *That Council join, and financially support, a Community Action group to rally our communities to prevent the amalgamation of, or boundary adjustments to, the Shire of Kalamunda."*

5. The Community Action Group will also be submitting their own submission to the Local Government Advisory Board stating:

*"Our message to the Local Government Advisory Board (LGAB) is very clear. We do not support amalgamation in any form. We have not seen any business case to justify amalgamation with the City of Belmont or any other local*

---

*government. Based on experience elsewhere, the proposed government model for amalgamation and/or boundary changes will lead to loss of identity, loss of community, increased rates and reduced services and benefits. It removes the concept of 'local' from local government. The Western Australian State Government has failed to produce any evidence to the contrary."*

6. The Community Petition is as a result of the proposals initiated by the State Government for the reform of local government in the Perth Metropolitan area which would reduce the number of local governments from 30 to 15.
7. The Shire has submitted a proposal to the LGAB seeking an amalgamation with the City of Belmont through the abolition of both local governments and the formation of a new entity.
8. Proposals submitted to the Local Government Advisory Board (LGAB) by the City of Belmont and the State Government seek the abolition of the Shire of Kalamunda.
9. The LGAB has commenced a formal inquiry with submissions due by 4.00pm on 14 March 2014. The Council is to consider various options at the Special Council meeting of 12 March 2014, one of which will provide a response to the Community Petition.

#### **STATUTORY AND LEGAL CONSIDERATIONS**

10. As this is a community generated petition there is no specific provision of the *Local Government Act 1995* with which it must comply. As such no analysis has been undertaken of the signatures on the petition to ascertain if they are all electors or ratepayers of the Shire of Kalamunda.

#### **POLICY CONSIDERATIONS**

11. Nil

#### **COMMUNITY ENGAGEMENT REQUIREMENTS**

12. The petition was generated by the community. The Shire has undertaken significant consultation with the community with respect to the proposed reform of local government within the Perth metropolitan area. The consultation has included the recent "Call to Action" campaign.

#### **FINANCIAL CONSIDERATIONS**

13. Should Council agree with the prayer of the Community Petition and make a submission seeking that the Shire NOT amalgamate with any local government then there should be no direct financial impact from consideration of this issue.

---

## STRATEGIC COMMUNITY PLAN

### Strategic Planning Alignment

14. *Kalamunda Advancing: Strategic Community Plan to 2023*

Objective 6.1 To ensure a highly effective and strategic thinking Council sets direction and works for the greater good of the community at all times.

Strategy 6.1.3 Increase advocacy efforts to influence State and Federal policy to achieve improved local outcomes.

## SUSTAINABILITY

### Social Implications

15. There is no research that has been undertaken to date that clearly outlines the impacts and benefit on social capital in a reform process. The merger of the Shire of Kalamunda community with the City of Belmont has the potential to have significant social implications.

### Economic Implications

16. If the Shire of Kalamunda was to remain in its current form, the long term financial plans indicates that the Shire will be financially sustainable over the term of the plan.

### Environmental Implications

17. The Shire of Kalamunda has a significant responsibility with regard to environmental management. The Shire of Kalamunda encompasses a vast variety of natural features and ecosystems and is very advanced in its proactive stance on protecting the biodiversity and natural environment. The Shire has a good record of working with friends groups and managing the natural environment.

## RISK MANAGEMENT CONSIDERATIONS

- 18.
- | Risk  | Likelihood | Consequence | Rating    | Action/Strategy   |
|---|------------|-------------|-----------|---|
| The Council does not receive and consider the Community Petition. | Unlikely   | Medium      | Mode rate | An explanation will be required to be provided to the Petitioners as to the reasons Council has decided not to receive and/or consider the Petition and its contents. |

---

## OFFICER COMMENT

19. The subject of the prayer of the Community Petition is to be addressed through proposed submissions to the current LGAB Inquiry being conducted into three proposals received by it that impact on the Shire of Kalamunda.
20. The Community Action Group in their appeal to Council have requested financial support, however, before any monetary commitment can be made an assessment must be carried out as it may be necessary to refer this to Council for budget consideration.

*The Officer Recommendation was moved and seconded. A Councillor foreshadowed an amendment, giving a Point 4 to the Resolution; the Mover and Seconder accepted the amendment. Prior to the vote being taken a Councillor foreshadowed an additional amendment of a Point 5 to the Resolution. This was also accepted by the Mover and Seconder, the vote was then taken.*

|   |
|---|
| <b>Voting Requirements: Simple Majority</b> |
|---|

### RESOLVED 39/2014

That Council:

1. Receives the Community Petition dated 6 March 2014 (Attachment 1).
2. Agrees to support, in the Shire's Submission to the Local Government Advisory Board and beyond, the following requests of the electors and residents of the Shire of Kalamunda:-
  1. Advise the Local Government Advisory Board that the Shire of Kalamunda NOT be amalgamated in any form with the City of Belmont or any other local government,
  2. In the event the Local Government Advisory Board recommends an amalgamation or border adjustment, the electors and residents of the Shire of Kalamunda demand the democratic right to a poll; and
  3. That Council join, and support, the Community Action Group to rally our communities to prevent the amalgamation of, or boundary adjustments to, the Shire of Kalamunda.
3. Notes that the prayer of the Petition has been addressed in the proposed submission to the Local Government Advisory Board to be considered by Council at a Special Council.
4. **Request the Chief Executive Officer to work with the Community Action Group to assist in the preparation of a Community Proposal to be lodged with Local Government Advisory Board as soon as possible recommending the Shire of Kalamunda remain largely as it is with the exception of a minor boundary adjustment to be agreed upon that will form the basis of a Proposal that is in accordance with the Provisions of the Local Government Act 1995 Section 2.1.**

5. **Encourages the working party to apply for a \$999.00 donation to assist with their initial setting up costs.**

Moved: **Cr John Giardina**

Seconded: **Cr Andrew Waddell**

Vote: **CARRIED UNANIMOUSLY (11/0)**

## **Attachment 1**

Community Petition

[Click HERE to go directly to the document](#)

---

**Declaration of financial / conflict of interests to be recorded prior to dealing with each item.**

**05. Metropolitan Local Government Reform Inquiry - Shire of Kalamunda Submission to the Local Government Advisory Board – March 2014**

|                     |  |
|---------------------|--|
| Previous Items      | OCM 35/2014 ( 24 February 2014)<br>OCM 154/2013 (23 September 2013)<br>OCM 116/2013 (26 August 2013)<br>OCM 31/2013 (25 March 2013)<br>OCM 214/2011 (19 December 2011) |
| Responsible Officer | Chief Executive Officer  |
| Service Area        | Office of Chief Executive Officer  |
| File Reference      |  |
| Applicant           | N/A  |
| Owner               | N/A  |

[Attachment 1](#)

[Submission to the Local Government Advisory Board Inquiry in relation to three Proposals affecting the Shire of Kalamunda – No. 15, 8, and 5-2013](#)

**PURPOSE**

1. To endorse a submission to the Local Government Advisory Board process in relation to three Proposals that have been lodged affecting the Shire of Kalamunda.

The three Proposals are:-

1. Shire of Kalamunda Proposal Number 15;
2. City of Belmont Proposal Number 8;
3. Minister's Proposal Number 05-2013.

**BACKGROUND**

2. The State Government in June 2011 announced plans for widespread changes to local government arrangements in metropolitan Perth. The plans, which include reducing the number of local governments from 1 July 2015, are aimed at building a stronger, more effective and financially secure local government sector.
3. The State Government commenced a comprehensive review of Perth metropolitan local government in June 2011 with the appointment of a Review Panel. The Panel's purpose was to recommend appropriate boundaries and governance models for local governments in the Perth metropolitan area.
4. The Panel released its Report and a series of draft recommendations in April 2012 and final recommendations in October 2012. The Report recommended that 12 new local governments be formed across the Perth metropolitan area. The recommendation in relation to Kalamunda was that it should be amalgamated with the City of Swan and the Shire of Mundaring.

- 
5. The Shire consulted its community about the recommendation that Kalamunda be amalgamated with Swan and Mundaring through a community poll. The result from the community poll was overwhelming opposition from the community. Of the 43% percent of electors who chose to vote, 88% voted against the proposed merger with Swan and Mundaring.
  6. On 25 March 2013 Council resolved inter alia to:-  
  
*Endorse its position in response to Recommendation 15 of the Robson Report to remain as it is and not to be amalgamated with any other local government authority.*
  7. On the 30 July 2013, the Minister for Local Government formally released what was described as a “blueprint” for local government reform, involving various amalgamations and boundary changes to reduce the total number of local governments in the Perth Metropolitan area from 30 to 14.
  8. The Government’s reform blueprint referred to an amalgamation of the City of Belmont and the Shire of Kalamunda.
  9. The Minister’s announcement on 30 July 2013 invited the local governments affected by the blueprint of proposed boundary changes to each submit a *conforming* proposal for such boundary change to the Local Government Advisory Board (“LGAB”) by 4 October 2013.
  10. The Minister also advised that failure to lodge a proposal by the required date; or, lodgement of a proposal that **does not conform** to the Government’s preferred blueprint will result in the Minister lodging his own proposal to the LGAB.
  11. The Shire of Kalamunda, in the given timeframe, was not able to undertake a thorough due diligence assessment process of financial and organisational capacities of the City of Belmont. Without this assessment it has been difficult to adequately assess the capacity and risks of either organisation. Without these critical assessments the Shire chose not attempt to make arbitrary comparisons of Belmont so as to not detriment any possibility of a good working relationship or to damage or denigrate our neighbour.
  12. The Shire deliberately chose to take a positive proactive approach, rather than highlighting obstacles and weaknesses, about our merger partner or the State Government’s direction. The Shire decided it would submit a conforming Proposal so as to avoid the Shire being left in a vulnerable position and not being able to be a part of designing its new future. This is the context from which the Shire Proposal Number 15 was made.
  13. In line with the requirements of the Schedule 2.1 of the *Local Government Act 1995* (LGA) the following matters were detailed in the Shire’s Proposal Number 15:
    - Community of interests.
    - Physical and topographic features.
    - Demographic trends.
    - Economic factors.
-



- 
- The history of the area.
  - Transport and communication.
  - Matters affecting the viability of local governments.
  - The effective delivery of local government services.
14. The Minister also stated that affected Local Government's should work together collaboratively and lodge a joint proposal.
15. In August 2013, the City of Belmont informed the Shire of Kalamunda that it was not prepared to make a joint proposal with the Shire of Kalamunda unless and until the Shire agreed to accept an equal number of councillor representatives from each district on the council of the new local government.
16. The City of Belmont's proposed model of representation would have resulted in a council comprising six councillors from the former City of Belmont representing 21,386 electors currently residing in the Belmont district, and 6 six councillors from the former Shire of Kalamunda representing 37,936 electors currently residing in the Kalamunda district. The City's insistence upon an equal number of elected representatives from each former district involved deviations in the councillor/elector ratio of greater than plus or minus 10%. The Shire of Kalamunda sought a model that would ensure equality in voting power for each elector in the new local government and was therefore unwilling to agree to the City's conditions for representation.
17. The failure to reach any consensus on the issue representation in the new local government resulted in the both the City of Belmont and the Shire of Kalamunda lodging separate proposals with the LGAB.
18. Despite a number of attempts by the Shire to engage with the City, the relationship between the elected representatives of the Shire of Kalamunda and the City of Belmont remains strained and there is nothing to indicate that relations will improve in the foreseeable future. The Local Implementation Committee ("*LIC*") established by both councils in July 2013 is yet to meet. As a result, to date there has been little or no coordinated forward planning between the Shire of Kalamunda and the City of Belmont, as required by the Government's reform timetable.
19. The Shire of Kalamunda's Council resolved at its meeting on 23 September 2013 (*OCM 155/2013 refers*) to submit a proposal to the Local Government Advisory Board, pursuant to clause 2 (1) of Schedule 2.1 of the LGA, that order be made by the Governor under Section 2.1 of the LGA that the Districts of the Shire of Kalamunda and City of Belmont be abolished to form a new local government with additional amendments to district boundaries involving the Cities of Swan and Canning. The Shire's proposal was lodged on 3 October 2013.
20. A Notice of Inquiry was published by the LGAB on 29 January 2014. The Inquiry was in regard to the 34 proposals submitted of which 3 proposals directly affected the Shire of Kalamunda as follows:-
1. The Shire of Kalamunda's Proposal No. 15 – for an amalgamation between Kalamunda and Belmont with the ability to trigger a community poll;

- 
2. The Minister for Local Government's proposal No. 5/2013 - which seeks to abolish Kalamunda by way of a boundary adjustment effectively enlarging the City of Belmont.
  3. The City of Belmont's proposal No. 8 – which also seeks to abolish Kalamunda by way of a boundary adjustment effectively enlarging the City of Belmont.
21. The reaction from the Kalamunda Community to the Minister's Proposal to abolish Kalamunda and have Belmont remain in force through a boundary adjustment resulted in a resolution at the Shire's Annual General Meeting from members of the community:-  
*AGM 3/2014 – Provision of more community information to the community and holding a community meeting with respect to local government reform.*
  22. The Shire of Kalamunda in response to the request from the community launched its "Call to Action" Campaign to seek as many residents as possible to lodge submission to the LGAB by 13 March 2013.

## DETAILS

23. The response to the "Call to Action" campaign has seen a significant shift in community perception about Local Government Reform. The Shire of Kalamunda has held a series of Community meetings and over 600 residents have attended and voiced their strong opposition to the Proposals being put by the Minister and the City of Belmont and have strongly expressed a desire to leave Kalamunda as it is.
24. A community action group has formed and has submitted a petition containing 413 signatures to Council. The prayer of the Community Petition in addition to requesting a Special Council meeting to receive the petition is that the petition:-  
  
*"...expresses the wishes of the electors and residents of the Shire of Kalamunda NOT TO AMALGAMATE IN ANY FORM with the City of Belmont or any other local government".*
25. In response to the call for submissions by the LGAB, the Shire of Kalamunda has decided to preface its Submission by outlining the concerns of its Community in regard to being abolished and taken over by Belmont.
26. The Community and the Shire are concerned that the Minister's proposal has clearly shown a bias toward Belmont over Kalamunda. The Kalamunda Community has taken umbrage with this given they are a much larger population and have significantly larger land area than the City of Belmont.
27. The Shire of Kalamunda community has restated the position it took in May 2013 when over 13,500 voted **NO** to amalgamation. The Shire of Kalamunda is a sustainable and capable Local Government and there is no cogent reason why it should be taken over by the City of Belmont.

28. In light of the Community's position the Shire has prepared a submission to the Inquiry that outlines, whilst the Shire's first and foremost position has always been to remain as it is, it recognises that the State Government has its policy to achieve reform outcomes. In light of this, the Shire, as a second preference continues to support its original Proposal No. 15 for a fair and equitable amalgamation based on a "one vote one value" system of representation as is *outlined in Attachment 1*.
29. The Shire of Kalamunda furthermore recommends that the LGAB rejects the City of Belmont's Proposal No. 8 and the Ministers Proposal No. 5/2013 on the ground that that neither can demonstrate cogent reasons for recommending that the Shire of Kalamunda be abolished as opposed to the City of Belmont.
30. The Shire refutes assertions made in other submissions as to its financial sustainability. Selective reporting of a single financial year, as opposed to seeing the wider financial picture, unfairly distorts the Shire's reputation. As is demonstrated by our audited financial statements and Annual Reports, together with the Long Term Financial Plan, the Shire is a responsible and disciplined financial manager, with significant improvements in industry benchmarks as well as strong revenue growth projections.
31. The Shire's Financial turnaround since the 2010/11 results should be viewed as a tribute to excellent financial management by very experienced and mature senior staff as well as very good oversight from the Council.
32. The following two major financial indicators demonstrate the Shire is not in financial decline. It clearly shows the Shire is able to quickly respond to a deficit year without impacting on service delivery. The Shire was also able to plan for a long term future that showed a steady growth thereafter.

|                               | <b>2011</b><br>\$ | <b>2012</b><br>\$ | <b>2013</b><br>\$ |
|-------------------------------|-------------------|-------------------|-------------------|
| Cash Unrestricted at year end | (2,538,827)       | 2,546,335         | 4,210,073         |
| Liquidly ratio                | 0.13:1            | 0.89:1            | 1.16:1            |

The City of Belmont continues to quote a highly controversial report prepared by R J Back & Associates for the Metropolitan Local Government Review Panel which criticised by the Local Government Sector to the extent that the State Government had it removed from the website within 24 hours of it being released due to the arguable conclusions it had drawn.

To conclude that the Shire of Kalamunda is unsustainable or has financial difficulty is based on figures produced three years ago, when there is more recent data available to show the contrary, is simply mischievous, self-serving and has deliberately caused brand damage to the Shire.

- 
33. Whilst the City of Belmont continues to unduly criticise the Shire's Long Term Financial Plan for forecasting rate increases at 7% it must be understood why the Shire has proposed these increases. This was not to do with sustainability it was to do with level of service decisions. The Shire's rate model comprises three justifiable factors, 3% CPI; 3% Growth; and 1% Asset Renewal giving the 7%. If the Council did not wish to accommodate growth in a growth district the infrastructure and community services would decline.

The Shire of Kalamunda provides a much higher level of community servicing than does the City of Belmont. Whilst Belmont claims its level of service is higher, when service levels are compared the claim is not justified.

By way of examples the Shire has four Libraries to one in Belmont, three recreation centres and an aquatic centre to one in Belmont, a History Village museum that is much larger than Belmont's museum, two men's sheds, over 70 Community Groups leasing various Shire owned facilities, a performing Arts Centre, a Cultural Centre and Visitors Centre of which Belmont has nothing to compare.

The service delivery between the two local governments is significantly different and Belmont cannot compare itself with the community service levels that are offered to the Kalamunda community because it is far greater and diverse.

34. It is worth noting that Belmont spent \$51mil last year on operating costs last year while Kalamunda spent \$47m, however Kalamunda's service delivery profile is significantly larger as outlined Point 33. This could indicate that Belmont is highly administrated whilst Kalamunda is community services focussed.
35. The Council and Shire Staff have considerable experience and specialty training in specialist areas such as bushfire emergency. Recognition of this and other hazards only encountered in peri-urban and rural local authorities bring with it a series of risk management problems that need to be addressed during the reform process. The Shire has developed an agile and adaptive leadership team, with substantial change management experience, and is well placed to take a leading role in meeting the needs of a growing community. The Shire is supported by dedicated and highly competent staff, who are concerned at being treated as a lesser partner due to perception that their roles are being taken over.
36. The submission is supported by legal advice from prominent local government legal practitioners, Jackson McDonald, who could find no cogent reasons for abolishing the Shire of Kalamunda as opposed to the City of Belmont, under the Boundary Adjustment Process. Furthermore, the legal advice provided clearly indicates that under the Governor's Powers, the Appointment of Commissioners as part of the Boundary Adjustment Process is not only available, but essential, if the LGAB pursue Boundary Adjustments over amalgamation. In the event of a Boundary Adjustment, dissolving both Councils would seem the only way to ensure a fair and equitable outcome to both communities.

- 
37. The Minister's proposal No. 5/2013 to abolish the Shire of Kalamunda rather than the City of Belmont in the Boundary Adjustment Process appears to be completely arbitrary. The stated reasons for the Minister's Proposal remain applicable irrespective of whether the Shire of Kalamunda or the City of Belmont is abolished (or indeed whether both are abolished).
  38. Contrary to the assertions of the City of Belmont in its original submission to the LGAB (see reason 9 on page 8), the Shire of Kalamunda is financially sustainable in its own right. The City of Belmont (perhaps mischievously) only referred to the Shire of Kalamunda's 2010/2011 results to portray the Shire as being financially unsustainable. The Shire acknowledges this year was a poor year and had provided detailed clarification of its financial history in its submission attached to this report. The Shire of Kalamunda's 2012/2013 financial reports demonstrate that the Shire is in a very sound financial position and has Long Term Financial Plan that also demonstrates how the Shire will manage its financial resources over the next 10 years.
  39. As compared to the City of Belmont, the Shire of Kalamunda has greater potential for revenue growth through new residential subdivisions and the development of industrial land in the foothills of the district.
  40. The City of Belmont relies heavily on the rate equivalent payments it receives from the owners/operators of Perth Airport (including the surrounding industrial/commercial uses on the Airport Land). However, as Perth Airport is on Commonwealth land, the owners/operators are within their rights to refuse at any time to pay the rate equivalent payment. If this was to eventuate, the City of Belmont's financial sustainability would be brought into question.
  41. Further, it has been the council of the City of Belmont which has imposed a moratorium, since last July 2013, of communication between the Shire of Kalamunda and the City of Belmont at an officer and councillor level. It is the City of Belmont who have insisted on a departure from custom and practice when dealing with electoral representation. In their most recent Report dated 10 March 2014 the City of Belmont again assert that the strict sense of "equal representation" is based on the number of Elected Members representing each Council should be the same. This is misleading because the Belmont model is commonly called "disproportionate representation or gerrymander". Representation is a concept that focuses on electors being equally represented by a 'One Vote One Value' principle it is not about the number of elected members.
  42. Conversely, the Shire of Kalamunda has sought to initiate and maintain lines of communication between the two local governments throughout the reform process. The latest initiative of the Shire of Kalamunda has been to prepare a memorandum of understanding to guide future negotiations between the two local governments through the LIC. The MOU was unanimously endorsed by the Shire Council at its meeting on 24 February 2014 and subsequently presented to the City of Belmont for its review and comment.

- 
43. By reasons outlined above, there is no reason why the LGAB could not make a recommendation that the City of Belmont be abolished and incorporated within the enlarged borders of the Shire of Kalamunda. This would also require the LGAB designating the Shire as a City.
  44. Apart from avoiding the poll provisions, a fundamental difference between the Boundary Adjustment Process and the Amalgamation Process is that under the Boundary Adjustment Process only the Shire of Kalamunda is abolished, with the City of Belmont continuing in force on and from the effective date with its boundaries changed.
  45. Under the Amalgamation Process, both Local Governments are abolished and a new Local Government starts afresh in their place on and from the effective date.
  46. The local government reform process has been widely advertised and promoted on the basis that the “new” Local Governments will commence on 1 July 2015, with Commissioners in place of Councils for an initial period prior to elections for new Councils in October 2015. The LGAB metropolitan reform website, for example, continues to refer to these elements of the process
  47. While it is not disputed that a merger of the Shire of Kalamunda and the City of Belmont could in fact be achieved through a Boundary Adjustment Process, such a process raises a number of challenges in terms of representation and ward structure, governance, naming, staffing and community perceptions as compared to the Amalgamation Process.
  48. In light of the above, the Shire’s submission makes comment on the proposal made by the City of Belmont and the Minister, as well as provides additional detail with respect to Shire’s Proposal Number 15. This detail includes recommendations on ward structures, representation models, financial and operational capacity, risk analysis, suggestions for new names as well as a strengthening of the ability to ensure the Local Implementation Committee commences to work cooperatively in the interest of all ratepayers across Belmont and Kalamunda.
  49. Whilst not the Shire’s preference, the Shire feels it must defend itself against the boundary adjustment proposals submitted by the City of Belmont and the Minister and is recommending to Council that a report and a new Proposal is prepared and presented to Council at its next Ordinary Council meeting.
  50. The Shire of Kalamunda does not accept the rationale provided in both the Minister’s and City of Belmont’s proposals for boundary adjustments and seeks to provide a case for why Kalamunda should be selected as the Local Government to remain if the LGAB favours the use of a boundary adjustment.

## **STATUTORY AND LEGAL CONSIDERATIONS**

51. Section 2.1 and clause 2 of Schedule 2.1 of the *Local Government Act 1995*.  
  
The LGAB is a statutory body established under the Local Government Act 1995 (the Act) to provide advice to the Minister on local government constitutional matters.

---

The LGAB's major function is to assess proposals to change local government boundaries and their systems of representation and then make recommendations to the Minister.

The Board resolved on 3 December 2013 to conduct a formal inquiry into each of the Proposals in accordance with the provisions of Schedule 2.1 of the Act.

## **POLICY CONSIDERATIONS**

52. Nil.

## **COMMUNITY ENGAGEMENT REQUIREMENTS**

53. Whilst there is no requirement for community engagement with respect to the local government reform, the Shire has been requested by its electors at its recent AGM to provide information to the community. An information campaign has been developed was launched that included:

- Mail out to all householders
- Local News and radio advertisements, and
- Community meetings.

## **FINANCIAL CONSIDERATION**

54. The process of local government reform carries significant financial imposts on local governments and as yet it is not known how much the State Government will contribute to assist in the implementation of reform.

## **STRATEGIC COMMUNITY PLAN**

### **Strategic Planning Alignment**

55. *Kalamunda Advancing: Strategic Community Plan to 2023*

Objective 6.1 To ensure a highly effective and strategic thinking Council sets direction and works for the greater good of the community at all times.

Strategy 6.1.3 Increase advocacy efforts to influence State and Federal policy to achieve improved local outcomes.

## **SUSTAINABILITY**

### **Social Implications**

56. The implications for the Shire of Kalamunda community as a result of a merger with the City of Belmont will have significant social impacts which will be beneficial in some instances and detrimental in others. There is no one body of research that has been undertaken to date that clearly outlines the impacts and benefit on social capital in a reform process.

### **Economic Implications**

57. The Shire of Kalamunda and the City of Belmont forming a new entity will have not completed due diligence to determine what economic impacts may arise. The only obvious benefit appears to be the desire by all to see the Airport operating in just a single local government area.

### **Environmental Implications**

58. The Shire of Kalamunda comprises ranges and foothills which brings with it a unique set of management responsibilities. The Shire is very experienced and mature at managing bushfire risk, working with a diverse agricultural community and managing large bio diverse areas.

The Shire also has a large number of volunteer groups who support the Shire's emergency management and environmental practices and without these volunteer groups the Shire could not achieve its objectives of safety to the community and protection of the environmental values that are deeply cherished by the Kalamunda community. The City of Belmont has limited experience in both these areas of responsibility.

### **RISK MANAGEMENT CONSIDERATIONS**

59. A comprehensive Risk Profile has been developed and is included within the body of the Shire's submission shown as Attachment A. It clearly shows that when all the risks are identified and assessed the best option for mitigating risk is by using an Amalgamation Process or leaving Kalamunda as it is.

### **OFFICER COMMENT**

60. Council has four options it can take in relation to local government reform and these are as follows:
- It can lodge a submission that provides comment or additional information to its Proposal No. 15 and the other Proposals from Belmont and the Minister.
  - It can lodge new proposal(s) that will require the Local Government Advisory Board to consider and make recommendations upon.
  - It can do nothing and await the decision made by the LGAB.
  - It can consider seeking legal advice on any aspect of the process of local government reform or on any of the future outcomes at a future date.
61. The Shire of Kalamunda has tried to work within the rules of the reform process that has been stipulated by the State Government in order to secure the best possible outcome for its residents and staff.
62. The recent announcement by the Minister to use boundary adjustments as the mechanism to achieve the State's policy objective to reduce the number of Local Governments in the metropolitan area is extremely unfair to a number of large sustainable local governments, including Kalamunda, and is a strong departure from the original undertakings given in July 2013 when the State's policy model was revealed.
63. The Shire of Kalamunda's community as a direct result of the Minister's Proposal has taken umbrage to his position and are now requesting Council to step away from the reform process and to fight off any abolition proposal.



- 
64. The Shire already, in good faith, submitted its initial Proposal in line with State Government's directives in October 2013. This proposal was to enter into a fair and equitable amalgamation with the City of Belmont. The Shire cannot withdraw a Proposal once it is lodged, it can only add additional information to the proposal during the Public submission period.
  65. The Shire is also able to submit new Proposals at any time and the LGAB must consider them in conjunction with all other Proposals impacting on any Local government.
  66. It is therefore considered important that the Shire provide as many options and as much information as possible to the LGAB that will assist the Board to make the best decision for the interests of the Shire of the Kalamunda community.
  67. The City of Belmont at Point 10 of their Proposal submission assert that there are issues with the Shire's infrastructure based on past data that is was not accurate. The Shire of Kalamunda has new "best of Industry" asset management system ('Assetic') that has improved our record keeping and management of asset inventory, attributes and cost information.

In 2007/08 the preservation performance the two LG's was 0.87 for Belmont and 0.83 for Kalamunda. Both local governments have undertaken a significant number of renewal and maintenance on road assets since then.

As a result of the improved data management in place over the last two years, it was identified that reports since 2008/09 included a significant omission of maintenance spending on road assets. The 2011/12 return includes a similar omission, and therefore the figure of 0.42 significantly understates the true size of expenditure on road assets in the Shire that year.

The return for the 2012/13 Financial Year has corrected this omission and discussion with the State Government indicates that the preservation performance ratio is 0.98 for this year.

68. The Shire in preparing this submission highlights a common issue. It would appear that because the City of Belmont had placed a moratorium on all their staff speaking with Kalamunda staff that they have relied on data that was not verified. This has resulted in brand damage for the Shire which could have been averted had communication lines been open.
69. The arguments being put by the City of Belmont justifying why they are best placed to care for the interests of industrial precincts and the airport is highly subjective. The Shire of Kalamunda has industrial precincts and is currently developing many more and building a relationship with the Airport is also not unique to the City of Belmont as the Shire also had a long history and relationship with the Airport.
70. To imply the Shire of Kalamunda will "syphon of money to support residential communities" is incredulous given the \$7m paid to Belmont each year by the Airport effectively subsidises the rate burden on residents by 20%. The impacts of the airport are felt across the entire eastern region so one must question why Belmont reaps the largest reward. The Services that are

delivered to the airport by way of infrastructure are not just delivered by Belmont, the State Government, the Shire of Kalamunda and the City of Swan all provide infrastructure from the east and north direction to the boundary of the airport.

71. The Shire of Kalamunda's Submission, whilst serving to respond to the LGAB Inquiry, also plays another role in the rebuttal of many statements made by the City of Belmont, in what appears to be deliberately causing reputation damage to the Shire. It is now hoped that the provision of balanced information will enable both the communities of Belmont and Kalamunda to be able to better judge the type of leadership that will be provided to the a new region if the Belmont takeover proposal is successful.

*The Officer Recommendation was moved and seconded. A Councillor foreshadowed an amendment, giving a revised Point 6 to the Resolution; the Mover and Seconder accepted the Amendment.*

*Prior to the vote being taken a Councillor foreshadowed a further addition to Point 6; this was the addition of a fifth point within Point 6. This was also accepted by the Mover and Seconder, the vote was then taken.*

|   |
|---|
| <b>Voting Requirements: Simple Majority</b> |
|---|

#### **RECOMMENDATION (SCM 05/2014)**

That Council:

1. On behalf of its Community resolves to advise the Local Government Advisory Board that the Shire of Kalamunda's first and foremost preference with regard to Local Government Reform is to remain as the Shire of Kalamunda in its current form and not to have any of its existing boundaries changed.
2. Request, as its second preference, the Local Government Advisory Board **support** the Shire of Kalamunda Proposal Number 15 which provides for a fair and equitable amalgamation between the City of Belmont and the Shire of Kalamunda, as well as provides the opportunity for the Community to call on the poll provisions within the *Local Government Act 1995* if the Community so chooses.
3. Request the Local Government Advisory Board to **reject** the Minister for Local Government's Proposal Number 05-2013 on the grounds there is no quantifiable justification in the Minister's Proposal to substantiate any benefit to the Kalamunda community resulting from the abolition of the Shire of Kalamunda.
4. Request the Local Government Advisory Board to **reject** the City of Belmont's Proposal Number 8 on the grounds there is no quantifiable justification in the Belmont Proposal to substantiate any benefit to the Kalamunda community resulting from the abolition of the Shire of Kalamunda.

- 
5. Endorses the Shire of Kalamunda's Submission shown as Attachment 1, **as amended**, that responds to the Local Government Advisory Board on all the Proposals lodged that impact upon the Shire of Kalamunda which are:
- Proposal No 15 Shire of Kalamunda (Amalgamation)
  - Proposal No 8 City of Belmont (Boundary Change)
  - Proposal No 05/2013 Minister for Local Government Belmont/Kalamunda (Boundary Change); and
- Requests the Chief Executive Officer to lodge its submission with the Local Government Advisory Board before 4pm on the 13 March 2014.
- ~~6. Requests the Chief Executive Officer to prepare a report that provides a case for a new Proposal to be developed and submitted to the Local Government Advisory Board that is a boundary change that will give effect to extending the boundaries of the Shire of Kalamunda and requesting designation to become a City.~~
6. **Requests the Chief Executive Officer to prepare a report that provides a case for a new Proposal to be developed and submitted to the Local Government Advisory Board that is a boundary change that will give effect to extending the boundaries of the Shire of Kalamunda in accordance with the following parameters:**
1. **Identify suitable minor boundary adjustments.**
  2. **Investigate the option of a boundary change to include the Perth Airport.**
  3. **Investigate the option of a boundary change to include the Perth Airport and the City of Belmont**
  4. **Designation to become a City.**
  5. **In consideration of the spirit of the community petition and Council's Resolution in the previous report Number SCM 04/2014, that the CEO be authorised to investigate any other boundary adjustments that could be considered appropriate by Council.**

Moved **Cr Dylan O'Connor**

Seconded **Cr Noreen Townsend**

Vote **CARRIED UNANIMOUSLY (11/0)**

## **[Attachment 1](#)**

Submission to the Local Government Advisory Board Inquiry in relation to three Proposals affecting the Shire of Kalamunda – No. 15, 8, and 5-2013

[Click HERE to go directly to the document](#)

**9.0 MEETING CLOSED TO THE PUBLIC**

9.1 Nil.

**10.0 CLOSURE**

10.1 There being no further business, the Presiding Member declared the meeting closed at 9.05pm.

I confirm these Minutes to be a true and accurate record of the proceedings of this Council.

Signed: \_\_\_\_\_  
Presiding Member

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2014