

Special Council Meeting

Agenda for Monday 12 May 2014



**shire of
kalamunda**

NOTICE OF MEETING SPECIAL COUNCIL MEETING

Dear Councillors

Notice is hereby given that a Special Meeting of Council will be held in the Council Chambers, Administration Centre, 2 Railway Road, Kalamunda on **Monday 12 May 2014 at 8.00pm.**



Rhonda Hardy
Chief Executive Officer
6 May 2014

Our Vision and Our Values

Our Vision

The Shire will have a diversity of lifestyle and people. It will take pride in caring for the natural, social, cultural and built environments and provide opportunities for people of all ages.

Our Core Values

Service – We deliver excellent service by actively engaging and listening to each other.

Respect – We trust and respect each other by valuing our difference, communicating openly and showing integrity in all we do.

Diversity – We challenge ourselves by keeping our minds open and looking for all possibilities and opportunities.

Ethics – We provide honest, open, equitable and responsive leadership by demonstrating high standards of ethical behavior.

Our Aspirational Values

Prosperity – We will ensure our Shire has a robust economy through a mixture of industrial and commercial development.

Harmony – We will retain our natural assets in balance with our built environment.

Courage – We take risks that are calculated to lead us to a bold new future.

Creativity – We create and innovate to improve all we do.

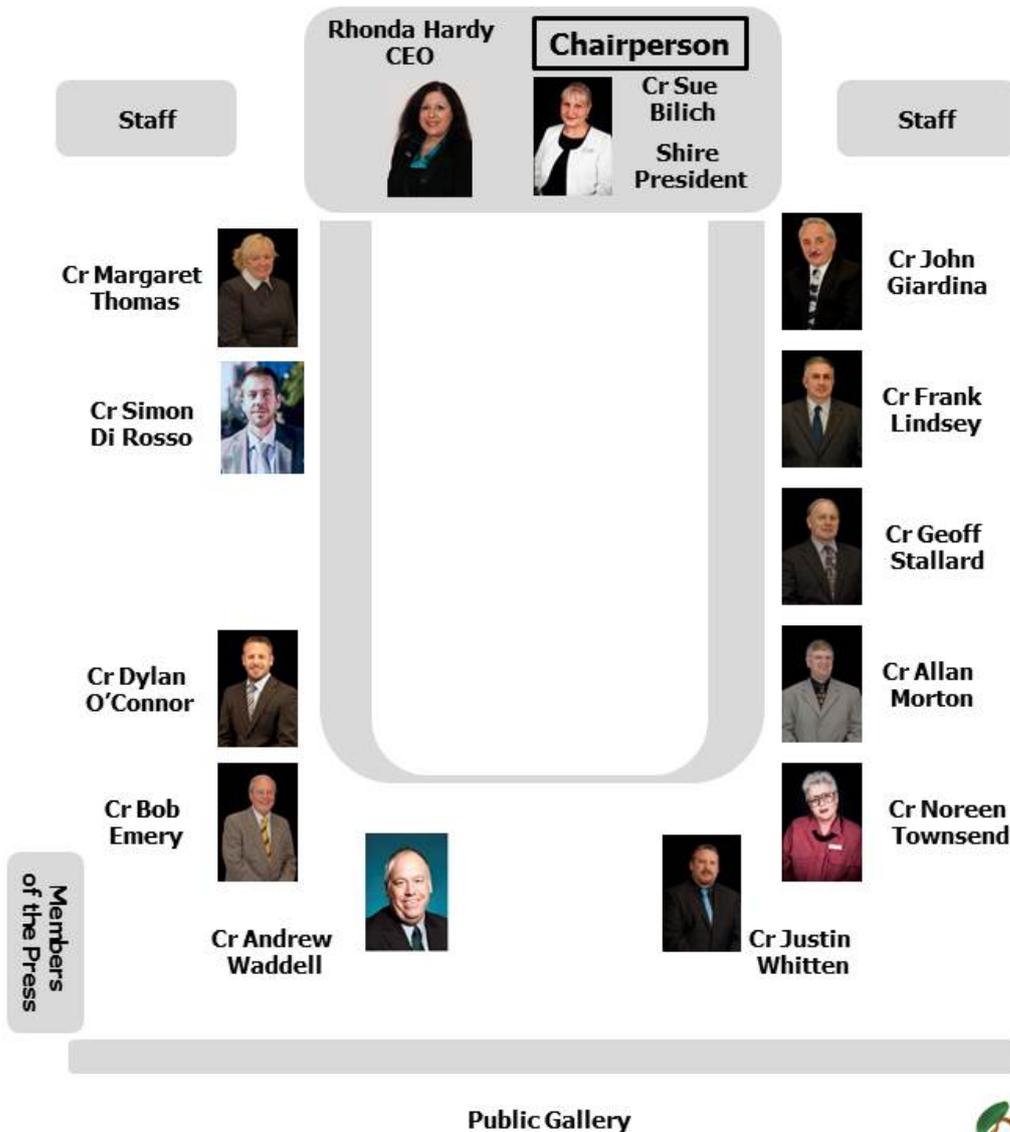


INFORMATION FOR THE PUBLIC ATTENDING COUNCIL MEETINGS

Welcome to this evening's meeting. The following information is provided on the meeting and matters which may affect members of the public.

If you have any queries related to procedural matters, please contact a member of staff.

Council Chambers – Seating Layout



Special Council Meetings – Procedures

1. All Council Meetings are open to the public, except for Confidential Items listed on the Agenda.
2. Members of the public who are unfamiliar with meeting proceedings are invited to seek advice prior to the meeting from a Shire Staff Member.
3. Members of the public are able to ask questions at a Special Council Meeting during Public Question Time on matters relating to the functions of this meeting.
4. To facilitate the smooth running of the meeting, silence is to be observed in the public gallery at all times except for Public Question Time.
5. All other arrangements are in general accordance with Council's Standing Orders, the Policies and decision of the Shire or Council.

Emergency Procedures

Please view the position of the Exits, Fire Extinguishers and Outdoor Assembly Area as displayed on the wall of Council Chambers.

In case of an emergency follow the instructions given by Council Personnel.

We ask that you do not move your vehicle as this could potentially block access for emergency services vehicles.

Please remain at the assembly point until advised it is safe to leave.

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AGENDA

1.0 OFFICIAL OPENING

2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

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 will be summarised.

4.0 PETITIONS/DEPUTATIONS

5.0 ANNOUNCEMENTS BY THE MEMBER PRESIDING WITHOUT DISCUSSION

6.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

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*.)

7.2 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.

8.0 REPORTS TO COUNCIL

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

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

SCM/6. Metropolitan Local Government Reform Update – Local Implementation Committee

Previous Items	OCM 53/2014 (24 March 2014) OCM 40/2014 (24 February 2014) OCM 154/2013 (23 September 2013) OCM 116/2013 (26 August 2013) OCM 31/2013 (25 March 2013) OCM 214/2011 (19 December 2011)
Responsible Officer	Chief Executive Officer
Service Area	Office of the Chief Executive Officer
File Reference	
Applicant	N/A
Owner	N/A
Attachment 1	Draft Memorandum of Understanding
Attachment 2	Draft Terms of Reference

PURPOSE

1. For Council to be provided with an update on the status of Metropolitan Local Government Reform with specific regard to the operation of the Local Implementation Committee (LIC) between the Shire of Kalamunda and the City of Belmont.
2. For Council to consider and endorse a revised Memorandum of Understanding (MOU) and a Terms of Reference (TOR) for the operation of the LIC.

BACKGROUND

3. In response to the Minister for Local Government's (the Minister) direction for a forced amalgamation to occur between the City of Belmont and the Shire of Kalamunda, Council at its meeting in August 2013 (OCM 116/2013) resolved inter alia that it would:
 1. *Establish a Local Implementation Committee (LIC) comprising the following Shire of Kalamunda representatives to progress the joint submission on the merger proposal:*
 - a. *The Shire President.*
 - b. *Chief Executive Officer.*
 - c. *Cr John Giardina.*
 - d. *Cr Noreen Townsend as a deputy representative for the LIC as required.*
4. With regards to the relationship between Belmont and Kalamunda, at its meeting of 25 November 2013 Council discussed at length the lack of progress in discussions with Belmont and moved a motion to host a joint meeting between the Shire of Kalamunda Councillors and the City of Belmont Councillors for the purpose of discussing:

The creation of a joint amalgamation steering group with the following Terms of Reference:

- *Develop a framework for negotiating any potential amalgamation.*
 - *Develop and implement a community awareness program.*
5. The Shire of Kalamunda invited the City of Belmont Councillors to a meeting to enable communications between the two organisations to commence. The meeting occurred on 3 February 2014 and the key outcome agreed was that the Belmont Council would consider putting a motion to allow officer level communications and planning to commence.
6. At its meeting in February 2014 Council endorsed a draft Memorandum of Understanding (MOU) to be presented to the City of Belmont for consideration. The draft MOU was developed to further strengthen the relationships between the two local governments. This approach also demonstrated to the government, the Local Government Advisory Board (LGAB), other stakeholders and the two organisations that there is a will to work cooperatively toward the best outcomes possible for the two communities. The draft MOU sets out the purpose and objectives of the agreement and the commitments by each participant in the areas of financials, human resources, communities, strategic planning and the management of assets. The commitments recognise the potential impacts on existing organisations and their people, both staff and community, and seek to minimise any disadvantage caused through the reform process.

DETAILS

7. To date the Local Implementation Committee (LIC), which was established in July 2013 by both Councils, has not met. Furthermore no forward planning has commenced between the two organisations towards the creation of the new entity.
8. The purpose of the draft MOU was to initiate a framework to commence the LIC process and the City of Belmont have recently advised that whilst they agree with the MOU they do not agree with the structure that allows for Councillors to be involved with the working groups and would make recommendations to the LIC. The City of Belmont do not believe they would have enough Councillors willing to be involved in the LIC process. It their preference for work to be undertaken by staff project teams and developed operationally then brought to each of the respective Councils through the LIC.
9. The draft MOU shown as Attachment 1 has now been adjusted to reflect this change.
10. The City of Belmont has drafted Terms of Reference (TOR) that provide for a governance framework for the LIC. The draft TOR are shown as (Attachment 2).

STATUTORY AND LEGAL CONSIDERATIONS

11. Section 2.1 and clause 2 of Schedule 2.1 of the *Local Government Act 1995*.

POLICY CONSIDERATIONS

12. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

13. There is no requirement for the LIC to engage with the community.

FINANCIAL CONSIDERATION

14. Entering into the MOU and TOR carries no financial risk to the Shire of Kalamunda.
15. All costs associated with LIC will be funded from \$100,000 State Government grant as well as the Shire's operational budgets as required.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

16. *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

17. Nil.

Economic Implications

18. Nil.

Environmental Implications

19. Nil.

RISK MANAGEMENT CONSIDERATIONS

- 20.
- | Risk | Likelihood | Consequence | Rating | Action/Strategy |
|---|------------|-------------|--------|---|
| Planning for a possible outcome of a new entity is not commenced immediately. | Likely | Major | High | The commencement of talks through the LIC with its MOU and TOR will enable officers to commence planning processes to mitigate planning risk if a new entity is formed. |

Risk	Likelihood	Consequence	Rating	Action/Strategy
Discontinuity of Services and programs.	Likely	Major	High	Encourage Belmont and Kalamunda officers to commence early work, asset designations and program assessments.

OFFICER COMMENT

21. The draft MOU and the TOR are not a legally binding agreements, however they both formally acknowledge the commitment of each local authority to work together to implement any reform proposal outcome that may result from Governors Orders in August 2014.
22. The draft MOU and TOR may make it possible for the LIC to commence operating. The LIC is the mechanism that reports progress to the Metropolitan Reform Implementation Committee (MetRIC).
23. The Minister has made it clear that any local governments who are in a transition group and are not starting to plan for change may be at risk of being stood down and replaced with Commissioners under Governor’s Orders.
24. It is unknown if the Minister will, or, has these powers at his disposal, but nevertheless, if the Governor’s Orders are for an amalgamation or a boundary adjustment with or without poll provisions, there is still a significant risk that not doing any operational planning in the interim period will have a serious ramification on service delivery to the communities post July 2015.
25. It should be noted that whilst neither the Shire of Kalamunda nor the City of Belmont are willing partners to the reform process nor do either party want to participate in a Local Implementation Committee, it is imperative that the Councils take due care and responsibility to safeguard their communities from a dysfunctional organisation post July 2015.
26. If the proposed mergers go ahead effective 1 July 2015 operational imperatives such as agreed service delivery, key policies, delegations, organisational structures and reporting lines, as well as a budget, need to have been created in order to reduce the risk of service loss post July 2015.
27. The communities of Belmont and Kalamunda must understand that the two Councils have been given little or no choice in this matter and by not undertaking any operational forward planning over the next 12 months would not be in the best interest of the communities and likely to result in service failure.
28. Whilst it may be considered that by commencing any form of forward planning with the City of Belmont would be sanctioning the Government’s reform Policy, it needs to be understood that is not the case and the Council has consistently opposed amalgamations unless a democratic vote of the community is granted.

Voting Requirements: Simple Majority

RECOMMENDATION (SCM 6/2014)

That Council:

1. Endorses the Memorandum of Understanding as shown in (Attachment 1).
2. Endorses the Terms of Reference as Shown in (Attachment 2).

Moved

Seconded

Vote

Attachment 1

MEMORANDUM OF UNDERSTANDING

BETWEEN CITY OF BELMONT AND THE SHIRE OF KALAMUNDA

(Hereinafter collectively referred to as the "Reform Partners")

WHEREAS:

The Minister for Local Government and Communities on 12 November 2013 announced the Government's proposals for reform of Local Government; and the proposal includes some suggestions relating to the amalgamation of some local governments and in some instances to boundary changes; and the Minister's proposal relating to the "Reform Partners" is summarised by the Department of Local Government and Communities on its website as follows:

- The Minister for Local Government has proposed a boundary amendment to incorporate the Shire of Kalamunda within the City of Belmont.
- The proposal includes a boundary amendment to transfer the parts of the localities of Hazelmere, South Guildford and an area of the Perth Airport from the City of Swan.
- The proposal also includes a boundary amendment to transfer part of the locality of Welshpool from the City of Canning.

The "Reform Partners" separately submitted proposals these are summarised as:

Shire of Kalamunda

- The amalgamation of the Shire of Kalamunda with the City of Belmont.
- The incorporating small portions of the City of Swan and City of Canning.
- New Entity to be based on equal representation.

City of Belmont

- Amend the City of Belmont boundary to incorporate the Shire of Kalamunda.
- Incorporating small portions of the City of Swan and City of Canning.

Whereas the "Reform Partners" are further aware that the reform involving the area of operation and jurisdiction of the "Reform Partners" may include certain areas presently falling within their boundaries; and The "Reform Partners" are aware that although they may have differing views with respect to the Government's proposal, for the sake of good governance and transparency, it is prudent to record the present thinking relating to a common approach to continued operational activities pending finalisation of the reform process; and although this Memorandum of Understanding (MOU) is not binding on the "Reform Partners", they agree to share information and data in order to ensure the Local Implementation Committee (LIC) is furnished with objective, well considered factual data, information and conclusions regarding the impacts and outcomes of the Government's and other submitters proposals.

NOW THEREFORE:

1. MOU OBJECTIVES

- 1.1 The purpose of this Memorandum of Understanding is to outline the general approach, lines of communication and commitments for the “Reform Partners” in the process of local government reform.
- 1.2 The “Reform Partners” desire to record their agreement and commitment to the process of local government reform even in the absence of agreement to the outcome of reform in as far as it relates to the area of operation or jurisdiction of the “Reform Partners”.
- 1.3 The purpose of this MOU is to establish intent and process as between the “Reform Partners”. The “Reform Partners” acknowledge that they will all be expending resources and time in relation to the proposed reforms whilst being required to maintain general operations and are therefore relying on one another in good faith in their commitment to openness and transparency in order to attain best value and least impact for the residents of the area of jurisdiction of the respective “Reform Partners”.
- 1.4 The MOU will facilitate the reform proposals, whether combined or not, to be progressed with and assist the development of a formal agreement between the “Reform Partners”, or some of them, once the proposals are assessed by the LGAB and recommendations to the Minister are accepted or rejected, and the resulting Governor’s Orders (if any) made on or about July 2014.
- 1.5 Any of the “Reform Partners” may withdraw from the understanding recorded herein by written confirmation of its intention to do so, and it is the intention that such withdrawal need not give rise to any claim for liability whatsoever on the part of any of the parties or any third party.
- 1.6 To ensure that data and information relevant to assessing the financial and other impacts of the Government’s proposals is shared between the “Reform Partners” to enable a factual assessment to be made by each of the Reform Partners as to the likely outcome and impacts of those proposals.
- 1.7 To ensure that at all times the “Reform Partners” will work to create a local government entity that will represent the best interests of the combined population within its boundaries.

2. COMMITMENTS

The “Reform Partners” understand they should exercise caution and endeavour to refrain from any financial commitments or actions that would impose an unfair burden on any entity that is the successor to any or all of the “Reform Partners” as a result of the reform process, such as, but not limited to:

2.1 Financial

- 2.1.1 Entering into any loan or guarantee commitments that will increase existing debt servicing repayment levels beyond what is reflected in the 2013/2014 Adopted Budgets and 2014/2015 Forward Budgets;
- 2.1.2 Committing to any self-supporting loan arrangements with third parties beyond what is reflected or planned in either 2013/2014 or 2014/2015 plans or budgets;
- 2.1.3 Committing to any long term grant funding beyond what is reflected or planned in either 2013/2014 or 2014/2015 plans and budgets;
- 2.1.4 The entering into of any new tenders for services or supplies that will extend beyond 1 July 2015 without the provision to terminate the contract, triggered by the reform outcome.

2.2. Employment

- 2.2.1 The “Reform Partners” are mindful of the need for a secure long term workforce and understand the need to avoid any action which would in any way contribute to workplace insecurity by way of the appointment of any new employees that may ultimately be surplus to the need of a new entity;
- 2.2.2 That the “Reform Partners” agree to prior consultation in respect to appointment and re-appointments of senior officers (as defined in the *Local Government Act*) or contract staff (if proposing a term that will expire after 1 July 2015). The “Reform Partners” also agree to prior consultation in respect of the creation of any new permanent position.

2.3. Industrial Relations

- 2.3.1 The “Reform Partners” are mindful of existing differentials in conditions of employment and agree to act to minimise any further increase in variations between the “Reform Partners”.

2.4. Strategic Urban Planning

- 2.4.1 Continue to be mindful of the impact on any of the “Reform Partners” when dealing with matters relating to strategic planning, such as, but not limited to, rezoning, structure planning and developer contribution arrangements.

2.5. Communities

- 2.5.1 Understand the need to avoid creating any expectations in the community relating to services, facilities and projects which are not provided by any or all of the other “Reform Partners” or may not be provided in its present form, or at all.

2.6. Immovable and Movable Property

- 2.6.1 Deal cautiously with acquiring or disposing of immovable and movable property , at all times being mindful whether the result would be of benefit to a reformed entity involving some or all of the other "Reform Partners";
- 2.6.2 Be mindful, when entering into any lease or licensing agreement, on the impact it may have on a reformed entity involving some or all of the other "Reform Partners".

2.7. Resource Sharing

- 2.7.1 The "Reform Partners" agree there are potential long term benefits for the region emanating from this reform process, through resource sharing arrangements. The "Reform Partners" are committed to exploring opportunities for efficiency gains through resource sharing arrangements and will work cooperatively throughout the reform period and beyond to realise those opportunities.

2.8. Governance

- 2.8.1 To ensure business activities carried out are delivered in a manner that adheres to the principles of good corporate governance.

2.9. Risk Management

- 2.9.1 The "Reform Partners" will ensure risk levels a proactively monitored and managed.

3. NO FETTERING DISCRETIONS

Nothing in this MOU is intended to fetter any statutory or other discretion to be exercised by the Council of any of the "Reform Partners", or to require the Council to deal with all applications, proposals and scheme amendments otherwise than in accordance with due process of law, and in good faith.

4. REPRESENTATIVES

The "Reform Partners" each agree to nominate representatives to act as their representatives for the purpose of dealing with all matters pertaining to this MOU. These members should be the same members that have been nominated to the Local Implementation Committee.

The members are:

Cr Phil Marks	Mayor	City of Belmont
Cr Robert Rossi	Deputy Mayor	City of Belmont
Stuart Cole	Chief Executive Officer	City of Belmont
Cr Sue Bilich	Shire President	Shire of Kalamunda
Cr John Giardina	Deputy Shire President	Shire of Kalamunda
Rhonda Hardy	Chief Executive Officer	Shire of Kalamunda

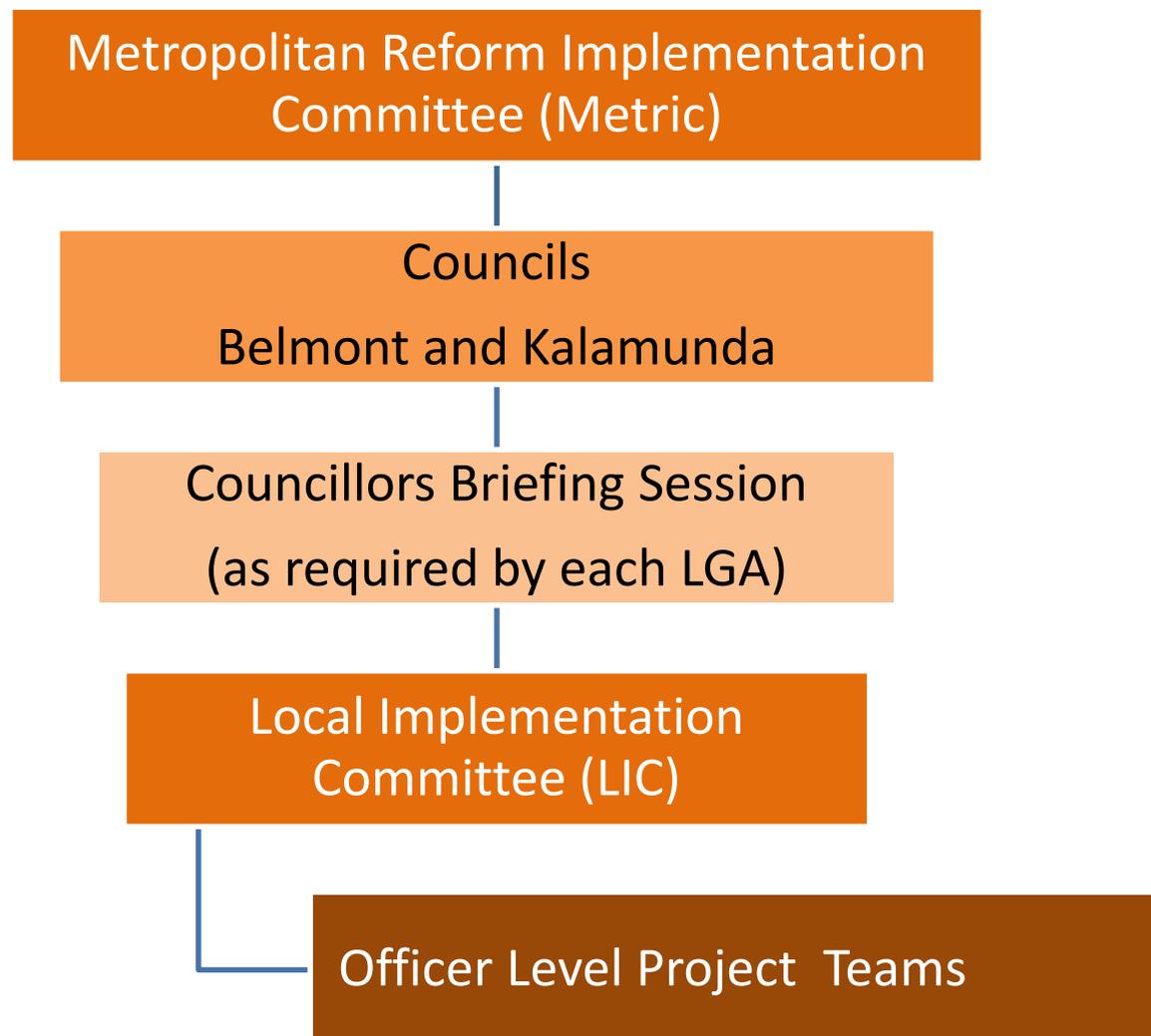
5. REFORM IMPLEMENTATION FRAMEWORK

The MOU will guide the work to be undertaken by the Local Implementation Committee (LIC) and will be operationally supported by officer comprised project teams based on the various functions across the two organisation.

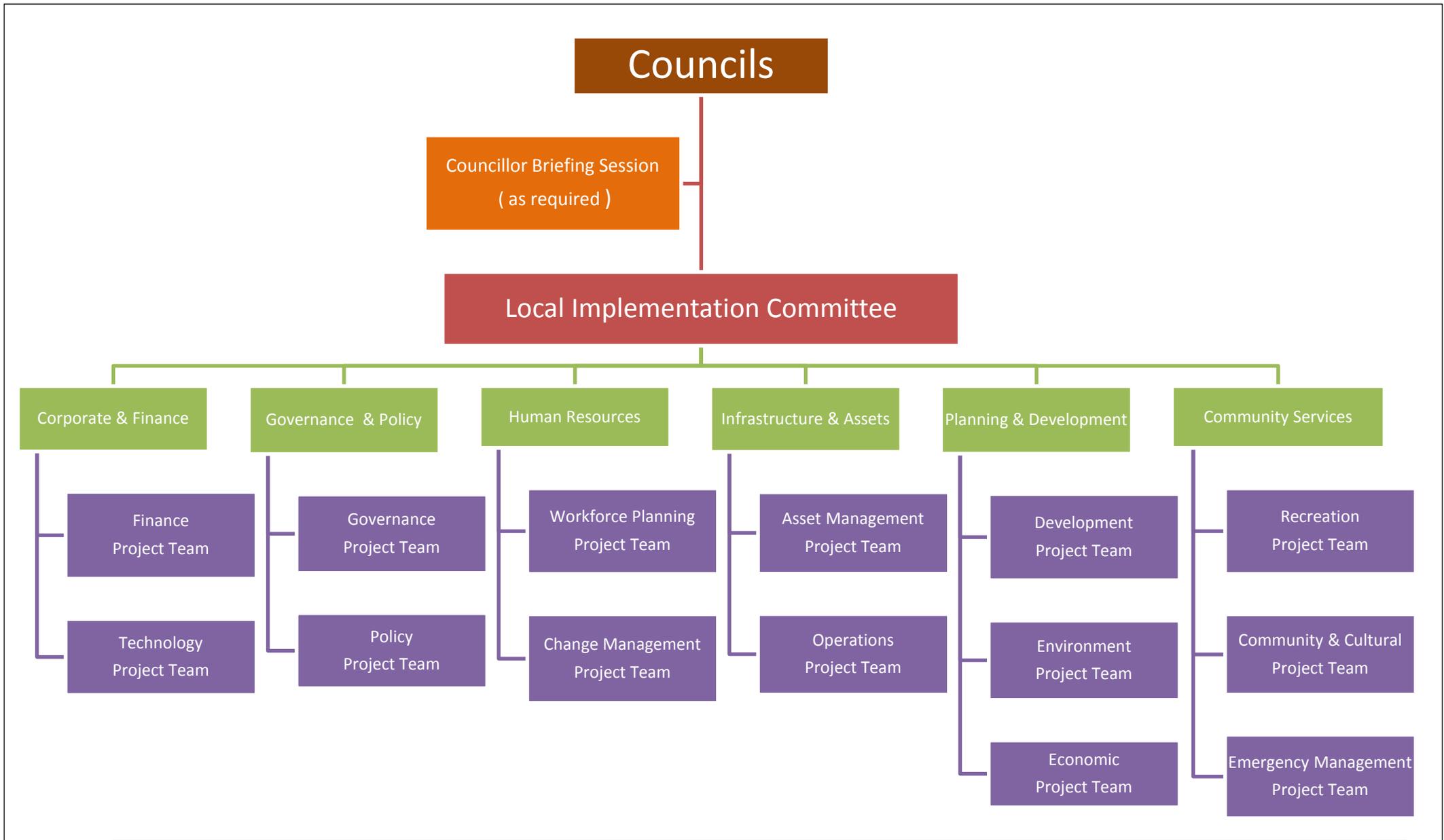
All Projects Team will comprise nominated officers from the City of Belmont and the Shire of Kalamunda who will undertake the required assessments and analysis, prepare plans and make recommendations to the LIC to consider.

All Project Teams will be guided by Project Plans that clearly articulate the objectives, roles and responsibilities of the project team.

The Overarching Reporting Structure shown diagrammatically would be as follows:-



The Detailed Operational Structure shown diagrammatically would be as follows:-



6. SUBJECT TO COUNCIL APPROVAL

This Memorandum of Understanding is subject to approval by each of the Councils of the "Reform Partners".

7. NOT BINDING

This Memorandum of Understanding is not intended to be legally binding on any of the "Reform Partners" nor is the Memorandum of Understanding intended to confer any benefit on any of the "Reform Partners"

EXECUTED AS FOLLOWS:

Phil Marks
Mayor

Signed.....

City of Belmont

Dated.....

Stuart Cole
Chief Executive Officer

Signed.....

City of Belmont

Dated.....

Sue Bilich
President

Signed.....

Shire of Kalamunda

Dated.....

Rhonda Hardy

Chief Executive Officer

Signed.....

Shire of Kalamunda

Dated.....

Attachment 2

CITY OF BELMONT & SHIRE OF KALAMUNDA **LOCAL IMPLEMENTATION COMMITTEE (LIC)** **TERMS OF REFERENCE**

ESTABLISHMENT

This Local Implementation Committee (LIC) is established to accord with the Minister for Local Government's request. The LIC has a key responsibility for leading the change process through stages 1, 2 and 3 of the transition plan contained in outlined in the Reform Toolkit. This responsibility may extend to stage 4 in circumstances where a Commissioner has not been appointed.

REFORM PRINCIPLES

During the transitional stages of amalgamation/boundary change, reform principles are developed to govern and underpin all transitional activities for the future local government's structures and systems. Principles can assist with achieving effective and realistic planning and operational outcomes when applied in an environment of change and high expectation:

Principle 1: Embrace opportunity and strive for best practice

Principle 2: Attract and retain quality staff and develop career opportunities

Principle 3: Engage community and work together

Principle 4: Increase local government capacity and improve community outcomes

Principle 5: Reduce local government bureaucracy and streamline systems

Principle 6: Deliver open and transparent communication

SCOPE

The LIC will consider, assess and make recommendations on key strategic issues to each member council regarding those matters relating to stages 1, 2 & 3 of the Local Government Reform Toolkit, relevant to a boundary/amalgamation pending a Ministerial decision and Governors Orders.

MEMBERSHIP

The LIC shall comprise:

Facilitator: TBA

City of Belmont: Mayor, Cr Phil Marks
Deputy Mayor, Cr Robert Rossi
Chief Executive Officer, Stuart Cole

Shire of Kalamunda: Shire President, Cr Sue Bilich
Deputy Shire President, Cr John Giardina
Chief Executive Officer, Rhonda Hardy

The LIC as and when required may invite officers or consultants to attend a part of a meeting to pass on or receive information, or provide presentations on relevant matters.

DUE DILIGENCE

The LIC shall ensure due diligence is considered as an element of the process. Due diligence involves examining the operations of the local governments to determine potential risk exposure and to ensure that all critical issues are identified and considered as part of the process.

Due diligence is a component of risk management and should be applied to issues such as (but not limited to):

- the financial position of the affected local governments;
- the value and condition of assets;
- the capability and relevance of business systems;
- legal proceedings in progress and any potential legal actions;
- the impact of the amalgamation on contracts, leases, industrial agreements and awards;
- debtors and creditors;
- outstanding insurance claims; and
- any other contentious issues.

GOVERNANCE

I. Powers of the Local Implementation Committee

The LIC does not have executive powers or authority to implement actions in areas over which the CEO has legislative responsibility; and does not have any delegated authority or decision making powers. The LIC does not have any management functions and cannot involve itself in management processes or procedures, however has a strategic leadership overview to ensure the best interests of the communities are represented.

II. Chair

The role of the Chair will be undertaken by the Facilitator.

III. Meetings

The LIC shall hold formal meetings which are minuted in the form of Outcomes, with action items identified. The Chairperson will ensure that the meeting is conducted in a timely manner and within the scope. Members will also have the opportunity to raise matters under an agenda item for other business.

Meetings of the LIC are not open to the public and the proceedings will not be audio or video recorded.

Meetings will be held approximately monthly at alternate venues of City of Belmont and Shire of Kalamunda, to be determined, with additional meetings to be scheduled as needed.

The City of Belmont will facilitate Agendas which will be distributed to members at least one week prior to the meeting and the production of minutes.

IV. Reporting

The LIC will report to its member Councils and provide appropriate advice and recommendations on matters relevant to its term of reference. This is in order to facilitate informed decision-making by Council in relation to the legislative functions and duties of local government that have not been delegated to the CEO.

Reports and recommendations of each LIC meeting requiring a resolution of Council shall be presented to the next ordinary meeting of the Council or the first ordinary meeting of Council practicable.

The LIC will provide progress reports to the relevant authorities as appropriate.

V. Confidentiality

Members of the LIC shall not disclose confidential information or documents acquired through membership of the LIC, other than as required by law or where agreed by decision of the LIC; nor make any unauthorised public statements regarding the business of the LIC.

9.0 MEETING CLOSED TO THE PUBLIC

10.0 CLOSURE