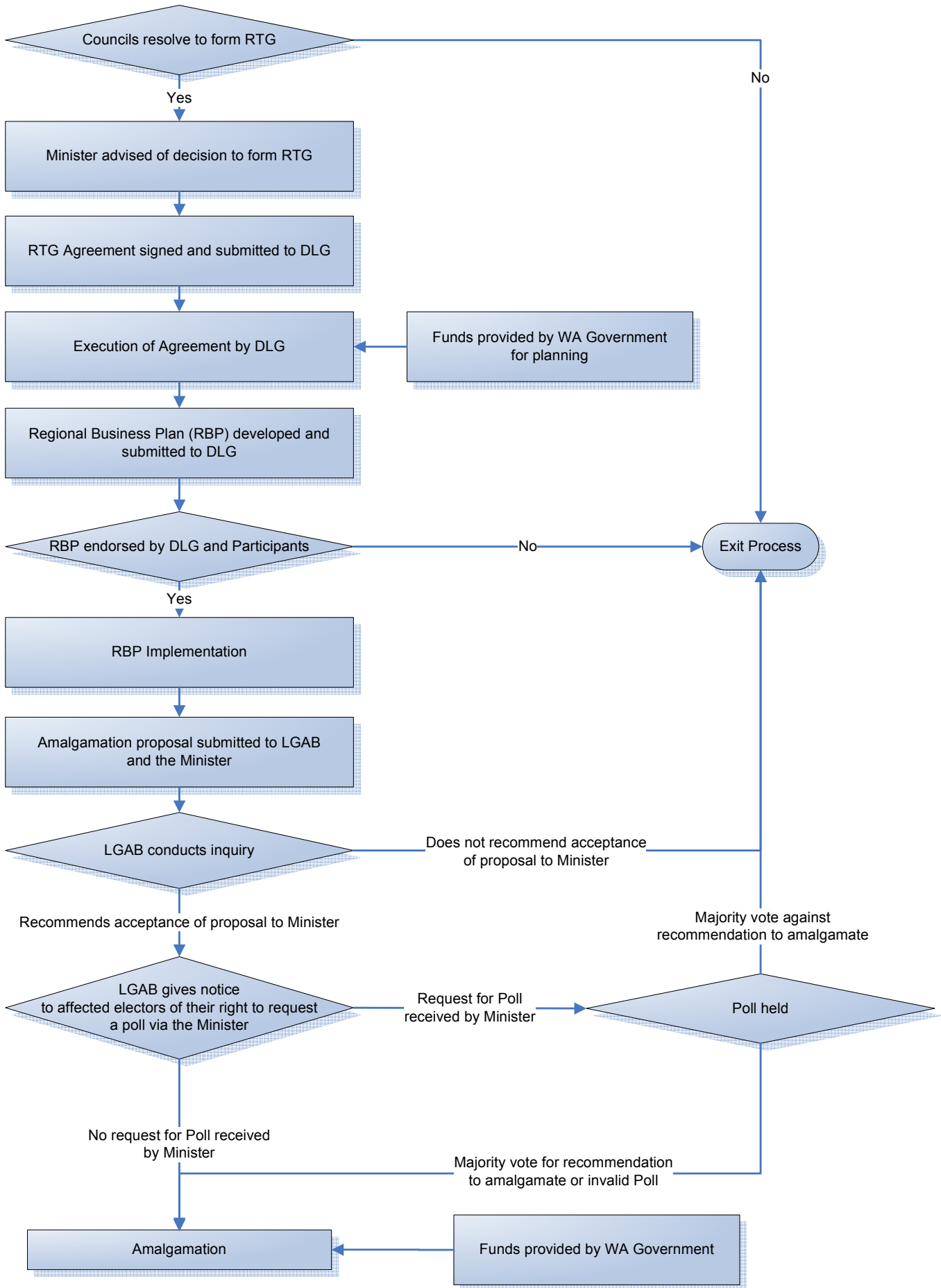


RTG Process for Amalgamation





RTG INFORMATION SHEET

Planning for the next 100 years

Western Australia's local government boundaries were largely established over 100 years ago based on the communities and economic conditions of the State at that time.

The role and demands of local governments have changed dramatically since then, but the structure of local government remains virtually the same.

Through reform, you have the opportunity to establish a stronger, more viable structure that better reflects the needs of our changing communities and our growing, modern and diverse State.

This process is about looking to the future and building a local government structure that will see Western Australia through the next 100 years.

What is a Regional Transition Group?

To assist reform in the sector, the concept of a Regional Transition Group (RTG) has been developed.

An RTG will facilitate the harmonisation of core functions and services across the participating local governments. As such, an RTG will provide the structure for transitioning several local governments into a single entity by 2013.

Participation in an RTG is 100% voluntary. Once a council is a signatory to a Model Agreement, it confirms its commitment to participate fully in the planning and adoption of common systems and services.

These will be scoped in a Regional Business Plan. At the conclusion of developing a Regional Business Plan, local governments will decide whether or not to proceed.

This will not preclude local governments from moving to another RTG where there is agreement by all participants.

Benefits of Regional Transition Groups

RTGs provide local governments that have recognised the benefits to be gained through reform with a structured path towards a merger.

With defined milestones staged over the three year period, participants have the opportunity to resolve key issues and harmonise core functions and services before ultimately merging into a single entity.

Subsequently, if 50% or more of participating members wish to withdraw the agreement may be terminated.

Which of WA's local governments are suited to Regional Transition Groups?

Joining a RTG is a good option for local governments that are one or more of the following:

- amenable to amalgamation but unable to obtain agreement with their proposed amalgamation partners
- have indicated that they may consider amalgamating at a date in the future
- already connected to a group of local governments through a regional council or
- are an integral part of future regional planning and service delivery.

Requirements of Regional Transition Groups

Each participating local government is required to be a signatory to a Model Agreement which formalises the establishment of the RTG.

Once the Model Agreement is signed by participating local governments, the Group, with assistance from the Department of Local Government, will initiate processes required to progressively align the existing structures in 2013.

Member local governments of an RTG will be required to:

- Appoint a board comprising one elected member and one elected deputy member for each participant together with such other members as the participants agree
- Appoint an elected member from one of the participants to be the chairperson of the Board, and an elected member from a different participant to be the deputy chairperson of the Board
- Have regular meetings
- Nominate a participating council to act as banker and secretariat
- Establish a process for decision making and meeting procedures, and
- Report on the activities of the RTG.

Each RTG will be required to develop a Regional Business Plan to scope services and transition costs. It is recommended that Business Plans be finalised within nine months of signing an Agreement.

Community engagement and representation

The Regional Business Plan will provide for specific actions to ensure that community engagement and representation is incorporated into the decision making processes of the new local government post-amalgamation, including the establishment of:

- Place planning approaches, including customer advocates
- Precinct committees and community advisory committees
- Modern community engagement techniques
- Community associations (progress associations).

Where communities are concerned about representation, the Minister is willing to approve arrangements that facilitate councillor representation from each of the current local governments for two full election cycles post-amalgamation.

Transitioning to a new entity

RTGs will be assisted by the Reform Implementation Committee, which has been established to oversee the transitioning process.

Implementation working groups will provide practical advice to transitioning local governments in the areas of:

- Human resources and change management
- Strategic planning and community engagement
- Finance
- Information management and technology
- Governance and legal issues.

What happens next?

Local governments are encouraged to engage with their neighbouring councils to determine whether forming an RTG would be beneficial to the long term needs of their communities.

Local governments that have been asked to consider forming an RTG are requested to advise the Minister of their decision by 26 March 2010.

The reform process remains voluntary. It is up to individual local governments to choose whether they will take up the opportunity to reform, and if they do, who their amalgamation partners will be.

For more information on RTGs and the reform process contact:

Wendy Murray
Executive Director
Strategic Policy and Local Government Reform
(08) 9217 1630
wendy.murray@dlg.wa.gov.au

Tim Fowler
Special Advisor
Legislation and Reform
(08) 9217 1439
tim.fowler@dlg.wa.gov.au

Chris Berry
Manager
Structural Reform Branch
(08) 9217 1417
chris.berry@dlg.wa.gov.au

February 2010.

2010

STATE OF WESTERN AUSTRALIA

and

[#]

and

[#]

and

[#]

**AGREEMENT FOR THE []
REGIONAL TRANSITION GROUP**

State Solicitor's Office
Commercial
141 St Georges Terrace
Perth WA 6000
Telephone : (08) 9264 1888
Ref: SSO

TABLE OF CONTENTS

Clause	Page No.
1. DEFINITIONS AND INTERPRETATION	1
1.1 Definitions	1
1.2 Interpretation	2
2. AMALGAMATION	3
2.1 Date for Amalgamation	3
2.2 Legally Binding	4
3. ADMINISTRATION.....	4
3.1 Board of RTG	4
3.2 Appointment of Chairperson	4
3.3 Meetings of RTG	4
3.4 Decisions by RTG	4
3.5 Banker and Secretariat.....	4
4. FINANCIAL CONTRIBUTIONS	4
4.1 Financial Contribution of the Participants.....	4
4.2 Financial Contribution of the State	4
5. SERVICES	4
6. REGIONAL BUSINESS PLAN.....	5
6.1 Development of Regional Business Plan	5
6.2 Contents of Regional Business Plan.....	5
6.3 Submission of Final Business Plan	5
6.4 Disagreement on Contents of Regional Business Plan.....	5
6.5 Endorsement by Department and Participants.....	5
6.6 Funding by State	6
7. SUBMISSION OF PROPOSAL.....	6
7.1 Submission to Local Government Advisory Board.....	5
7.2 Implementation of Proposal	5
7.3 Funding by State	5
8.. REPORTING.....	6
9. DEFAULT	6
10. TERMINATION	6
10.1 Termination by majority	6
10.2 Meeting with Department.....	6
10.3 Return of Unexpended Funds	7

11.	NOTICES AND OTHER COMMUNICATIONS.....	7
11.1	Service of notices	7
11.2	Effective on receipt.....	7
12.	GENERAL	8
12.1	Entire Agreement	8
12.2	Severability	8
12.3	Waiver	8
12.4	Further action.....	8
12.5	Assignment.....	8
12.6	Governing law and jurisdiction	9
12.7	Variation	9
12.8	Counterparts.....	9
	SCHEDULE	10

DRAFT

THIS AGREEMENT is made the

day of

2010

BETWEEN

DIRECTOR GENERAL OF THE DEPARTMENT OF LOCAL GOVERNMENT FOR AND ON BEHALF OF THE STATE OF WESTERN AUSTRALIA ("State")

AND

[]
[]
[]

(the local governments collectively referred to as the "**Regional Transition Group**")

BACKGROUND

- A. It is the policy of the State to seek structural reform in local government in order to secure sustainability, governance and service delivery systems that meet the needs of local communities, support social and economic changes and contribute to ongoing development across Western Australia.
- B. The Participants have formed the Regional Transition Group for the purpose of implementing common service arrangements and moving towards amalgamation as a single local government.
- C. The State and the Regional Transition Group have agreed to enter into this Agreement in order to set out the basis on which the Regional Transition Group will implement a regional business plan to achieve common service arrangements and move towards amalgamation.
- D. In order to assist the process of structural reform, the State shall provide to the Regional Transition Group the financial contributions described herein.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires:

Act means the *Local Government Act 1995*.

Agreement means this Regional Transition Group agreement.

Amalgamation means the action by which the Participants form a single local government as described in clause 2.1.

Amalgamation Date means 1 July 2013 or such earlier date as decided by the RTG.

Board means the board of the RTG described in clause 3.1.

Business Day means a day other than a Saturday, Sunday or public holiday in Western Australia.

Department means the State's Department of Local Government.

Execution Date means the date when this Agreement is executed by the Director General, as the last Party to execute.

Participant means a local government which is a Party to this Agreement.

Party means a party to this Agreement and **Parties** means all of them.

Region means the area covered by common service arrangements of the Participants.

Regional Business Plan means the plan described in clause 6.

RTG means Regional Transition Group.

1.2 Interpretation

In this Agreement, unless the contrary intention appears:

- (a) words and expressions defined in the Act have the same meaning where used;
- (b) a reference to a clause, schedule or annexure is a reference to a clause of, or a schedule or annexure to, this Agreement and a reference to this Agreement includes any recital, schedule or annexure;
- (c) a reference to a statute, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) the singular includes the plural and vice versa;
- (e) the word 'person' includes a firm, body corporate, partnership, joint venture or unincorporated association;
- (f) a reference to a person includes a reference to the person's executors, administrators, delegates, successors and assigns;
- (g) a reference to a person, statutory authority or government body (corporate or unincorporated) established under any written law includes a reference to

any person (corporate or unincorporated) established or continuing to perform the same or a substantially similar function;

- (h) a reference to dollars or \$ is to Australian currency;
- (i) an obligation, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally;
- (j) an obligation, representation or warranty on the part of two or more persons binds them jointly and severally;
- (k) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (l) a reference to a day is to be interpreted as the period of time commencing at midnight and ending twenty-four hours later;
- (m) references to time are to time in Western Australia;
- (n) if a payment is to be made or an act performed on a day which is not a Business Day, then the payment must be made or the act performed on the next following Business Day;
- (o) headings in this Agreement are inserted for convenience and do not affect the interpretation of this Agreement;
- (p) words of inclusion are not words of limitation;
- (q) unless provided otherwise, reference to legislation is to legislation of the State of Western Australia; and
- (r) if any conflict arises between the terms and conditions contained in the clauses of this Agreement and any schedule or annexure to this Agreement, the terms and conditions of the clauses of this Agreement prevail.

2. ESTABLISHMENT OF REGIONAL GROUP

2.1 RTG Formed

The Regional Transition Group is hereby formed with a view to achieving structural reforms in local government throughout the Region.

2.2 Legally Binding

The Participants acknowledge and agree that they are legally bound by the terms and conditions contained herein.

3. ADMINISTRATION

3.1 Board of RTG

Within 3 months of the Execution Date, the RTG shall convene the inaugural meeting, of the RTG and appoint a board comprising one elected member and one elected deputy member for each Participant together with such other members as the Participants agree.

3.2 Appointment of Chairperson

At the inaugural meeting the RTG shall appoint an elected member from one of the Participants to be the chairperson of the Board, and an elected member from a different Participant to be the deputy chairperson of the Board.

3.3 Meetings of RTG

The RTG shall convene Board meetings regularly and in any event not less than once every 3 months, and shall keep minutes for all meetings convened.

3.4 Decisions by RTG

Board meeting procedures shall be determined by the Board, and decisions shall be made by ordinary majority.

3.5 Banker and Secretariat

The Board shall elect a Participant to control and manage the finances of the RTG and elect a Participant to act as secretariat to the RTG.

4. FINANCIAL CONTRIBUTIONS

4.1 Financial Contribution of the Participants

The Participants shall make financial contributions to the RTG as determined by the Board, which contributions may be made in cash or in kind, the total of which must not be less than that provided by the State under item 1(a) of the Schedule.

4.2 Financial Contribution of the State

The State shall provide to the RTG financial contributions in accordance with item 1 of the Schedule, the first such contribution being made in response to execution of this Agreement by the Parties.

5. SERVICES

In the period from the Execution Date to Amalgamation, the RTG shall plan the development and delivery of common systems and where possible make delivery of

the following services to the Region together with any additional services the RTG decides:

- corporate services, including records, finance, information technology, rating, human resources, payroll and workforce;
- strategic planning, including local laws, town planning, asset and financial planning;
- environmental health, natural resource management, building and development approvals;
- economic development;
- community planning and engagement;
- road infrastructure and transport;
- waste management; and
- infrastructure planning and asset management.

6. REGIONAL BUSINESS PLAN

6.1 Development of Regional Business Plan

The RTG shall develop a draft Regional Business Plan no later than 9 months after the Execution Date, and submit it to the Department for the Department's comments.

6.2 Contents of Regional Business Plan

The contents of the Regional Business Plan shall be as described in item 2 of the Schedule.

6.3 Submission of Final Regional Business Plan

The RTG shall make any amendments to the draft Regional Business Plan suggested by the Department with which the RTG agrees and submit the final draft to the Department and to each Participant within 2 months of receiving the Department's suggested amendments.

6.4 Disagreement on Contents of Regional Business Plan

Where the RTG does not agree with amendments to the Regional Business Plan suggested by the Department, the Department and the Participants shall convene a meeting at which they will use their reasonable endeavours to reach acceptable compromise.

6.5 Endorsement by Department and Participants

Within 2 months of receipt of the final Regional Business Plan amended as agreed by the Parties, the Department and the Participants shall endorse it for implementation by the RTG PROVIDED that if any of the Participants do not wish to endorse the final Regional Business Plan, they may withdraw from the process of Amalgamation

at that time by providing notice to the RTG whereupon they will have no further obligations hereunder.

6.6 Funding by State

Upon endorsement of the final Regional Business Plan by the Department and the Participants, the RTG may submit a request to the State for further funding in accordance with item 1 of the Schedule.

7. SUBMISSION OF PROPOSAL

7.1 Submission to Local Government Advisory Board

Not less than 9 months before Amalgamation, the Minister or the Participants may submit a proposal for Amalgamation to the Local Government Advisory Board, pursuant to the provisions of clause 2(2) of Schedule 2.1 of the Act. .

7.2 Implementation of Proposal

Upon endorsement by the Local Government Advisory Board of the proposal for Amalgamation and acceptance by the Minister of that endorsement, the RTG shall implement the proposal in accordance with the Regional Business Plan.

7.3 Funding by State

Upon endorsement by the Local Government Advisory Board of the proposal for Amalgamation and acceptance by the Minister of that endorsement, the State shall make a final financial contribution to support implementation of the proposal in accordance with the Regional Business Plan.

8. REPORTING

The Participants shall provide to the Department every 6 months from the Execution Date a progress report on the activities of the RTG, covering the previous 6 month period, and including *inter alia* information on transition initiatives undertaken by the RTG.

9. DEFAULT

Where the RTG or a Participant breaches a provision hereof, the State may in its absolute discretion withhold further financial contributions under clause 4.2 and require repayment to it by the RTG of unspent funds.

10. TERMINATION

10.1 Termination by Majority

This Agreement may be terminated at any time by agreement of a majority of the Participants.

10.2 Meeting with Department

Where 50 per cent of the Participants wish to terminate this Agreement, the Department shall convene a meeting to be attended by all Participants together with representatives of the State at which the Parties shall use reasonable endeavours to resolve outstanding issues and where not successful to canvass alternatives for Amalgamation.

10.3 Return of Unexpended Funds

Upon termination of this Agreement, the RTG must forthwith return to the State all unexpended and not contractually committed financial contributions made by the State to the RTG.

11. NOTICES AND OTHER COMMUNICATIONS

11.1 Service of notices

A notice, demand, consent, approval or other communication under this Agreement (**Notice**) must be:

- (a) in writing and signed by a person duly authorised by the sender; and
- (b) hand delivered or sent by prepaid post or facsimile to the recipient's address for notices specified in item 3 of the Schedule as varied from time to time by any Notice given by the recipient to the sender.

11.2 Effective on receipt

A Notice given in accordance with clause 11.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, on the third Business Day after the date of posting (or on the tenth Business Day after the date of posting if posted to or from a place outside Australia);
- (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within 8 Business Hours after the transmission, the recipient informs the sender that it has not received the entire Notice,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00 pm on a Business Day in the place that it is received, the Notice is taken to be received at 9.00 am on the next Business Day.

12. GENERAL

12.1 Entire Agreement

As at the Execution Date this Agreement constitutes the entire Agreement between the Parties as to its subject matter and in relation to that subject matter, supersedes any prior understanding or Agreement between the Parties and any prior condition, warranty, indemnity or representation imposed, given or made by a Party.

12.2 Severability

If any provision of this Agreement is void, voidable by any Party, unenforceable or illegal according to the law in force in Western Australia, it shall be read down so as to be valid and enforceable or if it cannot be so read down, the provision (or where possible the offending words), shall be severed from this Agreement without affecting the validity, legality or enforceability of the remaining provisions (or parts of those provisions) of this Agreement which continues in full force and effect.

12.3 Waiver

A right or power under this Agreement shall only be deemed to be waived by notice in writing, signed by the Party waiving the right or power, and:

- (a) no other conduct of a Party (including a failure to exercise, a delay in exercising or a partial exercise of a right or power or any forbearance or indulgence granted by one Party to another Party in respect of a right or power) operates as a waiver of the right or power or otherwise prevents the exercise of that right or power;
- (b) a waiver of a right or power on one or more occasions by a Party does not operate as a waiver of that right or power if it arises again in the future or prejudices that Party's other rights or powers or future rights or powers in respect of the right or power waived; and
- (c) the exercise of a right or power does not prevent any further exercise of that right or power or of any other right or power.

12.4 Further action

Each Party must use its reasonable endeavours to do all things necessary or desirable to give full effect to this Agreement.

12.5 Assignment

Except as otherwise provided in this Agreement, a Party may not:

- (a) sell, transfer, assign, novate, license or otherwise dispose of; or
- (b) mortgage, charge or otherwise encumber,

any right hereunder to any person, or permit any person to assume any obligation hereunder, without the prior written consent of the other Parties, which may withhold their consent in their absolute discretion.

12.6 Governing law and jurisdiction

- (a) This Agreement is governed by the law applicable in Western Australia.
- (b) Each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Western Australia.

12.7 Variation

The Parties may vary this Agreement by agreement in writing executed by all of them.

12.8 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts, taken together, will constitute one instrument. A Party may execute this Agreement by signing any counterpart.

SCHEDULE

Item 1 (clause 4.2, 6 and 7) Financial Contributions by State:

Subject to confirmation by Treasury of available funds:

- (a) funding for administration
- (b) funding for creation of a Regional Business Plan
- (c) funding for implementation of the Regional Business Plan.

Item 2 (clause 6.2) Contents of Regional Business Plan:

(the contents include but are not limited to the undermentioned)

Community and Strategic Plan

- social, economic and environmental planning processes including consultation and priority assessment
- demonstration of productivity/service improvements
- infrastructure renewal schedule for minimum of 4 years
- new infrastructure schedule for minimum of 4 years
- financial information including capital works budget, borrowings, other funding received and rationale for using Country Local Government Fund supplementary funding
- maintenance schedule for renewal/proposed assets
- evaluation and review processes
- conduct due diligence of each Participant's financial assets and liabilities, contracts, leases and other legal agreements
- proposed organisational structure for new entity
- proposed governance structure for new entity

Infrastructure System Improvements

- IT systems
- record management systems
- archive facilities
- accommodation

- libraries
- community facilities
- depots
- signage
- financial systems
- asset management systems
- data systems
- human resources management systems
- communications

Item 3 (clause 11.1) Notice Details:

The notice details for the Parties are as follows:

DRAFT

EXECUTED as an agreement.

SIGNED FOR AND ON BEHALF OF)
THE STATE OF WESTERN AUSTRALIA)
BY [],)
Director General of the Department of)
Local Government in the presence of:)

Signed

Witness

The Common Seal of)
SHIRE OF [],)
a body corporate established under)
Section 2.5 of the *Local Government Act 1995*,)
was affixed in the presence of:)
)

President

Chief Executive Officer

The Common Seal of)
SHIRE OF [],)
a body corporate established under)
Section 2.5 of the *Local Government Act 1995*,)
was affixed in the presence of:)
)

President

Chief Executive Officer

The Common Seal of)
SHIRE OF [)
a body corporate established under)
Section 2.5 of the *Local Government Act 1995*,)
was affixed in the presence of:)
)

President

Chief Executive Officer

DRAFT