



MEMORANDUM OF UNDERSTANDING



For Proposed Merger

BETWEEN

Shire of Narrogin and Town of Narrogin

Final – 18 March 2015

ARRANGEMENT

- 1 Purpose
- 2 Operational dates
- 3 Establishment
 - 3.1 Variations and New Initiatives to the Memorandum
 - 3.2 Not a Legal Document or Contract
 - 3.3 Commitments to the Memorandum
 - 3.4 Definitions
- 4 Key Principles and Outcomes
 - 4.1 Agreement
 - 4.2 Partnership
 - 4.3 Merger Method
 - 4.4 Merger Date
 - 4.5 Name
 - 4.6 Representation
 - 4.7 Wards
 - 4.8 Election of Inaugural Elected Head of New Entity
 - 4.9 Poll for change of method of election of President – Effect on Representation
 - 4.10 Local Identity
 - 4.11 Work Force
 - 4.12 Work Places
 - 4.13 Local Assets
 - 4.14 Reserve Accounts
 - 4.15 Financial Assistance Grants
 - 4.16 Rating – Generally
 - 4.17 Rating – Parity Factor
 - 4.18 Rating – Unimproved Values
 - 4.19 Rating – Gross Rental Values
 - 4.20 Rating – Other Matters
 - 4.21 Data Systems
 - 4.22 Planning For the Future / Integrated Planning
 - 4.23 Policy Implications
 - 4.24 Regional Participation
 - 4.25 Communications
- 5 Key Transition Governance Arrangements
 - 5.1 Elected members
 - 5.2 Commissioners
 - 5.3 President
 - 5.4 Chief Executive Officers
 - 5.5 Other Staff
- 6 Execution
 - History
 - Schedule – Joint Merger Policies



MEMORANDUM OF UNDERSTANDING

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BETWEEN

Shire of Narrogin

AND

Town of Narrogin



Final – 18 March 2015

1 Purpose

The Councils recognise the importance of a strong working relationship for the benefit and the wellbeing of the community, and place a high value on mutual cooperation and consultation on issues of common interest and which may affect the Shire or the Town.

The purpose of this MOU is to guide the Shire and Town towards the proposed merger on 1 July 2016, and is intended to be on-going. It is a statement of the agreed position of the Shire and Town, and is to be considered as their recommendations to the Commissioners and the Council of the New Entity.

2 Operational dates

This MOU commences once endorsed and signed by the Councils, and is intended as guidance for ten years after merger date.

3 Establishment

3.1 Variations and New Initiatives to the Memorandum

The Councils acknowledge that for the MOU to be a living working document it must have the capacity to be reviewed, updated and amended. This can be achieved at any time by the mutual agreement and consent of the Councils.

3.2 Not a Legal Document or Contract

The MOU cannot be implied as, or applied as a legal document or formal instrument of contract. The Councils acknowledge and agree that no legal recourse can be sought from the application or otherwise of this document. The intent is to provide a transparent and mutually agreed framework to assist with the ongoing relationship and communication between the Shire and Town, extending to the New Entity.

3.3 Commitments to the Memorandum

The Councils acknowledge that essential elements to a successful merger are the application of the key principles and outcomes.

3.4 Definitions

Act means the *Local Government Act 1995*

CEO means the Chief Executive Officer of the Shire, the Town or the New Entity, as the context requires



Commissioners means person/s appointed by the Minister for Local Government to act in the place of Council following resignation becoming effective, and prior to elected members taking office of the New Entity

Council means the elected members of the New Entity, the Shire or the Town as the context requires, and may mean the Commissioners appointed

GRV means gross rental valuation

DLG means the Department of Local Government and Communities

LGAB means the Local Government Advisory Board

New Entity means the continuing local government after the date of merger

Shire means the organisation or district of the former Shire of Narrogin as the context requires

Town means the organisation or district of the former Town of Narrogin as the context requires

UV means unimproved valuation

Reference to a position includes a person acting in that position.

4 Key Principles and Outcomes

4.1 Agreement

The Councils agree these Key Principles and Outcomes.

4.2 Partnership

The Councils will develop their partnership progressively through communication, consultation and cooperatively working together.

4.3 Merger Method

It is agreed that the merger will be by boundary adjustment, with the Town being the continuing legal entity.

4.4 Merger Date

The merger of the entire Shire of Narrogin and Town of Narrogin is to be effective as of 1 July 2016.

4.5 Name

It is agreed that the name of the New Entity be the *Shire of Narrogin*, and that this be contained in Governor's Orders to apply from merger date.

4.6 Representation

Initially representation is to be nine (9) elected members as from the 2016 extra-ordinary election, being –

- President – elected at large
- Rural Ward – four (4) elected members; and
- Urban Ward – four (4) elected members;

4.7 Wards

- a) A ward structure based on the existing boundaries of the Shire and the Town will be utilised.
- b) Representation will be determined by 4.8 and 4.9 below.
- c) Ward boundaries and representation to be retained until immediately prior to the 2021 elections ordinary local government elections.
- d) Wards are to be abolished from the 2021 ordinary local government elections.

4.8 Election of Inaugural Elected Head of New Entity

- a) The President of the New Entity will be elected at large at the 2016 extraordinary election, for the balance of the current term of the Town's Mayor, ending in October 2017, as the Town is the continuing legal identity.



- b) Subject to the requirements of the Act, prior to the merger the Town will initiate the process to change of method of election of the President of the New Entity to be by the Council, subject to the Shire residents having the statutory right / being invited to make submissions.
- c) The process will be initiated at a time so that the poll required by the Act is after the merger and on the same day as the extraordinary election in 2016 in order that all electors of the New Entity have an opportunity to cast a vote.
- d) The change of method will apply from the next ordinary local government election being October 2017, when the current Mayoral term ends.

4.9 Poll for change of method of election of President – Effect on Representation

It is agreed that subject to the outcome of the poll of residents of the New Entity to change the method of election of President from at large to by Council, that –

- a) Should the poll approve the change of method, then –
 - i) The change is implemented at the 2017 ordinary elections,
 - ii) The Urban Ward will increase from 4 elected members to 5 elected members
 - iii) The Rural Ward will remain with 4 elected members
- b) Should the poll not support the change of method, then –
 - i) The President will continue to be elected at large
 - ii) The Urban Ward will remain with 4 elected members
 - iii) The Rural Ward will remain with 4 elected members
- c) This agreement does not prevent the New Entity from initiating the process for proposed change of method at some future date, subject to the requirements of the Act.

4.10 Local Identity

- a) Subject to approval by the Dept of Transport, the locality number plates of "NGN" and "NO" should be continued, and remain available.
- b) Initiatives to develop and maintain identity for each locality will be maintained, and encouraged.

4.11 Work Force

All staff in all locations will be offered employment in the New Entity –

- a) Without reduction of total package (pay, allowances or benefits),
 - while total value will not be decreased, components making up that value may need adjustment to ensure consistency across the New Entity,
- b) With appropriate work and of a similar level, subject to –
 - transfer to different employment, by negotiation
 - support and training being provided as necessary
- c) The Act provides security of employment for two (2) years after a merger –
 - this is subject to continued satisfactory overall performance by the employee.

4.12 Work Places

- a) The Administration Centre of the New Entity will be at 89 Earl Street, Narrogin.
- b) Use of the office premises at 43 Federal Street, Narrogin is to be determined.
- c) An integrated depot facility will be maintained at Lot 265 Lydeker Way, Narrogin with the following functions –
 - Works crews;
 - Engineering administrative functions – to be determined.

4.13 Local Assets

- a) All assets will be managed and maintained in accordance with a complying Asset Management Plan to be developed by the New Entity.
- b) It is intended that all assets and infrastructure will be budgeted in accordance with the Asset Management Plan principles.

4.14 Reserve Accounts

A number of Reserve Accounts are held by the Town over which there are legal or contractual restrictions on the use of the funds, in addition to the limits imposed by the Act. These are –

- i) Community Assisted Transport Vehicle Reserve



- ii) J Hogg Memorial Reserve
- iii) Aged Care Development Reserve
- iv) Unspent Grants Reserve

4.15 Financial Assistance Grants

The Local Government Grants Commission to be requested to confirm that assessment of the Financial Assistance Grants for the New Entity will use the amalgamation principles of the Commission for a period of not less than five (5) years following the merger.

4.16 Rating – Generally

- a) It is agreed that a joint submission will be made to the Minister for Local Government to include in Governor's Order that the provisions of Financial Management Regulations r.52A(2) to be extended from 5 years to 10 years.
- b) Should the Minister decline to include (1) above in the Governor's Order, then it is agreed that the provisions of Financial Management Regulation r.52A will be used for a period of 5 years to the extent necessary to allow the new entity to impose differential general rates according to whether –
 - The land is in the area that was the district of the Shire immediately before commencement day, or
 - The land is in the area that was the district of the Town immediately before commencement day,
- c) It is agreed that Governor's Orders be requested that the new entity is not required to comply with the advertising requirements of section 6.36 of the Act in relation to any –
 - Differential general rates; or
 - Minimum payment applying to a differential rate category under section 6.35(6)(c) of the Act (notice of certain rates),
 imposed in respect of the first financial year of the New Entity.
- d) A Joint Merger Policy for the phasing in of rate increases, incorporating this clause and the following clauses 4.17, 4.18 and 4.19 will be prepared for adoption by the New Entity.
- e) The New Entity has the ability to consider differential rating on the basis of zoning, the purpose for which the land is held, or land use under the provisions of the Act.

4.17 Rating – Parity Factor

It is agreed that to achieve parity of rating within the GRV and UV individual categories that –

- a) Calculation of the "parity factor" will be on the basis of a fixed base-line year of 2015/2016 using the principles outlined in the Proposed Merger Report of February 2014.
- b) The "parity factor" is to be applied to each rate category over an appropriate period, so that –
 - Equity in the New Entity is achieved for the GRV category, and
 - "Parity factor" for the UV category is calculated with the Shire of Wagin as the selected comparative Shire, and updated from the 2015/2016 Budgets.
- c) After application of the "parity factor", the "natural increase" that is generally consistent across all rates categories and type be applied only to the extent necessary to meet budget requirements,
- d) The parity factor does not necessarily mean equality of rate in \$, but what is considered to be a reasonable and appropriate level considering access to amenities, facilities used and services provided.
- e) A Joint Merger Policy is to be prepared for the calculation of parity factor increase for each rate category and is to take into account that –
 - The % rates quoted on the Report and below are referenced to the Comparison Year, and are to be considered as indicative,
 - The % rate referenced to the Base Line Year is to provide for the annual cumulative effect over the period phased in.
- f) The concepts of "parity factor" and "natural increase" are to be used as the methodology to calculate a cumulative rate in \$ for each individual prescribed attribute/zoning for which a differential rate/\$ is to apply, and not implemented as a two tier differential rate in \$.

Report Comparison Year 2013-2014		Base-Line Year 2015/2016
Annual Parity Factor Over 10 Years		Annual Parity Factor Over 10 Years
3.9%	UV – Rate in \$	To be re-calculated and inserted once 2015/2016 Budgets adopted by –
7.8%	UV – Minimum	



10.5%	GRV – Rate in \$	- Shire of Narrogin
7.8%	GRV – Minimum	- Town of Narrogin
3.3%	GRV – Rural Townsite Minimum	- Shire of Wagin

4.18 Rating – Unimproved Values

- a) Unimproved rates should be increased –
- Annually, by the parity factor as calculated for Base Line Year in 4.16 above,
 - The factor as calculated at that date, together with any natural increase annually, is intended to be applied equally over a period of 10 years,
- b) The parity factor is set from the 2015/2016 calculation and is not designed to achieve the same rate in \$ with the Shire of Wagin either annually or at the end of the 10 year period.

4.19 Rating – Gross Rental Values

- a) Differential rating provisions will be utilised to phase in and maintain, an equitable level of rating across the New Entity.
- b) As a new Local Planning Scheme will apply the same zoning to land in the Shire as in the Town, Governor's Orders should include the capacity for differential rating on the basis of location in the former Shire or former Town, should the New Entity choose to exercise this option.
- c) It is agreed that the provisions of the Financial Management Regulation r.52A(2) should be used for the five years permitted to achieve 50% of the calculated "parity gap".
- d) Subject to any Governor's Order issues pursuant to clause 4.16(1), it is further agreed that following the 5 year period permitted by Financial Management Regulation r.52A(2), the differential rating provisions in the Act should be used for a further 5 year period to address the remainder of the "parity gap".
- e) The intent of differential rating of GRV properties is to phase in rate increases of similarly zoned land –
- Annually, by the parity factor as calculated for Base Line Year in 4.16 above,
 - The factor as calculated at that date, together with any natural increase annually, is intended to be applied equally over a period of 10 years,

4.20 Rating – Other Matters

- a) Penalty and instalments –
It has been agreed by the Shire and the Town that –

	New Entity
Penalty – interest rate	11%
Applies after	35 days
Instalment options	4 only
Instalments – interest	5.5%
Admin charge	as per Budget

- b) Rate incentives –
It is agreed that –
- Discounts for early payment of rates be discontinued,
 - The Shire commenced phasing out the 10% rate discount by a reduction to 5% in the 2014-2015 Budget, with the final 5% to be removed by the Shire in the 2015-2016 Budget or by the New Entity in the 2016-2017 Budget.
 - Cash incentive prizes as offered by the New Entity from 2016-2017 onwards be increased above the current (2014-2015) cash incentive prizes offered by the Town.

4.21 Data Systems

The Shire and Town agree that Synergy Soft from IT Vision will be the software platform, due to its local government specific development, and integration of a wide range of modules.



4.22 Planning For the Future / Integrated Planning

- a) It is agreed to make a joint submission to the Minister for Local Government to request Governor's Orders to have effect that planning for the future under section 5.56 of the Act is not required for the years ending 30 June 2017 and 30 June 2018, being –
 - Community Strategic Plan (CSP)
 - Workforce Plan (WFP)
 - Asset Management Plan (AMP)
 - Long Term Financial Plan (LTFP)
 - Corporate Business Plan (CBP)
- b) It is recommended that the New Entity as a priority –
 - Engage a consultant/s to bring all road historical and condition data up to date
 - o refer comments in Section 7.7 of the Report
 - An asset management specialist be engaged to –
 - o fully integrate the Shire and Town's AMPs and Strategies, for all categories as required by Financial Management Regulations r.17A (fair value of assets)
 - o fully integrate the new entity's AMP/Strategy with New Entity's LTFP
- c) It is further recommended that the New Entity make provision for the consultant to review progress and standards 6 monthly initially, then less frequently as internal capacity develops.

4.23 Policy Implications

The Councils will develop Joint Merger Policies that reflect principles agreed in the MOU and other matters from time to time, as considered appropriate in the lead up to merger.

4.24 Regional Participation

The New Entity shall continue involvement or membership with –

- a) The Dryandra Voluntary Regional Organisation of Councils (VROC).
- b) The Great Southern Regional Waste Group; and
- c) Others as may be identified.

4.25 Communications

A Communications Plan is to be developed to ensure –

- a) Staff are regularly updated as to process and progress, in particular in relation to workforce issues
- b) Residents are informed of general process and progress
- c) Other stakeholders are advised and updated as necessary
- d) Staff and residents have the opportunity to comment and make submissions

5 Key Transition Governance Arrangements

The Councils agree the following Key Transition Governance Arrangements

5.1 Elected members

- (1) It is agreed that a joint submission be made to the Minister for Local Government to extend the terms of existing elected members ordinarily concluding in October 2015 to whichever of the following occurs first–
 - Date of resignation taking effect in accordance with clause 5.1(2), or
 - 30 June 2016.
- (2) Subject to 5.1(1) –
 - a) Prior to 1 July 2016, it is intended that all elected members of both Councils will –
 - Give notice of their resignation from Office on a common date,
 - The resignation to take effect on a common date not more than one month after giving notice,triggering the need for the Minister to appoint Commissioners to both Councils under the Local Government Act.
 - b) The effective date of resignation of elected members will be at a time to enable the necessary electoral process for the New Entity to be compliant with the Act, including if appropriate, any poll that may be required for change of method of election of the President of the New Entity.



- c) The election for the New Entity's Council should take place as soon as possible after merger date, subject to –
 - The process and timing required for change of method of election of the New Entity's President, and
 - Normal election processes as required by the Act.
- d) As near as possible to half the elected members of each ward will have terms expiring in October 2017, the remainder having terms expiring in October 2019.

5.2 Commissioners

- a) Commissioners will be appointed during that resignation notice period, and will hold Office from the time the resignations take effect until the elected members of the New Entity make the Declaration of Office following an extraordinary election for all positions.
- b) The Councils prefer a Commission appointed by the Minister to consist of five members, being –
 - An independent Chairperson, in consultation with the Councils,
 - Two members appointed on the nomination of the Shire of Narrogin,
 - Two members appointed on the nomination of the Town of Narrogin.

5.3 President

If not determined prior, it is recommended that the New Entity initiate the process to change the method of election from at large to election by the Council as soon as possible or permitted, consistent with all electors of the New Entity being entitled to vote.

5.4 Chief Executive Officers

- a) The Shire and the Town in negotiation with the CEOs will determine a process to fill the position of the New Entity's CEO that is mutually acceptable to each of the four parties and agreed by them.
- b) This process is intended to be complete by 30 November 2015 to ensure continuity, certainty and stability in the merger process.
- c) Should the process not be completed, the Shire and the Town may make recommendations regarding Acting CEO or CEO appointments, to the New Entity, and that the general principles for filling the position will be –
 - Both current CEOs to resign as CEO to take effect at a date to be negotiated, without loss of benefit or entitlement, specifying this is done in order to take up a Director position in the New Entity,
 - Both current CEOs to be given an opportunity to be considered for the Acting CEO role or permanent CEO position,
 - The position for permanent CEO will be determined by the New Entity,
 - If a current CEO is an applicant for the contracted CEO role and is unsuccessful, the person remains in the substantive contracted role as Director.
- d) The Shire and Town wish to formally record their great appreciation for the willingness of both CEOs to act in such an even-handed manner to assist the merger process.

5.5 Other Staff

- a) All other staff and final organisational structure is the decision of the person appointed as CEO.
- b) The Councils, and CEO if determined under clause 5.4(a), may make recommendations regarding Deputy CEO and designated staff (senior staff) arrangements, by 31 March 2016.
- c) All other staff arrangements are solely at the discretion of the CEO as required by the Local Government Act




6 Execution

The Common Seal of the Shire of Narrogin was affixed by authority of a resolution of the Council in the presence of –

The Common Seal of the Town of Narrogin was affixed by authority of a resolution of the Council in the presence of –




Cr Richard Chadwick
President


Mayor Leigh Ballard


Mr Geoff McKeown
Chief Executive Officer


Mr Aaron Cook
Chief Executive Officer

19/3/15
Date

25/3/15.
Date



History

Ref	Title	Adopted – Shire	Adopted – Town
	Original document		

Schedule – Joint Merger Policies

No.	Title	Adopted – Shire	Adopted – Town
1.	Local Assets		
2.	Maintaining Local Identity		
3.	Rating and Differential Rating		
4.			