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# RISK MATTERS



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LGIS is the mutual indemnity  
Scheme, which provides a  
dedicated suite of risk financing  
and management services for WA  
local governments, established  
by the WA Local Government  
Association in conjunction  
with JLT Public Sector (part of  
the Marsh group of companies).

Risk Matters is an LGIS journal  
to keep members, their staff  
and elected members informed  
on topical risk management  
and insurance issues and LGIS  
programs and services.

## CEO's Message



**JONATHAN SETH**  
CEO LGIS WA  
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2021/22 has been one of the toughest years in the Scheme's history. Against a backdrop of an ongoing pandemic, global upheaval and natural catastrophes, LGIS continued to deliver sustainable long term protection to the Western Australian local government sector.

From a financial perspective, after a very strong year in 2020/21, where we saw a surplus of \$9.11 M, 2021/22 was challenging with a reported deficit of approximately \$7.3 M. Despite this year's deficit, and because of our prudent financial management, the Scheme remains well within our target capital range, ensuring that we remain strong and ready to respond when our members need us.

Risk management is one of the key pillars of our mutual, recognising that members, their communities and the Scheme all benefit when risk exposures are contained. It's true that the sector's claims experience this past year was hit by unforeseeable events, however there have also been a large number of avoidable claims (particularly in motor).

That's why from 1 July we're delivering two new targeted risk programs; the first is motor fleet risk management and the second builds capacity to address the sector's growing exposure to cyber-crime.

In this edition, our feature explores the tension between local governments and the community members where there is public use of local government assets. Whether it's existing assets or new facilities being designed, LGIS members need to carefully consider the risks associated with the asset and ensure that reasonable controls are put in place to ensure the community's safety and reduce their own liability exposure.

We also have a success story from the City of Bunbury, which has successfully married outstanding design and a strong risk management approach to deliver an innovative youth precinct for the local community.

We dig deep to explain bushfire permits and its implications for our members. Plus, detail our newly launched cyber pilot program designed to help local governments identify and address cyber risks.

Focussing on the need to promote 'happy and healthy' workplaces, this edition brings mediation in focus as a powerful tool to help members avoid workplace issues. Our financial wellbeing workshop series is another new LGIS program for members to help staff manage financial stress.

Finally, our 'Ask an Expert' columns explore the importance of business continuity plans, and WorkCover's role in benefiting members within our workers' compensation scheme.

I do hope you enjoy this edition, and if you have a question for our Ask an Expert column please send it through to me or our editorial team at pia.duxbury@lgiswa.com.au or patrika@lgiswa.com.au

As always, if you have any questions about the magazine, or if you'd like to discuss any matter regarding your membership, cover, claims, or risk management services with LGIS, please contact me directly on 9483 8855.



# Risk vs community - the trouble with parks, and jetties, and dams, and recreation centres, and waste facilities, and BMX tracks, and libraries, and...

**Local governments are community makers, providing the places that create connection and a sense of belonging.**

Whether it's the local community centre used by playgroups, the oval used by the local football or cricket teams, the jetty where kids learn to fish with their grandparents, or the library that hosts the popular Tuesday afternoon Mahjong club – every local government asset contributes to creating a sense of place for the people who live there.

Our members are keenly aware of this role and its importance to their ratepayers, local businesses and broader community. Even so, there are substantial risks involved.

There's a tension that local governments must balance between community amenity and the liability exposures that facilities carry for the local government. Whether it's existing assets or new facilities being designed, LGIS members need to carefully consider the risks associated with the asset and ensure that reasonable controls are put in place to ensure the community's safety and reduce their own liability exposure.

The proactive and effective management of assets is crucial to the sustainable delivery of services to meet community needs and aspirations. This includes the maintenance and redevelopment of old and inherited (or 'gifted') properties. A documented plan to manage assets is also a key way for local governments to demonstrate provision of reasonable care to users.

In addition there should be a program of regular risk assessments in place which are documented and, if the need for works or controls are identified, this is actioned.

The regularity of assessments will depend on a variety of contributing factors including the type of asset and the resources available. This is an essential element in satisfying the member's duty of care towards users of the asset.



## What does 'reasonable' mean in law?

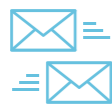
'Reasonable' is a term that crops up time, and time again in law. It's an important concept to understand when considering a local government's potential liability exposures.

The law of negligence defines that standard as the level of care that a 'reasonable person' would exercise in a similar situation. For example: it's reasonable to expect that any new play equipment installed by a local government meets current Australian standards.

For LGIS members the question is 'What would a reasonable local government, with similar information and resources, do in this situation?' Where members document and show a process which demonstrates reasonable care has been taken, liability defences are strengthened.



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### Local government's duty of care

Local governments owe a duty of care to neighbouring land owners as well as members of the public to take reasonable care to prevent any sort of loss or injury in respect to their assets.

In case of an accident, common law places the onus of proving negligence on the claimant who has allegedly suffered a loss. In case of a liability claim, the following four points need to be proven for the local government to be held responsible for the negligence:

- ▶ The claimant has sustained some sort of actual loss, injury or damage.
- ▶ The local government owed the claimant a duty of care.
- ▶ The local government breached the duty of care owed to the claimant.
- ▶ The claimant's injuries, loss or damage were caused by the local government breach of duty.

We know that resources are limited and that members strive to provide relevant and well-maintained amenities to their community. Therefore, it is unreasonable to expect that all local governments are in a position to regularly inspect and maintain every public asset such as trees, footpaths, roads and parks within their jurisdiction.

### What should a risk assessment consider?

A program of regular and appropriate risk assessments is a key element in a local government's tool kit to demonstrate reasonable care.

Ultimately a risk assessment aims to identify all possible risks exposures for the local government and users of an asset – whether they're using that asset in the way that it's originally intended or doing something differently. Assessments should be carried out throughout an assets lifecycle from conception to development until end-of-life.

Generally a liability risk assessment should ask the following broad questions:

- ▶ Who is the user? Consider the user and how they may use the facility – try to also consider unintended uses.
- ▶ How is the area accessed? For example is the road or footpath network well maintained or not.
- ▶ Is there proper and appropriate signage for public accessing the area? Have users been made aware of how the asset should be used and the inherent risks involved in its use?
- ▶ Are there sufficient measures in place to ensure child safety in particular (e.g. walls, barricades and railings)?
- ▶ Have we taken recommendations for safety checks into account?

It's vital that where risks are identified, appropriate steps are taken to implement controls. When determining appropriate controls, consider the hierarchy of controls model which moves from eliminating the hazard to reducing exposure.

Another useful tool when prioritising resources and determining which recommendations will be implemented is the risk probability and impact matrix. In effect the matrix asks the questions "How probable that the identified risk will occur?" and "What is the impact if it occurs?". Members are encouraged to have their own matrix in place to support themselves in their own risk management process.

Any decision to manage risks (or not) should be documented. In the event that a control is not implemented for an identified risk, rationale should be explained.

### New assets – an opportunity to start right

Community needs continue to change and evolve; a decade ago everyone wanted BMX tracks and now there's a trend for integrated youth precincts which include skate, parkour, basketball courts and many other activity areas. Whatever your new development may be, it provides a perfect opportunity to consider potential risks and the controls that can be put in place.

Risk assessments should be considered for multiple stages of the development process including:

- ▶ Concept development.
- ▶ Design.
- ▶ Build.
- ▶ Completion/handover.

Another opportunity when commissioning new facilities is to include maintenance programs within the contract. Many of the new facilities being developed by WA local governments are complex and have multiple elements and uses, which can make maintenance for the life of the asset challenging. If engaging experts in the design of your asset, they should also be able to provide guidance or even services to facilitate the maintenance and management of your new facility.

Another consideration with new assets is risk transfer. Even with a robust risk management approach you won't necessarily be able to remove all possible risks. The risks you choose to accept will depend on your risk appetite and your ability to secure risk financing. LGIS can help our members when considering their protections and risk financing options.

### Gifted assets – a white elephant in disguise?

Occasionally local governments are offered assets by a third party – they could include a dam from the Water Corporation, a rehabilitated mine site or other state government asset. Before accepting responsibility for a gifted asset, local government should carefully consider the risks and liability exposure that may accompany it.

As with any local government asset, a risk assessment should be completed and management program put in place.

Where the asset is managed and used by more than one organisation, the responsibilities of all parties should be clearly documented and understood. An area where this is common is dams which will remain a part of the Water Corporation's management program.

Another consideration is whether or not the local government's use will differ from the facility's original use. Again, old dams provide a great example of such assets. The surrounding area could hold great potential to be developed as a recreational area but because recreation was unlikely contemplated in its original purpose, the embankments that were designed to capture and retain water may be steep and pose a risk to the public.

### The public's responsibility

As much as the local government holds a duty of care towards users, the public is equally liable to take care of itself when using government assets like parks, beaches and libraries etc.

The classic case from 1995, where the claimant had sued the City of Cottesloe for sustaining serious injuries while body surfing at one of the council's beaches, perfectly explains the community's duty of care towards itself.

While body surfing, the claimant was dumped by a wave and crashed into the sand, permanently damaging his spine. He sued the Town for its negligence towards its residents as there was no proper signage warning danger. The judge was not persuaded that had the respondent set up warning signs, the claimant would have refrained from body surfing on the day in question.

He dismissed the case and pointed out that the very aspects of body-surfing that make it dangerous provide the pleasures and thrills that make it popular. In circumstances like these danger is so obvious that the person involved is responsible for exercising reasonable care for their own safety.



### Liability risks managed - how LGIS can help

LGIS Liability assessments are a benefit of LGIS membership. Our experienced risk consultants will visit you on site to assess your assets. We can support members with their assets at any stage whether it's in development or is an established facility that needs review.

Check out the story on the City of Bunbury's Youth Precinct (page 7) to see how LGIS can support you in your next development.

### More information

**For more information on LGIS liability assessments contact our risk team. ▼**



# Risky play amps up the fun and connection at Bunbury’s Koolambidi Woola Youth Precinct

**The City of Bunbury’s new youth precinct, Koolambidi Woola, has successfully married design and a strong risk management approach to deliver for the local community**

The City of Bunbury proudly opened the Koolambidi Woola youth precinct in July 2022 after years of work. The City’s approach provides an excellent example of how the combination of community consultation, design and risk considerations can successfully deliver a facility that provides the community with plenty of opportunity to connect and have fun.

“The objective was to develop an underutilised reserve in the CBD into a well-designed and inclusive youth precinct that caters to a diverse range of activities and improves opportunities for the youth of Bunbury,” said Colleen Smythe, Project Coordinator at the City of Bunbury.

The precinct has been named Koolambidi Woola which translates to ‘celebrating young people’. It includes a skate park and bowl, beginner and advanced parkour, multi sports court, climbing net, maze, mini golf, climbing wall and a building for youth activities.

While approaching the design and development process for the precinct, the City committed to significant community consultation. It engaged with local schools, community members and the skate community to understand their needs.

The new facility has proven popular with the local community. “It is great to see how beautifully the community has showered its love for the new facility. In the first week that it was open, it was absolutely full of people of all ages and the feedback has been incredibly positive” said Colleen Smythe from the City of Bunbury.

**“It was great to have the LGIS team visit site mid construction so that we could get valuable feedback before we opened the space to the public. The LGIS team were friendly and helpful, and their report was detailed and informative.”**  
Colleen Smythe

## LGIS’ role in design and development process

“LGIS were engaged to provide initial advice during the design phase of Koolambidi Woola and also during construction to complete a risk assessment” says Colleen Symthe.

The City of Bunbury first asked the LGIS liability risk assessment team in 2020 to consider the draft design of the youth precinct and provide advice.

LGIS Risk Consultant, Ian Proudfoot worked closely with the City of Bunbury reviewing the design and taking into account the various uses of the site and the potential risks involved.

“After reviewing the initial design concept we provided risk advice – identifying potential areas of concern and suggesting ways to either eliminate potential risk or adopt a control to reduce the risk.” Ian said.

“There’s always an inherent risk in this type of facility, if it doesn’t present a certain element of risk or challenge it’s unlikely to capture the ongoing interest of the youth.

With our advice to the City of Bunbury we aimed to highlight the risks, particularly those that were not necessarily obvious or simply not contemplated with a design that is understandably focused on the user experience. We then offered practical controls to address those risks, the goal being that ultimately the City was well informed and could make a decision that best suits their risk appetite,” Ian continued.

Key considerations in the LGIS review was the City’s duty of care to precinct users that arises from the common law and specific legislations including *Occupiers Liability Act 1985 (WA)* and *Civil Liability Act 2002 (WA)*.

Following the preliminary advice, the LGIS team joined representatives on-site during the construction stage. This led to meaningful conversations with the project managers to explore the risks as the site was developed. Following the site visit LGIS provided a detailed report identifying potential risks and liability exposures along with direction for risk treatment options.

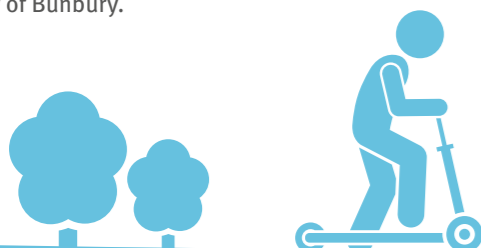
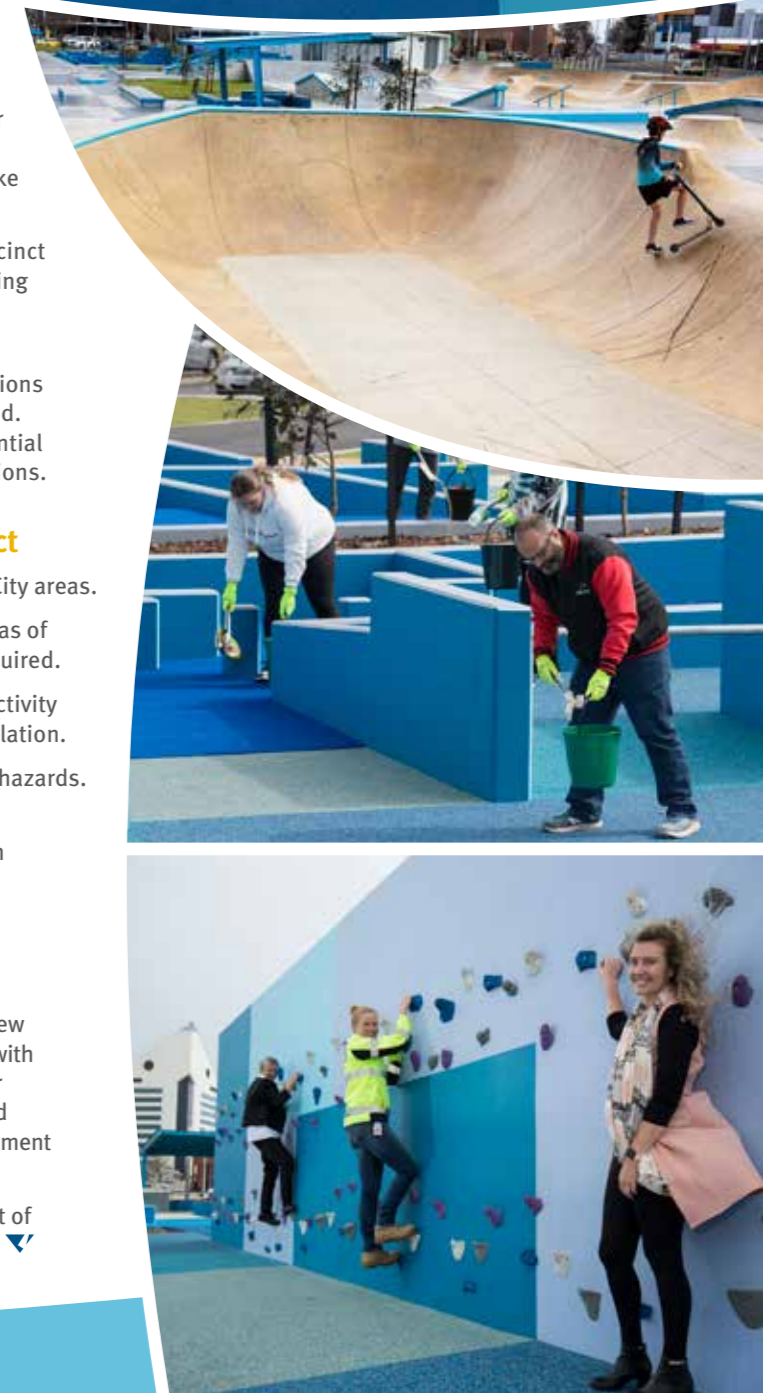
## Sample areas of recommendation for the youth precinct

- ▶ Review the safety of pedestrians accessing the precinct from other City areas.
- ▶ Develop and place signage from the points of entry to individual areas of activity where additional information and risks warnings may be required.
- ▶ Confirm compliance with requisite Australian Standards in certain activity areas, including the associated equipment/infrastructure and installation.
- ▶ Delineate changes in surface levels at certain locations to highlight hazards. This includes considering the effect of existing lighting.
- ▶ Develop an inspection and maintenance program for the facility with engagement of specialist advice and skills.

## LGIS liability risk assessments

LGIS conducts liability risk assessments for members across the state. We encourage members to use this service when they’re considering new developments – the earlier we’re involved the earlier we can provide you with advice to support your decision making. We often provide assessments for existing assets or facilities before ownership or management is transferred to a member. For example, this might include the divesting of state government assets or gifting of community property to the member.

Liability assessments are provided to all local governments as a benefit of LGIS membership. For more information contact the risk services team. ▾





## Case study 1: bike path signage causes slip (or did it?).

### The incident

The claimant, a cyclist, was riding his bike along a shared bike/footpath. He allegedly slipped on the path's 'slow down' warning signage, injuring his ankle and knee. In his claim, the cyclist alleged that the signage was slippery and had a design flaw.

### Background

There had previously been a number of incidents on this section of the shared path, with cyclists crashing in the area due to speed.

The City assessed the situation and responded by installing 'slow down' signage which was painted onto the path. In developing the signage, the City consulted with subject matter experts, Main Roads Western Australia (MRWA) to make sure that the signage was appropriate and met required standards.

Prior to the claim incident, local government staff had visited the site and conducted slip tests, by foot and by cycling over the signage. The inspection concluded that the area was safe, up to standard and not slippery in normal conditions.

### The claim

LGIS was advised of the claim and investigated the matter to find out whether the City was liable. Key findings of our investigation were:

- ▶ That by consulting with subject matter experts, MRWA, the City had exercised reasonable care to make sure that the signage was designed and installed to relevant guidelines and standards.
- ▶ The City had conducted an inspection of the site prior to the claimant's accident due to previous reports of cycle crashes in the area. None of these incidents were related to slippery signage or materials.



- ▶ They had inspected the signage in question after the claim and found the signage had some wear due to heavy usage. It should be noted that after an incident or claim occurs, the member has a duty to investigate and review the particular area and causation of the incident. If established that the asset can be modified or improved to the benefit of the community, such improvements/modifications should be undertaken in accordance with resourcing and budgetary constraints. Doing so is not an indicator of acceptance/admission of liability by the member.
- ▶ It was found that the claimant's bike tires had extreme wear to the point that the bike was not roadworthy. This was highly likely to be the main contributing factor causing the claimant to lose traction and fall from the bike.
- ▶ It is reasonable to expect that surfaces become wet in outdoor environments, pedestrians and cyclists alike have their own duty to safely navigate outdoor environments and take care of their own safety.

### The outcome

Based on the LGIS investigation, it was established that the signage was up to standard; it had no design or application issues. The City had acted reasonably to meet their duty of care at all steps and therefore, the City was not liable for the claimant's damages. The claim was successfully denied on behalf of the member.

### Lessons from this case

The defence in this case was strong because:

- ▶ The City had consulted with subject matter experts and installed signage that met expected standards.
- ▶ There was documentation of site inspections.
- ▶ Where there had been previous incidents at the site, the City had responded reasonably to exercise their duty of care. ▼



## Case Study 2: children need risk play, but adult supervision required

*Playgrounds can be high risk zones for incidents but LGIS members can mitigate the liability risks by appropriate risk assessments, design and implementing controls. By their very nature playgrounds have an element of risk, designed to challenge children and deliver development opportunities.*

### The incident

The claimant (child) was travelling across a bridge in the playground and fell through a confined space causing a broken femur, cuts and bruises. The claimant alleged that the playground was unsafe and had design flaws that didn't prevent children from injuring themselves.

### Background

The City had contracted out the design and construction of the playground, which is common for local governments to do. At the time of construction, the playground was assessed to have met the required standards and guidelines being:

- ▶ AS 4685-2014 (Parts 1-6 & 11): Playground equipment and surfacing - safety requirements and test methods.
- ▶ AS/NZS 4422:1996: Playground surfacing - specifications, requirements and test method.
- ▶ AS/NZS 4486:1997: Playgrounds and playground equipment - development, installation, inspection, maintenance and operation.

Every month the City comprehensively inspects the playground to identify any issues.

The City also installed signage to warn members of the public of the general risks of the playground and related activities (i.e. a general warning to parents) in this specific situation the signage provided the following:

- ▶ an overview, including a map, of the park's different play areas;
- ▶ information about the equipment located within each of the play areas;
- ▶ a reminder of prohibited activities;
- ▶ the need to supervise children and CCTV use at the location;
- ▶ details regarding suitability of access;
- ▶ amenities provided; and
- ▶ City and emergency contact details.

### The claim

LGIS considered a range of factors - in particular that playgrounds in general have a risk versus reward environment which essentially means, a playground aims to manage a balance between the need to offer risk and the need to keep children safe from serious harm.

Not all play involves risk taking, but there are positive benefits of risky play. Paradoxically, there is a possibility that children exposed to too little challenge may take inappropriate risks, where the chance of injury is high, because they lack the ability to judge risk levels and lack skills to tackle it.

A pivotal aspect of balancing this need to provide children with new experiences and risk and the need to keep children safe, is the reliance upon adult supervision to enhance a safer environment, to ensure an optimal learning experience. The playground in question had signage advising that parent supervision was required.

Signage at the entrance to the playground clearly describes what activities and equipment are placed in each area, allowing adults to choose the area that best reflects their child's abilities.

### The outcome

Considering all of the above LGIS found that:

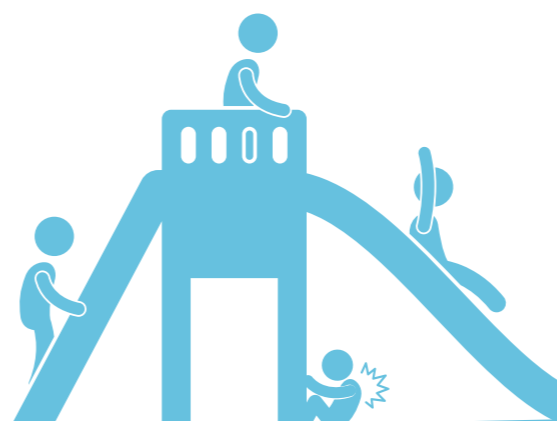
- ▶ A competent and relevant expert in construction and certification of playgrounds, designed and constructed the playground and its related assets.
- ▶ A reasonable inspection regime of the playground was in place to establish hazards and unacceptable risks to the community (the most recent inspection before the incident did not identify any issues).
- ▶ No action the member took was in our view negligent and due to the above processes and controls we were able to successfully defend the matter and deny liability on behalf of the member.

Ultimately the City was not liable and the claim was successfully denied on behalf of the member.

### Lessons from this case

The defence in this case was strong because:

- ▶ The playground had been contracted to subject matter experts and was installed to meet applicable Australian standards.
- ▶ There was adequate and appropriate signage providing guidance on the facilities use and individuals responsibility.
- ▶ The City had a reasonable and appropriate maintenance program in place and made sure that every inspection was documented, with records kept. ▼



# Bushfire permits and implications for members



**Bushfire incidents in Western Australia have increased in number and severity. In the last two years we've seen devastating fires throughout the outer metropolitan area, South West, Wheatbelt and Great Southern. Burning permits for vegetation and to reduce fuel loads on public and private lands have come under increased scrutiny.**

Provision of local burning permits is a responsibility of local government, and with requests for burn off permits coming in spring, it is timely for LGIS members to review their responsibilities and exposures.

## Simplifying The Bush Fires Act 1954 (WA)

The *Bush Fires Act 1954 (WA)* ("BF Act") provides for the declaration of periods of time during which burning of vegetation is either prohibited or restricted. It basically comes under two categories.

### Prohibited burning periods

- ▶ The State (Fire and Emergency Services Commissioner) may declare prohibited burning periods during which it is unlawful to set fire to 'bush'.
- ▶ Both the State and the local government authority (LGA) have the power to alter (with restrictions) already-declared prohibited burning times by ways such as shortening, extending, suspending or re-imposing the restricted period where they consider that seasonal conditions warrant it.
- ▶ Even during a prohibited burning period, permits may be issued to land owners to burn 'bush' on their property but only in extremely limited circumstances (for the purpose of protecting property).

### Restricted burning periods

- ▶ The State (Fire and Emergency Services Commissioner) may declare restricted burning periods during which it is unlawful to set fire to 'bush'.
- ▶ During the restricted burning time period, an owner of the land may burn 'bush' on their property but must first obtain a permit in writing from the Bushfire Control Officer (BCO) (or CEO if BCO not available) of the relevant local government authority.
- ▶ The permit may stipulate conditions under which the burning is to take place and there are duties imposed upon people who have been granted a permit to burn.
- ▶ The reasonableness of a decision to issue a permit will be judged on a case-by-case basis.
- ▶ The BCO is not compelled to inspect an area to be burnt before issuing a permit to burn; the onus lies on the property owner.
- ▶ It is the State that has the power to declare periods of time within which it is unlawful to burn the bush within a local government district.



## FIRE DANGER RATING TODAY



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### Local government risks

Local government authorities can face two types of risks while providing permits for controlled bushfires.

1. The first risk may arise if an LGA fails to consider implementing directions (effectively a binding policy) to its BCOs with respect to the manner in which, and the conditions under which, permits to burn are to be issued that might expose it to a potential exposure of liability. Relevantly, the exposure to liability will turn on the following:
  - ▶ Whether the LGA had complied with any policy it had in place.
  - ▶ What knowledge the LGA had as to the property owner's ability to comply with any conditions of the permit and their duties.
  - ▶ What knowledge the LGA had to any risks, such as weather conditions, abnormal fuel loads, specific vulnerabilities of the property owner and/or their neighbours, etc.
  - ▶ The magnitude of those risks.
  - ▶ The means of knowledge the LGA had with respect to those matters.

2. The second risk can come up where the LGA revokes, or should revoke, its permit. In this scenario, the LGA may owe a duty to revoke a permit (it has the power under the BF Act to do so) based on the following considerations:

- ▶ The LGA's knowledge of the weather conditions on the date the burn(s) are to be carried out.
- ▶ The LGA's knowledge of any vulnerabilities on the part of the permit holder (and their neighbours).
- ▶ Knowledge of any other matter which may increase the likelihood of the escape of fire from a permitted burn.

### What does it imply for LGIS members?

Owing to the nature of the job and high risk involved, LGIS members have to be extremely careful while issuing or revoking burning permits.

You should take a note of these aspects before taking key decisions.

- ▶ As per the Fire and Emergency Services Act 1998 (WA) (which includes the BF Act), the local government is exempted from civil liability of a person who might have been involved in an act 'done in good faith' leading to a mishap. LGIS members may be protected where they have made a genuine effort in exercising their duties and functions.

- ▶ However, the protection may not be available where the liability arises by a failure to put in place policies or directions with respect to issuing of permits and when LGAs ignore matters that is was, or ought to have been, aware that presented a genuine risk.

- ▶ Issuance of a permit is judged on a case-by-case basis. Therefore, the local government should keep in mind information obtained from third parties such as Bureau of Meteorology.

- ▶ The approval process involved in issuing a permit involves a lot of risk if not done in accordance with the required checks and balances. It is recommended that members stay abreast of bushfire regulations to avoid legal implications.

- ▶ Members should also be aware of varied risks that may give rise to a duty to consider. These include weather conditions, lack of appropriate fire breaks, the lack of resources on the part of property owners to manage a burn, presence of fuel loads up to the base of standing trees and knowledge that adjoining land owners are not aware of the proposed burn (i.e. not present).

### What this means for LGIS members

In short this means that all local governments should develop and implement their own policies for the provision (and revocation) of burning permits.

Your policy should not be taken directly from the Act, but rather, given the technical nature of issuing such permits, should be done in consultation with appropriately qualified persons, such as DFES officers and senior Fire Control Officers (FCO). It is important to note that any burning permit policy should be crafted in a manner which recognises that local governments have different requirements due to their situations and preserves the discretion of FCOs in dealing with these matters.

It would be prudent for local governments to implement policies which at least cover the following matters:

- ▶ That the issuing of Burning Permits is to be within the discretion of the FCOs, and any other person to whom the LGA has delegated authority (as the case may be).
- ▶ That permits should not be issued where adverse fire conditions are forecast by BOM on the day of the burn or within two days after the proposed burn.
- ▶ That FCOs document their decision making in issuing a Burning Permit, however, we understand the risks associated with hazard reduction burning, and hence the factors to be considered, are not, and cannot, be reducible to an exhaustive list.
- ▶ That in circumstances of elevated risk (which would need to be carefully crafted), FCOs should consider monitoring burns. ▼

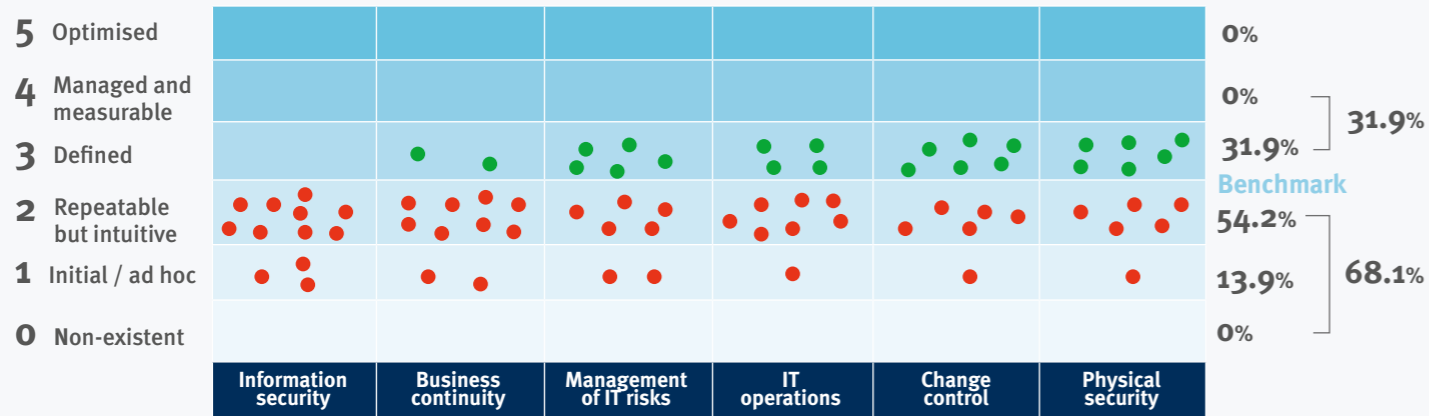
# New Cyber Pilot Program to help members identify and address cyber risks



LGIS is piloting a cyber-risk program in 2022 designed to help members better understand their exposure to cyber crime and develop targeted plans to address them.

The Office of the Auditor General (OAG) released their Information Systems Audit Report 2022 – Local Government Entities in June. After an audit of 45 local government entities for calendar year 2020 to 2021, the report found that the sector is performing poorly in terms of cyber security.

Over the 2020-21 period the OAG reported 358 control weaknesses for 45 entities, compared to 328 weaknesses at 50 entities in the previous period. 10% of this year’s weaknesses were rated as significant and 71% as moderate. These weaknesses represent a considerable risk to the confidentiality, integrity and availability of entities’ information systems and need prompt resolution.



LGIS understands these concerns and through our new cyber-risk pilot program. We aim to support members in improving their cyber-security practices.

Our program is designed to analyse and benchmark current cyber-security practices and controls, and identify areas for improvement to build capability and boost members’ security position.

This involves assessing the various controls that the member implements internally in its control environment to manage the information security risks associated with its systems.

The Essential 8 Framework developed by the Australian Signals Directorate (ASD) has a prioritised list of baseline security controls that organisations can implement to protect and improve their cyber-security. These eight controls can mitigate up to 85% of cyberattacks.



## What are the Essential 8 security controls?

### 1. Application whitelisting

Pre-Approved software should only be allowed to run on your network and enforced through whitelisting.

### 2. Patch applications

Regular patching should take place to fix security vulnerabilities in software applications.

### 3. Configure Microsoft Office macro settings

Macros from the internet should be blocked, and only vetted macros with limited write access or macros that are digitally signed with a trusted certificate are allowed.

### 4. User application hardening

Application hardening should be implemented and involves disabling unsecure and unused services, such as Flash, Java, and web ads from applications. It also restricts the use of applications that are known to be vulnerable.

### 5. Restrict administrative privileges

Restricted administrative privileges should be applied to operating systems and applications based on user duties. These should be restricted to only those who need them. Regularly revalidating the need for privileges is essential to maintain correct levels of access.

### 6. Patch operating systems

Patching fixes security vulnerabilities in operating systems and should be conducted frequently.

### 7. Multi-factor authentication

Multi-factor authentication ensures users are granted access only after successfully presenting multiple, separate evidences of authenticity and should be implemented across all users.

### 8. Daily backups

Regular back up should take place with all data and stored securely offline or at an alternate site such as a secondary data centre or in the cloud.

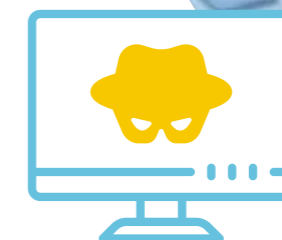
## How will the Cyber Pilot Program help LGIS members?

The program’s key objective is to gather information on how our members currently manage cyber-risks, giving due consideration to concerns around issues like obsolete software, ransomware management processes and cost of recovery for back-up technology.

At the end of 2021 local government leaders across Australia ranked cyber-security failure as their number two risk, just behind financial sustainability.

It’s clear, given the cyber-environment alongside the climbing costs of cyber protection, that building resilience against cyber-risks will be key for local governments moving forward. Our cyber-pilot program will be a key factor in helping local government members develop resilience against cyber-risks.

For support on improving your local government’s cyber-security practices, contact the LGIS risk team. ▾





## In Focus: Financial wellbeing to reduce financial stressors

**With inflation rising and the cost of living increasing, many people across WA are feeling financially squeezed.**



Financial pressures can be a significant stress factor for some, and its impacts can spill over into personal and work life. A new initiative as part of the LGIS Health and Wellbeing program will provide all local government staff with access to a series of financial wellbeing workshops.

It's just another benefit of LGIS membership.

### What is financial wellbeing?

Financial wellbeing looks different for everyone, but generally it is when a person is in control of their finances and feels financially secure, now and into the future. This could mean being able to meet expenses and have money left over, having the capacity to meet a financial emergency/unforeseen event, or having the ability to plan for the future. If we don't feel in-control of our finances, we may feel financial stress, which could turn into a physical response, such as fear, stress and anxiety.

Beyond Blue partnered with the Australian Securities and Investment Commission (ASIC) to examine the relationship between financial wellbeing and mental health.

The Money and Mental Health Social Research Report found that people experiencing financial challenges are at least twice as likely to encounter mental health issues as those who aren't. It confirms previously anecdotal evidence that people face a range of mental health impacts including stress, diagnosable mental health conditions and suicidal thoughts, when experiencing financial challenges.

It is important to note that a positive relationship exists between financial wellbeing and mental health, meaning improving your financial wellbeing will improve your mental wellbeing.

### LGIS Financial wellbeing webinar series

LGIS has partnered with the Financial Counsellors' Association of WA (FCAWA) to develop a six part series to assist with improving individual financial wellbeing. These sessions will cover a range of financial topics to help local government workers learn ways to cope with financial stress. The program includes many practical tools and strategies to build knowledge and practices about managing your finances effectively.

### Proposed webinar schedule

<b>Your money your way Part 1 (completed)</b> Recording available until 31 October 2022 managing your money; tools and resources to make it work for you!	<b>Metro – 30 August 2022</b> <b>Regional – 31 August 2022</b>
<b>Your money your way Part 2</b> savings tips, financial wellbeing, and support	<b>Metro –25 October 2022</b> <b>Regional – 26 October 2022</b>
<b>Plan for the future</b> superannuation awareness and preparedness	<b>Metro –6 December 2022</b> <b>Regional – 7 December 2022</b>
<b>Financial protection</b> insurance awareness and pitfall considerations	<b>Metro –21 February 2023</b> <b>Regional – 22 February 2023</b>
<b>Reducing your debt</b> strategies to reduce your debts and be financially fit	<b>Metro –18 April 2023</b> <b>Regional – 19 April 2023</b>
<b>Unexpected financial hits</b> preparing to be financially resilient	<b>Metro –6 June 2023</b> <b>Regional – 7 June 2023</b>

There are two sessions per topic, one for metropolitan and another for regional local government staff. All workshops will be delivered by Zoom and recordings will be available for two months.

### More information

Look out for registration details for each session, or email [health@lgisw.com.au](mailto:health@lgisw.com.au) for more information. ▼



## Mediation's role in 'healthy and happy' workplaces

**Mediation is a powerful preventative tool, available to LGIS members. Using the LGIS mediation service early can avoid workplace issues that may lead to psychological injury.**

Local governments have a duty of care to provide safe workplaces, with appropriate controls put in place for all hazards – this includes psychological hazards. *The Work Health and Safety Act (WA) 2020* (WHS Act) states that a PCBU (person conducting a business or undertaking) must prevent and manage psychological injuries in order to ensure a healthy and happy workplace, a local government is a PCBU.

The mediation process is a great resource to use as part of your plan to create a psychologically healthy workplace.

### Impact of bad psychological health on a workplace

'Health', as defined by the WHS Act, is both physical and psychological health. Psychological health in particular can be impacted severely if a worker is exposed to a poorly managed environment, workplace violence, traumatic event, bullying or harassment, fatigue and high work pressures.

This may impact an organisation in the form of unplanned absences like sick leave, withdrawal and presenteeism, staff turnover or frequent task errors.

### Understanding mediation

Mediation typically translates to an intervention aimed at resolving a conflict situation between two parties. It isn't necessary for the outcome to be any kind of friendship; it can be an effort to establish a professional environment where all parties are comfortable.

Another important point is that the mediation process is not about finding faults. Instead it is a voluntary, no blame, confidential system that can be highly effective for agreeing the way forward, especially as an early intervention.



### How does mediation work?

When an issue or grievance is identified, and both parties are willing to work on improving the working relationship, an LGIS mediator can facilitate the process.

LGIS mediation involves a two-stage process. Stage one is the pre-mediation phase, where the key parties in the conflict adequately prepare themselves to individually come together in a safe and supported environment. In stage two, the joint mediation phase, the parties identify and respectfully discuss what they need from each other for a better working relationship.

An agreement is drawn up, which both parties sign, and the LGIS mediator then works with local leaders (e.g. a line manager or human resources professional) to establish effective monitoring and support.

### When mediation isn't the answer

Mediation is not always appropriate and sometimes it may not be sufficient to resolve entrenched workplace issues. In the event of complex matters involving high numbers of workers or long-standing issues, the LGIS people risk team will work with local governments to provide consulting advice and conduct a workplace needs analysis.

This involves gathering information from each member of the workgroup and its leaders about their perceptions of the strengths, concerns and opportunities for improvement around the current people-related risks.

Findings will be produced and typically include an analysis of the key themes and recommendations to establish effective ways of working together to Address any identified concerns.

For more information on mediation or managing workplace conflicts, please contact the Emma Horsefield – People Risk Manager on 0407 957932 or e-mail [emma.horsefield@lgisw.com.au](mailto:emma.horsefield@lgisw.com.au) ▼



# EOFY wrap up for LGIS – financial result and new programs announced.



2021/22 has been one of the toughest years in the Scheme’s history. Against a backdrop of an ongoing pandemic, global upheaval and natural catastrophes LGIS continued to deliver sustainable long term protection to the Western Australian local government sector.

### Financial result

From a financial perspective, after a very strong year in 2020/21, where a surplus of \$9.11 M resulted, 2021/22 was challenging with a reported deficit of approximately \$7.3 M

LGIS’ financial position experienced income and expenditure pressure in 2021/22. It’s important to remember that the very nature of our business – protection for loss events – is volatile.

Despite this year’s deficit, and because of our prudent financial management, the Scheme remains well within our target capital range, ensuring that we remain strong and ready to respond when our members need us.

Investments are a large part of our income and they have been impacted by global events. Whilst our longer term investment performance remains sound, these circumstances have driven losses on funds under investment in 2021/22.

In addition the WA local government sector has had a poor claims year. Total claims’ costs for LGIS escalated substantially and were \$4.25 million over budget at end of financial year.

### Delivering for members – new Scheme covers and risk services

Despite the year that’s been, Scheme contribution increases for 2022/23 have been limited, particularly in comparison to the commercial insurance market.

LGIS is in a good financial position and the new financial year will see continued innovation.

Last year we successfully introduced pooled cover for Motor which delivered many benefits for members, particularly local, LGIS, claims management. 2022/23 will see increased pooled Journey Injury protection. Members will benefit from a more seamless approach to their risk financing from securing protections, tailored risk management, and managing claims.

Risk management is one of the key pillars of our mutual, recognising that members, their communities and the Scheme all benefit when risks exposures are contained. It’s true that the sector’s claims experience this past year was hit by unforeseeable events, however there have also been a large number of avoidable claims (particularly in motor).

That’s why from 1 July we’re delivering two new targeted risk programs; the first is motor fleet risk management and the second builds capacity to address the sector’s growing exposure to cyber-crime.

Pleasingly the value and benefits of the Scheme continue to be recognised by the sector, with 100% of WA local government organisations having Scheme membership for 2021/22.

Jonathan Seth, LGIS CEO will provide a detailed update at the WALGA AGM on behalf of Peter Forbes, Chair of the LGIS Board on Monday 3 October. As always the LGIS team will be at this year’s WALGA Local Government Convention and ready to answer any of your questions.

**2022 LGIS Annual Report**

The LGIS Annual Report will be available online to members in October. If you would like a hard copy, or for more information please speak to your LGIS account manager. ✓

## ASK AN EXPERT



**SARAH LOPEZ**

Senior Risk Consultant, Marsh Risk Advisory

Sarah is responsible for developing and delivering a suite of bespoke crisis management and business continuity management services. This includes developing and facilitating business continuity and crisis management training packages for a range of clients.

# How important are business continuity plans to my local government?



Businesses are prone to a host of disasters that vary from minor to catastrophic. The start of the COVID-19 crisis in 2020 was sudden, unexpected and incredibly difficult for many. Across the state, businesses and organisations were forced to take drastic measures (in conjunction with government guidelines) that they were not prepared for.

In some instances this meant working/operating remotely, whilst others were forced to shut until further notice. Many businesses did not recognize the importance or need for a coordinated business continuity response until the emergence of this pandemic and as a result, did not have any safeguards in place.

Accordingly, an effective Business Continuity Management (BCM) Framework with key recovery plans is essential for any organisation that seeks to develop and strengthen its organisational resilience.

### What is the BCM Framework and how does it help?

A Business Continuity Management (BCM) framework outlines the structure of an organisation’s resilience and recovery activities. It provides a consistent set of principles for planning, responding and recovering from any business interruption and/or disruptive event. The diagram below provides a holistic overview of a BCM Framework.

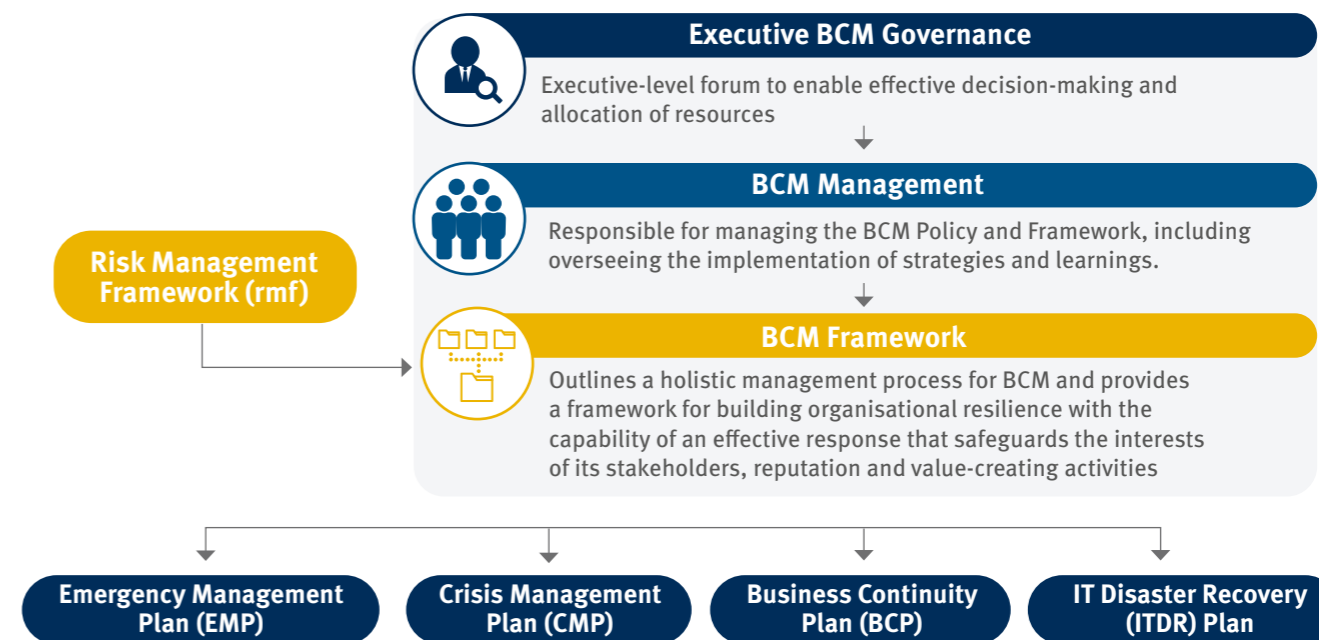
### What is a Business Continuity Plan (BCP)?

A Business Continuity Plan (BCP) is a core component of the BCM Framework and is a concept that is often the primary focus of organisations that are maturing their resilience and recovery practices. A BCP is a set of documented procedures that guides an organisation to respond, recover, resume and restore to a predefined level of operation following a disruptive event.

A robust and fit-for-purpose Business Continuity Plan (BCP) is key in enabling an organisation to maintain resiliency; respond and recover following an unexpected business interruption.

The benefits of having a robust BCP include:

- ▶ Maintaining continuity of operations and service delivery following a disruptive event i.e. avoid excessive downtime
- ▶ Mitigating business risks
- ▶ Reducing financial loss
- ▶ Maintaining competitive edge
- ▶ Preserving the organisation’s brand value and its reputation



The BCM framework is underpinned by the Business Continuity (BC) policy is the key document that sets out the purpose, context scope and governance of the BCM Framework. ✓

## ASK AN EXPERT

**REBECCA HARRIS**

A/General Manager, Regulatory Services

Rebecca has extensive experience as a public officer across a range of public sector agencies in policy, governance, compliance and regulation. Her previous roles include senior executive positions at the Department of Education, Department of Premier and the Cabinet and the Public Sector Commission.

## “ What role does WorkCover play within the Workers’ Compensation Scheme to benefit our members? ”

**Who are WorkCover WA?**

WorkCover WA is the government agency responsible for regulating and administering the workers’ compensation scheme in Western Australia under the *Workers’ Compensation and Injury Management Act 1981*.

The act ensures workers who suffer a work-related injury or illness are compensated for lost earnings, medical expenses, and other associated costs, and assists injured workers to achieve a safe and sustained return to work.

WorkCover WA’s role is to lead a contemporary, healthy and integrated workers’ compensation scheme that is fair, accessible and cost effective for all participants.

To ensure the scheme operates effectively for the people of Western Australia, WorkCover WA:

- ▶ provides information and education on all aspects of the scheme,
- ▶ promotes injury management and vocational rehabilitation of injured workers to help them successfully return to work,
- ▶ undertakes research and provides statistics in the areas of rehabilitation, injury prevention and noise induced hearing loss,
- ▶ monitors employers to ensure they are insured for workers’ compensation to their full liability in accordance with the Act,
- ▶ regulates and monitors the performance of service providers (e.g., insurers, self-insurers, approved vocational rehabilitation providers and registered agents) to ensure they deliver an appropriate standard of service to workers and employers
- ▶ ensures all workers employed in a prescribed noisy workplace have hearing tests
- ▶ provides conciliation and arbitration services to resolve disputed workers’ compensation matters, and
- ▶ registers agreements where parties agree to settle a claim for compensation.

**Who manages workers’ compensation claims for local government staff?**

The Western Australian workers’ compensation scheme is privately underwritten. This means that claims for workers’ compensation are managed by an insurer or self-insurer, not WorkCover WA.

Most local governments in Western Australia are covered under WALGA’s mutual indemnity scheme, LGIS WA. As self-insurers local governments are exempt from the requirement to have a conventional workers’ compensation policy. Instead, local governments work together with LGIS to manage claims. This could include actions such as approving, pending or disputing claims, paying weekly payments or medical bills, and creating a return-to-work program.

Insurers and self-insurers are regulated by the *Insurer and Self-insurer Principles* and Standards of Practice, which are available to download from the WorkCover WA website.

**How can I learn more?**

A key part of WorkCover WA’s role is providing education and assistance. A range of resources and helpful information is available on the WorkCover WA website.

WorkCover WA also presents industry events for scheme participants. There are still some places available at the highly anticipated WorkCover WA Conference, due to be held at Optus Stadium in November. The program will explore current themes and trends in injury management and workers’ compensation and features inspiring guest speakers such as the Hon Bill Johnston MLA, Major Matina Jewell (Australian Defence Force), Julian Pace (Happiness Co.) and AFL stars Josh Kennedy and David Mundy. All stakeholders are invited to attend!

**To register for the Conference, or find out more about WorkCover WA, please visit the WorkCover WA website [www.workcover.wa.gov.au](http://www.workcover.wa.gov.au)**



## Where we’ve been

**LGIS Risk Forum - Risk matters, safer WA communities**

Over 120 people attended the CEO Breakfast or Local Government Risk Forum on Tuesday 6 September 2022, at Crown Perth.

Representatives from across the state — from Port Hedland to Esperance and everywhere in between joined together to network and explore current risk issues for the sector.

Speakers across a range of disciplines covered important topics including cyber-risk management, consequences of climate change and liability implications, contract liability and potential exposures and public use of local government assets.

**Event details**

WALGA Convention - Crown Perth, WA,  
2-4 October 2022

LG Professionals WA Annual State  
Conference - Crown Perth, WA,  
2 - 3 November 2022



*lgis*  
[lgiswa.com.au](http://lgiswa.com.au)

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