

# Rio Tinto Aluminium and the Weipa Town Authority

## Management Protocol for Weipa

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# RTA Management Protocol for Weipa

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## 1. Introduction

Rio Tinto Aluminium (**RTA**) has recently undertaken a review of its governance arrangements for the Weipa town area. The results of that assessment are contained Annexure A.

RTA decided to put in place this Protocol, which is designed to build on the existing arrangements relating to the management of local governance in Weipa. This Management Protocol is designed to provide a management framework for the operation of local governance in Weipa to improve that operation further.

As such, this Management Protocol is not designed to be exhaustive of all matters pertinent to local governance operations in Weipa. Rather, the protocol sets the scene for the development of detailed management plans and operational guides to achieve a vision (set out immediately below) for local governance in Weipa.

## 2. Weipa Town Authority – Protocols Vision and Purpose

*Vision: To create a sustainable and accountable professional local governing body for Weipa*

The vision is to be achieved through the implementation of this Protocol, and the development and implementation of detailed Operational Plans and Procedures. RTA and the Weipa Town Authority (**WTA**) will work to achieve this vision.

The vision is designed to take the WTA from where it is now to a position where the WTA is perceived to be separate from and is able to act largely autonomously of RTA, even though it is not legally separated from RTA.

RTA recognises that property ownership within Weipa is progressively changing and that the majority of the town properties are owned by non-Rio Tinto parties.

RTA and the WTA also acknowledge that this Protocol is a 'living document' which may be subject to change as social, demographic and ownership structures in Weipa alter over time.

RTA in consultation with the WTA may amend or terminate this Protocol at any time.

## 3. Background

### 3.1 Legislation

Weipa is currently governed by RTA by virtue of the provisions of the *Commonwealth Aluminium Corporation Pty Limited Agreement Act 1957 (Qld)* (**Comalco Act**).

The Comalco Act makes reference to and imports in clause 45 of the agreement scheduled to the Comalco Act (**Agreement**) provisions of the *Local Government Act 1993 (Qld)* (**1993 LG Act**).

The 1994 Comalco Regulation:

- (a) excluded certain lots of land (described as the "area") from the Shire of Cook;
- (b) provided that the excluded "area" is called the Weipa Town Area; and
- (c) constituted Weipa as a "local government area" for the purposes of the 1993 LG Act and the Comalco Act.

Currently RTA governs the Weipa Town Area by virtue of the Comalco Act and Agreement, within the limitations set out by those instruments, **as if** it were the local authority for the Weipa Town Area. While the Comalco Regulation expired in September 2005, this does not affect the

operation of the Comalco Act. The Weipa Town Area continues to be excluded from the Shire of Cook.

### **3.2 Weipa Citizens Advisory Committee**

The WTA developed originally from the Weipa Citizens Advisory Committee, which was established by RTA in 1997 to assist RTA with the governance of Weipa. The advisory committee, which acts as though it were a local council, has a chair (akin to a Mayor) and committee members (akin to Councillors) and is a creation of RTA in the exercise of its governing rights under the Agreement. The Committee is not established by virtue of the Comalco Act or the Agreement – neither of which make provision for an advisory committee.

### **3.3 Current Situation**

- (a) Annexure A sets out the how the WTA operated as at 1 November 2006.
- (b) In essence, the WTA endeavours to operate and function as though it were a local government constituted and established under the 1993 LG Act. The only issues where the WTA is unable (due to it being part of a corporation and not constituted a local government in the strict sense under the 1993 LG Act) to act like a local government are as follows:
  - (i) Loan and budget requirements;
  - (ii) Major works contracts for the town (eg. town cleaning and garbage disposal);
  - (iii) Major infrastructure provision; and,
  - (iv) The development/release of land and changes to Weipa Town boundaries

### **3.4 Services**

The following services are or will be provided by WTA to the Weipa community:

- (a) General Administration including reception duties, financial management, cashier facility, debtors, creditors, maintenance of records systems, etc;
- (b) Library;
- (c) Water treatment, storage & distribution;
- (d) Sewer collection, treatment, disposal & recycling;
- (e) Liquid trade waste disposal and treatment;
- (f) Garbage recycling & disposal;
- (g) Maintenance/operation of Roads, stormwater drainage systems etc;
- (h) Facilitation of economic development, tourism and diversification of industry;
- (i) Town planning functions;
- (j) Building certifications, approvals and inspection functions;
- (k) Environmental health;
- (l) Pest & noxious weeds control;
- (m) Asset management including establishment of databases, ongoing condition monitoring, replacement,
- (n) Filing and records system which is based upon RTA government functions and facilitate freedom of information requests;

- (o) Playgrounds, open spaces and recreational areas including all existing facilities;
- (p) Provision of community buildings & public conveniences;
- (q) Animal Control
- (r) Formulation, implementation, enforcement and continual monitoring of local laws;
- (s) Swimming Pool;
- (t) Representation of the Weipa community;
- (u) Ongoing application of government funding;
- (v) Commitment to ongoing employment of indigenous persons;
- (w) Utilising recognised population prediction forecasting techniques to effectively plan for the ongoing development of Weipa and ensure that infrastructure remains suitable for the communities needs;
- (x) Seek requests from the community for financial assistance;
- (y) A commitment to working with police agencies to seek means to minimise and reduce crime through opportunities such as Neighbourhood Watch;
- (z) Encouragement of community pride through programs such as tidy towns, adopt a street;
- (aa) Implementation of education programs which promote recycling of garbage, recycling of sewer effluent, and conservative use of water resources;
- (bb) Disaster Management; and,
- (cc) Any additional services RTA wish to add to the WTA's responsibilities from time to time, in consultation with the WTA.

These functions will be provided and funded through rates, charges and services from the community, as well as RTA funding.

RTA's expectation is that the WTA will deliver the services at a comparable standard to other local governments in Queensland. In association with RTA, the WTA will develop Key Performance Indicators (**KPIs**) which are consistent with current best practice within local government. The purpose of the development of KPIs is to ensure the continuous improvement of the services provided by WTA.

## 4. Management of Legal Issues

### 4.1 Delegation of powers to the WTA

RTA will prepare and approve a formal delegation of authority (**Delegation**) for the WTA and its officers. This memorandum will clarify how the WTA will exercise that authority with respect to its local governance powers in Weipa.

In the event of any inconsistency between this Protocol and the Delegation, the terms of the Delegation will prevail.

RTA in consultation with the WTA may amend the Delegation at any time.

### 4.2 WTA legal matters

RTA Corporate Counsel provide legal support and advice for RTA operations and are responsible for 'knowledge capture and management' within RTA and Rio Tinto.

WTA will be responsible for management and handling of minor 'day to day' prosecutions with the assistance of a local law firm (see below)<sup>1</sup>.

Significant or complex prosecutions, including town planning and building disputes must be referred to RTA Corporate Counsel for review *before* the matter is briefed to any law firm or legal consultant.

A running sheet of 'day to day' prosecutions and all other legal matters will be provided by the WTA to RTA Corporate Counsel on a monthly basis.

As a basis and until advised by RTA Corporate Counsel the following firms are approved to provide assistance to the WTA:

- (a) Marino Moller Lawyers in Cairns - will handle all day-to-day prosecutions and Magistrates Court work on behalf of the WTA including debt collections and dog prosecutions; and,
- (b) Minter Ellison, Lawyers in Brisbane - will provide advice on local laws and the operation of the local governance provisions under the *Comalco Act* and the Agreement.

Prior to requesting any legal advice, RTA and WTA will reach agreement on responsibility for payment of invoices. Generally the following will apply:

- (a) where the legal advice relates to confirmation of the authority retained by RTA through various legislative mechanisms, the cost will be borne by RTA;
- (b) where the legal advice relates to operational matters, or is requested by the WTA members, the cost will be borne by the WTA.

#### **4.3 Significant legal matters**

- (a) For the WTA to proceed with any significant legal action, a majority of the WTA must resolve to proceed with the action. Following such a resolution and before engaging in legal action, the WTA must advise and obtain the approval of RTA Corporate Counsel to proceed.
- (b) Fines may be issued by the WTA provided it has first received legal advice through RTA Corporate Counsel that it has the requisite power to issue such fines.

#### **4.4 Liability of WTA officials**

The Comalco Act provides that RTA 'shall not be under any greater liability than would a Local Authority' when exercising its powers with respect to a Local Authority Area (see section 45(a) (i) of the Agreement).

Subject to WTA and its members acting wholly in accordance with the Delegation and this Protocol, RTA will either indemnify or provide insurance coverage for the WTA members to the same extent as RTA officers and employees.

#### **4.5 WTA enforcement of powers**

WTA officials should act with appropriate flexibility and discretion in the administration of local laws. RTA has requested WTA officials to place more focus on this issue and engage more with

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<sup>1</sup> The local law firm(s) selected by the WTA to handle prosecutions must be endorsed by the Corporate Counsel prior to commencing work. The management of legal disputes is dealt with in further detail in paragraph 4.3.

the community on a grassroots level when dealing with alleged/actual breaches of Local Laws (for example, by issuing warnings to offenders prior to proceeding with prosecutions).

RTA and the WTA acknowledge that, while flexibility and discretion are important, RTA policies and State laws must be complied with (for example, particularly in respect of the administration of the trade waste provisions and environmental issues).

WTA officials will ensure the proper investigation of alleged breaches of local and other laws which apply in the Weipa Town Area. All investigations will be documented, including details of attempts made by WTA officials to resolve the matter (if possible) without prosecution or fines.

#### **4.6 WTA legislative requirements**

- (a) The WTA will observe and comply with relevant provisions of State and Federal legislation.
- (b) The WTA will observe and comply with the Comalco Act and Agreement.
- (c) Where possible, RTA will consider enabling the WTA to hold environmental licences separate and distinct from RTA's other licences in order to enable WTA to manage and operate facilities relating only to the town, such as sewerage and garbage disposal systems.
- (d) The WTA and RTA will work collaboratively to develop a program to understand the legislative provisions relevant to the operations and administration of the WTA and the Weipa Town Area, and will jointly ensure that the requisite training is provided to assist staff of the WTA to understand the legislative framework they operate within and with which they are required to comply.
- (e) An Operational Guide for the legal aspects of administering the WTA will be developed by RTA in consultation with WTA. It will provide templates for the resolution of local laws, and outline the procedures for proper corporate governance and administration of the WTA in the context of the scope of its authority as set out in the Delegation.

## **5. Corporate Planning**

### **5.1 Corporate Governance Improvement Program**

- (a) The WTA will formulate and implement a “Corporate Governance Improvement Program”. The minimum details to be included in the program are outlined below.
- (b) The WTA will develop a corporate plan to formulate the long term direction of the authority. The plan will also provide a clear direction for WTA staff to facilitate implementation of the corporate plan. The corporate plan will be prepared in accordance with Chapter 7 Part 2 of the local government act 1993. A compulsory annual workshop will be facilitated by RTA for all members of the WTA to review the corporate plan, assess achievements to date, identify risks and potential opportunities, collate and assess results of community satisfaction surveys and provide future strategic direction for the organisation.
- (c) Once finalised, the draft corporate plan will be placed on inspection for a period of 30 days prior to adopting. Any submissions made by members of the public must be presented to the WTA for consideration for inclusion in the corporate plan. The final corporate plan must be adopted by formal resolution of the WTA and remain accessible to any member of the public.

- (d) In the event that the corporate plan is proposed to be altered following adoption by the WTA, any revised corporate plan will be placed open to inspection for 30 days to invite public comment prior to it being amended and be resolved by the WTA.
- (e) An operational plan will be prepared on an annual basis which details the major activities that align with the corporate plan and are proposed to be delivered during the relevant financial year. The operational plan must meet the requirements of Chapter 7 Part 2 of the local government act 1993. The operational plan must be adopted by majority vote of the WTA and be in force by the commencement of the RTA financial year. The plan must be in place by 1 July each year.
- (f) The operational plan will include a detailed budget for the financial year which clearly sets out the amounts proposed to be spent during the financial year, the major activities under the corporate and operational plans proposed to be undertaken and the actual cost that was incurred for the previous financial year. The budget will clearly detail the financial contributions to be made by RTA.
- (g) Any financial contribution by RTA made to annual budgets will require approval by an authorised representative of RTA.
- (h) Within three months of the end of the financial year, the WTA will facilitate an audit of its accounts by a qualified financial auditor. At the same time, RTA will undertake a review and audit of the operational plan.
- (i) By the 30 November of the relevant calendar year, the WTA will produce at its own cost an annual report which meets the requirements of Chapter 7 Part 8 of the local government act 1993 and include RTA's review and commentary on the performance of the WTA in achieving targets contained in corporate and operational plans. The annual report will be presented for inspection by the public in accordance with section 535 of the local government act.

## **5.2 Tendering guidelines and major contracts**

- (a) The WTA will formulate procurement and tendering guidelines in partnership with RTA to meet the terms of the Delegation.
- (b) On the achievement of the steps indicated in paragraph 13 of this Protocol (to the satisfaction of RTA), the WTA will be given the authority to manage and award tenders valued up to \$50,000. The WTA can choose to continue to use RTA resources for these services. Any cost incurred by WTA in using RTA resources maybe recovered at the discretion of RTA following consultation with the WTA. A minimum notice period of 6 months will be observed prior to introducing any charges..
- (c) The WTA will, in consultation with RTA Procurement and the RTA Manager-Weipa Service Delivery, formulate and adopt a purchasing policy which details the processes used to procure items and services for WTA operations. The policy will generally reflect similar principles adopted by local governments in Queensland.

## **5.3 Meeting protocols**

- (a) The WTA will publicise the dates of public meetings (in a manner generally utilised by other local government authorities). The minimum standard will be consistent with section 464 of the Local Government Act 1993. The approved method of communication will generally ensure that members of the community are given every opportunity to participate in democratic decisions. The purpose of the publication will be to inform the community of the purpose of meeting, dates, times and locations.

- (b) Meeting agendas including detailed reports on relevant agenda items will be made available to elected and appointed members and the general public in accordance with section 450 of the local government act 1993. Any proposed changes to the dates and times of a meeting must be communicated to the community in accordance with section 464 of the local government act 1993.
- (c) The elected chairperson will retain the sole right to raise urgent items with minimal notice that are considered to be of substantial importance, and in respect of which any delay in the WTA providing direction on the matter may jeopardise the WTA or RTA's ability to take advantage of opportunities or alternatively may result in significant harm to the WTA or RTA.
- (d) The general public will have the right, at least two weeks prior to a meeting of the WTA, to nominate agenda items for discussion at the next scheduled WTA meeting. The nomination of agenda items by the general public must be in writing, clearly identifying the person or people nominating the issue for inclusion on the Agenda. If the request requires investigation by WTA officers, the WTA will have the right to defer the placing of the request on the Agenda until such time as a report from the investigating WTA officers becomes available. The WTA must not unreasonably delay the inclusion of agenda items nominated by the general public.
- (e) A meeting can only proceed if a quorum of members is present in accordance with section 446 of the local government act. 'Members' of the WTA means each elected member, the appointed Traditional Owner member and the two RTA representatives.
- (f) Each member of the WTA Board will have the right to one (1) vote for any matter that has been moved and seconded. Each vote is of equal value. In the event that voting is deadlocked on any issue, the presiding chairman has the right to cast the deciding vote. Any member of the WTA will have the right to abstain from voting on any matter. In the event that a member is absent from voting, no proxy will be given. The results of each vote will be recorded and each voting member of the WTA has the right to request that their vote is recorded in the manner nominated by that voting member.
- (g) The WTA will develop freedom of information protocols in partnership with RTA, which clearly set out the circumstances that a member of the community will be allowed to seek information on specific matters. The policy will also clearly detail specific information that cannot be viewed by any member of the public and the process that must be used to determine suitability for release. The WTA will develop a filing system which facilitates the assessment of, and response to, such requests.
- (h) WTA members are forbidden from directly interfering with day to day WTA operations or approaching WTA staff directly on any matter. WTA members must address all matters regarding WTA through the office of the CEO only. The WTA in partnership with RTA will develop a staff-councillor interaction protocol to define appropriate behaviour.
- (i) A Code of Conduct will be developed by the WTA in partnership with RTA which sets out the behaviour to be expected of the WTA members. A workshop will be conducted to clarify what a conflict of interest is considered to be and how it would apply to individual members circumstances. The code of conduct must detail the actions that will be taken if it is found that the individual has failed to raise or declare any conflict of interest.
- (j) A member who has a material personal interest must disclose the interest in accordance with section 244 of the local government act 1993 no WTA member will be allowed to be present or participate in the meeting while the matter is being considered by the WTA.. No proxy vote will be permissible in such circumstances. If a member or members are

absent from the meeting due to a material personal interest, the quorum for the meeting in accordance with section 446 of the local government act 1993.

- (k) The local Weipa media will be encouraged to attend any meeting of the WTA except for closed meetings. During the meeting, the local media will be given the right to observe only, not to vote or comment on any aspect of the meeting while the meeting is convened.

#### **5.4 Closed sessions**

- (a) The WTA will develop, implement and continually review a policy for the tabling and discussion of reports in sessions closed to public attendance & scrutiny in partnership with RTA. The policy will be based upon Qld legislation and guidance notes as issued by the Queensland Department of Local Government..
- (b) A separate agenda must be prepared for any closed session and only distributed among WTA members and employees nominated by the CEO of the WTA. Should the CEO remain unsure whether a matter needs to be discussed in a closed session, the CEO shall seek independent advice.
- (c) A report must be produced on issues proposed for closed sessions. The report must not be reproduced for general circulation. A motion must be moved & seconded to allow the meeting to adjourn to a closed session. At this point the meeting will become closed to the public, and only members and persons permitted by the Chairperson will remain in the meeting. Those persons remaining in the room will be bound to keep all details of the report and discussion confidential. A resolution must be recorded, moved and seconded on the outcome of any report that has been considered during a closed session and published within the minutes of the meeting.
- (d) The WTA can resolve to enter into a meeting closed to the public in accordance with section 463 of the local government act 1993 to discuss the following:
  - (i) the appointment, dismissal or discipline of employees;
  - (ii) industrial matters affecting employees;
  - (iii) the WTA budget;
  - (iv) rating concessions;
  - (v) contracts proposed to be made by it;
  - (vi) legal proceedings (including potential proceedings) involving the WTA;
  - (vii) any action to be taken by the WTA under relevant planning laws including deciding applications made to it; or
  - (viii) other business for which a public discussion would be likely to prejudice the interests of the WTA, RTA or another person, or enable a person to gain a financial or other advantage.
- (e) A resolution that a meeting be closed must specify the general nature of the matters to be considered while the meeting is closed.
- (f) WTA will ensure that all members sign a confidentiality agreement, which will expressly prohibit the release of unauthorised information from a closed meeting.

#### **5.5 Policy**

- (a) The WTA will formulate policies for various administrative and operational matters. The policies will be formulated to provide transparency to the Weipa community in respect of any dealings undertaken by the WTA and to provide direction to WTA staff members.

- (b) The most recent version of all policies will be published on the WTA website and also made available for the public to view at the front counter of the WTA office. A current register will be maintained to record the title of all policies, the current version, the date it was most recently adopted and the location of the original electronic copy of the policy.
- (c) The WTA will review policies during the term of the elected members. The WTA will record by resolution that they have reviewed any relevant policy and any action that was taken regarding the policy, its amendment, or application to specific circumstances.

## **5.6 Proposed [business] structure of the WTA**

- (a) WTA will continue to use the RTA Australian Business Number 51 009 679 127. The WTA will be responsible for submission of all reports that are required by the ATO and relevant fair trading departments as a result of its operations and these reports will be submitted in accordance with RTA requirements.
- (b) The existing structure of four (4) elected community representatives, an appointed traditional owner (1) and two (2) appointed RTA representatives will be accepted as the structure for the WTA. Collectively, all of these representatives are the members of the WTA – see paragraph 5.3(e). An appointed representative cannot hold the position of chairperson or elected community representative simultaneously with their appointed role.
- (c) Free democratic elections will be held (consistent with the Qld local government electoral cycle) for the elected positions on the WTA. Electoral candidates must be residents of Weipa for their term of office. Their term of office is the same as local councillors in local governments in Queensland.
- (d) Elected councillors must meet the minimum criteria to remain eligible for election, as provided under Chapter 4 Part1 Division 2 of the 1993 LG Act.
- (e) The chairperson of the WTA will be elected for the specific position by the general public.
- (f) When the General Manager-Weipa Operations decides, based on the WTA achieving agreed steps in the table in paragraph 13 of this Protocol, the CEO of the WTA will commence reporting directly to the WTA, and will no longer report to the Manager-Commercial Infrastructure (see Schedule 2). Following the completion of the agreed milestones, The WTA chairman will undertake performance reviews of the WTA CEO (**CEO**) on at least a six (6) monthly basis. The CEO and WTA will agree on performance targets to be achieved to facilitate the reviews. The agreed performance targets and reviews must be reasonable. If there is no agreement the Manager-Commercial Infrastructure (or authorised RTA representative) will have the final right of approval for performance targets and reviews.
- (g) The CEO will be responsible and accountable for the day to day operations of the WTA (both before and after Agreed Step 7 contained in section 13 of this protocol is achieved). All WTA staff will report through to the CEO. The CEO will also be responsible for implementing the strategic direction for the WTA.
- (h) The WTA will develop, implement and regularly review a Code of Conduct for its officers and elected officials which clearly define acceptable behaviour and the consequences which may occur should any individual fail to comply with the Code of Conduct.
- (i) The CEO of the WTA will continue to be appointed by RTA. When acceptable to RTA, the future appointment of a CEO will be undertaken by the WTA. The General Manager Weipa Operations (or authorised RTA representative) will have the final right of approval.
- (j) The WTA may approach the RTA General Manager - Weipa Operations (or authorised RTA representative) concerning the performance of the CEO to seek the termination or

redeployment to other duties of the CEO. The RTA General Manager - Weipa Operations will make the final decision about this matter.

- (k) The WTA will not make or implement decisions which will affect RTA's financial and operational position, commercial viability, policies or objectives. This will be a fundamental aspect of the Code of Conduct to be developed in accordance with paragraph 5.3(h).
- (l) All members of the WTA will maintain a neutral stance towards RTA whilst undertaking duties on behalf of the WTA. Preferences in favour of RTA, or prejudices against RTA will not form any part of WTA deliberations. Subject to this Protocol, decisions made by WTA members will as far as possible take account of the public interest.

## 6. Workplace Health & Safety Improvement Program

### 6.1 Workplace Health & Safety gap analysis

- (a) The WTA (with assistance provided by RTA) will develop an action plan in relation to workplace health and safety issues to address any gaps highlighted by any gap analysis conducted from time to time and implement the action plan to effect the improvements.

## 7. Infrastructure Improvement Program

### 7.1 Sewer System Improvement Program

- (a) Recent works have been undertaken to improve substantially the operation of the sewerage system to comply with regulatory and licensing requirements.
- (b) RTA will retain control and ownership of the sewerage system. The purpose of this is to ensure the necessary investment is provided to implement the Weipa Sewerage System Improvement Program. The aim of the Weipa Sewerage System Improvement Program will be to improve process control, reliability of pumping systems, and build redundancy into the system to ensure regulatory and environmental licenses are complied with.
- (c) RTA will undertake a number of capital projects to upgrade the Awonga Point Sewerage system, upgrade of sewerage pump stations and installation of telemetry systems to automate process control. In consultation with the WTA, RTA may pass the control of the sewer system to the WTA, following the completion of this upgrade.
- (d) Unless and until control of the sewerage system is passed to WTA, RTA will maintain full control and ownership of the sewerage system.
- (e) However WTA will be responsible for the sewerage system operational management.
- (f) The WTA will continue to provide a customer complaints service for the town area sewerage system. The WTA will also continue to collect sewerage rates for the town area and fund the maintenance and ongoing operational costs of the sewerage system during this period.
- (g) RTA and the WTA will form a committee to oversee the handover of the upgraded Weipa Sewerage System. The committee will agree on the extent of the handover, timings of the handover, ongoing operational accountabilities to ensure that regulatory requirements can be sustainably met, and any operational budget implications which may result due to the upgrade; and,
- (h) The WTA will ensure that all plans required under the Water Act 2000 will be prepared and implemented, if necessary with the assistance of RTA.

## 7.2 Water Demand Management

- (a) The WTA will develop and implement a Water Demand Management Plan (**Plan**) for Weipa. The Plan should aim to reduce per capita consumption to a level that is consistent for similar populations and environmental conditions. The plan will contain agreed water consumption targets together with strategies to be employed to achieve those targets.
- (b) Measures to be considered by the WTA must include cost recovery and pricing based signals such as two part tariffs structured in part on infrastructure costs and in part on consumption.
- (c) A key measure in the Plan will be the investigation and implementation of water restrictions during times of water shortage. Levels of water restriction will be identified based upon agreed water resource trigger points and the ability of the existing water town water infrastructure to service the population.
- (d) The Plan will include penalties (insofar as those are applicable under the *Water Act 2000*) for individuals found to be disregarding the water restrictions.
- (e) The Plan will place an emphasis on installing water efficient fittings and fixtures, recycling of grey water, water wise education, and communication to the public of the proposed measures; and
- (f) The WTA will ensure that all plans required under the Water Act 2000 will be prepared and implemented, if necessary with the assistance of RTA.

## 8. Asset Management Program

### 8.1 WTA Assets

- (a) RTA owns the following assets within the town area:
  - (i) Road network, associated traffic management facilities and street furniture;
  - (ii) Sewerage network including pump stations, pipes, sewerage treatment plant and associated fittings essential for efficient operation;
  - (iii) Water network including bores, storage facilities, pumps, pipelines and associated fittings;
  - (iv) Stormwater drainage systems;
  - (v) Community buildings, sporting ovals, parks, playground equipment, and open spaces.
- (b) Subject to (c) below, RTA will allow WTA exclusive use of the above assets.
- (c) Acts or omissions of the WTA in relation to these assets may prejudice the assets or RTA's commercial operations and activities, and the WTA acknowledges that in these circumstances (without limitation to RTA general rights), RTA may amend the Protocol in partnership with the WTA to address such issues.

### 8.2 WTA Area Custodian Register

- (a) The WTA in partnership with RTA will prepare an area custodian asset register detailing the assets which the WTA is responsible for maintaining and operating
- (b) The register will provide a clear indication of physical ownership, the replacement value of the asset, the written down value of the asset, the source of funding to be used to maintain the asset (operating cost: mainly WTA responsibility at present), whether the asset is planned to be replaced, planned year of replacement and source of funding

planned to be used to replace the asset (capital cost: mainly RTA responsibility at present).

- (c) RTA reserves the right to collect rent from the WTA in the future for the use of RTA-owned property and infrastructure. RTA will work in partnership with WTA to establish the quantum of the rental charge and timings of application of the rental charge. A minimum of six (6) months notice in advance of the annual WTA budget being adopted will be given by RTA to WTA prior to the charge being applied

### **8.3 Funding for Replacement of Existing Assets**

- (a) WTA will produce 30 year strategic plans of the existing assets within the town area. The strategic plans will seek to rationalise the existing asset base and determine those critical assets which need to be replaced, augmented, or improved over time. The WTA will implement rates, fees and charges which will fund ongoing operations, maintenance, depreciation and replacement of assets.
- (b) The WTA will give due regard in setting rates, fees and charges to ensuring that they remain comparable with other local authorities within Queensland.
- (c) The WTA will ensure that the replacement of critical assets becomes self funded in a fiscally responsible manner by levying the community.
- (d) The WTA cannot and will not borrow funds to fund asset replacements unless approval has expressly been given by the RTA General Manager – Weipa Operations (or authorised representative of RTA).
- (e) The WTA will seek to create financial reserves to fund replacement and renewal of critical town infrastructure including water, sewerage, garbage disposal, roads, bike paths, stormwater drainage, kerb & channel and community buildings. Each financial reserve will be specifically designated for its intended purpose and funds will be used only for that specific purpose.
- (f) The WTA and RTA will undertake investigations for sources of funding by levying additional special rates and charges, after receiving any necessary legal advice as to powers to be used and processes to be followed for the valid levying of such special rates and charges.

### **8.4 Land Development Assets**

When developing land within the Weipa Town Area, RTA seeks to minimise any impact on the existing population in terms of infrastructure condition or service delivery. RTA will continue to seek to provide additional infrastructure to maintain minimum standards of infrastructure service delivery.

## **9. Town Planning Improvement Program**

### **9.1 Town Planning Improvement Program**

- (a) The WTA will maintain an Urban Control plan for development within the town area, and ensure that it is up to date for the purpose of any relevant and applicable planning laws.
- (b) With assistance as required from RTA, the WTA will undertake a gap analysis to determine potential lack of compliance with the powers conferred under the Comalco Act and Agreement and related legislation relevant to town planning assessment and regulation.
- (c) The WTA will seek to produce an action plan which attempts to close the gaps identified by the gap analysis.

- (d) The WTA will produce a set of Town Planning Scheme Policies which detail the process that any potential developer/builder is required to undertake for proposed development in the Weipa Town Area. A clear indication will be given regarding timelines for approval/rejection/requests for further information in relation to developments. The policies will be tailored to manage developments undertaken by RTA as well as any third party developers.
- (e) Where appropriate, the policies will mirror existing IDAS processes such as material change of use, lot reconfigurations, operational works processes, building approvals and the like. Before finally adopting policies in relation to town planning, the WTA will consult with RTA employees (particularly from RTAs Commercial Infrastructure Division and RTA Corporate Counsel) to ensure consistency with existing policies and to minimise the potential to introduce onerous procedures which do not add value to RTA operations.
- (f) A parallel set of guidelines will also be produced to provide direction to WTA officers as to how to address non-compliant developments and what actions should be undertaken to protect the community's and RTA's interests.
- (g) During the assessment of any development application, special consideration will be given to the impact the development will have on existing infrastructure. The WTA will request advice from infrastructure managers (water, sewerage, mine site, gas, electricity & communications) to assess potential impacts and ensure any impact upon the community or the service provider is minimised.
- (h) Where relevant, referral processes will be developed and implemented to gain comment from infrastructure managers prior to any decisions being made regarding a development application.

## **9.2 Developer Charges**

- (a) The WTA will develop and implement a policy which levies appropriate headworks charges on developments that benefit from infrastructure that has been previously constructed by the community or RTA.
- (b) The policy will be formulated to ensure that expansion of Weipa does not become economically unviable, but will also ensure that ongoing development of land by private interests is not an immediate or future burden on the ratepayers, RTA or the general community.

## **9.3 WTA Records**

- (a) The WTA will maintain adequate hardcopy files for each parcel of land within the town boundaries which records:
  - (i) each town planning / building application made;
  - (ii) the results of the assessment of the application;
  - (iii) a record of any conditions that have been placed on the proposed development;
  - (iv) a receipt recording the amount of any application fees, developer charges or fines paid;
  - (v) a stamped copy of the approved plans for the development;
  - (vi) any objections that have been received regarding the proposed development;
  - (vii) any resolutions that have been passed by the WTA regarding a development proposal; and
  - (viii) any correspondence that may have been received or sent.

## **9.4 Ongoing Town Planning Reviews**

- (a) The WTA will undertake periodic reviews of its town planning policies, procedures and approval processes to ensure they remain relevant and compliant with relevant laws.
- (b) The WTA will implement an annual audit of its process to ensure compliance with town planning scheme policies. The WTA will publish the key findings of the audits in its Annual Report. The WTA will implement actions to address any deficiencies identified during the audit.

## **10. Continuous Improvement Program**

- (a) The WTA with the assistance of RTA will seek continuously to improve its business. This should result in the reduction of rates and charges through process efficiencies and reductions in operating costs. WTA will, with the involvement of RTA, complete an annual workshop identifying potential cost reductions, and implement cost reductions thus identified.
- (b) The WTA in consultation with RTA will formulate Key Performance Indicators which will monitor the core functions undertaken by the WTA. The KPI's will be designed to facilitate continuous improvement of the WTA business.
- (c) The WTA and RTA acknowledge that this Protocol is a 'living document' and that the Protocol itself will be reviewed on a regular basis and improvements will be made as required. The reviews will generally occur annually following the audits detailed in 13.1
- (d).

## **11. Finances and Funding**

### **11.1 Funding for Services provided by the WTA**

- (a) Where possible, the WTA will promote the provision of services which are fully recoverable by way of fees and charges. The principle of cost-recovery will be based on cost of service provision plus administration costs, and where possible will be "user-pays" philosophy.
- (b) For those services that are currently not fully recoverable, the WTA will seek to ensure that those services are utilised by as large a cross section of the community as possible. WTA will also seek to move to the recover of these costs over time.
- (c) The WTA will implement appropriate fees and charges for use of community buildings which reflect a reasonable payment for use of the facility, ongoing maintenance and provision of utility services and costs of lease fees. If a specific group should seek exclusive use of community buildings and/or sports ovals, a lease will be entered into. If the facility is reserved to be used by any specific member(s) of the community, then the WTA will seek opportunities to utilise fully the facility for income purposes to minimise the burden to the general community and RTA.

### **11.2 Fire Fighting Levy**

- (a) If requested by RTA, the WTA will collect on behalf of the RTA (or the Queensland Government), a fire fighting levy during the annual rating process. The ambulance levy is already collected through the electricity bills issued directly by RTA (and the WTA is not presently involved in the collection of an Ambulance levy).
- (b) The amount to be collected will be communicated by the WTA if it is requested and authorised to collect the funds.

## 12. Responsibilities and Authority

### 12.1 Resources to be provided by RTA

- (a) RTA will pay the rates, water, sewerage and domestic waste charges for property owned by RTA in the Weipa Town Area. The RTA and WTA acknowledge that the rates will be reduced by an appropriate amount to reflect the salaries of WTA staff.
- (b) RTA will continue to provide information technology, human resources, legal, procurement, engineering, project management and business improvement resources to assist the WTA with its responsibilities.
- (c) At the conclusion of capital upgrades, the WTA and ratepayers will take over continued maintenance and upkeep of WTA assets, in accordance with the Asset Management Plan developed under paragraph 8. WTA in partnership with the RTA will develop a process incorporating a checklist to facilitate the handover.
- (d) RTA will be responsible to arrange insurance for its operations. If requested by RTA, WTA will reimburse RTA for its share of the benefit of the insurance cover. The final amount payable will be by agreement reached between the CEO and the Manager Commercial Infrastructure. As a principle, the final amount will generally reflect full cost recovery. A notification period of minimum 6 months in advance of the next WTA annual budget being adopted will apply before any reimbursements are made.

### 12.2 Funding

- (a) The WTA will make application to RTA for funding in relation to infrastructure upgrades. To apply, the WTA must complete the RTA Capital Expenditure Approval requests, and must provide a clear description of the purpose and details of any funding sought.
- (b) RTA reserves the right to place conditions on funding. Potential conditions may include, but not be limited to, providing dollar for dollar matching funding, media communications plans and payment for over expenditure. A minimum condition of the funding request will be to acquit the grant in a manner acceptable to RTA to ensure that funds are utilised transparently and efficiently.
- (c) WTA will promote the grant of funds by RTA to the local community using a variety of means. At a minimum, the means will include direct communications with the media, public consultation of projects and annual reports. The WTA also undertakes to erect signage in a format approved by RTA at the location of any works acknowledging the contribution of RTA.
- (d) RTA reserves the right to reduce, suspend or terminate the amount of funding provided should the WTA fail to comply with this Protocol or in the conditions attached to the funding, should the WTA fail to achieve the agreed steps in this Protocol in a timely manner or if any member of the WTA is shown to be participating in any untoward, unconscionable or corrupt conduct.

The WTA in partnership with RTA shall develop formal mechanisms to facilitate an understanding of when this action would be appropriate and under which circumstances.

### 12.3 Lobbying Function

- (a) As indicated in Annexure A, the WTA engages in lobbying with State and Federal Governments, and other resource proponents to encourage investment in and the growth of the Weipa community. The WTA and RTA will consult each other prior to undertaking any lobbying, to ensure consistency of message and effective use of resources.

- (b) The WTA will brief the Manager Commercial Infrastructure and the General Manager - Weipa Operations before any lobbying takes place, and will also debrief (if requested, in writing) the Manager Commercial Infrastructure after the lobbying has been undertaken.
- (c) RTA will brief the WTA Chairperson on any approaches to the government that may take place regarding the WTA functions, and will provide a debrief after the approach has occurred if requested by the WTA chairman.

## **12.4 Authority to be retained by RTA**

Without limitation, the following authorities remain with RTA and are not given to the WTA:

- (a) Final review and approval by Manager Commercial Infrastructure for letting of all consultancies by WTA
- (b) Final review and approval by RTA Manager Commercial Infrastructure or RTA General Manager - Weipa Operations for capital works requests;
- (c) Final right to veto or approve appointment of WTA Chief Executive Officer;
- (d) Approval of major contracts (contracts to be let over a value of \$50,000, and until step 7 in the table in paragraph 13, \$10,000);
- (e) Acceptance and approval of Annual Reports of the WTA, and so copies of annual reports will be submitted to the RTA General Manager – Weipa Operations following the adoption of the report by the WTA.
- (f) right to remove any member(s) of the WTA (to be exercised by RTA General Manager – Weipa Operations) for the following reasons:
  - (i) Gross negligence in management;
  - (ii) Defalcation;
  - (iii) Abuse of conflict of interest rules or the Code of Conduct;
  - (iv) Misconduct;

(Any action to remove a member will be contingent on a breach of the code of conduct).
- (g) RTA retains the right to alter, terminate or suspend the operation of this Protocol at any time. (Any action to suspend the operation of the protocol would result from substantial breaches of the code of conduct by multiple members or a lack of real progress of implementation of the protocol).
- (h) Review and final approval in relation to requests for additional WTA staff;
- (i) Review and final approval in relation to requests for additional vehicles for WTA staff; and'
- (j) Reporting for tax and financial purposes in the provision of RTA company accounts.

## **13. Proposed WTA Protocols Milestones**

### **13.1 Transition to agreed WTA structure**

- (a) The WTA and RTA will, subject to this Protocol:
  - (i) build on existing practices to minimise any disruption to the community;
  - (ii) facilitate coordinated media and communications which outlines key messages arising from this Protocol and overall progress in implementing it

- (b) The WTA will, in conjunction with RTA, undertake a satisfaction survey of ratepayers and the general community within the Weipa area. This survey will act as the baseline to measure the effectiveness of the WTA in its decisions and facilitate the continuous improvement program as per paragraph 10.
- (c) The WTA will undertake the survey on an annual basis, develop plans to reduce identified gaps in the results and report these to the general public. At a minimum, communication of the results will be by means of the annual reports on the WTA operations.
- (d) Annual audits will be undertaken by the WTA in partnership with RTA to monitor the progress of implementing this agreement. A working group will be appointed including WTA and RTA representatives to oversee the audit and provide reports on the progress to the community.

<b>Agreed Steps</b>	<b>Milestone</b>	<b>Increase in Autonomy Given</b>
1	<i>Approval by RTA for closure of gaps identified in Health &amp; Safety Systems and implemented</i>	
2	<i>Corporate Governance Improvement Program approved by RTA and implemented</i>	
3	<i>Implementation of approved corporate and operational plans</i>	
4	<i>Implementation of approved purchasing and tendering guidelines and amendment of RTA delegations policy</i>	<i>Authority to tender autonomously and approve contracts up to \$50,000</i>
5	<i>Implementation of routine financial events including transparent budgeting cycle, quarterly reviews, independent audits, and annual report production</i>	<i>Separate WTA budget code</i>
6	<i>Completion, and approval by RTA, of the Sewerage System Improvement Program [implementation]</i>	<i>WTA control, operation and maintenance of sewerage system.</i>
7.	<i>All the above milestones have been reached to RTA satisfaction</i>	<i>Restructure of organisation with CEO reporting directly to the WTA (and no longer reporting to the Manager Commercial Infrastructure) (See Schedule 2)</i>

# Annexure A

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## Annexure to Rio Tinto Aluminium and the Weipa Town Authority Local Governance Protocol and Related Management Structures for Weipa Town Area

### Current Situation

#### Administration

##### WTA Structure

The WTA is made up of an elected Chair, three elected members, two members appointed by RTA's General Manager–Weipa Operations and a Traditional Owner. Voting for the elected members and Chair is not compulsory, and is conducted at the same time as other Queensland local elections. The elections are run in the same manner as other local elections in Queensland. RTA does not formally appoint the elected members but recognises the vote whatever the result.

Two of the non-elected members are appointed by the General Manager – Weipa Operations, usually on the basis of their role in RTA. So two of the positions are almost ex-officio in that sense. The Manager – Commercial Infrastructure and the Manager- Business Services currently fill the two RTA-appointed positions. The third appointed member is an Indigenous representative appointed by the Weipa Town traditional owner group (Malaruch Corporation) who are one of the parties to the Western Cape Communities Co-existence Agreement, Town Agreement.

Until mid 2002, the precursor to the WTA provided advice to the Town Manager. As a RTA employee, the Town Manager was responsible for ensuring that the General Manager - Weipa Operations and RTA met RTA's local government obligations under the Comalco Act and Agreement. In a technical sense, this is still the function of the person in the role formerly designated Town Manager.

However, since mid 2002, the Town Manager has (originally) become the Chief Executive Officer of the WTA. Administrative arrangements have been put in place whereby the CEO reports to the WTA, in an attempt to replicate the manner in which a local authority CEO or Town Clerk reports to a local Council (see Schedule 1).

### **WTA Meetings**

The WTA meets every month and has an agenda which is essentially the Chairperson's monthly report. All operational issues are voted on by the members of the WTA. Resolutions successfully passed are then implemented by the CEO.

### **WTA Functions**

Apart from the issues set out in paragraph 3.3(b) above, the WTA endeavours to function in a fashion almost identical to a local authority under the 1993 LG Act and relevant legislation affecting local governance in the Weipa Town Area. It is responsible for the:

- (a) management of the town, the cleaning of the town, the collection of garbage, and for the maintenance of buildings for which the WTA has accepted responsibility from RTA;
- (b) the drafting, implementation, monitoring and policing of local laws in relation to the library, dogs, swimming pools, and development applications; and,
- (c) media and branding of Weipa Town, town identity and attracting new business and tourism.

### **WTA Financial Management**

There is a bank account with the Country Credit Union in the name of the WTA, which has RTA's ABN attached to it. All income for the town goes into a WTA bank account. Signing authority on the bank account is only with the CEO and Deputy CEO, General Manager-Weipa Operations and the Manager- Business Services. Apart from this, no WTA member either elected or appointed has signing authority.

All day to day expenditure by the WTA up to amounts of \$50,000.00 comes out of this bank account and does not enter RTA's contracting or finance systems. Over \$50,000.00, a contract or expenditure proposal must obtain a Capital Expenditure Authority (CEA) or other relevant authorisation from RTA contracts and finance department. The two major contracts managed and let by the WTA are the Cleanaway garbage disposal contract and the Spotless Parks and Gardens Contracts. These contracts are signed by the General Manager – Weipa Operations but are negotiated by WTA staff and RTA Contracts and Finance staff together.

### **WTA General Administration**

The WTA uses Practical Accounting software used by other local authorities in Queensland. This system has software relating to rates, complaints and other local government related matters. The WTA also has a website of its own. On the website, it is possible to apply for a material change of use approval, pay your rates and see at a glance the budgetary status of the operations of the WTA for the years 2003 to 2006.

Each RTA employee working in the WTA office has two computer desktops. The first is a WTA desktop. The second is a dial-in capacity to RTA's server. The RTA employees in the Weipa Town office access the RTA desktop only for the purposes of human resource issues such as leave. The day to day desktop used by the employees in the WTA office is the WTA desktop.

There are separate filing systems established by the WTA office. It has a file for every lot of land in Weipa town. Its filing is kept separate from RTA's filing system. This is the case for both hard copy and electronic filing.

### **Functions outside the WTA's responsibilities**

The WTA does not have responsibility for major infrastructure maintenance, major town improvement projects, release of land, town boundary extensions, or negotiation (as opposed to liaison) with the State and Commonwealth Governments in respect of funding. The WTA has a

liaison function, and a lobbying function with the State and Commonwealth Governments, and with other external stakeholders such as other development companies. Members of the WTA describe this as collaboration and influence but not full autonomy. It is not in a position to negotiate with these external entities, as it is the local government for Weipa for what might be described as internal, or more properly endogenous, purposes, but not for external or exogenous purposes. Land, major funding provision, administrative boundaries and major infrastructure are areas where it has some influence but not autonomy.

Despite the fact that the Weipa airport is inside the town boundary of Weipa, the WTA has no responsibility for the management or running of the airport. This is managed entirely by the Commercial Infrastructure MRU of RTA.

## **Employment**

Positions in the WTA office include CEO, Deputy CEO, Asset Supervisor, Assistant Asset Supervisor, Administration and Finance Officer, Administration Officer, Librarian, Recreation Development Coordinator, and Animal Control Officer.

The CEO is an RTA employee and as such is paid entirely by RTA. The Deputy CEO is paid 50% by the WTA and 50 % by RTA. All other WTA-related employees are paid for by the WTA out of the operational budget but are nevertheless RTA employees. RTA receives a rate rebate on the salaries of WTA-related employees whose salaries are paid for by RTA.

The Recreation Development Coordinator and the Animal Control Officer were employed on contract. They were appointed by letter signed by the CEO of the WTA. As such they are not part of the RTA employment system in the sense that other employees in the WTA office are employed by RTA. However, the current Recreation Development Coordinator is now an RTA employee.

## **Level of Interaction**

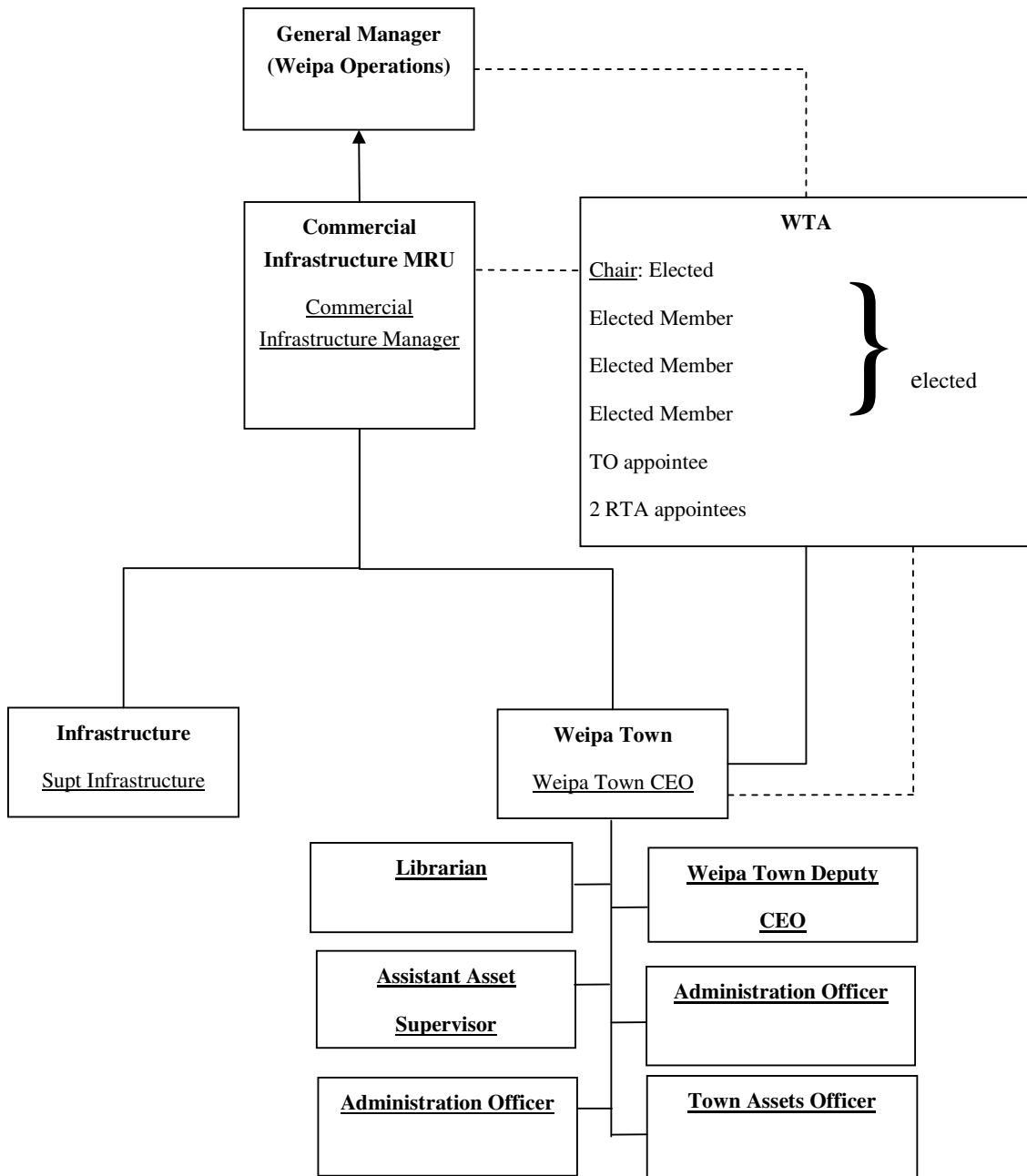
Interaction between WTA members and staff and RTA management and staff occurs on the following levels and in the following manner:

- (a) Between the Chairperson of the WTA and the General Manager-Weipa Operations on a formal basis two or three times a year;
- (b) Between the members of the WTA and the Manager, Business Services and the Manager, Commercial Infrastructure, at WTA monthly meetings;
- (c) Between the CEO of the WTA and the Manager, Commercial Infrastructure on a daily basis;
- (d) Between the staff in the WTA office and Commercial Infrastructure staff, formally for land use and development application approvals as required and development of town requests for major infrastructure provision (Technical Services personnel from RTA only assist with major infrastructure provision on town-managed property when a CEA is required), and more informally for contract works supervision of minor works;
- (e) Between the staff in the WTA office and Contracts and Financing staff of RTA, formally for the negotiation of the two major town-related contracts (Cleanaway and Spotless) and for the management of other contracts over \$50,000.

At all other times, WTA office staff interact with the public, ratepayers and development proponents (including RTA when it proposes to develop land) so far as possible in the same way as any other local authority in Queensland does so. The WTA staff interacts with each other on a day-to-day basis as though they were part of a local authority. Many of them have a loyalty to, and sense of responsibility for, the ratepayers and the Weipa community as well as RTA.

RTA recognises that the ownership dynamic within Weipa is progressively changing with the majority of the town now owned by non- Rio Tinto parties.

# Schedule 1 – WTA Structure November 2006



# Schedule 2 – WTA Structure after Agreed Step 7

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