RISK MATTERS

![LGIS logo]

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▸ Visit our website and members section – lgiswa.com.au

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No problem, simply contact us via the details above for assistance.

LGIS is the unifying name for the dedicated suite of risk financing and management services for WA Local Governments, established by the WA Local Government Association in conjunction with JLT Australia.

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.

LGIS e-newsletter

Sign up today...

At LGIS we are committed to bringing you relevant information on local, national and global risk-related matters and issues impacting local governments in Western Australia.

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CEO's Message

JONATHAN SETH
CEO LGIS WA
jonathan.seth@lgiswa.com.au

The end of the year always lends itself to reflection. I'm pleased that in 2017/18 your scheme had an excellent result reporting a $6 million surplus. This strong performance ensures that the contribution credit plan, to contain your membership costs, is guaranteed - with all scheme members enjoying a share of credits in the order of $4.5 million each year until 2021. Our solid financial year performance can be attributed to two significant factors - your scheme's proactive approach to risk management which contributed significantly to containing claims; and solid returns on our investments.

Over the coming months your Account Chair and Account Manager will be visiting to run through what the scheme's achievements mean for your local government and any other issues and opportunities you'd like to discuss. For more information about your scheme's performance in 2017/18 check out the LGISWA Annual Report. It's now available in the member centre of the LGIS website at lgiswa.com.au or you can get a hard copy by talking to your Account Manager.

We are now well and truly into the warmer months, which often bring greater community activity. Naturally over this time we see an increase in events – many of which your local government will be involved in. It is essential you are aware of the risks involved in event management, and undertake the necessary checks. We can assist you in this space in a variety of ways, such as assisting with and approving your risk management plan. Read more about events and your risks in this edition's feature story, over the page.

Speaking of risk and risk management, I was delighted to attend the 2018 LGIS Risk and Governance Day on Thursday, 22 November in Kojonup. This event was brought to you by the LGIS Regional Risk Coordinators program lead by Monty Archdale, and our experts shared their knowledge on topics selected by you, our members.

The range of topics included:

▸ Control assurance – making sure your current processes are addressing the associated risks, presented by Mark Harris, Senior Risk Consultant.

▸ Event risk management – increased confidence and understanding of the arrangements in place for your events, presented by Michael Sparks, Senior Risk Consultant.

▸ Contractual risk management – managing your exposures, presented by Paul McBride, Senior Risk Consultant and Joan Cavalieri Fernandes, Risk Consultant.

▸ Managing emergency service volunteers, presented by Greg Cook, Senior Risk Consultant.

▸ Audits – a time to shine. Key lessons in audit preparations, presented by Emma Horsefield, OSH Team Leader.

▸ Managing your people risks - a sneak peak of the event dedicated to your WorkCare essentials, presented by Renee Wockner, WorkCare Services Manager.

▸ Update on your Regional Risk Coordinator Service Plan, presented by Monty Archdale, Regional Risk Coordinator Team Leader.

along with a snapshot of major events coming up early next year.

Other topics in this edition include your local government's liability around trees, the all-important topic of how to tackle psychosocial risks within your workplace, and the risks of climate change on your operations. As always, I encourage you to take advantage of our Ask an Expert section and email any questions you may have for our knowledgeable staff through to me or Olivia.lawley@lgiswa.com.au.

If you have any questions on Risk Matters magazine or if you would like to discuss any matter relating to your membership with LGIS, please contact me directly on 9483 8855.

As we head into 2019, I want to thank you for your continued support. We look forward to a positive year ahead and to further strengthening our relationships.

I'd like to take this opportunity to wish all of you a happy, healthy, and safe festive season – remember to look after your colleagues, friends and family during this time.

Jonathan Seth
CEO

Managing events for your community

The stalls are set up, the lights are twinkling, and the smell of delicious food truck delicacies is wafting down your local streets – it's that time of year again, where festivals, fetes, and community events thrive.

Events are a great way for you to engage with your community, enticing young and old, couples and groups, families, and furry friends of all sizes. However, with such events comes responsibility of effectively managing the risks involved.

You may provide any or all of the following event services within your community:

▶ Delivery of events

▶ Event approvals, compliance, and enforcement activities

▶ Venues, open space, plant, equipment, staff or volunteers for events

▶ Sponsorship or support for events to occur within your community

Due to the varying size, type, nature, and locations of events, a multitude of risks may arise. Depending on your involvement there may be an associated ownership and responsibility for managing some of these risks.

It's important to undertake a risk assessment – that is, the process of identifying, analysing and responding to risks throughout the organisation of your event and the event itself. The better you manage your risks the more likely you will have a successful event.

What if contractors or third parties are involved?

Often your events will involve a variety of community members, including but not limited to not-for-profit information booths, dance groups from local schools, and stallholders selling their wares.

To reduce your local government's risk exposures, you should ensure that the risks arising from these third party activities are considered in a risk management plan and that they have the proper licences, permits, and insurances in place.

Stallholders have a duty of care to members of the public while selling their products and/or services. If someone is injured or their property is damaged while the stallholder is providing a service or as a result of a product sold, the injured party will more than likely want to seek compensation from the stallholder.

If the stallholder is found to be legally liable for the property damage or personal injury, they may have to compensate the party that suffered the loss. Even if the stallholder is not found to be legally liable, there are still legal costs incurred to defend themselves. Their public liability insurance will be relied upon to respond to the defence of the claim and their legal liability. Without the financial security from adequate insurance, the stallholder may have to rely upon their personal assets. Should the stallholder not have the financial capacity to respond to the claim, the claimant may then direct their claim at your local government.

Given the casual nature of some of these stallholders and groups, they may not have considered insurance necessary. Your liability protection policy does not extend to protect these stallholders or groups. Local Community Insurance Services (LCIS) can support you with a blanket public liability policy which provides cover to those uninsured stallholders, buskers and performers while they are operating at your events.

Protecting your volunteers involved in the event

Local governments may also engage volunteers for community events. All volunteers should receive an induction into the organisation and event which includes, but is not limited to:

▸ Hazard identification

▸ Incident response

▸ Orientation

▸ Training

▸ Supervision

From an insurance perspective, a person is considered a volunteer when they are registered with your local government, authorised to perform voluntary work whilst under your direction and control, and not volunteering on behalf of another organisation (corporate volunteer, school, Lions Clubs).

Local government volunteers are protected by a number of your local government's insurance policies:

▸ If a volunteer suffers a personal injury, the **personal accident policy** provides lump sum payment for permanent injury, weekly wage replacement for temporary disablement, non-Medicare medical expenses, and some out of pocket following an accidental bodily injury.

▸ Where a volunteer is using a local government vehicle during their voluntary work, the local government's motor **vehicle policy** will cover damage and the driver's liability.

▸ If a volunteer damages third party property or causes injury to a third party in the course of their voluntary work, the local government's **liability protection policy** will respond to protect the legal liability of the volunteer.

The cover provided by these policies is subject to the terms and conditions of each policy.

Should I worry about terrorism?

In today's day and age, terrorism is a risk that must be considered when planning events. In recent years, attacks carried out in Western countries have focused primarily on crowded spaces with a clear objective to cause mass casualties.

When disaster strikes, local governments (especially in regional WA) are often the primary responders though of course your first point of contact should be the local Police. As the terrorism threat continues to escalate, with the aim of the terrorist to cause more loss of life and economic damage than traditional property damage, we need to ensure terrorism is part of our discussions when considering event risks.

"

Did you know? The Australian Attorney-General's Department lists the Australian national terror alert level as 'Probable' and it is unlikely to change in the near future.

It is essential for your local government to prepare for a terrorist attack. Part of this is simply having a pre-prepared communication strategy and knowing where people are and how to get hold of them in an emergency. It is also crucial to have crisis management and business continuity plans in place and well-rehearsed in order to deal with the complexity of this type of event.

All responses need to be well prepared, building resilient operations that ensure your local government is equipped for any eventuality, including the vast teams of people involved after an attack – from engineers, planners and rangers to security consultants and post-traumatic stress counsellors.

The Australian National Security agency has published a strategy for protecting crowded places from terrorism, 'Crowded Places Self-Assessment Tool'. This paper provides guidance that will assist you in understanding and implementing protective security measures for your local government.

Fireworks

Fireworks are an exciting exhibition to add to night time events, dazzling onlookers as they light up and sparkle in the sky. However, in the past few years, a number of WA local governments have had incidents involving fireworks at their events.

If your event includes fireworks, it is essential to engage appropriately trained and licenced operators who are competent in the set up and handling of fireworks, with sound knowledge of what constitutes a safe exclusion zone.

The exclusion zone is the safe distance of open space between the fireworks and structures, people, and vegetation, and must be adhered to. The below should be considered when establishing the suitability of your exclusion zone:

▸ Vegetation (e.g. trees, shrubs, fuel load) that may present a fire risk or obstruct the identification, location and recovery of dud aerial shells and other fireworks articles

▸ Areas where people and vehicles are likely to congregate (e.g. buildings, temporary accommodation and parking areas)

▸ Overhead structures or objects (e.g. branches, power lines wires and buildings) within ten metres of the set-up area at anytime

▸ Effects of wind, which may move obstructions or carry debris

▸ Locality, size and area of the site, taking into account the type, size and angle of fireworks to be used
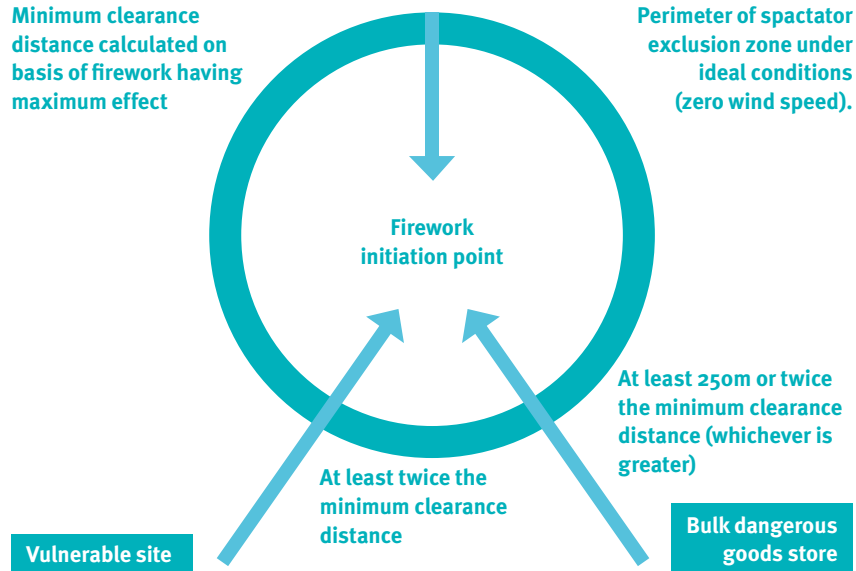
A typical crowd exclusion zone and minimum separation distances to structures:

An important factor with any exclusion zone is that it is effectively managed and enforced during and after the event.

For more information, the Department of Mines, Industry Regulation and Safety's (formerly the Department of Mines and Petroleum) 'Code of Conduct – Safe use of outdoor fireworks in Western Australia' is a great initial resource.
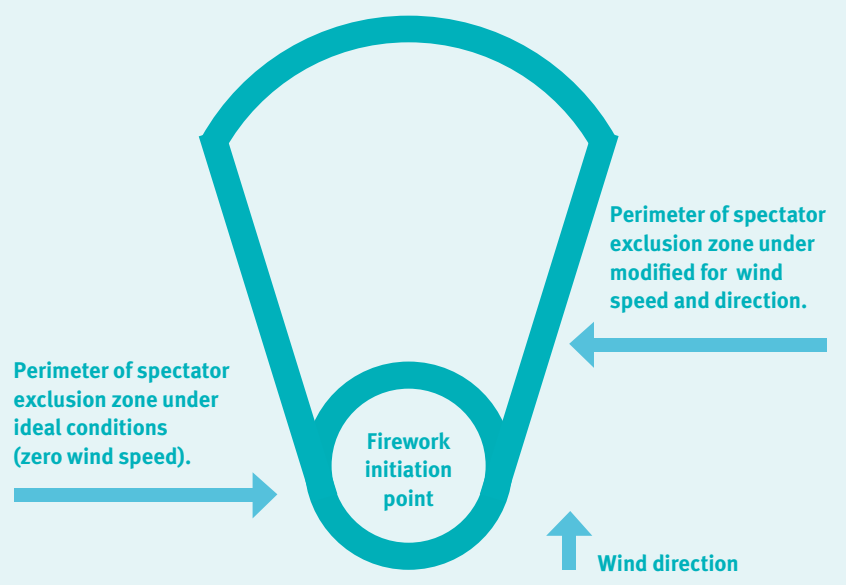
Minimum clearance distance calculated on basis of firework having maximum effect

Perimeter of spactator exclusion zone under ideal conditions (zero wind speed).

Firework initiation point

At least 250m or twice the minimum clearance distance (whichever is greater)

At least twice the minimum clearance distance

Vulnerable site

Bulk dangerous goods store

It is also essential to consider the weather when looking at exclusion zones, as wind can dramatically increase the clearance distances for aerial shells. A fireworks display must not proceed if the wind speed is greater than 50 km/h.

The effect wind can have on an exclusion zone can be seen below:

Perimeter of spectator exclusion zone under modified for wind speed and direction.

Perimeter of spectator exclusion zone under ideal conditions (zero wind speed).

Firework initiation point

Wind direction

> *If your event includes fireworks, it is essential to engage appropriately trained and licenced operators who are competent in the set up and handling of fireworks, with sound knowledge of what constitutes a safe exclusion zone.*

Working safely

In the lead up, during, and post your event, you need to operate in accordance with the *Occupational Safety and Health Act 1984*.

On-site safety at your event is vital. Not only is the safety of your community vital, but also that of the workers or contractors helping the event be a success.

Many workers may be exposed to manual task risks when setting up community events. What can be done to reduce the risk?
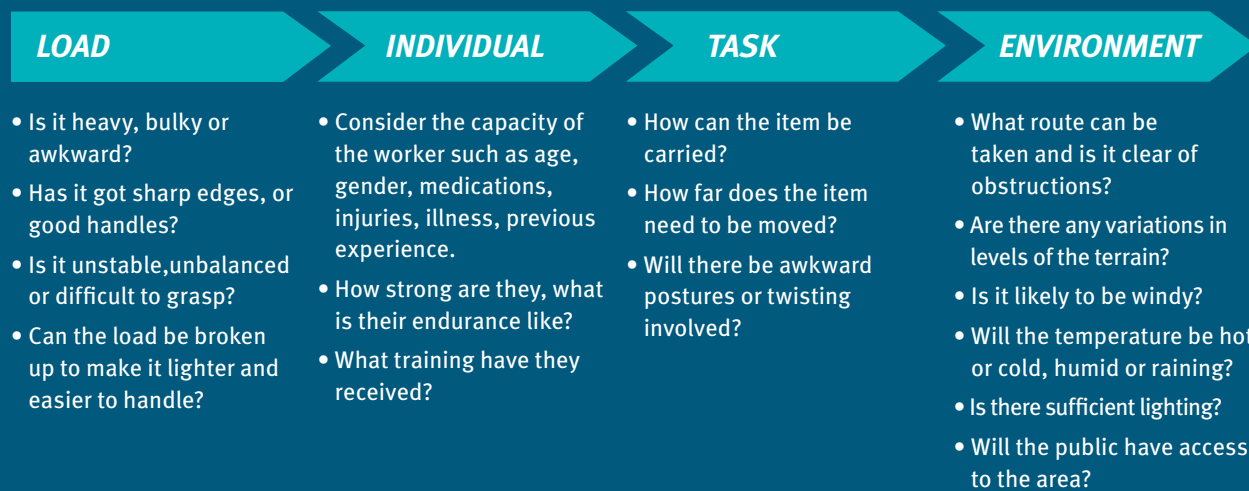
How can we help?

Tourism WA sponsor many events throughout the state and all events that receive funding are required to produce a risk management plan that complies with the latest Australian Standard for *Risk Management AS/NZS ISO 31000:2009*. Event holders will be required to provide verification from an independent risk management specialist that their plan meets the Standard.

LGIS can verify your plans, to ensure they are consistent with the Standard. If your event has not received funding from Tourism WA, but you would still like peace of mind, LGIS can still provide this service.

LGIS has the unique combination of event, risk management and risk financing skills, which means we are well placed to provide an understanding of those risks enabling you to deliver, approve, facilitate, and support safe and quality events within your communities.

For more information please contact your regional risk coordinator or Ben Galvin, LGIS Risk and Governance Manager, on 9483 8888, or for more information on services the LGIS injury prevention team can provide, please contact Renee Wockner, LGIS WorkCare Service Manager on 9483 8826.

Event staff are often required to carry large or awkward loads, over uneven terrain, multiple times, in sometimes dark and windy conditions, whilst meeting tight setup timelines. A manual task injury is waiting around the next corner. You can assess the hazards by thinking "LITE".

LOAD	INDIVIDUAL	TASK	ENVIRONMENT
• Is it heavy, bulky or awkward?	• Consider the capacity of the worker such as age, gender, medications, injuries, illness, previous experience.	• How can the item be carried?	• What route can be taken and is it clear of obstructions?
• Has it got sharp edges, or good handles?		• How far does the item need to be moved?	• Are there any variations in levels of the terrain?
• Is it unstable,unbalanced or difficult to grasp?	• How strong are they, what is their endurance like?	• Will there be awkward postures or twisting involved?	• Is it likely to be windy?
• Can the load be broken up to make it lighter and easier to handle?	• What training have they received?		• Will the temperature be hot or cold, humid or raining?
			• Is there sufficient lighting?
			• Will the public have access to the area?

Don't forget

Among a range of occupational safety and health (OSH) factors to be aware of, it is important to remember:

ELECTRICAL SAFETY – Ensure all electricals are properly tested, tagged, and secured and away from the public.

MOVEMENT OF PLANT (such as food trucks, tractors etc.) – Provide dedicated drive paths.

AMUSEMENT DEVICES – Ensure licenced operation and appropriate location of devices.

There are many other factors to consider - it is essential appropriate risk assessments are taken on all of the above and more. For more assistance on your OSH needs, contact your LGIS OSH consultant on **9483 8888**.

Importance of managing psychosocial risks in the workplace

Many of us spend more time at work with our colleagues each week than we do at home with our families, but studies on Australian workforces have identified psychosocial risk factors contribute to increased risk of workplace stress and injuries.

What is a psychosocial risk?

Used interchangeably with 'work-related factors', psychosocial risk factors refer to the manner in which work is carried out (e.g. workload, deadlines, methods) and the context in which work occurs (e.g. interactions and relationships between peers, managers, clients and customers). These risk factors can affect a worker's psychological response - both positively and negatively - to their work and workplace conditions.

Depending on the psychosocial risks identified in an organisation, employers have a legal obligation to mitigate the risk and implement reasonable controls. Some risk factors that can be managed at an organisational level include:

▶ **Autonomy/control:** the amount of flexibility and authority the worker has over the way they perform their job.

▶ **Job demands:** the amount of workload the worker is expected to complete and the timelines required.

▶ **Support:** the level of support the worker perceives from management and colleagues.

▶ **Role conflict and ambiguity:** the extent that the worker's tasks and duties are clearly defined.

▶ **Relationships:** the extent of good working relationships in the workplace.

▶ **Change:** planned and unplanned changes in the work environment (e.g. changes to position and responsibilities, new management, policies, procedures, restructure, or redundancies).

Workplaces that address psychosocial risk factors and create a psychologically healthy and safe workplace will have healthier, happier workers, and are likely to benefit in terms of performance, productivity, client satisfaction and retention of workers. PricewaterhouseCooper's 2014 report, 'Creating a mentally healthy workplace – return on investment analysis' highlights that for every $1 spent on effective workplace mental health actions, there is an approximate return of $2.30 in benefits (such as a reduction in absenteeism, presenteeism and compensation claims).

The common concept often applied to physical risks of 'spot the hazard, assess the risk, make the changes' can be applied to psychosocial risks as well. Although providing individual support to affected workers is common (such as employee assistance programs, stress management training and relaxation techniques), there is a need to address the hazard directly, and utilise a risk-based approach to manage the associated risks and implement preventative measures and controls.

> " **Everyone wants to be healthy and happy, and yet stress is becoming endemic in modern times.**

▶ **Rewards and recognition:** rewarding worker efforts and recognising individual and team contributions and achievements within the organisation.

▶ **Organisational justice:** perceptions of fairness about work procedures and how they are enacted, how procedures are implemented in the workplace, and the degree of dignity and respect afforded to a worker during the process.

Your local government has a duty under the *Occupational Safety and Health Act (WA) 1984* to ensure workers and others at the workplace are not exposed to hazards. Part of this includes taking reasonable steps to ensure there are appropriate means and processes for obtaining information regarding hazards, risks, and incidents (e.g. a risk assessment and management plan), and appropriate processes for responding in a timely manner to eliminate or minimise the hazard.

Local governments can look to start by:

▶ Working with employees, management, HR and OSH to identify and manage risks. Use comprehensive approaches to address risks at the team and organisational level (i.e. changes in processes, procedures, culture change etc.), as they will be more effective than solely focusing on an individual's ability to manage stress.

▶ Consider utilising different sources of workplace data to identify risks specific to your workforce. This may include results of worker surveys, absence data, grievances and exit interviews. Consider conducting focus groups, toolbox talks or general discussions and consultations. Consultation with workers is required when identifying hazards, assessing risks and deciding on measures of control.

▶ Consider reviewing best practice, research and case studies in Australia (e.g. SafeWork Australia, Comcare, WorkSafe) to incorporate effective approaches and ideas in your solutions to minimise psychosocial risk.

Case study:

A local government was required to develop a psychosocial risk assessment and risk management plan, following an investigation which identified several reports of inappropriate workplace behaviour, breaches in the local government's code of conduct, and perceived lack of support from management in relation to grievances.

The local government engaged LGIS to develop a psychosocial risk assessment and risk management plan to provide an ongoing means of identifying and controlling psychosocial risks in the workplace.

The local government was able to identify urgent risks specific to certain work groups and implement controls in order of priority by utilising workplace data from a recent employee survey, discussions with work teams and observations, and working together with representatives of the LGIS OSH and HR team.

ASK AN EXPERT

Each month we take your questions to one of our LGIS team members to answer. If you want to submit a question for next issue, email olivia.lawley@lgiswa.com.au

SAM LEE *(B.Psych, MAppPsych)*
HR Risk Consultant

Sam is a Registered Organisational Psychologist, with experience in vocational rehabilitation and assisting injured workers return to work under the WorkCover WA workers compensation scheme. In her role as HR Risk Consultant at LGIS, Sam works primarily in the mental health awareness space, including but not limited to psychosocial hazards and psychological injury in the workplace. She also provides organisational development services including culture surveys, equal employment opportunity and workplace behaviours training and providing subsequent advice on systems, people and process issues.

Where can my local government start in managing low workplace morale?

Now that we understand psychosocial risk factors, we can see how influential they are to workplace morale and wellbeing.

Management can contribute to a thriving workforce over the long term by being familiar with factors relevant to their workforce, and taking reasonable steps to ensure your local government has the appropriate processes for receiving and considering information regarding incidents, hazards and risk.

You also need to ensure to respond in a timely way when such information is received. Management controls and influences large components of the environment workers are in each day. To put it simply, employers are a power contributor to workplace morale.

Bolstering morale and wellbeing takes time, trust and change. Consider the following interventions to start making immediate change:

1. **Consult** your staff, team and managers. Be receptive and try to understand - from their perspective - what improvements could be made in their working environment and role. Perhaps this may be through training, resources, or flexibility in how certain tasks could be completed. Consultation encourages collaboration across the organisation, so when it comes to implementing any changes, workers will be more supportive of the changes.

2. Ensure your **leadership** team is united and equipped with the skills to provide effective leadership and support to workers, particularly when communicating impending changes. A leader can also demonstrate a commitment to maintaining their own physical and psychological health (wellbeing) which can positively influence their workers' wellbeing. Effective leaders who can address grievances or issues raised by staff in a fair and respectful manner also contribute to increasing morale, resilience, trust and productivity, and decreasing frustration and conflict in the workforce. Be mindful of your middle managers who are in a position to be leaders but who are also led at the same time (e.g. potential role conflict which can increase feelings of powerlessness and stress).

3. Encourage **growth and development** across interpersonal and professional skills. This can be done via internal or external opportunities such as formal training or workshops, to more informal topical talks or morning teas delivered by a subject matter expert. Remember to ensure that upskilling opportunities are relevant – this can be done through more informal, frequent catch ups, in addition to performance reviews.

4. Show appropriate **acknowledgement and appreciation**. Besides monetary rewards, taking notice of good work, years served, and workers demonstrating organisational values, can give the workforce a greater sense of pride and engagement in their work. It also promotes respect and understanding across other colleagues and teams who may come together to celebrate individual and team successes.

5. Ensure there are appropriate means for workers to **safely ask** questions, seek feedback, report mistakes or propose ideas without fearing repercussions on themselves or their careers.

6. Treat everyone with **respect**. Acknowledge and encourage workers and managers who engage respectful behaviour that supports organisational values.

7. Consider and implement ways to **empower** workers to make decisions about their jobs (i.e. autonomy).

8. Encourage workers to look after themselves both **physically and psychologically**. Active movement, healthy food options, and health checks are good options. If the workload is hampering a worker's ability to integrate some down-time into their daily schedule, it may be worthwhile to review the assigned workload.

Workforce engagement surveys can gather valuable information on how staff are currently feeling or perceiving the work environment. Data received from the survey can assist your local government to consider a longer term strategies to make appropriate changes and bolster workplace wellbeing and morale.

For further information on managing the wellbeing or morale of your local government, please contact the LGIS HR risk management team on 9483 8826.

Don't be left hanging – the root cause of trees and liability

Over the past ten years, incidents involving trees have accounted for 29% of all claims managed on behalf of members by the LGIS Liability Scheme. Of those claims, tree branches represent 57% of claims that can be attributed to either damage, or to a lesser extent injury.

It's important to remember that before a claim is paid there are a number of factors which need to be determined; primarily whether the local government is legally liable and if they have failed in their duty of care.

Local government liability

Common law places the onus of proving negligence on the third party who has allegedly suffered a loss. In this respect, and in a local government environment, the following four elements need to be proven.

1. The third party has sustained some sort of actual loss, injury or damage.

2. The local government owed the third party a duty of care.

3. The local government breached the duty of care owed to the third party.

4. The third party's injuries, loss or damage were caused by the local government breach of duty.

Often establishing the first point is straight forward. The third party can demonstrate, for example, that their fence is damaged. However to establish the local government is liable, the third party must establish they were owed a duty of care, the local government breached that care, and that breach resulted in the loss.

Damage caused by trees

Local governments owe a duty of care to neighbouring land owners as well as members of the public to take reasonable care to prevent loss or injury in respect to their assets, such as trees; however this duty is lower than what would be expected from a private property owner.

LGIS public liability claims caused by trees typically involve:

▸ Tree branches falling on privately owned property (e.g. a car or house);

▸ Tree roots growing into private property causing damage; or

▸ Vehicles accidents caused by an overgrown tree or bush on a road.

The common law has recognised that damage or injury caused by the planting or the existence of trees and vegetation is actionable in nuisance and negligence.

Essentially actions in nuisance refer to situations where a tree may interfere with a third parties enjoyment of their land and negligence is where a tree may be implicated in property damage or personal injury. One of the common factors in establishing liability in cases of nuisance and negligence is the existence

of prior knowledge and what was done with that knowledge. In other words was the local government aware or should they have been aware (though reasonable efforts) of the defect and the danger created by the tree and did they act within a reasonable time frame to remove or adequately reduce the danger.

Liability may also extend to circumstances where the tree:

▸ is of a kind which is known to create nuisances of the kind complained of (e.g. if it is known to grow large and invasive branches or roots);

▸ is planted in a location which will give rise to foreseeable damage (e.g. where the tree is planted along a fence line).

A local government therefore has a duty to ensure a structured system is in place for the selection and planting of new tree species as well as the management of existing trees within their control.

Where a tree is located on land within local government's control, the local government will owe a duty of care to the public to take reasonable care to prevent damage or injury occurring that is reasonably foreseeable. It would not however, be reasonable to expect a

local government to prevent every risk associated with trees from eventuating.

Possessing limited resources, it may be considered unreasonable to expect that all local governments are in a position to regularly inspect and maintain every tree within their jurisdiction. Failure to do so in some circumstances however may expose a local government to liability, particularly in situations where the local government was aware of the existence of a dangerous tree and failed to act in a reasonable time to reduce the risk of damage and/or injury before this occurs.

Advice to local government regarding tree related damage

▶ If a local government is contacted by a property owner advising that a tree growing on local government controlled land has caused damage (or is close to causing damage) to private property, local government has a duty of care (common law responsibility) to the property owner to undertake preventative measures to mitigate or eliminate the possibility of further or future damages.

▶ Subject to heritage and native vegetation clearing restrictions, the value of a tree to the community cannot be used as an argument against pruning or removing a tree in these circumstances. This situation should be assessed on the same terms as, say, a tree weakened by dry-rot that could fall on someone's house – preservation of private property and life must take precedence over the preservation of a tree.

▶ Preventative measures (that the local government is obliged to take) usually involve:

  • cutting the offending roots within local government's property boundary and installing a root barrier; or

  • removing the whole tree and offending roots up to the property boundary. (Transplantation could be considered.)

▶ Whether a claim for damages has been lodged against the local government or not should have no bearing on the local government's decision to undertake, or the timing of, preventative action – the sooner the better. Communication with the adjacent property owner during this process is recommended.

The resident's damage

In the event a tree or tree branch collapses on a resident's property it would always be recommended they seek compensation from their home insurer. Their insurer will assess damage, organise repairs and reinstatement their property in an expedient manner. This would always provide the best outcome for the resident.

Further, all insurance policies carry a right of subrogation which allows insurers to seek recovery from a third party that has contributed to the loss they have sustained. If an insurer deems there is adequate cause for taking action against a local government they will seek to recover their losses.

LGIS protecting the local government sector

LGIS only responds where there is a legal liability attached to the actions of the local government. This would be the case in all liability insurance policies. The *Civil Liability Act 2002 (WA)* provides adequate protection to local government in recognition of the responsibilities it carries in managing the vast areas under its control.

The role of LGIS, whilst being fair in assessing claims is to ensure the local government and the sector is protected. LGIS Liability will not settle claims where negligence cannot be proven by the third party.

Claims where no negligence is established need to be considered outside the current Scheme arrangements. There would be a number of factors influencing the cost and structure of an ex-gratia arrangement:

▶ The cost and frequency of claims.

▶ The impact of weather events (drought/storms) on claims frequency.

▶ The question around equality and making payments – is there a test of hardship.

▶ Leakage due to opportunistic claims.

▶ The cost of paying claims outside of where local government is legally responsible versus the investment in preventative controls.

The legal principles set out in the *Civil Liability Act 2002 (WA)* provide a framework to manage liability claims and adopting a position outside of legislation will lead to increased and unfunded exposure to local governments.

Local governments need to contemplate their own policy response should they wish to fully compensate any person for damage or loss suffered as a consequence of tree damage on public land. A policy response is the only solution to the issue raised because the LGIS Liability scheme arrangements cease to apply where a local government chooses to waive its common law defence.

Duty of care

Where a tree is located on land within local government's control, the local government will owe a duty of care to the public to take reasonable care to prevent damage or injury occurring that is reasonably foreseeable. It would not however, be reasonable to expect a local government to prevent every risk associated with trees from eventuating.

Possessing limited resources, it may be considered unreasonable to expect that all local governments are in a position to regularly inspect and maintain every tree within their jurisdiction. Failure to do so in some circumstances however may expose a local government to liability, particularly in situations where the local government was aware of the existence of a dangerous tree and failed to act in a reasonable time to reduce the risk of damage and/or injury before this occurs.

Cockburn ARC, courtesy of RLSSWA.

Swim safely in your aquatic facilities

LGIS has partnered with the Royal Life Saving Society WA (RLSSWA) for 17 years to deliver aquatic safety audits to members and improve safety standards at local government aquatic facilities across Western Australia. This collaborative approach has seen great improvements in safety at community pools across the state.

The safety audits cover areas of management, design and operations based on the Guidelines for Safe Pool Operations, Australian Standards and State legislation. This includes administration, chemical safety, water treatment, first aid, technical operations, facility design, water features, general supervision and learn to swim programs.

Some of our members go above and beyond, with the City of Cockburn receiving a National Aquatic Industry Safety Award from Royal Life Saving Society Australia. They were recognised for their significant contribution to aquatic safety within their community at the new Cockburn Aquatic and Recreation Centre (ARC).

Opened in May 2017, Cockburn ARC was awarded Excellence in Facility Management for their outstanding efforts in catering to the needs of their rapidly growing community as part of the National Aquatic Industry Safety Awards in August 2018. Management had predicted over 700,000 visitors would attend the facility within the first year of opening - in reality they had almost double that figure. Staff had to quickly adapt to the huge volumes of people coming to the centre.

Rhiannon Keel, Operations Team Leader, Cockburn ARC said they've developed a strong internal culture around safety and great customer service.

"Aquatic safety has been our main aim through creating all of our procedures and training plans, with an emphasis on community education and engagement," Rhiannon said.

Here at LGIS, we possess industry-leading expertise in the identification and management of the many unique risks associated with aquatic environments and we are uniquely placed to be able to provide solutions that meet your complex requirements.

Our range of aquatic risk management services include:

- Aquatic facility compliance assessments
- Coastal/inland waterways risk assessments
- Signage audits and reviews
- Industry specific occupational safety and health consultancy
- Emergency response planning

To ensure the ongoing currency of our recommendations we work with industry experts, such as RLSSWA, in water safety standards and guidelines. This ensures that you are provided services that represent, and are consistent with, industry best practice.

If you'd like more information about the LGIS and Royal Life Saving Society WA partnership or aquatic safety audits contact the LGIS risk team on 9483 8888.

Bushfire season – be prepared

As we head into bushfire season, it's a good time to ensure you and your community are prepared.

Due to increased vegetation growth, we are on the precipice of a potentially dangerous bushfire season. You have a major role to play in the management of bushfire risks across the prevention, preparedness, response, and recovery phases.

The consequences of bushfire risks often manifest during times of crisis so we encourage you take a proactive approach to allow informed decisions to be made and adequate responses to be prepared prior to situations eventuating.

LGIS can assist with support and services to:

- Prepare your bushfire risk rating
- Designate high risk bushfire areas
- Develop bushfire risk management policy and procedures
- Prioritise and implement bushfire risk management plans and treatment strategies

For more information, contact your LGIS risk and governance team on 9483 8888.

It is also a timely reminder to make sure you and those around you are equipped in coping emotionally with loss due to fire.

It can sometimes become difficult to take care of yourself during a crisis situation with so many other worries preoccupying your mind. However, it is an important time to think about your personal resilience to enable healing and a sense of normality.

For further information on how to look after yourself and your workers, contact the LGIS human resources risk management team on 9483 8888.

ASK AN EXPERT

Each month we take your questions to one of our LGIS team members to answer. If you want to submit a question for next issue, email us olivia.lawley@lgiswa.com.au

Joan Cavalieri-Fernandes
Senior Risk Consultant

Joan has more than 12 years' experience in business law and dispute resolution, and a master's degree in international business law. During her career Joan has worked several jurisdictions, including Sao Paulo (Brazil) and London (UK), advising and representing large corporations, insurers and reinsurers.

Is climate change really an issue that my local government needs to worry about?

In short: yes.

The science on climate change is clear – it is indeed occurring. The United Nations' Intergovernmental Panel on Climate Change's (IPCC) 2018 report highlighted global warming is already at 1°C, and specifies the need to limit warming to 1.5°C (down from 2°C).

But what does this mean? For starters, sea levels are rising and will continue to rise; rainfall will increase across northern Australia; 'extreme rainfall events' will increase in intensity across most of Australia; and we will see an increase in weather conducive to fire and drought in the south.

All of this has the ability to impact local governments and create several risks. If we consider the rise of sea levels alone, we can see medium to long term direct and indirect risks associated with:

- Planning decisions
- Drainage management
- Control of roads
- Conduct of events
- Bushfire (in relation to rising sea levels resulting in longer dry climate periods)
- Landslides

A fundamental means of avoiding liability is to exercise reasonable care when making decisions.
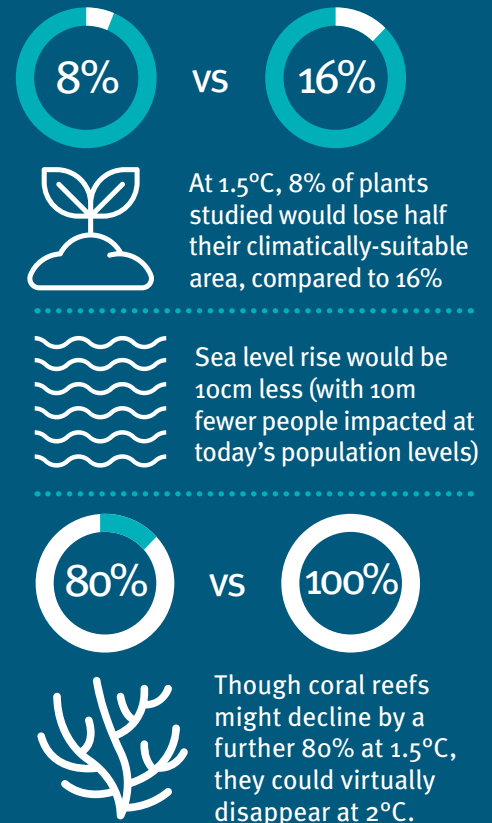
To manage the above risks and minimise the liability around rising sea levels, your local government should adopt the IPCC and the Commonwealth Scientific and Industrial Research Organisation (CSIRO)

adaption requirements, seek expert opinion on land vulnerability and coastal engineering, adopt the State Planning Policy number 2.6 – regularly updating flood, coastal erosion, and inundation modelling, and understand the protections in place via the *Civil Liability Act 2002 (WA)*. It is important to use this information and knowledge when communicating risks and ensure effective records of communications are kept.

Climate change is a strategic risk with impacts across all areas of your local government's responsibilities. There is also an added expectation that you should already be considering these impacts in your strategic planning, development, infrastructure, and community decisions. Not doing so is a large reputational risk.

Risk management should inform decision making – to allow you to anticipate,

understand, prioritise and adapt to your local conditions.

LGIS can assist in this process in several ways, including:

- Interpreting relevant and credible international, national, state, regional and local scientific climate change data to determine local climate change scenarios
- Assisting the development and understanding of your strategies, services and functional areas that may be impacted by climate change
- Providing education and awareness on climate change issues, impacts and expectations
- Identifying and assessing your risks and vulnerabilities
- Identifying adaptation options that align to your strategic direction

For more information please contact the LGIS risk and governance services team on 9483 8888.

The difference between 1.5°C and 2°C:

8% VS **16%**

At 1.5°C, 8% of plants studied would lose half their climatically-suitable area, compared to 16%

Sea level rise would be 10cm less (with 10m fewer people impacted at today's population levels)

80% VS **100%**

Though coral reefs might decline by a further 80% at 1.5°C, they could virtually disappear at 2°C.

Other areas climate change can impact your local government:

- **Loss of amenity and function of land**
- **Increased emergency management responses to events**
- **Loss of natural environment**
- **Development and planning concerns along coastal and low lying areas**
- **Increased demand for health services especially within vulnerable community members**
- **Asset management issues for sites vulnerable to exposures**

To submit your question for next issue's Ask an Expert email our editorial team: olivia.lawley@lgiswa.com.au

Where we've been

Risk and Governance Day

The Shire of Kojonup hosted the LGIS Risk and Governance Day on 22 November, brought to you by the LGIS Regional Risk Coordinator program. Our LGIS risk specialists shared their vast knowledge on topics voted by you, the members. Topics included control assurance, event risk management, managing emergency service volunteers, preparing for audits, and contractual risk management.

"These days are such a good way to meet the LGIS people we usually only deal with via email or phone and to network with others in the industry as well as learn about what other services are available and what is going on. I hope that they continue on for a long time to come – such a great initiative!"

Michelle Bamess
Deputy Chief Executive Officer
Shire of Kent

"We thoroughly enjoyed the day and it was a great networking opportunity."

Brian Roderick
Deputy Chief Executive Officer
Shire of Wagin

LG Professionals WA 2018 Conference

The LGIS team joined over 200 local government officers from across the state from 7-9 November for three days of networking and idea sharing, with the aim to provide a better service to WA communities and our members.

As principal sponsors of the Conference, we felt it opportune to reinforce the importance of our "Working Together" message in a fun, innovative and engaging way, with a three metre LGIS puzzle at our booth. The puzzle pieces were randomly distributed to conference delegates, with everyone working together to solve the puzzle, and place their piece in the correct location.

Denmark Golf Day

The Shire of Denmark hosted the LGIS WA 2018 Inter Municipal Golf Tournament on 13-14 September. It was a successful event, with the Shire of Coolgardie taking out the top honour.

COMING UP

13 February - Injury management for supervisors, managers, and return to work coordinators workshop

15 March – Injury management for coordinators workshop

20 March – Local Government Safety Advisory Group and Risk Management Advisory Group meetings

21 March – People Risk Day, Great Southern