

## **WALGA Response to Consultation Paper**

The following is the proposed response to each chapter of the consultation paper:

### **1. Relationships between Council and the Administration (Questions 1-5)**

The current role statements in the Local Government Act for the Council, Elected Member and CEO are considered reasonable, however a number of Local Governments have indicated that interpretation of the current wording is ambiguous and have indicated that stronger clarification of the roles of the Council and the CEO would be beneficial.

Problems occur when people do not comply with the requirements of their role as prescribed by the Act. An effective system for dealing quickly and efficiently with people who deviate from their prescribed roles would assist. A more streamlined Standards Panel process is recommended.

The Act is clear that the CEO is responsible for the employment, management, supervision, direction and dismissal of all employees, however the separation of powers becomes unclear where the Council has a role in relation to Senior Employees.

It is recommended that section 5.37(2) of the Local Government Act be deleted to remove any inference or ambiguity as to the role of Council and the separate Chief Executive Officer's function under Section 5.41(g) regarding the appointment of other employees (with consequential amendment to Section 5.41 (g) accordingly).

*(Refer WALGA position 4(g) of 06/12/17)*

### **2. Training (Questions 6-16)**

The sector's position on Elected Member training is as follows:

WALGA:

1. Supports and encourages all Elected Members to carry out the Elected Member Skillset, as a minimum, that comprises;
  - i. Understanding Local Government;
  - ii Serving on Council;
  - iii Understanding Financial Reports and Budgets;
  - iv Conflicts of Interest; and,
  - v Meeting Procedures and Debating.
2. Requests the State Government through the Minister for Local Government to provide funding assistance to Local Governments to enable all Elected Members to receive training;
3. Supports Local Governments being required to establish an Elected Member Training Policy to encourage training and include budgetary provision of funding for Elected Members; and
4. Supports Local Government election candidates being required to attend a Candidates information session, either in person or on-line, as an eligibility criteria for nomination as an Elected Member.

*(Refer WALGA position 3(b) of 06/12/17)*

### **3. The Behavior of Elected Members (Questions 17-55)**

#### Codes of Conduct

Codes of conduct core requirements should be consistent between all Local Governments, however a Local Government should be able to self-impose additional standards for their own local circumstances.

Codes of Conduct should be able to be enforced by the Chief Executive Officer in the case of employees, Council in the case of the CEO and the Standards Panel in the case of the Elected Members.

### Rules of Conduct

The current Rules of Conduct provisions require streamlining to make the standards panel process more responsive and to include confidentiality for all parties for the entire process. Support for the time frame to make complaints to be set at three months is considered adequate.

There is also a need for greater accountability for Elected Member behavior.

The *Local Government (Rules of Conduct) Regulations 2007* require amending, to tighten provisions relating to Elected Member behaviours, specifically in regard to:

- Interactions with and communications about Local Government employees, including in forums other than meetings and official Local Government events, to ensure employee workplace safety.
- Application of the Rules of Conduct Regulations to all Elected Member public communications (i.e. social media, social situations, other non-Local Government community events).

### Revised Disciplinary Framework

In respect to a disciplinary framework for individual Elected Members, there is in principle support for a proposal for an individual elected member to be 'stood down' from their role when they are under investigation; have been charged; or when their continued presence prevents Council from properly discharging its functions or affects the Council's reputation, subject to further policy development work being undertaken.

Further policy development of the Stand Down Provisions must involve specific consideration of the following issues of concern to the Sector:

1. That the established principles of natural justice and procedural fairness are embodied in all aspects of the proposed Stand Down Provisions; and
2. That activities associated with the term 'disruptive behaviour', presented as reason to stand down a defined Elected Member on the basis their continued presence may make a Council unworkable, are thoroughly examined and clearly identified to ensure there is awareness, consistency and opportunities for avoidance.

*(Refer WALGA position 2(o) of 06/12/17)*

### Sector Conduct Review Committees

The proposal for sector conduct review committees is not supported. This is seen as another layer of a complaint procedure and is not required. The Sector's preference is to strengthen and streamline the current Standard Panel process.

## **4. Local Government Administration (Questions 56-74)**

### Recruitment and Performance Reviews of CEO's

Local Governments should be encouraged to seek third party assistance in the recruitment and performance management of a CEO, whether this be by the Public Sector Commission or registered consultants.

Arrangements for appointing Acting CEO's for a period up to one year should be left to individual Local Governments and not prescribed in legislation.

### Annual Review of Certain Employees Performance (Section 5.38)

That Section 5.38 either be deleted, or amended so that there is only a specific statutory requirement for Council to conduct the Chief Executive Officer's annual performance review and no other staff.

Public Expectation of staff performance

Local Governments conduct extensive checks on staff before employment. It is not considered necessary that any further requirements be legislated. Guidelines would be sufficient.

**5. Supporting Local Governments in challenging times (Questions 75-81)**

Remedial intervention; Powers of appointed person; Remedial action process

In respect to remedial intervention, the appointed person should be a Departmental employee with the required qualifications and experience. This provides a connection back to the Department and its requirements.

The appointed person should only have an advice and support role. Funding of the remedial action should be by the Department where the intervention is mandatory. The Local Government to pay where the assistance is requested.

This area relates to the bigger picture of differentiating between Local Governments based on their size and scale. Suitable arrangements to determine a size and scale compliance regime should be prioritized.

WALGA's policy position on this section is as follows:

The following general principles are considered fundamental to the sector's response to the review of the Local Government Act:

- I. Uphold the General Competence Principle currently embodied in the Local Government Act
- II. Provide for a flexible, principles-based legislative framework; and
- III. Promote a size and scale compliance regime.

(Refer WALGA position 1(c) of 06/12/17)

**6. Transferability of employees between State & Local Government (Questions 82-84)**

WALGA has had a long term policy position since 2006 that Employment entitlements should be transferable between State and Local Government employers.

A General Agreement between State and Local Government should be established to facilitate the transfer of accrued leave entitlements (annual leave, sick leave, superannuation and long service leave) for staff between the two sectors of Government. This will benefit public sector employees and employers by increasing the skills and diversity of the public sector, and lead to improved collaboration between State and Local Government.

(WALGA Policy Position 2.7.2 of Mar 2013)

**7. Gifts (Questions 85-95)**

The *Local Government Act 1995* and Regulations should be amended so that:

- a) There be one section for declaring gifts. Delete declarations for Travel (gifts and travel to be one section).
- b) No requirement to declare gifts received in a genuinely personal capacity, as gifts only to be declared in respect to an Elected Member or CEO carrying out their role.
- c) Gift provisions only for Elected Members and CEO's.
- d) Other staff fall under Codes of Conduct from the CEO to the staff.
- e) Gifts only to be declared if above \$500.00.
- f) There will not be any category of notifiable gifts or prohibited gifts.
- g) Exemptions for ALGA, WALGA and LG Professionals.

- h) Exemption for electoral gifts received that relate to the State and Commonwealth Electoral Acts, so Elected Members who are standing for State or Federal Parliament will only need to comply with the State or Federal electoral act and not declare it as a Local Government gift.

*(Refer WALGA position 4(i) of 06/12/17)*

## **8. Access to Information (Questions 96-104)**

Sections 1.7 and 1.8 of the Local Government Act should be amended to remove the statutory requirements for statewide and local public notice to be placed in a newspaper circulating statewide or locally, to be replaced with the requirement for a Local Government to place public notices electronically.

It should be left to the discretion of each Local Government as to whether a print notice is given. The Act should not mention a specific form of electronic technology as the electronic landscape is ever changing.

*(Refer WALGA position 4(a) of 06/12/17)*

All items that are available to the public under the Local Government Act should be made available electronically with the exception of contracts of employment for the CEO and senior staff.

Local Governments in WA are highly transparent, with Council meetings open to the public and public access to information legislated. As a result, the introduction of additional transparency measures are not considered necessary.

## **9. Available information (Questions 105-108)**

### Expanding information provided to the public

It should be up to each individual Local Government to respond to their communities and proactively provide information relevant to their community.

Information around performance reviews of the CEO and senior staff should not be made available to the general public and should remain confidential under S.5.23(2).

### Minutes, contents of: Regulation 11

Regulation 11 should be amended to require that information presented in a Council or Committee Agenda must also be included in the Minutes to that meeting.

*(Refer WALGA position 2(o) of 06/12/17)*

## **10. Reducing Red Tape (Questions 109-120)**

### Defining Red Tape

The sector again puts forward the following principles to be embodied in the Act that will assist with red tape reduction:

- Uphold the General Competence Principle currently embodied in the Local Government Act
- Provide for a flexible, principles-based legislative framework; and
- Promote a size and scale compliance regime.

*(Refer WALGA position 1 of 06/12/17)*

### Senior Employees

The Act is clear that the CEO is responsible for the employment, management, supervision, direction and dismissal of all employees.

It is recommended that section 5.37(2) of the Local Government Act be deleted to remove any inference or ambiguity as to the role of Council in the performance of the Chief Executive Officer's function under Section 5.41(g) regarding the appointment of other employees (with consequential amendment to Section 5.41(g) accordingly).

(Refer WALGA position 4(g) of 06/12/17)

#### Exemption for Accounting Standard AASB124 – Related Party Disclosures

Regulation 4 of the Local Government (Financial Management) Regulations should be amended to provide an exemption from the application of AASB 124 'Related Party Transactions' of the Australian Accounting Standards (AAS).

(Refer WALGA position 4(s) of 06/12/17)

#### Disposal of Property

Dispositions of Property: Local Government (Functions and General) Regulation 30(3)

Regulation 30(3) should be amended to delete any financial threshold limitation (currently \$75,000) on a disposition where it is used exclusively to purchase other property in the course of acquiring goods and services, commonly applied to a trade-in activity.

(Refer WALGA position 4(d) of 06/12/17)

### **11. Regional Subsidiaries (Questions 121-128)**

WALGA and the Local Government sector have been advocating for many years for Local Governments to be able to establish Regional Subsidiaries in Western Australia. The *Local Government Act 1995* was amended late in 2016 to enable Local Governments to establish Regional Subsidiaries

The burden of accountability oversight for a Regional Subsidiary should primarily be contained in the Regional Subsidiary's charter and not in Regulations. The charter is well-placed to address accountability matters such as procurement, financial and reporting requirements and other important matters. This approach would ensure that the Regional Subsidiary model benefits – flexibility and the ability to establish a subsidiary that is fit-for-purpose – are realised.

In support of the view that the charter should be the primary governing instrument, the sector argues that there are sufficient compliance obligations inherent in the model including:

1. The obligation of the constituent Councils to undertake their due diligence and be satisfied that entering into a regional subsidiary is in the best interests of their organisation and community;
2. Ministerial Approval of the proposed charter, which provides a significant opportunity for oversight by the regulatory body;
3. Establishment of a Board of Management that can include independent skills-based directors depending on the collaborative function of the subsidiary;
4. Reporting requirements to the board of management which will consist of members from the constituent Councils; and,
5. Reporting requirements to the constituent Councils.

The *Local Government (Regional Subsidiaries) Regulations 2017*, which were enacted in January 2017, contain significant restrictions on regional subsidiaries.

The Regulations require a complete review in order to achieve the simplified model Local Government was expecting. A specific review is required of the financial reporting requirements, the power to borrow money, and the ability to conduct commercial activities.

(Refer WALGA position 2(f) of 06/12/17)

## 12. Other

### 12.1 Unreasonable, Vexatious or Querulous Complainants

WALGA adopted the following relevant position at the State Council meeting held on 6 December 2017:

#### *Vexatious and Frivolous Complainants*

*That a statutory provision be developed, permitting a Local Government to declare a member of the public a vexatious or frivolous complainant.*

*(Refer WALGA position 4(j) of 06/12/17)*

Submissions received raise the following additional context:

- Legislation governing the Information Commissioner, Ombudsman, Public Sector Commission and Corruption and Crime Commission, provides for each agency to refuse to engage with a complainant over a matter that has been closed.
- Legislation does not provide Local Government with similar provisions, nor can Local Government refer a closed complaint to a third party for review and decision to enable Local Government to cease dealing with a previously closed matter.

The absence of an effective mechanism to cease dealing with unreasonable, vexatious or frivolous complaints, and further that such complaints can be continued via in some circumstances the inappropriate use of Freedom of Information and Ombudsman processes, creates a substantial draw on Local Government resources and finances, contributing to reputational risk. An example of this is the following extract from the *Parliamentary Commissioner Act 1971*:

#### **18. Refusal to investigate complaints**

- (1) The Commissioner may refuse to entertain a complaint, or, having commenced to investigate a matter raised in a complaint, may refuse to continue the investigation if he is of the opinion that —
  - (a) the matter raised in the complaint is trivial; or
  - (b) the complaint is frivolous or vexatious or is not made in good faith; or
- The WA Ombudsman publication, 'Managing Unreasonable Complainant Conduct Practice Manual', details five categories of unreasonable complainant conduct:
  - Unreasonable persistence;
  - Unreasonable demands;
  - Unreasonable grounds;
  - Unreasonable behaviour; and
  - Unreasonable lack of cooperation.

In addition to, and as a consequence of, Local Governments having limited ability to deal with unreasonable, vexatious or querulous complainants, the submission raises the following:

Section 19 of the Occupational Safety and Health Act 1984, requires that an employer shall "(1) ... so far as is practicable, provide and maintain a working environment in which the employees of the employer (the employees) are not exposed to hazards..."

Penalties for failure to provide and maintain a safe working environment are substantial for an individual and even more so for the employing entity.

Local Government employees can become the target of an unreasonable complainant through:

- Unreasonable or unsubstantiated complaints about the employee's performance or competency;
- Personal attacks on the reputation or personal life of the employee;
- Stalking the employee, including trolling, bullying or harassment through social media.

#### Submission Recommendations:

Amend the *Local Government Act 1995*, to:

- Enable Local Government discretion to refuse to further respond to a complainant where the CEO is of the opinion that the complaint is trivial, frivolous or vexatious or is not made in good faith, or has been determined to have been previously properly investigated and concluded, similar to the terms of section 18 of the *Parliamentary Commissioner Act 1971*.
- Provide for a complainant, who receives a Local Government discretion to refuse to deal with that complainant, to refer the Local Government's decision for third party review.
- Enable Local Government discretion to declare a member of the public a vexatious or frivolous complainant for reasons, including:
  - Abuse of process;
  - Harassing or intimidating an individual or an employee of the Local Government in relation to the complaint;
  - Unreasonably interfering with the operations of the Local Government in relation to complaint.

#### 12.2 Elected Member Attendance at Council meetings by technology

The current Local Government (Administration) Regulations 1996 allows for attendance by telephone, however only if approved by Council and in a suitable place. A suitable place is then defined as in a townsite as defined in the Land Administration Act 1997. This restricts an Elected Members ability to attend the meeting to a townsite in Western Australia. This requirement does not cater for remote locations or the ability to attend via teleconference whilst in another state or overseas.

The regulations require amendment to allow attendance at a meeting via technology from any location.

#### **Role of the Department of Local Government**

State Council, at its 6 December 2017 meeting, resolved for information pertaining to the role of the Department of Local Government to be considered in this report.

Further, a number of Local Governments participating in the review process have raised the issue of the role of the Department. The general consensus is that the Department has for some time focused on compliance and policing with very little focus on supporting Local Governments and looking at ways to assist the sector. The capacity building role, which was a valued function of the Department's operations in the first decade from the commencement of the Local Government Act in 1996, should again become an important focus.

During WALGA's Systemic Sustainability Study consultation in 2006, there was commentary on the conflict of the Department of Local Government having a dual role as a regulator for compliance on one hand and a capacity builder on the other hand. At the time there was anecdotal evidence of Local Governments requesting capacity building assistance only to later receive a notification from the compliance section. In recent years the Department has focused predominantly on compliance and WALGA has stepped in and provided an advice and support service in the governance area to fill the apparent gap in capacity building. Notwithstanding, the government has effectively acknowledged a responsibility to contribute to capacity building in the sector, largely by providing funding of appropriate activities such as elected member training.

There is a need for a clear definition from the Department on their role, so that Local Governments are aware of the framework they are operating in. The clear message from the sector is that the role of the Department should be as an enabler for the Local Government sector assisting where possible and in a way that does not compromise its compliance and regulatory responsibilities.

The Department has a core role in compliance and an important role to play in capacity building. As the regulator, the Department must necessarily focus on compliance from a legislative and regulatory point of view and therefore be a direct service provider.

Capacity building should remain a responsibility of the Department in ensuring the improvement of the Local Government sector, however in line with recent practice, this would best be facilitated by funding external or third party service providers to deliver targeted activities, thereby eliminating the potential for conflict with their compliance requirements.



**Item 5.1 – Attachment**

**WALGA Local Government Act Policy Positions endorsed  
at December 2017 State Council Meeting**

**1. That State Council endorse the following general principles as being fundamental to its response to the review of the Local Government Act:**

- (a) Uphold the General Competence Principle currently embodied in the Local Government Act;**
- (b) Provide for a flexible, principles-based legislative framework; and**
- (c) Promote a size and scale compliance regime**

**2. That State Council endorse the retention of current WALGA Policy positions as listed:**

**(a) Method of Election of Mayor/President: Section 2.11**

Position Statement	<b>Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community.</b>
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**(b) Notification of Affected Owners: Section 3.51**

Position Statement	<p><b>Section 3.51 of the Local Government Act 1995 concerning “Affected owners to be notified of certain proposals” should be amended to achieve the following effects:</b></p> <ul style="list-style-type: none"> <li><b>1. to limit definition of “person having an interest” to those persons immediately adjoining the proposed road works (i.e. similar principle to town planning consultation); and</b></li> <li><b>2. to specify that only significant, defined categories of proposed road works require local public notice under Section 3.51 (3) (a).</b></li> </ul>
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**(c) Regional Local Governments: Part 3, Division 4**

Position Statement	<b>The compliance obligations of Regional Local Governments should be reviewed.</b>
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**(d) Council Controlled Organisations: Part 3, Division 4**

Position Statement	<b>The Local Government Act 1995 should be amended to enable Local Governments to establish Council Controlled Organisations (CCO).</b>
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**(e) Tender Threshold: Local Government (Functions and General) Regulation 11(1)**

<b>Position Statement</b>	<b>WALGA supports an increase in the tender threshold to align with the State Government tender threshold (\$250</b>
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**(f) Regional Subsidiaries**

<b>Position Statement</b>	<b>That WALGA advocate for legislative and regulatory amendments to enable Regional Subsidiaries to:</b> <ul style="list-style-type: none"> <li>- Borrow in their own right;</li> <li>- Enter into land transactions; and</li> <li>- Undertake commercial activities</li> </ul>
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**(g) Conduct of Postal Elections: Sections 4.20 and 4.61**

<b>Position Statement</b>	<b>The Local Government Act 1995 should be amended to allow the Australian Electoral Commission (AEC) <u>and or any other third party provider</u> to conduct postal elections.</b>
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**(h) Voluntary Voting: Section 4.65**

<b>Position Statement</b>	<b>Voting in Local Government elections should remain voluntary.</b>
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**(i) Electors' General Meeting: Section 5.27**

<b>Position Statement</b>	<b>Section 5.27 of the Local Government Act 1995 should be amended so that Electors' General Meetings are not</b>
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**(j) Local Government (Rules of Conduct) Regulations 2007**

<b>Position Statement</b>	<b>WALGA supports:</b> <ol style="list-style-type: none"> <li>1. Official Conduct legislation to govern the behaviour of Elected Members;</li> <li>2. An efficient and effective independent Standards Panel process;</li> <li>3. An ability for the Standards Panel to dismiss vexatious and frivolous complaints; and,</li> <li>4. Confidentiality for all parties being a key component of the entire process.</li> </ol>
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**(k) Imposition of Fees and Charges: Section 6.16**

<b>Position Statement</b>	<b>That a review be undertaken to remove fees and charges from legislation and Councils be empowered to set fees and charges for Local Government services.</b>
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**(l) Rating Exemptions – Rate Equivalency Payments**

<b>Position Statement</b>	<b>Legislation should be amended so rate equivalency payments made by LandCorp and other Government Trading Entities are made to the relevant Local Governments instead of the State Government.</b>
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**(m) Rating Restrictions – State Agreement Acts**

Position Statement	<b>Resource projects covered by State Agreement Acts should be liable for Local Government rates.</b>
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**(n) Poll Provisions**

Position Statement	<b>Schedule 2.1 of the Local Government Act 1995 should be amended so that the electors of a Local Government affected by any boundary change or amalgamation proposal are entitled to petition the Minister for a binding poll.</b>
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**(o) Stand Down Provision**

Position Statement	<b>WALGA supports, in principle, a proposal for an individual elected member to be ‘stood down’ from their role when they are under investigation; have been charged; or when their continued presence prevents Council from properly discharging its functions or affects the Council’s reputation, subject to further policy development work being undertaken.</b>  <b>Further policy development of the Stand Down Provisions must involve specific consideration of the following issues of concern to the Sector:</b> <ol style="list-style-type: none"><li><b>1. That ... the established principles of natural justice and procedural fairness are embodied in all aspects of the proposed Stand Down Provisions; and</b></li><li><b>2. That activities associated with the term ‘disruptive behaviour’, presented as reason to stand down a defined Elected Member on the basis their continued presence may make a Council unworkable, are thoroughly examined and clearly identified to ensure there is awareness, consistency and opportunity for avoidance.</b></li></ol>
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**(p) Method of Voting - Schedule 4.1**

Position Statement	<b>Elections should be conducted utilising the first-past-the-post (FPTP) method of voting.</b>
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**3. That State Council:**

**(a) Amend current WALGA Policy position ‘Rating Exemptions – Charitable Purposes: Section 6.26(2)(g)’ by adding Item 3:**

<ol style="list-style-type: none"><li><b>1. Amend the Local Government Act to clarify that Independent Living Units should only be exempt from rates where they qualify under the Commonwealth Aged Care Act 1997;</b></li><li><b>2. Either:</b></li></ol>
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- a. amend the charitable organisations section of the Local Government Act 1995 to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or
  - . establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of Local Government rates; and
3. Request that a broad review be conducted into the justification and fairness of all rating exemption categories currently prescribed under Section 6.26 of the Local Government Act.

(b) Amend current WALGA Policy position 'Elected Member Training' to read:

**That WALGA:**

1. Supports and encourages all Elected Members to carry out the Elected Member Skillset, as a minimum, that comprises;
  - i. Understanding Local Government;
  - ii. Serving on Council;
  - iii. Understanding Financial Reports and Budgets;
  - iv. Conflicts of Interest; and,
  - v. Meeting Procedures and Debating.
2. Requests the State Government through the Minister for Local Government to provide funding assistance to Local Governments to enable all Elected Members to receive training;
3. Supports Local Governments being required to establish an Elected Member Training Policy to encourage training and include budgetary provision of funding for Elected Members; and,
4. Supports Local Government election candidates being required to attend a Candidates information session, either in person or on-line, as an eligibility criteria for nomination as an Elected Member.

4. That State Council adopt as WALGA Policy positions the following items as listed:

(a) Local and Statewide Public Notice: Sections 1.7 and 1.8

That Sections 1.7 and 1.8 of the Local Government Act be amended to remove the statutory requirements for statewide and local public notice to be placed in a newspaper circulating statewide or locally, to be replaced with the requirement for a Local Government to place public notices on their website.

(b) Leave of Absence when Contesting State or Federal Election

Amend the Act to require an Elected Member to take leave of absence when contesting a State or Federal election, applying from the issue of Writs. The options to consider include:

- (i) that an Elected Member remove themselves from any decision making role and not attend Council and Committee meetings; or

- (ii) that an Elected Member take leave of absence from all aspects of their role as a Councillor and not be able to perform the role as specified in Section 2.10 of the Local Government Act.

- (c) **Control of Certain Unvested Facilities: Section 3.53**

That Section 3.53 be repealed and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager.

- (d) **Dispositions of Property: Local Government (Functions and General) Regulation 30(3)**

That Regulation 30(3) be amended to delete any financial threshold limitation (currently \$75,000) on a disposition where it is used exclusively to purchase other property in the course of acquiring goods and services, commonly applied to a trade-in activity.

- (e) **On-Line Voting**

That WALGA continue to investigate online voting and other opportunities to increase voter turnout.

- (f) **Special Electors' Meeting: Section 5.28**

That Section 5.28(1)(a) be amended:

(a) so that the prescribed number of electors required to request a meeting increase from 100 (or 5% of electors) to 500 (or 5% of electors), whichever is fewer; and

(b) to preclude the calling of Electors' Special Meeting on the same issue within a 12 month period, unless Council determines otherwise.

- (g) **Senior Employees: Section 5.37(2)**

That Section 5.37(2) of the Local Government Act be deleted.

- (h) **Annual Review of Certain Employees Performance: Section 5.38**

That Section 5.38 either be deleted, or amended so that there is only a specific statutory requirement for Council to conduct the Chief Executive Officer's annual performance review.

- (i) **Gifts and Contributions to Travel: Sections 5.82 and 5.83**

That the *Local Government Act 1995* and Regulations be amended so that:

- There be one section for declaring gifts. Delete declarations for Travel.
- No requirement to declare gifts received in a genuinely personal capacity, as gifts only to be declared in respect to an Elected Member or CEO carrying out their role.
- Gift provisions only for Elected Members and CEO's.
- Other staff fall under Codes of Conduct from the CEO to the staff.
- Gifts only to be declared if above \$500.00.
- There will not be any category of notifiable gifts or prohibited gifts.
- Exemptions for ALGA, WALGA and LG Professionals (already achieved).

- Exemption for electoral gifts received that relate to the State and Commonwealth Electoral Acts, so Elected Members who are standing for State or Federal Parliament will only need to comply with the State or Federal electoral act and not declare it as a Local Government gift.

**(j) Vexatious and Frivolous Complainants: New Provision**

That a statutory provision be developed, permitting a Local Government to declare a member of the public a vexatious or frivolous complainant.

**(k) Revoking or Changing Decisions: Regulation 10**

That Regulation 10 be amended to clarify that a revocation or change to a previous decision does not apply to Council decisions that have already been implemented.

**(l) Minutes, contents of: Regulation 11**

**That Regulation 11 be amended to require that information presented in a Council or Committee Agenda also be included in the Minutes to that meeting.**

**(m) Repayment of Advance Annual Payments: New Regulation**

That regulations be drafted as matter of priority in relation to Section 5.102AB of the Local Government Act.

**(n) Power to Borrow: Section 6.20**

That Section 6.20(2) of the Local Government Act, requiring one month's public notice of the intent to borrow, be deleted.

**(o) Basis of Rates: Section 6.28**

That Section 6.28 be reviewed to examine the limitations of the current methods of valuation of land, Gross Rental Value or Unimproved Value, and explore other alternatives including simplifying and providing consistency in the rating of mining activities.

**(p) Differential General Rates: Section 6.33**

That Section 6.33 of the Local Government Act be reviewed in contemplation of time-based differential rating, to encourage development of vacant land.

**(q) Service of Rates Notice: Section 6.41**

That Section 6.41 be amended to:

- (a) permit the rates notice to be issued electronically; and
- (b) introduce flexibility to offer regular rate payments (i.e. fortnightly, monthly etc) without requirement to issue individual instalment notices.

**(r) Rates or Service Charges Recoverable in Court: Section 6.56**

That Section 6.56 be amended to clarify that all debt recovery action costs incurred by a Local Government in pursuing recovery of unpaid rates and services charges be recoverable and not be limited by reference to the 'cost of proceedings'.

**(s) Exemption from AASB 124: Regulation 4**

That Regulation 4 of the *Local Government (Financial Management) Regulations* be amended to provide an exemption from the application of AASB 124 'Related Party Transactions' of the Australian Accounting Standards (AAS).

**(t) Onus of Proof in Vehicle Offences may be Shifted: Section 9.13(6)**

That Section 9.13 of the Local Government Act be amended by introducing the definition of 'responsible person' to enable Local Governments to administer and apply effective provisions associated with vehicle related offences

**(u) Schedule 2.1 – Proposal to the Advisory Board, Number of Electors clause 2(1)(d).**

That Schedule 2.1 Clause 2(1)(d) be amended so that the prescribed number of electors required to put forward a proposal for change increase from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.

**(v) Schedule 2.2 – Proposal to amend names, wards and representation, Number of Electors clause 3(1)**

That Schedule 2.2 Clause 3(1) be amended so that the prescribed number of electors required to put forward a submission increase from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.



