

Submissions for changes to the Local Government Act.

Section of LGA	Title	WALGA Position Statement	SWEK Position Statement	SWEK Argument
AGILE				
Beneficial Enterprises				
	Beneficial Enterprises	The Local Government Act 1995 should be amended to enable Local Governments to establish Beneficial Enterprises (formerly known as Council Controlled Organisations).	Agreed	<p>Generate non-rate income to support essential services and reduce the reliance on Government Grants.</p> <p>Address market failures, especially in remote local governments.</p> <p>Create flexibility to engage and collaborate with private business and enter into operating agreements.</p>
Financial Management				
	Tender Threshold	WALGA supports an increase in the tender threshold to align with the State Government tender threshold of \$250 000, with a timeframe of one financial year for individual vendors	Agreed	The Shire of Wyndham East Kimberley would agree to this statement in general, but would require flexibility to maintain a lesser threshold with Shire policies

	Procurement	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.	Agreed	Would allow for easy trade with plant equipment
6.20	Power to Borrow	That Section 6.20(2) of the Local Government Act, requiring one month's public notice of the intent to borrow, be deleted.	Disagreed	The Local Government should show transparency with the intent to borrow.
Rates, Fees and Charges				
	Fees and Charges	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.	Agreed	
	Fees and Charges		Include the provision for the Local	This provides a transparent approach to funding matters

			Government to impose a levy on all ratepayers to fund a particular service or infrastructure.	of importance to the community.
6.26(2)	Rateable Land		Introduce a requirement for the State Government Departments to pay Local Governments rates on lease agreements entered into on land leased for commercial, pastoral or agricultural purposes.	Where land is leased by a State Government Department the requirement is for the Local Government to rate the property and collect rates from the lessee. This situation does not provide the Local Government with any meaningful recourse in the event of non-payment. As with freehold land, State Government should be responsible to pay rates on these properties so leased and seek reimbursement via their lease arrangements.
6.26(2)(g)	Rateable Land		Provide a clear definition of what a “charitable purpose” is.	The current Act does not provide a definition of “charitable purpose”. This has led to a significant erosion of the rates base of Local Governments, particularly in regional areas where there are “charitable institutions” providing services. The effect of current interpretations are that land

				used “exclusively” by charitable institutions are being claimed as exempt even though they are not being directly used for charitable purposes and in some instances the land is being used for commercial purposes.
6.26(2)	Rateable Land		Introduce a requirement that all land that is either directly or indirectly under the control of the Department of Housing are required to pay Local Government rates	The Department of Housing are not required to pay rates but they do as a matter of practice pay rates on public housing. Local Governments would prefer this to be made a statutory requirement. Furthermore, where the Department of Housing makes land available for public housing to other institutions to provide the service, including charitable institutions, these institutions are claiming exempt status. This has led to an erosion of the rates base for Local Governments as land on which they previously received rates on has subsequently become not rateable.
6.26(2)	Rateable Land		Introduce a requirement that all	The Local Government provides the services and

			State Government Agencies are required to pay an amount that is equivalent to rates to the Local Government rather than the State Government.	should be the recipient of the equivalency payment and not the State Government.
6.28(2)	Basis of Rates		Provide a clear definition of what a "rural purpose" is.	Significant problems have been experienced by Local Governments in transitioning from Unimproved Values to Gross Rental Values. As there is no precise definition, there has been a wide range of interpretations put on how "rural purpose" is defined by the community. This has created a point of dispute with the community which could be avoided with the inclusion of a definition in the legislation.
6.28	Basis of Rates	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.	Agreed	

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6.33	Differential General Rates	That Section 6.33 of the Local Government Act be reviewed in contemplation of time-based differential rating, to encourage development of vacant land.	Agreed	
6.33(3)	Differential General Rates		Amend the section to require approval from the Minister from twice the lowest differential general rate to four times the lowest general differential general rate.	The section as it currently reads is seen as unnecessarily bureaucratic. While Local Government understands the intent of the section it considers that four times the lowest differential rate is a more appropriate trigger for approval by the Minister.
6.36(3)(a)	Local Government to give notice of certain rates		Change the requirement of 2 months to be 3 months.	By giving the extra month this will enable local governments more time to consult, meet legislative requirements and to ensure budget process can

				be completed before the commencement of the new financial year.
AASB 124	Member Interests – Exemption from AASB 124	Elected Member obligations to declare interest are sufficiently inclusive that WALGA seeks an amendment to create an exemption under Regulation 4 of the Local Government (Financial Management) Regulations relating to AASB 124 'Related Party Transactions' of the Australian Accounting Standards (AAS).	Agreed	
SMART				
Administrative Efficiencies				
3.53	Control of Certain Invested Facilities:	WALGA seeks consideration that Section 3.53 be repealed and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager	Agreed	
Schedule 2.1	Local Government Grants Commission	WALGA seeks inclusion of a proposal to allow electors	Agreed	

	and Local Government Advisory Board	of a Local Government affected by any boundary change or amalgamation proposal entitlement to petition the Minister for a binding poll under Schedule 2.1 of the Local Government Act		
Schedule 2.1	Proposal to the Advisory Board, Number of Electors	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.	Agreed	
Schedule 2.2	Proposal to amend names, wards and representation, Number of Electors	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.	Agreed	
	Transferability of employees between State & Local Government	A General Agreement between State and Local Government should be established to facilitate the transfer of accrued leave entitlements (annual leave, sick leave, superannuation	Agreed	

		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.		
9.13(6)	Proof in Vehicle Offences may be shifted	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.	Agreed	
5.27(2)	Electors General Meetings		Introduce wording that allows the Minister on application to grant an extension to the 56 days.	Depending on the time Annual Reports become available there are instances where the 56 day requirement makes it difficult in a practical sense to schedule an electors meeting. The impact of giving notice of the meeting, the lead time for advertising and the effect of leave over the

				Christmas period are all relevant.
Miscellaneous Provisions Act 1960, Part XX	Impound of Cattle		Continue to allow for members of the public to impound cattle.	The Shire of Wyndham East Kimberley would strongly disagree to a change that prevented members of the public from impounding cattle as suggested in the DLG discussion papers. Most Kimberley Local Governments would lack the facilities to impound cattle given the large volume of cattle in the area and the infrastructure required to house them.
Local Laws				
3.12	Procedure for making Local laws		Amend the Act so that a certificate from a legal practitioner is required stating that a Local Law is within power and not in conflict with the Local Government Act.	Improve the Local Law process so that it is more streamlined in reviews.
Council Meetings				
5.25(ba)	Remote Attendance	The current Local Government (Administration) Regulations 1996 allows for attendance by telephone,	Agreed. Expand the legislation to allow individuals to participate from interstate or even	This is not specified within the current Act, however there is an interpretation that a person must be within Western Australia for

		<p>however only if approved by Council and in a suitable place. A suitable place is then defined as in a town site as defined in the Land Administration Act 1997. This restricts an Elected Members ability to attend the meeting to a town site 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 consider allowing attendance at a meeting via technology from any location suitable to a Council.</p>	<p>internationally by specifying that the law that applies is the law in the jurisdiction of the district.</p>	<p>Western Australian law to apply. Given the location of the Shire of Wyndham East Kimberley, in relation to the State Borders, being very close to the Northern Territory, the Act should be amended to allow remote attendance from other States.</p>
5.27	Electors' General Meeting	<p>Section 5.27 of the Local Government Act 1995 should be amended so that Electors' General Meetings are not compulsory.</p>	Agreed	
5.28	Special Electors' Meeting:	<p>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%</p>	Agreed	

		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.		
Regulation 11	Minutes	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.	Agreed	
Regulation 10	Revoking or Changing Decisions	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.	Agreed	
Interventions				
	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	Agreed	

		<p>qualifications and experience. This provides a connection back to the Department and its requirements.</p> <p>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.</p> <p>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.</p>		
Schedule 3.1 Division 1 5A	Disused Materials and Infringements		This list of disused materials could be expanded to enable a local government to direct a person to remove items other than vehicles and	Currently, the Act defines "disused materials" to include disused motor vehicles, old motor vehicle bodies and old machinery. This should be broadened to include "general rubbish"

			machinery from land that it considers to be untidy or causing a hazard.	
5.93	Improper Use of Information		The Act could be amended to extend the improper use of information offence to former Council Members, Committee Members or Employees for a period of 4 years.	Under the Act, a person who is a Council Member, a Committee member or an employee must not make improper use of any information acquired in the performance of his or her functions to gain an advantage for themselves or any other person, or to cause detriment to the Local Government or any other person. This offence does not apply to former council members, committee members or employees who use information (which they acquired when they were engaged with a local government) improperly.
INCLUSIVE				
Community Engagement IPR				
			The Act could set out principles that guide how a local	Community Engagement There is currently no requirement for community

			government should address community engagement, including how it will engage with those that are socially disadvantaged.	engagement beyond IPR in Western Australia. Identifying the role of the community clearly in the objects of the Act is a good starting point to identify how engagement should be determined
Complaints Management				
	Complaints		A legislative requirement for complaints management may encourage Local Governments to adopt and actively work on better complaints management and help to manage community member's expectations of complaint resolution.	Currently there is no formal process outlined for the management of community member complaints against the Local Government.
Division 9	Querulous, Vexatious and Frivolous Complainants	WALGA seeks inclusion of commentary and questions relating to Local Governments adopting within their proposed complaints management framework, the capacity to permit a Local Government	Agreed	

		to declare a member of the public a vexatious or frivolous complainant, subject to the declaration relating to the nature of complaint and not to the person.		
Division 9 5.107 & 5.114	Complaints		Amend the process for lodging a complaint about an alleged breach of the Act so that it is more streamlined and not a different process dependent on the type of breach involved.	Amend the Act so that both minor and serious breaches are to be made to the Director General, who then decides how the complaint should be dealt with would make it easier for local governments to process complaints.
Elections				
4.20 and 4.61	Conduct of Postal Elections	The Local Government Act 1995 should be amended to allow the Australian Electoral Commission (AEC) and or any other third party provider to conduct postal elections.	Agreed	
4.65	Voluntary Voting	Voting in Local Government elections should remain voluntary.	Agreed	

2.11	Method of Election of Mayor/President	Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community	Agreed	
	Leave of Absence when Contesting State or Federal Election	<p>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:</p> <p>(i) that an Elected Member remove themselves from any decision making role and not attend Council and Committee meetings; or</p> <p>(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</p>	Agreed	
4.1	Voting System	Elections should be conducted utilising the first-past-the-post (FPTP) method of voting.	Agreed	

	Electronic Voting		Amend the election process to include an electronic voting system. This would increase efficiency and participation of voters.	There are no provisions for electronic voting.
	Turnover of Councillors		Amend the Act so that there is a 50% retention of Councillors each election period to ensure that skills and knowledge is retained and transferred.	Currently every four years there is potential for a full turnover of all positions which prevents the transfer of knowledge from one Councillor to another.