



Additional documents

Finance, Policy, Operations and Legislation Committee

Wednesday, 23 January 2019

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FPOL1901-7 Local Government Act Review - Council submission to the Western Australian Local Government Association (WALGA) discussion paper phase 2

Proposed amendment

To amend the officer's recommendation, to add the words shown in green italics and remove the words shown in red strikethrough, as follows;

1. Council supports:

- 1.1 the following general principles in response to the review of the *Local Government Act 1995*:**
 - a. Uphold the General Competence Principle currently embodied in the *Local Government Act 1995*.**
 - b. Provide for a flexible, principles-based legislative framework and**
 - c. Promote a size and scale compliance regime.**
- 1.2 an amendment to enable Local Governments to establish Beneficial Enterprises (formerly known as Council Controlled Organisations).**
- 1.3 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.**
- 1.4 an amendment to regulation 30(3) of the *Local Government Act 1995*, 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.**
- 1.5 that a review to remove the fees and charges from section 6.16 of the *Local Government Act 1995*, and allow Council to be empowered to set fees and charges for Local Government services.**
- 1.6 the deletion of section 6.20(2) of the *Local Government Act 1995*.**
- 1.7 the review of section 6.28 of the *Local Government Act 1995* to examine the basis of rates.**
- 1.8 the review of section 6.33 of the *Local Government Act 1995*, to be reviewed in contemplation of time-based differential rating, to encourage development of vacant land.**
- 1.9 the creation of 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).

- 1.10** the review to remove fees and charges from section 6.61 of *the Local Government Act 1995*, and allow Council to be empowered to set fees and charges for Local Government services
- 1.11** the amendment to the *Local Government Act 1995* to clarify that Independent Living Units should only be exempt from rates where they qualify under the *Commonwealth Aged Care Act 1997*;
- 1.12** Either:
- a) To amend the charitable organisations section of the *Local Government Act 1995* to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or
 - b) To 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
- 1.13** requests 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 1995*, be requested.
- 1.14** an amendment to rate equivalency payments made by LandCorp and other Government Trading Entities requiring them to be made to the relevant Local Governments instead of the State Government.
- 1.15** an amendment to section 6.56 of the *Local Government Act 1995* to clarify that all debt recovery action costs incurred by a Local Government in pursuing recovery of unpaid rates and service charges be recoverable and not be limited by reference to the 'cost of proceedings'.
- 1.16** resource projects covered by State Agreement Acts being liable for Local Government rates.
- 1.17** that section 3.53 of the *Local Government Act 1995* be repealed and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager.
- 1.18** the proposal to allow electors 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 1995*.

- 1.19 that schedule 2.1 clause 2(1)(d) of the *Local Government Act 1995* be amended so that the prescribed number of electors required to put forward a proposal for change be increased from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.
- 1.20 the amendment of schedule 2.2 clause 3(1) of the *Local Government Act 1995* 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.
- 1.21 an agreement between State and Local Government to facilitate the transfer of accrued leave entitlements for staff between the two sectors of Government.
- 1.22 an amendment to section 9.13 of *the Local Government Act 1995* to introduce a definition for 'responsible person' to enable Local Governments to administer and apply effective provisions associated with vehicle related offences.
- 1.23 the below amendments to the *Local Government Act 1995*:
- a) 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*.
 - b) 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.
 - c) 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.
- 1.24 that section 5.28(1) (a) of the *Local Government Act 1995* 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.
- ~~1.25 an amendment to regulation 11 to require that information presented in a Council or Committee Agenda must also be included in the Minutes to that meeting.~~

- 1.25 an amendment to regulation 10 to clarify that a revocation or change to a previous decision does not apply to Council decisions that have already been implemented.
 - 1.26 the amendment to the *Local Government (Administration) Regulations 1996* to consider allowing attendance at a meeting via technology from any location suitable to a Council, subject to local governments being provided with the ability to set ground rules in relation to the use of remote attendance by elected members and staff.
 - 1.27 that suitable arrangements to determine a size and scale compliance regime should be prioritised.
 - 1.28 that additional resources be provided to the Department of Local Government to ensure they are able to carry out this support function.
 - 1.29 an amendment to sections 4.20 and 4.61 of the *Local Government Act 1995* to allow the Australian Electoral Commission (AEC) and or any other third party provider to conduct postal elections, providing that a pre-qualification outline be introduced to ensure the capacity to provide online voting and the quality of any service provided.
 - 1.30 the Western Australian Local Government Association continuing to investigate online voting and other opportunities that may increase voter turnout.
 - 1.31 an amendment to the *Local Government Act 1995* to require an Elected Member to take leave of absence when contesting a State or Federal election.
 - 1.32 *that an individual local government should be able to determine whether their Mayor or President is elected by Council or by the community.*
 - 1.33 *an amendment to section 54 of the Local Government (Financial Management) Regulations 1996 to include “renewable energy infrastructure” or similar as a prescribed service charge, under section 6.38(1) of the Act, to allow local governments to fund environmentally complimentary initiatives on privately owned property.*
2. Council does NOT support:
- 2.1 the amendment to section 5.27 of *the Local Government Act 1995* so that Electors’ General Meetings are not compulsory.
 - 2.2 voting in Local Government elections remaining voluntary.

- ~~2.3 that an individual local government should be able to determine whether their Mayor or President is elected by Council or by the community.~~
- 2.3 that elections should continue to be conducted utilising the first-past-the-post (FPTP) method of voting as *Fremantle council considers that preferential voting gives the most representative outcome for local government elections.*
- 2.4 *an amendment to regulation 11 to require that information presented in a Council or Committee Agenda must also be included in the Minutes to that meeting.*