



LOCAL GOVERNMENT ACT REVIEW CENTRAL COUNTRY ZONE RESPONSE TO AGILE DISCUSSION PAPERS

Shires of:

Beverley
Brookton,
Corrigin
Cuballing
Dumbleyung
Kulin
Lake Grace
Narrogin
Pingelly
Quairading
Wagin
Wandering
West Arthur
Wickepin
Williams

Overview of Document

Outlined below is the response that the Central Country Zone has provided to individual questions on the Agile Discussion Papers as released by the Department of Local Government, Sport and Cultural Industries together with a comment where it was considered appropriate to reinforce/explain the position adopted.

The position for each question has been highlighted in yellow as have the comments.

In beneficial enterprises and financial management some overall comments have been included at the start of answering the questions.

For ease of review the question numbers have “run on” starting with “1”.

Central Country Zone Response

Beneficial Enterprises

General Comment:

The following general observations are made in relation to beneficial enterprises:

- The development of beneficial enterprises will allow a local government to take control of commercial enterprises in their community that may not be attractive to private investors but if closed would have a significant effect on the community. This might include maintaining a community store local supermarket or hotel.
- The nursing home managed by the Shire of Brookton is a good example of how a local government could utilise a beneficial enterprise to enhance the future development of the facility. This would enable it to be set up at “arm’s length” from the Council.
- Another example includes the ability for several local governments to form an enterprise that could contract to Main Roads for road work term contracts.
- Consideration of a two tier system with perhaps a reduced/modified governance requirements for small or lower level enterprises.
- Given the reliance on grant funding and rates local government should have the opportunity to generate funds through a commercial enterprise.

1. The local government sector has been requesting that it be given additional powers to form independent corporations. These entities could be used to manage part of a local government’s existing business activity or pursue new commercial opportunities. To what extent do you support the following statement?

"A local government should be able to create a company known as a beneficial enterprise."

- a. Very unsupportive
- b. Unsupportive
- c. Neutral
- d. Supportive**
- e. Very supportive

2. To what extent do you support the following statements?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
<p>"There should be no limitations on a Local Government to create a beneficial enterprise." Neutral to supportive</p> <p>Comment:</p> <p>The Central Country Zone is largely supportive of there being no limitations in creating a beneficial enterprise as it is felt there is need for flexibility. However consideration of some risk factors involved in the development must be incorporated in the local government's ability to establish a beneficial enterprise, hence the reason for the Neutral to Supportive rating.</p>			X	X	
<p>"Only local governments deemed to be a low risk should be allowed to create a beneficial enterprise." Very unsupportive</p>					X
<p>"Only local governments that meet a threshold for financial health should be allowed to be create a beneficial enterprise." Unsupportive to Neutral</p> <p>Comment:</p> <p>It is acknowledged that potential risk factors will need to be considered as part of the case for determining the ability for a local government to establish a beneficial enterprise.</p>		X	X		
<p>"Local governments should only be permitted to invest in a company up to a specific percentage of their annual expenditure." Very unsupportive</p> <p>Comment:</p> <p>If there was a restriction it could mean that a community in genuine need for their local government to create a beneficial enterprise to ensure an existing community service</p>	X				

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
continues could be restricted.					
"Only local governments that are in band 1 & 2 of the Salaries and Allowance Tribunal banding should be allowed to create a beneficial enterprise." Very unsupportive	X				
"Local government beneficial enterprises should be able to compete with private businesses." Supportive				X	
"Beneficial enterprises should have to employ staff under the same pay rates and conditions as employees of local governments." Very unsupportive Comment: It was felt that if the beneficial enterprise was a fully commercial activity then any nexus to local government pay rates etc was not relevant.	X				
"Local governments should have to tell their community how much they are investing in a beneficial enterprise." Supportive Comment: The intention to develop a beneficial enterprise should be included in the local government's long term planning such as the IPR.				X	
"Communities should be able to decide if their local governments can establish a beneficial enterprise." Comment: The Central Country Zone supports having community engagement on the development of a beneficial enterprise but would not support the community having the power of veto	X				

3. Which of the following functions should a local government beneficial enterprise be permitted to undertake?

Comment:

The Central Country Zone was of the view that there should be no restriction on permitted functions.

	Agree	Disagree
There should be no restrictions	<input checked="" type="checkbox"/>	
Local governments should not be permitted to form a company	N/A	
Statutory approvals for example building and planning	N/A	
Leisure centres	N/A	
Human resources	N/A	
Information technology	N/A	
Airports	N/A	
Waste management	N/A	
Parking	N/A	
Road maintenance	N/A	
Retail (shops and service stations)	N/A	
Age or child care facilities	N/A	
Land development	N/A	
Caravan parks	N/A	
Other (please specify)		

4. To what extent do you support the following statements?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"The local government should be required	<input checked="" type="checkbox"/>				

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
to guarantee any debt of a local government beneficial enterprise." Very unsupportive					
"The local government should be able to lend money to a local government beneficial enterprise." Supportive				X	
"The Western Australian Treasury Corporation should be able to lend money to a local government beneficial enterprise" Supportive				X	
"Commercial lenders should be able to lend money to a local government beneficial enterprise" Supportive				X	

5. To what extent do you support the following statements?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"The local government <u>must</u> receive approval from the Minister prior to creating a local government beneficial enterprise." Very unsupportive	X				
"The local government <u>must</u> receive approval from the Treasurer prior to creating a local government beneficial enterprise." Very unsupportive	X				

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"The Office of the Auditor General should be responsible for auditing local government beneficial enterprises." Very unsupportive	X				
"A local government beneficial enterprise should be required to hold public meetings." Very unsupportive	X				

6. Do you have any comments or feedback on the ability of a local government to form a beneficial enterprise? Additional information can also be provided to the review team via email at actreview@dlgsc.wa.gov.au.

Financial Management

General Comment:

The following general observations are made in relation to financial management:

- Annual reporting needs to be simplified so the community can understand the statements;
- Establish a tiered arrangement for not only governance but also financial management;
- Given that much of the local government financial reporting is controlled by the Australian Accounting Standards (AAS) a case should be developed to present to the Minister to limit the applicability of AAS on local government.

7. To what extent do you support the following statements?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
<p>“Local government purchasing rules should be consistent with the State Government.”</p> <p>Comment:</p> <p>The Central Country Zone is very unsupportive of aligning purchasing rules to State Government but wants threshold increased to \$250,000.</p>	x				
<p>“Different procurement rules should apply to different local governments.”</p> <p>Comment:</p> <p>The Central Country Zone is of the view if a tiered governance approach was applied to local governments generally then the concept of different procurement rules would be supported.</p> <p>In the review the issue of the period over which procurement and then in turn the need to call tenders requires review and “tidy up”.</p>	See	comment			
<p>“Local governments with few staff or small operating budgets should have fewer procurement rules to comply with.”</p> <p>Unsupportive</p>		x			

8. What criteria should be used to set the threshold for when a local government must publicly advertise a tender? (select all options that should apply)
- a. Procurement rules should be consistent across local government
 - b. A percentage of a local government’s average operating expenditure
 - c. Salaries and Allowances Tribunal bands
 - d. An independent risk assessment
 - e. **Other (please specify): No criteria should be applied**
9. Should the regulations set a threshold that a CEO is permitted to spend without needing approval from council?
- a. Yes**
 - b. No
 - c. Unsure
10. Should the amount that a CEO is permitted to spend without needing additional approval from Council be scaled according to the local government’s size or capacity?
- a. Yes
 - b. No
 - c. Unsure**

Comment:

The Central Country Zone is generally of the view that this should be left with individual Councils to determine.

11. To what extent do you support the following statements?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“Local governments should be permitted to invest surplus revenue.” Very supportive					X
“Local government should have fewer restrictions on their ability to invest surplus revenue.” Neutral			X		
“Different local governments should have different investment powers and rules.” Supportive Comment: This is supported based on the development of governance tiers				X	

"Certain types of investments should require independent approval." Supportive				X	
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12. Should local governments be required to give public notice in any of the following situations? (please select all options that should apply)
- a. Where a local government wishes to borrow money outside amounts listed in the annual budget **Yes**
 - b. Where a local government has exercised its power to borrow for a purpose but no longer wishes to use the funds for that purpose **Yes**
 - c. Where a local government has exercised its power to borrow for a purpose and has funding left over
 - d. Public notice is not required in any of these situations
 - e. Unsure
13. Should local governments be permitted to secure loans using assets that they own freehold?
- a. **Yes**
 - b. No
 - c. Unsure
14. Should local government be permitted to participate in Building Upgrade Finance programs?
- a. Yes
 - b. No
 - c. **Unsure**

Comment:

The Central Country Zone whilst noting the City of Perth request is not sufficiently familiar with the concept to provide an opinion.

15. What types of upgrades should be eligible for the program?
- a. Environmental upgrades
 - b. Commercial upgrades
 - c. Both environmental and commercial
 - d. Neither
 - e. Other (please specify)
See previous answer
16. Do you have any additional comments on the topic of financial management? Additional information can also be provided to the review team via email at actreview@dlqsc.wa.gov.au.

Rates, Fees and Charges

17. To what degree are you concerned about rates?

- a. Not at all
- b. A little
- c. A moderate amount
- d. A lot
- e. A great deal

18. Do you support the following statements?

	Yes	No	Unsure
“Local governments should be required to prepare a Rates and Revenue Strategy each financial year.” No		X	
“The value of the property should continue to be used to partially determine the value of the rates payable.” Yes	X		
“Local governments should be required to advertise all of their proposed rates and consider any submissions made, prior to adopting their budget.” No		X	
“Under the <i>Local Government Act 1995</i> , local governments may not advertise their rates prior to 1 May. Local governments should be permitted to advertise their rates at any time leading up to the adoption of their budget.” Yes	X		
“All types of rateable property should pay the same rate in the dollar, regardless of how the land is used.” No		X	

19. Should the legislation set the rating categories that can be used by local governments?

- a. Yes
- b. No
- c. Unsure

20. If rating categories are set in legislation, what would be appropriate categories?

Comment:

The Central Country Zone were of the view that legislation should not set rating categories as such the following question is not relevant.

	Yes	No	Unsure
Residential			
Rural residential			

Commercial			
Industrial			
Vacant			
Mining			
Mining - exploration and prospecting (separate from general mining)			
Farming			
Not-for-profit organisation or charity			

Other (please specify)

21. If rating categories were set in legislation, should local governments be permitted to introduce sub-categories within the set categories based on factors such as the type of mining being undertaken, the intensity of the land use or the type of commercial activity?
- a. Yes
 - b. No
 - c. **Unsure**

22. What powers should local governments have to recover payment of rates on exploration and prospecting leases?

Comment:

The legislation should have adequate capacity to recover rates levied on exploration and prospecting leases similar to normal rates recovery powers. Possibly a caveat on land owned by directors.

23. To what extent do you support the following statements?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“Local governments should be permitted to rate properties differently based on their location.” Supportive				X	
“Local governments should be permitted to rate long term vacant properties differently to land that is being used.” Supportive				X	

“Local governments should be permitted to rate holiday houses, timeshare properties or AirBNB properties differently.” Supportive				<input checked="" type="checkbox"/>	
“A lower rate in the dollar should apply to land used for exploration and prospecting compared to land used for mining.” Unsupportive		<input checked="" type="checkbox"/>			

24. Currently, local governments are required to seek Ministerial approval when seeking to impose a rate in the dollar that is more than twice the lowest of its other rating categories. What is your preferred approach to differential rates?
- Ministerial approval for rates twice the lowest category
 - Ministerial approval for rates three times the lowest category
 - Ministerial approval for rates four times the lowest category
 - No Ministerial approval required for any differential rates**
 - Differential rates to a maximum of four times may be set with no option for Ministerial approval
 - Other (please specify)

Comment:

The Central Country Zone was of the opinion that there should be as little “red tape” as possible in regard to differential rates.

25. To what extent do you support the following statements?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“All land should be subject to rates.” Very supportive					<input checked="" type="checkbox"/>
“The types of land subject to rates should be consistent between local governments.” Very supportive					<input checked="" type="checkbox"/>

26. Should the following types of land be subject to rates?

	Yes	No	Unsure
Land owned by the Crown that is used or held for a public purpose Yes	<input checked="" type="checkbox"/>		
Land used or held exclusively for churches (religious bodies) Yes	<input checked="" type="checkbox"/>		

Land used or held exclusively for schools Yes	X		
Land used exclusively for charitable purposes Yes	X		
Land vested in trustees for agriculture or horticultural show purposes Yes	X		
Land owned by Co-operative Bulk Handling Limited (CBH) Yes	X		
Land used primarily as a place of residence (no matter who owns the land) Yes	X		
Land used for mining exploration or prospecting Yes	X		
Aged care facilities Yes	X		
Child care facilities Yes	X		
Sporting clubs and Surf Lifesaving clubs Yes	X		
Land used for the pursuit of the Arts Yes	X		

Comment:

Noting that the Zone position in Q25 is very supportive of “*The types of land subject to rates should be consistent between local governments*” it is also of the view that each local government reserves the right to grant an exemption from rates on a case by case basis without affecting the rateability of similar land in another local government.

Whilst the Central Country Zone is of the view that all land should be rateable it must also be recognised that State Administrative Tribunal can be involved in assessing rating issues.

Another aspect is that instead of rating exemptions being included in a wide range of legislation (eg university acts etc) perhaps any exemptions should be incorporated in a single piece of legislation.

27. Which of the following charges should be levied on properties exempt from rates?
- a. Waste charges
 - b. A service charge to cover basic services and maintenance
 - c. Both**
 - d. Neither
 - e. Other (please specify)

28. Should a concession on rates be granted in any of the following scenarios?

	Yes	No	Unsure
The land is owned by a person who currently receives a	X		

pensioner or health related concession Yes			
The land is owned or used by a not-for-profit organisation No		x	
The land is owned or used by an entity that provides assistance or encouragement for arts or cultural development No		x	
The land is owned or used by a sporting or recreation body and is available for use by the general community without charge or below cost No		x	
Community service organisations that are not-for-profit, for the benefit of the general public and provide community services without charge or below cost No		x	
The payment of rates or charges will cause hardship to the land owner No		x	
The concession will encourage the economic development of all or part of the local government district No		x	
The concession will encourage land that is of cultural, environmental, historic, heritage or scientific significance to the local government area to be preserved, restored or maintained No		x	
Land that is subject to a mining tenement No		x	
Land that is determined by the Minister to be subject to a concession No		x	

29. Should any other scenarios be subject to rates concessions?

Comment:

The Central Country Zone supports that a concession should be granted on land that is owned by a person who currently receives a pensioner or health related concession but all other concessions should be at the discretion of the individual local government. It was commented that it is not uncommon for a local government to donate some or all of the rates back to an organisation that pays rates but its work is considered of a charitable or sporting nature.

Concern was raised about the circumstances of Crown land, owned, by way of native title, by an Aboriginal organisation, being exempt from rates even though it may operate a commercial activity. It is noted that Crown Land is generally rated if used/leased for commercial purposes.

30. Which of the following charges should be levied on that part of the land that receives a rates concession?

- a. Waste charges

- b. A service charge to cover basic services and maintenance
- c. Both
- d. Neither
- e. Other (please specify)

31. To what extent do you support the following statements?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“Rate exemptions for the commercial (non-charitable) business activities of charitable organisations should be removed.” Very supportive					X
“Certain categories of ratepayers, for example Independent Living Units, should only be exempt from rates where they qualify under the Commonwealth <i>Aged Care Act 1997</i> .” Unsupportive Comment: This question is unsupported until there is clarification on what the implications are of the Commonwealth <i>Aged Care Act 1997</i>.		X See comment			
“Land used as a residence should not be regarded as charitable.” Very Supportive					X

32. To what extent do you support this statements?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“Local governments should be able to impose fixed charges or levies for particular services, facilities or activities.” Very supportive					X
“Local governments should be able to vary fees and charges at any time without advertising the change.” Very supportive					X
“Local governments should have the autonomy to set					X

fees and charges for all services they provide.” Very Supportive Comment: Local government needs the opportunity to set fees to ensure that all services achieve cost recovery of the service					
“Services that are consistent across local governments should have the same fees or charges.” Very unsupportive	✘				
“Local governments should not set a fee or charge higher than the cost of delivering that service.” Unsupportive		✘			
“A fee or charge should not be set lower than the cost of delivering that service.” Unsupportive		✘			
“Fees and charges imposed by local government and fixed under legislation should increase by CPI annually.” Unsupportive		✘			

33. Do you have any additional comments on the topic of rates, fees and charges?
 Additional information can also be provided to the review team via email at actreview@dlgsc.wa.gov.au.