

# Submission with regard to the review of the local government Act 1995

I welcome a review of the Local Government Act.

Over the last twenty-four years since the 1975 Act, there have been many amendments and with the onset of the digital world there is I believe now a requirement for the community to hold inclusive views and be directly involved in how their local government operates. There is arguable a lot of dissatisfaction from ratepayers in the 'information age' on how their local government operates and how many local governments appear to have forgotten their *raison d'être* - that it to provide a service to the people and the wider community.

I will not go into every detail on every facet that I am concerned about, rather I will offer the worries that my constituents including Councillors, ratepayers and Members of the West Australian State Parliament have raised with me. The points raised below have all been raised with me as issues being detrimental to the wellbeing of the community and the functionality of local government:

1- The Local Government (Rules of Conduct) Regulations 2007, were originally drafted to include local government staff and contractors (such as lawyers) to abide by the same rules and be subjected to the same penalties. Council staff for example were omitted from this legislation and the fear that by doing so, the Rules of Conduct would become a tool for rogue and vexatious Councillors and staff - especially CEO's – and many ratepayer and Councillors believe this has come to fruition.

Those Council staff such as CEO's who use the Regulations to 'silence' dissenting voices bare no costs and some actions against Councillors have after many years ended up in the Supreme Court. This is an additional cost to the taxpayer which would be in the millions of dollars. This has not only brought a huge cost to the individual Councillor in defending themselves against 'trumped up' charges (which is never recoverable) but it also has a cost the ratepayers for staff and legal advice.

**RECOMMENDATION 1: All staff and contractors need to be included under the one code of conduct.**

2- WALGA needs to be audited by the WA Auditor General as they are subjected to the rules of The Local Government Act.

To have an organisation like WALGA enjoying a monopoly position is not good business sense and is counterproductive on the original objective and the intent of WALGA.

A serious concern about WALGA is the tender process which appears to be in conflict with the business ethics and intent of good procurement practices. Under the current system if WALGA says you can be on their panel then 'it's ok' for particular Council not to have to go to tender. This process is mired alleged nepotism and not only cuts out the local business but also unless you are in with the 'WALGA crowd' you never get on the panel.

WALGA under its power under the Local Government Act is the only agency that can legally enter into contracts on behalf of councils, which is not in accordance with Australian procurement guidelines.

The WALGA joint program with their insurance arm is being proven time and time again not to be in the best financial interests of Councils. Local government who have had the foresight “to go out to market” for insurance premiums have found significant reductions in premiums and bonuses

**RECOMMENDATION 2: Local Governments to be offered access to the ‘market’ to find insurance solutions.**

3- The power and the authority granted to the various local government staff is a result of delegation by Councils. The various members of local councils are bound by rules of conduct and the penalty for breaches of those rules are administrated by LGSP as provided under the local government act.

**RECOMMENDATION 3: Quite simply since the powers and authority granted to local government staff arises from the delegation of powers otherwise reserved to the local council, the administration of justice of breaches and violations should be administrated by the same authority i.e the LGSP.**

4- Many people in the business community have advised me how dissatisfied they are at the discrepancy between local laws of different Councils, and I believe in the past most local laws were uniform throughout the state - unless specific for a particular issue.

**RECOMMENDATION 4: The State Government to robustly reviews changes in local laws to maintain uniformity whenever possible.**

5- There appears to be no ability for the public or Councillors to comment on planning issues before they are enacted in local law.

**RECOMMENDATION 5: The State Government needs to focus on the need to limit the influence of developers and other vested interests in the local government decision making process.**

6- Councillor ineligibility, whilst many support Councillors not having been bankrupt or having criminal convictions, the issues involving conflict of interests with Councillors is a serious concern to many ratepayers. It may be reduced if candidates whose professions included town planners, builders, real estate agents, developers and so on should not be eligible to stand for office.

**RECOMMENDATION 6: Extend the rules of disclosure of interests for all staff and contractors and their names recorded in the agenda along with councillor’s names.**

7-The current Act states that all complaints about Councillors are to be forwarded to the LGSP or PSM. In reality, most CEO’s are selective in what complaints they forward.

**RECOMMENDATION 7: All complaint processes should include an independent mediation stage to ensure all parties are aware of the circumstances.**

**RECOMMENDATION 8: There should be a penalty for CEO’s not forwarding a complaint.**

**RECOMMENDATION 9: All parties to unsatisfactory outcomes should have the opportunity to lodge complaints about the CEO, staff and contractors without fear or favour and without costs.**

**RECOMMENDATION 10: All complaints to DLGSC whether they are supported or not should be recorded on the website and names recorded to show patterns and issues.**

**RECOMMENDATION 11: A new offence or penalty for CEO’s, staff and councillors misuse of the media to bring detriment of other councillors or members of the public.**