



City of **Perth**

Submissions in Response to Phase Two of  
the Local Government Act Review

## Table of Contents

<b>Survey - Beneficial Enterprises</b> .....	<b>1</b>
<b>Submission on Beneficial Enterprises</b> .....	<b>5</b>
<b>Response Commentary - Beneficial Enterprises</b> .....	<b>9</b>
<b>Survey - Financial Management</b> .....	<b>10</b>
<b>Response Commentary - Financial Management</b> .....	<b>13</b>
<b>Position Paper - Building Upgrade Finance</b> .....	<b>14</b>
Explanatory Notes .....	14
Submission.....	16
<b>Survey - Rates, Fees and Charges</b> .....	<b>25</b>
<b>Position Paper - Rates, Fees and Charges</b> .....	<b>31</b>
<b>Survey - Administrative efficiencies</b> .....	<b>33</b>
<b>Position Paper - Administrative Efficiencies</b> .....	<b>40</b>
<b>Survey – Local Laws</b> .....	<b>42</b>
<b>Position Paper – Local Laws</b> .....	<b>45</b>
<b>Survey – Council Meetings</b> .....	<b>47</b>
<b>Position Paper – Council Meetings</b> .....	<b>50</b>
<b>Survey – Interventions</b> .....	<b>52</b>
<b>Position Paper – Interventions</b> .....	<b>56</b>
<b>Survey – Community Engagement</b> .....	<b>58</b>
<b>Position Paper – Community Engagement</b> .....	<b>62</b>
<b>Survey - Integrated Planning and Reporting</b> .....	<b>65</b>
<b>Position Paper - Integrated Planning and Reporting</b> .....	<b>69</b>
<b>Survey - Complaints Management</b> .....	<b>74</b>
<b>Position Paper - Complaints Management</b> .....	<b>76</b>
<b>Survey - Elections</b> .....	<b>80</b>
<b>Position Paper - Elections</b> .....	<b>85</b>

## Survey – Beneficial Enterprises

12. 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**

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"There should be no limitations on a Local Government to create a beneficial enterprise."		X			
"Only local governments deemed to be a low risk should be allowed to create a beneficial enterprise."		X			
"Only local governments that meet a threshold for financial health should be allowed to be create a beneficial enterprise."				X	
"Local governments should only be permitted to invest in a company up to a specific percentage of their annual expenditure."		X			
"Only local governments that are in band 1 & 2 of the Salaries and Allowance Tribunal banding should be allowed to create a beneficial enterprise."		X			

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"Local government beneficial enterprises should be able to compete with private businesses."					X
"Beneficial enterprises should have to employ staff under the same pay rates and conditions as employees of local governments."				X	
"Local governments should have to tell their community how much they are investing in a beneficial enterprise."				X	
"Communities should be able to decide if their local governments can establish a beneficial enterprise."				X	

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

	Agree	Disagree
There should be no restrictions		X
Local governments should not be permitted to form a company		X
Statutory approvals for example building and planning	X	
Leisure centres	X	
Human resources	X	
Information technology	X	
Airports	X	
Waste management	X	
Parking	X	

	Agree	Disagree
Road maintenance	X	
Retail (shops and service stations)	X	
Age or child care facilities	X	
Land development	X	
Caravan parks	X	
Other (please specify)		

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

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

16. 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."				X	
"The local government <u>must</u> receive approval from the Treasurer prior to creating a local government beneficial enterprise."		X			
"The Office of the Auditor General should be responsible for auditing local government beneficial enterprises."				X	
"A local government beneficial enterprise should be required to hold public meetings."				X	

17. 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](mailto:actreview@dlgsc.wa.gov.au).

**See position papers (Beneficial Enterprises, Beneficial Enterprises Response Commentary)**

## **Submission on Beneficial Enterprises**

### **Review of section 3.60 of the *Local Government Act 1995***

#### **Summary**

Western Australia is the only Australian state to impose a statutory prohibition barring local governments from forming beneficial enterprises. This prohibition is contained within section 3.60 of the *Local Government Act 1995* (Act).

In compliance with this restriction, the City of Perth operates its off-street parking business as a business unit (City of Perth Parking (CPP)) within the City of Perth. CPP is subject to the same policies, procedures and controls applicable to other City of Perth operations.

The direct involvement of the City of Perth in commercial ventures such as CPP raises a number of ethical concerns regarding the operation of a commercial enterprise by a local government. Primarily, these include actual and perceived conflicts of interest between the regulatory, community, commercial and ownership roles of local government.

In line with WALGA's *Position Paper 2017: Council Controlled Organisations as a Means of Improving Local Government Efficiency* (2017 Position Paper), the City contends that:

*the most efficient way to avoid potential or actual conflicts of interest, to minimise financial risk and to engage the necessary commercial and corporate expertise is through the creation of an arms' length vehicle such as a wholly-owned subsidiary company to hold and manage the commercial interests of a local government.*

Council operation of a business under such a framework would place a duty on the entity to operate at arm's length from the local government and to act independently of factors which may influence local government decision making (including political pressure). The business would remain subject to relevant legal and other requirements applicable to any other corporate entity.

#### **The CPP business**

Whilst the CPP business does not form part of the core functions of the City of Perth, the income generated from the business contributes significantly to the funding of core services provided by the City.

This extra income stream has allowed the City, for over 20 years, to undertake significant capital and operational works to improve and maintain the City. This is particularly relevant going forward as contributed assets from State Government due to completion of projects at Elizabeth Quay and Perth City Link will result in increased

operating costs (though any increase in rates revenue will also need to be accounted for).

Revenue from the parking business is a critical income stream for the City and until a substitute is identified, the maintenance of that income needs to be considered. The efficient operation of the parking business is therefore critical in any consideration of future funding of City of Perth services.

## **Effects of current legislation**

### Commercial inefficiency

As a business unit within the City of Perth, CPP is subject to restrictions and controls formulated to regulate the function of local government. Matters such as pricing, financial control, asset management, procurement, management accounting and decision making are subject to the confines of local government legislation, policy and procedure. These mechanisms do not necessarily accommodate the commercial nature of the business nor allow it to compete freely against competition in an open market. These provisions create significant hurdles to the commercially efficient use of assets and resources, and the conduct of trading activities on normal commercial terms.

Decision making in the context of price setting illustrates the constraints under which CPP operates. In accordance with the Act, the imposition of fees and charges may only be imposed and recovered with absolute Council majority. While private operators may alter fees at short notice to suit the market, CPP must adhere to Council meeting schedules.

Another example is the absence of full cost accounting. Restriction of CPP to City of Perth accounting and financial methodology results in lack of visibility and control in budgeting and expenditure.

Commercial efficiency is compromised when decisions are made within the framework of restrictive controls designed to regulate local government activity but which have limited relevance to commercial enterprise. Any compromise to commercial efficiency should raise questions about the efficient use of local government resources.

### Conflicts of interest

WALGA's 2017 Position Paper explains that the involvement of local government in property ownership and/or development beyond its traditional social reasons raises a number of issues regarding public perception and the relationship with the community. Potential conflicts and issues that may arise in the pursuit by local government of a commercial enterprise, were identified by WALGA as follows:



- *actual or perceived conflicts of interest between local government's role as a planning authority and as a property owner or developer;*
- *potential conflicts between political or social priorities of local government and its more commercial activities;*
- *conflict between the need for commercial confidentiality to achieve better returns and the responsibility for transparency and accountability to the residents and ratepayers;*
- *the appropriateness of any public authority undertaking commercial activities traditionally in the realm of the private sector;*
- *the management of financial risk when public or community assets are involved;*
- *decision-making processes which revolve around consultation and consensus that are not conducive to making commercial investment decisions.*

#### Unnecessary undertaking of risk

- **Commercial failure**  
The risk of commercial failure should be at the forefront of any decision by local government to undertake a commercial venture. The current statutory framework provides limited controls allowing local governments to place significant risk on assets and resources.
- **Probity**  
True probity at any level of government requires accountability and transparency for both regulatory and commercial activity. However, as WALGA stated in their 2017 Position Paper:

*it should be acknowledged that leaving valuable assets at the disposal of elected Councillors may create opportunities for those assets to be used in ways that are designed to assist the political interests of Councillors rather than always those of the ratepayers at large (the true owners of the assets). This potential problem is inherent in the accountability model of elected local government, by contrast with the general law of accountability for directors and trustees.*

*By contrast, directors and trustees are accountable at law on a continuous basis for ensuring that every decision they make is in the best interests of their shareholders or beneficiaries, and heavy legal sanctions apply to any breach of these duties.*

*It is therefore argued that placing the commercial activities of local government at arms' length from political influence - under the control of independent Boards made up of expert directors and the regulatory provisions of normal company or trust law – may produce outcomes that are less susceptible to corruption than the existing arrangements.*

- **Debt leverage**

It is common business practice to use debt as a means of spreading the cost of an asset and matching that cost to its revenue-generating capacity. Allowing local government to give security over defined assets may be a prudent measure to protect to a certain extent, ratepayers from commercial risk.

However, section 6.21 of the Act prohibits local governments from giving security over assets in relation to any borrowings by a local government. The only security which may be given is the general fund i.e. rates revenue. Debt cannot be secured against the value of a property in order to improve it. This constraint limits the scale of investment that can be undertaken and unnecessarily broadens risk to ratepayers.

## **Recommendation**

Section 3.60 of the Act directly restricts Western Australian local governments from structuring their operations to form optimal and efficient entities or trading vehicles including Government Trading Enterprises. Except for the Northern Territory, no other *Local Government Act* imposes the same restriction.

The City supports legislative change to allow for the formation of a beneficial enterprise by West Australian local governments.

As discussed in WALGA's 2017 Position Paper, the use of an arm's length entity is preferable to direct local government control of commercial activities, to optimize commercial efficiency, to minimise overt political influence, to ensure separation of regulatory and commercial decision-making, to minimise commercial risk to ratepayers and to ensure that decisions are based on rigorous analysis of the financial risks and returns.

Ultimately, any legislative change should seek to achieve the broader goal of structuring local government commercial entities to facilitate a fair financial return on community-owned assets to better finance community programs.

## **Additional Response Commentary – Beneficial Enterprises**

### **Questions 12-13**

The City strongly supports allowing the ability of local governments to form beneficial enterprises provided reasonable checks and balances are placed on this process. The financial health check appears to be a reasonable model for determining this. However, other limitations such as preventing smaller local governments from participating is not supported.

The City is supportive of community consultation in this process.

### **Question 14 – See table**

The City supports the ability to form a variety of beneficial enterprises provided those are subject to sufficient oversight. While the WALGA proposed model is supported the City is not opposed to additional mechanisms to allow for accountability and transparency and these could be tailored to limit unnecessary red tape.

Some of the proposals supported above may also be appropriate in an expanded shared services model which allows for commercial purposes. For example, a local government with significant expertise in an area could provide those services to other local governments and receive some profit in doing so.

### **Question 15 – See table**

The City supports the ability to lend funds to beneficial enterprises and seek loans from appropriate sources. Requiring the guarantee of debts is not in line with the WALGA supported model and would make local governments unable to separate risk from the community – this should be considered carefully.

### **Question 16 – See table**

The City does not oppose *either* the Minister or the Treasurer approving beneficial enterprises as both roles have relevant applicable knowledge but it does oppose any requirement to receive joint approval. This will create unnecessary red tape.

The City supports auditing and transparency in beneficial enterprises.

## Survey - Financial Management

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“Local government purchasing rules should be consistent with the State Government.”				X	
“Different procurement rules should apply to different local governments.”		X			
“Local governments with few staff or small operating budgets should have fewer procurement rules to comply with.”		X			

13. 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. **None. 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)

14. Should the regulations set a threshold that a CEO is permitted to spend without needing approval from council?

- a. Yes
- b. **No – should be set as part of the Council’s Delegated Authority limits**
- c. Unsure

15. 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 – see above comment**
- b. No
- c. Unsure

16. 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.”					X
“Local government should have fewer restrictions on their ability to invest surplus revenue.”					X
“Different local governments should have different investment powers and rules.”		X			
“Certain types of investments should require independent approval.”					X

17. Should local governments be required to give public notice in any of the following situations? (please select all options that should apply)
- Where a local government wishes to borrow money outside amounts listed in the annual budget
  - Where a local government has exercised its power to borrow for a purpose but no longer wishes to use the funds for that purpose
  - Where a local government has exercised its power to borrow for a purpose and has funding left over
  - Public notice is not required in any of these situations**
  - Unsure
18. Should local governments be permitted to secure loans using assets that they own freehold?
- Yes**
  - No
  - Unsure
19. Should local government be permitted to participate in Building Upgrade Finance programs?
- Yes**
  - No
  - Unsure
20. What types of upgrades should be eligible for the program?
- Environmental upgrades

- b. Commercial upgrades
- c. **Both environmental and commercial**
- d. Neither
- e. **Other (please specify)**  
**Rectification works for buildings with combustible cladding**

21. 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@dlgsc.wa.gov.au](mailto:actreview@dlgsc.wa.gov.au).

**See Submission on Building Upgrade Finance and additional Response Commentary**

## **Response Commentary - Financial Management**

### **Questions 12-13**

The City supports consistency in the legislation requirements affecting local government procurement but thresholds can be implemented to determine when legislative requirements must be undertaken.

### **Question 12**

In line with WALGA's position, the City supports increasing the tender thresholds to align with those of the State Government.

### **Question 16**

The City supports relaxing the restrictions regarding the type of investments a Council can make.

We would expect an appropriate governance structure such as an Investment Committee would be in place to monitor and advise on the Council's investment portfolio.

# Building Upgrade Finance

CM: 023080/2019

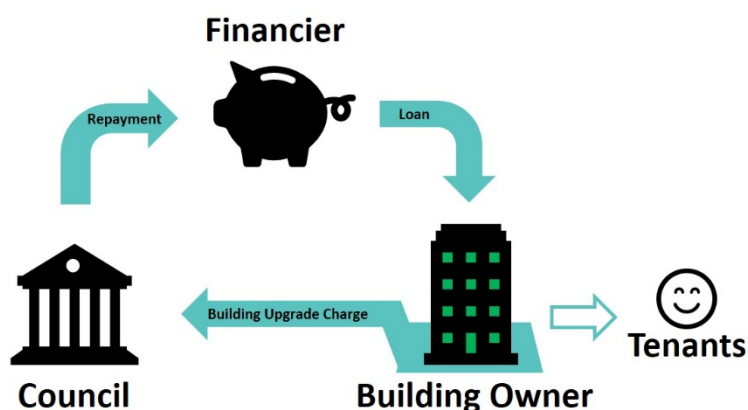
*Explanatory notes to accompany the City's submission on Building Upgrade Finance in the review of the Local Government Act 1995.*

## What is Building Upgrade Finance?

Building Upgrade Finance (BUF) is a mechanism that allows non-residential building owners access to funds from select commercial lenders to upgrade the sustainability performance of their buildings.

Loans obtained under BUF differ from standard commercial loans in the way the loan is repaid. In BUF, there is a financier, a building owner and a local government.

- The BUF-approved financier provides funds to a building owner to upgrade a building.
- The building owner engages consultants and contractors to design, manage and complete the upgrade in a way that creates operational savings in energy and/or water consumption.
- The local government collects the loan repayments and passes them onto the financier.



Loan repayments are collected from the building owner via a *Building Upgrade Charge* (BUC) levied by the local government against the land on which the building is situated. The BUC is paid quarterly by the building owner to the local government as repayment for the loan.

The BUC means that the loan is tied to the property rather than property owner. Responsibility to pay for the loan shifts if ownership of the property changes. In other Australian States that have employed this approach, the local government is not, by law, financially liable for any non-payment by the building owner. Local governments are required to use their best endeavours to recover the loan. As the loan is recovered via the same powers as rates or a service charge, in the event of non-payment, local governments have the same powers available to recover unpaid rates or service charges. This can include taking possession of the land and selling the property.

The BUC also secures the loan, making the loan 'senior debt' in the eyes of the financier in the event of a default. This means that should the building owner go bankrupt, the financier can be satisfied they will be paid back as a priority. Because of this reduction in risk, finance terms can be made more attractive than for standard commercial loans.

The building owner may choose to invite tenants to contribute to the repayments however this contribution must be equal to or less than the energy/water bill savings they receive. No tenant can be worse off because of BUF. Tenants therefore benefit from better amenity in a better building whilst



building owners benefit from an improvement to the value of their building. As tenants and owners can share in the costs and savings associated with BUF and the financier has the additional security of the BUC, it is a win-win-win for all parties.

### **Background – City of Perth and Building Upgrade Finance**

The City first began its investigation into the introduction of BUF in 2013 and conducted community consultation on the finance mechanism in 2014. During the process of local government amalgamations in 2014/15, consultation on BUF was paused.

With the development of the City of Perth Bill 2015, the City took the position that legislative change would enable the provision of BUF in the City of Perth local government area however these provisions were not included in the subsequent *City of Perth Act 2016*.

In 2017, the newly elected McGowan Government agreed to a review of the Local Government Act 1995, opening a window of opportunity to introduce BUF state-wide. Similar finance mechanisms have matured in Victoria, New South Wales and South Australia, imparting lessons for its introduction in WA.

Recognising the benefits of the finance mechanism, the City, the Property Council Australia and the national CitySwitch Green Office Program in WA partnered to raise the level of understanding of BUF in the commercial property sector across the State by holding information events and speaking at various industry gatherings.

In response to the Department of Local Government, Sport and Cultural Industries call for comments on BUF in the Financial Management Discussion Paper of the Local Government Act 1995 review, the City has created this submission in support of the introduction of BUF.

# **Submission on Building Upgrade Finance**

**Submission to Department of Local Government, Sport and Cultural Industries**

**For Inclusion in the City of Perth Submission on the Local Government Act 1995 Review**

## Introduction

The City of Perth (the City) is pleased to support and comment on the proposed changes to the *Local Government Act 1995* that would enable Building Upgrade Finance (BUF) for the purpose of improving the performance of non-residential buildings in WA.

The City strongly supports the introduction of BUF in WA, having first investigated implementation of the finance mechanism in 2013. Since then, similar schemes have reached maturity in Victoria, New South Wales and South Australia, and continue to grow in popularity each year. This submission draws on the experience of other the states as well as recent changes in the property industry that promote sustainability in commercial buildings. The City proposes that BUF would provide enormous opportunities to improve economic, environmental and social outcomes in WA as the result of a higher performing commercial building sector.

The City believes a BUF mechanism to finance upgrades to existing commercial buildings can:

1. Rejuvenate economic activity around buildings and precincts.
2. Boost the WA Economy.
3. Assist building owners to adhere to increasingly stringent sustainability requirements.
4. Reduce the energy, water and waste intensity of a building's operations.
5. Contribute to emissions reductions targets set by Australia under the UNFCCC Paris Agreement.
6. Create buildings that are adapted to a changing climate.

The City also supports widening the scope of a BUF mechanism to enable all building owners access to long-term, low-interest loans to pay for building work to rectify combustible cladding on their buildings.

### 1. Rejuvenating Economic Activity Around Buildings and Precincts

C-grade buildings make up 60% of the City of Perth's office building stock. These are typically unrenovated commercial offices built prior to 2000, with original HVAC systems, outdated technology and few amenities such as end of trip facilities and cafes. They are often further disadvantaged by poor links to major public transport nodes. Environmental performance ratings are either poor or non-existent<sup>1</sup>.

Perth has a relatively high ratio of private to institutional building owners. In the recent economic downturn, well-resourced institutional investors upgraded their buildings and offered generous rent reductions and incentives to attract and retain tenants. Many private owners who lacked the financial capacity to upgrade their buildings, and others who were debt free and wishing to remain that way, lost tenants and chose to leave their buildings empty.

In 2018, with many suburban businesses having migrated to newly affordable high-quality buildings in the CBD, vacancy rates in premium grade buildings fell to 4.1%. Vacancy rates in C-grade buildings remained high at 22.9% whilst B-grade buildings rose even higher to 31.6%. Vacancy rates in suburban centres such as Herdsman Lake and Subiaco jumped from single figures to 25% in less than a year<sup>2</sup>. Perth now has the highest vacancy rates of any capital city except for Darwin.

<sup>1</sup> City of Perth (2017). *C-Grade office case study: Exploring options for adaptive re-use in the central city*. City of Perth.

<sup>2</sup> Knight Frank (2018). *Office market report, August 2018*. Property Council of Australia.

BUF would allow lower grade building owners with limited financial capacity to attract tenants by improving their buildings' amenity and repurposing office space for alternative commercial purposes. Whilst improving environmental performance, heritage buildings could be made attractive for commercial purposes. These activities would assist to rejuvenate economic activity in precincts that have languished. Building owners would benefit from higher property values, lower vacancies and lower operating costs.

## **2. Economic Benefits to the WA Economy**

BUF can be an instrument for economic stimulation by reducing costs of energy consumption and supply; increasing activity in the construction sector; and increasing property values and council revenues.

The improvement in energy performance in buildings in Australia over the past decade has resulted in \$28 billion in avoided energy bills. The economic impact of these savings however, is likely to be substantially higher because of re-investment of energy savings back into the economy, often into additional energy saving measures that further compound these savings. For energy generators and distributors, every 1KW of peak demand reduction saves \$1,000 in electricity network infrastructure investment<sup>3</sup>.

Modelling for the introduction of Environmental Upgrade Agreements (EUA) in Adelaide, an economically comparable city to Perth, indicated that with a medium uptake of EUAs, there would be a capital investment of between \$287M and \$431M in the city, creating 1,150 to 1,735 jobs<sup>4</sup>. Further economic stimulus would occur through demand for building fabric, electrical, plumbing, lighting, HVAC and renewable energy products.

Energy efficient buildings are characterised by higher performance ratings which attract higher rental yields and up to a 21% premium in value for a 5 star NABERS building<sup>5</sup>. As building values rise, so does rate revenue (calculated on property value) for local governments which assists to raise the levels of service that local governments can provide.

## **3. Adherence to Sustainability Performance Requirements**

Sustainability performance requirements are becoming more stringent as government departments at federal, state and local levels, hone their focus on the Paris Agreement's net zero emissions target. Australia's two main building reporting platforms: Green Star and NABERS, having been incentivising property leaders to strive for emissions reductions for many years and now national compliance and reporting programs, state government policies and local planning laws are being tightened to bring along the rest of the market.

In May 2019, changes to the National Construction Code (NCC) will come into effect. These amendments include more stringent energy efficiency requirements for commercial buildings and will

<sup>3</sup> ASBEC (2018). *Built to perform: An industry led pathway to a zero carbon ready building code*. ASBEC & ClimateWorks Australia.

<sup>4</sup> ARUP (2012). *Quantifying the environment and economic opportunities from retrofitting commercial buildings across SA*. Melbourne: ARUP.

<sup>5</sup> World Green Building Council (2019). *The business case for green building: A review of the costs and benefits for developers, investors and occupants*. London: World Green Building Council.

significantly impact the emissions intensity of commercial districts. Each consecutive three-year review of the NCC will move buildings closer to the net zero goal<sup>6</sup>.

The Commercial Building Disclosure Program (CBD Program) requires Australian office buildings to publicly disclose their energy performance at the time of sale or lease. When the CBD Program commenced in 2011, only office buildings selling or leasing tenancy space over 2,000 sqm were required to report energy efficiency information. In 2016, this threshold was reduced to 1,000 sqm. In December 2018, the Commonwealth Government announced a review into the CBD Program that will consider extending reporting requirements to other forms of commercial building; requiring office tenancies to report (not just building owners); and switching to periodical reporting rather than reporting triggered by the sale or lease of commercial spaces<sup>7</sup>.

In late 2018, the City of Perth examined options for the inclusion of minimum environmental performance standards and the use of incentives to improve environmental performance through the City's Planning Scheme. These performance standards could apply to building retrofits meeting certain size and capital value thresholds.

The Western Australian Department of Finance stipulates sustainability performance requirements for State Government office accommodation. Government offices must meet Green Star and NABERS performance requirements above the national average performance for comparable offices<sup>8</sup>.

These examples of tightening building performance requirements raise issues of equity in the commercial market. Those building owners targeted by increasingly stringent regulations correlate with those least able to afford the cost of compliance, whilst at the other end of the market, more capable institutional building owners are capitalising on the advantages that high performance buildings and associated voluntary ratings provide.

BUF can therefore be a tool to overcome the most vocalised argument against increasing minimum performance standards for buildings: meeting the cost of compliance. Whilst nearly any commercial building owner would have access to BUF, it is most useful for those with the least financial capacity to make building upgrades, allowing them to undertake cash-flow positive projects without upfront capital, to ensure their buildings meet performance requirements.

#### **4. Reducing the Resource Intensity of Buildings**

Energy management practices in commercial buildings have been improving rapidly at the premium end of the market. The use of advanced metering, sensors, AI learning and big data analytics is allowing facility managers to fine tune energy performance for reduced energy costs and emissions. Even the changing nature in the way offices operate through practices such as activity-based-working is leading to energy savings.

Lower grade office buildings on the other hand, are on average, relatively poor performers in energy and water efficiency. They often lack facility management teams to undertake maintenance, plan upgrades, and manage changes to occupancy levels within a building. Studies suggest that with upgrades, many of these buildings have the capacity to perform on par with higher grade stock<sup>9</sup>.

<sup>6</sup> Australian Building Codes Board (2018). *NCC 2019 public comment draft version 1.2*. Canberra: The Commonwealth of Australia and States and Territories of Australia.

<sup>7</sup> Commercial Buildings Disclosure Program (2018). *Review of the Commercial Building Disclosure Program*. Canberra: The Commonwealth of Australia and States and Territories of Australia.

<sup>8</sup> Department of Finance (2018). *Government office accommodation standards*. Perth: Government of Western Australia.

<sup>9</sup> Savills (2018). *The mid-tier offices investment performance study*. Melbourne: Sustainability Victoria.

Water efficiency in commercial buildings demands attention in the effort to secure WA’s water supplies. Within metropolitan Perth, the commercial office sector was the largest non-residential consumer of water in 2017/18, using 1.6 million kL of scheme water. The City has estimated that water consumption in this sector could be reduced by 30% p.a. merely through cost effective small scale measures and changes to maintenance practices.

BUF would assist building owners to refurbish, upgrade or redesign buildings to use less energy and water. Green Star rated buildings consume 66% less electricity than the average Australian building and 51% less potable water than the minimum industry standards<sup>10</sup>. Upgrades leading to these savings can make BUF a cashflow positive exercise for building owners and the financial benefits can be shared between building owners and tenants. The structure of BUF which allows the tenant to share in the costs of the upgrades *and* the utility savings means that BUF overcomes a major barrier to upgrading the resource efficiency of buildings: the split incentive that exists when owners pay for upgrades but the tenant benefits from reduced utility bills.

## 5. Reducing Greenhouse Gas Emissions

Buildings produce one fifth of Australia’s greenhouse gas emissions. With its high density, buildings are responsible for 65% of emissions in the City of Perth, with 51% of those emissions coming from non-residential buildings. Whilst a 69% reduction in emissions below 2005 levels by 2030 is possible, current Australian Government policies are projected to only achieve an 11% reduction<sup>11</sup>.

Given the significance of building emissions, BUF can be regarded as an important and cost-effective carbon abatement tool to achieve Australia’s targets under the Paris Agreement. Energy efficiency upgrades and the installation of renewables provide the largest and cheapest source of emissions reductions, each accounting for around one third of Australia's abatement potential<sup>12</sup>.

South Australia’s modelling of BUF shows that an increase from a 2.5 star NABERS rating to a 5 star rating would reduce a building’s emissions by 55%<sup>13</sup>. Data from the CBD Program for buildings in the Perth LGA, confirms that potential, with an average reduction in emissions intensity of 50% for upgraded buildings.

Table 1: CBD Program data showing emissions reductions in buildings in the Perth CBD since 2011. Buildings listed are from the 6000 postcode and have improved from a 3 stars or less (below average) to 3.5 stars or greater.

Building	PCA Grade	Baseline Year	Emissions Intensity Before (kg CO2e/m2)	Baseline NABERS Base Building Rating	Most Recent Rating	Current Emissions Intensity (kg CO2e/m2)	Current NABERS Base Building Rating	Reduction
108 St Georges Terrace	A	2011	254	0	2018	73.75	3.5	71%
140 William St	Premium	2012	93.257	3	2018	39.017	5.5	58%
197 St Georges Terrace	A	2011	90.498	3	2018	49.698	5	45%
5 Mill St	A	2012	110.197	3	2018	49.729	5	55%

<sup>10</sup> Green Building Council of Australia (2019). *Why Green Star?*. [online] Available at: <https://new.gbca.org.au/green-star/> [Accessed 10 Jan. 2019].

<sup>11</sup> ClimateWorks Australia (2019). *Buildings: Could innovation in buildings help change our decarbonisation trajectory?*. Melbourne: ClimateWorks Australia.

<sup>12</sup> NABERS.gov.au. (2019). *Office energy ratings over time*. [online] Available at: <https://www.nabers.gov.au/data-gallery/office-energy-ratings-over-time> [Accessed 10 Jan. 2019].

<sup>13</sup> ARUP (2012). *Quantifying the environment and economic opportunities from retrofitting commercial buildings across SA*. Melbourne: ARUP.

95 William St	B	2015	82.876	3	2018	54.504	4.5	34%
1 William St	A	2014	99.012	3	2019	52.459	5	47%
2 Mill St	A	2012	97.161	3	2018	43.799	5	55%
219 St Georges Terrace	A	2013	93.218	3	2018	60.933	4.5	35%
								<b>Average 50%</b>

These savings however, have been achieved by the premium end of the market. When all building grades are considered, the average building emissions in WA only fell by 32% over the same period<sup>14</sup>. The premium end of the market is driving emissions reductions yet it is the lower grade buildings, in their greater numbers, that have the most potential for cost-effective improvement. BUF could stimulate this end of the commercial market to bring down the average emissions intensity of buildings across the sector.

## 6. Adapting Buildings to Climate Change

Future climate projections by the CSIRO and Bureau of Meteorology for Perth and the South West, indicate that average temperatures will continue to increase; there will be more hot days; rainfall will continue to decrease; extreme rainfall events will become more intense; mean sea level will continue to rise; the height of extreme sea-level events will increase; and fire-weather will intensify.

The changing climate will have both acute and long-term impacts on buildings. The current and projected changes to our climate demands that WA's commercial buildings protect occupants from more frequent and intense weather events, whilst operating more efficiently. The projected climate will increase the use of electricity and water for cooling as exterior facades of buildings absorb, store and transfer more heat to interiors. Higher temperatures will accelerate degradation and weathering of buildings, increasing maintenance costs. Increased frequency and intensity of bushfires will increase the number of poor air quality days over populated areas, necessitating the need for more energy intensive fine air filters in building HVAC systems and increasing HVAC maintenance costs. Sea level rise and extreme rainfall events will create challenges from inundation and erosion. The intrusion of salt water or mineral rich ground water creates further damage to car parks, basements and building foundations.

These pressures make poor performing buildings a public health issue. Buildings are no longer fit for purpose when the design, construction or upkeep of the building means that the indoor environment conditions are inadequate to maintain the safety and comfort of the occupants. Poor indoor environment quality is also an economic issue. Commercial buildings that perform poorly, impact on the productivity and profitability of the businesses within them. Poor air quality, lighting, acoustics, thermal comfort and a range of other factors can all be addressed through BUF.

BUF can provide building owners and managers with a better capacity to mitigate and manage risks to buildings; assure continuity of business operations (for example, during weather related disruptions to electricity, water or transport networks); share in the financial benefits from lower operating costs of HVAC and reduced insurance premiums; build on reputational benefits with external stakeholders; and create spaces with higher appeal to renters<sup>15</sup>.

<sup>14</sup> NABERS.gov.au. (2019). *Office energy ratings over time*. [online] Available at: <https://www.nabers.gov.au/data-gallery/office-energy-ratings-over-time> [Accessed 10 Jan. 2019].

<sup>15</sup> United Nations Environment Programme (2012). *Business and climate change adaptation: Toward resilient companies and communities*. New York: United Nations Global Compact Office.

## Case Study

There are several documented case studies on the application of BUF in other states. The following case study reflects the benefits of BUF to building owners and tenants from the upgrade of a B grade building in the Sydney CBD which is analogous to building stock in the Perth CBD.

St James' Hall, 169 Phillip Street, Sydney, is a 15-storey office building with ground floor retail. The total net lettable area of the building is 5,200 sqm, hosting 11 tenants managed by JLL. It was built in the Brutalist style of architecture in 1964 and refurbished in 1991.

In 2014, the Anglican Church Property Trust Diocese of Sydney who own the building, engaged Eureka Funds to finance a building upgrade using Environmental Upgrade Finance – New South Wales's name for BUF.

Through Eureka, finance to the value of \$877,000 was acquired from the National Australia Bank and Clean Energy Finance Corporation. Of this funding, \$700,000 was used for capital works and \$177,000 was for administrative costs.

The term of the finance was seven years with payments made quarterly through council rates via an Environmental Upgrade Charge placed on the property by the City of Sydney.

The building received a lighting upgrade; two new chillers; variable speed drives; and a new building management system. These works reduced energy costs and outgoings by 30%. Greenhouse gas emissions savings equal 340 tonnes annually.

Under a standard commercial loan, the owner would not receive any benefits from energy savings and the tenants would not contribute to the cost of the project. Under BUF, the tenants contribute to the project repayments from the energy savings accrued, reducing the total project cost for the owner.

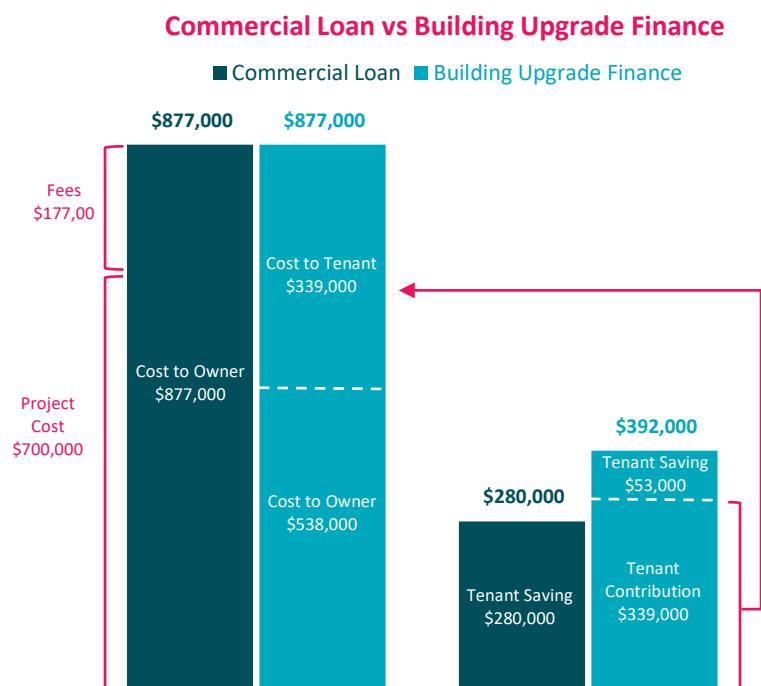


Figure 1: A commercial loan compared to BUF showing a significant difference in the overall cost of the project to the owner over the life of the project.



## Cladding Rectification Agreements

As the West Australian State-Wide Cladding Audit nears completion it is timely as part of the review of the *Local Government Act 1995*, to consider widening the scope of BUF so that it does not just allow non-residential building owners to access funds to upgrade the sustainability performance of their buildings but it also enables all building owners access to long-term, low-interest loans to pay for building work to rectify combustible cladding on their buildings.

New reforms were introduced in Victoria in 2018 to reduce the cost of removing dangerous combustible cladding from buildings with changes to their Local Government Act that will create Cladding Rectification Agreements (CRA). BUFs could be divided into Environmental Upgrade Agreements and CRAs.

CRAs would be voluntary arrangements between owners (or strata bodies), lenders and local governments. The lender will loan the funds to an owner or the strata body and loan repayments will be charged via the owners' rates over a minimum period of ten years. A local government may enter into a CRA in respect of rateable land with an existing building on it, to fund works that rectify combustible cladding on buildings.

Any owners requiring financing to undertake cladding rectification works could be eligible for a CRA.

As with the Victoria model, strata bodies could enter a CRA, subject to having written approval from at least 75% of lot owners in the affected building. Loan repayments are distributed across all owners in the agreement based on their individual lot entitlement. As the CRA will be declared a rate on the land, if the property is sold the responsibility for repayment will pass to the new owner.

The strata body would be responsible for coordinating agreement from owners, liaising with lenders, managing the CRA on behalf of owners, and overseeing the rectification works until they are completed.

Works to improve building fire safety that could be funded through a CRA could include:

- removal or replacement of combustible building cladding;
- installation of fire breaks in cladding;
- extension or installation of an automatic suppression (sprinkler) system;
- installation of smoke or fire isolation or extraction systems;
- removal of combustible material in lobbies and paths of travel;
- installation of smoke detectors;
- upgrade or installation of an alarm system;
- installation of emergency lighting and exit signage;
- installation of a Fire Indicator Panel;
- installation of fire containment measures such as fire walls and fire doors;
- installation of alternative means of egress (exit);
- removal or isolation of ignition sources;

- upgrading of Essential Safety Measures in a building to provide additional risk reduction measures;
- installation of enhancements identified by DFES following an Operational Assessment; and
- any other cladding rectification works determined by the WA Building Commission.

## **Summary**

The City supports the introduction of BUF through the Local Government Act review, believing that BUF can unlock significant economic, environmental and social opportunities for commercial districts across WA by removing the barriers that have hampered investment in non-residential buildings: access to capital, particularly for private investors, and the split incentive where building owners incur the cost of upgrades and the tenant receives efficiency benefits. The proposed addition of Cladding Rectification Agreements would reduce financial barriers to rectification works which would improve public safety.

The City supports BUF as a way to engage and support the private owners of lower grade properties, identifying this part of the market as having great potential yet in need of the most support, whilst also encouraging our top performing buildings to continue to show leadership in the push towards net zero buildings. The City would be happy to engage further to assist in the drafting of the necessary legislation to make BUF available in WA.

## Survey - Rates, Fees and Charges

12. 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

13. Do you support the following statements?

	Yes	No	Unsure
"Local governments should be required to prepare a Rates and Revenue Strategy each financial year."	X		
"The value of the property should continue to be used to partially determine the value of the rates payable."	X		
"Local governments should be required to advertise all of their proposed rates and consider any submissions made, prior to adopting their budget."	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."	X		
"All types of rateable property should pay the same rate in the dollar, regardless of how the land is used."		X	

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

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

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

	Yes	No	Unsure
Residential	X		

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

Other (please specify) **Office**

16. 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

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

**A charge over the land**

18. 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.”				X	
“Local governments should be permitted to rate long term vacant properties differently to land that is being used.”					X

“Local governments should be permitted to rate holiday houses, timeshare properties or AirBNB properties differently.”			X		
“A lower rate in the dollar should apply to land used for exploration and prospecting compared to land used for mining.”			X		

19. 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)

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“All land should be subject to rates.”				X	
“The types of land subject to rates should be consistent between local governments.”				X	

21. 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		X	
Land used or held exclusively for churches (religious bodies)		X	
Land used or held exclusively for schools		X	
Land used exclusively for charitable purposes		X	

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

22. 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)

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

**The Council should have the option to grant a concession depending on circumstances**

	Yes	No	Unsure
The land is owned by a person who currently receives a pensioner or health related concession	X		
The land is owned or used by a not-for-profit organisation	X		
The land is owned or used by an entity that provides assistance or encouragement for arts or cultural development	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	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	X		

The payment of rates or charges will cause hardship to the land owner	X		
The concession will encourage the economic development of all or part of the local government district	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	X		
Land that is subject to a mining tenement	X		
Land that is determined by the Minister to be subject to a concession	X		

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

**No**

25. 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)

26. 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."				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> ."				X	
"Land used as a residence should not be regarded as charitable."				X	

27. To what extent do you support these 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.”					X
“Local governments should be able to vary fees and charges at any time without advertising the change.”				X	
“Local governments should have the autonomy to set fees and charges for all services they provide.”				X	
“Services that are consistent across local governments should have the same fees or charges.”		X			
“Local governments should not set a fee or charge higher than the cost of delivering that service.”		X			
“A fee or charge should not be set lower than the cost of delivering that service.”		X			
“Fees and charges imposed by local government and fixed under legislation should increase by CPI annually.”		X			

28. 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](mailto:actreview@dlgsc.wa.gov.au).

**Additional commentary in position paper**



## **Position Paper - Rates, Fees and Charges**

### **Rates**

#### **Questions 12-16, 20-26**

The City is supportive of the proposal for local governments being required to prepare a Rates and Revenue Strategy each financial year. This assists in transparency and provides clarity.

The City supports the position that there should be limited exemptions for rates but that Council may determine to waive rates or set a lesser or differential rate for in the circumstances it believes are appropriate.

All properties within the district, including those under a rating exemption, receive some benefit from local government services. Therefore, payment of waste and minimum services fees is appropriate unless Council determines to waive these fees too.

Setting rigid categories of rating exemptions and property types under legislation can lead to inappropriate exemptions or applying a differential rate that is not suitable in all circumstances. Organisations may fall between categories such as charitable and commercial or while being commercial produce a clear community benefit. It is difficult for legislation to effectively categorise the variety of uses and organisations types to ensure the rates are appropriate in all circumstances. Allowing the Council to determine to waive rates and charges or determine differential rates where it believes it is appropriate will allow for a nuanced approach. As long as the process is transparent and accountable this should support meeting community needs in a fair and equitable manner.

#### **Question 17**

The City supports similar mechanisms to recovery in exploration and mining leases as those currently existing, particularly charges over land and commencing proceedings.

#### **Question 18 – see table**

- The City has given a neutral response in relation to rating holiday and AirBNBs differently as it believes that AirBNBs used primarily as a residence but occasionally listed for short stays should generally be treated the same as a primary residence for rating (compliance with other legislation being a separate matter). However, other scenarios may be appropriate for separate rating.
- The City has given a neutral response in relation to rating exploration and prospecting at a lower rate than mining as it does not have mining or exploration areas within its district.
- Location based rates are supported as long as that rate is clearly justified for that location in an open and transparent manner. This could be achieved via the proposed Rates and Revenue strategy.

**Question 19**

With the provision of a clear rates strategy to the community providing a clear rationale for differential rates, Ministerial approval should not be necessary.

**Question 27**

The City supports the ability to have additional autonomy in relation to fees and changes to reduce the circumstances where the City is delivering services but cost but has not determined itself that it is appropriate in the circumstances. There may be circumstances where a higher or lower fee is appropriate based on value, community needs and competition. The local government is normally in the best position to know what costs it is incurring in delivering services and should have some ability to influence fees charged.

The City supports removing advertising requirements for fees to allow the City to immediately implement changes and be more agile. Fees should be open, transparent and easily located but the delay in implementing moderate fee changes is unnecessary.

## Survey - Administrative efficiencies

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"All local governments regardless of their size should have the same level of powers and responsibilities."		X			
"The functions of the Grants Commission and the Advisory Board should be combined under one Board."			X		
"Membership of the Local Government Advisory Board and the Local Government Grants Commission should be required to be drawn from specific geographic locations, for example, metropolitan Perth as well as regional and remote Western Australia."		X			
"Prior to conducting a poll to change the method of election of the Mayor/President from election by electors to election by the council, the local government should be required to draft the question and summaries and submit the question to the Advisory Board."		X			
"The Advisory Board should not assess a proposal for changes to boundaries that does not meet the minimum requirements."				X	
"The petition of affected electors should require each signatory to sign an acknowledgement that they have read the summary of the proposal and have seen a plan or map detailing any proposed changes."				X	
"The affected local government(s) should be provided with a copy of the proposal prior to it being submitted to the Advisory Board."				X	
"The applicant should be able to withdraw a proposal at any time prior to a recommendation being made to the Minister, providing there are circumstances which, in the				X	

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
Advisory Board's view, warrant withdrawal of the proposal."					

13. Currently a proposal to the Advisory Board from the community must be signed by 250 people or 10% of the community whichever is less. Should proposals from districts with a population over 5,000 be increased to 500 signatures?
- Yes
  - No
  - Unsure
14. To what extent do you support the following statements?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"People need the power to impound stray cattle."			X		
"Local governments need the power to impound stray cattle."			X		
"People need the power to detain and dispose of stray goats, pigs and poultry."			X		
"Offences that apply to pound keepers should also apply to similar facilities maintained by local governments, for example cats and dogs."				X	

15. Which of the following pieces of information should be provided by local governments to the Department and the Minister for Local Government?

Section		Yes	No	Unsure
s 4.79	Provide a report on the result of an election (ordinary or extra-ordinary election)	X		
s 5.3	Advise of the failure to hold council meetings within the last 3 months	X		
s 7.12A	Provide a copy of the report that addresses the issues identified in the audit report	X		
LG (Audit) Reg 14	Provide a copy of the compliance audit report	X		
LG (Audit) Reg 15	Provide a certified copy of the compliance audit return		X	
LG (Constitution) Reg 11FA	Provide a report on the result of an election (election of Mayor/President and Deputy Mayor/President)	X		
LG (Constitution) Reg 11H	Advise the outcome of the Court of Disputed Returns (election of Mayor/President and Deputy Mayor/President)	X		
LG (Constitution) Form 2	Request for a poll on a recommended amalgamation	X		
LG (Elections) Reg 86	Advise the outcome of the Court of Disputed Returns (ordinary or extra-ordinary election)	X		
LG (Financial Management) Reg 33	Provide a copy of the annual budget	X		
LG (Financial Management) Reg 33A	Provide a copy of the review and determination of the reviewed annual budget	X		
LG (Financial Management) Reg 51	Provide a copy of the annual financial report	X		

16. Which of the following decisions should be made by the Minister?

Section		Yes	No	Unsure
s 2.25	Approval for a leave of absences greater than six consecutive council meetings	X		

Section		Yes	No	Unsure
s 3.53	Ordering which local government is responsible for managing a facility that is located within two or more districts (only when the local governments themselves do not agree about how to manage the facility)	X		
s 3.59	Commencing or undertaking a major land transaction or trading undertaking (as required under the regulations)		X	
s 3.61	Establishing a regional local government	X		
s 3.65	Amending the establishment agreement of a regional local government		X	
s 3.69	Establishing a regional subsidiary	X		
s 3.70	Amendment to a regional subsidiary's charter		X	
s 5.7	Reducing the number of people required for a quorum or absolute majority	X		
s 5.69	Approval to participate in a meeting (after disclosing an interest)	X		
s 5.69A	Exemption from some or all disclosure of interest requirements for committee members	X		
s 6.35	Minimum payment of rates on vacant land	X		
s 6.74	Approval to re-vest land to the State for non-payment of rates	X		
s 9.63	Direction to two or more local governments on how to resolve a dispute	X		

17. How should the following decisions be resolved by council?

Section		Simple Majority	Absolute Majority	Unsure
ss 3.12 & 3.16	Making local laws		X	
s 3.59(5)	Undertaking major land transactions or major trading activities		X	
s 4.17	Deciding if a councillor's seat should remain vacant prior to the next ordinary election (if the		X	

Section		Simple Majority	Absolute Majority	Unsure
	vacancy occurs between January and July in an election year)			
s 4.20	Appointing the Electoral Commissioner to conduct an election or appointing a returning officer	X		
s 4.57	Appointing a person to be a Councillor if no nominations are received twice for a vacant position		X	
s 4.61	Deciding if an election should be a postal election	X		
s 5.8	Establishing committees to assist council in the performance of powers and duties		X	
ss 5.10 & 5.11A	Appointing members (and deputies) to a committee		X	
s 5.15	Reducing the number of offices required to form a quorum at a committee meeting (if required)		X	
s 5.16	Delegating or revoking any local government powers and duties to a committee		X	
s 5.36	Decisions on CEO's employment contract		X	
s 5.42 & 5.45	Deciding to delegate powers or duties to the CEO (and revoke this delegation)		X	
s 5.54	Accepting the annual report for a financial year	X		
s 5.98A	Deciding to pay the deputy mayor an additional allowance		X	
s 5.99	Deciding to pay council members the prescribed minimum fee or a fee within the prescribed range		X	
s 5.99A	Deciding to pay council members an annual allowance or an allowance that has been set for expenses		X	
s 6.2	Preparing and adopting a budget for the financial year		X	

Section		Simple Majority	Absolute Majority	Unsure
s 6.3	Imposing a supplementary general rate or specified area rate		X	
s 6.8	Spending money from the municipal fund that was not in the annual budget		X	
s 6.11	Changing the purpose of a reserve account		X	
s 6.12	Granting a discount for the early payment of money, waiving or granting concessions, or writing off any amount owed to the local government	X		
s 6.13	Deciding to require a person to pay interest on an amount owed to a local government	X		
s 6.16	Imposing (or amending) a fee for goods or services	X		
s 6.20	Deciding to borrow and spend borrowed money		X	
s 6.32	Imposing a general rate on rateable land or a supplementary general rate in an emergency		X	
s 6.46	Granting a discount or other incentive for the early payment of any rate or service charge	X		
s 6.47	Deciding to waive a rate or service charge	X		
s 6.51	Deciding to impose interest on a rate or service charge or costs of proceedings to recover amounts unpaid	X		
s 7.1A	Appointing audit committee members		X	
s 7.1B	Delegating powers and duties to the audit committee		X	
Sch 2.2 clause 4	Deciding to propose to the Advisory Board that a submission should be rejected or dealt with as a minor matter that does not require public submissions		X	
Sch 2.2 clause 5	Making a proposal to the Minister or the Advisory Board to change the name of a district or ward		X	



Section		Simple Majority	Absolute Majority	Unsure
Sch 2.2 clause 9	Making a proposal to the Advisory Board to change ward boundaries, the name of the district or wards, or the number of councillors		X	
LG (Admin) Reg 10(2)	Deciding to revoke or change a decision made by absolute majority		X	
LG (Admin) Reg 14A	Deciding to approve a member to be present at a meeting via telephone		X	
LG (Admin) Reg 19C and 19DA)	Adopting a strategic community plan and corporate business plan		X	
LG (Financial Management) Reg 33A	Determining whether to adopt a review of the budget or recommendations in the budget review		X	

18. Which regulatory measures within the Act should be removed or amended to make the legislation more efficient? Please provide detailed analysis with your suggestions.

**Response:**

The City supports several of the administrative efficiencies outlined in the Department's position papers for the phase one review. This includes the more consistent gift disclosure model, the removal of senior employees from the Act, and the proposal to make authorisations more consistent over legislation.

In addition, as noted in our elections submission, the City believes the requirement that removes occupiers from the electoral roll after two elections and six months, which requires those persons to reapply should they wish to remain on the roll, is inefficient. It also leads to a drop in participation through the re-enrolment process.

This should be replaced with a requirement that the CEO is responsible for maintaining the roll. This will allow the CEO to conduct checks without forcing people to reapply. It will also prevent people being unable to participate despite remaining eligible if they were unaware that they have been removed.

## **Position Paper - Administrative Efficiencies**

### **Question 12 – See table**

The City supports measures that increase the administrative efficiency of the Advisory Board such as being able to refuse incomplete submissions and allow withdrawal of proposals.

The City supports the Advisory Board retaining its role in relation to drafting the question and summaries for a proposal to change between council elected Mayors to popularly elected Mayors as it is independent. Additionally, the question and summaries appear relatively standard and it is unclear if any administrative efficiency is being added to the process.

The City does not object to the Grants Commission and the Advisory Board being combined provided any new Board has the capacity to consider matters efficiently and effectively. Its composition should be based on merit, while representation of regional and metropolitan councils is ideal, this should not be the primary factor in appointment.

The City supports requirements that help ensure petition signatories have been provided with adequate information to make their decision.

The affected local governments being provided with a copy of the proposal is supported to allow it to be aware of the proposal and make appropriate submissions.

The City supports the Department increasing its capacity building functions to support all local governments in following appropriate processes, being accountable to their community, and meeting community needs.

### **Question 13 - Currently a proposal to the Advisory Board from the community must be signed by 250 people or 10% of the community whichever is less. Should proposals from districts with a population over 5,000 be increased to 500 signatures?**

The proposal is supported as it is more representative of larger districts and thresholds should be linked to the population size.

### **Question 14 – See table**

As the City is a very urban environment there has been limited experience with impounding stray cattle or detaining and disposing of stray goats, pigs and poultry. Given this, we have given a neutral response to allow the local governments and communities that experience these circumstances to consider the impact and need. Our only comment is that both impounding and disposal should be consistent with other animal welfare legislation.

The City supports requiring local governments with pound keeping facilities being held to the same standards as pound keepers. However, some offences themselves appear outdated, such as s. 454 of the *Local Government (Miscellaneous Provisions) Act 1960*.

### **Question 15 – See table**

The City supports information being provided to the Department and the Minister for Local Government to ensure accountability and transparency. The only exclusion is providing a

certified hard copy of the annual compliance audit return (CAR) in addition to the report. This appears to be an unnecessary duplication that does not clearly add to the reporting process, especially as the CAR needs to be evidenced by a copy of the relevant Council minutes.

**Question 16 - See table**

- The Minister has an important role in resolving disputes between local governments without the need for costly legal action. This role is supported to continue.
- In relation to regional local governments and regional subsidiaries, it is reasonable that the Minister have oversight over the establishment of a multi local government agreement. However, amendments to the charters or establishment agreements should not require Ministerial approval unless they are significant, such as changing the purpose of the body.
- The Minister's role in determining whether persons should participate or allowing a reduced quorum provides an independent response to deal with unusual circumstances where there may be some conflict of interest.
- The Minister's role in determining minimum rates for vacant land is only in circumstances where the local government requests to Act outside of the legislated process. However, in line with response to the rates, fees and charges survey the decision making could be made by Council if done via a clear and justified process through a rates and revenue strategy.

**Question 17 – See table**

The City has supported the majority of absolute majority decisions to be retained as they relate to significant decisions that Council should have a stronger consensus on. They include major financial decisions, making legislation, and delegation of its functions.

The following are proposed to be changed to a simple majority:

- Appointing the Electoral Commissioner to conduct an election or appointing a returning officer.
- Deciding if an election should be a postal election.
- Granting a discount or other incentive for the early payment of any rate or service charge.
- Deciding to waive a rate or service charge.
- Deciding to impose interest on a rate or service charge or costs of proceedings to recover amounts unpaid.
- Granting a discount for the early payment of money, waiving or granting concessions, or writing off any amount owed to the local government.
- Deciding to require a person to pay interest on an amount owed to a local government.
- Imposing (or amending) a fee for goods or services.
- Accepting the annual report for a financial year.

## Survey - Local Laws

12. Should any of the following topics covered by local laws be replaced by state-wide regulations?

	Yes	No	Unsure
Activities on thoroughfares and trading		X	
Beekeeping		X	
Cemeteries		X	
Dogs		X	
Cats		X	
Extractive industries		X	
Fencing		X	
Bush fire brigades		X	
Meeting procedures (standing orders)		X	
Pest plants		X	
Public places and Local Government property		X	
Parking		X	
Waste		X	
Urban environment and nuisance		X	
Other (please specify)		X	

13. Should model local laws be prepared by State Government for local governments to use?
- Yes**
  - No
  - Unsure
14. Should local governments be permitted to adapt the contents of model local laws?
- Yes
  - No**
  - Unsure

15. Currently a local government is required to consult for a period of six weeks. If a local government adopts a model local law without modification, how long should the mandatory consultation period be?
- Less than 6 weeks
  - Greater than 6 weeks
  - 6 weeks as it is currently**
  - The requirement for public consultation should be removed entirely
  - A duration determined by council
16. If a local government is seeking to adopt a model local law that it has modified, how long should the mandatory consultation period be?
- Less than 6 weeks
  - Greater than 6 weeks
  - 6 weeks as it is currently**
  - The requirement for public consultation should be removed entirely
  - A duration determined by council

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"The Department should continue to provide comment on proposed local laws prior to consideration by Parliament's Joint Standing Committee on Delegated Legislation."					X
"Local governments should be required to modify proposed local laws according to the instructions of the Department."		X			
"Local governments should be required to have a legal practitioner certify that a local law is within power and legally enforceable."		X			

18. Should local governments be required to periodically review their local laws?
- No
  - Yes, every 6 years or less
  - Yes, every 8 years**
  - Yes, between 8 and 10 years

19. Do you have any additional comments on the topic of local laws? Additional information can also be provided to the review team via email at [actreview@dlgsc.wa.gov.au](mailto:actreview@dlgsc.wa.gov.au)

**Position paper attached**

## **Position Paper – Local Laws**

### **Commentary on responses**

#### **Question 12 - Should any of the following topics covered by local laws be replaced by state-wide regulations?**

It is generally preferred to have model local laws that can be adopted rather than state-wide regulations so that there is the opportunity for more consistency within local laws without unnecessary regulatory prescription.

#### **Question 13 - Should model local laws be prepared by State Government for local governments to use?**

Model law laws are supported to allow local government to adopt appropriate laws that are of the standard expected by the state but also can allow for some community adaptation.

#### **Question 14 - Adaptation of model local laws**

The City support local laws being adapted to community needs via determinations. Determinations could allow overall consistency in local laws and adaptation to community needs.

To allow for an appropriate process and review, determinations should be subject to community consultation requirements and be able to be challenged by the Joint Standing Committee on Delegated Legislation (JSCDL). However, other than by determinations, modifications to model local laws is not supported.

This process should allow for some mechanism to amend penalties as the impact of some offences on the can be more severe depending on the location.

#### **Question 15-16 - Model local laws consultation.**

Community consultation is supported for all local laws, including unmodified model local laws, as the community may have concerns specific to their community.

A shorter timeframe for consultation on model local laws would be more supported if the model local laws are the subject of community consultation when developed. If this community consultation in development occurs, the City is supportive of shorter timeframes to increase administrative efficiency.

#### **Question 17 - Department comments**

The Department's recommended changes are generally adopted, and is best practice to amend in accordance with the Department's advice. However, occasionally a local government has justifiable reasons, including reasoning supported by legal advice, for not adopting changes suggested by the Department.

In such circumstances, the Department's comments and the local government's justification for not adopting such as change should be included in its submission to the JSCDL. The Committee can then consider whether to disallow the local law or require undertakings.

The Department should not step away from its role of providing comment on local laws unless the role is taken over by an appropriate alternative body with relevant expertise. The

guidance and commentary provided by the Department helps to avoid local governments submitting and gazetting inadequate local laws. This could include the JSCDL or the State Solicitor's Office.

Just as the JSCDL Reports are a key resource, the Department's feedback on local laws provided to individual local governments are a useful tool for other local governments when commencing a review. If the Department published its responses on types of local laws other local governments could easily refer to the advice and avoid similar issues reoccurring.

#### **Question 17 - Certification**

Certification may be an expensive process depending on the complexity of the local law, and this is on top of public advertisement fees and gazettal. While certification may assist in ensuring local laws are of a high standard and may assist in avoiding unnecessary disallowances, local governments can normally determine whether the law is of a level of complexity requiring legal review.

In particular, certification of local laws should be unnecessary for an unmodified model local law.

#### **Question 18 - Review timeframe:**

Reviews of local laws should occur on an as needed basis. However, without a timeframe requiring review local laws may be left unreviewed due to the time and resources that must be dedicated to a review.

Eight years is a reasonable minimum timeframe. While some local laws will require more frequent review this can be determined by the relevant local government.

#### **Additional comments**

The referral to the JSCDL is normally the last step in the local law process, after the local law has been adopted and gazetted. It occurs after costs and significant time has been expended and the local law is normally operative for some time before the JSCDL makes its comment. A disallowance at this stage will require the entire process to recommence.

Opportunities to address this may be:

- Promoting early referral to the JSCDL for comment or having the process amended so that the JSCDL is to comment prior to allowing the law to be gazetted;
- Publication of Department feedback in a centralised location for educational purposes.



## Survey - Council Meetings

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very Supportive
"The process for public question time should be consistent between councils."				X	
"Public question time is an important feature of council meetings."				X	
"People unhappy with the quality of the answer given at public question time should be able to escalate the matter to an independent person."				X	

13. Should council members be able to participate in meetings remotely?

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

If yes, how?

Both telephone or video conferencing are appropriate.

Limitation should be in place to ensure the secrecy of voting on matters such as Deputy Mayoral elections.

14. Could General Electors Meetings be combined with or held consecutively with an Ordinary Council Meeting?

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

15. Should Council Meetings be live streamed?

**This should be at the discretion of Council.**

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“Legislation should set rules for recording confidential items in minutes.”				X	
“Local governments should be required to publish unconfirmed council meeting minutes prior to the local government’s next council or committee meeting.”				X	
“The CEO rather than the Presiding Member should be responsible for the minutes of council and committee meetings.”				X	
“The rule concerning council’s ability to revoke or change a decision should be amended to clarify that it only applies to decisions that are yet to be implemented.”			X		

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“The requirement to hold an annual electors meeting should be removed.”		X			
“The ability to call a special electors meeting should be removed.”		X			
“The number of times that a special electors meeting can be called on the same matter should be restricted.”				X	
“The number of electors required to hold a special electors meeting should be increased.”				X	

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“The Local Government’s standing orders should apply to special electors meetings.”				X	
“The way special electors meetings are conducted should be uniform between local governments.”				X	

18. Do you have any additional comments on the topic of council meetings?  
 Additional information can also be provided to the review team via email at [actreview@dlgsc.wa.gov.au](mailto:actreview@dlgsc.wa.gov.au).

## **Position Paper - Council Meetings**

### **Question 12 – See table**

- The City generally supports consistency in public question time between local governments. However, while minimum standards should be maintained and a fair and equal process ensured, some flexibility should be maintained to ensure the needs of the community are met.
- The City supports public question time. It is an opportunity for public participation in an open forum which aligns with the City's commitment to accountability and transparency.
- People unhappy with the quality of the answer given at public question time should be able to escalate the matter to an independent person, after first raising their concern with the quality with the organisation and allowing appropriate internal processes to occur. For example, the City employs an external Ombudsman that can assist in reviewing complaints.

### **Question 13 - Should council members be able to participate in meetings remotely?**

Yes, if Council determines to allow this. While there may be technical and practical challenges to consider, remote participation increases accessibility and inclusion by reducing barriers for participation in public office.

#### **If yes, how?**

Both telephone or video conferencing are appropriate. Limitation should be in place to ensure the secrecy of voting on matters such as Deputy Mayoral elections.

### **Question 14 - Could General Electors Meetings be combined with or held consecutively with an Ordinary Council Meeting?**

Yes. As long as there is sufficient notice to the public of which meeting is the General Electors' Meeting and the same opportunities to participate are available to the public there is no objection to the meetings being combined.

### **Question 15 - Should Council Meetings be live streamed?**

The City does not support making livestreaming mandatory. Livestreaming should be at the discretion of Council. Livestreaming increases accessibility to council meetings and may increase participation. However, there are also financial and operational costs to consider in this process as well as general legal concerns such as avoiding the publication of defamatory statements.

The City currently records its Council meetings and publishes them by close of business the following day as part of its commitment to transparency.

### **Question 16 – See table**

- Clarity in the processes for confidential minutes is supported. If this can be achieved through guidelines and education that is also supported.
- Publishing unconfirmed minutes prior to the next meeting supports clarity in decision making.

- The responsibility of minute keeping is an administrative function. The City supports this being the responsibility of the CEO rather than the Presiding Member.
- The City supports clarity in decision making and revoking a decision that has been implemented may have both financial and legal consequences. However, careful consideration should be given to what constitutes implementation of a decision as, there may be decisions that may be reversed without affecting individual rights or causing undue burden.

**Question 17 – See table**

The City does not support the removal of annual electors' meetings. It reinforces transparency and accountability which the City is committed to. While there are other mechanisms for community participation, and ongoing community engagement and consultation throughout the year is essential, the annual electors' meeting gives the only mandated opportunity to move motions for Council's consideration.

The City supports the proposition to increase the numbers required to hold a Special Electors' Meeting. A 500 person (or 5%) minimum people will cease to be representative of the electorate.

The City supports WALGA's proposal in relation to calling Special Electors' Meeting on the same topic. This is that it is precluded to call more than one Special Electors' Meeting on a particular topic within 12 months, unless Council determines otherwise.

The City supports a clear and consistent manner of holding Electors' Meetings.

## Survey - Interventions

12. Depending on the nature of the allegation, different parties are responsible for receiving allegations of breaches of the Act. Should the Department responsible for local government be responsible for receiving all allegations of breaches of the Act?
- Yes
  - No
  - Unsure
13. To what extent are you concerned about behaviour and good governance in local government?
- A great deal
  - A lot**
  - A moderate amount
  - A little
  - Not at all
14. To what extent do you support the following statements?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“The Act should enable an external person to be appointed to work with a local government’s administration to improve governance and resolve problems.”				X	
“An external person appointed to work with a local government’s administration to improve governance and resolve problems should have the powers to direct the administration and override decisions made by the administration.”		X			
“The external person should be appointed by the Minister.”				X	
“The costs of appointing an external person to work with an administration to improve governance and resolve problems in a local government should be met by the local government.”				X	
“The costs of appointing an external person to work with an administration to improve governance and resolve problems in a local government should be met by the State Government.”		X			

15. To what extent to you support the following statements?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"The Act should enable an external person to be appointed to work with council members to improve governance and resolve problems."				X	
"An external person appointed to work with council members should have the power to direct the council."		X			
"An external person appointed to work with council members to improve governance and resolve problems should have the powers to override council decisions."		X			
"An external person should be appointed by the Minister."				X	
"The costs of appointing an external person to work with council members to improve governance and resolve problems in a local government should be met by the local government."				X	
"The costs of appointing an external person to work with council members to improve governance and resolve problems in a local government should be met by the State Government."		X			

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"Former local government council members, committee members and employees should be prosecuted if they misuse information."				X	

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“Local government council members, committee members or employees should be prosecuted if they use their position to cause detriment to the local government or any person.”				X	
“People who knowingly provide false or misleading information to a council should be prosecuted.”				X	
“Local government employees that breach procurement rules should be prosecuted.”				X	
“When a breach of the Act is identified an infringement notice should be issued as is the case for traffic offences.”			X		

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very Supportive
“In cases where a local law does not define a penalty amount, the Act should set a default penalty amount.”				X	
“Local governments need greater powers to direct property owners to tidy property for amenity, health and safety reasons.”				X	
“Local governments need greater powers to direct property owners and occupiers to remove items like disused motor vehicles for amenity, health and safety reasons.”				X	
“Local governments should be able to destroy property or items removed from a property within 28 days when there has been a breach of a local law or regulations. This might include rubbish, goods deemed to be of little value, or decaying items.”				X	



18. Do you have any additional comments on this topic of interventions?  
Additional information can also be provided to the review team via email at [actreview@dlgsc.wa.gov.au](mailto:actreview@dlgsc.wa.gov.au).  
**See Position Paper**

## **Position Paper - Interventions**

**Question 12. Depending on the nature of the allegation, different parties are responsible for receiving allegations of breaches of the Act. Should the Department responsible for local government be responsible for receiving all allegations of breaches of the Act?**

The City is supportive of this measure. The current process can lead to confusion from the public regarding where to report concerns. However, more importantly the current process can lead the perception of a lack of independence. A member of the public may have more confidence in reporting a misconduct concern to an external body.

**Question 13 - To what extent are you concerned about behaviour and good governance in local government?**

**b. A lot**

It is any local government's role to be duly concerned about behaviour and good governance in local government.

### **Questions 14 and 15 – Table**

The City supports an external person being appointed to assist the local government resolve issues and increase their capacity. This may strengthen capacity and avoid the need for further intervention. The Minister would appear to be the most appropriate person to appoint such a person.

In line with WALGA's position paper, the City recommends that the appointed person is recommended to have an advisory and supporting role rather than overriding Council or administrative decision making. The City does support the appointed person reporting back to the Department or Minister on issues, progress and recommendations.

The costs should generally be met by the local government as they are receiving the benefit of the assistance. However, it is noted that smaller local governments may struggle to meet the costs and allowance should be made for this.

### **Question 16 – Table**

Prosecution for offences should be reserved for individuals who act with intent. Those that deliberately use their position to cause detriment, knowingly misuse information, knowingly provide false information to Council, and knowingly breach procurement rules should face consequences for their action.

However, individuals acting in good faith should not be prosecuted, although other consequences may be applicable (such as internal disciplinary action). For example, a person

may not follow procurement rules due to poor training rather than any intent to cause harm or seek benefit.

The City is supportive of the concept of allowing the Department the ability to issue an infringement against a local government instead of commencing a prosecution. This assists with ensuring appropriate avenues for enforcement depending on the nature of the offence and may increase compliance. However, as outlined, some offences may be inappropriate for being dealt with as an infringement so a neutral response has been given as we may object to the provisions selected.

#### **Question 17 – Table**

The default penalty provision is supported to avoid unenforceable local law provisions. However, the amount should be carefully considered to avoid excessive penalties for minor offences.

The City is supportive of the proposed measures. They would assist in ensuring properties do not represent a hazard to the community and are not kept in a state that unreasonably affects neighbours. The existing mechanisms to appeal a notice can be used to provide a check on powers.

Where the property represents a health hazard there may be relevant provisions to address this under the *Health (Miscellaneous Provisions) Act 1911* and its regulations. It also noted that the existing notice provisions are able to consider health and amenity impacts in the context of untidiness (see *Saliba v Town of Bassendean [2013] WASC 93*). However, further legislative powers is still recommended due to gaps in the provision. With the *Health (Miscellaneous Provisions) Act 1911* being transitioned it is important relevant provisions are kept or incorporated into the reviewed *Local Government Act*.

The opportunity raised in the paper, to provide notice to secure a building, is also strongly supported. This should include both initial securing of a building and requirements to ensure security of the building is maintained.

#### **Question 18 - Do you have any additional comments on this topic of interventions?**

The City strongly supports the implementation of the recommendations from the Department's Consultation Paper, *A Review of the Local Government (Rules of Conduct) Regulations 2007 and Minor Breach Disciplinary Framework*.

Implementing these changes may reduce the need for interventions.

## Survey - Community Engagement

12. What methods of engagement do you believe are most effective (please select all options that apply)
- a. In person
  - b. Telephone
  - c. Online
  - d. Community forums
  - e. Citizen juries
  - f. **Other (please specify)**

Engagement projects should use a mixture of engagement methods that are tailored to the engagement purpose and level of community input required (e.g. Inform, Consult, Involve, Collaborate or Empower).

Each of the methods listed above can be effective for particular purposes. Telephone and online polls can be efficient methods where there is a finite number of options that require community feedback or endorsement whereas community forums and citizen juries are effective where a Council is seeking new ideas or where community based decision making is desired.

Social Media is increasingly being used to drive communication and engagement and notwithstanding the potential for negativity, has the potential to reach a large audience and can be used to target specific groups. The City of Perth currently uses Facebook, Twitter, Instagram and LinkedIn to drive users to the City's Engage Perth engagement portal.

13. How could local governments engage with different community groups (e.g. young people, seniors, families, people with disabilities, Aboriginal people and people from Culturally and Linguistically Diverse communities, etc.)?

Local governments should seek relationships with organisations that represent particular cohorts of the community and / or establish reference groups and steering committees to have readily available groups to consult with. Sector peak bodies and their networks are critical in providing informed and holistic advice to local governments and should be fostered to ensure full engagement and the provision of timely and accurate feedback.

Notwithstanding the above, depending on the purpose of the engagement, local governments should also seek out direct consultation with members of different community cohorts to solicit first hand feedback and advice.

To support consultation with Aboriginal people and representative groups, the local government sector should consider the development of principles for the development of partnerships with aboriginal people and groups, similar to that developed by Reconciliation Victoria (<http://www.maggolee.org.au/local-government-aboriginal-partnerships-project/>).

It is also critical to consider the accessibility needs of different community sectors to ensure all groups have equitable participation in engagement projects. This is crucial in delivering community feedback that is representative of the local governments population and broader stakeholders.

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“The Act needs to set rules for community engagement by defining what community engagement is and how it should be done.”		X			
“Local governments should be required to adopt a community engagement charter or policy.”				X	
“All local governments should operate under a universal community engagement charter or policy.”		X			
“Local governments should determine if they require a community engagement charter or policy and the content of that charter or policy.”		X			

15. Other jurisdictions have included principles with their engagement charter. How relevant do you believe each of these principles are?

	Irrelevant	Neutral	Relevant
Engagement is genuine			X
Engagement is inclusive and respectful			X
Engagement is fit-for-purpose			X
Engagement is informed and transparent			X
Engagement processes must be reviewed and improved			X

16. In what circumstances should local governments be required to engage with the community? (please select all options that apply)
- a. **When preparing or reviewing their Strategic Community Plan**
  - b. When preparing their annual budget
  - c. **Making a local law**
  - d. **Planning matters**
  - e. Emergency and community infrastructure planning
  - f. Only when the local government determines that it is necessary
  - g. Other (please specify)

The community should have wide ranging opportunities to provide input into a local government's policies and operations, both unsolicited and in response to requests. Existing legislative provisions for the engagement of the community on matters such as preparation of the Strategic Community Plan, making local laws and land use planning are considered sufficient. Introducing additional compliance requirements for the engagement of the community (other than a requirement of an engagement charter or policy) is unlikely to deliver any additional benefits unless sufficiently policed, which would require resources, which arguably would be better spent on promotion and education in best practice approaches to stakeholder engagement.

The community has an opportunity to comment on the annual budget when the budget comes before the Council for endorsement. Budgets should be aligned to the Corporate Business Plan which in turn is aligned and directed by the Strategic Community Plan. Provided the Strategic Community Plan is sufficiently detailed as per the Integrated Planning and Reporting Guidelines, and the Strategic Community Plan has been developed through appropriate community engagement, it is Council's responsibility to deliver a budget that delivers the community vision and aspirations within the Plan.

In addition to the circumstances indicated above, local governments should engage with its community whenever actions, policies or laws are proposed that impact on the community. This engagement should be timely to not just intend to be seen to engage, but reflect Council's obligation to genuinely capture the views of the community to better inform outcomes. Further, local governments should implement engagement strategies which, to the extent practicable, provide the greatest opportunity for the community to be involved in Council decision making (e.g. citizen juries, participatory budgeting).

Notwithstanding this, Council has an obligation to spend ratepayers' money judiciously and therefore need to be sure that engagement activities are prudent and deliver value for the community. Councils also need to be cautious not to over consult and risk consultation fatigue with the community.

17. Would you like to make any further comments regarding community engagement?

**See Position Paper**

## Position Paper – Community engagement

The City of Perth has a number of instruments that guide its consultation with the community. These include:

- A Community Consultation Policy;
- A Community Participation Policy;
- A Council resolution for a “City of Neighbourhoods” approach; and
- A Stakeholder Engagement Framework.
- Strategic Community Plan

These instruments are further discussed below.

The City of Perth Community Consultation Policy states:

The City of Perth will:

1. Lead by example and ensure that community consultation is an integral part of its planning and decision-making processes, in order to meet the diverse and changing needs of the public, including residents, ratepayers and the wider community;
2. Ensure that consultation undertaken within the City is appropriate to the potential impact of the proposal, allows an adequate timeframe for the process and does not predetermine the outcome of a proposal; and
3. Encourage partnerships with stakeholders through a range of community consultation initiatives.

In addition to the Community Consultation Policy, the City also has a Community Participation Policy, established to provide guidelines for the establishment of a system for a wide representation of community participation on issues relating to the Council. This includes the use of Community Forums, Special Interest Advisory Groups and targeted consultations. City of Perth policies are available from <https://www.perth.wa.gov.au/council/reports-and-important-documents/local-laws>.

To operationalise these policies, the City has a Stakeholder Engagement Framework which guides the City’s development of engagement plans for its policy, program, service and local law reviews and project developments. The framework, based on the International Association for Public Participation Spectrum, assists the City in identifying the need for consultation and once identified, determining the engagement channels and strategies to be used to deliver on the engagement objectives (e.g. Inform, Consult, Involve, Collaborate or Empower).



In addition to the above, on 13 February 2018, Council endorsed seven policy principles of its “City of Neighbourhoods” approach, including:

1. Empowers local residents, small business and property owners who live, work and play in their neighbourhoods to develop and drive ideas to improve their precincts and create active management of a precinct; and
2. Recognises that the best ideas can be developed from the people who reside, live, work and play every day in those neighbourhoods and enable authentic precinct identities.

This resolution reinforced the City’s community engagement goal (as set out in the Strategic Community Plan) of being “*An open and engaged city*” and one that:

*.... involves community, citizens and stakeholders in its future direction. Citizens have trust in the City of Perth and comfort knowing they collaborate with community, governments and businesses alike, working in an open and transparent manner. People feel connected, listened to and engaged with their city.*

Each of the instruments above reflect the City’s commitment to being a leader in the areas of transparency, disclosure and public accountability. During 2018 the City engaged the community in over 40 projects through surveys, forums and workshops. In addition, the City’s Engage Perth website provided a platform for community members to leave comments and for the City to provide information. The site has nearly 1,300 registrants and had over 16,000 visits during 2018.

## **Reform**

As outlined above, the City has a robust framework for its community engagement, headed by policies that provide flexibility for each engagement need to be considered on a case by case basis. As such, the City is supportive of the need for each local government to have a consultation policy or charter which places the community at the centre of its considerations and sets out its engagement objectives. However, the City does not support the introduction of any prescriptive measures for engagement. As with the City of Perth, each local government is best placed to determine the most appropriate manner in which it consults with its community. Introducing prescriptive provisions risks engagement activities that are not fit for purpose and will impose unnecessary costs on local governments.

Alternatively, the City supports the introduction of uniform performance indicators across local governments and the requirement that these indicators are published regularly. It is suggested that indicators measuring the extent of a local government’s engagement could be developed and reported. This will improve transparency and provide the community, being who local governments are accountable to, with the information to be able to judge a local government’s engagement performance.

## **Social Media**

Social media is a powerful tool for local governments to use in its community engagement, across the engagement spectrum. Social media can be used to inform the community of events and new initiatives, as well as driving stakeholders to other engagement activities such as surveys, workshops and forums. The City of Perth currently uses Facebook, Twitter, Instagram and LinkedIn for these purposes. Notwithstanding these benefits, use of social media poses the risk of negative perception due to “keyboard warriors” and trolling. The City of Perth is currently developing a Social Media Policy which will inform the way the City responds to negative and offensive social media content, whether originating from within and outside the organisation. This policy will further support provisions within the City’s Code of Conduct which outlines the expected behaviours of staff, elected members and volunteers.

The City of Perth supports the need for all local governments to develop a policy on how its staff and elected members use and responds to social and media. However, caution should be exercised in considering legislating the need for a policy, as this will add to both local government and State Government compliance costs, ultimately borne by rate and tax payers. Consideration should be given to providing greater education and training to both local government staff and elected members on appropriate social media etiquette and the benefits of bespoke communications policies.

## Survey - Integrated Planning and Reporting

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"Long-term and operational planning is an area where reform is required."		X			
"A local government should be free to conduct its long-term and operational planning in whatever manner it wishes."		X			
"Local governments should conduct their long-term and operational planning in the same way."		X			
"Local governments with smaller populations and fewer staff should have fewer rules for how they conduct long-term and operational planning."		X			
Local Governments with larger populations and more staff should have fewer rules setting how they conduct long-term and operational planning."		X			
"Integrated Planning and Reporting documents need to be reviewed too frequently."		X			
"The timelines for reviewing Integrated Planning and Reporting documents need to be synchronised with council election cycles."			X		
"There should be consequences for not complying with Integrated Planning and Reporting requirements."		X			

13. Should Integrated Planning and Reporting requirements differ based on any of the following criteria?

	Yes	No	Unsure
Population size		X	
Geographical size		X	
Location		X	
Salaries and Allowances Tribunal banding		X	
Other, please specify			

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“Local governments should be required to publish measures of success in implementing their long-term and operational plans.”				X	
“Local governments should be required to publish measures of success against uniform key performance indicators.”				X	
“It is important that measures of success are comparable.”					X
“Local governments should determine if they publish measures of success and what these measures should be.”		X			

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“The State Government should use local government Integrated Planning and Reporting documents to inform policy and service delivery.”				X	
“All local government plans, including Local Public Health Plans, Disability Access Plans and Town Planning Schemes, should be combined under Integrated Planning and Reporting.”			X		
“Local government Integrated Planning and Reporting needs to be conducted at a regional level to influence State Government policy and service delivery.”  No – however, LGAs should participate in regional councils and their strategic planning. Representative bodies, such as regional councils, WALGA should have greater involvement in State Government decision making forums.		X			

16. What should the role of the community be in Integrated Planning and Reporting?

	Yes	No	Unsure
To be actively involved in the development of the Strategic Community Plan	X		
To provide feedback to the local government on Draft Strategic Community Plans and Corporate Business Plans	Strategic Community Planning only		
To be notified of a local government’s plans and reports (for example, publication of these documents on the local government’s website)	X		
To assess the local government’s success in achieving the priorities identified in the Strategic Community Plan	X		

17. Should all Local Governments have to meet the following community engagement requirements when developing their IPR documents?

	Yes	No	Unsure
A minimum number of people or percentage of people involved in the engagement process	X		
Ensure that community engagement is representative of the community's diverse population	X		
Demonstrate the community has been engaged in the development of plans	X		
Demonstrate the community has been consulted on the completion of draft plans	X		
Other (please specify)			

18. Should community engagement requirements be the same for all local governments?

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

19. Do you have any other comments on the topic of Integrated Planning and Reporting? Additional information can also be provided to the review team via email at [actreview@dlgsc.wa.gov.au](mailto:actreview@dlgsc.wa.gov.au).

**See Position Paper (attached).**

## **Position Paper - Integrated Planning and Reporting**

### **Introduction**

The City of Perth seeks to be a leader in the delivery of services and infrastructure to its community. As set out in the *City of Perth Act 2016*, this includes not just City of Perth ratepayers but also local, interstate and international visitors and tourists. To achieve this, it is critical that the City undertakes thorough planning to firstly ensure that the vision and aspirations of the community are well understood, and also ensure that the City's strategies, plans, budgets and policies are designed to deliver the community's needs.

To undertake this planning, a structured framework is required that connects each stage of the planning cycle and is considerate of the interdependencies of the various planning documents. The Western Australian Integrated Planning and Reporting Framework provides the base for the City's planning framework, with a Strategic Community Plan and Corporate Business Plan aligned to the Framework first being produced in 2013. At this level, the City of Perth supports the Integrated Planning and Reporting Framework and the legislative requirement to plan for the future through a Strategic Community Plan and Corporate Business Plan.

Comments regarding elements of the Framework and further responses to discussion paper questions are set out below.

### **Questions 12 - 13:**

#### **Long-term and operational planning**

The *Local Government Act 1995* (s. 5.56, s. 6.2), *Local Government (Administration) Regulations 1996* (r.19C and r.19DA) and *Local Government (Financial Management) Regulations 1996* (Part 3) set out the planning requirements for local governments. These statutory requirements for a Strategic Community Plan, Corporate Business Plan and annual budget reflects the conventional wisdom that for any organisation to perform it needs to engage with stakeholders, identify the organisation's vision and mission and plan for how to deliver the vision.

These requirements, plus other statutory planning requirements (such as the requirement for a *Disability Access and Inclusion Plan* under the *Disability Services Act 1993* and the requirement for *Local Planning Strategies* under the *Planning and Development (Local Planning Schemes) Regulations 2015*) provide sufficient legislative provisions for a local government's planning for the future. Including additional planning documents, procedures, or penalties related to planning in the *Local Government Act 1995* is not supported. The City is unaware of any evidence of non-compliance with existing planning provisions under the Act or community consequences as a result of non-compliance to warrant additional regulation. Further, increased compliance requirements requires additional effort to monitor compliance, which would place unnecessary resource burdens on the Department of Local Government, Sport and Cultural Industries (the Department) and ultimately taxpayers.

Notwithstanding this, additional oversight of local governments' implementation of the framework and guidelines could lead to improved planning across the sector. The existing Integrated Planning and Reporting Framework and Guidelines is considered a sound platform for local governments to base its strategic and corporate planning. The Framework provides guidelines on the informing documents that should be prepared (in addition to the mandated plans) and the types and standard of information to be provided, while allowing the flexibility for local governments to determine the additional issue specific strategies and plans that best fit their needs. In this respect, the adoption and implementation of the Framework should be encouraged. This could be achieved through:

- Promotion and training through the Department or industry groups;
- Establishment of a local government strategic planning network to share best practice;
- Periodic Department assessment of Strategic Community Plans and Corporate Business Plans against the Framework's achievement standards with reports publicly published;
- Best practice examples of Strategic Community Plans and Corporate Business Plans promoted.

As stated above, the City is unaware of any evidence of any non-compliance with existing planning provisions. However, if the incidence or impact of non-compliance with current planning provisions warrants stronger intervention, then a formal assessment regime could be considered. This may consist of:

- A self-reporting assessment that is recorded and published by the Department; or
- An independent assessment of a local government's planning and reporting that is published in the Corporate Business Plan, similar to that of the auditor's report in the annual financial statements.

The extent of this reporting should be implemented based on a risk management approach. That is, where local governments demonstrate sound planning practices and their planning documents meet or exceed the established standards, the assessment requirements should be lower to reflect the lower risks. This also ensures that assessment resources are directed where the greatest improvement and return can be achieved.

This subsequent reporting of planning assessments would provide increased transparency of a local government's planning performance against established best practice which could be considered by ratepayers and other stakeholders in their decision making at Council elections.



## **Timelines for Reviewing Integrated Planning and Reporting Documents**

The discussion paper includes the statement (for comment):

*“The timelines for reviewing Integrated Planning and Reporting documents need to be synchronised with council election cycles.”*

This is neither supported nor objected to. Regulation 19C of the *Local Government (Administration) Regulations 1996* states that the Strategic Community Plan is to be reviewed once **at least** every four years. Therefore, the provision allows local governments to review the Strategic Community Plan as often as it deems necessary (including in sequence with Council elections) provided it is once every four years.

### **Question 14:**

#### **Performance Reporting**

The City of Perth is committed to providing transparent information to the community on the services it provides and the level of performance in delivering its services. Through the development of a new Strategic Community Plan and Corporate Business Plan for 2019-20, new performance indicators will be developed on key objectives. In addition, performance indicators will be developed for key city services. As such, the City supports the publishing of performance measures in implementing long term and operational plans. While the MyCouncil website currently provides a platform for the comparison of local governments' financial performance, an expansion of this to include other standardized service performance data is supported.

This would provide the following benefits:

- The development of uniform indicators would assist those Councils without current resources to develop their own indicators;
- Uniform indicators would help establish best practice measures and standards; and
- Local governments would be able to benchmark their performance.

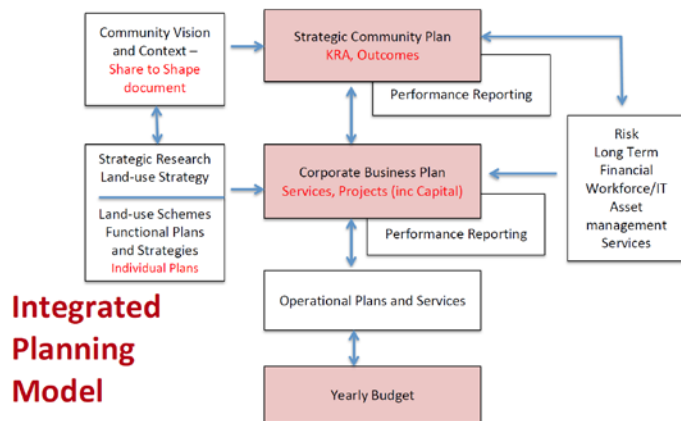
Notwithstanding this, caution would be required in developing the indicators to ensure only comparable services were measured and clear definitions on how data was determined, developed and collected are developed to ensure comparability. Also, local governments have varying degrees of data capture systems so provisions would be required to allow for this and provide for transition to improved data capture processes. Finally, provision would also be required local governments to report on specific performance measure that may only be relevant to its community.

### **Question 15:**

#### **Planning Integration**

The City of Perth's strategic community plan is a result of extensive community consultation and analysis of the needs of the community and broader city stakeholders and sets out clear community aspirations over the long term. The corporate business plan reflects those activities and priorities that the community wishes to see achieved in the shorter term. In this respect the State Government should consider these documents when assessing State Government assessing policies and service.

The City of Perth's the Integrated Planning Model is based on the Integrated Planning and Reporting Framework (IPRF) guidelines (see below).



This model incorporates the mandated Strategic Community Plan and Corporate Business Plan and integrates both the resourcing plans (Asset Management, Finance, and Workforce) as well as the City's land use and issue specific strategies and plans. While the City of Perth supports the encouragement of this approach, it should not be mandated. Flexibility in the framework needs to remain flexible to allow local governments to determine the level of integration that best addresses their planning needs. The level of integration should be determined by need, rather than a compliance requirement. As stated previously, greater training and education on the framework and strategic planning in local government may assist in addressing this. This will also help address differing maturity levels experienced by local governments in their strategic planning abilities.

## **Regional Planning**

The discussion paper includes the statement (for comment):

*“Local government Integrated Planning and Reporting needs to be conducted at a regional level to influence State Government policy and service delivery.”*

Regional planning provides a sound mechanism for the planning and implementation of elements of a local government’s services and infrastructure needs where:

- a) There are significant inter-jurisdictional spillovers resulting from the provision of services and infrastructure;
- b) commonalities in community needs, environmental conditions and issues suggest efficiencies and economies of scale can be achieved without a loss of value and satisfaction within individual local governments; and
- c) different rules or regulations across local government areas may result in high transaction costs.

However, the complexities of local government operations and the disparate needs and aspirations of communities means that planning and delivery of some services must occur at the local level. This is the basis for the principle of subsidiarity, whereby planning and decision making for a particular community should reside as close as possible and practicable to that community. Therefore, regional planning should be restricted to broad strategic but specific issues (e.g.. Waste, tourism, affordable housing) with the broader planning (such as Strategic Community Plans) remaining at the local government level.

Notwithstanding the above, engagement with the State Government and being able to influence policy is critical to the ongoing development of local governments. To achieve this local governments should utilize existing representative organisations such as regional councils and the Western Australian Local Government Association, and these bodies should be given every opportunity to engage with State Government policy makers.

## Survey - Complaints Management

Question	Answer
<p>Q. 12 What matters need to be considered in complaints management policies and procedures (please select all that apply).</p> <ul style="list-style-type: none"> <li>a) How the application must be made</li> <li>b) How a response to a complaint is to be made</li> <li>c) Opportunities for a review of a response</li> <li>d) The timeframes related to the process or review</li> <li>e) Notification requirements of the process</li> <li>f) Reporting of the complaints received</li> <li>g) Internal independent review of complaints</li> <li>h) None of these options</li> <li>i) Other (please specify)</li> </ul>	<ul style="list-style-type: none"> <li>a) How the application must be made</li> <li>b) How a response to a complaint is to be made</li> <li>c) Opportunities for a review of a response</li> <li>d) The timeframes related to the process or review</li> <li>e) Notification requirements of the process</li> <li>f) Reporting of the complaints received</li> </ul>
<p>Q. 13 To what extent do you support this statement?</p> <p>“A customer service charter should set the framework for local government complaints management.”</p> <ul style="list-style-type: none"> <li>• Very unsupportive</li> <li>• Unsupportive</li> <li>• Neutral</li> <li>• Supportive</li> <li>• Very Supportive</li> </ul>	<ul style="list-style-type: none"> <li>• Neutral</li> </ul>
<p>Q. 14 Should a local government customer service charter be a legislative requirement?</p> <ul style="list-style-type: none"> <li>a) Yes</li> <li>b) No</li> <li>c) Unsure</li> </ul>	<ul style="list-style-type: none"> <li>a) Yes</li> </ul>
<p>Q. 15 Who should review unresolved complaints (please select all options that apply)?</p> <ul style="list-style-type: none"> <li>a) Different staff member in the local government</li> </ul>	<ul style="list-style-type: none"> <li>b) A qualified complaints management officer</li> </ul>

	<ul style="list-style-type: none"> <li>b) A qualified complaints management officer</li> <li>c) A committee created by the local government</li> <li>d) A tabled decision for council to determine</li> <li>e) None of the people or groups listed above</li> <li>f) Other (please specify)</li> </ul>	
Q. 16	<p>Do you have any additional comments on the topic of complaints management?  Additional information can also be provided to the review team via email at <a href="mailto:actreview@dlgsc.wa.gov.au">actreview@dlgsc.wa.gov.au</a>.</p>	<b>See Position Paper</b>

## Position Paper – Complaints Management

The City wholly supports a local government standard for complaints management which will not only provide the guidelines for all local government bodies, but will also align with the City's service action plan. However, the City believes it needs to be an easy, uniform and effective structure for the management of formal and informal customer feedback and not simply complaints.

Ensuring a transparent, consistent and unbiased approach means approaching the handling of feedback in a way that strives for best practice and continuous improvement in customer satisfaction and service delivery. Complaints only form one portion of the types of feedback received and while at times the most complex, compliments and suggestions for improvement also provide real opportunity for policy guidance, data driven decision making and community/stakeholder engagement.

There is neutral support for the customer charter providing the framework for complaints management, from an optics perspective. A customer service charter often goes hand-in-hand with complaints management with most reflecting the steps to making a complaint/management of a complaint in ranging levels of detail. However, using the charter as a platform for defining the management of complaints creates negative connotations around the customer charter.

Feedback management should be included as a point within the charter, but the framework which ensures a consistent standard across local government for feedback decision making practices and actions should form its own unique policy, guidelines and/or procedure. Customer charters are an opportunity to provide clear and concise commitments to the community in regards to service delivery, with a focus on the standards and expectations customers can expect in their contact with the City. For example, when connecting with the City via phone, email, in person you can expect to be assisted you with professional, accurate and efficient service, informed of the process around resolving your query, have the Customer Service Officer take ownership and aim to resolve your query at your first point of contact.

Where feedback needs to be separated is that it often relates matters that are effectively handled as part of the customer charter commitments, but have a negative input such as my bin was **not** collected. These queries should not form part of the complaints (feedback) management process and actions to resolve should form part of the day-to-day organisational work dealt with, outside of a formal complaints management process. In more detail these include:

- A request for service
- A request for information or an explanation of a policy or procedure.
- Disagreement with a policy of the Council.
- An appeal or request for internal or external review of a decision for which a structured process applies

- An expression concerning the general direction and performance of Council or its Councillors.
- An expression of dissatisfaction with the behaviour of a Councillor.
- Reports of damaged or faulty infrastructure.
- Reports about neighbours, noise, dogs, nuisances, or similar issues that fall into the regulatory aspect of our service.

For this reason alone, the complexity behind what is and isn't a complaint and the extent of feedback opportunities provided leans towards a separate framework that lends the appropriate context to how local government aims to formally/informally address feedback.

By re-branding complaints as feedback and incorporating additional components of customer interaction in the management process, it allows local government to support the objective of empowering the local community and provides a structured forum for our customers to engage with us. Having a clear feedback management structure also aids in outlining to customers who interpret a request for service as a complaint to have their thoughts heard through an outlined process, improving the customer experience.

A customer charter should cover and acknowledge a range of key principles that combine to deliver innovation, cultural diversity and a sustainable future. Should complaints (feedback) management be included directly within a charter, there are a range of ways to also incorporate the commitment to effective management in service delivery principles, ways that provide a positive, action-taking approach to standards of service. For example:

### **Commitment**

The City of Perth is committed to delivering a great service and experience to our customers and actively promotes a culture that strives to exceed our customer's expectations. Our Customer Feedback Experience Policy demonstrates our commitment to providing an efficient, effective and consistent approach that strives for continuous improvement.

### **Responsiveness**

The City of Perth will acknowledge and respond in a timely manner to all queries lodged through the City's standard channels of communication. Response times may vary dependent upon the channel our customer elects to contact us.

Where complaints management (feedback) can differ, is in the following principles which heavily lean towards escalated requests through Customer Service and not the day-to-day transactions that rarely highlight the need for such. This is not to say that these do not apply to day-to-day operational queries,

but customers are looking for different outcomes when providing feedback and therefore cannot be managed via general customer service charter principles.

### **1. Fairness and Objectivity**

Handling of customer feedback is based on the values and guiding principles of the organisation and is in line with the standards set by the Customer Service Charter. All feedback will be addressed in an equitable, objective and unbiased manner.

### **2. Visibility**

The City will endeavour to adequately publicise our customer feedback process to staff, customers and other interested parties.

### **3. Access**

The City will ensure all staff and customers have easy access to the City's customer feedback process including access via the intranet and external web site. The City will ensure that customers are kept informed on the progress of feedback requiring specific action throughout the process. The City will ensure that customers with special needs have access to special needs assistance (such as interpreters) if required. City of Perth staff will help customers provide feedback where this is requested or identified.

### **4. Investigation of Complaints**

Every reasonable effort will be made to investigate all the relevant circumstances and information, as required to make an informed response.

### **5. Escalation Process**

There are 4 stages to the feedback escalation process:

**Stage 1:** Tell us about it. Our Customer Service Officers will attempt to resolve the matter at first contact.

**Stage 2:** Refer it. If the feedback is unable to be resolved, requires extensive investigation or is relating to a staff member, it will be referred to a Case Manager to handle. If the Case Manager determines the matter needs to be escalated outside of normal process, they will engage the relevant party/parties to do so.

**Stage 3:** Review it. If the feedback is unable to be resolved by the Case Manager, the matter will be reviewed before a small group as determined by the Case Manager. This is the final stage of the internal dispute resolution process.



**Stage 4:** External review. If the customer wishes to seek external reconciliation, they may refer the matter to the Ombudsman for review. The customer may do this at any time, however we will encourage the customer to complete our internal process first.

## **6. Confidentiality**

Any information which could personally identify a customer will be kept confidential unless where this information is used for the purposes of addressing the feedback within the organisation or where the customer expressly consents to its disclosure.

## **7. Remedies and Resolution of Feedback**

The City may elect to use different methods in which to resolve customer feedback and will endeavour to resolve in the best interests of both the customer and the City, where possible or reasonable.

## **8. Reporting**

As feedback is recorded, the City will report on opportunities for improvements to the key stakeholders such as the CEO, Directors or Managers, staff and any other party as deemed necessary for the City to implement improvements.

## **9. Review**

The City's customer feedback process will be reviewed annually or earlier if deemed necessary.

When considering these components and the complex outputs generated by feedback (at times) having a qualified complaints management officer (dedicated) ensures the appropriate level of scrutiny is placed on the quality of service, internal and external policy and process to ensure the customer feedback is dealt with correctly, but also that measures are taken to ensure relevant changes to service delivery are made to proactively prevent in the future.

## Survey - Elections

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

	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
"Voting should be compulsory."				X	
"Voting should be conducted via a preferential voting system."		X			
"Electronic and online voting should be made available for local government elections."				X	
"The use of electronic or online voting would not change my confidence in the voting system."			X		
"Legislation should be introduced that would permit online voting to be trialled."				X	

13. Which local governments should be required to offer postal voting?

- Postal voting should not be required to be offered
- All local governments
- Local governments with a population greater than 1,000 people**
- Unsure

14. Which local governments should be required to use the WA Electoral Commission?

- No local governments should be required to use the WA Electoral Commission
- All local governments**
- Local governments with a population greater than 1,000 people
- Unsure

15. Should the WA Electoral Commission be the only organisation authorised to conduct local government postal voting?

- Yes
- No**
- Unsure

16. What method should be used to resolve ties in council elections?

- Drawing of lots (random selection)**

- b. Unsure
- c. Other (please specify)

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"A count-back from the previous election result should be used if available to fill vacancies between elections."		X			
"Local governments should be required to adopt a caretaker period that restricts council from making major decisions during a local government election period."					X
"Caretaker periods are only required in large local governments."	X				
"Council members who contest a State or Federal election should be required to take a leave of absence on the day of their nomination for a State or Federal election campaign."				X	

18. To what extent do you agree with the following statements?

	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
"People who have been convicted under planning or building legislation offences in the past should be disqualified from serving as a council member."			X		
"Council elections should be held every four years rather than every two years with all council members being elected at the same time."				X	

	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
"A cap should be set on the maximum amount that a candidate may spend on their campaign."				X	
"Prospective candidates should be required to declare their profession or primary source of income on the nomination form."				X	
"Local governments should be required to publish candidate profiles on the website."					X
"Information collected on the nomination form should include demographic information such as gender and ethnicity."		X			

19. To what extent do you agree with the following statements?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very Supportive
"People who own land but who do not live in a district should be eligible to vote."					X
"People who lease rateable property in a district should be entitled to vote."				X	
"Corporations that own property in a district should be entitled to vote."				X	
"Corporations that lease property should be entitled to vote."				X	
"Occupiers of land, for example, commercial lease holders, should be eligible to vote."				X	
"Only people over the age of 18 who live in a district should be eligible to vote."				X	

20. How should the position of Mayor or Shire President be determined?

- a. **Vote by electors**
- b. Vote by council members
- c. A method determined by council
- d. Unsure
- e. Other (please specify)

21. To what extent do you agree with the following statements?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"The rules regulating non-election gifts and elections should be aligned."				X	
"Election gifts and donations should be declared regardless of when they are received."				X	
"A register of election gifts and donations should be available online."				X	
"Donors should also be required to declare election gifts and donations made."		X			

22. Should gifts or donations from any of the following be prohibited? (please select all options that apply)

- a. Real estate agents
- b. Property developers
- c. Political parties
- d. Liquor or gambling business entities
- e. Tobacco industry business entities
- f. No election gifts or donations should be prohibited
- g. All election gifts or donations should be prohibited
- h. **Other (please specify) Over threshold**

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very Supportive
"A local government should be required to have a ward structure if it reaches a certain population threshold."	X				
"A local government with fewer than 800 people should not have wards."			X		
"Ward boundaries should be set by the Electoral Commissioner."					X
"The number of members that a council has should be linked to the local government's population."		X			

24. How can participation be increased to ensure that Western Australia's diverse population is represented in local government?

**Position paper attached**

25. Do you have any other comments or feedback on local government elections?

Additional information can also be provided to the review team via email at

[actreview@dlgsc.wa.gov.au](mailto:actreview@dlgsc.wa.gov.au).

**Position paper attached**

## **Position Paper – Elections**

### **Commentary on responses**

#### **Question 12:**

**Question: Voting should be compulsory.**

**Response: Agree**

Compulsory voting is supported for several reasons:

- It increases voter participation so that the views of the electorate are better represented.
- Increased voter participation provides a clearer mandate for the decisions of council.
- Increased voter participation reduces the influence of special interests.
- There is not a clear reason to differentiate the federal, state and local government systems.

**Question: Voting should be conducted via a preferential voting system.**

**Response: Disagree**

- As local government elections currently have lower voting numbers, the preferential voting system may be more likely to produce skewed results than state or federal elections. Increased voting or compulsory voting could counter the impact of this and allow for the most broadly supported candidate to be selected. In the current system of non-compulsory voting, preferential voting is not supported.

**Question: Electronic and online voting should be made available for local government elections.**

**Response: Agree**

- Electronic and online voting is supported in concept as it increases both accessibility of voting and ease of participation.
- While there may be perceived or actual risks with online system allowing the capacity to provide it is supported as a future proofing measure. Actual implementation should only occur with systems the Electoral Commission is satisfied with.
- The City does not support making online voting the only method available to electors, an opt-out measure is supported.

**Question: The use of electronic or online voting would not change my confidence in the voting system.**

**Response: Neutral**

A neutral response has been given as whether the electorate is confident in the integrity of online voting is best answered by the electors.

**Question: Legislation should be introduced that would permit online voting to be trialled.**

**Response: Agree**

- The City is supportive of measures that allow for increased participation and online systems may allow for increased access for the community.

- Trials will allow for findings to be assessed and ensure voter confidence in the system exists prior to any implementation.
- Legislation that anticipates future needs is supported.

### **Question 13**

**Which local governments should be required to offer postal voting**

**Response: c. Local governments with a population greater than 1,000 people**

Postal voting is supported to as it has been previously demonstrated to increase voter participation. However, local governments with less than 1,000 people often have less capacity to afford postal elections. Therefore, it is proposed to exclude local government unless this proposal is accompanied by measures that reduce the cost of postal voting.

As noted in the discussion paper, increased postal times may decrease the efficacy of postal voting in the future. No local government should be required to use this process if, in future, responses cannot be received within the timeframe.

### **Question 14**

**Which local governments should be required to use the WA Electoral Commission?**

**Response: b. All local governments**

In answering this question, we have assumed that this relates to postal voting and whether an independent body, outside of the local government, should oversee the process. Having an independent authority be involved with the postal voting reduces the risk of fraud and increases voter confidence in the process.

However, as discussed below, the WAEC is not the only body that could undertake this process. An appropriate electoral commission could undertake this role. It is also true that having an independent body oversee in-person elections could have value in reducing the risk of fraud in the process - but there is concern regarding the expense for smaller local governments.

### **Question 15**

**Should the WA Electoral Commission be the only organisation authorised to conduct local government postal voting?**

**Response: No**

The City supports an independent authority overseeing the electoral process. The WAEC is in a good position to conduct postal voting due to its knowledge of the WA local government electoral process. However, there is no objection to this process being conducted by an alternative authority such as the AEC or (assuming appropriate information sharing was in place) another state's electoral commission. Postal voting being run by a commercial enterprise is not supported as it may undermine public confidence in the process.

### **Question 16**

**What method should be used to resolve ties in council elections?**

**Response: a. Drawing of lots (random selection)**

Due to the cost of running an election on the local government a fresh election is not supported. A recount is a recommended measure in this instance but assuming the result is



the same drawing of lots is recommended. Drawing lots is a rare outcome for local government elections and will be rarer if measures to increase voter turnout are introduced. It is unclear what other reasonable measure could be implemented other than a fresh election.

**Question 17 - To what extent do you support the following statements?**

**Statement: A count-back from the previous election result should be used if available to fill vacancies between elections.**

**Response: Unsupportive**

The opinions of the electorate can change even within short period following the election. The longer the period between the election and the proposed countback, the more likely the previous election results will be an inaccurate reflection of the voter's intention.

**Statement: Local governments should be required to adopt a caretaker period that restricts council from making major decisions during a local government election period**

**Response: Very Supportive**

The City of Perth has a policy requiring a caretaker period. The Policy's objective is to:

- avoid Council making major decisions, prior to an election, that would bind an incoming Council; and
- prevent the use of public resources in ways that may influence or be perceived to influence the election.

It is noted that there are some matters that due to legislative timeframes or urgency cannot be delayed until after the election. The City has an exception for extraordinary circumstances and legislative requirements.

**Statement: Caretaker periods are only required in large local governments.**

**Response: Very unsupportive**

Both small and large local government elections can be influenced by the decisions made by Council prior to the election.

Both small and large local governments can find themselves bound by the decisions of a prior Council, and where major decisions were made just prior to the election this can be an inappropriate restriction of the ability of the new Council to set its direction.

**Statement: Council members who contest a State or Federal election should be required to take a leave of absence on the day of their nomination for a State or Federal election campaign.**

**Response: Supportive**

There may be a conflict between Council decision making and the State and Federal electoral campaign. A leave of absence will avoid inappropriate influence of matters that are irrelevant to a local government's remit.

**Question 18 - To what extent do you agree with the following statements?**

**Statement: People who have been convicted under planning or building legislation offences in the past should be disqualified from serving as a council member.**

**Response: Neutral**

A neutral response has been given as ultimately it should be the decision of the electorate whether a person's past behaviour should exclude them from future office.

The local government has an important role in planning, building and development decisions. However, an exclusion based on specific legislation only may not take into account the nature of the offence. The current exclusions are related length of time, which indicates the offence is of a serious nature.

Individuals should have the opportunity to reform themselves following past behaviour, if supported by the electorate, and the specific offences under either planning or building legislation may not necessarily relate to their ability to undertake the role and demonstrate the standard required for the office.

Any additional exclusions should be linked to the role that council members undertake. In particular, a high standard of integrity is an inherent requirement of a council member's role as they are required to make decisions affecting individual rights, maintain confidential information, and ensure their decisions are made on the basis of relevant considerations only. Offences related to serious misconduct and fraud are generally covered by the existing legislation but to the extent that they are not this could be considered.

**Statement: Council elections should be held every four years rather than every two years with all council members being elected at the same time.**

**Response: Supportive**

Council elections where all of Council is elected at once contributes to stability over the length of the Council's term. This creates consistency over the Council planning processes such as IPRF and the Corporate Business Plan as long as their reviews are timed appropriately.

The previous belief was that half Council elections gave continuity. However, they can cause conflict as the electorate has only considered half the Council and this can cause conflicting mandates. It is very rare for a complete spill to occur but should it occur this clearly articulates the community's intentions.

The separate suggestion to link this to State elections is not supported. It may create confusion between state and local government politics and also reduce the number of candidates running for local government office as it would be impractical and generally inappropriate to run for both offices concurrently.

**Statement: A cap should be set on the maximum amount that a candidate may spend on their campaign.**

**Response: Supportive**

The expense of a campaign can create an uneven playing field for candidates. There are significant costs associated with campaigns such as advertising. A cap could increase the likelihood of representative candidates and council members.

**Statement: Prospective candidates should be required to declare their profession or primary source of income on the nomination form.**

**Response: Supportive**

Providing the electorate with as much candidate information as possible is supported.

**Statement: Local governments should be required to publish candidate profiles on the website.**

**Response: Very supportive**

Providing the electorate with easy access to candidate profile information is supported.

**Statement: Information collected on the nomination form should include demographic information such as gender and ethnicity**

**Response: Unsupportive**

The information is of use to assess levels of participation and representation. However, as the nomination form should be public, candidates may find information such as ethnicity or religious beliefs personal or irrelevant to their campaign or be concerned it could be a basis for discrimination. Therefore, the measure is not supported.

**Question 19 - To what extent do you agree with the following statements?**

- “People who own land but who do not live in a district should be eligible to vote.”
- “People who lease rateable property in a district should be entitled to vote.”
- “Corporations that own property in a district should be entitled to vote.”

- “Corporations that lease property should be entitled to vote.”
- “Occupiers of land, for example, commercial lease holders, should be eligible to vote.”
- “Only people over the age of 18 who live in a district should be eligible to vote.”

The City is supportive of these statements as the groups that pay rates, reside in the district or operate businesses within the district all participate in the functioning of the district and are affected by the decisions of their local government.

The City does not support voting rights for those under 18 unless it commences concurrently with the State and Federal system.

One aspect that the does require consideration is the ability of corporations to have two nominees, allowing two votes on its behalf. This is unequal and provides corporations with more representation than individuals.

#### **Question 20 - How should the position of Mayor or Shire President be determined?**

##### **Response: a. Vote by electors**

The City supports Mayors being elected by electors as it strengthens the accountability of the role.

The City does not support Council, rather than electors, determining whether Mayors are elected by Council or by the electors.

#### **Question 21 – See table**

The City supports gift provisions being aligned to reduce complexity and the proposed alternative election gift framework is supported.

The City supports the proposal that the timeframe for electoral gifts being increased in recognition of the longer electoral campaigns.

Online publication of gift registers is supported in increase transparency and accountability.

The removal of the requirement that donors also complete a gift declaration. It is inconsistent with the non-electoral process and a requirement that has not practically increased transparency as many donors appear unaware of the requirement until advised by the candidate or the local government to complete a declaration.

#### **Question 22 – Should gifts or donations from any of the following be prohibited?**

The City does not support prohibiting donations from specified groups of the population but instead that all donations are openly and transparently disclosed and are below the accepted thresholds.

#### **Question 23 – See table**

The City does not support mandatory ward structures as ward structures are inconsistent with the role of council members being for the good governance of the district. (rather than the ward). In the City of Perth, as a result of the *City of Perth Act 2016*, a council member must

have a broader outlook, including considering the flow-on effects of Council's decisions on the broader metropolitan area. A ward structure is less appropriate in this context.

While the City has concerns with ward structures, as they have become an embedded feature determining whether they should be retained in smaller local governments is best commented on by those local governments and their communities.

Ward boundaries being set independently by the Electoral Commissioner is supported.

The number of council members of the City of Perth is determined by the *City of Perth Act 2016*. Some link between population and council numbers is sensible to support representation of the diverse community and the ability to access to council members to discuss concerns.

**Question 24 – How can participation be increased to ensure that Western Australia's diverse population is represented in local government?**

The City supports several measures to increase participation. While compulsory voting will specifically increase voting, this will not necessary increase diversity of representation.

The City supports availability of enrolment application forms in other languages to ensure individuals who use English as a second language are not hindered when enrolling.

The City supports state-wide education and awareness campaigns to encourage voting, running as a candidate and participation in local government. Previous campaigns have been run by the WAEC and WALGA.

**Question 25 – Other comments on local government elections**

The City believes the requirement that removes occupiers from the electoral roll after two elections and six months, which requires those persons to reapply should they wish the remain on the roll, is inefficient. This should be replaced with a requirement that the CEO is responsible for maintaining the roll. This will allow the CEO to conduct checks without forcing people to reapply. It will also prevent people being unable to participate despite remaining eligible if they were unaware that they have been removed.

The City supports review of the occupation of rateable property. The occupation of a "separate building or portion of a building on the rateable property" or "some other separate and distinguishable portion of the rateable property" under section 4.31 of the *Local Government Act 1995* can be read very broadly. Guidance on whether an area is sufficient to be occupied would assist local governments in processing applications over small and unusual areas.