

City of Rockingham Submission Paper - February 2019

Local Government Act 1995 Review

Document	City of Rockingham Submission Paper – February 2019 – Local Government Act Review
----------	--

Purpose

To provide a submission from the City of Rockingham on the Phase 2 of the review of the Local Government Act 995.

Background

In 2017 the Minister for Local Government commenced a review of the *Local Government Act 1995*.

This was the first major review since the Act was introduced more than 20 years ago and the review aims to modernise the Act, reduce red tape and ensure WA communities benefit from efficient and effective councils.

The theme for the review is Agile, Smart, Inclusive.

Phase 1 focussed on 'modernising local government' and the key focus areas included:

- Electronic availability of information
- Meeting public expectations for accountability, including gift disclosures
- Meeting community expectations of standards, ethics and performance
- Building capacity through reduction of red tape

Council did not formally respond to Phase 1. Consultation was completed in 2017 and the Amendment Bill was presented to Parliament in late 2018.

Phase 2 Review

Phase 2 commenced in 2018 with a focus on 'delivering for communities' and consultation is continuing.

Western Australia Local Government Association (WALGA) and Department of Local Government, Sport and Cultural Industries (Department) held a series of facilitated forums to seek feedback from community, staff and elected members.

An information item was included in the October 2018 Council Information Bulletin with the link to discussion papers. Elected Members have been encouraged to complete their own submission.

The following key focus areas for Phase 2 are:

- Beneficial enterprises
- Community engagement and Integrated Planning and Reporting
- Council meetings
- Interventions
- Elections
- Financial management
- Administrative efficiencies including local laws
- Rates, fees and charges
- Complaints management

Local Government Act 1995 Review

WALGA have produced an advocacy positions paper that identifies the following general principles in the response to the review of the Local Government Act:

- (a) Uphold the General Competence Principle currently embodied in the Local Government Act;
- (b) Provide for a flexible, principles-based legislative framework; and
- (c) Promote a size and scale compliance regime

WALGA hosted a forum on 30 January 2019 which focused on the “bigger picture” issues of the review, particularly how local government is positioned currently and where it needs to be positioned in the future.

Further to any City submission, WALGA is intending to provide a response to the review in March on behalf the Association and its members. WALGA has provided their advocacy positions (Attachment Two) and have listed the item for discussion at the March Zone Meetings prior to final adoption at the 26 March State Council Meeting.

They have requested final submissions to be submitted by 22 February to form the agenda for their Zone Meetings.

The City has liaised with WALGA and confirmed that the final resolution of Council will not be available until 27 February 2019 following the Council meeting.

The final submissions are due to the Department by 31 March 2019.

Local Government Act 1995 Review Issues

Underpinning Principles

The City of Rockingham supports the development of a Local Government Act that continues to be enshrine the general competence powers of local government and is sufficiently flexible to enable local governments to adapt to the rapidly changing environment.

Key to this are –

- An enhancement to local government’s revenue raising capacity including a review of rate exemptions.
- A focus on real partnerships with other spheres of government, underscored by no cost shifting without appropriate resourcing (including a removal of the ‘default’ position that unvested crown land reverts to the responsibility of local government).
- The provision of sound governance parameters to address changing community communication preferences, allowing clarity, certainty and consistency, whilst ensuring appropriate safeguards for elected member and officers in fulfilling their statutory roles.
- A reduction of ‘red tape’ compliance and (if possible) the introduction of a scaled compliance regime for size and capacity of local government (banding).

The topic, issue, WALGA’s position and the City’s response is summarised below:

Beneficial Enterprises

Currently under the Act, local governments have two options for forming independent corporate bodies: a regional council and regional subsidiaries.

Beneficial enterprises are complex and present risks to the council and ratepayers however there is a benefit with respect to local government’s capacity to raise revenue and their expenditure. One solution would be to set an eligibility threshold based on an assigned band, similar to the Salaries and Allowances Tribunal banding.

Local Government Act 1995 Review

WALGA position - The Local Government Act 1995 should be amended to enable Local Governments to establish Beneficial Enterprises (formerly known as Council Controlled Organisations).

Officer position – The establishment of Beneficial Enterprises provisions has long been sought by the industry. It has particular relevance to rural and remote local governments in providing a needed 'commercial' services that otherwise cannot be established by private investor / commercial means. Position supported.

City of Rockingham Response - WALGA position supported.

Financial Management

The local government sector has long advocated for raising the threshold where public tenders must be advertised due to the time and effort required to go through the tendering process. This must be balanced with the need to provide confidence for suppliers and the community that value for money is being obtained. Some high profile breaches of tendering rules have reduced this confidence. Concern regarding procurement practices is one of the major sources of community complaints to the Department.

1. WALGA position – The tender threshold increases to \$250,000 with a timeframe of one financial year for individual vendors in line with the State Government tender threshold.

Officer position – Alignment with State Government thresholds would provide uniformity for suppliers and potential savings to local government.

2. WALGA position - That Regulation 30(3) be amended to delete any financial threshold limitation (currently \$75,000) on a disposition where it is used exclusively to purchase other property in the course of acquiring goods and services, commonly applied to a trade-in activity.

Officer position – Supported. Trade-in on specialised plant and equipment can exceed the \$75,000 threshold.

3. WALGA position - Elected Member obligations to declare interest are sufficiently inclusive that WALGA seeks an amendment to create an exemption under Regulation 4 of the Local Government (Financial Management) Regulations relating to AASB 124 'Related Party Transactions' of the Australian Accounting Standards (AAS). Related Party Transactions are duplicating what is already a rigorous disclosure requirement under existing legislation.

Officer position – Agreed. The requirements for related party transaction declarations under the Accounting Standards do not take into account and to a degree duplicate the already comprehensive declaration requirements under the Act.

4. WALGA position - That Section 6.20(2) of the Local Government Act, requiring one month's public notice of the intent to borrow, be deleted.

Officer position – Agreed in part. It is still considered important that some form of community notice is required for raising unplanned loan funds notwithstanding the need to respond to emergency situations. A reduction in the length of public notice to perhaps 14 or 21 days could be seen as a viable alternative.

Local Government Act 1995 Review

City of Rockingham Response - WALGA position 1, 2, and 3 supported. Position 4 supported in part – suggest shorter period of notice.

Rates, Fees and Charges

Rates

Differential general rates are generally imposed to ensure that the rate burden is more evenly distributed across ratepayers, with those requiring or using more services being charged a higher rate in the dollar.

Local governments are currently permitted to impose differential general rates according to land zoning, land use (including if the land is vacant) and a combination of the two. While the categories must comply with the Act, there is still scope for a variety of rating categories which does not allow comparability across local governments.

Possible options for reform are outlined in the table below –

	New South Wales model	Proposed Victorian model
Options	Under this option, differential rate categories would be set in legislation.	Under this option, local governments could increase the types of differential rate categories.
How would it work?	Local governments would have to categorise properties into set categories, for example: <ul style="list-style-type: none"> • residential • semi-rural • commercial/industrial • farmland • mining • exploration and prospecting 	In addition to land zoning or land use (including if the land is vacant), local governments could set categories based on: <ul style="list-style-type: none"> • geographic location • types of buildings on the land • any other criteria council determines is relevant

Local governments have autonomy in the way they set rates in the dollar to make up the budget deficiency with some limitations. A local government that seeks to impose a rate in the dollar that is more than twice that imposed on the lowest category must seek Ministerial approval.

There are several opportunities to reform the controls that are currently in place on differential rating. The differential could be increased to three or four times the lowest before Ministerial approval is required. This would reduce regulatory burden on local governments and the department while maintaining some oversight.

1. WALGA position – That Section 6.28 be reviewed to examine the limitations of the current methods of valuation of land, Gross Rental Value or Unimproved Value, and explore other alternatives including simplifying and providing consistency in the rating of mining activities.
2. WALGA position - That Section 6.33 of the Local Government Act be reviewed in contemplation of time-based differential rating, to encourage development of vacant land.

Officer position – Agreed. This would provide local government more flexibility in spreading the rate burden across the rate base.

Local Government Act 1995 Review

City of Rockingham Response - WALGA position 1 and 2 supported.

One of the more contentious exemptions is for 'land used exclusively for charitable purposes'. The meaning of 'land used exclusively for charitable purposes' is not defined in the Act and differing interpretations of the meanings of 'charity' and 'charitable purposes' have continued to prove challenging across all levels of government in Australia. None of the approaches result in the satisfaction of all parties and reforms result in winners and losers.

In Western Australia the meaning of what constitutes 'land used exclusively for charitable purposes' has been the subject of several key decisions by the State Administrative Tribunal. These decisions have been a matter of contention for the local government sector as exemptions have been provided to facilities for aged care even when residents are paying market rates for the individual housing within an estate, and to industry associations because they have a training arm.

Other than requiring everyone to pay rates, reforms to the charitable organisation exemptions hinge on clarifying who is or isn't eligible to receive a rates exemption.

WALGA Position

Rating Exemptions – Charitable Purposes: Section 6.26(2)(g)

- i. Amend the Local Government Act to clarify that Independent Living Units should only be exempt from rates where they qualify under the Commonwealth Aged Care Act 1997;

Either:

 - a) amend the charitable organisations section of the Local Government Act 1995 to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or
 - b) establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of Local Government rates; and
- ii. Request that a broad review be conducted into the justification and fairness of all rating exemption categories currently prescribed under Section 6.26 of the Local Government Act.

Officer position – Agreed. There is significant revenue forgone as a consequence of the current rating exemption arrangements, whilst local government services and infrastructure is being utilised by those benefiting from the exemption. This creates an increasing burden on local governments and therefore ratepayers to 'subsidise' others that should have the capacity to pay.

City of Rockingham Response - WALGA position supported.

Local Government Act 1995 Review

WALGA position 1 - Legislation should be amended so rate equivalency payments made by LandCorp and other Government Trading Entities are made to the relevant Local Governments instead of the State Government.

Officer position – Agreed.

WALGA position 2 - That Section 6.56 be amended to clarify that all debt recovery action costs incurred by a Local Government in pursuing recovery of unpaid rates and services charges be recoverable and not be limited by reference to the 'cost of proceedings'.

Officer position – Agreed. Full recovery of costs is considered appropriate.

WALGA position 3 - Resource projects covered by State Agreement Acts should be liable for Local Government rates.

Officer position – Agreed. While this has significant impact on rural and remote local governments, it could also impact the City of Rockingham in respect to development on the industrial strip.

City of Rockingham Response - WALGA positions 1, 2 and 3 supported.

Fees and Charges

Local governments have the ability to set fees and charges for a range of services. Services can be categorised into three areas:

- basic community services, such as waste collection
- additional services, such as providing security
- competitive services, such as services provided by other business in the area (for example gymnasiums)

When setting fees and charges for basic and additional services, local governments should consider the cost of providing the service but may decide to subsidise the service for the common good. When it comes to competitive services, competitive neutrality principles must be observed. This requires local governments to avoid a competitive advantage as a result of being part of the public sector.

WALGA position – That a review be undertaken to remove fees and charges from legislation and Councils be empowered to set fees and charges for Local Government services.

Officer comment – Agreed.

City of Rockingham Response - WALGA position supported.

Administrative Efficiencies

Local governments in Western Australia vary considerably in respect to their capacity to raise revenue and their expenditure. For example, the combined operating budget of the State's 40 smallest local governments is less than the annual operating expenditure of the State's largest local government.

Local Government Act 1995 Review

The Act currently treats all local governments the same, regardless of their size and capacity. Through their peak bodies, the local government sector has long advocated for amendments which provide a tailored approach to local government governance to allow for the differences in capacity that are found across the State.

WALGA position –

1. Control of Certain Unvested Facilities: Section 3.53

Currently the Act states Section 3.53. for control of certain unvested facilities -

(1) In this section —

former section 300 means section 300 of the *Local Government Act 1960*⁴ as in force before the commencement of this Act;

otherwise unvested facility means a thoroughfare, bridge, jetty, drain, or watercourse belonging to the Crown, the responsibility for controlling or managing which is not vested in any person other than under this section.

(2) A local government is responsible for controlling and managing every otherwise unvested facility within its district unless subsection (5) states that this section does not apply.

(3) If the facility is partially within each of 2 or more districts, it is to be controlled and managed as the local governments for the districts concerned agree or, if they do not agree, as the Minister directs.

(4) An agreement or direction under subsection (3) has effect according to its terms.

(5) This section does not apply if any person was, immediately before the commencement of this Act, responsible for controlling or managing the facility unless —

(a) the responsibility arose under the former section 300; or

(b) the Governor, by order, declares that the facility is to be controlled and managed under this section.

WALGA position - seeks consideration that Section 3.53 be repealed and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager.

Officer position – Agreed. This is a clear instance of cost shifting without appropriate resourcing provided. It has a significant impact when considering the need for bushfire mitigation and management.

2. Local Government Grants Commission and Local Government Advisory Board.

Schedule 2.1 of the Act covers provisions about creating, changing the boundaries of, and abolishing districts.

WALGA position - seeks inclusion of a proposal to allow electors of a Local Government affected by any boundary change or amalgamation proposal entitlement to petition the Minister for a binding poll under Schedule 2.1 of the Local Government Act.

Officer position – Agreed.

Local Government Act 1995 Review

3. Schedule 2.1 – Proposal to the Advisory Board, Number of Electors

WALGA position - seeks that Schedule 2.1 Clause 2(1)(d) be amended so that the prescribed number of electors required to put forward a proposal for change increase from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.

Officer position – Agreed. In a metropolitan context, 250 electors constitutes a small neighbourhood. Total City of Rockingham elector numbers are estimated at 83,326, meaning that 0.3% of electors could put forward a proposal. 500 electors will still be less than one percent of City of Rockingham electors, however this is more acceptable than the current arrangement.

4. Schedule 2.2 – Proposal to amend names, wards and representation, Number of Electors

WALGA position - seeks that Schedule 2.2 Clause 3(1) be amended so that the prescribed number of electors required to put forward a submission increase from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.

Officer position – Agreed. Refer to above comment.

5. Transferability of employees between State & Local Government

WALGA position - supports that a general Agreement between State and Local Government should be established to facilitate the transfer of accrued leave entitlements (annual leave, sick leave, superannuation and long service leave) for staff between the two sectors of Government. This will benefit public sector employees and employers by increasing the skills and diversity of the public sector, and lead to improved collaboration between State and Local Government.

Officer position – Agreed.

6. Proof in Vehicle Offences may be shifted: Section 9.13(6)

Currently the Act only has a definition for the owner of the vehicle.

owner, in relation to a vehicle means the person to whom a licence in respect of the vehicle has been granted under the *Road Traffic (Vehicles) Act 2012*, or, if there is not such a person, the person who owns the vehicle or is entitled to its possession;

WALGA position - proposes that Section 9.13 of the Local Government Act be amended by introducing the definition of 'responsible person' to enable Local Governments to administer and apply effective provisions associated with vehicle related offences.

Officer position – Agreed. This will provide certainty in dealing with vehicle offences such as parking.

City of Rockingham Response - WALGA positions 1 to 6 supported.

Local Laws

The Act enables local governments to make local laws considered necessary for the good government of their districts. Laws can only be made when authorised by the Act or other written laws but cannot be inconsistent with any State or Federal law. The types of laws made by local governments cover areas such as parking, activities on thoroughfares, public places and council and committee meetings.

Local Government Act 1995 Review

During earlier consultation on the Act review many submissions were received concerning the inconsistency of local laws from one local government district to another. While these concerns are valid and consistency of local laws across districts is important, requiring a local government to enact a local law in a certain form impacts upon a local government's ability to tailor a local law to local conditions or the wishes of the local community.

One way to achieve consistency is for the State government to make regulations that act as local laws, for example the Local Government (Uniform Local Provisions) Regulations 1996. The possibility of using regulations has been raised in relation to health, parking, cemeteries, cats and dogs – areas currently covered by local laws. Every local government would be covered by the same rules. While regulations would achieve consistency, they would also remove or limit the ability of a local government to tailor local laws to meet their community's expectations.

Another alternative is to require local governments to adopt the model local law while leaving open the ability for local governments to tailor certain parts of the local law to suit the local community. An example could be a dog local law which allows the local government to set the number of dogs that can be allowed in different parts of the district: a residential area compared to a semi-urban or rural area; or a parking local law that allows the local government to set the fees.

There is no intention to remove the local law making power; local governments will still be able to prepare their own local laws to address local situations.

Currently, the department monitors and provides advice to assist local governments with the making of their local laws. This is done by providing detailed comments on proposed local laws to assist the relevant local government in finalising a local law to ensure that it will be enforceable and effective. There is no requirement that a local government follow the advice given by the department.

Western Australia is the only jurisdiction that requires a local law to be provided to the Minister prior to enactment; most jurisdictions rely on certification from a legal practitioner.

WALGA did not address Local Laws in their submission.

Officer comment – Regulations would provide more consistency of local government approach to common issues and would remove the lengthy adoption process for model local laws and periodic review.

City of Rockingham Response - City of Rockingham supports State Wide regulations for areas such as health, parking, cemeteries, cats and dogs.

Complaints management

Local governments deal with many complaints each year. Complaints are an important way for the management of an organisation to be accountable to the public. If not handled well, complaints can lead to a significant breakdown in trust and can spill over into other areas of the local government's operations. To be able to effectively categorise and manage complaints there needs to be a common understanding of what constitutes a complaint.

A legislative requirement for complaints management may encourage local governments to adopt and actively work on better complaints management.

Local Government Act 1995 Review

WALGA position - The Complaints Management commentary contemplates the issue up to the point of unresolved complaints and then references the Ombudsman resources with regard to unreasonable complainants. WALGA seeks inclusion of commentary and questions relating to Local Governments adopting within their proposed complaints management framework, the capacity to permit a Local Government to declare a member of the public a vexatious or frivolous complainant, subject to the declaration relating to the nature of complaint and not to the person.

Amend the Local Government Act 1995, to:

- Enable Local Government discretion to refuse to further respond to a complainant where the CEO is of the opinion that the complaint is trivial, frivolous or vexatious or is not made in good faith, or has been determined to have been previously properly investigated and concluded, similar to the terms of section 18 of the Parliamentary Commissioner Act 1971.
- Provide for a complainant, who receives a Local Government discretion to refuse to deal with that complainant, to refer the Local Government's decision for third party review.
- Enable Local Government discretion to declare a member of the public a vexatious or frivolous complainant for reasons, including:
 - Abuse of process;
 - Harassing or intimidating an individual or an employee of the Local Government in relation to the complaint;
 - Unreasonably interfering with the operations of the Local Government in relation to complaint.

Officer position – The capacity for local government to deal with vexatious complainants is significantly hindered, as there is no explicit statutory power to prevent a member of the public from bullying, abusing or harassment, particularly when speaking at meetings or dealing with customer service staff. These types of complainants create an unreasonable burden on the City's resources, and can necessitate the need for additional security to ensure the safety and wellbeing of employees and elected members.

City of Rockingham Response - WALGA position supported.

Council meetings

Council meetings are the mechanism by which council makes decisions. To ensure transparency council meetings are held in public, although certain matters can be heard behind closed doors. Council meetings also provide an opportunity for public question time. The Local Government Act 1995 (the Act) establishes the framework for council meetings.

WALGA position –

1. Electors' General Meeting: Section 5.27 of the Local Government Act 1995 should be amended so that Electors' General Meetings are not compulsory.

Officer position – Supported. Notwithstanding the recent Annual meeting of electors where slightly over 30 people attended (excluding officers and elected members), the City averages over this number of members of the public attending the monthly Council meetings. Residents can seek specific meetings on particular issues on a needs basis. These meetings are generally less formal and provides a better forum for communication. The City still engages across a variety of platforms including RockPort.

Local Government Act 1995 Review

WALGA position –

2. Special Electors' Meeting: Section 5.28

That Section 5.28(1)(a) be amended:

- a) so that the prescribed number of electors required to request a meeting increase from 100 (or 5% of electors) to 500 (or 5% of electors), whichever is fewer; and
- b) to preclude the calling of Electors' Special Meeting on the same issue within a 12 month period, unless Council determines otherwise.

Officer position - Agreed. As stated earlier, total City of Rockingham elector numbers are estimated at 83,326, meaning that 100 electors or 0.12% of electors could convene an electors meeting. This could result in a small dedicated group of residents impacting on the sound governance of the City. 500 electors will still be less than one percent of City of Rockingham electors, however this is more acceptable given the other avenues of access via council meeting public question time, etc than the current arrangement.

WALGA position –

3. Minutes, contents of: Regulation 11

Regulation 11 should be amended to require that information presented in a Council or Committee Agenda must also be included in the Minutes to that meeting, ie 'stand-alone' minutes.

Officer position – Agreed. The City has 'stand-alone' minutes currently.

WALGA position –

4. Revoking or Changing Decisions: Regulation 10

That Regulation 10 be amended to clarify that a revocation or change to a previous decision does not apply to Council decisions that have already been implemented.

Officer position – Agreed.

WALGA position –

5. Elected Member attendance at Council meetings by technology

The current Local Government (Administration) Regulations 1996 allows for attendance by telephone, however only if approved by Council and in a suitable place. A suitable place is then defined as in a townsite as defined in the Land Administration Act 1997. This restricts an Elected Members ability to attend the meeting to a townsite in Western Australia. This requirement does not cater for remote locations or the ability to attend via teleconference whilst in another state or overseas. The regulations require amendment to consider allowing attendance at a meeting via technology from any location suitable to a Council.

Officer position – Agreed.

City of Rockingham Response - WALGA positions 1 to 5 supported.

Local Government Act 1995 Review

Interventions

The Local Government Act 1995 (Act) provides means to regulate the conduct of local government officers and council members and sets out powers to scrutinise the affairs of local governments.

There is a community expectation that the misconduct of local government officers and organisational dysfunction and governance issues within local governments are dealt with appropriately and in a timely manner.

An amendment to the Act could be made to simplify the process of making a complaint so that both minor breach and serious breach complaints are to be made to the Director General who then decides how the complaints should be dealt with.

WALGA position - In respect to remedial intervention, the appointed person should be a Departmental employee with the required qualifications and experience. This provides a connection back to the Department and its requirements.

The appointed person should only have an advice and support role. Funding of the remedial action should be by the Department where the intervention is mandatory. The Local Government to pay where the assistance is requested.

Officer position – Agreed. The current process of dealing with alleged minor misconduct of elected members is burdensome and limited by the resource capacity of the Local Government Standards Panel.

City of Rockingham Response - WALGA position supported.

Elections

Historically, voter turnout in local government elections is significantly low compared to other jurisdictions. In most local government elections less than one-third of eligible electors cast a vote. This places a question over how well the council represents the interests of the entire community they represent.

Issues that need consideration around voting in local government elections are focused towards increasing voter turnout, ensuring we have adequate community representation guiding our local government decision making processes and increasing community engagement with their local governments. The more voices contributing to our local democracies, the more accountable and reflective they will be.

Currently in Western Australian local government elections:

- Voting is not compulsory.
- The election method applied is first past the post.
- Are either conducted 'in-person' or through a postal vote.
- Residents, ratepayers, corporations and property occupiers are eligible to vote.

WALGA positions –

1. Conduct of Postal Elections: Sections 4.20 and 4.61

The Local Government Act 1995 should be amended to allow the Australian Electoral Commission (AEC) and or any other third party provider to conduct postal elections.

Local Government Act 1995 Review

Officer position – Agreed. The WAEC should not hold the monopoly on the conduct of postal elections.

WALGA position –

2. Voluntary Voting: Section 4.65

Voting in Local Government elections should remain voluntary.

WALGA position –

3. Method of Voting - Schedule 4.1

Elections should be conducted utilising the first-past-the-post (FPTP) method of voting.

Officer position – These two issues are strongly connected. Federal and State elections (lower houses) are both compulsory and utilise the exhaustive preferential voting method. There is a line of thought that elections should be similar between the tiers of government. However compulsory voting may introduce a ‘party political’ approach to local government, as there is already evidence of political parties ‘endorsing’ candidates for local government elections in WA. Should this occur, a FPTP method of voting would not be the most appropriate platform. As a consequence WALGA’s positions (combined) are supported. Should there be a move to compulsory voting, preferential method of voting would better reflect elector intentions.

WALGA position –

4. Method of Election of Mayor/President: Section 2.11

Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community.

Officer position – This matter has recently been debated by Council and the position is therefore supported.

WALGA position –

5. On-Line Voting

That WALGA continue to investigate online voting and other opportunities to increase voter turnout.

Officer position – Agreed.

WALGA position –

6. Leave of Absence when Contesting State or Federal Election

Amend the Act to require an Elected Member to take leave of absence when contesting a State or Federal election, applying from the issue of Writs. The options to consider include:

- i. that an Elected Member remove themselves from any decision making role and not attend Council and Committee meetings; or
- ii. that an Elected Member take leave of absence from all aspects of their role as a Councillor and not be able to perform the role as specified in Section 2.10 of the Local Government Act.

Officer position – Agreed.

An issue not addressed in the WALGA submission is the conduct of candidates during elections. Sitting Councillors seeking re-election remain subject to the requirements of the Local Government Act and Regulations as well as any Code of Conduct. Candidates for elections should be subject to the same obligations for acceptable conduct as Councillors.

Local Government Act 1995 Review

Additional regulation with appropriate consequences for breaches would help to ensure acceptable conduct.

City of Rockingham Response – WALGA positions 1, 2, 3, 4, 5 and 6 supported.

That additional regulation with appropriate consequences for breaches be introduced governing the conduct of all candidates for local government elections.

Community engagement and Integrated Planning and Reporting (IPR)

Some local governments do community engagement very well but there is currently very little in Western Australia to provide guidance or best practice, or consistency across local governments. Within any community situation, there are risks involving engagement such as small groups of active residents getting disproportionate interest or the potential for engagement becoming a box ticking exercise and a resource burden on local governments.

A charter allows a streamlined opportunity for local governments to communicate clearly when, how and on what matters the community will be engaged to mitigate such risks. A charter can help councils identify the matters on which to engage, evaluate the resources needed and provide guidance on the best methods to engage on a particular issue.

To achieve a cohesive framework, the charter should cover the following:

- Set engagement requirements
- Set principles that can deliver performance outcomes to ensure that engagement must be genuine, inclusive and respectful, fit for purpose, informed and transparent and processes must be reviewed and improved
- Set methods to measure performance

As social media continues to advance, platforms such as Twitter, Facebook and Instagram are being used by local governments as a tool to strengthen community engagement. While social media is being embraced by the sector, concerns have been expressed at the negative and undisciplined way it is being used. This was especially evident during the 2017 local government election.

Unfortunately, social media has also given rise to “keyboard warriors” who have launched attacks against council members and local government employees. Other than pursuing defamation, there is no specific legislation that addresses this issue.

An option for reform is to introduce a legislative requirement that local governments must adopt a social media policy. The policy would not only address the use of social media by council members and staff, but also the appropriate use of social media in community engagement. This policy would be supported by the Mandatory Code of Conduct that will apply to council members and candidates that is being introduced as part of earlier consultation of the Local Government Act review.

IPR is a legislative requirement under the Local Government Act 1995 and requires at a minimum that a local government produces a strategic community plan and a corporate business plan. Strategic community plan is a 10+ year plan informed by community aspirations. Corporate business plan is a plan that mobilises resources to implement the first four years of the strategic community plan.

WALGA did not address Community Engagement or Integrated Planning in their submission.

Local Government Act 1995 Review

Officer position - This issue should also be considered in respect to the scaled/tiered compliance regime depending on the capacity of the local government.

City of Rockingham Response– The City supports the introduction of a provision to differentiate between local governments based on capacity.

City of Rockingham supports the development of a community engagement charter, a social media policy and a mandatory Code of Conduct.

City of Rockingham supports the requirement for statutory plans to align with the IPR framework to create efficiencies and informing the whole process.

While a Corporate Business Plan is a four year documents and needs to be flexible to meet changing financial, and other environments, as well as community expectations, too often there are changes made for less clear reasons. An inclusion of a reason for a decision to make a quantum change in a Corporate Business Plan is advocated.