



City of Swan Council Submission Local Government Act Review Stage 2

March 2019



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1. Introduction

In 2017 the McGowan Government announced a review of the *Local Government Act 1995*. This is the first significant reform of local government conducted in more than two decades. The objective is for Western Australia to have a new, modern Act that empowers local governments to better deliver for the community. The vision is for local governments to be agile, smart and inclusive.

Local governments and community were invited to have their say on the priority reforms earlier last year. The City made a submission in response to the guiding questions in the discussion paper which was endorsed by Council in January 2018. It is anticipated an Amendment Bill dealing with matters raised under Phase 1 – gifts, training for Councillors, behaviours, administrative efficiencies, etc will soon be presented to Parliament.

This submission is in response to Phase 2 of the Act review which focuses on delivering for the community based on eleven (11) themes under the headings of Agile, Smart and Inclusive as follows:

Agile

Agile includes topics that focus specifically on how local governments can best use their resources to adapt to changing conditions. It is important that they can strike a balance between community expectations, the practical limitations of revenue and expenditure and external pressures.

- Beneficial Enterprises
- Financial Management
- Rates

Smart

Smart includes topics that focus specifically on enabling local governments to better meet the needs and expectations of their communities through being transparent and accountable.

- Administrative Efficiencies
- Local Laws
- Council Meetings
- Interventions

Inclusive

Inclusive focuses specifically on local governments representing and involving their communities in decision-making. As the tier of government closest to the community, there is an expectation that local governments represent the whole community, recognise diversity within their district and are responsive to community needs.

- Community Engagement
- Integrated Planning and Reporting
- Complaints Management
- Elections



The City held two Council briefings on 23 January and 20 February 2019. These briefings provided an opportunity for Councillors to comment and submit feedback on the discussion papers. This feedback forms the basis for the City's submission – that of flexibility and one size does **not** fit all.

The submission, as submitted, was endorsed by Council at a special meeting held on 18 March 2019.

DRAFT



AGILE

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2. Beneficial Enterprises

Currently under the *Local Government Act 1995* (the Act), local governments have two options for forming independent corporate bodies:

- Regional local governments; and
- Regional subsidiaries

A local government cannot form or take part in forming, or acquire an interest giving it the control of, an incorporated company or any other body corporate other than a regional local government or a regional subsidiary.

Currently, the Act provisions make it difficult for a local government to be involved in a joint venture arrangement or any commercial enterprise that may benefit their community.

Under the beneficial enterprises model as proposed by WALGA, Councils would be able to establish arms-length entities to deliver projects and services currently outside the scope of the sector but needed by the community. Such enterprises remain wholly owned by local government, not the private sector. Under this model, they may only be established after extensive local community consultation and support. The model also protects ratepayers from legal liability and financial risk. Local governments could create a beneficial enterprise to provide commercial services that are too tight in profit margins for private industry, but which are needed by the community.

All relevant employment laws will still apply under this model. At the same time, professional directors with business acumen and management experience specific to set commercial objectives can be employed by the enterprise.

Recommendation 1

The City of Swan supports in principle:

1. The beneficial enterprises model proposed by WALGA, subject to sufficient safeguards to ensure transparency and protection against conflict of interest by local government staff and councillors. Also protection of community assets.

3. Financial Management

The local government sector's operating expenditure exceeds \$4 billion annually and local governments manage an asset base worth more than \$40 billion. To deliver services efficiently and effectively, local governments must be prudent users of public funds. Local governments must be transparent and accountable and strike a balance between community expectations and the practical limitations of revenue and expenditure.

Local government revenue is principally drawn from rates, fees and charges, and grants from the State and Commonwealth Governments. Financial Assistance Grants



(FAG's) from the Commonwealth, administered by the Local Government Grants Commission comprise approximately 40% of the grants received by the local government sector, with the remaining 60% allocated from State Government grant programs. In the last two years, rates have made up approximately 55% of local government operating revenue, with grants from the State and Commonwealth Government making up around 15% of local government operating revenue.

3.1 Publication of Financial Reports

Local governments should be required to use their websites as the major form of communication to the public. Changes to the Act in 2017 legislated the publication of the annual report on the local government's website within fourteen (14) days of the acceptance by Council.

The process of communication and access to information by ratepayers and the broader community has evolved since the introduction of the current Act. The primary source of information is a local government website. Consistent with changes made in 2017, there are a number of strategic and financial documents that should be made available in a timely manner.

Recommendation 2

The City of Swan supports:

1. The inclusion of legislation that requires local governments to publish on their website within fourteen (14) days the annual budget and annual financial report.

The requirement for local governments to publish on their website should also apply to the Strategic Community Plan, Corporate Business Plans, Council agendas, minutes (both ordinary meetings and special council meeting, electors' meetings and the AGM of electors).

3.2 Investments

The types of investments that local governments are permitted to make are restricted in Regulation 19C of the *Local Government (Financial Management) Regulations 1996*. This regulation states that local governments may not invest in:

- Deposits with an institution except an authorised institution;
- Deposits for a fixed term of more than three years;
- Bonds that are not guaranteed by the Commonwealth government or a State or Territory government;
- A foreign currency

The City of Swan considers that it is appropriate for a mandatory requirement for local governments to have an investment policy which would be endorsed by Council and regularly reviewed.



Recommendation 3

The City of Swan supports:

1. The proposal to use a council endorsed 'investment policy' reviewed annually which will be required under legislation. The policy should include:
 - a. Restrictions on allowable instruments;
 - b. Provisions for portfolio diversification;
 - c. Suitable benchmarks for measuring performance;
 - d. Allowance for both financial and social investments;
 - e. Valuations for reporting purposes to be on a market-to-market basis, with real property being valued every three years at a minimum, and ideally on an annual basis;
 - f. Provisions for minimum reporting requirements; and
 - g. Processes for the selection and review of investment advisors

3.3 Debt

Section 6.20 of the Act provides local governments with the power to borrow money or obtain credit.

Local governments in Western Australia do not need to seek external approval to borrow although financial indicators, including debt service ratio, must be reported in their annual report. Additionally, they are restricted in that their borrowings may be secured only by giving security over their income from general rates or untied Government grants (section 6.21 of the Act). Under section 6.21(3) of the Act, the Treasurer has the power to make directions to local government in respect to borrowing.

Debt is a contentious issue. Some people believe that debt should be avoided wherever possible. Another perspective is that the prudent use of debt serves a user pays philosophy by enabling multiple generations to contribute to infrastructure projects they will use into the future.

In 2014, an Australian Centre of Excellence for Local Government (ACLEG) report noted that local governments across Australia have low levels of debt relative to security, income levels and service responsibilities.

a) Public Notice of Borrowing

Local governments are required to give one month's public notice in relation to borrowing in three circumstances:

- Borrowing that has not been included 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; or
- Where a local government has exercised its power to borrow for a purpose and has funding left over



Ceasing the requirement to give public notice would relieve an administrative burden (which local governments argue rarely generates community interest) but decreases financial transparency for this element of local government finances.

b) Security Over Borrowing

Local governments are currently restricted from borrowing in that their borrowings may be secured only by giving security over their income from general rates or untied government grants. Freeing local governments from this requirement may increase the legitimacy of borrowing as a financial management tool and serve to reduce the stigma associated with local government debt.

Some local governments have contended that they should be permitted to secure funds using their assets. Local governments have suggested that 'commercial' assets such as property and infrastructure like airfields could be used to secure loans at competitive rates. Many of the land assets that are held by the local government are under their care and control, not outright ownership. Some local governments do own land freehold.

The City of Swan is of the view that the market determines the ability of the industry to access debt in terms of the amounts and the cost (interest rate). Institutions will assess the risk in providing loans to local government. Current legislation secures debt over the revenue stream of a local government.

Sections 6.22 and 6.23 of the Act give those financial institutions some reassurance as to their ability to access monies owed in case of a default.

The proposal to offer security over assets for borrowings raises a number of issues. Firstly, the best level of security exists in the current legislative arrangements.

Many of a local government's assets are developed on vested land and would not be able to be sold on default.

Would the offering of security over assets increase a local government's ability to raise funds? For the lender, it would offer first in line security to those that hold the caveat.

It is unlikely the community would like to see its assets sold as a result of a default on loan repayments.

Recommendation 4

The City of Swan supports:

1. The existing provisions for a local government to borrow.

The City of Swan does not support:

1. The offering of local government assets as a form of security over borrowing.



3.4 Procurement

Local governments are significant procurers of goods, services and capital supplies. The City of Swan, due to its size, has good purchasing power over other local governments with a capital works program valued at \$98 million and an operational works program of \$49 million. Its location also has a significant impact on the award of many contracts, particularly in construction, maintenance and facilities management as local businesses with good availability are generally awarded the contract.

Due to the large variety of goods and services the City is required to purchase, it is important to maintain flexibility within the procurement thresholds under the public tender threshold. This flexibility enables the City to arrange its procurement thresholds in a way which benefits its current purchasing activity. The City is therefore not supportive of aligning local government procurement rules with that of State Government.

a) Reform to Tender Exemptions

The City of Swan finds the current criteria for tender exemptions adequate with no clarification required.

b) Criteria for Assessing Advertised Tenders

At the City of Swan, assessing advertised tenders has a two stage evaluation process. The first stage consists of compliance criteria and the second stage qualitative criteria. The compliance criteria consists of mandatory criteria listed within the Regulations and ensures probity of the procurement process. The qualitative criteria are specific to the project outcome and mostly technical in nature.

It is important that criteria selection remains flexible, responsive and above all relevant which will be difficult to achieve when these are set by third parties.

The City of Swan does not support reducing the current local government autonomy in selecting the criteria to be used for assessing advertised tenders.

Recommendation 5

The City of Swan supports the following approaches to tender thresholds:

1. Scaled to local government size and capacity
2. Based on local government expenditure
3. Based on an assigned band

The City of Swan does not support:

1. Aligning local government procurement rules with the State Government
2. Assigning a local government tender threshold according to band based on risk assessment due to its complexity
3. Reform to tender exemptions
4. Reform to criteria for assessing advertised tenders



3.5 Annual Reporting

a) Reporting on Activities and Finance

Section 6.4 of the Act provides the legislative framework for the preparation of the annual financial report.

Financial reporting is not a unique requirement to local government. All State Government and Commonwealth department financial reports are audited by their respective Offices of the Auditor General and must be tabled in Parliament.

Local government must prepare and publish a general-purpose financial statement that complies with the WA legislation and the Australian Accounting Standards. These requirements are a necessity to meet the technical demands of legislation and accounting standards but are a poor communication tool which will inform the general public on the key financial performance. There is a need for a concise financial report to be included in the annual report.

The present provisions of the Act at section 6.4 provide the framework for the preparation of financial reports. Most of the detail is included in the Finance Regulations.

Recommendation 6

The City of Swan considers the provisions under this section adequate to meet the needs of the industry and the community.

b) Annual Financial Report

Section 5.53 provides for the annual report to include the annual financial report. Today's financial reports are upward of 50 pages and contain some complex disclosures and specific information. It is important that this information continues to be prepared and audited.

The reporting of financial information in the annual report could be reduced to better inform the community rather than mountains of information that adds little value. An opportunity exists to present financial information that better conveys the local government financial performance.

c) Payments Made to Employees

These payments are related to financial transactions, as are payments made to elected members, which are disclosed in the notes as required by the Finance Regulations.

Disclosures of employee payments should relate to the remuneration package rather than salary. Values could commence at \$200,000 and rise by \$25,000 increments.

A further disclosure should be the number of FTE's employed by the local government. These would align with the notes on payments to related parties.



Recommendation 7

The City of Swan supports the following matters in relation to the financial information contained in the annual report:

1. Local Governments continue to prepare annual financial reports in accordance with the legislation and accounting standards,
2. The annual report should have the option to present a concise financial report,
3. The information on employees should be contained in the annual financial report,
4. Employee payment disclosures should be on the basis of the value of the remuneration package starting from \$200,000, and
5. Local governments disclose the number of FTE's employed by the local government

This would require a change to section 5.53 of the Act and the Regulations.

4. Financial Ratios

The Department's discussion paper on this topic raises the issue of financial indicators and their relationship to a local government's financial health.

Legislation requires that local governments calculate and publish seven financial ratios in their annual financial statements. Financial ratios are increasingly used across Australia as an important performance indicator for public sector entities, including local government.

Across Australia, local governments are required to calculate and publish different ratios. The lack of consistency makes the comparison of financial performance across local governments around the country more complex. Likewise, methods of valuation used to calculate ratios under the International Valuation Standard can vary, which means that ratios are a guide or indicator rather than a definitive account of financial health.

The Department's discussion paper on this topic states at page 20 -

*"In Western Australia, benchmarks for the seven ratios that local governments must report on were set in Departmental guidelines published in 2013. **While these benchmarks are not legislated**, the use of the benchmarks to inform the Department's risk management approach means that they are of considerable interest to local governments."*

This statement is incorrect in that the Local Government (Financial Management) Regulations 1996 Regulation specifies **"Financial ratios to be included in annual financial report"**.

Regulation 50 Financial ratios to be included in annual financial report

(1) The annual financial report is to include, for the financial year covered by the annual financial report and the 2 preceding financial years —

- (a) the current ratio; and*
- (b) the asset consumption ratio; and*



- (c) the asset renewal funding ratio; and
- (d) the asset sustainability ratio; and
- (e) the debt service cover ratio; and
- (f) the operating surplus ratio; and
- (g) the own source revenue coverage ratio.

a) Operating Surplus Ratio

The intent of this ratio is to demonstrate the extent to which revenue raised not only covers operational expenses, but also provides for capital funding. Basic Standard between 0% and 15% and advanced with ratio greater than 15%.

In calculating this ratio, the following financial data is used:

- Operating revenue (as defined in the AAS)
- Contributions received for capital outlays
- Operating expense (as defined in the AAS)
- Own Source Revenue (as defined in FR50)

The Finance Regulations define **operating revenue** as the revenue that is operating revenue for the purposes of the AAS, excluding:

- (a) grants for the development or acquisition of assets; and
- (b) contributions for the development or acquisition of assets; and
- (c) other comprehensive income;

The City considers that the results of most of the ratios are dramatically impacted by the actions of the Federal Government in advancing and adjusting federal assistance grants administered through the WA Grants Commission.

Local Government Federal Government Assistance Grants							
Year	\$'millions	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17
General Purpose	-	149.8	156.8	167.0	173.3	171.4	171.0
Local Road	-	91.7	95.0	98.5	100.0	99.4	99.4
Capital	-	7.0	7.2	7.5	6.9	7.5	7.5
Advance Instalment(Adjustment)	-	70.0	5.7	(137.5)	140.1	(140.1)	144.3

The ratio is materially affected by the advance payments/adjustments of the Grants Commission grants in years 2013/14 to 2016/17. This ratio does not provide an accurate picture of operating results year on year. The volatility in the results is not a true reflection of the industries performance.

The operating result is distorted by:

- recognition and derecognition of community assets, through the profit and loss statement,
- equity interests in joint ventures and regional councils,
- abnormal sales of assets (land and buildings),
- impairment of assets charged to profit and loss statement,
- non-normal operating transactions, such as underground power,



- operating grants provided for the provision of specified services (State programs), and
- advances/reduction in untied grants (WALGGC) recognised in the year they are received.

There would be a benefit in reporting the underlying operating surplus ratio which excludes the impact of 'one off' asset sales, accounting treatments, equity adjustments and abnormal operating revenues and expenditures rather than revenue as defined in the Accounting Standards.

Results are also subject to fluctuations by using own source revenue as the denominator in the calculations. Own source income used to calculate this ratio is not transparent.

This ratio would benefit in expressing the underlying operating surplus in the context of the underlying operating revenues. This would provide more meaningful trends that could identify improving or declining financial outcomes. This is not evident in the current operating surplus ratio.

b) Own Source Revenue Coverage Ratio

Revenues derived from local governments operations that exclude third party grants and subsidies. A basic standard is achieved if the ratio is between 40% and 60% (or 0.4 and 0.6), intermediate between 60% and 90% and advanced greater than 90%.

The Finance Regulations define **own source operating revenue** as revenue from rates and service charges, fees and user charges, reimbursements and recoveries, interest income and profit on disposal of assets.

It is the City's view that this is the only ratio that provides a consistent trend as the calculations are influenced by fluctuations in untied grants. This ratio highlights revenue risk but does not provide a clear link to sustainability.

Own source revenue does not include grants and subsidies for the provision of services which result in operating expenses. A good proportion of operating grants are conditional on incurring operating expenses. Operating expenses should reflect the underlying operating expenses and not that defined under the Accounting Standards.

c) Debt Service Cover Ratio

This indicator is intended to demonstrate a local government's ability to generate sufficient cash to cover its debt payments. A basic standard is achieved if the ratio is greater than or equal to 2. An advanced standard is achieved if the ratio is greater than 5.

The calculation of this ratio is as follows – Operating Revenue LESS Operating Expenses (excluding depreciation and interest) DIVIDED BY Debt Service Costs (principal and interest).

The City is of the view that operating results affected by 'one-off' transactions (see Operating Surplus Ratio) does not address interest only loans or debt against security (s 6.21(2)) and refinanced loans are included in debt service costs.



The volatility in the trend results is not a true reflection of the industries performance and therefore reflects emerging trends. The ratio is materially affected by the advance payments/adjustments of the Grants Commission grants.

d) Current Ratio

This indicator is intended to measure a local government's liquidity and its ability to meet its short-term financial obligations from unrestricted current assets. The standard is not met if the ratio is lower than 1:1 (less than 100%).

The calculation of this ratio is as follows – Current assets (LESS restricted assets) DIVIDED BY Current liabilities (LESS liabilities associated with restricted assets).

The City is of the view that local governments that fail to deliver programs funded from prior financial year's rates and subsequently carry forward funds for those programs into the next financial year are 'rewarded' with a higher current ratio. Many local governments' current ratio looks favourable due to these circumstances.

Other issues that impact on this ratio include:

- Advance payment of untied grants (FAG's) overstate cash holdings,
- Provision for employee entitlements is usually not 'consumed' in the following year,
- Inventories, especially land for resale, is not usually realised in the next year,
- Includes next year's debt repayment which is funded from next year's budget, and
- Some non-current liabilities have a restriction on cash e.g. bonds and securities.

Cash assets are reduced by reserve accounts (under a DLG interpretation of Section 6.11). However, the only reserves that carry a contingent liability are those associated with specified area rates, service charges, unused grants, developer contribution plan etc. which require the local government to repay or spend.

In addition, the components of this ratio (next year's debt repayment) are not readily transferred to meaningful performance indicators in the long-term financial plan disclosures. For example, the current ratio includes in the current liabilities next year's debt repayments. The funding of those repayments is included in the following year's budget. Hence there is a timing mis-match and the current ratio will result in a negative outcome.

e) Asset Sustainability Ratio

This indicator is intended to measure the extent to which assets managed by a local government are being renewed or replaced as they reach the end of their useful lives. Standard is met if the ratio can be measured and is at least 90%. Standard is improving if this ratio is between 90% and 110%.



The calculation of this ratio is as follows – capital renewal and replacement DIVIDED BY expenditure depreciation expense.

The City is of the view that this ratio suffers from a lack of definition and the clarity of terminology. The Finance Regulations defines –

capital renewal and replacement expenditure mean expenditure to **renew or replace existing assets**

whilst the asset management guidelines couch the outlays in terms of service potential.

Asset Renewal Costs (Capital Renewal Expenditure) - Expenditure on an existing asset which returns the **service potential** or the life of the asset to that which it had originally.

In addition, the ratio is impacted substantially by the depreciation expense. Over-stated revaluations have seen a dramatic increase in depreciation expenses and therefore a reduction in this ratio over time.

f) Asset Renewal Funding Ratio

This indicator is intended to measure a local government's financial capacity to fund asset renewal at existing revenue/service levels. Standard is met if the ratio is between 75% and 95%. Standard is improving if the ratio is between 95% and 105% and the ASR falls within the range 90% to 110%, and ACR falls within the range 50% to 75%.

The calculation of this ratio is as follows – Net Present value (NPV) of planned capital renewals over 10 years DIVIDED BY NPV of required capital expenditure over 10 years.

It is the City's view that in cases where local governments have not prepared long term financial plans and asset management plans this ratio cannot be calculated.

Again, the calculation of this ratio is not transparent.

This indicator considers future transactions and NOT the financial performance shown in the annual financial report. It is appropriate to disclose this ratio in the long-term financial plan.

5. General Matters Relating to Financial Ratios

The City is of the view that the current set of financial indicators lack transparency, are not robust and as such fail to provide the industry and our ratepayers with measures of our financial performance. Most indicators struggle to provide a meaningful trend analysis.

The calculation of certain indicators do not readily transfer to other financial plans such as the long term financial plan.



Recommendation 8

The City of Swan is of the view that all the current financial ratios should be reconsidered with the view of providing appropriate and meaningful performance indicators that will provide ratepayers with a good understanding of the financial position of their local government.

Five main themes should be addressed:

- Underlying operating performance
- Debt management
- Liquidity
- Asset performance
- Financial capacity

All indicators must be able to be demonstrated from the information contained in the financial reports prepared by each local government. Adjustment need to be made to account for the federal governments approach to advancing FAG's.

Financial capacity - consideration should be given to the development of a net financial assets ratio. Other ratios could measure the capacity of a local government in terms of unrestricted reserve funds accumulated to meet future operating and capital needs.

5.1 Financial Health Indicator

Developed by WATC, the Financial Health Indicator (FHI) is a measurement of a local government's overall financial health. A result of 70 and above indicates sound financial health. The maximum result achievable is 100. The FHI is one factor to consider in assessing overall performance. This assessment is calculated from the financial ratios published in the local government's Annual Financial Report.

The FHI is calculated using benchmarks and weightings which are published on the government MyCouncil website.

The City is of the opinion that the concept for a financial health indicator is sound and should be pursued. The failing of the existing model is that it is based on flawed data and the weightings do not relate to current perceptions by the industry.

Recommendation 9

The City of Swan supports:

1. The concept that the Department develops a financial health indicator, in consultation with local governments that encompasses key financial indicators so that the public and ratepayers can gain an appreciation of their local government's financial performance.



5.2 Building Upgrade Finance

Building Upgrade Finance (BUF) is a scheme whereby a local government administers loans issued by financiers to non-residential building owners to upgrade their buildings. The local government uses a levy on the building owner to recover the funds on behalf of the financier. The approach has been used in Victoria, South Australia and New South Wales as a mechanism to encourage non-residential property owners to invest in environmentally conscious building upgrades.

BUF involves three parts:

- The building owner agrees to undertake works;
- A financier agrees to finance the works; and
- The local government agrees to recoup the loan (known as a building upgrade charge).

The arrangement means that the loan is tied to the property rather than property owner. Responsibility to pay for the loan shifts if the ownership of the property changes. In other Australian States that have employed this approach, the local government is by law not 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 City of Perth and the Property Council of Australia have advocated for reforms to Western Australian legislation that would enable local governments to guarantee finance for building upgrades for non-residential property owners. In addition to building upgrades to achieve environmental outcomes, advocates have identified an opportunity to use this approach to finance general upgrades to increase the commercial appeal of buildings for potential tenants. In this way, BUF is viewed as a means to encourage economic investment to meet the challenges of a soft commercial lease market in Perth and achieve economic growth.

BUF enables building owners to obtain finance that they may not normally have access to. For local government, the approach may allow for the achievement of strategic community objectives and provide an additional revenue stream. For lenders, the scheme is said to be a way for financiers to participate in environmentally conscious investments and support technology like solar and have additional security because in the event of bankruptcy, recovery of the BUF takes precedence over other outstanding payments.

The City is of the view that in principle these schemes have some potential community benefits to provide environmental improvements, however it immediately raises a question why this model does not sit with WA Treasury rather than Local Government. It will also bring with it what appears to be a significant administrative burden to the City, for which the economies of scale may not exist to justify the effort involved to generate what will essentially be a service fee. ESL contribution to Local Government has not proven its growth in line with volume and size of administrative work involved by Local Government.



In essence the Building Upgrade Charge (BUC) will be set out in a Building Upgrade Agreement (between three parties - Council, Financier and Building Owner). The BUC recovers money advanced by a finance provider to the building owner. The Council may charge a service fee which covers costs incurred by Council in entering into and administering a BUA. The Council also becomes the enforcer when payments are not made, so Council becomes the enforcer and recovery agent of behalf of the lender, this is the case because ultimately the BUC must be declared as a charge on the land. Needless to say this would then again make Council look like the 'bad guy'. The attached guide issued by the Local Government Association of South Australia is a very handy and easy to read guide.

General comments:

- Why can this scheme could not be achieved under a State sponsored program rather than LG. This has many wider community benefits. If the State becomes involved the WATC may have a role to play.
- If there are wider community benefits why should the scheme exclude residential properties (buildings). Even in the City of Perth there are multi story residential complexes that could reduce the demands on energy, water.

Local Government schemes:

- As stated above the local government would have to do a lot of work including obtaining declarations from the owner that the BUC's does not exceed 80% of the capital value of the land prior to upgrade and that all existing mortgages have been notified because it is a charge on the land what would lenders who have mortgages over property, when new debt jumps the priority as a local government charge against the property.
- Legal contracts between the Local Government, Owner and the Financier need to be considered carefully as unforeseen legal liability may arise.

When the scheme goes well:

- Local government will act as a collection agent for the bank
- Local government only remits to bank when it receives cleared funds
- How will the fee be structured, will a standard fee be applied across local government (like the ESL?), it does not appear feasible it would appear that it would need to be separate per property.
- What will be the arrangements for penalties for late payments (charges the bank will raise)

When the scheme strikes trouble (economic hardship = non-payment of loan):

- What restrictions on local government debt collection policy – OR will the bank determine this, it would seem that this would be a local government responsibility.
- Because it is a charge on land Council becomes debt collection enforcer
- It would appear the three-year period as with rates will apply to this scheme
- Local government look as the bad boy in collecting debt on behalf of banks (reputational risk),



Further research may be required especially around the experiences from the East. The legal structure may also become fairly complex. It would also (from initial assessment) appear the take up over East has been limited and only at major Councils.

Recommendation 10

The City of Swan does not support:

1. The use of local government financial resources to finance the private sector for private developments.

6. Rates, Fees and Charges

Local governments impose rates to raise revenue to fund services and facilities.

The quantum of rates payable is determined by three factors:

- The method of valuation of the land
- The valuation of the land; and
- The rate in the dollar applied to that valuation by the local government

Each property in Western Australia is assigned a method of valuation which is either the unimproved value (UV) or gross rental value (GRV). The Act specifies that a property used for rural purposes is rated as UV and a property used for non-rural purposes will be rated as GRV. In practical terms, land used predominantly for residential purposes is generally classified as GRV.

A review of the method of valuation of land is currently being taken by the Valuer General's Office. Once this review is completed and amendments proposed, the relevant provisions in the Act will be examined, in line with any submissions received.

Division 6, Part 6 of the Act provides the legal structure for property rating. For many ratepayers the process and structure is not an easy process to follow.

Council, at its meeting of 30 August 2017 resolved to seek a simpler and more transparent rating system:

That the City writes to the Treasurer, Minister for Local Government and the WA Local Government Association requesting a review of the current 'ability to pay' rate methodology and investigate a policy that is simpler and more transparent.

Sections 6.26 and 6.31 relates to valuations. Again, the interpretation of rural use and the application of gross rental values and unimproved values creates difficulties in their application.

Much of the feedback received from the community relates to the definitions and lack of clarity surrounding the term 'rural use'.



In addition, revaluations every three years creates substantial movement in the distribution of the rate burden. Consideration should be given to annual valuations for gross rental values as currently applies to unimproved valuations.

Recommendation 11

In respect to the review of the method of valuation of land being undertaken by the Valuer General's Office that consideration be given to a uniform valuation method for all rateable properties.

If the current valuation methods are to be continued, then legislation is required to define 'predominant use' and 'rural use' for determining unimproved values.

In addition, consideration should be given to annual revaluations of gross rental properties.

6.1 Differential General Rates and Minimum Payments

Local governments have to comply with specific requirements set out in the Act, including the imposition of differential general rates and minimum payments. Opportunities for potential reform of these provisions are discussed below.

6.2 Rating

Rate setting is a challenging process, made difficult by fluctuating valuations because of the growth or decline of communities.

The Act requires that in the period from 1 June to 31 August a local government is to prepare and adopt an annual budget. As part of preparing the budget, each local government must raise enough in rates to cover the shortfall (budget deficiency) between its predetermined expenditure and available revenue. It does this by applying a rate in the dollar to the valuation of each property.

Rates can be imposed uniformly (a single rate in the dollar) or differentially (different rates in the dollar for different categories).

6.3 Local Government Rates and Revenue Strategy

Local governments are currently required to prepare a long-term financial plan that addresses rate increases. In Victoria, it is a requirement that local governments have a Revenue and Rating Strategy and in Queensland they must prepare a Revenue Statement.

An option is to introduce the requirement for local governments in Western Australia to develop a Rates and Revenue Strategy, which could include:

- Rating categories (and potentially how they are determined);
- Rates in the dollar;
- Objects and reasons for each rating category;



- Fees, charges and levies including the methodology where appropriate; and
- Long term rating strategy

The Rates and Revenue Strategy, including the schedule of fees and charges, would be prepared prior to the budget process and would be adopted by council before the budget is adopted.

Local governments would be required to make the Strategy available on their website and it would be used as a basis for consultation on rates.

In developing long term financial plans, local governments develop financial strategies which underpin the Plan. These include:

- Continuous improvement in the financial position of the local government
- The achievement or maintenance of operating surplus each year
- The maintenance of a fair and equitable rating structure
- Maintaining or improving service level standards
- Reliance on debt to fund capital works
- Maintenance of cash reserves for future commitments
- Increasing reserves for asset maintenance and renewal
- Achieving a specified proportion of cost recovery for services
- Inter-generational equity

Revenue and expenditure forecasts are then developed based on the chosen strategy.

In developing the annual budget, a local government should address the financial strategies documented in the long-term financial plan. Strategies should be adjusted to meet current circumstances and economic conditions. These strategies cover the macro environment and form the philosophy in which the budget is developed, and services delivered. Therefore any 'Rates and Revenue Strategy' would form only part of the overall financial strategy.

Recommendation 12

The City of Swan supports:

1. Any requirement for a local government rates and revenue strategy to be incorporated into an annual financial strategy.

Transparency and accountability can be achieved by publishing this strategy, which includes any proposed rates and charges, twenty one (21) days prior to adoption by Council.

6.4 Public Notice

In considering the potential reforms, an overarching question is whether local governments should be required to consult on the proposed rates or simply notify their ratepayers.

If a local government introduces a rating strategy that uses a uniform rate in the dollar, unlike differential general rates, there is no requirement for public notice to be



given. This means that there is no opportunity for the community to provide a submission and there is no need for local governments to justify the rate in the dollar.

Local governments are required to advertise their intended differential general rates prior to considering and adopting their annual budget. The local government must issue a notice that details each rate or minimum payment they intend to impose and the objects and reasons for doing so. The local government must then allow twenty one (21) days for submissions and consider each submission at a meeting of the council. Council can then choose to adopt the advertised rates or amend the rates.

Rather than publicly advertise proposed differential rates, it is proposed that local governments will include these details in their annual financial strategy in formulating their budgets.

Recommendation 13

The City of Swan supports:

1. Transparency and accountability which can be achieved by publishing the annual financial strategy including proposed rates and charges, twenty one (21) days prior to the adoption of the annual budget by council.

6.5 Differential General Rates

Section 6.32 and 6.33 of the Act provide the legislative basis for imposing differential or uniform 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 categories must comply with the Act, there is still scope for a variety of rating categories which does not allow comparability across local governments.

One option is to increase the differential from two times the lowest to three or four times the difference before Ministerial approval is required. This would reduce the regulatory burden on both local governments and the department. It would also provide an element of oversight to ensure that local governments are not imposing significant differences.

Alternatively, the difference could be set to a maximum of four times with no ability to seek Ministerial approval. This is consistent with Victoria. This may introduce greater fairness between categories, especially for the mining sector which is levied a significantly higher rate in the dollar than other categories by some local governments.



The mining sector argues that it is treated differently from other industries and carries a heavier rate burden without being provided with a strong rationale by local governments. The mining sector is of the view that greater oversight is required to ensure that rates are applied fairly across all industry sectors.

The City is of the view that the current provision of the Act adequately addresses its requirements with respect to differential rating. Council is seeking a more simplified rating process and any additions to this section would further complicate the process.

Recommendation 14

The City of Swan is of the view that the existing differential rating categories under section 6.33 of the Act are adequate and should not be changed.

With respect to setting rates greater than twice the minimum, the City is of the view that to provide ratepayers with a degree of control, the Minister should have the power of approval above any predetermined limit.

6.6 Minimum Payments and Maximum Rates

A minimum payment can be imposed by a local government irrespective of what the rate assessment would be if the rate is applied to the property valuation. The purpose of a minimum payment is generally to ensure that every ratepayer makes a reasonable contribution to the rate burden.

While the Act allows local governments to impose a minimum payment that is greater than the general rate would otherwise be, there are regulatory limits that apply. Unless the general minimum is \$200 or less, a minimum payment cannot be imposed on more than 50 per cent of properties in any category. Local governments can apply to the Minister for a minimum payment that does not comply with these limitations, but only for a minimum payment that applies to a differential rate on vacant land.

The City of Swan is of the view that the danger in allowing a large proportion of properties to be rated as minimum payment would change the philosophy of a property-based taxation system.

Recommendation 15

The City of Swan does not support:

1. Changes to this provision of the Act on the basis of maintaining an equitable rating system.

6.7 Rating Exemptions

The Act provides that all land is rateable unless it is listed as exempt. Not all land is required to pay rates. While the Act sets out a number of specific categories, it also provides the power for the Minister for Local Government to approve other land as exempt from rates.



According to information provided by the Western Australian Local Government Association (WALGA), in 2017/18, local governments lost more than \$44 million in revenue due to rate exemptions. Charitable organisations accounted for a majority of rate revenue loss (35%), followed by Crown land (16%). The City of Swan noted that in 2017/18, the value of rate exemptions was approximately \$1.7M.

Other than land used or held by the Crown (State Government) for a public purpose, a local government or a regional local government, exemptions from rates apply to:

- Land used or held exclusively for churches (religious bodies);
- Land used or held exclusively for schools
- Land used exclusively for charitable purposes
- Land vested in trustees for agriculture or horticultural show purposes;
- Land owned by Co-operative Bulk Handling Limited (CBH); and
- Land exempted by the Minister for Local Government

There is an argument that everyone should pay local government rates as everyone uses the services and facilities provided by the local government, from roads to parks and community facilities. In addition, rate exemptions can have a significant impact on the capacity of local governments to raise rate revenue, especially in regional and remote areas. It is then left to the ratepayers to make up the shortfall.

CBH Group (commonly known as CBH, an acronym for Co-operative Bulk Handling) is a grain growers' cooperative that handles, markets and processes grain from the wheatbelt of Western Australia.

Currently land owned or leased by CBH is exempt from paying local government rates where CBH has agreed, in writing, to make a contribution to the local government. Local governments have expressed a view that the contributions made by CBH are not adequate.

In all other jurisdictions, similar sites are rateable.

Nevertheless, a number of organisations provide important services within the community with very limited funding. If those organisations are required to pay rates, it may impact on the ability for them to continue to provide those services. This may ultimately cost the local government in having to provide the services in-house or alternatively the services to the community are removed or reduced. Examples could include aged care, domestic violence support services and disability service providers.

Rather than requiring everyone to pay rates, an alternative approach could be to require every occupier of land to pay a contribution to the local government. The capped rate could be the minimum payment set by the local government, or alternatively, an amount set by legislation.

Concessions can also be used by local governments, including to reduce the rate burden on a ratepayer when there have been significant valuation changes. Currently, offering a concession is at the discretion of individual local governments.



Recommendation 16

The City of Swan supports:

1. The concept that a minimum contribution be made by all ratepayers (including non-rateable properties) within the district in consideration of provision of generic facilities such as roads.

6.8 Exemptions: Charitable Organisations

One of the more contentious exemptions is for 'land used exclusively for charitable purposes'. The meaning of 'land use exclusively for charitable purposes' is not defined in the Act and differing interpretations of the meaning of 'charity' and 'charitable purposes' have continued to prove challenging across all levels of government in Australia. Each jurisdiction has taken a different approach to defining 'charity' and 'charitable purposes'.

In Western Australia the meaning of what constitutes 'land used exclusively for charitable purposes' has been the subject of several key decisions in the State Administrative Tribunal (SAT). These decisions have been a matter of contention for the local government sector as exemptions that 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.

Commercial not exempt	Qualified under Commonwealth legislation	Land not used as a residence
Exemptions do not apply to commercial (non-charitable) business activities	Certain categories of ratepayers, for example independent living units, would only be exempt from rates where they qualify under the <i>Commonwealth Aged Care Act 1997</i>	Clarify that land is not used exclusively for charitable purposes if the land is used as a residence and is exclusively occupied by persons, including a caretaker

'Charitable purposes' has caused considerable debate when considering rate exemptions. A number of 'charitable organisations' have embarked on enterprises that provide residential accommodation for a range of clients. Lifestyle living provided by charitable organisations should not be exempt from paying local government rates.

In addition, aged accommodation places a demand on local government services and facilities. Previously, these facilities were provided by governments and now most are owned and/or serviced by private companies.

If all residential properties were rated then a local government could provide a concession as it sees fit arising from the community benefit.



Recommendation 17

The City of Swan supports:

1. The concept as proposed in Victoria, that if any part of land is not used exclusively for charitable purposes, when it is used as a residence.

6.9 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 collections;
- Additional services, such as providing security; and
- 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.

Other fees and charges are set in legislation, for example registration fees for dogs and cats.

Sections 6.16 and 6.19 of the Act refer to the imposition, setting, imposition of fees and charges. Where fees and charges are not documented through the annual budget process additional disclosures are required under section 6.19 of the Act.

The City supports this process which provides increased transparency and accountability for additional charges on the community outside the budget process.

However, during the course of a financial year local governments can become involved in facilitating community events which may require the levying of a fee for public access to these events. Details of these events are not known at the time of adopting the schedule of fees and charges. They are not material and to meet the requirements of the Act incur a large overhead and time delay.

A number of fees are set by State regulation and for reasons that meet the State agenda, these revenues do not match the expenditure outlays. If the State wishes to control the revenue, then it may wish to take over the associated activities.

Fees received by local governments for the collection of the emergency services levy (ESL) have been fixed since the tax was imposed. This has effectively passed the cost of collection on to local governments.



Recommendation 18

The City of Swan supports:

1. A proposal that would see a more flexible approach to setting and disclosing new one-off fees for specific events.
2. A process that would enable greater input to the setting and changing of State regulated fees and charges.
3. Any proposal that would result in the cost of collecting State taxes and charges on a fee for service basis being paid by the Department of Fire and Emergency Services (DFES).

6.10 Annual Rate Charges

At the time of issuing a rate notice, local governments can impose a uniform or differential rate, a minimum payment, specified area rate or service charges.

In other States, a range of other charges can also be imposed. Under Victorian legislation, local governments can impose a municipal charge to cover some administrative costs. In Tasmania, local governments can impose a separate rate or charge for the purpose of planning, carrying out, making available, maintaining or improving anything.

To increase transparency and accountability, the Act could be amended to allow local governments to impose a levy on all ratepayers to fund a particular service, facility or activity that benefits the entire community.

A simple and transparent approach could be to provide a model similar to Tasmania whereby the general rate consist of two components: the rate based on the valuation and a fixed charge.

The City's view is that the current rate notice for ratepayers includes a number of separate tariffs such as ESL, refuse fees, swimming pool charges, service charges and specified area rates. In adding another category of charges, the system will only become more complex and less transparent. The two-component model has previously been considered in Western Australia.

Recommendation 19

The City of Swan does not support:

1. Any proposal that further complicates the existing rating system. Any changes should be to simplify the rating system and not make it more complex.



6.11 Development Contributions

Development contributions are an important tool for local governments to fund infrastructure in growing communities.

State Planning Policy 3.6 prepared under the Planning and Development Act 2005 describes the principles and considerations of development for infrastructure in urban areas. Under the policy, local governments may set out a system of charging development contributions through their planning scheme.

Development contributions can be sought for infrastructure required to support the development of an area. Local governments may seek:

- Land contributions (for example, land for widening roads, public space, or primary schools);
- Infrastructure works for public utilities and roads;
- Monetary contributions for water and sewerage; and
- Community infrastructure

Contributions are for the initial capital requirements only and not for ongoing maintenance or the operating costs.

Local governments seeking contributions for community infrastructure must be supported by a community infrastructure plan, capital expenditure plan, growth forecasts and a method to determine proportional costs between new and existing areas.

The role of development contributions is being considered as part of the Department of Planning's review of the State Planning Policy.

The City is a major stakeholder in the development of community asset/facilities utilising Development Contribution Plans (DCP's).

Recommendation 20

The City of Swan supports:

1. The use of DCP's in funding the development of community assets and facilities in high growth urban areas.



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7. Administrative Efficiencies

7.1 Combining the Local Government Grants Commission with the Local Government Advisory Board

Whilst the City agrees that the composition of the Grants Commission and Advisory Board are similar, it is of the view that the functions they perform are quite different. Due to these different functions, it is important that they are kept separate.

Due to the diversity of local governments in Western Australia, it is important that membership of both its Advisory Board and Grants Commission are drawn from specific geographic locations which should include metropolitan Perth and regional and remote Western Australia.

Recommendation 21

The City of Swan does not support:

1. Combining the Local Government Grants Commission with the Local Government Advisory Board.

7.2 Board Requirement to Determine the Question and Summary

At present, if a local government decides to proceed with a proposal to change the method of election of the Mayor/President from 'election by electors' to 'election by the council', the Advisory Board is required to determine the question to be voted on by electors and prepare a summary of the case for each way of voting on the question.

It may be more appropriate for the affected local government to prepare the question and the summary case as they are the body in the best position to provide an accurate summary. After the local government has drafted the question and summary it could be submitted to the Advisory Board for approval/endorsement before any poll is conducted.

Recommendation 22

The City of Swan supports:

1. The proposed approach in principle.



7.3 Boundary Changes, Abolishing Districts, Names and Ward Representations

Recommendation 23

The City of Swan supports the following proposed process changes:

1. An ability for the Advisory Board to refuse to accept a proposal on the basis that the proposal is incomplete (does not meet the requirement set out in the Regulations)
2. A requirement for affected electors who sign a petition to acknowledge they have read the summary of the proposal and have seen a plan or map detailing any proposed changes
3. A requirement to provide the affected local government(s) details of a proposal prior to submission of a proposal to the Advisory Board
4. The ability for an applicant to be able to withdraw a proposal, prior to a recommendation being made to the Minister, subject to the Advisory Board supporting the withdrawal
5. Increase the number of electors required to submit a proposal under Schedules 2.1 and 2.2 from 250 people or 10% of the community to 500 signatures where the affected district has a population over 5,000

7.4 Local Government (Miscellaneous Provisions) Act 1960

When the *Local Government Act 1960* was enacted it repealed many pieces of legislation including the *Municipal Corporations Act 1906* and *Road Districts Act 1919*. In 1995 the majority of the 1960 Act was replaced by the *Local Government (Miscellaneous Provisions) Act 1960*.

Large parts of the 1960 Act were later incorporated into building legislation. It is appropriate to consider whether the sections that remain in the 1960 Act are still required.

Recommendation 24

The City of Swan supports:

1. The repeal of this legislation as it has little value.



8. Local Laws

In Western Australia, to make a local law a local government is required to:

- Give public notice of the proposed local law
- Provide a six week submission period
- Provide a copy of the proposed local law to the relevant Minister
- Consider the submissions received
- Make the local law (via passing a resolution)
- Publish the local law in the Gazette and
- Provide the local law and explanatory material to Parliament

As local laws are a type of legislation, they must be approved by the Parliament. Each new or amended local law is examined by the Parliamentary Joint Standing Committee on Delegated Legislation which makes a recommendation to Parliament on whether the local law should be accepted or disallowed.

8.1 Model Local Laws

The City agrees that model local laws provide consistency and make the local law making process easier. However, it is important that flexibility is maintained to allow local governments to tailor local laws to suit specific local community needs.

The City also agrees that State Government enacted regulations acting as local laws in certain circumstances is beneficial. However, the discussion paper does not provide adequate detail or provide any options or possibilities as to what the proposed regulations might look like. This makes it difficult to provide meaningful comment particularly with regard to an urban environment regulation and beekeeping.

With regard to trading in public places, State regulations could create the authority to approve street trading and set out the approval process. Each local government could then develop a policy which sets out where they would issue the approvals. This would allow a more streamlined approach to trading issues at a local level.

A State-wide nuisance regulation would be beneficial and timely given the work currently underway with the Public Health Act. However, detailed consideration and discussion would be required by the Department before the City could provide a final comment.

The City is of the view that the need for State-wide regulation with regard to toilets, water supply, etc should be retained.

Recommendation 25

The City of Swan supports:

1. The Department of Local Government commenting on the proposed local laws
2. Requiring a legal practitioner to certify that a local law is within power and legally enforceable.



The City of Swan does not support:

1. Requiring local governments to modify local laws according to the Department's instructions. The City's preference is that the local government's discretion should be retained
2. Changes to the consultation period for modified local laws

9. 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. This framework is further supported by standing orders set by council and enacted as a local law. These standing orders typically deal with matters such as:

- The order of business and standing items
- Procedures for debating motions
- Procedures for taking public questions and
- Procedures for making representations at council meetings, known as deputations

9.1 Public Question Time

The City agrees that public question time is an important feature of Council meetings. However, questions can often relate to operational matters rather than the role of Council and depending on the complexity of questions can take extensive resources to provide comprehensive answers. It is important to recognise that there are other avenues available to the public to ask these types of questions and an increase in these questions at Council meetings could take away focus from Council decision making. Similarly, if social media is to be considered as a possible tool to enable questions to be asked by the public, it is important that a clear framework is developed to minimise any potential impact on Council decision making.

Recommendation 26

The City of Swan supports:

1. Alternative ways for the public to ask questions
2. Questions from the public in writing if unable to attend the meeting
3. Not requiring answers to be read at the meeting to public questions provided in writing



The City of Swan does not support:

1. Greater prescription in the Act relating to public question time. It is important for individual local governments to retain flexibility to allow adaptability to specific needs

9.2 Public Statement Time

The City currently provides for public statement time at its Council meetings and until recently this opportunity had been rarely utilised by the public. Recent use of public statement time has been an additional opportunity for the public to repeat deputations already made at agenda forums on matters before Council for decision.

Recommendation 27

The City of Swan does not support:

1. Allocating time for public to make statements relating to items on the agenda which are essentially deputations. It is important for individual local governments to retain flexibility to allow adaptability to specific needs

9.3 Managing Interests

Councils often need to make important and difficult decisions that impact the community. The City agrees that it is important these decisions are free from improper bias or influence. Councillors are part of the community they serve. Many also have a full-time or part-time job, which might include running their own business and are likely to be involved in community groups and sporting associations. It is inevitable that Councillors will from time to time have conflicts of interests. The City supports the provision of an appropriate framework for these real and potential conflicts of interest.

9.4 Impartiality Interests

It is important that there is some mechanism available to recognise some interests Councillors should leave the room for the best interests of Council decision making.

Whilst Councillors do have a duty to vote on matters before Council, they cannot be compelled to do so. It is problematic to state that a Councillor who has disclosed an impartiality interest must vote on the matter. Good governance dictates that where a Councillor is concerned that they cannot bring an open mind to a matter, they must be able to decide not to participate in decision making on that matter.

The City is of the view that a Councillor who has disclosed an impartiality interest can decide to leave the chamber and not participate in decision making. Ultimately, each Councillor must make their own decision whether to disclose an impartiality interest and once disclosed, whether to participate in decision making.



Recommendation 28

The City of Swan does not support:

1. The requirement for Councillors to vote when an impartiality interest has been declared.

9.5 Reporting Interests

Recommendation 29

The City of Swan does not support:

1. The requirement for a member or employee to report an interest of another

9.6 Remote Attendance

The City recognises that in some local governments, remote attendance is beneficial due to travel distance to be present at meetings and supports remote attendance in principal. The City also supports limiting the number of meetings remote attendance is permitted in any one year. However, there are concerns if the circumstances to be eligible for remote attendance were to be expanded. These are:

- How secure is the location when dealing with confidential matters?
- If a Councillor is attending the meeting remotely and having technical difficulties, the logistics of recording when they leave and re-enter the meeting may be challenging
- How will secret ballots be dealt with? Installing electronic voting equipment might not be a practical solution for some local governments
- Particular reasons for remote attendance might create distractions. For example caring for a sick partner or relative or minding a child due to child care issues

9.7 Revoking or Changing Decisions

Recommendation 30

The City of Swan supports:

1. Increasing clarity in legislation by revising the rules to explicitly state that the rules concerning revoking or changing decisions of council do not apply after the decision has been implemented
2. Increasing clarity in legislation as to what point a decision has been implemented



9.8 General Electors' Meeting

Recommendation 31

The City of Swan does not support:

1. Removing the requirement for an annual general meeting of electors.

9.9 Special Electors' Meeting

Recommendation 32

The City of Swan supports:

1. Retaining the ability to call a special electors' meeting
2. Limiting the ability to hold a special electors' meeting on the same or similar topic more than once in a 12 month period
3. Replacing the number of electors to call a special electors' meeting to a percentage only

9.10 Access to Information for Council Members

The City agrees that council or committee members should have access to any information held by the local government that is relevant to the performance of the Councillor's functions.

The current legislation provides a mechanism to limit the information that council and committee members have access to – it must pertain to the functions and duties that they are currently undertaking. This limitation is important so as to not expend a local government's resources finding information about decisions or activities undertaken that bear no relevance to the current issues.

The question of what is relevant to the performance of a Councillor's function is a subjective one, and currently it is based on the opinion of the Chief Executive Officer alone. There is a suggestion that the Councillor could move a motion in council to request the information. This would enable council to consider why the the information is required and can assess the utility of providing the information.

In the City's view the mechanism of moving a motion at a council meeting already exists. There is therefore little benefit in amending the definition of what 'relevant to the performance of a Councillor's function' refers to.

Recommendation 33

The City of Swan supports:

1. Retaining the current definition in the legislation with regard to what information is 'relevant to the performance of a Councillor's function'.



10. Interventions

The 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. The Act provides certain powers to the Minister and the Director General to deal with such matters.

Local governments are also given powers to enforce the legislation, namely, to:

- Enter premises;
- Arrest a person suspected of committing an offence who fails to give certain information to a local government employee;
- Issue infringement notices; and
- Commence a prosecution for an offence under the Act

The City agrees that the misconduct of local government officers and organisational dysfunction and governance issues within local governments should be dealt with appropriately. However, the current system of inquiries and suspension of councils when matters have reached crisis point is both resource intensive and expensive. Dealing with allegations of serious or recurrent breaches through the State Administrative Tribunal have similar issues.

The City supports the Department working in partnership with local governments to improve good governance and performance across the sector where it is warranted.

10.1 Investigations and Inquiries

a) Complaints Process

The process for lodging a complaint about an alleged breach of the Act differs depending on the type of breach involved.

The City supports simplification of the complaints process.

Recommendation 34

The City of Swan supports:

1. A streamlined process whereby all complaints are referred to the Director General in the first instance.

10.2 State Government's Ability to Assist

a) Remedial Action Process

The City agrees that current options available to support local governments in challenging times are limited and can escalate to direct interventions such as suspending a council and installing a commissioner or dismissing the council.



Recommendation 35

The City of Swan supports:

1. The proposal of an external person to be appointed to work with administration and council members to improve governance and resolve problems
2. The costs associated with the appointment of such persons to be met by the local government

The City of Swan does not support:

1. The external person having powers to override decisions made by the administration
2. The external person having powers to override council decisions
3. The external person being appointed by the Minister

10.3 Ensuring Compliance with the Act

a) Improper Use of Information

Under the Act, a person who is a council member, a committee member or an employee must not make improper use of any information acquired in the performance of his or her functions to gain an advantage for themselves or any other person, or to cause detriment to the local government or any other person. The City supports this requirement being extended to former council members, committee members or employees who use information (which they acquired when they were engaged with a local government) improperly.

Recommendation 36

The City of Swan supports:

1. Extending the improper use of information offence to former council members, committee members and local government employees for an unlimited timeframe. Some matters, particularly development proposals can take a number of years to come to fruition.

b) New Offence – Improper Use of Position

Under the *Local Government (Rules of Conduct) Regulations 2007*, a council member must not make improper use of his or her office as a council member to gain directly or indirectly an advantage for themselves or any other person, or to cause detriment to the local government or any other person. This same requirement does not currently apply to the Chief Executive Officer or employees of a local government.



Recommendation 37

The City of Swan supports:

1. Extending the improper use of position to Chief Executive Officers and employees of a local government.

c) New Offence – Providing False or Misleading Information to Council

In making decisions, the council of a local government may consider written reports which have been prepared by the Chief Executive Officer or employees of the local government and verbal information provided by local government staff (normally senior executive staff) during a council meeting. There is currently no provision under the Act which makes it an offence for a Chief Executive Officer or employee to provide false or misleading information to council.

Recommendation 38

The City of Swan supports:

1. The inclusion of provisions in the Act to make it an offence for a Chief Executive Officer or employee to provide false or misleading information to Council

d) New Offence – Tendering Requirements

The Act requires a local government to invite tenders before it enters into certain contracts for supply of goods or services. The *Local Government (Functions and General) Regulations 1996* set out the requirements regarding when tenders must be publicly invited and how the tendering process is to be undertaken.

Currently, the Act does not provide that a breach of the tendering provisions under the Act and regulations is an offence. Therefore, a person who does not comply with the tendering requirements cannot be prosecuted unless their conduct constitutes an offence under another provision.

Recommendation 39

The City of Swan supports:

1. The inclusion of provisions in the Act to make it an offence to breach tendering provisions

10.4 Enforcement of the Act

a) Infringements

Infringements allow breaches of legislation to be resolved by way of a fixed penalty and can be an effective way of deterring people from further non-compliance.

The City agrees that the Department should have the discretion to decide whether to issue an infringement notice or commence prosecution for the offence in the courts.



Recommendation 40

The City of Swan supports the following offences to be included in an infringement notice scheme:

1. Failure to invite tenders before entering into a contract;
2. Failure to vote during a council or committee meeting;
3. Failure to lodge a primary return by the required date;
4. Failure to lodge an annual return by the required date;
5. Disclosing information about a Serious or Minor Breach Complaint before the matter is determined;
6. Giving false or misleading information in a Serious or Minor Breach Complaint;
7. Failing to comply with a notice from the Director General or Minister to provide information; and
8. Failing to comply with a direction of an authorised person, hindering or obstructing, or knowingly giving false or misleading evidence to an authorised person.

10.5 Harmonisation

The Act allows authorised local government persons (e.g. rangers) to, among other things, require suspected offenders to provide their personal details, examine vehicles, and arrest people if they give false information or obstruct the officer from performing their duties. Authorised persons are also given powers to issue infringement notices and commence prosecutions.

Since 1995, major reforms have been made to the Criminal Investigation, Criminal Procedure and Road Traffic legislation, which means that certain powers contained within the Act do not represent current "best practice". Accordingly, to modernise the Act, the harmonisation of the powers and procedures should be undertaken so that they are consistent with similar powers and procedures in other legislation.

Recommendation 41

The City of Swan supports:

1. Harmonisation of City officers' powers particularly if this allows legislation and subsequent regulations to be applied consistently.

a) Default Penalties for Local Laws

The Act allows local governments to make local laws and there are various pieces of legislation that enable local governments to set penalties for offences in their local laws. If a local government fails to provide a penalty for an offence contained within a local law, the local government is unable to enforce that offence.



Recommendation 42

The City of Swan supports:

1. Default penalties for local laws if the local government fails to provide a penalty for an offence contained within a local law.

10.6 Powers Under the Act

a) Notice Issued by a Local Government to Require a Person to Undertake an Action

During earlier consultation in the Act Review, several submissions were received from local governments that raised issues with the ability of a local government to issue a notice to a land owner or the occupier of land, requiring the person to undertake certain actions. Examples of notices include directing a person to prevent water dripping/running from a building onto another piece of land and directing a person to remove overgrown vegetation, rubbish or disused material. If a person fails to comply with the notice, the local government can do anything it considers necessary to give effect to the notice. The local government can also recover the cost of undertaking those activities.

Recommendation 43

The City of Swan supports:

1. Increased powers for a local government to direct a land owner or occupier of land to undertake certain actions
2. Increased powers for a local government to do anything it considers necessary to give effect to a notice, including recovering costs of undertaking those activities if a person fails to comply.

b) Notice to Secure a Building

Vacant buildings may be vandalised and used for inappropriate purposes by squatters. Although local governments have broad powers with respect to issuing notices to remediate issues on premises, they do not have the ability to request that an owner must effectively secure a building. The Act could be amended to include an ability for a local government to provide a notice which requires the owner to secure a building.

Recommendation 44

The City of Swan supports:

1. Increased powers for a local government to provide a notice which requires the owner to secure a building.



c) Expanding the List of Disused Materials

Currently, the Act defines “disused materials” to include disused motor vehicles, old motor vehicle bodies and old machinery. This list of disused materials could be expanded to enable a local government to direct a person to remove items other than vehicles and machinery from land that it considers to be untidy or causing a hazard.

Recommendation 45

The City of Swan supports:

1. Expanding the definition of ‘disused materials’ to enable removal of items that a local government considers to be untidy or causing a hazard.

d) Framework for Disposing of Property

The procedure in the Act for disposing of property removed by a local government due to a contravention of a local law or regulation is unclear. The Act could be amended to provide a clearer framework for local governments to dispose of property. This would include the type of property that may be disposed, when property is to be disposed and how property is to be disposed.

Recommendation 46

The City of Swan supports:

1. A clearer framework for the disposal of property.



INCLUSIVE

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11. Community Engagement

Every local government is currently experiencing challenges in relation to community perception of transparency and representation.

The City of Swan seeks to achieve genuine, inclusive, respectful community engagement, which is both fit for purpose and transparent. It is an important part of good governance and as such, is constantly reviewed and improved upon in line with emerging trends, previous successes and failures.

The implementation of well thought out community engagement processes results in the community being heard and develops a greater understanding of why a decision has been made and potentially builds the capacity of the community.

It is important that the interpretation of language is considered as part of the review, and a clear definition is made between community engagement, public participation and communications. For the purposes of the City of Swan's submission, the term communication covers all five levels within the IAP2 spectrum, being: inform, consult, involve, collaborate, empower. The term engagement refers to the three most participatory forms of communication being, involve, collaborate and empower.

While it is acknowledged in the discussion paper that community engagement is not required through the Act, there are a number of suggestions as to how this could be changed as part of the review. If any changes are to be made, the City considers it most important to understand that:

- Local governments should have a good sense as to what communication methods are appropriate to each area and which are responded to well by community based on size, demographics, location and circumstance.
- There can be significant costs related to engagement, in particular large-scale compulsory engagement.
- Different levels of communication may be required dependant on circumstance in accordance with the recommendations in the IAP2 spectrum.
- Engagement quotas do not guarantee quality of engagement or ultimate outcome.
- Significant efforts may be required to engage with specific groups (Aboriginal, CALD, Youth, People with Disabilities)
- Frequent or ongoing quality interaction with community increases the ability of the local government to act in the interest of community, which in certain circumstances may lessen the need to engage on a specific topic.
- Mandated engagement practices can lead to engagement fatigue and a lack of participation.
- There is an increase in community discontent with the results of participatory activities such as surveys, panels and focus groups. Discontent does not always invalidate the views of the majority therefore consideration must be given to how this is addressed to desist repetitive and disruptive actions (e.g. repetitive Special Meetings of Electors), as this can amount to significant cost to a local government.
- Role of Councillors and City Officers in community engagement.



Recommendation 47

For the above reasons, the City of Swan supports:

1. Communication requirements that are non-prescriptive, such as;
 - a. A mandatory requirement for a communication or engagement charter or policy, the content of which is determined by the local government based on best practice.
 - b. State government provision of non-mandatory guidelines, templates and information designed to assist local governments in meeting requirements.
2. State government auditing for compliance and appropriate penalties for non-compliance.

The City of Swan does not support:

1. A universal communication or engagement charter or policy for all local governments.
2. A requirement to adopt a social media policy. The matter of social media use should be dealt with outside of any proposed communication or engagement component of the Act review. The use of specific communication tools, including social media, should be responsive to the needs of community and adaptive to change. The new Act should not be prescriptive in the use of tools, communication techniques or mediums to ensure its relevance and longevity.
3. A requirement to undertake specific communication types (such as newspaper advertising, town hall meetings, citizen juries or participatory budgeting).
4. Mandatory communication or engagement quotas. If it is decided to utilise quotas for specific strategies or plans, then the quota should be based on a statistical definition (e.g 95% confidence level and 5% confidence interval), rather than an arbitrary value of, for example, 500 or 10 per cent as per the current DLGSCI IPR Framework and Guidelines.

12. Integrated Planning and Reporting

As a large local government in terms of resources, population and geographic area, the City of Swan recognises the need for a well-developed and implemented Integrated Planning & Reporting (IPR) to ensure that outcomes address the needs of community. The City's approach was originally developed prior to the establishment of the Department's IPR Framework and Guidelines and since then has undergone constant improvement to the point where most of the advanced IPR standards are met, and in instances where they are not, the City is taking steps to do so.

While there are a number of requirements relating to IPR in the Act and Regulations, most of the guidance regarding IPR is laid out within the Framework and Guidelines. The discussion paper suggests a number of ways that the legislation or guidelines may be changed as part of the Act review. If any changes are to be made, the City considers it most important to understand that:



- The varying size and needs of local governments translates to a varying ability to deliver to the requirements of IPR.
- Quality community engagement is important in determining vision and aspirational outcomes for the region, although it can be difficult for community to provide feedback directly to the appropriate (high) level.
- Costs arise for State government due to the auditing and compliance implications that arise whenever mandatory requirements are set.
- Outcomes and objectives in IPR Plans become more meaningful with the introduction of measures to report progress against resulting in improved performance, accountability and transparency.
- Integration is critical in developing and maintaining an organisation's IPR framework, ideally flowing from SCP down to individual employee job descriptions and performance reviews, and incorporating all IPR documents plus resourcing and issue specific plans.
- While minimum legislated requirements should take into consideration the capacity of all local governments, advisory standards allow more advanced or well-resourced local governments to continuously improve their IPR framework.
- The final judgement on aspirations versus affordability of the SCP rests with Council rather than community.
- The delineation between the SCP as a visioning document and the CBP as an enabling document that includes resourcing.

Recommendation 48

For the above reasons, the City of Swan supports:

1. The continued requirement that a major review of the SCP is to be undertaken every four years and that community engagement must be included as part of the review.
2. A change of name of the Strategic Community Plan to simply Strategic Plan, as it is not a plan owned by the community.
3. The continued provision of non-mandatory advisory standards to assist local governments in improving their IPR.
4. Mandatory requirements that are flexible enough to allow both small and large local governments to comply with them. The actual level of achievement against advisory or similar standards should be determined by the local government based on size, capacity and maturity.
5. The continued provision of non-mandatory templates to assist in the development of each planning and reporting element/document within IPR.
6. Mandatory requirements to link issue specific strategies and plans to the IPR.
7. State government auditing for compliance and appropriate penalties for non-compliance.
8. Mandatory public notification provided it is flexible and not prescriptive in the method or communication type used.



The City of Swan does not support:

1. Mandatory engagement quotas. If it is decided to utilise quotas for specific strategies or plans, then the quota should be based on a statistical definition (e.g 95% confidence level and 5% confidence interval), rather than an arbitrary value of, for example, 500 or 10 per cent as per current SCP Advisory Standards in the Department's IPR Framework and Guidelines.
2. Mandatory diversity requirements. This should be a matter for individual local governments to determine based on their understanding of their community.
3. Mandatory methods or minimum number of methods for engagement. This should be a matter for individual local governments to determine based on their understanding of their community.
4. Requirements to state current and future resourcing in the SCP, as this detail is better addressed by other IPR documents, in particular the CBP and Long Term Financial Plan.
5. The need to align SCP development or review with Council elections.
6. Mandatory annual community satisfaction surveys. If there is a decision to make them mandatory, then the local government should determine the appropriate method and frequency in accordance with need and capacity.
7. Plans such as Disability Access and Inclusion Plans, Town Planning Scheme, etc forming part of the IPR framework, however the local government should link these to IPR as appropriate.
8. The need for community to provide input or be consulted on the CBP, as this is already done indirectly through the top down linkage to the SCP.

13. Complaints Handling

The City of Swan agrees that an industry wide standard definition of a complaint is necessary to help both the local government and its customers come to a shared understanding of what the local government provides to its community of customers and how in turn they can express dissatisfaction with the service or product delivered by that local government. The discussion paper suggests a definition of a complaint in accordance with the standards and also references as best practice, the Public Sector Commissions Customer Service Charter as possible definitions. It would be the City of Swan's preference for the definition from the Public Sector Commission document as it is simple and easy to understand but contains all elements of a clear and concise statement of intent.

Local government as a sector has a unique set of challenges due to the fact that within the one organisation, it operates a broad span of business models, some regulatory, some more like the private retail sector and then some more altruistic or service delivery based. All these business models, by their very nature, are driven by very different demands and therefore vastly differing customer expectations. Also despite each local government across the state being similar in the role it plays within the three tiers of government, there are broad ranging differences between small remote local governments through to large metropolitan local governments, hence the City would like to propose that a 'one size fits all' complaints handling system will not suit the variety of organisations and communities they serve.



Any legislation introduced must be flexible enough to allow for these differing business models coupled with the variety of size and complexity of local government organisations and the diversity of communities they serve.

The City of Swan has embraced feedback from its community and has resourced the complaints handling process to ensure open and transparent investigations of all complaints and endeavours to utilise feedback as a true mechanism for improving its service to its community. Analysis of complaints received by the City in recent times indicates that many of its customers have complained about actions the City has taken in its regulatory role in enforcing largely state legislation. A point needs to be made that whilst many complaints prove unsubstantiated as such, they serve to highlight how many customers have very different expectations of what the local government can and cannot influence, deliver or resource and hence offer local government an opportunity to engage fully with their communities to shape local governments in the future.

Despite the challenges outlined previously, the City of Swan fully supports a legislated requirement for all local governments to have a widely advertised Customer Service Charter and agrees with the discussion paper that the Public Sector Commission example is a good candidate as it clearly and simply provides a robust and understandable framework for community to provide good feedback when it is dissatisfied with its local government. It also allows for an honest statement of capability that the organisation possesses to respond to the multiple demands from its community on its limited resources. The City of Swan has approximately three (3) full time staff allocated to supporting the organisation manage and report on its feedback.

Similarly, the City has no issue with the Australian and New Zealand standards being an aspirational document that a local government can utilise to ensure best practice complaints handling supported by a minimum requirement for policy to support the process. Given the need for as much consistency as possible across the sector the City would like to suggest that the Department develops templates for the minimum documentation legislated and a good tool kit to guide the development of processes and procedures to ensure transparent and meaningful complaints handling.

Recommendation 49

The City of Swan supports:

1. Industry standards, flexibility and a customer service charter
2. A continuation of the role of the Ombudsman's Office in supporting local government in meaningful complaint handling as it plays a genuine independent and transparent review role to ensure adherence to processes and procedures the local government has a responsibility to follow in servicing its community of customers.

The City of Swan does not support:

1. A one size fits all approach



14. Elections

The City of Swan agrees that elections are a fundamental part of local democracy providing a direct voice for the community and holding way to hold local government accountable.

Local government ordinary elections are held every two years. At ordinary elections, nominations are called for half of a council's positions. This approach is intended to allow for continuity in a council's leadership. At the City of Swan the Mayor is elected from the pool of councillors by the elected members.

The Act and the *Local Government (Elections) Regulations 1997* establish the rules for local government elections.

Historically, voter turnout in local government elections in Western Australia has been low. In the 2017 ordinary elections, approximately 34.2% of eligible electors cast a vote. For the City of Swan, this was 32.25%.

The City of Swan uses postal voting, and engages the WA Electoral Commission to run the election.

The City agrees that elections must have a high level of integrity to ensure public confidence in the outcome. Elections must also be conducted in a way that maximises participation of eligible voters in an efficient manner while supporting the principles that are the foundation of democracy.

14.1 How Are Elections Conducted?

a) Compulsory Voting

The City does not support compulsory voting. It is important to the City that its community has the option to engage with it and that this is not forced.

Recommendation 50

The City of Swan does not support:

1. Compulsory voting for local government elections.

b) First Past the Post

The City of Swan supports the continuation of first past the post post voting. While this may be inconsistent with State and Federal voting, 'first past the post' is simple, easily understood by voters, and easier to administer and count.

The City does not support preferential voting, where voters are forced to express a preference for candidates that they may not wish to support or have no knowledge of. If some form of preferential voting is to be implemented, the City would prefer optional preferential voting, allowing voters to choose which candidates to indicate a preference for.



Recommendation 51

The City of Swan does not support:

1. A preferential voting system for electors.

c) Electronic Voting

The City is supportive of the use of alternative voting methods, particularly if this results in higher voter participation. Online voting (where a vote made digitally is recorded remotely) is supported.

Recommendation 52

The City of Swan supports:

1. Online voting.

d) Allowing Third Parties to Conduct Postal Elections

The City considers that the WAEC is best placed to ensure that postal voting is undertaken in a manner that ensures high levels of integrity and public confidence in the outcome. The City of Swan therefore does not support the use of third parties conducting postal elections.

Recommendation 53

The City of Swan does not support:

1. Third parties conducting postal elections.

e) Method to Resolve Ties

The City considers that the current method of resolving ties (lots being drawn) is appropriate where two candidates have received an equal number of votes, as it would be impractical and costly to put the matter out for revote.

Where there is an initial tie in the vote for a Mayor or President by Councillors, the City also supports the current requirement for the meeting to be adjourned and that a second election is held within seven (7) days. This ensures that the Council has a Mayor in place within a reasonable timeframe. To change this to 'as soon as practicable' could lead to no Mayor or President being in place for a long period of time.

Recommendation 54

The City of Swan does not support:

1. Changes to the current method of resolving ties.



f) Method to Fill Vacancies in Lieu of Extraordinary Elections

Extraordinary elections are costly and time-consuming. The current provisions in the Act setting out the timeframes under which a vacancy must be filled do not provide sufficient flexibility or take into account existing representation on Council.

Depending on the size of the Council, one vacancy may not result in under-representation or difficulties with valid votes. Under these circumstances it may be appropriate to wait for the next ordinary Council election.

The City would support greater flexibility being provided to the WA Electoral Commissioner or the Minister to determine what is appropriate.

Recommendation 55

The City of Swan supports:

1. Holding the vacancy open to the next ordinary election; or
2. Allowing the WA Electoral Commissioner or Minister to determine whether or not a vacancy can be held open until the next ordinary election.

g) Caretaker Provisions

The City does not support caretaker provisions limiting the types of decisions a local government can make during the period before an election. This is not practical in local government where decisions hold up individuals, businesses and community groups.

A Council is able to change direction or make changes to policies and strategies at any time, if such changes have the support of the majority of Council.

Recommendation 56

The City of Swan does not support:

1. A caretaker period which places a moratorium on major decisions.

h) Leave of Absence When Contesting State or Federal Elections

The City supports the request of WALGA that amendments are made to the Act requiring a Councillor to take a leave of absence when contesting a State or Federal election. This proposal will ensure that there is a clear separation between Council and State and Federal election campaigns and avoid potential or perceived conflicts of interest. Councillors should not be paid during a leave of absence of this nature.

Recommendation 57

The City of Swan supports:

1. Amendments to the Act to require a councillor to take leave of absence when contesting a State or Federal election without pay.
2. Clarity around when leave of absence should apply.



i) Election of Mayor and Shire Presidents

The City supports the existing provisions which allow the Council to determine the method of electing the Mayor or President.

The City considers that the ability of the Councillors to elect the Mayor is consistent with the Westminster system which allows political parties to elect their leaders. It is essential that the Mayor/President has the support of the Council.

Recommendation 58

The City of Swan supports:

1. Maintaining a choice on the method of electing the Mayor or Shire President
2. Requiring a Council resolution on the need for a poll if going from a popularly elected Mayor back to a Council elected Mayor

14.2 When Should an Election be Held?

Elections in Western Australia are held every two years with nominations sought for half of a council's positions at each election. The Act prescribes the timetable for elections which typically results in ordinary elections being held on the third Saturday in October.

The City has no concerns with the current arrangements and supports the status quo.

Recommendation 59

The City of Swan supports:

1. Local government elections held on the third Saturday in October.

a) Frequency of Elections

The City supports the current arrangement where Council elections are held every two years for Councillors that hold a four year term. This ensures that there is continuity on Council.

Recommendation 60

The City of Swan supports:

1. Local government elections held every two years with nominations sought for half of a council's position at each election.



14.3 Election Campaigns

The City is broadly comfortable with the existing provisions in the Act for election campaigns which provide a basic framework of rules, but would like to see some changes to the gift provisions and the information requirements.

a) Limits on Advertising Campaigns

The City is of the view that candidates with the ability to run a well-financed campaign, can contribute to a more informed and engaged voter base. However, it is important that legislation relating to election gifts, including the declaration of donors funding election campaigns is strengthened to reduce the perception of impropriety and perceived conflicts of interest or undue influence.

Recommendation 61

The City of Swan does not support:

1. A campaign advertising limit set for all candidates.

b) Reform to Election Gifts Rules

The rules regulating the acceptance and declaration of election gifts and non-election gifts differ considerably. In addition to different monetary thresholds for the declaration of gifts, different rules exist for the process and timeline for gift declaration.

The City agrees that the parallel gift rules are a potential source of confusion for council members, candidates and the public.

The City supports providing a single framework for the declaration of gifts – as outlined below.

Recommendation 62

The City of Swan supports the following gift framework:

	Election Gift Framework
What is the definition of a gift?	The receipt of property or a benefit for inadequate consideration
What gifts must be declared?	Any gift received over \$300 by a council member in their official capacity
Are gifts cumulative if received by the same donor?	Yes
When must gifts be declared?	Election gifts must be declared that are received: <ul style="list-style-type: none">• In the period between the day after the last ordinary election and the closing date for nominations• In the period between the closing date for nominations and the day of



	the election
Who must declare gifts?	All persons receiving gifts that relate to their possible or actual candidature as a council member
Timetable for gift declaring	<ul style="list-style-type: none"> Election gifts received in the period between the day after the last ordinary election and the closing date for nominations received by any person must be disclosed within 10 days of the closing date for nominations Election gifts received in the period between the closing date for nominations and the day of the election must be declared within ten days of receipt
Where are they available?	Published on the local government's website within ten days of notification
Time limitations	No
Anonymous gifts permitted	No
Donor to also declare gift	No
Exemptions	There are no exemptions from declaration for gifts received in an official capacity

c) Electoral Commission to be Responsible for Gifts Register

The City considers that the responsibility for administering the election gift register should remain with the local government Chief Executive Officer (not be transferred to the WA Electoral Commission). As noted above, there are significant overlaps with the non-election gift requirements. It makes sense for this to be centrally managed by the local government for the local government area and for this information to be available on the local government's website.

Recommendation 63

The City of Swan does not support:

1. The responsibility for the election gift register being transferred to the Electoral Commission. It is important that all gift registers are managed by the Chief Executive Officer.

d) Candidate Nomination and Information

Studies in New Zealand have found that lack of knowledge about candidates contributes to low voter turnout. In Western Australia, candidates are required to complete a candidate profile as part of their nomination. Anecdotally, this is often the only information that electors may have to make their selection, especially in larger local government areas.



Recommendation 64

The City of Swan supports:

1. Expanding a candidate's profile with optional additional information to assist electors in making more informed decisions.
2. Requiring local governments to publish candidate profiles on their website during the election period
3. Expanding information required on the candidate nomination form to assist with statistically measuring the diversity of nominees or council members and submit to the Department of Local Government

14.4 Wards and Representation

Section 2.2 of the Act provides that a local government district may be divided into wards.

Wards are intended to ensure that all parts of a district are fairly represented. The Act, however, explicitly requires councillors to represent their entire district and not just their ward. While councillors are only elected by voters in a ward, they must represent everyone in the district and make decisions that are in the best interests of the entire district. The Act permits an elector to nominate in any ward, regardless of where they reside.

Fifty-four of the 137 local governments currently employ a ward system, including 19 of the State's 20 most populous local governments. The least populated local government has a population of approximately 100 people split into two wards.

Wards have the effect of reducing the overall pool of candidates from which electors can choose and reduce the total number of votes required to be elected as a councillor. Statistically, there is little or no correlation in Western Australian local government elections between wards and voter turnout.

Ward structures are set by the Governor on the Minister's recommendation which are in turn based on the recommendations of the Local Government Advisory Board (LGAB). To amend ward boundaries, a minimum of 250 affected electors (or 10% whichever is lower) can make a submission to the local government, who in turn, must refer it to the LGAB along with a decision whether to support or not support the amendment. Local governments may also propose amendments to LGAB and must at least every eight years review their ward structure.

Recommendation 65

The City of Swan supports:

1. Setting a minimum population threshold before a local government can introduce a ward system



The City of Swan does not support:

1. Setting a population threshold where a local government must be divided into wards
2. The Electoral Commissioner empowered to oversee the establishment and modification of ward boundaries

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APPENDICES – SURVEY ANSWERS

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Survey - Beneficial Enterprises

1. Have you read the discussion paper associated with this survey?

Yes

2. Who are you completing this submission on behalf of?

An organisation, including a local government, peak body or business

3. What is the name of the organisation?

City of Swan

4. What is your name?

Not applicable

5. What best describes your relationship to local government?

This submission has been prepared by staff at the City of Swan, and adopted by the Council.

6. What best describes your gender?

Not applicable / the submission is from an organisation

7. What is your age?

Not applicable

8. Which local government do you interact with most?

City of Swan

9. Would you like to be updated on the progress of the *Local Government Act 1995* review and further opportunities to have your say?

Yes

10. Do you wish for your response to this survey to be confidential?

No

11. What is your email address?

swan@swan.wa.gov.au

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			
"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		<input checked="" type="checkbox"/>
Local governments should not be permitted to form a company		<input checked="" type="checkbox"/>
Statutory approvals for example building and planning	<input checked="" type="checkbox"/>	
Leisure centres	<input checked="" type="checkbox"/>	
Human resources	<input checked="" type="checkbox"/>	
Information technology	<input checked="" type="checkbox"/>	
Airports	<input checked="" type="checkbox"/>	
Waste management	<input checked="" type="checkbox"/>	
Parking	<input checked="" type="checkbox"/>	
Road maintenance	<input checked="" type="checkbox"/>	
Retail (shops and service stations)	<input checked="" type="checkbox"/>	
Age or child care facilities	<input checked="" type="checkbox"/>	
Land development	<input checked="" type="checkbox"/>	
Caravan parks	<input checked="" type="checkbox"/>	
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	



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**
- 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**
- 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)

- a. **Where a local government wishes to borrow money outside amounts listed in the annual budget**
- b. **Where a local government has exercised its power to borrow for a purpose but no longer wishes to use the funds for that purpose**
- c. Where a local government has exercised its power to borrow for a purpose and has funding left over
- d. Public notice is not required in any of these situations
- e. Unsure

18. Should local governments be permitted to secure loans using assets that they own freehold?

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

19. Should local government be permitted to participate in Building Upgrade Finance programs?

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

20. What types of upgrades should be eligible for the program?

- a. Environmental upgrades
- b. Commercial upgrades
- c. **Both environmental and commercial**
- d. Neither
- e. Other (please specify)



Survey - Rates, Fees and Charges

12. 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	

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

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



14. 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)

15. 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

16. What powers should local governments have to recover payment of rates on exploration and prospecting leases? **Full power**

17. 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	



	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"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

18. 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?

- a. Ministerial approval for rates twice the lowest category
- b. Ministerial approval for rates three times the lowest category
- c. Ministerial approval for rates four times the lowest category**
- d. No Ministerial approval required for any differential rates
- e. Differential rates to a maximum of four times may be set with no option for Ministerial approval
- f. Other (please specify)

19. 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



20. 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		

21. 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)



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

	Yes	No	Unsure
The land is owned by a person who currently receives a pensioner or health related concession	<input checked="" type="checkbox"/>		
The land is owned or used by a not-for-profit organisation	<input checked="" type="checkbox"/>		
The land is owned or used by an entity that provides assistance or encouragement for arts or cultural development	<input checked="" type="checkbox"/>		
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	<input checked="" type="checkbox"/>		
Community service organisations that are not-for-profit, for the benefit of the general public and provide community services without charge or below cost	<input checked="" type="checkbox"/>		
The payment of rates or charges will cause hardship to the land owner		<input checked="" type="checkbox"/>	
The concession will encourage the economic development of all or part of the local government district	<input checked="" type="checkbox"/>		
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	<input checked="" type="checkbox"/>		
Land that is subject to a mining tenement		<input checked="" type="checkbox"/>	
Land that is determined by the Minister to be subject to a concession		<input checked="" type="checkbox"/>	

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

24. 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)



25. 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	

26. To what extent do you support this statements?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"Local governments should be able to impose fixed charges or levies for particular services, facilities or activities."				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	



	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
"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	

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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 Advisory Board's view, warrant withdrawal of the proposal."				x	



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?

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

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

	Very unresponsive	Unresponsive	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		



Section		Yes	No	Unsure
LG (Audit) Reg 15	Provide a certified copy of the compliance audit return	<input checked="" type="checkbox"/>		
LG (Constitution) Reg 11FA	Provide a report on the result of an election (election of Mayor/President and Deputy Mayor/President)	<input checked="" type="checkbox"/>		
LG (Constitution) Reg 11H	Advise the outcome of the Court of Disputed Returns (election of Mayor/President and Deputy Mayor/President)	<input checked="" type="checkbox"/>		
LG (Constitution) Form 2	Request for a poll on a recommended amalgamation	<input checked="" type="checkbox"/>		
LG (Elections) Reg 86	Advise the outcome of the Court of Disputed Returns (ordinary or extraordinary election)	<input checked="" type="checkbox"/>		
LG (Financial Management) Reg 33	Provide a copy of the annual budget	<input checked="" type="checkbox"/>		
LG (Financial Management) Reg 33A	Provide a copy of the review and determination of the reviewed annual budget	<input checked="" type="checkbox"/>		
LG (Financial Management) Reg 51	Provide a copy of the annual financial report	<input checked="" type="checkbox"/>		

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	<input checked="" type="checkbox"/>		
s 3.53	Ordering which local government is responsible for managing a facility that is located within two or more districts (only	<input checked="" type="checkbox"/>		



Section		Yes	No	Unsure
	when the local governments themselves do not agree about how to manage the facility)			
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	



Section		Simple Majority	Absolute Majority	Unsure
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 vacancy occurs between January and July in an election year)		x	
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	



Section		Simple Majority	Absolute Majority	Unsure
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	
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	



Section		Simple Majority	Absolute Majority	Unsure
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		
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 & 19DA	Adopting a strategic community plan and corporate business plan		x	



Section		Simple Majority	Absolute Majority	Unsure
LG (Fin Mgmt) Reg 33A	Determining whether to adopt a review of the budget or recommendations in the budget review		x	

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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) CO ² Emissions	x		

13. Should model local laws be prepared by State Government for local governments to use?

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

14. Should local governments be permitted to adapt the contents of model local laws?

- a. **Yes**
- b. No
- c. 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 unresponsive	Unresponsive	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**



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?

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? **Yes**

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				x	

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
publish unconfirmed council meeting minutes prior to the local government's next council or committee meeting."					
"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			
"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	



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?

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

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

- a. A great deal
- b. A lot
- c. A moderate amount
- d. A little
- e. 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 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 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	
"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



	Very unsupportive	Unsupportive	Neutral	Supportive	Very Supportive
"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



Survey - Community Engagement

13. 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)

14. 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.)?

15. 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



16. 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		<input checked="" type="checkbox"/>	
Engagement is inclusive and respectful			<input checked="" type="checkbox"/>
Engagement is fit-for-purpose			<input checked="" type="checkbox"/>
Engagement is informed and transparent		<input checked="" type="checkbox"/>	
Engagement processes must be reviewed and improved			<input checked="" type="checkbox"/>

17. 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)



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."			<input checked="" type="checkbox"/>		
"A local government should be free to conduct its long-term and operational planning in whatever manner it wishes."			<input checked="" type="checkbox"/>		
"Local governments should conduct their long-term and operational planning in the same way."			<input checked="" type="checkbox"/>		
"Local governments with smaller populations and fewer staff should have fewer rules for how they conduct long-term and operational planning."			<input checked="" type="checkbox"/>		
Local Governments with larger populations and more staff should have fewer rules setting how they conduct long-term and operational planning."			<input checked="" type="checkbox"/>		
"Integrated Planning and Reporting documents need to be reviewed too frequently."		<input checked="" type="checkbox"/>			
"The timelines for reviewing Integrated Planning and Reporting documents need to be synchronised with council election cycles."		<input checked="" type="checkbox"/>			
"There should be consequences for not complying with Integrated Planning and Reporting requirements."				<input checked="" type="checkbox"/>	



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 unresponsive	Unresponsive	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."		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	x		
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?

Please see the comments provided in the City of Swan submission. The City does not support a 'one size fits all' approach, or prescriptive legislative requirements.



Survey - Complaints management

12. What matters need to be considered in complaints management policies and procedures (please select all that apply)

- a. How the application must be made
- b. How a response to a complaint is to be made**
- c. Opportunities for a review of a response**
- d. The timeframes related to the process or review**
- e. Notification requirements of the process**
- f. Reporting of the complaints received**
- g. Internal independent review of complaints**
- h. None of these options
- i. Other (please specify)

13. To what extent do you support this statement?

	Very unsupportive	Unsupportive	Neutral	Supportive	Very Supportive
"A customer service charter should set the framework for local government complaints management."			x		

14. Should a local government customer service charter be a legislative requirement?

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

15. Who should review unresolved complaints (please select all options that apply)?

- a. Different staff member in the local government**
- b. A qualified complaints management officer**
- c. A committee created by the local government
- d. A tabled decision for council to determine
- e. None of the people or groups listed above
- f. Other (please specify)

16. Do you have any additional comments on the topic of complaints management?

The City supports the use of the Ombudsman to judge whether or not a local government has responded appropriately to a complaint.



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?

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

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

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

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

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

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

- a. 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				
"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				



	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
"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 (Planning consultancies)**

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	



	Very unsupportive	Unsupportive	Neutral	Supportive	Very Supportive
"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?

DRAFT