

SHIRE OF MINGENEW – LOCAL GOVERNMENT ACT REFORM SUBMISSION

INTRODUCTION

As a small, rural local government, the Shire of Mingenew often feels that it is operating in a sector where the rules and requirements that govern it have been drafted with larger, better resourced local governments in mind. We do not believe that the one-size-fits-all approach which the Local Government Act 1995 (and associated Regulations) provides consistently delivers a compliance and governance framework which can be efficiently and cost-effectively delivered.

With a rare opportunity at hand to review this key piece of legislation, we are hopeful that the outcomes consider the resourcing challenges faced by the numerous small local governments in Western Australia. We are grateful for the opportunity to make a submission as part of this reform process, and look forward to engaging with it further as the new Act takes shape.

BENEFICIAL ENTERPRISES

We support the WALGA position regarding Beneficial Enterprises. Through the Reform process, there have been rumours circulating that Beneficial Enterprises may be a vehicle only offered to larger local governments, and we feel strongly that Beneficial Enterprises can have a positive role to play in WA's smaller, rural communities as well as in larger centres.

Small local governments, particularly those in rural and remote areas, often become the service-provider of last resort, with some Shire's undertaking operations which sit well outside the traditional scope of local government (e.g. ownership and management of commercial operations like stores and caravan parks where no commercial operator exists to do so). Whilst we hold a preference for commercial operations to remain in the hands of the private sector, where the choice is between local government intervention, or complete loss of a key local service, a suitable vehicle for that intervention (i.e. a Beneficial Enterprise) is highly desirable.

Likewise, for small local governments with limited capacity to raise revenue, Beneficial Enterprises may provide heretofore unavailable opportunities for a local government to improve its financial position without needing to resort to increasing rates.

FINANCIAL MANAGEMENT

We support WALGA's position regarding:

- Increasing the tender threshold to \$250,000 to align with the State Government threshold, with a timeframe of one financial year for individual vendors
- Amending Regulation 30(3) of the Local Government (Functions and General) Regulations 1996 to remove any financial threshold limitation on a trade-in activity.
- Empowering Councils to set and amend fees and charges for small scale goods and services, and the rental of staff housing outside the current requirements of the Act
- Removing the requirement of one month's public notice of the intent to borrow (s6.20(2) of the *Local Government Act 1995*)
- Review of s6.33 of the *Local Government Act 1995* to consider time-based differential rating
- Exempting Elected Members for Regulation 4 of the Local Government (Financial Management) Regulations 1996 (AASB124 Related Party Transactions)

We believe all of the above are common-sense amendments which will give either greater control to Local Governments over their own operations, or improve the efficiency of potentially burdensome processes.

RATES, FEES AND CHARGES

EXEMPTIONS

We are broadly supportive of WALGA's call to broadly review the justification and fairness of all rating exemption categories in the *Local Government Act 1995*, including:

- Clarification that Independent Living Units are only exempt where they qualify under the Commonwealth Aged Care Act 1997
- Eliminating exemptions for commercial (non-charitable) activities of charitable organisations, or compensating Local Governments where the state believes such organisations should remain exempt
- Amending rate equivalency payments made by LandCorp and other Government Trading Entities so that the relevant Local Government - not the State Government - is the recipient

As the home of the largest on-shore grain receival facility in the southern hemisphere, the Shire of Mingenew would also like to see a review of CBH's exemption from rates payments as part of the reform process. As a significant CBH site, much of the Shire's roadworks budget (which accounts for approximately 60% of total expenditure) directly supports CBH's activities.

Whilst we are certainly aware of and grateful for the seasonal employment and significant economic impact that CBH's operations have in Mingenew, the discretionary payment that the Shire receives from CBH is less than the rates income we derive from a number of the larger farms. Given that approximately \$200,000,000 worth of grain passed through the facility this harvest season, we believe that the consideration that the local government receives for the provision and maintenance of infrastructure is disproportionately low.

We would be keen to see a more equitable contribution process in place of the current arrangements. We are conscious, of course, for the potential of such a contribution to simply be directly passed on to local farmers and would hope that consideration of this possibility be given as part of a review of CBH's exempt status.

OTHER FEES AND CHARGES

We support LG Professionals' proposal that s6.16 (2)(b)(e) be relaxed to allow local governments to set and amend fees and charges for small scale items and rents for staff housing outside of the current requirements of the *Local Government Act 1995*.

ELECTRONIC DELIVERY OF RATES NOTICES

Amend s6.41 of the *Local Government Act 1995* to allow for electronic delivery of rates notices where a ratepayer's electronic address is known.

ADMINISTRATIVE EFFICIENCIES

A significant amount of time of Local Government officers is taken up on compliance activities and it is often difficult to demonstrate the value for money these activities deliver back to the community. Any ability the new Act has to reduce red tape will be most welcome.

LEAVE PORTABILITY

We support WALGA's advocacy position relating to introducing a General Agreement between State and Local Government to facilitate transfer of accrued leave entitlements for staff between the two sectors of government. We agree that this will assist to open up mutually beneficial opportunities for our two levels of government and our employees, to transfer between both our spheres of government.

SCALABILITY

Fundamentally, we see one of the greatest sources of administrative efficiency as the introduction of a new Act which has provision for scalability – so that the smaller shires are not faced with the same compliance burden as much larger, better resourced towns and cities. This could take a number of forms:

- A less onerous Integrated Planning and Reporting framework for smaller local governments, potentially with all key elements contained in a smaller number of key planning documents, rather than spread over many documents, all of which have their own reporting and review requirements

We accept that in making some legislative requirements ‘scalable’, where the lines are drawn will be an inherently imperfect science (Shire/Town/City or SAT Band are two existing options which could be utilised). Whichever method is utilised, imperfect though it may be, we believe that providing this flexibility will be of benefit to many smaller Councils.

GREATER COOPERATION

‘Enforced’ or ‘Encouraged’ regionalism; establishing forms of compulsory co-operation or resources sharing for small regional groups of local governments – not as a precursor to amalgamation, but in recognition of the fact that:

- There are several <1 FTE functions which exist for smaller local governments (e.g. Environmental Health Officer, Ranger, Emergency Services Officer). Already there is voluntary resource-sharing in this space in a number of places
- The corporate document suite/governance environment for neighbouring local governments of similar size will have many similarities. Again, some sharing already exists between local governments, on a voluntary basis
- Regional cooperation is often predicated on the whims/relationships of CEOs and/or elected members, which means that the benefits of such are only realised from time to time (and tend to be cyclical as elected members and CEOs turn over). Making this cooperation compulsory will remove the cyclical nature of these practices and lock the potential benefits in over a longer term.

It should be noted that there should be reasonable safeguards in place to allow Councils means of addressing instances where resource-sharing arrangements are believed to be detrimental to the Council.

REGULATOR-DEVELOPED COMMON GUIDELINES/TEMPLATES

Development of common frameworks for common documents (e.g. Long Term Financial Plan, Asset Management Plan etc.). This will provide greater comparability between local governments, improved transparency and remove the need for individual local government to develop (or – in the case of smaller local governments – pay consultants to develop) a compliant document that regulatory bodies approve of. By placing responsibility upon the regulator for providing the framework, the work of the local government, and ultimate assessment of the document becomes easier.

- This could even extend as far as providing Local Government with model governance frameworks and guidelines; whilst we believe that local governments should have flexibility in determining their own operations, where there are common expectations/requirements placed on the sector by regulators, small local governments will benefit from being provided with a ‘good practice’ starting point to develop documentation and processes to deliver upon those expectations

LOCAL LAWS

We support the LG Professionals position regarding s3.12 and s3.16 of the *Local Government Act 1995* which would remove the need for consultation and periodic review when utilising Model Local Laws.

COMPLAINTS MANAGEMENT

The Shire of Mingenew is supportive of WALGA's position regarding amendments to manage querulous, vexatious and frivolous complaints, as well as LG Professionals' suggestion that the local government be able to declare a member of the public and their complaints vexatious, reducing or preventing that person from unreasonably interacting with the Local Government.

We would also welcome the provision of a model Complaints Management process to assist smaller local governments with the compliant and reasonable development of such, in line with the Australian/New Zealand Standard for Complaints Management.

In a small Shire and community, the potential damage that vexatious and frivolous complaints can do is significant, and the toll on individual elected members and staff cannot be understated. Any additional protection that can be afforded to elected members and staff would be valuable.

COUNCIL MEETINGS

ELECTORS' MEETINGS

We support WALGA's position regarding s5.27 of the *Local Government Act 1995* and changing the compulsory nature of Electors' General Meetings. Whilst we see the value of such meetings, ours can be very poorly attended and we would welcome being able to decide whether or not to hold such meetings.

We also support precluding the calling of an Electors' Special Meeting on the same issue within a 12 month period, unless determined otherwise by Council.

REMOTE ATTENDANCE

We support broadening the definition of a "suitable place" for attendance by telephone to include areas outside of Western Australian townsites, to allow for remote attendance at meetings by elected members from any suitable location.

We would also seek to make provision for any other suitable current (or future) telecommunications technology to be utilised, in addition to telephone (e.g. videoconferencing).

ELECTIONS

POSTAL ELECTIONS

We support WALGA's suggested amendment that postal elections should be able to be conducted by the Australian Electoral Commission and/or any other third-party provider.

The cost of holding an election is not insignificant for a small local government, whether done using internal staff or engaging the AEC. The provision of other – potentially more cost-effective – options in this space would be welcomed.

ELECTION OF SHIRE PRESIDENT/MAYOR

We support WALGA's position, nothing that Local Governments should determine whether their Shire President/Mayor will be elected by Council or the community.

ONLINE VOTING

We support changes to the Act which make provision for the use of online/electronic forms of voting in the future, as such technologies mature. We would not want online voting to be compulsory, but an option available for Shires who felt it would improve their democratic processes.

OTHER ITEMS

PROTECTION FROM DEVOLUTION OF RESPONSIBILITY

It is widely accepted that Local Government regularly has responsibility devolved to it from higher tiers of government. This is particularly impactful for smaller local governments, where the capacity to absorb that additional workload is smallest. As such, we would ask that the revised Act makes some kind of provision for:

- Impacts upon the sector brought about from changes of other pieces of legislation
- The local government to be appropriately resourced/compensated by the relevant tier of government devolving responsibility.

Whilst we are the tier of government closest to the community, and often one of the most effective at delivery of services to our communities, we are generally unable to effectively deliver additional services forced upon us without funding or resources.

LOCAL GOVERNMENT COMMISSIONER (OR SIMILAR)

We support LG Professionals' suggestion for the introduction of a Local Government Commissioner (or similar) to take on a guidance and support role to independently assist local governments with CEO recruitment and performance reviews (provided that Council remain primarily responsible).

We further support that commissioner (or other independent external body) becoming the final decision-maker in terms of CEO performance reviews or contract renewals for a period of five years where the CEO has reported an elected member to the CCC, Standards Panel or other regulatory or investigative body.

FUTURE-PROOFING

It is likely that over the life of the new Act a range of technologies (some of which are yet to be developed) will emerge and intersect with the way that Local Government operates. It is important that the new legislation takes into account emerging technologies (e.g. electronic voting, video-conferencing etc.) so that local governments can take advantage of such technologies as they emerge.

PLAIN ENGLISH DRAFTING

On behalf of Councillors, staff and our communities, we would like to request that the new Act be expressed in plain English as much as practicably possible. We understand that, at times, more complex language will be required within the legislation, but hope that the reform process is able to yield a document which is more readily understandable by all who come into contact with it.