

SHIRE OF MORAWA SUBMISSION – PHASE 2

<i>Position Statement</i>	<i>Comment</i>
AGILE	
BENEFICIAL ENTERPRISES	
<p>The Local Government Act 1995 should be amended to enable Local Governments to establish Beneficial Enterprises (formerly known as Council Controlled Organisations).</p>	<p>The Shire is supportive of the opportunity to create services that otherwise may not exist due to population size. This however should not be at the total expense of rate payers and must have a business case developed to ensure sustainability. Regional collaboration will be critical in developing these entities in the smaller rural communities. Would be good to see the State Government provision of incentives to regional areas that work together in the development of Beneficial Enterprises.</p>
FINANCIAL MANAGEMENT	
Tender Threshold	
<p>WALGA supports an increase in the tender threshold to align with the State Government tender threshold of \$250 000, with a timeframe of one financial year for individual vendors.</p>	<p>The Shire supports an increase in the tender threshold to align with the State Government tender threshold of \$250 000, with a timeframe of one financial year for individual vendors. This will be particularly beneficial in supporting local businesses in the regions via quoting for service.</p>
Procurement	
<p>That Regulation 30(3) be amended to delete any financial threshold limitation (currently \$75,000) on a disposition where it is used exclusively to purchase other property in the course of acquiring goods and services, commonly applied to a trade-in activity.</p>	<p>The Shire supports the WALGA position that Regulation 30(3) be amended to delete any financial threshold limitation (currently \$75,000) on a disposition where it is used exclusively to purchase other property in the course of acquiring goods and services, commonly applied to a trade-in activity.</p>
<p>That a review be undertaken to remove fees and charges from legislation and Councils be empowered to set fees and</p>	<p>The Shire is happy to see the requirement for Fees and Charges to remain in the legislation. There should however be more flexibility for LGs to adjust fees and charges without having to advertise in a regional newspaper and to utilise modern technology to undertake this requirement. Advertising of a reduction in a fee or charge should also be able to be carried out after the decision rather than having to do it before.</p>

charges for Local Government services.	
Power to Borrow: Section 6.20	
	The Shire supports the inclusion of S6.20(2); as any planned borrowing will be identified in your Long Term Financial Plan and Budget. If any borrowing is required outside this process then it should be a requirement to give public notification, as it is unplanned.
Differential General Rates: Section 6.33	
	The Shire supports the WALGA position that S6.33 of the Local Government Act be reviewed in contemplation of time-based differential rating, to encourage development of vacant land.
Member Interests - Exemption from AASB 124	
	The Shire supports the WALGA position that Elected Member obligations to declare interest are sufficiently inclusive that WALGA seeks an amendment to create an exemption under Regulation 4 of the Local Government (Financial Management) Regulations relating to AASB 124 'Related Party Transactions' of the Australian Accounting Standards (AAS).
RATES, FEES AND CHARGES	
Imposition of Fees and Charges: Section 6.16	
That a review be undertaken to remove fees and charges from legislation and Councils be empowered to set fees and charges for Local Government services.	The Shire is happy to see the requirement for Fees and Charges remain in the legislation. There should however be more flexibility for LGs to adjust fees and charges without having to advertise in the regional newspaper and to utilise modern tools to undertake this. Advertising of an adjustment should also be able to be carried out after the decision rather than having to do it before.
Rating Exemptions – Charitable Purposes: Section 6.26(2)(g)	
	The Shire would like to see businesses such as Faith based organisations (including Retirement Villages), Aboriginal Corporations or co-ops such as CBH included as a rateable organisation. For example, CBH has a significant requirement for the Shire to upgrade and maintain roads for the transportation of grain. It would be beneficial for all Shire roads to be able to utilise rates from CBH for road management.
Rating Exemptions – Rate Equivalency Payments	
Legislation should be amended so rate equivalency payments made by LandCorp and other Government Trading Entities are made to the relevant Local Governments instead of the State Government.	Shire supports the WALGA position that Legislation should be amended so rate equivalency payments made by LandCorp and other Government Trading Entities are made to the relevant Local Governments instead of the State Government.

Rates or Service Charges Recoverable in Court: Section 6.56	
That Section 6.56 be amended to clarify that all debt recovery action costs incurred by a Local Government in pursuing recovery of unpaid rates and services charges be recoverable and not be limited by reference to the 'cost of proceedings'.	For a small regional Shire the payment of rates can be a financial hardship from time to time. The Shire would not like to see the costs associated with the recovery of debt as being a compulsory requirement on a LG but rather at the discretion of a LG to use if it desires.
Rating Restrictions – State Agreement Acts	
Resource projects covered by State Agreement Acts should be liable for Local Government rates.	The Shire supports the WALGA position that Resource projects covered by State Agreement Acts should be liable for Local Government rates.
SMART	
ADMINISTRATIVE EFFICIENCIES	
Control of Certain Unvested Facilities: Section 3.53	
	The Shire supports the position that S3.53 be repealed and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager.
Local Government Grants Commission and Local Government Advisory Board	
	The Shire supports the WALGA position seeking inclusion of a proposal to allow electors of a Local Government affected by any boundary change or amalgamation proposal entitlement to petition the Minister for a binding poll under Schedule 2.1 of the Local Government Act.
Schedule 2.1 – Proposal to the Advisory Board, Number of Electors	
	A Shire of our size will always need to work on the percentage therefore there is no impact foreseeable on changing the number for the Shire.
Schedule 2.2 – Proposal to amend names, wards and representation, Number of Electors	
	A Shire of our size will always need to work on the percentage therefore there is no impact foreseeable on changing the number for the Shire.
Transferability of employees between State & Local Government (Questions 82-84)	
	The Shire supports the WALGA position that a General Agreement between State and Local Government should be established to facilitate the transfer of accrued leave entitlements (annual leave, sick leave, superannuation and long service leave) for staff between the two sectors of Government. This will benefit

	public sector employees and employers by increasing the skills and diversity of the public sector, and lead to improved collaboration between State and Local Government.
Proof in Vehicle Offences may be shifted: Section 9.13(6)	
	The Shire supports the WALGA position that S9.13 of the Local Government Act be amended by introducing the definition of 'responsible person' to enable Local Governments to administer and apply effective provisions associated with vehicle related offences.
Local Laws – Section 3.12	
	The Shire recommends that the State Government: <ul style="list-style-type: none"> 1) Develop a set of Model Local Laws for LG use. <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> 2) Change the Local Law-Making process needs to be adjusted to bring the review of Local Laws by the Joint Standing Committee on Delegated Legislative prior to the Local Laws being gazetted. The current process is flawed with the JSCDL requiring LGs to give undertaking to change a Local Law which then requires the Local Law process to start again.
COUNCIL MEETINGS	
Electors' General Meeting: Section 5.27	
Section 5.27 of the Local Government Act 1995 should be amended so that Electors' General Meetings are not compulsory.	The Shire supports the WALGA position that S5.27 of the Local Government Act 1995 should be amended so that Electors' General Meetings are not compulsory. The community should be encouraged to attend the Council meeting that are held during the year. There is opportunity in every agenda to ask questions or make a statement.
Special Electors' Meeting: Section 5.28	
	The Shire supports the WALGA position that S5.28(1)(a) be amended: <ul style="list-style-type: none"> (a) so that the prescribed number of electors required to request a meeting increase from 100 (or 5% of electors) to 500 (or 5% of electors), whichever is fewer; and (b) to preclude the calling of Electors' Special Meeting on the same issue within a 12 month period, unless Council determines otherwise.
Minutes, contents of: Regulation 11	
	The Shire supports the WALGA position that Regulation 11 should be amended to require that information presented in a Council or Committee Agenda must also be included in the Minutes to that meeting. The caveat to supporting this position is that the requirements to meet this position is the information can include audio and/or digital recording of meetings.
Revoking or Changing Decisions: Regulation 10	
	The Shire supports the WALGA position that Regulation 10 be amended to clarify that a revocation or change to a previous decision does not apply to Council decisions that have already been implemented.

Elected Member attendance at Council meetings by technology	
	The Shire supports the current Local Government (Administration) Regulations 1996 allowing for attendance by telephone, however only if approved by Council and in a suitable place. The Shire believes that the Act should give each Shire to option to develop a Policy for how this is managed to best meet its needs. This would include a consideration allowing attendance at a meeting via technology from any location suitable to a Council.
INTERVENTIONS	
Remedial intervention; Powers of appointed person; Remedial action process	
	<p>The Shire supports the position that with respect to remedial intervention, the appointee should be a person with an appropriate skill set to best advice and support, and not necessarily be a Departmental employee.</p> <p>Funding of the remedial action should be by the Department where the intervention is mandatory. The Local Government to pay where the assistance is requested.</p> <p>This area relates to the bigger picture of differentiating between Local Governments based on their size and scale. Suitable arrangements to determine a size and scale compliance regime should be prioritized. For impartiality purposes, it is important that the function of appointing an external person is reserved for the Minister.</p>
INCLUSIVE	
COMMUNITY ENGAGEMENT - IPR	
	The Shire believes that LGs should have a minimum requirement in the Act to do community engagement; reinforced by an engagement charter or policy for each LG.
COMPLAINTS MANAGEMENT	
Querulous, Vexatious and Frivolous Complainants	
	<p>The Complaints Management commentary contemplates the issue up to the point of unresolved complaints and then references the Ombudsman resources with regard to unreasonable complainants. WALGA seeks inclusion of commentary and questions relating to Local Governments adopting within their proposed complaints management framework, the capacity to permit a Local Government to declare a member of the public a vexatious or frivolous complainant, subject to the declaration relating to the nature of complaint and not to the person.</p> <p>Amend the Local Government Act 1995, to:</p>

	<ul style="list-style-type: none"> • Enable Local Government discretion to refuse to further respond to a complainant where the CEO is of the opinion that the complaint is trivial, frivolous or vexatious or is not made in good faith, or has been determined to have been previously properly investigated and concluded, similar to the terms of section 18 of the Parliamentary Commissioner Act 1971. • Provide for a complainant, who receives a Local Government discretion to refuse to deal with that complainant, to refer the Local Government's decision for third party review. • Enable Local Government discretion to declare a member of the public a vexatious or frivolous complainant for reasons, including: <ul style="list-style-type: none"> ○ Abuse of process; ○ Harassing or intimidating an individual or an employee of the Local Government in relation to the complaint. <p>Unreasonably interfering with the operations of the Local Government in relation to complaint.</p> <p>The Shire believes that local government needs more ability to deal with such matters, it believes that particular focus must be given in the preservation of impartiality, and prevention of unfair determinations of 'vexatious or frivolous complainant' by local governments. It is believed that this can be mitigated by the proposed third party review component.</p>
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ELECTIONS

Conduct of Postal Elections: Sections 4.20 and 4.61	
The Local Government Act 1995 should be amended to allow the Australian Electoral Commission (AEC) <u>and or any other third party provider</u> to conduct postal elections.	The Shire is supportive of the utilisation of technology and other third parties to support the way voting can be undertaken in the future.
Voluntary Voting: Section 4.65	
Voting in Local Government elections should remain voluntary.	The Shire supports the WALGA position that voting in Local Government elections should remain voluntary.
Method of Election of Mayor/President: Section 2.11	
Local Governments should determine whether their Mayor or President will be	The Shire supports the WALGA position that Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community.

elected by the Council or elected by the community.	
Method of Voting - Schedule 4.1	
Elections should be conducted utilising the first-past-the-post (FPTP) method of voting.	The Shire supports the WALGA position that Elections should be conducted utilising the first-past-the-post (FPTP) method of voting.
Leave of Absence when Contesting State or Federal Election	
	<p>The Shire supports the WALGA position to Amend the Act to require an Elected Member to take leave of absence when contesting a State or Federal election, applying from the issue of Writs. The options to consider include:</p> <ul style="list-style-type: none"> (i) that an Elected Member remove themselves from any decision making role and not attend Council and Committee meetings; or (ii) that an Elected Member take leave of absence from all aspects of their role as a Councillor and not be able to perform the role as specified in Section 2.10 of the Local Government Act.