



*LOCAL GOVERNMENT ACT 1995 REVIEW*

**Phase Two Submission**

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# Beneficial Enterprises

Response to survey questions

1. **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

**d. Very supportive**

2. 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."		✓			
"Only local governments deemed to be a low risk should be allowed to create a beneficial enterprise."				✓	
"Only local governments that meet a threshold for financial health should be allowed to be create a beneficial enterprise."				✓	
"Local governments should only be permitted to invest in a company up to a specific percentage of their annual expenditure."				✓	
"Only local governments that are in band 1 & 2 of the Salaries and Allowance Tribunal banding should be		✓			

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

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

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

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

4. 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."	✓				
"The local government should be able to lend money to a local government beneficial enterprise."	✓				
"The Western Australian Treasury Corporation should be able to lend money to a local government beneficial enterprise"				✓	
"Commercial lenders should be able to lend money to a local government beneficial enterprise"				✓	

5. 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."	✓				
"The local government <u>must</u> receive approval from the Treasurer prior to creating a local government beneficial enterprise."	✓				
"The Office of the Auditor General should be responsible for auditing local government beneficial enterprises."	✓				
"A local government beneficial enterprise should be required to hold public meetings."	✓				

6. Do you have any comments or feedback on the ability of a local government to form a beneficial enterprise?

- Potential risks that need to be considered:
  - A poorly governed beneficial enterprise puts public money, service performance and council reputation at risk
  - Public accountability: ratepayers and service users may have less input over how services are provided; reduced transparency and accountability
  - Beneficial enterprise failure: council may have to provide unplanned financial support, or may have to wind them up and take responsibility for their financial commitments
  - Their complex governance requires clear roles and responsibilities and effective monitoring, adding a whole new layer of responsibility to local government's functions.

# Financial Management

Response to survey questions

1. 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.”		✓			
“Different procurement rules should apply to different local governments.”			✓		
“Local governments with few staff or small operating budgets should have fewer procurement rules to comply with.”	✓				

2. 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)

**b. A percentage of a local government’s average operating expenditure (proportional to budget)**

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

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

**a. Yes**

4. 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?
- Yes
  - No
  - Unsure

**a. Yes**

5. 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."					✓
"Local government should have fewer restrictions on their ability to invest surplus revenue."		✓			
"Different local governments should have different investment powers and rules."	✓				
"Certain types of investments should require independent approval."				✓	

6. Should local governments be required to give public notice in any of the following situations? (please select all options that should apply)
- Where a local government wishes to borrow money outside amounts listed in the annual budget
  - Where a local government has exercised its power to borrow for a purpose but no longer wishes to use the funds for that purpose
  - Where a local government has exercised its power to borrow for a purpose and has funding left over
  - Public notice is not required in any of these situations
  - Unsure

- 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**



7. Should local governments be permitted to secure loans using assets that they own freehold?
- a. Yes
  - b. No
  - c. Unsure

**a. Yes**

8. Should local government be permitted to participate in Building Upgrade Finance programs?
- a. Yes
  - b. No
  - c. Unsure

**b. No**

9. 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)

**c. Neither**

Do you have any additional comments on the topic of financial management?

Consideration should be given to undertake a review of the statutory financial and asset management ratios that local governments are required to report on. Are the current prescribed ratios the best indicators of long-term financial sustainability?

## Rates, Fees and Charges

Response to survey questions

1. To what degree are you concerned about rates?
  - a. Not at all
  - b. A little
  - c. A moderate amount
  - d. A lot
  - e. A great deal

**c. A moderate amount**

2. Do you support the following statements?

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

3. Should the legislation set the rating categories that can be used by local governments?
  - a. Yes
  - b. No
  - c. Unsure

**a. Yes**

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

	Yes	No	Unsure
Residential	✓		
Rural residential	✓		
Commercial	✓		
Industrial	✓		
Vacant	✓		
Mining	✓		
Mining - exploration and prospecting (separate from general mining)	✓		
Farming	✓		
Not-for-profit organisation or charity	✓		
Other (please specify)			

5. 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

**a. Yes**

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

**Power to initiate the cancelation of the lease**

7. 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.”		✓			
“Local governments should be permitted to rate long term vacant properties differently to land that is being used.”				✓	
“Local governments should be permitted to rate holiday houses, timeshare properties or AirBNB properties differently.”				✓	
“A lower rate in the dollar should apply to land used for exploration and prospecting compared to land used for mining.”				✓	

8. 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)

**e. Differential rates to a maximum of four times may be set with no option for Ministerial approval**

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

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

10. 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		✓	
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)	✓		
Land used primarily as a place of residence (no matter who owns the land)	✓		
Land used for mining exploration or prospecting	✓		
Aged care facilities	✓		
Child care facilities	✓		
Sporting clubs and Surf Lifesaving clubs	✓		
Land used for the pursuit of the Arts	✓		

11. Which of the following charges should be levied on properties exempt from rates?
- Waste charges
  - A service charge to cover basic services and maintenance
  - Both
  - Neither
  - Other (please specify)

**a. Waste charges**

12. 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	✓		
The land is owned or used by a not-for-profit organisation	✓		
The land is owned or used by an entity that provides assistance or encouragement for arts or cultural development		✓	
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	✓		
Community service organisations that are not-for-profit, for the benefit of the general public and provide community services without charge or below cost	✓		
The payment of rates or charges will cause hardship to the land owner		✓	
The concession will encourage the economic development of all or part of the local government district	✓		
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	✓		
Land that is subject to a mining tenement		✓	
Land that is determined by the Minister to be subject to a concession		✓	

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

**No**

14. 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)

**a. Waste charges**

15. 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."					✓
"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> ."				✓	
"Land used as a residence should not be regarded as charitable."					✓

16. 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.”					✓
“Local governments should be able to vary fees and charges at any time without advertising the change.”					✓
“Local governments should have the autonomy to set fees and charges for all services they provide.”					✓
“Services that are consistent across local governments should have the same fees or charges.”		✓			
“Local governments should not set a fee or charge higher than the cost of delivering that service.”					✓
“A fee or charge should not be set lower than the cost of delivering that service.”		✓			
“Fees and charges imposed by local government and fixed under legislation should increase by CPI annually.”		✓			

Do you have any additional comments on the topic of rates, fees and charges?

**No**



# Administrative Efficiencies

Response to survey questions

1. 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.”				✓	
“The functions of the Grants Commission and the Advisory Board should be combined under one Board.”			✓		
“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.”			✓		
“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.”			✓		
“The Advisory Board should not assess a proposal for changes to boundaries that does not meet the minimum requirements.”			✓		
“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.”			✓		

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“The affected local government(s) should be provided with a copy of the proposal prior to it being submitted to the Advisory Board.”			✓		
“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.”			✓		

2. Currently a proposal to the Advisory Board from the community must be signed by 250 people or 10% of the community whichever is less. Should proposals from districts with a population over 5,000 be increased to 500 signatures?
- Yes
  - No
  - Unsure

**b. No**

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“People need the power to impound stray cattle.”				✓	
“Local governments need the power to impound stray cattle.”				✓	
“People need the power to detain and dispose of stray goats, pigs and poultry.”				✓	

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“Offences that apply to pound keepers should also apply to similar facilities maintained by local governments, for example cats and dogs.”				✓	

4. 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)	✓		
s 5.3	Advise of the failure to hold council meetings within the last 3 months	✓		
s 7.12A	Provide a copy of the report that addresses the issues identified in the audit report	✓		
LG (Audit) Reg 14	Provide a copy of the compliance audit report	✓		
LG (Audit) Reg 15	Provide a certified copy of the compliance audit return	✓		
LG (Constitution) Reg 11FA	Provide a report on the result of an election (election of Mayor/President and Deputy Mayor/President)	✓		
LG (Constitution) Reg 11H	Advise the outcome of the Court of Disputed Returns (election of Mayor/President and Deputy Mayor/President)	✓		
LG (Constitution) Form 2	Request for a poll on a recommended amalgamation	✓		

Section		Yes	No	Unsure
LG (Elections) Reg 86	Advise the outcome of the Court of Disputed Returns (ordinary or extraordinary election)	✓		
LG (Financial Management) Reg 33	Provide a copy of the annual budget	✓		
LG (Financial Management) Reg 33A	Provide a copy of the review and determination of the reviewed annual budget	✓		
LG (Financial Management) Reg 51	Provide a copy of the annual financial report	✓		

5. 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	✓		
s 3.53	Ordering which local government is responsible for managing a facility that is located within two or more districts (only when the local governments themselves do not agree about how to manage the facility)	✓		
s 3.59	Commencing or undertaking a major land transaction or trading undertaking (as required under the regulations)	✓		
s 3.61	Establishing a regional local government	✓		
s 3.65	Amending the establishment agreement of a regional local government	✓		
s 3.69	Establishing a regional subsidiary	✓		
s 3.70	Amendment to a regional subsidiary's charter	✓		
s 5.7	Reducing the number of people required for a quorum or absolute majority	✓		

Section		Yes	No	Unsure
s 5.69	Approval to participate in a meeting (after disclosing an interest)	✓		
s 5.69A	Exemption from some or all disclosure of interest requirements for committee members	✓		
s 6.35	Minimum payment of rates on vacant land		✓	
s 6.74	Approval to re-vest land to the State for non-payment of rates	✓		
s 9.63	Direction to two or more local governments on how to resolve a dispute	✓		

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

Section		Simple Majority	Absolute Majority	Unsure
ss 3.12 & 3.16	Making local laws	<b>Replace with regulations</b>		
s 3.59(5)	Undertaking major land transactions or major trading activities	✓		
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)	✓		
s 4.20	Appointing the Electoral Commissioner to conduct an election or appointing a returning officer	<b>The Electoral Commissioner should be automatically appointed for all elections in all local governments.</b>		
s 4.57	Appointing a person to be a Councillor if no nominations are received twice for a vacant position	✓		
s 4.61	Deciding if an election should be a postal election	<b>All LG elections should be conducted as postal.</b>		
s 5.8	Establishing committees to assist council in the performance of powers and duties	✓		

Section		Simple Majority	Absolute Majority	Unsure
ss 5.10 & 5.11A	Appointing members (and deputies) to a committee	✓		
s 5.15	Reducing the number of offices required to form a quorum at a committee meeting (if required)	Should not be possible – reschedule the meeting to a date when a quorum can be achieved.		
s 5.16	Delegating or revoking any local government powers and duties to a committee	✓		
s 5.36	Decisions on CEO's employment contract		✓	
s 5.42 & 5.45	Deciding to delegate powers or duties to the CEO (and revoke this delegation)		✓	
s 5.54	Accepting the annual report for a financial year	✓		
s 5.98A	Deciding to pay the deputy mayor an additional allowance		✓	
s 5.99	Deciding to pay council members the prescribed minimum fee or a fee within the prescribed range		✓	
s 5.99A	Deciding to pay council members an annual allowance or an allowance that has been set for expenses		✓	
s 6.2	Preparing and adopting a budget for the financial year		✓	
s 6.3	Imposing a supplementary general rate or specified area rate		✓	
s 6.8	Spending money from the municipal fund that was not in the annual budget		✓	
s 6.11	Changing the purpose of a reserve account		✓	
s 6.12	Granting a discount for the early payment of money, waiving or granting		✓	

Section		Simple Majority	Absolute Majority	Unsure
	concessions, or writing off any amount owed to the local government			
s 6.13	Deciding to require a person to pay interest on an amount owed to a local government		✓	
s 6.16	Imposing (or amending) a fee for goods or services		✓	
s 6.20	Deciding to borrow and spend borrowed money		✓	
s 6.32	Imposing a general rate on rateable land or a supplementary general rate in an emergency		✓	
s 6.46	Granting a discount or other incentive for the early payment of any rate or service charge		✓	
s 6.47	Deciding to waive a rate or service charge		✓	
s 6.51	Deciding to impose interest on a rate or service charge or costs of proceedings to recover amounts unpaid		✓	
s 7.1A	Appointing audit committee members	✓		
s 7.1B	Delegating powers and duties to the audit committee	✓		
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	✓		
Sch 2.2 clause 5	Making a proposal to the Minister or the Advisory Board to change the name of a district or ward	✓		
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	✓		

Section		Simple Majority	Absolute Majority	Unsure
LG (Admin) Reg 10(2)	Deciding to revoke or change a decision made by absolute majority		✓	
LG (Admin) Reg 14A	Deciding to approve a member to be present at a meeting via telephone	✓		
LG (Admin) Reg 19C and 19DA)	Adopting a strategic community plan and corporate business plan	✓		
LG (Financial Management ) Reg 33A	Determining whether to adopt a review of the budget or recommendations in the budget review	✓		

7. Which regulatory measures within the Act should be removed or amended to make the legislation more efficient?

**Raising the number of electors required to submit to the LGAB a proposal for boundary changes, abolishing districts, names and ward representations.**

Please provide detailed analysis with your suggestions.

**Council recommends no change to this legislation. The background paper raises the change of increasing the number of electors from 250 to 500, on the grounds that 250 electors represent a very small portion of the population of major metro local governments and do not truly represent the community's view.**

**Council recommends no change to this legislation because 500 electors does not significantly increase the representation of the community view in, for example, a local government of more than 100,000 electors.**

Briefly describe the red tape problem you have identified.

**N/A**

What is the impact of this problem? Please quantify if possible.

**N/A**

What solutions can you suggest to solve this red tape problem?

### **1. Miscellaneous Provisions Act:**



All suggestions accepted.

**2. Information to be provided to the Minister:**

All pieces listed in question 3 of the survey should be provided to the Minister.

**3. Decisions to be made by the Minister:**

All the decisions listed in question 5 of the survey should be made by the Minister.

**4. Absolute majority decisions:**

All decisions listed in question 6 of the survey should be by absolute majority, as these are all decisions of great importance that should be supported by a clear majority of councillors.

## Local Laws

Response to survey questions

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

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

2. Should model local laws be prepared by State Government for local governments to use?
- Yes
  - No – replace with statewide regulations or fit for purpose/locality
  - Unsure

**b. No - replace with statewide regulations or fit for purpose/locality**

3. Should local governments be permitted to adapt the contents of model local laws?
- Yes
  - No – replace with statewide regulations or fit for purpose/locality
  - Unsure

**b. No - replace with statewide regulations or fit for purpose/locality**

4. 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

**None of above - replace with statewide regulations or fit for purpose/locality**

5. 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

**None of above - replace with statewide regulations or fit for purpose/locality**

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“The Department should continue to provide comment on proposed local laws prior to consideration by Parliament’s Joint Standing Committee on Delegated Legislation.”	<b>Replace with statewide regulations or fit for purpose/locality</b>				
“Local governments should be required to modify proposed local laws according to the instructions of the Department.”	<b>Replace with statewide regulations or fit for purpose/locality</b>				
“Local governments should be required to have a legal practitioner certify that a local law is within power and legally enforceable.”	<b>Replace with statewide regulations or fit for purpose/locality</b>				

7. Should local governments be required to periodically review their local laws?

- a. No
- b. Yes, every 6 years or less
- c. Yes, every 8 years
- d. Yes, between 8 and 10 years
- e. Do you have any additional comments on the topic of local laws?

**a. No - replace with statewide regulations or fit for purpose / locality**

**Local Laws – fact sheet and detailed discussion paper**

**Comments:**

1. Process for making local laws
  - 1.1 A local law should be final and definitive once it has appeared in the Gazette. However, many months after gazettal the Joint Standing Committee on Delegated Legislation (JSCDL) scrutinises it and can disallow the local law or request changes to it. This is a serious issue, as most local laws come into operation 14 days after gazettal. By the time the JSCDL considers a local law and possibly makes adverse findings, a local government may have breached, prosecuted, fined or penalised persons based on a local law that is then found to be invalid. This is a major flaw of the local law making process.
  - 1.2 The process is too long, with extensive and multiple consultation periods. Up to a year from start to finish is not unusual. Even an amendment local law takes that amount of time, too long to correct any clauses that need adjusting or do not properly address a problem.

## 2. Model local laws

- 2.1 The Department and the JSCDL prefer local governments to use the WALGA model (or template) local laws with as little alteration as possible, resulting in all local governments having basically the same local laws. So why have local laws then? Isn't the intention of local laws to "tailor" them to local conditions? It would be far more efficient in local government time and effort if state-wide regulations were made covering all local governments, who can then "tailor" those regulations by adopting policies.
- 2.2 Adapting a model local law requires in many cases specialised legal and law writing skills.
- 2.3 If the basis for making a local law is to address gaps in existing State legislation, would it not make more sense to fix those gaps in that legislation, rather than create a new framework of legislation?

## 3. Enforcement

- 3.1 Enforcement of local laws comes at a cost, both in time, effort and money and comes on top of a local government's obligation to enforce State legislation.
- 3.2 The provisions in most local laws - based on the WALGA model local laws - are too often ambiguous and open to interpretation.

## Conclusion

The Local law making and review process is a burden on local government without bringing much benefit. Preference would be for the State Government to make state-wide regulations on matters common to all local governments.

# Council Meetings

Response to survey questions

1. 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.”					✓
“Public question time is an important feature of council meetings.”					✓
“People unhappy with the quality of the answer given at public question time should be able to escalate the matter to an independent person.”	✓				

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

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

**a. Yes**

If yes, how? **Use of technology**

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

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

**a. Yes**

4. Should Council Meetings be live streamed?

**Yes – where appropriate and subject to business case.**

5. 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.”					✓
“Local governments should be required to 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.”			✓		
“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.”				✓	

6. To what extent to do you support the following statements?

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

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

7. Do you have any additional comments on the topic of council meetings?

**Annual Elector’s Meeting (AEM) should not be a requirement & local governments can hold if they see fit.**



## Interventions

Response to survey questions

1. 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

**b. No**

2. 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

**c. A moderate amount**

3. 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.”	✓				
“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.”	✓				
“The external person should be appointed by the Minister.”	✓				

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“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.”	✓				
“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.”	✓				

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

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
government should be met by the local government.”					
“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.”	✓				

5. 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.”		✓			
“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.”		✓			
“People who knowingly provide false or misleading information to a council should be prosecuted.”		✓			
“Local government employees that breach procurement rules should be prosecuted.”		✓			
“When a breach of the Act is identified an infringement notice should be issued as is the case for traffic offences.”		✓			

6. 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.”	✓				
“Local governments need greater powers to direct property owners to tidy property for amenity, health and safety reasons.”					✓
“Local governments need greater powers to direct property owners and occupiers to remove items like disused motor vehicles for amenity, health and safety reasons.”			✓		
“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.”				✓	

7. Do you have any additional comments on this topic of interventions?

**Comments**

**1. Investigations and inquiries / complaints process**

- Council member minor breach: currently reported to the local government complaints officer, ie the CEO, who refers it to the Standards Panel. As the CEO is employed by Council, that means he/she has to report his/her employer, which is not ideal.
- However reporting all breaches (minor and serious) to the Department is not the solution. This may result in longer delays in dealing with issues that should be resolved as soon as possible.

**2. State Government’s ability to assist**

- Support “Municipal Monitor” embedded in Council if Council is the cause of dysfunction.

### **3. Ensuring compliance with the Act**

Nil

### **4. New offence – improper use of position**

For CEO and employees, this can be dealt with in Code of Conduct. If added in the Act, how would it be enforced?

### **5. New offence – providing false or misleading information to council**

Not supported.

### **6. New offence – tendering requirements**

Not supported. Individual employees who deliberately breach the tendering provisions should be dealt with through internal processes. Audits such as internal procurement audits, annual financial audit and compliance audit return will identify these kind of issues. It is then the responsibility of the CEO to reinforce to the employee that they are required to comply with legislation and policies always.

### **7. Enforcement of the Act**

Not supported. Infringements could be seen as not a deterrent.

### **8. Harmonisation**

Nil.

### **9. Default penalties for local laws**

How will the default penalty be adjusted to remain relevant over the years?

### **10. Powers under the Act**

Nil.

# Community Engagement

Response to survey questions

1. 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)

**a. In person**  
**b. Telephone**  
**c. Online**  
**d. Community forums**  
**e. Citizen juries**

2. 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.)?

**Depends on community and purpose of engagement. Work with community leaders and tailor approach based on the group and the context and what you are seeking to achieve.**

3. 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.”				✓	
“Local governments should be required to adopt a community engagement charter or policy.”				✓	
“All local governments should operate under a universal community engagement charter or policy.”		✓			
<b>A universal approach undermines true community engagement approach</b>					

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“Local governments should determine if they require a community engagement charter or policy and the content of that charter or policy.”				✓	

4. 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			✓
Engagement is inclusive and respectful			✓
Engagement is fit-for-purpose			✓
Engagement is informed and transparent			✓
Engagement processes must be reviewed and improved			✓

5. 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)

a. **When preparing or reviewing their Strategic Community Plan**  
 b. **Making a local law**  
 c. **Planning matters**  
 d. **Emergency and community infrastructure planning**

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

**Council notes that the composition of the current Reference Group for the reform of the Local Government Act includes four representatives from each of LG Pro, WALGA, DLGSCI, members of other state government departments and seven lobby/industry groups.**

**It includes only two Elected Members of Local Government and both are from country districts and office holders within WALGA. It includes no members of the general public.**

**Council requests that the Minister appoint:**

**i) two Elected Members of Local Government from metro districts; and**

**ii) two members of the public who are not members of any government appointed committee or community lobby group**

**to become members of the Local Government Act Review Reference Group, and**

**iii) when the Reference Group's process is finalised and legislation is drafted, that the draft legislation be referred to a Parliamentary Committee to allow public hearings and input into the proposed legislation.**



# Integrated Planning and Reporting

Response to survey questions

1. 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.”				✓	
“A local government should be free to conduct its long-term and operational planning in whatever manner it wishes.”				✓	
“Local governments should conduct their long-term and operational planning in the same way.”		✓			
“Local governments with smaller populations and fewer staff should have fewer rules for how they conduct long-term and operational planning.”				✓	
Local Governments with larger populations and more staff should have fewer rules setting how they conduct long-term and operational planning.”		✓			
“Integrated Planning and Reporting documents need to be reviewed too frequently.”		✓			
“The timelines for reviewing Integrated Planning and Reporting documents need to be synchronised with council election cycles.”				✓	
“There should be consequences for not complying with Integrated Planning and Reporting requirements.”			✓		

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

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

3. 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.”				✓	
“Local governments should be required to publish measures of success against uniform key performance indicators.”		✓			
“It is important that measures of success are comparable.”					✓
“Local governments should determine if they publish measures of success and what these measures should be.”				✓	

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

	Very unsupportive	Unsupportive	Neutral	Supportive	Very supportive
“The State Government should use local government Integrated Planning and Reporting documents to inform policy and service delivery.”				✓	
“All local government plans, including Local Public Health Plans, Disability Access Plans and Town Planning Schemes, should be combined under Integrated Planning and Reporting.”				✓	
“Local government Integrated Planning and Reporting needs to be conducted at a regional level to influence State Government policy and service delivery.”				✓	

5. 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	✓		
To provide feedback to the local government on Draft Strategic Community Plans and Corporate Business Plans	✓ SCP – Yes	✓ CBP - No	
To be notified of a local government’s plans and reports (for example, publication of these documents on the local government’s website)	✓		
To assess the local government’s success in achieving the priorities identified in the Strategic Community Plan	✓		

6. 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	✓		
Ensure that community engagement is representative of the community's diverse population	✓		
Demonstrate the community has been engaged in the development of plans	✓		
Demonstrate the community has been consulted on the completion of draft plans	✓ SCP – Yes	✓ CBP - No	
Other (please specify)			

7. Should community engagement requirements be the same for all local governments?
- a. Yes
  - b. No
  - c. Unsure

**b. No**

8. Do you have any other comments on the topic of Integrated Planning and Reporting?

**No**

# Complaints Management

Response to survey questions

1. 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)

**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**  
**g. Internal independent review of complaints**  
**i. Other (please specify)**

- What is a complaint? – clear definition
- Provide option to escalate to Ombudsman if complainant is not satisfied with decision.

2. 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.”					✓

3. Should a local government customer service charter be a legislative requirement?
  - a. Yes
  - b. No
  - c. Unsure

**a. Yes**

4. Who should review unresolved complaints (please select all options that apply)?
- Different staff member in the local government
  - A qualified complaints management officer
  - A committee created by the local government
  - A tabled decision for council to determine
  - None of the people or groups listed above
  - Other (please specify)**

**f. Other (please specify)**

**Suggested consideration of a three level complaint system:**

- **Level 1: relatively simple complaints that can be resolved within 3 working days. Complaint handled by relevant staff.**
- **Level 2: all complaints about employees, all unresolved Level 1 complaints and complaints that are considered complex from the outset. Complaint handled by relevant Director.**
- **Level 3: unresolved Level 2 complaints and complaints against Directors. Handled by CEO.**

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

- Page 3 of the Summary Discussion Paper: *“a requirement for local governments to make their policies and procedures available on their website.”* Whilst the policy must definitely be available on the website, the policy and customer service charter should provide the public with confidence that the local government has the right procedures in place to deal with complaints efficiently and effectively, but the internal procedure should not be made public.
- Detailed Discussion Paper page 4: *All local governments could be required to adopt the Standard: the Standard needs to be purchased from SAI Global at a cost of \$218.75. If the Department wishes local government to incorporate the Standard in the development of their complaints management system, then the Department should make arrangements with SAI Global to make the Standard available to the sector for free or at a discounted price. The NSW Ombudsman website is an excellent and very complete source of guidance and it is “free”. There appears to be that there is nothing to be gained from making adoption of the Standard compulsory.*
- Detailed Discussion Paper page 3: it is misleading to show that in WA complaints under s. 121, ie minor breaches, must be reported in the annual report. The discussion paper is about service complaints from the public, not about minor breaches by elected members. Minor breaches are specifically excluded from service complaints policies.
- Detailed Discussion Paper page 4: *“There is currently no legislative requirement for local governments to have complaint handling processes other than the need to address how they dealt with complaints in the annual report.”* There is no requirement to address service complaints in the annual report.

# Elections

Response to survey questions

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

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

2. 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

**b. All local governments**

3. 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

**b. All local governments**

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

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

**a. Yes**

5. What method should be used to resolve ties in council elections?
- a. Drawing of lots (random selection)
  - b. Unsure
  - c. Other (please specify)

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

6. 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.”	✓				
“Local governments should be required to adopt a caretaker period that restricts council from making major decisions during a local government election period.”	✓				
“Caretaker periods are only required in large local governments.”	✓				
“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.”					✓

7. 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.”			✓		



	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
“Council elections should be held every four years rather than every two years with all council members being elected at the same time.”		✓			
“A cap should be set on the maximum amount that a candidate may spend on their campaign.”					✓
“Prospective candidates should be required to declare their profession or primary source of income on the nomination form.”		✓			
“Local governments should be required to publish candidate profiles on the website.”					✓
“Information collected on the nomination form should include demographic information such as gender and ethnicity.”	✓				

8. 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.”				✓	
“People who lease rateable property in a district should be entitled to vote.”				✓	
“Corporations that own property in a district should be entitled to vote.”				✓	
“Corporations that lease property should be entitled to vote.”				✓	
“Occupiers of land, for example, commercial lease holders, should be eligible to vote.”				✓	

	Very unsupportive	Unsupportive	Neutral	Supportive	Very Supportive
"Only people over the age of 18 who live in a district should be eligible to vote."				✓	

9. How should the position of Mayor or Shire President be determined?
- Vote by electors
  - Vote by council members
  - A method determined by council
  - Unsure
  - Other (please specify)

**c. A method determined by council**

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

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

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

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

**f. No election gifts or donations should be prohibited**

12. 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."	✓				
"A local government with fewer than 800 people should not have wards."	✓				
"Ward boundaries should be set by the Electoral Commissioner."	✓				
"The number of members that a council has should be linked to the local government's population."	✓				

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

**Nil**

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

**No**