



**COUNCIL EMDORSED FEEDBACK ON THE REVIEW OF THE LOCAL GOVERNMENT ACT 1995 –**

**PHASE 2**



**Aerial View of Woodanilling**

## Submission to WALGA and the Department of Local Government

The submission by the Shire of Woodanilling consists of comments and feedback regarding the:

- WALGA Advocacy Positions regarding Phase 2 of the Local Government Act Review; and
- A submission to the Department of Local Government if required.

In making its submission, the Shire supports the WALGA State Council endorsed general principles as in the review of the *Local Government Act 1995* follows:

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

Council considered this matter at its meeting on 19 February 2019 and has endorsed the comments as contained in this submission.

Further information can be obtained from the Shire's Chief Executive Officer if required.

**Sean Fletcher**

Acting Chief Executive Officer

Theme	Discussion Paper - Topic Area	WALGA Position/Suggestion <small>(WALGA Position Statements ie Adopted by State Council are highlighted in yellow)</small>	ACEO's Advice	Support WALGA Yes/No	Alternative Proposal/Further Comment
<b>Beneficial Enterprises (Local Government Run Businesses)</b>					
Agile	<p>The Local Government Sector has been requesting the ability to form independent corporations.</p> <p>An independent corporation could be used to manage part of a local government's existing business activity or pursue new commercial opportunities.</p> <ul style="list-style-type: none"> <li>• Modernise the legislation to provide local governments with the option to form beneficial enterprises.</li> <li>• Local government to develop a business plan to address community expectations and ensure transparency of funding and viability arrangements.</li> <li>• Introduce eligibility criteria that a local government must meet before it can establish a beneficial enterprise.</li> </ul>	<p><b>The Local Government Act 1995 should be amended to enable Local Governments to establish Beneficial Enterprises (formerly known as Council Controlled Organisations)</b></p> <p>Beneficial Enterprises provide services and facilities that are not attractive to private investors or where there is a market failure.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>• Urban regeneration. A land development that is not attractive to a private developer but may be of benefit to the strategic development of an area;</li> <li>• Economic decline. A small business may not be viable in Regional WA, but may be an essential service e.g. pharmacy, mechanical workshop.</li> </ul> <p>These stand alone business entities will be run as a private going concern governed by the Corporations Act (Commonwealth) i.e. company law</p>	<p>Local Governments in Regional WA are hamstrung when trying to find a solution to deal with departing doctors, pharmacists, mechanics and so on.</p> <p>Currently, these local governments provide substantial subsidies and/or infrastructure to attract and retain such businesses.</p> <p>A beneficial enterprise must have more than one participating local government and the level of contribution should be based on each LGs capacity to invest.</p> <p>A key advantage is that the local government partners will be able to provide a service for the area without local</p>	Yes	Nil

			politics undermining the service		
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<b>Financial Management</b>					
	<u>Tender Regulations</u> <ul style="list-style-type: none"> <li>Set the tender threshold for each local government based on:                             <ul style="list-style-type: none"> <li>A prescribed percentage (0.25%) of operating expenditure; or</li> <li>Salaries and Allowances Tribunal Band ie 1,2,3or4</li> </ul> </li> </ul>	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.	The Tender Threshold is currently \$150,000.  The simplest solution and one that is easier to comply with is a new threshold rather than a more involved model	Yes	Nil
	<u>Procurement</u> Procurement is widely acknowledged as an area vulnerable to corruption: <ul style="list-style-type: none"> <li>Tender threshold (dealt with in previous section);</li> <li>Timely payment to suppliers:                             <ul style="list-style-type: none"> <li>Put a policy in place directing timely payments; or</li> <li>Align the rules with Treasurer's instruction</li> </ul> </li> </ul>	WALGA seeks inclusion of the following position, to permit a procurement activity involving a disposal trade-in activity to qualify as a broad exemption under Regulation 30(3) of the Local Government (Functions and General) Regulations:  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	The measure proposed by WALGA regarding disposals will make it much easier for a Local Government to manage a trade-in  Woodanilling currently pays its creditors weekly to help keep on top of financial administration. A policy is not really required as this activity	Yes	Nil

	<p>323 i.e. payment within 30 days;  <u>Regional Price Preference</u>                  Encourages the use of local suppliers. The current caps could be adjusted, however, this may open a further impost on the local government</p>	<p>property in the course of acquiring goods and services, commonly applied to a trade-in activity.</p>	<p>can be managed operationally                  It would be prudent to keep the current caps in place. However, it might be appropriate to adjust these upwards for a larger local government</p>		
	<p><u>Power to Borrow: Section 6.20</u>                  Local governments are currently restricted in their borrowings as security can only be provided over income from general rates or untied government grants:  <ul style="list-style-type: none"> <li>• Perhaps loans could be secured against assets;</li> <li>• Remove the need to publicly advertise for one month when raising a loan – however, reduces transparency</li> </ul> </p>	<p>That Section 6.20(2) of the Local Government Act, requiring one month’s public notice of the intent to borrow, be deleted.</p>	<p>Ceasing to give one month’s notice will reduce the administrative burden:  <ul style="list-style-type: none"> <li>• Very few local governments receive public submissions;</li> <li>• Loans can currently be undertaken with out public notice through the Budget Adoption process</li> </ul>                 Woodanilling historically rarely uses loan debt</p>	<p>Yes</p>	
	<p><u>Basis of Rates: Section 6.28</u>                  The mining sector currently argues that due to the negligible impact of <b>prospecting and exploration</b> licences on local government facilities and the fact that they are a right to explore, not a mining business,</p>	<p>That Section 6.28 be reviewed to examine the limitations of the current methods of valuation of land, Gross Rental Value or Unimproved Value, and explore other alternatives including simplifying and providing consistency in the rating of mining activities.</p>	<p>The argument that prospecting and exploration licences are negligible on local government services is far from true. Those local governments that have exploration happening on a regular</p>	<p>Yes</p>	

	<p>they should be exempt. Options include:</p> <ul style="list-style-type: none"> <li>• Status quo – ie P&amp;E continue to pay rates;</li> <li>• Prospecting and exploration licences are exempt;</li> <li>• Local governments must rate P&amp;E lower than general mining</li> </ul>		<p>basis have constantly experienced exploration rigs causing key damage on wet, or rain affected roads.</p> <p>The use of Differential Rating to handle mining activities is far from satisfactory due to the level of Ministerial and industry approval required each year. A more simple methodology makes sense.</p>		
	<p><u>Differential General Rates: Section 6.33</u>  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 at a higher rate in the dollar.</p> <p>Local governments are permitted to impose differential rates according to Land Zoning, Land Use, or a combination of both. Options are:</p>	<p>That Section 6.33 of the Local Government Act be reviewed in contemplation of time-based differential rating, to encourage development of vacant land.</p>	<p>Vacant blocks throughout districts across WA is quite prevalent. Time based differential rating is one way to ensure that vacant land is developed in a timely manner.</p> <p>Changing the set maximum would need to be far more than what is currently suggested regarding Ministerial exemption as quite often it is many times more than the</p>	<p>Yes</p>	

	<ul style="list-style-type: none"> <li>• Setting the differential rate categories in legislation (NSW Model);</li> <li>• Increase the types of differential rate categories (Vic Model)</li> </ul> <p>Ministerial approval is required where the rate in the dollar is more than twice that imposed on the lowest category. Options include:</p> <ul style="list-style-type: none"> <li>• The differential difference could be raised to 3 or 4 times the lowest before ministerial approval is required (NSW Model);</li> <li>• The differential could be set to a maximum of four times with no ability to seek Ministerial approval (Vic Model)</li> </ul>		<p>suggested three or four times the lowest category.</p> <p>The issue that causes stress and the administrative burden is Objects and Reasons submission required each year by the Department when seeking Ministerial approval and that it changes from year to year</p>		
	<p><u>Member Interests - Exemption from AASB 124</u></p>	<p>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).</p>	<p>Declaring Related Party Transactions adds no benefit to the governance and compliance regime for Local Government. Interests are more than adequately dealt with through the use of the Primary and Annual Return for both elected</p>	<p>Yes</p>	

			members and staff that have delegated authority		
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<b>Rates, Fees and Charges</b>					
	<u>Objects and Reasons Statement</u>	No position or comment		N/A	
	<u>Imposition of Fees and Charges: Section 6.16</u>  Local governments can subsidise a service but not at the expense of competitive neutrality. Alternatives to fees and charges are: <ul style="list-style-type: none"> <li>• Impose a levy for a particular service, facility or activity; or</li> <li>• On the basis of cost recovery</li> </ul>	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 Discussion Paper talks about Local Government Services only and not fees set by other government agencies. The removal of this requirement from legislation may lessen the administrative burden.  Local Governments can already impose a specified area rate or self supporting loan for those who want additional services/facilities provided	Yes	
	<u>Rating Exemptions – Charitable Purposes: Section 6.26(2)(g)</u>	1. Amend the Local Government Act to clarify that Independent Living Units should only be exempt from rates		Yes	



	<p>All land is rateable unless it is exempt. This includes Crown Land (for a public purpose) or a local government. Other exemptions include:</p> <ul style="list-style-type: none"> <li>• Churches (religious bodies);</li> <li>• Schools;</li> <li>• Charitable purposes;</li> <li>• Trustees for agriculture or horticulture show purposes;</li> <li>• CBH;</li> <li>• Land exempted by the Minister.</li> </ul> <p>Here is an argument that everyone should pay rates. Nevertheless, a number of organisations provide important services within the community with very limited funding. Options include:</p> <ul style="list-style-type: none"> <li>• Each owner of land is required to pay rates – Local governments could offer concessions;</li> <li>• Every occupier has to pay a minimum contribution. This could be capped in legislation</li> </ul> <p>Charitable purposes is not defined in the Local Government Act. In recent times the State</p>	<p>where they qualify under the <i>Commonwealth Aged Care Act 1997</i>;</p> <p>2. Either:</p> <p>(a) amend the charitable organisations section of the <i>Local Government Act 1995</i> to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or</p> <p>(b) establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of Local Government rates; and</p> <p>3. Request that a broad review be conducted into the justification and fairness of all rating exemption categories currently prescribed under Section 6.26 of the Local Government Act.</p>			
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	<p>Administrative Tribunal has handed down decisions that allowing exemptions for charitable organisations that provide aged care facilities even when residents are paying market rates and to industry associations because they have a training arm. Options include:</p> <ul style="list-style-type: none"> <li>• Exemptions do not apply to charitable organisations;</li> <li>• Exemptions for those that qualify under the <i>Commonwealth Aged Care Act 1997</i>;</li> <li>• Clarify that land is not used for charitable purposes if the land is used as a residence and is exclusively occupied by persons, including the caretaker</li> </ul>				
<p><u>Rating Exemptions – Rate Equivalency Payments</u></p>		<p>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.</p>	<p>It is only fair that revenue due to local government is paid to it</p>	<p>Yes</p>	
<p><u>Rates or Service Charges Recoverable in Court: Section 6.56</u></p>		<p>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</p>	<p>This particular matter has been an issue for Woodanilling including recently where costs were required to be written off that were</p>	<p>Yes</p>	

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		reference to the 'cost of proceedings'.	raised against the property		
	<u>Rating Restrictions – State Agreement Acts</u>	Resource projects covered by State Agreement Acts should be liable for Local Government rates.	Currently, local government cannot raise rates regarding key mining projects where an exemption occurs due to a State Agreement Act covering this situation	Yes	

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<b>Administrative Efficiencies</b>					
	<u>Local Laws</u> Local Governments can make local laws considered necessary for the good government of their districts. Issues include: <ul style="list-style-type: none"> <li>• During earlier consultations, comment was made regarding the inconsistency of local laws from local government to local government. Options include:                             <ul style="list-style-type: none"> <li>○ Implementing regulations to replace local law activity;</li> </ul> </li> </ul>	Nil	Local laws and regulations have the same standing in law ie they are both subsidiary legislation. The advantage of a local law is that it allows a local government to tailor regulatory activity that suits its local communities. Model laws already exist and are used.  The main issue for local government is the	N/A	The local law making and review process would be better suited in a guideline that is called up by the Function and General Regulations.  A guideline can be altered by the local government sector at any time without the need to go through a review of the Act or the Regulations.

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	<ul style="list-style-type: none"> <li>○ Adoption of model local laws</li> <li>● WA is the only jurisdiction that requires a local law is given to the Minister prior to enactment;</li> <li>● Local Laws must be reviewed every eight Years</li> </ul>		development, making and review process regarding local laws. It is cumbersome and very time consuming		It is acknowledged though that the Parliamentary Joint Standing Committee on Delegated Legislation would not like this approach
	<p><u>Control of Certain Unvested Facilities: Section 3.53</u></p> <p>Nil</p>	WALGA seeks consideration that Section 3.53 be repealed and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager.	A number of local governments have had to manage infrastructure in State reserves without compensation from the State	Yes	
	<p><u>Local Government Grants Commission and Local Government Advisory Board (LGAB)</u></p> <p>The Review suggests that both bodies are combined. In South Australia, the Grants Commission is responsible for overseeing boundary changes</p>	WALGA seeks inclusion of a proposal to allow electors of a Local Government affected by any boundary change or amalgamation proposal entitlement to petition the Minister for a binding poll under Schedule 2.1 of the Local Government Act	<p>It would be appropriate to combine both the Grants Commission and the LGAB.</p> <p>WALGA - poll provisions is that they should be extended to include communities whose Local Government is undergoing a boundary change as well as an amalgamation:</p>	Yes	See ACEO's Comments
	Schedule 2.1 – Proposal to the Advisory Board, Number of Electors	That Schedule 2.1 Clause 2(1)(d) be amended so that the prescribed number of electors required to put forward a proposal for change increase	This proposal will allow different size local governments to have true representation of	Yes	

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		from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.	the views by communities		
	Schedule 2.2 – Proposal to amend names, wards and representation, Number of Electors	That Schedule 2.2 Clause 3(1) be amended so that the prescribed number of electors required to put forward a submission increase from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.	This proposal will allow different size local governments to have true representation of the views by communities	Yes	
	Transferability of employees between State & Local Government (Questions 82-84)	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.	This could be a further additional cost to both State and Local Government. However, it would be an excellent incentive for talented officers looking to move between the public two sectors	Yes	
	Proof in Vehicle Offences may be shifted: Section 9.13(6)	That Section 9.13 of the Local Government Act be amended by introducing the definition of ‘responsible person’ to enable Local Governments to administer and apply effective provisions associated with vehicle related offences.	The issue is to ensure the correct person is identified. So either inserting a definition equivalent to what is in the Road Traffic Act or referring to that definition specifically	Yes	

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<b>Council Meetings</b>					
	<p><u>Public Question Time</u></p> <p>To ensure transparency, Council meetings are held in public. The opportunities for reform to engage a greater number include:</p> <ul style="list-style-type: none"> <li>• Using email or social media to accept questions;</li> <li>• Greater prescription in the Act to ensure consistent rules across the sector;</li> <li>• Implement public statement time</li> </ul>	Nil	<p>Standing orders or a Council policy generally dictate how public question time is dealt with. The fact it varies from local government to local government. The issue is how public question time is managed by the Presiding Member.</p> <p>Email or social media during public question time would be extremely hard to manage although this is done in other local governments elsewhere e.g. Spain</p> <p>Public Statements can already be dealt with during the part of the Agenda that deals with deputations, petitions etc.</p>	N/A	See ACEO comments
	<p><u>Managing Interests</u></p> <p>Providing an appropriate framework that will allow</p>	Nil	The current legislation is adequate. However, it is unwieldy re what is in the Act and the Rules of	N/A	See ACEO comments

	council members to manage their conflicts of interest.		Conduct Regulations. The Department also has a guide in place to assist. Perhaps it is as simple as reworking Guideline X		
	<p><u>Electors' General Meeting: Section 5.27</u></p> <p>The sector has long called for this requirement to be scrapped. It is not a requirement in any other State or Territory</p>	Section 5.27 of the <i>Local Government Act 1995</i> should be amended so that Electors' General Meetings are not compulsory.	Regarding Woodanilling, the Shire President/Shire provides an excellent overview at the Australia Day Breakfast. 25% of the population generally attends	Yes	
	<p><u>Special Electors' Meeting: Section 5.28</u></p> <p>Special Elector's Meetings may be called if a sufficient number of people that reside in the District request one.</p> <p>They are not held in Victoria, NSW or SA. In other States it is the Mayor and CEO or at the request of three or more councillors who call such meetings.</p> <p>To ensure that these meetings are called when necessary it is</p>	<p>That Section 5.28(1)(a) be amended:</p> <p>(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</p> <p>(b) to preclude the calling of Electors' Special Meeting on the same issue within a 12 month period, unless Council determines otherwise.</p>		Yes	

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	suggested to raise the current number from 100 (5%) to 500(5%) and that a meeting cannot be held if the issue has been held to discuss the same issue in a 12 month period				
	<p><u>Minutes, contents of: Regulation 11</u></p> <ul style="list-style-type: none"> <li>• Keeping of the minutes be moved from the Presiding Member to the CEO;</li> <li>• Provide greater clarity on what is published regarding confidential motions</li> </ul>	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.	<p>This is done in hardcopy form. The issue may be more to do with what is posted on a local government’s website.</p> <p>On the matter of confidential motions and public minutes, it is generally understood what is required here;</p>	Yes	
	<p><u>Revoking or Changing Decisions: Regulation 10</u></p> <p>The sector has advocated for reforms to clarify and strengthen rules regarding revoking or changing Council decisions</p>	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.	This is self explanatory	Yes	
	<p><u>Elected Member attendance at Council meetings by technology</u></p> <p>The member must be 150km away in a Council approved place in a townsite (WA).</p>	The current <i>Local Government (Administration) Regulations 1996</i> allows for attendance by telephone, however only if approved by Council and in a suitable place. A suitable place is then defined as in a townsite as defined in the Land Administration Act 1997. This restricts an Elected	This is self explanatory	Yes	



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	Alter the distance or remove the townsite requirements	<p>Members ability to attend the meeting to a townsite in Western Australia.</p> <p>This requirement does not cater for remote locations or the ability to attend via teleconference whilst in another state or overseas. The regulations require amendment to consider allowing attendance at a meeting via technology from any location suitable to a Council.</p>			
	<p><u>Access to Information for Council Members</u></p> <p>The current legislation limits access to what elected members are currently undertaking. This is so that the local government’s resources are wasted unnecessarily. The question on what is relevant rests with the CEO. It may be appropriate to include a mechanism that allows Council to review the CEO’s decision</p>	Nil	<p>The current requirement is adequate, although it is acknowledged this could cause a “bone of contention”. Allowing the CEO’s decision to be reviewed through a legislative provision may, conversely, also cause an unnecessary tension.</p> <p>This matter ultimately comes down to a good relationship between the CEO and Council</p>	N/A	See ACEO’s comments
	<p><u>Creating Consistent Meeting Procedures Across All Local Government Jurisdictions</u></p>	Nil	<p>Standing Orders are a local law.</p> <p>There are at least four local governments</p>	N/A	See ACEO’s Comments

	<p>A key part of the reform process is creating consistency across all local governments i.e. one set of Standing orders to avoid confusion</p>		<p>(including Woodanilling) that do not have standing orders in place.</p> <p>The consistency is for everyone to have standing orders in place. Local Governments should then be able to tailor it to their situation</p>		
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<b>Interventions, Oversight And Local Enforcement Under The Local Government Act</b>					
	<p><u>Remedial intervention; Powers of appointed person; Remedial action process</u></p> <p>In 2017-18 the number of authorised inquiries was three times that of the previous year, so the highest number ever.</p> <p>Complaints against Elected Members are dealt with through:</p> <ul style="list-style-type: none"> <li>• Minor Misconduct – referred by the CEO to the Standards Panel;</li> </ul>	<p>In respect to remedial intervention, the appointed person should be a Departmental employee with the required qualifications and experience. This provides a connection back to the Department and its requirements.</p> <p>The appointed person should only have an advice and support role. Funding of the remedial action should be by the Department where the intervention is mandatory. The Local Government to pay where the assistance is requested.</p> <p><b>This area relates to the bigger picture of differentiating between Local</b></p>	Self explanatory	Yes	

	<ul style="list-style-type: none"> <li>• Serious Misconduct – by a person directly to the Director General of the Department</li> </ul> <p>An amendment proposed is that all complaints are referred to the Director General who will then decide on who deals with the matter</p> <p><b>Remedial Action</b> Feedback shows that there is support for the implementation of a remedial action process that involves:</p> <ul style="list-style-type: none"> <li>• The appointment of a person to the administration of a local government with the power to perform certain functions and override decisions of the administration;</li> <li>• Additionally embedding a person to direct the council to perform certain actions and to override decisions if they were illegal or contrary to the community interest. This allows councillors to still be maintained on council. It is based on the Victorian</li> </ul>	<p><b>Governments based on their size and scale. Suitable arrangements to determine a size and scale compliance regime should be prioritized.</b></p>			
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Shire of Woodanilling Response

	approach “Municipal Monitor”				
	<p><u>New offence – Improper Use of Position (CEO and Employees and former CEOs and Employees)</u></p> <p>Currently applies to Elected Members. Officers can be dealt with by the CCC or Public Sector Commission. This provision deals with matters outside their jurisdiction</p>	Nil	<p>Self explanatory, although the other matters need to be defined.</p> <p>Councils should deal with CEO’s in this situation through a disciplinary process. The same for CEO’s re employees</p>	N/A	See ACEO’s comments
	<p><u>New Offence – Knowingly Providing False or Misleading Information to Council</u></p> <p>The Department has received complaints on this matter where the CEO or other employees have provided false written reports or verbal advice</p>	Nil	<p>Councils should deal with CEO’s in this situation through a disciplinary process.</p> <p>The same for CEO’s re employees</p>	N/A	See ACEO’s comments
	<p><u>New Offence – Tendering Requirements</u></p> <p>Currently, the Act does not provide a penalty for those who breach the tender provisions</p>	Nil	<p>Councils should deal with CEO’s in this situation through a disciplinary process</p> <p>The same for CEO’s re employees</p>	N/A	
	<u>Infringements</u>	Nil	Self explanatory	N/A	See ACEO’s Comments

Shire of Woodanilling Response

	<p>The Department can currently commence a prosecution against local governments and individuals. An infringement notice, where, appropriate is a cost effective way of dealing with offences for non-compliance or where the impact has been small</p>				
	<p><u>Harmonisation</u></p> <p>The Act should be updated to reflect what authorised officers (e.g. rangers) need to conduct their role that includes the major reforms made to Criminal Investigation, Criminal Procedure and the Road Traffic Act</p>	<p>Nil</p>	<p>Support</p>	<p>N/A</p>	<p>See ACEO's Comments</p>
	<p><u>Default Penalties for Local Laws</u></p> <p>Insert a clause for a default penalty to cater for local laws that do specify a specific penalty for offences</p>	<p>Nil</p>	<p>Self explanatory</p>	<p>N/A</p>	<p>See ACEO's Comments</p>
	<p><u>Notice Issued by a Local Government to Require a Person to Undertake an Action</u></p> <p>Local government has identified that there is an issue with the ability to issue a notice to a land</p>	<p>Nil</p>	<p>Self explanatory</p>	<p>N/A</p>	<p>See ACEO's Comments</p>

	<p>owner or occupier. Additional powers suggested include:</p> <ul style="list-style-type: none"> <li>• Provide a notice that requires an owner to make a vacant building secure;</li> <li>• Expand the list of disused materials to be removed other than vehicles/machinery;</li> <li>• Clarify the procedure regarding the disposition of property (all types)</li> </ul>				
<b>Theme</b>	<b>Discussion Paper - Topic Area</b>	<b>WALGA Position/Suggestion</b> <small>(WALGA Position Statements ie Adopted by State Council are highlighted in yellow)</small>	<b>ACEO's Advice</b>	<b>Support WALGA Yes/No</b>	<b>Alternative Proposal/Further Comment</b>
<b>Community Engagement and Integrated Planning and Reporting (IPR)</b>					
Inclusive	<p><u>Community Engagement</u></p> <p>It is important to understand the difference between informing the community and empowering (through engagement) the community to play an integral role in determining the goals, strategies and actions to be undertaken. Options include:</p> <ul style="list-style-type: none"> <li>• Implementation of a Community Engagement Charter that also sets methods of performance;</li> <li>• Implementation of a Social media Policy (supported by</li> </ul>	Nil	The implementation of a mandatory policy for both community engagement and the use of social media is appropriate. However, this may be better placed in a guideline that is mandated by the appropriate regulations	N/A	See ACEO's Comments

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	the Mandatory Code of Conduct re Elected members and Candidates)				
	<p><u>Integrated Planning and Reporting</u></p> <p>State Government requires local government to have other plans in place eg local health plans and so on.</p> <p>There is concern that the advisory standards are not appropriate for some local governments due to their size, location or capacity</p>	Nil	<p>There is sufficient flexibility in the advisory standards. However, they probably are due for a refresh including explaining the modern approach to strategic planning (less is more, shorter plans).</p> <p>In terms of the other plans, many are using these as informing strategies. The advisory standard could be expanded to include this instead of legislating for it</p>	N/A	See ACEO's comments

Theme	Discussion Paper - Topic Area	WALGA Position/Suggestion <small>(WALGA Position Statements ie Adopted by State Council are highlighted in yellow)</small>	ACEO's Advice	Support WALGA Yes/No	Alternative Proposal/Further Comment
<b>Complaints Management</b>					
	<p><u>Complaints Management</u></p> <p>There is no legislated requirement for local governments to deal with</p>	Nil	To legislate for this issue is perhaps overkill. However, as part of good practice these elements should be in	N/A	See ACEO's comments

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	<p>complaints i.e. dissatisfaction with products, services, staff or how a complaint was handled.</p> <p>The suggestions are to have local governments:</p> <ul style="list-style-type: none"> <li>• Adopt the Australian/New Zealand Standard for Complaints;</li> <li>• Implement a Customer Service Charter;</li> <li>• Have someone external investigate unresolved complaints</li> </ul>		<p>place rather than legislated for.</p> <p>The Acting CEO has recently dealt with a number of complaints using the Ombudsman’s guidelines</p>		
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Theme	Discussion Paper - Topic Area	WALGA Position/Suggestion <small>(WALGA Position Statements ie Adopted by State Council are highlighted in yellow)</small>	ACEO’s Advice	Support WALGA Yes/No	Alternative Proposal/Further Comment
<b>Elections</b>					
	<p><u>Compulsory Voting</u></p> <p><u>Voluntary Voting: Section 4.65</u></p> <p>Victoria, NSW, Qld and the NT have compulsory voting for local government elections.</p> <p>Voter turnout in WA is 34.2%.</p>	<p>Voting in Local Government elections should remain voluntary.</p>	Self explanatory	Yes	



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	<p><u>First Past the Past - Method of Voting - Schedule 4.1</u></p> <p>The proposal is to make it optional to use preferential voting</p>	<p>Elections should be conducted utilising the first-past-the-post (FPTP) method of voting.</p>	<p>The experiment with preferential voting back in 2007 did not go well across the sector</p>	<p>Yes</p>	
	<p><u>In-person/postal/electronic voting</u></p> <p><u>Conduct of Postal Elections: Sections 4.20 and 4.61</u></p> <p>Electronic (on-line) voting is suggested although there are concerns with data integrity at the moment</p>	<p>That WALGA continue to investigate online voting and other opportunities to increase voter turnout.</p> <p>The Local Government Act 1995 should be amended to allow the Australian Electoral Commission (AEC) and or any other third party provider to conduct postal elections.</p>	<p>Self explanatory</p>	<p>Yes</p>	
	<p><u>Who Can Vote</u></p> <p>Currently there are those who can have an additional franchise:</p> <ul style="list-style-type: none"> <li>• Property – a person can vote in multiple districts if they own property in that district;</li> <li>• Corporate – A company that owns land can have a maximum of two votes;</li> <li>• Occupiers – Business operators are eligible if they apply</li> </ul>	<p>Nil</p>		<p>N/A</p>	
	<p><u>Changing the Election Cycle</u></p>	<p>Nil</p>	<p>Maintain current system</p>	<p>N/A</p>	<p>See ACEO's Comments</p>

	<p>From two years to four years. This may resolve voter fatigue</p>				
	<p><u>Representation</u></p> <p><u>The issues include:</u></p> <ul style="list-style-type: none"> <li>• Number of Council Members. Currently set at 6-15 with the most common being 9. It may be appropriate to link population directly to councillor numbers;</li> <li>• Elections of Mayors and Presidents – either directly from the community or from within council;</li> <li>• Wards – 54 out of 137 local governments have wards. Wards reduce the pool of candidates and the number of votes;</li> <li>• Population Threshold for Wards. Setting a minimum population threshold of 2,000 will streamline the ward process. Alternatively, characteristics need to be defined before wards can be introduced;</li> <li>• Overseeing of Ward Structures- This could be done by the Electoral</li> </ul>	<div style="border: 1px solid black; background-color: yellow; padding: 5px;"> <p>Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community.</p> </div>		<p>Yes</p>	

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	<p>Commissioner instead of the Local Government Advisory Board;</p> <ul style="list-style-type: none"> <li>Resolving ties – lots are drawn in the event of a tie</li> </ul>				
	<p><u>Candidates</u> Issues include:</p> <ul style="list-style-type: none"> <li>Who can run for Council. It has been proposed that a person who has been convicted under planning and building legislation in the previous 5 years should also be disqualified;</li> <li>Candidate Nomination – Profile is 150 words and is considered restrictive. It may be appropriate to allow candidates to provide additional information;</li> <li>Social Media Use – Was used to disparage candidates in the 2017 Election. The new Code of Conduct will be extended to deal with this matter</li> </ul>	Nil	Support suggestions	N/A	See ACEO’s comments
	<p><u>Campaigns</u> Issues for resolution include:</p> <ul style="list-style-type: none"> <li>Campaign spending limit – in Tasmania the limit is set at \$8,000;</li> </ul>	Nil	Support	N/A	See ACEO’s comments

	<ul style="list-style-type: none"> <li>• Donation/Gift Rules –should be an aligned framework of election gift provisions with those for council members;</li> <li>• Prohibited election gifts – it has been suggested that donations are prohibited from certain entities e.g. property developers;</li> <li>• Donor declarations are seen as a duplication when the candidate is already making a declaration</li> </ul>				
	<p><u>Leave of Absence when Contesting State or Federal Election</u></p> <p>Not in discussion paper</p>	<p>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> <p>(i) that an Elected Member remove themselves from any decision making role and not attend Council and Committee meetings; or</p> <p>(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</p>	<p>This is consistent with requirements in the public sector</p>	<p>Yes</p>	