



Chamber of Commerce
and Industry WA

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14 March 2018

Local Government Act Review
Department of Local Government, Sport and Cultural Industries
Gordon Stephenson House
140 William Street
PERTH WA 6000

Via Email: legislation@dlgsc.wa.gov.au

Att: Review Team

The Chamber of Commerce and Industry Western Australia (CCI) appreciates the opportunity to make a submission to the *Local Government Act 1995* Review.

CCI is the peak body representing employers in Western Australia. We represent small, medium and large businesses, not-for-profit organisations, and government enterprises across the spectrum of the State's economy and from all regions of WA. Our vision is for WA to be a world-leading place to live and do business.

We have sought feedback from our Members on the guiding questions listed in the Phase 1: Consultation Paper and will focus its submission on the following areas, listed in order of importance to the business community:

- Section 10 - Red Tape;
- Section 11 – Regional Subsidiaries;
- Section 2 – Training; and
- Section 8 – Access to information.

SECTION 10 – RED TAPE

At the outset, CCI believes many of the issues this review is seeking to address could be resolved by reducing the number of local governments in the Perth metropolitan area.

CCI has consistently argued the importance for local government reform to introduce more modern business practices into its service delivery, reduce the regulatory burden it places on business, and to ensure it reflects the needs and aspirations of the WA communities it represents.

The previous Liberal-National State Government failed to reduce the number of metropolitan local governments from 30 to 16 because they presumed local governments would help achieve that outcome. CCI believes that the sector will never voluntarily seek to amalgamate with neighbouring councils or amend their boundaries. They are not agile and they lack the ability to look at the broader landscape. That is the State Government's job and has been achieved elsewhere in Australia with considerable success.

It remains difficult for business to work across multiple council areas. There are seven local government areas between Crawley and Fremantle, 17 along the Swan River foreshore and 11 along the coast. They all have their own interpretation of the *Local Government Act 1995* (the Act), policies, procedures and local laws. The only way to successfully achieve a reduction in councils is through legislation.

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accordance with CCI's Privacy Policy.

The other reason the reform process failed was because of clause 8 in Schedule 2.1 of the Act that allows a small number of residents to derail the entire process. Currently, the Local Government Advisory Board, tasked with recommending to the Minister to abolish two or more districts and amalgamate them into one or more districts, must give notice to affected local governments and affected electors. If at least 250 people or at least 10 per cent of people in just one of the affected local governments requests that the recommendation be put to a poll, the Minister must allow a poll (cl. 8(3)).

Supporters of the so-called 'poll provisions' have argued that it is an important democratic process. CCI disagrees. The reform process is like a jigsaw puzzle with several boundary adjustments and amalgamations forming a new picture for local government. A few residents having the power to overturn certain changes or amalgamations remove pieces of the puzzle, causing the picture to no longer make sense.

A small number of residents having this kind of impact on a policy which would have benefited the whole metropolitan area, is not democracy. CCI believes the clause should be removed.

CCI members have provided examples of red tape which affect their business:

EXAMPLE ONE

Which regulatory measures within the Act should be removed or amended to reduce the burden on local governments? Please provide detailed analysis with your suggestions.

Fees vary across all local governments including planning fees, administration fees, inspection fees and Material on Verge fees. Fees should be consistent across at least the metropolitan local governments and any ability to 'double dip' using these fees should be removed.

Briefly describe the red tape problem you have identified

Verge bonds payable across local governments vary wildly from as high as \$5,000 (Kalamunda) down to \$610 (South Perth). CCI members tell us that it is a requirement of some, not all, local governments that a pre and post-inspection report of the verge be provided. While it is acknowledged that local governments should be able to protect their assets, the document is cumbersome and creates unnecessary workload.

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

The pre and post-inspection report of the verge is cumbersome and creates unnecessary workload.

What solutions can you suggest solving this red tape problem?

1. Reduce the number of local governments in the metropolitan area.
2. Verge bonds should be the responsibility of the owner and linked to the home address, not the Building Permit issued.
3. Introduce a full private certification model for building permit approvals, allowing all certifiers to approve building permit applications.
4. Create a standard procedure across local government on the acceptance, processing and issuing of Building Permits.
5. Create a platform for companies to submit applications online to all local governments.

EXAMPLE TWO

Which regulatory measures within the Act should be removed or amended to reduce the burden on local governments? Please provide detailed analysis with your suggestions.

The application forms, fees and process to operate a food truck vary markedly across local governments and in some cases, are not allowed at all. CCI believes a consistent approach should be applied.

Briefly describe the red tape problem you have identified.

Each local government is determining its own policy on food vans, usually after running successful trials. However, in many districts, there are no forms or guidelines specific to food vans. Moreover, many of the forms

are not available online to review or complete. Regardless of which council a business applies to operate a food van, they must comply with the *Food Act 2008*. It should therefore be simple to develop a consistent approach across local government boundaries.

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

Businesses that operate across multiple local government boundaries would need to complete multiple applications and pay multiple fees. Because they must also comply with the *Food Act 2008* they will be subject to an annual inspection schedule which, depending on the number of districts they operate in, could be very time consuming.

What solutions can you suggest solving this red tape problem?

1. Reduce the number of local governments in the metropolitan area.
2. Provide a template and fee structure for local governments to apply to mobile food vendors.
3. Encourage local governments to adopt a consistent approach.

CCI understands that the current State Government is opposed to 'forced' local government reform by way of legislative change. However, at the very least, the two examples above prove the case for harmonisation of local laws (as they apply to businesses). There is a very limited argument for how or why local governments would need to regulate verge bonds, food vans, alfresco dining areas and signage differently across the metropolitan area. Standardisation of local laws, with some flexibility for 'local character' would be a reasonable step to take.

SECTION 11 – REGIONAL SUBSIDIARIES

CCI would be concerned if local governments were seeking to establish commercial enterprises or council controlled organisations under these regulations. Local governments do not need to compete with small business especially in regional areas. CCI notes the provision within the *Local Government (Regional Subsidiaries) Regulations 2017* which states that a business plan must assess "...the expected effect on other persons providing facilities and services in the participants' districts", however CCI believes this should go further. CCI would support the business plan detailing how many similar facilities or services are already in place within the district and how the regional subsidiary feels it will be responding to an unmet need.

Furthermore, CCI Members are concerned that the Minister for Local Government himself is considering allowing metropolitan local governments to run commercial enterprises. Given that the review into the *Local Government Act* is being undertaken to ensure the sector is more agile, smart and inclusive, it would suggest that some local governments are currently underperforming in their core duties. It would therefore seem illogical to allow them to further extend their remit by taking up commercial opportunities.

CCI suspects the idea is rooted in the experience of Auckland, New Zealand which did go through with local government reform and established one single local government authority which is the appropriate size and scale to run a commercial operation.

Again, without reform to the local government boundaries in WA, CCI believes this move would expose the ratepayer to unnecessary risk.

Where services are not being provided by the private sector, this should send signals to the local government that it is commercially unviable. Only when the community need arises which cannot be met by the private sector should local governments become involved as a commercial operator.

CCI would encourage the continued adherence to Section 3.59 (3)(b) of the Act which stipulates strict limitations on commercial enterprises by local governments, including a detailed business plan that considers its expected effect on other persons providing facilities and services in the district.

SECTION 2 – TRAINING

People from a wide range of education, career, age and cultural backgrounds should be actively encouraged to become councillors to better represent our diverse communities. They will bring their own skills, experience, knowledge and attributes to their role as councillor; however, they must be supported by their employer – the local government – to develop and maintain the skills and knowledge to perform their role effectively.

CCI believes that a standardised curriculum of education and training should apply to all councillors in both metropolitan and regional areas. This training should be mandatory and occur before the councillor attends their first council meeting. For councillors already serving their term, training should be undertaken before the end of the calendar year. This will ensure a solid base level of competency across the sector on which to build on.

As business owners, CCI members understand they are expected to understand financial reports and evaluate risks to make sound business decisions. We should expect the same from our elected local government representatives.

SECTION 8 – ACCESS TO INFORMATION

At present, quasi-regulations (such as policies, fact sheets and guidelines) are not well communicated to the public. These include guidance on complying with legal requirements and on how local governments assess business applications.

CCI believes that by making the information available online, small businesses will have a greater understanding of their compliance obligations, thus reducing costs associated with identifying the responsibilities of local government and better informing businesses about how to comply with local government regulation or how local governments assess business applications.

Going further, it would be of great benefit to business if all local government application forms could be completed and lodged online. The fact that many forms still need to be hand delivered during business hours at some local governments is anachronistic.

Please see **Attachment 1** for CCI's view on which documents should be made available to the public. This table was taken from the guiding questions listed in the Phase 1: Consultation Paper.

Thank you again for the opportunity to make comment. We would be happy to arrange for you to meet our Members to elaborate on any point outlined above.

Please contact Belinda Blackman, Manager – Policy and Communications on 9365 7728 or via belinda.blackman@cciwa.com.au or if you would like us to do so.

Yours sincerely

A handwritten signature in dark ink, appearing to be 'CR', with a horizontal line extending to the right.

Chris Rodwell
Chief Executive Officer

ATTACHMENT 1

Provision	Documents	In person only	Website only	Both	Neither
Section 5.53	Annual Report			YES	
Sections 5.75 & 5.76	Primary and annual returns – for elected members Includes: <ul style="list-style-type: none"> • Sources of income; • Trusts; • Debts; • Property holding; and • Interests and positions in corporations. 			YES	
Section 5.87	Discretionary disclosures generally			YES	
Section 5.82	Gifts (already required to be on the website)			YES	
Section 5.83	Disclosure of travel contributions (already required to be on the website)			YES	
Elections Regulations 30H	Electoral gifts register			YES	
Section 5.98A	Allowance for deputy mayor or deputy president			YES	
Section 5.100	Payments for certain committee members			YES	
Functions and General Regulations 17	Tenders register			YES	
Section 5.94 & Administration Regulations 29	Register of delegations to committees, CEO and employees			YES	
	Minutes of council, committee and elector meetings			YES	
	Future plan for the district			YES	
	Annual Budget			YES	
	Notice papers and agendas of meetings			YES	
	Reports tabled at a council or committee meeting		YES		
	Complaints register (concerning elected members)		YES		

	Contracts of employment of the CEO and other senior local government employees				YES
	Schedule of fees and charges			YES	
	Proposed local laws			YES	
	Gazetted Local laws (and other law that has been adopted by the district)			YES	
	Rates record	YES			
	Electoral roll	YES			

Proposal	Should this be made available? NO / OPTIONAL / REQUIRED
Live streaming video of council meetings on local government website	REQUIRED
Diversity data on council membership and employees	REQUIRED
Elected member attendance rates at council meetings	REQUIRED
Elected member representation at external meetings/events	OPTIONAL
Gender equity ratios for staff salaries	REQUIRED
Complaints made to the local government and actions taken	REQUIRED
Performance reviews of CEO and senior employees	NO
Website to provide information on differential rate categories	REQUIRED
District maps and ward boundaries	REQUIRED
Adverse findings of the Standards Panel, State Administrative Tribunal or Corruption and Crime Commission	REQUIRED
Financial and non-financial benefits register	REQUIRED