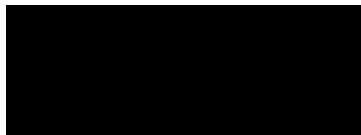




Phase 1: Local Government Act 1995 Review

**Submission to the Department of Local Government, Sport and
Cultural Industries**



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About CME

The Chamber of Minerals and Energy of Western Australia (CME) is the peak resources sector representative body in Western Australia. CME is funded by its member companies who are responsible for most of the State's mineral and energy production and are major employers of the resources sector workforce in the State.

In 2016-17, the value of Western Australia's mineral and petroleum industry was \$105 billion. Iron ore is currently the State's most valuable commodity, and saw an increase in iron ore sales by almost 31 per cent on the previous financial year to value almost \$64 billion. Petroleum products (including LNG, crude oil and condensate) followed at \$19 billion, with gold third at \$11 billion, both commodities saw an increase in sales of 5 per cent 7 per cent respectively from the previous financial year.

The resources sector is a major contributor to the state and the Australian economy. The estimated value of royalties the state received from the resources sector composed of \$5.78 billion which accounted for around 19 per cent of the state government's revenue in 2016-17.

Recommendations

Transparency

- A formal objection, appeal and review process for the determination of rates should be implemented.
- The Minister for Local Government should ensure local governments are transparent in the setting of airport fees and charges, reporting the value of revenue generated through these fees and charges and ensure this revenue is not used to cross subsidise other local government services.
- Local governments' efforts to improve efficiency should be made publically available and clearly demonstrated in the Objects and Reasons for Differential Rates.
- Long term budgeting strategies, such as 3-yearly rate setting, should be considered in order to provide certainty for local governments and ratepayers.
- The Minister should ensure local governments adhere to the existing rates policies, including ratepayer consultation and feedback, and clear and justifiable statements of objects and reasons, when making a determination on applications to change rates.
- The Minister should ensure local governments are transparent in the reporting of the value of additional revenue generated through increased rates and ensure this revenue is commensurate with the objects and reasons used to justify greater rates payable.

Availability of information

- Local Governments should be required to adhere to a clear set of standards, which outline the type, format and date of documents which are to be provided online via a publically accessible portal.

Recommended issues for inclusion in Phase 2 of the Review

CME recommends the following issues are considered in phase two of the review:

- Differential rates;
- Valuation
- Reinstatement of the benefits principle;

- Rate-capping; and
- Airport fees and charges.

Local government and the resources sector

CME welcomes the review of the *Local Government Act 1995* (the Act), noting this is the first major review since its introduction more than 20 years ago. The resources sector in Western Australia has a strong presence in regional and remote areas owing to the distribution of natural resources across the state. As such, the resources sector has broad and varied interactions with local governments, often as ratepayers in local government areas and also as businesses seeking to develop new projects or explore new resource deposits.

In recent years, broadly declining prices for mineral, metal and petroleum commodities, and Australia's comparatively high construction and operation costs, have dramatically increased the pressure on resources sector companies. In response, companies have made substantial efforts to increase productivity by improving business processes and reducing costs within their control. However, reforms to reduce regulatory burden and costs imposed across all levels of government remain vital to ensure Australia continues to be a competitive business destination for globally mobile investors.

Both the Australian government and state government have committed to reducing regulation, and the resultant costs on companies, previously through legislative repeal days and more recently through reviews and annual performance reports. However, resources sector companies have seen substantial increases in costs imposed by local governments, many of which have sought to increase revenue through rates, fees and charges. While local governments have faced financial pressures, the response of many appears to be in contrast to private sector companies and other levels of government, which has been to reduce costs and improve efficiency.

CME has continued to advocate in relation to local government issues. In particular, CME's member organisations have raised concerns regarding the transparency, accountability, availability of information and rating methodologies of local governments. CME's previous submissions align with the findings of multiple reports, including the 2015 Corruption and Crime Commission's report on misconduct risk in local government procurement, which called for increased transparency and accountability in local governments¹. The review is an opportunity to identify areas of local government which impact on the resources sector and opportunities for change. In relation to phase one of the review, the issues of transparency and availability of information are of particular importance.

It is understood financial management within local governments is an issue which will be addressed during phase two of the review. Financial accountability within local governments is an area of significant concern for CME and its members, especially in relation to rate setting methodologies, rating policies, fees, charges and financial reporting. It is important these issues are included in phase two of the Act review.

Transparency

In recent years, CME has made several submissions to the Department of Local Government, Sport and Cultural Industries (the Department) in relation to local government rating policies and processes advocating for increased accountability and transparency at the local government level, which includes consistent and reliable release of local council annual budgets, annual reports, rate setting information and other financial information (such as data relating local government airport user fees).

The passing of the *Local Government Amendment (Auditing) Bill 2017* in August 2017 was a positive step towards improving transparency in local government. CME supports the introduction of local government audits conducted by the Auditor General. These audits will

¹ Corruption and Crime Commission, *Report on Misconduct Risk in Local Government Procurement*, February 2015

improve consistency and rigour in local government reporting processes, and improve transparency on compliance with requirements of the Act and regulations. Transparent and accountable local governments provide greater certainty for resources companies when making business decisions in relation to the local areas in which they operate.

Appeals process

CME has lodged submissions with several local governments regarding a lack of transparency around rate setting strategies and unjustified rate increases, especially where justifications for increased differential rates are inconsistent with the key values outlined in the Department's rating policies.

There is a lack of a clear, standardised objection process across all local governments. When objections are lodged with local governments (such as objections to fees, charges or rates notices), these objections are acknowledged but no information is provided as to the process for review and resolution of objections. If decisions relating to differential rates are sent to the Minister for approval, no notification is provided to the objecting party the issue has progressed, no opportunity provided for engaging with the Minister (or Department), and no information provided as to the Minister's decision making process.

An objection process similar to that available with Landgate for interest valuations could be used as an example process model. The Landgate objection process enables ratepayers to lodge a formal objection within 60 days of the rates notice being issued. The objection process allows for ratepayers to compare their valuation to other similar properties which have been valued differently. A process similar to this could potentially enable resources sector ratepayers to compare similar tenure types, rate categories and rates payable in order to seek a justified rating for their land type and use.

Alternatively, the Economic Regulation Authority could play a role in protecting the long term interests of ratepayers in relation to rates and fees charged by local governments. Having an independent economic regulator involved would promote transparency in local government decision making processes which impact on ratepayers and the resources sector.

A formal objection, appeal and review process for the determination of rates should be implemented.

Airports operated by local governments

Airport fees and charges levied by local governments have previously been identified as an issue by CME. Currently, local governments do not always provide details on the costs associated with maintaining and operating airports to justify the fees and charges imposed by them.

In most cases, local governments hold a monopoly on airports within their region, with no other air access available beyond the local government operated facility, unless resources companies build their own airport. This position enables local governments to raise considerable revenue through their airports.

There is currently inconsistency in how this revenue is reported in local government annual financial reports, with some itemising it specifically and others incorporating it into broader revenue line items for instance under infrastructure assets. In addition, costs associated with the operation and maintenance of regional airports is not itemised resulting in a situation where it is difficult to determine whether the funds are being used to maintain airports/airport services or are supporting cross-subsidisation of other local government services.

When setting airport fees and charges, local governments should be required to make the methodologies, objectives and reasons publicly available. Further, the state government should monitor and audit airport fees and charges to ensure they are not being used to cross-subsidise other aspects of local government activity. By monitoring that airport fees and

charges are not cross-subsidising other projects, it would ensure that local governments are not double charging ratepayers for services. For example, a resource sector company may incur charges through use of the local airport and that revenue is used by the local government to fund road projects. The resources sector company may also pay for roads projects through their rates. Effectively the resources company is being charged twice for road services.

The Minister for Local Government should ensure local governments are transparent in the setting of airport fees and charges, reporting the value of revenue generated through these fees and charges and ensure this revenue is not used to cross subsidise other local government services.

Efficiency

Given the focus on productivity improvements by private sector companies and other levels of government, local governments should also be focused on improving efficiency rather than seeking additional revenue from external sources. These efficiency measures should be consistent with the State's rating policies, and efficiency measures implemented by local governments should be made publically available. This should include requiring local governments to clearly demonstrate their efforts to improve efficiency and/or reduce costs, and demonstrate long term budget planning and sustainability in their rating strategies. Long term budget planning strategies, such 3-yearly rate setting, would provide certainty local government and community ratepayers.

Local governments' efforts to improve efficiency should be made publically available and clearly demonstrated in the Objects and Reasons for Differential Rates.

Long term budgeting strategies, such as 3-yearly rate setting, should be considered in order to provide certainty for local governments and ratepayers.

Adherence to rating policies

The review is a welcome opportunity to ensure the rating policies are clear for both local governments and ratepayers. Many CME members' concerns have arisen due to local governments seemingly not adhering to the guidance in the ratings policies, rather than through uncertainty in the policy position. Adequate scrutiny of local governments' applications for significant discrepancy in differential rates and/or changes in their rates is therefore critical.

The Minister should ensure local governments adhere to the existing rates policies, including ratepayer consultation and feedback, and clear and justifiable statements of objects and reasons, when making a determination on applications to change rates.

The Minister should ensure local governments are transparent in the reporting of the value of additional revenue generated through increased rates and ensure this revenue is commensurate with the objects and reasons used to justify greater rates payable.

Availability of information

CME members have raised concerns over the difficulty in accessing local government information and have reported online information is either very limited or incomplete. In particular, it has been found the type of information provided online, and the consistency of reporting between local governments varies dramatically.

Some local governments provide a large range of documents (such as budgets, annual reports, notices of fees and meeting minutes) in an accessible, searchable format. Other local governments provide scans of hard copy documents, which cannot be digitally searched, and which are often of poor quality. In addition, the provision of historic catalogue of documents varies between local governments, some provide a full suite of documents dating back multiple years, while others provide documents relating to the current year only.

In particular, it would be useful for the resources sector to access complete annual reports, budgets, meeting minutes, objects and reasons for differential rates, schedules of fees and

charges for the previous five years for all local governments in a searchable format located at one central portal, such as the Government's MyCouncil website.

Local Governments should be required to adhere to a clear set of standards, which outline the type, format and date of documents which are to be provided online via a publicly accessible portal.

Recommended issues for inclusion in Phase 2 of the Review

It is understood issues relating to financial management within local governments will be addressed in phase two of the review. CME has lodged objections with several local governments regarding unjustified rate increases, especially where justifications for discrepant and/or increased differential rates are inconsistent with the key values outlined in the Department's rating policies. The following are key issues which CME recommends are explicitly considered in phase two of the review.

Differential rates

Local governments are required to detail the objects and reasons for each proposed differential rate. However, some local governments have lacked clarity in their rationale or, where clear, are not supported by evidence. Many local governments appear to be disproportionately increasing the rates burden for resources sector ratepayers due to nothing other than their perceived ability to pay increased rates.

While the Differential Rates policy clearly outlines the requirement for local governments to make available their statements of objects and reasons, it is important these are critically reviewed to avoid differential rates justifications inconsistent with the principles set out in the Department rating policies.

Valuation

Over past years there have been large variation in valuations, which have driven up the overall value of rates paid. This has been compounded by some local governments also putting up the rate in the dollar. Other local governments have either held the rate in the dollar steady or reduced their rates in response to increased valuations. Greater consideration should be given to the impact of valuations in the rate setting approach.

The benefits principle

The Differential Rates policy notably omits reference to the 'benefits principle'. The benefits principle would require local governments, in an application to the Minister for Local Government, to approve differential rates greater than twice the lowest rate, to detail how affected ratepayers receive some additional level of municipal services commensurate with greater rates payable under the proposed differential rate.

Due to the remote and isolated locations in which they operate, many resources sector ratepayers maintain their own private roads, electricity, water, waste services and recreation facilities. Therefore, they often do not use existing, nor require additional, municipal services. It is inequitable for these ratepayers with the lowest need for services from local governments to be providing, by a large margin, the greatest contribution to rates revenue.

Rate-capping

Rate-capping is an approach used, or under consideration, in several Australian States which determines the maximum percentage amount by which a local government may increase its rateable income for the year. Rate-capping strategies do not stop local government weighting rate increases across rating categories, but they do cap the total rate increase which prevents unreasonably large rate increases for all ratepayers.

Rate-capping within WA would assist in reducing excessive rate increases, which are often levied against resources sector ratepayers with limited justification for the increase. Rate-capping would also:

- Drive efficiencies with local governments;
- Ensure best value for ratepayers; and
- Provide a clear and transparent framework for local government budgeting.

Airport fees and charges

In the preceding years, fees and charges at local government operated airports have increased significantly, especially in regions where resources companies operate. The increases in these fees and charges do not appear to be commensurate with the level of services and facilities provided at the airport. Consideration should be given to a monitoring strategy to ensure these fees and charges are reasonable given the services provided, and that fees charged are comparable with other regional airports state-wide.

Conclusion

The review of the *Local Government Act 1995* is a positive step towards identifying areas to reduce the burden of red tape and improving local government transparency and accountability, which have been areas of concern for members. CME looks forward to ongoing consultation regarding the issues outlined in this submission.

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