

14. COUNCIL MATTERS

AT THIS POINT IN THE MEETING, THE TIME BEING 7.56 PM THE FOLLOWING ITEMS WERE CARRIED BY 'EN BLOC' RESOLUTION OF COUNCIL

15.1	15.7	16.1	17.1
15.2	15.8		17.2
15.5			

14.1 (MINUTE NO 6173) (OCM - 12/10/2017) - REVIEW OF THE LOCAL GOVERNMENT ACT 1995 (089/005) (J NGOROYEMOTO) (ATTACH)

RECOMMENDATION

That Council

- (1) adopt WALGA's proposals on the Local Government Act 1995 Review, as shown in the attachment to the Agenda; and
- (2) seek clarification on the application of Sections 5.65 and 5.67 of the Local Government Act 1995 (WA) (LG Act), specific to impartiality interests within the scope of Reg.11 of the Local Government (Rules of Conduct) Regulations 2007 (WA).

COUNCIL DECISION

MOVED Cllr C Terblanche SECONDED Cllr P Eva that

- (1) as recommended;
- (2) as recommended; and
- (3) recommends that a standardised and mandatory Code of Conduct be included in the review process, that also identifies appropriate penalties/remedies that could apply.

CARRIED 8/0

Reason for Decision

The current provisions of the Act require all Councils to prepare a Code of Conduct to be observed by members and employees; however, there is no prescriptive content of the Code which requires compliance. The only compliance measures for elected members are contained in the Rules of Conduct Regulations. It seems congruous for Elected Members to be required to observe a Code of Conduct where there is no process available to enforce non-compliance. This anomaly needs to be remedied and should be addressed as part of this overall review of the governing legislation. A standard Code must be adopted to enable for a consistent application to all Councils.

Background

On 20 June 2017, the Local Government Minister announced that the Department of Local Government and Communities would commence a review of the Local Government Act 1995 (the Act). The purpose of the review is to modernise the Act and identify ways to reduce red tape to ensure WA communities benefit from efficient and effective Councils now and into the future.

To this end, a Discussion Paper was distributed on issues that have been identified over the last 8 years including WALGA's advocacy positions resolved by the sector. This included a request for Local Governments to submit additional items for consideration in the Act review process.

It is expected that this process will be carried out between July and November 2017 with the State Council item being considered at the 6 December meeting.

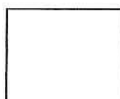
Submission

N/A

Report

The process is being done in two (2) stages. The first stage focuses on modernising Local Government, with the policy work and consultation to be completed in 2017 with a Bill in 2018. The second phase is delivering for the community, with the policy work and consultation to be completed in 2018 with a Bill in 2019.

WALGA is carrying out a consultation process with Member Local Governments to inform sector views and priorities.



Phase one of the review is focusing on four key areas:

- Electronic availability of information
- Meeting public expectations for accountability, including gift disclosures
- Meeting community expectations of standards, ethics and performance
- Building capacity through reducing red tape.

The City of Cockburn has been invited to participate in the consultation period with a Discussion Paper for the first phase which draws on a number of resources upon which WALGA's proposals for Act amendments are based. These resources represent long-standing positions on Act amendments that were developed by the Sector and Sector representatives.

The following key issues have previously been identified as priority items and forms WALGA's Discussion Paper. Accordingly, WALGA has initiated a process which seeks to provide a proactive response to the Government in seeking both necessary amendments and also introducing some proposed new provisions which could benefit the sector moving forward:

- (a) Gifts
 - Exempt gifts received in a genuinely personal capacity
 - Gift declarations threshold to commence at \$500.00 with no upper limit
 - Gift provisions to apply to Elected Members and CEO only
- (b) Regional Subsidiaries
 - Amend Regulations to permit borrowings
 - Amend Regulations to permit dealing in land transactions
 - Amend Regulations to permit trading undertakings
- (c) Rating Exemptions:
 - Charitable Purposes provisions
 - Rate Equivalency Payments of Government Trading entities
- (d) Financial Management Issues:
 - Borrowings
 - Investments
 - Fees and Charges
 - Financial ratios
- (e) Administration:
 - Electors' General Meetings to be optional
 - Designated Senior Officer section to be reviewed



- Public Notices (modernisation of the Act to acknowledge electronic means)
- (f) Functions of Local Governments:
- Tender Thresholds
 - Establish Council Controlled Organisations (Local Government Enterprises)
 - Regional Council provisions (review of compliance requirements)
- (g) Poll Provisions relating to amalgamations and boundary adjustments.
- The poll provisions contained in Schedule 2.1 of the Local Government Act should be extended to provide any community whose Local Government is undergoing a boundary change or amalgamation with the opportunity to demand a binding poll of electors.

In addition to issues raised in the Discussion Paper, the City would like to get clarification on application of sections 5.65 and 5.67 of the Local Government Act 1995 (WA) (LG Act). There is no doubt that when Local Government Council members have a s.5.60 financial interest in a matter before Council, they must disclose the nature of the interest, depart the meeting room and not participate in the decision-making process. On the other hand, members that declare an impartiality interest within the scope of reg.11 of the Local Government (Rules of Conduct) Regulations 2007 (WA) (Rules of Conduct Regulations) are advised by the Department of Local Government, Sport and Culture (DLGSC) that, having disclosed the interest affecting impartiality, they may choose to remain at the meeting and vote on the matter.

The City of Cockburn seeks to formally adopt WALGA's proposals on Local Government Act reform as identified above and in the attached Discussion Paper.

Strategic Plan/Policy Implications

Leading & Listening

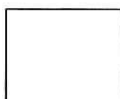
- Deliver sustainable governance through transparent and robust policy and processes.

Budget/Financial Implications

N/A

Legal Implications

Section 3.12 and 9.10 of the Local Government Act 1995 refer.



Community Consultation

N/A

Risk Management Implications

Failure to adopt the recommendation will potentially take away the City's opportunity to participate and provide official feedback on its views on WALGA's priority proposals and advocacy position. This will ultimately lead to the City's views not being included and considered for the final collated Local Government Act 1995 review feedback on its position at the State meeting of 6 December 2017.

Attachment(s)

Discussion Paper – Review of the Local Government Act 1995.

Advice to Proponent(s)/Submissioners

WALGA has been advised that this matter is to be considered at the 12 October 2017 Council Meeting.

Implications of Section 3.18(3) Local Government Act, 1995

Nil.

14.2 (MINUTE NO 6174) (OCM - 12/10/2017) - COCKBURN PARKING & PARKING FACILITIES AMENDMENT NO. 2 LOCAL LAW 2017 AND CITY OF COCKBURN (LOCAL GOVERNMENT ACT) AMENDMENT LOCAL LAW 2017 FINAL ADOPTION (159/011; 025/001) (J NGOROYEMOTO) (ATTACH)

RECOMMENDATION

That Council pursuant to section 3.12(4) of the Local Government Act 1995 proceed to:

- (1) make the City of Cockburn Parking and Parking Facilities Amendment No 2 Local Law 2017, as shown in the attachment to the Agenda;
- (2) make the City Of Cockburn (Local Government Act) Amendment Local Law 2017, as shown in the attachment to the Agenda;
- (3) receive the Guidelines for Outdoor Eating Facilities; and
- (4) impose the following fees and charges in accordance with sections 6.16(3)(a) and 6.19 of the Local Government Act 1995: