

G.11/2/18 LOCAL GOVERNMENT ACT REVIEW (DP/NP) (REPORT 2)
(CC.7/2/18)

The State Government has initiated a review of the *Local Government Act 1995* (the 'Act').

The review is being conducted in two stages, the first phase aims to modernise local governments and better position them to deliver services for the community. The City has previously provided comments to the Western Australian Local Government Association (WALGA) on the review. However local governments are now invited to provide individual submissions to the Department of Local Government, Sport and Cultural Industries (DLGSCI).

Participating in the review process presents an opportunity for local governments to enact change and propose significant amendments to the legislation that guides us. Council was requested to approve the prepared submission.

Recommendation set out in Committee report

That Council:

- 1. Approves the submission at Attachment 1*
- 2. Notes a forum to discuss the submission will be held Monday, 26 February 2018.*

At the Committee of Council meeting on 13 February, consideration of this item had been deferred to full Council. Additional information was contained in the Council agenda, which set out an alternative recommendation.

Hon Councillor Riebeling moved the recommendation set out in the alternative information in the Council agenda, which was seconded by Councillor Shane Jones.

MOTION: F Riebeling / Shane Jones

That Council approves the submission set out in Attachment 1 of the additional information.

CARRIED UNANIMOUSLY: 11/0

Department of Local Government, Sport and Cultural Industries Questions and the Council's Response

TOPIC: Relationships between Council and Administration

Q	DLG Ref	Question/Additional Notes	Proposed Comment
1.	1.	How should a council's role be defined? What should the definition include?	The Council supports the current definition for the role of council.
2.	2.	How should the role of the CEO and administration be defined?	The Council supports the current definition for the functions of the CEO.

TOPIC: Behaviour of Elected Members

Ref	DLG Ref	Question/Additional Notes	Proposed Comment
3.	6.	What competencies (skills and knowledge) do you think an elected member requires to perform their role?	This should be for individual Councils to determine.
4.	10.	Should elected member training be mandatory? Why or why not?	<p>The Council is opposed to the imposition of mandatory training for Elected Members. It should be for individual Local Governments to offer induction and training to incoming and current Elected Members.</p> <p>It is noted that there is currently no training requirement for State and Federal members.</p> <p>If training were to be a requirement for all Elected Members consideration should be given to recognition of prior learning for long term Elected Members.</p>

			The most important point is not to introduce anything that may discourage wide representation from members of the community.
5.	11.	Should candidates be required to undertake some preliminary training to better understand the role of an elected member?	Any training should be in line with the training requirements placed on Candidates for State Government or not at all.
6.	17.	Should standards of conduct/behaviour differ between local governments? Please explain	Standards of behaviour should be for individual Councils to determine.
7.	18.	Which option do you prefer for codes of conduct and why? Option One: Codes of Conduct are no longer required Option Two: Codes of Conduct are required but the content is left to the local government's discretion. Option Three: Codes of Conduct are required. The content of a code is partially prescribed in regulations, but is otherwise at the local government's discretion (Status Quo). Option Four: Codes of conduct are required. The content is prepared by a local government and approved by the Minister. Option Five: Codes of Conduct are required. Local Governments must adopt a model code, with certain clauses subject to modification. Option Six: Codes of conduct are required. The codes will only cover the matters which local governments have a discretion to decide. All other matters are to be addressed in the Act and Regulations.	The Council's preference would be for the status quo. Option Three: Codes of Conduct are required. The content of a code is partially prescribed in regulations, but is otherwise at the local government's discretion.
8.	19.	How should a code of conduct be enforced?	This should be an internal disciplinary matter for individual councils to determine.
9.	20.	Do you support streamlined Rules of Conduct regulations? Why?	Yes. Provided that the rules address the matters which could result in significant damage for the local government.

		<p>Proposal: that the Rules of Conduct are streamlined and more emphasis is placed on conduct that is likely to:</p> <ul style="list-style-type: none"> • be a detriment to the local government, • result in council dysfunction, or • impair public confidence in decision making. 	
10.	21.	<p>If the rules were streamlined, which elements should be retained?</p>	<p>The Council believes the following information to be the most significant:</p> <ul style="list-style-type: none"> • Misuse of information. • Disclosure of interest. • Securing personal advantage or disadvantaging others.
11.	22.	<p>Do you support a reduction in the time frame in which complaints can be made? Is three months adequate?</p>	<p>Yes. The Council believes that the three month timeframe is adequate.</p>
12.	23.	<p>Revised disciplinary framework.</p> <p>Do you support an outcomes-based framework for elected members? Why or why not?</p> <p>The current Rules of Conduct Regulations would be repealed and the Act would be amended to set out that an elected member is to refrain from:</p> <ul style="list-style-type: none"> • impairing the integrity of the local government; • impairing the operational performance of the local government; • impairing the reputation of the local government; and • any other matters as set out in the regulations. <p>The focus of this framework would be on abuses of position, breaches of trust, dishonesty and bias.</p> <p>All complaints where a person believed that the outcomes were breached would be submitted through the local government complaints officer.</p>	<p>The Council's preference would be for Streamlined Rules of Conduct Regulations where the emphasis is to address the high risk matters in legislation and increase the responsibility of local governments to manage disputes.</p>

13.	25.	Application of the Rules of Conduct. Should the rules of conduct that govern behaviour of elected members be explained to all candidates in council elections? Please explain	No. This is something which can be addressed after Members are sworn in.
14.	26.	Offence Provisions: Should the offence covering improper use of information be extended to former members of council for a period of twelve months? Why?	Yes. Elected Members often still have a profile with the community even after they have concluded in their public role. Confidential information must remain as such. It is Council's view that the timeframe should be increased from 12 months to 6 years.
15.	27.	Should the above restriction apply to former employees? Please explain?	Yes. Confidential information must remain as such. It is Council's view that the timeframe should be increased from 12 months to 6 years.
16.	28.	Confidentiality: Is it appropriate to require the existence and details of a complaint to remain confidential until the matter is resolved? Why?	Yes. It is very important that all the facts of a matter are known and an outcome is reached before details are made public.

TOPIC: Reforms of the Local Government Standards Panel and the means to review alleged breaches of the Rules of Conduct Regulations (Behaviour of Elected Members continued).

Ref	DLG Ref	Questions/Additional Notes	Proposed Comment
17.	29.	Sector conduct review committees. What do you see as the benefits and disadvantages of this model? Under this option, minor breach complaints would be processed by the local government complaints officer and forwarded to a sector-based Conduct Review Committee. The Conduct Review Committee could refer a matter to	Perhaps the role of the Standards Panel needs to be reviewed instead of introducing a Sector Conduct Review Committee. This option appears to be adding red tape as opposed to reducing it.

		the Standards Panel if it believes that a breach warrants the Panel's involvement. Regulations could prescribe matters that must be sent directly to the Panel.	
18.	31.	In your opinion what matters should go directly to the Standards Panel?	Major misconduct matters. Matters on appeal.
19.	32.	Who should be able to be a member of a panel: elected members, people with local government experience, independent stakeholders?	Members of the Standards Panel should be assessed based on their skills not their current position.
20.	33.	Who should select the members for the pool?	Minister for Local Government.
21.	36.	Review of elected member non-compliance: Which of the options for dealing with complaints do you prefer? Status Quo or Sector Review Committee	Status Quo.
22.	38.	Who should be able to request a review of a decision: the person the subject of the complaint, the complainant or both?	The Council feels that the option to request a review of the committee should be open to both the complainant and the subject of the complaint.
23.	39.	Do you support the inclusion of mediation as a sanction for the Panel? Why or why not?	Yes. Mediation provides an opportunity to air any issues and explain both sides of the matter.
24.	40.	Do you support the Panel being able to prohibit elected members from attending council meetings? Why or why not?	Yes
25.	42	Should the elected member be eligible for sitting fees and allowances in these circumstances?	No.
26.	43.	Do you support the Panel being able to award financial compensation to the local government? Why or why not?	Yes
27.	45.	Complaint administrative fee: Do you support this option? Why or why not?	No. People may be discouraged from submitting a complaint due to the fee. There are more appropriate ways to address the issue of vexatious claims i.e. panel having the ability to dismiss complaints.
28.	50.	Cost recovery: do you support the cost of the penalty proceedings being paid by a member found to be in breach? Why or why not?	No.

29.	51.	Publication of complaints in the annual report: Do you support the tabling of the decision report at the Ordinary Council Meeting? Why or why not?	The Council supports statistics to be released but not any identifying information.
30.	52.	Tabling decision report at Ordinary Council Meeting - do you support this option?	Yes
31.	53.	Elected Member interests - should not-for-profit organisation members participate in council-decisions affecting that organisation? Why or why not?	The Council believes that a member who has an interest in a not-for-profit organisation should not participate in decisions affecting that organisation.
32.	54.	Considering the above - would your response be the same if the elected member was an office holder in the organisation?	Yes.

TOPIC: Local Government Administration – recruitment and selection of local government CEO’s and public expectations of staff performance.

Ref	DLG Ref	Questions/Additional Notes	Proposed Comment
33.	56.	Would councils benefit from assistance with CEO recruitment and selection? Why?	No. Councils need to retain autonomy. The current practice of the Council is to engage expert assistance to guide the Council in the engagement of a CEO.
34.	57.	How could the recruitment and selection of local government CEOs be improved?	Councils need to retain autonomy.
35.	58.	Should the Public Sector Commission be involved in CEO recruitment and selection? If so, how?	No. However, it may be appropriate for the Public Sector Commission to offer their services. This may be of benefit to smaller regional councils. However Public Sector Involvement should only be at Council’s discretion.
36.	59.	Should other experts be involved in CEO recruitment and selection? If so, who and how?	No. This should be at Council’s discretion.

37.	60.	What competencies, attributes and qualifications should a CEO have?	This is up to individual Council's to determine.
38.	61.	Should the process of appointing an acting CEO be covered in legislation? Why or why not?	Acting positions should be at the discretion of the local government and are already provided for in the <i>Interpretation Act 1984</i> .
39.	62.	If so, who should appoint the CEO when there is a short term temporary vacancy (covering sick or annual leave for example)?	The appointment of an acting CEO should be at the current CEOs discretion. The CEO is best positioned to know the needs of the role over the vacancy period.
40.	63.	Who should appoint the CEO if there will be a vacancy for an extended period (for example, while a recruitment process is to be undertaken)?	Council.
41.	64.	Performance review of local government CEO's - who should be involved in CEO performance reviews?	This should be for individual Council's to determine.
42.	65.	What should the criteria be for reviewing a CEOs performance?	This should be for individual Council's to determine.
43.	66.	How often should CEO performance be reviewed?	In line with all modern performance reviews the CEOs performance review should continue to be conducted at least annually.
44.	69.	Termination or extension of CEO contract around an election - would a 'cooling off' period before a council can terminate the CEO following an election assist strengthening productive relationships between council and administration?	The Council's preference here is for the status quo.
45.	72.	Public expectation of staff performance - is greater oversight required over local government selection and recruitment of staff?	No. This should be subject to individual local government processes.
46.	73.	Should certain offences or other criteria exclude a person from being employed in a local government If so, what?	This is heavily dependent on the roll and nature of the offence. Effective HR processes and background checks should efficiently address this matter outside of legislation.

TOPIC: Supporting Local Governments in challenging times.

Ref	DLG Ref	Questions/Additional Notes	Proposed Comment
47.	75.	<p>Remedial Intervention.</p> <p>Should the appointed person be a departmental employee, a local government officer or an external party? Why?</p> <p>Providing the State Government with the legislative power to formally implement a process to ensure local governments are providing good governance to their communities could take many forms including:</p> <ol style="list-style-type: none"> 1. Issuing a remedial notice requiring the performance of an action or activity. 2. The appointment of a person to the local government to assist local governments with a part of their operations. 3. Requiring the local government to participate in a capacity building program. <p>Option 2 (above) is to appoint a person to assist the local government to implement strategies to resolve the matter.</p> <p>In 2016, this approach was used on a voluntary basis to assist a shire to strengthen its financial management. This arrangement has been successful and presents an option for improving performance of local governments in areas beyond governance. Unlike the voluntary approach used in this case, the proposed approach would be formally incorporated within the Department’s risk and compliance approach.</p> <p>An appointed person would need to be a suitably qualified</p>	<p>The Council supports the proposal for an appointed person to assist local governments as an alternative to investigations.</p>

		<p>person with relevant expertise. The appointed person would work with the local government for a set period and report on progress regularly to the Department. Depending on the nature of the matters of concern, the appointed person may assist the CEO or relevant staff, or the appointed person may oversee the administration.</p>	
48.	76.	<p>Should the appointed person be able to direct the local government or would their role be restricted to advice and support? Please explain.</p>	<p>Council considers that the role of an appointed person should be restricted to providing advice and support.</p>
49.	77.	<p>Who should pay for the appointed person? Why?</p>	<p>Council believes that the State Government should fund the role of an appointed person.</p>
50.	78.	<p>What powers should an appointed person have?</p> <p>To perform their duties, the appointed person would require wide-ranging powers and have the ability to employ a variety of strategies.</p> <p>This role could include:</p> <ul style="list-style-type: none"> • making recommendations to the council, CEO and the Department; • mediating between parties; • arranging for training; and • reviewing, and making recommendations on, practices and procedures. 	<p>Council considers that the powers of an appointed person would be restricted to providing advice, support and guidance.</p>
51.	79.	<p>Remedial action process - do you think the proposed approach (above) would improve the provision of good governance in Western Australia? Please explain.</p>	<p>In the case of smaller regional councils it is possible that expert advice and guidance from an appointed person might improve public confidence in the Council.</p>
52.	80.	<p>What issues need to be considered in appointing a person?</p>	<p>It needs to be demonstrated that there are significant governance issues and a break down in council relationships either between elected members or with the administration before an appointed person is involved.</p>

TOPIC: Making it easier for staff to transfer between State and Local Government employment.

Ref	DLG Ref	Questions/Additional Notes	Proposed Comment
53.	82.	<p>Transferability of employees.</p> <p>Should local and State government employees be able to carry over the recognition of service and leave if they move between State and local government?</p> <p>Local government employees are defined in Western Australia legislation as 'public officers' but have a unique status that complicates recognition of service and the ability of employees to transfer between local and State government.</p> <p>These complications can make movement between local and State government less appealing for employees and limit the opportunity for transfers and secondments that currently give greater flexibility for State government agencies.</p>	<p>No. State Government is a completely separate body and should be viewed as such.</p>

TOPIC: Public confidence in Local Government - Gifts.

Ref	DLG Ref	Questions/Additional Notes	Proposed Comment
54.	85.	<p>A new framework for disclosing gifts</p> <p>Is the new framework for disclosing gifts appropriate?</p> <p>It is widely acknowledged that current approach to gifts is overly complex and requires reform. The reference group agreed on an overhaul of the current requirements that included six key parts:</p> <ol style="list-style-type: none"> 1. There would no longer be separate monetary 	<p>The Council agrees in principle with a revamp of the gift provisions to streamline and simplify the area.</p> <p>The Council is supportive of the proposal to expand the definition of relative to include adopted and foster children and grandchildren.</p> <p>The Council is supportive of the proposal to allow Local Governments the ability to manage the matter of gifts for their employees through a policy.</p>

		<p>thresholds to determine what “type” of gift has been received, as is currently the case with “notifiable” and “prohibited” gifts and gifts under section 5.82.</p> <ol style="list-style-type: none"> 2. All gifts received by local government elected members and CEOs valued at \$500 or more received from a donor in a 12-month period must be disclosed. 3. Recipients of gifts valued at \$500 or more would be prohibited from voting on matters before the council concerning the donor of the gift. The Minister for Local Government may, at their discretion and upon application, allow elected members to vote on such matters. 4. Exemptions from the gift provisions would be minimal to aid simplicity. 5. Gifts from a “relative” will continue to be exempt from disclosure; however, the definition of “relative” will be expanded to include adopted and foster children and grandchildren. <p>All local governments will be required to develop and adopt a gifts policy for employees other than the CEO. Individual local governments can determine what gifts can or cannot be accepted by employees, any applicable threshold amounts and disclosure requirements.</p>	<p>Council propose that individual local governments Codes of Conducts would also address the issue of gifts.</p>
55.	87.	Is the threshold of \$500 appropriate?	<p>The legislative threshold should be in line with the requirements placed on the State Government. Additional, more stringent, rules should be set through policy at Councils discretion.</p>
56.	91.	Excluding gifts received in a personal capacity - should gifts received in a personal capacity be exempt from disclosure?	<p>Yes.</p>
57.	92.	If yes, how could ‘personal capacity’ be defined?	<p>That the gift is not provided due to the role held by the recipient. This should be for the individual to determine.</p>

TOPIC: Transparency - Access to information.

Ref	DLG Ref	Questions/Additional Notes	Proposed Comment
58.	96.	<p>Public notices</p> <p>Which general option do you prefer for making local public notices available? Why?</p> <p><u>Option 1</u></p> <p>Both - Status Quo</p> <p><u>Option 2</u></p> <p>Local – Print or electronic notices</p> <p>State – No change to State-wide notice requirements</p> <p><u>Option 3</u></p> <p>Local - Print or electronic notices</p> <p>State – Print and electronic notices</p> <p><u>Option 4</u></p> <p>Both - Print or electronic notices</p> <p><u>Option 5</u></p> <p>Both – Electronic notices required. Additional print notices are optional.</p> <p><u>Option 6</u></p> <p>Both – print and electronic notices</p>	<p>The Council is in support of modernising requirements for public notices.</p> <p>The Council supports option 6 which replaces the need to print notices with print and electronic notices for both local and state notice.</p> <p>Based on the City’s most recent communications study it appears that our residents are split in the way they would like to receive their communication. It appears that notice boards in the Administration Building and Libraries are very rarely viewed and simply add red tape to the process.</p>

		<p><u>Option 7</u></p> <p>Local – Electronic notice on local government website</p> <p>State – Electronic notice published on centralised website.</p>	
59.	97.	Which general option do you prefer for State-wide public notices? Why?	As above.
60.	99.	For State-wide notices in Attachment 3, are there alternative websites where any of this information could be made available?	The Council is in support of the development of a central portal for local government notices.
61.	100.	Information available for public inspection - how do you think information should be made available?	<p>Information should simply be required to be available for viewing upon request.</p> <p>Most medium to large local governments would make the majority of this information assessable through their website as a matter of course however requiring all of this information to be placed on the City's website could result in a significant increase in work load for smaller regional local governments.</p> <p>The information contained within:</p> <ul style="list-style-type: none"> • primary and annual returns • discretionary disclosures • CEO and Senior Employee contracts of employment • Rates records • Electoral Roll <p>should not be available on the City's website.</p>
62.	103.	How often do you receive requests from members of the public to see the above information? What resources do you estimate are involved in providing access in person (hours of staff time and hourly rate)?	<p>Requests for information from the rates roll (i.e. the names and contact details of neighbours) are received on a regular basis.</p> <p>Many of the identified documents are published on the City's website and it is therefore difficult to calculate the number of requests received.</p>

TOPIC: Available Information - Expanding the information provided to the public.

Ref	DLG Ref	Questions/Additional Notes	Proposed Comment
63.	105.	<p>Which of these options do you prefer? Why?</p> <p><u>Option 1</u></p> <p>Status Quo – local governments can provide information at their discretion. This option prevents any increased regulatory burden.</p> <p><u>Option 2</u></p> <p>Additional reporting requirement – local governments must provide on their website. This option increases transparency but also increases the regulatory burden.</p> <p><u>Option 3</u></p> <p>Policy requirement – local governments would be required to develop a policy which states:</p> <ul style="list-style-type: none"> (a) Whether the information is available for public inspection; and (b) If so, how this information may be assessed by the public. <p>This option adds red tape and regulatory burden without adding any transparency.</p>	<p>The Council’s preference is for option 1. Local governments should have the discretion to make this information available should it be of benefit to its stakeholders.</p>
64.	106.	<p>Please indicate whether you think the information below should be made available, and if so, whether this should be required or at the discretion of the local government.</p> <p>Proposed additional information to be provided:</p> <ul style="list-style-type: none"> • Live streaming video of council meetings on local government website 	<p>The Council feels that it would be inappropriate to require local governments to make the following additional information available:</p> <ul style="list-style-type: none"> • EM attendance rates at external meetings/events • Complaints made to the LG and action taken • Performance reviews for CEO and senior employees • Adverse findings of SAT, standards panel and CCC • Financial and non-financial benefits register (Senior Employees)

	<ul style="list-style-type: none"> • Diversity data on council membership and employees • Elected member attendance rates at council meetings • Elected member representation at external meetings/events • Gender equity ratios for staff salaries • Complaints made to the local government and actions taken • Performance reviews of CEO and senior employees • Website to provide information on differential rate categories • District maps and ward boundaries • Adverse findings of the Standards Panel, State Administrative Tribunal or Corruption and Crime Commission <p>Financial and non-financial benefits register</p>	and Ems – remuneration, super, other monetary benefits & fringe benefits)
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TOPIC: Reducing Red Tape.

Ref	DLG Ref	Questions/Additional Notes	Proposed Comment
65.	111.	Should the provisions for a special majority be removed? Why or why not?	The Council believes it is unnecessary to retain the definition of “special majority”.
66.	113.	Is it necessary for some employees to be designated as senior employees? If so, what criteria should define which employees are senior employees?	The Council position is that the CEO should have the autonomy to appoint senior officers.
67.	114.	Exemption from accounting standard AASB 124 – Related Party disclosure - are the existing related party disclosure provisions in the Act sufficient without the additional requirements introduced by AASB 124? Why or why not?	Proposal to exempt local governments from the requirement of AASB 124 is not supported. It is important for local governments to be transparent and subject to the same requirements as other body corporates.
68.	115.	Disposal of property. The threshold for trade-ins was set originally to \$50,000 in	The Council proposes that threshold for trade-in’s be raised to \$150,000 in line with the tender threshold.

		1996 and raised to \$75,000 in 2015. Should that threshold be raised higher, if so how high?	
69.	116.	Should the threshold remain at \$75,000 but with separate exemptions for specific types of equipment, for example plant?	As above.
70.	117.	The general \$20,000 threshold was put in place in 1996 and has not been amended. Should the threshold be raised higher than \$20,000? If so, what should it be and why? <i>r.30(3) A disposition of property other than land is an exempt disposition if — (a) its market value is less than \$20 000; or....</i>	The Council proposes that the threshold for all property be raised to \$75,000 in line with the City's quotation threshold.
71.	118.	Would raising these thresholds create an unacceptable risk that the items would not be disposed of to achieve the best price for the local government?	No. Individual local governments could get an evaluation if they had any doubt as to the value of the item.
72.	120.	Do you have any other suggestions or comments on this topic?	<u>Disposition of property - s.3.58 and r.30</u> (1) r.30(2)(a)(i) of the <i>Local Government (Functions and General) Regulations 1996</i> currently states: "A disposition of land is an exempt disposition if — (a) the land is disposed of to an owner of adjoining land and (i) its market value is less than \$5 000 and....." A proposed amendment would be to increase the monetary value from \$5000 to \$20,000. This would remove the requirement to undertake the significant land disposal process for times where very small portions of land are being returned to property owners following a local government action such as road widening. (2) r.30(2)(e) of <i>Local Government (Functions and General) Regulations 1996</i> currently states:

“A disposition of land is an exempt disposition if – (e) it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land”

A proposed amendment would be to increase the period from 2 years to 5 years.

The above term increase would allow officers to issue licences for non-exclusive use of local government property (ie. Multiple groups utilising Community facilities) for a longer period therefore providing greater stability, for the user and programs for the centres.

(3)r.30(2a) of *Local Government (Functions and General) Regulations 1996* currently states:

“A disposition of property is an exempt disposition if – (2a) the property is disposed of within 6 months after it has been.....”

A proposed amendment would be to remove the timeframe altogether and allow local governments to dispose of property through private treaty once it has gone through the process outlined at Regulation 30(2a) of the *Local Government (Functions and General) Regulations 1996*.

Currently we have to return to Council every 6 months if land/property has not been sold during that timeframe, and return to a tender process before engaging in a new 6 month campaign.

If local governments had the freedom to actively market the property for an unlimited time, it would allow for greater flexibility and time to dispose of the said land/property. This is especially relevant when the local government is disposing of land estates consisting of more than one parcel of land (i.e. within the City of

Mandurah Samphire Cove – 45 lots which are being sold over a significant number of years because of market conditions).

Closing certain thoroughfares to vehicles – s.3.50

The Council proposes that this section be amended so that where the purpose of closing a road is for public works the requirements of s.3.50(4) should not apply:

(4) Before it makes an order wholly or partially closing a thoroughfare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thoroughfare, the local government is to —

(a) give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when, and why it would be closed, and inviting submissions from any person who wishes to make a submission; and

(b) give written notice to each person who —

(i) is prescribed for the purposes of this section; or

(ii) owns land that is prescribed for the purposes of this section; and

(c) allow a reasonable time for submissions to be made and consider any submissions made.

This amendment would reduce the red tape surrounding an operational matter for the Local Government.

Affected owners to be notified of certain proposals - s.3.51

(3) Before doing anything to which this section applies, a local government is to —

(a) give notice of what is proposed to be done giving details of the proposal and inviting submissions from any person who wishes to make a submission.

			<p>(4) The notice is to be given —</p> <p>(a) in writing to each person having an interest; and</p> <p>(b) if any land is likely to be adversely affected by the doing of the thing, by local public notice.</p> <p>The Council would appreciate some clarification as to the term “adversely affected”. This term is used in three times throughout the Act.</p> <p>A further term used in this section that the Council would appreciate clarification on is the matter of whether the local public notice required under s.3.51(3) is sufficiently achieved if the local government requires the developer to place the notice as a condition of approval.</p>
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TOPIC: Regional Subsidiaries.

Ref	DLG Ref	Questions/Additional Notes	Proposed Comment
73.	121.	<p>Which option do you prefer?</p> <p><u>Option 1</u> - Status quo.</p> <p><u>Option 2</u> - Regional subsidiaries are permitted to borrow from Treasury Corporation.</p> <p><u>Option 3</u> - Regional subsidiaries are permitted to borrow from financial institutions.</p>	<p>The Council supports WALGAs proposal which would allow regional subsidiaries to:</p> <ol style="list-style-type: none"> 1. Borrow in their own right; 2. Enter into land transactions; and 3. Undertake commercial activities

TOPIC: Local Government Act review – Additional Areas for Improvement.

Ref	DLG Ref	Questions/Additional Notes	Proposed Comment
74.	126.	<p>You are invited to make comment and put forward suggestions for change on other matters which have not been covered in this paper</p>	<p><u>Primary and Annual Returns:</u></p> <p>Officers raise the issue as to whether annual and primary returns remain necessary.</p> <p>The rationale behind the requirement for annual and primary returns and their availability to the public is questioned on a regular basis.</p> <p>It is understood that State and Commonwealth Government employees are not subject to the same requirement regardless of the fact that their decision making capability and services provided are not dissimilar.</p> <p>Elected Members and Officers are required to declare a financial or proximity interest should one arise, and it is an offence not to declare. Therefore the Council would like to raise the issue of whether it is necessary to also require an annual statement of interest.</p> <p>It is recommended that the Council also raise the consideration of restricting public access to primary and annual returns on the basis of privacy and also consider whether the depth of information currently requested is appropriate</p> <p><u>Receiving and opening tenders, procedures for – r.16</u></p> <p>Regulations relating to the requirement that two persons be present at each tender opening are no longer necessary for those local governments who have moved to utilising electronic tendering portals.</p>

		<p>The compliance and probity aspects within the electronic systems allows for an audit trail that is sufficient for third party review and does not allow for the acceptance of late tenders.</p> <p>It is proposed that this requirement be removed from Regulations where electronic systems are used.</p> <p><u>Notice – Things a notice may require to be done - Schedule 3.1</u></p> <p>Schedule 3.1 provides the opportunity for the Local Government to require an owner or occupier to complete a prescribed task.</p> <p>It is proposed that consideration be given to adding “effectively secure a dwelling” to the list of prescribed tasks.</p> <p>This would be used in the event of a derelict house and would provide the City with the ability to require the owner or occupier to “effectively secure a dwelling” would assist to prevent access by squatters.</p> <p>An example for a definition of secure would be to board up, repair latches and locks.</p>
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