



CoSBA's Submissions for the Amendments to the Local Government Act

Given that small business businesses are the most numerous of businesses in all local governments jurisdictions, which have a great impact on small businesses in the areas of licensing, red tape and in particular costs. Therefore, we respectfully recommend that in the review of the Act that primary consideration is given to the impact of the changes on small businesses. We do not seek to address specific sections of the Act but rather suggesting the insertion of recommended provisions in the Act that support the needs and aspirations of small business, in conformance with the principle of “primary consideration”, in the terms set out below:

Primary Consideration:

In the 1997 report *More Time For Business*, the Federal Government's response to the 1996 “Bell Report” (*Time For Business*), the then Prime Minister, John Howard, in his Foreword stated, in part:

“Small Business is the engine room of the Australian economy, a vital source of enterprise, innovation and jobs.

Small Business is based on the self-reliance, initiative and vision of men and women with a commitment to hard work and the preparedness to take a risk to achieve their goals and ambitions. Small Business is integral to the decentralised network of family, workplaces and community which is the most effective guarantor of freedom and choice.

Too often in the past, government has been a burden for Small Business. Government has appeared unable or unwilling to understand the special needs of Small Business and unaware of the impact of decisions on them.”

Accordingly, in reviewing the Act, the Government must demonstrate its willingness to understand the special needs of Small Business, not to burden Small Business with laws that unnecessarily bind Small Business in red tape, costs and legalistic processes, and be fully aware of the impact of their decisions on small businesses.

Therefore, in the review of the Act CoSBA calls upon the Government to:

- Give primary consideration to the special needs and aspirations of Small Business;
- Genuinely treat Small Business as having special needs and not expect them to have the same skills, knowledge, resources and capacity of big business;
- Decrease red tape and compliance costs on Small Business owners.

Red Tape:

Local governments regularly pass by-laws that burdens small businesses with ever increasing unreasonable and unnecessary red and green tape. And, whilst the Federal and State Governments have in place initiatives to reduce their red tape burdens on small business, conversely there is

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seemingly little or nothing compelling local governments to do likewise.

Feedback from our members strongly suggests that their main problem with local governments is RED TAPE; therefore we recommend that provisions be made in the Act that will mitigate against the making of by-laws and other rules that imposes red and green tape on small business.

Small Business Friendly Local Governments:

Whilst some local governments have signed up to the SBDC's 'Small Business Friendly Local Governments', others haven't; therefore, we recommend that initiative be inserted into the Act, making it compulsory rather than voluntary.

We would recommend that provisions be made in the Act to require local governments be required to work with and support small business by:

- offering enhanced customer service;
- reducing red tape;
- making on-time payments;
- having a process in place to handle disputes;
- introducing other activities to improve the operating environment for small businesses in their area;
- local governments be required to establish a working relationship with their local small business organisations (such could assist to mitigate against red tape);
- local governments be required to provide updates on how they are meeting these commitments.

Buy Local:

It was reported in the 6 December 2017 edition of *The Western Australian* newspaper that the buy local policy is 'not working.' It was reported, "*Premier Mark McGowan welcomed the recommendations to beef up monitoring and compliance, which he said would occur under the Government's Jobs Bill introduced in September.*"

It goes without saying that the 'Buy Local' initiative was set up to enhance employment and the economy in the regions, and we would suggest, that the policy is 'not working' can be effectively addressed by inserting provisions in the Act requiring local governments to apply the Government's Buy Local; Policy.

Small Business Contracts:

One size template contracts written in legalese does not fit all, and certainly not small business, that was found to be the case by the Buy Local Committee (circa 2000/02 - of which CoSBA was a member). Accordingly, we would strongly recommend that a provision be inserted into the Act requiring that local governments only issue contract documents for small business that are of a minimalist design written in simple and understandable English, no legalese. We would also

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recommend that a basic template contract document for small business be inserted as an Appendix to the Act.

Small Business Businesses Development Corporation (SBDC):

The Given the Act's affect on small business businesses, we recommend a role for the SBDC in monitoring the actions of local governments concerning relevant provisions of the Act that affect small business, some of which are those we have recommended in our submission.

Powers of Local Government:

On a daily basis local governments pass by-laws and make declarations with impunity that are inconsistent with State and Federal norms. For example, changing the celebrating of Australia Day from that declared or gazetted by the State or Federal Governments. Given that there are seemingly no provisions in the Act that operate to limit the powers of local governments, we would strongly recommend that provisions be inserted in the Act that impose limitations on the scope of powers of local governments from taking action that is that are inconsistent with State and Federal norms.

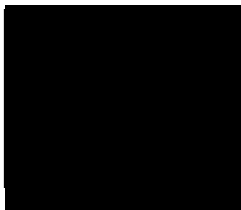
As we understand it local governments have no direct legitimacy or status under the Australian Constitution, and only enjoy legitimacy by virtue of the States and Territories local government Acts, which the evidence suggests place little or no fetters on the seemingly endless scope of powers of local governments.

Local governments do not have Constitutions, unlike, State and Federal government that have such, which set out their powers and incorporate limitations and boundaries, therefore local governments exist and are "controlled" buy virtue of state local government Acts, of which it can be said serve as de-facto Constitutions.

In concluding our submission, we refer to an article by the Minister for Local Government, Hon David Templeman, published in *The Western Australian* newspaper of 21 December 2017, wherein he stated: "*When I was sworn in as Local Government Minister in March this year, I committed to be a champion for the sector. I also said that I wanted to restore confidence in local government, which had experienced much upheaval and uncertainty over the past eight years.*"

Accordingly, it is our strong recommendation that the review of the WA Act be undertaken with great care and in particular in conformance with the Minister's statement, to ensure that WA Act/"Constitution" is brought up to the contemporary needs of the rate payers and in particular primary consideration is given to the needs and aspirations of small business.

**Combined Small Business Alliance
of Western Australia Inc. (CoSBA)**



Chief Executive Officer