

CC-029-17

Local Government Act 1995 - Review

PROGRAM:	Canning Community and Commercial
SUB PROGRAM:	Governance Canning
FILE REF:	Q17/438
REPORT DATE:	12 October 2017
REPORTING OFFICER:	Karen Bateman - Executive Manager Governance Canning
RESPONSIBLE OFFICER:	Garry Adams - Director Canning Community & Commercial

Strategic Plan Theme:	LEAD - Accountable, responsible and forward-thinking administration.
Community Goal:	Effective leadership and good governance.
Council Strategy:	Open and transparent to the community and stakeholders.
Authority/Discretion:	Advocacy: When Council advocates on its own behalf or on behalf of its community to another level of government, body or agency.
Attachments:	<ol style="list-style-type: none"> 1. LG Act Review - WALGA InfoPage - 7 July 2017 (D17/135398). 2. LG Act Review - WALGA Discussion Paper (D17/135419). (<i>Large Attachments</i>) 3. LG Act Review - City of Canning Submission (D17/125729). (<i>Large Attachments</i>)

In Brief:

The Minister for Local Government announced the commencement of a review of the *Local Government Act 1995* and associated Regulations in June 2017. The review will be the most comprehensive since the commencement of the legislation in July 1996.

This report seeks Council's endorsement of the City's submission to the amendments proposed by the Western Australian Local Government Association (WALGA).

COUNCIL DECISION***MOVED Cr M Hall, SECONDED Cr Brown******That Council:***

1. ***Endorses the City's submission to the Western Australian Local Government Association's Local Government Act Amendment Proposals, detailed as Attachment 3 to this report.***
2. ***Requests the Chief Executive Officer to forward the City's submission to the Western Australian Local Government Association.***

CARRIED UNANIMOUSLY (10/0)*Cr Tarrant was absent for the vote.*

Relevant Council Resolutions		
Council Meeting and Date	Report No	Decision
Not applicable.	Not applicable.	Not applicable.

BACKGROUND

- 1 The Minister for Local Government announced the commencement of a review of the *Local Government Act ("Act") 1995* and associated Regulations in June 2017. The stated focus of the review is:

"... on modernising Local Government, with the policy work and consultation to be completed in 2017, with a Bill in 2018. Key topics in this phase will be increasing elector participation, electronic disclosure (making information more readily available), simplifying the disclosure of gifts and some reducing red tape provisions).

The theme for the second phase is delivering for the community, with the policy work and consultation to be completion in 2018, with a Bill in 2019. Key themes for this phase will be improving behaviour and relationships, increasing community participation, enabling local government enterprises, improving financial management and reducing red tape."

- 2 The Minister has confirmed that the Act review process will take place in two (2) stages:

- a) Phase 1: Modernising Local Government – 2017
 - i) Increasing participation in local government elections.
 - ii) Strengthening public confidence in local government elections.
 - iii) Making information available online.
 - iv) Restoring public confidence (includes the gift provisions).
 - v) Reducing red tape.
 - vi) Regional Subsidiaries.
- b) Phase 2: Services for the Community – 2018
 - i) Increasing community participation.
 - ii) Improving financial management.
 - iii) Improving behaviour and relationships.
 - iv) Reducing red tape.

DETAILS

- 3 WALGA is undertaking a thorough consultation process with the local government sector on the key issues for the Act review, and seeks feedback by 20 October 2017 in the form of Council endorsed submissions.

- 4 The process being undertaken by WALGA, is:

- a) InfoPage (Attachment 1) and Discussion Paper (Attachment 2) distributed to local governments on issues that have been identified over the last eight years, including WALGA's advocacy positions resolved by the sector. This includes a request for local governments to submit additional items for consideration in the Act review process.
- b) WALGA held Zone/Regional Group forums on the Act/Regulatory amendment suggestions. Two City of Canning Elected Members attended the South East Metropolitan Zone Meeting on Wednesday, 30 August 2017 at the Town of Victoria Park.

- c) Finalise feedback and provide recommendations on legislative and regulatory change through a State Council Agenda Item to be put to the Zone groupings.
- 5 Comments received from local governments on the WALGA Proposal will be considered by the State Council at its meeting scheduled for 6 December 2017.
- 6 The following key issues have previously been identified by WALGA, and now form part of the consultation process with the sector on Act amendments, which the City has addressed in its response (Attachment 3):
 - a) Gifts:
 - i) Exempt gifts received in a genuinely personal capacity.
 - ii) Gift declarations threshold to commence at \$500 with no upper limit.
 - iii) Gift provisions to apply to Elected Members and Chief Executive Officer only.
 - b) Regional Subsidiaries:
 - i) Amend Regulations to permit borrowings.
 - ii) Amend Regulations to permit dealing in land transactions.
 - iii) Amend Regulations to permit trading undertakings.
 - c) Rating Exemptions:
 - i) Charitable purposes provisions.
 - ii) Rate equivalency payments of Government trading entities.
 - d) Financial Management Issues;
 - i) Borrowings.
 - ii) Investments*.
 - iii) Fees and Charges.
 - iv) Financial ratios.
*(*Noting that Regulation 19C(2)(b) of the Financial Management Regulations permitting fixed term deposits to be invested for up to three years was amended on 12 May 2017.)*
 - e) Administration:
 - i) Electors General Meeting to be optional.
 - ii) Designated Senior Officer section to be reviewed.
 - iii) Public Notices (modernisation of the Act to acknowledge electronic means).
 - f) Functions of Local Governments:
 - i) Tender thresholds.
 - ii) Establish Council controlled organisations (local government enterprises).
 - iii) Regional Council provisions (review of compliance requirements).
 - g) Poll provisions relating to amalgamations and boundary adjustments:
 - i) The poll provisions contained in Schedule 2.1 of the 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.
- 7 The City has undertaken a comprehensive review of the WALGA Proposal (Attachment 3). In principal support is provided for the Proposal with the exception of the following:

Division / Section of the Act	WALGA Proposal	City of Canning Comment
3. Functions of Local Government Notification of Affected Owners: Section 3.51	<p>Position Statement</p> <p>Section 3.51 of the <i>Local Government Act 1995</i> concerning "Affected owners to be notified of certain proposals", should be amended to achieve the following effects:</p> <ol style="list-style-type: none"> 1. To limit definition of "person having an interest" to those persons immediately adjoining the proposed road works (ie similar principle to town planning consultation); and 2. To specify that only significant, defined categories of proposed road works require local public notice under Section 3.51(3)(a). <p><i>State Council Resolution:</i> February 2009 – 480.1/2009</p>	<p>The City of Canning (the City) does not support the proposed limitations. It is the City's view that advice to affected persons, far broader than those deemed to be immediately adjoining the affected thoroughfare, is more appropriate. Stakeholders affected by "certain proposals" should be suitably engaged and advised of relevant works.</p> <p>For Example: In the event that a road is closed for major road works, it seems inadequate to simply confine the advice of such works to adjoining property owners, such as business owners serviced by that road.</p>
4. Elections and Other Polls Conduct of Postal Elections: Sections 4.20 and 4.61	<p>Position Statement</p> <p>The <i>Local Government Act 1995</i> should be amended to allow the Australian Electoral Commission (AEC) and Local Governments to conduct postal elections.</p> <p>Background Currently, the Western Australian Electoral Commission (WAEC) has a legislatively enshrined monopoly on the conduct of postal elections that has not been tested by the market.</p> <p><i>State Council Resolution:</i> March 2012 – 24.2/2012</p> <p>Online Voting WALGA has received requests from three (3) Zones to explore the possibility of introducing online voting in local government elections.</p> <p>A State Council Item for Noting was prepared in May 2017, advising that WALGA staff will liaise with the WAEC regarding the use of the "iVote" system and also seek feedback from the local government sector on online voting and other opportunities to increase voter turnout. The Minister for Local Government has indicated that online voting is likely to be considered in the context of increasing elector participation.</p>	<p>The City has no opposition to allowing the AEC and local governments to conduct postal elections, however questions whether material savings would be achieved if the AEC or local governments did take up the opportunity.</p> <p>The City notes that WALGA will liaise with the WAEC regarding use of their "iVote" system. However, at this time, it does not support a move to online voting, given the recent issues experienced with online completion of the Australian Census. When the AEC or WAEC has in place a proven, effective online voting system, then the City will consider supporting online voting.</p>

Division / Section of the Act	WALGA Proposal	City of Canning Comment
<p>6. Financial Management Rating Exemptions – Charitable Purposes: Section 6.26(2)(g)</p>	<p>Position Statement WALGA's policy position regarding charitable purposes is as follows:</p> <ol style="list-style-type: none"> 1. Amend the <i>Local Government Act 1995</i> to clarify that Independent Living Units should only be exempt from rates where they qualify under the <i>Commonwealth Aged Care Act 1997</i>. 2. Either: <ol style="list-style-type: none"> a) Amend the charitable organisations section of the <i>Local Government Act 1995</i> to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or b) Establish a compensatory fund for local governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of local government rates. <p>Background Exemptions under this Section of the Act have extended beyond the original intent and now provide rating exemptions for non-charitable purposes, which increase the rate burden to other ratepayers. There may be an argument for exemptions to be granted by State or Federal legislation. Examples include exemptions granted by the <i>Commonwealth Aged Care Act 1997</i> and group housing for the physically and intellectually disabled which is supported under a government scheme such as a Commonwealth / State Housing Agreement, or Commonwealth / State Disability Agreement.</p> <p><i>State Council Resolution:</i> December 2015 – 118.7/2015 January 2012 – 5.1/2012</p>	<p>Welfare is a Commonwealth / State responsibility. Charitable rating exemptions impact upon local government revenues as well as community fairness. Everyone uses assets of a local government and accesses the services they provide. State government housing authorities have traditionally paid rates. Their transition to not for profits with charitable status in turn ceases rate revenues to local governments, without any corresponding reduction in the level of services that are being provided to the community. A growing and aging Australian population will likely increase the number of charitable rating exemptions.</p> <p>Seniors, pensioners, or charitable organisations are not exempt from the State's Fire and Emergency Services Levy.</p> <p>The City of Canning's charitable exemptions are estimated to be \$690,000 in 2017-2018.</p>

CONSIDERATIONS

Legal Compliance

8 Not applicable.

Policy Implications

9 Not applicable.

Financial Considerations

Business Plan

10 Not applicable.

Internal Budget

11 There is no budgetary impact from adoption of the Officer Recommendation.

Asset Management

12 Not applicable.

Sustainability Considerations

13 Not applicable.

Consultation

14 Zone and Regional Group forums on the Act/Regulatory Amendment Proposal were held by WALGA. Two City of Canning Elected Members attended the South East Metropolitan Zone Meeting held on Wednesday, 30 August 2017 at the Town of Victoria Park.

15 The City's Executive Team considered each item in the WALGA Proposal on Wednesday, 13 September 2017, and support the City's detailed response (Attachment 3).

16 Elected Members were provided with an emailed copy of the WALGA Proposal on 14 September 2017, seeking their feedback by Thursday, 21 September 2017. No responses were received from Elected Members.

Other Considerations or Risks

17

1. Risk/ Opportunit y	Consequences	Mitigation/ Actions	Consequence Likelihood X	Consequence Rating	= Overall Risk/ Opportunity
<i>Officer Recommendation Approved by Council (Positive Outcomes) Opportunity A</i>	<p>Modernisation of the <i>Local Government Act 1995</i> and associated Regulations.</p> <p>Enhancement of local government processes by:</p> <ul style="list-style-type: none"> - Increasing elector participation. 	<ul style="list-style-type: none"> - Council endorsement of the City's submission to WALGA. - Submission of approved submission to WALGA for consideration at the State Council Meeting in December 2017. 	Likely	Significant	High (Opportunity)

1. Risk/ Opportunit y	Consequences	Mitigation/ Actions	Consequence Likelihood X	Consequence Rating =	Overall Risk/ Opportunity
	<ul style="list-style-type: none"> - Electronic disclosure. - Simplified disclosure process for gifts. - Red tape reduction provisions. 				
<i>Officer Recommendation Approved by Council (Negative Outcomes) Risk B</i>	<p>WALGA progresses those aspects of the Proposal the City does not support:</p> <ul style="list-style-type: none"> - Electronic voting adopted. - Introduction of compulsory voting. - "Affected owners to be notified of certain proposals". - Changes in relation to charitable purposes. 	<ul style="list-style-type: none"> - Council endorses the City's submission to WALGA, which highlights the potential consequences. - City to present position at the State Council Meeting in December 2017. 	Possible	Moderate	Medium (Risk)
<i>Officer Recommendation Deferred by Council Risk C</i>	<ul style="list-style-type: none"> - Non-compliance with WALGA's timeline. - Missed opportunity to influence improvements to the <i>Local Government Act 1995</i> and associated Regulations. 	<ul style="list-style-type: none"> - City Officers provided considered input on each individual element of the WALGA Proposal. - Elected Members were provided with copies of the WALGA Proposal in July 2017. - Elected Members were invited to provide input to the City's submission prior to the October Agenda Briefing and Ordinary Council Meeting. 	Almost Certain	Significant	Extreme (Risk)

1. Risk/ Opportunit y	Consequences	Mitigation/ Actions	Consequence Likelihood	X	Consequence Rating	=	Overall Risk/ Opportunity
<i>Officer Recommendation Declined by Council Risk D</i>	<ul style="list-style-type: none"> - If Council does not provide its input, changes may be made to the legislation which are contrary to the interest of Council 	<ul style="list-style-type: none"> - City Officers provided considered input on each individual element of the WALGA Proposal. - Elected Members were provided with copies of the WALGA Proposal in July 2017. - Elected Members were invited to provide input to the City's submission prior to the October Agenda Briefing and Ordinary Council Meeting. 	Almost Certain		Moderate		High (Risk)

COMMENT

- 18 City Officers have provided considered input on each element of the WALGA Proposal, with Elected Member input sought for inclusion in the City's submission (Attachment 3).

VOTING REQUIREMENT

- 19 Simple majority.

AGENDA BRIEFING COMMENT

- 20 In response to a Councillor query, the wording in regard to the City's position on electronic voting was amended to remove the reference to issues with the most recent Australian Census; recognising that there are alternative, functioning software packages available.
- 21 The City's position continues to be that at this time, it does not support a move to online voting until the AEC or WAEC has in place a proven, effective online voting system.

Division	Local Government Professionals Comment : Issues	WALGA Proposal
1. Introductory Matters Standard legislative introductory material and: <ul style="list-style-type: none"> ▪ Local public notice; ▪ State-wide notice; ▪ Absolute majority; and ▪ Special majority. 	1. Local public notices and state wide public notices – the requirement has problems for a number of reasons include: reduce distribution of the West Australia, the cost of advertising, the lack of relevance of the notice and its perceived value. 2. More flexibility and options required for local public and state wide public notice requirements. 3. There needs to be greater ease in obtaining information. 4. The special majority should be abolished as it is rarely needed and rarely used. 5. Reassess the standards for community consultation.	The Association welcomes the opportunity to modernise the requirements of giving public notice of particular matters, as prescribed in the <i>Local Government Act 1995</i> (the Act). The Minister for Local Government has indicated an intention to deal with this in Phase 1 of the Review process, by making information available online. It is already common practice within the Local Government sector to place statutory public notices on official websites, despite there being no legislated requirement to do so.

City of Canning Comments:

The City of Canning supports this and does in fact place Public Notices on its' website and supports flexibility and options required for local public and state wide public notice requirements.

The City of Canning supports the continued use of special majority (75%) regarding Section 1.10 for use when voting to change the way in which the Mayor is elected.

Division	Local Government Professionals Comment : Issues	WALGA Proposal
<p>2. Constitution of Local Government</p> <p>Actual structure of a local government:</p> <ul style="list-style-type: none"> ▪ Framework of how the state is divided into local government areas; ▪ How those areas are divided; and ▪ Framework to amend them. <p>Also includes:</p> <ul style="list-style-type: none"> ▪ Roles and duties of council, councillors and mayors; ▪ Who is eligible to be elected, terms of office, vacancies ▪ Creates Local Government Advisory Board 	<p>1. The process around recruitment of mayors is layered with inefficiencies. Perhaps this should instead be reviewed internally by Local Councils with their own internal local government policy.</p> <p>2. Query the purpose of wards – could these be abolished? Ward framework seems to be an archaic structure that causes inconsistencies in the Act. People are elected in certain wards but they are also required to progress the best interests of the community (not just their individual wards). It can lead to some conflict.</p> <p>3. Process to determine eligibility is complex. Once disqualified, the process should be black and white, and much quicker.</p> <p>4. There is a lack of clarification around the roles and responsibilities of CEOs, Councillors, and Mayor. Training may be a solution to the lack of clarification.</p> <p>5. Need an avenue for dealing with vexatious complaints.</p>	<p>1. Method of Election of Mayor/President: Section 2.11</p> <p>Position Statement Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community.</p> <p>State Council Resolution March 2012 – 24.2/2012</p> <p>2. Elected Member Training: New Proposal</p> <p>Position Statement WALGA opposes legislative change that would:</p> <ol style="list-style-type: none"> 1. Requires candidates to undertake training prior to nominating for election; 2. Incentivise Elected Member training through the fees and allowances framework; or 3. Mandate Elected Member training. <p>Further, if mandatory training becomes inevitable, WALGA will seek to ensure that it:</p> <ol style="list-style-type: none"> (a) Only applies to first time Elected Members; (b) Utilises the Elected Member Skill Set as the appropriate content for mandatory training; (c) Applies appropriate Recognition of Prior Learning (RPL); (d) Requires training to be completed within the first 12 months of office; and (e) Applies a penalty for non-completion of a reduction in fees and allowances payable. <p>State Council Resolution December 2015 – 119.7/2015 October 2008 – 399.4/2008</p> <p>3. Stand Down when Contesting State or Federal Election: New Proposal</p> <p>Amend the Act to require an Elected Member to stand down when contesting a State or Federal election, applying from the issue of Writs. The options to consider include:</p> <ol style="list-style-type: none"> (a) that an Elected Member stand down from any decision making role and not attend Council and Committee meetings; or (b) that an Elected Member stand down from all aspects of their role as a Councillor and not be able to perform the role as specified in Section 2.10 of the Local Government Act. <p>Background The East Metropolitan Zone has identified that, under the <i>Local Government Act 1995</i>, there is no requirement for an Elected Member to either stand down or take leave of absence if they are a candidate for a State or Federal election. If elected to Parliament the Elected Member is immediately ineligible to continue as an Elected Member. Currently it is up to an individual Elected Member to determine if they wish to take a leave of absence. In some cases Elected Members have voluntarily resigned.</p>

City of Canning Comments:

- 1. Method of Election of Mayor/President: Section 2.11:**
The City of Canning supports the continued use of special majority (75%) regarding Section 1.10 for use when voting to change the way in which the Mayor is elected.
- 2. Elected Member Training: New Proposal:**
The City of Canning fully supports providing all newly elected members with comprehensive training. Following the 2015 Local Government Elections the City established a formal training program, which spanned over a three month period.
The City prefers a principle based approach to training rather than a regulatory requirement, especially one which applies penalties for non-completion.
- 3. Stand Down when Contesting State or Federal Election: New Proposal:** **The City supports the view of the East metropolitan Zone, it considers the obligations imposed by the Code of Conduct and the Regulations are sufficient to ensure Councillors perform in an appropriate manner should they be contesting a seat for the State or Federal Election.**

Division	Local Government Professionals Comment : Issues	WALGA Proposal
<p>3. Functions of Local Governments</p> <p>Functions are powers that have been vested within a local government:</p> <ul style="list-style-type: none"> ▪ Powers of entry; ▪ Impounding and disposal of vehicles, goods and property; ▪ Animals; ▪ Closure of roads; ▪ Control of unvested facilities and reserves; and ▪ Ability to create separate legal entities (i.e. regional local governments and subsidiaries) 	<ol style="list-style-type: none"> 1. Regional subsidiaries structure is not flexible. May require a review of the Local Laws. 2. Closure of roads requires a more flexible approach and process. 3. Control of unvested facilities and reserves should be returned to the State. They are not contributing towards maintenance and can be costly to Local Governments. 4. Regional local governments – it will be important to avoid double dipping of regulation in this space, reduce duplication of requirements. 5. Require flexibility around pursuing commercial opportunities – currently there are too many restrictions. 6. Consider a tiered approach to asset disposal – large cost items versus low cost. 7. See section 3.12 – process improvements and opportunities exist here 8. Local laws process – model local laws should not have to go through a further consultation process if the Local government is simply implementing the model law. Also consider the role of the Joint Standing Committee – they should be consulted during advertising, not late in the process where their contribution can cause more delays. 	<p>Notification of Affected Owners: Section 3.51</p> <p>Position Statement Section 3.51 of the <i>Local Government Act 1995</i> concerning "Affected owners to be notified of certain proposals" should be amended to achieve the following effects:</p> <ol style="list-style-type: none"> 1. to limit definition of "person having an interest" to those persons immediately adjoining the proposed road works (i.e. similar principle to town planning consultation); and 2. to specify that only significant, defined categories of proposed road works require local public notice under Section 3.51 (3)(a). <p>City of Canning Comments:</p> <p>City of Canning Environment staff do not support the above proposed limitations. It is the staff's view that advice to affected persons, far broader than those deemed to be immediately adjoining the affected thoroughfare, is more appropriate. Stakeholders affected by "certain proposals" should be suitably engaged and advised of relevant works. In the event that a road is closed for major road works, it seems inadequate to simply confine the advice of such works to adjoining property owners. For instance, business owners serviced by that road should also be informed.</p> <p>Control of Certain Unvested Facilities: Section 3.53</p> <p>The <i>Local Government Act 1995</i> includes a provision, under Section 3.53, that is carried forward from Section 300 of the former <i>Local Government Act 1960</i>. Former Section 300 stated:</p> <p><i>300. A council has the care, control, and management of public places, streets, ways, bridges, culverts, fords, ferries, jetties, and drains, which are within the district, or which although not within the district, are by this Act placed under the care, control and management, of the council, or are to be regarded as being within the district, except where and to the extent that under an Act, another authority has care, control, and management.</i></p> <p>Section 3.53 refers to infrastructure as an 'otherwise unvested facility', and is defined to mean: <i>"a thoroughfare, bridge, jetty, drain, or watercourse belonging to the Crown, the responsibility for controlling or managing which is not vested in any person other than under this section."</i></p> <p>Section 3.53 places responsibility for an otherwise unvested facility on the Local Government in whose district the facility is located. Lack of ongoing maintenance and accreting age has resulted in much infrastructure falling into a dilapidated state. This, together with the uncertain provenance of many of these facilities, particularly bridges, is reported as placing an unwarranted and unfunded burden on a number of Local Governments.</p> <p>It is recommended Section 3.53 of the Act be deleted and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager.</p> <p>City of Canning Comments:</p> <p>It is recommended Section 3.53 of the Act be deleted and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager.</p>

Division	Local Government Professionals Comment : Issues
WALGA Proposal	Regional Local Governments: Part 3, Division 4
	<p>Position Statement The compliance obligations of Regional Local Governments should be reviewed.</p> <p>Background Currently, Regional Local Governments are treated by the Local Government Act 1995 for the purposes of compliance, as if they were a Local Government.</p> <p>The Association believes that this places an overly large compliance burden on Regional Local Governments. The large compliance burden reduces potential cost savings that aggregated service delivery may achieve through increased efficiency and acts as a disincentive for Local Governments to establish Regional Local Governments.</p> <p>State Council Resolution January 2012 – 9.1/2012</p> <p>City of Canning Comments:</p> <p>The City notes the matter, but has no further comment.</p> <hr/> <p>Council Controlled Organisations: Part 3, Division 4</p> <p>Position Statement The Local Government Act 1995 should be amended to enable Local Governments to establish Council Controlled Organisations (CCO) - also referred to as 'Local Government Enterprises' i.e WALGA's Systemic Sustainability Study 2008.</p> <p>Background The CCO model is available to Local Governments in New Zealand where they are used for a variety of purposes. The model allows one or more Local Governments to establish a wholly Local Government owned commercial organisation. The Association has developed the amendments required for the CCO model to be implemented in Western Australia.</p> <p>State Council Resolution October 2010 – 107.5/2010 October 2010 – 114.5/2010</p> <p>City of Canning Comments:</p> <p>This enables better suited business models to operate service provision to specific residents / customers i.e. retirement living. Establishes flexibility around pursuing commercial opportunities to diversify revenue and reduce the reliance on rates revenue.</p> <p>To be in conjunction with review of Section 6.21 Restrictions on borrowing, to include consideration of the land / asset used in the enterprise.</p> <p>Provision should be made to allow for the use of awards specific to the relevant industry rather than the enterprise agreements, for example, cafes and retail outlets.</p> <p>Better business model for operating retirement living. Greater transparency through financial reporting specifically on enterprises, as compared to being incorporated in all of City financial statements.</p>

Division	Local Government Professionals Comment : Issues
WALGA Proposal	Local Government (Functions and General) Regulations 1996
	<p>Tender Threshold: Regulation 11(1)</p> <p>Position Statement WALGA supports an increase in the tender threshold to align with the State Government tender threshold (\$250,000).</p> <p>Background The tender threshold should be increased to allow Local Governments responsiveness when procuring relatively low value good and services.</p> <p>State Council Resolution July 2015 – 74.4/2015 September 2014 – 88.4/2014</p> <p><u>City of Canning Comments:</u></p> <p>Agreed. Suggest wording does not actually reflect the dollar value, but rather references the 'State Supply Commission monetary threshold for public tenders' so if changed in future does not require a legislation change.</p> <p>Other items for consideration:</p> <ul style="list-style-type: none"> • 11(2) – should also include the SSC allowance for '...goods and/or services from a particular supplier that must be integrated within an existing contractual arrangement, project or ICT standard operating environment and an alternative product is not suitable'. • 19 – the 'particulars' should be defined as being the identity of the successful tenderer and the consideration accepted to provide better guidance as to requirements; • 20(3) – minor variation should be better defined along the lines of a percentage variation to the initial tendered cost, and '...does not significantly alter the term or scope of the works, having regard to the total....' <p>Additionally there should be consideration to a tiered system based on the size or financial capacity of the local government. For example:</p> <ul style="list-style-type: none"> • Bands 4-3 > \$150,000 • Bands 1-2 > \$250,000 <p><u>Dispositions of Property: Regulation 30(3)</u></p> <p>That Regulation 30(3) be amended to delete any financial threshold limitation (currently \$75,000) on a disposition where it is used exclusively to purchase other property in the course of acquiring goods and services, commonly applied to a trade-in activity.</p> <p><u>City of Canning Comments:</u></p> <p>Agreed.</p>

Division	Local Government Professionals Comment : Issues WALGA Proposal
Local Government (Regional Subsidiaries) Regulations 2017	Regional Subsidiaries
	<p>Position Statement</p> <p>That WALGA advocate for legislative and regulatory amendments to enable 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. <p>Background</p> <p>The Local Government Act 1995 was amended in late 2016 to enable Local Governments to establish regional subsidiaries, and this represents a significant advocacy achievement for the Local Government sector;</p> <p>The Local Government (Regional Subsidiaries) Regulations 2017, which were enacted in early 2017, contain significant restrictions that limit the flexibility and will reduce the benefits of the regional subsidiary model;</p> <p>In particular, the regulations prevent regional subsidiaries from borrowing from any organisation other than a constituent Local Government, entering into a land transaction, and commencing a trading undertaking; and,</p> <p>This item recommends legislative and/or regulatory amendments to remove these restrictions that unnecessarily prevent regional subsidiaries from becoming an effective and efficient collaborative service delivery mechanism.</p> <p>State Council Resolution March 2017 – 5/1/2017</p> <p><u>City of Canning Comments:</u></p> <p>The City agrees with WALGA's resolution.</p>

Division	Local Government Professionals Comment : Issues	WALGA Proposal
4. Elections & Other Polls	<p>1. Voting is restrained to Postal voting. It is worthwhile looking into online voting. The WAECC currently has a monopoly in this space and elections can be costly to local governments. Opening this up may increase participation.</p> <ul style="list-style-type: none"> ▪ Ordinary elections; ▪ Extraordinary elections; ▪ Eligibility for enrolment to vote; ▪ The conduct of elections; and ▪ Electoral offences. <p>2. Remove responsibility of the CEO to maintain the roll.</p>	<p>Conduct of Postal Elections: Sections 4.20 and 4.61</p> <p>Position Statement The Local Government Act 1995 should be amended to allow the Australian Electoral Commission (AEC) and Local Governments to conduct postal elections.</p> <p>Background Currently, the WAECC has a legislatively enshrined monopoly on the conduct of postal elections that has not been tested by the market.</p> <p>State Council Resolution March 2012 – 24.2.2012</p> <p>Voluntary Voting: Section 4.65</p> <p>Position Statement Voting in Local Government elections should remain voluntary.</p> <p>State Council Resolution 427.5/2008 – October 2008</p> <p>On-Line Voting</p> <p>WALGA has received requests from three (3) Zones to explore the possibility of introducing on-line voting in Local Government elections.</p> <p>A State Council Item for Noting was prepared in May 2017 advising that WALGA staff will liaise with the WAEC regarding the use of the iVote system and also seek feedback from the Local Government sector on online voting and other opportunities to increase voter turnout. The Minister for Local Government has indicated that online voting is likely to be considered in the context of increasing elector participation.</p>

City of Canning Comments:

The City has no opposition to allowing the AEC and local governments to conduct postal elections, but questions whether material savings would be achieved if the AEC or local governments did take up the opportunities.

The City agrees with the State Council Resolution that local government elections should remain voluntary.

The City notes that WALGA will liaise with WAECC regarding use of their Vote system. However, at this time it does not support a move to on-line voting. When the AEC or the WAECC has in place a proven, effective on-line voting system, then the City will consider supporting on-line voting.

It is not practical for anyone other than the local government to maintain an "Owners and Occupiers" roll, as the local governments' are able to carry out localised checks, which an Electoral Commission could not.

Division	Local Government Professionals Comment : Issues	WALGA Proposal
<p>5. Administration</p> <p>Cover numerous topics including:</p> <ul style="list-style-type: none"> ▪ Council meetings, committees and their meetings, and electors' meetings; ▪ Local government employees; ▪ Annual reports and planning; ▪ Disclosure of financial interests; ▪ Local government payments and gifts to its members; and ▪ Conduct of certain officials. 	<ol style="list-style-type: none"> 1. Annual Electors Meetings should be scrapped – they do not serve a purpose. Participation from community tends to be very low. Ordinary meeting of council would be sufficient. 2. Also consider scrapping the AGMs as their value is unclear. 3. Consider reviewing how Special Elector's meetings are convened – currently only 5% or 100 signatures of community members are required in order to convene a meeting. This is a low threshold that causes a great deal of burden to the council. Furthermore, the same issue can be raised on a number of occasions (eg. one Local Government had the same issue raised six times and they had to convene a meeting for each one). 4. Remove the designated senior employee – this is an operational/administrative issue that causes delays. CEO had recommended a person but it then has to be voted on by Council. Redundant process that does not add to the outcome. 5. Disclosing conflict of interests – there is education required around what a conflict of interest entails. There is a perceived bias around what is 'reasonable' and when a person needs to leave a room. 6. Streamline processes around how misconduct is dealt with. 7. Related party disclosures under the Accounting Standards and the duplication with the LGA 1995. 8. Gifts disclosure – more clarity around gifts is required. 9. Review 5.2 and 5.23 – this is too narrow. More exemptions are required. <p>City of Canning Comments:</p> <p>The City supports the State Council Resolution that Electors Meetings are not compulsory. Unlike the corporate sector, the current Act and practice provide for the active participation in Council meetings. The City is of the view that there are more meaningful ways to engage with the community.</p> <p>The City suggests that WALGA give consideration to ensuring the electors retain the right/ ability to bring motions to Council if Electors Meetings cease.</p> <p>The City supports the Local Government Amendment (Auditing) Bill that proposed Annual Reports being placed on official website within 10 days of being received. The City currently does this.</p> <p>Members of the public attending City of Canning Electors General Meeting are:</p> <ul style="list-style-type: none"> • 2016:16 • 2015:20 • 2014:7 • 2013:14 <p>Special Electors' Meeting: Section 5.28</p> <p>That Section 5.28(1)(a) be amended:</p> <ol style="list-style-type: none"> a) so that the prescribed number of electors required to request a meeting increase from 100 (or 5% of electors) to 500 (or 5% of electors), whichever is fewer; and b) to preclude the calling of Electors' Special Meeting on the same issue within a 12 month period, unless Council determines otherwise. c) <p>City of Canning Comments:</p> <p>The City supports WALGA's position, as it provides a position which is more appropriate.</p>	<p>Electors' General Meeting: Section 5.27</p> <p>Position Statement</p> <p>Section 5.27 of the <i>Local Government Act 1995</i> should be amended so that Electors' General Meetings are not compulsory.</p> <p>Background</p> <p>There is adequate provision in the Local Government Act for the public to participate in Local Government matters and access information by attending meetings, participating in public question time, lodging petitions, and requesting special electors' meetings.</p> <p>NOTE: The current <i>Local Government Amendment (Auditing) Bill</i> 2017 proposes that a Local Government's Annual Report is to be placed on its official website within 10 days of being received.</p> <p>State Council Resolution February 2011 – 09.1/2011</p>

Division	Local Government Professionals Comment : Issues
WALGA Proposal	
<p>Senior Employees: Section 5.37(2)</p> <p>That Section 5.37(2) be deleted to remove any inference or ambiguity as to the role of Council in the performance of the Chief Executive Officer's function under Section 5.41(g) regarding the appointment of other employees (with consequential amendment to Section 5.41(g) accordingly).</p> <p>City of Canning Comments:</p> <p>The City agrees that Section 5.37(2) should be deleted to remove any ambiguity and Section 5.41(g) amended accordingly.</p>	<p>Annual Review of Certain Employees Performance: Section 5.38</p> <p>Section 5.41(g) of the Act prescribes the function of responsibility for all employees, including management supervision, to the Chief Executive Officer. Section 5.38 therefore creates unnecessary ambiguity, unnecessary in terms of the certainty that Section 5.41(g) already provides. It is recommended that Section 5.38 either be deleted, or amended so that there is only a specific statutory requirement for Council to conduct the Chief Executive Officer's annual performance review.</p> <p>City of Canning Comments:</p> <p>The City supports removing the ambiguity, such that, there is only a specific statutory requirement for Council to conduct the CEO's annual performance review.</p> <p>Gifts and Contributions to Travel: Sections 5.82 and 5.83</p> <p>The current Gift Provisions in the Local Government Act are very confusing and overly prescriptive. The Department of Local Government and Communities have established a Gift Working Group to look at completely reviewing the gift provisions for changes following the March 2017 State Election. WALGA is a participant in this working group. WALGA representatives have been advocating for the following:</p> <ul style="list-style-type: none"> • That there be one section for declaring gifts. Delete declarations for Travel. <ul style="list-style-type: none"> • No requirement to declare gifts received in a genuinely personal capacity. • Gift provisions only for Elected Members and CEO's. Other staff fall under Codes of Conduct from the CEO to the staff. • Gifts only to be declared if above \$500.00. • There will not be any category of notifiable gifts or prohibited gifts. • Gifts only to be declared in respect to an Elected Member or CEO carrying out their role. • Exemptions for ALGA, WALGA and LG Professionals (already achieved). • Exemption for electoral gifts received that relate to the State and Commonwealth Electoral Acts. So Elected Members who are standing for State or Federal Parliament will only need to comply with the State or Federal electoral act and not declare it as a Local Government gift. <p>City of Canning Comments:</p> <p>The City fully supports the simplification of the Gifts and Contributions to Travel and agrees with the premise being advocated by WALGA.</p>

Division	Local Government Professionals Comment : Issues
WALGA Proposal	Vexatious and Frivolous Complainants: New Provision
	<p>It is recommended that a statutory provision be considered, permitting a Local Government to declare a person a vexatious or frivolous complainant. Section 5.110(3a) of the Act was recently introduced in relation to the Local Government Standards Panel ruling on vexatious and frivolous Rules of Conduct Regulations breach allegations:</p> <p><i>"...a standards panel can at any stage of its proceedings refuse to deal with a complaint if the standards panel is satisfied that the complaint is frivolous, trivial, vexatious, misconceived or without substance."</i></p> <p>Given the extensive cost and diversion of administrative resources currently associated with vexatious and frivolous complainants across the Local Government sector, it is recommended that a more general mechanism, based on the principles associated with the introduction of <u>Section 5.110(3A)</u>, be investigated.</p> <p>Amendments to the legislation would need to cover the following points to implement the proposed arrangements:</p> <ul style="list-style-type: none"> • Create a head of power to determine whether a community member is vexatious (potentially establish a new body through legislation and give it this power of determination); • Define vexatious behaviour broadly to include the extent and nature of communication between the alleged vexatious person and the Local Government (using words such as 'unreasonable', 'persistent', 'extensive', 'malicious' and 'abusive'); • Outline the restrictions to statutory rights which can be imposed on a person if he or she is declared by the independent body to be vexatious; • Establish a process, if necessary, to enable a Local Government to present its case for the alleged vexatious person to defend himself/herself; • Determine what appeal rights are necessary. <p>City of Canning Comments:</p> <p>The City supports the recommendation.</p> <p>Additionally, the City believes the regulations should also provide a method of dealing with/overcoming ongoing disruptive behaviour at Council meetings and briefing sessions.</p> <p>Local Government (Administration) Regulations 1996</p> <p>Revoking or Changing Decisions: Regulation 10</p> <p>Regulation 10 provides a mechanism for the revocation or change to a previous decision of Council. It does not however, contain any provision clarifying that the provisions do not apply to Council decisions that have already been implemented. This regulatory deficiency is currently managed administratively, but warrants an appropriate amendment to assist clarify the rights of a Councillor to seek a revocation or change.</p> <p>City of Canning Comments:</p> <p>The City supports the recommendation.</p> <p>City of Canning Standing Orders Part 13 – Revoking or Changing Decisions.</p>

Division	Local Government Professionals Comment : Issues	WALGA Proposal
		<p>Minutes, contents of: Regulation 11</p> <p>Regulation 11 contains a potential anomaly in that the content requirements relating to Minutes of a Council or Committee meeting do not make reference to the reports and information that formed the basis of the Agenda to that meeting. Despite it being a common practice that Agenda reports and information are included in most Minutes, this is not universally the case, and it is recommended that an amendment be considered as an aid to community understanding of the decision-making process of the Council.</p> <p>City of Canning Comments:</p> <p>The City supports this clarification that Minutes also comprise Agenda reports and information.</p> <p>Refer City of Canning website.</p> <p>Repayment of Advance Annual Payments: New Regulation</p> <p>The Local Government Legislation Amendment Act 2016 introduced Section 5.102AB, which provides that Regulations may be made relating to the recovery of advance payments of annual allowances or annual fees made to a person who subsequently ceases to hold office during the period to which the payment relates:</p> <p>5.102AB Repayment of advance annual payments if recipient ceases to hold office</p> <p>(2) <i>Regulations may be made —</i></p> <p class="list-item-l1">a) <i>requiring the repayment to a local government, to the extent determined in accordance with the regulations, of an advance payment of an annual allowance or annual fee in the circumstances to which this section applies; and</i></p> <p class="list-item-l1">b) <i>providing for a local government to recover any amount repayable if it is not repaid.</i></p> <p>Regulations enabling the recovery of advance annual payments have yet to be made and it is recommended this matter be prioritised.</p> <p>City of Canning Comments:</p> <p>The City supports a regulation which provides for repayment of annual allowances or less when a person ceases to hold office during the payment period.</p> <p>Local Government (Rules of Conduct) Regulations 2007</p> <p>Position Statement WALGA supports:</p> <ol style="list-style-type: none"> 1. Official Conduct legislation to govern the behaviour of Elected Members; 2. An efficient and effective independent Standards Panel process; 3. An ability for the Standards Panel to dismiss vexatious and frivolous complaints; and, 4. Confidentiality for all parties being a key component of the entire process. <p><i>NOTE: Point 3 achieved under the Local Government Legislation Amendment Act 2016</i></p> <p>State Council Resolution March 2016 – 10/1/2016 July 2012 – 55.3/2012 December 2008 – 454.6/2008</p> <p>City of Canning Comments:</p> <p>The City supports the State Council Resolutions.</p>

Division	Local Government Professionals Comment : Issues	WALGA Proposal
6. Financial Management	<p>1. Statutory fees do not reflect the true cost of delivery of services.</p> <p>2. There are processes around borrowing of money that are redundant and cause undue delays.</p> <p>3. The restriction to borrow is not asset based – cannot use freehold land as security (only rates revenue)</p> <p>4. Rate exemptions – for example, charitable exemptions and its impacts on revenue and fairness.</p> <p>5. Management of rate notices – these need to be posted, and there is no flexibility around how it is issued. Local Governments require more flexibility to make arrangements.</p> <p>6. More opportunity to diversify and expand investment options is required.</p> <p>7. Consider the procurement tender limits – assess for scalability or alternatively align with the State Government Procurement thresholds.</p> <p>8. Revaluation of land – there can be delays to the valuations which then causes problems when disclosing values in budgets.</p> <p>9. Reviewing differential rates and consider whether fees and charges should have to be advertised.</p>	<p>Imposition of Fees and Charges: Section 6.16</p> <p>Position Statement That a review be undertaken to remove fees and charges from legislation and Councils be empowered to set fees and charges for Local Government services.</p> <p>Background Local Governments are able to impose fees and charges on users of specific, often incidental, services. Examples include dog registration fees, fees for building approvals and swimming pool entrance fees.</p> <p>In some cases, Local Governments will recoup the entire cost of providing a service. In other cases, user charges may be set below cost recovery to encourage a particular activity with identified community benefit, such as sporting ground user fees or swimming pool entry fees.</p> <p>Currently, fees and charges are determined according to three methods:</p> <ul style="list-style-type: none"> • By legislation • With an upper limit set by legislation • By the Local Government. <p>Fees determined by State Government legislation are of particular concern to Local Governments and represent significant revenue leakage because of:</p> <ul style="list-style-type: none"> • Lack of indexation • Lack of regular review (fees may remain at the same nominal levels for decades) • Lack of transparent methodology in setting the fees (fees do not appear to be set with regard to appropriate costs recovery levels). <p>Examples of fees and charges of this nature include dog registrations fees, town planning fees and building permits. Since Local Governments do not have direct control over the determination of fees set by legislation, this revenue leakage is recovered from rate revenue. This means all ratepayers end up subsidising the activities of some ratepayers.</p> <p>When fees and charges are restricted by legislation, rather than being set at cost recovery levels, this sends inappropriate signals to users of Local Government services, particularly when the consumption of those services is discretionary. When legislative limits allow consumers to pay below 'true cost' levels for a discretionary service, this will lead to overprovision and a misallocation of resources.</p> <p>Under the principle of 'general competence' there is no reason why Local Governments should not be empowered to make decisions regarding the setting of fees and charges for specific services.</p> <p>Additionally, it is recommended that Section 6.16 be amended so that it only relates to statutory application fees and charges and not consumer items, facility entrance fees, ad hoc minor fees and charges etc. The exhaustive listing of relatively minor fee and charge items, together with the technical requirement to give public notice of any change after the adoption of the annual budget, is both inefficient and costly.</p> <p>City of Canning Comments:</p> <p>Statutory fees do not always reflect the true cost of delivery of services.</p> <p>There may be instances when minor fees and charges need to be changed, due to changing circumstances throughout the year. The current process is administratively cumbersome and should be simplified.</p>

Division	Local Government Professionals Comment : Issues
WALGA Proposal	
<p><u>Power to Borrow: Section 6.20</u></p> <p>Section 6.20(2) requires, where a power to borrow is proposed to be exercised and details of the proposal are not included in the annual budget, that the Local Government must give one month's public notice of the proposal (unless an exemption applies). There is no associated requirement to request or consider written submission prior to exercising the power to borrow, as is usually associated with giving public notice. Section 6.20(2) simply stops the exercise of power to borrow for one month, and it is recommended it be deleted.</p> <p><u>City of Canning Comments:</u></p> <p>The processes around borrowing of money outside of the adopted budget are redundant and cause undue delays. The City supports this being deleted.</p>	<p><u>Restrictions on Borrowings: Section 6.21</u></p> <p>Position Statement Section 6.21 of the Local Government Act 1995 should be amended to allow Local Governments to use freehold land, in addition to its general fund, as security when borrowing.</p> <p>Background Borrowing restrictions in the Local Government Act 1995 act as a disincentive for investment in community infrastructure. Section 6.21(2) states that a Local Government can only use its 'general funds' as security for borrowings to upgrade community infrastructure, and is restricted from using its assets to secure its borrowings. This provision severely restricts the borrowing capacity of Local Governments and reduces the scale of borrowing that can be undertaken to the detriment of the community.</p> <p>This is particularly relevant since the Global Financial Crisis. Treasury now requires member Local Governments to show as contingent liabilities in their balance sheet their proportion of contingent liabilities of the Regional Local Government of which they are a member. Given that the cost of provision of an Alternative Waste Disposal System is anything up to \$100 million, the share of contingent liabilities for any Local Government is significant. Even under a 'Build-Own-Operate' financing method, the unpaid (future) payments to a contractor must be recognised in the balance sheet of the Regional Local Government as a contingent liability.</p> <p>This alone is likely to prevent some Local Governments from borrowing funds to finance its own work as the value of contingent liabilities are taken into account by Treasury for borrowing purposes.</p> <p>State Council Resolution January 2012 – 8.1/2012</p> <p><u>City of Canning Comments:</u></p> <p>The restriction to borrow is not asset based – cannot use freehold land as security (only rates revenue). Further, this does not support operating other business enterprises which would borrow against the assets used.</p>

Division	Local Government Professionals Comment : Issues	WALGA Proposal
	<p>Rating Exemptions – Charitable Purposes: Section 6.26(2)(g)</p> <p>Position Statement WALGA's policy position regarding charitable purposes is as follows:</p> <ol style="list-style-type: none"> 1. Amend the Local Government Act to clarify that Independent Living Units should only be exempt from rates where they qualify under the <i>Commonwealth Aged Care Act 1997</i>, 2. Either <ol style="list-style-type: none"> a) amend the charitable organisations section of the <i>Local Government Act 1995</i> to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or b) establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of Local Government rates. <p>Background Exemptions under this section of the Act have extended beyond the original intention and now provide rating exemptions for non-charitable purposes, which increase the rate burden to other ratepayers. There may be an argument for exemptions to be granted by State or Federal legislation. Examples include exemptions granted by the <i>Commonwealth Aged Care Act 1997</i> and group housing for the physically and intellectually disabled which is supported under a government scheme such as a Commonwealth-State Housing Agreement or Commonwealth-State Disability Agreement.</p> <p>State Council Resolution December 2015 – 118.7/2015 January 2012 – 5.1/2012</p> <p><u>City of Canning Comments:</u></p> <p>Welfare is a Commonwealth-State responsibility. Charitable rating exemptions impact upon local government revenues as well as community fairness. Everyone uses assets of a local government and accesses the services they provide. State government housing authorities have traditionally paid rates. Their transition to not for profits with charitable status in turn ceases rate revenues to local governments, without any corresponding reduction in the level of services that are being provided to the community. A growing and aging Australian population will likely increase the number of charitable rating exemptions.</p> <p>Seniors, pensioners or charitable organisations are not exempt from the State's Fire and Emergency Services Levy.</p> <p>The City of Canning's charitable exemptions are estimated to be \$690,000 in 2017-2018.</p>	

Division	Local Government Professionals Comment : Issues <u>WALGA Proposal</u>
	<p><u>Basis of Rates: Section 6.28</u></p> <p>1. That Section 6.28 be reviewed to examine the limitations of the current methods of valuation of land, Gross Rental Value or Unimproved Value, and explore other alternatives.</p> <p>The method of valuation of land to be used as the basis of rating in Western Australia is either: Gross Rental Value for predominantly non-rural purpose; or unimproved value of land for rural purposes. These are the only two methods available under the Section 6.28 of the Local Government Act in Western Australia.</p> <p>Eastern States Local Governments can elect to rate on one of the following options:</p> <ul style="list-style-type: none"> • Site Value - levy on the unimproved value of land only and disregards the value of buildings, personal property and other improvements; • Capital Value - value of the land including improvements; • Annual Value - rental value of a property (same as GRV). <p>Alternative land valuation methods came under the scope of the WALGA Systemic Sustainability Study, particularly Capital Improved Valuations which is in operation in Victoria and South Australia.</p> <p>2. Advocate for amendment to Section 6.28 to enable Differential Rating based on the time land remains undeveloped.</p> <p>Concern at the amount of vacant land remaining in an undeveloped state for an extensive period of time and holding up development opportunities.</p> <p>North Metropolitan Zone advocates an amendment to the current legislative provisions in relation to differential rating to enable a differential rate to be applied on the basis of the length of time a property has remained in an undeveloped state.</p> <p><u>City of Canning Comments:</u></p> <p>Supported. Alternative options as a base for rate setting enables greater flexibility and equitable application of rating across varying land uses and property types.</p> <p>Revaluation of land – there can be delays to the valuations which then causes problems when disclosing values in budgets.</p> <p><u>Differential General Rates: Section 6.33</u></p> <p>This section outlines the characteristics that Local Governments may take into account when imposing differential general rates. It is recommended the issue of time-based differential rating should be examined, to address some Local Governments view that vacant land should be developed in a timely manner.</p> <p><u>City of Canning Comments:</u></p> <p>supported.</p>

Division	Local Government Professionals Comment : Issues
WALGA Proposal	
<p><u>Service of Rates Notice: Section 6.41</u></p> <p>That Section 6.41 be amended to:</p> <ul style="list-style-type: none"> a) permit the rates notice to be issued to electronically and introduce flexibility to offer regular rate payments (i.e. fortnightly, monthly etc) without requirement to issue individual instalment notice. <p><u>City of Canning Comments:</u></p> <p>Rates notices may already be issued electronically.</p> <p>Greater flexibility towards rate payments by instalments is supported. Although alternative arrangements are already available to ratepayers.</p> <p>The Water Corporation has introduced more frequent payment structures (bi-monthly).</p>	<p><u>Rates or Service Charges Recoverable in Court: Section 6.56</u></p> <p>That Section 6.56 be amended to clarify that all debt recovery action costs incurred by a Local Government in pursuing recovery of unpaid rates and services charges be recoverable and not be limited by reference to the 'cost of proceedings'.</p> <p><u>City of Canning Comments:</u></p> <p>Supported. Significant legal expenses may be incurred by local governments pursuing the recovery of overdue rates payments.</p> <p><u>Rating Exemptions – Rate Equivalence Payments</u></p> <p>Position Statement Legislation should be amended so rate equivalence payments made by LandCorp and other Government Trading Entities are made to the relevant Local Governments instead of the State Government.</p> <p>Background A particular example is the exemption granted to LandCorp by the Land Authority Act 1992. In 1998, the Act was amended to include provisions for LandCorp to pay the Treasurer an amount equal to that which would have otherwise been payable in Local Government rates, based on the principle of 'competitive neutrality'.</p> <p>This matter is of concern to Local Governments with significant LandCorp holdings in their district. The shortfall in rates is effectively paid by other ratepayers, which means ratepayers have to pay increased rates because LandCorp has a presence in the district.</p> <p>State Council Resolution January 2012 – 6.1/2012</p> <p><u>City of Canning Comments:</u></p> <p>The City supports government trading entities paying rates to the respective local governments and not to the State Government.</p>

Division	Local Government Professionals Comment : Issues
WALGA Proposal	Rating Restrictions – State Agreement Acts
	<p>Position Statement Resource projects covered by State Agreement Acts should be liable for Local Government rates.</p> <p>Background In 2011, the State Government introduced a new policy on ‘the application of Gross Rental Valuation to mining, petroleum and resource interests’ (the GRV mining policy). The Policy was extended in 2015 and remains in place. The primary objectives of the policy were to clarify the circumstances where Local Governments could apply GRV rating to mining land and enable the use of GRV rating on new (i.e., initiated after June 2012) mining, petroleum and resource interests. This included the application of GRV rating to new State Agreement Acts.</p> <p>However, existing State Agreement Acts continue to restrict Local Government rating. Rating exemptions on State Agreement Acts mean that Local Governments are denied an efficient source of revenue. There are also equity issues associated with the existing exemptions since they only apply to a select group of mining companies whose projects are subject to older State Agreement Acts. Removing the rates exemption clauses from the pre-July 2012 State Agreement Acts would provide a fairer outcome for all other ratepayers, including the proponents of new resources projects.</p> <p>State Council Resolution September 2014 – 89.4/2014 March 2014 – 10.1/2014 October 2011 – 116.5/2011</p> <p>City of Canning Comments:</p> <p>No comment.</p> <p>Local Government (Financial Management) Regulations 1996</p> <p>Exemption from AASB 124: Regulation 4</p> <p>Regulation 4 of the Financial Management Regulations provides a mechanism for an exemption from the Australian Accounting Standards (AAS). Regulation 16 is an example of the use of this mechanism, relieving Local Governments from the requirement to value land under roads.</p> <p>A Zone has requested that an exemption be allowed from the implementation of AASB 124 ‘Related Party Transactions’ due to the current provisions in the Act on declarations of interest at meetings and in Primary and Annual returns. This is regarded as providing appropriate material declaration and disclosure of interests associated with function of Local Government.</p> <p>City of Canning Comments:</p> <p>The City agrees that the disclosure requirements in the Primary and Annual Returns provide appropriate material declaration. The City supports the request for exemption from the implementation of AASB 124 on this basis, which was not formed to apply to local governments.</p>

Division	Local Government Professionals Comment : Issues	WALGA Proposal
7. Audit Establishes the financial auditing framework that is applied to local governments. Note: The Local Government Audit Bill 2017 recently passed through the Legislative Assembly.	<p>1. Changes to auditing requirements imposes a cost burden on the smaller Local Governments. Previously, the Local Governments could seek an auditor who would also provide training/education/advice on broader matters. Under the new arrangements there will be limitations around who a local government can use, which might increase costs.</p>	<p>The Local Government Amendment (Auditing) Bill 2017, before Parliament at the time of writing, will substantially replace much of Part 7 to provide for the auditing of Local Governments by the Auditor General. New legislation will allow the Auditor General to contract out some or all of the financial audits but all audits will be done under the supervision of the Auditor General and Office of the Auditor General. State Government will pay the cost for the conduct of performance audits.</p>

City of Canning Comments

Further regulatory process around the auditing of local government is likely to increase costs but achieve greater consistency in audit approach and allow for general improvements across the sector as specific areas of focus may be undertaken across all local governments.

Division	Local Government Professionals Comment : Issues	WALGA Proposal
8. Security of Local Government Affairs	<p>1. Stand down provisions for individual councillors required.</p> <p>Although individual elected member conduct is regulated by Part 5, this Part concerns the local government as a whole. It enables the Minister or Department to investigate local governments through an Inquiry, and subsequently deal with issues discovered through an Inquiry.</p>	<p>Stand Down Provision: New Proposal</p> <p>Position Statement</p> <p>WALGA supports, in principle, a proposal for an individual elected member to be 'stood down' from their role when they are under investigation; have been charged; or when their continued presence prevents Council from properly discharging its functions or affects the Council's reputation, subject to further policy development work being undertaken.</p> <p>Further policy development of the Stand Down Provisions must involve specific consideration of the following issues of concern to the Sector:</p> <ol style="list-style-type: none"> 1. That ... the established principles of natural justice and procedural fairness are embodied in all aspects of the proposed Stand Down Provisions; and 2. That activities associated with the term 'disruptive behaviour', presented as reason to stand down a defined Elected Member on the basis their continued presence may make a Council unworkable, are thoroughly examined and clearly identified to ensure there is awareness, consistency and opportunity for avoidance. <p>Background</p> <p>In 2008 a Discussion Paper was circulated seeking feedback regarding legislative amendments to suspend an individual Elected Member, as follows:</p> <ul style="list-style-type: none"> • An elected member to have the ability to stand down where they are being investigated or have been charged; • An elected member to be forcibly stood down where they are being investigated or have been charged and whose continued presence prevents Council from properly discharging its functions and affects its reputation and integrity or where it is in the public interest; • The Standards Panel to make the stand down decision; • Such matters to be referred to the Standards Panel only by a Council (absolute majority), a statutory agency or the Department; • Three to six months stand down periods with six month extensions; • The elected member to remain entitled to meeting fees, and allowances; and • Inclusion of an offence for providing false information leading to a stand down. <p>State Council Resolution August 2008 – 400.4/2008</p>

City of Canning Comments

The City accepts, in principle, that there is a need for the provision of a facility to enable an Elected Member to be stood down. However, prior to fully supporting such a change, the City would need to consider the drafted legislative amendments. As a minimum, the City's view is that any such amendments must:

- a) **That the established principles of natural justice and procedural fairness are embodied in all aspects of the proposed Stand Down Provisions; and that activities associated with the term 'disruptive behaviour', presented as reason to stand down a defined Elected Member on the basis their continued presence may make a Council unworkable, are thoroughly examined and clearly identified to ensure there is awareness, consistency and opportunity for avoidance.**

Further, the City supports the view, that only the Standards Panel can make the stand down decision.

- b) **The Elected Member to remain entitled to meeting fees and allowances.**
- c) **Such matters to be referred to the Standards Panel only by a Council (absolute majority), a statutory agency or the Department.**
- d) **Three to six months stand down periods with six month extensions.**

Division	Local Government Professionals Comment : Issues	WALGA Proposal
9. Miscellaneous Provisions <p>Miscellaneous provisions include:</p> <ul style="list-style-type: none"> ▪ Objections and review ▪ Enforcement and legal proceedings (including infringement notices) ▪ Documents ▪ Protections from liability ▪ Associations of local government ▪ Regulations, directions and orders 	<p>1. Poll provisions – all Local Government need to have the same opportunity to poll in the event of a boundary amendment which subsumes the entire district.</p> <p>Onus of Proof in Vehicle Offences may be Shifted: Section 9.13(6)</p> <p>Amend Section 9.13 by introducing the definition of ‘responsible person’ and enable Local Governments to administer and apply effective provisions associated with vehicle related offences.</p> <p>Background: This proposal from the North Metropolitan Zone emerged due to an increase in cases when progressing the prosecution of vehicle related offences in court (at the request of the vehicle owner) resulted in dismissal of charges by the Magistrate when the owner of the vehicle states that he does not recall who was driving his vehicle at the time of the offence.</p> <p>The <i>Litter Act 1979</i> was amended in 2012 to introduce the definition of ‘responsible person’ (as defined in <i>Road Traffic Act 1974</i>) so that a ‘responsible person’ is taken to have committed an offence where it cannot be established who the driver of the vehicle was at the time of the alleged offence. This also removes the ability for the responsible person to be absolved of any responsibility for the offence if they fail to identify the driver. It is suggested that a similar amendment be made to Section 9.13 of the Act in order to ensure that there is consistent enforcement in regards to vehicle related offences.</p> <p><u>City of Canning Comments:</u></p> <p>The City fully supports this suggested amendment to reduce ambiguity relating to certain vehicle related offences.</p> <p>No recent specific examples, however this has historically proven to be an issue for the City.</p>	

Division	Local Government Professionals Comment : Issues	WALGA Proposal
Schedule 2.1		Poll Provisions: New Proposal
Schedule 2.1 Creating, Changing Boundaries and Abolishing Districts	<p>Position Statement Schedule 2.1 of the <i>Local Government Act 1995</i> should be amended so that the electors of a Local Government affected by any boundary change or amalgamation proposal are entitled to petition the Minister for a binding poll.</p> <p>State Council Resolution - December 2014 – 108.5/2014</p> <p><u>City of Canning Comments:</u></p> <p>The City supports the proposed amendment as it strengthens the individual rights of Electors.</p> <p><u>Number of Electors : Clause 2.1(1)(d)</u></p> <p>That Schedule 2.1 Clause 2(1)(d) be amended so that the prescribed number of electors required to put forward a proposal for change increase from 250 (or 4% of electors) to 500 (or 5% of electors) whichever is fewer.</p> <p><u>City of Canning Comments:</u></p> <p>The City supports the proposed amendment.</p>	

Division	Local Government Professionals Comment : Issues	WALGA Proposal
Schedule 2.2	Who may make Submission: Clause 3(1)	
Provisions about Names, Wards and Representation	<p>That Schedule 2.2 Clause 3(1) be amended so that the prescribed number of electors required to put forward a submission increase from 250 (or 5% of electors) to 500 (or 5% of electors) whichever is fewer.</p> <p><u>City of Canning Comments:</u></p> <p>The City supports the proposed amendment.</p>	

Division	Local Government Professionals Comment : Issues
WALGA Proposal	
Schedule 4.1 How to Count Votes and Ascertain Result of Election	<p>Method of Voting</p> <p>Position Statement</p> <p>Elections should be conducted utilising the first-past-the-post (FPTP) method of voting.</p> <p>Background - The FPTP method is simple, allows an expression of the electorate's wishes and does not encourage tickets and alliances to be formed to allocate preferences.</p> <p>State Council Resolution: 427.5/2008 – October 2008</p> <p>This State Council resolution influenced amendment to Schedule 4.1 in 2009 that returned Local Government elections to a first past the post system from the preferential proportional Representation. The resolution is reiterated here as an indication of the sector's ongoing preference for this vote counting system.</p> <p>City of Canning Comments:</p> <p>The City supports the State Council resolution that Local Government elections continue as a "first past the post" system.</p>
	<p>Number of Electors : Clause 2.1(1)(d)</p> <p>That Schedule 2.1 Clause 2(1)(d) be amended so that the prescribed number of electors required to put forward a proposal for change increase from 250 (or 4% of electors) to 500 (or 5% of electors) whichever is fewer.</p> <p>City of Canning Comments:</p> <p>The City supports the proposed amendment.</p>