

Ref: 1601-06
Enquiries: Dean Unsworth (08) 9531 7703

6 March 2018

Department of Local Government
Via email legislation@dlgsc.wa.gov.au

Dear Sir/Madam

Re: Local Government Act Review - Shire of Murray Submission

Dear Sir/Madam,

Thank you for the opportunity to provide a submission in regards to the Local Government Act review.

I can advise that the Murray Shire Council has considered this review and provides the following submission.

Section of the Act	Topic	Positon
1.7/1.8	Local and Statewide Public Notice	Supports being able to place notices on-line.
2.11	Method of Election of Mayor/President	Local Governments should determine the method in which to elect the Mayor/President.
New Proposal	Elected Member Training	Given the complexities of Planning, it is recommended that Elected Members undertake mandatory WALGA based training within three (3) months of taking office.
New Proposal	Stand Down when contesting State or Federal Election	An Elected Member should be able to attend the Council meetings but not vote. The reason behind this recommendation is that it is reasonable for that Councillor to keep up to date with issues, and it is unfair for anyone who isn't elected to fall behind on local issues.
3.51	Notification of Affected Owners	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: 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

Section of the Act	Topic	Position
		proposed road works require local public notice under Section 3.51 (3) (a).
3.53	Control of Certain Unvested Facilities	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.
Part 3, Division 4	Regional Local Governments	The compliance obligations of Regional Local Governments should be reviewed. Background Currently, Regional Local Governments are treated by the <i>Local Government Act 1995</i> for the purposes of compliance, as if they were a Local Government. 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.
Part 3, Division 4	Council Controlled Organisations	The <i>Local Government Act 1995</i> should be amended to enable Local Governments to establish Council Controlled Organisations
Functions and General Regulation 11	Tender Threshold	The tender threshold should be increased to \$250,000 in line with State Government requirements.
Functions and General Regulation 30 (3)	Disposition of Property	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.
Regional Subsidiaries Regulations	Regional Subsidiaries	Legislative and regulatory Amendments should be made to enable Regional Subsidiaries to: 1. Borrow in their own right; 2. Enter into land transactions; and, 3. Undertake commercial activities. This will allow local governments to become a much more efficient and effective service deliverer and foster cooperation between local governments.
4.20 and 4.61	Conduct of Postal Elections	Given the risks inherent, it is important for local governments to be 'arms-length' with the election process, and therefore only the WAEC should undertake the election process.
4.65	Voluntary Voting	Voting in local government elections should remain voluntary.

Section of the Act	Topic	Position
New Proposal	On-line voting	The State should adopt a wait-and-see approach to this opportunity.
5.27	Electors Meeting	It is supported that Electors Meetings be abolished. There is opportunities for residents to ask questions to Council on any matter at each Ordinary Council meeting.
5.28	Special Electors Meeting	That Section 5.28(1)(a) be amended: (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.
5.37(2)	Senior Employees	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).
5.38	Annual Review of Certain Employees Performance	Section 5.38 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.
5.82 and 5.83	Gifts & Contributions to Travel	<p>The current Gift Provisions in the Local Government Act are very confusing and overly prescriptive. The Shire of Murray supports:</p> <ul style="list-style-type: none"> • There be one section for declaring gifts. Delete declarations for Travel. • 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.

Section of the Act	Topic	Position
New Provision	Vexatious and Frivolous Complainants	Support an inclusion in the Act permitting a Local Government to declare a person a vexatious or frivolous complainant.
Administration Regulation 11	Minutes, contents of	Making it mandatory for a local government to include relevant attachments that are referred to within agenda reports is supported.
New Regulation	Repayment of Advance Annual Payments	There should be no advance annual payments made and therefore this is not supported.
Rules of Conduct	Rules of Conduct	The Shire of Murray supports: <ul 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.
6.16	Imposition of Fees & Charges	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.
6.20	Power to Borrow	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.
6.21	Restrictions on Borrowings	Section 6.21 of the <i>Local Government Act 1995</i> should be amended to allow Local Governments to use freehold land, in addition to its general fund, as security when borrowing.
6.26(2)(g)	Rating Exemptions	<ul 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 Commonwealth Aged Care Act 1997; 2. Either <ul style="list-style-type: none"> a) amend the charitable organisations section of the Local Government Act 1995 to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or www.walga.asn.au 21 b) establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes

Section of the Act	Topic	Positon
		charitable organisations remain exempt from payment of Local Government rates.
6.28	Basis of Rates	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.
6.33	Differential General Rates	A review on differential rates be supported as lengthy vacant land is costly to the local government.
6.41	Service of Rates Notice	That Section 6.41 be amended to: (a) permit the rates notice to be issued to electronically; and (b) introduce flexibility to offer regular rate payments (i.e. fortnightly, monthly etc) without requirement to issue individual instalment notice.
6.56	Rates or Service Charges Recoverable in Court	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'.
New provision	Rating Exemptions – Rate Equivalency Payments	Legislation should be amended so rate equivalency payments made by LandCorp and other Government Trading Entities are made to the relevant Local Governments instead of the State Government.
New provision	State Agreement Acts	Resource projects covered by State Agreement Acts should be liable for Local Government rates.
Financial Management Regulation 4	Exemption from AASB 124	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.
Part 8	Stand Down Provisions	This provision is supported including taking out the 'in principle' component.
Part 9 – Miscellaneous Provision 9.13(6)	Onus on Proof in Vehicle Offences may be Shifted	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.
Schedule 2.1	Creating, Changing Boundaries and Abolishing Districts	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.
Schedule 2.2 – Clause 3.1	Provisions about Names, Wards and Representation	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.

Section of the Act	Topic	Positon
Schedule 4.1	How to Count Votes and Ascertain Result of Election	Elections should be conducted utilising the first-past-the-post (FPTP) method of voting.

Thank you for the opportunity to provide input. We look forward to further consultation as the remainder of the Act is reviewed in due course.

Yours Faithfully



Dean Unsworth
Chief Executive Officer