

MINUTES OF SPECIAL COUNCIL MEETING

Held on

TUESDAY 6 OCTOBER 2020 at 5.30PM

Held at Council Chamber, 83 Mandurah Terrace Mandurah and via
eMeeting

PRESENT:

MAYOR	R WILLIAMS		
COUNCILLOR	C KNIGHT [DEPUTY MAYOR]	NORTH WARD	
COUNCILLOR	P JACKSON	NORTH WARD	
COUNCILLOR	A ZILANI	NORTH WARD	
COUNCILLOR	L RODGERS	EAST WARD	
COUNCILLOR	D PEMBER	EAST WARD	
COUNCILLOR	M DARCY	COASTAL WARD	
COUNCILLOR	J GREEN	COASTAL WARD	
COUNCILLOR	C DI PRINZIO	COASTAL WARD	(Electronic)
COUNCILLOR	D SCHUMACHER	TOWN WARD	(Electronic)
COUNCILLOR	P ROGERS	TOWN WARD	5.42pm
COUNCILLOR	M ROGERS	TOWN WARD	(Electronic)

MR	M NEWMAN	CHIEF EXECUTIVE OFFICER
MR	M HALL	ACTING DIRECTOR BUILT AND NATURAL ENVIRONMENT
MR	G DAVIES	DIRECTOR STRATEGY AND ECONOMIC DEVELOPMENT
MRS	T JONES	ACTING DIRECTOR BUSINESS SERVICES
MS	J THOMAS	DIRECTOR PLACE AND COMMUNITY
MS	L CLARK	ACTING MINUTE OFFICER

OPENING OF MEETING [AGENDA ITEM 1]

Prior to commencement of this electronic meeting Committee Member and other attendee connections by electronic means were tested and confirmed.

The Mayor declared the meeting open at 5.38pm.

ACKNOWLEDGEMENT OF COUNTRY [AGENDA ITEM 2]

Mayor Williams acknowledged that the meeting was being held on the traditional land of the Bindjareb people, and paid his respect to their Elders past and present.

APOLOGIES [AGENDA ITEM 3]

Leave of Absence
Nil.

Apologies
Nil.

Absent
Councillor Darren Lee

DISCLAIMER [AGENDA ITEM 4]

The Mayor advised that the purpose of this Special Council Meeting is to discuss and, where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting. Persons should be aware that the provisions of the Local Government Act 1995 (Section 5.25(e)) and the City of Mandurah Standing Orders 2016 (Section 13.1(1)) establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person.

The City of Mandurah expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

PUBLIC QUESTION TIME [AGENDA ITEM 5]

Nil.

ANNOUNCEMENTS [AGENDA ITEM 6]

SP.1/10/20 STANDING ORDERS LOCAL LAW 2016

The Mayor advised the meeting that the *City of Mandurah Standing Orders Local Law 2016* will be modified to ensure Council Members and the public can participate in and follow the meeting as it progresses.

MOTION

Moved: Mayor R Williams
Seconded: Councillor D Pember

That Council:

1. Suspend the operation of the following provisions of the *City of Mandurah Standing Orders Local Law 2016* for the duration of this electronic meeting to ensure Council Members and the public can follow and participate in the meeting as it progresses:
 - 1.1. Standing Orders 3.3 Public Question Time and 3.4 Public Statement Time pertaining to public participation in meetings continues via electronic means only with public submissions received to be read aloud by the Presiding Member at the relevant agenda item.
 - 1.2. Standing Order 7.2 Members to occupy own seats whilst present in meeting room. Relevant only for Elected Members attending the Council Chambers.
 - 1.3. Agree under Standing Orders 8.1(1) and 12.2, that instead of requiring a show of hands, a vote will be conducted by exception with the Presiding Member calling for those Members against each motion. If no response is received the motion will be declared carried and minuted accordingly.
 - 1.4. Reiterate the requirement as per Standing Order 7.3 for Members to advise the Presiding Member when leaving or entering the meeting at any time.

CARRIED 11/0

DEPUTATIONS [AGENDA ITEM 7]

Nil.

DECLARATION OF INTERESTS [AGENDA ITEM 8]

Nil.

QUESTIONS FROM ELECTED MEMBERS [AGENDA ITEM 9]

Questions of which due notice has been given

Nil.

Questions of which notice has not been given

Nil.

At 5.41pm Mayor Williams checked with each attendee and confirmed that all attendees remained connected and in attendance at the electronic meeting.

REPORTS [AGENDA ITEM 10]

SP.2/10/20 **RESTART MANDURAH NOW – INDUSTRY AND BUSINESS INCENTIVE SCHEME**

Summary

Despite the obvious impacts of COVID-19 and the challenges that the Mandurah community has faced in recent months, the visual commencement of Transform Mandurah's first projects is generating increasing interest that can be capitalised to entice private investment.

This is a unique opportunity to proactively promote investment opportunities that build a better Mandurah. On 12 May 2020, Council endorsed the City's multi-faceted response to the pandemic, Restart Mandurah. This initiative focuses on prioritising funds and projects that deliver on the City's Economic and Social outcomes. One of the key initiatives is the \$5 million Restart Mandurah Fund.

This report proposes the introduction of a new industry and business incentive scheme to be funded predominantly from the Restart Mandurah Fund. The grant program outlines the objectives, criteria and approval process to appropriately distribute City funds to the private sector for Council consideration.

The proposed 'Restart Mandurah Now - Industry and Business Incentive Scheme' includes 3 streams:

- 1 Ready Now – Business Capability Fund
- 2 Grow Now & Invest Now – Investment Attraction Program
- 3 Activate Now – City Centre Business Incentive Program

For the purpose of alignment and efficiency, a City Centre Business Incentive Program is included in the scheme to replace the current business-led partnership projects initiative.

The program and criteria are based on a review of national local government business and industry grant programs that align to the requirements for Council to establish a comprehensive Grants and Funding Policy as guided by the Department Local Government, Sporting and Cultural Industries (DLGSC).

The program outcomes and objectives are directly linked to the Mandurah Matters Strategic Community Plan 2020-2040 and the current City Centre Framework.

Council is now requested to adopt the 'Restart Mandurah Now - Industry and Business Incentive Scheme' including the objectives, criteria, funding parameters, approval process and general grant conditions (*refer Attachment 1.1*), noting that the amended Grants and Funding Policy will be presented to Council on 27 October 2020 for adoption. Council is also asked to approve the budget allocations to deliver the program and note the assessment process being implemented to administer the scheme as outlined in this report.

Officer Recommendation

That Council

1. Approve the Restart Mandurah Now - Industry and Business Incentive Scheme as set out in *Attachment 1.1*;
2. Approve an increase in operating expenditure of \$100,000* for the 2020/21 and 2021/2022 Financial Years for the Ready Now - Business Capability Grants stream of the Restart Mandurah Now - Industry and Business Incentive Scheme
 - To be funded from a decrease in capital expenditure project Restart Mandurah – Other. Which is the balance of the funds available for the Restart Mandurah Program.
3. Approve an increase in operating expenditure of \$250,000* for the 2020/21 and 2021/2022 Financial Years for the Grow Now - Investment Attraction Fund stream of the Restart Mandurah Now - Industry and Business Incentive Scheme
 - To be funded from a decrease in capital expenditure project Restart Mandurah – Other. Which is the balance of the funds available for the Restart Mandurah Program.
4. Note that the allocation of \$150,000 per annum for the 2020/21 and 2021/2022 Financial Years to support the Activate Now - City Centre Business Incentive Program stream of the Restart Mandurah Now - Industry and Business Incentive Scheme will be funded from the existing City Centre operating budget;
5. Note that all applications received through the Ready Now - Business Capability Grants, Grow Now – Investment Attraction Program and the Activate Now - City Centre Business Incentive Program of the Restart Mandurah Now Industry and Business Incentive Scheme will be assessed by the City’s Grants Assessment Panel;
6. Note that all applications received through the Invest Now – Expression Fund of the Restart Mandurah Now Industry and Business Incentive Scheme will be referred to Council for consideration;
7. Note that the new Restart Mandurah Now Industry and Business Incentive Scheme program will be launched on Friday 9 October 2020; and
8. Note that a review of the Restart Mandurah Now Industry and Business Incentive Scheme for the 2020/21 Financial Year will be presented to Council in July 2021.

ABSOLUTE MAJORITY REQUIRED

At 5.42pm Councillor Peter Rogers arrived for the meeting.

Council Resolution

MOTION

Moved: Councillor C Knight
Seconded: Councillor D Pember

That Council

1. Approve the Restart Mandurah Now - Industry and Business Incentive Scheme as set out in *Attachment 1.1*;
2. Approve an increase in operating expenditure of \$100,000* for the 2020/21 and 2021/2022 Financial Years for the Ready Now - Business Capability Grants stream of the Restart Mandurah Now - Industry and Business Incentive Scheme
 - To be funded from a decrease in capital expenditure project Restart Mandurah – Other. Which is the balance of the funds available for the Restart Mandurah Program.
3. Approve an increase in operating expenditure of \$250,000* for the 2020/21 and 2021/2022 Financial Years for the Grow Now - Investment Attraction Fund stream of the Restart Mandurah Now - Industry and Business Incentive Scheme
 - To be funded from a decrease in capital expenditure project Restart Mandurah – Other. Which is the balance of the funds available for the Restart Mandurah Program.
4. Note that the allocation of \$150,000 per annum for the 2020/21 and 2021/2022 Financial Years to support the Activate Now - City Centre Business Incentive Program stream of the Restart Mandurah Now - Industry and Business Incentive Scheme will be funded from the existing City Centre operating budget;
5. Note that all applications received through the Ready Now - Business Capability Grants, Grow Now – Investment Attraction Program and the Activate Now - City Centre Business Incentive Program of the Restart Mandurah Now Industry and Business Incentive Scheme will be assessed by the City's Grants Assessment Panel;
6. Note that all applications received through the Invest Now – Expression Fund of the Restart Mandurah Now Industry and Business Incentive Scheme will be referred to Council for consideration;
7. Note that the new Restart Mandurah Now Industry and Business Incentive Scheme program will be launched on Friday 9 October 2020; and
8. Note that a review of the Restart Mandurah Now Industry and Business Incentive Scheme for the 2020/21 Financial Year will be presented to Council in July 2021.

ABSOLUTE MAJORITY REQUIRED

CARRIED 12/0

Cr Peter Rogers declared an impartially interest in relation to Report 2: Response to Local Government Review Panel Final Report, Attachment 2.2, Recommendations 59 and 60 as Councillor Rogers is a member of the Local Government Standards Panel. Councillor Rogers indicated that he would choose to leave the chamber when those recommendations in attachment 2.2 were discussed.

SP.3/10/20 RESPONSE TO THE LOCAL GOVERNMENT REVIEW PANEL FINAL REPORT

Summary

In 2017, the State Government announced a review of the *Local Government Act 1995* (Act). As part of this review a Local Government Review Panel (Panel) was established to consider and recommend high-level direction and guiding principles for the new Act. On 5 August 2020, the Local Government Review Panel's Final Report was published and is available at https://www.dlgsc.wa.gov.au/docs/default-source/local-government/local-government-review-panel-final-report.pdf?sfvrsn=acefce14_1. The Panel's Report contains 65 recommendations, however, this does not represent Government policy and the Minister for Local Government, Heritage, Culture and the Arts has stated that the report will be considered as part of the Act review process.

The Department of Local Government, Sport and Cultural Industries (DLGSC) has advised that it is not seeking feedback from the sector on these recommendations, however, the Western Australian Local Government Association (WALGA) has prepared a position paper on the recommendations outlining support, opposition, conditional support or requesting further consultation (refer **Attachment 2.1**).

At the WALGA State Council Meeting on 2 September 2020, WALGA resolved to seek the State Government's commitment to further consultation on the Panel report's recommendations and strongly encouraged individual Local Governments to respond to the recommendations in the Panel's report.

Following consultation with the Elected Members, Council is now requested to support the City of Mandurah (City) submission on the Local Government Review Panel Final Report (**Attachment 2.2**).

Officer Recommendation

That Council:

1. Approve the City of Mandurah's submission to the Local Government Review Panel Final Report as identified in *Attachment 2.2*.
2. Provide the submission to the Minister for Local Government, WALGA and the Department of Local Government, Sport and Cultural Industries for consideration as part of the Local Government Act Review.

MOTION

Mayor Williams moved a motion to consider Recommendation 59 & 60 of Attachment 2.2 separately to enable Councillor Peter Rogers to participate in the remainder of the report item debate.

Moved: Mayor Williams
Seconded: Councillor C Knight

That Council consider Recommendation 59 & 60 of Attachment 2.2 separately.

CARRIED 12/0

Having declared an impartiality interest in Report 2: Response to the Local Government Review Panel Final Report, Attachment 2.2, Recommendations 59 & 60, Councillor P Rogers vacated the chambers at 5.54pm.

Amended Council Resolution

SP.4/10/20 CONSIDERATION OF REPORT 2: RESPONSE TO THE LOCAL GOVERNMENT REVIEW PANEL FINAL REPORT, ATTACHMENT 2.2, RECOMMENDATION 59 & 60

MOTION

Moved: Mayor R Williams
Seconded: Councillor D Pember

That Council support the City of Mandurah position on recommendation 59 & 60 of the Local Government Review Panel final report.

CARRIED 11/0

5.56pm Councillor Peter Rogers returned to the chamber.

SP.5/10/20 SUSPENSION OF STANDING ORDERS

Mayor Williams moved that Standing Order 8.5 and 8.6 relating to the placing of limitations on the number of times and duration of speeches placed on Elected Members be suspended to allow for discussion.

MOTION:

Moved: Mayor R Williams
Seconded: Councillor C Knight

That Standing Orders 8.5 and 8.6 be suspended to allow for discussion.

CARRIED: 12/0

SP.6/10/20 RESUMPTION OF STANDING ORDERS

MOTION

Moved: Mayor R Williams
Seconded: Councillor D Pember

That Standing Orders 8.5 and 8.6 be resumed

CARRIED 12/0

Amended Council Resolution

**SP.7/10/20 CONSIDERATION OF REPORT 2: RESPONSE TO THE LOCAL
GOVERNMENT REVIEW PANEL FINAL REPORT, ATTACHMENT 2.2,
REMAINING RECOMMENDATIONS**

MOTION

Moved: Councillor D Schumacher
Seconded: Councillor C Knight

That Council support the City of Mandurah submission to:

- 1. Approve the City of Mandurah's submission as set out in Attachment 2.2 in relation to recommendations 1- 58, 61 – 65.**
- 2. Provide the submission to the Minister for Local Government, WALGA and the Department of Local Government, Sport and Cultural Industries for consideration as part of the Local Government Act Review.**

CARRIED: 12/0

At 6.11pm Mayor Williams checked with each attendee and confirmed that all attendees remained connected and in attendance at the electronic meeting.

LATE AND URGENT ITEMS [AGENDA ITEM 11]

Nil.

CONFIDENTIAL BUSINESS [AGENDA ITEM 12]

Nil.

CLOSE OF MEETING [AGENDA ITEM 13]

There being no further business the Mayor declared the meeting closed at 6.11pm.

CONFIRMED (MAYOR)

Attachments to Council Minutes:

Council Report Attachments

Minute	Item	Page
SP.2/10/20	Restart Mandurah Now – Industry and Business Incentive Scheme – Attachment 1.1	11 - 15
SP.3/10/20	Response to the Local Government Review Panel Final Report – Attachment 2.1	16 - 36
SP.4/10/20 & SP.7/10/20	Response to the Local Government Review Panel Final Report – Attachment 2.2	37 - 49

Restart Mandurah Now - Industry and Business Incentive Scheme

The 'Restart Mandurah Now - Industry and Business Incentive Scheme' including the objectives, criteria, funding parameters, approval process and general grant conditions are set out below:

READY NOW - BUSINESS CAPABILITY GRANTS

Purpose of the Program

To better prepare local businesses to participate as suppliers of goods, services and works to the City of Mandurah.

Program Outcome

To improve the competitiveness of local businesses to participate as suppliers of goods, services and works to the City of Mandurah and the market in general.

Program Objectives

- Improve local businesses capability and capacity to service the City;
- Overcome barriers and constraints to participate in servicing the City; and
- Improving overall applicant competitiveness and preparedness to quote and/or tender with the City.

Criteria

To be eligible for funding applicants must meet the following criteria:

- Local businesses within the municipal area (district) of the City of Mandurah.
- Have an Australian Company Number (ACN) or an Australian Business Number (ABN) and be solvent.
- Be a for-profit organisation and trading for a minimum of two years.
- Be classified as a small or medium sized business employing up to 199 people.
- Applicants are only eligible for one application each year.
- Must verify that the business will remain in the district of Mandurah for the next 12 months
- Funded activity must align with the Program objectives and eligible activities.
- Must demonstrate whether they are a current supplier to the City or demonstrate engagement with the City or other markets.

Eligible Activities

Project activity enables the applicant to meet requirements for pre-qualification, Occupational Health and Safety requirements, contractual or technical compliance of the City and the market.

Activity types that would be considered through the applications include:

1. Utilise the grant to assist their employees to access training programs;
2. Obtain support to write tenders and/or quotes to improve their competitiveness to tender;
3. Purchase of equipment or PPE;
4. Assist to meet insurance requirements; and
5. Obtain permits, quality assurance and/or pre-qualification requirements.

Funding parameters

- Total grant amount of \$100,000 per year for two years.

- Applicants can request up to \$15,000 (excluding GST) with 50% matched funding.
- Applicants must meet the objective and criteria to be considered for funding.
- Funding is provided on a reimbursement basis requiring applicants to pay for the activity before making a claim for funding.
- In-kind contributions are not considered as part of the application.

Approval

- All eligible grants will be assessed by the internal Grants Evaluation Panel.
- Grants will be approved by the Director Strategy and Economic Development in accordance with the Financial Authorisation Limit Listing within the Council Procurement Policy.
- Any applications that are considered outside of the funding parameters will be referred to Council for a decision.

GROW NOW - INVESTMENT ATTRACTION PROGRAM

Purpose of the Program

To incentivise investment, especially within the current COVID-19 'Restart Phase 2', the Industry and Business Incentive Program is aimed at projects that attract beneficial industry and business opportunities to Mandurah.

Program Outcomes

To incentivise and attract investment and development of Mandurah's economy which provide and grow diversity of employment, industries and enterprise in Mandurah.

Program Objectives

- Attract business investment aimed at stimulating sustainable economic growth.
- Increase sustainable local job creation and industry diversification.
- Improve business and industry involvement in building Mandurah's entrepreneurial capacity and capability.
- Encourage business and industry involvement in achieving improved pathways to education and learning outcomes in Mandurah.

Criteria

To be eligible for funding applicants must meet the following criteria:

- Have an Australian Company Number (ACN) or an Australian Business Number (ABN) and be solvent.
- Be a for-profit organisation and trading for a minimum of two years.
- Applicants are only eligible for one application each year.
- Must verify that the business will remain in or directly service the district of Mandurah for a minimum of 2 years.
- Funded activity must align with the program objectives and eligible activities.

Eligible Activities

- Project stimulates sustainable economic growth
- Project's capacity to increase sustainable local job growth
- Project attracts or diversifies Mandurah industry (from new or established enterprises)
- Project's alignment with Transform Mandurah initiatives

Application Types:

1. Grow Now Grant applications – open rounds non-competitive (assessed individually).
2. Invest Now Expression of Interest Proposals – open rounds non-competitive.

Funding parameters

Grow Now Grant applications:

- Total grant amount of \$250,000 per year for two years.
- Applications can request up to \$50,000 (excluding GST) per year for two years, with 50% matched funding.
- Applications will be determined by the Grants Assessment Panel.
- Grants will be approved by the Director Strategy and Economic Development in accordance with the Financial Authorisation Limit Listing within the Council Procurement Policy.
- Any applications that are considered outside of the funding parameters will be referred to Council for a decision.
- Applicants must meet the objective and criteria to be considered for funding.
- In-kind contributions are not considered as part of the application.

Invest Now - Expression of Interest:

- The funding value for this grant is undetermined.
- Applicants must meet the objective and criteria to be considered for funding by Council.
- In-kind may be considered as part the application.

Approval

Grow Now - Grant applications:

- Applications will be determined by the Grants Assessment Panel.
- Grants will be approved by the Director Strategy and Economic Development in accordance with the Financial Authorisation Limit Listing within the Council Procurement Policy.
- Any applications that are considered outside of the funding parameters will be referred to Council for a decision.

Invest Now - Expression of Interest:

- Proposals may request a range of City contributions such as financial, access to land or other support mechanisms.
- Each proposal will be assessed on merit by the Grants Assessment Panel and referred to Council for consideration.

ACTIVATE NOW - CITY CENTRE BUSINESS INCENTIVE PROGRAM

Purpose of the Program

The City recognises that the City Centre as the primary Local Commercial centre, plays an important role in the quality of life of the community, vitality of our City and an important source of employment for local residents.

The purpose of the City Centre Business Incentives Fund is to incentivise business investment towards the shared goal of a vibrant City Centre and support the growth of local businesses.

Program Projects must demonstrate its ability to benefit the City of Mandurah by meeting one or more of the below:

- Increased awareness of unique local precinct offerings and experiences.
- Increased footfall and measurable patronage and spend in local precincts.
- More diverse business offerings and programming at night.
- Increased quality and quantity of live music and performance programming.
- Grow business capability and capacity to deliver diverse offerings.
- Increase opportunities for the local creative industry to partner with City Centre precinct businesses.

Program Outcomes

To attract and support vibrant, diverse and sustainable City Centre businesses.

Program Objectives

To encourage the growth of:

- The Day Tripper 'offer'
- The Night-time 'offer'
- Visitation numbers
- Dwell time
- Investment by business in public and private spaces
- Attraction of unique businesses that add to a vibrant day and / or night City Centre experience.

Project's ability to:

- Increase footfall and measurable patronage in local precincts.
- Grow business capability and capacity to deliver diverse offerings.
- Increase quality and quantity of live music and performance programming.
- Increase opportunities for the local creative industry to partner with City Centre precinct businesses.
- Increase awareness of unique local precinct offerings and experiences.

Criteria

To be eligible for funding applicants must meet the following criteria:

- Local businesses within the municipal area (district) of the City of Mandurah.
- Have an Australian Company Number (ACN) or an Australian Business Number (ABN) and be solvent.
- Be a for-profit organisation and trading for a minimum of two years.
- Be classified as a small or medium sized business employing up to 199 people.
- Must verify that the business will remain in the district of Mandurah for the next 12 months.
- Funded activity must align with the Program objectives and eligible activities.
- Funded activity must be delivered within the City Centre area as identified in the City Centre Framework.

Eligible Activities

- New City Centre Business Initiatives including short-term product/offer testing (eg. pop up or empty store trials).
- City Centre event or program activations.

Funding parameters

- Total grant amount of \$150,000 per year for two years.
- Applicants can request up to \$15,000 (excluding GST) with 50% matched funding encouraged.
- Applicants must meet the objective and criteria to be considered for funding.

Approval

- All eligible grants will be assessed by the internal Grants Evaluation Panel.
- Grants will be approved by the Director Strategy and Economic Development in accordance with the Financial Authorisation Limit Listing within the Council Procurement Policy.
- Any applications that are considered outside of the funding parameters will be referred to Council for a decision.

GRANT CONDITIONS

- All grant recipients will be required to sign a funding agreement prior to commencement of the program/activity/proposal.
- All grants must be used in accordance to the program/activity/proposal approved by the City or Council as detailed in the funding agreement.
- All funded activities are required to meet all relevant legislative requirements (e.g. Occupational Health & Safety requirements).
- The City must be acknowledged as detailed in the funding agreement.
- All grant recipients must make contribution to the funded program/activity/proposal as set out in the funding parameters or as otherwise approved by Council
- Funds are required to be expended within 12 months of the signing of the funding agreement, unless otherwise provided for within the funding agreement.
- Funds not expended within the agreed timeframe are to be returned to the City unless a written extension is obtained from Council.
- Grant recipients must submit a signed acquittal report to the City within one month of completion of the funded project as detailed in the funding agreement.
- Grant recipients who fail to provide an acquittal report will not be eligible to make any further funding applications.
- Program/activities/proposals must not replace a service or activity that the City would typically procure.

REPORTING REQUIREMENTS

All funding agreements will require the grant recipient to provide a report on the outcomes, including but not limited to:

- Employment opportunities provided
- Percentage of local content utilised in the delivery of the program/activity/proposal
- Total project actuals
- Financial documentation
- Applicant feedback (e.g. sustainability and capability improvements).
- Participant feedback (for relevant projects only).

5.5 Local Government Review Panel Final Report (05-034-01-0001 TB)

Tony Brown, Executive Manager Governance and Organisational Service
James McGovern, Manager Governance

WALGA carried out an extensive consultation process on Phase 2 of the Local Government Act Review in 2018/19, culminating in sector positions being endorsed by State Council in March 2019. This agenda item considers the Local Government Review Panel's recommendations in the context of the sector's current advocacy positions.

The Minister for Local Government has not considered the Panel's recommendations at this stage and has not requested a consultation process on the report. WALGA is taking the opportunity to obtain a sector opinion on the recommendations to provide to the Minister.

The Recommendations below are subject to Zone input and all Zone recommendations will be collated into a consolidated recommendation that will be provided for State Council consideration at its meeting on 2 September 2020.

Recommendations

1. That WALGA **SUPPORT** the following Recommendations from the Local Government Review Panel Final Report:

- Recommendations 1, 2, 3, 4, 6 and 7;
- Recommendation 8;
- Recommendation 11;
- Recommendations 12, 13 and 14;
- Recommendation 15;
- Recommendations 16 and 17;
- Recommendation 24;
- Recommendations 25(b) to (f);
- Recommendations 26(b), (d), (e) and (f);
- Recommendations 28, 29, 30, 31, 32(1)(a) to (o) and 32(2)(a);
- Recommendations 33 and 34;
- Recommendations 36 and 37;
- Recommendations 38(c), (d) and (e);
- Recommendations 39, 40, 41(a) to (g) and (i);
- Recommendation 42;
- Recommendations 43 and 44;
- Recommendations 45, 46, 47, 48 and 49;
- Recommendations 50, 51 and 52;
- Recommendation 54;
- Recommendations 55(a), (b), (d), (e), (f), (h) and (i);
- Recommendation 56;
- Recommendation 57;
- Recommendation 59;



- Recommendations 62 and 63;
 - Recommendation 64(c);
 - Recommendations 65(a) to (e).
2. That WALGA **OPPOSE** the following Recommendations from the Local Government Review Panel Final Report:
- Oppose Recommendation 5;
 - **Oppose Recommendation 19;**
 - Oppose Recommendations 23 and 25(a);
 - Oppose Recommendation 26(c);
 - Oppose Recommendations 32(2)(b) and (c);
 - Oppose Recommendation 35;
 - Oppose Recommendations 38(a) and (b);
 - Oppose Recommendation 41(h);
 - Oppose Recommendations 53(a) and (b);
 - Oppose Recommendations 55(c) and (g);
 - Oppose Recommendation 58;
 - Oppose Recommendation 60;
 - Oppose Recommendation 61;
3. That WALGA **CONDITIONALLY SUPPORT** the following Recommendations from the Local Government Review Panel Final Report as described:
- Recommendations 9 and 10 and but oppose any proposal to remove the poll provisions (Dadour provisions) in Schedule 2.1, Clause 8 of the Local Government Act;
 - Recommendation 18 and reiterate WALGA's current advocacy position that there be adequate funding of legislative responsibilities assigned to Local Governments in relation to service delivery to remote Aboriginal communities;
 - Recommendations **20, 21 and 27** in support of a broad review of the property franchise including a community consultative process;
 - Recommendation 26(a) conditional upon a review of the relative benefits and merits of changes to reduce numbers of Elected Members on Council be supported, on the following basis:
 - Populations up to 5,000 – 5 to 7 Councillors (incl. President)
 - Populations between 5,000 and 75,000 – 5 to 9 Councillors (incl. Mayor/President)
 - Populations above 75,000 – up to 15 Councillors (incl. Mayor);
4. That WALGA carry out further consultation on the following Recommendations from the Local Government Review Panel Final Report:
- Recommendation 22 – **All In/All Out Elections;**
 - Recommendations 64(a) and (b) - WALGA
 - Recommendation 65(f) – Transfer of Employee Entitlements



Executive Summary

- In 2017 the State Government announced a review of the *Local Government Act 1995*.
- Given the breadth of matters covered by the Local Government Act, a staged approach to the review was adopted:
 - Stage one: priority reforms
 - Stage two: wide ranging reforms leading to a new LOCAL Government Act
- This agenda item relates to the Stage 2 reforms. The Department of Local Government carried out a consultation process in 2018/19 where over 3,000 submissions were received.
- The Minister for Local Government appointed an Independent Panel to consider submissions received by the Department of Local Government Sport and Cultural Industries on the review of the Local Government Act in November 2019.
- The Panel's report has made 65 recommendations
- The Panel's report does not represent Government policy; the Minister for Local Government has stated the report will be considered as part of the Act Review process.
- This agenda item seeks a sector position on the recommendations. The recommendations to support, oppose or seek further consultation or information is proposed in this item.

WALGA Process

The Association recognizes the Report is a high level document that is based on identifying principles that will drive the development of a modern Local Government Act. The Association therefore considered the Report from the perspective of the sector's current advocacy positions.

This Item provides commentary on support for recommendations that met or where similar to adopted advocacy positions. This Item also identifies significant departure from advocacy to the extent that support cannot be recommended without further sector consideration of WALGA's position.

Attachment

The Panel's Report can be found [here](#).

Comment

The following comment is a comparison of State Council's record of advocacy on matters raised in the Local Government Review Panel Final Report:



CLEAR LEGISLATIVE INTENT

Recommendations 1 to 7 – Introduction and Role and Functions of Local Government

Local Government Act Reference: Part 1

Recommendation 1 proposes a strategic approach to the consideration of the Report recommendations.

Recommendation 2 introduces a new statement of intent that will explain the legislation's purpose:

An Act to provide for a system of local government relevant to Western Australia that develops and supports sustainable, accountable, collaborative and capable local governments through democratic representation, the provision of services, opportunities and enhanced well-being for each and every community.

Recommendation 3(a) to (j) proposes objectives for the legislative framework 'to support Local Governments having the agility, adaptability and flexibility to respond to changing community expectations and technology'.

Recommendation 4 proposes a shorter, less prescriptive Act that minimizes the use of regulations in favour of a principles-based approach.

Recommendation 5 proposes recognition of the diversity of Local Governments however it does not support a multi-tiered (size and scale) legislative framework.

Recommendation 6 proposes upholding the power of general competence predicated in the current Local Government Act.

Recommendation 7 (a) to (i) proposes guiding principles for sustainable, accountable, collaborative and capable Local Governments.

WALGA Comment – WALGA advocacy supports many of the proposals in Recommendations 1 to 7, principally that the Local Government Act Review be based on a 'Principles over Prescription' approach that avoids red tape and 'declutters' the extensive regulatory regime that currently exists¹ (Recommendations 3 and 4) and maintaining the general competence principle² (Recommendation 6) which frees Local Governments to make any decision that does not conflict with statute or common law. Recommendation 7 aligns with WALGA advocacy for enabling legislation.³ Recommendation 5 is unopposed to WALGA advocacy that promotes a size and scale compliance regime⁴ and it is recommended that WALGA maintain its current advocacy for a Local Government Act that is reflective of the differences and diversity of Local Governments in Western Australia.

WALGA Recommendation: Support Recommendations 1, 2, 3, 4, 6 and 7. Oppose Recommendation 5

¹ State Council Resolution 06.3/2019 Items 1, 1(b) and 1(e)

² State Council Resolution 06.3/2019 Item 1(a)

³ State Council Resolution 06.3/2019 Item 1(d)

⁴ State Council Resolution 06.3/2019 Item 1(c)



AN AGILE SYSTEM

Recommendations 8 to 11 - Structural Reform

Local Government Act Reference: Part 1; Section 2.1(2) and Schedule 2.1, cl. 8

Recommendation 8 proposes to combine the Local Government Grants Commission and Local Government Advisory Board to form a Local Government Commission, with roles assigned that will engender a strategic approach to its operation including monitor the performance and financial health of the sector, the latter in collaboration with the Office of the Auditor General, in addition to traditional functions such as distributing Commonwealth grant funding to Local Governments and boundary changes. Establishment of the Commission under this strategic framework will require skills-based appointments rather than by representation.

Recommendations 9 and 10 supports a legislative framework that is flexible, responsive and resilient and capable of facilitating community participation. There are also specific proposals for structural reform including revised processes for boundary changes and mergers, enhanced model of joint subsidiaries (see Recommendation 14) and provision for the establishment of community boards. Commentary associated with Recommendation 9 sees flaws in the current poll provisions found in Clause 8 of Schedule 2.1 ('Dadour provisions') as being '*...unduly restrictive when Local Governments need to adapt to changing circumstances*'.

Recommendation 11 proposes the potential to establish community boards, with reference to examples of successful international models. While community boards might be formed in response to mergers or for use by large Local Governments to devolve certain responsibilities to community representatives, the proposal makes clear that the overall responsibility for decision-making and authority will rest with the 'parent' Local Government. See also Recommendation 33 'Community Engagement'.

WALGA Comment – WALGA does not have an advocacy position in relation to Recommendation 8 'Local Government Advisory Board' and this may be a matter for sector consultation. Recommendations 9 and 10 propose a legislative framework that has similar themes to WALGA's advocacy that the Local Government Act Review promote a flexible, principles-based legislative framework⁵.

WALGA has a long-standing advocacy position for the retention of the Dadour provisions that give electors a right to demand a poll on recommended amalgamations⁶. This advocacy is tied to the principle that the Dadour provisions are the ultimate expression of community support or rejection of amalgamation proposals. Although not a specific recommendation, the commentary appears contradictory to the general themes expressed throughout the Report for increased opportunities for community consultation⁷. The community board proposal in Recommendation 11 is similar to WALGA advocacy for community engagement that is based on principle rather than prescription⁸.

WALGA Recommendation: Support the general intent of Recommendations 8 and 9. Oppose any proposal to remove the poll provisions (Dadour provisions) in Schedule 2.1, Clause 8 of the Local Government Act. Support Recommendation 11.

⁵ State Council Resolution 06.3/2019 at 1(b)

⁶ State Council Resolution 06.3/2019; 121.6/2017; 108.5/2014

⁷ For example, Recommendations 9, 10(c), 11, 33, 34, 35

⁸ State Council Resolution 06.3/2019



Recommendations 12, 13 and 14 - Expanded Regional Cooperation

Local Government Act Reference: Part 3, Division 4

Recommendations 12 and 13 promotes expanding opportunities for regional cooperation between Local Governments under improved regional subsidiaries model for shared services, and through a new form of regional authority for specific issues. Recommendation 14 proposes an end to the regional council model in favour of regional cooperation models set out in the previous recommendations.

WALGA Comment – WALGA has a strong advocacy history in support of regional subsidiaries⁹ and is disappointed that the complexity of the existing legislative provisions means that no regional subsidiaries have formed since the Act amendment of 2016. WALGA has independently developed a revised version of regulations that limits unnecessary compliance without diluting transparency and accountability of regional subsidiaries, and therefore welcomes recommendations that will facilitate regional cooperation under this model.

WALGA is cognisant that regional councils are often formed for a singular purpose, most commonly waste management, yet compliance obligations are generally equivalent to that of a Local Government. It is current WALGA advocacy that the compliance obligations of regional councils should be reviewed¹⁰. It appears the recommendations will create a suitable opportunity for the transition of regional councils to a model more suitable to the participant Local Governments.

WALGA Recommendation: Support Recommendations 12, 13 and 14.

Recommendation 15 - State Local Government Partnership Agreement

Local Government Act Reference: Section 3.18

Recommendation proposes a set of principles for intergovernmental relations that makes clear Local Government's role and obligations as part of a broader system of government.

WALGA Comment – WALGA's advocacy is for a communication and consultation protocol that ensures a consultation process precedes regulatory or compliance changes that affect the sector¹¹. The current Partnership Agreement signed in 2017 is currently under review.

Section 3.18 'Performing executive functions' includes apparently similar objectives to Recommendation 15, whereby a Local Government considers matters such as; integration and coordination; avoidance of inappropriate duplication; and effective and efficient management of services and facilities that may also be provided by the State and Commonwealth. This creates adequate space for the general competence principle to apply when a Local Government considers the range and scope of its executive functions, services and facilities.

WALGA Recommendation: Support Recommendation 15.

⁹ State Council Resolutions 121.6/2017; 106.6/2016; 94.4/2011; 114.5/2010

¹⁰ State Council Resolution 06.3/2019

¹¹ State Council Resolution 2.1/2012



INCLUSIVE LOCAL DEMOCRACY

Recommendations 16 and 17 - Relations with Aboriginal Peoples and Communities and Recommendation 18 - Service Delivery in Remote Communities

Local Government Act Reference: Not mandated

Recommendations 16 and 17 contemplate a Local Government Act that includes recognition of the unique status of Aboriginal peoples and inclusion of mechanisms for consultation and engagement. Recommendation 18 recommends further consideration of service delivery to remote communities through improved integration with Integrated Planning and Reporting requirements.

WALGA Comment – WALGA’s advocacy recognises and respects Aboriginal cultural practices and places through development of Reconciliation Action Plans¹², and is supportive of efforts to improve the living conditions and governance in Aboriginal communities.¹³

There are 287 discrete Aboriginal communities in WA accommodating approximately 17,000 Aboriginal people spanning 26 Local Government districts. It is therefore inevitable that service delivery considerations are coordinated with State and Federal Government departments and agencies with relevant responsibilities, to mitigate against cost-shifting responsibility to individual Local Governments with limited financial capacity.

WALGA adopted the advocacy position that *‘the State Government must not assign legislative responsibilities to Local Governments unless there is provision for resources required to fulfil the responsibilities’*¹⁴.

The commentary associated with Recommendation 18 raises a necessary discussion regarding service delivery to remote Aboriginal communities but lacks detail on how the inter-governmental responsibilities and funding arrangements associated with efficient and timely service delivery can be better achieved.

WALGA Recommendation: Support Recommendations 16 and 17, and reiterate WALGA’s current advocacy position in relation to Recommendation 18, that there be adequate funding of legislative responsibilities assigned to Local Governments in relation to service delivery to remote Aboriginal communities.

Recommendation 19 - Optional Preferential Voting

Local Government Act Reference: Section 4.69, 4.74 and Schedule 4.1

The Report recommends a system of voting that better represents the community’s preference for candidates that is not currently delivered by a first past the post system, where a candidate does not require a clear majority of votes to be elected.

WALGA Comment – WALGA’s advocacy position supports the current ‘first past the post’ system. WALGA has previously opposed other forms of voting¹⁵ and the system of proportional preferential

¹² State Council Resolution 118.5/2012

¹³ State Council Resolution 64.3/2014

¹⁴ State Council Resolution 06.3/2019 at 1(f)

¹⁵ State Council Resolutions 185.2/2007 and 427.5/2008



voting was briefly introduced to the Local Government Act for one election cycle before being repealed and returned to first past the post voting in 2009¹⁶.

WALGA Recommendation: Oppose Recommendation 19 and any alternative voting system in favour of retaining the first past the post system.

Recommendations 20, 21 and 27 - Review of Property Franchise

Local Government Act Reference: Sections 4.30 → 4.35; Section 4.66

Recommendation 20 proposes mandating one vote per person, which is currently prescribed in Section 4.65 albeit in the context of the property franchise. Recommendation 21 proposes discontinuing enrolment entitlement through ownership or occupation of rateable property. Property franchise claims result in enrolment on the Owner's and Occupiers Roll, forming the second limb of voter entitlement alongside the Residents Roll.

The Expert Panel proposes increasing participation, consultation and involvement of business owners and operators by Local Governments including mechanism such as business advisory groups. Recommendation 27 recommends consultation be undertaken to determine whether the property franchise continue within the City of Perth, in concert with a review of the *City of Perth Act 2016*.¹⁷ Currently, Part 4 of the Local Government Act applies to the election of council members of the City of Perth, and Section 20 of the *City of Perth Act 2016* applies to the election of the Lord Mayor.

WALGA Comment – WALGA has not adopted an advocacy position relevant to the recommendations.

It is recommended that support be given to a broad consultative process with Local Governments, the business sector, communities and relevant stakeholders to assess whether or not owners and occupiers of rateable property should have a right to vote in a modern democratic electoral system.

WALGA Recommendation: Conditionally Support Recommendations 20, 21 and 27 in support of a review of the property franchise including a broad community consultative process.

Recommendation 22 - All In/All Out 4 Year Election Cycle

Local Government Act Reference: Section 4.5

Recommendation 22 proposes Elected Members be elected at the same time, every four years. This aligns with the election of State Parliamentarians. An acknowledged detriment is the potential loss of corporate knowledge due to non-election of experienced councillors, whereas benefits include potential increased participation by candidates and electors and reduced election costs to Local Governments.

WALGA Comment – There is no WALGA advocacy position relevant to this proposal. It is therefore recommended that the sector be consulted and the resultant views be considered in developing WALGA's advocacy position.

WALGA Recommendation: That the sector be consulted prior to WALGA considering its advocacy position in relation to Recommendation 22.

¹⁶ *Local Government Amendment (Elections) Act 2009*

¹⁷ *City of Perth Inquiry Report, Recommendation 144*



Recommendations 23, 24 and 25(a) – Conduct of Elections

Local Government Act Reference: Section 4.20 and 4.61

Recommendation 23 is that the Western Australian Electoral Commission (WAEC) take responsibility for all Local Government elections, with the consequence that a Local Government CEO will no longer be the Returning Officer of first resort. Recommendation supports electronic/online voting. Recommendation 25(a) adds to the currently mandated role of the WAEC by proposing all elections are by postal voting, ending the option on in-person voting.

WALGA Comment – WALGA advocates for an end to the WAEC’s enshrined monopoly on the conduct of postal elections by amending legislation to permit third parties to be service providers of postal elections¹⁸.

WALGA Recommendation: Support Recommendation 24; Oppose Recommendations 23 and 25(a); WALGA reiterates its position that third parties be permitted as service providers for postal elections.

Recommendations 25(b) to (f) - Other Election Proposals

Recommendation (b) proposed the extension of the election process to optimise participation. Recommendation 25(c) ‘Candidate Nomination Information’ is adapted from a model similar to Victorian legislation that requires candidates to respond to a set of questions prescribed by regulation in the form of a statutory declaration. Recommendation 25(d) – Caretaker Policies are increasingly evident in Local Government; in 2016, WALGA committed to develop the currently-available template Caretaker Policy¹⁹.

Recommendation 25(e) seems to reflect current legislation²⁰ and Recommendation (f) identifies the prospect that potential donations can be crowdfunded in the absence of a gift declaration and this is likely to undermine integrity of the election process.

WALGA Recommendation: Support Recommendations 25(b) to (f)

Recommendation 26(a) - Elected Member Numbers Based on Population

Local Government Act Reference: Section 2.17

The Report proposes the following structures for Elected Member positions on Council:

- (i) Population up to 5,000 – 5 Councillors (incl. President)
This proposal will capture approximately 81 Local Governments (1 metro, 80 non-metro)
- (ii) Population between 5,000 and 75,000 – 5 to 9 Councillors (incl. Mayor/President)
This proposal will capture approximately 47 Local Governments (19 metro, 28 non-metro)
- (iii) Population above 75,000 – 9 to 15 Councillors (incl. Mayor)
This proposal will capture approximately 11 Local Governments (10 metro, 1 non-metro)

¹⁸ State Council Resolution 06.3/2019

¹⁹ State Council Resolution 16.1/2016

²⁰ Regulations 30B and 30CA of the *Local Government (Elections) Regulations*



WALGA Comment – WALGA adopted an advocacy position in 2011 opposing a previous proposal to reduce the number of Elected Members to between 6 and 9²¹. At the time, WALGA requested a proper examination of the relative benefits and merits of any proposal to reduce numbers of Elected Members be conducted. There is still merit in reviewing numbers on Council and the proposal is worthy of consideration although limiting populations of up to 5,000 to a fixed number of 5 Councillors lacks the flexibility that is easily resolved by extending the maximum number of Councillors to 7.

WALGA Recommendation: Conditionally Support Recommendation 26(a) conditional upon a review of the relative benefits and merits of changes to reduce numbers of Elected Members on Council be supported, on the following basis:

- (i) Populations up to 5,000 – 5 to 7 Councillors (incl. President)
- (ii) Populations between 5,000 and 75,000 – 5 to 9 Councillors (incl. Mayor/President)
- (iii) Populations above 75,000 – up to 15 Councillors (incl. Mayor)

Recommendation 26(b) to (f) – Wards, Mayor/President Election and Term Limits

Local Government Act Reference: Part 2 and Part 4; Schedule 2.2

Recommendation 26 (b) to (f) proposes a number of adjustments associated with Recommendation 8 - Local Government Advisory Board/Local Government Commission. These proposals include:

- Recommendation 26(b) - system of ward boundary reviews;
- Recommendation 26(c) - discontinuance of ward boundaries for Band 3 and 4 Local Governments;
- Recommendation 26(d) - phasing in of proposals under Recommendation 26(a);
- Recommendation 26(e) - continuance of two year election cycle for Council-elected Mayors/Presidents; and
- Recommendation 26(f) - no limits to be placed on terms Elected Members and elected Mayor/President can serve.

WALGA Comment – Recommendation 26(e) aligns with WALGA advocacy that Local Governments retain the right to determine whether the Mayor / President will be elected by the Council or the community.²² WALGA has not adopted advocacy positions specific to the remaining proposals however Recommendation 26(c) conflicts with the general competence principle and the current self-determination inherent in the current ward review system. WALGA supports the ability for all Local Governments, not merely those in Band 3 and 4, to consider the merits of its system of representation and election on the basis of community of interest; physical and topographical features; demographic trends; economic factors and the ratio of Councillors to electors in the various wards.²³

²¹ State Council Resolution 08.1/2011 – ‘Reject the reduction in the number of Elected Members to between 6 and 9, and request the Minister engage the Department of Local Government in research to determine the relative benefits and merits of the proposal prior to further discussion with the Local Government sector’

²² State Council Resolution 06.3/2019; 121.6/2017

²³ How to conduct a review of wards and representation for local governments with and without a ward system – Department of Local Government, Sport and Cultural Industries - October 2017, Page 6



WALGA supports the general intent of Recommendation 8 and similar support is proposed to the exclusion of Item (c).

WALGA Recommendation: Support Recommendations 26(b), (d), (e) and (f). Oppose Recommendation 26(c).

Recommendations 28 to 32 - Redefinition of Roles and Responsibilities

Local Government Act Reference: Sections 2.7, 2.8, 2.10 and 5.41

Recommendation 28 sets the scene for Recommendations 29 to 32 by suggesting revised statements of roles and responsibilities that are specific to address the following issues:

- Community leadership
- Strategic planning
- Continuous improvement
- Executive function (for mayors/presidents)
- Guiding the CEO (for mayors/presidents)
- Training

WALGA Comment – Recommendations 28, 29, 30 and 31 are supported. Recommendations 32(1)(a) to (o), and 32(a) are supported. WALGA opposes Council involvement in matters relating to senior employees²⁴ as this conflicts with the role of the CEO as employing authority of all employees under Sec. 5.41(g) of the Local Government Act.

Recommendations 32(2)(b) and (c) are opposed. These recommendations seek to perpetuate ongoing Council involvement in matters relating to senior employees. WALGA points out that Regulation 9(1) of the *Local Government (Rules of Conduct) Regulation* was amended on 15 August 2020 to remove reference to Councillor involvement in administration where authorised by the Council to undertake that task.

This amendment directly relates to past findings such as the City of Canning Inquiry 2014, where the Inquirer noted this Regulation was used to involve Council in a matter directly related to the CEO's employing authority functions:

*'Reg. 9(1) of the Local Government (Rules of Conduct) Regulations 2007 is a rule of conduct, and is not, by itself, a source of authority for intervention by the Council in Administration activities.'*²⁵

WALGA Recommendation: Support Recommendations 28, 29, 30, 31, 32(1)(a) to (o) and 32(a). Oppose Recommendations 32(2)(b) and (c) to conclusively ensure that a Council cannot involve itself in the functions of the Chief Executive Officer as set out in Section 5.41 of the Local Government Act.

Recommendations 33 and 34 – Community Engagement and Governance

Local Government Act Reference: Sections 2.7, 2.8, 2.10 and 5.41

Recommendation 33 proposes a range of community engagement principles, and Recommendation 34 proposes a Community Engagement Charter be required as a mechanism for guiding and enhancing community participation in local decision-making.

²⁴ State Council Resolution 123.6/2017

²⁵ Report of the Panel of Inquiry into the City of Canning, May 2014 at 9.53



WALGA Comment – WALGA advocates that Local Governments adopt a Community Engagement Policy, with each Local Government to implement the most appropriate means of engagement²⁶.

WALGA Recommendation: Support Recommendations 33 and 34.

Recommendation 35 – Annual Engagement with Electors

Local Government Act Reference: Sections 5. 27

Recommendation 35 proposes a lesser version of the opportunity already available to electors but poorly attended historically. This raises the prospect that, in the absence of the opportunity to move motions at meetings, the proposed annual meeting will follow a similar trend.

WALGA Comment – WALGA advocates that Elector’s General Meetings should not be compulsory, on the basis that there is adequate opportunity for the public to participate in the affairs of the Local Government through attendance at Council Meetings, participating in public question time, requesting special electors’ meetings etc²⁷.

WALGA Recommendation: Oppose Recommendation 35 and seek amendment to the Act to ensure Electors’ General Meetings are not compulsory.

²⁶ State Council Resolution 06.3/2019

²⁷ State Council Resolution 06.3/2019; 121.6/2017; 09.1/2011



SMART PLANNING AND SERVICE DELIVERY

Recommendations 36 and 37 - Enhanced Integrated Planning and Reporting

Local Government Act Reference: Section 5.56; Local Government (Administration) Regulations Part 5, Division 3

Recommendation 36 and 37 propose enhanced Integrated Planning and Reporting principles and provisions and that Audit, Risk and Improvement Committee monitor performance against baseline measures including financial management, service delivery and community well-being.

WALGA Comment – WALGA has supported the Integrated Planning and Reporting framework dating back to the Systemic Sustainability Study of 2008 and broadly supported the regulatory amendments introduced in 2011.

WALGA Recommendation: Support Recommendations 36 and 37

Recommendations 38(a) and (b) – Minimum Service Levels

Local Government Act Reference: Section 3.18

Recommendations 38(a) and (b) are separated for independent consideration due to the potential for extensive consequences to the Local Government sector. Recommendation 38(a) proposes a minimum level of service delivery established as a statutory obligation, and Recommendation 38(b) proposes a qualified reserve power whereby the Minister for Local Government responds to a failure to deliver the minimum services by issuing an enforceable direction.

WALGA Comment: WALGA's closest advocacy positions to Recommendation 38 is 'principles over prescription' together with upholding the General Competence Principle²⁸. Recommendation 38(a) appears intended to create a commonality of service delivery that is potentially measurable across the sector, with service delivery outcomes either legislated or directed by the Minister for Local Government. This approach is anathema to the General Competence Principle that permits Local Governments to independently determine appropriate levels of service.

It is noted that continuance of the General Competence Principle is supported in Recommendation 6, but the contradictory nature of Recommendation 38(a), that determination of some services will be taken out of the hands of Local Governments and their communities, is neither identified nor examined in the Report.

Recommendation 38(b) is intended as a qualified reserve power however the associated commentary includes reference to directions relating to a natural disaster or a pandemic. The Local Government sector's experiences during the COVID-19 pandemic did not bring to light any deficiency in the capacity of the State Government to manage issues arising from a pandemic that would requiring the Minister for Local Government to assume emergency direction powers – see also Recommendation 58. WALGA advocates that the State Government ensure there is proper provision for resources required to fulfil any legislated responsibility²⁹.

WALGA Recommendation: Oppose Recommendation 38(a) and (b) and reiterate support for Recommendation 6 'General Competence Principle'.

²⁸ State Council Resolution 06.3/2019 Items 1(a) and (b); 120.6/2017

²⁹ State Council Resolution 06.3/2019 Item 1(f)



Recommendations 38(c), (d) and (e) – Service Levels and IPR

Local Government Act Reference: Section 5.56; Part 5, Division 3 Local Government (Administration) Regulations

Recommendations 38(c), (d) and (e) propose a range of measures to align financial sustainability principles and services and programs to the integrated planning and reporting framework, and to conduct regular service delivery reviews including community consultation.

WALGA Comment: WALGA supported the introduction of the Integrated Planning and Reporting 'planning for the future' provisions and the above recommendations broadly align with current level of maturity in community consultation processes and examination of service delivery leading to the development of Strategic Community Plans and Corporate Business Plans.

WALGA Recommendation: Support Recommendations 38(c), (d) and (e)

Recommendations 39 to 42 - Local & Joint Subsidiaries

Local Government Act Reference: Part 3, Division 4

Recommendation 39 proposes Integrated Planning and Reporting frameworks be cognisant of State Government plans when developing strategies for economic development.

Recommendation 40 proposes the new Local Government Act provide freedom for commercial activities, linking with Recommendation 41 which, whilst recommending against a beneficial enterprise model, makes positive recommendations for the support of commercial activities under an updated subsidiary model required to observe competitive neutrality principles. Recommendation 42 supports the use of regional subsidiary models unless qualified by the requirement to form an entity where the Local Government is not the dominant party.

WALGA Comment – It is noted that Recommendation 41(a) to (i) details the elements required for a flexible subsidiary model, including a proposal under 41(h) that employees of a subsidiary fall within the jurisdiction of the WA Industrial Relations Commission. This conflicts with current WALGA advocacy that such a transfer is conditional upon modernisation of the State system to be more consistent with the Federal industrial relations system³⁰.

WALGA has a long-held advocacy position for the creation of Beneficial Enterprises³¹ with support for a vehicle for commercial activity ('Council-controlled organisations') dating back to WALGA's Systemic Sustainability Study 2008³².

WALGA Recommendation: Support Recommendations 39, 40, 41(a) to (g) and (i) and 42. Oppose Recommendation 41(h).

³⁰ State Council Resolution 78.5/2018

³¹ State Council Resolutions 06.3/2019; 121.6/2017; 107.5/2010; 114.5/2010

³² *The Journey: Sustainability into the Future* - Action 21, Page 49



Recommendations 43 and 44 - Modernise Financial Management

Local Government Act Reference: Part 6; Local Government (Financial Management) Regulations

Recommendation 43 proposes a modern set of principles to modernise financial management.

Recommendation 44 proposes a selection of measures in support of sound financial decision-making.

WALGA Comment – WALGA supports the general intent of the recommendations, aligning as they do with a number of advocacy positions³³ including:

- Conduct a complete review of financial management provisions
- Freehold land be used to secure debt
- Enable Building Upgrade Finance

WALGA notes that the Report of the Inquiry into the City of Perth makes a number of recommendations³⁴ relating to financial management of all Local Governments including:

- Recommendation 188 : Establishment of Financial Management Instructions;
- Recommendation 189 : The 'WA Accounting Manual' dated September 2012 be reviewed and updated;
- Recommendation 190 : The format of format of the annual budget and financial report be prescribed for consistency across local government'

WALGA Recommendation: Support Recommendations 43 and 44

Recommendation 45 to 49 - Procurement

Local Government Act Reference: Section 3.57; Local Government (Functions and General) Regulations Part 4

Recommendation 45 proposes procurement thresholds, rules and policies be more closely aligned with the State Government. Recommendation 46 proposes a model Procurement Policy be adopted by all Local Governments. Recommendations 47 and 48 propose enhancing panel contracts and encouraging local business to register as local content providers. Recommendation 49 introduces the prospect that breaches of procurement rules be referred to an Independent Assessor for investigation.

WALGA Comment – WALGA has consistently supported the alignment of the tender threshold with that of the State Government³⁵ and broadly supports the principle that suppliers of goods, services and works competing for contracts will benefit where procurement processes across State and Local Government has more similarities than differences. These proposals will also assist recent endeavours of both State and Local Government to enhance opportunities for local and regional suppliers to access contracts and boost local economies in the post COVID-19 recovery phase.

WALGA Recommendation: Support Recommendations 45, 46, 47, 48 and 49

³³ State Council Resolution 06.3/2019

³⁴ City of Perth Inquiry Report, Volume 3, Page 83

³⁵ State Council Resolution 06.3/2019



Recommendations 50, 51 and 52 - Rating and Revenue

Local Government Act Reference: Part 6; Local Government (Financial Management) Regulations

Recommendation 50(a) opposes rate capping and 50(c) proposes a broad review of rate exemptions available under Section 6.26(2) of the Local Government Act in recognition of the limitation this places on capacity to raise revenue. Further proposals include development and publication a Local Governments rates and revenue strategies (50b) and a review by the Valuer General of rating methodologies (50 g). Recommendation 51 aligns with the current provisions in Sec 6.17 of the Local Government Act which requires the setting of fees and charges to consider; the cost of providing the service; importance of the service to the community; and the price of alternative providers might charges for similar service.

Recommendation 52 recommends cost recovery principles be adopted when Local Government and State Government set fees and charges.

WALGA Comment – WALGA’s advocacy opposes rate capping³⁶ and there is long-standing support for a review of general rate exemption provisions and charitable land use rate exemptions³⁷ initially examined by the Local Government Advisory Board in 2005³⁸. WALGA also supports a review of the basis of rates³⁹ and this may be incorporated in Recommendation 50(g).

WALGA’s advocacy position in relation to Recommendation 52 is that Local Government to be empowered by legislation to set fees and charges for all services it provides in favour of the current arrangement whereby many fees and charges are determined by State Government legislation⁴⁰.

The Office of the Auditor General regularly audits State Government fee-setting in line with Government policy:

It is general government policy that fees should fully recover the cost of providing related services. If fees under-recover costs, this could mean the general public is subsidising customers, while over-recovery could mean customers are being charged too much. Any under or over-recovery of costs requires approval from the Minister or authority from legislation, respectively.⁴¹

WALGA’s long-held concern is that the State Government’s policy is inadequately applied to Local Government service delivery (town planning fees, building fees, dog and cat registration etc) and Local Governments experience a net revenue loss due to inherent issues of:

- Lack indexation
- Lack from regular review
- Lack a transparent methodology in setting of fees and charges

WALGA Recommendation: Support Recommendations 50, 51 and 52; continue to advocate for legislation that empowers Local Governments to set fees and charges for all services it delivers.

³⁶ State Council Resolution 06.3/2019; 96.6/2015; 118.7/2015 incl. Rate Setting Policy Statement

³⁷ State Council Resolution 06.3/2019; 122.6/2017; 118.7/2015; 5.1/2012

³⁸ Local Government Advisory Board’s Inquiry into the Operation of Section 6.26(2)(g) of the Local Government Act 1995 – November 2005

³⁹ State Council Resolution 06.3/2019; 123.6/2017

⁴⁰ State Council Resolution 06.3/2019; Metropolitan Local Government Reform Submission 2012

⁴¹ Report 13 ‘Fee-setting by the Department of Primary Industries and Regional Development and Western Australia Police Force’ December 2019 - Executive Summary, Page 3



ACCOUNTABILITY, SELF-REGULATION AND INTEGRITY

Recommendations 53 and 54 - Accountability and Self-Regulation

Local Government Act Reference: Part 7 (Audit); Local Government (Audit) Regulations

Recommendation 53 recommends an expanded Audit, Risk and Improvement Committee with Recommendation 53(a) and (b) proposes that skills-based independent members hold the majority of numbers, and the Chair, of the Committee, and regional committees be formed to offset potential increased costs.

Recommendation 54 proposes an expanded role for the Audit, Risk and Improvement Committee including an audit plan approach focussing on compliance, risk (including procurement), financial management, fraud control, governance and delivery of plans.

WALGA Comment – WALGA's advocacy supported the Office of the Auditor General WA conducting Local Government finance and performance audits⁴². The self-regulation themes within Recommendation 54 are supported, however Recommendation 53(a) and (b) proposals for a majority of independent members, potentially drawn from a panel of approved suppliers or shared through regional cooperation arrangements, does not include a benefits analysis and there is no evidence the regional cooperation approach will lessen internal audit costs particularly for rural and regional Local Governments.

WALGA Recommendation: Oppose Recommendation 53(a) and (b). Supports Recommendation 54.

Recommendation 55 – Integrity and Governance

Local Government Act Reference: Part 7 (Audit); Local Government (Audit) Regulations

Recommendation 55(a) to (i) propose a range of governance measures to improve integrity, oversight and public participation.

WALGA Comment – Recommendations (f), (g) and (h) align with the Department of Local Government, Sport and Cultural Industries current development of Mandatory CEO Standards for Recruitment, Performance Review and Termination (associated with the *Local Government Amendment Legislation Act 2109*) and it is likely this body of work will continue to be dealt with independent of this Report. WALGA's current advocacy position includes opposition to item (g), the mandatory readvertising of the CEO position upon completion of two five year terms.⁴³

The proposal under item (c), permitting elected members unable to maintain impartiality to withdraw from a meeting and not vote, is clearly unworkable where the meeting quorum comes under threat and is opposed.

WALGA Recommendation: Support Recommendation 55(a), (b), (d), (e), (f), (h) and (i). Oppose Recommendations 55(c) and (g).

⁴² State Council Resolution 7.1/2018

⁴³ State Council Resolution 145.7/2019



Recommendation 56 – Training and Development

Local Government Act Reference: Section 5.126 and Regulations 35 and 36 of the Local Government (Administration) Regulations

Recommendation 56 updates the recently introduced Elected Member training provisions.

WALGA Recommendation: Support Recommendation 56

Recommendation 57 and 58 – Early Intervention Framework

Local Government Act Reference: Part 8

Recommendation 57 proposes an early intervention framework whereby the Department of Local Government, Sport and Cultural Industries works with Local Governments to improve performance, governance and compliance. Recommendation 58 proposes the Minister for Local Government should have powers to direct Local Governments and make declarations during a declared state of emergency.

WALGA Comment – WALGA does not have advocacy positions in relation to either recommendation. Recommendation 38(b) introduced commentary on this topic and it is reiterated the Local Government sector's experiences during the COVID-19 pandemic did not bring to light any deficiency in the capacity of the State Government to manage issues arising from the pandemic that would require providing the Minister for Local Government with additional emergency powers. A matter of this significance should be considered in the broad context of the State Government's assessment its capacity to respond during the present state of emergency period, rather than dealt with piecemeal in a review of the Local Government Act.

WALGA Recommendation: Support Recommendation 57. Oppose Recommendation 58.

Recommendations 59 and 60 – Office of the Independent Assessor

Local Government Act Reference: Part 8; Section 5.41

Recommendation 59 (a) to (f) proposes conditions upon which an Office of the Independent Assessor might be established, including taking the functions of the Local Government Standards Panel.

Recommendation 60 proposes consideration of managing complaints by Elected Members against a CEO or other senior officer, with potential complaints be investigated by the Independent Assessor.

WALGA Comment – WALGA has a long-standing advocacy position for improvement to the operational efficiency of the Local Government Standards Panel.⁴⁴

The proposal in Recommendation 59 to create the Office of the Independent Assessor resonates in some regard with Recommendation 323, 324 and 325 of the Report of the Inquiry into the City of Perth.⁴⁵

⁴⁴ State Council Resolution 43.2/2011

⁴⁵ City of Perth Inquiry Report Recommendations Pp. 108 - 110



Recommendation 60 has the potential to overlay with other statutory provisions relating to employment law, and it is unclear whether the Report has considered the appropriateness of a proposal which will permit individual Elected Members, rather than the Council acting collectively as the employing authority, to instigate actions relating to a CEO's performance. Similarly, it is current practice that all complaints relating to other local government employees fall within the function of the CEO as the employing authority under Section 5.41(g) of the Act.

WALGA Recommendation: Support Recommendation 59. Oppose Recommendation 60.

CONFIRMED



OTHER MATTERS

Recommendation 61(a) and (b) – Classification Bands

Local Government Act Reference: Schedule 2.2

Recommendation 61(a) proposes the principles for determining classification and for Local Governments should be set out in the new Act, and Recommendation 61(b) states that once established they be utilized by the Salaries and Allowances Tribunal to determine Councillor and CEO allowances and remuneration.

WALGA Comment – WALGA has a long-standing advocacy position in relation to appropriate levels of remuneration for Elected Members.⁴⁶ The commentary accompanying Recommendation 61(b) informs the rationale for removing the classification band process from the *Salaries and Allowances Act 1975* to the *Local Government Act 1995* is to provide a broader application of the band system to other matters including whether a Local Government should have wards. This ties Recommendation 61(a) and (b) to Recommendation 26(c) that has the intent of discontinuing wards in Band 3 and 4 Local Government, which WALGA does not support.

WALGA Recommendation: Oppose Recommendation 61.

Recommendations 62 and 63 - Harmonisation of Local Laws

Local Government Act Reference: Section 3.5 to 3.17

Recommendations 62 and 63 propose increased harmonisation of Local Laws by developing model Local Laws and deemed provisions, with Local Government responsible for justifying any departure or variation from the models or provisions.

WALGA Comment – WALGA advocates for improvements to the current local law-making process and independent local law scrutiny conducted by Parliament's Delegated Legislation Committee⁴⁷. Consistent Models and deemed provisions will greatly enhance certainty in the local law-making process whilst ensuring the right for Local Governments to argue for and justify departures and variances that suit local conditions, issues and needs.

WALGA Recommendation: Support Recommendations 62 and 63

⁴⁶ State Council Resolution 06.3/2019; WALGA Submission to the Salaries and Allowances Tribunal – 21 February 2019

⁴⁷ State Council Resolution 06.3/2019



Recommendation 64 - WALGA

Local Government Act Reference: Section 9.58

Recommendation 64 recommends the following in respect to WALGA;

- (a) WALGA not be constituted under the new Act;
- (b) A transition period is provided to ensure continuity in operations of WALGA while it is re-formed under other legislation; and
- (c) Recognition of WALGA's Preferred Supplier Program and mutual insurance coverage in the legislation should be accompanied by appropriate oversight measures, including auditing.

WALGA Comment – From the Local Governments sector perspective it is critical to retain WALGA's services status in the legislation and regulations relating to the Preferred Supplier Program and the Insurance service, as these programs provide significant savings for the Local Government sector.

In respect to whether WALGA's establishment is referenced in the Local Government Act, it is appropriate for the Association to obtain legal advice on any negative consequences this may have.

WALGA Recommendation: Support recommendation 64(c) for WALGA services retention in the Local Government Act relating to the Preferred Supplier Program and the Local Government Insurance Service. Further advice required in respect to recommendation 64(a) and (b)

Recommendation 65 – Operational Provisions

Local Government Act Reference: Various

Recommendation 65 (a) to (f) proposes a number of operational matters for future consideration.

WALGA Comment – The proposals align with WALGA's advocacy to the extent that the new Local Government Act be based on a flexible, principles-based legislative framework that avoids red tape and 'de-clutters' the current extensive regulatory regime.⁴⁸

There is general support is therefore for these operational provisions, however Recommendation 65(f) – transfer of employee entitlements across all three levels of Government – though well intended is highly likely to raise extensive legal, industrial and financial ramifications prior to being capable of implementation. Further research and industrial consideration is therefore inevitable.

WALGA Recommendation: Support Recommendations 65(a) to (e). Conditionally support Recommendation 65(f) pending further research and industrial consideration.

⁴⁸ State Council Resolution 06.3/2019 Items 1(b) and (e)

Rec #	Local Government Review Panel Final Report Recommendation	City of Mandurah Proposed Position	City of Mandurah Proposed Comment	Select Committee Inquiry into Local Government Recommendation (for noting)
1 to 7	Roles and Functions of Local Government	Supports 1 to 7	<p>The City supports Recommendations 1 to 7 on the role and functions of local government as they largely aim to streamline the extensive regulatory regime of the sector.</p> <p>Contrary to WALGA's position which is opposing recommendation 5, the City supports the Panel's recommendation. Recommendation 5 supports a new Act which is responsive to the diversity of local government but does not recommend the adoption of a multi-tiered legislative framework. The Panel decided that a more practical approach was for the new Act to apply minimum standards to all local governments and, where applicable, to provide flexibility within the new Act that enables a diversity of obligations to be placed on or assumed by local governments dependent on their capacity and capability.</p> <p>The City supports setting minimum requirements and guidelines or model standards outside of the legislation that could outline the expectations of each local government based on the size and scale.</p>	Select Committee Recommendation 1: The State Government consider implementing a compliance regime that differentiates between local governments based on their size and scale where appropriate.
8 to 11	Structural Reform	<p>Supports 8, 9 and 11</p> <p>Supports: 10</p>	<p>The City supports the structural reforms proposed under Recommendation 8, 9 and 11.</p> <p>Through Recommendation 10 the Panel recommends that through a Partnership Agreement, the proposed Local Government Commission, State and local government consider options to facilitate structural reform that will strengthen the capacity and resilience of the local government system.</p> <p>Those options should include:</p> <ol style="list-style-type: none"> a. Revised processes for boundary changes and mergers. b. Substantially increased cooperation between local governments through an enhanced model of joint subsidiaries. c. Provision for the establishment of community boards within local government areas. 	Not within the scope of the report.

Rec #	Local Government Review Panel Final Report Recommendation	City of Mandurah Proposed Position	City of Mandurah Proposed Comment	Select Committee Inquiry into Local Government Recommendation (for noting)
			<p>In contrast to WALGA's position the City supports Recommendation 10 as removal of the Dadour provisions will enable local government sector to achieve reform.</p> <p>WALGA has had a long-standing advocacy position for the retention of the Dadour provisions that give electors a right to demand a poll on recommended amalgamations. WALGA has stated that they '<i>Oppose any proposal to remove the poll provisions (Dadour provisions) in Schedule 2.1, Clause 8 of the Local Government Act</i>'.</p>	
12 to 14	Expanded Regional Cooperation	Supports 12 to 14	The City supports the recommendations which promote expanding opportunities for regional cooperation and proposes a regional cooperation model.	Refer to comments under recommendations 39-42
15	State Local Government Partnership Agreement	Comment: further clarity required	<p>Recommendation 15 proposes a set of principles for intergovernmental relations that makes clear local governments' role and obligations as part of a broader system of government.</p> <p>The City suggests that further clarity is required on the broad range of local government roles and responsibilities. Principles will not make it clear, a set of examples for who is responsible for certain matters would also be required.</p>	<p>Select Committee Report Recommendation 2: The Government consider including a non-exhaustive statement of local government functions in any new local government Act.</p> <p>The Select Committee Report presented a number of findings on the impact of cost shifting from State to local governments.</p> <p>Recommendation 3 proposed that a regulatory impact assessment process for any regulatory proposal giving new responsibilities to local governments should explicitly address:</p> <ul style="list-style-type: none"> - why local government is the appropriate level of government to assume those responsibilities - the estimated cost to the local government sector of discharging those responsibilities - the resources the State Government will provide to local governments to meet that estimated cost.

Rec #	Local Government Review Panel Final Report Recommendation	City of Mandurah Proposed Position	City of Mandurah Proposed Comment	Select Committee Inquiry into Local Government Recommendation (for noting)
16 to 18	Relations with Aboriginal Peoples and Communities and Service delivery in communities	Supports: 16 and 17 Conditional support: 18	<p>The City strongly supports the Panel’s recommendations 16 and 17 to recognise the unique status of Aboriginal people in the new Act and further consider the options for inclusion, engagement and shared decision making.</p> <p>Recommendation 18 proposes further consideration of service delivery to remote communities through improved integration with Integrated Planning and Reporting requirements.</p> <p>The City conditionally supports Recommendation 18 in accordance with WALGA’s view: <i>‘that there be adequate funding of legislative responsibilities assigned to Local Governments in relation to service delivery to remote Aboriginal communities’</i>.</p>	Whilst the Select Committee report does not comment on provision of services for remote communities, more broadly the Select Committee Finding 5 stated that cost shifting has a disproportionate impact in the form of additional regulatory and compliance requirements on smaller local governments and local governments in regional areas.
19	Optional preferential voting be adopted in place of the current first past the post system.	Oppose	<p>Recommendation 19 proposes a system of voting that better represents the community’s preference for candidates that is not currently delivered by a first past the post system, where a candidate does not require a clear majority of votes to be elected.</p> <p>WALGA Oppose Recommendation 19 and any alternative voting system in favour of retaining the first past the post system.</p> <p>The merits of optional preferential voting are noted.</p>	Not within scope of the report.
20, 21 and 27	Property franchise voting	Supports 20, 21 & 27	The City supports of a broad review of the property franchise including a community consultative process.	Not within scope of the report.
22	All In/All Out Local Government Election 4 year cycle	Comment: further consultation required	<p>Recommendation 22 proposes that local government elections are held once every four years, two years after but to otherwise accord with the timing of the State election. A principle of the current two year election cycle is to support the continuity of knowledge and experience of the local government. A key risk of the proposed all in/all out is the loss of corporate knowledge and influence of a council.</p> <p>The panel acknowledges the potential loss of corporate knowledge due to non-election of experienced councillors, whereas benefits include potential increased participation by candidates and electors</p>	Not within scope of the report.

Rec #	Local Government Review Panel Final Report Recommendation	City of Mandurah Proposed Position	City of Mandurah Proposed Comment	Select Committee Inquiry into Local Government Recommendation (for noting)
			<p>and reduced election costs to local governments. In accordance with WALGA's view the City recommends that further consultation with the sector is required.</p> <p>The City notes that the current timing of the local government elections occurring in October is appropriate as held post-budget adoption.</p>	
23, 24 & 25 (a)	Conduct of Elections	<p>Opposes 23 and 25 (a)</p> <p>Supports 24</p>	<p>The City opposes Recommendation 23 which recommends that all local government elections should be overseen by the Western Australian Electoral Commission (WAEC).</p> <p>The City opposes WAEC being the only authority to administer elections, however would support the intent of the recommendation which is for elections to be administered independently across local governments. In the City's view local government should have the option for outsourcing elections, however regardless of who conducts the elections, they should be administered in an independent, consistent and standardised manner.</p> <p>WALGA also opposes Recommendation 23 and advocates for an end to the WAEC's monopoly on the conduct of postal elections by amending legislation to permit third parties to be service providers of postal elections.</p> <p>The City supports electronic voting (Recommendation 24) subject to extensive testing to assure the integrity of the system.</p> <p>In accordance with WALGA's position the City opposes Recommendation 25(a) which adds to the currently mandated role of the WAEC by proposing all elections are by postal voting, ending the option of in-person voting.</p>	Not within scope of the report.
25	Other Election Proposals	<p>Supports 25 (b), (d) – (f)</p> <p>Oppose (in part): (c)</p>	<p>Recommendation 25 (c) proposed that candidates will be required to declare membership to a political party when nominating for a local government election.</p> <p>Whilst the City agrees with the Panel's view on expanding the nomination form for candidates, in the City's view candidates</p>	Not within scope of the report.

Rec #	Local Government Review Panel Final Report Recommendation	City of Mandurah Proposed Position	City of Mandurah Proposed Comment	Select Committee Inquiry into Local Government Recommendation (for noting)
			<p>should not be required to disclose membership to political parties at the time of nominating for local government elections. In the City's view candidates should not to be defined by a political party.</p> <p>As per Recommendation 55(i), it would appropriate for Elected Members to declare membership to a political party at the time of completing primary and annual returns.</p>	
26	Elected Member Numbers Based on Population, Wards, Mayor/President Election Term Limits	<p>Supports: 26(b), (d), (e) and (f)</p> <p>Conditional support: 26 (a) with an amendment</p> <p>Oppose: 26 (c)</p>	<p>The City conditionally supports 26 (a) based on WALGA's comments stating that a review of the relative benefits and merits of changes to reduce numbers of Elected Members on Council be supported, on the following basis:</p> <ul style="list-style-type: none"> - Populations up to 5,000 – 5 to 7 Councillors (incl. President) - Populations between 5,000 and 75,000 – 5 to 9 Councillors (incl. Mayor/President) - For Populations above 75,000, WALGA have recommended up to 15 Councillors (incl. Mayor). In the City's view 11 or 13 councillors (incl. Mayor) is an appropriate level of representation. <p>In accordance with WALGA's position the City opposes 26 (c) which states that current classification bands 3 and 4 should not have multiple wards unless the Local Government Commission permits it in the interests of ensuring local democracy is enabled in certain communities. The decision on whether a local government has wards should be the decision of the respective community.</p>	Not within scope of the report.
28, 29, 30, 31, 32	Redefinition of roles and responsibilities of Mayors, Council, Councillors and CEO	<p>Supports: 28, 29, 30, 31, 32(1)(a) to (o) and 32 (2) (a)</p> <p>Further clarity required 32(2)</p>	<p>For the most part the City welcomes the significant changes and revised statements for the roles and responsibilities of Mayor, Council, Councillors and the CEO.</p> <p>The City hopes that the new Act will provide clarity to the sector on the separation of powers. The City reflects that the DLGSC should continue to provide guidance to the sector on the distinction between Council's role and the administration of local</p>	<p>The Committee supports the DLGSC intent to clarify the role and purpose of Council.</p> <p>Recommendation 26: that Government clarify the roles of Council and the chief executive officer, and the distinction between</p>

Rec #	Local Government Review Panel Final Report Recommendation	City of Mandurah Proposed Position	City of Mandurah Proposed Comment	Select Committee Inquiry into Local Government Recommendation (for noting)
		Oppose: 32(2)(b) and (c)	<p>government. Recent amendments to Regulation 9 (1) and advice from the Department have provided clarity, however, further guidance to the sector is welcomed.</p> <p>Recommendation 32 defines the functions of the CEO. The City supports the majority of these recommendations, however opposes 32 (2) (b) and (c) in accordance with WALGA's position.</p> <p>The Panel's recommendation is set out below:</p> <p><i>(2) The CEO must inform and consult the council when determining, or making, significant changes to –</i></p> <p><i>(a) the organisational structure for the staff of the local government; or</i></p> <p><i>(b) the processes, terms or conditions that are to apply to the appointment of senior executive officers; or</i></p> <p><i>(c) the appraisal scheme that is to apply to senior executive officers.</i></p> <p>In regard to 32 (2) further guidance is recommended in relation to the definition of 'significant changes', including clearer guidelines and examples for roles and responsibilities.</p> <p>In accordance with Regulation 9(1) of the <i>Local Government (Rules of Conduct) Regulation</i> the City opposes Council's involvement in matters relating to senior employees. WALGA also opposes recommendations 32 (2)(b) and (c) stating 'to conclusively ensure that a Council cannot involve itself in the functions of the Chief Executive Officer as set out in Section 5.41 of the <i>Local Government Act</i>'</p>	governance and operational matters, in any new local government Act.
33 & 34	Inclusion of community engagement principles and charter	Supports 33 & 34	The City supports the inclusion of community engagement principles in the new Act and the proposal for a Community Engagement Charter.	Not within scope of the report.
35	Annual electors meeting to be replaced with annual community meetings	Oppose 35	Recommendation 35 proposes that the annual electors meeting be replaced by an annual community meeting, that provides information on achievements and future prospects, financial performance and methods for wider community participation.	Not within scope of the report.

Rec #	Local Government Review Panel Final Report Recommendation	City of Mandurah Proposed Position	City of Mandurah Proposed Comment	Select Committee Inquiry into Local Government Recommendation (for noting)
			<p>In the City's view an annual electors meeting should not be compulsory and local governments should look for more proactive methods for engaging the community (as set out in recommendation 33 and 34). The City opposes recommendation 35 in accordance with WALGA's comments: <i>'WALGA advocates that Elector's General Meetings should not be compulsory, on the basis that there is adequate opportunity for the public to participate in the affairs of the Local Government through attendance at Council Meetings, participating in public question time, requesting special electors' meetings etc'</i>.</p>	
36 & 37	Enhanced Integrated Planning and Reporting	Supports 36 & 37	The City supports the strengthening of Integrated Planning and Reporting.	<p>The Select Commit makes a number of comments about the impact of increased compliance requirements on local governments.</p> <p>Recommendation 14 The Department of Local Government, Sport and Cultural Industries and the Government consider the creation and introduction of tiered financial reporting model for local governments.</p>
38	Minimum Service Levels	Oppose 38 (a) and (b) and reiterate support for Recommendation 6 'General Competence Principle'.	<p>Recommendation 38(a) provides a minimal level of service delivery established as a statutory obligation and Recommendation 38 (b) proposes a qualified reserve power whereby the Minister for Local Government responds to failures to deliver the minimum services by issuing an enforceable decision.</p> <p>The City opposes 38 (a) and (b) in line with WALGA's comments: <i>'Recommendation 38(a) appears intended to create a commonality of service delivery that is potentially measurable across the sector, with service delivery outcomes either legislated or directed by the Minister for Local Government. This approach is anathema to the General Competence Principle that permits Local Governments to independently determine appropriate levels of service.'</i></p>	The Select Committee make a number of recommendations regarding cost shifting between State and local governments.

Rec #	Local Government Review Panel Final Report Recommendation	City of Mandurah Proposed Position	City of Mandurah Proposed Comment	Select Committee Inquiry into Local Government Recommendation (for noting)
			<p><i>Recommendation 38(b) is intended as a qualified reserve power however the associated commentary includes reference to directions relating to a natural disaster or a pandemic. The Local Government sector's experiences during the COVID-19 pandemic did not bring to light any deficiency in the capacity of the State Government to manage issues arising from a pandemic that would requiring the Minister for Local Government to assume emergency direction powers – see also Recommendation 58. WALGA advocates that the State Government ensure there is proper provision for resources required to fulfil any legislated responsibility.'</i></p> <p>In the City's view establishing minimum service levels for the sector could cause significant financial detriment to local governments particularly regional and small local governments.</p>	
39 to 42	Local and Joint Subsidiaries	Supports 39, 40, 41(a) to (g) and (i); 42 Oppose: 41 (h)	<p>Recommendation 41 recommends that 'beneficial enterprises' not be introduced as a new mechanism for local government commercial activities, but instead an updated and more flexible subsidiary model be adopted.</p> <p>The City supports this approach, however in accordance with WALGA's view does not support 41(h) which requires employees of the subsidiary to be employed under the same award or agreement conditions as the relevant local government/s and within the jurisdiction of the Western Australian Industrial Relations Commission.</p> <p>WALGA stated '<i>This would mean that employees of a subsidiary fall within the jurisdiction of the WA Industrial Relations Commission. This conflicts with current WALGA advocacy that such a transfer is conditional upon modernisation of the State system to be more consistent with the Federal industrial relations system</i>'.</p>	Finding 14 of the Select Committee stated: that considerable works to be done to assess the potential risks and benefits of the beneficial enterprise model. The Select Committee also notes that ' <i>a beneficial enterprise model is not the only way to address service gaps in regional area</i> '.
43 & 44	Modernise Financial Management Functions	Supports 43 & 44	The City supports the proposed principles to modernise financial management functions.	The Select Committee recommended that the Government consider providing through the DLGSC, an accounting advice helpdesk

Rec #	Local Government Review Panel Final Report Recommendation	City of Mandurah Proposed Position	City of Mandurah Proposed Comment	Select Committee Inquiry into Local Government Recommendation (for noting)
				service to the local government sector similar to the service provided by the Department of Treasury to the State Government sector.
45 to 49	Procurement	<p>Supports: 45 (a) – (c), 46, 47, 48, 49</p> <p>Conditionally supports 45 (d)</p>	<p>The City is supportive of using the Tenders WA Platform to advertise tender opportunities as it is free and will enable suppliers to find procurement opportunities in one location, however, the City suggests that a local government portal be created separate from the Tenders WA Platform.</p> <p>The State Government procurement opportunities on Tenders WA are fairly consistent and standardised with procurement direction being driven from Department of Finance. Including local government procurement opportunities alongside state government could create confusion for the market.</p> <p>In addition, this recommendation should not be considered for implementation until Recommendation 46 (development of a model procurement policy) has been implemented. Whilst the rules around tendering are consistent across all local governments, due to the <i>Local Government (Functions and General) Regulations 1996</i>, having all tenders on one portal may bring to light how differently local governments operate, for example there is no consistency with contracts, terms and conditions, qualitative requirements or evaluation processes.</p>	Not within scope of the report.
50 to 52	Rating and Revenue	<p>Supports 50 (a), (b), (d) – (g), 51 & 52</p> <p>Amendment to 50(c)</p>	<p>Amendment to 50(c) delete “should be asked” – it states that the <i>ERA should be asked to undertake a review of the rating system, including a thorough examination of the case for the current wide range of exemptions</i>, this leaves some discretion and if they choose not to, there will be no change because 50(d) states that the <i>current rates exemptions should be retained until after the ERA review</i>.</p> <p>The City suggests that local governments should be consulted when the ERA undertakes a review and consider all submissions received. There should also be a timeline communicated to local governments of when the review will be completed.</p>	<p>The Select Committee holds a view that the charitable purposes rate exemption is in need of much-overdue reform.</p> <p>Recommendation 8: Recognising that the current charitable purposes rate exemption produces perverse outcomes and may inappropriately shield commercial operations from paying rates, the State Government clarify the charitable purposes rate exemption in any new local government Act.</p>

Rec #	Local Government Review Panel Final Report Recommendation	City of Mandurah Proposed Position	City of Mandurah Proposed Comment	Select Committee Inquiry into Local Government Recommendation (for noting)
				<p>Select Committee Recommendation 9 states that State Government conduct a broad review of the rate exemptions to be included in any new local government Act.</p>
53 & 54	<p>Role and Membership of Audit Risk</p>	<p>Comment: 53 (a) and (b) Amendment 54 (c)</p>	<p>Recommendation 53 proposes that the majority of members on the Audit, Risk and Improvement Committee not be associated with the local government in any way and be drawn from a suitably qualified panel.</p> <p>The City notes that it is unclear in the recommendation where the panel of suitable candidates will be drawn or how the panel arrangement would be funded. It may also be challenging for the local government to recruit suitable and qualified committee members.</p> <p>In the City's view the Committee should continue to be strategically led by a membership comprising of the majority Elected Members and independent (and appropriately qualified) members.</p> <p>The City suggest an amendment to 54 (c): Audit, Risk and Improvement Committee should <u>monitor</u> the implementation of the Internal Audit Plan and receive the audits, rather than conduct the audits as stated in the recommendation.</p> <p>Broadly support the principle</p>	<p>Whilst the Select Committee do not comment on the role and functions of audit and risk committee, Recommendation 11 states that Government should give active consideration to facilitating, through the DLGSC, a shared internal audit service for the local government sector, particularly to assist small and medium local governments.</p>
55	<p>Governance</p>	<p>Supports: 55(a), (b), (d), (e), (f), (h) and (i) Opposes: 55 (g) Comment: 55(c)</p>	<p>Recommendation 55(c) - deciding on whether an Elected Member should vote on a matter, should not be impacted by whether there would be a quorum. If the Elected Member is unsure whether they can vote on the matter impartially, they should not participate in debate or vote (i.e. they should leave the meeting). Therefore, recommend that (c) is added to the support section of the recommendation.</p> <p>The City opposes 55 (g). Council should determine when the position of CEO is advertised and should continue to have sole</p>	<p>The Select Committee found that some council members consider that they are not provided with sufficient resources and support to discharge their responsibilities.</p> <p>Recommendation 28 recommends that the State Government consider the expansion of council member training to address:</p> <ul style="list-style-type: none"> - the distinction between Council's governance role and the operational

Rec #	Local Government Review Panel Final Report Recommendation	City of Mandurah Proposed Position	City of Mandurah Proposed Comment	Select Committee Inquiry into Local Government Recommendation (for noting)
			<p>discretion regarding the CEO's employment which is governed via a fixed-term employment contract. This allows the Council and CEO to end both the contractual and employment relationship if lawful and reasonable causes exist.</p> <p>In addition, the cost associated with a recruitment process is significant. If the Council is satisfied with the CEO's performance, then regulations should not impose such a costly process on the local government, which are ultimately passed onto the ratepayers.</p> <p>WALGA's current advocacy position includes opposition to item (g), the mandatory readvertising of the CEO position upon completion of two five year terms.</p>	<p>functions of the chief executive officer and staff</p> <ul style="list-style-type: none"> - conducting chief executive officer recruitment and performance reviews, and terminating a chief executive officer's employment
56	Training and Development	Comment 56 (a) Supports 56 (b) to (e)	<p>Recommendation 56 (a) recommends that CEOs (including CEOs moving to a substantially larger local government) should be required to undertake training and ongoing professional development as recommended by the selection panel.</p> <p>The City supports the development of a standardised training and ongoing professional development program for CEO's.</p>	As per recommendation 28 above.
57 & 58	An early intervention framework to monitor Councils	Support 57 with comment Oppose 58	<p>The City supports Recommendation 57 which proposes the introduction of an early intervention framework of monitoring to support local governments and that the Department should have additional powers to appoint and support the monitoring, with local governments responsible for the direct costs of the monitoring.</p> <p>The City notes that adequate funding of this framework will be required by the State Government to ensure its success.</p> <p>The City opposes Recommendation 58 which recommends the Minister should have the power to direct local governments and make declarations in respect to the Local Government Act during a declared state of emergency.</p>	The Select Committee noted in Finding 23 that there is a perception among local governments that the DLGSC is under-resourced and unable to provide timely advice, robust capacity building, or early intervention to prevent governance or relationship breakdowns.

Rec #	Local Government Review Panel Final Report Recommendation	City of Mandurah Proposed Position	City of Mandurah Proposed Comment	Select Committee Inquiry into Local Government Recommendation (for noting)
			<p>WALGA also oppose this recommendation reiterating that <i>'the Local Government sector's experiences during the COVID-19 pandemic did not bring to light any deficiency in the capacity of the State Government to manage issues arising from the pandemic that would require providing the Minister for Local Government with additional emergency powers. A matter of this significance should be considered in the broad context of the State Government's assessment its capacity to respond during the present state of emergency period, rather than dealt with piecemeal in a review of the Local Government Act'</i>.</p>	
59 & 60	Office of the Independent Assessor	Supports 59 (a) – (f) & 60	<p>Recommendation 59 recommends the establishment of an Office of the Independent Assessor which would be an independent body to receive, investigate and assess complaints, removing the CEO from processing and determining complaints.</p> <p>The City generally supports Recommendations 59 (a) to (f) and would welcome further information on how this Office will function.</p> <p>It is acknowledged that the Standards Panel has in recent times experienced resourcing pressures. The City supports the creation and resourcing of an independent Office; however, it is recommended that the DLGSC should aim to address the shortfalls within the existing model when considering the implementation of a new Office.</p> <p>Recommendation 60 states that consideration should be given to the appropriate recognition and management of complaints by an Elected Member against a CEO or other senior officer, with one option for these to be investigated by the Office of the Independent Assessor. The City supports the management of such complaints by an independent Office. The management of complaints can have a detrimental impact on the relationships between the CEO, Mayor and Council and being managed independently and objectively will provide much benefit.</p>	<p>Chapter 9 of the Inquiry addresses the role and functions of the Local Government Standards Panel. The Committee has made recommendations intended to address these issues and improve the Panel system should it be retained. An overview of the recommendations is below:</p> <p>Recommendation 29: DLGSC review the minor breach complaint form in consultation with members of the Local Government Standards Panel.</p> <p>Recommendation 31: The complaints officer role be removed, and all minor breach complaints be made directly to the DLGSC or any independent body established to deal with complaints against council members</p> <p>Additional recommendation regarding complaints:</p> <p>Recommendation 22: The Government consider formally establishing the DLGSC as a 'one-stop-shop' for complaints related to the local government sector.</p>

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61	Principles for determining Classification Bands	Oppose 61	<p>Recommendation 61 states that (a) the new Act should set principles for determining classification bands for local governments and (b) these classification bands should be used by the Salaries and Allowances Tribunal for determining Councillor and CEO payments, as well as providing a framework for distinguishing between local governments in relation to other matters.</p> <p>The City suggests that the determination is established as a guide that is set annually rather than in legislation to provide flexibility and an agile approach.</p>	
62 & 63	Harmonization of local laws	Supports 62 & 63	The City supports the harmonisation of local laws however notes that extensive consultation of the local government sector will be required.	Not within scope of the report.
64	WALGA	Comment: 64 (a) & (b) additional advice required Supports 64 (c)	Recommendation 64 recommends that WALGA (a) not be constituted under the new Act and (b) a transition period is provided to ensure continuity in operations of WALGA while it is re-formed under other legislation. WALGA have indicated that legal advice needs to be obtained in respect to this recommendation and the City supports WALGA's position.	Recommendation 36 the Western Australian Local Government Association need not and should not be constituted under the Act, or any new local government Act.
65	Operational Provisions	Supports 65 (a) to (e) Conditionally support 65 (f)	<p>Recommendation 65 (f) states that employment entitlements for local government employees should be transferrable across all three levels of Government.</p> <p>The City supports WALGA's comments of conditional support for Recommendation 65(f) pending further research on cost implications and industrial consideration.</p>	Not within scope of the report.