



SHIRE SUBMISSION - WALGA ADVOCACY POSITIONS LOCAL GOVERNMENT ACT REVIEW

CONTENTS

BACKGROUND	3
SHIRE’S SUBMISSION ON WALGA’S ADVOCACY POSITIONS	3
BENEFICIAL ENTERPRISES	4
FINANCIAL MANAGEMENT	5
RATES, FEES AND CHARGES	7
ADMINISTRATIVE EFFICIENCIES	10
COMPLAINTS MANAGEMENT	12
COUNCIL MEETINGS.....	13
INTERVENTIONS.....	15
ELECTIONS.....	15

BACKGROUND

On 20 June 2017, the State Government announced that a review of the *Local Government Act 1995* (the Act) would be undertaken. The McGowan Government decided to progress this review and the Department of Local Government, Sports and Cultural Industries (DLGSC) commenced public consultation in November 2017. The intent of the Review is to modernise the legislation, reduced red tape, and provide more flexibility in implementation of the Act. The Shire of Broome supports the intent of the review given that it has been more than 20 years since the last major review was conducted.

WALGA wrote to local governments, 16 November 2018, requesting comment on their State Council endorsed Local Government Act Review Advocacy Positions.

In the writing of this submission the Shire reviewed their DLGSC Phase 1 Council Endorsed Submission (Submission)¹. Feedback was also reviewed from the WALGA run community consultation workshops in Broome and from Councillor and key Shire personnel feedback.

This submission was endorsed at the Ordinary Meeting of Council held (TBA).

SHIRE'S RESPONSE TO WALGA'S ADVOCACY POSITIONS

WALGA LOCAL GOVERNMENT ACT REVIEW PRINCIPLES

That State Council endorse the following general principles as being fundamental to its response to the review of the Local Government Act:

- (a) Uphold the General Competence Principle currently embodied in the Local Government Act;**
- (b) Provide for a flexible, principles-based legislative framework; and**
- (c) Promote a size and scale compliance regime.**

SHIRE RESPONSE

The Shire is supportive of WALGA's general principles and agree that they are fundamental in considering changes to the Local Government Act. This was outlined in the Shire's phase 1 Submission to DLGSC.

'The Shire strongly supports the proposal for the Local Government Act 1995 (the Act) to be principles-based and focused on outcomes, with the detail relating to powers and responsibilities to be addressed in regulations or other guidance material....

We are supportive of the proposal for a tiered compliance regime based on capacity. This would reduce the resource burden on small local governments and improve capacity building support from the Department.'

¹ Appendix 1 – DLGSC Shire Phase 1 Submission

WALGA ADVOCACY POSITIONS

BENEFICIAL ENTERPRISES

WALGA has been advocating for Local Governments to have the ability to form Beneficial Enterprises (formerly known as Council Controlled Organisations) for approximately ten (10) years.

A Beneficial Enterprises is a standalone arm's length business entity to carry out commercial enterprises and to deliver projects and services for the community. Local Governments would have the ability to create Beneficial Enterprises through the Local Government Act, however the stand-alone business entity would be governed by the Corporations Act (ie normal company law).

Beneficial Enterprises provide services and facilities that are not attractive to private investors or where there is market failure. A Beneficial Enterprise cannot carry out a regulatory function of a Local Government.

Examples

- **Urban regeneration; A Land Development may not be attractive to a private developer, however the ability to develop the land may be beneficial for the Local Government in respect to strategic development/connection of an area. Or may be worth a joint venture with a developer.**
- **Measures to address economic decline in Regional WA – A small business may not be viable for a private citizen, however maybe considered an essential service for the Local Government i.e. Could be the local Pharmacy or local mechanical workshop.**

Benefits of establishing a Beneficial Enterprise include:

- (a) The ability to employ professional directors and management with experience specific to the commercial objectives of the entity;**
- (b) Removal of detailed investment decisions from day-to-day political processes while retaining political oversight of the overarching objectives and strategy;**
- (c) The ability to take an overall view of commercial strategy and outcomes rather than having each individual transaction within a complex chain of inter-related decisions being subject to the individual notification and approval requirements of the Local Government Act;**
- (d) The ability to quarantine ratepayers from legal liability and financial risk arising from commercial or investment activities;**
- (e) The ability to set clear financial and non-financial performance objectives for the entity to achieve; and**
- (f) Greater flexibility to enter into joint venture and partnering relationships with the private sector on conventional commercial terms.**

WALGA Position Statement	The Local Government Act 1995 should be amended to enable Local Governments to establish Beneficial Enterprises (formerly known as Council Controlled Organisations).
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SHIRE RESPONSE

Local governments have started to play a larger role in the economic development of their towns. Many local governments have experienced teams working on projects that support the economy. The Shire of Broome has recently signed up with the Small Business Development Corporation - Small Business Friendly Local Government Initiative <http://www.broome.wa.gov.au/News/2019/Showing-support-for-local-small-business>.

Respondents to the Shires consultation period showed overall support of establishing Local Government beneficial enterprises. The consultation period highlighted areas considered important factors in this.

Respondents thought that elected members would be best placed to make informed decisions on what a viable beneficial enterprise would be for their local area. Elected members can ensure that beneficial enterprises don't compete with existing local business. Placing too many limitations on the types of enterprises local governments can establish will just create higher risks on start up's.

Respondents saw potential benefits in being able to work with other councils to create joint enterprises that provide better support services to local government, especially in areas such as information technology. They could be established to address exorbitant fees that can arise from lack of competition or contractor travel fees, especially in regional areas.

Regional small towns often lack services and struggle with attracting investment. There's potential in beneficial enterprises supporting new business incubation, creating the security needed in the critical first steps of business development.

Respondent comments highlighted the need to ensure beneficial enterprises remained transparent and accountable in a manner that is consistent with existing business laws and auditing processes. Rate payers are the shareholders and like any private enterprises, the shareholder is entitled to know the capital investment of an organisation. Consultation also showed high support of local government owned business revenue going back into providing better services to the rate payers and community.

Government red tape can often be the cause of local government project delays. Local government employees and elected member professional ability is often scrutinised, where Local Government legislative processes are often the underlying cause of project delays.

FINANCIAL MANAGEMENT

TENDER THRESHOLD

WALGA Position Statement	WALGA supports an increase in the tender threshold to align with the State Government tender threshold of \$250 000, with a timeframe of one financial year for individual vendors.
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SHIRE RESPONSE

The Shire supports WALGA's recommendation to increase the tender threshold in their Submission;

'The Shire supports WALGA policy position that the tender threshold for local government be increased and brought into line with the State Government tender threshold of \$250,000.'

The Shire also requested in the Phase 1 submission that;

'...the tender threshold should be in regulations, not set in the Act, so that it can be reviewed and updated on a regular basis.'

Setting the threshold in regulations, rather than the Act, is inline with the WALGA's Local Government Act Principle:

b) Provide for a flexible, principles-based legislative framework.

PROCUREMENT

WALGA seeks inclusion of the following position, to permit a procurement activity involving a disposal trade-in activity to qualify as a broad exemption under Regulation 30(3) of the Local Government (Functions and General) Regulations:

WALGA Position Statement	That Regulation 30(3) be amended to delete any financial threshold limitation (currently \$75,000) on a disposition where it is used exclusively to purchase other property in the course of acquiring goods and services, commonly applied to a trade-in activity.
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SHIRE RESPONSE

The Shire is supportive of amending Regulation 30(3) as stated in their Phase 1 Submission;

'The Shire support WALGA policy position that Regulation 30(3), Local Government (Functions and General) Regulations 1996, be amended to delete any financial threshold limitation (currently \$75,000) on a disposition where it is used exclusively to purchase other property in the course of acquiring goods and services, commonly applied to a trade-in activity.'

The thresholds are arbitrary and do not appear to be linked to the value of particular types of equipment or other property. Further, it is not clear why local governments would have an incentive to make a trade-in at a lower value because it would increase the gap, and therefore the costs, of purchasing the replacement equipment or property.'

POWER TO BORROW: SECTION 6.20

That Section 6.20(2) of the Local Government Act, requiring one month's public notice of the intent to borrow, be deleted.

SHIRE RESPONSE

The Shire of Broome submitted the following as part of their Submission;

'Review the current restrictions on borrowing, including:

- o delete requirement under subsection 6.20(2) that local governments must provide one month's public notice of the intent to borrow; and*
- o allow local governments to use freehold land as security when borrowing.'*

Respondents from the consultation period stressed the resource burden placed on local government because of this regulation. Suggestions were made to for including provisions for trade-in'

BASIS OF RATES: SECTION 6.28

That Section 6.28 be reviewed to examine the limitations of the current methods of valuation of land, Gross Rental Value or Unimproved Value, and explore other alternatives including simplifying and providing consistency in the rating of mining activities.

DIFFERENTIAL GENERAL RATES: SECTION 6.33

That Section 6.33 of the Local Government Act be reviewed in contemplation of time-based differential rating, to encourage development of vacant land.

SHIRE RESPONSE

The Shire is in support of WALGA's policy position that a review is needed of Section 6.28 and Section 6.33 as detailed in their Submission:

'The Shire of Broome also supports WALGA's policy positions that: ...

- a review should be undertaken of current valuation methods and limitations, for instance, local governments should have discretion about using Gross Rental Value or capital value for ratings; ...*
- time-based differential ratings should be available as an option to encourage development;'*

MEMBER INTERESTS – EXEMPTION FROM AASB 124

Elected Member obligations to declare interest are sufficiently inclusive that WALGA seeks an amendment to create an exemption under Regulation 4 of the Local Government (Financial Management) Regulations relating to AASB 124 'Related Party Transactions' of the Australian Accounting Standards (AAS).

SHIRE RESPONSE

The Shire provided support for this policy position in their Submission to DLGSC;

'Support WALGA policy position to provide an exemption from AASB 124 Related Party Transactions given that local government members and CEOs are already required to disclose interests and this information is already recorded and available.'

RATES, FEES AND CHARGERS

IMPOSITION OF FEES AND CHARGERS: SECTION 6.16

WALGA Position Statement	That a review be undertaken to remove fees and charges from legislation and Councils be empowered to set fees and charges for Local Government services.
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SHIRE RESPONSE

The Shire provided the following comments in support of WALGA's policy position statement as part of their Phase 1 submission to DLGSC:

'The Shire strongly supports WALGA's policy position that Councils should be able to set fees and charges for local government services. Setting specific fees and charges for local government services in legislation means that they become outdated quickly.'

The Shire had additional comments on this in its Submission;

Further, we are concerned that the methodology for calculating fees and charges is not transparent, does not appear to include indexation or consider the costs – administration or operational – of providing services. The current regime does not take into account that the costs of providing services will differ between urban and remote locations. The consequence is that all rate payers in the Shire subsidise the cost of providing local government services, including those that are only utilised by a small number of people in the community. Further, specifying this level of detail in legislation impedes innovation and deters local governments from making structural changes to what and how services are provided.'

The Shire notes that a number of fees and charges for local government services are restricted by other legislation, not just the Act, including fees and charges relating to planning and development, health, waste management and vehicle usage.'

Both Planning and Building fees are prescribed under Regulation and the fees are generally calculated based on the estimated cost of the development/building. The Building fees are general adjusted annually each year to account for CPI, however Planning fees have not been increased to account for CPI since 2015.'

WALGA undertook an extensive review of planning fees in 2013 which advocated for a true cost recovery/fee for service model as it was found following extensive research that in most cases the cost to undertake the work required is more than the regulated fee. No significant changes to the fee structure have been made since this time. As a simple example, the maximum fee for a planning application where the estimated development value is less than \$50,000 is \$147. This would not cover the administrative costs imposed on the Shire to process the application. Similarly, for building, the minimum fee for a building application is \$97.70 and similarly this would not cover the administrative cost in processing an application.'

The Shire has offered to provide further detailed examples to the DLGSC if this would assist in their review.

RATES EXEMPTIONS – CHARITABLE PURPOSES: SECTION 6.26(2)(G)

1. Amend the Local Government Act to clarify that Independent Living Units should only be exempt from rates where they qualify under the Commonwealth Aged Care Act 1997;

2. Either:

(a) amend the charitable organisations section of the Local Government Act 1995 to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or

(b) establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of Local Government rates; and

3. Request that a broad review be conducted into the justification and fairness of all rating exemption categories currently prescribed under Section 6.26 of the Local Government Act.

SHIRE RESPONSE

The Shire supported point 2 and 3 of WALGA's position statement on Rates Exemptions – Charitable Purposes: Section 6.26(2)(g), in their Phase 1 submission to DLGSC;

'The Shire also strongly supports the WALGA policy position that a broad review of all ratings exemptions be undertaken, including eliminating rates exemptions for commercial activities of charities and providing compensation to Councils for charitable organisation exemptions...

In particular, we would suggest that the definition of "charitable purposes" needs to be clarified and/or defined in legislation. The review should also clarify rating exemptions for Registered Native Title Bodies Corporate and other Aboriginal Corporations, particularly in relation to applications for exemption under the existing religious exemption clauses in the legislation.'

Respondents to the Shires consultation period showed a strong support for amending the Local Government Act to have more clarity around Independent Living Units exemptions.

RATING EXEMPTIONS – RATE EQUIVALENCY PAYMENTS

WALGA Position Statement	Legislation should be amended so rate equivalency payments made by LandCorp and other Government Trading Entities are made to the relevant Local Governments instead of the State Government.
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SHIRE RESPONSE

Responses received from the Shire's consultation period showed unanimous support for this. Respondents were adamant that rate payers should not have to compensate services provided to Government Trading Entities.

RATES OR SERVICE CHARGERS RECOVERABLE IN COURT: SECTION 6.56

WALGA Position Statement	That Section 6.56 be amended to clarify that all debt recovery action costs incurred by a Local Government in pursuing recovery of unpaid rates and services charges be recoverable and not be limited by reference to the 'cost of proceedings'.
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SHIRE RESPONSE

The Shire supported an amendment of Section 6.56 in the Submission;

'The Shire supports the WALGA policy position that all debt recovery action costs incurred in pursuing unpaid rates and unpaid fees and charges should be recoverable and not limited by legislation...'

RATING RESTRICTIONS – STATE AGREEMENT ACTS

WALGA Position Statement	Resource projects covered by State Agreement Acts should be liable for Local Government rates.
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SHIRE RESPONSE

Supported in the Shires Submission;

'The Shire of Broome also supports the WALGA policy positions that:

- resource projects should be required to pay local government rates;*
- rate equivalency payments by government entities should be paid to the relevant local government(s) rather than to the State government;'*

ADMINISTRATIVE EFFICIENCIES

CONTROL OF CERTAIN UNVESTED FACILITIES: SECTION 3.53

WALGA seeks consideration that Section 3.53 be repealed and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager.

SHIRE RESPONSE

The Shire supported the removal of Section 3.53 in its Submission to DLGSC;

'It is recommended Section 3.53 of the Act be deleted and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager.'

LOCAL GOVERNMENT GRANTS COMMISSION AND LOCAL GOVERNMENT ADVISORY BOARD

WALGA seeks inclusion of a proposal to allow electors of a Local Government affected by any boundary change or amalgamation proposal entitlement to petition the Minister for a binding poll under Schedule 2.1 of the Local Government Act.

SHIRE RESPONSE

There were no responses to this in the Submission to DLGSC or during the Shires consultation period. The Shire comprises around 55,000 square kilometres, topographical conditions would be a huge barrier to logistically changing boundaries or amalgamating local governments in our region. Change of this nature would have little impact for our region.

SCHEDULE 2.1 PROPOSAL TO THE ADVISORY BOARD, NUMBER OF ELECTORS

That Schedule 2.1 Clause 2(1)(d) be amended so that the prescribed number of electors required to put forward a proposal for change increase from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.

SHIRE RESPONSE

Supportive – Shire supported this in its Submission to DLGSC;

‘The Shire supports investigation of options to modernise local government elections and Council meetings, including the WALGA policy positions relating to: ...

- *increase the requirements for the number of electors for calling special electors’ meetings, proposal to Advisory Board.’*

SCHEDULE 2.2 PROPOSAL TO AMEND NAMES, WARDS AND REPRESENTATION, NUMBER OF ELECTORS

That Schedule 2.2 Clause 3(1) be amended so that the prescribed number of electors required to put forward a submission increase from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.

SHIRE RESPONSE

Supportive – Shire supported this in its Submission to DLGSC;

‘The Shire supports investigation of options to modernise local government elections and Council meetings, including the WALGA policy positions relating to: ...

- *increase the requirements for the number of electors for calling special electors’ meetings, proposal to Advisory Board.’*

TRANSFERABILITY OF EMPLOYEES BETWEEN STATE & LOCAL GOVERNMENT (QUESTIONS 82 – 84)

A General Agreement between State and Local Government should be established to facilitate the transfer of accrued leave entitlements (annual leave, sick leave, superannuation and long service leave) for staff between the two sectors of Government. This will benefit public sector employees and employers by increasing the skills and diversity of the public sector, and lead to improved collaboration between State and Local Government.

SHIRE RESPONSE

The Shire has made comment to DLGSC that there is benefit in the transferability of employees between State and Local Governments where it assists with addressing capability and capacity gaps. It would also assist with staff development and provide more substantial career path opportunities. The Shire supports transferences of accrued leave entitlements provided that sick and or personal leave is not included.

‘We note that recognition of service and leave entitlements has been identified as one of the key barriers to mobility between state and local government. The Shire would support the recognition and recovery of associated costs of annual leave and long service leave, but not personal leave.’

The Shire also noted that there are risks around improving transferability of employees which could see a disproportionate move from Local Government to State. Transference should be accompanied by initiatives that encourages an even interchange, such as two-way

secondment programs. Potential for extending these initiatives across local governments throughout Australia.

PROOF IN VEHICLE OFFENCES MAY BE SHIFTED: SECTION 9.13(6)

That Section 9.13 of the Local Government Act be amended by introducing the definition of ‘responsible person’ to enable Local Governments to administer and apply effective provisions associated with vehicle related offences.

SHIRE RESPONSE

The Shire supported introduction of a ‘responsible person’ definition in its Submission to DLGSC;

‘The Shire also supports the proposal to introduce a responsible person definition for vehicle offences to enable more effective administration of vehicle-related offences.’

COMPLAINTS MANAGEMENT

QUERULOUS, VEXATIOUS AND FRIVOLOUS COMPLAINTS

The Complaints Management commentary contemplates the issue up to the point of unresolved complaints and then references the Ombudsman resources with regard to unreasonable complainants. WALGA seeks inclusion of commentary and questions relating to Local Governments adopting within their proposed complaints management framework, the capacity to permit a Local Government to declare a member of the public a vexatious or frivolous complainant, subject to the declaration relating to the nature of complaint and not to the person.

Amend the Local Government Act 1995, to:

- **Enable Local Government discretion to refuse to further respond to a complainant where the CEO is of the opinion that the complaint is trivial, frivolous or vexatious or is not made in good faith, or has been determined to have been previously properly investigated and concluded, similar to the terms of section 18 of the Parliamentary Commissioner Act 1971.**
- **Provide for a complainant, who receives a Local Government discretion to refuse to deal with that complainant, to refer the Local Government’s decision for third party review.**
- **Enable Local Government discretion to declare a member of the public a vexatious or frivolous complainant for reasons, including:**
 - o Abuse of process;**
 - o Harassing or intimidating an individual or an employee of the Local Government in relation to the complaint;**
 - o Unreasonably interfering with the operations of the Local Government in relation to complaint.**

SHIRE RESPONSE

Supportive – support was shown in the Submission to DLGSC.

‘The Shire supports WALGA policy position that the Standards Panel should have an ability to dismiss vexatious and frivolous complaints.’

Further consultation across the Shire also saw unanimous support for establishing standard charters for complaint management. Comments were made supporting clear definitions for complaints that potentially could result in a breach of the Act and general complaints. Where the complaint could result in a breach a standards panel should assess the complaint. All other general complaints should be handled administratively with customers referred to the Ombudsman if they’re not satisfied with a resolution.

There was strong emphasis placed on zero tolerance to abuse of Councillors or local government employees. Comments were also made in regard to duty of care when a complainant is making statements perceived to be irrational. Local governments are not experienced mental health professionals but should be protected if they refer a customer onto health organisations. The Kimberley has the highest suicide rate in Australia and public officers should feel they’re protected if there is genuine concern for a customer’s wellbeing.

COUNCIL MEETINGS

ELECTORS’ GENERAL MEETING: SECTION 5.27

WALGA Position Statement	Section 5.27 of the Local Government Act 1995 should be amended so that Electors’ General Meetings are not compulsory.
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SHIRE RESPONSE

Supportive - The Shire’s phase 1 submission to DLGSC supported amending Section 5.27 so that Electors’ General Meetings are not compulsory.

‘The Shire supports investigation of options to modernise local government elections and Council meetings, including WALGA policy positions relating to: ...

annual electors’ meetings not compulsory given little or no attendance. Electors already have an opportunity to ask questions about the Annual Report at other Council meetings;’

Respondents to the Shires consultation period mentioned the lack of attendance at Annual Electors Meeting (AEM) in the region. The Shire’s 2018 AEM had three electors present and two community members, with one question raised. The 2017 AEM only had two media personnel in attendance. Comments were also received regarding the extra costs and strain on local governments when the Annual Report could be adopted through the Ordinary Council Meeting process.

ELECTORS’ MEETING: SECTION 5.28

That Section 5.28(1)(a) be amended:

(a) so that the prescribed number of electors required to request a meeting increase from 100 (or 5% of electors) to 500 (or 5% of electors), whichever is fewer; and

(b) to preclude the calling of Electors' Special Meeting on the same issue within a 12 month period, unless Council determines otherwise.

SHIRE RESPONSE

Supportive – Shire supported this in its Submission to DLGSC.

'The Shire supports investigation of options to modernise local government elections and Council meetings, including the WALGA policy positions relating to: ...

increase the requirements for the number of electors for calling special electors' meetings, proposal to Advisory Board.

MINUTE, CONTENTS OF: REGULATION 11

Regulation 11 should be amended to require that information presented in a Council or Committee Agenda must also be included in the Minutes to that meeting.

SHIRE RESPONSE

Supportive – Respondents during the Shire's consultation period supported this amendment. Having all the information recorded in the minutes creates transparency. Now that minutes can be recorded and viewed electronically there is reduced printing requirements involved in making these documents accessible. The Shire of Broome already includes all the information from the meeting agenda in its minutes.

REVOKING OR CHANGING DECISIONS: REGULATION 10

That Regulation 10 be amended to clarify that a revocation or change to a previous decision does not apply to Council decisions that have already been implemented.

SHIRE RESPONSE

Supportive – respondents were unanimously supportive of more clarity around Regulation 10 would be helpful in determining what is considered an implemented decision, especially when legal contracts are also involved or implications when revoking decisions on delegations.

ELECTED MEMBER ATTENDANCE AT COUNCIL MEETINGS BY TECHNOLOGY

The current Local Government (Administration) Regulations 1996 allows for attendance by telephone, however only if approved by Council and in a suitable place. A suitable place is then defined as in a townsite as defined in the Land Administration Act 1997. This restricts an Elected Members ability to attend the meeting to a townsite in Western Australia.

This requirement does not cater for remote locations or the ability to attend via teleconference whilst in another state or overseas. The regulations require amendment to consider allowing attendance at a meeting via technology from any location suitable to a Council.

SHIRE RESPONSE

Supportive – The Shire supported Submission to DLGSC;

'...continued non-attendance at Council and Committee meetings affects local government decision-making. We are also concerned about the time and resources involved in holding and

rescheduling meetings when unable to obtain a quorum, as well as the impact on the elected members that do attend meetings.'

Shire respondents over the consultation period agreed that the current legislation is too restrictive. Currently the approval to attend a meeting by telephone only relates to addresses within WA, due to the reference in the Administration Regulations, that the 'townsite' definition has the same meaning given to that term in the Land Administration Act 1997 Section 3(1). Due to this being WA based legislation, advice is that it therefore only relates to requests from within WA.

The Shire of Broome comprises of around 55 000 square kilometres with an estimated 83 Aboriginal communities, 79 of these are considered remote communities, only accessible by 4WD. During the wet season these communities can be cut off from the Broome townsite as roads become impassable and are often closed. The Shire of Broome is supportive of allowing Elected Members the ability to participate remotely as this would make it easier for members of remote communities to participate in local government meetings.

This would also address issues around obtaining a quorum, which often halts productivity and waste resources when needing to reschedule council meetings or hold special meetings.

INTERVENTIONS

REMEDIAL INTERVENTION POWERS OF APPOINTED PERSON; REMEDIAL ACTION PROCESS

In respect to remedial intervention, the appointed person should be a Departmental employee with the required qualifications and experience. This provides a connection back to the Department and its requirements.

The appointed person should only have an advice and support role. Funding of the remedial action should be by the Department where the intervention is mandatory. The Local Government to pay where the assistance is requested.

This area relates to the bigger picture of differentiating between local governments based on their size and scale. Suitable arrangements to determine a size and scale compliance regime should be prioritised.

SHIRE RESPONSE

The Shire did not comment in it's phase 1 Submission in relation to any specific proposals but were supportive of the overall objectives. Comments were also made in the Shires phase 1 Submission requesting the Department to shift their focus from policing local government compliance to prevention of breaches through local government capacity building.

'The Department's focus seems to be on compliance. Would like to see shift towards focus on supporting local governments, capacity building and assisting with issues that are relevant to the whole sector. For instance, it would be helpful if the Department provided legal advice and training on issues that are relevant to the whole sector. It is inefficient, costly and risks inconsistency if local governments need to independently seek legal advice and training from the private sector when they cannot seek advice from the Department.'

Respondents from the Shires consultation period were supportive of the Department issuing infringements for some offences, for example returns and procurement breaches.

ELECTIONS

CONDUCT OF POSTAL ELECTIONS: SECTIONS 4.20 AND 4.61

WALGA Position Statement	The Local Government Act 1995 should be amended to allow the Australian Electoral Commission (AEC) and or any other third party provider to conduct postal elections.
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SHIRE RESPONSE

The Shire has made comment to DLGSC in their Submission supporting other parties conducting elections.

'The Shire supports investigation of options to modernise local government elections and Council meetings, including the WALGA policy positions relating to:

... allowing other parties to support administration and conducting elections, particularly in regional and remote areas.'

Respondents during the Phase 2 Shire consultation period also unanimously supported allowing involvement from the Electoral Commission. Other areas of key interest were;

- Looking at increasing participation, both voter turnout and candidates.
- Two years terms were preferred.
- Publication of candidate profiles more widely versus concerns of misinformation and social media trolling.
- Innovations around methods of voting.
- Age limits for elected member nominations not supported.
- No pseudonyms as in Commonwealth approach.
- Admin versus risk of full spill.
- Large number absentee owners is a risk to the fairness of the democratic electoral process

VOLUNTARY VOTING: SECTION 4.65

WALGA Position Statement	Voting in Local Government elections should remain voluntary.
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SHIRE RESPONSE

Supportive - Respondents in the Shires consultation period supported elections remaining voluntary. Comments made were concerned about the financial costs to local governments.

METHOD OF ELECTION OF MAYOR/PRESIDENT: SECTION 2.11

WALGA Position Statement	Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community.
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SHIRE RESPONSE

The Shire is in support of Local Governments determining the method of election for their Shire President, as stated in phase 1 Submission to DLGSC;

'The Shire supports investigation of options to modernise local government elections and Council meetings, including the WALGA policy positions relating to: ...

- *method for election of Shire President at discretion of local government...'*

ONLINE VOTING

That WALGA continue to investigate online voting and other opportunities to increase voter turnout.

SHIRE RESPONSE

The Shire is in support of continued investigation into methods to increase voter turnout including online voting, as stated in the Phase 1 submission to DLGSC;

'The Shire supports investigation of options to modernise local government elections and Council meetings, including the WALGA policy positions relating to: ...

- *investigating online voting options to encourage increased community participation;'*

METHOD OF VOTING – SCHEDULE 4.1

WALGA Position Statement	Elections should be conducted utilising the first-past-the-post (FPTP) method of voting.
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The Shire stated in its Phase 1 submission to DLGSC, that we support WALGA's policy position on first-past-the-post voting methods;

'The Shire supports investigation of options to modernise local government elections and Council meetings, including the WALGA policy positions relating to: ...

- o *first-past-the-post method for voting;'*

Respondents from the Shires consultation period added that the method of voting should be decided on by local government and be aligned with WALGA's principles, especially principle (b), provide for a flexible, principles-based legislative framework.

LEAVE OF ABSENCE WHEN CONTESTING STATE OF FEDERAL ELECTION

Amend the Act to require an Elected Member to take leave of absence when contesting a State or Federal election, applying from the issue of Writs. The options to consider include:

- (i) **that an Elected Member remove themselves from any decision-making role and not attend Council and Committee meetings; or**

(ii) that an Elected Member take leave of absence from all aspects of their role as a Councillor and not be able to perform the role as specified in Section 2.10 of the Local Government Act.

SHIRE RESPONSE

The Shire supported WALGA's advocacy position in the Submission to DLGSC;

'In addition to the issues discussed in the Consultation Paper, the Shire supports the WALGA policy position that elected members should be required to take leave of absence when contesting a State or Federal election. At a minimum an elected member should not participate in decision-making while they are contesting another election.'