



LOCAL GOVERNMENT ACT REVIEW ►► DELIVERING FOR THE COMMUNITY

## LOCAL GOVERNMENT ACT 1995 CONSULTATION FORUMS

OCTOBER TO NOVEMBER 2018

### FACILITATOR REPORT

DATE: 5<sup>TH</sup> NOVEMBER 2018

ZONE: WEST KIMBERLEY

TOWN/VENUE: SHIRE OF BROOME FUNCTION ROOM

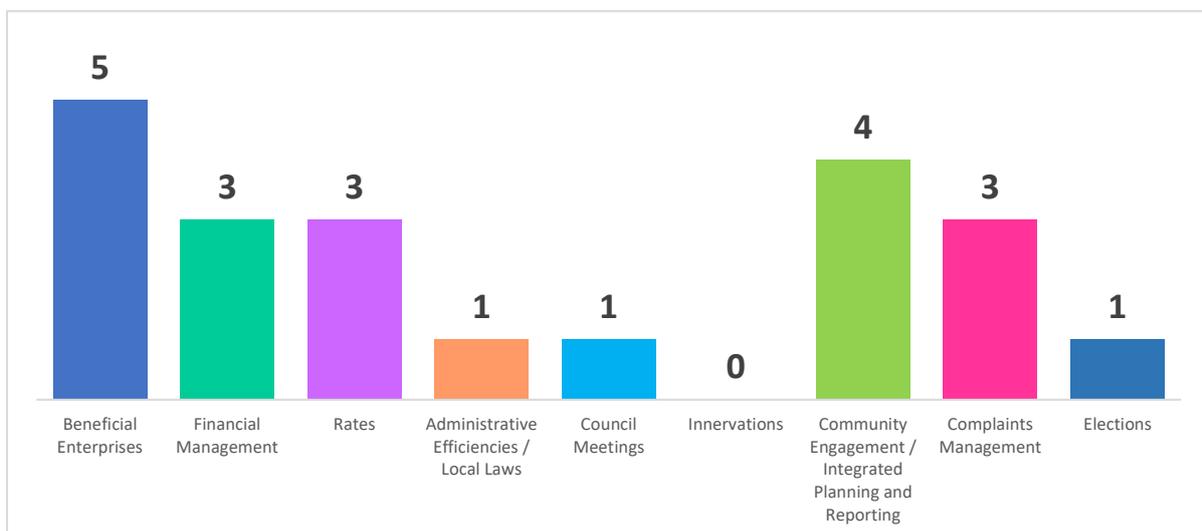
FACILITATOR: BEVAN BESSEN

NUMBER OF ATTENDEES: 7

#### PRIORITY TOPICS:

Beneficial enterprises, Community Engagement/Integrated Planning and Reporting, Complaints Management, Financial Management, Rating (see below graph for further detail).

The participants contributed to all topics in the workshop session.



## 1. KEY ISSUES RAISED BY TOPIC

Topic	Key issues raised
Rating	<ul style="list-style-type: none"> <li>Concern over charitable purpose exemption - lack of clear definition and inconsistent approach across Local Governments</li> <li>Differential rating is inconsistent across the State and although there has been a recent focus on improvement in objects and reasons, still has a way to go</li> <li>Consider standard categories of differential rates</li> <li>Concern about potential impact on Ministerial approval, query change thresholds?</li> </ul>
Local Laws	<ul style="list-style-type: none"> <li>Local laws should be consistent but still need the ability for these to cater for local needs</li> <li>Impact of local laws on remote community protocols/ their bylaws</li> </ul>
Local Government Elections	<ul style="list-style-type: none"> <li>Key interest is increasing participation, both voter turnout and candidates</li> <li>Two or four year terms</li> <li>Publishing candidate profiles more widely versus concerns regarding misinformation / Facebook trolling</li> <li>Option for electronic voting</li> <li>Sound of mind / upper age limit for Elected Member nominations</li> </ul>
Interventions	<ul style="list-style-type: none"> <li>Greater support for decision making versus referring all complaints to the Department</li> </ul>
Financial Management	<ul style="list-style-type: none"> <li>Review tender thresholds to be in line with State Government</li> <li>Ability to better use cash reserves</li> <li>Option for financial year aligned to calendar year to suite seasonal construction constraints in the Kimberley</li> </ul>
Council Meetings	<ul style="list-style-type: none"> <li>Better ability to remotely access a Council Meeting in the North</li> </ul>
Community Engagement	<ul style="list-style-type: none"> <li>Increase the frequency of community engagement</li> </ul>
Beneficial Enterprises	<ul style="list-style-type: none"> <li>Required to address market failure where no one entity can address in isolation. Partnerships/JVs with Aboriginal corporations</li> <li>Public accountability to be maintained</li> <li>Local Government decision supported as opposed to Minister approval</li> </ul>

## 2. KEY IDEAS FOR AMENDED LEGISLATION RAISED BY TOPIC

Topic	Suggested amendments to legislation
Rating	<ul style="list-style-type: none"> <li>Need stronger (some) ability to secure rates against mining tenements</li> <li>View to standardise rating categories across Local Governments</li> <li>Increase ability for large disparity rates to be approved without Ministerial approval. Up to 3 – 4 times?</li> </ul>

	<ul style="list-style-type: none"> <li>• Fees and charges to be based on actual cost recovery including overheads and administration expenses</li> </ul>
Local Laws	<ul style="list-style-type: none"> <li>• Reviewing local laws should be legislated. Rationale for timeframes. 8 years or as required</li> <li>• Some consistency with the ability for a local amendment or attachment</li> </ul>
Local Government Elections	<ul style="list-style-type: none"> <li>• Advertising limit not a real concern in smaller regional Local Governments</li> <li>• In favour of involvement of Electoral Commission</li> </ul>
Interventions	<ul style="list-style-type: none"> <li>• Supportive of the ability for the Department to issue infringement for some offences, eg: returns, etc</li> <li>• Look at penalties for procurement breaches</li> </ul>
Integrated Planning	<ul style="list-style-type: none"> <li>• Review advertising periods in line with modern technology</li> </ul>
Financial Management	<ul style="list-style-type: none"> <li>• 'Value for money' assessment should be broadened to regional and community value and not just cost benefit to the organisation</li> <li>• Timeframe for investment in term deposits to be increased to align with election cycle as a minimum</li> <li>• Tender threshold to be increased</li> <li>• Ability to use cash reserves (tracked appropriately) rather than require further debt while cash is in the bank</li> <li>• Query ability to borrow against long term contractual / lease / revenues</li> <li>• Review of Auditor General fees required</li> </ul>
Council Meetings	<ul style="list-style-type: none"> <li>• Review the mechanism (Act / vs local laws, regulations) for procedural issues such as petitions, statements, etc</li> <li>• Ability to remotely access a meeting in the North West; reduce restrictions</li> <li>• Query value of Annual Electors Meeting. Can be done by special meeting if required</li> </ul>
Community Engagement	<ul style="list-style-type: none"> <li>• Opportunities for Local Government to set up charter and board of managers for beneficial business</li> <li>• Local Government decision supported as opposed to Ministerial approval</li> <li>• Ensure eligibility criteria accounts for existing local business</li> </ul>

### 3. POINTS OF GENERAL AGREEMENT

#### Areas of agreement

- The charitable exemptions area really needs attention now, in terms of a review
- Consistency is need for differential rating approaches
- Need to sort out the policy conflict between the State Government and Local Government over the mining industry paying rates on exploration leases
- Need for greater flexibility for Local Government Authorities to advertise rates at a time that better suits the 10 year Strategic Community Plan and the 4 year Corporate Business Plan
- Rather than thresholds for tenders, it is the consistency in applications and governance below the threshold level that is the key
- Financial Health Indicators need closer analysis to ensure they give a true reflection of each situation

- Support the concept of Beneficial Enterprises but don't allow them to become over regulated like the Regional Subsidiaries
- Annual Electors Meetings are not required
- Support vexatious complainant process, including complaint escalation techniques to outline previous actions or decisions
- The key to better election turnout is promotion and policy rather than greater regulation
- Need for consistency on how Local Laws are generated as the Joint Standing Committee decisions are a key area for review of red tape
- There is a need for support earlier in the intervention process, rather than waiting for auditors
- Standard charter for complaints management. Response times reviewed
- Beneficial Enterprises are essential vehicle to applying for Federal grants, given Indigenous / local content
- JV approach supported through Beneficial Enterprises
- Support Local Government filling the gap in market with Beneficial Enterprises
- Essential to get extra skills on specialised areas such as ports and airports, if operating Beneficial Enterprises
- Principles and processes for engagement
- Supportive of increasing transparency in decision making

#### 4. POINTS OF CONTENTION

- LandCorp should be required to pay rates
- The different rate in the dollar requires a higher level of demonstrated link to justify or quantify the difference to the base rate
- External review of local laws?
- Set upper age limit for Council Election nominations
- Consider a 4 year cycle due to extra admin burden / impact of caretaker and lead time to become active *versus* Prefer split election cycle to remain, ie: half and half, ie: retain the 50% spill at each election
- Continuous terms as Pres/Mayor, eg: 8 year max, 2 year break and further term permitted
- Absentee owners – participation in voting
- Mechanism to provide support roles to assist with decision making
- Ratios are not reflective of true sustainability and performance. Need to review / test assumptions
- 3 strikes for non attendance, having regard to medical / hardship
- Seeking quicker turnaround of Ministerial permission to participate, or different threshold in relation to broader community interests on a specific project

#### REFLECTION DISCUSSION OVERALL

Topic	Reflection
Rates	<ul style="list-style-type: none"> <li>• Charitable – never clarified:               <ul style="list-style-type: none"> <li>– really needs attention <b>now</b></li> </ul> </li> <li>• Long standing issue for this Zone</li> <li>• Inconsistency of differential rates:               <ul style="list-style-type: none"> <li>– are there standard categories of DR and requirement for reasoning / justification</li> <li>– each Local Government is operating differently, eg: DR to drive development of vacant land</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• Mining: <ul style="list-style-type: none"> <li>– conflict over policy positions</li> <li>– State Government collects it, doesn't want Local Government to collect, ie: different views</li> </ul> </li> <li>• Fees and Charges: <ul style="list-style-type: none"> <li>– if Local Government service delivery, Local Governments should set the fees and charges</li> <li>– building, cats/dogs, etc differ significantly with scale, distance</li> </ul> </li> <li>• Ministerial approval but June – November time window for projects: <ul style="list-style-type: none"> <li>– should Local Governments be able to advertise rates at any time, perhaps 1 month earlier?</li> <li>– now with rates within Integrated Planning and Reporting, release it up a bit, ie: rating policy to reflect the change from 'filling the gap' to 10 year plans and 4 year Corporate Business Plans and yearly rating levels. 'Have regard to' as the legislative change</li> </ul> </li> </ul>
Financial Management	<ul style="list-style-type: none"> <li>• Thresholds – align with the State <ul style="list-style-type: none"> <li>– but how to reflect external State or Federal conditions associated with grants</li> <li>– limitations of competitive tender process</li> </ul> </li> <li>• Threshold appropriate to size / scale ??</li> <li>• Indigenous Business Exclusion at \$250,000 – bring it in line with State guidelines such as Indigenous Business Enterprises <ul style="list-style-type: none"> <li>– does risk profile / threshold change dependent on the activity undertaken?</li> </ul> </li> <li>• AG Report indicates large / small, regional / urban not doing well with quality and thresholds</li> <li>• Increased consistency below the threshold level as a key. (regulations and supporting mechanisms)</li> <li>• Development push clashing with probity / risk for Local Government (State / Federal imperatives)? <ul style="list-style-type: none"> <li>– ? Beneficial Enterprise option</li> </ul> </li> <li>• Value for money: community / regional value focus</li> <li>• Local Government Agencies: <ul style="list-style-type: none"> <li>– Buy Local in their region</li> <li>– rural / metropolitan – economic drivers from Local Government</li> </ul> </li> <li>• Financial Health Indicators need closer analysis to ensure true reflection</li> <li>• Calendar year: <ul style="list-style-type: none"> <li>– in an ideal world, it would mesh with the Northern seasons</li> <li>– spending and assets</li> <li>– rates to early February</li> </ul> </li> </ul>

Beneficial Enterprises	<ul style="list-style-type: none"> <li>• Risk – ends as over regulated as Regional Subsidiaries <ul style="list-style-type: none"> <li>– yes to concept, yes to flexibility to deliver intent</li> <li>– devil is in the detail</li> </ul> </li> <li>• Difference is pure commercial <i>versus</i> market failure</li> <li>• criteria / justification of gap <ul style="list-style-type: none"> <li><b>Market failure</b> is critical here <ul style="list-style-type: none"> <li>– is also an opportunity for revenue, eg: regional waste, hub and spoke with commercial partner</li> </ul> </li> </ul> </li> <li>• Rely on the Corporations Act</li> <li>• Decision of Local Government</li> </ul>
Council Meetings	<ul style="list-style-type: none"> <li>• Too tight, add in medicine / no discretion a present for someone who is ill <ul style="list-style-type: none"> <li>– some Ministerial discretion</li> </ul> </li> <li>• Annual Elector Meeting – shouldn't need it</li> <li>• In small towns, all have an interest, eg: Chinatown – whole community</li> <li>• Standing Orders and whether a petition can come forward, etc – clarity</li> <li>• Vexatious complainants – complaint escalation process to outline previous actions / decisions</li> </ul>
Elections	<ul style="list-style-type: none"> <li>• Age and 'sound of mind'</li> <li>• Evolution of the Election Commission is needed</li> <li>• Social media policy is supported</li> <li>• No pseudonyms / pseudo profiles as in Commonwealth approach</li> <li>• Admin <i>versus</i> risk of full spill</li> <li>• Large absentee owners – legislation is there <ul style="list-style-type: none"> <li>– it's about promotion</li> <li>– adversarial?</li> </ul> </li> </ul>
Integrated Planning and Reporting	<ul style="list-style-type: none"> <li>• Public Notices in Phase 1</li> <li>• Community Strategic Plan – Departments and Local Government coordination, flexibility on deadlines, etc</li> </ul>
Local Laws	<ul style="list-style-type: none"> <li>• Some consistency on how generated</li> <li>• Rejection by Joint Standing Committee: <ul style="list-style-type: none"> <li>– far too often, far too long</li> <li>– minor administrative changes</li> <li>– a key area for review of red tape</li> </ul> </li> <li>• Opportunity to adopt by reference runs the risk of change of legal mind over a period of time</li> <li>• Legal input at the local law level is not practical</li> <li>• Departmental input / guidance is the best way to streamline the process</li> <li>• SAT – taking up time and huge amounts of money, original intention has had perverse outcomes</li> <li>• <b>"Training"</b> is the better approach</li> </ul>
Interventions	<ul style="list-style-type: none"> <li>• When warning signs, no support – only when you hit the wall, the auditor shoots the wounded</li> <li>• Better practice is to be involved earlier in the process</li> <li>• Support (strong enough?) / compliance tension (AG)</li> </ul>

5. ANY SUGGESTIONS FOR NEXT PHASE OF CONSULTATION?

- Remain as flexible and open to possibilities as possible

6. ANY OTHER OBSERVATIONS?

- Beneficial Enterprises are seen as a real opportunity for this region

7. OVERALL EFFECTIVENESS OF WORKSHOP

- Small group but very participative, both in terms of digital input and group discussion

8. ANY LOGISTICAL/VENUE RELATED ISSUES?

- Venue was great, really good technical support from Shire of Broome staff