



LOCAL GOVERNMENT ACT REVIEW ►► DELIVERING FOR THE COMMUNITY

LOCAL GOVERNMENT ACT 1995 CONSULTATION FORUMS

OCTOBER TO NOVEMBER 2018

FACILITATOR REPORT

DATE: 5TH NOVEMBER 2018

ZONE: WEST KIMBERLEY

TOWN/VENUE: SHIRE OF BROOME FUNCTION ROOM

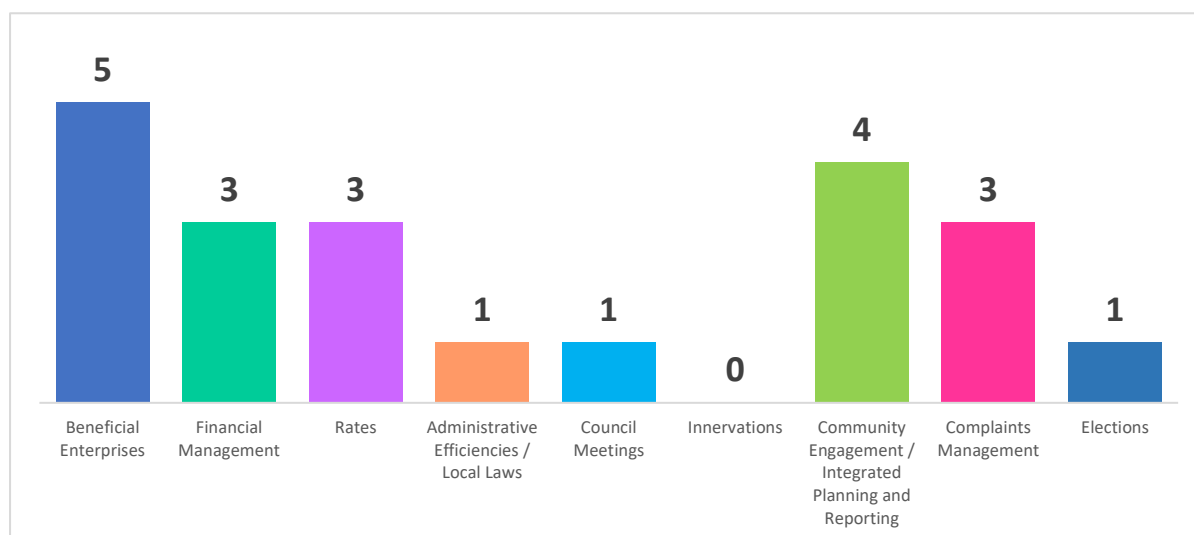
FACILITATOR: BEVAN BESSEN

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

2. KEY IDEAS FOR AMENDED LEGISLATION RAISED BY TOPIC

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

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

3. POINTS OF GENERAL AGREEMENT

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

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

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

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