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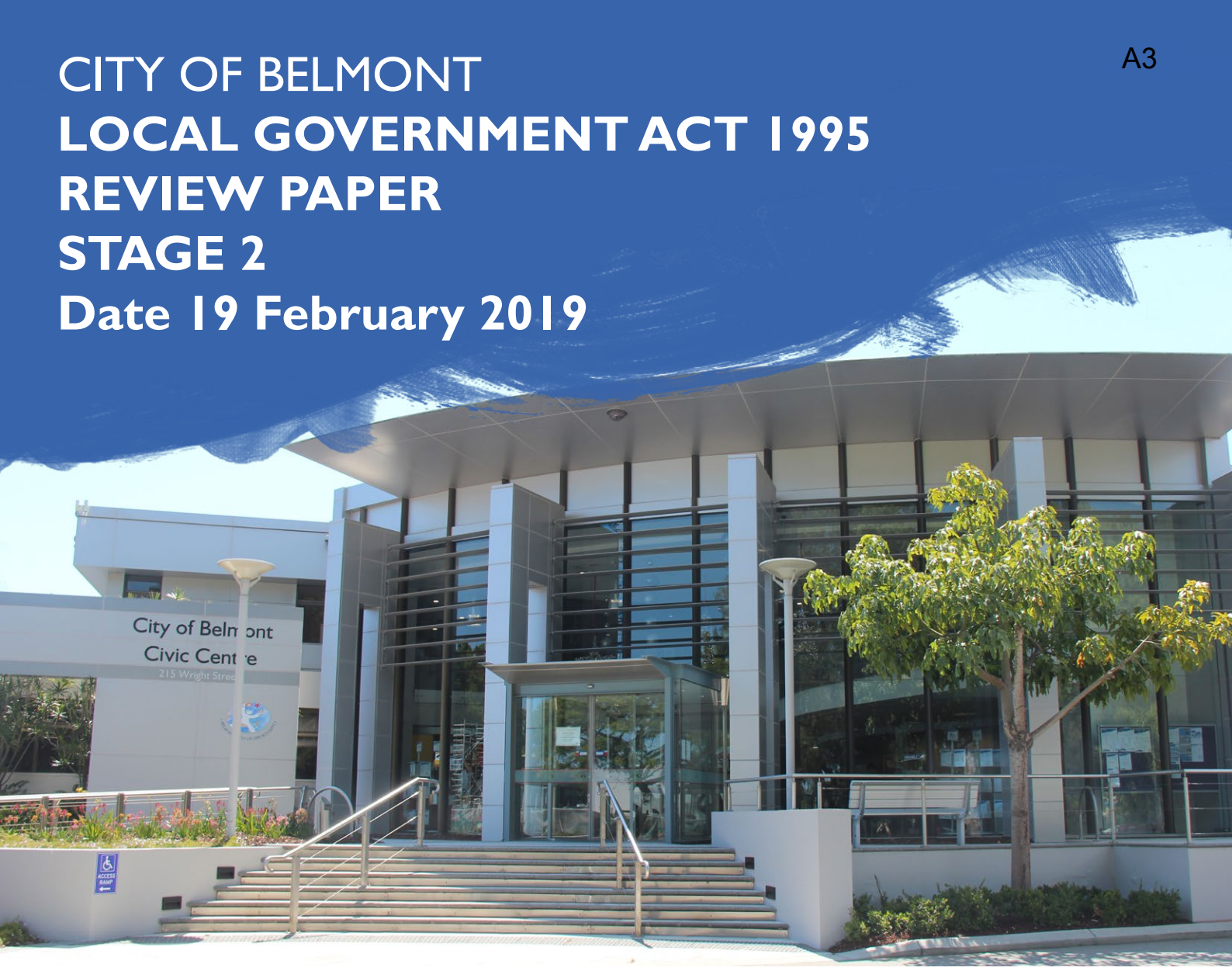
CITY OF BELMONT
LOCAL GOVERNMENT ACT 1995
REVIEW PAPER
STAGE 2
Date 19 February 2019



LOCAL GOVERNMENT ACT 1995
REVIEW DISCUSSION PAPER
STAGE 2

TOPIC	ANSWER
AGILE	
BENEFICIAL ENTERPRISES In addition to the regulatory functions provided, local governments also provide a broad array of services to the community which can have a commercial orientation for example: gymnasiums, pools, parking facilities, childcare facilities, sport complexes, caravan parks and regional airports. While these activities provide services to the community, they also add to the complexity of the local government's business structure and recordkeeping. In some cases, these services are large enough to be carried on as an individual business in their own right. The local government sector has been requesting that it be given additional powers to form independent corporations. These entities could be used to manage a local government's existing business activity or pursue new commercial opportunities. A Beneficial Enterprise 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 1995* (the Act), however the stand alone business entity would be governed by the Corporations Act (i.e. normal company law).	WALGA Position: The *Local Government Act 1995* should be amended to enable local governments to establish Beneficial Enterprises (formerly referred by WALGA as Council Controlled Organisations). City of Belmont Position The City supports: 1. An amendment to the *Local Government Act 1995* enabling the opportunity to establish Beneficial Enterprises in order to better serve their communities, where the private sector or State Government are unable or unwilling to do so. 2. Regulations being drafted to provide guidance toward which local governments may establish a Beneficial Enterprise based upon: (a) Salaries and Allowances Tribunal Band Classification Model; and

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. <u>Examples</u> • 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. <u>Benefits of establishing a Beneficial Enterprise include:</u> (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 1995*; (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.	(b) Western Australian Treasury Corporation (WATC) Financial Health Indicator; and (c) Risk assessment of the proposed Beneficial Enterprise. 3. The retention of the provisions to establish Regional Council's and Regional Subsidiaries within the *Local Government Act 1995* for those local governments unable to satisfy of clause 2 (a) (b) (c) above.

FINANCIAL MANAGEMENT

The local government sector's operating expenditure exceeds $4 billion annually and local governments manage an asset base worth more than $40 billion. To deliver services efficiently and effectively, local governments must be prudent users of public funds. Local governments must be transparent and accountable and strike a balance between community expectations and the practical limitations of revenue and expenditure.

There are a number of accountability measures in place to provide financial oversight of local governments, including:

- The Office of the Auditor General, which is taking responsibility for local government audits following the introduction of the legislation in 2017;
- The requirement to give public notice for rates and other financial matters;
- Publication of annual reports (it is proposed to make these available online); and
- MyCouncil website which provides a geographic, demographic and financial snapshot of each local government.

Local government revenue is principally drawn from rates, fees and charges, and grants from the State and Commonwealth Governments. Financial Assistance Grants from the Commonwealth, administered by the Local Government Grants Commission comprise approximately 40% of the grants received by the local government sector, with the remaining 60% allocated from State Government grant programs. In the last two years, rates have made up approximately 55% of local government operating revenue, with grants from the State and Commonwealth Government making up around 15% of local government operating revenue.

The split in revenue sources varies considerably across the State which reflects the diversity of local government. In 2016-17, grants from the State and Commonwealth were the primary source of funding for 27% of the State's local governments. In over half of the State's local governments, revenue from State and Commonwealth grants made up more than one-third of their total operating income.

Across the sector, expenses are generally divided evenly between salaries, materials and replacement costs for assets. Again, the proportion spent on each category varies considerably between local governments. To manage their finances, local governments are required to prepare a budget annually. The Act requires that a local government is to, having regard for its Integrated Planning and Reporting documents, prepare an estimate of its upcoming expenditure, the revenue and income it will receive independent of rates, and the amount in rates required to make up any deficiency. This approach means that local governments are required to establish their budget by first determining the amount they wish to spend and then estimate the revenue sources required to fund this outlay.	
Audit Committee: *Local Government (Audit) Regulations 1996* The City of Belmont Standing Committee (Audit and Risk) raised concerns in regard to the context of recent amendments to Regulation 16 of the *Local Government (Audit) Regulations 1996* and the implications of the audit committee assisting with a local government's financial management. Regulation 16 states: Functions of audit committee An audit committee has the following functions — (a) to guide and assist the local government in carrying out — (i) its functions under Part 6 of the Act; and (ii) its functions relating to other audits and other matters related to financial management;' Part 6 of the Act includes the preparation of the annual budget, preparing the annual financial report and other general financial responsibilities of the local government many of which have significant operational components. WALGA also considered this issue when providing feedback on the draft Regulation to the Department of Local Government, Sport and Cultural Industries, through our State Council meeting resolution on 7 March 2018:	City of Belmont Position: That Regulation 16 of the *Local Government (Audit) Regulations 1996* be amended to clarify the separation of operational matters, the function of the Administration by the CEO, and that of Council and the Audit and Risk Committee.

"Proposed amendment of Regulation 16 - Supported subject to: *(i) Sub-regulation 16(a) being deleted as Audit Committee involvement in 'guiding and assisting' Local Government to prepare budgets, financial reports, rates, etc. compromises the Committee's objectivity /impartiality when undertaking the audit role.* *The redraft is proposed to avoid any confusion between the Audit Committee function and the CEO's responsibilities for the administration of the Local Government."*	
<u>Investments</u> Section 6.14 of the Act allows local governments to invest surplus funds. Many local governments hold significant amounts in cash reserves, including those obtained through development contributions. To ensure the public receives the benefits of these reserves, local governments need to invest these funds wisely. The types of investments that local governments are permitted to make are restricted by Regulation 19C of the *Local Government (Financial Management) Regulations 1996*. This regulation states that local governments may not invest in: • Deposits with an institution except an authorised institution; • Deposits for a fixed term of more than three years; • Bonds that are not guaranteed by the Commonwealth Government or a State or Territory government; • Bonds with a term to maturity of more than three years; or • A foreign currency. The City of Belmont investment strategy is controlled by its policy BEXB35 Investment of Funds which is reviewed annually.	<u>LGPro Position:</u> Allow local governments with capacity to invest in accordance with the *Trustees Act 1962*, Part III, in the manner that existed prior to the Global Financial Crisis. <u>City of Belmont Position:</u> Following Regulation amendments, May 2017, the City believes the now current investment provisions are adequate.

Debt - Power to Borrow Section 6.20 of the Act provides local governments with the power to borrow money or obtain credit. Local governments in Western Australia do not need to seek external approval to borrow although financial indicators, including a debt service ratio, must be reported in their annual report. Additionally, they are restricted in that their borrowings may be secured only by giving security over their income from general rates or untied Government grants (section 6.21). Under section 6.21(3), the Treasurer has the power to make directions to local government in respect to borrowing. In 2014, an Australian Centre of Excellence for Local Government (ACLEG) report noted that local governments across Australia have low levels of debt relative to security, income levels and service responsibilities. For the four years between 2013-14 and 2016-17, the average Debt Service Cover Score across local governments in Western Australia was 8.2 out of a possible 10. To fund infrastructure, local governments in Western Australia will often access several grants from State and Commonwealth Government sources. Even if local governments then borrow in order to make a contribution themselves, this may constitute only a small part of the whole cost. Thus many local governments operate with a very small debt load. In 2016-17, the long-term liabilities of the sector were approximately $767 million compared to an annual operating revenue of more than $4.1 billion. Public notice of borrowing Local governments are required to give one month's public notice in relation to borrowing in three circumstances: • Borrowing that has not been included in the annual budget; • Where a local government has exercised its power to borrow for a purpose but no longer wishes to use the funds for that purpose; or	WALGA Position: That Section 6.20(2) of the *Local Government Act 1995*, requiring one month's public notice of the intent to borrow, be deleted. LGPro Position: That Section 6.20(2) of the *Local Government Act 1995*, requiring one month's public notice of the intent to borrow, be deleted. City of Belmont Position: The current borrowing provisions under the *Local Government Act 1995* are sufficient with the exception that to enhance local government efficiency section 6.20(2) of the *Local Government Act 1995*, requiring one month's public notice of the intent to borrow, be deleted.

• Where a local government has exercised its power to borrow for a purpose and has funding left over. Ceasing the requirement to give public notice would relieve an administrative burden (which local governments argue rarely generates community interest) but decrease financial transparency for this element of local government finances. <u>Procurement</u> Local governments are significant procurers of goods, services and capital supplies. In 2016/17, local governments spent more than $1.1 billion on materials and services. The *Local Government (Functions and General) Regulations 1996* establish procurement rules for local government. Currently, Western Australian local governments are exempt from the requirement to invite tenders in relation to contracts involving an estimated expenditure or receipt of an amount of less than $150,000. When inviting public tenders, the local government is required to issue a State-wide public notice providing at least 14 days for interested parties to respond. 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 1996*. <u>Reform to tender exemptions</u> Exemptions for public advertising of tenders reflect that in some circumstances the need to efficiently supply the goods outweighs the benefits of an open tender process. Exemptions also exist based on the notion that certain contracts can be filled using alternative tender processes that afford appropriate levels of due diligence. For example, in much of the State securing suppliers to provide goods and services can be a challenge. Regulation 11(f) of the *Local Government (Functions and General) Regulations 1996* provides a broad exemption from advertising tenders in	<u>WALGA Position:</u> 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. <u>LGPro Position:</u> Increase the tender threshold to align with the State Government tender threshold ($250,000). <u>City of Belmont Position</u> 1. The City supports the increase in the tender threshold to align with the State Government tender threshold ($250,000).Council supported this position when adopting its submission to the Metropolitan Local Government Review Panel, December 2011. 2. The City supports an amendment to *the Local Government (Functions and General) Regulations 1996*, Regulation 11 (2) to exempt the provision of legal services and recruitment agency services from requiring public tenders in addition to the provisions of the WALGA Preferred Supplier Program.

circumstances where, for any reason, the local government has good reason to believe that it is unlikely that there is more than one potential supplier. Other exemptions provide exclusions for goods and services purchased through WALGA's preferred supplier program and for specific products like petrol or oil. Some local governments have suggested that the rules concerning exemptions need to be clarified in the Act. They argue that the current rules concerning the definition of a "contract" can create confusion and lead to varying interpretations. For example, on occasion local governments have sought clarification about whether the reoccurring supply of services such as repairs to a sporting facility's lights or services with indefinite cost such as legal fees should be regarded as a single contract or multiple contracts over a period for the purposes of the threshold	
<u>Disposal of property</u> During earlier consultation on the Act Review, submissions were received concerning the disposal of property. Amendments to these provisions will be considered as part of broader reforms to the financial management framework.	<u>WALGA Position:</u> 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. <u>LGPro Position:</u> 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. <u>City of Belmont Position:</u> To improve local government efficiency and operational effectiveness the City supports Regulation 30(3) of *the Local Government (Functions and General) Regulations 1996*, being 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.
<u>Annual Reporting</u> Financial reporting is not a unique requirement to local government. All State Government and Commonwealth department financial reports are audited by their respective Offices of the Auditor General and must be tabled in Parliament. In the private sector, audited financial reports for many types of companies must be submitted to the Australian Securities and Investment Commission and prescribed types of charities must submit a general purpose financial statement that complies with the Australian Accounting Standards to the Australian Charities and Not-for-profits Commission. Local governments are required to prepare an audited financial statement annually. The statement is required to meet the Australian Accounting Standards (AAS) as modified by the Act and Regulations. Legislation requires that local governments calculate and publish seven financial ratios in their annual financial statements. Financial ratios are increasingly used across Australia as an important performance indicator for public sector entities, including local government. Across Australia, local governments are required to calculate and publish different ratios. The lack of consistency makes the comparison of financial performance across local governments around the country more complex. In Western Australia, benchmarks for the seven ratios that local governments must report on were set in Departmental guidelines published in 2013. While these benchmarks are not legislated, the use of the benchmarks to inform the Department's risk management approach means that they are of considerable interest to local governments.	<u>City of Belmont Position:</u> The current financial ratios provide performance measures providing an indicator of sustainability. However, industry reports by DLGSCI or WALGA requires careful consideration and pertinent information so as to not mislead community members accessing this information.

Ratio	Benchmark
Current ratio	100%
Asset consumption ratio	≥ 50%
Asset renewal ratio	Basic ≥ 75%
Asset sustainability ratio	Basic ≥ 90%
Debt service cover ratio	Basic ≥ 200% Advanced ≥ 500%
Operating surplus ratio	Basic 1% - 15% Advanced > 15%
Own source revenue coverage ratio	Basic 40% - 60% Intermediate 60% - 90% Advanced > 90%

Altering the financial ratios that local governments are required to calculate and report may improve awareness and understanding of local government financial performance. The choice of ratios used in Western Australia has been the subject of criticism. Some in the sector view the ratios as an ineffective metric that can be misrepresented and that do not give a true reflection of financial performance and asset management.

The publication of the Financial Health Indicator on the MyCouncil website, which uses financial ratios in its calculations, has brought greater attention to financial health and highlighted the role that ratios can perform aggregating otherwise complex financial data. Financial ratios are a key tool in local government performance measurement in other Australian states and it is important that the metrics used in Western Australia are meaningful and useful.	
<u>Building Upgrade Finance</u> Building Upgrade Finance (BUF) is a scheme whereby a local government administers loans issued by financiers to non-residential building owners to upgrade their buildings. The local government uses a levy on the building owner to recover the funds on behalf of the financier. The approach has been used in Victoria, South Australia and New South Wales as a mechanism to encourage non-residential property owners to invest in environmentally conscious building upgrades. BUF involves three parts: • The building owner agrees to undertake works; • A financier agrees to finance the works; and • The local government agrees to recoup the loan (known as a building upgrade charge). The arrangement means that the loan is tied to the property rather than property owner. Responsibility to pay for the loan shifts if the ownership of the property changes. In other Australian States that have employed this approach, the local government is by law not financially liable for any non-payment by the building owner. Local governments are required to use their best endeavours to recover the loan. As the loan is recovered via the same powers as rates or a service charge, in the event of non-payment, local governments have the same powers available to recover unpaid rates or service charges. This can include taking possession of the land and selling the property.	<u>City of Belmont Position:</u> The City supports an amendment to the *Local Government Act 1995* that includes the provision for the establishment of a Building Upgrade Finance Scheme, with all establishment, collection, debt recovery, legal and other costs to be recoverable by the local government. The implementation of any such scheme should be at the discretion of each local government.

RATES, FEES & CHARGES

Local governments impose rates to raise revenue to fund services and facilities.

The quantum of rates payable is determined by three factors:
1) The method of valuation of the land
2) The valuation of the land; and
3) The rate in the dollar applied to that valuation by the local government.

Each property in Western Australia is assigned a method of valuation which is either the unimproved value (UV) or gross rental value (GRV). The Act specifies that a property used for rural purposes is rated as UV and a property used for non-rural purposes will be rated as GRV. In practical terms, land used predominately for residential purposes is generally classified as GRV.

A review of the method of valuation of land is currently being undertaken by the Valuer General's Office. Once this review is completed and amendments proposed, the relevant provisions in the Act will be examined, in line with any submissions received.
Local governments have to comply with specific requirements set out in the Act, including the imposition of differential general rates and minimum payments.

Rating
Rate setting is a challenging process, made difficult by fluctuating valuations because of the growth or decline of communities.

The Act requires that in the period from 1 June to 31 August a local government is to prepare and adopt an annual budget. As part of preparing the budget, each local government must raise enough in rates to cover the shortfall (budget deficiency) between its predetermined expenditure and available revenue. It does this by applying a rate in the dollar to the valuation of each property.

Rates can be imposed uniformly (a single rate in the dollar) or differentially (different rates in the dollar for different categories).

Local government rates and revenue strategy Local governments are currently required to prepare a long-term financial plan that addresses rate increases. An option is to introduce the requirement for local governments in Western Australia to develop a Rates and Revenue Strategy, which could include: • Rating categories (and potentially how they are determined); • Rates in the dollar; • Objects and reasons for each rating category; • Fees, charges and levies including the methodology where appropriate; and • Long term rating strategy. The Rates and Revenue Strategy, including the schedule of fees and charges, would be prepared prior to the budget process and would be adopted by council before the budget is adopted. Local governments would be required to make the Strategy available on their website and it would be used as a basis for consultation on rates.	City of Belmont Position The City supports the introduction of the requirement to prepare a Rates and Revenue Strategy in support of the Long Term Financial Plan. However, any legislative requirement for this strategy should not conflict with the imposition of fees and charges as indicated in the section of this document entitled “Imposition of Fees and Charges”.
Public notice In considering potential reforms, an overarching question is whether local governments should be required to consult on the proposed rates or simply notify their ratepayers. Local governments are required to advertise their intended differential general rates prior to considering and adopting their annual budget. The local government must issue a notice that details each rate or minimum payment they intend to impose and the objects and reasons for doing so. The local government must then allow 21 days for submissions and consider each submission at a meeting of the council. Council can then choose to adopt the advertised rates or amend the rates.	City of Belmont Position: The City supports the current practice required by the *Local Government Act 1995* as an effective method.

Differential General Rates Differential general rates are generally imposed to ensure that the rate burden is more evenly distributed across ratepayers, with those requiring or using more services being charged a higher rate in the dollar. Local governments are currently permitted to impose differential general rates according to land zoning, land use (including if the land is vacant) and a combination of the two. While the categories must comply with the Act, there is still scope for a variety of rating categories which does not allow comparability across local governments. In New South Wales, the legislation sets out and defines the categories for rating purposes. There are four categories of rate: Residential, Business, Farmland and Mining. The Act also provides that local governments can introduce sub-categories. Alternatively, Victoria is proposing to expand the differential rate categories to include geographic location, types of buildings on the land and any other criteria council determines is relevant. While increasing the ability for local governments to expand the current categories would reduce the ability for comparability between local governments, it may ensure that rates are set at a more appropriate level for groups of ratepayers. It also has the potential to lead to more inequities. Some local governments have requested that the differential rate categories be expanded to enable categories specific to long term vacant land, holiday houses or timeshare properties.	WALGA Position: That Section 6.33 of the *Local Government Act 1995* be reviewed in contemplation of time-based differential rating, to encourage development of vacant land. LGPro Position Enabling differential rating based on the time land remains vacant is supported as suggested in the WALGA Discussion Paper. While local governments can introduce a differential rate for vacant land, this rate applies to all vacant land. It is appropriate to differentiate between land held vacant for long periods for speculative or hoarding purposes and land which is vacant on a short term, interim basis. It would be up to a local government to determine the number of years which would divide one category from the other. City of Belmont Position: 1. The City supports considering the expansion of the current differential rating practice as it may ensure that rates are set at a more appropriate level for groups of ratepayers. 2. The ability for local governments to set rates to meet the needs and expectations of its community is of greater importance than the desire to compare rates across the sector.

Ministerial Approval Local governments have the autonomy in the way they set rates in the dollar to make up the budget deficiency with some limitations. A local government that seeks to impose a rate in the dollar that is more than twice the lowest must seek Ministerial approval. For example, in the UV category, the rate in the dollar for mining might be 30 cents whereas pastoral might be 10 cents. Local governments need to comply with the Rating Policy – Differential Rates when making an application. The application process adds an administrative burden not only for the local government but also the Department which assesses all applications. While Western Australia appears to be the only jurisdiction that provides for Ministerial approval in relation to approving differential rates more than twice the lowest, it is also a jurisdiction that does not currently have rate capping or an equivalent. It could be argued that this is because there is oversight provided by the State Government. There are several opportunities to reform the controls that are currently in place on differential rating. One option is to increase the differential from two times the lowest to three or four times the difference before Ministerial approval is required. This would reduce the regulatory burden on both local governments and the department. It would also provide an element of oversight to ensure that local governments are not imposing significant differences. Alternatively, the difference could be set to a maximum of four times with no ability to seek Ministerial approval. This is consistent with Victoria. This may introduce greater fairness between categories, especially for the mining sector which is levied a significantly higher rate in the dollar than other categories by some local governments.	City of Belmont Position: The City supports considering that the differential rates could be increased to three or four times the lowest before Ministerial approval is requirement.

	Increased differential	No Ministerial approval
Options	The differential could be increased to three or four times the lowest before Ministerial approval is requirement.	The differential could be set to a maximum of four times with no ability to seek Ministerial approval.
Benefits	It reduces regulatory burden on local governments and the department while maintaining some oversight.	It increases fairness between rating categories, especially for the mining sector. It provides greater certainty for local governments.

Minimum Payments & Maximum Rates

A minimum payment can be imposed by a local government irrespective of what the rate assessment would be if the rate is applied to the property valuation. The purpose of a minimum payment is generally to ensure that every ratepayer makes a reasonable contribution to the rate burden.

While the Act allows local governments to impose a minimum payment that is greater than the general rate would otherwise be, there are regulatory limits that apply. Unless the general minimum is $200 or less, a minimum payment cannot be imposed on more than 50 per cent of properties in any category.

City of Belmont Position:
The City supports considering the removal of the 50% of property limitation in any category.

Local governments can apply to the Minister for a minimum payment that does not comply with these limitations, but only for a minimum payment that applies to a differential rate on vacant land.	
<u>Rate Exemptions</u> The Act provides that all land is rateable unless it is listed as exempt. Not all land is required to pay rates. While the Act sets out a number of specific categories, it also provides the power for the Minister for Local Government to approve other land as exempt from rates. According to information provided by the Western Australian Local Government Association (WALGA), in 2017/18, local governments lost more than $44 million in revenue due to rate exemptions. Charitable organisations accounted for a majority of rate revenue loss (35%), followed by Crown Land (16%). The City of Canning noted that in 2017/18, the value of rate exemptions was approximately $820,000 for that district alone. Other than land used or held by the Crown (State Government) for a public purpose, a local government or a regional local government, exemptions from rates apply to: • Land used or held exclusively for churches (religious bodies); • Land used or held exclusively for schools; • Land used exclusively for charitable purposes; • Land vested in trustees for agriculture or horticultural show purposes; • Land owned by Co-operative Bulk Handling Limited (CBH); and • Land exempted by the Minister for Local Government. There is an argument that everyone should pay local government rates as everyone uses the services and facilities provided by the local government, from roads to parks and community facilities. In addition, rate exemptions can have a significant impact on the capacity of local governments to raise rate revenue, especially in regional and remote areas. It is then left to the ratepayers to make up the shortfall.	<u>City of Belmont Position:</u> An approach to exemptions consistent with the *Fire and Emergency Services Act 1998* (FESA) should be introduced and the current exemption section removed. Additionally, a section generally consistent with S36E of the FESA should be incorporated as shown below: ***"36E.Exemptions in other enactments do not apply*** *(1)An enactment passed before the commencement of this section that purports to exempt a person from liability to pay any rate, tax or imposition that could be taken to include the levy does not exempt the person from liability to pay the levy.* *(2)An enactment passed after the commencement of this section that purports to exempt a person from liability to pay —* *(a)all rates, taxes or impositions under the laws of Western Australia ; or* *(b)certain rates, taxes or impositions that could be taken to include the levy,* *does not exempt the person from liability to pay the levy.*

	(3)Subsection (2) does not apply to an enactment that expressly exempts a person from liability to pay the levy."
Rating Exemptions – Charitable Purposes: Section 6.26(2)(g) One of the more contentious exemptions is for 'land used exclusively for 'charitable purposes'. The meaning of 'land used exclusively for charitable purposes' is not defined in the Act and differing interpretations of the meanings of 'charity' and 'charitable purposes' have continued to prove challenging across all levels of government in Australia. Each jurisdiction has taken a different approach to defining 'charity' and 'charitable purposes'. In Western Australia the meaning of what constitutes 'land used exclusively for charitable purposes' has been the subject of several key decisions by the State Administrative Tribunal (SAT). These decisions have been a matter of contention for the local government sector as exemptions have been provided to facilities for aged care even when residents are paying market rates for the individual housing within an estate, and to industry associations because they have a training arm.	WALGA Position: 1. Amend the *Local Government Act 1995* 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 1995*. LGPro Position: Amend the *Local Government Act 1995* to exclude independent living units for seniors from being a charitable purpose for which a rate exemption can be claimed.

	<u>City of Belmont Position:</u> The City in its Stage 1 submissions referred that Section 6.26 (g) of the Act requires amendment to clarify the definition of charitable purposes as it applies to rateable land. This definition should be reviewed to exclude independent living units and any other aged accommodation which is not supported by funding under the *Aged Care Act 1997* and other relevant legislation. Modification of this nature will facilitate equity between pensioners living in their own home and pensioners living in organisationally provided accommodation, by way of ensuring financial contribution to services provided to them by local government. In many cases an artificially imposed charitable organisation results in a rate exemption for aged people who are financially as well, or better, placed as those who live in their own home.
<u>Rating Exemptions – Rate Equivalency Payments</u> Other than land used or held by the Crown (State Government) for a public purpose, a local government or a regional local government, exemptions from rates apply to: • Land used or held exclusively for churches (religious bodies); • Land used or held exclusively for schools; • Land used exclusively for charitable purposes; • Land vested in trustees for agriculture or horticultural show purposes; • Land owned by Co-operative Bulk Handling Limited (CBH); and • Land exempted by the Minister for Local Government.	<u>WALGA Position:</u> 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. <u>LGPro Position:</u> Introduce a requirement for State Government trading enterprises, including the Housing Authority, to pay rates on their commercial land rather than making rate equivalent payments to the State Government.

There is an argument that everyone should pay local government rates as everyone uses the services and facilities provided by the local government, from roads to parks and community facilities. In addition, rate exemptions can have a significant impact on the capacity of local governments to raise rate revenue, especially in regional and remote areas. It is then left to the ratepayers to make up the shortfall. It is inappropriate for State Government trading enterprises to pay rate equivalents to the State Government when it is local government which constructs the local roads used by these enterprises and which collects the rubbish generated.	<u>City of Belmont Position:</u> The City supports that legislation 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.
<u>Rates or Service Charges Recoverable in Court: Section 6.56</u>	<u>WALGA Position:</u> 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'. <u>LGPro Position:</u> Amend the *Local Government Act 1995* 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 cost of proceedings'. <u>City of Belmont Position:</u> The City supports 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'.

Imposition of Fees and Charges Local governments have the ability to set fees and charges for a range of services. Services can be categorised into three areas: • Basic community services, such as waste collection; • Additional services, such as providing security; and • Competitive services, such as services provided by other business in the area (for example gymnasiums). When setting fees and charges for basic and additional services, local governments should consider the cost of providing the service but may decide to subsidise the service for the common good. When it comes to competitive services, competitive neutrality principles must be observed. This requires local governments to avoid a competitive advantage as a result of being part of the public sector. Other fees and charges are set in legislation, for example registration fees for dogs and cats.	WALGA Position: 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. LGPro Position: Allow local governments to set and amend fees and charges for small scale goods and services and the rental of staff housing outside of the current requirements of the Act. City of Belmont Position: The City supports WALGA's position 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.

SMART

ADMINISTRATIVE EFFICIENCIES

No-one likes red tape. It gets in the way and makes simple tasks seem difficult.

Distinguishing red tape from vital checks which ensure our government acts in a fair manner, protects members of the community, and that everyone abides by the law can be difficult.

Modern organisations must strike a delicate balance between oversight and red tape. Accountability measures that go too far can become regulatory burdens that create unnecessary costs that outweigh their compliance benefits.

A goal of effective regulation is to impose the least amount of resistance to activity for the lowest cost possible, while providing a governance framework to prevent or reduce the number, or seriousness, of issues in a timely manner.

Local governments in Western Australia vary considerably in respect to their capacity to raise revenue and their expenditure. For example, the combined operating budget of the State's 40 smallest local governments is less than the annual operating expenditure of the State's largest local government.
The Act currently treats all local governments the same, regardless of their size and capacity. Through their peak bodies, the local government sector has long advocated for amendments which provide a tailored approach to local government governance to allow for the differences in capacity that are found across the State.

<u>Local Government Grants Commission and Local Government Advisory Board</u> The Grants Commission provides advice and makes recommendations to the Minister for Local Government on the amount of Commonwealth Financial Assistance Grants paid to local governments each financial year. The Grants Commission comprises of the following membership: • Chair (nominated by the Minister); • Deputy Chair (Officer from the Department); and • A representative (nominated by the Western Australian Local Government Association (WALGA)) from: ➢ Metropolitan local governments; ➢ Country urban local governments; and ➢ Country rural local governments. The Advisory Board makes recommendations to the Minister for Local Government on proposals to change local government boundaries, wards or councillor numbers. The Advisory Board is comprised of the following membership: • Chair (nominated by the Minister); • Deputy Chair (Officer from the Department); • Two people with experience as an elected member of a council (nominated by WALGA); and • One person with experience as a Chief Executive Officer of a local government (nominated by Local Government Professionals Australia (LG Pro)).	
<u>Combining the Grants Commission with the Advisory Board</u> As described above the composition of the Grants Commission and the Advisory Board are somewhat similar, in that the skills and knowledge required to be appointed as a member of either of these bodies is an in-depth knowledge and experience in the local government sector. This knowledge and experience enables members to consider the	<u>WALGA Position:</u> 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 1995*.

appropriate factors, weigh the information before them and provide the appropriate recommendations to the Minister. While the current duties and responsibilities of the Grants Commission and the Advisory Board are different, the composition and selection of board and commission members are very similar. The only differences are: • Grants Commission members are appointed on their geographic location; and • One member of the Advisory Board is nominated by LG Pro in addition to members being nominated by WALGA. As well as the composition of the Grants Commission and Advisory Board being similar, other synergies also exist. Having substantial knowledge of the grants program may assist with the consideration of ward and boundary reviews and conversely may assist with deliberations about grant funding. Both bodies are already supported by the same team within the Department. A similar review was recently undertaken by South Australia which resulted in the enactment of the Local Government (Boundary Adjustment) Amendment Act 2017. Amendments were made to the relevant pieces of legislation to provide that the Grants Commission is also responsible for the assessment of local government boundary changes and provides a similar function as the Advisory Board in Western Australia. Similar changes could occur in Western Australia if it was determined to be efficient, effective and appropriate to do so.	<u>City of Belmont Position:</u> 1. The City supports WALGA seeking 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 1995*. 2. The City supports further consideration of the Local Government Grants Commission and Local Government Advisory Board being combined.
<u>Absolute majority decisions</u> The Council is the decision-making body of a local government. The Act sets out how decisions are to be made by the council members that form the Council. In most cases this is via a 'simple majority', that is, a decision is made if over half of the Council members present at the meeting vote for it. In some cases, a higher bar has been set. An 'absolute majority' requires half of the total number of council member positions to vote for a matter for the decision to be made. Thus, if there are 11 positions on council but at a particular meeting two council members were absent, five votes would be needed for a simple majority and six for an absolute majority.	

Absolute Majority • in relation to a council, means a majority comprising enough of the members for the time being of the council for their number to be more than 50% of the number of offices (whether vacant or not) of member of the council; • in relation to any other body, means a majority comprising enough of the persons for the time being constituting the body for their number to be more than 50% of the number of offices (whether vacant or not) on the body. 75% Majority • 75% majority, in relation to a council, means a majority comprising enough of the members for the time being of the council for their number to be at least 75% of the number of offices (whether vacant or not) of member of the council.	City of Belmont Position: The City supports the removal of the 75% Majority requirement from the Act as it is rarely used and adequately undertaken by an Absolute Majority.

Control of Certain Unvested Facilities: Section 3.53 An otherwise unvested facility means a thoroughfare, bridge, jetty, drain, or watercourse belonging to the Crown, the responsibility for controlling or managing which is not vested in any person other than under this section. A local government is responsible for controlling and managing every otherwise unvested facility within its district unless there is a provision elsewhere in the Act which states otherwise.	WALGA Position: 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. LGPro Position: That Section 3.53 be repealed and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager. City of Belmont Position: The City supports WALGA seeking consideration that Section 3.53 of the Act be repealed and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager.
Schedule 2.1 – Proposal to the Advisory Board, Number of Electors Schedule 2.1 (which deals with creating, changing the boundaries of, and abolishing districts) has effect. The Minister can only make a recommendation if the Advisory Board has recommended that the order in question should be made.	WALGA Position: 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.

A proposal may be made to the Advisory Board by - • the Minister; • an affected local government; • 2 or more affected local governments, jointly; or affected electors who are - ➢ at least 250 in number; or ➢ at least 10% of the total number of affected electors.	LGPro Position: Increase the number of electors required to put forward a proposal for boundary change from 250 to 500. City of Belmont Position: The City supports WALGA's position 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.
Schedule 2.2 – Proposal to amend names, wards and representation, Number of Electors Schedule 2.2 deals with amendment to names, wards and representation and the Number of Electors. A submission may be made to a local government by affected electors who - • are at least 250 in number; or • are at least 10% of the total number of affected electors.	WALGA Position: 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. LGPro Position: Increase the number of electors required to put forward a proposal for ward change from 250 to 500. City of Belmont Position: The City supports WALGA's position that Schedule 2.1 Clause 2(1)(d) of the Act 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.

Transferability of employees between State & Local Government.	WALGA Position: 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. City of Belmont Position: 1. The City supports WALGA's position that a General Agreement between State and Local Government may be established to facilitate the transfer of service only, with conditions and further investigations to provide equity of outcomes. 2. The City supports the formalisation of all leave entitlements being transferable between local governments in Western Australia.

Proof in Vehicle Offences may be shifted: Section 9.13(6) An authorised person who has reason to believe a person has committed a prescribed offence against a regulation or local law may, within 28 days after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender. If a person who is given a notice under section 9.13 about an alleged offence involving a vehicle gives information in accordance with section 9.13(6) about another person who was the driver or person in charge of the vehicle at the time of the alleged offence, the period of 28 days for giving that other person an infringement notice runs from the time the information was given.	WALGA Position: That Section 9.13 of the *Local Government Act 1995* be amended by introducing the definition of 'responsible person' to enable local governments to administer and apply effective provisions associated with vehicle related offences. LGPro Position: Amend by introducing a definition of 'responsible person' to enable local governments to administer and apply effective provisions associated with vehicle related offences. City of Belmont Position: The City supports WALGA's position that Section 9.13 of the *Local Government Act 1995* be amended by introducing the definition of 'responsible person' to enable local governments to administer and apply effective provisions associated with vehicle related offences.
LOCAL LAWS The Act enables local governments to make local laws considered necessary for the good government of their districts. Laws can only be made when authorised by the Act or other written laws but cannot be inconsistent with any State or Federal law. The types of laws made by local governments cover areas such as parking, activities on thoroughfares, public places and council and committee meetings.	LGPro Position: 1. Eliminate the requirement to consult on model Local Laws. 2. Eliminate the periodic review requirement for model Local Laws.

The process for developing and amending local laws is repetitive, costly and time consuming. Subsequent to gazettal of the local law the approval process requires endorsement from the Joint Standing Committee on Delegated Legislation (a Committee of Parliament) where any or all of a local law may be challenged or set aside. Required undertakings upon local government are common necessitating the amendment process to commence which is as per the development process, again with the final result gazetted and forwarded to the Joint Standing Committee on Delegated Legislation for endorsement. The process is repetitive, time consuming, wasteful and nonsensical. During earlier consultation on the Act Review many submissions were received concerning the inconsistency of local laws from one local government district to another. While these concerns are valid and consistency of local laws across districts is important, requiring a local government to enact a local law in a certain form impacts upon a local government's ability to tailor a local law to local conditions or the wishes of the local community. Local laws are currently required to be reviewed every eight years. The local government must conduct a review by consulting with the community, prepare a report and the council must determine if it considers that a local law should be repealed or amended. Local governments believe a review of their local laws should only be required to be undertaken when the local government believes it is appropriate to do so in response to changing circumstances. Five of the seven Australian jurisdictions which have local governments require a local government to review or re-enact a local law after a prescribed period.	<u>City of Belmont Position:</u> 1. The City supports that the process for developing and amending local laws be reviewed to address the timing associated with the Joint Standing Committee on Delegated Legislation so as to negate the significant rework required following Gazettal of a Local Law and subsequent JSCDL directives necessitating change and recommencement of the *Local Government Act 1995* process. 2. The City supports the LGPro position to remove the requirement to consult on model Local Laws, if unaltered. 3. The City supports the continued periodic review requirement for all Local Laws.
<u>COUNCIL MEETINGS</u> Council meetings are the mechanism by which council makes decisions. To ensure transparency council meetings are held in public, although certain matters can be heard behind closed doors. Council meetings also provide an opportunity for public question time.	

The Act establishes the framework for council meetings. This framework is further supported by standing orders set by council and enacted as a local law. These standing orders typically deal with matters such as: • The order of business and standing items; • Procedures for debating motions; • Procedures for taking public questions; and • Procedures for making representations at council meetings, known as deputations. The rules concerning the operation of council meetings today have not changed significantly since 1995. Within the legislative framework opportunities may exist to modernise council meetings and ensure that current practices align with community expectations.	
<u>Public question time</u> Legislation provides that a minimum of 15 minutes of each council or committee meeting is allocated to public question time. Public question time is an important opportunity for people to interact with their council and is seen by many in the public as a way to apply scrutiny and rigour to council decision making. Managing time during question time can be difficult due to people: • Wanting to make statements rather than ask questions; • Asking repetitive questions; • Asking inappropriate questions; and • Asking a large number of questions. At the same time, dissatisfaction with the management of public question time and perceptions about the quality or comprehensiveness of answers provided at question time is often a catalyst for distrust between council and residents and can escalate to larger issues of governance and ineffective community engagement. Public question time is an important element of local democracy. However, Council is also required at its meetings to govern the affairs of the local government which entails a broad decision making function encompassing matters of executive, legislative and	<u>City of Belmont Position:</u> 1. That the *Local Government (Administration) Regulations 1996* be amended to set Public Question Time at a maximum of 30 minutes, with Council discretion to consider and resolve any further extensions if time. 2. That the *Local Government (Administration) Regulations 1996* be amended so that all questions during Public Question Time are to be submitted in writing prior to the commencement of the meeting unless otherwise determined by the Presiding Member. 3. That local governments continue to manage other elements of Public Question Time through Standing Orders Local Laws.

quasi-judicial nature. There is a growing imbalance between public participation during question time and that of decision making by Council. A solution to better manage this escalating inequity is to set a maximum time period for question time, require questions to be provided in writing before the meeting and build better lines of communication with the community, as many questions at council meetings are administrative or operational in nature.	
<u>Managing Interests</u> Councils often need to make important and difficult decisions that impact the community. It is important that these decisions are free from improper bias or influence. Providing an appropriate framework for real and potential conflicts of interest is key. Currently, a member with an interest in a matter to be discussed at a meeting is required to disclose the interest to the Chief Executive Officer prior to the meeting, or at the meeting before the matter is discussed. The interest is to be brought to the attention of the meeting prior to the relevant matter being discussed. The Act identifies several different types of interests: direct financial interests, indirect financial interests and proximity interests. <u>Financial interests</u> A person has a financial interest if it is reasonable to expect that a council decision on a matter will result in a financial benefit or detriment to that person. These interests arise commonly as council decisions regularly affect businesses and financial outcomes. <u>Proximity interests</u> A person has a proximity interest in a matter if it concerns a proposed change to a planning scheme, zoning, or development of land that adjoins the person's land. The affected land must adjoin the councillor's land to qualify as an interest. This may be too narrow a definition, as developments on the councillor's street, for example, may also be likely to influence decision making.	<u>City of Belmont Position:</u> The current position under the *Local Government Act 1995* is sufficient. <u>City of Belmont Position:</u> That section 5.60B of the *Local Government Act 1995* be amended to encompass a circumference of 250 metres from the affected land.

Indirect financial interests An indirect financial interest results from a financial relationship existing between the councillor and a person who requires a local government decision in relation to a matter. Impartiality interests An impartiality interest is an interest that may adversely affect the impartiality of the person and includes an interest arising from kinship, friendship or membership of an association. These must be disclosed when they arise but the council member may participate in the discussion on the matter and votes.	City of Belmont Position: The current position under the *Local Government Act 1995* is sufficient. City of Belmont Position: That the *Local Government Act 1995* be amended so that any impartiality interest in a matter before the Council requires the Councillor to declare an interest and exclude themselves from any discussion or vote on the matter.
Gifts Reforms to the Act announced in August 2018, specify that a conflict of interest will exist for any elected member if a matter comes before council from the donor of any gift or gifts totalling over $300 in a twelve-month period. The council member must declare the conflict and remove themselves from the meeting while the matter is considered.	City of Belmont Position: 1. That the *Local Government Act 1995* be amended so that no gifts are to be accepted, regardless of value. 2. That the *Local Government Act 1995* be amended to define and make acceptable protocol gifts. 3. That the *Local Government Act 1995* be amended so that any Federal or State Government Trading Enterprise, Airport or inter government agency, local government and Associations, or significant community stakeholder invitations connected with attendance at any function, seminar, conference, workshop, meeting or training be acceptable, including any related token gifts.

	4. That token gifts as referred in item 3 above be defined. 5. That all protocol gifts, invitations and token gifts as referred in items 2 and 3 be declared and maintained in a register by the CEO.
<u>Interests not requiring disclosure</u> There are a number of situations in which a person is not required to declare an interest in a matter. This includes the situation where an interest is common to a significant number of electors or ratepayers. The term "significant number" is unclear and may cause confusion as to whether the interest needs to be declared. Changes in the valuation of land are not deemed to be an interest if the change affects a planning scheme for an area or the zoning or development of land in a district. That is, there is no interest where the person's land is affected generally, as part of a larger area, rather than individually.	<u>City of Belmont Position:</u> That the *Local Government Act 1995* be amended to clarify the definition of a "significant number".
<u>Exemptions granted by the Minister</u> A council member who makes a disclosure must not participate in the meeting where it relates to their interest, unless permitted by the council or Minister. The other council members can only decide to allow the member to participate if they deem that the interest is trivial enough to not influence decision-making, or is common to a significant number of electors and ratepayers. The council or the Chief Executive Officer may apply to the Minister to allow the disclosing member to participate in the part of the meeting relating to the matter. This can occur if the Minister is satisfied that there wouldn't be enough council members to form a quorum to deal with the matter, or if it is in the interests of the ratepayers to do so.	<u>City of Belmont Position:</u> That the *Local Government Act 1995* be amended to remove the ability for Council to consider allowing a Councillor, based on the interest being trivial enough to not influence decision-making, or is common to a significant number of electors and ratepayers, to take part in the meeting and that such determination may only be by the Minister.

Related party transactions During earlier consultation of the review, submissions were received concerning the related party transactions. Amendments to these provisions will be considered as part of broader reforms to the financial management framework.	WALGA Position: 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 1996* relating to AASB 124 'Related Party Transactions' of the Australian Accounting Standards (AAS). LGPro Position: That Regulation 4 of the *Local Government (Financial Management) Regulations 1996* be amended to provide an exemption from the application of AASB 124 Related Party Transactions' of the Australian Accounting Standards AAS). Local government legislation provides adequate transparency. City of Belmont Position: That Regulation 4 of the *Local Government (Financial Management) Regulations 1996* be amended to provide an exemption from the application of AASB 124 Related Party Transactions' of the Australian Accounting Standards AAS). Local government legislation provides adequate transparency.
Electors' General Meeting: Section 5.27 A general meeting of the electors of a district is to be held once every financial year. The purpose of the annual electors meeting is to discuss the contents of the annual report and any other general business.	WALGA Position: Section 5.27 of the *Local Government Act 1995* should be amended so that Electors' General Meetings are not compulsory.

The Western Australian Local Government Association (WALGA) and the local government sector have long called for the requirement to hold a General Electors' Meeting to be scrapped on the basis that very few members of the community attend and that there are other opportunities to ask questions of council. Annual electors' meetings are not required in any State or Territory other than Western Australia. Another opportunity for reform is to combine the General Electors' Meetings with an OCM	LGPro Position: Remove the requirements to have Electors' General Meetings. City of Belmont Position: The City supports the position that the requirements for an Electors General Meeting as contained in the *Local Government Act 1995* be deleted.
Special Electors' Meeting: Section 5.28 Special Electors' Meetings may be called if a sufficient number of people within a district request one. The current requirement to call a meeting is either 100 electors or 5% of the total number of electors, whichever is less. These meetings are usually called by electors to discuss an issue affecting the district. These meetings provide an opportunity for people to have their say but may be unhelpful due to the potential for conflict between the Council and electors. There is also nothing currently preventing a number of Special Electors' Meetings being called on the same matter. While the local government is obligated to call the meeting if the required number of electors request it, any resolutions passed at the meeting are not binding upon the council. Special Electors' Meetings are not held in Victoria, New South Wales or South Australia and are held in varying circumstances in other States. None of the States that provide for Special Electors' Meetings allow for the public to call such a meeting. In Queensland, the Mayor and Chief Executive Officer may decide to call a Special Electors' Meeting, whilst in Tasmania a special meeting may be convened by the Mayor. This only takes place at the request of three or more councillors. As electors' meetings are hardly used in other States, this may imply that these meetings are not essential to the functioning of local government.	WALGA Position: That Section 5.28(1)(a) of the *Local Government Act 1995* 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. LGPro Position: Increase the number of people required to convene a special electors' meeting. Limit the number of special electors' meetings which can be held on the same matter. Once a matter has been discussed at a special electors' meeting, the same matter, or a very similar matter, should not be able to be discussed at another special electors' meeting for 12 months unless Council determines otherwise.

In order to ensure that Special Electors' Meetings are called only when necessary, the threshold of electors required to call a meeting could be raised. Increasing the number of electors required from 100 to 500 may assist in preventing unnecessary meetings. In order to prevent numerous meetings on an issue, a requirement that a meeting cannot be held to discuss the same issue more than once in a 12 month period, could be introduced. If Special Electors' Meetings are to remain, it may be worthwhile to ensure the procedures for electors' meetings are in accordance with the meeting procedures adopted by the council. This would replace the rules set by the presiding member of the meeting as is currently the case. This allows known and approved processes to be followed.	City of Belmont Position: That Section 5.28(1)(a) of the *Local Government Act 1995* 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.
Minutes, contents of: Regulation 11, *Local Government (Administration) Regulations 1996* Regulations require that the content of minutes of a meeting of a council or a committee is to include — (a) the names of the members present at the meeting; and (b) where a member enters or leaves the meeting during the course of the meeting, the time of entry or departure, as the case requires, in the chronological sequence of the business of the meeting; and (c) details of each motion moved at the meeting, the mover and the outcome of the motion; and (d) details of each decision made at the meeting; and (da) written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70 (but not a decision to only note the matter or to return the recommendation for further consideration); and (e) a summary of each question raised by members of the public at the meeting and a summary of the response to the question; and (f) in relation to each disclosure made under section 5.65 or 5.70 in relation to the meeting, where the extent of the interest has also been disclosed, the extent of the interest.	WALGA Position: 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. City of Belmont Position: The current provisions of Regulation 11 of the *Local Government (Administration) Regulations 1996* are adequate.

Revoking or Changing Decisions: Regulation 10 *Local Government (Administration) Regulations 1996* It may be beneficial to further clarify and strengthen the rules regarding revoking or changing council decisions. It is proposed that these rules be revised to explicitly state that the rules concerning revoking or changing decisions of council do not apply after the decision has been implemented. This change will assist in ensuring certainty of council decisions without affecting their flexibility, as subsequent decisions on the matter can still be made if need be.	WALGA Position: That Regulation 10 of the *Local Government (Administration) Regulations 1996* be amended to clarify that a revocation or change to a previous decision does not apply to Council decisions that have already been implemented. City of Belmont Position: 1. That Regulation 10 of the *Local Government (Administration) Regulations 1996* be amended to include that the Council or a committee may consider a motion to revoke or change a decision if it has considered a statement of impact prepared by or at the direction of the CEO of legal and financial consequences of the proposed revocation or change. Or 2. That a local governments Standing Orders Local Law contain a provision that before the Council or a committee may consider a motion to revoke or change a decision it has considered a statement of impact prepared by or at the direction of the CEO of legal and financial consequences of the proposed revocation or change.

Elected Member attendance at Council meetings by technology Currently regulations allow council members to attend council meetings remotely in specific circumstances. To be eligible for remote attendance, the person (unless they have a disability) must be located in a council-approved place in a townsite that is at least 150km from the meeting venue. Even if a person is eligible, it is the Council's decision whether they approve the remote attendance or not. A council is also not permitted to have members attend remotely for more than half of the meetings in a given financial year. A member is present if they are in audio contact, by telephone or other means, with the other members of the meeting. The advancement of technology has made video calls part of everyday life and this should be reflected in modern meeting practices. Remote attendance is of particular benefit in remote areas where elected members would otherwise have to travel great distances to be present. Expanding the instances in which remote attendance is allowed will help to ensure that local issues are heard and voted on by all elected members. It may also reduce the number of instances in which a quorum is not present, thereby allowing the local government to run more effectively. Reducing, or removing altogether, the 150km distance requirement may improve outcomes for elected members and the community. This increased flexibility may facilitate more efficient use of councillor's time and possibly encourage a larger pool of individuals interested in nominating to become an elected member. The advancement of modern technology allows individuals to be in contact with the members present at the meeting from anywhere in the world. In modern times, the requirement that a councillor be in an approved townsite does not appear to serve a functional purpose.	WALGA Position: The regulations require amendment to consider allowing attendance at a meeting via technology from any location suitable to a Council. City of Belmont Position: That the *Local Government Act 1995* and Regulations be amended to allow Councillor attendance at a meeting via technology from any location suitable to the Council.

There is some ambiguity as to whether the person must be within their local government district to attend remotely. This is not specified within the current Act, however there is an interpretation that a person must be within Western Australia for Western Australian law to apply. There is then a potential opportunity to expand the legislation to allow individuals to participate from interstate or even internationally by specifying that the law that applies is the law in the jurisdiction of the district. <u>Protection from liability</u> Section 9.56 of the Act provides a degree of protection for elected members and employees: *(1) A person who is —* *(a) a member of the council, or of a committee of the council, of a local government; or* *(b) an employee of a local government; or* *(c) a person appointed or engaged by a local government to perform functions of a prescribed office or functions of a prescribed class, is a protected person for the purposes of this section.* *(2) An action in tort does not lie against a protected person for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act or under any other written law.* *(3) The protection given by this section applies even though the thing done in the performance or purported performance of a function under this Act or under any other written law may have been capable of being done whether or not this Act or that law had been enacted.* *(4) This section does not relieve the local government of any liability that it might have for the doing of anything by a protected person.* *(5) In this section —* *(a) a reference to the doing of anything includes a reference to the omission to do anything;* *(b) a reference to the doing of anything by a protected person in the performance or purported performance of a function under any written law other than this Act is limited to a reference to the doing of anything*	<u>City of Belmont Position:</u> That legislation be drafted to consider the matter of absolute privilege being extended to elected members and employees of local government.

by that person in a capacity described in subsection (1)(a), (b) or (c), as the case may be. The City believes that there are significant benefits that would come from the application of absolute privilege to apply to local government councillors so that councillors enjoy a similar level of legal protection to members of State and Federal Parliament. Given that State Parliament has plenary legislative power, subject to the powers exercised by the Federal Parliament under the Constitution, there is no reason why State Parliament could not legislate to grant privileges or immunities to local government councillors.	
INTERVENTIONS The Act provides means to regulate the conduct of local government officers and council members and sets out powers to scrutinise the affairs of local governments. The Act provides the Minister with the ability to: • Establish an inquiry by an Inquiry Panel; • Suspend councils; • Appoint Commissioners; and • Dismiss a council. The Act also provides the Director General with the power to: • Conduct authorised inquiries; • Refer allegations of serious or recurrent breaches to the State Administrative Tribunal; and • Commence prosecution for an offence under the Act. Local governments are given powers to enforce the legislation, namely, to: • Enter premises; • Arrest a person suspected of committing an offence who fails to give certain information to a local government employee; • Issue infringement notices; and • Commence a prosecution for an offence under the Act.	

In 2017-18, the number of authorised inquiries into local governments conducted by the Department was the highest it has ever been and more than three times the number of authorised inquiries conducted in the previous year. In the last 12 months, the Department and the Local Government Standards Panel have also received a record number of complaints regarding alleged breaches under the Act. There is a community expectation that the misconduct of local government officers and organisational dysfunction and governance issues within local governments are dealt with appropriately. This is achieved through balancing the ability of the State Government to intervene in local government matters and enabling local governments to operate as autonomous bodies in managing their own operations and affairs.	
<u>Investigations and inquiries & Complaints process</u> A person who suspects that a council member has committed a breach of the Act may make a complaint to their local government or to the Department, depending on what type of breach the complaint relates to. There are two types of breaches under the Act, namely minor breaches and serious breaches. A council member commits a minor breach if he or she contravenes a rule of conduct or a local law relating to meeting procedures. A serious breach occurs when a council member commits an offence under a written law and an element of the offence is that they are a council member. Serious breaches include a recurrent breach which occurs when a council member has been found to have committed two or more minor breaches. The process for lodging a complaint about an alleged breach of the Act differs depending on the type of breach involved. If a person believes that a council member has committed a minor breach (i.e. contravened a rule of conduct or local law), he or she may make a complaint to the complaints officer of the local government. The complaints officer is then responsible for referring the minor breach complaint to the Local Government Standards Panel. A person may make a complaint about a serious breach (i.e. a council member committing an offence under a written law) to the Director General. The Director General then decides how the matter should be dealt with,	<u>City of Belmont Position:</u> 1. That *the Local Government (Rules of Conduct) Regulations 2007* be amended to include a breach of the Code of Conduct as a breach of the Rules of Conduct. 2. That the *Local Government Act 1995* be amended to stipulate that the Director General of DLGSCI is to receive all minor and serious breach complaints. 3. The current disciplinary process is inefficient and time consuming. A process that expedites action based upon non-performance is required and in particular for an individual elected member to be 'stood down' from their role when they are under investigation; have been charged; or when their continued presence prevents Council from properly discharging its functions or affects the Council's reputation, subject to further policy

including whether it is appropriate for the matter to be referred to the State Administrative Tribunal. An amendment to the Act could be made to simplify the process of making a complaint so that both minor breach and serious breach complaints are to be made to the Director General who then decides how the complaints should be dealt with. This reduces red tape for local governments as it removes the requirement for the complaints officer of a local government to receive complaints.	development work being undertaken and considering: • The established principles of natural justice and procedural fairness are embodied in all aspects of the proposed Stand Down Provisions; and • That activities associated with the term 'disruptive behaviour', presented as reason to stand down a defined Elected Member on the basis their continued presence may make a Council unworkable, are thoroughly examined and clearly identified to ensure there is awareness, consistency and opportunity for avoidance.
<u>Remedial action process</u> The options available to support local governments in challenging times are currently limited and can escalate to direct interventions such as suspending a council and installing a commissioner or dismissing the Council. Feedback received through previous consultation indicated that there was support for the State Government to provide intensive assistance and support to local governments by way of a remedial action process. The process could involve: • Issuing a remedial notice to a local government requiring the provision of information or the performance of an action or activity; • The appointment of a person to the local government administration to assist the local governments with its operations; and • Requiring the local government to participate in a capacity building program. Building on the feedback from previous consultation regarding the power to appoint a person to the administration of a local government, the appointed person could be	<u>WALGA Position:</u> 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

provided with the ability to direct the administration to perform certain actions and to override decisions made by the administration. This would increase the ability of the appointed person to ensure that the administration takes the necessary action to address the issues in question. Additionally, the Act could be amended to enable the State Government to embed a person (with suitable expertise and experience) into a council. The person could have the ability to direct the Council to perform certain actions and to override decisions made by the Council if they were illegal or contrary to the interests of the community as a whole. This may take the form of the appointed person taking over the roles and responsibilities of the Mayor or President. The intention of embedding a person into council is to allow the council members to remain on council and for the appointed person to work with council members to address the matters of concern. This may be particularly effective in situations where a council is dysfunctional. This option of embedding an appointed person into a council is based on the model in Victoria. In Victoria the Minister can appoint a "Municipal Monitor" to a council (following written notice to the council of the appointment). The role of the "Municipal Monitor" or "Authorised Inspector" could include monitoring governance processes and practices, providing advice to council on governance improvements, and reporting to the Minister on any steps or actions taken by council to improve its governance and the effectiveness of those steps or actions.	determine a size and scale compliance regime should be prioritized. <u>City of Belmont Position:</u> 1. The City supports the position that 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. Similar support was provided by the City in its submission as part of Stage 1 of the Local Government Act review submitted in 2018. 2. The City supports that 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. Similar support was provided by the City in its submission as part of Stage 1 of the Local Government Act review submitted in 2018.

Improper use of Information Under the Act, a person who is a council member, a committee member or an employee must not make improper use of any information acquired in the performance of his or her functions to gain an advantage for themselves or any other person, or to cause detriment to the local government or any other person. This offence does not apply to former council members, committee members or employees who use information (which they acquired when they were engaged with a local government) improperly. The Department of Local Government and Communities initiated a review in 2015 of the *Local Government (Rules of Conduct) Regulations 2007* which included a recommendation that the improper use of information offence be extended to apply to former council members, committee members or local government employees. Feedback supported the recommendation, however, there was no consensus as to how long a person would be liable for such an offence following their separation from the local government (i.e. the period following their engagement with a local government in which they are prohibited from improperly using the information). The suggested time frames ranged from 12 months to five years. In most Australian states, the liability period for this type of offence is unlimited. The Act could be amended to extend the improper use of information offence to former council members, committee members or employees for a particular period.	City of Belmont Position: 1. That the improper use of information offence be extended to apply to former council members, committee members or local government employees pertinent to confidential information for an indefinite period or period for which the matter remains confidential, unless required or permitted by law. 2. That the improper use of information offence be extended to apply to former council members, committee members or local government employees pertinent to all other information for a period 4 years (two election cycles), unless required or permitted by law.
New offence – improper use of position Under the *Local Government (Rules of Conduct) Regulations 2007*, a council member must not make improper use of his or her office as a council member to gain directly or indirectly an advantage for themselves or any other person, or to cause detriment to the local government or any other person. As this regulation only applies to elected members, there is no equivalent “improper use of position” offence under the Act which applies to Chief Executive Officers or employees of a local government.	City of Belmont Position: The City does not support the need to create a new offence for improper use of position applicable to the Chief Executive Officer and employees as this is dealt with in contractual and employment conditions of local government officers.

An amendment to the Act could be made to include an "improper use of position" offence which applies to council members, Chief Executive Officers and employees of a local government, and former council members, Chief Executive Officers and employees. This would ensure that Chief Executive Officers and employees do not escape liability for improperly using their position, especially in situations where the conduct of the individual does not fall within the jurisdiction of the Corruption and Crime Commission or the Public Sector Commission.	
<u>New offence – providing false or misleading information to Council</u> In making decisions, the Council of a local government may consider written reports which have been prepared by the Chief Executive Officer or employees of the local government and verbal information provided by local government staff (normally senior executive staff) during a council meeting. The Department has received complaints whereby council members have been provided with a written report from the Chief Executive Officer or employee of their local government which contains false or misleading information. There is currently no provision under the Act which makes it an offence for a Chief Executive Officer or employee to provide false or misleading information to council. Regular comparisons are made between local government council members and Members of Parliament. Knowingly misleading a House or Committee of Parliament constitutes contempt of Parliament. Under the Criminal Code, it is an offence if a person under examination knowingly gives false evidence to Parliament. While the nature of the decisions and duties are different, members of council like members of Parliament make decisions that directly affect the community. These decisions can involve committing significant amounts of public money. The Act could be amended to provide that the Chief Executive Officer or an employee of a local government must not deliberately or negligently provide false or misleading information to council. This would ensure that a council, as the decision-making body of a local government is provided with accurate information from its Chief Executive Officer and employees.	<u>City of Belmont Position:</u> The City does not support the need to create a new offence for providing false or misleading information to Council as Council can: i. Defer any decision based upon the lack of or accuracy of information; or ii. Raise the matter as a contractual performance management issue of the CEO and undertake disciplinary action.

<u>New offence – Tendering requirements</u> The Act requires a local government to invite tenders before it enters into certain contracts for the supply goods or services. The *Local Government (Functions and General) Regulations 1996* set out the requirements regarding when tenders must be publicly invited and how the tendering process is to be undertaken. Currently, the Act does not provide that a breach of the tendering provisions under the Act and regulations is an offence. Therefore, a person who does not comply with the tendering requirements cannot be prosecuted unless their conduct constitutes an offence under another provision. Local governments spend around $1 billion dollars on goods and services annually. The tendering requirements under the Act ensure that local governments provide the community with goods and services which are of the best value and that there is transparency in the procurement process. To ensure that these requirements and obligations are enforced, the Act could be amended to provide that the non-compliance of tendering requirements is an offence.	<u>City of Belmont Position:</u> The City does not support the need to create a new offence for not adhering to the provisions of *the Local Government (Functions and General) Regulations 1996* as Council can: i. Reject any decision to accept a tender if non-compliant with legislation; or ii. Raise the matter as a contractual performance management issue of the CEO and undertake disciplinary action; or iii. Report the matter as required to the Department of Local Government, Sport and Cultural Industries, Public Sector Commission or the Corruption and Crime Commission.

INCLUSIVE

ELECTIONS

Elections are a fundamental part of local democracy. Local government draws its legitimacy through elections. Elections provide a direct voice for the community and provide the primary means of holding local government accountable.

Local government ordinary elections are held every two years. At ordinary elections, nominations are called for half of a council's positions. This approach is intended to allow for continuity in a council's leadership. Mayors and Presidents are either elected by the community at large or elected from the pool of councillors by the elected members.

The Act and the *Local Government (Elections) Regulations 1997* establish the rules for local government elections, including how elections are to be conducted, the eligibility for voting and running for office, the timing of elections and how local government districts can be further divided into wards.

Historically, voter turnout in local government elections in Western Australia is poor compared to other jurisdictions. In most local government elections less than one-third of eligible electors cast a vote. In the 2017 ordinary elections, approximately 34.2% of eligible electors cast a vote.

Participation rates have been relatively unchanged since the introduction of postal voting in the late 1990s. Prior to the availability of postal voting in most local government elections, participation rates averaged just 15%.

Local government elections are often closely contested. With relatively small elector populations compared to State and Federal electorates and low participation rates, only a handful of votes often separates successful and unsuccessful candidates. Likewise, the percentage of the total vote received by any one candidate is often low – a successful candidate may only receive votes from 8% of the eligible voters.

Conduct of Postal Elections: Sections 4.20 and 4.61 Local governments may elect to offer postal voting. Since 1995, the number of local governments offering postal voting has increased substantially. At the 2017 local government elections, 89 of the State's 137 local governments offered postal voting. Over 98% of the State's electors live in a district that provides postal voting. Postal voting has become an accepted and popular method of conducting elections. Following postal voting's introduction, participation in local government elections across the State grew significantly. Postal voting is becoming more expensive and with the decline in postal services becoming less appealing. This may result in some local governments considering not providing postal voting into the future.	
Require the WAEC to conduct all local government elections Local governments may elect to contract the WAEC to conduct elections (except for postal elections which must be conducted by the WAEC). Typically, contracting the WAEC and offering postal voting goes hand in hand. As is the case with postal voting, over 98% of the State's electors live in a district where elections are conducted by the WAEC. If the WAEC does not conduct the election, it is the responsibility of the Chief Executive Officer to act as the returning officer and manage the election. Cost is a major deterrent for local governments in contracting the WAEC. At the 2017 elections, the average cost per elector for WAEC elections across the State was $3.59. However, for smaller local governments the direct costs of engaging the WAEC, such as the fees paid to returning officers and advertising, make up a significant proportion of WAEC costs. While these costs are split on a proportional basis with local governments with a smaller population subsidised by larger local governments, the per-elector costs in small locations are greater.	

Allowing third parties to conduct postal elections Under the Act, only the WAEC is permitted to conduct postal elections. WALGA has asked for the Act to be amended to enable third parties to run postal elections on behalf of local government. This could include the Australian Electoral Commission, individual local governments or private companies.	WALGA Position: 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. LGPro Position: Allow the Commonwealth Electoral Commission or any other body competent in conducting elections to be responsible for conducting an election and, in particular, a postal election. City of Belmont Position: The City supports the position that the *Local Government Act 1995* should be amended to allow the Australian Electoral Commission (AEC) and or any other approved third party provider to conduct postal elections.
Compulsory voting Section 4.65 It is a requirement of every elector to cast a vote in both State and Federal elections throughout Australia, but this same requirement does not extend to all local government elections. In Western Australia, voting in a local government election is not compulsory. Western Australia, South Australia and Tasmania do not compel people to vote in local government elections. On the other hand, Victoria, New South Wales, Queensland and the Northern Territory do have compulsory voting for local government elections. Historic voter turnout in local government elections in Western Australia is significantly low with only 34.2% of eligible voters casting a vote in the 2017 ordinary elections.	WALGA Position: Voting in local government elections should remain voluntary. City of Belmont Position: The present system of voting in local government is a reflection of a truly democratic process and is seen as a suitable and effective method for grass roots representation. The real test of community interest in local government comes at election time.

This raises the question as to how reflective local government councils are of the communities they represent. Introducing compulsory voting for local government elections would ensure greater turnout in elections. However, there may be little desire for such a change to occur from the broader community as it would impose an obligation on electors that was not there previously.	The City's adopted position at December 2011 is that position that the current system of voting in local government, non-compulsory and first past the post should be retained.
<u>Method of Election of Mayor/President: Section 2.11</u> Mayors and Shire Presidents can be elected by the community or elected from the pool of councillors by the elected members. If the Mayor or Shire President is elected by the elected members, they can decide to change to have the position elected by the community. If the Mayor or Shire President is elected by the community, only the electors can decide to change back through a successful ballot of the electors. Twenty-five local governments currently use direct election with the remainder elected by a ballot of council members. The direct election of a Mayor or President strengthens the role of electors in a district and in turn can increase public confidence. Elections for Mayor and President positions have the highest elector participation rates. Direct election can also create greater visibility for the mayor and reinforce the role of the mayor as a community leader that is accountable to electors. Particularly in other jurisdictions, the popular election of mayors or presidents has been linked to greater politicisation and a source of instability in council. Popularly elected mayors or presidents may seek to direct council citing a mandate from the community. This can lead to considerable friction within a council and may lead to a dysfunctional local government.	<u>WALGA Position:</u> Local governments should determine whether their Mayor or President will be elected by the Council or elected by the community. <u>LGPro Position:</u> Delete the poll provisions in relation to changing the method of election of the Mayor/President. Local governments should determine this outcome. <u>City of Belmont Position:</u> The City supports that local governments should determine whether their Mayor or President will be elected by the Council or elected by the community and that the poll provisions in relation to changing the method of election of the Mayor/President be removed.

On-Line Voting Electronic voting is an alternative to traditional voting methods where the voter records their vote digitally rather than marking a ballot paper and lodging at a polling booth or via post. Online voting is a specific type of electronic voting where a vote made digitally is recorded remotely. Online voting was trialled in the 2017 Western Australian State Government elections and has been used in the 2011 and 2015 New South Wales State Government elections. The concept has also been investigated by a Commonwealth Parliamentary Inquiry in 2014, a Victorian Parliamentary Inquiry in 2017, and in the Western Australian Parliament's Community Development and Justice Standing Committee report into the 2017 Western Australian State Election. On each occasion both the benefits and risks of online voting have been highlighted. Online voting is seen as convenient, more efficient and in the long term more cost effective. Despite these benefits, online voting has not been adopted widely principally due to concerns with the integrity of voter registration, the casting and scrutiny of votes and the high costs in establishing and conducting elections online. In New South Wales, the average cost of every vote cast electronically in the 2011 elections was $74. This compares to a cost of $3.59 per elector in elections conducted by the WAEC in 2017. iVote in New South Wales have been popular. In 2015, over 230,000 votes or over 5% were cast in the New South Wales State Government election. While there is no evidence of instances of deliberate voter manipulation through online voting in Australia, there is a level of risk with all internet applications. These risks would necessitate the continuous application of best practice with respect to security and also need to be balanced against the risks inherent in conventional paper based systems.	WALGA Position: That WALGA continue to investigate online voting and other opportunities to increase voter turnout. LGPro Position: Allow people to vote online if they so choose. City of Belmont Position: The City supports the position to continue to investigate online voting and other opportunities to increase voter turnout.

Method of Voting - Schedule 4.1 The current voting method for local government elections in Western Australia is first past the post (FPP). Simply put: the person with the most votes win. FPP is inconsistent with the voting method applied at both a State and Federal level where preferential voting is required. FPP can often lead to outcomes that do not adequately represent the community's preferences with many successful candidates being elected without a clear majority of votes. For example, a successful council candidate can be elected even though they may only receive 8% of the total votes cast or a successful mayoral/presidential candidate may receive significantly less than 51% of total votes cast. Ensuring our elected representatives adequately reflect our broad communities is essential to maintain confidence in our democratic institutions. While changing the voting method has been applied to the Western Australian local government sector previously, it was not wholly supported by the sector. Having an optional preferential voting system for electors could be seen as an adequate compromise.	WALGA Position: Elections should be conducted utilising the first-past-the-post (FPTP) method of voting. City of Belmont Position: The present system of voting in local government is a reflection of a truly democratic process and is seen as a suitable and effective method for grass roots representation. The real test of community interest in local government comes at election time. The City's adopted position at December 2011 is that position that the current system of voting in local government, non-compulsory and first past the post should be retained.
Leave of Absence when Contesting State or Federal Election In its submission to earlier consultation on the Act Review, WALGA requested that amendments to the Act be made to require a council member to take a leave of absence when contesting a State or Federal election. This proposal was intended to provide clear separation between council and State and Federal election campaigns and avoid potential or perceived conflicts of interest.	WALGA Position: 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

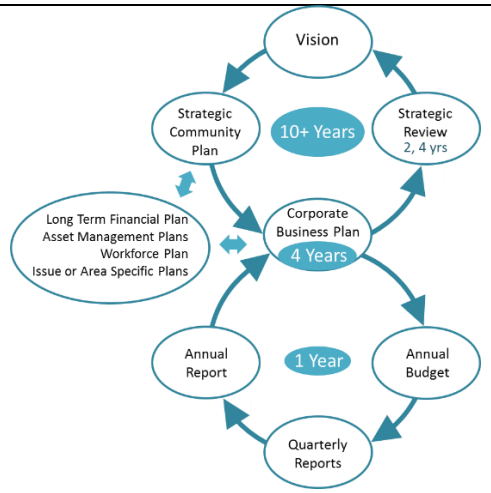
	(ii) that an Elected Member take leave of absence from all aspects of their role as a Councillor and not be able to perform the role as specified in Section 2.10 of the *Local Government Act 1995* <u>City of Belmont Position:</u> The City supports WALGA's position to amend the *Local Government Act 1995* 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 1995.*

COMPLAINTS MANAGEMENT Local governments deal with many complaints each year due to the very nature of being the first point of contact for the public. Complaints are an important way for the management of an organisation to be accountable to the public. If not handled well, complaints can lead to a significant breakdown in trust and can spill over into other areas of the local government's operations. There is currently no legislative requirement for local governments to have complaint handling processes other than the need to address how they dealt with complaints in the annual report. According to research conducted by the Department, almost 50% of local governments in Western Australia either have no, or very limited, documented complaints handling processes. Furthermore, many local governments do not have easily accessible complaints handling processes which impacts a local government's commitment to transparency and accountability. The purpose of this review is to explore options to equip local governments with tools to better deal with external complaints from members of the public and their communities.	
Complaints management policies and procedures A legislative requirement for complaints management may encourage local governments to adopt and actively work on better complaints management. The Australian/New Zealand guidelines for complaints management in organisations recommends that organisations should implement a complaints management system. The Standard states that an organisation should establish an explicit complaints management policy setting out its commitment to the effective management of complaints. The policy should be supported by procedures dealing with how the complaints will be managed by the organisation, who will be involved in that process,	WALGA Position: 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*.

and their roles. In South Australia, the legislation prescribes the minimum procedures that local governments must address, whereas in Queensland, the legislation simply provides that local governments must have written policies and procedures that support complaints management. All local governments could be required to adopt the Standard, including the following key requirements: • The adoption of a clear definition of complaints in line with the Standard; • Policies and procedures that clearly set out how the local government handles complaints, for example providing timeframes and requiring a person independent of the initial matter to be responsible; • Provisions for how complaints are to be resolved and for when matters are referred to an external body, for example the Ombudsman; and • A requirement for local governments to make their policies and procedures easily accessible to the public. <u>Querulous, Vexatious and Frivolous Complainants</u> 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.	• Provide for a complainant, who receives a local government decision 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: ➢ Abuse of process; ➢ Harassing or intimidating an individual or an employee of the local government in relation to the complaint; ➢ Unreasonably interfering with the operations of the local government in relation to complaint. <u>LGPro Position:</u> Insert a new provision to specifically allow a local government to declare a member of the public and their complaints vexatious. Such a declaration would prevent that person from speaking at either Council meetings or electors meetings, allow a local government to file, but not respond, to correspondence from the person, and refuse to answer phone calls. <u>City of Belmont Position:</u> 1. The City supports the mandatory requirement for each local government to have in place and undertake regular reviews of its Complaint Management Policy and Procedure. 2. The City supports WALGA's position that enables 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*. 3. The City supports WALGA's position that enables local government discretion to declare a member of the public a vexatious or frivolous complainant for reasons, including: ➢ Abuse of process; ➢ Harassing or intimidating an individual or an employee of the local government in relation to the complaint; ➢ Unreasonably interfering with the operations of the local government in relation to complaint. 4. The City supports WALGA's position that will provide for a complainant, who receives a Local Government decision to refuse to deal with that complainant, and to refer the local government's decision for third party review.

INTEGRATED PLANNING AND REPORTING Integrated Planning and Reporting (IPR) is a foundation of modern local government. IPR enables community members and stakeholders to participate in shaping the future of the community and in identifying issues and solutions. IPR is a process designed to: • Articulate the community's vision, outcomes and priorities; • Allocate resources to achieve the vision, striking a considered balance between aspirations and affordability; and • Monitor and report progress. The Framework and Guidelines are aligned with nationally consistent practices. The Guidelines outline each component of the IPR Framework – its purpose; the process; the role of the community, council and administration – and how the components fit together. The following key local government planning processes are addressed in the Guidelines: • Preparation of the **Strategic Community Plan**, resulting in a ten year plan informed by community aspirations. • Preparation of the **Corporate Business Plan**, resulting in a plan that mobilises resources to implement the first four years of the Strategic Community Plan. The Framework and Guidelines also establish mechanisms to review and report on all elements of the IPR process. The IPR process takes into account how the community is changing over time, with respect to demography, the nature of economic activity, people's expectations and so on. Technology is changing the way we communicate and interact with each other. The future may require different assets and services. The process also acknowledges that aspirations will almost always exceed resources and does not provide carte blanche for either unfunded commitments or unbridled rates increases.	City of Belmont Position: 1. The current legislated requirements for Integrated Planning and Reporting are adequate. 2. Consideration toward a range of standardised key performance indicators, similar to the financial ratios, may be beneficial to gauge sector performance. 3. Community satisfaction and engagement surveys may be beneficial as a standardised sector indicator. 4. Continued flexibility with IPR based upon community needs and desires is critical in addressing the dynamic differences across the local government sector.


Vision
Strategic Community Plan
10+ Years
Strategic Review
2, 4 yrs
Long Term Financial Plan
Asset Management Plans
Workforce Plan
Issue or Area Specific Plans
Corporate Business Plan
4 Years
Annual Report
1 Year
Annual Budget
Quarterly Reports