



KIMBERLEY REGIONAL GROUP Meeting

UNCONFIRMED MINUTES

1:00PM, 24 AUGUST 2020

Video Conference

SHIRE OF BROOME
KIMBERLEY REGIONAL GROUP
MONDAY 24 AUGUST 2020
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**MINUTES OF THE KIMBERLEY REGIONAL GROUP OF THE SHIRE OF BROOME,
HELD IN THE VIDEO CONFERENCE, ON MONDAY 24 AUGUST 2020, COMMENCING
AT 1:00PM.**

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Chairman welcomed Members and Officers and declared the meeting open at 1:01PM.

2. RECORD OF ATTENDANCE / APOLOGIES

ATTENDANCE:

Sam Mastrolembro	Shire of Broome
Cr Chris Mitchell	Shire of Broome
Cr Harold Tracey	Shire of Broome
James Watt	Shire of Broome
Amanda O'Halloran	Shire of Derby West Kimberley
Cr Geoff Haerewa	Shire of Derby West Kimberley
Cr Paul White	Shire of Derby/West Kimberley
Vernon Lawrence	Shire of Wyndham East Kimberley
Noel Mason	Shire of Halls Creek
Cr Malcolm Edwards	Shire of Halls Creek
Debra Goostrey	Zone Executive - ATEA
Krissie Dickman	Department of Communities
Evie Devitt-Rix	WALGA
James McGovern	WALGA
Dana Mason	WALGA
Greg Hayes	WALGA Roadwise
Danelle Dowding	Kimberley RDA

APOLOGIES:

Cr David Menzel	Shire of Wyndham East Kimberley
Cr Tony Chafer	Shire of Wyndham East Kimberley
Cr Chris Loessl	Shire of Halls Creek
David Price	Shire of Christmas Island
Cr Gordon Thomson	Shire of Christmas Island
Cr Kee Heng Foo	Shire of Christmas Island
Andrea Selvey	Shire of Cocos (Keeling) Islands
Cr Tony Lacy	Shire of Cocos (Keeling) Islands

Cr Seriwati Iku

Shire of Cocos (Keeling) Islands

3. DECLARATION OF INTERESTS

FINANCIAL INTEREST			
Member	Item No	Item	Nature of Interest
Nil			

IMPARTIALITY			
Member	Item No	Item	Nature of Interest
Nil			

4. CONFIRMATION OF MINUTES**MOTION:****(REPORT RECOMMENDATION)****Moved: M Edwards****Seconded: G Haerewa**

That the Minutes of the Kimberley Regional Group held on 3 August 2020, as published and circulated, be confirmed as a true and accurate record of that meeting.

CARRIED UNANIMOUSLY 4/0**5. BUSINESS ARISING FROM PREVIOUS MEETING**

Nil.

6. PRESENTATIONS FROM REPRESENTATIVES

Nil.

7. REPORTS FROM REPRESENTATIVES**7.1 RDA KIMBERLEY**

Danelle Dowding, Executive Officer

7.2 KIMBERLEY DEVELOPMENT COMMISSION

Tim Bray, Director Regional Planning and Projects Delivery

7.3 WALGA ROADWISE

Greg Hayes, Road Safety Advisor

7.4 DEPARTMENT OF COMMUNITIES

Krissie Dickman, Regional Manager Kimberley

7.5 WALGA

Evie Devitt-Rix, Senior Policy Advisor Emergency Management

8. REPORTS FROM KIMBERLEY COUNTRY ZONE

8.1 WALGA STATE COUNCIL AGENDA AND PRESIDENT REPORT

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	KRG01
AUTHOR:	Zone Executive
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director Corporate Services
DISCLOSURE OF INTEREST:	Nil

SUMMARY:

To consider the recommendations on Matters for Decisions that will be considered at the WALGA State Council meeting on 2 September 2020, provide an update on matters for noting and note the Presidents Report as provided.

BACKGROUND

Previous Considerations

Nil.

COMMENT

The next WALGA State Council meeting will be held on 2 September 2020 and this item provides an overview of the matters for decision and other matters of note.

	Matters for Decision	WALGA Recommendation	Zone Recommendation
5.1	Park Home Approvals and the Caravan Parks and Camping Grounds Act 1995 (05-018-02-0002 VJ)	<p>1. Urgently amend the Caravan Parks and Camping Grounds Act 1995 to allow the continued lawful placement of new manufactured homes on caravan park sites until 2030; and</p> <p>2. Undertake a full review of the Caravan Parks and Camping Grounds Act 1995 and associated legislation and regulations.</p> <p>A recent SAT case has highlighted the conflict in the various legislative controls on this form of accommodation. New Regulations gazetted in March 2020 do not address the fundamental issue of locating park homes within caravan parks, they only provide a temporary solution after the SAT case. A full review of the Caravan Parks and Camping</p>	Support

		<p>Grounds Act 1995 and other legislative requirements (i.e. planning and building) is required to enable a more streamlined assessment of park homes in caravan parks, and remove the conflict between the different State legislative requirements.</p>	
5.2	<p>Submission on Decision Paper – Swimming Pool and Safety Barrier Control (05-015-02-0010 VJ)</p>	<p>1. That the submission on the Decision Paper on Swimming Pool and Safety Barrier Control, be endorsed.</p> <p>The proposed changes to the swimming pool barrier inspection process has resourcing implications for the sector. A submission has been prepared to meet the comment deadline of 16 September 2020.</p> <p>The majority of the proposals within the decision paper are supported, as they align with the feedback provided to DMIRS in 2019.</p> <p>The paper proposes a few new processes in the current pool barrier control:</p> <ul style="list-style-type: none"> • A new first barrier inspection to be conducted by Local Government which is accompanied by a new <u>maximum</u> fee of \$292. • A series of additional guidance notes for Local Government and the Industry in the installation process, best practice inspection processes and compliance and enforcement processes. 	Support
5.3	<p>Development Assessment Panels (05-047-01-0016 CH)</p>	<p>That the findings and recommendations of the <i>Development Assessment Panels, 2011-20 Review</i> be endorsed and that WALGA advocate for:</p> <ol style="list-style-type: none"> 1. The abolishment of the current 'mandatory' mechanism which requires a Development Assessment Panel to act as the decision maker where a proposal has a value of \$10 million or greater, and replace this with an 'opt in' mechanism for all proposals. 2. Raising the Development Assessment Panel threshold from the current \$2 million back to \$3 million. 3. The Department of Planning, Lands and Heritage to make public comprehensive data related to the performance of the Development Assessment Panel system to improve the transparency of the system. 	Support

5.4	Air Handling Discussion Paper Part Two (05-031-01-0001 BW)	<p>That the submission to the Department of Health in response to the Air Handling discussion paper Part Two be endorsed.</p> <p>Air handling units, which usually have the acronym of A.H.U are found in medium to large commercial and industrial buildings.</p> <p>The Department of Health (DOH) released the “Air Handling Discussion Paper Part Two” for public comment; this provides more detail on the proposed new regulations. The major changes relating to Local Government are:</p> <ul style="list-style-type: none"> • Registration will remain a requirement however, it is yet to be determined whether this is maintained at local government or in a centralised register. • Remove the requirement for Local Government to assess and approve applications in respect of air handling or water systems. • Require a Risk Management Plan as part of the registration process and provide templates and guidance to enable local government to enforce this requirement. 	Support
5.5	Final Report of the Local Government Review Panel – Recommendations for a new Local Government Act for Western Australia.	The WALGA position in relation to the Final Report of the Local Government Review Panel has been released and is attached. A Zone position is being developed as there are matters that will be of high importance and potentially unique to the Kimberley. Due to time constraints, this position will be circulated under separate cover.	Separate item and presentation.

Matters for Noting

- 6.1 COVID-19 Pandemic Update – a further update has been provided and it attached.
- 6.2 Planning and Development Amendment Act 2020 (06-03-01-0001 VJ) Advocacy Update.
- 6.3 Australian Fire Danger Rating System (AFDRS) Program (05-024-03-0035 EDR): Advice from the Department of Fire and Emergency Services (DFES) for Local Governments to suspend investment in current fire danger rating signage (including electronic signs) until a final prototype is announced.
- 6.4 Report Municipal Waste Advisory Council (MWAC) (01-006-03-0008)
 - Draft Waste Reform Submission.
 - Draft Waste Levy Submission.
 - Comparison – Waste Authority Business Plans and Annual Report.

President's Report

The President's Report included the following matters:

- COVID-19 Recovery
- Local Government Review Panel Report
- City of Perth Inquiry Report
- State Road Funds to Local Government
- Select Committee into Local Government

CONSULTATION

Nil.

STATUTORY ENVIRONMENT

Local Government Act 1995

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Governance Goal – A collaborative group demonstrating strong regional governance:

Effective governance protocols and systems for business efficiency and improved services through collaboration

Recognition of Kimberley Local Government issues and opportunities

Alignment and integration of regional and local priorities for member Councils.

VOTING REQUIREMENTS

Simple Majority

MOTION:

(REPORT RECOMMENDATION)

Moved: Cr C Mitchell

Seconded: G Haerewa

That the Kimberley Zone:

- 1. Notes the State Council Agenda Items.**
- 2. Supports the recommendations in the Matters for Decision.**
- 3. Notes the WALGA President's Report.**
- 4. Notes the COVID-19 Update.**

5. Notes the Final Report of the Local Government Review Panel with a position for the Kimberley Zone to be developed and presented at the meeting as a separate item.

CARRIED UNANIMOUSLY 4/0

Attachments

1. WALGA State Council Agenda 2 September 2020 (Under separate cover)
2. COVID-19 Update Report
3. COVID-19 Impact on Regional Economies - Kimberley
4. WALGA President's Report

COVID-19 Pandemic – Further Update

Nicole Matthews: COVID-19 Coordinator

Please note: This report provides a COVID-19 update since 3 August 2020.

Recommendation

That this updated COVID-19 information be noted.

Executive Summary

1. At the time of writing the COVID-19 pandemic in WA remains under control, with only 5 active cases and no evidence of community transmission.
2. Based on health advice Phase 5 of the State Government Roadmap has been further delayed until at least 24 October 2020, and the Perth Royal Show has been cancelled.
3. Widespread, unknown source community transmission in Victoria has resulted in the re-imposition of Stage 3 and 4 restrictions in that State and a further downward revision in GDP and national employment forecasts.
4. Learnings from Victoria are informing the WA Government's outbreak preparedness.
5. State Recovery Plan announcements are being made progressively, with region plans released for the Kimberley, Wheatbelt, Great Southern, Mid-West, Gascoyne, Peel and Goldfields-Esperance.
6. WALGA has undertaken local economic impact analysis for each Local Government Area to assist in operational and strategic planning decision making. Each Local Government CEO and Mayor or President has been provided with a tailored analysis pack for its area. A tailored report your Regional Development Area is attached.

Background

COVID-19 in WA

The COVID-19 pandemic in Western Australia remains under control with only 5 active cases (all in quarantine) and no evidence of community transmission. Notwithstanding this, the State Government is continuing to prepare for outbreaks or a 'second wave' of COVID-19, with learnings from the situation in Victoria informing that process.

Further restrictions on entry to Western Australia have also been implemented, including a requirement for truck drivers entering Western Australia to show evidence of having received a negative COVID-19 test result in the previous five days or to take a test within 48 hours.

On 18 August the Premier announced a third delay to the commencement of Phase 5 of the roadmap to easing restrictions, based on the latest health advice. Phase 5, which was originally scheduled to commence on July 17 now has a tentative start date of Saturday 24 October. A final decision on this timeline will be made earlier in October.

The Premier also announced the cancellation of the Royal Show due to the health risk posed by the large number of visitors and indoor venues, as well as number of high frequency contact surfaces that, if somehow COVID-19 was present, would lead to a significant outbreak.

State Recovery Plan

Further initiatives have been announced as part of the State COVID-19 Recovery Plan, including for tourism, local manufacturing, infrastructure, health, police, schools and TAFE, renewable energy, sport, culture and the arts. Region plans have been released for the

Kimberley, Wheatbelt, Great Southern, Mid-West, Peel, Gascoyne and Goldfields-Esperance. Information on these and other Recovery Plan announcements can be found at <https://inthistogether.wa.gov.au/>.

COVID-19 Economic Impact

The Victorian shutdown has seen further downward revisions to GDP and employment forecasts provided by the Commonwealth Treasurer in the Economic and Fiscal Update on 23 July:

- Real GDP in the September quarter will shrink by between \$7 billion and \$9 billion
 - 80% of this economic cost, \$6 - \$7 billion, is expected to be in Victoria;
 - the remainder arises from the broader impact on confidence in other states and supply chain impacts from the shutdown of certain industries in Victoria.
- The combined effect on GDP of the previous Victorian restrictions through the September quarter are expected to be in the order of \$10 - \$12 billion, detracting 2.5% from quarterly real GDP growth.
- National unemployment is expected to exceed the forecast peak of 9.25% and may instead peak closer to 10%.
- The effective rate of unemployment (which accounts for people not looking for work and those on zero hours) which had fallen to just over 11% will increase again to high 13%.

Australian Bureau of Statistics figures indicate that during the months of June and July, the WA economy recovered almost half of the 95,000 jobs lost due to the COVID-19 pandemic.

WALGA COVID-19 Local Economic Impact Analysis

WALGA has prepared tailored economic impact reports for each Local Government in WA to assist them as they develop COVID-19 recovery plans and initiatives. Each Local Government has been provided analysis on:

- How employment in different industries has been impacted in their Local Government Area since the start of the pandemic;
- The proportion of their Local Government Area's labour force that were accessing the JobSeeker subsidy in March, April, May and June;
- The proportion of organisations within their Local Government Area that were accessing the JobKeeper subsidy in April and May; and
- The overall economic impact of COVID 19 in their Local Government Area, relative to other Local Governments Areas and regions.

This information will assist Local Governments to:

- Inform their response and recovery activities and stimulus measures to ensure they are appropriately targeted;
- Anticipate and plan for the financial impact of ratepayers (residents and businesses) requiring access to hardship measures for their rates, or for potential changes in fees and services revenue; and
- Engage key stakeholders, such as regional Chambers of Commerce, businesses, community groups and not for profits and other key bodies and institutions, so that these

organisations can use the information within this report as an input into their own decision making and planning.

A tailored report for your Regional Development Area is attached.

WALGA will continue to update this analysis as new data is released and is seeking to partner with State Treasury to further inform and broaden this analysis by incorporating other key economic and social data.

WALGA's analysis has also been provided to the State Recovery Controller, Sharyn O'Neill and the Minister for Local Government. WALGA understands that the Minister will table a summary of this analysis for consideration at an upcoming meeting of the State Disaster Council, chaired by the Premier.



COVID-19's Impact on WA's Local Economies

Tailored information pack for Kimberley Regional Development Area

What information is contained within this report and how can it be used?



This report contains information on the economic impact of COVID-19 on Western Australia's local economies, with economic analysis undertaken for each Local Government Area in WA. The analysis provided in this report outlines:

- How employment in different industries has been impacted in your Regional Development Area since the start of the pandemic.
- The proportion of your Regional Development Area's labour force that were accessing the JobSeeker subsidy in March, April, May and June.
- The proportion of organisations within your Regional Development Area that were accessing the JobKeeper subsidy in April and May.
- The overall economic impact of COVID-19 on your Regional Development Area, relative to other Local Governments Areas and regions.

The above information can be used as an input into your Local Governments' operational and strategic planning and decision making. Some of the key areas where this data may be used include:

- For estimating the percentage of ratepayers (residents and businesses) who may be under added financial stress and will subsequently require access to hardship measures for their rates notices.
- For estimating potential changes in fees and services revenue, based on the percentage of residents and businesses who may be under added financial stress.
- To support applications for grant funding or other forms of support from State and Federal Governments.
- To support the appropriateness of, and to inform, response and recovery activities and stimulus measures.
- For sharing with key stakeholders, such as regional Chambers of Commerce, businesses, community groups and not-for-profits and other key bodies and institutions, so that these organisations can use the information within this report as an input into their own decision making and planning.

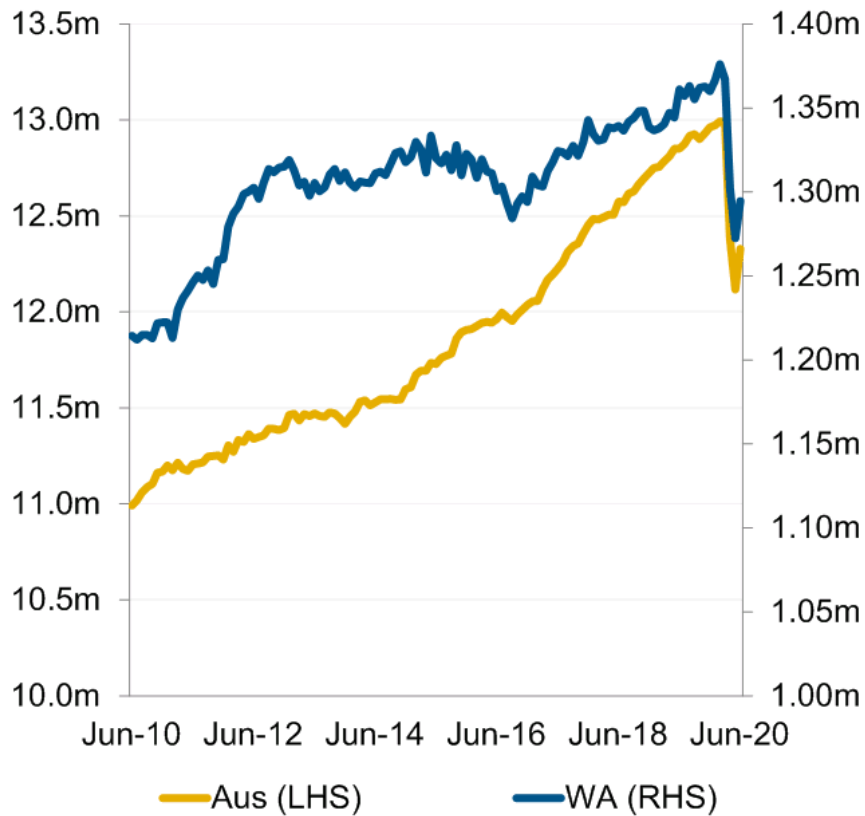
WALGA will update the information contained within this report as new data becomes available.

2

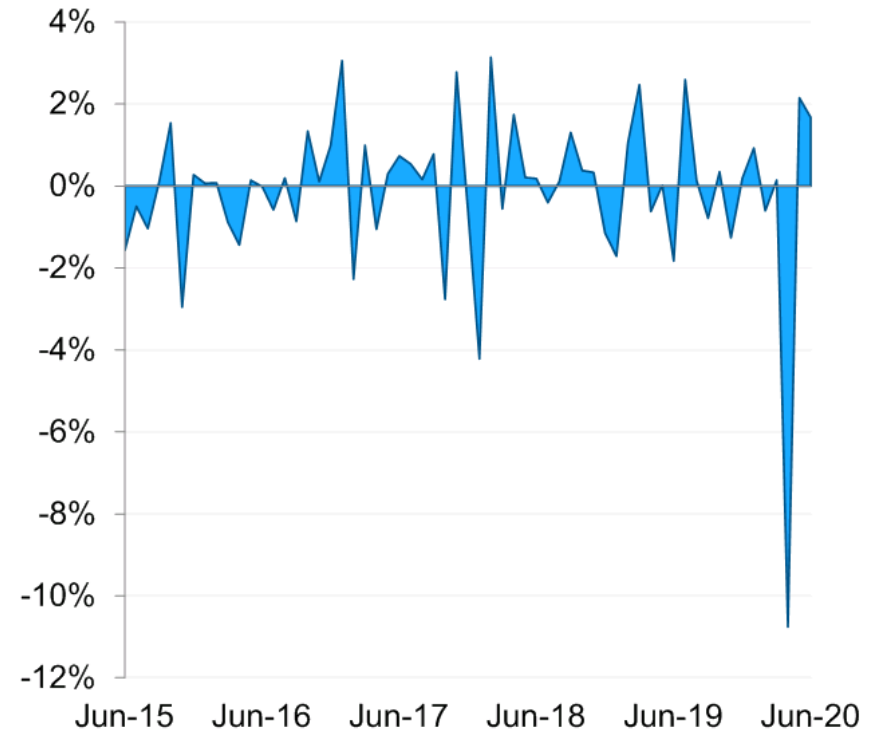
COVID-19 has brought on unprecedented unemployment & reduced working hours...



Total employment, Australia and WA



Monthly % change in total hours worked across WA



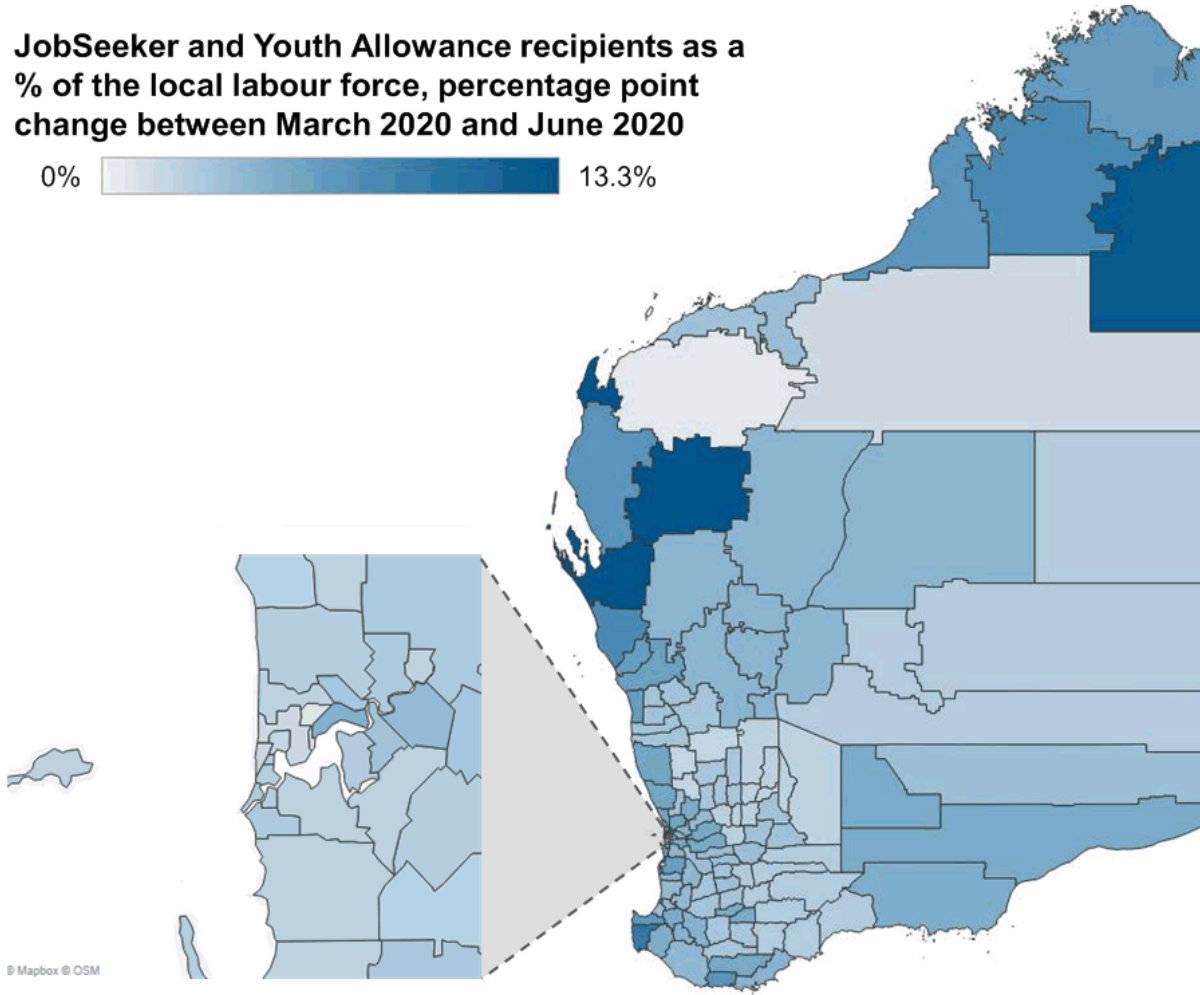
SOURCE: ABS CAT 6202.0

And employees across WA in every Local Government Area have been impacted



JobSeeker and Youth Allowance recipients as a % of the local labour force, percentage point change between March 2020 and June 2020

0% 13.3%



© Mapbox © OSM

SOURCE: WALGA ANALYSIS BASED ON ABS CAT 6160.0.55.001 AND ABS 2016 CENSUS

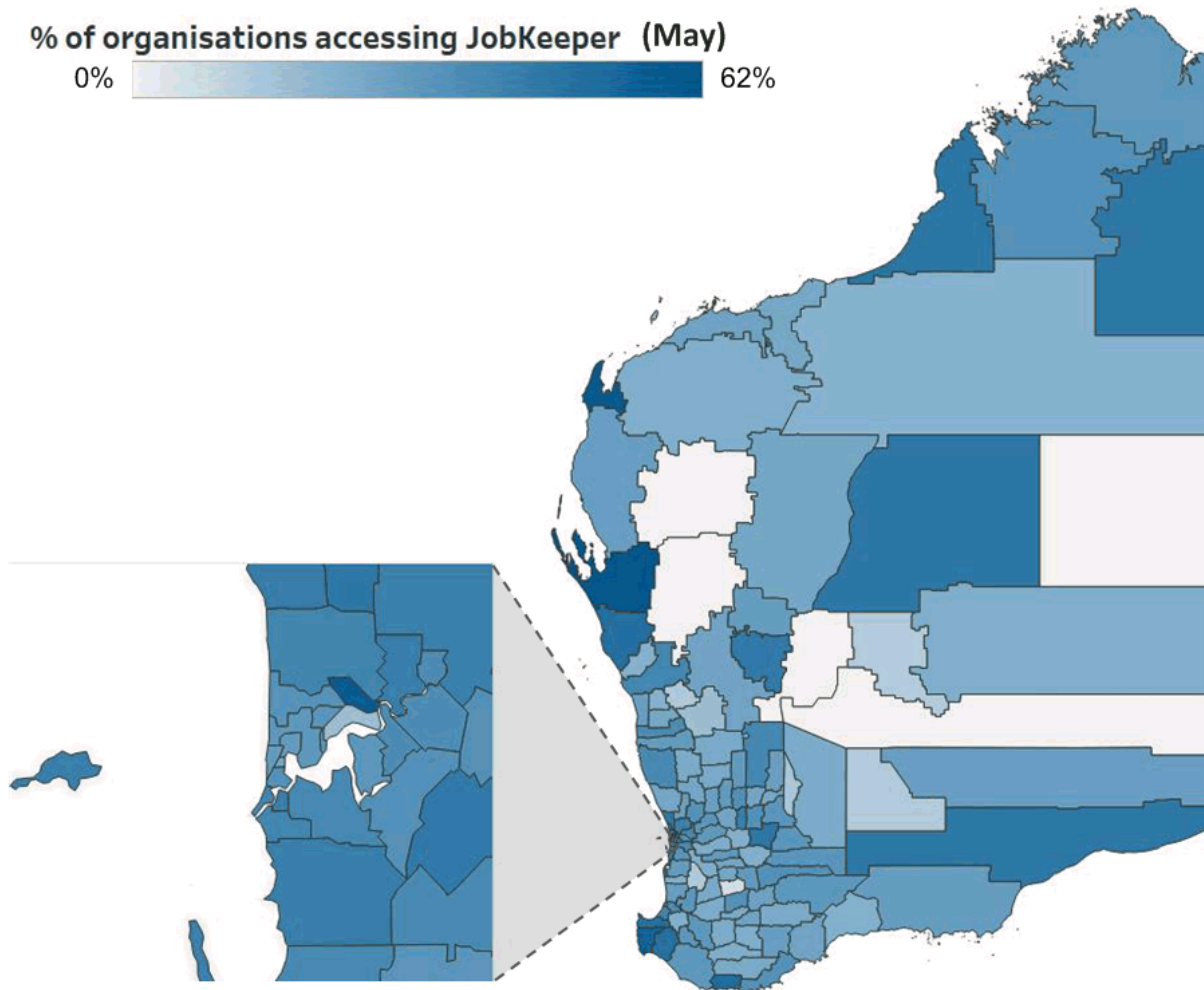
- The JobSeeker payment is a form of financial assistance for people who are unemployed and aged between 22 and the pension age, while youth allowance is available for unemployed people aged between 16 and 21. In late March, the Commonwealth Government expanded and waived existing eligibility criteria for these payments so that people whose employment had been impacted by COVID-19 could quickly receive support.
- Based on data provided by the Department of Social Services, WALGA estimates that **the proportion of the WA labour force accessing either JobSeeker or youth allowance payments increased by 5.1 percentage points between March and June 2020, from 7.3% of the WA labour force in March to 12.4% in June.**
- It is estimated that between March and June, each Local Government Area experienced at least a 0.6 percentage point increase in the proportion of their local labour force accessing JobSeeker or youth allowance payments. There are 22 individual Local Government Areas estimated to have experienced an increase of above 6 percentage points over this period. ⁴

The business level impacts have, however, been more industry & location specific...



% of organisations accessing JobKeeper (May)

0%  62%



- The JobKeeper subsidy is available for organisations that have had their revenue significantly impacted by COVID-19. Through the subsidy, organisations currently receive \$1,500 per eligible employee, per fortnight, which they must pass on to the employee.
- Based on postcode level JobKeeper recipient data provided by the Commonwealth Department of Treasury, **WALGA has estimated that 37% of all organisations within WA were claiming the JobKeeper Subsidy in May.**
- **The proportion of organisations within each Local Government Area claiming the subsidy ranges significantly, from 0% of organisations located within 5 individual Local Government Areas to 62% of organisations within the most impacted Local Government Area.** There are 24 individual Local Governments estimated to have over 40% of organisations located within their boundaries accessing JobKeeper payments.

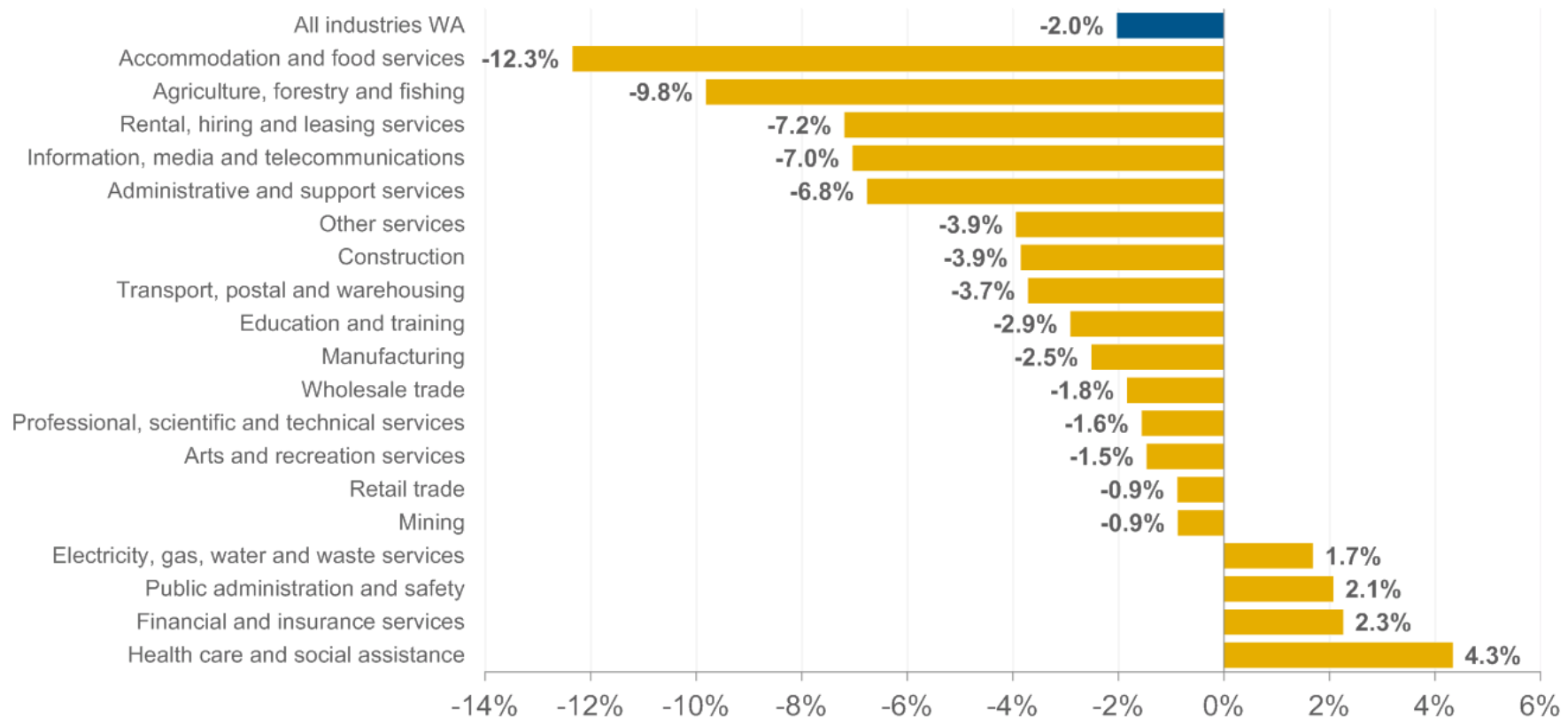
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SOURCE: WALGA ANALYSIS BASED ON COMMONWEALTH TREASURY JOBKEEPER RECIPIENT DATA, LGA TO POSTCODE 2011 CORRESPONDANCE ABS CAT 8165.0

Hospitality & other service based industries have been hit particularly hard...



Change in total payroll jobs in WA since March 14 by Industry (as at 25-Jul)

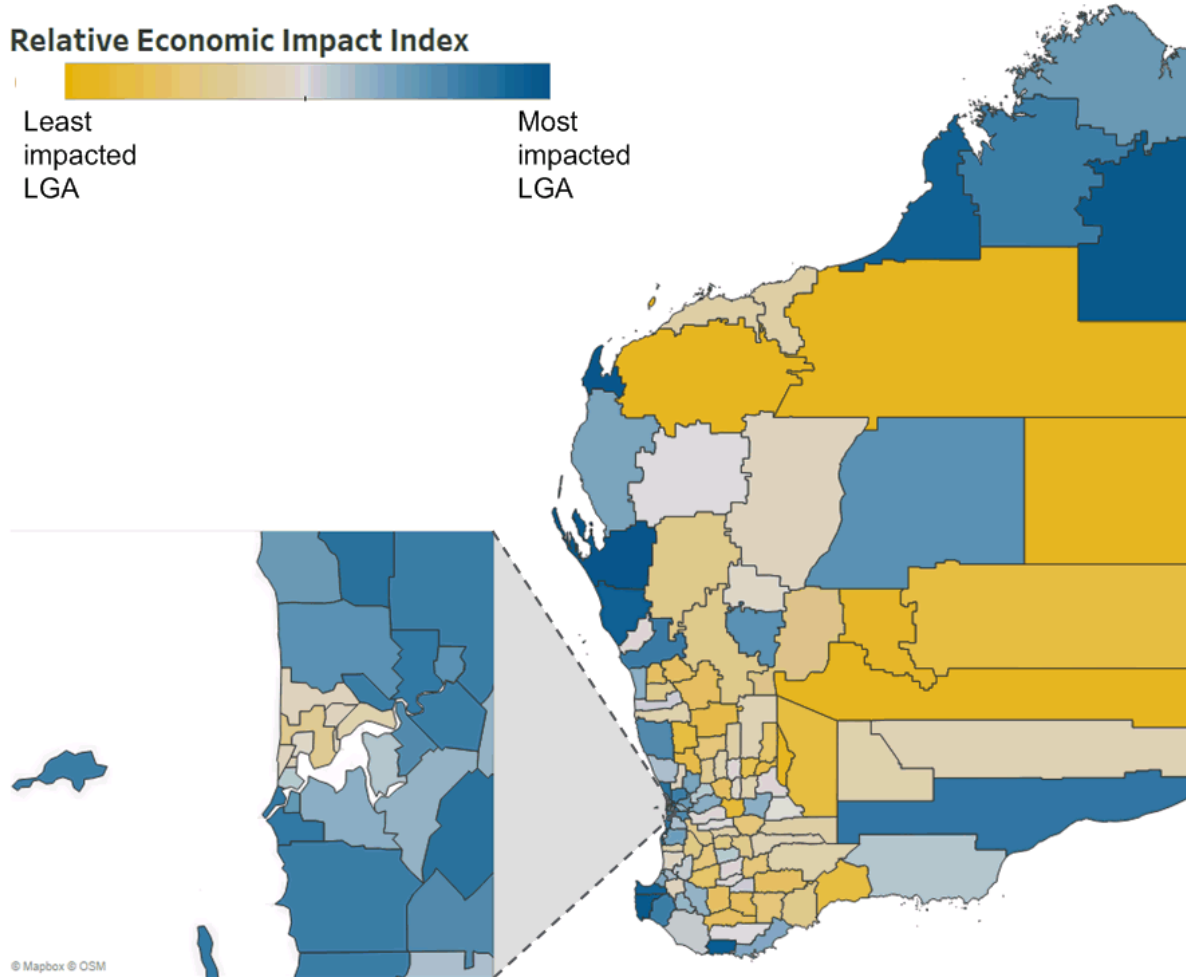
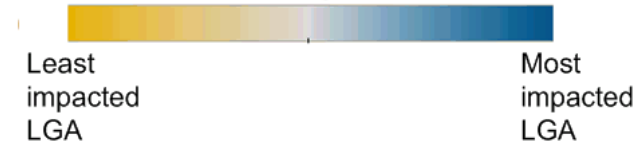


SOURCE: ABS CAT 6160.0.55.001

This means that highly populated areas & tourism regions are feeling it most



Relative Economic Impact Index



The heat map shows the relative economic impact of COVID-19 by Local Government Area, based on analysis undertaken by WALGA on the JobSeeker/youth allowance and JobKeeper recipient data shown in the previous slides. Those Local Government Areas that are highlighted in shades of orange have been impacted least from an economic sense, when compared to other Local Government Areas, while those highlighted in shades of blue have been impacted most.

The local economies that have been impacted most severely by COVID-19 are those that are highly populated and have larger service based industries, particularly hospitality, or are more dependent on tourism income. This includes:

- LGAs with highly populated hospitality centres
- LGAs in tourism hotspots along WA's coast line.
- Regional capitals that service rural and remote towns.

© Mapbox © OSM

SOURCE: WALGA ANALYSIS BASED ON ABS CAT 6160.0.55.001, COMMONWEALTH TREASURY JOBKEEPER DATA, LGA TO POSTCODE 2011 CORRESPONDANCE, ABS CAT 8165.0 ABS 2016 CENSUS



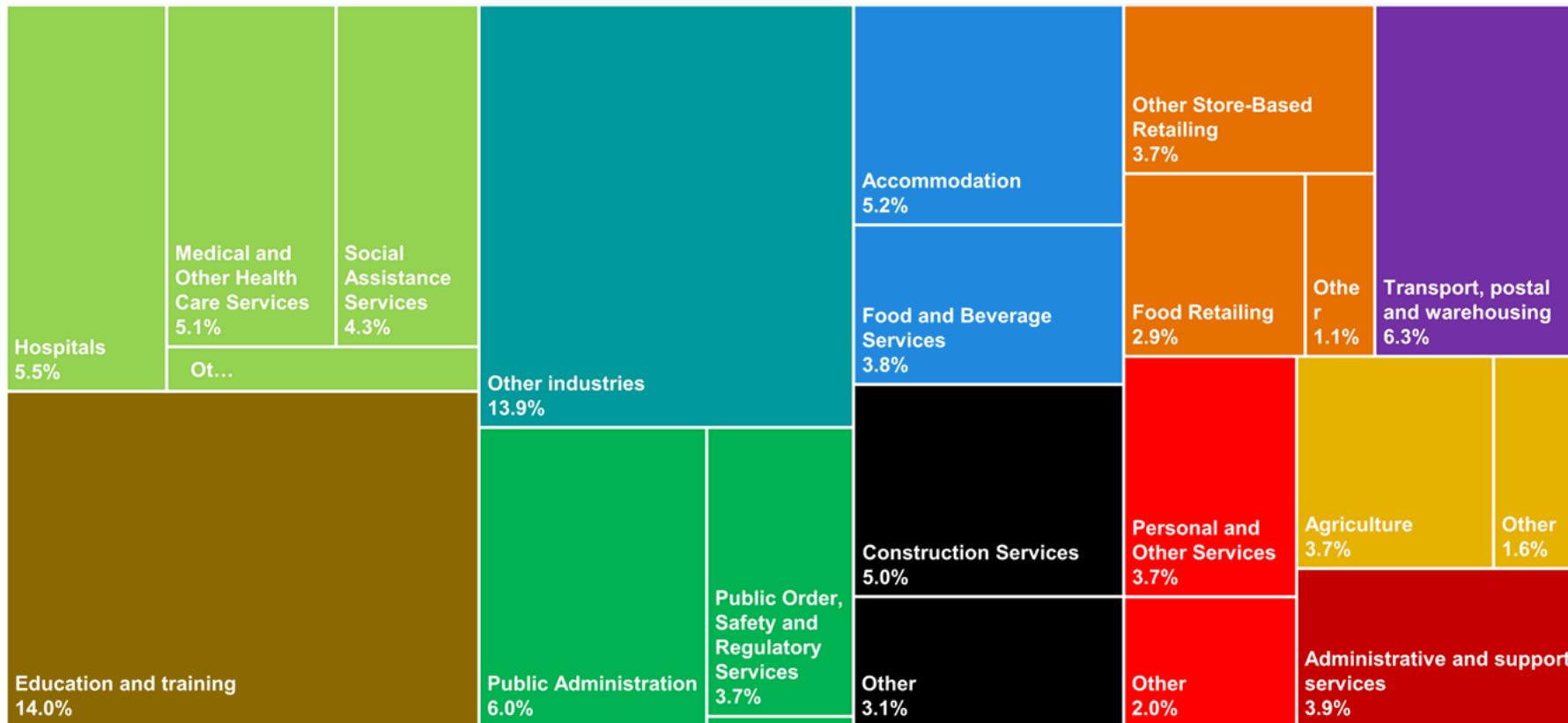
Economic impact data specific to your Local Government Area

Kimberley Regional Development Area

Industry composition in employment terms Kimberley Regional Development Area



- Agriculture, forestry and fishing
- Accommodation and food services
- Public administration and safety
- Other services
- Construction
- Transport, postal and warehousing
- Education and training
- Other industries
- Retail trade
- Administrative and support services
- Health care and social assistance

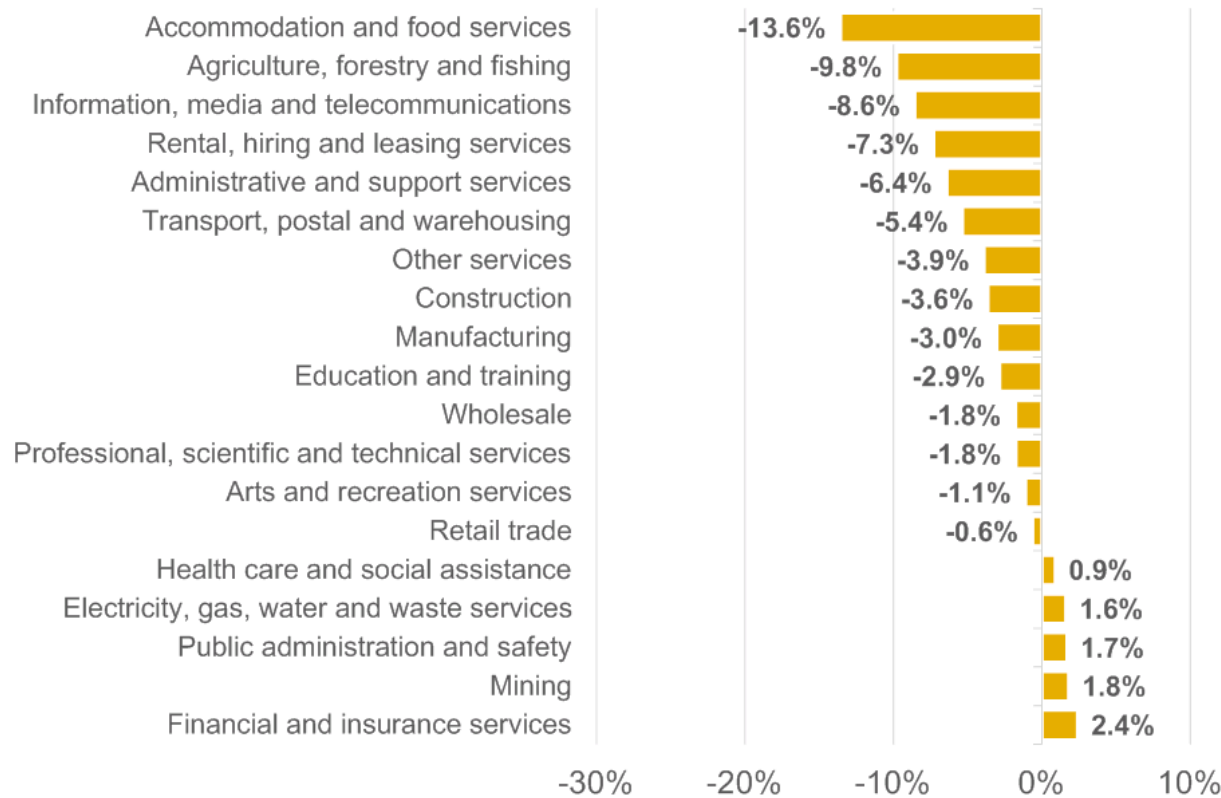


SOURCE: ABS 2016 CENSUS

Employment by industry impacts in the Kimberley Regional Development Area



Estimated changes in payroll jobs by industry since March 14, Kimberley Regional Development Area as at 25-Jul



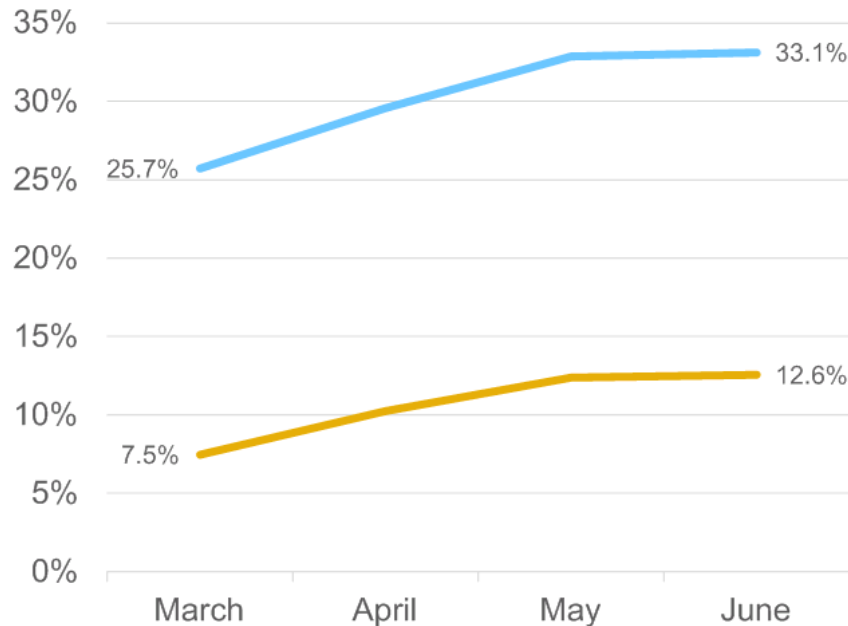
- Payroll jobs include any job where an employee has been paid through single touch enabled payroll or accounting software that reports payroll information to the Australian Taxation Office. Approximately 99% of employers with 20 or more staff use this software, while over 80% of smaller employers use it.
- The payroll jobs data provided by the Australian Bureau of Statistics indicates that **since the 100th case of COVID-19 in Australia on 14 March, the total number of payroll jobs across WA has fallen by 2%** (as at 25 July).
- The estimated change in payroll jobs by industry since March 14 (as at 25 July) in your Local Government Area is shown in the chart on the left. The assumptions underpinning these estimates are provided on page 14.

SOURCE: WALGA ANALYSIS BASED ON ABS CAT 6160.0.55.001 AND ABS 2016 CENSUS

People claiming welfare payments in the Kimberley Regional Development Area

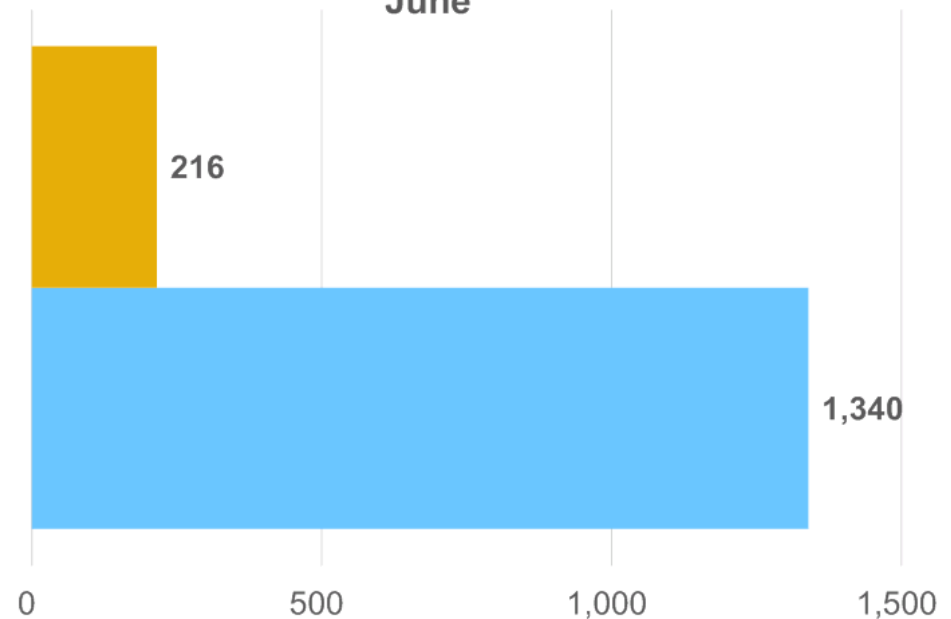


Estimated JobSeeker & youth allowance recipients as a % of the labour force, by location



— Median across all WA Local Governments
— Kimberley Regional Development Area

Estimated number of people claiming JobSeeker & youth allowance by location, June



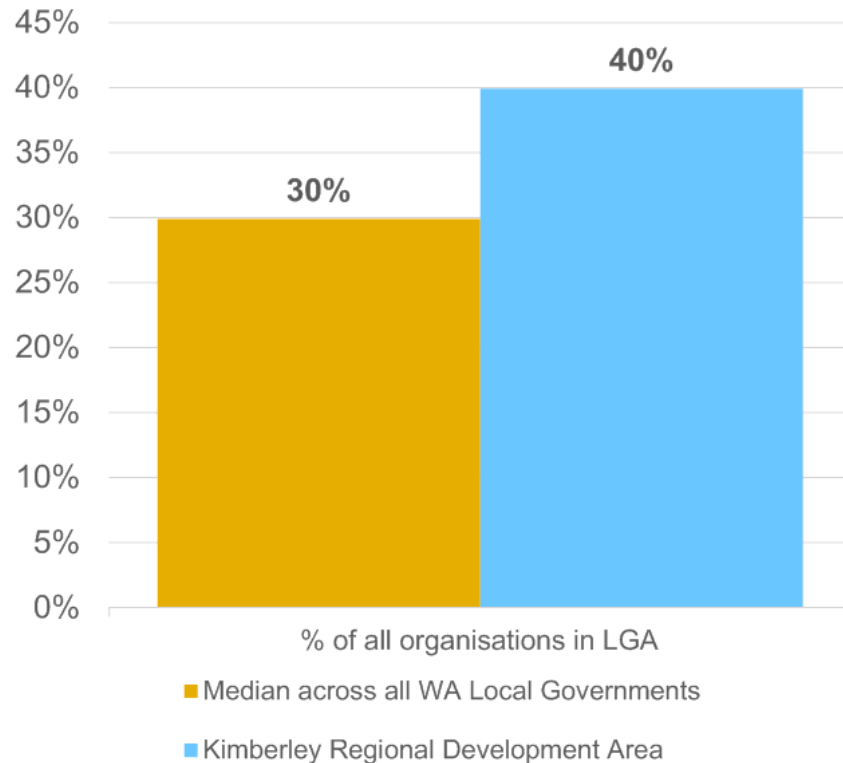
■ Median across all WA Local Governments
■ Median across Kimberley Regional Development Area Local Governments

SOURCE: WALGA ANALYSIS BASED ON ABS CAT 6160.0.55.001 AND ABS 2016 CENSUS

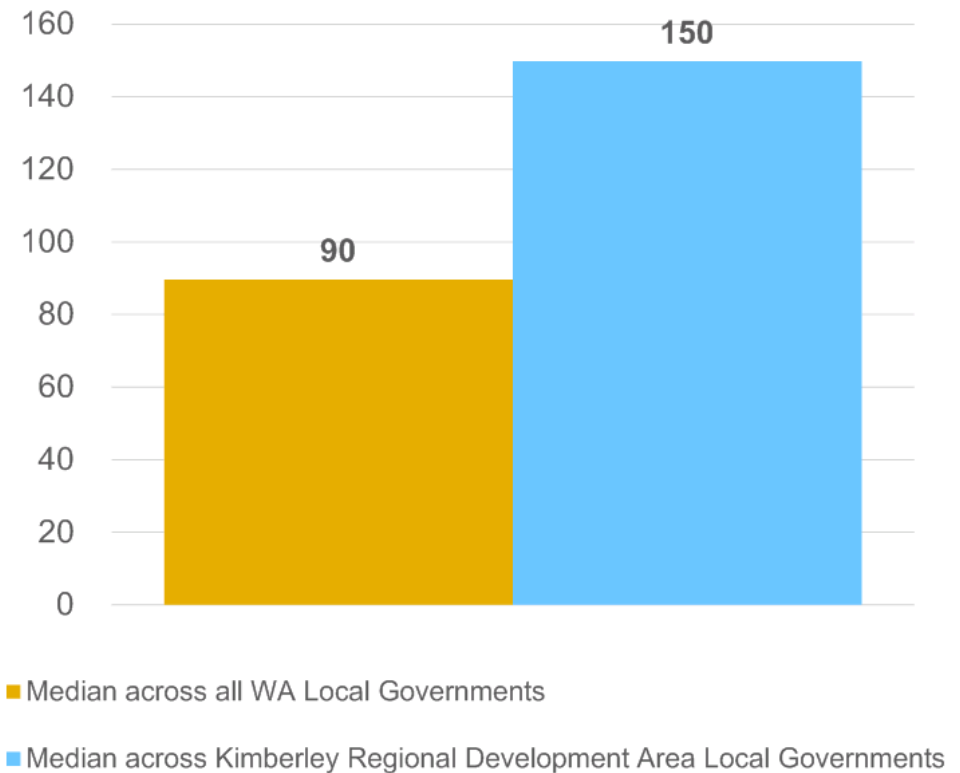
Businesses accessing JobKeeper in the Kimberley Regional Development Area



Estimated proportion of all businesses accessing JobKeeper payments by location, May



Estimated number of businesses accessing JobKeeper payments by location, May



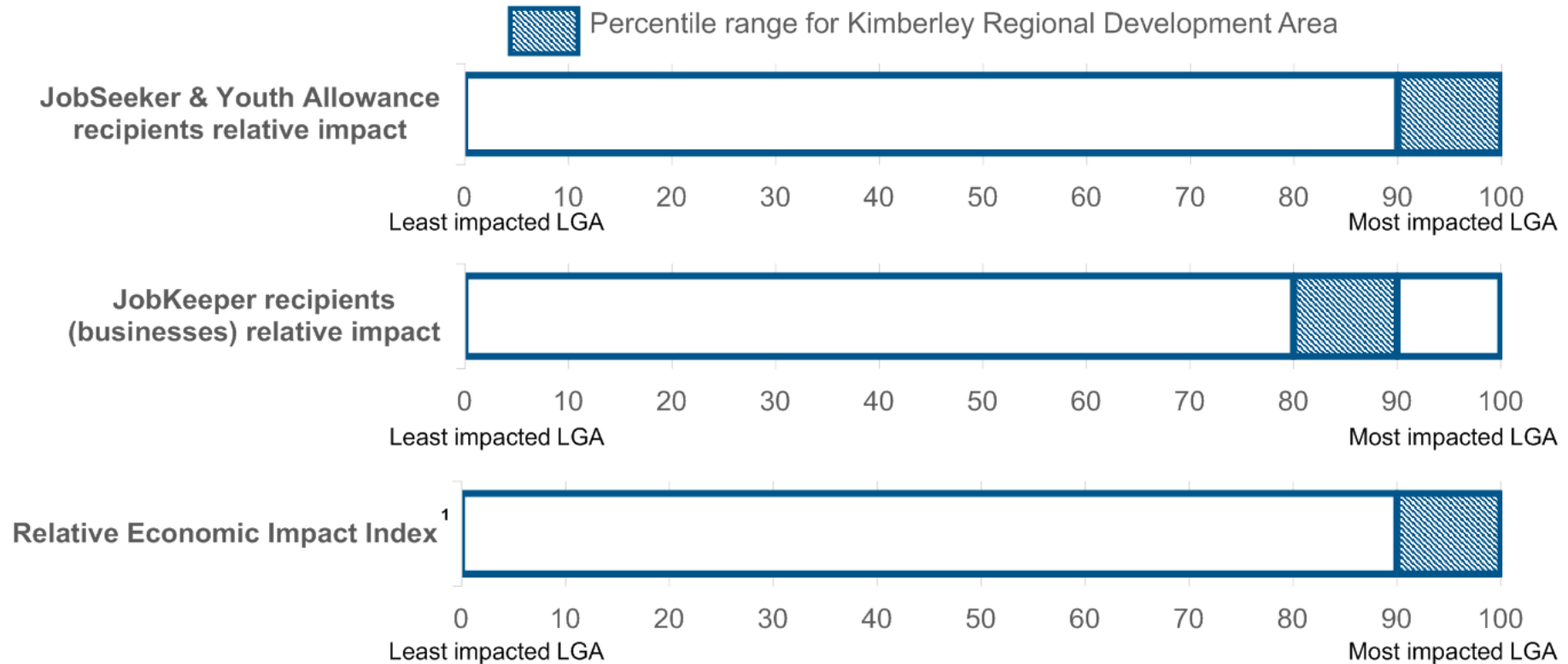
12

SOURCE: WALGA ANALYSIS BASED ON COMMONWEALTH TREASURY JOBKEEPER RECIPIENT DATA, LGA TO POSTCODE 2011 CORRESPONDANCE ABS CAT 8165.0

Relative COVID-19 economic impact in the Kimberley Regional Development Area



Percentile rankings for payroll job changes, JobKeeper recipients and relative economic impact for Kimberley Regional Development Area, 0 = lowest relative impact and 100 = highest relative impact



SOURCE: WALGA ANALYSIS BASED ON ABS CAT 6160.0.55.001, COMMONWEALTH TREASURY JOBKEEPER DATA, LGA TO POSTCODE 2011 CORRESPONDANCE, ABS CAT 8165.0 ABS 2016 CENSUS

¹ Based on the relative JobSeeker & youth allowance impact and the relative JobKeeper impact

Data limitations and further questions



WALGA notes that there are limitations to the data contained within this report, including the analysis undertaken by WALGA. Some limitations of the data are outlined below.

- The JobSeeker and Youth Allowance recipient estimated on slides 4 and 11 are made with the following assumptions and provisions.
 - The ABS's 2016 SA2 to 2020 LGA correspondence is appropriate to use as a basis for determining the percentage of JobSeeker and Youth Allowance recipients at the SA2 level who access the payments within each Local Government Area in WA.
- The JobKeeper recipient (businesses) estimates on slides 5 and 12 are made with the following assumptions and provisions.
 - The ABS's 2019 postcode to 2020 LGA correspondence is appropriate to use as a basis for determining the percentage of JobKeeper recipients (businesses) at the postcode level who access the subsidy within each Local Government Area in WA.
 - The ABS's 2018-19 Counts of Business data at the Local Government level is an appropriate measure of the number of businesses located within each Local Government Area in WA
 - Given that the JobKeeper recipient location data is based on the primary business addresses held by the ATO, this data is not necessarily a true representation of the trading locations of businesses that are claiming the JobKeeper subsidy. In addition, organisations that have multiple trading locations will only be captured as one organisation in this data set (based on their primary business address), while organisations that reported claiming the subsidy in a postcode that had fewer than 5 organisations claiming the subsidy are not captured for anonymity reasons.
- The payroll jobs (employment by industry) change estimates on slide 10 are made with the following assumptions and provisions.
 - Your Local Government Area's industry composition of payroll jobs is the same as reported for employment in the 2016 ABS Census
 - The percentage change in payroll jobs at the sub-industry level (85 sub-industries in total) since March 14 across Australia reflects the change in payroll jobs at the sub-industry level across each Local Government Area in WA, with an adjustment applied for differences in payroll job changes at the WA State level when compared to Australia as a whole. WALGA notes that there are certain sub-industries that are highly sensitive and can be prone to revisions in future data releases. WALGA will let Local Governments know of the key instances when this occurs, as new data becomes available and future updates are provided to the sector.
 - Given that the ABS do not adjust the payroll jobs data for seasonality trends, this data is not necessarily a true representation of the jobs by industry that have been lost due to COVID-19. There may be some jobs that would have been lost anyway since March 14 in the absence of COVID-19, such as agricultural jobs that are dependent on agricultural seasons (e.g. harvest).

Local Governments should consider these limitations, among others, when interpreting and using the data in this report. For more information on the data that underpins the analysis contained within this report (including their limitations), please visit:

<https://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/6160.0.55.001Main+Features1Week%20ending%2027%20June%202020?OpenDocument>

<https://treasury.gov.au/coronavirus/jobkeeper/data>

<https://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/8165.0Main+Features2June%202015%20to%20June%202019?OpenDocument>

<https://www.abs.gov.au/websitedbs/censushome.nsf/home/2016>

For any questions on the contents of this report, please contact WALGA's Policy Manager – Economics, Nebojsa Franich, on nfranich@walga.asn.au or 0417 917 748.



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

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

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

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

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

Recommendations

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

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



Executive Summary

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

WALGA Process

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

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

Attachment

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

Comment

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



CLEAR LEGISLATIVE INTENT

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

Local Government Act Reference: Part 1

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

Recommendation 2 introduces a new statement of intent that will explain the legislations purpose:
An Act to provide for a system of local government relevant to Western Australia that develops and supports sustainable, accountable, collaborative and capable local governments through democratic representation, the provision of services, opportunities and enhanced well-being for each and every community.

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

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

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

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

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

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

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

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

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

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

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



AN AGILE SYSTEM

Recommendations 8 to 11 - Structural Reform

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

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

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

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

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

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

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

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

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

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

⁸ State Council Resolution 06.3/2019



Recommendations 12, 13 and 14 - Expanded Regional Cooperation

Local Government Act Reference: Part 3, Division 4

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

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

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

WALGA Recommendation: Support Recommendations 12, 13 and 14.

Recommendation 15 - State Local Government Partnership Agreement

Local Government Act Reference: Section 3.18

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

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

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

WALGA Recommendation: Support Recommendation 15.

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

¹⁰ State Council Resolution 06.3/2019

¹¹ State Council Resolution 2.1/2012



INCLUSIVE LOCAL DEMOCRACY

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

Local Government Act Reference: Not mandated

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

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

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

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

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

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

Recommendation 19 - Optional Preferential Voting

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

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

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

¹² State Council Resolution 118.5/2012

¹³ State Council Resolution 64.3/2014

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

¹⁵ State Council Resolutions 185.2/2007 and 427.5/2008



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

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

Recommendations 20, 21 and 27 - Review of Property Franchise

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

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

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

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

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

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

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

Local Government Act Reference: Section 4.5

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

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

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

¹⁶ *Local Government Amendment (Elections) Act 2009*

¹⁷ City of Perth Inquiry Report, Recommendation 144



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

Local Government Act Reference: Section 4.20 and 4.61

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

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

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

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

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

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

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

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

Local Government Act Reference: Section 2.17

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

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

¹⁸ State Council Resolution 06.3/2019

¹⁹ State Council Resolution 16.1/2016

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



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

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

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

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

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

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

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

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

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

²² State Council Resolution 06.3/2019; 121.6/2017

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



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

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

Recommendations 28 to 32 - Redefinition of Roles and Responsibilities

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

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

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

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

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

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

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

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

Recommendations 33 and 34 – Community Engagement and Governance

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

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

²⁴ State Council Resolution 123.6/2017

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



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

WALGA Recommendation: Support Recommendations 33 and 34.

Recommendation 35 – Annual Engagement with Electors

Local Government Act Reference: Sections 5. 27

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

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

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

²⁶ State Council Resolution 06.3/2019

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



SMART PLANNING AND SERVICE DELIVERY

Recommendations 36 and 37 - Enhanced Integrated Planning and Reporting

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

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

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

WALGA Recommendation: Support Recommendations 36 and 37

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

Local Government Act Reference: Section 3.18

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

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

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

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

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

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

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



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

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

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

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

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

Recommendations 39 to 42 - Local & Joint Subsidiaries

Local Government Act Reference: Part 3, Division 4

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

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

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

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

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

³⁰ State Council Resolution 78.5/2018

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

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



Recommendations 43 and 44 - Modernise Financial Management

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

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

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

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

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

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

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

WALGA Recommendation: Support Recommendations 43 and 44

Recommendation 45 to 49 - Procurement

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

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

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

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

³³ State Council Resolution 06.3/2019

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

³⁵ State Council Resolution 06.3/2019



Recommendations 50, 51 and 52 - Rating and Revenue

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

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

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

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

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

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

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

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

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

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

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

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

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

³⁹ State Council Resolution 06.3/2019; 123.6/2017

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

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



ACCOUNTABILITY, SELF-REGULATION AND INTEGRITY

Recommendations 53 and 54 - Accountability and Self-Regulation

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

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

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

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

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

Recommendation 55 – Integrity and Governance

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

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

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

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

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

⁴² State Council Resolution 7.1/2018

⁴³ State Council Resolution 145.7/2019



Recommendation 56 – Training and Development

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

Recommendation 56 updates the recently introduced Elected Member training provisions.

WALGA Recommendation: Support Recommendation 56

Recommendation 57 and 58 – Early Intervention Framework

Local Government Act Reference: Part 8

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

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

WALGA Recommendation: Support Recommendation 57. Oppose Recommendation 58.

Recommendations 59 and 60 – Office of the Independent Assessor

Local Government Act Reference: Part 8; Section 5.41

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

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

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

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

⁴⁴ State Council Resolution 43.2/2011

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



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

WALGA Recommendation: Support Recommendation 59. Oppose Recommendation 60.



OTHER MATTERS

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

Local Government Act Reference: Schedule 2.2

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

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

WALGA Recommendation: Oppose Recommendation 61.

Recommendations 62 and 63 - Harmonisation of Local Laws

Local Government Act Reference: Section 3.5 to 3.17

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

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

WALGA Recommendation: Support Recommendations 62 and 63

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

⁴⁷ State Council Resolution 06.3/2019



Recommendation 64 - WALGA

Local Government Act Reference: Section 9.58

Recommendation 64 recommends the following in respect to WALGA;

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

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

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

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

Recommendation 65 – Operational Provisions

Local Government Act Reference: Various

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

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

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

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

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

COVID-19 Recovery

Local Government Review Panel Report

City of Perth Inquiry Report

State Road Funds to Local Government

Select Committee into Local Government

MOTION:**Moved: G Haerewa****Seconded: M Edwards****That Standing Orders be suspended at 1:16pm.****CARRIED UNANIMOUSLY 4/0****MOTION:****Moved: Cr C Mitchell****Seconded: G Haerewa****That Standing Orders be reinstated at 1:59pm.****CARRIED UNANIMOUSLY 4/0****8.2 LOCAL GOVERNMENT PANEL REVIEW REPORT**

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	KRG01; RCG01
AUTHOR:	Zone Executive
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director Corporate Services
DISCLOSURE OF INTEREST:	Nil

SUMMARY:

The Final Report of the Local Government Act Review Panel has been released with recommendations that will impact on Shires in the Kimberley. This item provides detail of the WALGA State Council agenda item 5.5 including the position on the proposed changes. A Kimberley Zone response will be presented at the Zone meeting.

BACKGROUNDPrevious Considerations

Nil.

COMMENT

The review of the Local Government Act will impact on the operations of Shires in the Kimberley. There are significant administrative, industrial relations and process matters that have been identified, some of which are supported by WALGA with others opposed, more consultation sought or conditionally supported. There are matters that may have a higher impact on the Kimberley including those where there appears to have been no previous opportunity to provide comments.

As a matter of principle, recommendations in the Panel Report that have not been the subject of public consultation should be open for public feedback.

Three examples of matters that appear not to have been the subject of previous consultation are provided below.

Note: The methodology used to assessing previous opportunities for consultation included a search of all relevant documents as well as detailed review sections that were likely to contain reference to the items. Whilst every effort has been made to validate the absence of previous opportunities for feedback, the State Government should be approached to confirm whether these matters have been identified for public consultation prior to the final report being released.

Examples of matters where the Kimberley Shires have not previously had the opportunity to provide feedback include the matters outlined below.

1. Relations with Aboriginal Peoples and Communities

Panel Recommendation:

16. The Panel recommends that the new Act recognises the unique status of Aboriginal people as traditional owners of the land and ensures that they are empowered to engage in decision-making in their local communities.

17. The Panel recommends that further consideration is given to the manner of recognition, and the options for inclusion, engagement and shared decision making between local governments and Aboriginal communities, through consultation with the Department of Premier and Cabinet and the Aboriginal Advisory Council of Western Australia, and with reference to practices in other states, the Northern Territory and New Zealand.

Previous References/Consultation:

Community Engagement Community Discussion Paper P2

*“There is a need for local governments to have systems in place to help identify how to adequately engage different stakeholders in the community, such as Culturally and Linguistically Diverse (CaLD), **Aboriginal people**, youths, children, seniors, and people with disabilities. Identifying how to best engage diverse communities across Western Australia in a meaningful way is an important step in community engagement.”*

WALGA POSITION

Support

Recommended Position of the KRG

Further consultation required as the information in the Discussion Paper and feedback through the consultation process is not reflective of the Panel's Recommendation.

Discussion

Whilst the intent of the recommendation is recognised and supported, the detailed implementation and the requirement for consultation with the Department of Premier and Cabinet, may undermine the established relationships in the region.

Local Governments in the Kimberley comprise a high proportion of residents of Aboriginal descent and engagement happens routinely within planning and decision making processes. There is considerable complexity in relation to Aboriginal stakeholders including the large number of different family and clan groups, Traditional Owners with resolved Native Title and those with contested claims as well as residents in Aboriginal communities that are not Traditional Owners. Communities, as defined by the State government, include large semi-urban settlements with hundreds of residents through to seasonal camps with less than 10 residents.

A prescriptive approach, without the understanding of the local situation, could negatively impact on the critically important relationship between local government and Aboriginal people in the Kimberley. Local knowledge and approaches are required to ensure balanced and proportional input is achieved across all residents in the Shire.

2. Minimum Service levels

Panel Recommendation:

38.a As a minimum, local governments must seek to identify and provide, or offer, to all its citizens, a minimum level of services to meet statutory obligations.

38.b The Minister should have the power to direct a local government if it fails to provide or offer these services.

Previous References/Consultation:

This item appears to not have been the subject of previous consultation.

WALGA POSITION

Oppose

Recommended Position of the KRG

Oppose

Discussion

WALGA has opposed this recommendation however it is important for the Kimberley to clearly articulate the impact that this will have on the viability of local governments.

Currently local governments do not service Aboriginal communities, including Town Based Reserves, which are managed by the State. The use of the phrase “all its citizens” in the Panel recommendation could be given to mean the transfer of this responsibility to Local Government for matters currently managed by the State. Under the proposal the Minister will have the power to direct a local government if it fails to provide or offer these services.

The Municipal Services Review undertaken in 2017/18, defined the scope of municipal services in Aboriginal Communities as being:

- Solid Waste Management
- Drainage and Stormwater
- Airstrips and Jetties
- Environmental Health Services including Food Preparation and Handling, Pest and Vermin control, Dog Welfare and Control.
- Dust Control
- Street Lighting
- Fire and Emergency Management
- Planning and Building Controls
- Cemetery Management

- Weed Management
- Asset Management
- Monitoring of Water and Waste Water including Swimming Pools
- Parks, Sports Facilities and Playgrounds
- Streetscapes.

Discussions have been held with Shires in relation to the normalisation of municipal services in Aboriginal communities however there are considerable liabilities associated with any transfer of responsibility to Shires. Whilst the cost of the provision of municipal services in Aboriginal communities has not been publicly available, it would be in the millions of dollars annually with the burden on Shires financially unsustainable.

It should be noted that the Municipal Services review set standards of delivery that were above those provided in some major towns in the Kimberley and significantly above the status quo.

It should also be noted that there is no rate revenue from Aboriginal communities and there is no guarantee of enduring funding from the State for service delivery proposed under the Act.

3. Early Intervention Framework

Panel Recommendation:

58. The Panel recommends the Minister should have the power to direct local governments and make declarations in respect to the Local Government Act during a declared state of emergency.

Previous References/Consultation:

This item appears to not have been the subject of previous consultation.

WALGA POSITION

Oppose

Recommended Position of the KRG

Oppose

Discussion

The role of Shires in the Kimberley during the recent COVID-19 pandemic and during major weather events, including cyclones and bushfires, has been critical in maintaining the well being of all residents. Should the autonomous decision making capacity of local government be impeded, the response timeframes may become extended, potentially putting lives at risk. Further, relying on directions from Perth risks an approach unsuitable for the situation. It should be noted that the Police and WA Health, which have local officers, have lead roles in a State of Emergency and there would seem to be little or no merit in removing the independence of the Shires to participate in the identification of local solutions during a State of Emergency.

Reform Documents Reviewed:

- A New Local Government Act for Western Australia: Principal Findings.
- A New Local Government Act for WA Consultation Report - Integrated Planning and Reporting
- Local Government Review Panel Final Report
- Community Engagement Discussion Paper
- Community Engagement and Integrated Planning and Reporting Summary Discussion paper
- Consultation Report - Integrated Planning
- Integrated Planning and Reporting - Submission Responses

Local Government Act Consultation Topics

STAGE 1

- Administrative efficiencies
- CEO recruitment and performance review
- Code of conduct (standards of behaviour)
- Gifts
- Public notices
- Universal training

STAGE 2

- Administrative efficiencies
- Beneficial enterprises
- Community engagement
- Complaints management
- Council conduct and governance (interventions)
- Council meetings
- Elections
- Financial management
- Integrated planning and reporting (IPR)
- Local laws
- Rates fees and charges

A presentation will be made at the meeting on the proposed changes. The recommendations of the Panel are attached, including colour coding of the WALGA position and a presentation prepared by the Shire of Broome.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995**FINANCIAL IMPLICATIONS**

Nil

STRATEGIC IMPLICATIONS**Governance Goal – A collaborative group demonstrating strong regional governance:**

Effective governance protocols and systems for business efficiency and improved services through collaboration

Recognition of Kimberley Local Government issues and opportunities

Alignment and integration of regional and local priorities for member Councils.

VOTING REQUIREMENTS

Simple Majority

MOTION:**(REPORT RECOMMENDATION)**

Moved: G Haerewa

Seconded: M Edwards

That the Kimberley Regional Group notes the Local Government Act Review and endorses the position that:

- 1. The Kimberley Zone recommends that any matters not previously subjected consultation during the review of the Local Government Act should be open to feedback.**
- 2. That the position of the Kimberley Zone as presented is endorsed.**

CARRIED UNANIMOUSLY 4/0

Attachments

1. Shire of Broome Presentation on Changes to the Local Government Act
2. Local Government Review Panel Final Report Recommendations with Markups
3. WALGA Agenda Item 5.5

Shire of Broome
people · place · prosperity

**LG Act Review
Final Report/ City
of Perth Inquiry
25 August 2020**

**PEOPLE
PLACE
PROSPERITY**

Report of the Inquiry into the City of Perth

An Inquiry under Part 8, Division 2
Local Government Act 1995



LOCAL GOVERNMENT ACT REVIEW ►► DELIVERING FOR THE COMMUNITY

- **65 Recommendations – LG Act Review;**
- **320 Recommendations – City of Perth**
- **State Government Position on all recommendations and timeline for any changes unknown.**
- **DLGSC not expecting maior**



Discussion on Recommendations of Most Interest

Elections

- **Rec 19 – Optional Preferential Voting**

- Panel felt first past the post can lead to outcomes that do not adequately represent community's preferences.
- WALGA oppose – prefer First Past the Post system
- SoB – minimal operational impact.

- **Rec 20 & 21 – Removal of Owner/Occupier Role**

The Panel considered that there are two sides to local democracy: involvement in local decision-making to influence and inform the decisions that are being made by council, and elections. If structures and processes are in place to ensure all segments of the community are engaged, there may no longer be a need to extend election franchise beyond residents of the district.

- WALGA – Support, SoB – Would remove significant administrative overhead.

- **Rec 22 – Four Yearly elections with Shire Pres every 2**

- Concern for the impact on operations if a complete turnover of Elected Members resulted
- WALGA believe more consultation required prior to forming a position



Discussion on Recommendations of Most Interest

Elections

- **Rec 25 – Mandatory Postal Voting - WAEC**
 - Panel felt increased equity and participation rates.
 - WALGA support but advocating for end to WAEC monopoly
 - SoB – concerns in the past regarding postal service. Potentially trial Postal Vote election in 2021
- **Rec 26 – Ward / Boundary Reviews**
 - Panel recommendation that Level 3-4 Shires not have multiple wards and encouraging review of need for others.
 - WALGA oppose enshrining in legislation, in favour of leaving up to individual LG's
 - SoB – No election in the Dampier Ward since 2015. Should the current multi ward system be reviewed to ensure it is facilitating local democracy?
 - A Ward Review would need to start almost immediately for any change to be implemented prior to the October 2021 Election**



Discussion on Recommendations of Most Interest

NOT PART OF PREVIOUS ACT REVIEW CONSULTANCY

Relations with Aboriginal Peoples and Communities

16. The Panel recommends that the new Act recognises the unique status of Aboriginal people as traditional owners of the land and ensures that they are empowered to engage in decision-making in their local communities.
17. The Panel recommends that further consideration is given to the manner of recognition, and the options for inclusion, engagement and shared decision making between local governments and Aboriginal communities, through consultation with the Department of Premier and Cabinet and the Aboriginal Advisory Council of Western Australia, and with reference to practices in other states, the Northern Territory and New Zealand.

The Panel identified a need for the new Act to include specific provisions for engagement with Aboriginal peoples and communities, including new consultative mechanisms and an obligation to plan for, and where appropriate undertake, delivery of essential services to local communities.



Discussion on Recommendations of Most Interest

Aboriginal People & Remote Communities

Local Government Act Reference: Not mandated

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

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

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

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

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



Discussion on Recommendations of Most Interest

Aboriginal People & Remote Communities

18. The Panel recommends further consideration is given to the issue of service delivery by local governments in remote communities, and appropriate adjustments to Integrated Planning and Reporting requirements.

There is a need for local governments to work closely with indigenous communities and accept their responsibilities to ensure that adequate services are offered to all citizens, by the local government itself and/or in conjunction with other governments and agencies. While it was recognised that there are unique challenges with service delivery to remote communities, IPR processes should require identification of their needs, plus effective engagement and shared decision making with Aboriginal people.

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

- SoB – Cost shifting a very real risk and support WALGA position
- SoB – Need to ensure that it is clarified that local-government remains the decision-making body.



Discussion on Recommendations of Most Interest

Integrated Planning & Reporting

- **Rec 37 – Central Goal of Advancing community well-being (Economic, social, cultural & environmental)**
 - SoB – suggest SCP/CBP full review considers this when drafting new plans.
- **Rec 37(h) – IPR to be reviewed every four years to align with election cycle**
 - WALGA support
 - SoB – Support in principle. Challenging if a full turnover of Council with no previous LG experience.



Discussion on Recommendations of Most Interest

Accountability, Self-Regulation & Integrity

- **Rec 53 – Expanded audit committee to Internal Audit, Risk and Improvement Committee with majority members being independent**
 - WALGA – oppose (report contains no benefits analysis and concern over internal audit costs)
 - SoB – Share WALGA concerns around cost increases and ability in regional areas to attract sufficiently qualified members.
- **Rec 55 (a) – Meeting Procedures Standardised**
 - WALGA & SoB support
- **Rec 55 (c) – Impartiality - Withdraw from meeting Procedures Standardised**



Discussion on Recommendations of Most Interest

Accountability, Self-Regulation & Integrity

- **Rec 55 (d) – All votes recorded for each motion**
 - WALGA – support
 - SoB – Able to be implemented at any point.
- **Rec 55 (e) – As minimum, audio recordings of council meetings available on LG’s website**
 - WALGA – support
 - SoB – support. Would require training and testing before going live.
- **Rec 55 (i) – Disclosure of membership of political parties and associations – Primary & Annual Returns**
 - WALGA support
 - SoB support



Discussion on Recommendations of Most Interest

Accountability, Self-Regulation & Integrity

- **Rec 55 (d) – All votes recorded for each motion**
 - WALGA – support
 - SoB – Able to be implemented at any point.
- **Rec 55 (e) – As minimum, audio recordings of council meetings available on LG’s website**
 - WALGA – support
 - SoB – support. Would require training and testing before going live.
- **Rec 55 (i) – Disclosure of membership of political parties and associations – Primary & Annual Returns**
 - WALGA support
 - SoB support



Discussion on Recommendations of Most Interest

Accountability, Self-Regulation & Integrity

- **Rec 59 - Establishment of an Office of Independent Assessor**
 - Panel – replaces the Standards Panel and removes the CEO from being involved in processing and determining complaints.
 - WALGA – support in principle however still support Standards Panel in some form
 - SoB – More information / consultation required.
- **Rec 62 – Harmonisation of Local Laws**
 - WALGA & SoB support
- **Rec 65 – Remote participation by Councillors and members of the community**
 - WALGA & SoB support.



Discussion on Recommendations of Most Interest

Accountability, Self-Regulation & Integrity

- **Rec 38 – Minimum levels of service to meet statutory obligations**
 - Panel strongly believed that all citizens in WA are entitled to a minimum level of service.
 - WALGA – oppose this level of prescription and believe LG’s should be able to independently determine appropriate levels of service
 - SoB – More information / consultation required.
- **Rec 45 & 46 – Procurement**
 - Panel essentially suggesting alignment of State Government & Local Government procurement thresholds, policies and procedures
 - WALGA support
 - SoB support – makes sense with OAG now conducting LG performance audits.



Discussion on Recommendations of Most Interest

Accountability, Self-Regulation & Integrity

- **Rec 50 – Rating & Revenue**
 - **No rate capping**
 - **Review by ERA & VGO**
 - **LG to operate on cost recovery principle**
 - WALGA & SoB support



Local Government Review Panel

KRG EDITED VERSION

Final Report

Recommendations for a new Local Government Act
for Western Australia

COLOUR CODING:

Green = WALGA Support

Blue = WALGA Opposed

Orange = WALGA Conditional Support

Pink = WALGA, requires further consultation

May 2020

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PART B – DETAILED RECOMMENDATIONS

Clear Legislative Intent

Introduction

1. The Panel recommends that the new Act be structured and drafted in such a way as to highlight the key strategic elements set out in Part A of this report, and that further consideration be given to the ‘two Acts’ options presented in Part A, at least as a transitional measure.

The basis for this recommendation was explained in Part A. The Panel considers it essential to move decisively and as quickly as possible to strengthen the capacity and resilience of Western Australian local government, and to set a fresh agenda, particularly in light of the COVID-19 crisis and its likely aftermath.

2. The Panel recommends the following statement of intent (vision) for a new Act:

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

It was determined that the vision for local government included in a new Act should be responsive to the changing face of Western Australia’s communities. The long title of a legislative instrument is intended to provide a clear statement of the legislature’s intention. The Panel considered how a statement of intent (vision) for a local government legislative framework would meet the future needs of Western Australia’s communities and local government sector.

3. The Panel recommends the adoption of the following objectives for a new Act:
 - a. Democratic and accountable local government that recognises the diversity of and within Western Australia’s communities.
 - b. Recognition of the specific needs and culture of Western Australia’s Aboriginal people.
 - c. Promotion and improvement of the community’s economic, social and environmental well-being.
 - d. An adaptive and forward-looking legislative framework, which supports and enables councils to provide local leadership for the whole community, and to collaborate with each other and with other key stakeholders at a regional level.
 - e. Open and transparent community participation in the decisions and affairs of local governments.
 - f. Enhanced capability of the local government sector, with a focus on continuous improvement and sustainability.
 - g. Efficient and effective service delivery and regulation that is responsive to current and future community needs.



- h. Informed decision-making by local governments which is in the interest of their communities, within a legislative framework that supports balance and certainty in relation to the different interests of their communities.**
- i. Accountability of local governments to their communities through processes that demonstrate good governance.**
- j. Support for approaches and opportunities which foster collaboration and cooperation both within the local government sector and across all levels of Government.**

The Panel considered what the objectives for a legislative framework would be to support local governments having the agility, adaptability and flexibility to respond to changing community expectations and technology, and deliver long-term sustainability. In doing so, the Panel considered examples from across Australian jurisdictions and international best practice.

4. The Panel recommends an Act that is considerably shorter, less prescriptive and minimises the use of regulations by establishing clear principles, robust processes, model charters, guidelines and templates.

The Panel endorsed the Western Australian Local Government Association's (WALGA) call for a principles-based approach to the development of a new legislative framework.

This approach needs to be supported by robust processes for planning and decision-making, as well as model charters, guidelines and templates to set appropriate standards in areas such as establishment of subsidiaries, community engagement and local laws.

An enhanced internal audit and reporting regime is also essential to promote effective self-regulation and greater accountability to local communities (refer to Recommendation 59 regarding Audit, Risk and Improvement Committees).

5. The Panel recognises the diversity of local governments in Western Australia and supports a new Act which is responsive to this but does not recommend the adoption of a multi-tiered legislative framework.

The Panel considered the capacity and capability of Western Australia's local government sector more broadly, and the application of a legislative framework to support this.

The Panel explored having different requirements and obligations under the new Act depending on a local government's size, scale and/or demographics. However, finding the balance of what local governments should be required to do and for what reasons proved difficult. The Panel decided that a more practical approach was for the new Act to apply minimum standards to all local governments and, where applicable, to provide flexibility within the new Act that enables a diversity of obligations to be placed on or assumed by local governments dependent on their capacity and capability.



The Role and Functions of Local Government

6. The Panel recommends the inclusion of a statement of the role and principal functions of local governments that makes it clear their basic statutory responsibilities, retaining the overall power of general competency in the current Local Government Act.

Communities and stakeholders need to be able to distinguish between local governments' basic statutory responsibilities for planning, service delivery and good governance on the one hand, and their discretionary activities on the other. This can be achieved by including a short statement that summarises statutory obligations. The South Australian Act offers a useful model (refer to **Attachment 2**).

The power of general competence provides significant autonomy to local governments. Under the *Local Government Act 1995* local governments are considered to be autonomous bodies established to provide for the good government of persons in their district. This general competency power is not, however, unlimited – local governments must comply with Commonwealth and State legislation.

Guiding Principles

7. The Panel recommends that the following overarching guiding principles are included in the new Act:

To ensure the system of local government is sustainable, accountable, collaborative and capable, councils should:

- a. Provide democratic and effective representation, leadership, planning and decision-making;
- b. Be transparent and accountable for decisions and omissions;
- c. Be flexible, adaptive and responsive to the diverse interests and needs of their local communities, including the traditional owners of the land;
- d. Consider the long term and cumulative effects of actions on future generations;
- e. Ensure that, as a general rule, all relevant information is released publicly, readily available and easy to understand;
- f. Provide services in an equitable manner that is responsive and accessible to the diverse needs of the community;
- g. Seek to continuously improve service delivery to the community in response to performance monitoring;
- h. Collaborate and form partnerships with other councils and regional bodies for the purposes of delivering cost-effective services and integrated planning, while maintaining local representation of communities and facilitating community benefit; and
- i. Participate with other councils and with the State and Federal government in planning and delivery of services, setting public policy and achieving regional, State and Federal objectives.



When developing the principles, the Panel considered the following to be important:

- Local governments should be effective, accountable and transparent institutions with inclusive processes which actively engage communities, build trust in government, and are responsive to their communities' needs;
- A collaborative approach across all levels of government to support sustainable development and effective decision making for the economic, social and environmental well-being of all Western Australians;
- A system of local government which supports continuous improvement and a highly capable local government sector, with accountable councils and administrations.
- Transparent and appropriate governance processes which uphold principles of integrity and build trust in the local government sector.



An Agile System

Establishment of a Local Government Commission

8. The Panel recommends:

- a. The Local Government Grants Commission and the Local Government Advisory Board should be combined into a single body responsible to the Minister and named the Local Government Commission, and including the functions of the Grants Commission in accordance with Commonwealth legislation.
- b. The role of the Local Government Commission should be to:
 - (i) Provide recommendations on major local government boundary changes, amalgamations and other necessary reforms;
 - (ii) Manage the distribution of Commonwealth grant funding to local governments in WA; and
 - (iii) Monitor the overall health and performance of the local government sector by identifying key issues and trends, and advise the Government and sector peak bodies accordingly.
- c. Members should be appointed to the Local Government Commission on the basis of their skills rather than as representatives.
- d. The Local Government Commission should consider the financial viability of local governments in making recommendations to the Minister.
- e. The Minister and sector peak bodies should have the power to refer matters to the Commission for assessment and advice.
- f. The Commission should play an independent role in monitoring the capacity and the financial health of the sector in collaboration with the Auditor General.
- g. Minor boundary adjustments where both local governments agree should be handled by the department.

The Panel considered that there were substantial opportunities and benefits in combining the existing Grants Commission and Advisory Board and in providing the new body with a more strategic role. The Grants Commission has access to considerable financial data on local governments and an understanding of the challenges facing the sector. This could be valuable in making recommendations to the Minister on boundary changes and other matters.

The Grants Commission's visiting program also means that it is in a position to identify and promote best practice and to identify local governments that would benefit from capacity building.

It was agreed that the new body should continue to provide recommendations on significant local government boundary changes and amalgamations, including all of those proposals where parties were not in agreement. To remove unnecessary regulatory burden, boundary changes of a minor nature which had the agreement of both local governments and the ratepayers in the affected area should be handled by the department in a streamlined process. Examples of this would be changing the responsibility for a road or park, or ensuring that a property (such as a farm) is in a single district.



In addition to managing the distribution of Commonwealth grant funding to local governments in Western Australia and making recommendations on boundary changes, the role of the combined body should include monitoring the overall health of the sector by identifying issues and trends and advising the Minister. This combined body should be charged with providing frank and fearless advice to the Minister, the department, and local governments.

The new body should be constituted of members of varied skills, with administrative support provided by the department.

Enabling Structural Reform

9. The Panel supports a legislative framework for a system of local government which promotes local democracy and has the in-built flexibility to enable different models of governance which facilitate community participation, provide for representation of the whole community, and for efficient and effective service-delivery for the community.
10. The Panel recommends that through their Partnership Agreement and the proposed Local Government Commission, State and local government consider options to facilitate structural reform that will strengthen the capacity and resilience of the local government system. Those options should include:
 - a. Revised processes for boundary changes and mergers.
 - b. Substantially increased cooperation between local governments through an enhanced model of joint subsidiaries.
 - c. Provision for the establishment of community boards within local government areas.



Making specific proposals for structural reform – in particular ‘forced’ amalgamations – was beyond the Panel’s terms of reference. However, as noted in Part A of this report, the COVID-19 crisis has focused attention on the need to maximise the capacity and resilience of the *system* of local government. Various options for structural reform have a role to play, and the new Act should include measures to facilitate necessary adjustments.

The Panel sees significant flaws in the current provisions for boundary changes and amalgamations of local government areas. Procedures for minor boundary changes appear unnecessarily complex, whilst the use of the boundary change mechanism to undertake de facto amalgamations – as approved by the Supreme Court in 2014 – raises serious issues about due process. It effectively bypasses the ‘Dadour’ provisions for local referenda, which themselves can be seen as unduly restrictive when local government needs to adapt to changing circumstances.

These issues have been debated repeatedly across Australia. The Panel saw potential in the new provisions for boundary changes and mergers adopted in early 2019 in South Australia (sections 26-28). The process was negotiated with the Local Government Association. It is based on a set of principles (refer to **Attachment 3**); administered *independently* by the Grants Commission; requires detailed investigation and extensive community consultation on major boundary adjustments and amalgamations; but has no requirement for referenda.



The new Local Government Commission proposed under Recommendation 8 could play a similar role in Western Australia, monitoring the capacity and health of the local government system, identifying action required to address any deficiencies, and handling major boundary changes. The Panel is also recommending that the structural reform 'toolkit' be augmented with an improved model of joint subsidiaries (Recommendations 14 and 39), plus a new option for establishing community boards (Recommendation 11). Robust, multi-functional joint subsidiaries could offer an alternative to amalgamations, whilst community boards could be used to maintain local identity, democracy and services in merged local government areas.

11. The Panel recommends an additional legislative option for local governments to establish community boards.

The Panel noted that with 137 local governments ranging in populations from less than 200 to over 200,000, Western Australian local governments can be either too small to meet their responsibilities, or too big to be properly representative of different localities within them, and respond adequately to varying community needs and demands. Accordingly, there is a need for mechanisms in the new Act that would, on the one hand, encourage small councils to combine their efforts 'upwards' through regional cooperation and/or mergers, and on the other, enable large councils to devolve some of their responsibilities 'downwards' in order to promote effective community governance.

The Panel concluded that the new Act should therefore include an option for local governments to establish community boards along the lines of those that have operated successfully in New Zealand for more than 30 years, but with flexibility to tailor implementation of the model to particular local circumstances. Community boards could either replace councils that have been merged into a larger entity, thus maintaining local identity and democracy in former local government areas; or be established for specific localities within a large local government area – a suburb or group of suburbs, a rural district with a distinct identity and a sense of community, a town within a large shire, a remote Aboriginal settlement, and so on.

Key features of the community boards model should include:

- Ultimate authority to rest with the 'parent' local government, which would determine the functions and budgets (if any) of boards in its area – the boards would not be incorporated as local governments in their own right.
- Empowering the Local Government Commission to require the establishment of boards as part of a merger.
- Giving local communities the right to petition the Local Government Commission for the establishment of a board.
- No requirement for boards to cover the whole of a local government area.
- Membership options ranging from a majority being locally elected to all members being appointed by the 'parent' local government after a community nomination process.
- Mechanisms for boards to advocate to the 'parent' local government on behalf of their communities, and to play a significant advisory role in planning and budgeting processes.



Expanded Regional Cooperation

12. The Panel recommends that the new Act should promote and mandate expanded regional cooperation between local governments by:

- a. **Making increased collaboration a specific objective and principle.**
- b. **Providing an improved model of joint (regional) subsidiaries that can be used for strategic planning, resource sharing, shared services delivery and commercial enterprises (see also Recommendations 14 and 39).**
- c. **Requiring regional cooperation as part of IPR (see also Recommendation 35).**

13. The Panel recommends that consideration also be given to the potential need for a new form of ‘regional authority’ to enable collaboration on specific issues between governments and with other key stakeholders.

While there are promising signs of increasing regional cooperation between local governments for certain functions and in some parts of the state, the Panel formed the view that much more could and should be done – as proposed in WALGA’s 2008 report *The Journey: Sustainability into the Future*. The evident limitations of the current model of regional subsidiaries is a particular concern. The Panel proposes that increased collaborative working should be framed as a specific objective of the new Act: that could be realised through a streamlined model of joint subsidiaries and by adding a regional dimension to IPR, as explained under Recommendations 34 and 35.

The Panel also noted the potential need for a new form of collaborative ‘regional authority’ that overlays local government areas and can bring together local governments, state (and where necessary, federal) agencies and other key stakeholders to address specific issues. Such an arrangement might be required when regional issues, such as provision of services to remote Aboriginal communities or complex environmental management problems, exceed the scope of local governments and joint subsidiaries.

14. The Panel recommends:

- a. **The regional council model is discontinued.**
- b. **A flexible model of joint (regional) and single (local) subsidiaries be introduced in order to enable:**
 - (i) **collaboration between local governments; and/or**
 - (ii) **involvement of local government in economic development including commercial activities.**

Greater cooperation and collaboration is one way to address financial sustainability and capacity of local governments without the fear of loss of identity. The Panel noted that there are a range of areas that could potentially be delivered jointly by local governments, such as corporate services, economic development, IPR, waste management and community planning.

The current Local Government Act provides for two formal approaches: regional local governments and regional subsidiaries. The Panel recommends that there would be benefits to having only one broader legislative model of collaboration. A single flexible model could reduce complexity and provide for a more tailored compliance regime. Local governments would still have the flexibility to enter into voluntary arrangements outside of the legislated model. This would remove the regional



local government model under the new Act, noting the need for appropriate transitional provisions for those already established.

Further discussion and recommendations on this new flexible model, including its use for economic development, can be found under Smarter Planning and Service Delivery at Recommendations 37 to 40.

Advancing Intergovernmental Cooperation

15. The Panel recommends that the new Act include a set of principles for intergovernmental relations that make clear local government's role and obligations as part of the broader system of government, and that underpin a range of ongoing arrangements such as the State Local Government Partnership.

The Panel welcomed the progress being made through the State Local Government Partnership Agreement. It appreciated the difficulty of requiring such agreements under legislation, but at the same time sees an opportunity to promote and support ongoing improvements to state-local relations by including relevant principles in the new Act. The British Columbia Community Charter Act includes a set of principles that may offer a starting point for further discussion (refer to **Attachment 4**). The Panel noted, however, that any set of principles must make clear not only the need for mutual respect, consultation and cooperation, but also local government's responsibility to see itself and act as *government*, and to accept its ongoing obligations to plan, deliver services and provide good governance as part of the broader public sector.



Inclusive Local Democracy


Relations with Aboriginal Peoples and Communities

16. The Panel recommends that the new Act recognises the unique status of Aboriginal people as traditional owners of the land and ensures that they are empowered to engage in decision-making in their local communities.
17. The Panel recommends that further consideration is given to the manner of recognition, and the options for inclusion, engagement and shared decision making between local governments and Aboriginal communities, through consultation with the Department of Premier and Cabinet and the Aboriginal Advisory Council of Western Australia, and with reference to practices in other states, the Northern Territory and New Zealand.

The Panel identified a need for the new Act to include specific provisions for engagement with Aboriginal peoples and communities, including new consultative mechanisms and an obligation to plan for, and where appropriate undertake, delivery of essential services to local communities.

The Panel noted that while legislative statements mandating general recognition of the diversity of communities are common in the local government context, statements recognising the unique role of Aboriginal people in the community and the potential role of local government in partnering to achieve outcomes are less common in local government legislation in Australian State jurisdictions.

Models that should be further explored include the *Local Government Act 2020* (Victoria) where the definition of 'municipal community' includes 'traditional owners of the land in the municipal'; the *Local Government Act 2002* (New Zealand) which specifically references the need to provide opportunities for Maori people to contribute to the decision making process and the *Local Government Act 2008* (Northern Territory) which includes in its preamble "the rights and interests of Indigenous traditional owners, as enshrined in the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) and the *Native Title Act 1993* (Cth), must also be recognised and the delivery of local government services must be in harmony with those laws".

18. The Panel recommends further consideration is given to the issue of service delivery by local governments in remote communities, and appropriate adjustments to Integrated Planning and Reporting requirements. 

There is a need for local governments to work closely with indigenous communities and accept their responsibilities to ensure that adequate services are offered to all citizens, by the local government itself and/or in conjunction with other governments and agencies. While it was recognised that there are unique challenges with service delivery to remote communities, IPR processes should require identification of their needs, plus effective engagement and shared decision making with Aboriginal people.



Elections

19. Optional preferential voting be adopted in place of the current first past the post system.

The Panel discussed voting methodologies and agreed that the first past the post system can often lead to outcomes that do not adequately represent the community's preferences with successful candidates being elected without a clear majority of votes.

There was support for the adoption of optional preferential voting, a variant to preferential voting whereby the voter can mark their preference of all or some of the candidates on the ballot paper, with "1" indicating their first preference. It was considered that this would provide results that are most representative of the community's views and would not require electors to vote for candidates about which they had little knowledge.

20. *The principle of one vote per person be included in the legislation, subject to Recommendation 21 below.*

21. *Property franchise voting should be replaced with the requirement for local governments to introduce mechanisms for regular and effective consultation with the business community.*

The Panel considered that there are two sides to local democracy: involvement in local decision-making to influence and inform the decisions that are being made by council, and elections. If structures and processes are in place to ensure all segments of the community are engaged, there may no longer be a need to extend election franchise beyond residents of the district.

The Panel noted that the introduction of compulsory voting was previously recommended by the Robson Review and was suggested by several submissions, but believes that before this change is considered, recommendations contained within this report should be implemented to increase voter participation and possibly negate the need for the introduction of compulsory voting.

The Panel considered democratic principles, the right of business owners and operators to participate in and inform local government decision-making, the relatively small take-up of the property electoral franchise and the administrative burden for local governments to retain a separate register for the small number of owner occupiers that are currently registered to vote. The Panel believed that there are other avenues that local governments could and should use to ensure that business and landowner views are adequately heard through mechanisms such as a business advisory group.

22. *Local government elections are held once every four years, two years after but to otherwise accord with the timing of the State election.*

The Panel discussed the merits and disadvantages of all elected members being elected at the same time. While acknowledging the potential for loss of corporate knowledge if no councillors were re-elected, the benefits of one election held every four years midway between State Government elections has the potential to increase participation and would reduce costs for local governments.



23. All local government elections should be overseen by the Western Australian Electoral Commissioner.

The Panel decided that the Western Australian Electoral Commission (WAEC) was the most appropriate organisation to coordinate local government elections. Having the one body responsible for conducting elections would allow for greater consistency across local governments. It was acknowledged that there would be higher costs associated with WAEC run elections; however, this would be offset by elections being held only every four years.

24. Provision in the new Act for electronic/online voting to be introduced in the future once the integrity of the process can be assured (including allowing for a pilot).

While believing that electronic and online voting was not yet mature enough to be introduced, the Panel decided that new technologies would be likely to become practical in the life of the new Act and that the legislation should allow for the piloting and introduction of these. In the event online voting is introduced, postal / in person voting should remain an option.

25. The Panel makes the following further recommendations in relation to elections:

a. Postal voting be required, with lodgement of these votes to be allowed in person on and before election day.

To improve equity, the Panel determined all elections should be postal with the ability to lodge those votes in person, including on election day, being retained. The need for voting to be able to be carried out via the post has been demonstrated by the current COVID-19 pandemic.

b. The election process extended to provide more time for the issuing and receipt of postal votes.

To optimise participation in the electoral process and in recognition of the changes to postal services in Australia, an extension to the electoral timeframe is recommended. This should allow additional time for the issuing of postal votes and more time for electors to return their votes. The timeframe should be set through regulations in consultation with the Western Australian Electoral Commissioner.

c. The information local government candidates must provide at nomination should be expanded to ensure that adequate information is given for voters to make an informed decision. Candidate nomination forms should also include declaration of membership of a political party and these forms should be published and available during the election period.

The Panel discussed methods to increase community knowledge of candidates including increasing the length of the candidate profile statements, providing more structure for these, and publishing candidate answers to WAEC approved questions on local governments' websites. The Panel was supportive of additional information being provided by candidates in local government elections. This would enable voters to make more informed voting decisions, rather than relying on the 150-word statement. This could be achieved through set questions in regulations to which candidates would respond in the form of a statutory declaration. The Victorian provisions serve as a model.



- d. A caretaker policy should be introduced barring elected members up for re-election from representing the council at events, handing out council grants or donations and moving substantive notices of motion in the period before the election, and a requirement to comply with this policy should be included in the Code of Conduct.**

The Panel also considered ways to increase transparency and accountability and reduce conflicts during a local government election period. The Panel agreed that the Code of Conduct should include caretaker provisions to be imposed from the close of nominations to the date of the election.

The Panel acknowledged the need to protect the CEO from potential conflicts during the caretaker period and, consistent with Recommendation 59, the CEO would no longer receive or investigate complaints.

- e. The donor and the candidate should co-sign each declaration of a gift made.**

In order to ensure integrity in the election process, the Panel agreed that there should be a requirement for the declaration of a gift to be signed by both the candidate and the donor.

- f. Donations via crowd funding platforms should be regulated so far as possible.**

The Panel also acknowledged the increasing likelihood that candidates will receive donations through crowd funding platforms which makes identifying individual donors difficult and determined that the department should investigate the legality and practicality of regulating crowd funding donations to ensure integrity in the election process is upheld.

26. In respect to elected member representation, the Panel recommends:

- a. Population should be used to determine the number of elected member positions:**

- (i) Population of up to 5,000 – 5 councillors (including President).
- (ii) Population of between 5,000 and 75,000 – 5 to 9 councillors (including Mayor/President).
- (iii) Population of above 75,000 – 9 to 15 councillors (including Mayor).



- b. Ward boundary reviews, to ensure equitable representation is maintained, should be conducted every four years by the Office of the Electoral Distribution Commissioners, with the support of the WAEC and should be conducted using similar processes and principles that are in place for state electoral boundaries as contained in the *Electoral Act 1907*.**

- c. Current classification bands 3 and 4 should not have multiple wards unless the Local Government Commission permits it in the interests of ensuring local democracy is enabled in certain communities.**

- d. The changes to wards and elected member numbers due to the above recommendations should be phased in.**



The Panel gave careful consideration to the recommendations of the Local Government Advisory Board in relation to wards and councillor numbers. Wards in local governments with small populations were seen as unnecessarily increasing fragmentation and detracting from the requirement for elected members to act in the best interests of the entire community.

However, the Panel acknowledged there may be situations, for example remote communities, where it is important to ensure there is balanced representation on council. The Panel decided local governments in bands 3 and 4 can apply to the new Local Government Commission for wards should it be necessary to enable local democracy in their districts.

The Panel considered that it was desirable for councils to have an odd number of positions.

e. With the introduction of four-year elections, council elected mayors/presidents should be elected for two-year terms.

The Panel considered that it was important to provide a council with the ability to elect a new mayor/president to replace one who had lost the confidence of the other members of council within their four-year term. The Panel decided the fairest and most efficient way to do this was to have two year terms for council elected mayors and presidents which will provide the opportunity for council to replace them after this period should there be dissatisfaction with their performance amongst council.

f. No restriction should be placed on the number of terms an elected member or mayor/president can serve.

The Panel agreed that there should be no change made to the current situation with no limits applying to the number of terms a councillor and mayor/president can serve.

27. The Panel recommends further consideration should be given to strengthening the provisions of the City of Perth Act to reflect the unique role the City of Perth plays in the development of the State economy. In addition, consultation should be undertaken with the City of Perth and other relevant stakeholders as to whether property franchise voting should be retained in the City of Perth.

The Panel noted that property franchise voting may nevertheless be appropriate for the City of Perth and suggested that the Department could undertake further consultation to determine if the *City of Perth Act 2016* should be amended so property franchise voting continues to apply in the City of Perth.

The Panel recognised the *City of Perth Act 2016* might be appropriate legislation to further strengthen the relationship between the State Government, business and the City of Perth in promoting the social and economic interests of the whole State.



Redefinition of Roles and Responsibilities

28. The Panel recommends significant changes in the Act to the current statements of roles and responsibilities for mayors/presidents, councillors and CEOs and that the Act should include a new statement of responsibilities for the 'council' which captures the roles and responsibilities of all councillors acting collectively as the council.

The revised statements of roles and responsibilities seek to address more clearly the following issues:

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

29. The Panel recommends the following as the role of council:

The council —

- (a) considers the diversity of interests and needs of the local community;
- (b) is accountable to the community for the local government's performance;
- (c) ensures adequate opportunities and mechanisms for engagement with the local community;
- (d) ensures the timely development and adoption of the strategic plans, programs and policies of the council and promotes the effective and consistent implementation of these;
- (e) develops and adopts strategic plans and a budget for the local government;
- (f) keeps the local government's resource allocation, expenditure and activities and the efficiency and effectiveness of its service delivery, under review;
- (g) provides strategic direction to the CEO in order to achieve high-quality administration and performance of the local government's functions in accordance with the Local Government Act and local government's policies;
- (h) carries out an annual performance review of the CEO and in agreement with the CEO adopts Key Performance Targets for the following year;
- (i) provides a safe working environment for the CEO, officers and councillors;
- (j) reviews annually the delegations of the council; and
- (k) performs such other functions as are given to a council by this Act or any other written law.



30. The Panel recommends the following as the role of councillors:

A councillor —

- (a) without bias represents the current and future interests of all people who live, work and visit the district;
- (b) provides leadership and guidance to the community in the district;
- (c) facilitates communication between the community and the council;
- (d) accurately represents to the community the policies and decisions of the council;
- (e) participates in the development of strategic plans;
- (f) must be prepared to —
 - (i) participate with an open mind in the local government’s decision-making processes;
 - (ii) be an active and contributing member of the council; and
 - (iii) make considered and well-informed decisions;
- (g) makes all reasonable efforts to acquire and maintain the skills necessary to perform the role of councillor; and
- (h) performs such other functions as are given to a councillor by this Act or any other written law.

31. The Panel recommends the following as the role of the mayor/president:

In addition to the responsibilities of a councillor, the mayor or president —

- (a) provides leadership and guidance to the community in the whole district;
- (b) carries out civic and ceremonial duties on behalf of the local government;
- (c) acts as the principal spokesperson on behalf of the council and explains and upholds the decisions of the local government;
- (d) encourages good working relations between councillors, and between the council and the CEO;
- (e) provides guidance to councillors about what is expected of a councillor including in relation to:
 - (i) the role of a councillor;
 - (ii) the councillor code of conduct; and
 - (iii) standing orders
- (f) liaises with the CEO on the local government’s affairs and the performance of its functions;
- (g) presides at meetings in accordance with this Act;
- (h) leads the development of strategic plans;
- (i) promotes partnerships between the council and key stakeholders;
- (j) leads and facilitates the presentation of the annual Council budget;



- (k) initiates the annual performance appraisal of the CEO; and
- (l) performs such other functions as are given to the mayor or president by this Act or any other written law.

32. The Panel recommends the following as the functions of the CEO:

- (1) The CEO's functions are to —
 - (a) advise and assist the council in relation to the functions of a local government under this Act and other written laws;
 - (b) ensure that timely and accurate advice and information is available to the council so that informed decisions can be made;
 - (c) ensure that the mayor and other councillors are given the administrative and professional support necessary to effectively discharge their role;
 - (d) advise the council on appropriate forms of community engagement;
 - (e) advise and consult the mayor and council on the development and implementation of the strategic plans, programs, strategies and policies of the council;
 - (f) prepare, in consultation with the mayor and council, the draft budget;
 - (g) ensure that the policies and lawful decisions of the council are implemented in a timely and efficient manner;
 - (h) conduct the day-to-day management of the local government in accordance with the strategic plans, programs, strategies and policies of the council;
 - (i) ensure the effective and efficient management of the local government in a way that promotes —
 - (i) the effective, efficient and economical management of public resources;
 - (ii) excellence in service delivery; and
 - (iii) continual improvement;
 - (j) maintain systems to enable effective planning and accurate reporting of the financial and service performance of the local government to the council and community;
 - (k) speak publicly on behalf of the local government when approved by the mayor or president to do so;
 - (l) be responsible for the employment and management of local government employees, except with respect to the position of CEO, through management practices that —
 - (i) promote equal employment opportunities;
 - (ii) are responsive to the local government's policies and priorities; and
 - (iii) provide a safe working environment;



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- (m) ensure the local government complies with this Act and any other written law;
 - (n) ensure that records, proceedings and documents of the local government are properly kept for the purposes of this Act and any other written law; and
 - (o) perform any other function specified or delegated by the council or imposed under this Act or any other written law as a function to be performed by the CEO.
- (2) The CEO must inform and consult the council when determining, or making, significant changes to –
- (a) the organisational structure for the staff of the local government; or
 - (b) the processes, terms or conditions that are to apply to the appointment of senior executive officers; or
 - (c) the appraisal scheme that is to apply to senior executive officers.

Community Engagement and Governance

- 33. The Panel recommends that the following community engagement principles should be included in the new Act:**
- a. Councils actively engage with their local communities;
 - b. Councils are responsive to the needs, interests and aspirations of individuals and groups within its community;
 - c. Community engagement processes have clearly defined objectives and scope;
 - d. Participants in community engagement have access to objective, relevant and timely information to inform their participation;
 - e. Participants in community engagement are representative of the persons and groups affected by the matter that is the subject of the community engagement;
 - f. Participants in community engagement are entitled to reasonable support to enable meaningful and informed engagement; and
 - g. Participants in community engagement are informed of the ways in which the community engagement process will influence council decision-making.

The Panel considers the community key to the effective functioning of the local government, with the local government being there for and to respond to the community. It is therefore vital that all segments of the community are heard and can participate in decision-making.

- 34. The Panel recommends a Community Engagement Charter be required as a mechanism for guiding and enhancing community participation in local decision-making, and that a model charter be prepared to set parameters and provide guidance on mechanisms to be used.**

The Panel agreed that all local governments should be required to have a Community Engagement Charter, with individual local governments responsible for ensuring they are fit for purpose. The



department should provide suitable guidance material and templates for those local governments that wish to utilise these.

The Panel proposed that triggers for consultation be included, such as borrowing, change of purpose in land use, and major changes to strategy.

The Panel considered that the Charter should be accessible, flexible, and include the deliberative community engagement requirements for IPR. The Charter should also include a reporting mechanism in the annual report.

The Panel believed that elected members have an important role to play in community engagement in listening to the community and that this should be outlined in the Charter. Training should be available to elected members in this area.

35. The Panel recommends the Annual Electors' Meeting is replaced by an Annual Community Meeting whereby:

- a. As a minimum, councils provide information on their achievements and future prospects;**
- b. Councils report on the local government's financial performance and performance against relevant Council Plans;**
- c. Both the mayor/president and the Chair of the Audit Committee address the meeting;**
- d. There is ample time for questions; and**
- e. Wider community participation is encouraged through different delivery mechanisms.**

The Panel recommended the retention of an annual meeting (to replace the Annual Electors' Meetings) which will facilitate community participation through more modern delivery mechanisms to reach people who may not be able to attend ordinary council meetings (for example, using Zoom and/or webinars). At this meeting there should be an annual performance statement made by the mayor/president, a report from the chair of the Audit, Risk and Improvement Committee and a question and answer session.



Smart Planning and Service Delivery

Enhanced Integrated Planning and Reporting

36. The Panel recommends the following IPR Principles are included in the new Act:
- a. Councils plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services to meet the diverse needs of the local community;
 - b. Strategic planning identifies and incorporates, where appropriate, regional, State and Federal objectives and strategies concerning the economic, social, physical and environmental development and management of the community;
 - c. Strategic planning addresses the community's vision;
 - d. Strategic planning takes into account the resources needed for effective implementation;
 - e. Strategic planning identifies and addresses the risks to effective implementation; and
 - f. Strategic planning is a key accountability tool that provides for ongoing monitoring of progress and regular reviews to identify and address changing circumstances.
37. The Panel recommends:
- a. IPR be given greater prominence in the new Act as the centrepiece of 'smart' planning and service delivery.
 - b. The new Local Government Commission and the department should take steps to improve understanding and skills across the sector to ensure consistent implementation of IPR requirements.
 - c. IPR provisions in the Act should be expanded to include the issues currently covered in the regulations (suitably updated in accordance with these recommendations).
 - d. IPR provisions and guidelines should be amended to, amongst other things –
 - (i) Highlight the central goal of advancing community well-being (economic, social, cultural and environmental).
 - (ii) Replace the current requirement for a Strategic Community Plan with a more flexible framework for 'Community Strategies'.
 - (iii) Reframe Corporate Business Plans as broader 'Council Plans' prepared by each incoming council.
 - (iv) Mandate deliberative community engagement in the preparation of both Community Strategies and Council Plans.
 - (v) Require a 'regional issues and priorities' section within Council Plans, to be prepared in consultation with neighbouring/nearby local governments.
 - e. Provision should be made for a baseline reporting system as part of the IPR framework, and local governments should be required over time to report against a



wider range of performance measures covering financial management, service delivery, governance and community wellbeing.

- f. Annual reports should include a statement of performance against the objectives, programs and projects set out in Community Strategies and Council Plans.
- g. The Audit, Risk and Improvement Committee (see Recommendations 53 and 54) should monitor the local government's performance in implementing the IPR framework, including compliance with relevant statutory obligations, and report its assessment to the community (for example, as an addendum to the council's annual report and/or as a statement to the Annual Community Meeting proposed in Recommendation 35).
- h. That all IPR plans be reviewed every four years (to align with the new election cycle), two years or one year depending on the plan.

The Panel believes that strengthening and reframing the Act's provisions for IPR would promote and link more effective strategic and corporate planning, regional cooperation, community engagement, financial management, service delivery, and monitoring and reporting of outcomes.

The Panel noted some excellent examples of emerging regional cooperation in strategic planning, and opportunities for creative use of IPR to promote a more holistic approach to community wellbeing, and in particular for collaborative planning with Aboriginal peoples and communities. However, it was concerned that the current IPR framework is not fully understood across the sector, and that implementation remains patchy. There is an evident need for more work to develop and explain the framework, and for further assistance to individual local governments and regional groups to enhance their ability both to meet basic IPR requirements, and to grasp opportunities to make better use of IPR as a tool to achieve desired outcomes for places and communities.

The Panel concluded that reframing the current requirements for Strategic Community Plans and Corporate Business Plans would be helpful in explaining the scope and intent of IPR. This would involve:

- Clarifying the difference between 'aspirational' strategies on the one hand, and plans that commit a council to pursue specific courses of action on the other.
- Demonstrating how IPR offers pathways for local governments to work together at a regional level, as well as to plan with communities for districts and neighbourhoods.

The Panel therefore proposes that Strategic Community Plans be replaced by multi-level 'Community Strategies' that could be prepared for regions, individual local government districts, and smaller areas/localities within a local government district. Corporate Business Plans should be reframed as broader 'Council Plans' that give effect (as far as possible) to Community Strategies. These proposals draw on current practice in Victoria (council plans and community planning) and New South Wales (joint organisations developing regional strategies).

The Panel also examined the requirement for Victorian local governments to report on a wide range of key performance indicators and considered this type of reporting to the community to be highly desirable. To alleviate the burden this could place on some local governments, it proposes that reporting should be phased in, starting with indicators for financial management, service delivery and governance, and expanding to broader well-being measures over time. Reporting should be made freely available through a statewide online platform.



Part of the reporting framework could be an annual declaration that the local government is successfully meeting its obligation to provide essential basic services to its community. This could be a function of the Audit, Risk and Improvement Committee.

Minimum Service Levels

38. The Panel recommends:

- a. As a minimum, local governments must seek to identify and provide, or offer, to all its citizens, a minimum level of services to meet statutory obligations.
- b. The Minister should have the power to direct a local government if it fails to provide or offer these services.
- c. The new Act should incorporate financial sustainability principles which also link to the IPR framework.
- d. Local government services and programs should be aligned to the IPR framework.
- e. Local governments conduct regular reviews of services and service levels including community consultation.



The Panel strongly believed that all citizens in Western Australia are entitled to a minimum level of service delivery, whether it be a metropolitan local government or a remote community. However, the diversity of the sector means that services may vary significantly between local governments. The Panel felt that while there are some services where it is reasonable to have discretion, there are some minimum services that all local governments must provide.

The Panel was cognisant of the financial constraints and capability of local governments to be able to deliver basic services and in some cases, providing services independently would be challenging. In these situations, local governments should collaborate using the joint subsidiary model.

As noted earlier, service delivery to remote communities was identified as an area that could be particularly challenging due to financial constraints, isolation and access (among other things). The Panel strongly supported identification of service needs through the IPR process and minimum services being delivered. However, financial and cultural barriers will sometimes need to be addressed through broader whole of government initiatives. New mechanisms may be needed to facilitate such initiatives (such as the South Australian Outback Communities Authority). A community should have the right to decline a particular service or services if they have other arrangements in place.

The Minister should have a qualified reserve power to intervene in certain situations and provide enforceable directions to local governments. This would include where minimum services were not being provided and in the event of a natural disaster or pandemic.

Local and Joint Subsidiaries

39. The Panel recommends local governments should continue to play an active role in economic development at both local and regional levels. The IPR framework should encourage local governments to be cognisant of State Government plans when developing strategies for economic development.



LOCAL GOVERNMENT ACT REVIEW ►► DELIVERING FOR THE COMMUNITY

40. The Panel recommends that the new Act should provide the freedom for local governments to be involved in commercial activities where it is in the public interest and subject to competitive neutrality principles.

The Panel noted that local government provides an important stimulus in the economy, especially in regional areas, and that it is important that a legislative framework does not unnecessarily restrict the ability for local governments to be involved in economic development.

The Panel was of the view that there are not currently any specific barriers in the Local Government Act that hinder the ability for local government to grow their economy. They also noted that local governments' involvement in economic development should be voluntary, and subject to the needs and desires of the local community. The new Act should provide appropriate governance and accountability measures covering these activities.

41. The Panel recommends that 'beneficial enterprises' not be introduced as a new mechanism for local government commercial activities, but that instead an updated and more flexible subsidiary model should provide for the following:

- a. Local government autonomy to establish a single or joint subsidiary to:
 - (i) Carry out any scheme, work or undertaking on behalf of the council;
 - (ii) Manage or administer any property or facilities on behalf of the council;
 - (iii) Provide facilities or services on behalf of the council; and/or
 - (iv) Carry out any other functions on behalf of the council.
- b. The subsidiary to be established through a charter.
- c. The charter to be certified by an independent and suitably experienced legal practitioner as within power and National Competition Policy.
- d. Public notice of the proposal to establish the subsidiary to ensure that there are no private operators that would be significantly disadvantaged.
- e. The subsidiary to be able to undertake commercial activities (within the limits of competitive neutrality and a thorough risk assessment).
- f. The subsidiary to have the ability to acquire, hold, dispose of or otherwise deal with property.
- g. Dividends able to be paid to member local governments.
- h. The requirement for employees of the subsidiary to be employed under the same award or agreement conditions as the relevant local government/s and within the jurisdiction of the Western Australian Industrial Relations Commission.
- i. No requirement for ministerial approval at the outset, but reserve powers for the Minister for Local Government to intervene if issues arise should be included.



42. The Panel recommends local governments should utilise the subsidiary models and, as a general rule, should not form entities outside this, such as under the Associations Incorporation Act, except as a means of establishing or maintaining partnerships with other local or regional organisations in those instances where the local government is not the dominant party.



The Panel noted that the current regional subsidiaries model could be improved in relation to their establishment, scope of operations and governance. It was noted that the current model has not been utilised by the sector as its scope is perceived to be too limiting.

While the Panel supported local governments being innovative and able to operate when market failure is identified, it was of the view that the new Act should explicitly require that local governments operate in accordance with competitive neutrality principles when establishing a subsidiary and setting fees and charges.

The Panel also noted concerns that a local government may use a subsidiary to reduce employee pay and conditions and considered that this should be prohibited in the Act.

The introduction of a new subsidiaries model, similar to the Tasmanian model, would allow local governments the flexibility to operate on a commercial basis (within reason). It is recommended that if this is to occur, adequate controls would need to be introduced, including community consultation, model charters, appropriate reporting and audit measures and providing the ability for the Minister to intervene if considered necessary.

The legislative framework for the model should provide autonomy for local governments to establish a subsidiary without Ministerial oversight while retaining reserve powers for the Minister if required. There should be measures to ensure greater transparency and accountability to the community.

The Panel also discussed concerns with local governments using the Associations Incorporation Act to establish entities outside the Local Government Act and considered that as a general rule this be prohibited under the new Act. Local governments should encourage non-government providers to establish and govern associations where appropriate for community-led service delivery, with local governments only stepping in if the association cannot operate effectively or needs to be wound up.

Modernise Financial Management

43. The Panel recommends the following financial management principles be included in the new Act:

- a. **Councils should have regard to achieving intergenerational equity, including ensuring the following:**
 - (i) **Policy decisions are made after considering their financial effects on future generations;**
 - (ii) **The current generation funds the cost of its services; and**
 - (iii) **Long life infrastructure may appropriately be funded by borrowings.**
- b. **Revenue, expenses, assets, liabilities, investments and financial transactions are managed in accordance with the council's financial policies and strategic plans;**
- c. **Financial risks are monitored and managed prudently having regard to economic circumstances;**
- d. **Financial policies and strategic plans, including the Revenue and Rating Strategy and Investment policy, seek to provide stability and predictability in the financial impact on the community; and**



- e. Accounts and records that explain the financial operations and financial position of the council are kept.

44. Having regard to the need for sound financial decision-making and accountability, the Panel recommends the following:

- a. Local governments should be required to adopt or justify departures from a model investment policy to the Audit, Risk and Improvement Committee and relevant State Government Agency.
- b. Local governments should be able to use freehold land to secure debt.
- c. Debt should not be used for recurrent expenditure except in an emergency situation.
- d. Notice should continue to be required to be given for borrowings not included in the local government's annual budget.
- e. Building upgrade finance is permitted for specific purposes such as cladding, heritage and green improvements.
- f. Local governments should adopt program budgeting to more clearly show the actual cost of delivering a service or undertaking an activity.
- g. Local governments should report on the percentage of their expenditure spent on local businesses in their annual report.

It is important that local governments are enabled through the legislation to invest their reserves effectively to maximise revenue. Given that the funds are public money, this must be balanced to ensure that local governments and their communities are not unnecessarily exposed to risk. The Panel agreed that local governments should be required to prepare an investment policy, dealing with approved investments and risk levels amongst other things.

Local government legislation in Queensland contains a tiered investment structure, with local governments having the power to invest based on their tier. This takes into consideration risk levels and credit ratings. The Panel suggested that further expert analysis be undertaken to inform potential implementation in Western Australia.

Local governments generally have low levels of debt relative to security, income levels and service responsibilities. The Panel noted that there are benefits to using debt for financial management when the benefits of the capital investment are multi-generational. On this basis, the Panel recommended expanding the ability for local governments to use freehold land to secure debt.

Building upgrade finance, which is operating in some other jurisdictions, is a scheme whereby a local government administers loans issued by financiers to non-residential building owners to upgrade their buildings. The Panel saw merit in allowing the introduction of the scheme for prescribed purposes such as upgrading heritage buildings or environmental upgrades. The introduction of building upgrade finance will need to have appropriate safeguards in place which could be modelled on the approach used in other States.

The Panel was of the view that the budget needs to be more closely integrated with IPR processes. As one measure to achieve this alignment, local governments should transition to budgeting on the basis of service delivery. This would require each service or program to be fully costed, ensuring elected members (and ultimately the community) understand the cost of providing the service and



encourage critical review of costs. This would also allow the community to provide more informed input into the Council Plans.

Program budgeting will result in better information leading to more informed decisions. Reporting on actual cost of services could result in decisions to allocate limited resources in different ways and gain greater acceptance by the community.

The positive impact a local government can have on their local economy through using businesses within their district and region were noted by the Panel. The view was held that there would be benefits for the community in seeing how much the local government had spent locally and with which businesses. This would be included in the Annual Report as a "local content" report.

Procurement

45. The Panel recommends that local government procurement thresholds, rules and policies are, where applicable, aligned with the State Government, including (but not limited to):

- a. **Tender threshold (currently \$250,000);**
- b. **Procurement rules and methods for goods and services under the tender threshold;**
- c. **Procurement policies, including sustainable procurement, procuring from disability enterprises, buy local (where 'local' refers to Western Australia or a specific region of the state determined by the local government) and Aboriginal businesses; and**
- d. **Using TendersWA as the primary tender platform.**

The Panel agreed that procurement needs to be open, transparent, fair and ensure adequate market testing, value for money and local consideration.

The Panel supported aligning local government and State Government procurement frameworks, including the tender threshold, procurement rules under the tender threshold and the publication of tenders and high value contracts on TendersWA. By increasing consistency between State and local government, and transparency of procurement rules and processes it creates a business-friendly environment and increases confidence in the process.

Local governments should be able to advertise tenders on other platforms, in addition to TendersWA, if they so choose.

46. The Panel recommends the development of a model procurement policy for all local governments. If a local government chooses to deviate from the policy it should be required to explain its reasoning to the responsible State Government agency.

In keeping with the recommended alignment to the State procurement framework, a model procurement policy should be developed that is consistent, as much as practicable, with the State rules that apply for purchasing goods under the tender threshold. The Panel believed development of a model procurement policy would assist local governments with the procurement process and increase consistency between local governments. If a local government chose to deviate from the model, local governments should have to justify the deviation by explaining their reasoning.



47. The Panel recommends enhancing legislation to regulate and guide the establishment and management of panel contracts.

It was acknowledged that local government preferred supplier panels are important and need to be retained; however, their establishment and operation needs to be regulated. The Panel supported the continuance of the WALGA Preferred Supplier Panel, subject to regular oversight and checks and balances to ensure that it is constituted correctly and there is accountability.

48. The Panel recommends a requirement for local governments to have an open register of local businesses with local governments determining what is considered 'local' to their community.

The Panel recommended the introduction of an open register of local businesses where local businesses can register with the local government and outline the services and goods they provide. This will assist local governments to support local businesses when procuring goods under the tender threshold, and in informing them of open tenders. Local governments should determine what is considered 'local' to their community.

49. The Panel recommends breaches of the local government procurement rules to be referred to the Office of the Independent Assessor to use the appropriate powers under the new Local Government Act.

There are currently limited penalties for non-compliance with the procurement rules in the Local Government Act. The Panel supported the compliance model in the State Government procurement rules whereby greater oversight and less autonomy is the result of compliance breaches and believed the Office of the Independent Assessor should have the power to address cases of non-compliance. (See Recommendation 54 for more information on the Office of the Independent Assessor).

Rating and Revenue

50. The Panel recommends:

- a. **Rate capping should not be introduced.**
- b. **Local governments should be required to develop and publish a rates and revenue strategy, that would amongst other things replace the need to have fees and charges set in the annual budget.**
- c. **The Economic Regulatory Authority (ERA) should be asked to undertake a review of the rating system, including a thorough examination of the case for the current wide range of exemptions.**
- d. **The current rates exemptions should be retained until after the ERA review.**
- e. **Property owners seeking an exemption should be regularly required to prove they meet the criteria for an exemption.**
- f. **Local governments should charge a separate waste charge applying to all properties which have a waste service, including exempt properties.**



g. The Valuer General should be asked to undertake a review of the rating methodology with the aim of smoothing out significant fluctuations in valuations.

The Panel noted the importance of rates as local government's principal own source revenue, but equally the need to ensure transparency and fairness in the way rates are calculated and imposed.

With local governments increasingly being required to provide more services and to a higher level to their communities, as well as maintaining their existing assets, the Panel noted that there is concern as to how local governments will continue to fund this in the future given their limited revenue sources.

Of all revenue sources, the most important own source revenue for local governments is rates revenue. Local governments are permitted to impose differential general rates according to land zoning, land use (including if the land is vacant) or a combination of the two.

The Panel was supportive of local governments being required to develop a rates and revenue strategy, as is in place in other jurisdictions. The strategy would include the schedule of fees and charges set by local governments (currently included in the budget), the methodology where the fees are set at cost recovery, the rate/s in the dollar and associated objects and reasons for differential general rates. This would increase transparency for ratepayers and enable local governments to demonstrate the actual cost of services to consumers.

It was acknowledged that there are limitations on local governments' ability to raise revenue due to the current rate exemption categories. Rate exemptions result in local governments needing to cover the rates shortfall by other means, raising the funds from other groups of ratepayers or alternatively reducing services or asset maintenance.

It was accepted that there may be sound reasons why certain exempt categories should be retained, including linkages to State Government policies and initiatives. The Panel recommends that applicants should be required to prove each year that they still fit the criteria for the exemption, especially for organisations claiming charitable status.

51. The Panel recommends that local governments should be able to set reasonable fees and charges according to a rating and revenue strategy, with the oversight of the Audit, Risk and Improvement Committee.

52. The Panel recommends that local governments and State Government apply cost recovery principles when setting fees and charges.

While local governments have the power to set their own fees and charges generally, there are a number of fees and charges that local governments have no control over. Only a few of these are set under the current Local Government Act.

The Panel agreed that fees and charges set in legislation can provide consistency between local governments. It was also noted that while the fees and charges may be consistent, there is likely to be a different level of service provided by local governments.

It was also noted that while local governments are encouraged to adopt a cost recovery model when setting fees and charges, there may be circumstances where it is appropriate to set them lower for certain population groups (for example, seniors) or to encourage certain outcomes in the community.



Accountability, Self-Regulation and Integrity

Enhanced Accountability and Self-Regulation

53. The Panel recommends the role of audit committees be expanded to become Internal Audit, Risk and Improvement Committees and:

- a. The majority of the Committee members, including the Chair, should be independent of the local government and should be drawn from a suitably qualified panel.
- b. To address the impost on small local governments, the committee could be established on a regional basis.

54. The Panel recommends the main roles of the Audit, Risk and Improvement Committee should include:

- a. Developing an audit plan which focuses on compliance, risk (including procurement), financial management, fraud control, governance and delivery of the Council Plans;
- b. Identifying continuous improvement opportunities and monitoring programs and projects in this area;
- c. Conducting the mandatory internal audits as outlined in the audit plan; and
- d. Providing advice to the council in relation to these matters.

The Panel supported the expansion and strengthening of the role of local government audit committees to become Audit, Risk and Improvement Committees. Moving to a principles-based Act and providing local governments with more autonomy emphasises the need for self-regulation. This requires a robust process for accountability and transparency, justifying the need for the committee to have an independent chair. The Panel also concluded that, given the committee's expanded and critical role, there should be a majority of members not associated with the local government in any way and appointed and remunerated for their skills.

This aligns with the changes occurring within the State Government and the Office of the Auditor General recommendations.

Audit, Risk and Improvement Committees should be required to review matters such as compliance, risk management, financial management, fraud control and governance of the local government.



The Panel was of the view that an Audit, Risk and Improvement Committee could have a role in providing advice to council on decisions across a range of matters, including good governance, financial and risk management, and continuous improvement. The Chair could have a more public role, including in addressing council on relevant matters, reporting at the Annual Community Meeting and preparing a statement in the local government's annual report.

To address cost and access to suitable personnel to take on this role, regional Internal Audit, Risk and Improvement Committees should be permitted. In addition, consideration should be given to establishing a panel of approved independent members from which councils could choose.



Renewed Focus on Integrity

55. In relation to governance, the Panel recommends:

- a. Meeting procedures are standardised across all local governments, allowing for both a committee system and a public briefing system.
- b. Elected members should be required to lodge a declaration of interest as well as a confirmation of impartiality prior to meetings.
- c. Elected members who believe that they are unable to maintain impartiality on a particular matter should be permitted to withdraw from that part of the meeting provided a quorum is maintained. 
- d. All votes should be recorded in the minutes on each motion with details of how each councillor voted.
- e. As a minimum, audio recordings of public parts of council meetings should be available on the local government's website when the minutes become available, with livestreaming to be encouraged.
- f. CEO contracts should be standardised and consistent with the Public Sector Commission's policy and relevant conditions for public sector employees.
- g. CEO contracts should be no more than five years and after two terms the local government must readvertise the position. 
- h. The department should facilitate additional oversight in the recruitment and management processes of CEOs. This could include representation on the selection panel and/or screening of applicants.
- i. Primary and Annual Returns should include disclosure of membership of political parties and associations likely to be seen as exerting an influence on decision-making.

The Panel discussed ways to ensure council decision-making was transparent and accountable. It recommends that not only should actual conflicts of interest be declared before the council meeting, but that each councillor should make a declaration in relation to any item on the agenda on which they may not be impartial. This would include, for example, items where they had taken a public position or lobbied in relation to the matter before the meeting. If the councillor believes that they are unable to put those interests aside and make a decision in the best interests of the district as a whole, the person should be able to remove themselves from the meeting for that item, providing a quorum is maintained so that a vote can be taken. A declaration prior to the meeting would assist the CEO in determining whether or not a quorum is available for a matter.

While webcasting (livestreaming) of council meetings was preferred, given the technology constraints that could be experienced by some local governments, audio recordings of the meetings was considered as a practical minimum to ensure greater transparency in the decision making process. These recordings would be State records under the *State Records Act 2000*. The recordings should be required to be published on the website by the time the minutes were published.

The Panel agreed that the department should play an active role in assisting the council in the CEO recruitment and performance review processes. Another option is that prior to selection, the



Department could provide a reference check and possible recommendations for training for the shortlisted candidates for the positions of CEO.

To increase transparency and foster greater trust in local government, the Panel believed that elected members should declare in their Primary and Annual Returns interests that could be perceived as affecting decision-making. This would include membership of political parties, business associations and the holding of any office in an incorporated association such as a sporting club.

Expanded Requirements for Training and Professional Development

56. The Panel recommends the following in relation to training:

- a. **New CEOs (including CEOs moving to a substantially larger local government) should be required to undertake training and ongoing professional development as recommended by the selection panel.**
- b. **There should be compulsory induction training and ongoing professional development for all councillors, including specific programs for mayors and presidents.**
- c. **Training modules for all councillors should include in-depth material on IPR and land use planning.**
- d. **The Minister should have discretion to exempt completion of training within the stipulated time on compelling grounds.**
- e. **Expanded use of peer review and support should be encouraged both to help improve the performance of individuals and local governments.**

The Panel discussed the importance of training for elected members, including training beyond the foundation units in such areas as land use planning. Additional training should also be required of mayors and presidents to provide them with such skills as leadership, conducting meetings and managing disputes. Training for new CEOs was also considered vital so that they had knowledge across the whole portfolio of their responsibilities. This need should be identified during the recruitment process and training should commence shortly after appointments are made. The Department could also identify training needs in CEOs and senior staff and advise the relevant mayor/president.

A New Early Intervention Framework

57. The Panel recommends that there should be an early intervention framework of monitoring to support local governments. The department should have additional powers to appoint and support the monitor with councils responsible for the direct costs of the monitor.

The Panel agreed that the department should assist councils through early intervention to remedy weaknesses and provide mentoring and support. This would be in addition to the department's role in policy development, legislation and statutory approvals.

A key benefit of an early intervention model would be the ability for the department to work with local governments to improve their performance, governance and compliance with legislation and to strengthen the capacity of local governments.



This model should enable the department to appoint a monitor to support local governments that are experiencing governance issues. The role of a monitor would be to observe governance processes and report back on issues; provide advice to councils that are experiencing governance issues, and to make recommendations to the Minister for Local Government for further action. The relevant council should be advised of the terms of the monitor appointment.

The Panel saw value in a power to extend the role of a monitor to temporarily take over certain functions of a local government when good governance practices are not being adopted or services are not being delivered to segments of the community.

They also saw value in Department staff having the right of access to council meetings, including closed meetings.

58. The Panel recommends the Minister should have the power to direct local governments and make declarations in respect to the Local Government Act during a declared state of emergency.



The COVID-19 situation has highlighted the need for the Minister to be able to direct local governments and make declarations without having to apply to the State Emergency Coordinator so that the Local Government Act can be applied flexibly and adapt to the changing environment of an emergency.

Establishment of an Office of the Independent Assessor

59. The Panel recommends establishing an Office of the Independent Assessor that should:

- a. Be an independent body to receive, investigate and assess complaints against elected members and undertake inquiries. This removes the CEO from being involved in processing and determining complaints.
- b. Be a statutory appointment by the Governor.
- c. Upon assessment, refer the complaint back to the council (behaviour-related), the State Administrative Tribunal (SAT) (serious breaches), or to another appropriate body (such as, Corruption and Crime Commission, Public Sector Commission, Ombudsman) according to the subject of the complaint.
- d. Replace the Standards Panel by investigating and making determinations on Rules of Conduct breaches. SAT will determine the penalties.
- e. Amongst other powers, have the power to investigate, to order compulsory mediation and to deal with abuses of process.
- f. Be required to notify the CEO and council of any matters on a confidential basis.

60. The Panel recommends consideration should be given to the appropriate recognition and management of complaints by an elected member against a CEO or other senior officer, with one option for these to be investigated by the Office of the Independent Assessor.





The Panel considered the range of bodies that currently play a role in ensuring the integrity of local governments. They supported the continuation of the Ombudsman's role in dealing with complaints related to local government administrative decisions.

The Panel supported the creation of an Office of the Independent Assessor, an independent "one stop shop" body to investigate and assess complaints against elected members. The Independent Assessor could assess and prioritise all complaints and, depending on the outcome of its investigations, refer it to the relevant agency. This could include the Corruption and Crime Commission, the Public Sector Commission, or the State Administrative Tribunal for mediation, possible further investigation and determination of a sanction/s. Where a complaint involves behaviour it could be referred back to the council to deal with under Part B of the new Code of Conduct provisions. It was suggested that the Queensland model for an Independent Assessor may provide appropriate guidance.

The Office of the Independent Assessor would require a team of investigators and the Panel considered that the Office could take over the department's current role in conducting inquiries and investigations. The Independent Assessor could advise the Minister on suspension and dismissals of elected members and councils. It could also have powers to make recommendations to the State Administrative Tribunal and local governments.

The Office of Independent Assessor would replace the Standards Panel, and have the power to investigate complaints of breach of Part C of the Code of Conduct. Its findings in relation to breaches of conduct could be referred to the State Administrative Tribunal for imposition of the penalty.

The Panel considered that there should be a power under the Act for the appointment of an acting CEO to temporarily take the place of a CEO if an investigation by the Office of Independent Assessor reveals serious deficiencies in the way the local government is administered.



Other Matters

Classification Bands

61. The Panel recommends:

- a. The new Act should set principles for determining classification bands for local governments.
- b. These classification bands should be used by the Salaries and Allowances Tribunal for determining councillor and CEO payments, as well as providing a framework for distinguishing between local governments in relation to other matters.



The Panel was of the opinion that the principles behind the setting of bands for the payment of salaries and allowances should be set in the new Local Government Act, rather than by the Salaries and Allowances Tribunal, with the Tribunal responsible for the setting of the monetary figures for each category.

These bands should have wider application; being used to determine whether a local government should have wards, as an example. This would create a level of consistency in treatment of local governments considered to be similar according to the principles.

Local Laws

62. The Panel recommends the increased harmonisation of local laws through the development of model local laws and deemed provisions.

63. The Panel recommends requiring local governments to justify to the Joint Standing Committee on Delegated Legislation any variation from the model or deemed provisions.

The Panel saw merit in laws being harmonised throughout the State; however, agreed that there should be flexibility for local governments to tailor local laws to address certain, limited, local matters.

The Panel also saw value in the introduction of deemed provisions which operate in a manner similar to the Planning and Development deemed provisions regulations. Deemed provisions are essentially uniform local laws which will operate across the State. They can also be amended from time to time and will override any inconsistent local laws.

The benefit of deemed provisions is that there is more consistency across the State for matters where harmonisation is considered important. It also reduces the need for local governments to develop their own laws with the accompanying capability and capacity implications.

The development of model local laws which complement the deemed provisions will allow local governments the flexibility to introduce specific provisions to their districts. The "local" would be delivered through the identification of certain elements that could be district or region specific, with the council having the power to specify these.

The Joint Standing Committee on Delegated Legislation, in approving the model local laws or deemed provisions, would approve the extent to which these could be altered without referral back to the Committee. Further public consultation would not be required on these variations but could be undertaken by the local government.



The use of model local laws and deemed provisions would reduce the administrative burden on local governments to consult. If a local government wanted to introduce provisions outside the model or deemed provisions, consultation would be required and the law would need to be scrutinised by the Joint Standing Committee on Delegated Legislation. The local government should have to justify to the Committee why such a deviation was necessary or desirable.

The Panel also supported a restriction on the range of matters over which a local government could introduce a local law; with approval necessary outside of this.

Western Australian Local Government Association

64. In relation to WALGA, the Panel recommends:

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



The Panel deliberated the merits of WALGA being constituted under the Local Government Act and determined that it was not appropriate to incorporate a member body under this legislation. This created confusion as to the extent of the Minister's powers over the organisation and WALGA's level of independence.

More appropriate legislation would appear to be the *Associations Incorporation Act 2015*. Transitional provisions should be included in the new Local Government Act to allow for the orderly reconstitution of WALGA without affecting their operations.

This change would not restrict the new Act (or other Acts) from referencing WALGA membership on boards and committees.

The Panel saw merit in the sector being able to use its aggregated buying power through use of WALGA's preferred supplier program and their mutual insurance coverage. Recognition of these initiatives in the legislation should be accompanied by a power for the Auditor General to conduct regular audits of these programs and related processes.



Operational Provisions

65. The Panel also identified the following operational matters to be considered when drafting the new Act:

- a. The powers of entry in the current Local Government Act should be retained.
- b. The current evidence requirements in legal proceedings should be retained, however the requirement for the CEO to certify the documents should be removed. This should be delegated and the range of items that can be certified expanded after consultation with local governments.
- c. The new Act should be updated to reflect the modern signing of contracts.
- d. A more streamlined ability to dispose of impounded goods needs to be developed for the new Act.
- e. The new Act should enable councillors and members of the community (in the case of public questions and deputations) to remotely participate in council and committee meetings.
- f. *Employment entitlements for local government employees should be transferrable across all three levels of Government.*





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

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

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

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

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

Recommendations

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

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



Executive Summary

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

WALGA Process

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

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

Attachment

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

Comment

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



CLEAR LEGISLATIVE INTENT

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

Local Government Act Reference: Part 1

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

Recommendation 2 introduces a new statement of intent that will explain the legislations purpose:
An Act to provide for a system of local government relevant to Western Australia that develops and supports sustainable, accountable, collaborative and capable local governments through democratic representation, the provision of services, opportunities and enhanced well-being for each and every community.

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

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

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

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

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

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

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

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

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

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

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



AN AGILE SYSTEM

Recommendations 8 to 11 - Structural Reform

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

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

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

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

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

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

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

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

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

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

⁸ State Council Resolution 06.3/2019



Recommendations 12, 13 and 14 - Expanded Regional Cooperation

Local Government Act Reference: Part 3, Division 4

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

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

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

WALGA Recommendation: Support Recommendations 12, 13 and 14.

Recommendation 15 - State Local Government Partnership Agreement

Local Government Act Reference: Section 3.18

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

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

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

WALGA Recommendation: Support Recommendation 15.

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

¹⁰ State Council Resolution 06.3/2019

¹¹ State Council Resolution 2.1/2012



INCLUSIVE LOCAL DEMOCRACY

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

Local Government Act Reference: Not mandated

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

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

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

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

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

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

Recommendation 19 - Optional Preferential Voting

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

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

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

¹² State Council Resolution 118.5/2012

¹³ State Council Resolution 64.3/2014

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

¹⁵ State Council Resolutions 185.2/2007 and 427.5/2008



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

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

Recommendations 20, 21 and 27 - Review of Property Franchise

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

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

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

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

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

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

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

Local Government Act Reference: Section 4.5

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

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

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

¹⁶ *Local Government Amendment (Elections) Act 2009*

¹⁷ City of Perth Inquiry Report, Recommendation 144



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

Local Government Act Reference: Section 4.20 and 4.61

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

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

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

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

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

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

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

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

Local Government Act Reference: Section 2.17

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

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

¹⁸ State Council Resolution 06.3/2019

¹⁹ State Council Resolution 16.1/2016

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



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

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

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

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

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

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

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

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

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

²² State Council Resolution 06.3/2019; 121.6/2017

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



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

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

Recommendations 28 to 32 - Redefinition of Roles and Responsibilities

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

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

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

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

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

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

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

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

Recommendations 33 and 34 – Community Engagement and Governance

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

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

²⁴ State Council Resolution 123.6/2017

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



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

WALGA Recommendation: Support Recommendations 33 and 34.

Recommendation 35 – Annual Engagement with Electors

Local Government Act Reference: Sections 5. 27

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

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

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

²⁶ State Council Resolution 06.3/2019

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



SMART PLANNING AND SERVICE DELIVERY

Recommendations 36 and 37 - Enhanced Integrated Planning and Reporting

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

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

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

WALGA Recommendation: Support Recommendations 36 and 37

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

Local Government Act Reference: Section 3.18

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

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

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

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

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

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

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



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

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

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

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

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

Recommendations 39 to 42 - Local & Joint Subsidiaries

Local Government Act Reference: Part 3, Division 4

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

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

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

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

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

³⁰ State Council Resolution 78.5/2018

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

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



Recommendations 43 and 44 - Modernise Financial Management

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

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

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

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

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

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

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

WALGA Recommendation: Support Recommendations 43 and 44

Recommendation 45 to 49 - Procurement

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

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

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

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

³³ State Council Resolution 06.3/2019

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

³⁵ State Council Resolution 06.3/2019



Recommendations 50, 51 and 52 - Rating and Revenue

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

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

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

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

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

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

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

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

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

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

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

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

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

³⁹ State Council Resolution 06.3/2019; 123.6/2017

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

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



ACCOUNTABILITY, SELF-REGULATION AND INTEGRITY

Recommendations 53 and 54 - Accountability and Self-Regulation

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

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

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

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

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

Recommendation 55 – Integrity and Governance

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

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

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

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

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

⁴² State Council Resolution 7.1/2018

⁴³ State Council Resolution 145.7/2019



Recommendation 56 – Training and Development

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

Recommendation 56 updates the recently introduced Elected Member training provisions.

WALGA Recommendation: Support Recommendation 56

Recommendation 57 and 58 – Early Intervention Framework

Local Government Act Reference: Part 8

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

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

WALGA Recommendation: Support Recommendation 57. Oppose Recommendation 58.

Recommendations 59 and 60 – Office of the Independent Assessor

Local Government Act Reference: Part 8; Section 5.41

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

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

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

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

⁴⁴ State Council Resolution 43.2/2011

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



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

WALGA Recommendation: Support Recommendation 59. Oppose Recommendation 60.



OTHER MATTERS

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

Local Government Act Reference: Schedule 2.2

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

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

WALGA Recommendation: Oppose Recommendation 61.

Recommendations 62 and 63 - Harmonisation of Local Laws

Local Government Act Reference: Section 3.5 to 3.17

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

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

WALGA Recommendation: Support Recommendations 62 and 63

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

⁴⁷ State Council Resolution 06.3/2019



Recommendation 64 - WALGA

Local Government Act Reference: Section 9.58

Recommendation 64 recommends the following in respect to WALGA;

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

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

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

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

Recommendation 65 – Operational Provisions

Local Government Act Reference: Various

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

WALGA Comment – The proposals align with WALGA's advocacy to the extent that the new Local Government Act be based on a flexible, principles-based legislative framework that avoids red tape and 'de-clutters' the current extensive regulatory regime.⁴⁸ There is general support is therefore for these operational provisions, however Recommendation 65(f) – transfer of employee entitlements across all three levels of Government – though well intended is highly likely to raise extensive legal, industrial and financial ramifications prior to being capable of implementation. Further research and industrial consideration is therefore inevitable.

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

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

9. REPORTS FROM KIMBERLEY REGIONAL GROUP

9.1 KIMBERLEY REGIONAL GROUP FINANCIAL ACTIVITY STATEMENT 30 JUNE 2020

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	KRG01; RCG01
AUTHOR:	Director Corporate Services
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director Corporate Services
DISCLOSURE OF INTEREST:	Nil

SUMMARY:

This report presents the Kimberley Regional Group Financial Activity Statement for the period ended 30 June 2020. The report recommends that the Kimberley Regional Group (KRG) receives the Financial Activity Statement.

BACKGROUND

Previous Considerations

Joint Meeting 30 April 2019	Item 9.8
Joint Meeting 6 August 2019	Item 9.4
Joint Meeting 3 December 2019	Item 9.3
Joint Meeting 3 December 2019	Item 9.4

The 2019/20 KRG Annual Budget was adopted at the 30 April 2019 Joint Meeting. The Annual Budget was adopted with a \$120 surplus.

COMMENT

At its 3 December 2019 Joint Meeting the KRG received and endorsed the Annual Financial Statement for the period ending 30 June 2019. The Annual Financial Statement for the period ending 30 June 2019 included a carry-forward surplus of \$302,610.

The KRG 2019/20 Adopted Budget included the following carryover projects:

1. \$5,000 Kimberley Land Tenure Project
2. \$66,000 Tanami Road Business Case.

Additional carryover projects identified through the Annual Financial Statement include the following items:

1. \$36,000 carryover for the Kimberley Volunteer Strategy which was due for completion in March 2020.
2. \$10,000 carryover for ICT and Office 365 Improvements not completed in 2018/19 but required in 2019/20.

The KRG 2019/20 Annual Budget has been adjusted to recognise these additional carryover projects.

The following projects and activities were budgeted for completion in 2019/20. Updates are provided for each below.

1. Kimberley Volunteering Strategy

\$36,000 grant.

Final document has been received and the grant acquittal has been finalised.

2. Takeaway Alcohol Management System

Original budget \$115,000 comprised of \$100,000 grants and \$15,000 KRG funds; Actual budget \$175,000 comprised of \$100,000 KRG funds, \$50,000 Shire of Broome funds, \$25,000 WAPOL grant.

Following the adoption of the KRG Budget for 2019/20 the group recognised the need to contribute funds to Alcohol Management Initiatives in lieu of available grant funding. At the 6 August 2019 Joint Meeting the group endorsed a \$100,000 allocation of funds to support the project. This required an additional transfer of \$85,000 from the KRG surplus. The budget for the project was reduced by \$15,000 to reflect the adjustment.

The Shire of Broome allocated a further \$50,000 to the project at their Ordinary Meeting held 29 August 2019 and a \$25,000 grant contribution was secured through Community Safety Grants via WAPOL. This brought the total allocation to \$175,000.

The project has been deferred following an inability to reach voluntary agreement on restrictions.

No funds have been expended and it is proposed allocations originally drawn from the KRG surplus are returned. \$25,000 in grant funds were received for system reporting and project close-out activities and officers are working through how these funds are acquitted. The \$50,000 allocation from the Shire of Broome has been returned.

3. Tanami Road Business Case

\$66,000

Project deferred and funds proposed to be returned to surplus.

4. Savannah Way Business Case and Membership

\$10,000

Project deferred and funds proposed to be returned to surplus.

The impact of COVID-19 has resulted in less face to face meetings which has resulted in a reduction of expenditure and corresponding reimbursed income.

Zone Executive expenditure has been slightly less than budgeted due mainly to the impact of COVID-19 in the later half of the year. Expenditure has also been reduced due to several key projects being deferred i.e. Takeaway Alcohol Management System.

Financial Position

The final budget position, pending the finalisation of the end of year financials, indicates a \$288,700 surplus.

This is primarily due to the deferment of major projects including Alcohol Management Initiatives (\$137,727) and the Tanami Road (\$66,000) as well as several smaller projects such as the Kimberley Waste Management Plan, Kimberley Regional Education / Business Case, Kimberley Land Tenure Implementation Plan and the Savannah Way Business Case Implementation. It is suggested that these funds are returned to the Kimberley Regional Group surplus.

\$10,000 was allocated to ICT Improvements however this project is still a work in progress. It is requested that \$10,000 is carried over to the 2020/21 financial year to allow officers to finalise those works.

\$5,000 was allocated to Savannah Way group membership. Officers discussed this membership with members in December 2019 and have since formed the view that the membership is delivering little value. It is recommended that these funds are returned to surplus and the membership discontinued.

Executive Officer consultation fees were slightly under budget overall mainly due to the reduction in operations during and post COVID-19 however officers are comfortable that the funds allocated are commensurate to the groups needs.

CONSULTATION

Nil.

STATUTORY ENVIRONMENT

Local Government Act 1995

FINANCIAL IMPLICATIONS

As at 30 June 2020 the Kimberley Regional Group 2019/20 budget surplus was \$288,700.15. This surplus will be confirmed following the finalisation of the end of year financials.

The results in a \$443,157.42 total surplus including \$154,457.27 of reserve funds.

Acct Code	Account	Original Budget	Current Budget	Actual
OPENING SURPLUS CARRY FORWARD				
100235970	Kimberley Zone - Transfer to Kimberley Zone Reserve - Cap Exp - MUN	-\$302,610.00	-\$302,610.00	-\$302,610.00
CAPITAL INCOME				
100235980	Transfer From Kimberley Zone Reserve - Cap Inc - Kimberley Zone MUN	-\$70,880.00	-\$148,152.73	-\$148,152.73
TOTAL CAPITAL INCOME		-\$70,880.00	-\$148,152.73	-\$148,152.73
REMAINING SURPLUS		-\$231,730.00	-\$154,457.27	-\$154,457.27
OPERATING EXPENDITURE				
100221290	Kimberley Zone - Zone & RCG Meeting Expenses - Op Exp MUN	\$25,000.00	\$25,000.00	\$8,180.56
100221310	Kimberley Zone - Meetings - Op Exp MUN	\$7,000.00	\$7,000.00	\$0.00
100221320	Kimberley Zone - Darwin Forum - Op Exp MUN	\$20,000.00	\$20,000.00	\$819.00
100221340	Kimberley Zone - Annual Financial Audit - Op Exp MUN	\$5,000.00	\$5,000.00	\$4,170.00

100221360	Kimberley Zone - IT Support - Op Exp MUN	\$1,500.00	\$1,500.00	\$33.00
100221370	Kimberley Zone - Sundry Expenses - Op Exp MUN	\$1,000.00	\$1,000.00	\$0.00
100221430	Kimberley Zone - Savannah Way Membership - Op Exp MUN	\$5,000.00	\$5,000.00	\$0.00
100221810	Kimberley Zone - Executive Consultancy - Op Exp MUN	\$112,320.00	\$112,320.00	\$117,392.00
100221820	Kimberley Zone - Administrative Consultancy - Op Exp MUN	\$32,560.00	\$32,560.00	\$18,900.00
104052340	Kimberley Zone - Volunteering Strategy - Op Exp MUN	\$0.00	\$36,000.00	\$43,000.00
104052350	Kimberley Zone - Alcohol Management Initiatives - Op Exp MUN	\$115,000.00	\$137,727.18	\$0.00
104052370	Kimberley Zone - ICT & Office 365 Improvements - Op Exp MUN	\$0.00	\$10,000.00	\$0.00
104052380	Kimberley Zone - Kimberley Waste Management Plan - Op Exp MUN	\$10,000.00	\$10,000.00	\$0.00
104052390	Kimberley Zone - Kimberley Land Tenure Implementation Plan - Op Exp MUN	\$5,000.00	\$5,000.00	\$0.00
104052400	Kimberley Zone - Kimberley Regional Education / Training Business Case - Op Exp MUN	\$8,000.00	\$8,000.00	\$0.00
104052410	Kimberley Zone - Savannah Way Business Case Implementataion Plan - Op Exp MUN	\$5,000.00	\$5,000.00	\$0.00
104052430	Kimberley Zone - Tanami Business Case - Op Exp MUN	\$66,000.00	\$66,000.00	\$0.00
104052970	Kimberley Zone - Admin Cost Allocated - Op Exp MUN	\$0.00	\$396.00	\$445.00
TOTAL OPERATING EXPENDITURE		\$418,380.00	\$487,503.18	\$192,939.56
OPERATING INCOME				
100230130	Kimberley Zone - Reimbursement Zone & RCG Meetings Expenses - Op Inc MUN	-\$22,000.00	-\$22,000.00	\$0.00
100230180	Kimberley Zone - Reimbursement Meetings - Op Inc MUN	-\$3,000.00	-\$3,000.00	\$0.00
100230190	Kimberley Zone - Reimbursement Darwin Forum - Op Inc MUN	-\$20,000.00	-\$20,000.00	-\$6,753.63
100230210	Kimberley Zone - Members Contribution Secretariat Costs - Op Inc MUN	-\$200,000.00	-\$200,000.00	-\$200,000.00
100235360	Kimberley Zone - Interest on Reserve - Op Inc. MUN	-\$2,500.00	-\$7,485.00	-\$4,006.17
10405385	Kimberley Zone - Alcohol Management Initiatives Grant	-\$100,000.00	-\$122,727.18	-\$122,727.18
TOTAL OPERATING INCOME		-\$347,500.00	-\$375,212.18	-\$333,486.98
TOTAL CAPITAL INCOME		-\$70,880.00	-\$148,152.73	-\$148,152.73
TOTAL OPERATING EXPENDITURE		\$418,380.00	\$487,503.18	\$192,939.56
TOTAL OPERATING INCOME		-\$347,500.00	-\$375,212.18	-\$333,486.98
TOTAL		\$0.00	-\$35,861.73	-\$288,700.15
SURPLUS/DEFICIT				
<i>**Current Surplus = Actual Income less Actual Expenditure + Opening Surplus</i>				
		-\$231,730.00	-\$190,319.00	-\$443,157.42

STRATEGIC IMPLICATIONS

Governance Goal – A collaborative group demonstrating strong regional governance:

Effective governance protocols and systems for business efficiency and improved services through collaboration

VOTING REQUIREMENTS

Simple Majority

MOTION:

(REPORT RECOMMENDATION)

Moved: G Haerewa

Seconded: Cr C Mitchell

That the Kimberley Regional Group:

- 1. Notes the 2019/20 budget surplus position of \$288,700 as at 30 June 2020;**
- 2. Notes the \$443,157.42 total surplus position;**
- 3. Notes that the final end of year position and total surplus position will be confirmed and presented to the group as part of the 2019-20 Annual Financial Report following the annual audit; and**
- 4. Receives the Financial Activity Statement for the period ended 30 June 2020;**

CARRIED UNANIMOUSLY 4/0

Attachments

Nil

9.2 ADVOCACY AGENDA 2020 - INFRASTRUCTURE

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	KRG01
AUTHOR:	Zone Executive
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director Corporate Services
DISCLOSURE OF INTEREST:	Nil

SUMMARY:

To provide members with an outcome of the workshop on regional priority projects and alignment of the projects to the Advocacy Agenda.

BACKGROUNDPrevious Considerations

Nil.

COMMENT

The Kimberley Regional Group governance procedure requires that, by no later than October each year, a report be developed that highlights:

- a. The major advocacy items for the KRG, derived from the priorities set by the KRG.
- b. Includes sufficient information to inform the State and Commonwealth budgetary process.

In 2018/19 a regional approach was used in the successful advocacy for the initial funding of the Tanami Road (announced in the 2019 State Budget). In 2019/20 the Advocacy Agenda included ten Kimberley priorities as follows:

1. Supply Chain Resilience
2. Global market Access
3. Addressing Anti-Social Behaviour
4. Growing Tourism
5. Youth Employment
6. Improved Waste Management
7. Affordable Energy
8. Fit for Purpose Taxation
9. Telecommunications
10. Access to funding (Building our Tomorrows)

The 2020/21 process remains consistent with the development of the Advocacy Agenda, which is based on the priorities in the Strategic Community Plan and Business Plan. This year the approach has been to identify specific projects that facilitate the progress of one or more of the identified advocacy priority areas and also supports the COVID-19 economic recovery through both construction and longer term employment. Given the scale and diversity of possible projects, the concepts were workshopped with the following criteria being applied to create a short list of projects for consideration:

1. Deliver local jobs and business opportunities during project construction and over the longer term.
2. Projects should be "shovel ready" (or where a high priority project that requires planning/business case development), deliverable within a 3 year period.
3. Leverage existing projects or deliver investment growth.
4. Facilitate resilience.
5. Are related to local government (such as LG project coordination, use of LG land etc) and/or are State Government or Traditional Owner Projects.

The short-listed projects were then mapped against the Advocacy Agenda as shown in the following table, noting not all Advocacy Agenda items had associated infrastructure projects in the 2020 advocacy round including taxation reform, telecommunication and affordable energy.

Key Projects to progress the Kimberley Regional Group Advocacy Agenda	Supply Chain Resilience	Global market Access	Growing Tourism	Addressing Anti-Social Behaviour	Youth Employment	Improved Waste Management
Tanami Road Upgrades	YES	YES	YES			
Warburton Derby Port Basin Development	YES	YES				
East Kimberley Regional Airport Runway Extension	YES	YES	YES			
Cable Beach Foreshore Redevelopment			YES			
Broome Boating Facility			YES			
Derby Wharf Precinct Masterplan and Social Development (Stage 1)				YES		
Fitzroy Crossing Recreation Centre Rebuild and Precinct Masterplan				YES		
East Kimberley Leisure and Aquatic Centre				YES		
Erwin Early Learning Centre Expansion					YES *	
Regional Resource Recovery Park						YES
Broome Recreation and Aquatic Centre (BRAC) Renewal				YES		
Halls Creek Town Development Masterplan				YES		

*Competition of limited childcare places is currently impeding work opportunities for young mothers and carers.

CONSULTATION

Nil.

STATUTORY ENVIRONMENT

Local Government Act 1995

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Governance Goal – A collaborative group demonstrating strong regional governance:

Secure funding for regional initiatives

Recognition of Kimberley Local Government issues and opportunities

Alignment and integration of regional and local priorities for member Councils.

Natural Environment Goal – Responsible management of the environment:

Integrated waste management

Built Environment Goal – Improved and secure transport, communications, community and essential services:

Liveable towns supporting regional communities

Improved regional arterial road network, ports and airports

High standard of infrastructure planning

Community Goal – A vibrant community based on equity, inclusion and opportunity for all:

Greater participation in the community and workforce

Economy Goal – A sustainable and diverse economy:

Improved outcomes in employment

Sustainable tourism market and tourism experiences

Sustainable Local Government revenue

Improved regional infrastructure

VOTING REQUIREMENTS

Simple Majority

MOTION:

Moved: Cr C Mitchell

Seconded: G Haerewa

That the Kimberley Regional Group:

- 1. Notes the Draft Kimberley Infrastructure Prospectus as attached.**
- 2. Notes that the finalised Kimberley Infrastructure Prospectus will be considered via circular resolution.**

CARRIED UNANIMOUSLY 4/0

Attachments

1. Draft Kimberley Investment Prospectus



Draft
2020/2021

Kimberley Regional Group

KIMBERLEY INVESTMENT PROSPECTUS



Shire of Derby /
West Kimberley





Kimberley Regional Group

The Kimberley Regional Group (KRG) is an alliance of the four Shires of the Kimberley, being the Shire of Broome, the Shire of Derby West Kimberley, the Shire of Halls Creek and the Shire of Wyndham East Kimberley. Collaboratively the group seeks to improve the outcomes for the region through improved social, economic and cultural outcomes. Covering 419,558sq/kms and home to 36,000 people, with approximately half of those identifying as Aboriginal, the region is undergoing a transformation. The agricultural sector is diversifying from its pastoral roots with significant irrigated agricultural production through the Ord River Scheme now complimented by centre pivot irrigation that makes use of the underground water reserves.

Shire of Broome

The Shire of Broome is located in the south-west Kimberley in the far north of Western Australia and covers approximately 56,000 square kilometres. Boasting a coastline of 900 kilometres including the world-famous Cable Beach and much of the Dampier Peninsula, the Shire is home to 16,222 people and has the largest town in the Kimberley (Broome).

Shire of Derby West Kimberley

The Shire of Derby-West Kimberley has a population of 8,253 and covers an area of 119,842 square kilometres. Spanning from Derby to Fitzroy Crossing and beyond, the Shire includes much of the Fitzroy River catchment along with popular tourist attractions such as the western end of the Gibb River Road, Tunnel Creek, Windjana Gorge and Horizontal Falls. The Shire provides services to 54 Aboriginal Communities throughout the Fitzroy Valley.



The resources sector offers prospects with the growing market for tech-metals and other products such as onshore oil and gas, stimulating exploration and extraction in the region. Infrastructure investments, both committed and planned, will increase the viability of those projects on the global stage. The Shires have an excellent record of project planning and delivery and boasts award winning projects. Tourism has been flourishing with a 21% increase in the 2019 season with 474,000 overnight visitors. The region has strong foundations but, like many other places in the world, has felt the impact of COVID-19 as markets softened across our foundation industries of tourism, mining and agriculture with roll on impacts to other sectors.

Shire of Halls Creek

The Shire of Halls Creek has significant resource sector opportunities including, gold, copper and dysprosium. With a population of just under 3,300 with 74% identifying as Aboriginal, the Shire covers an area of 143,030sq/km including significant Aboriginal communities, World Heritage listed Purnalulu National Park and Lake Gregory along with significant pastoral interests.

Shire of Wyndham East Kimberley

The Shire of Wyndham East Kimberley covers some 117,514sq/km and includes Wyndham Port, the Argyle Diamond Mine and the Ord River Scheme. The region has a number of national parks, nature reserves as well as conservation and marine parks. The Shire also has a number of Aboriginal communities.



IMAGE TO BE REPLACED

ABOUT THE KIMBERLEY INVESTMENT PROSPECTUS



The Kimberley is emerging as an investment hub with agriculture, tourism opportunities, mining and extraction. With a rich cultural history and proactive local governments, we are building the social and physical infrastructure which will see investments made today grow to be a solid portfolio for the future.

Each Shire in the Kimberley has put forward targeted projects that will generate jobs and investment growth as the region recovers from the impact of COVID-19. The projects are consistent with the planning framework and, when combined, provide a program of diversified works that stretches across the region. The projects in this Investment Prospectus have been grouped into the two categories - noting that there can be overlap - and have been assessed against the following five selection criteria.



Deliver local jobs and business opportunities during construction and in the longer term.



Are shovel ready or facilitate projects of regional significance.



Are related to local government (such as project coordination, use of local government land etc) and/or are State Government or Traditional Owner Projects.



Leverage existing projects and/or deliver investment growth.



Facilitate resilience

ECONOMIC PROJECTS

Whilst all projects will deliver some economic benefits, those classified as Economic Projects trigger further investment opportunities and directly assist industries such as tourism and freight logistics for sectors such as agriculture. Community benefits may also be derived.

SOCIAL PROJECTS

Social projects focus on infrastructure that is primarily of benefit to the local community and includes leisure centres, child services and waste recycling facilities.

THE IMPACT OF COVID-19

Estimation of the economic impact of COVID-19 on the Kimberley is challenging. Not only is there a considerable lag in the availability of economic data, early analysis on the Australian situation is only now becoming available. Deloitte has modelled the nominal national income in Australia and economic growth and the analysis suggested that COVID-19 will lead to the sharpest recession since the Great Depression of the late 1930's. That said, it is unlikely that the experience will be homogeneous. Some sectors may continue to operate with limited interruption, some are unlikely to survive whilst other businesses will potentially thrive.

The variation of impact for each economic sector at a national level has been recently investigated by IBISWorld. The level of disruption depends on the degree of exposure to international trade and the impact on business and consumer confidence. Accommodation and Food Services subdivisions within Retail Trade, and Mining are forecast to experience the highest impact.

Business investment, underpinned by business confidence, is critical to the growth of the economy. Underlying business investment to Gross Domestic Product in Australia contracted post 2014. Predictions are that investment may not improve until 2022 and beyond, necessitating governments at all levels to take up the investment mantle and underwrite projects and programs that deliver jobs and provide a foundation for further growth. This need is likely to continue to at least the end of FY 2023.



IMAGE TO BE REPLACED or
PERMISSION OBTAINED

JUNE 2020 QUARTER IMPACT

○ GRP CHANGE
-11.2%

○ LOCAL JOB CHANGE
-7.7%

○ LOCAL JOBS
-1183

○ LOCAL JOBS
(INCLUDING JOBKEEPER)
-2317

○ EMPLOYED RESIDENT
CHANGE
-7.2%

○ ACCOMMODATION &
FOOD SERVICE JOBS
-320

○ OTHER SERVICE JOBS
-152

○ EDUCATION AND
TRAINING JOBS
-157

DATA: Regional Development Australia (Kimberley).



ECONOMIC PROJECTS

The economy of the Kimberley is susceptible to shocks with the gross regional product changing significantly in recent times rising from \$1.94b to \$3.15b in 2016 before falling back down to \$2.74b in 2017.

The region now has a number of resource projects that have gone into hibernation, such as the Browns Range project, and those at end of life such as the Argyle Diamond Mine which contributed \$250million in resource production in 2017-2018.

Tourism is a major industry in the region and has been hard hit by the COVID-19 pandemic and the resulting border closures. The combination of resource sector changes and tourism performance in the 2020 season are likely to negatively impact on the GRP into 2021, with initial data to June 2020 estimating a fall of 11.2 percent and a contraction of over 2000 viable jobs (including those on Jobkeeper).

The agriculture industry appears to be weathering the storm however harvesting of the horticultural produce prior to wet season is a looming issue which could further suppress the regional economy.

The construction sector, which currently comprises 35 percent residential, 65 percent commercial, has grown 18 percent in 2020 financial year when compared to the previous twelve months with a total value of \$87.2 million. This remains a long way short of historical levels such as the \$127m recorded in the 2016 financial year.



This prospectus has a strong focus on transport infrastructure including the key access route provided by an upgraded Tanami Road, the upgrade of Derby Port to increase efficiency and the extension of the East Kimberley Regional Airport runway which will unlock a national, integrated program of collaboration for high value horticultural air-freight exports to Asia. The runway upgrades will also improve visitor access to the East Kimberley, including for tourism.

Tourism opportunities will also be enhanced through the Cable Beach Foreshore Redevelopment Project and the initiation of the revitalisation of the Derby Port Precinct to deliver an outcome to meet contemporary tourism expectations.

Together these projects will unlock jobs and further investment across the Kimberley region.

TANAMI ROAD

The Tanami Road remains the highest priority project for the Kimberley Regional Group. Funding was announced by State and Federal Governments in 2019 with works commencing in 2021. This allocation is not currently identified as a line item in the State Budget. Given the cashflows span 10 years, surety in relation to the forward estimates and beyond is a priority.

This project will deliver significant freight cost reduction, reducing by 1100km the distance to the south-east of Australia. It is also vital infrastructure for mining interests in the south eastern Kimberley region and into the eastern Pilbara area near the Northern Territory border.

Since the funding for the Tanami Road was announced, two new exploration corridors were announced by the Federal Government, the western corridor covering much of the Tanami Road. This \$125million "Exploring the Future" program is based on expert advice from Geoscience Australia as having high potential for new energy, minerals and groundwater resource discoveries. This will complement projects already underway including dysprosium, gold and potash projects. The Tanami Road upgrades will also positively impact on the pastoral industry with a potential increase of 100,000 head of cattle when all works are completed.

The Tanami Road also services an Aboriginal population of approximately 2000 people including including residents in Balgo, Bililuna and Mulan. A recent enquiry into food prices in remote communities found that transport costs were a major factor in unsustainably high costs. Improvements to the Tanami Road will help to address this imbalance and will reduce the costs of other services as travel times and risks associated with road closure due to flooding diminish.


PROJECT BENEFITS

- Supports Aboriginal Communities and decreases food and servicing costs.
- Consistent with the \$125m Commonwealth Government Exploring the Future program.
- Services existing mining and extraction activities.
- Enables higher stock levels and extended pastoral season activities.
- Provides significant numbers of construction jobs and opportunities for local businesses.
- Is a route of national significance, reducing Australia's viable south-east/north-west linkage by 1100km.



**Critical
Infrastructure**



CONSTRUCTION JOBS	PROJECT VALUE	CURRENT FUNDING
 20 x 10yrs (inhouse) + additional contractors	\$300 MILLION	\$40 MILLION
PROPOSED COMMENCEMENT DURATION	Commenced 10 years	DISCOUNTED BENEFITS \$755 MILLION*

* Adjusted for inflation from original calculation 11

DRAFT V8

EAST KIMBERLEY REGIONAL AIRPORT RUNWAY EXTENSION (EKRA)

The Shire of Wyndham East Kimberley (SWEK) has identified the EKRA as their highest priority project. The business case and Cost Benefit Analysis have been completed and the SWEK is funding the detailed engineering design of the runway, which is expected to be completed by late August 2020. Aircraft operations to EKRA are constrained by the current runway length and this increases the unit cost making fares and freight more expensive. There will be significant consequences when the current ageing and smaller aircraft are retired in the short to medium term with the infrastructure unsuitable for the larger replacement craft.

The project involves runway upgrade to accommodate Code 4C aircraft (A320/B737) aircraft, including: freighters:

- lengthening runway from 1,829 metres to 2,350 metres;
- widening runway from 30 metres to 45 metres;
- upgrade of existing taxiway;
- construction of new aprons;
- upgrade of communications infrastructure;
- upgrade of lighting; and
- upgrade of landside headworks infrastructure including (ICT, sewerage, water, electricity, roads, fire hydrant capability).

The project supports further investment as a key freight hub and as a tourism precinct, including infrastructure such as hotels, refurbishment of existing accommodation and tourism experiences.

PROJECT BENEFITS

- Ensure the eastern Kimberley remains connected to the rest of Australia.
- Create the potential for the region to be connected to the major cities in South East Asia.
- Improve access to the unique attractions of the east Kimberly for interstate and overseas visitors.
- Create the opportunity for lower airfares which will both stimulate the economy and improve liveability.
- Increase the import and export air freight capacity both domestically and internationally.
- Economic stimulus of approximately \$3.38 million in construction wages.





Shovel Ready
for April 2021
commencement



CONSTRUCTION JOBS

LONG TERM JOBS

PROJECT VALUE



60 Direct
10 indirect



105 Direct
41 Indirect

\$50
MILLION

- ✓ 9 month construction timeframe (Stage 1)
- ✓ attraction and retention of skilled people
- ✓ Improves connectivity to other parts of the country
- ✓ Indigenous jobs outcomes
- ✓ Indigenous business development outcomes
- ✓ Forward defence response base.

STAGED DEVELOPMENT

AIRSIDE \$35M
LANDSIDE \$15M

WARBURTON DERBY PORT BASIN DEVELOPMENT

This project is a significant investment opportunity with both direct and indirect benefits to the Shire of Derby/West Kimberley and the Kimberly Region as a whole. Economic stimulus and business investment is incredibly important for SDWK given recent economic decline. The existing wharf structure requires significant modernisation and is at risk of being redundant for the servicing of today's marine requirements, ongoing repair and maintenance costs to keep the Wharf's commercial rating is severely limiting the market opportunities and private investment in the Shire.

The proposed DIJV multi-purpose common user facility, will have capability to provide the following services as a example in all tide ranges: mooring basin depth of -5.0m; turning circle of 180m; full specification LCT ramps for roll on/roll off cargos; heavy lifting capabilities, landside port facilities 24/7; significant laydown area for heavy equipment; cargo and equipment; water, fuel; bulk export facilities including land for stock piling and crude oil export.

The Council is seeking State and Federal endorsement of the project and subsequent leases and or licence agreements in order to satisfy NAIF funding requirements. This project has the potential to increase the SDWK involvement in the resource sector and provide opportunity for many projects in the West Kimberley that at this time are not economical given the vast distances to Broome and or Kununurra. Derby has long been a land bridge to the islands of Cockatoo and Koolan and development enables the region to capture more value from the servicing of this ever expanding sector. Existing projects such as Sheffield Thunderbird Mineral Sands and

PROJECT BENEFITS

- Services the oil, gas, marine and aviation sectors.
- Strengthen the Kimberley's capacity to grow and develop sustainable employment opportunities.
- Creates the potential for increased bulk export and resulting resource development across the West Kimberley.
- Reduces the Local Governments reliance on State and Federal support to maintain and renew the existing

This project is a Joint Venture of WGPL Property No 3 PTY LTD (Warburton) and ACE Infrastructure SPV PTY Ltd (ACE) - Derby Infrastructure Joint Venture (DIJV).



Supporting Investment



CONSTRUCTION JOBS	LONG TERM JOBS	PROJECT VALUE	CURRENT FUNDING
	<p>50+</p>	<p>\$45 MILLION</p>	<p>\$20 MILLION</p>
PROPOSED COMMENCEMENT	6-9 months of design completion		
DURATION	12 months		

CABLE BEACH FORESHORE REDEVELOPMENT



The redevelopment of Cable Beach Foreshore represents a golden opportunity to expand Broome's peak season by stimulating commercial and tourism activation and ensuring one of our high-quality natural assets remains a global drawcard.

Elements include amphitheatre upgrade, foreshore enhancements and landform changes.

A growth in commercial and small business opportunities, enhanced by the promenade development linking together points of interest including tourism, cultural and leisure attractions. The buried seawall will support coastal management and the reconfiguration of car parking will ease current parking and traffic flow issues.

The Shire of Broome received a Commendation from the Planning Institute Australia's Awards for Excellence for the Cable Beach Foreshore Masterplan.

PROJECT BENEFITS

- Realising the potential of a globally recognised tourism location.
- Leverag investment and property development opportunities.
- Environmental management (coastal erosion risk mitigation).
- Cultural connectivity.
- \$10 million+ Private Investment estimated to be leveraged.
- 117 FTE Jobs through increased tourism activity.
- \$13.4 million direct additional annual visitor expenditure.
- \$99 million net present value.





GLOBAL
VISITATION
ATTRACTOR



DIRECT AND INDIRECT

PROJECT VALUE

FUNDING REQUIRED


174

\$36.5
MILLION

\$32
MILLION

PROPOSED COMMENCEMENT

On funding

ECONOMIC CONTRIBUTION

DURATION

27 months

\$82.5
MILLION

17

DRAFT V8

BROOME BOATING FACILITY

Essential to address critical safety and access difficulties particularly associated with boat launching and retrieval and passenger transfer between vessels and shore. Large tides, strong currents, wind and waves can at times create hazardous conditions at the existing exposed beaches and boat ramps where conditions can change very quickly.

The boating facility will include four ramp lanes and up to twofinger jetties, sheltering arms and detached offshore breakwater screen, trailer parking, and access road. Significant consultation has been undertaken and investigation completed to understand environmental and local cultural and heritage considerations. Computer modelling is underway to define the marine structure size, shape and cost. The business case is in development and expectations are that construction costs will be in the range of \$35-50million based on similar projects.

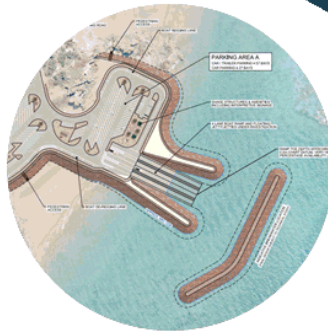
PROJECT BENEFITS

- Community and visitor safety.
- Improved recreation amenity for attraction and retention of regional population.
- Minimised impacts to environment and culturally sensitive areas.
- \$35 million estimated in economic benefit (based on similar scale project for Bremer Bay Harbour).





Residential
Attractor



DIRECT AND INDIRECT



SIGNIFICANT JOB CREATION

PROJECT VALUE

\$30-\$50
MILLION

COMMUNITY SURVEY

COMMENCEMENT OF BUSINESS CASE

CONSTRUCTION (after approval)

Open

April 2020

24 Months

ECONOMIC BENEFIT

\$35m

DERBY WHARF PRECINCT MASTERPLAN AND SOCIAL DEVELOPMENT (STAGE 1)

The Derby Wharf precinct is an iconic tourism draw card, but has very limited tourism facility. The significant tidal movements that the area experiences – often referred to as the “King of all Tides” are significant tourist attractions given that the King tide experienced at the end of April each year is the second biggest in the world. Many local and international travellers visit the town to see this natural wonder. The Project includes the development of a masterplan, encompassing advanced design, business case, planning and consultation in an effort to be shovel ready for suitable funding opportunities by 2022.

The Masterplan is intended to include foreshore enhancement and landform changes, improved boat ramp facilities, tourism facilities, a King Sound Interpretive Cultural Centre, parking, road access and land assembly considerations. The Masterplan will provide a consolidated management strategy recognising the ecological, cultural and recreational values of the area. It is envisaged that the subsequent developments

PROJECT BENEFITS

- Increased retail and tourism activation.
- Showcases Aboriginal Cultural and Heritage Values.
- Improved the Kimberley visitor Experience, increasing product quality.
- Improved recreation amenity for attraction and retention of regional population.
- Increases economic diversity and economic sustainability.



Tourism Activation



Planning for Development

DIRECT AND INDIRECT JOBS



PROJECT VALUE

\$2
MILLION

FUNDING REQUIRED

\$1.85
MILLION

PROPOSED COMMENCEMENT

Upon Funding

DURATION

Anticipated 12 months design and consultation



COMMUNITY INFRASTRUCTURE PROJECTS

The continuous improvement of community infrastructure is critical in the Kimberley. The majority of the projects in this section include facilities for youth given the nearly 25% of the population is under 14 years, and this proportion is growing.

The region also has significant areas of disadvantage and limited options for entertainment, organised sports and child care. This has led to significant anti-social behaviour in some areas, diminishing liveability and creating angst in the broader community.

The Kimberley region spans 1000km from east to west and there is no capacity for sharing of infrastructure across towns and across Shire borders. Indeed some Shires need multiple facilities to provide services to their dispersed urban centres which may be hundreds of kilometers apart.

This section identifies the priority upgrades for social infrastructure in the region, with investment in sporting infrastructure and water play a common need.

Also included in this section is vital infrastructure for community health such as waste recycling facilities and child care which is limiting participation in the workforce.



This infrastructure, whilst providing social outcomes in the short to medium term, will contribute to the economic growth of the region as young people are diverted from the justice system and families can be engaged in the local community. This not only supports residents born in the region, but those that choose to relocate.

It is vital that, as we move into economic recovery that we also ensure that the liveability of our region is enhanced and our communities have an opportunity to recover mentally, physically and economically from what has been a shared, but challenging time.

EAST KIMBERLEY LEISURE AND AQUATIC CENTRE

This is an urgent, shovel ready project and involves the upgrade of the existing Leisure Centre and construction of a new swimming pool and shade structures.

The current swimming pool is well past its useful life and requires considerable funds to maintain it. There are ground water issues under the pool and hence the structural integrity of the pool is severely compromised. Repairs have been effected in the past but any further repairs are considered to be unworkable and the pool does not meet current community swimming pool disability access requirements. Further, the Leisure Centre does not meet current Building Code requirements.

This is vital community infrastructure and there is a risk that this facility could be subject to closure if funding cannot be found.

Funding for the splash pad was announced in August 2020.

PROJECT BENEFITS

- Essential upgrades for compliance.
- Critical Infrastructure for the community.
- Improves liveability in the area for the resident and future population.
- Allows for healthier lifestyles and positive activity.
- Construction across two dry season providing local jobs.

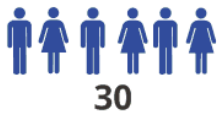




Shovel Ready
to commence
April 2021



CONSTRUCTION JOBS



LONG TERM JOBS



PROJECT VALUE

\$22
MILLION

EWIN EARLY LEARNING CENTRE EXPANSION

Child care in Kununurra is currently provided by the Ewin Early Learning Centre, a not-for-profit organisation. The demand for child care is considerable and the current facility has consistently had approximately 100 children on the waiting list since 2017. The current facility provides long day care services for children between 0-6 years with the capacity to accommodate 84 children per day.

It is very important for a remote region, such as the East Kimberley, to provide child care facilities that meets the demand for places. This is crucial to be able to attract and retain skilled staff in the region. This project has the capability to reduce some business costs as a second person in a household being able to undertake full-time work reducing costs to businesses in accommodation and transportation, particularly when engaging staff from out of the area.

The facility is in urgent need for funding to expand its services. Increased numbers of children at the centre will require additional childrens' areas, office space, staff space, kitchen, laundry and undercover areas. Plans drawn up to maximise the accommodation of children at the current site from 84 to 118. The Shire will continue to experience a shortfall in child care places, even with the extension to the Ewin Centre.

The project is shovel ready and Centre is able to contribute up to \$80K. The Shire will consider a self-supporting loan subject to Council approval.

PROJECT BENEFITS

- Each additional child accommodated at the Centre will enable one parent to work full time.
- Greater ability of the region to attract and retain skilled people.
- Greater ability of parents to participate in the workplace and improved well-being of people in the community.
- Higher "spend" in the region and greater boost to the economy in second and third round impacts of "spend" in the region.



100 children waitlisted



CONSTRUCTION JOBS

LONG TERM JOBS

PROJECT VALUE



\$5.5
MILLION

- ✓ Construction ready (3mths from funding).
- ✓ 6 months construction timeframe

WAGES GENERATED

\$600k
per annum

BROOME RECREATION AND AQUATIC CENTRE (BRAC) RENEWAL

BRAC is a critical piece of social infrastructure with a variety of facilities including a fully shaded eight-lane 25 metre swimming pool, a skate park, creche facilities and a kiosk. The facility delivers a range of community sports throughout the year including netball, floorball, volleyball and futsal.

Upgrades are underway to improve facilities for sport, activities and to provide vital support for youth engagement. Stage 1 is fully funded with \$2.7 million secured with construction due for completion by December 2020. This stage is under construction and includes tracks and trails at BRAC 1 site, lighting at the pump track, indoor court resurfacing and outdoor court upgrades including cover, lighting and seating.

Stage 2 is part-funded and is in design phase. This stage includes the wet and dry facilities upgrade, including Aquatic Care multi-purpose club rooms, field lighting at Nipper Roe Sports Field, the construction of a multi-purpose pavilion and carparking improvements.

\$2.9 million of the \$9.5 million cost of stage 2 has been secured with \$6.6 million still required.

PROJECT BENEFITS

- 28 direct and indirect FTE jobs during construction.
- 5 direct FTE jobs once operational.
- \$5.3 million estimated in employment benefits.
- \$7 million estimated in Gross Regional Product benefits over 10 years.

Based on a similar community facility.



SUPPORTING
KIMBERLEY
COMMUNITES



STAGE 1
NEARING
COMPLETION

DIRECT AND INDIRECT

PROJECT VALUE

FUNDING REQUIRED



\$12.3
MILLION

\$6.15
MILLION

PROPOSED COMMENCEMENT

ECONOMIC CONTRIBUTION

DURATION

FITZROY CROSSING RECREATION CENTRE REBUILD AND PRECINCT MASTERPLAN

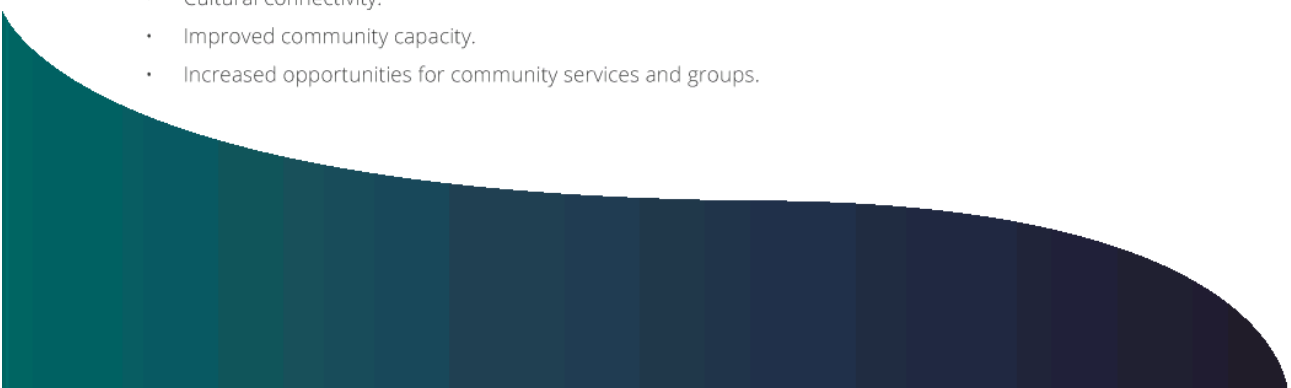
The further development and proposed upgrades to the existing recreational precinct in Fitzroy Crossing is a pivotal generational Project that represents an opportunity to expand Fitzroy Crossings resilience and social capacity. The project is designed to provide the Fitzroy Valley region with social infrastructure that improves the quality of life of its residents and provides for social and emotional wellbeing. The Shire is committed to providing its communities and their residents with facilities and services that are commensurate to those of all West Australians provide opportunities for emergency safety, recreation, social cohesion, community development and lifespan activities.

The renewal and expansion of the Fitzroy Recreational Precinct is designed to cater for the growing needs of the community and to give families and young people the opportunity to access programs and facilities similar to those in less isolated regions. It is proposed that the project will significantly improve the user ability of the facility by providing air conditioning and solar power. The multipurpose precinct will include:

- Meeting rooms and Community Development Space (incorporating storage, to incorporate Youth Services and Young Years activity by community groups and the not-for-profit sector).
- Two indoor multi courts, event space and spectator seating.
- Kitchen and canteen space and access.
- Improve site location to assist with drainage and the view of the sporting ground.
- Air conditioning and solar power to the building.
- Improve access and linkages to other buildings on site, supporting improved co-location and sporting precinct outcomes.

PROJECT BENEFITS



- Increased social outcomes, providing for improved emergency management and community resilience.
- Improved community wellbeing and safety.
- Cultural connectivity.
- Improved community capacity.
- Increased opportunities for community services and groups.



Co-location Opportunities



Improved Wellbeing

CONSTRUCTION JOBS	LONG TERM JOBS	PROJECT VALUE	FUNDING REQUIRED
 20*	 5	\$25 MILLION	\$23.5 MILLION

PROPOSED COMMENCEMENT	On Funding
DURATION	24 months

* Based on similar projects

HALLS CREEK TOWN DEVELOPMENT MASTERPLAN



Great Northern Highway, from the Shire Park to the Art Gallery, is the core retail and tourist centre of Halls Creek. An enhancement of the urban environment through this area will create a diversity of places for the community to meet and socialise and provide an improved tourist environment.

Key urban interventions in this area will include:

1. Development of a splash park.
2. Establish pedestrian crossing points
3. Create a community passive parkland space, with zebra rock street furniture and shade trees.
4. Incorporate street furniture along the southern (urban) side and the northern (parkland) side of the highway.
(Similar materials used on each side will create a visual relationship that ties the diverse characters of these road edges together, creating consistency).
5. Incorporate local art into street furniture.
6. Include street trees for shade to achieve attractive, consistent streetscape.
7. Introduce free-standing (vandal proof) shade structure north and south of the road.
8. Improve the safety of access in the area for all forms of movement.

PROJECT BENEFITS

- Enhanced health outcomes specifically targeted at Trachoma intervention.
- Cultural connectivity.
- Enhanced cultural experience.
- Retail and tourism attractions.



CREATING
LIVEABLE
COMMUNITIES



IMPROVING
CULTURAL
CONNECTIVITY

PROJECT VALUE

FUNDING REQUIRED

\$4.2
MILLION

\$3.5
MILLION

PROPOSED COMMENCEMENT

On Funding

DURATION

12 months

REGIONAL RESOURCE RECOVERY PARK

The relocation of Broome's waste management facility, which is approaching the end of operational life, is now time critical. The Shire of Broome aims to establish a facility that has the capacity to service the Broome community and the wider Kimberley for the next 100 years.

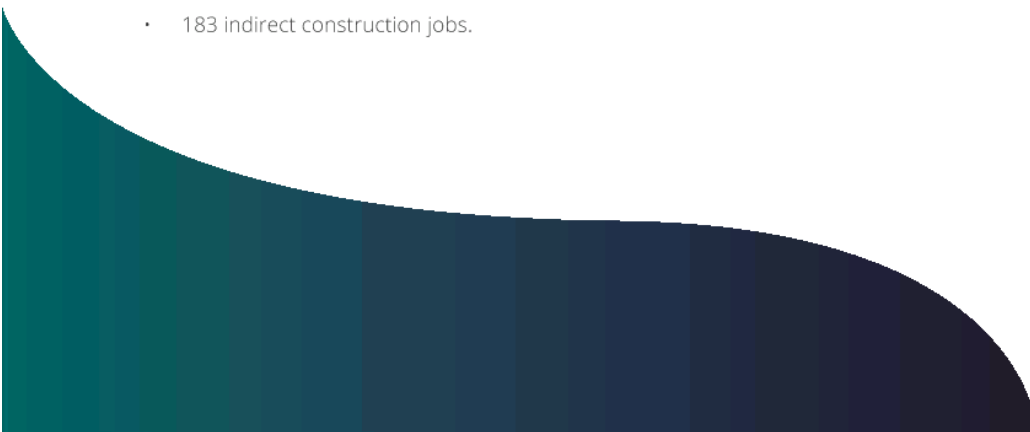
This opportunity will drive significant improvements in waste management practices and see strong environmental outcomes. The new public facing Community Recycling Centre (CRC) and Landfill component are anticipated to be located across two sites.

The facilities will be designed and constructed to comply with best practice environmental management standards. The project underpins the normalisation of municipal services in remote communities on the Dampier Peninsula and across the region. It also aims to service the mining sector through the proposed new liquid waste treatment facility.

Site analysis and land negotiation is nearing completion with Stage 1: CRC construction scheduled from October 2020 – June 2021. Stage 2 referral of the Landfill site to Environmental Protection Authority expected by January 2021. For the CRC component, 50 per cent of the \$12.3 million total project cost has been secured with \$6.15 million investment required. A further \$7.75 million is secured to-date for the Landfill component.

PROJECT BENEFITS

- 100-year serviceable infrastructure.
- Supports normalisation of services to Aboriginal Communities.
- Enhances recycling and excellence in environmental management.
- 59 direct construction jobs.
- 183 indirect construction jobs.





SUPPORTING
KIMBERLEY
COMMUNITES



DIRECT AND INDIRECT

PROJECT VALUE

FUNDING REQUIRED



\$12.3
MILLION

\$6.15
MILLION

PROPOSED COMMENCEMENT

ECONOMIC CONTRIBUTION

DURATION



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10. CORRESPONDENCE

Nil.

11. GENERAL BUSINESS

11.1 Cr Tracey requested that formal correspondence be sent to the Minister for Corrective Services and Minister for Justice seeking further clarity on the implementation of the Kimberley Juvenile Justice Strategy specifically around the allocation of funding.

11.2 Cr Haerewa requested that the Kimberley Regional Group utilise the WALGA Annual General Meeting as an opportunity for the Shire Presidents to present the Kimberley Investment Prospectus to relevant stakeholders including State Ministers and senior government staff.

12. MATTERS BEHIND CLOSED DOORS

Nil.

13. MEETING CLOSURE

There being no further business the Chair declared the meeting closed at 2:24pm.