

Local Government Act 1995 Review Phase Two

Summary – Discussion Paper	Draft submission
Part 1 Introductory Matters	
<p>Section 1.7 & 1.8 deals with giving public notice via newspapers and local government notice boards at specific locations.</p>	<ul style="list-style-type: none"> • The provision of information by newspaper and notice boards is antiquated. Other media platforms are more effective in providing information and notices. • Delete the requirement for notice boards. • Add an option to provide local or state-wide by publishing on the Local Governments website or other electronic media platforms.
Beneficial Enterprises	
<u>DLGSC - Local government run businesses (beneficial enterprises)</u>	
<p>In addition to the regulatory functions local governments provide a broad array of services to the community which can have a commercial orientation for example: gymnasiums, pools, parking facilities, childcare facilities, sport complexes, caravan parks and regional airports. These Whilst services to the community add to the complexity of the local government’s business structure and recordkeeping.</p> <p>In some cases, these services are large enough to be carried on as an individual business in their own right</p> <p>The LG sector has been requesting additional powers to form independent corporations. These entities could be used to manage a local government’s existing business activity or pursue new commercial opportunities.</p> <p>Currently under the Local Government Act 1995 (the Act), local governments have two options for forming independent corporate bodies:</p> <ul style="list-style-type: none"> ○ Regional local governments; and ○ Regional subsidiaries. 	<p>Enable Local Governments to establish corporate entities that are independent of the local government and which operate under normal company law. There is relevance for this with renewable energy models and “Off-Grid” power generation and supply.</p> <p>Due diligence processes must be incorporated - including business case and independent review and assessment.</p>

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Financial Risks

The initial funding for the establishment of the beneficial enterprise will be borne by the local government, and therefore the ratepayers. A beneficial enterprise providing services to the community is likely to be doing so at a loss which will consequently require continued injections of capital from the local government.

Enterprises will also be subject to the full range of rates and taxes, with a higher finance costs than a local government.

All commercial activity is subject to a risk of failure. A failed enterprise will reflect badly on the local government that established it and could have wider effects on the community.

Concerns with privatisation

There are concerns with beneficial enterprises being used to privatise local government services. Local governments employ a significant number of employees that provide services that are not regulatory in nature. The concerns raised include:

- Lower wages;
- Less secure employment conditions;
- Employees being employed outside the protection of the Western Australian industrial relations system;
- Use of labour hire agreements; and
- Less accountability of public money.

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<p>Financial Management <u>DLGSC - Financial Management</u></p>	
<p>The local government sector’s operating expenditure exceeds \$4 billion annually and local governments manage an asset base worth more than \$40 billion.</p> <p>To deliver services efficiently and effectively, local governments must be prudent users of public funds, transparent and accountable and strike a balance between community expectations and the practical limitations of revenue and expenditure.</p> <p>Local government revenue is principally drawn from rates, fees and charges, and grants from the State and Commonwealth Governments and to manage their finances, local governments are required to prepare a budget annually.</p> <p>The Act requires that a local government is to, having regard for its Integrated Planning and Reporting documents, prepare an estimate of its upcoming expenditure, the revenue and income it will receive independent of rates, and the amount in rates required to make up any deficiency.</p>	<ul style="list-style-type: none"> • Remove the requirement to prepare a Rate Setting Statement and the 10% rule. Long Term Financial Planning, financial and sustainability ratios provide sufficient guide in determining rates requirement. Other States do not require a Rate Setting Statement to be prepared. • The real operating result includes non-cash depreciation and amortisation expenses, representing in effect the LGA annual costs of a capital nature. In general terms, the extent to which a LGA does not raise revenue to cover its costs of a capital nature (for example, by excluding depreciation expenses from calculation of the cash ‘budget deficiency’ in the rate setting statement), contributes directly to the real operating deficit in the financial accounts. • Regulations should include the requirements for the LTFP and Asset Management Plan – some guidance on what context is required. The Workforce Plan should not be a legislative requirement – optional for Councils. • Option (not regulatory – don’t apply a set number) to undertake additional budget reviews outside the mandatory Mid-Year Review timeline.
<p>Investments</p> <p>Section 6.14 of the Act allows local governments to invest surplus funds. Many local governments hold significant amounts in cash reserves, including those obtained through development contributions.</p> <p>The types of investments that local governments are permitted to make are restricted by Regulation 19C of the <i>Local Government (Financial Management) Regulations 1996</i>.</p>	<p>Investments</p> <ul style="list-style-type: none"> • Introduce a requirement for local governments to have an investment policy which addresses risk and must be reviewed regularly. • Introduce tiered approach to investments. Tier 1 low risk and subject to minimal regulatory oversight. Tier 2 requiring additional due diligence such as the development of investment plans

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<p>The current approach to regulating investments has been criticised by the sector as overly restrictive. In 2016, the Department considered a new approach to regulate investments. The review noted that the types of investments prohibited by the Regulations did not necessarily correlate to risk.</p>	<ul style="list-style-type: none"> • Provide options for Council to invest in a greater range and diversity of investments, to be determined by each individual Council Policy and associated risk assessment.
<p>Debt Local Governments have the power to borrow money or obtain credit. External approval to borrow is not required although financial indicators including a debt service ratio must be reported in the annual report to allow monitoring.</p> <p>LGs are restricted in that their borrowings may only be secured by giving security over their income from general rates or untied government grants</p> <p>To fund infrastructure, local governments in Western Australia will often access several grants from both the State and Commonwealth governments so even if a local government was to borrow in order to make a contribution themselves, it may constitute only a small part of the whole cost.</p>	<p>Debt</p> <ul style="list-style-type: none"> • Remove the restrictions of using income from general rates or untied government grants as security. • Local Governments permitted to secure funds using assets, such as commercial assets – property and infrastructure. • Cease the requirement to give public notice of the use of, or borrowing money – e.g. to spend left over funds from previous borrowing.
<p>Procurement Local governments are significant procurers of goods, services and capital supplies. In 2016-17, local governments spent more than \$1.1 billion on materials and services.</p> <p>The <i>Local Government (Functions and General) Regulations 1996</i> establish procurement rules for local government</p> <p>Currently, local governments are required to have a purchasing policy addressing contracts to supply goods and services where the value is expected to be under \$150,000. Contracts over this amount are required to be via public tenders, unless an exemption applies, for example, using</p>	<p>Procurement All opportunity for reform comments (below) should be considered.</p> <ul style="list-style-type: none"> • Align local government procurement rules with the State Government, with a higher monetary threshold before public advertising and tighter controls; or • Set tender threshold rules based on the local governments’ annual expenditure; or • Set the tender threshold based on an assigned band.

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<p>the WALGA preferred supplier scheme or an Australian Disability Enterprise.</p> <p>Local governments can also establish a panel of pre-qualified suppliers, after issuing a public invitation to join the panel.</p>	<ul style="list-style-type: none"> • Increase the Tender threshold to \$250,000. • Require local governments to have policies or procedures that require payment of invoices within specific time frames or align the rules for timely payment of suppliers with State Government requirements. • Increase the Regional Price Preference in line with State Government limits.
<p>Authorising payments Regulation 12 of the <i>Local Government (Financial Management) Regulations 1996</i> provides council with autonomy to determine what payments a CEO is authorised to make. If council delegates authority to make payments,</p> <p>Regulation 13 requires the CEO to prepare a list of accounts each month.</p> <p>LG staff note that Regulation 12 allows councils to establish a delegation approach that results in routine payments being queried by council. To clarify who can authorise payments, some local government staff have called for the regulations to prescribe thresholds for when council approval is required.</p> <p>Annual Reporting Local governments are required to prepare an audited financial statement annually in accordance with the Australian Accounting Standards as modified by the Act and regulations.</p> <p>Local governments calculate and publish seven financial ratios in their annual financial statements however the ratios are not consistent across Australia. Therefore the comparison of financial performance for local governments across the country is more complex.</p>	<p>Authorising payments</p> <ul style="list-style-type: none"> • Provide a list of accounts as confidential information (current CGG practice). <p>Annual Reporting The City agrees that ratios and methodology should be consistent.</p>
<p>Building Upgrade Finance Building Upgrade Finance (BUF) is a scheme whereby a local government administers loans issued by financiers to non-residential building owners</p>	<p>Building Upgrade Finance There is no support for the Building Upgrade Finance Scheme</p>

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<p>to upgrade their buildings. The local government uses a levy on the building owner to recover the funds on behalf of the financier.</p>	
<p>Rates, Fees and Charges <u>DLGSC - Rates, fees and charges</u></p>	
<p>Rating Local governments impose rates to raise revenue to fund the services and facilities. The quantum of rates payable is determined by three factors:</p> <ol style="list-style-type: none"> 1. the method of valuation of the land 2. the valuation of the land; and 3. the rate in the dollar applied to that valuation by the local government. <p>A review of the method of valuation of land is currently being undertaken by the Valuer General’s Office.</p> <p>As part of preparing the budget each local government must raise enough in rates to cover the shortfall (budget deficiency) between its predetermined expenditure and available revenue. Rates can be imposed uniformly (a single rate in the dollar) or differentially (different rates in the dollar for different categories).</p> <p>Local governments are currently required to prepare a long term financial plan that addresses rate increases.</p>	<p>Rating</p> <ul style="list-style-type: none"> • Allow Councils to determine the method of valuation be it CIV, GRV or UV. • The revenue and rating strategy would not be a separate document but would form part of or be a component of the LTFP. Remove the requirement to develop annually a Statement of Objects & Reasons.
<p>Public Notice If a local government introduces a rating strategy that uses a uniform rate in the dollar, unlike differential general rates, there is no requirement for public notice to be given</p>	<p>Public Notice</p> <ul style="list-style-type: none"> • Instead of any public notice – Council would release a draft LTFP that includes proposed rating and revenue strategy, thereby eliminating the need for a statement of objects and reasons. • No requirement for public notices and submissions.

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	<ul style="list-style-type: none"> • Council can create or determine its own feedback portals re the draft LTFP
<p>Differential General Rates Local governments are currently permitted to impose differential general rates according to land zoning, land use (including if the land is vacant) and a combination of the two.</p> <p>While the categories must comply with the Act, there is still scope for a variety of rating categories which does not allow comparability across local governments</p>	<p>Differential General Rates</p> <ul style="list-style-type: none"> • Agree with the opportunity to reform comments and support the following suggested changes to rating categories: <ul style="list-style-type: none"> ○ Geographic location ○ Types of buildings on the land ○ Any other criteria council determines is relevant. • Allow Council to have the option to have more than one minimum under the same rating category which could be linked as per above to Geographic location.
<p>Ministerial Approval Local governments have autonomy in the way they set rates in the dollar to make up the budget deficiency with some limitations. A local government that seeks to impose a rate in the dollar that is more than twice that imposed on the lowest category must seek Ministerial approval.</p>	<p>Ministerial Approval</p> <ul style="list-style-type: none"> • Increase the differential rate to three or four times the lowest before Ministerial approval is requirement. This would reduce the regulatory burden while maintaining some oversight; or • Set the differential to a maximum of four times with no ability to seek Ministerial approval. This would increase fairness between rating categories and provide greater certainty for local governments.
<p>Rates – Minimum Payments No more than 50% of properties can be minimum rated under a rating category unless Ministerial Approval is obtained.</p>	<p>Rates – Minimum Payments Section 6.35 (3)(4)(5) – remove the 50% rule related to number of minimums per rating category and related Ministerial Approval.</p>
<p>Recovery of Rates & Service Charges Local Government are currently ineligible to claim all related recovery costs (only cost related to Court Proceedings)</p>	<p>Recovery of Rates & Service Charges LGA’s should be able to apply all related recovery costs against the property.</p> <p>Section 6.64 – taking possession of land for rates that have been unpaid for at least 3 years. The related forms/notices should include all rates and costs in</p>

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	<p>arrears at that time – currently only prescribes what is owing in rates that have been levied.</p>
<p>Rating of mining licences Mining tenements include prospecting and exploration licences and mining leases (granted under the Mining Act 1978). The mining sector argue that due to the negligible impact of prospecting and exploration licences on local government facilities and the fact that they are a right to explore, not a mining business, they should be exempt from paying local government rates.</p> <p>Mining licences have a limited intrinsic value unless minerals are found and mined and have a high turnover of ownership. If a licence is terminated or the lessee does not pay rates for the period of the licence, the rates are generally not able to be recovered by the local government.</p> <p>If rates remain unpaid, local governments may lodge a caveat on the land with the Department of Mines, Industry Regulation and Safety or seek unpaid rates through the court system.</p>	<p>Rating of mining licences Consider the below options for reform:</p> <ul style="list-style-type: none"> • Prospecting and exploration licences continue to pay rates. • Prospecting and exploration licences are exempt from paying rates. • Local governments must rate exploration and prospecting lower than general mining.
<p>Rate Exemptions The Act provides that all land is rateable unless it is listed as exempt. Not all land owners are required to pay rates.</p> <p>Other than land used or held by the Crown (State Government) for a public purpose, a local government or a regional local government, exemptions from rates apply to:</p> <ul style="list-style-type: none"> ○ Land used or held exclusively for churches (religious bodies) ○ Land used or held exclusively for schools ○ Land used exclusively for charitable purposes ○ Land vested in trustees for agriculture or horticultural show purposes ○ Land owned by Co-operative Bulk Handling Limited (CBH) ○ Land exempted by the Minister for Local Government 	<p>Rate Exemptions</p> <ul style="list-style-type: none"> • Every owner of land is required to pay rates. Local governments could offer concessions to land owners if determined by council. • Exclude independent living units for seniors from being a charitable purpose. • Exclude charitable organisations that provide rental accommodation at or near market rates or that do not provide any concessional benefit to the lessee.

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<p>There is a viewpoint that everyone uses the services and facilities provided by the local government, from roads to parks and community facilities and therefore should pay rates.</p> <p>Rate exemptions can have a significant impact on local government’s capacity to raise rate revenue, with ratepayers required to make up the shortfall.</p> <p>There are however a number of organisations providing important services within the community with limited funding. The required to pay rates could impact on their ability to continue to provide those services, with the cost falling to the local government in having to provide the services in house, or alternatively the services to the community are being removed or reduced.</p>	<ul style="list-style-type: none"> • Every occupier of land has to pay a minimum contribution to the local government. The capped amount could be the minimum payment set by the local government, or an amount set in legislation. • Rate equivalency payments that paid by State Bodies should go to LGA’s not back to the State Government
<p><i>Exemptions: charitable organisations</i></p> <p>One rates exemptions is for ‘land used exclusively for charitable purposes’. The meaning of ‘land used exclusively for charitable purposes’ is not defined in the Act and differing interpretations of the meanings of ‘charity’ and ‘charitable purposes’ have continued to prove challenging across all levels of government in Australia.</p> <p>In Western Australia the meaning of what constitutes ‘land used exclusively for charitable purposes’ has been the subject of several key decisions by the State Administrative Tribunal and exemptions have been provided to facilities for aged care even when residents are paying market rates for the individual housing within an estate, and to industry associations because they have a training arm.</p>	<p><i>Exemptions: charitable organisations</i></p> <p>Reforms to the charitable organisation exemptions hinge on clarifying who is or isn’t eligible to receive a rates exemption.</p> <ul style="list-style-type: none"> • <i>Commercial not exempt</i> Exemptions do not apply to commercial (non-charitable) business activities. • <i>Qualified under Commonwealth legislation</i> Certain categories of ratepayers, for example independent living units, would only be exempt from rates where they qualify under the Commonwealth Aged Care Act 1997. • <i>Land not used as a residence</i> Clarify that land is not used exclusively for charitable purposes if the land is used as a residence and is exclusively occupied by persons, including a caretaker.

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<p><i>Fees and Charges</i> Local governments have the ability to set fees and charges for a range of services. Services can be categorised into three areas:</p> <ul style="list-style-type: none"> ○ basic community services, such as waste collection; ○ additional services, such as providing security; ○ competitive services, such as services provided by other business in the area (for example gymnasiums) <p>When setting fees and charges for basic and additional services, the cost of providing the service should be considered and local governments may decide to subsidise the service for the common good.</p> <p>With competitive services, competitive neutrality principles must be observed.</p>	<p><i>Fees and Charges</i></p> <ul style="list-style-type: none"> ● Local Government has the ability to set its own fees and charges for whatever service it provides and not be constrained by fees and charges schedules that are tied or determined by other State Governments Acts.
<p>Administration Efficiencies <u>DLGSC - Reducing red tape (administrative efficiencies – local laws)</u></p>	
<p>The Act currently treats all local governments the same, regardless of their size and capacity. The sector has long advocated for amendments which provide a tailored approach to LG governance to allow for the differences in capacity that are found across the State.</p> <p>The local government legislation in Western Australia creates three boards, commissions or panels, these being:</p> <ul style="list-style-type: none"> ○ Local Government Grants Commission (Grants Commission); ○ Local Government Advisory Board (Advisory Board); and ○ Standards Panels <p>On 20 September 2017, agencies were instructed to review the ongoing need for boards and committees, particularly where there are costs involved. The standards panel was reviewed in phase one of the review.</p>	

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<p><i>Local Government Grants Commission and the Local Government Advisory Board</i></p> <p>The Grants Commission provides advice and makes recommendations to the Minister for Local Government on the amount of Commonwealth Financial Assistance Grants paid to local governments each financial year.</p> <p>The Advisory Board makes recommendations to the Minister for local government on proposals to change local government boundaries, wards or councillor numbers.</p>	<p><i>Local Government Grants Commission and the Local Government Advisory Board</i></p>
<p><i>Local Government (Miscellaneous Provisions) Act 1960</i></p> <p>When the <i>Local Government Act 1960</i> (1960 Act) the majority of the 1960 Act was replaced by the <i>Local Government Act 1995</i>. The remainder was renamed the <i>Local Government (Miscellaneous Provisions) Act 1960</i>. Large parts of the 1960 Act were later incorporated into building legislation.</p> <p><u>Section 364 — New street alignments, prescribing and effect of etc.</u> To the Department’s knowledge this power has only been used twice since 1995. There are two other mechanisms to acquire land (for street realignment or any other public purpose) available to a local government: either by purchasing the land from the owner or acquiring it under the Land Administration Act 1997.</p> <p><u>Cattle trespass, pounds, pound keepers and rangers</u></p> <p>This provides local governments and individual members of the public with the power to impound cattle and prescribes rules for impounding, and a number of offences. A minor amendment to the local government legislation would enable local governments to impound cattle, and the majority of offences can be dealt with via other means. Local governments must consider if the public require the ability to impound cattle, and a means to address two clauses pertaining to cattle straying.</p>	<p><i>Local Government (Miscellaneous Provisions) Act 1960</i></p> <p>This legislation is no longer required for the following reasons:</p> <ul style="list-style-type: none"> • Ranger Services do not impound large ‘cattle’ – only goats and rarely sheep. • A request to a property owner allows Rangers to impound cattle on private land until the owner is found. • Ranger fees are not applicable to today’s economy. (page 39 of the Act) • There has not been an occasion where Ranger Services have used this Act.

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<p><i>Information provided to and decisions made by the department and the Minister.</i></p> <p>When the Local Government Act 1995 was enacted it fundamentally changed the powers of local governments providing them with greater autonomy however there are still many sections within the Act that require a local government to provide information to the Minister or department prior to, or after a decision is made, and many other general reporting requirements.</p>	<p><i>Information provided to and decisions made by the department and the Minister.</i></p> <ul style="list-style-type: none"> • It is appropriate to review what information should be provided, what reports should be submitted, and which decisions should still be made by the Minister.
<p><i>Absolute majority decisions</i></p> <p>The council is the decision-making body of a local government. The Act sets out how decisions are to be made by the council members that form the council. In most cases this is via a ‘simple majority’, that is, a decision is made if over half of the council members present at the meeting vote for it. An ‘absolute majority’ requires half of the total number of council member positions to vote for a matter for the decision to be made. Thus, if there are 11 positions on council but at a particular meeting two council members were absent, five votes would be needed for a simple majority and six for an absolute majority.</p>	<p><i>Absolute majority decisions</i></p> <p>Review which decisions should be made by an absolute majority.</p>
<p>Local Laws</p> <p>The Act enables local governments to make local laws considered necessary for the good government of their districts. Laws can only be made when authorised by the Act or other written laws and cannot be inconsistent with any State or Federal. Local laws may cover parking, activities on thoroughfares, public places, council and committee meeting, and must be approved by the Parliament.</p> <p>Each new or amended local law is examined by the Parliamentary Joint Standing Committee on Delegated Legislation which makes a recommendation to Parliament on whether the local law should be accepted or disallowed. In Western Australia, to make a local law a local government is required to:</p>	<p>Introduce State enacted regulations which act as local laws, to achieve consistency from one local government district to another. Regulations could be used in relation to health, parking, cemeteries, cats and dogs.</p>

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<ul style="list-style-type: none"> • Give public notice of the proposed local law (with a six week submission period); • Provide a copy of the proposed local law to the relevant Minister; • Consider the submissions received; • Make the local law (via passing a resolution) and publish the local law in the Gazette; and • Provide the local law and explanatory material to Parliament. <p>Drafting</p> <p>The Act requires that copies of proposed laws are forwarded to the Minister for Local Government and other relevant State Ministers. The Department examines the proposed local laws on behalf of the Minister for Local Government and considers the following:</p> <ul style="list-style-type: none"> ○ Whether the proposed local law conflicts with the Act and any other written law; and ○ Matters raised previously by the Joint Standing Committee on Delegated Legislation, including State Government policy issues. <p>The Department provides detailed comments to the relevant local government to assist it in finalising a local law that will be enforceable and effective. This positively impacts upon the number of local laws that are disallowed by Parliament.</p> <p>The local government is not required to follow the advice given by the Department.</p> <p>Review</p> <p>Local laws are currently required to be reviewed (every eight years in WA). The local government must conduct a review by consulting with the community, prepare a report and the council must determine if the local law should be repealed or amended.</p>	<p>Review</p> <p>Require that a review of local laws is to be undertaken only when the local government believes it is appropriate to do so in response to changing circumstances</p>
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<p>Council Meetings DLGSC - Council Meetings</p>	
<p>Council meetings are the mechanism by which council makes decisions. To ensure transparency council meetings are held in public, although certain matters can be heard behind closed doors. Council meetings also provide an opportunity for public question time.</p> <p>The Local Government Act 1995 (the Act) establishes the framework for council meetings. This framework is further supported by standing orders set by council and enacted as a local law. These standing orders typically deal with matters such as:</p> <ul style="list-style-type: none"> ○ The order of business and standing items; ○ Procedures for debating motions; ○ Procedures for taking public questions; and ○ Procedures for making representations at council meetings, known as deputations. <p>The rules concerning the operation of council meetings today have not changed significantly since 1995. Within the legislative framework opportunities may exist to modernise council meetings and ensure that current practices align with community expectations.</p>	
<p>Public Question Time</p> <p>Public question time is an important opportunity for people to interact with their council and is seen by the public as a way to apply scrutiny and rigour to council decision making.</p> <p>Legislation provides that a minimum of 15 minutes of each council or committee meeting is allocated to public question time.</p>	<p>Public Question Time</p> <ul style="list-style-type: none"> ● Provide options for the use of technology at the Council’s discretion. ● Greater prescription in the Act is required to provide clear and consistent rules for public question time. ● Ensure limits in place to limit Repeat statements and presentations. ● Introduce a period of time for members of the public to address council without asking a question- must be governed by clear and consistent rules.

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<p>Managing Interests Council members are part of the community they serve. Many councillors also have a full-time or part-time job, which might include running their own business. It is inevitable that council members will from time to time will have conflicts of interests. Providing an appropriate framework for these real and potential conflicts of interest is key.</p> <p>The rules concerning identifying and taking appropriate actions associated with real or perceived conflicts interests need to be simple and sensible to ensure public confidence.</p> <p>Managing interests is vital to ensuring the legitimacy of council decision making.</p>	<p>Managing Interests Simplify the subject of interests and how they are dealt with during council meetings.</p>
<p>Remote Attendance Council members may attend council meetings remotely in specific circumstances. To gain approval for remote attendance, the person (unless they have a disability) must be located in a council-approved place in a townsite that is at least 150 km from the meeting venue. A council is also not permitted to have members attend remotely for more than half of the meetings in a given financial year.</p>	<p>Remote Attendance Expand the instances in which remote attendance is allowed, by altering or removing the distance and/or townsite requirements, this will ensure that local issues are heard and voted on by all elected members.</p>
<p>General electors meetings A general meeting of the electors of a district is to be held once every financial year. The purpose of the annual electors’ meeting is to discuss the contents of the annual report and any other general business.</p>	<p>General electors meetings</p> <ul style="list-style-type: none"> • Remove the requirement to hold a general electors meeting on the basis that very few members of the community attend and that there are other opportunities to ask questions of council. • Combine the General Electors Meeting with an Ordinary Meeting of Council.
<p>Special electors meetings Special electors’ meetings may be called if one is requested by either 100 electors or 5% of the total number of electors, whichever is less. These meetings are usually called to discuss an issue affecting the district however do not guarantee any action or outcome that binds councils. Whilst providing an opportunity for people to have their say the</p>	<p>Special electors meetings</p> <ul style="list-style-type: none"> • Raise the threshold of electors required to call a meeting from 100 to 500 or 10% of the number of electors whichever is the lesser. • Place limits on the number of special meetings that can occur on the same related matter. I.e. meetings on the same matter can only occur every 2

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meetings may be unhelpful due to the potential for conflict between the council and electors.	<p>years. LGA's are more open and accountable to discuss issues these days which can be debated and resolved via other forums.</p> <ul style="list-style-type: none"> • Procedures for electors meetings must be in accordance with the meeting procedures adopted by Council.
<p><i>Access to information for council members</i></p> <p>During earlier consultation of the review, several submissions called for greater clarity regarding the information that council members may have access to.</p>	<p><i>Access to information for council members</i></p>
<p><i>Meeting Procedures</i></p> <p>It is important that council meetings are governed by a set of rules to ensure they are transparent and effective. These rules are set out individually by each local government in local laws.</p>	<p><i>Meeting Procedures</i></p> <ul style="list-style-type: none"> • Provide greater clarity in legislation to emphasise the distinction between confidential motions and confidential minutes. • Revise rules to explicitly state that the rules concerning revoking or changing decisions of council do not apply after the decision has been implemented. This change will assist in ensuring certainty of council decisions without affecting their flexibility, as subsequent decisions on the matter can still be made if need be.
<p>Interventions, oversight and enforcement under the Local Government Act</p> <p>DLGSC - Interventions</p>	
<p>The Local Government Act 1995 (Act) provides means to regulate the conduct of local government officers and council members and sets out powers to scrutinise the affairs of local governments. There is a community expectation that the misconduct of local government officers and organisational dysfunction and governance issues within local governments are dealt with appropriately.</p> <p>Taking an approach which enables the department to work in partnership with local governments has the potential to improve good governance and performance across the local government sector, and</p>	

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<p>strengthen local government capacity. Reforms could also enable the department to be more flexible in investigating matters and enforcing the Act.</p>	
<p><i>Investigations and inquiries - Complaints process</i> A person who suspects that a council member has committed a breach of the Act may make a complaint to their local government or to the department, depending on what type of breach the complaint relates to. If a person believes that a council member has committed a minor breach the complaint may be made the complaints officer of the local government who is responsible for referring the minor breach complaint to the Local Government Standards Panel.</p> <p>A person may make a complaint about a serious breach (i.e. a council member committing an offence under a written law) to the Director General. The Director General then decides how the matter should be dealt with, including whether it is appropriate for the matter to be referred to the State Administrative Tribunal (SAT).</p>	<p><i>Investigations and inquiries- Complaints process</i> Amend the Act to simplify the process of making a complaint so that both minor breach and serious breach complaints are to be made to the Director General who then decides how the complaints should be dealt with.</p>
<p><i>State Government’s ability to assist- Remedial action process</i> The options available to support local governments are currently limited and can escalate quickly to direct interventions such as suspending a council and installing a commissioner or dismissing the council.</p> <p>There is support for the State Government to provide intensive assistance and support to local governments by way of a remedial action process involving:</p> <ul style="list-style-type: none"> ○ issuing a remedial notice requiring the provision of information or the performance of an action or activity, ○ the appointment of a person to the local government administration to assist the local governments with its operations, and 	<p><i>State Government’s ability to assist- Remedial action process</i></p>

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<ul style="list-style-type: none"> ○ requiring the local government to participate in a capacity building program. 	
<p><i>Ensuring compliance with the Local Government Act</i> <i>New offence – improper use of position</i> A council member must not make improper use of his or her office as a council member to gain directly or indirectly an advantage for themselves or any other person, or to cause detriment to the local government or any other person</p>	<p><i>Ensuring compliance with the Local Government Act</i> <i>New offence – improper use of position</i> Amend the Act to include an “improper use of position” offence which applies to CEOs and employees of a local government, and former CEOs and employees to ensure that they do not escape liability for improperly using their position.</p>
<p><i>New offence – knowingly providing false or misleading information to council</i> In making decisions, the council of a local government may consider written reports which have been prepared by the CEO or employees of the local government and verbal information provided by local government staff (normally senior executive staff) during a council meeting. The department has received complaints whereby council members have been provided with a written report from the CEO or employee of their local government which contains false or misleading information. There is currently no provision under the Act which makes it an offence for a CEO or employee to knowingly provide false or misleading information to council.</p>	<p><i>New offence – knowingly providing false or misleading information to council</i> Amend the Act to provide that the CEO or an employee of a local government must not knowingly provide false or misleading information to council. This would ensure that a council as the decision-making body of a local government is provided with accurate information from its CEO and employees.</p>
<p><i>New offence – tendering requirements</i> The Act requires a local government to invite tenders before it enters into certain contracts for the supply goods or services. The Local Government (Functions and General) Regulations 1996 set out the requirements. Local governments spend around \$1 billion dollars on goods and services annually. The tendering requirements under the Act ensure that local governments provide the community with goods and services which are of the best value and that there is transparency in the procurement process.</p>	<p><i>New offence – tendering requirements</i></p>

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<p>Currently, the Act does not provide that a breach of the tendering provisions under the Act and regulations is an offence.</p>	
<p><i>Infringements</i> The department can commence a prosecution against local governments and individuals for offences under the Act but may be reluctant to do so due to the costs involved in legal proceedings. It may not be in the public interest to spend funds on prosecuting for offences where the impact has been small.</p> <p>Infringements allow breaches of legislation to be resolved by way of a fixed penalty and can be an effective way of deterring people from further noncompliance.</p>	<p><i>Infringements</i></p>
<p><i>Harmonisation</i> The Act allows authorised local government persons (e.g. rangers) to, among other things, require suspected offenders to provide their personal details, examine vehicles, and arrest people if they give false information or obstruct the officer from performing their duties. Authorised persons are also given powers to issue infringement notices and commence prosecutions.</p> <p>Due to major reforms to the Criminal Investigation, Criminal Procedure and Road Traffic Legislation, certain powers within the Act do not represent current best practice</p>	<p><i>Harmonisation</i> Harmonise the powers and procedures so that they are consistent with similar powers and procedures in other legislation</p>
<p><i>Default penalties for local laws</i> The Act allows local governments to make local laws and there are various pieces of legislation that enable local governments to set penalties for offences in their local laws. If a local government fails to</p>	<p><i>Default penalties for local laws</i> There are several offences within local laws that do not have penalties. Should an LGA proceed with enforcement, court is the only option. A default penalty should apply in these circumstances.</p>

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<p>provide a penalty for an offence contained within a local law, the local government is unable to enforce that offence.</p>	
<p><i>Powers under the Local Government Act - Notice issued by a local government to require a person to undertake an action</i></p> <p><i>Secure a building</i> There are issues with the ability of a local government to issue a notice to a land owner or the occupier of land, requiring the person to undertake certain actions. Although local governments have broad powers with respect to issuing notices to remediate issues on premises, they do not have the ability to request that an owner must effectively secure a building.</p> <p><i>Disused Materials</i> Currently, the Act defines “disused materials” to include disused motor vehicles, old motor vehicle bodies and old machinery.</p> <p><i>Disposing of Property</i> The procedure in the Act for disposing of property removed by a local government due to a contravention of a local law or regulation is unclear.</p>	<p><i>Powers under the Local Government Act - Notice issued by a local government to require a person to undertake an action</i></p> <ul style="list-style-type: none"> • The addition of an expanded list of disused materials would be beneficial. ○ Amend the Act to provide a clearer framework for local governments to dispose of property.
<p>Community Engagement DLGSC - Community Engagement</p>	
<p>Local governments often need to make difficult decisions:</p> <ul style="list-style-type: none"> ○ Planning; ○ Whether to invest in a project; ○ Future direction. <p>Local governments are required to engage when creating the 10 year strategic community plan and on matters such as local laws and differential rates.</p> <p>Strong community engagement strengthens representative democracies and builds community capacity. It contributes to building trust between</p>	<ul style="list-style-type: none"> • Rather than introducing the requirement for a community engagement (CE) charter, introduce the requirement for a community engagement policy that could be either an operational or a Council policy. In an age where there is an increased desire for the community to engage with staff or Council on a range of issues it is important to establish in policy what the community will and will not be engaged on. Include engagement principles in said policy to ensure high participation rates in engagement activities. Require the inclusion of a Public Participation Spectrum (i.e. IAP2 Spectrum) in the Policy that outlines the extent to which an organisation is willing and able to engage with their community.

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<p>the community and the council and raises the quality of decision making which reflects the needs and aspirations of the community.</p> <p>While local governments are tasked with providing for the good governance of their district and council members with representing the interests of their community, it can be a challenge balancing the community’s competing priorities.</p> <p>Effective community engagement There is currently nothing in Western Australia to guide community engagement.</p> <p>Social Media</p> <p><i>As social media continues to advance, platforms such as Twitter, Facebook and Instagram are being used by local governments as a tool to strengthen community engagement. While social media is being embraced by the sector, concerns have been expressed at the negative and undisciplined way it is being used</i></p>	<ul style="list-style-type: none"> • Introduction of a framework (as a separate document to the policy) which provides the context to plan and implement a CE Process. Reiterates the principles of CE established in the CE Policy and includes the steps and processes required to plan and deliver activities through to reporting outcomes and determining methods of evaluating the processes undertaken. <p>Social Media</p> <ul style="list-style-type: none"> • Implement a legislative requirement for LGs to adopt a social media policy and code of conduct for staff and elected members. Require local governments to adopt a social media policy regarding the appropriate use of social media in community engagement in a social media policy • As social media a tool of community engagement, how and when it is appropriate use should be contained with the community engagement framework or policy.
<p>Integrated Planning and Reporting DLGSC - Integrated Planning and Reporting</p>	
<p>IPR is a legislative requirement under the Local Government Act 1995 and requires at a minimum that a local government produces a strategic community plan and a corporate business plan.</p> <ul style="list-style-type: none"> ○ Strategic community plan is a 10+ year plan informed by community aspirations. ○ Corporate business plan is a plan that mobilises resources to implement the first four years of the strategic community plan. 	
<p>Planning</p> <p>IPR enables community members and stakeholders to participate in shaping the future of their community and in identifying issues and solutions. It is a process designed to articulate the community’s vision, outcomes and priorities; allocate resources to achieve the vision, and monitor and report progress.</p>	<p>Planning</p> <p>Plans need to be:</p> <ul style="list-style-type: none"> ○ Understandable; ○ easily communicated ; ○ appropriate for the size of the organisation;

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<p>IPR is cyclical and normally begins with the development of a Strategic Community Plan. The Corporate Business plan activates the Strategic Community plan through a four year delivery program and incorporates other planning instruments such as asset, financial and workforce management plans.</p>	<ul style="list-style-type: none"> ○ understood by the administration , council and the community; and ○ Realistic and take into account available resources. ● Community consultation must be undertaken, in conjunction with the local government’s financial plan, so that the prioritisation of resources can be understood and accepted by the community. ● Minimum standards should be set for the level of community consultation and engagement in relation to major review of IPR. ● Remove any requirement for, or make optional the requirement for community engagement when undergoing minor review of IPR.
<p>Reporting IPR provides a structure for local government to report their progress on meeting strategic and community objectives. There is no formal performance reporting mechanism for local government in Western Australia, besides their annual report. It is currently open to local governments to design their own means of reporting progress and outcomes to the community</p>	<p>Reporting Set benchmarks across all local governments however it should be a determination of each LGA on how they are reported (any change could include some base guidelines)</p>
<p>Integration and alignment Integration is critical to the effectiveness of IPR. Some local governments integrate IPR into their whole organisation’s structure and processes by incorporating it into the CEOs Key Performance Indicators, flowing down to officers’ position descriptions. Other local government plans are less integrated and function as standalone documents. The State Government requires local governments to develop a number of statutory plans such as local health plans, disability and access plans and town planning schemes. Currently there is no requirement for these plans to be integrated with the IPR documents.</p>	<p>Integration and alignment Support the establishing a base framework for integration and alignment. The flexible framework to suit all LGA’s.</p>
<p>Flexibility The IPR Framework and Guidelines establish that IPR is not a “one size fits all” model and each local government should use IPR at a scale appropriate to the size and needs of the organisation and community.</p>	<p>Flexibility Agree that a level of flexibility is required. Set minimum standards or guidelines.</p>

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<p>Local governments have different approaches to IPR. The framework and guidelines were deliberately written with the flexibility that reflects this.</p> <p>However some local governments have the opinion that the advisory standards are not appropriate for them due to their size, location or capacity.</p>	
<p>Complaints Management DLGSC- Complaints Management</p>	
<p>Local governments deal with many complaints each year. Complaints are an important way for the management of an organisation to be accountable to the public. If not handled well, complaints can lead to a significant breakdown in trust and can spill over into other areas of the local government’s operations.</p> <p>The Australian / New Zealand standard for complaints management provides guidance on complaints management within an organisation including the planning, design, operation, maintenance and improvement of the organisation’s complaints management systems.</p> <p>It is essential to have policies and procedures in place to deal with a complaint well from when it is first received.</p> <p>There is currently no legislative requirement for local governments in Western Australia to have complaint handling processes. Many local governments do not have easily accessible complaints handling processes. Identifying what works best for the diversity of needs across WA is essential.</p> <p>A legislative requirement for complaints management may encourage local governments to adopt and actively work on better complaints</p>	<p>Complaints and compliments procedures should be made available through a publicly available “Customer Service Charter”</p> <p>Procedures should:</p> <ul style="list-style-type: none"> • Clearly define what a complaint is and isn’t. • Detail how complaints will be managed in the organisation. • Show how complaints are to be resolved when matters are referred to an external body. • Give local governments discretion to refuse to respond to and/or deal with a complainant where the CEO is of the opinion that the complaint is trivial, frivolous or vexatious, or has not been made in good faith, or is without substance. Such a provision might be similar to section 5.110(3a) of the Local Government Act or section 54W of the <i>Freedom of Information Act 1982</i> (Cth) as referred to above, or a combination of both. • Give local governments discretion to manage complaints that the local government considers to be trivial, frivolous, vexatious etc., in accordance with the policies and/or local laws of the local government that are in place to deal with vexatious or frivolous complaints.

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<p>management. Streamlining processes while creating mechanisms that can allow a flexible, fit-for-purpose way of ensuring all local governments get the most out of complaints management is essential for WA.</p> <p>Customer Service Charter A policy document used to provide the principles and guidelines a local government will use for complaints management. It is a commitment to members of the community and other stakeholders on how the local government will deliver services and handle matters of concern relating to that</p> <p>Independent Review Process Clear policies and procedures to handle complaints should provide both the local government and community with adequate avenues to resolve the grievance and close the matter. The nature of complaints mean that not every issue will be satisfactorily resolved.</p>	<ul style="list-style-type: none"> • Provide a mechanism for delivering positive feedback (compliments) to LG employees. <p>Customer Service Charter</p> <ul style="list-style-type: none"> • Create and make available to the public a customer service charter that clearly outlines : <ul style="list-style-type: none"> ○ Service level targets (wait times, processing times, response times etc.). ○ Procedures for dealing with complaints and compliments. ○ What the public can expect from LG officers when dealing with individual local governments.
<p>Elections DLGSC - Elections</p>	
<p>How elections are conducted Local government elections give communities a direct voice. It is the primary means of holding local governments to account and ensure representation that is reflective of our many diverse communities.</p> <p>Issues that need consideration around voting in local government elections are focused towards increasing voter turnout, ensuring we have adequate community representation guiding our local government decision making processes and increasing community engagement with their local governments.</p>	<p>How elections are conducted</p> <ul style="list-style-type: none"> • Introduce an option for electronic voting. • Hold elections every four years.

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<p>Currently in Western Australian local government elections:</p> <ul style="list-style-type: none"> • Voting is not compulsory. • The election method applied is first past the post. • Are either conducted ‘in-person’ or through a postal vote. • Residents, ratepayers, corporations and property occupiers are eligible to vote. <p>First past the post</p> <p>The current voting method for local government elections in Western Australia is first past the post (FPP). FPP is inconsistent with the voting method applied at both a State and Federal level where preferential voting is required and can often lead to outcomes that do not adequately represent the community’s preferences with many successful candidates being elected without a clear majority of votes</p> <p>In-person/postal/electronic voting</p> <p>Each local government can choose to conduct an election as either an ‘in-person’ election or as a ‘postal’ voting election:</p> <ul style="list-style-type: none"> • Postal voting has increased voter turnout in local government elections but not to the point that reflects State and Federal election turnout. • Electronic voting is touted as an alternative to traditional voting methods where the voter records their vote digitally. <p>Who can vote</p> <p>The eligibility criteria to vote establishes who can have their say in a local government’s future. Currently, the criteria in Western Australia is broad and includes owners of property and corporations that are not eligible to vote in State or Federal elections.</p> <p>Property Franchise</p> <p>Owners of property are currently eligible to vote on the basis that they contribute to a local government through the payment of rates and therefore have a right to a say in how that money is used. A person may vote in multiple districts in which they own property and a maximum of</p>	
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<p>two owners can enrol per property. Some see property franchise as archaic and contrary to the principles of one person, one vote.</p> <p>Property franchise is not linked to voter eligibility in State or Federal elections.</p> <p>Corporate franchise The eligibility of land owners to vote also extends to corporations. A corporation is entitled to a maximum of two votes in each district in which the company owns land. Corporations, like other rate payers, make a significant contribution to local government revenue through the payment of rates.</p> <p>Occupiers franchise As well as land owners and residents, occupiers of business premises are eligible to vote if they apply. Occupiers can include people leasing property such as small business operators who are impacted by council decisions and make a financial contribution to the local government through the payment of fees and charges.</p> <p>When we can vote Western Australia is the only jurisdiction that holds council elections every two years, with nominations sought for half of a council’s positions at each election. In other jurisdictions, council elections occur every four years, in line with the election cycle of their respective State Governments. A two year election cycle was intended to provide greater continuity on council and provide greater accountability by enabling the public to more regularly have a say through elections. However it creates additional costs for local government and may contribute to voter fatigue which leads to fewer people voting.</p>	
<p>Representation Each local government in Western Australia can have a different number of councillors to represent the community, different methods for electing</p>	<p>Representation</p> <ul style="list-style-type: none"> • Link population to councillor numbers to result in greater consistency across the State and more equal representation throughout all jurisdictions.

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<p>a mayor/president and can also have their entire district broken up into voting wards.</p> <p>Inconsistency from each jurisdiction is a major issue. Applying a more consistent approach to community representation is a core issue that needs to be addressed. Ensuring that all electors have a near equal say and representation on their respective local government councils, no matter in which jurisdiction they reside, brings everyone onto an equal playing field.</p> <p>Election of mayors/presidents</p> <p>Mayors and shire presidents can either be elected by the community or elected by the elected council body.</p> <ul style="list-style-type: none">○ If the mayor/president is elected by the council body, the council itself can decide to have the position elected by the community.○ If the mayor/president is elected by the community, only the community can decide to change back to having the position elected by the council body via a referendum. <p>The direct election of a mayor/president can increase public confidence and strengthen the role in the eye of the community. However, the popular election of mayors/presidents has been linked to greater politicisation, instability and friction on council itself, especially when elected on a single issue.</p> <p>Wards</p> <p>Wards are intended to ensure that all parts of a district are fairly represented. While councillors are only elected by voters in a ward, they must represent and make decisions that are in the best interests of the entire district. Wards reduce the overall pool of candidates and reduce the total number of votes required to be elected.</p>	<ul style="list-style-type: none">● Determine a consistent method of election for a mayor/president.● Set a minimum population threshold before a local government could introduce wards to create greater consistency in local government representation.

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<p>Large local governments without wards tend to have sizeable numbers of candidates. Large numbers of candidates running in a district provide greater choice for electors but can also make it difficult for electors to know about a candidate and their platform.</p> <p>Current ward structures are determined by the Governor on the Minister’s recommendation following a review by Local Government Advisory Board.</p> <p>For Western Australia, the State electoral boundaries are reviewed following each State Government election. A similar process could be implemented which would streamline the process, provide a regular schedule for review and deliver consistency with State Government</p> <p>Resolving ties</p> <p>Currently, where two or more candidates receive the same number of votes, lots are drawn to determine the winner. Leaving a matter as important as the outcome of a local government election to chance has been criticised in the past.</p>	
<p>Candidates</p> <p>All candidates in a local government election are potential councillors. It is important that we have a minimum standard imposed on those who want to represent our communities and ensure every community member has sufficient information on their candidates. Individuals are not eligible to run for council if that individual is:</p> <ul style="list-style-type: none"> ○ In prison; ○ has been convicted of a serious local government offence within the last five years; ○ has been convicted of an offence for which the penalty is greater than five years imprisonment <p>Every elected council member performs a unique and important role in planning and building control</p>	<p>Candidates</p> <ul style="list-style-type: none"> • Disqualify from eligibility to run for council- a person who has been convicted under planning and building legislation in the previous five years. • Require candidates to provide additional information in their candidate profile. • Develop a new code of conduct for council members which include provisions on social media use. Extend the mandatory requirement to abide by the code of conduct to all candidates in local government elections.

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<p><i>Candidate nomination</i> Candidates are required to submit a written profile with their nomination of no more than 150 words which is confined to their biographical information and statements of the candidate’s policies or beliefs. The profile cannot contain information that is false, misleading or defamatory. Studies have found that lack of knowledge about candidates contributes to low voter turnout.</p> <p><i>Social Media Use</i> Concerns were expressed by many with the way social media was used in the 2017 local government election period to disparage candidates</p>	
<p><i>Campaigns</i> The average cost of local government campaigns has increased in recent years. An escalation of the costs of campaigning necessary to have a reasonable chance for success can reduce the percentage of people able to be a council member. A well- financed campaign is not inherently improper and can be seen to be in the public interest as it contributes to a more informed and engaged voter base.High campaign costs can lead to candidates relying heavily on donors which can lead to perceptions of impropriety and undue influence.</p> <p><i>Donations/ gift rules</i> Currently, donations/gifts received or promised to a candidate from six months prior to an election until three days after the election for unsuccessful candidates and up to the start day for financial interests for people elected to council must be publicly disclosed. There is also the requirement for donors to disclose their donation/gift given to candidates. These rules are intended to provide greater transparency of political donations and deter corruption. The rules regulating the</p>	<p><i>Campaigns</i> Set a limit on campaign spending and require local government candidates to lodge a return with the Electoral Commissioner stating how much they spent on advertising.</p> <p><i>Donation / gift reform</i></p> <ul style="list-style-type: none"> • Align the two gift frameworks to achieve greater consistency in what gifts must be declared, the timetable for declaration and how these gifts must be reported. • Change the three day notification period to five days.

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<p>acceptance and declaration of election donations and non-election gifts differ considerably. In addition to different monetary thresholds for the declaration of gifts, different rules exist for the process and timeline for declaration.</p> <p><i>Prohibited election gifts</i> In New South Wales, donations from property developers, the tobacco industry and liquor and gambling entities cannot be accepted. In Queensland, it is prohibited to receive donations from property developers in both local and State Government elections.</p> <p>Concerns have been raised regarding the growing reliance on donations from certain organisations and perceptions of greater politicisation resulting from the need to source funding to conduct a competitive campaign.</p> <p><i>Donor declarations</i> Donors as well as recipients are currently required to declare gifts they provide or promise to candidates. This has been viewed as a duplication of the requirement placed on election gift recipients and is inconsistent with the rules for non-election gifts.</p>	<p><i>Prohibited election gifts</i> Prohibit donations from property developers for local government elections.</p>
<p>Administration Regulations – Part 6 Disclosure of Financial Interests.</p>	
	<ul style="list-style-type: none"> • Currently in situation such as a gift from a friend or friends say at a wedding that is valued at \$300 or above must be disclosed. This is just impractical and impossible to monitor or police. Changes required to regulations required to exclude gifts provided in this type of environment and to employees with no delegated or decision making authority. • Align with State Rules.
<p>Trust Funds – Public Open Space funds held in Trust.</p>	
	<ul style="list-style-type: none"> • LGA’s should not be required to seek approval from third party (i.e. Planning Commission) to spend Public Open Space funds held in trust.

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	<ul style="list-style-type: none"> • As minimum all that LGA's should be require to do is report annually on the amount, the reason and the location where funds were spent.
Audits – Division 3 Conduct of Audits	
	<ul style="list-style-type: none"> • Standardise and provide improved clarity on the reporting requirements for all types of audits.