

ATTACHMENTS.

Special Council Meeting

8 March 2018

ATTACHMENTS TO AGENDA ITEMS

Special Council Meeting - 8 March 2018

Contents

7.4.1 REVIEW OF THE LOCAL GOVERNMENT ACT 1995 - SUBMISSION

Attachment (a): Local Government Act 1995 Review - City of South Perth

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Local Government Act (1995)

Section of Legislation	Title	South Perth Position
1.7 (1)(a), (2)(a) 1.8	Local and Statewide Public Notice	The City supports in principle an amendment to delete compulsory newspaper advertising.
2.4A	New Provision - Differentiating Between Local Governments	The City supports a new provision to differentiate between local governments based on capacity.
2.11	Method to Elect Mayor / President	The City is not supportive of an amendment to delete the poll provisions in relation to changing the method of election for the Mayor/President.
2.22	Disqualification due to convictions	The City supports an amendment to include a section which disqualifies a person if they have been convicted of an offence against the Planning and Development Act, or the Building Act, in the preceding five years.
3.12	Procedure for Making Local Laws	The City supports an amendment to delete the requirement to consult on model Local Laws.
3.16	Periodic Review of Local Laws	The City supports an amendment to delete the periodic review requirement for model Local Laws.
3.50B	New Provision - Closure of Bridge for Repairs	The City supports an amendment to allow for a bridge to be closed for urgent repairs and maintenance without notice.
3.53	Control of Certain Unvested Facilities	The City supports an amendment to repeal Section 3.5.3 and that the responsibility for facilities located on Crown Land return to the State as the appropriate land manager.
3.58	Disposing of Property	The City supports an amendment amended to allow a Local Government more flexibility to deal (sell, develop) with land, to align to the current practice of the private sector and the State Government. The Act essentially forces a Local Government to sell land, rather than develop land. If Council wished to develop a unit complex to either achieve a greater return or achieve some other community benefit, any purchaser of the unit would have to have their name listed in the paper, with the ability for someone to object to that sale. By way of example, with a 50 unit complex, units would be purchased off plan and then throughout the construction phase. Each person wishing to purchase a unit would have to wait until their name is placed in the newspaper and anyone could object, even if they offer to pay the advertised/listed price. This method only occurs for Local Government, private as well as State Government sales (Department of Housing) occur via a standard offer and acceptance process. This is confusing to the public and unnecessary if appropriate safeguards are put in place.
3.60	No Capacity to Form Body Corporates	The City supports an amendment to allow local governments with capacity to form bodies corporate (Council controlled organisations) for particular commercial activities.
3.66	Regional Local Governments	The City supports an amendment to reduce the compliance burden on regional local governments in parallel with the proposal to differentiate between local governments.
4.20 (4) 4.61 (4)	CEO to be the Returning Officer Unless Other Arrangements Made	The City is supportive of an amendment to allow the Commonwealth Electoral Commission or any other body competent in conducting elections to be responsible for conducting an election and, in particular, a postal election.
4.61 (1)	Methods of Conducting an Election	The City supports in principle an amendment to allow people the ability to vote online, subject to sufficient controls and technology being in place.
5.24B	New Provision - Vexatious People	The City supports in principle an amendment to insert a new provision to specifically allow a local government to declare a member of the public vexatious.
5.27	Electors' General Meetings	The City supports an amendment to delete a requirement for general electors' meetings and to insert a requirement that a local government specifically invites public questions on the annual report at the meeting at which Council accepts this report under S5.54(1).
5.28 (2)	Electors' Special Meetings	The City supports an amendment to limit the number of special electors' meetings which can be held on the same matter. Once a matter has been discussed at a special electors' meeting, the same matter, or a very similar matter, should not be able to be discussed at another special electors' meeting for 12 months unless Council determines otherwise.
5.37 (2)	Senior Employees	The City supports an amendment that Section 5.37(2) of the Local Government Act be deleted requiring Council approval for senior employee appointments (other than the CEO).
5.38	Annual Review of Employee Performance	The City supports an amendment to delete the requirement for annual performance reviews for staff other than the CEO.
5.90A New Training Provision	New Provision - Councillor training	The City is not supportive of mandatory training for Councillors. The City is supportive of Councillors being encouraged to undertake training on identified subjects.



Local Government Act (1995)

Section of Legislation	Title	South Perth Position
5.94	Public Inspection of Local Government Information	The City supports an amendment to require information to be available online to inspect as well as in person.
6.14	Power to Invest	The City supports an amendment to The Local Government (Financial Management) Regulations 19C to include investments approved by the Minister, in addition to the listed requirements of Australian Deposited (ADIs) Institutions and WA Treasury. This would allow flexibility that may present itself, where the Minister could seek advice from WA Treasury and then if there are the necessary safeguards in place, the Minister could approve such investments. By way of example, the WA or Australian Future Funds may allow Local Government to invest reserve or surplus funds, which could provide a safe alternative to privately owned ADI banks.
6.16 (2)(b) (e)	Imposition of Fees and Charges	The City supports an amendment to abolish the establishment of fees at the start of the year for these items which respond to consumer demand in a commercial environment.
6.20 (2)	Power to Borrow	The City supports an amendment requiring one month's public notice of the intent to borrow, being deleted.
6.21 (1)(b)	Restrictions on Borrowing	The City supports an amendment to allow local governments to give security over freehold land as well as general purpose grants.
6.26 (2)	Rateable Land	The City supports an amendment to introduce a requirement for State Government trading enterprises, including the Housing Authority, to pay rates on their commercial land rather than making rate equivalent payments to the State Government.
6.26 (2)	Rateable Land	The City supports an amendment to require resource projects which are covered by State Agreement Acts to pay local government rates where possible.
6.26 (2)(g)	Rateable Land	The City supports an amendment to exclude independent living units for seniors from being a charitable purpose for which a rate exemption can be claimed.
6.28 6.33(1)	Basis for Rates and Differential General Rates	The City supports an amendment to enable differential rating based on the time land remains vacant.
6.41	Service of Rate Notice	The City supports an amendment to the provision on the service of rate notices to allow for electronic delivery of notices where a ratepayer's electronic address is known.
9.13 (6)	Onus of Proof	The City supports an amendment to reflect the introduction of the definition of 'responsible person' to enable Local Governments to administer and apply effective provisions associated with vehicle related offenses.
Schedule 2.1 2(1)(d)	Creating, Changing and Abolishing Districts	The City supports an amendment to increase the number of electors required to put forward a proposal for boundary change from 250 to 500.
Schedule 2.2 2.3(1)(a)	Provisions About Wards	The City supports an amendment to increase the number of electors required to put forward a proposal for ward change from 250 to 500.
6.16 (k)	Imposition of Fees and Charges	The City supports an undertaking of a review to remove fees and charges from legislation and Councils be empowered to set fees and charges for Local Government services.
(o)	Stand Down provision	The City supports a proposal for an individual elected member to be 'stood down' from their role when they are under investigation; have been charged; or when their continued presence prevents Council from properly discharging its functions or affects the Council's reputation, subject to further policy development work being undertaken.
b)	Leave of Absence when Contesting State or Federal Election	The City supports an amendment requiring an Elected Member to take leave of absence when contesting a State or Federal election, applying from the issue of Writs.
5.82 and 5.83	Gifts and Contributions to Travel	The City supports the following amendments: <ul style="list-style-type: none"> - There be one section for declaring gifts, with declarations for travel being deleted. - No requirement to declare gifts received in a genuinely personal capacity, as gifts only to be declared in respect to an Elected Member or CEO carrying out their role. - Gift provisions only being for Elected Members and CEO's. - Gifts only to be declared if above \$500.00, with this value indexed annually. - There will not be any category of notifiable gifts or prohibited gifts. - Exemption for electoral gifts received that relate to the State and Commonwealth Electoral Acts, so Elected Members who are standing for State or Federal Parliament will only need to comply with the State or Federal electoral act and not declare it as a Local Government gift.



Administration Regulations 1996

Section of Legislation	Title	South Perth Position
10	Revoking or Changing Decisions	The City supports an amendment of Regulation 10 to assist clarify the rights of a Councillor to seek a revocation or change.
19B	Payment to Employee in Addition to Contract or Award	The City supports an amendment of Section 19B to state that the number of positions within the salary band should be identified, rather than the number of employees entitled to the salary.
New Regulation	Repaying of Advance Annual Payments	The City supports the enactment of a new regulation that enables the recovery of advance annual payments that have yet to be made.



Financial Management Regulations 1996

Section of Legislation	Title	South Perth Position
4	Exempt from AASB 124	The City supports an amendment of regulation 4 to reflect the provision of exemption from the application of AASB 124 'Related Party Transactions' of the Australian Accounting Standards (AAS).
68	Maximum Interest Component on Instalments	The City supports an amendment of Section 68 so that the prescribed interest rate is set at the average variable overdraft interest rate for small business, as published by the Reserve Bank of Australia in the month immediately preceding the instalment date.
70	Maximum Interest on Overdue Rates	The City supports an amendment of Section 70 so that the prescribed interest rate on overdue rates and service charges is set at twice the amount which applies to the interest rate which applies to the payment of rates in instalments under Regulation 68.



Functions and General Regulations 1996

Section of Legislation	Title	South Perth Position
11 A	Tender Threshold	The City supports an amendment to increase the tender threshold, in line with State Government purchasing policy.
30 (3)	Disposition of Property	The City supports an amendment of regulation 30(3) such that any financial threshold limitation be deleted (currently \$75,000 on a disposition) where it is used exclusively to purchase other property in the course of acquiring goods and services, commonly applied to a trade-in activity.



Regional Subsidiary Regulations 2017

Section of Legislation	Title	South Perth Position
8	No Capacity to Undertake Trading Undertaking or Land Transaction	The City supports an amendment to remove the restrictions on land transactions and commencing a trading undertaking.
11	Power to Borrow	The City supports an amendment to remove the restriction on borrowing.