



MANMKAL ECONOMIC  
EDUCATION FOUNDATION

# CLOSER TO THE PEOPLE

REINSTATING WESTERN AUSTRALIAN RATEPAYERS  
AT THE CENTRE OF LOCAL GOVERNMENT

JANUARY 2021 // DISCUSSION PAPER

*“While I was a Federal MP, I represented the people of some 26 shires and saw something of their local governments. I formed the strong opinion that the quality of local government varied inversely with the quality of the Scotch in the Council bar.”*

*– John Hyde,  
Federal Member for Moore (1974-1983)*

## 1.0. Executive Summary

This paper discusses widely understood, but ineffectively addressed issues that adversely affect Western Australia's local governments. There are several reasons these issues exist: the role of councillors and administrations are not clearly defined, and many do not possess the skills which are necessary to effectively govern; voting systems do not accurately convey the preferences of ratepayers; and the Western Australian Local Government Association (WALGA) has encroached on what should be functions of the Department of Local Government, Sport and Cultural Industries (DLGSCI).

If their activities are not overseen and properly curtailed by ratepayers and regulators, local governments will expand in size and scope and become less democratic. If this trend continues while tax bases remain fixed, the disparity between councils' revenue raising capacity and their expenditure commitments will continue to grow. This is compounded by local governments incorrectly allocating tax revenue to fund the provision of goods and services which are outside of their core functions. Councils also commonly fail to understand the implications of their decisions on their revenue raising capacity. Residential and commercial developments which would generate significant income are often overlooked.

Relatively simple structural reforms would greatly reduce inefficiency and increase the accountability of council administrations to ratepayers. In this paper, we discuss these in detail to stimulate further discussion and create better outcomes for all Western Australians.

## 2.0. Introduction

Local government shares the faults of any other level of government but is rarely held to account. It is the closest level of government to the people but the least able to deliver on its responsibilities. Waste and inefficiency are rampant, however, this is not well documented, except perhaps in local papers, but criticism from vocal minorities seldom drives change. Reform is impeded by lobby groups who subvert democracy and prioritise the interests of council administrations to the detriment of ratepayers.

Local administrations are getting bigger and are delivering services outside of their traditional roles. This may be well-intentioned, but such an increase in responsibilities hurts ratepayers over the long-term. The roles of councillors and councils are not clearly defined, and the Department of Local Government, Sport and Cultural Industries (DLGSCI)'s role has been usurped by the Western Australian Local Government Association (WALGA). Recent reviews into the local government sector have been of varying levels of value, and will likely not drive the reforms which are necessary. Policymakers ignore the most significant issue which local governments face given their expanding size – a growing disconnect between their expenditure commitments and their revenue base.

This paper does not propose radical changes or present any significant new evidence of council maladministration. Rather, it integrates the views of qualified individuals on the problems that plague local government and their solutions. There are relatively simple changes which once made would increase the transparency of local governments and increase the engagement of communities in local politics.

## 3.0. Subsidiary and Fiscal Federalism

In Western Australia, legislative and executive powers of local government are derived from the *Local Government Act 1995* which gives councils a great deal of autonomy. The Act describes the general function of local government as taking a “liberal” approach in providing for the good government of persons in its district.<sup>1</sup> The ambiguity of the legislation in this area is deliberate and permits expansion of the traditional remit of “roads, rates and rubbish” to the current wide-ranging responsibilities they currently fulfil. Local governments are imprecisely referred to as the government of the “gaps”, responsible for roles not fulfilled by other tiers. Modern councils provide local infrastructure like roads, footpaths, street lighting, and waste disposal. In addition, many offer community and recreation facilities, support services for local businesses, encourage tourism and host cultural events.

<sup>1</sup> *Local Government Act 1995*. Part 3 Division 1 3.1.

[https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc\\_42743.pdf/\\$FILE/Local%20Government%20Act%201995%20-%20%5B07-r0-01%5D.pdf?OpenElement](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_42743.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-r0-01%5D.pdf?OpenElement).



There are clear advantages in Australia's system of fiscal federalism which have been extensively discussed elsewhere. Much of the literature on fiscal decentralisation advocates for subsidiarity: the theory that the economic performance of a government becomes more efficient and effective if public services are provided by the lowest level of government possible. This means that government responsibilities which are nationally bounded – foreign policy, welfare, defence, immigration and international trade – should be provided by the federal government because demand for their provision is constant nationally.

Where possible, however, devolving political responsibilities to state and local governments decentralises decision-making and more efficiently allocates resources, as lower tiers of government are in a better position to align local preferences to publicly provided goods and services. Decentralisation also fosters greater competition and accountability between and within local government areas. When public goods are provided by competing regions, sorting according to preferences induces their efficient provision.

#### 4.0. History of Local Government in Western Australia

Modern local governments have assumed a significant scope of responsibilities; however, this has not always been the case. The earliest forms of local government in Western Australia were established in 1838 as a result of the *Towns Improvement Act 1838*. Following this, town trusts were established in Fremantle and Perth, although responsibilities were limited. These focused on creating and improving communication infrastructure through the construction of roads, bridges, jetties and ferries. The *Municipalities Act 1871* later transformed town and country trusts into municipalities and road districts respectively, laying the foundations of contemporary local government structure and responsibilities in WA.<sup>2</sup>

The size and operational scope of councils rose following the Second World War. An increased level of female employment during wartime led to increased demand for childcare, crèches and infant welfare centres, and the post-war baby boom encouraged investment in youth-focused recreational facilities, such as swimming pools.<sup>3</sup> During the 1970s and late 1980s, local government expanded again claiming a need to address “quality of life” issues and promote

<sup>2</sup> Municipalities had additional powers to license and regulate slaughterhouses, markets, carts and carriages, straying and grazing of livestock in towns, and dogs; to condemn food considered unfit for human consumption; to plant and preserve trees and shrubs; to regulate weights and measures; and to establish and maintain public libraries, museums, botanical gardens, and recreational facilities. WALGA, 2007. *Western Australian Local Government Association Submission to Inform The Productivity Commission's Research Into "Assessing Local Government Revenue Raising Capacity"*. WA Local Government Association, p5: [https://www.pc.gov.au/inquiries/completed/local-government/submissions/wa\\_local\\_government\\_association/sub051.pdf](https://www.pc.gov.au/inquiries/completed/local-government/submissions/wa_local_government_association/sub051.pdf).

<sup>3</sup> Megarrity, L., 2011. *Local Government and The Commonwealth: An Evolving Relationship*. Dept. of Parliamentary Services, Parliamentary Library: [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp1011/11RP10#\\_ftnref6](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1011/11RP10#_ftnref6).

economic and regional development.<sup>4</sup> They became responsible for intricate town plans and recreation; health, planning, and cultural services; services for children and the aged; and control of bush fires, dogs, parking and cemeteries.<sup>5</sup>

The increasing size and scope of local government in a system of fiscal federalism is not, in theory, undesirable. There would be a strong case for devolving more responsibility and perhaps ultimate authority to local governments at the expense of state governments, and even the federal government. As it presently operates, however, local government lacks the political and financial capacity to effectively perform a great a role as it has already assumed. The list of unnecessary and uncommercial responsibilities of local government continues to grow; driven by special interests, rationally ignorant ratepayers, and self-interested councillors and employees.

## 5.0. Threats to the Financial Sustainability of Local Governments

### 5.1. Expanding remit of responsibilities

The COVID-19 crisis has confirmed, and highlighted, a long-term trend many have observed across the local governments of Western Australia - a declining capacity to deliver the services communities demand. Recent scandals, such as the large-scale financial waste by the City of Perth, are widely publicised, and the financial sustainability of all councils has slowly been diminished. The scale and scope of local government spending has changed significantly in the last two decades. Taxation bases, however, have remained fixed, driving an increasing gap between local governments' revenue and expenditure commitments.

The principal role of local government is to provide public goods<sup>6,7</sup>. This includes construction and maintenance of local roads, the provision of community amenities,<sup>8</sup> and ensuring public safety, such as ranger services. In 2020, however, an average of just 46 percent of the expenditure of Perth councils was spent on "core" local government functions of this type.<sup>9</sup> The remaining 54 percent of council funds were spent on "non-core" functions, such as the provision of swimming pools and libraries, and purely private goods, such as child and aged care, and business advisory services.

<sup>4</sup> WALGA, 2007. *Western Australian Local Government Association Submission To Inform The Productivity Commission's Research Into "Assessing Local Government Revenue Raising Capacity"*. WA Local Government Association, p.6.

<sup>5</sup> Ibid.

<sup>6</sup> A public good is a good that is both non-excludable and non-rivalrous, in that individuals cannot be excluded from use or could benefit from without paying for it, and where use by one individual does not reduce availability to others or the good can be used simultaneously by more than one person.

<sup>7</sup> Oates, W., 1999. An Essay on Fiscal Federalism. *Journal of Economic Literature*, 37(3), pp.1120-1149.

<sup>8</sup> Includes rubbish collection and disposal services, litter control, stormwater drainage, environmental protection, public conveniences, cemeteries and town planning schemes.

<sup>9</sup> Internal Mannkal analysis of each of Perth's local government financial statements.

The expanding remit of local government activities is not entirely driven from within. In many cases, there is significant community demand, if driven only by a vocal and organised minority. This demand, however, originates from ratepayers misperceiving the increasing fiscal burden which arises when local governments increase the range of services they provide (referred to as fiscal illusion<sup>10</sup>), due to incomplete information, and the lobbying efforts of special interest groups. Distinguishing between the types of goods and services provided by local government is crucial to understanding how each should be funded to ensure their efficient consumption. When this connection is not considered, ratepayers encounter inequitable and inefficient outcomes.

## 5.2. Incorrect use of tax revenue

The non-excludability of pure public goods means it is impossible to sustainably fund these goods through measures other than taxation. There are also grounds, in limited cases, to fund the subsidy component of goods with positive externalities through the common tax pool. These should be limited to goods such as sewerage and waste disposal rather than swimming pools and libraries.

An error common to all councils is the whole or partial funding of private goods from the common tax pool. Familiar examples include community gyms and council-sponsored music festivals. Few councils make the cost of such activities publicly available. The costs of provision are dispersed amongst all local ratepayers, while the benefits accrue only to those who consume the good or service, many of whom reside in neighbouring municipalities. This erodes the link between expenditure and revenue, threatening financial sustainability. It also sends inaccurate price signals to consumers.

This is significant, given price signals are a mechanism to convey information to consumers regarding the relative scarcity or value of a good or service.<sup>11</sup> When prices are distorted or cannot effectively respond to changing conditions, their ability to convey information is muted and sub-optimal consumption, production and investment decisions result. The majority of local governments do not directly charge for the services they offer, or if they do, the charges are less than the cost of provision. Some of these charges are bound by state legislation or regulations.<sup>12</sup> This results in a quantity of demand for the services provided by councils which is not matched by willingness to pay considerations. When this occurs, non-consumers

<sup>10</sup> Fiscal illusion occurs when government revenues are not completely transparent or are not fully perceived by taxpayers, so the cost of government is seen to be less than it actually is. As the costs of public services are underestimated, the theory implies that if voters had full information, their support for public services would drop. Mourao, P., 2010. "Fiscal Illusion Causes Fiscal Delusion – Please Be Careful!" [https://doi.org/10.1007/978-3-642-15717-2\\_25](https://doi.org/10.1007/978-3-642-15717-2_25).

<sup>11</sup> Hayek, F., 1945. The Use of Knowledge in Society. *American Economic Review*, 4(35), pp.519-530.

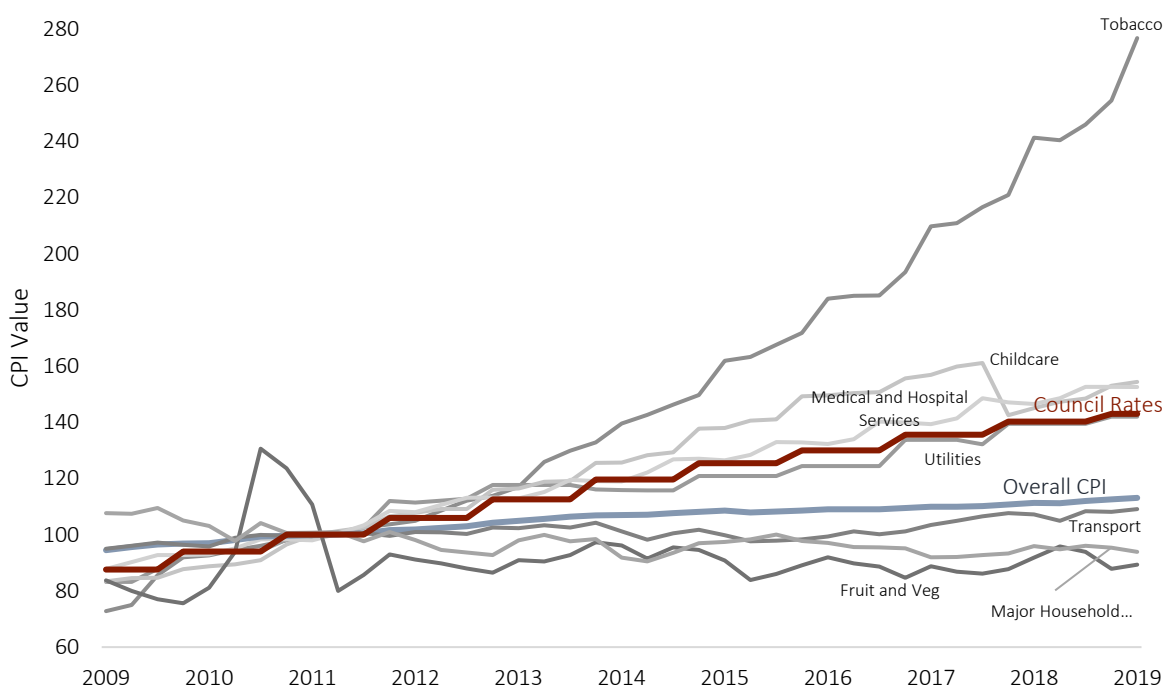
<sup>12</sup> WALGA, 2019. *Final Submission Select Committee into Local Government*. WA Local Government Association, p.6. [https://www.parliament.wa.gov.au/Parliament/commit.nsf/luInquiryPublicSubmissions/DCCAD309ECAE29E04825848100171E77/\\$file/lo.lgi.150.190910.sub.walga.pdf](https://www.parliament.wa.gov.au/Parliament/commit.nsf/luInquiryPublicSubmissions/DCCAD309ECAE29E04825848100171E77/$file/lo.lgi.150.190910.sub.walga.pdf)

subsidise the consumption of consumers through rate revenue or from the common tax pool, causing an inequitable transfer of wealth from one group of ratepayers to another.

### 5.3. Inadequate knowledge of the revenue base

The goods and services provided by local governments are funded primarily through either taxation, services charges, or grant revenue from higher tiers of public office. As the scope and expenditure required to fund council activities have increased, so too have the taxes levied on ratepayers, because for the most part tax bases have remained fixed. Rate revenue in Western Australia is raised through a gross rental value (GRV) method, which represents the annual rental revenue that a property might be expected to earn. From this, councils set a percentage in the dollar which is levied on the rateable value of the property, after accounting for estimated inflows of funds from alternative sources, which are primarily user charges and state government grants. In the Perth metropolitan area, rates account for an average 58 percent of council revenue,<sup>13</sup> with the majority of the remainder being user charges and government grants. Over the past decade in Western Australia, to track the increases in local government expenditure, council rates have increased by 63 percent (**Figure 1**).<sup>14</sup> Over the same period, only the costs of tobacco, electricity, water, medical and childcare services have increased faster; all sectors with high levels of state regulation and involvement.

*Figure 1 - ABS Consumer Price Index Values, Perth (2009-2019)*



Source: Australian Bureau of Statistics

<sup>13</sup> Internal Mannkal analysis of each of Perth's local government financial statements.

<sup>14</sup> Australian Bureau of Statistics. 2020. *Consumer Price Index, Australia, September 2020*.

<https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia/latest-release>



At current rates of spending growth, revenue from present sources will not support future outlays. Without a return to the delivery of pure public goods by local governments - an unlikely scenario - most councils will soon face large shortfalls in revenue which must be funded by grants from higher levels of government, or by incurring debt. Either way, taxpayers will be forced to pay.

A better understanding by local governments of their revenue base would help to address the growing disconnect between council income and spending but local governments seldom consider the implications their planning, development approvals and zoning decisions have on their revenue-raising ability. Geoanalytical software<sup>15</sup> can be applied to better understand the fiscal efficiency of local government areas and drive development decisions which enhance the productive value of land. Such analysis has already been undertaken by the City of Melville,<sup>16</sup> which uses data to compare the cost of land with actual rate income, allowing them to identify areas that cost the city more in services and infrastructure than was returned in revenue, and forecast future rates revenue from new development to improve self-sufficiency and investment planning.

## 6.0. Drivers of Local Government Inefficiency

### 6.1. Low-calibre councillors

Local governments function with elected boards and executive management. Community members elected to these boards often do not have the skills to oversee organisations with hundreds of thousands of dollars' worth of revenue. Likewise, politicians often do not have the skills to manage the higher tiers of government, however, Parliaments and their Cabinets, by understanding broad principles that apply to all government and by relying on expert advice on specifics, do somewhat better. If local governance is to remain democratic, then there is little option but to facilitate a better understanding of principles and better access to quality advice.

English political economist John Stuart Mill argued that poor local government is a product of the low-calibre councillors and staff. The limited control and influence of local government diminishes its appeal to those who are most capable. High-calibre individuals who seek careers in public office spend only a short time in local politics, if any at all, before being enticed to

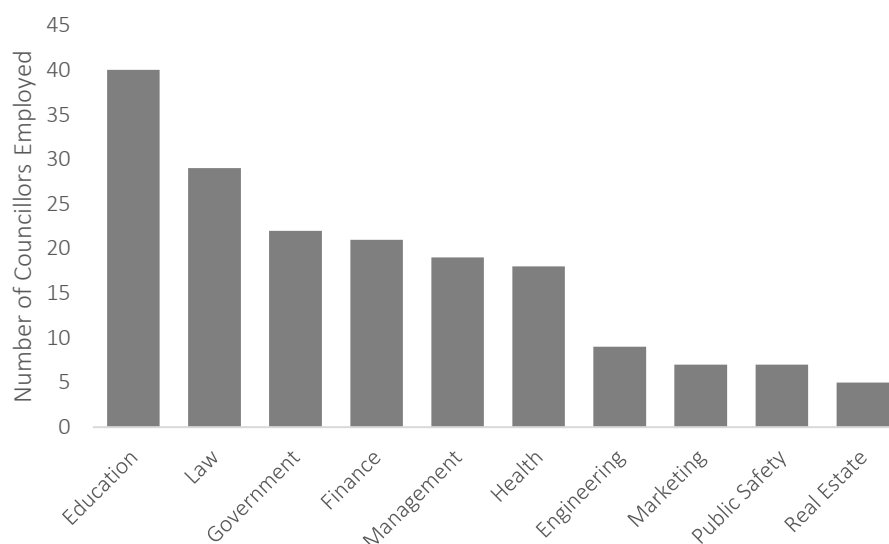
<sup>15</sup> For example, one private provider of this software is United States-based planning firm, Urban3. Urban3's data analytics tool has been implemented locally by Perth-based company RobertsDay so that councils may better consider the critical linkages between planning, growth and council rates revenue. Urban3. 2020. *Revenue Analysis — Urban3*. <http://www.urban-three.com/economic-productivity-analysis>.

<sup>16</sup> The Fifth Estate. 2020. *Western Australia's City of Melville Explores Putting A Price on Placemaking | The Fifth Estate*. Available at: <https://www.thefifthestate.com.au/articles/western-australias-city-of-melville-explores-putting-a-price-on-placemaking/>.

state and federal roles with greater influence and status. Western Australia's incumbent Premier Mark McGowan is an example of how this typically occurs, however, this is not unique to Western Australia. In the eastern states, political affiliations within local governments are much more prevalent, and often accelerate this trend.

This means that while well-intentioned, councillors of local government, as well as many of its senior employees, give little thought to the nature of power and to the proper oversight which should accompany its use. **Figure 2** catalogues the top 10 occupations of Western Australian councillors in the Perth metropolitan area, where information was publicly available. While these figures are not entirely unfavourable, in most cases, councillors lack the understanding of their peers in higher levels of government on the underlying principles of effective government. These include rights of person and property, the rule-of-law, transparency, the division of power, the risks associated with vested interest and avoiding conflict of interest, the relevant constitutional restraints, financial prudence and accounting, and more.

*Figure 2 - Top 10 Metropolitan Council Occupations*



*Source: Mannkal Analysis*

From a structural perspective, local government has no organised opposition or upper house and members are rarely scrutinised under an equivalent to parliamentary question time. Councillors are usually compelled to run on one or two particular issues, such as community safety or environmental matters, and do not give appropriate attention to those issues they are less interested in.

## 6.2. Unrepresentative voting systems

Western Australia elects council members through a non-compulsory first-past-the-post system and each council is made up of between six and 15 councillors. Voter turnout has historically been low; only 29.07 percent<sup>17</sup> of eligible voters cast a vote in the 2019 Local government elections. Council motions are passed by a majority vote which means that councillors who represent a small group of people have considerable influence over policies which affect a whole local government area.

To illustrate, consider a local government with a voter turnout of 30 percent and 15 elected members, which uses the simple majority system of voting. Only 30 percent of the electorate voted for any one of these councillors. A majority of eight, or 53 percent of the elected members, is required to pass a motion. In practice, assuming that each councillor perfectly represents the views of their electors, this means that municipality-wide decisions can be enforced by the preferences of just 16 percent of the electorate. While these estimates may not be true for every council, the principle remains the same; elected members who capture very small portions of the vote have significant power in local decision-making.

Moreover, council members who are completely indifferent towards a given issue find their preferences given as much weight as those of the most concerned individuals. When the intensity of preferences varies, “logrolling”<sup>18</sup> or vote-trading often occurs enabling individual council members to get their own policies through the legislative process. They agree to support measures others strongly favour in return for those councillors’ support on their preferred motions, resulting in more legislation passed than what electors desire. Meanwhile, the interests of the wider ratepayer base, who have to pay for these measures, are not as well represented.

## 6.3. Regulatory capture by council employees

Regulatory capture refers to a manipulation of authority that occurs when a political entity is coerced to serve the interests of a particular group, be they commercial, ideological or political.<sup>19</sup> Many submissions to the recent Local Government Act Review inadvertently

<sup>17</sup> Western Australia Electorate Commission, 2019. *2019 Local Government Ordinary Elections Western Australia Electoral Commission Election Report*. Western Australia Electorate Commission.  
[https://www.elections.wa.gov.au/sites/default/files/waec/lg\\_elections/Reports/2019\\_LG\\_Election\\_Report%20FINAL%20online.pdf](https://www.elections.wa.gov.au/sites/default/files/waec/lg_elections/Reports/2019_LG_Election_Report%20FINAL%20online.pdf).

<sup>18</sup> Logrolling occurs when democratically elected representatives or special interest groups agree to trade votes and support each other’s favoured initiatives. These factors make interest group minorities particularly powerful in systems of representative democracy. Butler, E., 2016. *Public Choice - A Primer*. [ebook] London, United Kingdom: Institute for Economic Affairs. Available at: <https://iea.org.uk/wp-content/uploads/2016/07/IEA%20Public%20Choice%20web%20complete%2029.1.12.pdf>.

<sup>19</sup> Stigler, G., 1971. The Theory of Economic Regulation. *The Bell Journal of Economics and Management Science*, 2(1), pp.3-21.

highlighted the degree and prevalence of regulatory capture within the local government sector.

Regulatory capture commonly occurs in local government when ill-informed and unskilled councillors turn to local government executives for guidance on financial and regulatory matters concerning their electorates. Such a reliance on the expertise of the CEO or other senior employees is clearly not in the interests of ratepayers, given that CEO's have an incentive to steer council decisions in-line with their own interests. This is not to suggest that CEO's are intentionally misleading councillors, but advice provided by CEO's is certainly neither independent nor unbiased.

In addition, because the corporate executives' remuneration is reflective of efficiency and profit measures, local government executives have an infallible focus on increasing budget sizes and headcounts. The Salaries and Allowances Tribunal sets upper and lower bounds on CEO salaries based on the size and complexity of local government operations. Perverse incentives inherent in these remuneration structures lead to CEO's continually expanding the size and scope of services in their organisations, invariably resulting in short-sightedness and a tendency for "empire building". Across all of the Perth metropolitan area's councils, the number of local government full-time equivalent employees increased 4.29 percent<sup>20</sup> in the five years between 2015 and 2020. Over the same period, employee costs have increased by 22.50 percent.<sup>21</sup>

The interests of CEO's and other employees are also protected by the Western Australian division of the Local Government Professionals Association (LGPro) acting as a de-facto union for executives. Elected members do not receive the equivalent support afforded to LGPro members which also contributes to the power imbalance between councils and workers. The strategic mandate of the organisation is to put its members' needs first and enhance the value of its membership.<sup>22</sup>

The Western Australian Local Government Association (WALGA), another, larger and more influential lobbying agency which too openly acts to serve the interests of local governments and their employees, rather than ratepayers. WALGA was established under the Gallop government following the amalgamation of pre-existing local government organisations, with the purpose of creating a single source of advisory to the state on local government matters. The organisation manages the local government insurance scheme, which is a pooled self-insurance arrangement between all but one of Western Australia's councils. It also retains a

<sup>20</sup> Internal Mannkal analysis of each of Perth's local government financial statements.

<sup>21</sup> Ibid.

<sup>22</sup> LG Professionals Australia. 2020. *Strategic Priorities - LG Professionals Australia*. Available at: <https://lgprofessionalsaustralia.org.au/policies-and-priorities/strategic-priorities/>.



legislated monopoly over the preferred supplier program for local government contracts under the powers set out in the *Local Government Act 1995*.

A significant portion of ratepayer funds are paid to WALGA, yet the organisation seldom acts in the interests of ratepayers. WALGA benefits from maximising their revenue streams from Western Australian councils, and as such, there is little incentive to promote or facilitate increased self-reliance of local governments. The organisation openly promotes, and prioritises, the interests of its member local governments over the wider ratepayer base. While it is not unethical for a membership-based organisation to hold these objectives, the DLGSCI needs to recognise that LGPro's and WALGA's aspirations may not be in the wider public interest. Currently, however, neither are treated as such, and ratepayers lose as a result.

Neither WALGA's insurance program nor its preferred supplier agreements are in the best interests of ratepayers. Local governments, such as the City of Nedlands, who have tested the market for alternative insurance have found significant reductions in premiums.<sup>23</sup> Recently, the *Select Committee in Local Government* found that although all local governments who tendered insurance arrangements in recent years have either remained under the pooled insurance scheme or returned to it the next financial year, 14 of the 15 local governments which had tendered paid a reduced contribution.<sup>24</sup> These contributions are summarised in **Table 1**.

**Table 1: Changes in individual and total contributions to the Local Government Insurance Service mutual scheme before and after 15 local governments tendered their insurance arrangements.**

Local government	% change in contributions between the year before tender and year of tender	% change in total contributions by all Scheme members during the same period
Local government 1	-10%	5%
Local government 2	-12%	5%
Local government 3	0%	3%
Local government 4	-4%	-18%
Local government 5	-6%	-18%
Local government 6	-8%	-18%
Local government 7	-11%	-18%
Local government 8	-19%	-18%
Local government 9	-19%	-18%
Local government 10	-20%	-18%
Local government 11	-24%	-18%
Local government 12	-24%	-18%
Local government 13	-25%	-18%
Local government 14	-27%	-18%
Local government 15	-38%	-18%

Source: [State Government of Western Australia](#)

<sup>23</sup> Smith, C., 2019. Submission With Regard To The Review Of The Local Government Act 1995 - Charles Smith MLC. *Charles Smith MLC*. <https://charlessmithmlc.com/2019/04/submission-with-regard-to-the-review-of-the-local-government-act-1995>.

<sup>24</sup>Legislative Council Western Australia, 2020. Select Committee into Local Government Final Report - Inquiry into Local Government. Legislative Council Western Australia, pp.341-343. [https://www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/D0945E0944747068482585EA001F7481/\\$file/lo.lgi.200922.rpf.001.xx.002.002.pdf](https://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/D0945E0944747068482585EA001F7481/$file/lo.lgi.200922.rpf.001.xx.002.002.pdf)

WALGA, however, in response to the inquiry, denies that local governments who tender their insurance are offered reduced contributions, or may have been paying above the market rate previously. This contradicts the experience of the Town of Mosman Park, The City of Bayswater,<sup>25</sup> and the City of Gosnells.<sup>26</sup>

Furthermore, WALGA's preferred supplier program circumvents competitive tender processes which conflicts with good procurement practices. WALGA has no regulatory powers or authority over councils, however, it has been able to influence the local government sector to a degree no other lobby groups across the Western Australian economy have been able to do. Many Western Australians could be forgiven for mistaking WALGA for the DLGSCI or vice-versa.

The blurring of responsibilities between WALGA and the DLGSCI is dangerous. Effective control of the government, the wider public sector, and lobby groups requires a clear delineation between regulator, lobbyist and operator. The 2017 *Western Australian State Local Government Agreement*<sup>27</sup> is another example of this entangled relationship. The agreement creates a partnership between the state government, the DGLSCI, and WALGA and LGPro which in essence is formalised regulatory capture. The partnership describes WALGA and LGPro, as the "first point of contact"<sup>28</sup> for state-level consultation on issues pertinent to local government. Such an arrangement affords the lobby groups, who explicitly represent the interests of members rather than ratepayers, an opportunity to influence state legislation, regulations, policies and programs which are not afforded to special interest groups in other sectors. It illustrates the chasm between ratepayers, local governments, and the state government, and in part explains why state-level policymaking has continued to trend towards favouring local government departments at the expense of local constituents.

#### 6.4. Restricting political dissent

Elected members who wish to criticise maladministration are often discouraged by dissenting councillors and employees. Provisions made in Section 2.8 of the *Local Government Act 1995* which outline the responsibility of Mayors to speak on behalf of local governments have been

<sup>25</sup> Parliament of Western Australia, 2020. *Select Committee into Local Government - Inquiry into Local Government*. Perth Monday 16th March 2020 Session Three: Parliament Western Australia, p.4. [https://www.parliament.wa.gov.au/parliament/commit.nsf/\(Evidence+Lookup+by+Com+ID\)/77ADDB1B9DB981834825853E000BE8C9/\\$file/lo.lgi.200316.trb.001.cb.pdf](https://www.parliament.wa.gov.au/parliament/commit.nsf/(Evidence+Lookup+by+Com+ID)/77ADDB1B9DB981834825853E000BE8C9/$file/lo.lgi.200316.trb.001.cb.pdf)

<sup>26</sup> Parliament of Western Australia, 2019. *Select Committee into Local Government - Inquiry into Local Government*. Perth Monday 28th October 2020 Session One: Parliament Western Australia, p12-13 [https://www.parliament.wa.gov.au/parliament/commit.nsf/\(Evidence+Lookup+by+Com+ID\)/4A77A010DCB70478482584AF000CB9AC/\\$file/lo.lgi.191021.trb.001.gh.002.pdf](https://www.parliament.wa.gov.au/parliament/commit.nsf/(Evidence+Lookup+by+Com+ID)/4A77A010DCB70478482584AF000CB9AC/$file/lo.lgi.191021.trb.001.gh.002.pdf).

<sup>27</sup> Government of Western Australia, 2017. *Western Australian State Local Government Agreement*. Department of Local Government, Sport and Cultural Industries, [https://www.dlgsc.wa.gov.au/docs/default-source/local-government/state-local-partnership-agreement/state-local-government-signed-partnership-agreement.pdf?sfvrsn=58374416\\_2](https://www.dlgsc.wa.gov.au/docs/default-source/local-government/state-local-partnership-agreement/state-local-government-signed-partnership-agreement.pdf?sfvrsn=58374416_2).

<sup>28</sup> Government of Western Australia, 2017. *Western Australian State Local Government Agreement*. Department of Local Government, Sport and Cultural Industries, p.6. [https://www.dlgsc.wa.gov.au/docs/default-source/local-government/state-local-partnership-agreement/state-local-government-signed-partnership-agreement.pdf?sfvrsn=58374416\\_2](https://www.dlgsc.wa.gov.au/docs/default-source/local-government/state-local-partnership-agreement/state-local-government-signed-partnership-agreement.pdf?sfvrsn=58374416_2).

incorrectly used to effectively “gag” individual councillors from publicly commenting on council matters. Disgracefully, WALGA also supports council policies which restrict the free speech of councillors.

According to WALGA President Lynn Craigie:

*“In recent times there had been some criticism of the public comment parameters for Elected Members – in particular the requirement on detrimental comments.*

*Such criticism has claimed that the requirements restrict democracy where the opposite is actually the case. Elected Members have the opportunity during the debate at Council to express their views either in support or in opposition to a position. Once that decision is made, however, there needs to then be respect for the democratic process and to abide by the majority decision.*

*Any individual who wants to ignore a majority decision that they don’t agree with and then continue the debate in public is actually trying to set themselves above the democratic process.”<sup>29</sup>*

The ability to publicly call into question the decisions of fellow councillors is an essential democratic right. This right is afforded to members of parliament and as such, local government representatives must be afforded the same. When the *Local Government Act 1995* was introduced, it was designed to prevent interference by elected members in the operational matters of local governments. One of the unintended consequences of the legislation is that the balance of power is now held by unelected CEOs and senior employees. Findings in a recent report by the Office of the Auditor General (OAG) into council finances disclosed that some CEOs did not recognise the need for councillor involvement in external audits, with some even attempting to avoid elected members being consulted by the OAG.<sup>30</sup> Such actions subvert the democratic mechanisms which encourage transparency and accountability. Even if elected members possess the knowledge required to effectively fulfil their responsibilities to ratepayers, their ability to act in the interests of constituents is severely hampered by the power of high-ranking council employees.

This problem manifested recently after DLGSCI Minister David Templeman attempted to suspend the Cambridge council over a raft of alleged governance failures, which included interference in staff matters and lodging an unreasonable number of requests for

<sup>29</sup> Western Australian Local Government Association. 2019. WALGA - Media | WALGA. <https://walga.asn.au/News,-Events-and-Publications/Media/Requirements-on-Councillors-Support-Democracy>.

<sup>30</sup> <https://audit.wa.gov.au/wp-content/uploads/2020/03/Audit-Results-Report-%E2%80%93-Annual-2018-19-Financial-Audits-of-Local-Government-Entities.pdf>, page 4

information.<sup>31</sup> These actions, converse to the claims of the Minister, were efforts by council members to perform their democratic and elected duties and address council maladministration. After the notice was appealed, a Supreme Court Judge found no sound basis for the Minister to suspend the council, given the move was in complete disproportion to any supposed failures by Cambridge's elected members.<sup>32</sup> The actions taken by the Minister likely came at the direction of employees within his department seeking to protect the interests of council employees. It is a perfect exemplification of the situation many councillors face when merely trying to perform their elected duty to ratepayers. According to Cambridge Mayor Keri Shannon:

*"The Town has tried to elevate the behaviour of local government and tried to lift the standards and that doesn't sit well with the insiders. We have worked incredibly hard to rectify an embedded culture of complacency and neglect and we believe we have been unfairly penalised for doing so."*<sup>33</sup>

Although the decision by the Supreme Court sets a positive precedent around powers of the minister to suspend elected members and appoint a commissioner of their choosing to oversee council matters, these matters should not be determined by the judiciary arm of government; instead, they should be more clearly defined within the Local Government Act.

## 6.5. The inequity of rate exemptions and freezes

Western Australian councils charge pensioners significantly reduced rates, which, while well-intentioned, creates considerable inequity between groups of ratepayers. Rate concessions are an unfunded policy of the state government set out in the *Rates and Charges (Rebates and Deferments) Act 1992*. These discounts result in cost-shifting, where non-concessionary ratepayers are forced to bear the costs of the revenue-shortfall in the remaining tax base. This commonly results in income- and asset-poor households, such as share houses or young families, cross-subsidising asset-rich retirees.

Not only do the state government's mandated rate-exemptions represent an unfair distribution of the fiscal burden amongst ratepayers, they also incorrectly assign responsibilities within tiers of government. The provision of welfare is not a function of sub-national government under Australia's system of fiscal federalism. Instead, welfare should be provided by the highest tier of government, because of the limited revenue-raising capacity of

<sup>31</sup> Ben Dickinson, Subiaco Post. Vol 47, no. 1, page 1. Oct 10, 2020, "Judge slaps down Templeman sack threat".

<sup>32</sup> *Town of Cambridge -v- The Hon David Templeman MLA, Minister for Local Government; Heritage; Culture and the Arts* [2020] : CIV 1673 of 2020 WASC 350 (Supreme Court of Western Australia), p.4.  
<https://ecourts.justice.wa.gov.au/eCourtsPortal/Decisions/DownloadDecision?id=537c6626-15af-4cc1-b094-dff679b995b7>.

<sup>33</sup> Ben Dickinson, Subiaco Post. Vol 47, no. 1, page 1. Oct 10, 2020, "Judge slaps down Templeman sack threat".



state and local governments, and the possibility of inefficient migration from welfare-poor to welfare-abundant states which are both funded from a common tax pool.<sup>34</sup>

## 6.6. Local Government Act Review

In response to growing public discontent with local government, in 2017 the McGowan government commissioned a review into the *Local Government Act 1995*. The process and findings of the review, however, were disappointing. The review's reference group was composed of non-ratepaying organisations (except for the Regional Chamber of Commerce and Industry) and included both WALGA and LGPro. Both of these organisations also made submissions to the review; a clear conflict of interest given they also sat on the panel considering the submissions. WALGA's recommendations to the LG Act Review limit democratic mechanisms designed to enhance community involvement in the political processes of local government, which were as follows<sup>35</sup>:

- A provision 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;
- removal of annual CEO performance reviews by the council;
- developing a provision allowing local governments to declare a member of the public a vexatious or frivolous complainant;
- removal of Section 6.20(2) of the Local Government Act 1995 which requires councils to provide one month's public notice of the intent to borrow.

These recommendations make it clear that the organisation is interested primarily in consolidating and expanding their, and their members' powers to the detriment of the community.

The concession by the review panel of the existence of a relative deficit of experience and training of elected members compared with council employees is welcomed. The selection of WALGA as the training provider, however, is wrong, even ridiculous, given the organisation's clear alignment with council administrations rather than the community represented by elected members.

More recently, the State Legislative Council completed an inquiry into the functioning of local government. The Upper House review provided a more accurate depiction of the structural

<sup>34</sup> Vo, D., 2010. The Economics of Fiscal Decentralization. *Journal of Economic Surveys*, 24(4), pp.657-679.  
<https://doi.org/10.1111/j.1467-6419.2009.00600.x>.

<sup>35</sup> Department of Local Government, Sport and Cultural Industries, 2017. WALGA Response to Consultation Paper. WALGA.  
[https://www.dlgsc.wa.gov.au/docs/default-source/local-government/local-government-act-review/submissions/western-australian-local-government-association.pdf?sfvrsn=2251cf6e\\_2](https://www.dlgsc.wa.gov.au/docs/default-source/local-government/local-government-act-review/submissions/western-australian-local-government-association.pdf?sfvrsn=2251cf6e_2).

and functional issues prevalent within local government, however, given no meaningful reform arose out of the Local Government Act Review, it is unclear whether any of the Upper House's policy recommendations will be adopted.

## 7.0. Local Government Alternatives

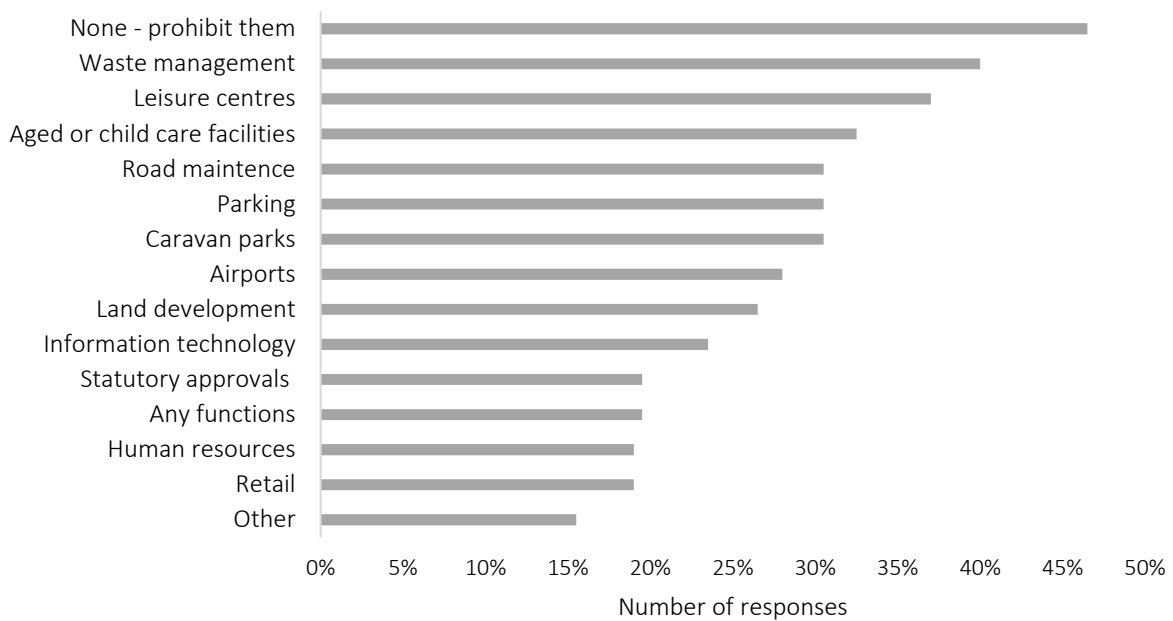
### 7.1. Beneficial enterprises

While unlikely to be implemented in Western Australia for the foreseeable future, given current legislative afflictions and likely public opposition, it is important to note the existence of alternative forms of local government. The Local Government Act Review evaluated the prospect of introducing “beneficial enterprises” – independent corporations enacted by local governments to manage existing, and pursue new, business activities. Unsurprisingly, beneficial enterprises were championed WALGA and LGPro,<sup>36</sup> because they increase the scope of responsibilities and financial size of local governments. Proponents assert that beneficial enterprises are a viable method of addressing some of the market failures<sup>37</sup> which local governments currently solve through the provision of public goods. This may be true, however, the majority of services cited by proponents of beneficial enterprises are not examples of market failure or public goods. The survey responses in **Figure 3** were obtained through the consultation process by the Local Government Act Review panel. Fortunately, the Review panel did not recommend amending the *Local Government Act 1995* to allow for the creation of beneficial enterprises by local governments.

<sup>36</sup> Department of Local Government, Sport and Cultural Industries, 2017. *Local Government Act Review - Consultation Report – Beneficial Enterprises*. Government of Western Australia, p.8. [https://dlgsc.wa.gov.au/docs/default-source/local-government/local-government-act-review/consultation-report---beneficial-enterprises.pdf?sfvrsn=37aa98cb\\_2](https://dlgsc.wa.gov.au/docs/default-source/local-government/local-government-act-review/consultation-report---beneficial-enterprises.pdf?sfvrsn=37aa98cb_2).

<sup>37</sup> Market failure is the economic situation defined by an inefficient distribution of goods and services in the free market. In market failure, the individual incentives for rational behaviour do not lead to rational outcomes for the group.

*Figure 3: Functions that a Beneficial Enterprise Should be Permitted to Perform*



Source: [State Government of Western Australia](#)

## 7.2. Contract cities

“Contract cities” are a form of local government that rely almost exclusively on private providers for what are traditionally public services. Established in 1954 in Lakewood, California, the concept grew throughout California to the point where today, 25 percent of the state’s municipal councils have made contracting for services the core of their operations. The model has also been adopted elsewhere throughout the United States, such as Centennial, Colorado (2000) and Sandy Springs, Georgia (2005).

The contract city system relies on public-private partnerships (PPP) to provide those services traditionally delivered by local governments. Contract cities issue requests for proposals from private companies which are judged using objective, transparent and non-political criteria. Winning tenders are awarded multi-year contracts which are subject to annual reviews for renewal, and upon expiry, the tender process is again opened to competition. Each time the contract is up for bid, a new range of potential partners compete to further lower cost and enhance service. Local governments may also choose to outsource to neighbouring local governments rather than a private provider. Ranger services in Lakewood, for example, are shared between a consortium of cities that banded together to provide animal control services.<sup>38</sup>

<sup>38</sup> Welch, M., Bailey, R., Boehm, E., Skenazy, L., Shackford, S., Suderman, P., Sullivan, A., Ciaramella, C., Brown, E., Wolfe, L. and Boehm, E., 2020. *Contract Cities In California*. Reason. <https://reason.com/2012/01/19/contract-cities-in-california/>.

The benefits of contract cities are only possible where local governments have the freedom to enter substantial PPPs. Such agreements enable local governments to solve problems and improve services, on a scale and level of cost-effectiveness they otherwise could not. Anecdotal evidence is overwhelmingly positive, and the financial outcomes are encouraging. According to former Sandy Springs Executive Oliver Porter:

*“The advantages of the competitive contracting model are immense. In Sandy Springs, our first partner delivered services up to 25 percent cheaper than the city estimated it could provide them itself. Compared to the county, the same services are provided 40 percent cheaper. The model also avoids the usual troubles of bureaucracy and bloated costs that city governments often face. Although costs are low, competitive contracting does not sacrifice quality. As mentioned above, citizen satisfaction with Sandy Springs remains extremely high and we have been able to offer award-winning services and public works far beyond many municipalities of comparable size. We also have fewer problems with employees, since they are disciplined or removed by the private partner if they perform their jobs poorly or treat citizens badly.*

*Our cost savings have also allowed us to maintain a highly competitive tax environment in our city. We have maintained a flat 0.47 percent property tax rate through the entire recession, while the county surrounding us proposes to raise its current rate from 10.5 percent to over 12.5 percent. We continue to attract new citizens and businesses because of our efficient tax policies.”*

Contract cities offer more independence to local authorities, better services to ratepayers, and less bureaucracy than subsidiary models, and they demonstrate that alternatives to the current, large bureaucracies we have in Western Australia do exist. The prospect of commercial waste contracts between local governments in the Mindarie Regional Council<sup>39</sup> (MRC) and the private sector are currently being explored following a review of the MRC’s currently underutilised landfill operations.<sup>40</sup> If tenders from private companies to buy tonnages at the landfill facility were to be invited by the MRC, it would represent a service agreement similar to a contract city model. At the very least, the benefits, and costs, of contract city arrangements are worthy of further discussion and council-based PPP service provision should be considered by policymakers.

<sup>39</sup> The Mindarie Regional Council is made up of the Town of Cambridge, the Town of Victoria Park, and the cities of Wanneroo, Stirling, Perth, Joondalup and Vincent.

<sup>40</sup> Jarvis, L., 2020. Waste council staff go in Mindarie Regional Council restructure. North Coast Times, <https://www.perthnow.com.au/community-news/north-coast-times/waste-council-staff-go-in-restructure-c-1283354>.



## 8.0. Recommendations

Local government in Western Australia is plagued by an outdated and overly complex *Local Government Act 1995*, which has led to council maladministration and contributes to the growing disconnect between local government and the constituents it serves. The outcomes of the Local Government Act Review have thus far been relatively insignificant and reforms that have been implemented are inadequate to drive the level of change necessary. The Legislative Council's *Inquiry into Local Government* has recommended several additional areas of reform and our policy recommendations echo many of these findings.

### 8.1. Voting systems and local government responsibilities

Voting systems within councils should be reformed to require a two-thirds majority. This will reduce the prevalence of logrolling and the quantity of legislation passed by local governments. A well-functioning local government should be dynamic in its ability to respond to local issues but refrain from interfering where private, market-disciplined activity would serve; where another arm of government has responsibility; where it lacks necessary expertise or finance; or where it favours vested interest at the expense of the whole. However, councillors are ill-equipped with the necessary expertise and even information to appropriately carry out their functions, and what is more, they are often restricted by unelected CEOs and senior employees. More controls are required to protect the interests of general ratepayers, who, given the high transaction costs of getting involved in local politics, are rationally disengaged from local government. In time, and with greater training (delivered by the DLGSCI, rather than WALGA) and with appropriate powers and oversight over local government activities devolved back to councillors, this may change.

There is a need for the Act to more clearly define the roles of local government. While there is much to be said for enabling flexibility and devolving power to the lowest level of government possible, in its current form, local governments do not possess the expertise nor capability to effectively carry out a broad mandate of undefined functions. Even if they did, there is much to be said for constraints on power to avoid local governments becoming unnecessarily large and conceding to the interests of small lobby groups who hold significant influence in local politics. Clearly defining the roles of local government to ensure that responsibilities are effectively delegated between tiers of government reduces cost-shifting and duplication of service delivery.<sup>41</sup>

The responsibilities fulfilled by local governments are sometimes influenced by geographic or demographic factors. As a result, the roles which local governments ought to fulfil will vary

<sup>41</sup> Vo, D., 2010. The Economics of Fiscal Decentralization. *Journal of Economic Surveys*, 24(4), pp.657-679. <https://doi.org/10.1111/j.1467-6419.2009.00600.x>.

across councils. Coastal areas, for example, may require protection against erosion to preserve beaches. Remote communities may demand health services which are unique and hard for a state government to administer. In such cases, reliance on local knowledge may result in more effective service delivery. The roles and responsibilities which a council fulfils could be enshrined in a local constitution. If so, such a constitution might be established or amended by a two-thirds councillor majority, a local plebiscite or even state legislation. The Local Government Act should nevertheless specify in reasonably restrictive terms activities local authority is obliged to undertake. To prevent some overlap and encourage concentration upon essentials the Act might also list activities that local administrations may undertake.

A two-thirds councillor majority should again be required to change any constitutional responsibilities. Moving away from absolute majority towards unanimity means there is less chance the majority will disadvantage a minority by passing a motion thus lowering the risk of minorities being exploited.<sup>42</sup> Some may argue similar arrangements exist under 10-year strategic community plans which are reviewed by each local government every two years. These mandates, however, are too heavily influenced by local government executives and are not binding. Electorates are usually unaware they exist and as such these strategic plans are not afforded the scrutiny they deserve.

Drafting and adopting a constitution for individual local governments is a significant reform and requires more discussion than is afforded here. The writing of these constitutions should be free from the influence of local government executives and lobby groups such as WALGA. The closer the rules defined within them are agreed upon unanimously from local communities, the more effective they will be. Once in place, constitutionally-bound roles would constrain the ability of local governments to expand their responsibilities at the behest of special interest groups who currently hold significant influence.

## **8.2. Rate exemptions and cost-reflective pricing**

Rate exemptions and concessions are inequitable and represent an unfunded policy of the state government. They should be greatly reduced and eventually removed over time. Exemptions on Crown or other government-owned land should also be removed. If these concessions are required, they should be supported by higher tiers of government, to retain the revenue raising capacity of local governments and reduce the upward pressure on non-concessionary rates.

Another source of cross-subsidisation occurs as a result of the provision of goods and services by local governments. This issue has been worsened as local governments have funded the expansion of their responsibilities through the common tax pool. This results in local non-users

<sup>42</sup> Butler, E., 2012. Public Choice - A Primer. London: The Institute of Economic Affairs, p.42.  
<http://www.iea.org.uk/sites/default/files/publications/files/IEA%20Public%20Choice%20web%20complete%2029.1.12.pdf>.

subsidising service and infrastructure use of those who do, many of whom live in neighbouring councils. To reduce the complex web of cross-subsidisation which has occurred particularly as local governments have forayed into “non-core” services, we recommend all fees be set at the cost of provision, or in the limited circumstances where significant externalities arise, the operating subsidy funded by ratepayers be explicitly available on local government websites and in rates notices. The ability of local governments to set user charges at the cost of provision is sometimes constrained by state legislation. The *Local Government Act 1995*, as well as any additional Acts which do not allow councils to make pricing decisions regarding user-paid services, must be reformed. Not only will this reduce cross-subsidisation between users, it will also increase the accountability of local governments to its ratepayers and infrastructure users.

### **8.3. The delegation of power and access to information**

The *Local Government Act 1995* does not do enough to delineate between the governance role of councils and the operational role of local government executives. As a result, elected members are constrained in their ability to effectively perform their role. In the many cases of local government maladministration, councils should be able to investigate and take steps to address systematic governance failures. The Act, however, defines the role of the council broadly, resulting in considerable ambiguity regarding councillors’ ability to access information and act to correct local government wrongdoings. By contrast, the Act contains a detailed description of the functions of CEOs. In some cases, it may be true that an overpowering CEO is indicative of an underperforming council who are unable to understand and effectively perform their role. Greater councillor education and training may assist in rectifying this shortcoming but above all councillors must not be inhibited, and their education should be delivered independently of WALGA as is currently proposed by the Local Government Act Review Panel.

Councillors’ abilities to effectively represent their communities are currently burdened by incomplete access to information. This access comes at the discretion of CEO’s, who use the indistinctness between governance and operational matters to refuse legitimate requests for information. Evidence submitted to the *Inquiry into Local Government* detailed situations where for some months senior staff avoided disclosing to a council member information about even the number of employees at their local government.<sup>43</sup> Local government staff have also been accused of responding vaguely to direct questions and treating council member follow-up as harassment.<sup>44</sup>

<sup>43</sup> Select Committee into Local Government, 2020. Final Report - Inquiry Into Local Government. Perth, Western Australia: Government of Western Australia, p.233.

<sup>44</sup> Ibid.

WALGA contends local government CEOs should be considered as being comparable to departmental bureaucrats.<sup>45</sup> This may be true, and if so, there is a danger in handing the balance of power of local government decision-making to a select pool of bureaucrats whose appointments are heavily influenced by LGPro. The *Local Government Act 1995* must be reformed to return the balance of power to the democratically elected members, rather than unelected bureaucrats, and favour transparency (particularly afforded to council members) over confidentiality.

No recommendations were made by the Local Government Act Review panel to increase the financial transparency of local governments to ratepayers. The MyCouncil website publishes some measure of financial performance and is a useful basis of comparison. Additional information, however, should be published on the MyCouncil website. Unit costs of provision can be made available for services such as waste collection, as well as road and public space maintenance with little additional work for administrators. Throughout this project, requests for financial information made by the Mannkal Foundation to local governments have been ignored. Documents may become recoverable under Freedom of Information enquiries; however, this should be a last resort rather than the only way to obtain information. Local governments should streamline information disclosure procedures to make information available outside the FOI process, both proactively and in response to formal or informal requests.

#### **8.4. Controlling the influence of special interest groups**

There is always competition between bureaucrats and elected authority. The division of effective discretion within Western Australian local government affords more to bureaucrats and less to elected authority than it does at state or federal level. It is not appropriate. WALGA, which should represent the interests of councils, too much represents those of council employees. It possesses a close relationship with the DLGSCI and exerts significant influence over the function of the local government sector often with detrimental outcomes for ratepayers. It and LGPro, are a source of regulatory capture. The Western Australian State Local Government Agreement should be disbanded, and additional bodies, such as ratepayers' organisations, should be afforded an equal opportunity to discuss local government-related issues with the DLGSCI.

The DLGSCI itself is not presently providing effective legislative and regulatory oversight over the sector. FTE numbers have fallen over the last decade and a small number of dysfunctional councils take up a large portion of the DLGSCI's resources. The independent advisory capacity of WALGA and LGPro would not be undesirable except for the significant power they hold over

<sup>45</sup> Western Australian Local Government Association, 2020. Final Submission Select Committee Into Local Government. Perth, Western Australia: The Government of Western Australia.

the direction of policy in the sector which favours their members' interests. Council members should be afforded an equivalent level of independent advice from the DLGSCI. The DLGSCI needs to bolster its capacity in this area to reduce the influence of special interest groups.

The Local Government Act Review Panel recommended that WALGA should not remain constituted under a new Local Government Act, however to date, no reform in this area has been implemented. As noted in the findings of both the review panel and Upper House inquiry, current arrangements create confusion regarding the delineation of the powers of lobbyist and regulator.<sup>46</sup> The panel's admission that given the significant amount of ratepayer funds WALGA receives, it is appropriate for OAG to be commissioned to conduct annual audits of the organisation's preferred supplier program, is supported and should be prioritised.

## 9.0. Conclusion

As local governments in Western Australia continue to expand the scope of their responsibilities while tax bases remain fixed, the disparity between their revenue raising capacity and their expenditure commitments will continue to grow. This issue is compounded when councils incorrectly assign tax revenue which should be used to fund the provision of public goods, and fail to consider or understand the implications of their decisions on their revenue raising capacity.

Western Australia's social and economic prosperity depends on "fiscal federalism". Local government, in its current form, lacks the accountability and capacity to effectively govern. Relationships between councillors and administrations are dysfunctional and the roles of each are not clearly defined or at least understood. Voting systems are unrepresentative and result in a greater volume of legislation than most ratepayers would consider "desirable". Finally, the DLGSCI has been captured by lobby groups which do not represent the interests of ratepayers. Given the relative inertia of meaningful reform following the findings of the *Local Government Act Review*, major structural and functional changes to local government at this stage remain unlikely. It remains important, however, that policymakers properly understand the extent to which local government has drifted from servicing local communities in the way any administration should. Significant issues within local government remain and these must be placed at the forefront of political debates. Ratepayers deserve better, and all Western Australians – both current and future – deserve a robust and representative federation.

<sup>46</sup> Select Committee into Local Government, 2020. Final Report - Inquiry Into Local Government. Perth, Western Australia: Government of Western Australia, p.321.



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