



LOCAL GOVERNMENT ACT REVIEW ►► DELIVERING FOR THE COMMUNITY

Consultation report – Administrative efficiencies

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Introduction

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

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

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

To assist guide discussions on whether there are opportunities to make administrative efficiencies to the local government legislation, the department released a discussion paper. This paper provides an overview of the feedback received during the consultation period.

This discussion paper is a particularly technical one, with many areas explored requiring firsthand knowledge or expertise on the issues to be able to make a meaningful contribution.

How we consulted

Following the release of discussion papers in September 2018, over 100 workshops, forums and meetings were held with community, local governments and stakeholders. This consultation included 28 community workshops across Western Australia and 'pop-up' stalls in shopping centres and community halls.

To ensure all Western Australians had an opportunity to have their say, multiple workshops were held in all Western Australia's regions.

The workshops provided an opportunity for attendees to discuss topics that were of interest to them. All attendees were also encouraged to provide a submission.

While administrative efficiencies were discussed during the workshops, these discussions were generally supplementary to discussions on other topic areas. They have consequently been addressed in those papers.

Individual council members, local government staff, peak bodies, community organisations, councils and community were invited to have their say by completing online surveys or providing a written submission.

The objective of the consultation was to seek the views of as many interested people as possible, rather than scientifically sampling the population. As a consequence, responses are from people with a keen interest in local government, either because of their working relationship or because of their experiences with local government (often their own).

Responses received

Overview

A total of 3,151 responses to the review were received. This was made up of surveys on each of the 11 discussion papers released, written submissions and informal 'post card' responses collected during workshops.

For every topic residents/ratepayers provided the largest number of responses.

The gender balance amongst survey responses was reasonably representative (55% male, 45% female), but the sample was skewed heavily towards older age groups. Around 75% of respondents were aged 46 years or over, with nearly half over 55. Less than 12% were aged 35 or under.

Breakdown on responses on Administrative efficiencies

A total of 219 responses addressed the topic of administrative efficiencies, which included 158 survey responses and 61 written submissions.

The 219 responses were drawn from private individuals and residents/ratepayers groups (67); local government councils and zones (56); council members (31); local government staff and chief executive officers (51); government agencies (4); peak bodies (3); and stakeholders from business and civil society (7).

What we heard

The following sections provide data on and outline key messages in the feedback received on the topic of administrative efficiencies.

The majority of the suggestions provided by respondents concerned topics discussed in other discussion papers, particularly financial management, elections and local laws, and this feedback has been incorporated into those papers.

Responses from members of the public tended to propose ways to achieve greater efficiency with a general call to reduce overheads and the number of local government employees.

Other themes were to ensure consistency in terms used in the Act and to harmonise the appointment of authorised persons and delegations.

One size fits all?

Local governments in Western Australia vary considerably in respect to their capacity to raise revenue and in their expenditure. For example, the combined operating budget of the State's 40 smallest local governments is less than the annual operating expenditure of the State's largest local government.

The Act currently treats all local governments the same, regardless of their size and capacity. Through their peak bodies, the local government sector has long advocated for amendments which provide a tailored approach to local government governance to allow for the differences in capacity that are found across the State.

Workshops

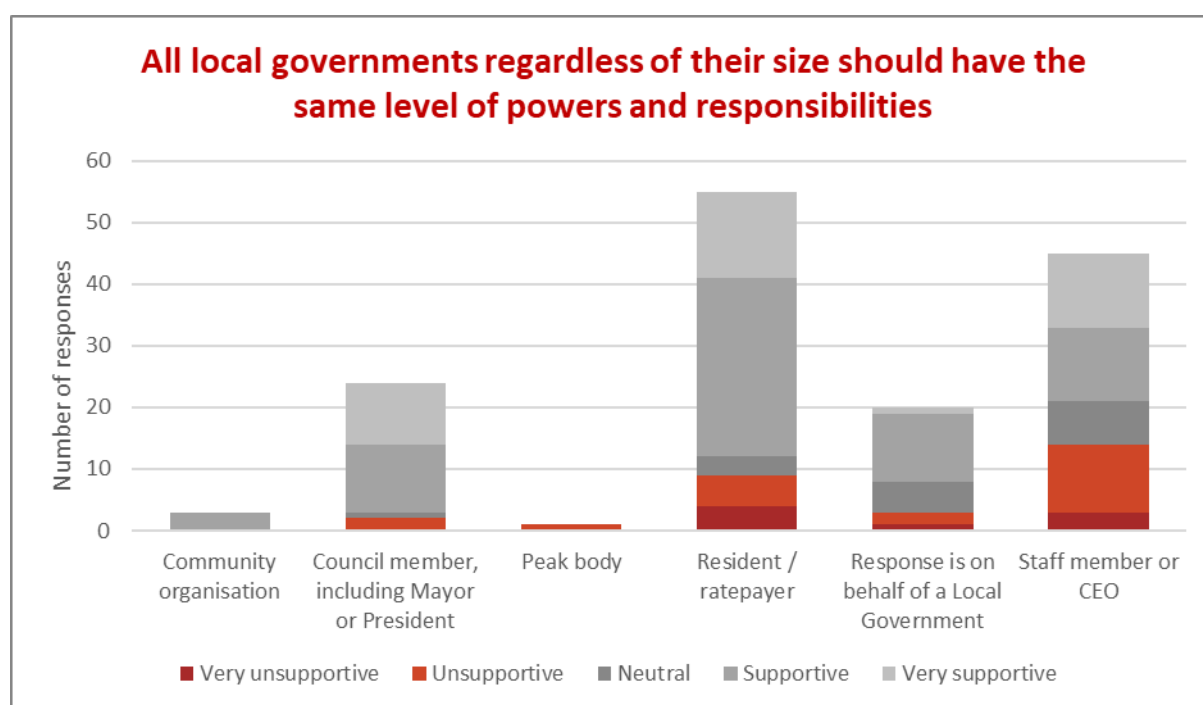
The concept of tailoring the local government legislation to suit the size of the local government has almost universal appeal in the local government sector. Individuals outside of the sector have more mixed feelings about the concept.

When local government participants were asked about how and when a tailored regulatory approach could be applied, participants stated that the tailored approach should only reduce the level of governance required while not restricting the powers (or abilities) of a local government.

The examples provided for reduced governance generally concerned financial reporting, procurement of goods and services, management of assets and engagement with the community. These are dealt with in the papers relating to those topics.

Surveys and written submissions

Over 87 per cent of council members, 78 per cent of residents and 60 per cent of responses provided on behalf of local governments supported the general principle that all local governments regardless of their size should have the same level of powers and responsibilities.



Of the 46 per cent of staff who did not support uniform powers and responsibilities, 78 per cent were from regional Western Australia.

Combining the Grants Commission with the Advisory Board

On 20 September 2017, the Premier instructed all agencies to review the ongoing need for boards and committees, particularly where there are costs involved.

While the current duties and responsibilities of the Grants Commission and the Advisory Board are different, the composition and selection of board and commission members are very similar and both bodies are already supported by the same team within the Department.

As part of the review requested by the Premier, the Department sought feedback on the possibility of combining the two bodies into one.

Surveys and written submissions

Due to the nature of the question, responses to this question were mixed. While 64 per cent of staff and 60 per cent of residents supported the merging, a large proportion of other respondents were neutral.

Peak Bodies and other stakeholders

Submissions were received from the Local Government Advisory Board, the Local Government Grants Commission and the Department of Infrastructure, Regional Development and Cities (Commonwealth department).

While the Commonwealth Department supports the combining of the Advisory Board and the Grants Commission, the Advisory Board did not support combining the two and proposed an expanded role for the Board through providing support to local governments by the provision of high level and targeted leadership, coaching and mentoring.

Even though the Grants Commission did not explicitly oppose the idea, they did raise serious doubts about the practicality and appropriateness of a combined entity, notably:

The separation of the roles of the Grants Commission and the Board is clear to the sector, and the combining of the roles in a single body may make local governments more reserved in their dealings with the new entity. They might be reluctant to expose certain funding needs if they feel it makes the case for defending their boundaries weaker. Similarly, putting a strong case for defending their boundaries might be undermining their arguments for seeking more grant funding. It is this potential conflict in perspective that provides a good argument for keeping the Grants Commission and Advisory Board separate.

Specific questions concerning the operations of the Advisory Board

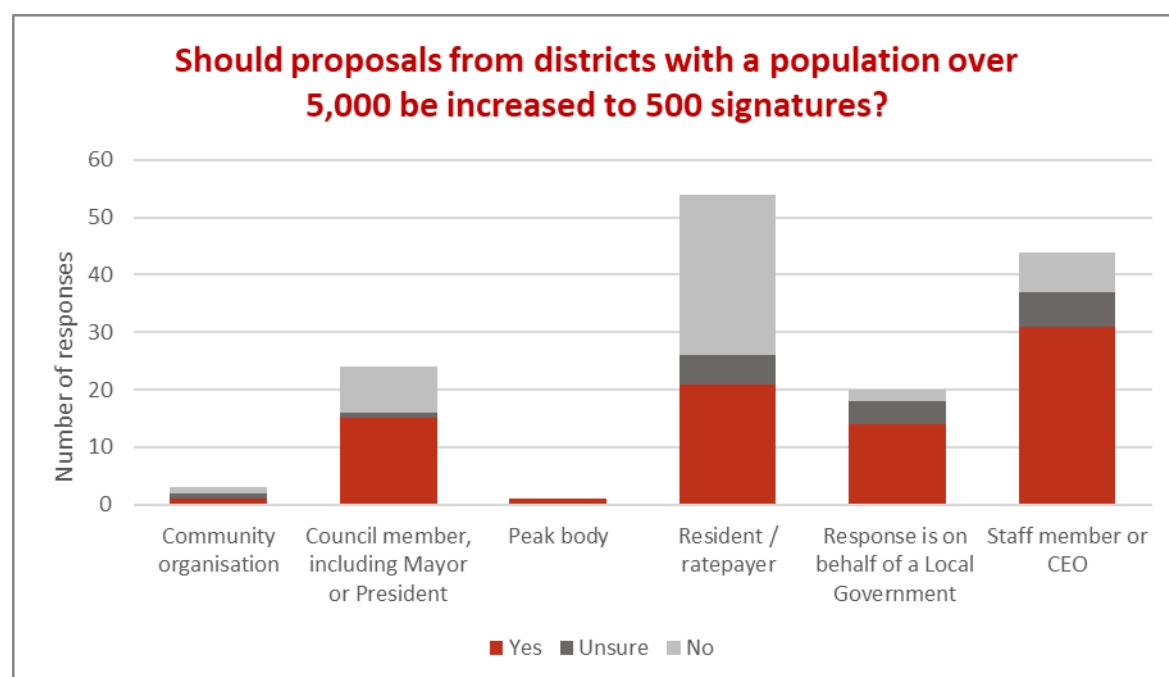
The following questions were asked concerning the operations of the Advisory Board:

- Prior to conducting a poll to change the method of election of the Mayor / President from election by electors to election by the council, should the local government be required to draft the question and summaries and submit the question to the Advisory Board?
- Should the Advisory Board not be required to assess a proposal for changes to boundaries that does not meet the set minimum requirements?

- Should each signatory to the petition of affected electors be required to sign an acknowledgment that they have read the summary of the proposal and have seen a plan or map detailing any proposed changes?
- Should the affected local government(s) be provided with a copy of the proposal prior to it being submitted to the Advisory Board?
- Should the applicant be able to withdraw a proposal at any time prior to a recommendation being made to the Minister, providing there are circumstances which, in the Advisory Board's view, warrant withdrawal of the proposal?
- Currently a proposal to the Advisory Board from the community must be signed by 250 people or 10% of the community whichever is less. Should proposals from districts with a population over 5,000 be increased to 500 signatures?

Surveys and written submissions

All of these matters had either overwhelming or strong support from respondents of all categories with the exception of increasing the threshold for community proposals to adjust a district boundary.



Only 38 per cent of residents supported raising the threshold compared to 70 per cent of local government staff and responses provided on behalf of local government and 62 per cent of council members.

Peak Bodies and other stakeholders

In addition, to the proposals contained within the discussion paper, WALGA proposed an increase from 10 per cent of electors required to make a submission in a local government with less than 500 electors to 25 per cent of electors for the following proposals made to the Advisory Board:

- Creating, changing or abolishing districts; and
- Amending names, wards or councillor representation.

The Advisory Board, in their submission to phase one of the review, supported the proposed changes contained within the survey and WALGA's suggestions with respect to the poll provisions.

Local Government (Miscellaneous Provisions) Act 1960

In 1995 the majority of the *Local Government Act 1960* (1960 Act) was replaced by the *Local Government Act 1995*. The remainder of the 1960 Act was renamed the *Local Government (Miscellaneous Provisions) Act 1960*.

Large parts of the 1960 Act were later incorporated into building legislation. It is appropriate to consider whether the sections that remain are still required.

The provisions which remain relate to either the compulsory acquisition of land to realign a street or the impounding of cattle and other livestock.

The survey for this topic asked a series of questions about specific sections within the 1960 Act which included:

- Do local governments need the power to impound stray cattle?
- Do people need the power to impound stray cattle?
- Do people need the power to detain and dispose of stray goats, pigs and poultry?
- Should offences that apply to pound keepers also apply to similar facilities maintained by local governments, for example cats and dogs?

Workshops

While this topic did not receive much attention during workshops, it was clear that there was overwhelming support for the repeal the 1960 Act. Even though the repeal of the Act was strongly supported there was very little discussion about how the issues concerning livestock should be dealt with in the future.

Surveys and written submissions

While there was overwhelming support from all respondents to retain local government powers to impound stray cattle, there was little support for members of the general public to retain the power to impound cattle or other livestock (goats, pigs and poultry). The level of support was as follows:

People need the power to impound stray cattle?	Number of survey responses	Yes	Neutral	No
Council member, including Mayor or President	24	33%	33%	33%
Resident / ratepayer	54	41%	24%	35%
Response is on behalf of a Local Government	20	35%	35%	30%
Staff member or CEO	44	45%	32%	23%
Peak body	1	0%	0%	100%
State Government agency	1	0%	0%	100%
Stakeholders from business and civil society	1	0%	100%	0%
Community organisation	3	33%	33%	33%
Grand total	148	39%	30%	31%

People need the power to detain and dispose of stray goats, pigs and poultry?	Number of survey responses	Yes	Neutral	No
Council member, including Mayor or President	24	21%	33%	46%
Resident / ratepayer	54	31%	26%	43%
Response is on behalf of a Local Government	20	35%	25%	40%
Staff member or CEO	44	36%	36%	27%
Peak body	1	0%	0%	100%
State Government agency	1	0%	0%	100%
Stakeholders from business and civil society	1	0%	100%	0%
Community organisation	3	100%	0%	0%
Grand total	148	32%	30%	38%

Information provided to the Department and the Minister

When the *Local Government Act 1995* was enacted it fundamentally changed the powers of local governments providing them with greater autonomy. It removed a great deal of control from the Minister and provided local governments with the ability to make a greater range of decisions without having the State Government reviewing or approving those decisions.

While the Act heralded a marked shift and devolution of control, 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 a number of other general reporting requirements.

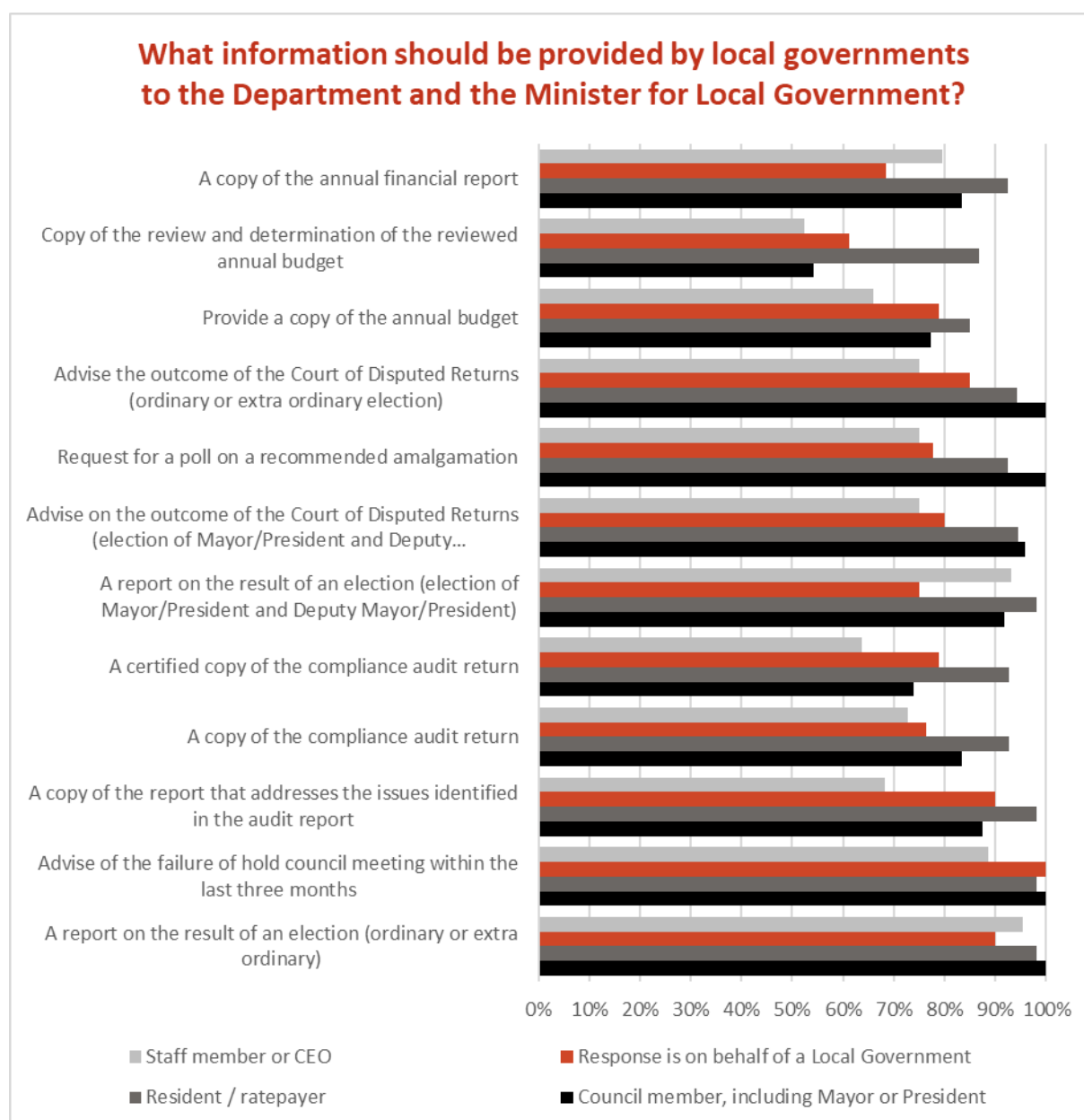
Surveys and written submissions

Most residents believe the existing types of information provided by local governments to the Department and the Minister for Local Government should be retained. From within the local government sector there were also high levels of support for most of the information.

Despite lower support for some types of information, there were no cases where a majority of respondents thought the information should not be provided.

Peak Bodies and other stakeholders

These and the following specific questions were not addressed in submissions from these organisations.



Decisions made by the Minister

Similarly, the *Local Government Act 1995* fundamentally changed the powers of local governments providing them with greater autonomy by removing a level of control from the Minister and provided local governments with the ability to make a greater range of decisions without having the State Government reviewing or approving those decisions.

While this occurred, there are some activities that a local government cannot undertake without the approval of the Minister.

Workshops

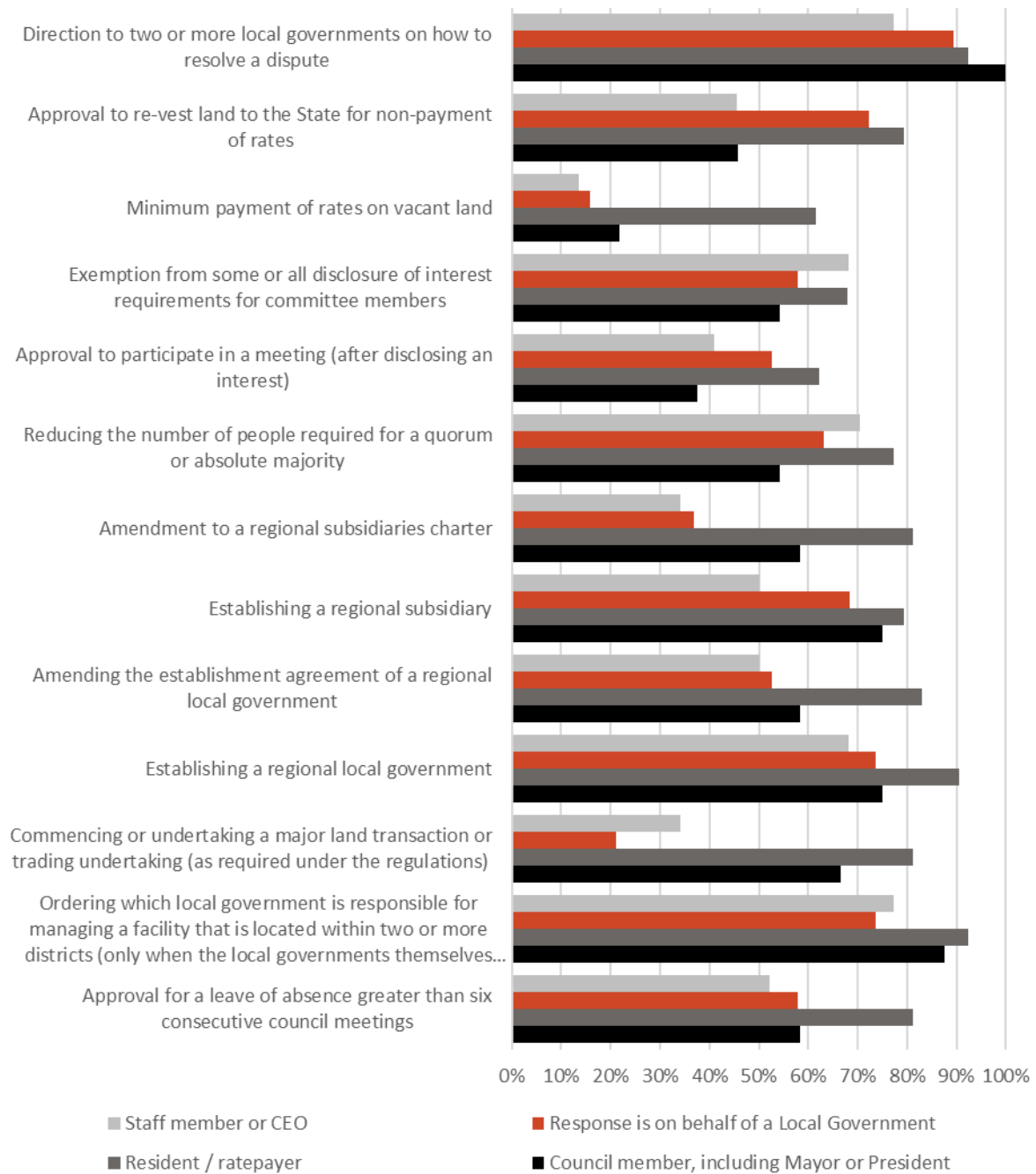
While the specific questions in the survey were not discussed in the workshops, it was clear that members of the public believed anything which currently requires Ministerial involvement should remain. Feedback from local governments supported the principle of local government autonomy over Ministerial involvement.

Surveys and written submissions

Consistent with feedback received during the workshops, most members of the public wanted Ministerial oversight or approval to continue. From within the local government sector there were high levels of support for the continued involvement of the Minister when making most of the decisions listed. In fact, there was majority support in every category of stakeholder for the Minister to retain the power to make the decision in all but five areas where there was more mixed support:

- approval to re-vest land in the Crown for the non-payment of rates
- minimum payment of rates on vacant land
- approval to participate in a meeting (after disclosing an interest)
- amending a regional subsidiaries charter
- commencing or undertaking a major land transaction or trading undertaking

Which of the following decisions should be made by the Minister?



Absolute majority decisions

The council is the decision-making body of a local government. The Act sets out how decisions are to be made by the council members that form the council. In most cases this is via a 'simple majority', that is, a decision is made if over half of the council members present at the meeting vote for it. In some cases, a higher bar has been set.

An 'absolute majority' requires half of the total number of council member positions to vote for a matter for the decision to be made.

Surveys and written submissions

Overall, there was support for the decisions being made by an absolute majority to remain except in the following areas:

- appointing the Electoral Commissioner to conduct an election or appointing a returning officer;
- appointing members (and deputies) to a committee;
- deciding to require a person to pay interest on an amount owed to a local government;
- imposing (or amending) a fee for goods or services; and
- deciding to approve a member to be present at a meeting via telephone.

Residents favoured absolute majority for all decisions except:

- appointing the Electoral Commissioner to conduct an election or appointing a returning officer;
- appointing members (and deputies) to a committee; and
- deciding to approve a member to be present at a meeting via telephone.

Generally, residents and respondents within local government disagreed on five types of decision, with most residents favouring absolute majority in each case:

- deciding if an election should be a postal election;
- deciding to require a person to pay interest on an amount owed to a local government
- imposing (or amending) a fee for goods or services
- deciding to impose interest on a rate or service charge or costs of proceedings to recover amounts unpaid; and
- appointing audit committee members.

Peak Bodies and other stakeholders

While LG Professionals did not provide a submission on this topic; the WALGA submission simply stated it supported a review of these decisions.

Decision	Simple majority	Unsure	Absolute majority
Appointing the Electoral Commissioner to conduct an election or appointing a returning officer	55.56%	4.17%	40.28%
Deciding if an election should be a postal election	47.18%	2.11%	50.70%
Appointing members (and deputies) to a committee	60.69%	0.69%	38.62%
Deciding to require a person to pay interest on an amount owed to a local government	54.48%	4.83%	40.69%
Imposing (or amending) a fee for goods or services	51.39%	2.78%	45.83%
Deciding to impose interest on a rate or service charge or costs of proceedings to recover amounts unpaid	48.28%	3.45%	48.28%
Appointing audit committee members	42.07%	1.38%	56.55%
Deciding to approve a member to be present at a meeting via telephone	68.97%	4.14%	26.90%

Other proposed changes to regulatory measures within the Act which should be removed or amended to make the legislation more efficient

Other recommendations for change that were made included:

- removal of the audit committee;
- simplification of the annual return;
- exemption of road building materials from public tender requirements;
- removing the requirement to hold an extra-ordinary election when there are no nominations received for an ordinary election
- removing requirement to delete occupiers from the electoral roll after two elections;
- setting council member fees rather than within a band; and
- removing Ministerial approval to change valuation of land for small quantities of properties.

Other recommendations made by WALGA included changes to the provisions affecting:

- notification of affected owners;
- control of unvested facilities;
- onus of proof in vehicle offences; and
- review of the long service leave regulations.

Summary

An analysis of feedback received through the consultation workshops and submissions has identified the following key themes:

- There is an appetite to making amendments to the Advisory Board processes;
- There is strong support for repealing the *Local Government (Miscellaneous Provisions) Act 1960* although further consideration is required on whether express powers for impounding livestock are required;
- The current information provided to the department and the activities that the Minister approves is generally viewed as appropriate;
- The current areas where absolute majority decisions are required is generally viewed as appropriate; and
- Consideration of the other administrative efficiencies proposals is required.

Where to from here

Feedback and suggestions received during the consultation period will be used to inform the new Local Government Act.

Consideration will be given to how best to balance the governance and oversight expectations of the State government and the community while ensuring the requirements are not an excessive burden to local governments.