

13 September 2019

Ms Kristina Crichton  
Committee Clerk  
Select Committee into Local Government  
Legislative Council Committee Office of Western Australia  
Parliament House, 4 Harvest Terrace  
West Perth WA 6005

Sent via email: [lgi@parliament.wa.gov.au](mailto:lgi@parliament.wa.gov.au)

Dear Ms Crichton

## INQUIRY INTO LOCAL GOVERNMENT

The Chamber of Minerals and Energy of Western Australia (CME) is the peak resources sector representative body in Western Australia. CME is funded by its member companies responsible for more than 90 per cent of the State's mineral and energy production and employment of the sector's workforce. Contributing to a third of the State's total Gross Value Added<sup>1</sup> by industry and 20 per cent of State Government revenue via royalties in 2018-19,<sup>2 3</sup> the sector is a major contributor to the local, state and national economies.

CME welcomes the opportunity to provide a submission to the Select Committee into Local Government's (the Committee) inquiry into local government (the inquiry). This inquiry provides a timely opportunity to support the reforms being pursued by the Department of Local Government, Sport and Cultural Industries (the Department) regarding the *Local Government Act 1995 (WA)* (the Act). Public sector reforms to increase transparency, accountability and integrity of how taxpayer funds, and in this case, ratepayer funds are allocated is supported by CME.

It is important to note successful reform requires a whole-of-government approach that is coordinated and well-resourced to address the inherent challenges faced by local governments, particularly those operating in regional and remote Western Australia.<sup>4</sup> The challenges these local governments are faced with are not unique to Western Australia, with other States and Territories and even other countries overseas experiencing similar issues, such as:<sup>5</sup>

- Declining rateable bases as populations' age, drift or a product of the "flight of youth" to more urbanised and coastal areas, a trend observed globally but well-pronounced in Western Australia due to the scale of geographies.
- Budget deficits to address a backlog of infrastructure repairs and maintenance, noting the cost of bringing and doing business in the regions is significantly higher.
- Expansion of expected "core" operational services to deliver.
- Unclear delegated powers and authority from other legislative acts.
- Difficulty in attracting and retaining the required skills and expertise.
- Reduced funding assistance from State and Commonwealth Governments, which compounds the above issues further.

<sup>1</sup> Excludes monetary contributions via North West Shelf grants, State taxes and fund levies.

<sup>2</sup> Government of Western Australia, *Budget Paper No. 3: 2019-20 Economic and Fiscal Outlook*, Western Australian State Budget 2019-20, Department of Treasury, May 2019, p. 68.

<sup>3</sup> Duncan, A., Kiely, D. and Salazar, S., *Quarterly Economic Commentary: March 2019*, Bankwest Curtin Economics Centre, Curtin University, April 2019, p. 4.

<sup>4</sup> As many of CME's member companies operate in these areas, the matters raised in this submission predominantly relate to local governments operating in regional, remote and rural Western Australia. References hereafter to local governments may not apply to metropolitan local governments.

<sup>5</sup> CME, *Remote area tax concessions and payments: Issues paper*, submission to the Productivity Commission, May 2019, pp. 7-9: [https://www.pc.gov.au/\\_data/assets/pdf\\_file/0016/243340/sub095-remote-tax.pdf](https://www.pc.gov.au/_data/assets/pdf_file/0016/243340/sub095-remote-tax.pdf)

Local governments in regional Western Australia experience higher pressures in the cost of living due to the expansive geography and lower population densities to be serviced when compared to interstate. As a result of the distances covered and lack of cost efficiencies available from economies of scale, a comparable “basket” of goods and services in metropolitan areas costs more to be transported to the Pilbara or Kimberley regions.<sup>6</sup> In further exacerbation, local governments here have a limited ability to diversify their rate bases. This imposes a disproportionate burden of incidence on ratepayer categories such as the resources sector. This can be as high as 96 per cent according to the Western Australian Local Government Grants Commission’s (WALGGC) allocation of Commonwealth Government Financial Assistance Grants.<sup>7</sup>

CME understands the State Government has made a commitment to local governments there will be no rate caps, pegs or forced amalgamations. With this in mind, CME is keen to work with governments and other bodies such as the WA Local Governments Association (WALGA) to establish the foundations and guiding principles which underpin how local governments can effectively govern and better deliver for business, industry and community.

The remainder of this submission, where relevant, reinforces previous recommendations made by CME. In particular, it should be read in conjunction with CME’s recent submissions to the Phase 1 and Phase 2 Review of the Act.<sup>8 9</sup>

### **Sustained government funding and collaboration**

Local governments require a functional and stable source of revenue. For many local governments whose rates revenue have historically been underpinned by the resources sector, the volatility of global commodity markets and associated intensive competition on price has had a noticeable impact on their financial sustainability. As a highly trade exposed sector, these local governments are acutely sensitive to the commodity price and associated capital investment cycles. CME acknowledges local governments are aware of this impact on their operational viability to deliver core services.

Combined with the challenges identified above and a retraction in direct funding from programs such as the Royalties for Region’s Country Local Government Fund, local governments have limited alternatives to source additional revenue and/or reduce provision of services. This has seen many local governments increasingly rely on the levying of higher differential rates on resources sector ratepayers, arguably influenced by a perceived capacity-to-pay. This, in turn, can damage the working relationship between local government and industry. Building on comments in CME’s 2019-20 State Pre-Budget submission,<sup>10</sup> royalties collected from the sector could be used to provide budgetary relief to local governments tackling broader issues which are additional to their core services. This would reinforce a positive feedback loop back to the regions where commodities are derived.

Greater cooperation and alignment across all tiers of government and parties involved may improve capacity to respond to the “big picture” issues mentioned above. CME supports collaboration which empowers the sharing of responsibility to proactively address these issues in a meaningful and transparent manner. The following are positive examples of improved cooperation and engagement which could be expanded in scope or application to other local government activities:

- The City of Busselton’s<sup>11</sup> and City of Albany’s<sup>12</sup> recent public support of Rio Tinto’s use of fly-in, fly-out workforces from their regional ‘source’ communities. These local governments have

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<sup>6</sup> Department of Primary Industries and Regional Development, *Regional Price Index 2017*, October 2017.

<sup>7</sup> WALGGC, *Financial Assistance Grant Calculations 2019-20*, July 2019.

<sup>8</sup> CME, *Phase 1: Local Government Act 1995 Review*, submission to the Department, March 2018:

[https://www.dlgsc.wa.gov.au/docs/default-source/local-government/local-government-act-review/submissions/chamber-of-mines-and-energy.pdf?sfvrsn=630e23ed\\_2](https://www.dlgsc.wa.gov.au/docs/default-source/local-government/local-government-act-review/submissions/chamber-of-mines-and-energy.pdf?sfvrsn=630e23ed_2)

<sup>9</sup> CME, *Phase 2 Review: Local Government Act 1995 (WA)*, submission to the Department, March 2019:

[https://www.dlgsc.wa.gov.au/docs/default-source/local-government/local-government-act-review/responses/chamber-of-minerals-and-energy-of-western-australia.pdf?sfvrsn=728972fe\\_2](https://www.dlgsc.wa.gov.au/docs/default-source/local-government/local-government-act-review/responses/chamber-of-minerals-and-energy-of-western-australia.pdf?sfvrsn=728972fe_2)

<sup>10</sup> CME, *2019-20 Pre-Budget Submission*, submission to the State Government, February 2019: <https://www.cmewa.com/policy-and-publications/annual-reports-submissions-publications/preview?path=2019-2020%2BPre-Budget%2BSubmission.pdf>

<sup>11</sup> City of Busselton, *Review of Remote Area Tax Concessions and Payments*, submission to the Productivity Commission, May 2019: [https://www.pc.gov.au/\\_data/assets/pdf\\_file/0005/241889/sub088-remote-tax.pdf](https://www.pc.gov.au/_data/assets/pdf_file/0005/241889/sub088-remote-tax.pdf)

<sup>12</sup> City of Albany, *Key relationship with Rio Tinto and the benefits provided to the Albany regional community*, submission to the Productivity Commission, May 2019: [https://www.pc.gov.au/\\_data/assets/pdf\\_file/0018/241722/sub081-remote-tax.pdf](https://www.pc.gov.au/_data/assets/pdf_file/0018/241722/sub081-remote-tax.pdf)

acknowledged the significant socio-economic benefits this partnership has provided to the South West region of Western Australia.

- The Commonwealth Government's increased investment of \$535 million towards Roads of Strategic Importance projects in regional Western Australia.<sup>13</sup> Some of this joint funding has resulted in construction commencing this month to seal 48 kilometres of the Karratha-Tom Price Road.
- The Department of Transport's (DoT) current efforts to pilot development of the Strategic Airport Asset and Financial Management Framework with local governments is a promising initiative. If successful, it will deliver transparency on how airstrip landing fees and passenger head taxes are calculated on a weighted average cost of capital basis and therefore imposed on the resources sector. CME applauds the DoT's stipulation that those applying for Regional Airports Development Scheme financial assistance are required to develop this Framework. This does not prevent local governments from also applying for grants under the Commonwealth Government's Remote Airstrip Upgrade Program.
- Regional Road Groups, a collaboration between Main Roads WA and WALGA elected representatives to allocate and spend road funding based on local and regional identified strategic priorities. CME supports the State Government's funding commitment to guarantee local governments will receive 20 per cent of vehicle licence fee collections to partially alleviate vertical fiscal imbalances. There is merit in renewing the State Road Funds to Local Government Agreement past 2022-23 to preserve and enhance road networks of regional significance. This could also include expanding the current focus on agricultural commodity routes to include other types of freight with higher productivity benefits to be gained such as consumables and oil. There are a number of single lane use bridges in Northern Australia which could benefit from a collaborative approach to obtain funding.
- Perth Airport's Planning Coordination Forum which facilitates an open ongoing dialogue amongst local governments, State and Commonwealth Governments with business and industry.<sup>14</sup> This partnership enables holistic longer-term planning of projects with multifaceted issues.

### **Increased transparency and accountability of financial management**

The need for increased transparency and adequacy of local government funding and financial management have continued to be key areas of interest to CME member companies. Transparency in the setting of rates, fees and charges should be increased to ensure revenue received is not spent on cross-subsidising delivery of underperforming and unsustainable goods, services and assets.

In supporting increased accountability of local governments, there should be clearer, concise and justifiable Statement of Objects and Reasons provided for increasing existing and/or introducing new differential rates, fees or charges. If reasoning is included, they are usually pro forma to satisfy the minimum requirements with a classic copy and paste from a similar local government which was used for benchmarking rating effort. By way of example, local governments seeking to levy a higher cents in the dollar for Transient Workforce Accommodation will often do so underpinned by an observation it is still lower than their relative cohort.

CME also understands there are upper legislative limits set on some fees and charges. This however does not preclude a local government from establishing new categories of fees and charges to recoup costs well above the cost of delivering a service or maintaining an asset. This appears to be motivated by an intention to address the "free rider" problem where users who heavily consume local government facilities and services but do not materially contribute via rates on a commensurate basis. This can distort the allocative efficiency of resources, creating an unfavourable socio-economic situation for CME member companies who are both users and significant contributors via rates, voluntary partnership agreements and community donations. This may result in doubling up of revenue received from fees and charges for the same reasons that were provided for levying higher differential rates on the sector. The cost of this market failure is thus unfairly borne, on the whole, by CME member companies.

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<sup>13</sup> Commonwealth of Australia, *Budget 2019-20: Investing in our Community*, Treasury, April 2019, p. 18.

<sup>14</sup> City of Belmont, City of Kalamunda and City of Swan; DoT, Department of Planning Lands and Heritage, Main Roads WA, Public Transport Authority, WA Planning Commission; Department of Infrastructure Transport Cities and Regional Development; Airservices Australia, Perth Airport; CME.

In addition, with the number of reports, plans and strategies<sup>15</sup> required to be prepared by local governments across temporal scales ranging from one to ten years plus, there is often an insufficient nexus demonstrating a link between revenue and expenditure spent with progress and outcomes achieved. These documents do not appear to underpin local government decision-making processes in an integrated, coherent or consistent fashion.

The Shire of Ashburton's public release of their 2019-20 draft capital expenditure schedule by asset group, project description, overall cost and proposed funding sources (reserves, grants, borrowings and municipal) is a step in the right direction to provide ratepayers with transparency. Notably, these reserves have been built up as a result of rates received from the resources sector. CME understands reporting on capital expenditure is a voluntary exercise. With development of the local government accounting manual still underway,<sup>16</sup> this is an opportunity for the Department to assist local governments in understanding what constitutes best practice in meeting expectations of community, business and industry. CME recommends the Department encourage consistent uptake of these voluntary templates.

CME also recommends the following which are outlined in further detail in CME's submission to the Phase 2 Review of the Act (pp. 10-15):

- A formal mechanism for objecting, appealing and reviewing differential rates. There is a process to lodge an objection with the Valuer-General and Landgate on the basis of land valuation, however, there is no similar process for rates on the basis of cents in the dollar or minimum payments. If an objection is made to a Notice of Intention to Levy Differential Rates, there is no clear requirement for the local government to confirm and communicate their receipt and deliberation of the objection.
- Longer-term and holistic revenue and rate-setting strategies to align with other documents and government agencies such as the Valuer-General's three-yearly revaluation of Gross Rental Valuation (GRV) properties. An annual budgeting process provides neither local governments nor ratepayers sufficient certainty to strategically plan operations.
- Standardisation of differential rating categories. As noted by the WALGGC there are 47 different rating categories used by local governments. For example, the Shire of Coolgardie is seeking to create a new GRV differential rating category to levy mining infrastructure. It is unclear if the proposed increase will be spent on renewing community infrastructure or roads related to heavy vehicle wear and tear. CME acknowledges the Department of Planning, Lands and Heritage (DPLH) is seeking to reduce the number of different planning zones and associated land uses from 1,000 down to 300 for the purposes of achieving consistency.
- Greater emphasis by local governments to improve operating efficiencies and curb expenditure growth. Where this is not possible, local governments should openly communicate the quantitative savings or value created by their efforts to date. Alternatively, allocation of grants could be structured to incentivise longer-term efficiency enhancing measures which are sustainable.
- Expanding proactive consultations with community to include business and industry to assist in determining ratepayers' willingness-to-pay for services provided by local governments. Improved disclosure of potential conflict of interests, in addition to minimum consultation requirements (i.e. with property owners or occupiers eligible to vote), should improve integrity and engagement of Council members. In the absence of robust formalised mechanisms, this leaves processes open to a propensity for, or perception of, "rent seeking behaviour".
- Increased financial and non-financial (e.g. elections) disclosures in a holistic form that encourages reporting of relevant and meaningful information. Substance over form is favoured, for example a reduction in reported financial ratios is supported if it is irrelevant or immaterial to the local government's nature, type of operation or risk profile. An opt-out provision on the basis logical reasoning is provided would assist in reducing local government reporting burdens.

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<sup>15</sup> E.g. Annual Budget, Annual Report, Compliance Audit Returns, Corporate Business Plans, Long Term Financial Plans, Strategic Community Plans and Workforce Plans, etc.

<sup>16</sup> Chapters pending release in due course include Section 3 – Strategic Issues in Finance, Section 8 – Financial Management and Section 11 – Integrated Planning and Reporting.

## Clearer and more consistent strategic guidance

Exemplified by the lead key performance indicator “LG1: Percentage of local governments that did not have an action taken against them under the department’s compliance framework”, the Department takes on a regulatory enforcement approach. Despite this, in recent years a number of incidents have escalated to the Local Government Standards Panel, the Corruption and Crime Commission or resulted in the Minister Hon. David Templeman MLA issuing a Show Cause Notice followed by subsequent suspension of the Council. It is thus reasonable to infer the role and responsibilities of local governments and their Council members are not clearly defined or delineated in the Act.

Of particular interest to CME member companies is the inconsistent interaction of local government planning laws with State-based policies and strategies. In addition to comments made in CME’s submission to Phase 2 Review of the Act (pp. 15-16), CME has made related submissions to DPLH and the WA Planning Commission on the inconsistency of these issues.<sup>17</sup> In summary, CME recommends:

- Consistent alignment and application of the State Planning Strategy and its Policies (SPPs) by local governments to provide project proponents greater certainty in planning projects which typically have time horizons of up to 40 years. Currently local governments are not bound to consider State-based documents but are required only to “have regard”. The lack of standardisation means industry can have different experiences in their engagement with different local governments on a project of a similar nature. These different experiences, if negative, can further damage working relationships between local government and industry.
- The DPLH’s current efforts to create a standardised toolkit for how local governments engage with community on planning aspects could be extended to other types of activities such as consultation with business and industry on determining their willingness-to-pay rates, fees and charges. An engagement toolkit developed for local governments who have dealings with the resources sector would be invaluable. This could extend to providing specific guidance to local governments on the interaction of delegated legislation on uses common to the sector. This would be beneficial in instances where the *Mining Act 1978 (WA)* or State Agreement Act does not provide clear guidance. For example, the Department of Health could assist local governments in understanding the interaction of workforce accommodation with the *Public Health Act 2016 (WA)* and *Planning and Development Act 2005 (WA)*. CME also understands Main Roads WA is currently working with local governments and the State Solicitor’s Office to remedy the misuse of the CA07 condition of access for heavy vehicles. It was never intended to be used as a means to charge operators for access to particular local roads.
- Development of an infrastructure strategy which is complementary to Corporate Business Plans, Long Term Financial Plans and Local Planning Schemes. CME understands the Department of Treasury (Treasury) has a reform program for Government Trading Enterprises which helps them understand their role and contribution to Infrastructure Western Australia’s development of a 20-year State Infrastructure Strategy and 10-year State Infrastructure Programme. Similar expertise and assistance could be provided via the Department or through existing Joint Development Assessment Panels. The provision of advice via the Panels could be limited as current mandatory triggers and voluntary opt-in thresholds for local governments to seek advice may be insufficient in capturing complexities associated with industrial interfaces and environmental noise.

As evidenced by recent findings and recommendations by the Office of the Auditor General (OAG), greater guidance by the Department and other government agencies needs to be provided. This will ensure a culture of continuous improvement is promoted, rather than compliance-based, to apply better practice financial management and records management.

## Other considerations

Should it align with the inquiry’s proposed timeline, CME encourages the Committee to also consider underlying issues outlined in the following reviews:

- Themes which can be drawn from the 3,000 submissions received for the Department’s Phase 2 Review of the Act. CME notes many of the submissions were from residential ratepayer associations

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<sup>17</sup> Draft SPP 4.1 – Industrial interface, Draft SPP 5.4 – Road and rail noise and *Green paper: Modernising WA’s planning system*. These can be made available upon request.

and therefore it is likely their submissions will echo CME's observations on local government revenue and rate-setting practices.

- The WALGGC's ongoing research into the impact of non-resident populations on the methodology for allocating Financial Assistant Grants, i.e. effect of horizontal fiscal imbalances.
- Observations made by the Productivity Commission's draft report into remote area tax arrangements and its basis for considering such arrangements from a 'policy neutrality' perspective. A number of local governments and associated peak bodies across Australia made submissions to this study.<sup>18</sup>
- Observations made by the Select Committee's inquiry into jobs for the future in regional areas.<sup>19</sup>
- The OAG's current audit reform of local governments on the topic of governance. It is expected to be tabled in the last quarter of 2019.
- Landgate's closed consultation on reviewing rating bases. It is expected an in-principle agreement will be reached by June 2020 amongst local governments, Treasury, Water Corporation, Office of State Revenue and Department of Fire and Emergency Services. For transparency and clarity, any new or modified valuation methodologies should be developed in consultation with ratepayers likely to be materially affected. CME hopes a public consultation will follow shortly after to provide associations' representative of the rating categories an opportunity to participate in strategic decision-making which will inform the State's rating and taxing future.
- The OAG's staged financial audits of all local governments by June 2021, if an exception is provided for the interim findings to be made available to the Committee. It is hoped these audits will provide case studies for the OAG to develop better practice guidance which will help local governments be practically accountable.

## Conclusion

As the tier of government closest to its constituents, CME acknowledges the important role local governments' play in delivering services to community. A positive working relationship with local and State Government is highly valued to ensure the resources sector can continue to contribute to Australia's economic growth and prosperity.

CME looks forward to the Committee's consideration of the matters raised in this submission and those raised in CME's earlier submissions to the Department. Should it be of assistance, CME would be happy to appear before the Committee and speak to the expectations and experiences of the resources sector in their engagements as corporate citizens with local governments.

Should you have questions, please contact Linh Nguyen, Policy Adviser for Economic Competitiveness, on 0439 488 672 or via [L.Nguyen@cmewa.com](mailto:L.Nguyen@cmewa.com).

Yours sincerely



Robert Carruthers  
Director – Policy & Advocacy

Attachments: Submission to Phase 1 Review of the Act, March 2018  
Submission to Phase 2 Review of the Act, March 2019

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<sup>18</sup> City of Albany, City of Busselton, Shire of Carnarvon, Shire of Coolgardie, Goldfields Voluntary Regional Organisation of Councils, City of Kalgoorlie-Boulder and WALGA.

<sup>19</sup> Shire of Gingin, City of Kalgoorlie-Boulder, City of Kwinana and City of Mandurah.