

Local Government reform: the beneficial enterprise model - a missed opportunity

15 September 2020

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Stage two of the legislative review of the *Local Government Act 1995* (WA), which began in 2018, included the release of a detailed discussion paper on the option for local governments to form beneficial enterprises.

In this alert, Solicitor [Lily Robinson](#) give some background to the beneficial enterprise model and argue that the failure for it to be adopted as a recommendation in the *Local Government Review Panel Final Report – Recommendations for a new Local Government Act for Western Australia (Report)*, which was released for consideration by the McGowan Government on 5 August 2020, represents a missed opportunity.

What is a beneficial enterprise?

Local governments provide a range of services to the community that have commercial flavour. These services include waste facilities, parking facilities, childcare facilities, pools, sport complexes, gymnasiums and regional airports.

The business enterprise model would have permitted local governments to form independent business entities to manage existing commercial activities and pursue new ones.

Inspiration for this model was largely derived from the models that operate in Victoria, Queensland, Tasmania and New Zealand. The Council Controlled Organisation (**CCO**) model implemented in New Zealand is much broader than the models currently used in Australia. The Western Australian Local Government Association (**WALGA**) advocated for a model similar to New Zealand's being adopted in Western Australia. WALGA, among other things, recommended that:

- an existing business could be converted into a CCO;
- a CCO would be formed by one or more local governments;
- one or more local governments must have had a controlling share;
- a CCO would be regulated under company law;
- CCOs would be required to produce an annual report;
- a CCO could borrow money from a commercial lender, Treasury Corporation or from a shareholder local government;
- a CCO could not be used for core local government functions;
- a local government could not provide a guarantee or security for the debts of a CCO, lend money to the CCO unless on market terms or provide any financial advantage; and
- could only be established after extensive consultation and preparation of a statement of intent and business plan.

A missed opportunity

The introduction of the beneficial enterprise model would have helped to alleviate some of the pressure placed on local governments by ratepayers to offer better services at lower costs.

Many of the submissions received, both from the community and industry, by the Department of Local Government, Sport and Cultural Industries in response to the beneficial enterprise proposal, raised the concern that the establishment of beneficial enterprises would impose significant burdens on ratepayers. This is possibly because these stakeholders were not given adequate information about the specific steps to bring a CCO to life and therefore they were unable to grasp the bigger picture.

The beneficial enterprise model would have enabled local governments to enter into collaborative arrangements with private enterprises. Although money derived from ratepayers and grants would be required for the establishment of such arrangements, partnering with private enterprise provided the opportunity to profit (something local governments cannot currently do). Those profits would have been leveraged to prevent or at least reduce never-ending rate increases.

A good example could have been in delivering waste management services. The subsequent profits derived from the operation of such facilities would help fund services and prevent constant waste levy increases paid by the community.

Conclusion

In addition to the obvious benefits, the ability to compete with the private sector and work collaboratively with independent commercial experts would only have had a beneficial knock-on effect for the community as a whole with the model offered. The failure for the beneficial enterprise model to be adopted as a recommendation, or even left for further debate and consideration, is a missed opportunity.

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