



City of Canning

A welcoming and thriving city

Ministerial Review of the State Industrial Relations System – Interim Report

Introduction

The City of Canning (**the City**) appreciates the need for review and amendment of Western Australia's Industrial Relations System (**State IR system**).

The City welcomes the opportunity to provide a submission in response to the Interim Report handed down as part of the Ministerial Review of the State Industrial Relations System.

About the City of Canning

The City of Canning is located approximately ten kilometres to the south east of Perth, West Australia and covers a total of 65km². The City includes the suburbs of Bentley, Cannington, East Cannington, Ferndale, Lynwood, Parkwood, Queens Park, Riverton, Rossmoyne, Shelley, Welshpool, Willetton, Wilson and parts of St James, Canning Vale and Leeming.

The City currently engages 955 employees through a mixture of permanent, fixed term and casual arrangements. The conditions for the majority of employees at the City are set out in the current *City of Canning All of Staff Enterprise Agreement 2015* (EBA). This EBA was negotiated with employees in the federal industrial relations system. The EBA expires in June 2019. City employees, who are not covered under the EBA, are employed under the provisions of either the *Local Government Industry Award* and/or the *Fair Work Act 2009* (FW Act).

Submissions on Interim Report Recommendations

The City seeks to make submissions on some of the key recommendations that have been made as part of the Interim Report. The City considers that this submission is to be read in conjunction with the initial submission made by the City in response to the review terms of reference.

The City is of the view that Local Government employers and employees should not be regulated by the State IR system. Whilst the submissions will support the City's view that Local Government employers and employees should not be regulated by the State industrial relations system, the submissions will also respond to recommendations on the basis that Local Governments will be transposed into the State IR system, which is the recommendation of the Interim Report.

Recommendation 1: The *Industrial Relations Act 1979* be amended, in accordance with these proposed recommendations and be renamed the *Industrial Relations Act 2018* (WA) (2018 IR Act).

The City is of the view that the current State IR system is outdated, arcane and governed by complicated and verbose legislation, regulations, instruments and processes. If Local Governments are to be transposed into the State IR system, the City is of the view that the terms of reference of the current review will prove to be too narrow to address and remedy the current shortcomings and deliver a State IR system that is contemporary, fair and accessible.

The City considers that it would be short-sighted to transpose Local Governments into the State IR system when a significant overhaul of a proposed *Industrial Relations Act 2018* would still be necessary if it was introduced based only on the terms of reference and recommendations of this Interim Report.

Recommendation 49: The SES condition with respect to long service leave.

The City seeks to clarify that employees within Local Government have their long service leave conditions underpinned by the Local Government (Long Service Leave) Regulations. Any SES condition with respect to long service leave would need to contemplate the interaction it would have with these Regulations should Local Governments be transposed into the State IR System.

Recommendation 57: The Review requests additional submissions upon the method to be included in the 2018 IR Act for the WAIRC to review and update New Awards, after they have been made by the WAIRC, under the methodology set out above.

The City is of the view that any Award rejuvenation process would need to be finalised before Local Governments were transposed into the State IR system.

Recommendation 69: Local government employers and employees be regulated by the State industrial relations system.

The City maintains that the referral of industrial relations powers by the State Government to the Commonwealth is by far the most sensible and logical approach to addressing the jurisdictional uncertainty for the City and indeed the broader Local Government sector. A decision by the State Government to refer industrial relations powers with respect to Local Government would achieve multiple benefits for the City and all of the stakeholders involved including the State Government themselves. These benefits include:

- Ensuring a single contemporary industrial relations system covering all Local Government employers and employees in Western Australia at a national level which will ensure a fair, efficient, universally acceptable and consistently applied regulatory framework;
- Ending the ongoing perpetuation of two distinct industrial relations systems with different minimum standards, rights and obligations;
- Creating certainty for WA Local Government employers and employees;
- Removing unnecessary regulatory burdens and promoting understanding, awareness and compliance of industrial relations obligations;
- Mitigating the industrial risks for Local Governments who are taking appropriate action to manage their employees; and
- Effecting a cost saving for the State Government by operating a more streamlined WA Industrial Relations Commission.

The City can only presume that the stated intention of the State Government not to consider referring any industrial relations powers to the Commonwealth is based on misplaced parochial self-interest and/or the significant influence of trade unions within the decision-making mechanisms of the State Government.

The City also notes that WALGA provided a significant submission recommending that legislation not be imposed prescribing Local Government to be exclusively regulated by the State industrial relations system. The City supports the original submission of WALGA and the general recommendations outlined by WALGA in this submission.

Recommendation 70: ... the State Government introduce legislation into the State Parliament consistent with s 14(2) of the FW Act that declares, by way of a separate declaration, that each of the bodies established for a local government purpose under the Local Government Act 1995 (WA) is not to be a national system employer for the purposes of the FW Act.

The Explanatory Memorandum to the Workplace Relations (Work Choices) Bill 2005, outlined that the intent of Work Choices was to “simplify the complexity inherent in the existence of six workplace relations jurisdictions in Australia by creating a national workplace relations system based on the corporations power that would apply to a majority of Australia’s employers and employees”. The FW Act similarly expressed a clear intention to “cover the field” to generally exclude State industrial laws.

Given the intent of this industrial relations landscape, the City considers that transposing the City (as well as the majority of Local Governments) into the state IR system shows a disregard for the stated intent of the federal industrial relations legislation. The City is of the view that the interim submission has not provided any cogent commentary that outlines a tangible or realistic benefit for the City (or any Local Government) to be transposed into the State IR System.

Recommendation 72: The State enact legislation that has the effect, upon the endorsement, of deeming local government Federal industrial awards, agreements or other industrial instruments to be State awards, agreements or other industrial instruments for the purposes of the 2018 IR Act.

If Local Governments are to be transposed into the State IR system, the City is of the view that a transitional period is provided for Local Governments, employees and employee organisations to re-negotiate the terms of Federal industrial awards that are to be shifted into the State Industrial Relations system. This transitional period would need to occur after any proposed award rejuvenation process.

Portability of entitlements

Paragraphs 1530-1532 of the Interim Report provides commentary on the portability of entitlements and the ability of employees to transfer between State and local government that is being considered as part of the review in to the Local Government Act 1995. The City notes that in the opinion of the Review, employee portability is something that is relevant to the issues to be considered in the Terms of Reference.

The City notes that despite the conclusion that employee portability is something that is relevant to the issues to be considered in the review Terms of Reference, there did not appear to be any recommendation on this matter. The City considers that Local Governments are employers in their own right and have individual enterprise agreements which would make such transfers difficult and administratively burdensome. The City is of the view that there is no apparent need for such provisions to be put in place as many Local Governments already successfully attract high quality candidates from the State Public Service.

