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The Economic Regulation Authority

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LGEMA submission on 2023 review of *Water Services Code of Conduct (Customer Service Standards) 2018* (Code)

LGEMA

LGEMA is a not for profit association, formed in 2019 in the public interest, to provide independent expert support to Local Government Elected Members, and to advocate for Elected Members' interests. The LGEMA Rules of Association objects are to:

Provide support for local government elected members dedicated to serving The public interest through open, accountable, transparent and sustainable Local Government by:

- *Supporting councillors who are members of the association*
- *Publishing best practice models that promote the objects of the association including for local government procedures, planning scheme provisions, local laws, policies and notices of motion*
- *Providing education on best practice local government.*

We make the following submission in relation to governance noting the ERA, in making decisions, must have regard to *public interest* matters¹, which include the long-term interests of consumers when considering licences.

Submissions

1. The *Water Services Code of Conduct (Customer Service Standards)* (Code) or modified version should apply to local governments as a condition of their exemption from holding a water licence. Water services users, whomever is supplying their water services, should have rigorous regulatory enforcement and an effective and prompt complaint mechanism. This may not be the case in

¹ *Economic Regulation Authority Act 2003 s.26*



mendicant local governments. Furthermore, local government² standards may be poor, especially in governance³, oversight⁴ and performance⁵.

2. We note that some regional, District and local town planning schemes have not been subjected to environmental assessment, and accordingly are not *assessed schemes*⁶. We submit that this should

² Which are an agent of the state government but are *not* part of the WA *public service*

³ Reflected in Crime and Commission Reports:

Serious Misconduct by the CEO of the Shire of Ravensthorpe 22 September 2021

Report into how Conflicts of Interest undermine good governance: A report on the Chief Executive Officer of the Shire of Halls Creek August 2018

Report into Allegations of Serious Misconduct by Councillors of the City of Perth between 21-24 October 2017, 18 December 2017

Report on Matters of Serious Misconduct in the Shire of Exmouth 2 May 2017

Report On a Matter of Governance at the Shire of Dowerin 10 October 2016

Report on an Investigation into Acceptance and Disclosure of Gifts and Travel Contributions by the Lord Mayor of the City of Perth 5 October 2015

Report on Misconduct Risk in Local Government Procurement 4 February 2015

Report on the Investigation of Alleged Public Sector Misconduct by a Local Government Employee³ in Relation to the Purchase of Management Systems Software 19 December 2013

Report on the Review of the Capacity of Local Governments in the Pilbara to Prevent, Identify and Deal with Misconduct 16 April 2013

Report on the investigation of alleged Public Sector Misconduct at the City of Wanneroo 3 December 2009

Report on the investigation into allegations of misconduct by Councillors or employees of the City of Bayswater 13 November 2009

Report on the investigation of alleged misconduct concerning Mr Stephen Lee Mayor of the City of Cockburn 26 September 2008

WA CCC Report on the Investigation of Alleged Public Sector Misconduct Linked to the Smiths Beach Development at Yallingup was tabled in the Parliament of Western Australia on 5 October 2007

⁴ Reflected in Office of Auditor General (OAG) Report *Regulation And Support of the Local Government Sector* 30 April 2021

⁵ Reflected in following OAG reports:

Regulation of Air-handling and Water systems OAG Report 20:2022-2023

*Administration of the City of Perth Parking Levy*⁵ OAG Report No.14 2021 - 2023

Financial Audit Results – Local Government 2020-21

Information Systems Audit Report 2022 – Local Government Entities Report 22: 2021-22

Audit Report 2020 – 2021 Financial Audits of State Government Entities (including LGs at Appendix Four) 24 November 2021

Cyber Security in LG Report No.9: 2021-22 November 2021

Annual 2019-20 Financial Audits of LG Entities Report 30: 2020-21 16 June 2021

LG General Computer Controls 12 May 2021

Regulation of Consumer Food Safety by the Health Department 1 April 2021

Grants Administration 28 January 2021

Managing the Impact of Plant and Animal Pests: Follow Up 31 August 2020

Waste Management – Service Delivery 21 August 2020

Regulation of Consumer Food Safety by LG Entities 30 June 2020

Information Systems Audit Report 25 June 2020

LG Contract Extensions and Variations 4 May 2020

Fraud Prevention in Local Government 15 August 2019

Local Government Building Approvals 26 June 2019

Verifying Local Government Employee Identity and Credentials 19 June 2019

Records Management in LG 9 April 2019

Management of Supplier Master Files 7 March 2019

Audit Results Report – Annual 2017-18 Financial Audits of LG Entities 7 March 2019

LG Procurement 11 October 2018

Timely Payment of Suppliers 13 June 2018

Controls over Corporate Credit Cards 9 May 2018

⁶ under Part IV of the *Environmental Protection Act 1986*



be a relevant consideration in deciding whether or not to grant an exemption from a water licence.

3. The ERA could be advocating for applicable building standards to require water meters to be placed outside the boundary perimeter, which can also be inserted in Local Government Building Local Laws⁷.
4. By attending water meters, Water Corporation employees will be making observations relevant to their other obligations. The requirement for annual inspections is essential for ensuring employees are observed in the community and are not mere desk top regulators.
5. Any Australian Standard referenced in the Code should be attached as an annexure to the Code, for transparency and accountability. Community water users need a one-stop-shop to help them navigate the relevant government records, especially when making an inquiry or complaint.
6. We note the drafting of the Code cl.49. We submit that the preamble to cl.49 should be amended as follows, *information that is publicly available and that must be provided by licencees includes:...* to avoid any interpretation that suggests that the current words are limiting, noting the recommendations of all Australian Information Commissioners and Ombudsmen, which is LGEMA's preferred outcome: see *Statement of Principles to Support Proactive Disclosure of Government held Information* 24 September 2021⁸, which is that all government records are public records unless expressly not. High levels of government transparency equip citizens to take part in informed debate and, ultimately make an informed choice at the ballot box⁹.
7. We submit that a State Records Act Record Keeping Plan¹⁰ should apply to the ERA and all water licencees, and that the Code could state this and provide a link to the applicable plan.
8. The Code could include a model procedure template for responding to complaints, which applies until the licensee has adopted one and with which each licensee's complaint policy is required to comply.
9. We note the *best practice* recommendations from the OAG reports for ERA consideration as to their relevance and inclusion in whole or in part in the Code:
 - i. *Water Corporation: Management of Water Pipes* – follow up: 17 November 2021
 - ii. *Management of Government Concessions* 16 March 2016
 - iii. *Charging Credit Card Administration Fees by Government Trading Enterprises* 12 March 2014

Yours faithfully

Sandra Boulter

LGEMA Deputy Chair, secretary on behalf of LGEMA

Whadjuk People

LGEMA acknowledges the Whadjuk people who are the traditional custodians of the land we are working on. LGEMA acknowledges and respects the continuing culture of the Whadjuk people and the contribution they make to the life of Cottesloe and this region

⁷ LG Act s.3.5(4A)

⁸ https://www.ipc.nsw.gov.au/sites/default/files/2021-09/Statement_of_Principles_to_support_proactive_disclosure_of_government-held_information_developed_by_all_Australian_Information_Commissioners_and_Ombudsmen_24_September_2021.pdf

⁹ OIC Catherine Fletcher's **Building trust, transparency and opportunity through access to information** in *Going Further, Faster*, page 79: see Table of Reports

¹⁰ Principle 6 of State Records Commission Standard 2



**LOCAL GOVERNMENT
ELECTED MEMBERS
ASSOCIATION**