

1.4. Interpretation

In this Act, unless the contrary intention appears —

“absolute majority”—

- (a) in relation to a council, means a majority comprising enough of the members for the time being of the council for their number to be more than 50% of the number of offices (whether vacant or not) of member of the council;
- (b) in relation to any other body, means a majority comprising enough of the persons for the time being constituting the body for their number to be more than 50% of the number of offices (whether vacant or not) on the body;

“75% majority”, in relation to a council, means a majority comprising enough of the members for the time being of the council for their number to be at least 75% of the number of offices (whether vacant or not) of member of the council;

“Advisory Board” means the Local Government Advisory Board established by section 2.44;

“auditor”, in relation to a local government means a person for the time being appointed under Part 7 to be the auditor of the local government;

“CEO” means the chief executive officer of a local government;

“commissioner” means a commissioner appointed to a local government under sections 2.6(4), 2.36A(3), 2.37(4), 2.37A(1), 8.30 or 8.33;

“council” means the council of a local government;

“councillor” means a person who holds the office of councillor on a council (including a person who holds another office under section 2.17(2)(a) or (b) as well as the office of councillor);

“councillor mayor or president” means a mayor or president elected by the council from amongst the councillors;

“Crown lands” means lands of the Crown —

- (a) not granted or contracted to be granted in fee simple; or
- (b) not held or occupied —
 - (i) under conditional terms of purchase; or
 - (ii) with a right to acquire the fee simple;

“Crown lease” means a lease from the Crown of Crown lands, or a licence or concession from the Crown for taking a profit of Crown lands, but does not include —

- (a) an instrument executed or issued pursuant to a contract or arrangement with the Crown by virtue of which land is held or occupied with a right, whether subject to compliance with conditions or otherwise, to acquire the fee simple;
- (b) a lease under the *Housing Act 1980*; and
- (c) an instrument by virtue of which lands are held or occupied subject to the payment of a peppercorn or nominal rental;

“Crown lessee” means a person entitled under a Crown lease to an interest or a right in or over Crown lands;

“Department” means the department of the Public Service assisting the Minister to administer this Act;

“district” means an area of the State that is declared to be a district under section 2.1;

“election year” means a year in which ordinary elections for local governments are required to be held;

“elector”, in relation to a district or ward, means a person who is eligible to be enrolled to vote at elections for the district or ward;

“elector mayor or president” means a mayor or president elected by electors of a district;

“Electoral Commissioner” means the Electoral Commissioner appointed under the *Electoral Act 1907*;

“electoral requirements” has the meaning given by section 4.1;

“employee” means a person employed by a local government under section 5.36;

“Executive Director” means the chief executive officer of the Department;

“extraordinary election” has the meaning given by section 4.8;

“financial year” means the period commencing on 1 July and ending on the next following 30 June;

“inaugural election” has the meaning given by section 4.2;

“Inquiry Panel” means an Inquiry Panel constituted under section 8.16;

“local government” means a local government established under this Act;

“local government property” means anything, whether land or not, that belongs to, or is vested in, or under the care, control or management of, the local government;

“local public notice” has the meaning given by section 1.7;

“member”, in relation to the council of a local government, means —

- (a) an elector mayor or president of the local government; or
- (b) a councillor on the council (including a councillor who holds another office under section 2.17(2)(a) or (b) as well as the office of councillor);

“metropolitan area” has the same definition as “metropolitan region” in section 6 of the *Metropolitan Region Town Planning Scheme Act 1959*;

“municipal fund” means the municipal fund established under section 6.6;

“occupier” where used in relation to land means the person by whom or on whose behalf the land is actually occupied or, if there is no occupier, the person entitled to possession of the land, and includes a person in unauthorized occupation of Crown land and where under a licence or concession there is a right to take profit of Crown land specified in the licence or concession, means the person having that right;

“ordinary election” has the meaning given by section 4.4;

“ordinary elections day” in relation to a local government, means a day fixed by section 4.6 or under section 4.7(2) for holding the polls for ordinary elections for that local government (whether or not any polls are actually held);

“owner”, where used in relation to land —

- (a) means a person who is in possession as —
 - (i) the holder of an estate of freehold in possession in the land, including an estate or interest under a contract or an arrangement with the Crown or a person, by virtue of which contract or arrangement the land is held or occupied with a right to acquire by purchase or otherwise the fee simple;
 - (ii) a Crown lessee or a lessee or tenant under a lease or tenancy agreement of the land which in the hands of the lessor is not rateable land under this Act, but which in the hands of the lessee or tenant is by reason of the lease or tenancy rateable land under this or another Act for the purposes of this Act;
 - (iii) a mortgagee of the land; or
 - (iv) a trustee, executor, administrator, attorney, or agent of a holder, lessee, tenant, or mortgagee, mentioned in this paragraph;
 - (b) where there is not a person in possession, means the person who is entitled to possession of the land in any of the capacities mentioned in paragraph (a), except that of mortgagee;
 - (c) where, under a licence or concession there is a right to take profit of Crown land specified in the licence or concession, means the person having that right;
 - (d) where a person is lawfully entitled to occupy land which is vested in the Crown, and which has no other owner according to paragraph (a), (b), or (c), means the person so entitled;
 - (e) means a person who —
 - (i) under the *Mining Act 1978*, holds in respect of the land a mining tenement within the meaning given to that expression by that Act;
 - (ii) in accordance with the *Mining Act 1978* holds, occupies, uses, or enjoys in respect of the land a mining tenement within the meaning given to that expression by the *Mining Act 1904*²; or
 - (iii) under the *Petroleum Act 1967* holds in respect of the land a petroleum production licence or a petroleum exploration permit within the meaning given to each of those expressions by that Act;
- or
- (f) where a person is in the unauthorized occupation of Crown land, means the person so in occupation;

“prescribed” means prescribed by regulations;

“Statewide public notice” has the meaning given by section 1.8;

“thoroughfare” means a road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end;

“WAMA” means the Western Australian Municipal Association constituted under section 9.58;

“ward” means one of the wards into which a district is divided under section 2.2.

[Section 1.4 amended by No. 1 of 1998 ss.4 and 6(2); No. 64 of 1998 s.4(2).]