



Western Australia

City of Perth Act 2016

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No. 2 of 2016

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City of Perth Act 2016

Contents

Part 1 — Preliminary		
1.	Short title	2
2.	Commencement	2
3.	Terms used	2
4.	Objects	3
5.	Relationship with <i>Local Government Act 1995</i>	3
Part 2 — City of Perth		
Division 1 — City of Perth		
6.	City of Perth continued	4
7.	Perth is capital of Western Australia	4
8.	Objects of City of Perth	4
Division 2 — City of Perth Council		
9.	Representation on City of Perth Council	6
10.	Special role of Lord Mayor	6
11.	General roles of Lord Mayor and councillors	7
Division 3 — City of Perth Committee		
12.	City of Perth Committee	8
13.	Functions of Committee	9
14.	Meetings of Committee	10
15.	Committee may regulate own procedure	10
Division 4 — Boundaries of City of Perth		
16.	Future alteration to City of Perth boundaries only to be made by Act of Parliament	10
17.	Existing City of Perth boundaries to continue until 30 June 2016	11
18.	City of Perth boundaries on and after 1 July 2016	11

19.	Boundaries of other local government districts changed	11
	Division 5 — Electoral matters	
20.	Election of Lord Mayor	12
	Division 6 — Application of <i>Local Government Act 1995</i>	
21.	<i>Local Government Act 1995</i> applies as if things done by section 2.1 order	12
	Part 3 — Miscellaneous, transitional and savings provisions	
	Division 1 — Review of City of Subiaco ward boundaries and councillor numbers	
22.	City of Subiaco may review ward boundaries and councillor numbers	14
	Division 2 — Provisions consequential on repeal of <i>City of Perth Restructuring Act 1993</i>	
23.	Preservation of rights of City of Perth superannuation scheme members who became employees of other local governments	15
	Division 3 — Miscellaneous	
24.	Regulations	16
	Division 4 — Transitional and savings provisions	
25.	Transitional regulations	16
	Part 4 — Repeal and amendments to other Acts	
	Division 1 — Repeal	
26.	<i>City of Perth Restructuring Act 1993</i> repealed	19
	Division 2 — <i>Botanic Gardens and Parks Authority Act 1998</i> amended	
27.	Act amended	19
28.	Section 44A inserted	19
	44A. Executive Director, Public Health responsible for public health matters	19
29.	Section 53A inserted	21
	53A. Local laws do not apply to King's Park	21

Division 3 — <i>Local Government Act 1960</i>		
Part VIA amended		
30.	Act amended	21
31.	Section 170B amended	21
32.	Section 170C amended	22
Division 4 — <i>Local Government Act 1995</i>		
amended		
33.	Act amended	22
34.	Section 5.78 amended	22
35.	Section 5.82 amended	22
36.	Section 5.83 amended	23
37.	Sections 5.89A and 5.89B inserted	24
	5.89A. Register of gifts and contributions to travel	24
	5.89B. Offence to fail to disclose under sections 5.82 and 5.83	25
38.	Section 5.89 amended	25
39.	Section 9.25 amended	25
Schedule 1 — Map of City of Perth		
(effective 1 July 2016) (indicative only)		
Defined terms		



Western Australia

City of Perth Act 2016

No. 2 of 2016

An Act to —

- **continue the City of Perth as a local government district but redefine its boundaries; and**
- **recognise Perth as the capital of Western Australia and the special significance of the role and responsibilities of the City of Perth that flow from that; and**
- **establish a City of Perth Committee with functions that include the facilitation of collaboration between the State and the City of Perth; and**
- **repeal the *City of Perth Restructuring Act 1993*; and**
- **make consequential and other amendments to the *Botanic Gardens and Parks Authority Act 1998*, the *Local Government Act 1960* Part VIA and the *Local Government Act 1995*; and**
- **provide for related matters.**

[Assented to 3 March 2016]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *City of Perth Act 2016*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

3. Terms used

In this Act —

Authority means the Western Australian Land Information Authority established by the *Land Information Authority Act 2006* section 5;

City of Perth means the body corporate continued by section 6(1);

City of Perth Council means the council of the City of Perth;

Committee means the City of Perth Committee established by section 12(1);

councillor means a person who holds the office of councillor on the City of Perth Council;

Deposited Plan, followed by a number, means the deposited plan of that number —

- (a) lodged with the Authority; and
- (b) certified by an authorised land officer (as defined in the *Land Administration Act 1997* section 3(1)); and
- (c) available —
 - (i) in paper form at the Authority's head office; and
 - (ii) in electronic form on the Authority's official website;

Lord Mayor means the Lord Mayor of Perth.

4. Objects

The objects of this Act are —

- (a) to recognise, promote and enhance —
 - (i) the special social, economic, cultural, environmental and civic role that the City of Perth plays because Perth is the capital of Western Australia; and
 - (ii) the important role that the City of Perth plays in representing the broader Perth area and the State of Western Australia on both a national and international level;
- and
- (b) to provide for the constitution of the City of Perth Council and recognise the unique role and responsibilities of the Lord Mayor of Perth and City of Perth councillors; and
- (c) to establish a City of Perth Committee as a means of facilitating collaboration between the State and the City of Perth; and
- (d) to revise the boundaries of the City of Perth.

5. Relationship with *Local Government Act 1995*

If a provision of this Act conflicts or is inconsistent with the *Local Government Act 1995*, this Act prevails to the extent of the conflict or inconsistency.

Part 2 — City of Perth

Division 1 — City of Perth

6. City of Perth continued

- (1) There continues to be a body corporate called the City of Perth.
- (2) The City of Perth is the same body corporate that was continued by the *City of Perth Restructuring Act 1993* section 9(4).
- (3) The City of Perth continues to be a local government district that is a city.

7. Perth is capital of Western Australia

Perth is the capital of Western Australia.

8. Objects of City of Perth

- (1) The objects of the City of Perth are as follows —
 - (a) to provide for the good government of persons in the City of Perth, including residents, ratepayers and visitors;
 - (b) to represent the community and encourage community participation in decision-making;
 - (c) to provide a safe, clean and aesthetic environment for community members, people who work in the City of Perth, visitors and tourists;
 - (d) to continuously improve the services and facilities that the City of Perth provides to the community and to local, interstate and international visitors and tourists;
 - (e) to promote awareness of the facilities and events provided or facilitated by the City of Perth and encourage the community to make use of or participate in them;

- (f) to initiate and promote the continued growth and environmentally sustainable development of the City of Perth and ensure its continued role as a thriving centre of business with vibrant cultural and entertainment precincts, while enhancing and protecting its natural environment and having due regard to the flow-on impact on the Perth metropolitan area;
 - (g) to maintain and strengthen the local, national and international reputation of the Perth metropolitan area as an innovative, sustainable and vibrant global city that attracts and welcomes everyone;
 - (h) to nurture and support the initiatives and innovations of the diverse precincts of the City of Perth;
 - (i) to develop and maintain collaborative inter-governmental relationships at regional, State, national and international levels with a view to developing and implementing strategies for the continued improvement of the City of Perth;
 - (j) in achieving its objects, to use its best endeavours to strike an appropriate balance among the complementary and competing civic, economic, social, cultural and environmental considerations, including considerations relating to visitors and tourists.
- (2) This section does not —
- (a) limit the role, functions, powers and obligations of the City of Perth or the City of Perth Council under the *Local Government Act 1995* or any other written law; or
 - (b) impose on the City of Perth or the City of Perth Council any obligation that is enforceable in a court of law; or
 - (c) confer on any person any legal right that is enforceable in a court of law.

Division 2 — City of Perth Council

9. Representation on City of Perth Council

The City of Perth Council consists of —

- (a) a mayor, called the Lord Mayor of Perth; and
- (b) 8 councillors.

10. Special role of Lord Mayor

(1) The role of the Lord Mayor is as follows —

- (a) to act as an ambassador for the City of Perth in hosting international delegations and attending local, regional, State, national and international civic functions and events;
- (b) to carry out civic and ceremonial duties associated with the office of Lord Mayor;
- (c) to develop and maintain inter-governmental relationships at regional, State, national and international levels, and as part of that to develop and implement strategies and policies that seek to ensure consistency in policies and strategic direction at all levels of government;
- (d) to provide leadership and guidance to the City of Perth Council;
- (e) to preside at meetings in accordance with the *Local Government Act 1995*;
- (f) to speak on behalf of the City of Perth;
- (g) to liaise with the chief executive officer of the City of Perth on the City of Perth's affairs and the performance of its functions;
- (h) to perform whatever other functions are given to the Lord Mayor by this Act, the *Local Government Act 1995* or any other written law.

- (2) This section does not limit —
- (a) the role, functions, powers, obligations and responsibilities of the Lord Mayor under the *Local Government Act 1995* or any other written law; or
 - (b) the application of the *Local Government Act 1995* sections 2.9, 5.34 and 5.35 in relation to the performance of the functions of the Lord Mayor.

11. General roles of Lord Mayor and councillors

- (1) In addition to the role set out in section 10, the role of the Lord Mayor includes the matters set out in subsection (2)(a) to (j).
- (2) The role of a councillor is as follows —
- (a) to represent the interests of electors, ratepayers and residents of the City of Perth;
 - (b) to serve the current and future interests of the community in the City of Perth;
 - (c) to provide leadership and guidance to the community in the City of Perth;
 - (d) to facilitate communication between the community and the City of Perth Council;
 - (e) to participate in the City of Perth Council's decision-making processes at council and committee meetings;
 - (f) to participate in the determination, oversight and regular review of the following matters, as required by the *Local Government Act 1995* or any other written law —
 - (i) the City of Perth Council's policies, goals, finances, resource allocation, expenditure and corporate strategies;
 - (ii) the efficiency and effectiveness of the City of Perth Council's service delivery, the performance standards for that service delivery

- and the monitoring of those performance standards;
- (g) in matters that relate to the unique responsibilities of the City of Perth that flow from Perth's status as capital of Western Australia, to seek to ensure that —
 - (i) an appropriate balance is struck among economic, social, cultural and environmental considerations; and
 - (ii) the flow-on effects on the broader metropolitan area are considered;
 - (h) to have due regard to the objects of the City of Perth in informing the City of Perth Council's work and in the making of decisions by the Council;
 - (i) to participate in achieving a vision for the desired future of the City of Perth through the formulation of strategic plans and policies that align with the objects of the City of Perth;
 - (j) to ensure that the City of Perth Council discharges its responsibilities under this Act, the *Local Government Act 1995* and any other written law;
 - (k) to perform whatever other functions are given to a councillor by this Act, the *Local Government Act 1995* or any other written law.
- (3) This section does not limit the roles, functions, powers, obligations and responsibilities of the Lord Mayor or councillors under the *Local Government Act 1995* or any other written law.

Division 3 — City of Perth Committee

12. City of Perth Committee

- (1) A committee called the City of Perth Committee is established.

- (2) The membership of the Committee is as follows —
- (a) the Premier of the State or a Minister of the Crown nominated by the Premier, who is the Chair of the Committee;
 - (b) the Minister to whom the administration of the *Local Government Act 1995* is committed by the Governor (the ***Minister for Local Government***);
 - (c) the Lord Mayor;
 - (d) the Deputy Lord Mayor of Perth;
 - (e) the chief executive officer of the City of Perth;
 - (f) the chief executive officer of the Department of the Public Service principally assisting the Minister for Local Government in the administration of the *Local Government Act 1995*.
- (3) The Premier may invite any Minister of the Crown, Parliamentary Secretary or other member of Parliament to attend a meeting of the Committee.

13. Functions of Committee

The Committee's functions are as follows —

- (a) to facilitate collaboration between the State and the City of Perth in order to further —
 - (i) the object set out in section 4(a); and
 - (ii) the objects of the City of Perth set out in section 8;
- (b) to identify and promote opportunities and strategies for strengthening the economic, cultural, social, physical and environmental development and growth of the Perth Central Business District and other residential and non-residential areas of the City of Perth;
- (c) to assist in the identification and development of mechanisms that promote greater integration between

the State's planning and development processes and those of the City of Perth;

- (d) to identify and promote opportunities to improve, simplify and streamline the requirements and processes of the City of Perth with respect to development applications under the *Planning and Development Act 2005*;
- (e) to develop and promote more efficient and effective transitioning arrangements for developments that are undertaken by or on behalf of the State and that are to become wholly or partly the responsibility of the City of Perth;
- (f) to identify and develop other opportunities to further —
 - (i) the object set out in section 4(a); and
 - (ii) the objects of the City of Perth set out in section 8;
- (g) to do anything that is incidental to the functions set out in paragraphs (a) to (f).

14. Meetings of Committee

- (1) The Committee must meet at least twice each year.
- (2) The Premier decides when the Committee is to meet.

15. Committee may regulate own procedure

The Committee may regulate its procedure in whatever manner it thinks fit.

Division 4 — Boundaries of City of Perth

16. Future alteration to City of Perth boundaries only to be made by Act of Parliament

After 1 July 2016, any future alteration to the boundaries of the district of Perth may only be made by Act of Parliament.

17. Existing City of Perth boundaries to continue until 30 June 2016

- (1) Until the end of 30 June 2016, the district of Perth continues to have the boundaries that it had immediately before this section comes into operation.
- (2) However, this section does not prevent the subsequent making of an order under the *Local Government Act 1995* section 2.1 or any other order under that Act in relation to the district of Perth or any other district.
- (3) Subsection (2) is subject to sections 18 and 21(3).

18. City of Perth boundaries on and after 1 July 2016

- (1) On and after 1 July 2016, the district of Perth consists of the land delineated in red and coloured purple on Deposited Plan 404450.
- (2) The map set out in Schedule 1 illustrates the boundaries of the district of Perth, but is indicative only and subsection (1) prevails if there is any inconsistency.
- (3) The inclusion of the area known as King's Park in the district of Perth by this section does not affect —
 - (a) the status of that area as a Class A reserve under the *Land Administration Act 1997*; or
 - (b) the application of the *Botanic Gardens and Parks Authority Act 1998* to that area.
- (4) This section is subject to section 21.

19. Boundaries of other local government districts changed

- (1) On 1 July 2016, the boundaries of the City of Nedlands are changed so that the district consists of the land delineated in red and coloured purple on Deposited Plan 405530.

- (2) On 1 July 2016, the boundaries of the City of Subiaco are changed so that the district consists of the land delineated in red and coloured purple on Deposited Plan 405529.
- (3) This section is subject to section 21.

Division 5 — Electoral matters

20. Election of Lord Mayor

- (1) The Lord Mayor is to be elected by the electors of the district of Perth under the *Local Government Act 1995* Part 4.
- (2) The *Local Government Act 1995* sections 2.11 to 2.14 do not apply to the City of Perth.

Division 6 — Application of *Local Government Act 1995*

21. *Local Government Act 1995* applies as if things done by section 2.1 order

- (1) The following are to be taken for all purposes to have been done by the Governor by an order under the *Local Government Act 1995* section 2.1 (a ***section 2.1 order***) that comes into operation when this section comes into operation —
 - (a) the constitution of the district of Perth by sections 17(1) and 18(1);
 - (b) the boundary changes effected by section 19.
- (2) The *Local Government Act 1995* applies accordingly, and in particular (but without limitation) —
 - (a) Schedule 2.1 clause 11 of that Act applies in the same way as it would apply if the constitution and boundary changes had been done by a section 2.1 order; and
 - (b) regulations providing for matters to give effect to section 2.1 orders also apply in that same way; and

- (c) the fact that the constitution and boundary changes are effected by Act does not prevent —
 - (i) the subsequent making of a section 2.1 order or any other order under the *Local Government Act 1995* in relation to the district of Perth or any other district; or
 - (ii) the performance of any other function under the *Local Government Act 1995* or any other written law in relation to the district of Perth or any district whose boundaries are changed by section 19.

- (3) However, an order under the *Local Government Act 1995* cannot —
 - (a) abolish the district of Perth; or
 - (b) divide the district of Perth into wards; or
 - (c) change the boundaries of the district of Perth.

Part 3 — Miscellaneous, transitional and savings provisions

Division 1 — Review of City of Subiaco ward boundaries and councillor numbers

22. City of Subiaco may review ward boundaries and councillor numbers

- (1) The object of this section is to enable the City of Subiaco to review its ward boundaries, and the number of offices of councillor for each ward, for the purpose of ensuring that, on 1 July 2016, those things take account of the constitution of the district of Perth by section 18(1) and the boundary changes effected by section 19.
- (2) After this section comes into operation and before 31 March 2016, the City of Subiaco may carry out a review under this section of —
 - (a) its ward boundaries; and
 - (b) the number of offices of councillor for each ward.
- (3) For the purposes of a review carried out under subsection (2) —
 - (a) the *Local Government Act 1995*, with all necessary changes, applies to the review as if, under Schedule 2.2 clause 6(3) of that Act, the Local Government Advisory Board had required the City of Subiaco to carry out the review; and
 - (b) the review is to be carried out as if the constitution of the district of Perth by section 18(1), and the boundary changes effected by section 19, had taken effect when this section comes into operation; and
 - (c) the local public notice of the review given under Schedule 2.2 clause 7 of that Act must —
 - (i) state that the review is being carried out under this section; and

- (ii) state that the review is being carried out as if the constitution of the district of Perth by section 18(1), and the boundary changes effected by section 19, had taken effect when this section comes into operation; and
 - (iii) state that the review is being carried out for the purpose of ensuring that, on 1 July 2016, the City of Subiaco's ward boundaries, and the number of offices of councillor for each ward, take account of that constitution and those boundary changes; and
 - (iv) contain an explanation of the purpose of the review (as set out in subparagraph (iii)), and of the basis on which it is being carried out (as set out in subparagraph (ii)).
- (4) If the City of Subiaco carries out a review under subsection (2), it must ensure that the report that the *Local Government Act 1995* Schedule 2.2 clause 9 requires it to make to the Local Government Advisory Board on completing the review is made to the Advisory Board no later than 31 March 2016.

Division 2 — Provisions consequential on repeal of *City of Perth Restructuring Act 1993*

23. Preservation of rights of City of Perth superannuation scheme members who became employees of other local governments

- (1) In this section —
- City of Perth scheme*** means the superannuation scheme established under the *Local Government Act 1960* section 170C, as the scheme is amended from time to time;
- employee*** and ***employer*** have the meanings given in the *Superannuation Industry (Supervision) Act 1993* (Commonwealth) section 10;

industry scheme has the meaning given in the *Local Government Act 1960* section 170A, as the scheme is amended from time to time.

- (2) This section applies to any person who, immediately before section 26 comes into operation, is a person in respect of whom, under the *City of Perth Restructuring Act 1993* section 29, a local government is required to participate in and comply with the City of Perth scheme.
- (3) A local government whose employee is a person to whom this section applies must, in respect of that employee, continue to participate in and comply with the City of Perth scheme in the same way and to the same extent as the City of Perth would be required to do if the person were its employee.
- (4) Subsection (3) ceases to apply in respect of a local government's employee if the employee elects to become a member of the industry scheme.

Division 3 — Miscellaneous

24. Regulations

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for achieving the objects and giving effect to the purposes of this Act.

Division 4 — Transitional and savings provisions

25. Transitional regulations

- (1) In this section —
 - specified* means specified or described in the regulations;
 - transitional matter* —
 - (a) means a matter or issue of a transitional nature that arises as a result of —

- (i) the enactment of this Act; or
 - (ii) the repeal of the *City of Perth Restructuring Act 1993*;
- and
- (b) includes a saving or application matter.
- (2) If there is not sufficient provision in this Act for dealing with a transitional matter, regulations under this Act may prescribe all matters that are required or necessary or convenient to be prescribed for dealing with the matter.
- (3) Regulations made under subsection (2) may provide that specified provisions of a written law —
- (a) do not apply to or in relation to any matter; or
 - (b) apply with specified modifications to or in relation to any matter.
- (4) If regulations made under subsection (2) provide that a specified state of affairs is taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the day this section comes into operation, the regulations have effect according to their terms.
- (5) If regulations made under subsection (2) contain a provision referred to in subsection (4), the provision does not operate so as —
- (a) to affect in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the day of publication of those regulations; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

City of Perth Act 2016

Part 3 Miscellaneous, transitional and savings provisions

Division 4 Transitional and savings provisions

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- (6) Regulations made under subsection (2) in relation to a matter referred to in subsection (3) must be made within whatever period is reasonably and practicably necessary to deal with a transitional matter.

Part 4 — Repeal and amendments to other Acts

Division 1 — Repeal

26. *City of Perth Restructuring Act 1993* repealed

The *City of Perth Restructuring Act 1993* is repealed.

Division 2 — *Botanic Gardens and Parks Authority Act 1998* amended

27. **Act amended**

This Division amends the *Botanic Gardens and Parks Authority Act 1998*.

28. **Section 44A inserted**

At the beginning of Part 8 insert:

44A. **Executive Director, Public Health responsible for public health matters**

(1) In this section —

Executive Director, Public Health has the meaning given in the *Health Act 1911* section 3;

public health means the health of individuals in the context of —

- (a) the wider health of the community; and
- (b) the combination of safeguards, policies and programmes designed to protect, maintain, promote and improve the health of individuals and their communities and to prevent and reduce the incidence of illness and disability.

- (2) For the purposes of protecting, promoting and improving public health in relation to any designated land, the Executive Director, Public Health has all the powers and authority of a local government under the *Local Government Act 1995* as if —
 - (a) the designated land were a district for the purposes of that Act; and
 - (b) the Executive Director, Public Health were the local government for that district.
- (3) The power and authority conferred on the Executive Director, Public Health by subsection (2) includes the power to make and enforce local laws under the *Local Government Act 1995*.
- (4) However —
 - (a) nothing in the *Local Government Act 1995* Part 3 Division 2 Subdivision 2 (other than sections 3.12(5) and (8), 3.14(1) and 3.15) applies to or in respect of the making of local laws by the Executive Director, Public Health; and
 - (b) before making local laws, the Executive Director, Public Health must consult with the Authority, and consider any advice provided by the Authority.
- (5) If there is a conflict or inconsistency between a local law made by the Executive Director, Public Health under subsection (2) and a local law made by a local government under the *Local Government Act 1995* or any other Act, the local law made by the Executive Director, Public Health prevails to the extent of the conflict or inconsistency.

29. Section 53A inserted

After section 52 insert:

53A. Local laws do not apply to King's Park

- (1) No local law applies to or in respect of King's Park.
- (2) This section does not apply to or in respect of any local law made by the Executive Director, Public Health under section 44A(2).

Division 3 — Local Government Act 1960 Part VIA amended

30. Act amended

- (1) This Division amends the *Local Government Act 1960* Part VIA (as continued in operation by the *Local Government Act 1995* Schedule 9.3 clause 16, and amended by the *Local Government (Amendment of Part VIA - Employee Superannuation) Regulations 2006*).
- (2) The amendment of the *Local Government Act 1960* Part VIA by this Division does not prevent that Part from being amended by regulations made under the *Local Government Act 1995*.

31. Section 170B amended

In section 170B(3) delete “section 29 of the *City of Perth Restructuring Act 1993*,” and insert:

the *City of Perth Act 2016* section 23,

32. Section 170C amended

In section 170C(1) delete “section 29 of the *City of Perth Restructuring Act 1993*,” and insert:

the *City of Perth Act 2016* section 23,

Division 4 — *Local Government Act 1995* amended

33. Act amended

This Division amends the *Local Government Act 1995*.

34. Section 5.78 amended

In section 5.78(1) delete “5.82, 5.83,”.

35. Section 5.82 amended

(1) Delete section 5.82(1) and insert:

(1A) A relevant person is to disclose each gift received by the person.

(1B) The disclosure is to be made in writing to the CEO.

(1C) The disclosure is to be made within 10 days of receipt of the gift by the relevant person.

(1) The disclosure is to include the following —

- (a) a description of the gift;
- (b) the name and address of the person who made the gift;
- (c) the date on which the gift was received;
- (d) the estimated value of the gift at the time it was made;

- (e) the nature of the relationship between the relevant person and the person who made the gift.

- (2) In section 5.82(2):
 - (a) delete “in a return”;
 - (b) in paragraph (a)(i) delete “the return period; and” and insert:

a year; and

36. Section 5.83 amended

- (1) Delete section 5.83(1) and insert:
 - (1A) A relevant person is to disclose each financial or other contribution that has been made to any travel undertaken by the person.
 - (1B) The disclosure is to be made in writing to the CEO.
 - (1C) The disclosure is to be made within 10 days of receipt of the contribution by the relevant person.
 - (1) The disclosure is to include the following —
 - (a) a description of the contribution;
 - (b) the name and address of the person who made the contribution;
 - (c) the date on which the contribution was received;
 - (d) the estimated value of the contribution at the time it was made;

- (e) the nature of the relationship between the relevant person and the person who made the contribution;
- (f) a description of the travel;
- (g) the date of travel.

(2) In section 5.83(2):

- (a) delete “in a return”;
- (b) in paragraph (d)(i) delete “the return period; and” and insert:

a year; and

37. Sections 5.89A and 5.89B inserted

After section 5.88 insert:

5.89A. Register of gifts and contributions to travel

- (1) A CEO is to keep a register of gifts and contributions to travel.
- (2) The register is to contain a record of the disclosures made under sections 5.82 and 5.83.
- (3) The register is to be in the form that is prescribed (if any).
- (4) The CEO is to make the register available for public inspection.
- (5) The CEO is to publish the register on the local government’s official website.
- (6) As soon as practicable after a person ceases to be a person who is required under section 5.82 or 5.83 to

make a disclosure, the CEO is to remove from the register all records relating to that person.

- (7) Disclosures made under section 5.82 or 5.83 and removed from the register under subsection (6) are, for a period of at least 5 years after the person who made the disclosure ceases to be a person required under section 5.82 or 5.83 to make a disclosure —
- (a) to be kept by the CEO; and
 - (b) to be made available for public inspection.

5.89B. Offence to fail to disclose under sections 5.82 and 5.83

A relevant person must comply with the requirements of sections 5.82 and 5.83 in relation to the disclosure of information.

Penalty: a fine of \$10 000 or imprisonment for 2 years.

38. Section 5.89 amended

In section 5.89 delete “5.70 or 5.71” and insert:

5.70, 5.71, 5.82 or 5.83

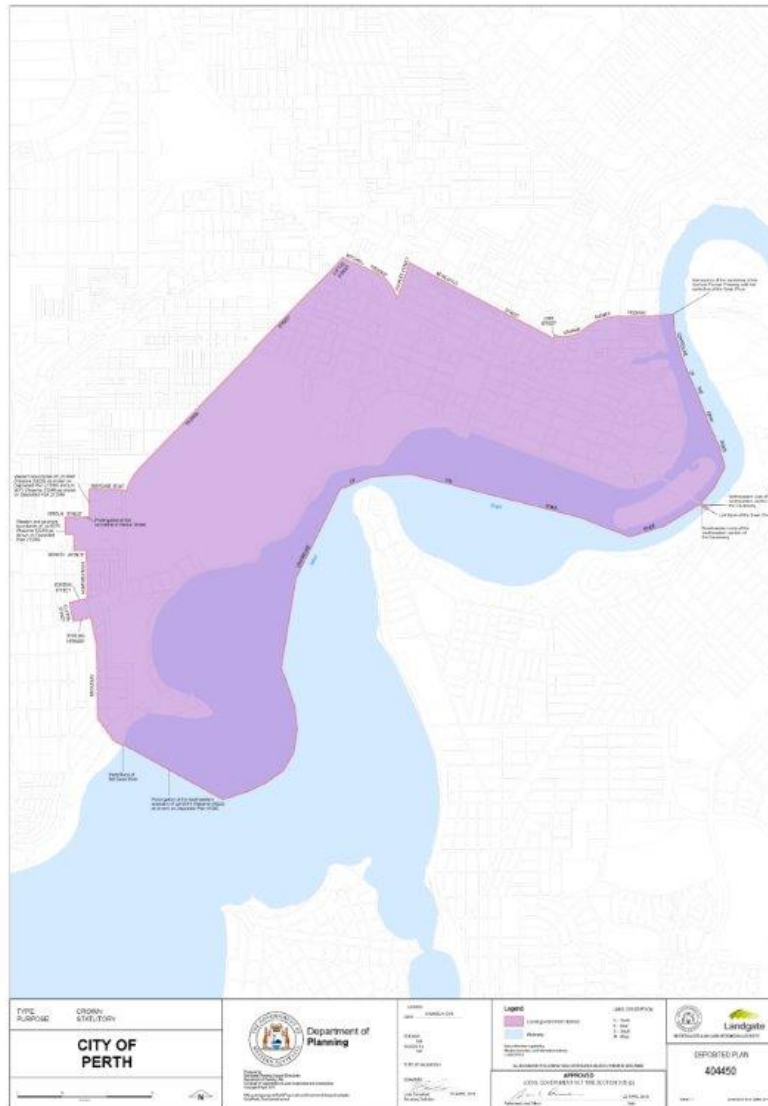
39. Section 9.25 amended

In section 9.25(1) after “5.78,” insert:

5.89B,

**Schedule 1 — Map of City of Perth (effective 1 July 2016)
(indicative only)**

[s. 18(2)]



Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
Authority	3
City of Perth.....	3
City of Perth Council	3
City of Perth scheme	23(1)
Committee.....	3
councillor	3
Deposited Plan	3
employee.....	23(1)
employer	23(1)
industry scheme	23(1)
Lord Mayor	3
Minister for Local Government	12(2)
section 2.1 order.....	21(1)
specified.....	25(1)
transitional matter	25(1)