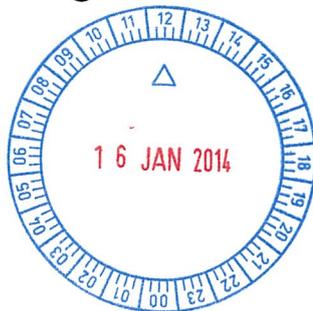


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# Hon. Adele Farina MLC

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Member for South West Region



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Hon. Simon O'Brien MLC  
Chairman  
Standing Committee on Environment and Public Affairs  
GPO Box A11  
PERTH WA 6837

Dear Simon,

**Petition No. 26 – Removal of Rights under the Local Government Act 1995**

I write concerning the abovementioned petition, which I tabled in the Legislative Council on 11 December 2013. Please find enclosed my formal submission on this matter.

In summary, I support the petitioners in opposing the Local Government Amendment Bill 2013 as it relates to the removal of rights under the Local Government Act 1995 and I urge the committee to undertake a public inquiry into the proposed amendments.

I look forward to learning the outcomes of the Committee's considerations.

Yours sincerely,

A handwritten signature in black ink, appearing to be "AF", written over a horizontal line.

Hon. Adele Farina MLC  
MEMBER FOR SOUTH WEST REGION

Encl. Submission

15 January 2014

## **Submission to the Environment and Public Affairs Committee**

**Re:           Petition No. 26 – Removal of Rights under the Local Government Act 1995**  
**From:       Hon. Adele Farina MLC**

I write this submission in support of petition number 26 opposing *the Local Government Amendment Bill 2013* as it applies to the removal of the rights of local governments and residents to make submission on proposals for boundary changes to be considered by the Local Government Advisory Board. As such this submission concerns itself primarily with the proposed changes to Schedule 2.1 of the *Local Government Act 1995*.

The intent of Schedule 2.1 is to ensure all proposed local government boundary changes are subject to an open and transparent process that enables all interested affected parties to have their views considered within that process. The effect of the *Local Government Amendment Bill 2013* on Schedule 2.1 will be to undermine its primary intent. It will enable decisions regarding boundary changes to be taken in a non-transparent manner without the benefit of community input.

It is striking that the provisions of the *Local Government Act 2013* as they relate to Schedule 2.1, will apply solely to the metropolitan area, the area to be subject to forced local government amalgamations by the Government. Therefore, in addition to undermining Parliament's clearly stated intent in Schedule 2.1, this amendment will effectively create a division within the community in that people living in regional areas will be afforded rights denied to those living in the metropolitan area.

The amendments appear designed to ensure there is no community debate regarding boundaries changes during the period of forced amalgamations. The changes to clause 3 and addition of clause 4A may not remove the right of local governments and residents to make proposals regarding boundaries changes but they ensure the Board is able to defer such proposals and role them into inquiries into government proposed boundary changes. This change essentially renders community initiated proposals intended to challenge boundary changes in the metropolitan area redundant, denying them the right to be independently considered and decided based on their merits.

The inclusion of clause 5A reveals the cynical nature of these amendments. It effectively places a sunset clause on the removal of citizens' rights to participate in the boundary change process to see those rights restored once the period of amalgamations and boundaries changes is complete. It removes those rights for the very period during which citizens are most likely to wish to exercise them, restoring them once the changes, to which they may have wished to object to, are completed.

Clause 5 sits at the heart of the intent of schedule 2.1, to provide citizens with a voice in processes that will affect the very nature of the place in which they live and, as a consequence, their day to day lives. The inclusion of clause 5(3) denies metropolitan residents the rights conferred by clause 5.

While the maintenance of clause 8 does ensure motivated citizens have the right to cause a poll to be taken, this right applies solely to the issue of amalgamation and does not apply to boundaries changes. Should a recommendation of amalgamation be supported by residents but the proposed new boundaries be disputed or vice versa, there is no capacity for affected electors to be heard on their specific issue of concern. The result of any poll conducted may not be reflective of the concerns of residents as the separate issues of amalgamation and boundaries changes will become confused and conjoined in the poll.

There may well be occasions on which the greater good should prevail when the issue of boundary changes is considered. Clause 5(2) sets out those issues to be subject to submissions and it is true that sometimes legitimate concerns regarding community issues or the preservation of the history of an area may be superseded by greater benefits offered by boundary change. This fact should not, however, override the right of residents and local governments themselves to make a case based on the various issues currently laid out in the Act in clause 5(2). It should simply mean that it should be incumbent on the proponent of change to make a solid case, clearly detailing why those concerns outlined in any submissions received are secondary to the benefits available as a consequence of the proposed change and how those concerns will be addressed. Denying the community an opportunity to voice their concerns does nothing to deal with those concerns and will do nothing more than foster resentment and dissatisfaction.

The inclusion of Schedule 2.1 in the *Local Government Act 1995* is indicative of the intent to ensure community members in a local government area have a voice in what constitutes that local government, to engage them in processes that directly affect where they live and how that impacts on their day to day lives. The *Local Government Amendment Bill 2013* seeks to undermine that intent and the rights it embraces, but only for some residents in Western Australia and only for a limited period. It seeks to do this at the very time those rights are most likely to be exercised and will restore them when their capacity to affect change has been diminished.

Selectively and intentionally providing rights to some residents while denying other residents those same rights is contrary to our system of democratic government and creates inequity in our community for the sole purpose of overriding the rights of certain residents for political purposes and should be strongly opposed as abhorrent to everything that we hold dear as a democratic nation.

I support the petitioners opposing these amendments as the amendments sit in opposition to the intent of the Parliament in passing the *Local Government Act 1995* and urge the Committee to undertake a public inquiry into the proposed amendments so that the community may become aware, better understand and have opportunity to comment on this diminution of their rights at a time when they may well wish to exercise those rights.